

4.3

ERF 5392, C/O DE GOEDE AND CHURCH STREET, WESTCLIFF, HERMANUS: APPLICATION FOR CONSENT USE AND DEPARTURE: MAMPHELE DEVELOPMENT PLANNERS ON BEHALF OF GOEIE HOOP BEHUISINGSMAATSKAPPY T/A HUIS LETTIE THERON

5392 HWC (3185/2019)

SW van der Merwe

16 October 2026

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application, in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) has been received from Mamphela Development Planners on behalf of Goeie Hoop Behuisingsmaatskappy t/a Huis Lettie Theron, applicable to Erf 5392, Hermanus (Westcliff) for the following:

- ❖ **Amendment of restrictive title deed conditions** in terms of Section 16(2)(f) of the By-Law of condition 4(1) contained in Title Deed T15886/1971 to accommodate the existing rooftop base station (cell phone base station);
- ❖ **Consent use** in terms of Section 16(2)(o) of the By-Law to accommodate the existing rooftop base station (cell phone base station), and
- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law to relax the height restriction of 10,5m to 18m to accommodate the existing rooftop base station (cell phone base station).

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, the proposed Site Development Plan is attached as Annexure C. The title deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The application property is located on De Goede Street, Hermanus. The property is developed with an old age home (Huis Lettie Theron) and measures 1,7346ha. The property is zoned Community Zone 1: Community Facilities.

The surrounding area has a mixed character with properties west of the application property developed with high density residential (retirement / old age home), the Mediclinic and Provincial Hospital and the Hermanus Day Hospital and single residential to the east and south.

The existing building contains a MTN rooftop cell phone base station in accordance with a departure approval dated 31 July 2009 and approved building plans (plan number 18592, dated 23 September 2009). The departure approval was valid for a period of five years. The building also accommodates Vodacom and Cell C rooftop

telecommunications cell phone base stations in accordance with departure approvals dated 4 May 2011 and 17 September 2014. The aforesaid planning approvals had lapsed.

The applicant submitted the application to retain the existing MTN cell phone base station on the property under the 2015 By-Law. The application only relates to the existing MTN rooftop base station and face mounted antennae against the water tower on the roof of the building.

The existing building encroaches the 10,5m height restriction applicable in terms of the Overstrand Land Use Scheme and application was also made to relax the height restriction to 18m to accommodate the MTN cell phone base station.

The title deed of the application property in terms of Clause 4(1) of title deed T15886/1971 contain the following condition in favour of Overstrand Municipality, namely:

“Subject to the following conditions imposed by the Municipality of Hermanus for its benefit, namely

The transferee or its successors in title shall utilise the land hereby transferred for the erection of a building to be used exclusively for Home for the Aged purposes. Should the erection of such building/s not be commenced within a period of five years after transfer or within such further period as the Council with the consent of the Administrator may allow, or should the land at any time cease to be used for Home for the Aged purposes by the transferor or its successors in title, the transferee or its successors in title shall pay an amount equal to the difference between the purchase price of R2,00 and the market value of the land at the date of sale, namely R9,000.00 i.e. an amount of R8,998.00 whereafter the land with the approval of the Council and the Administrator may be used for such purposes as agreed to by the Council and the Administrator; or alternatively, 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 transfer to be borne by the transferee or its successors in title.”

The application for consent use and departure also entails an application for amendment of the restrictive title condition to allow the use of the property for a Home for the Aged as well as to accommodate the existing MTN equipment on the property. No new telecommunications equipment will be installed.

4. SUMMARY OF APPLICANT’S MOTIVATION

The applicant’s motivation (refer to Annexure B) is summarised as follows:

- The existing building encroaches the 10,5m height restriction applicable in terms of the zoning.
- Existing water tank on the rooftop is 18m above NGL and the ideal location for the telecommunication apparatus being (face mounted) with the top end 17,6m above natural ground level and therefore has no negative visual impact.
- Access to the tower is restricted and only accessed by authorised personnel.
- Access control rules out access to the equipment as well as vandalizing.
- Existing power supply of the property is used.

- Cellphone communication is more accessible to the broader community due to wide variety of packages and pricing options to become an essential business and safety tool.
- Data usage is also becoming faster and more accessible requiring network improvements to prevent limited on unstable internet connections / dropped calls etc to increase capacity in coverage resulting from increased demand.
- Rooftop mast exists on site for several years and provides coverage to residents in the area and therefore do not want to decommission the installation as it will ensure good coverage to MTN users.
- Need for installation arise from lapsing of former departure approval as no extension of time was applied for.
- Business and residents in the area already benefit from the MTN installation allowing daily activities going on uninterrupted.
- There is no health and safety issued / objections since site construction or impact on existing services.
- Installation adheres to the health and safety requirements and in accordance with the stance of the Department of Health it is not necessary from a public health point of view to set restrictions such as height, distance from mast or duration to exposure.
- Site selection give consideration to topography, to ensure each base station function optimally. The site was chosen at the time due to high demand for network coverage in the area, its accessibility to contractors, willing landlord and reach of the site in relation to nearby properties.
- Visual impact is acceptable due to visual absorption of the height above eye level.
- The mast and equipment blend well with the colour coding in the area.
- Mast is connected to existing electricity supply and no upgrades are required.
- The rooftop base station is a subservient land use to that of the home for the aged.
- The installation is approved in terms of the Building Regulations and no additions are proposed.

REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

- (a) Financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement

Removal will not result in financial loss or diminished property value. The telecommunications are in existence for more than 10 years without any formal complaint from the municipality or public. The facilities do not affect the beneficial use of the property as a home for the aged.

- (b) Personal benefits which accrue to the holder of rights in terms of the restrictive condition

Removal of the restriction is not believed to limit the property rights enjoyed by the dominant tenement, namely Overstrand Municipality. Any planned developments on the property will be still subject to municipal approval in terms of municipal policies and By-laws. Should redevelopment in future occur the property owner will only be required to give notice pertaining to decommission the infostructure, either on a temporary or permanent basis when it is about to take place.

- (c) Personal benefits which will accrue to the person seeking the removal of the restrictive condition

The service provider, MTN will benefit and land owner, the Goeie Hoop Behuisingsmaatskappy.

- (d) The social benefit of the restrictive condition remaining in place in its existing form

There is a need for the telecommunications apparatus to remain operational. The current restrictive condition will have a negative impact on the provision of the infrastructure to the local community of Hermanus and surroundings. The suspension of the restrictive condition should be linked to the duration of consent use to be granted.

- (e) The social benefit of the removal or amendment of the restrictive conditions

The current rooftop communications infrastructure plays an important connectivity role linking / complimenting other telecommunication infrastructure in the surrounding area, such as Rooiels to the west of the property. Therefore, there is a positive social benefit for removal or suspension of the restrictive conditions as it provides in addition a local security network to local households, boosting the attraction of tourists into the area. , access to health, schooling and disaster management (i.e. in case of veldfires)

- (f) Will the removal, suspension or amendment of the restrictive conditions completely remove all rights enjoyed by the beneficiary or only some of those rights

Removal, amendment, or suspension of the restrictive condition will be subject to the beneficiary's own land administrative controls with the applicant enjoying limited rights in relation to rooftop telecommunication services. The suspension will be linked to the duration of the municipal consent; thus, the municipality will still exercise administrative control.

PLANNING PRINCIPLES

- (a) Spatial justice

Approval will ensure greater access to communication services to local communities, access to continued learning etc. Local community will benefit whilst mast will also benefit business (including small businesses) in the area, i.e. being a vital business opportunity for the wider community which has no access within its primary radius of influence.

- (b) Spatial sustainability

The mast had already been constructed with only continued maintenance being required. Mast is located on a rooftop in the urban area and will not impact agricultural or biodiversity rich or CBAs. The installation is a vital social infrastructure in the area serving the surrounding community (i.e. residents and businesses) and serves to facilitate viable communities.

(c) Efficiency

The installation optimises the use of existing resources and infrastructure and had been in existence for more than 10 years. It is considered that decommissioning of the installation will have a negative or retrogressive impact for the community as opportunities for sites is limited due to the mountainous terrain in the Overstrand Area.

(d) Spatial Resilience

The proposal is an existing rooftop telecommunications installation being situated on a building and will not have an impact upon spatial sustainability. The proposal makes more effective use of existing developed land which is a sustainable practice. Decommissioning will cause local residents and business to suffer intolerable harm. The status quo will remain as the proposal relates to an existing installation.

(e) Good Administration

The proposal will be subject to public participation allowing interested and affected parties to comment within the permissible timeframes.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	26 February 2021	01 April 2021
Gazette	Yes	26 February 2021	01 April 2021
Notices (<i>possibly affected property owners</i>)	Yes	24 February 2021	01 April 2021
Notices (<i>persons mentioned in title deed</i>)	Yes	24 February 2021	01 April 2021
Internal Departments	Yes	24 February 2021	01 April 2021
Ward councillor	Yes	24 February 2021	01 April 2021
Total comments	One late objection		
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?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
In case of application for removal, amendment, or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			Yes

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

Name	Date received	Summary of comments
Building Department	25/02/2021	No objection. The building plan application must comply with all applicable law.
Local Heritage	03/03/2021	No objection.
District Health	05/03/2021	Recommended.
Fire Services	11/03/2021	No objection. Advise providing a 9kg dry chemical powder fire extinguisher.
Environmental Management	26/03/2021	No objection.
OpenServe (Telkom)	12/03/2021	Attached as Annexure G.
Department of Transport and Public Works	14/05/2021	No objection.
Property Management	02/08/2022	Attached as Annexure H.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The public participation included notices sent to interested and affected parties, a site notice and advertisement in the media.

A late objection was received from RGL & R Kraus, owners of The Gables Guest House situated at Erf 408, 19 De Goede Street, opposite the application property.

The objection letter is attached as per Annexure E.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant states the objection being submitted after the closing date of objections is not a legal objection and not legally binding on the applicant to respond. The objection should therefore be dismissed.

The applicant's response is attached as Annexure F.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

The objector's property was registered in their name during 2015. Thus, the objector bought the property knowing the existence and extent of the telecommunications installation that already existed at the time of purchase.

The closing date for submission of objections was 1 April 2021. The objector on the morning of 2 April 2021 (at 12:03am) send an email to request an extension of the commenting period allowing them to respond by the end of the easter weekend. A late objection was submitted on 6 April 2026. The Administrator acknowledged receipt of the objectors' late objection and emails referred to above on 7 April 2026 stating that the objection is considered invalid having had regard to the provisions of Section 52 of the By-Law.

Section 52(2) of the By-Law states:

"Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice and in the manner set out in this section."

Section 52(5) of the Bylaw states:

"That the municipality may refuse to accept an objection, comment or representation received after the closing date."

The By-Law does not provide for an extension of the commenting period. The request for an extension was submitted after the cut of date for objections. The objection is therefore not valid cannot be considered. Also, the notices and advertisement in the media clearly indicated the due date for submission of comments as well as the email address of the official to whom the objections should be directed.

The closing date for submission of written comment was dated 1 April 2021, allowing interested and affected parties 36 days to submit written comment. The comment period is considered more than adequate as the minimum period of 30 days in terms of PAJA had been complied with.

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:

Spatial justice

The proposal relates to a consent use application to accommodate the existing MTN cell phone base station on the property. The proposal ensures greater access to communication services to local communities, access to continued learning etc. as well as small business in the area a principal which is considered spatially just for the wider community which has no access within its primary radius of influence.

Spatial sustainability

The mast had already been constructed with only continued maintenance being required. Mast is located on a rooftop in the urban area and will not impact agricultural or biodiversity rich or CBAs. The installation is a vital social infrastructure in the area serving the surrounding community (i.e. residents and businesses) and serves to facilitate viable communities.

Efficiency

The installation optimises the use of existing resources and infrastructure and had been in existence for more than 15 years. It is considered that decommissioning of the installation will have a negative or retrogressive impact for the community as opportunities for sites is limited due to the mountainous terrain in the Overstrand area.

Spatial Resilience

The proposal is an existing rooftop telecommunications installation being situated on a building and will not have an impact upon spatial sustainability. The proposal makes more effective use of existing developed land which is a sustainable practice. Decommissioning will cause local residents and business to suffer intolerable harm. The status quo will remain as the proposal relates to an existing installation.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with municipal By-Laws and the public process has 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 proposed development is consistent with the SDF and OMGMS in that it is situated on a rooftop in an existing developed area which has a mixed low and high density residential / community service provision character.

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

N/A

10.6 Impact on municipal engineering services

The existing services are available and will not be impacted by the proposal.

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

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

10.8 Existing and proposed zoning comparisons and considerations

The proposal aligns with the Overstrand Land Use Scheme that permits cell phone base stations as a consent use via an application process.

10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

In terms of the By-law the application for removal is motivated as follows:

Financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement

Removal will not result in financial loss or diminished property value. The cell phone base station exists in accordance with approved building plans for more than 15 years without any formal complaint from the municipality or public. The facilities do not affect the beneficial use of the property as a home for the aged and is considered subservient thereto.

Personal benefits which accrue to the holder of rights in terms of the restrictive condition

Removal of the restriction is not believed to limit the property rights enjoyed by the dominant tenement, namely Overstrand Municipality. Any planned developments on the property will be still subject to municipal approval in terms of municipal policies and By-laws. Should redevelopment in future occur the property owner will only be required to give notice pertaining to decommission the infrastructure, either on a temporary or permanent basis when it is about to take place.

Personal benefits which will accrue to the person seeking the removal of the restrictive condition

The service provider, MTN and land owner, the Goeie Hoop Behuisingsmaatskappy will benefit.

The social benefit of the restrictive condition remaining in place in its existing form

There is a need for the telecommunications apparatus to remain operational. The current restrictive condition will have a negative impact on the provision of the infrastructure to the local community of Hermanus and surroundings. The suspension of the restrictive condition should be linked to the duration of consent use to be granted.

The social benefit of the removal or amendment of the restrictive conditions

The current rooftop communications infrastructure plays an important connectivity role linking / complimenting other telecommunication infrastructure in the surrounding area, such as Rooiels to the west of the property. Therefore, there is a positive social benefit for removal or suspension of the restrictive conditions as it provides in addition a local security network to local households, boosting the attraction of tourists into the area. , access to health, schooling and disaster management (i.e. in case of veldfires)

Will the removal, suspension or amendment of the restrictive conditions completely remove all rights enjoyed by the beneficiary or only some of those rights

Removal, amendment, or suspension of the restrictive condition will be subject to the beneficiary's own land administrative controls with the applicant enjoying limited rights in relation to rooftop telecommunication services. The suspension will be linked to the duration of the municipal consent; thus, the municipality will still exercise administrative control.

11. THE DESIRABILITY OF THE PROPOSAL**Proposed Consent use and Departure**

The current application relates to the MTN equipment on the property. The cell phone base station is a rooftop installation with antennae being face mounted against a rooftop water tower. The proposal does not entail installation of additional / new equipment on the building.

The MTN equipment was installed in accordance with approved building plans. The retention of the equipment will ensure that continued telecommunications services are available in the surrounding area which comprises a mixed low density residential, high density residential, community facilities (private and public hospitals) and associated medically related and business uses in the area as well as in case of emergency. Mobile phones and faster data usage are also becoming more affordable / accessible and is required to prevent unstable connections / dropped calls etc.

The proposal was submitted prior to the promulgation of the 2020 By-Law thus an administrative penalty application is not applicable. Furthermore, the installation has been approved in terms of the National Building Regulations. Being an existing rooftop installation with antennae mounted against a rooftop water tower the proposal will not impact the area character. Being a rooftop installation situated against the backdrop of an existing water tower it serves to lessen the visual impact of the apparatus and ensure that optimal network coverage is achieved due to the height of the installation. The existing building protrudes higher than the existing telecommunication equipment, thus the departure of the height restriction to 18m is not considered to affect the visual amenity of the locality or vested right of adjoining properties and had been in existence for years without known complaints.

The development meets the health and safety requirements as endorsed by the South African Department of Health in line with the international ICNIRP standards. Thus, the proposal cannot be refused based on alleged health and safety concerns.

The use is subservient to the primary use of the property as a home for the aged, which is not affected by the proposal. Access to the telecommunications equipment is restricted to authorised persons only.

The objector's bought Erf 408, Hermanus during 2015 with the telecommunication apparatus on the application property already existing and did not deter them at that stage. Having said that the objection was received late and cannot be considered.

The title deed of the application property in terms of Clause 4(1) of title deed T15886/1971 contain the following condition in favour of Overstrand Municipality, namely:

"Subject to the following conditions imposed by the Municipality of Hermanus for its benefit, namely:

4(1) The transferee or its successors in title shall utilise the land hereby transferred for the erection of a building to be used exclusively for Home for the Aged purposes. Should the erection of such building/s not be commenced within a period of five years after transfer of within such further period as the Council with the consent of the Administrator may allow, or should the land at any time cease to be used for Home for the Aged purposes by the transferor or its successors in title, the transferee or its successors in title shall pay an amount equal to the difference between the purchase price of R2,00 and the market value of the land at the date of sale, namely R9,000.00 i.e. an amount of R8,998.00 whereafter the land with the approval of the Council and the Administrator may be used for such purposes as agreed to by the Council and the Administrator; or alternatively, 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 transfer to be borne by the transferee or its successors in title."

Following circulation of the application, Property Management responded that the above condition originates from the deed of sale between the municipality and the property owner. The comment is as follows:

"Hierdie geval is presies soos die aansoek wat die AGS verlede jaar ingedien het. Ongelukkig kan daar nie net toestemming gegee word vir die wysiging van die titel voorwaarde nie. Aangesien dit 'n voorwaarde is wat deur die Raad opgelê is kan slegs die volle raad die wysiging goedkeur."

Following a further discussion with the Divisional Manager Property Management the following comment was received:

"With reference to the below email, as well as our telephone conversation. The relevant title deed restriction was imposed by Council with the sale of the property. This means that only Council can approve the amendment/removal thereof. As it was imposed as a condition of sale, and as the Removal of Restrictions Act was repealed, the application to amend/remove does not need to be addressed in accordance with SPLUMA. The applicant must submit a separate application to my offices for consideration by Council. Please make your recommendation then subject to the mentioned Property Management process."

I am not opposed to the amendment of the condition, depending on the proposed new wording, but cannot support the removal of the condition."

The condition of title was imposed by Council when the former municipal property was alienated for purpose of a home for the aged below market value, hence the title deed restriction limiting the use exclusively to a home for the aged. Having had regard to the comment from Property Administration the Municipal Planning Tribunal cannot make a decision pertaining to the amendment of the restrictive condition as it was imposed by Council. The amendment of the title deed condition will have to be considered by Council following receipt of an application.

Having had regard to the aforesaid it is recommended that the validity period for the consent and departure approval be limited to a period of two years to enable the applicant to submit the required application to Council. This application needs to be brought by the property owner since the owner will benefit through additional income via the retention of the telecommunication infrastructure from MTN, Vodacom and Cell C.

Having had regard to the evaluation above the application is considered desirable subject to Council making a final decision pertaining to the amendment of the restrictive title deed condition to permit the use of the property for home for the added and rooftop telecommunications infrastructure.

The MTN equipment was constructed in accordance with approved building plans, thus development rights vested. Given the circumstances pertaining to the MTN equipment as motivated above, the application is considered desirable.

12. RECOMMENDATION

1. that the late objection be noted;
2. that the application for **consent use** in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law), to accommodate the existing rooftop base station (cell phone base station), **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for **departure** in terms of Section 16(2)(b) of the By-Law to relax the height restriction of 10,5m to 18m to accommodate the existing MTN rooftop base station (cell phone base station), **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in paragraphs 2. and 3. above be subject to the following conditions:
 - (a) that the telecommunication base station be limited to the MTN equipment as indicated on the Site Development Plan as submitted with the application;
 - (b) that the municipality be notified prior to any future upgrades of the existing MTN equipment on the premises are carried out;
 - (c) that should the cell phone base station becomes defunct, the structures be removed from the premises;
 - (d) that the conditions from OpenServe (Telkom) be complied with;

- (e) that the telecommunications equipment at all times complies with the ICNIRP Guidelines as endorsed by the SA Department of Health;
 - (f) that all other development parameters as prescribed in the relevant Zoning Scheme, and
 - (g) The consent use approval is only valid for a period of two (2) years from the decision date, following which the roof top base station needs to be removed from the property;
 - (h) that the property owner within a period of 3 months from the final date of the decision submit an application to the Property Management Department of the municipality to retain the existing telecommunications equipment on the property.
 - (i) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
5. that the applicant be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above decisions.

13. REASONS FOR RECOMMENDATION

Reasons for approval

- ❖ All relevant municipal and government departments support the application.
- ❖ The MTN equipment exists in terms of approved building plans and no upgrades are proposed.
- ❖ Retention will ensure that existing telecommunication facilities be retained to the benefit of the surrounding community.
- ❖ The property permits co-location of service provider that serves to reduce visual impact.
- ❖ Application will not adversely affect vested rights of adjoining property owners.
- ❖ Consistent with the planning principles in terms of LUPA and SPLUMA.
- ❖ Application is consistent with in and internal legal opinion received.

14. RECOMMENDATION TO COUNCIL

that the application in terms of Section 16(2)(f) of the By-law for the **Amendment of Restrictive Title Condition 4(1)** contained in Title Deed T15886/1971 to accommodate the existing telecommunications apparatus on the roof of the building, **be recommended for approval** to Council following submission of an application to the Property Management Department.

15. ANNEXURES

Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Site Development Plan
Annexure D: Title Deed T15886/1971
Annexure E: Late objection
Annexure F: Response from applicant
Annexure G: Comment: Telkom
Annexure H: Comment: Property Management

SIGNATURE**REGISTERED PLANNER**

Name: **SW VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

Signature: _____

Date: _____



SITE LOCALITY

SITE NAME
HUIS LITTLE THORON

PROJECT ADDRESS
DW 6362 HERMANUS, DE GODDE STREET
WESTCLIFF, HERMANUS
CAPE TOWN

LATITUDELONGITUDEASL

APPROVAL

MTN RADIO
ENGINEER

NAMESIGN

MTN PLANNER
NAMESIGN

MDP
NAMESIGN

ENGINEER
NAMESIGN

COMMISSIONING OF WORKSHOP TO
PROVE APPROVAL

REVISIONS

No. Revisory Name Date

PROJECT NO. RFD NO. SURVEY DATE

DRAWN
CHECKED
CLIENT
MTN

DATE
SH

SHEET
2/12

REV
LO2

FILE NAME HUIS LITTLE THORON

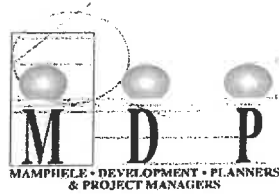
ISSUING NO.

MDP

ANNEXURE A DEVELOPMENT PLANNERS



AS-BUILD



**PROPOSED CONSENT USE ON
ERF 5392, HERMANUS,
OVERSTRAND LOCAL MUNICIPALITY**

**REVISED APPLICATION FOR CONSENT USE IN TERMS
OF SECTION 16(2)(o) , PERMANENT DEPARTURE IN
TERMS OF SECTION 16(2)(b) AND AMENDMENT OF A
RESTRICTIVE CONDITION IN TERMS OF SECTION
35(1 &4) OF THE OVERSTRAND MUNICIPALITY BY-
LAW ON MUNICIPAL LAND USE PLANNING, 2016,
READ WITH THE OVERSTRAND MUNICIPALITY
AMENDMENT BY-LAW ON MUNICIPAL LAND USE
PLANNING, 2015.**

**2nd AMENDMENT OF MOTIVATION: 12
NOVEMBER 2020**

PREPARED BY:
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The Reeds, 0158

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Fax: (012) 460 4861
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6. Annexure 6: Site Development Plan and latest Site photos taken on 05/12/2019	
7. Annexure 7: Network Coverage Map Plots	
8. Annexure 8: Completed Application forms and Proof of Payment	

1. INTRODUCTION

*Mamphela Development Planners CC [MDP] has been appointed by MTN (South Africa) PTY Ltd to prepare and lodge this application for erecting a rooftop telecommunication base station on Erf 5392, Hermanus Western Cape Province. See Power of Attorney attached as **Annexure 1**. This permit was previously approved by the Municipality through a temporary departure application which has since lapsed in terms of Clause 20(4) of the Overstrand Municipality By-law on Municipal Land Use Planning, 2016. The lapsing of this permit now necessitates a resubmission of a new application to the Municipality for its consideration. Simultaneously with the consent application we also apply for a permanent departure application for the height restriction as per the zoning certificate as well as the amendment of title condition under Clause 4 of the Title deed which amendment is more fully discussed under Section 4 of this application.*

The current height restriction is 10,5 metres as per zoning certificate but currently a four-storey building which is already more than 10,5-metre high is already in existence on the property and this consent use application also requests the Municipality to recognize its increased height of 17,6m(including the rooftop Telecommunication infrastructure) in order to legalise the existing rooftop telecommunication base station.

1.1. Departures approved.

According to the Municipal zoning certificate pertaining to the subject property, the following Departures have been approved by the Municipality previously:

- Relaxation of street building line to accommodate security room (TP2 142/2006) dated 17 November 2006;
- Cellular Communications Base Station (TP 1363) dated 24 July 2009;
- Cellular Communications Base Station (TP 1487) dated 4 May 2011;
- Cell C Cellular Base Station (TP 2512) dated 17 September 2014;
- Relaxation of rear building line to accommodate storage facility (TP 2618) dated 17 September 2014;

(Based in terms of Clause 20(2) of the Overstrand Municipality By-law on Municipal Land Use Planning, 2016, it is reasonable to assume that all of these Departures (with the exception of the rear building plan relaxation) may have lapsed and may probably not be extendable in terms of Clauses 20(,3, 4,5 or 6).

2 SITE LOCATION

The subject property falls within the jurisdictional area of the Overstrand Municipality. The subject property is Erf 5392, Hermanus and is situated at De Goede Street. A Locality map showing the subject property is attached hereto under **Annexure 2**.

3. PROPERTY DETAILS

3.1 Property Description and Extent

3.1.1. Ownership and Extent

By virtue of Deed of Transfer No. T15886/1971 the property vests in the name Goeie Hoop Behuisingsmaatskappy and measures 1.7346 hectares in extent. Attached hereto under **Annexure 3** is the Deed of Transfer.

3.1.2. Restrictive Conditions

There is a restrictive condition on the title deed which, if not amended, may hamper the proposed consent use application as it limits the property to be used only for an old age home. The subject property is utilised as an old age home and has been so utilised for many years.

3.1.3. Servitudes

The subject property is not affected by any servitudes that may hamper the proposed consent use application. Attached hereto under **Annexure 3** is the Deed of Transfer and **Annexure 4** is the relevant Surveyor General Diagram.

3.1.4. Bond Holder

There is no bond registered against the property and therefore no bondholders consent is required.

3.1.5. Current Zoning Rights

Use Zone	: Community Zone 1: Community Facilities (CO1)
Coverage	: The maximum coverage for all buildings on the land shall not exceed 60%
Height	: 10,5 metres
Building Lines	: 5,0 metres on all boundaries.

(See **Annexure 5** hereto for more details on the attached zoning certificate).

3.1.6. EXISTING AND SURROUNDING LAND USES

The subject property is developed with high density residential units utilized as an old age home and is predominantly surrounded by single residential dwelling houses. To the left of the property there is Hermanus Hospital and Hermanus Medi Clinic (Private Hospital).

4. PURPOSE OF THE APPLICATION

The purpose of the application is to request consent of the Municipality in order to allow for the erection of a rooftop telecommunication mast on Erf 5392, Westcliff Hermanus. As indicated in the introduction above, this mast was initially approved by way of temporary departure (as a rooftop mast) in 2009 and has now lapsed.

We now hereby firstly apply for a permanent departure in terms of Section 20(1)(a) of the By-Law to allow for the following land use rights:

- (a). The existing telecommunication base station on the site to remain with conditions the municipality may impose;
- (b). The existing Antennae on the telecommunication base station to be permitted to remain at a height of 18 metres from the natural ground level (base level) on the top side elevation of the building which is a four-storey building extending up to 14 metres in total habitable building height. The maximum height of the antennae and the other rooftop support infrastructure (e.g. Water tanks) is 4 metres above the roof level – making the total height from the base level 18 metres.

Secondly, it is hereby applied in terms of Section 35(1) of the By-Law *for consent from the Municipality in order to allow for the continued use of the telecommunication mast over and above the old home usage. This consent seeks to amend part of title deed condition in Clause 4 of the Deed of Transfer No. T15886/1971 which reads in part thus: "...Subject to the following condition imposed by the Municipality of Hermanus for its benefit namely:- the transferee or its successors in title shall utilise the land hereby transferred for the erection of a building/s to be used exclusively for Home for the Aged purposes..."*

5. PROPOSED DEVELOPMENT

The subject property is primarily a residential building. The client's intention is to erect a rooftop telecommunication mast on the subject property, with its MTN panel antennae together with the MTN equipment room. Simultaneous to the consent application we also apply for a permanent departure application for the height restriction as per the zoning certificate. The current height restriction in terms of the zoning parameters is 10.5 metres although the building on which this telecommunication base station is situated is currently 18 metres in height already (four-storey Old Age home). This height is adequate as the building is already built up to 18 metres (i.e. if one adds

the 4m of water tanks on top of the roof to the 14m four-storey height) in order to accommodate the existing rooftop telecommunication mast base station.

The positioning of the tower is ideal as it does not negatively affect the surrounding properties and has no negative visual impact as well as any, health and environmental concerns. Attached hereto under **Annexure 6** is the Site Development Plan (also showing isometric drawings of the existing infrastructure on the side of the elevated rooftop water tanks).

5.1 Safety and Security

Access to the tower is restricted through security gate which is installed and only authorized personnel with keys is allowed. These access points are kept locked at all times for security and safety purposes. These measures rule out the possibility of any public access to the equipment and also serve to protect the equipment from being vandalized.

5.2 Power

The telecommunication mast will utilize existing power used to supply the old age home. The electricity supply has proven to be adequate to service the station not putting strain on the capacity to provide power the old age home and the Hermanus township.

6. MOTIVATION

6.1 Historical Background

Over recent years, cellular communication in South Africa has evolved from merely a means of convenience to an essential business tool, means of communication and safety measure. Initial high tariffs rates limited the accessibility of the product and its service. However, over time more reasonable consumer tariffs and packages have been introduced, making cellular communications more accessible to a much larger sector of the population.

Data usage on the cellular networks is also becoming faster, more affordable and more accessible. User behaviour patterns are continuously changing in reaction to cheap new internet data intensive smartphones, data intensive applications and websites and an increasingly social media-driven society. These factors resulted in the average consumer data usage doubling every year. The current cellular infrastructure is not equipped to handle this demand which leads in many instances to a congested network with connection problems and higher dropped call levels on the voice network and limited or unstable internet connections on the data network. Cellular Service Providers are constantly taking steps to improve their network by keeping abreast with the advances in communication technology and providing increased capacity in terms of coverage in the areas where there is an increased demand. MTN strives to make this technology available to a wider

spectrum of the population by increasing coverage of the service to many consumers within Municipalities throughout South Africa.

Newer technology like LTE provides faster internet to more users which alleviates the pressure on the base station but its range is very limited. A single old generation GSM voice based base station could cover dozens of kilometres. The new LTE base stations have a maximum coverage range of 800m depending on the number of users. The congestion of existing sites together with the decrease in its coverage range necessitates that the distance between base stations decreases resulting in the construction of additional freestanding and rooftop cellular base stations.

The rooftop mast has been existing on the site for more than 5 years. The site has been utilized by MTN to effectively provide network to the residents living in the area. MTN has therefore no intention of decommissioning this site as it still serves the area and its surroundings - particularly in view of the fact that the continued use of the site will ensure good coverage of MTN users (and one might add, Vodacom users as this is a shared rooftop telecommunication mast).

7. PLANNING MOTIVATION

This consent use application for the rooftop telecommunication base station should be supported on the following grounds:

7.1 Need and Desirability

The need for this application arises due to the lapsing of the temporary departure application which was only valid for a period of 5 years. As the initial 5-year period has lapsed before an extension of time was requested by MTN due to internal administrative hurdles, a new permit is hereby applied by the applicant in order to keep the telecommunication mast valid and most importantly, to ensure that the local feeder area continues to receive sufficient voice coverage from this telecommunication base station. MTN as the lease holder on several sites in the Western Cape, has embarked on a programme to renew all the permits of the sites that have expired. It is vital to note that, this site already exists and has been constructed according to the approved building plan. There are no additions or alterations proposed on the site but just merely compliance with the legislation and or By-Law requirements.

The need for the erection of the mast arises from customer satisfaction who already benefit from the mast base station. Businesses and residents in the area already enjoy the network connectivity strength which allows them to go on with their daily activities in an uninterrupted manner. The desirability of this application can be derived from the fact that this site is already used by MTN's network division (with some sharing arrangement with Vodacom) and previously approved by

Municipality as ideal site for the construction of this mast. Since the construction of this site there has been no concerns regarding health and safety issues, impact on existing services, environmental and any negative the visual impact.

7.2. Health Issues

In a statement made by the Department of Health dated 23 June 2015 on the health effects of base stations, it is stated as follows:

“The department is therefore satisfied that the health of the general public is not being compromised by their exposure to the microwave emissions of cellular base stations. This also means that local and other authorities in considering the environmental impacts of any particular base station do not need to and should not attempt from a public health point of view to set any restrictions with respect to parameters such as height of the mast, distance to the mast, and duration of exposure”.

No conclusive studies linking emissions at these levels to any negative health effects and scientific research that may reveal such a link is ongoing. The steps taken by the cellular communication companies to ensure the safety of the public against any possible harmful emissions, along with the above facts, concerns about health issues can thus be allayed.

7.3. Site Selection

During site identification, special consideration is given to topography so that each base station is positioned to ensure optimum functionality. At the same time special attention is also given to ensure that there is minimal impact on the local, social, physical and on the natural environments.

The site has been chosen using the following criteria:

- High demand of network coverage in the area by users;
- Its accessibility to contractors during construction and maintenance;
- Willing landlord scenario;
- Reach of the site in relation to any nearby sites;

7.4. Visual Impact

The visual impact of the site is argued to be acceptable due to visual absorption of the height above eye level. This has no detrimental impact on the visual aspect in the area. The mast and equipment already blend well with the colour coding in the area.

7.5. Impact on existing services

The station already uses the existing power utilized by the old age home needing no extra capacity to cater for the rooftop tower. There is no strain on the existing services in the area and no upgrades are therefore needed.

7.6. Motivation for the Removal, Amendment or Suspension of a Restrictive Condition

As indicated under Section 4 above, the applicant *also hereby seeks*, in terms of Section 35(1) of the By-law a *Municipal consent to lift the part of condition in Clause 4 of the Deed of Transfer No. T15886/1971 which reads thus: "...Subject to the following condition imposed by the Municipality of Hermanus for its benefit namely:- the transferee or its successors in title shall utilise the land hereby transferred for the erection of a building/s to be used exclusively for Home for the Aged purposes..."*.

The applicant proposes that this Condition under Clause 4 should be amended to read as follows:

"The transferee or its successors in title shall utilise the land hereby transferred for the erection of a building/s to be used for Home for Aged purposes and for the purposes of erecting a rooftop base Telecommunication Station as a subservient land use thereupon. Should the erection of such building/s and/or the rooftop base Telecommunication Station not be commenced within a period of five years after transfer or within such further period as the Council with the consent of the Administrator, may allow, or should the land at any time cease to be used for home for the Aged purposes and/or the rooftop base Telecommunication Station purposes by the transferee or its successors in title, the transferee or its successors in title shall pay an amount equal to the difference between the purchase price of R2.00 and the market value of the land at the date of sale, namely R9,000.00, i.e. an amount of R8,998.00 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; or alternatively, 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 transfer to be borne by the transferee or its successors in title."

(NB: the underlined parts in *italics* represent the proposed amendment to Condition under Clause 4 of the Deed of Transfer)

The motivation for this restriction to be amended is provided in the section below and is substantially based on Section 35(4) of the By-law:

(a) Financial loss or value likely to be suffered by the current dominant tenement upon removal or suspension of the restrictive condition:

We do not believe that the dominant tenement will suffer any financial loss or its property value diminished as a result of the removal of this restriction from the relevant Title Deed. The telecommunication infrastructure is already in existence and it has been so for the past 5 or so years and there has not been any objection from the municipality over the period for the continued existence of the telecommunication infrastructure on the roof of the subject property.

The telecommunication infrastructure is secured firmly on the roof of the subject property and this does not in any way affect the beneficial use of the internal and even external sections of the building by the current Old Age tenants and/or the municipality at all material times. The removal of this restrictive condition will therefore not limit any access to the facility by the municipality or its authorised representatives at all reasonable times.

(b). Whether any personal benefits accruing to the holder of rights in respect of the restrictive condition will be lost as a result of the removal of the restrictive condition:

The removal of the restrictive condition as proposed above will not in any way limit the primary rights enjoyed by the current dominant tenement namely, the Overstrand Municipality and therefore any existing and/or planned land use activities pertaining to the subject property will still be subject to municipal consent and approvals in line with the Municipality's own policies and Spatial land-use planning By-laws. The municipality will still exercise control over the subject property as the authority of first instance in all matters related to any additional land use(s) which may be imposed in the future with or without the Telecommunication mast on the property.

Should the municipality and/or the current property owner instance, decide to demolish the current building structure or increase its current height for whatever economic or other reasons, the applicant would only need to be given sufficient notice to decommission the infrastructure either on a temporary or permanent basis when such a decommissioning is about to take place.

(c). Whether there are any personal benefits which will accrue to the person seeking the removal of the restrictive condition if it is removed:

The benefit which will accrue to MTN in this regard will be such that the Municipality and/or the subservient tenement (in this case the land owner, Goeie Hoop Behuisingsmaatskappy) may not unilaterally request MTN to decommission its infrastructure without due process as envisaged by the Principle of good administration as set out in Section 7(e) of SPLUMA as well as the provisions of the Promotion of Administrative Justice Act (No.3 of 2000("PAJA").

The applicant undertakes to observe all the conditions to be imposed by the Municipality should this request be granted including any access to the facility for maintenance purposes at all reasonable times or for emergencies occasioned by any unavoidable circumstances of a technical nature such as unplanned breakdown or loss of signal to MTN's customers.

(d) Whether there are any social benefits for the restrictive condition remaining in place in its existing form:

Given the need and desirability of the telecommunication mast to remain operational as indicated under section 7 below, the current restrictive condition will have a negative impact on the provision of the telecommunication infrastructure to the local community of Hermanus and its surroundings. The applicant however believes that in order for the suspension of the restrictive condition to be manageable from the Municipal administration point of view, it should be linked to the duration of the consent use to be granted and therefore lapse simultaneously with any such consent after it had been granted.

(e). Whether there is any social benefit for the removal or amendment of the restrictive condition:

The current telecommunication infrastructure on the rooftop of the subject property serves a very important connectivity role to the local community and compliments the other mast situated at Rooiels to the far west of the subject property. There is definitely a positive social benefit to this coastal sub-region for the removal or suspension of the restrictive condition as it provides in addition a local security network to the local households as well as boosting the attraction of tourists into the area as indicated elsewhere in the motivation below (see Section 9 of the motivation below).

While this is primarily a land-use application matter, one cannot divorce it from the overall social benefits which include (but not limited to) easy access to local Health facilities, schooling facilities, creating awareness in case natural disasters such as wild fires, general local communication networks, etc.

(f). Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights:

As indicated under sub-sections (c), (d) and (e) above, the removal, suspension or amendment of the restrictive condition will continue to be dependent on the beneficiary's own land administrative controls and as such the applicant will only enjoy limited rights insofar as it relate to the transmission of telecommunication services from the rooftop of the subject property. The suspension or amendment hereof will be intrinsically linked to the duration of the municipal consent granted and therefore the beneficiary (i.e. the municipality in this case) will still exercise administrative control in order to ensure that no unwanted land uses are practised from the telecommunication infrastructure outside the permission granted.

8. SITE SELECTION, VISUAL IMPACT AND ENVIRONMENTAL IMPACTS

The following site-specific impacts are applicable to the subject property:

8.1. Site Selection

As indicated elsewhere in the body of this application, the site and its telecommunication infrastructure has been in existence for more than 5-years and to date no negative reports have been provided to MTN which may suggest that the site selection may have been mistaken since the installation of the existing infrastructure.

8.2. Visual impact

As far as the applicant is concerned, there is no negative visual impact brought by the telecommunication mast and this is borne partly by the fact that there have not been any complaints received over the period the mast has been in existence for any unsightly impact brought about by the mast.

In addition, the telecommunication infrastructure on the side of the storage tanks on top of the block of flats making the most dominant visual impact to be the storage tanks as opposed to the telecommunication infrastructure. These protruding storage tanks are painted white and blend in with the rest of the building structure to the point where the telecommunication infrastructure is almost unnoticeable even from the street. What is more noticeable rather are the DSTV antennae which are mounted on the topside of these storage tanks and not the Telecommunication mast infrastructure at all.

8.3. Environmental impact

Section 7.2. above provides a synopsis of the available empirical evidence which suggests that there are up to now no known environmental hazards which are caused by the existence/erection of telecommunication masts in South Africa and internationally.

8.4. Impact on existing services

Section 7.5 of this report clarifies this point more clearly.

8.5. Public health and safety

Refer again to Section 7.2. above for more clarity on this aspect.

Most buildings in the area consist of single or double storey buildings. This confirms that no building is situated within the public safety zone of 50m directly in front of the antennae.

9. COMPLIANCE IN TERMS OF CHAPTER 2 PRINCIPLES OF SPLUMA

This application is in our view compliant with the SPLUMA Principles as stipulated in Chapter 2 of the Act in the following manner:

9.1. Principle of Spatial Justice:

By granting this application, the Municipality will be ensuring that there is greater access to telecommunication services to the local communities who may otherwise be denied of such an opportunity. With mobile telecommunication networks becoming more of educational tool in terms of access to learning and research (particularly by School learners & University students in the under-privileged communities nearby), the continued existence of this Telecommunication Base Station is in our view only going to improve this opportunity to access tele-learning with institutions like the University of South Africa which rely largely on reliable telecommunication systems to reach their learners/students throughout the country.

We believe that local communities and individuals within those communities in and around Hermanus who were previously not connected to this new network technology will continue to derive benefit from the Telecommunication Mast with a great potential to encourage small business entrepreneurs to start telecommunication-based businesses -thanks to the availability of this wider telecommunication network. In other words, the existence of this Mast cannot be looked merely as a land -use facility but more broadly as a vital business opportunity for the wider community which now has telecommunication access within its primary radius of influence.

9.2. Principle of Spatial sustainability:

The main thrusts of this principle are:

- Land development must be assessed in line with the fiscal, institutional and administrative means of the State to implement.

In this application all of these means are to be borne by the applicant and there is no negative financial impact which may affect the State or Municipality insofar as this telecommunication infrastructure is concerned. It should also be mentioned that the infrastructure has already been constructed in the last five years and therefore there is not even additional burden to the applicant for construction costs which may in turn disrupt the quiet and tranquillity of the receiving environment. The only responsibility of the applicant is to maintain the infrastructure in such a manner that the State is not exposed to possible litigation as a result of poor maintenance by the applicant.

- Land development must give special consideration to the protection of prime & unique agricultural land

In this case the telecommunication mast is located on the roof of an existing urban land use and therefore not negative impact on any prime agricultural land is applicable.

- Land development must consider current & future costs for the provision of infrastructure and social services

As indicated earlier in the foregoing section, the telecommunication base station is a vital social and infrastructure service which is more of a benefit to the local communities in and around this facility than it is a cost. In other words, the long-term social and economic spin-offs of an infrastructure like this telecommunication mast far outweigh the short-term costs of its actual installation. One can only imagine how local businesses benefit from increased network connectivity to conduct business, farmers have improved access to Geographic information systems to receive updated information on potential dangers such as impending hail storms and other natural disasters, logistics companies have quicker turn-around times in terms of the delivery goods & services due to better global positioning systems (GPS) – the benefits are just endless in comparison to any initial installation costs.

- Promote locations that are sustainable and limit urban sprawl:

The location of this telecommunication mast on a rooftop of an existing urban land use means one less intrusive land use outside the urban core and this can only be seen as one

small measure of limiting unwanted spread of free-standing mast, say deep within agricultural land and/or environmental areas away from the urban areas.

- Land development must result in the creation of viable communities

As already indicated elsewhere in this motivation, the ultimate objective of the continued existence of the "Huis Lettie Theron" telecommunication mast is to ensure increased access to telecommunication services by the local community and its immediate environs. A community with adequate access to priority infrastructure such as telecommunication network is more likely to be viable in the long-run than the one which has limited wherewithal to go by.

9.3. The Principle of Spatial efficiency

The key points to consider in achieving this principle are summarised below:

- Land development must optimise the use of existing resources and infrastructure.

Given that the telecommunication infrastructure has already been installed some 5 years ago, we are of the view that its continued use will ensure that there is no wastage of resources to decommission this infrastructure which is now even more relevant now than perhaps it has been five years ago.

By allowing this infrastructure to be decommissioned purely on the basis that its initial validity period has lapsed will in our view be retrogressive for the communities of Overstrand Local Municipality – particularly in view of the fact that in a mountainous terrain like the site area, telecommunication network coverage is usually limited and therefore the municipality needs more telecommunication masts (and not less) to ensure wider accessibility to both the locals and the huge tourists visiting the Municipal sea sites during holiday seasons. Chapter 4 of the Overstrand Local Municipality's Integrated Development Plan (2017/2021) list the promotion of tourism, economic and social development as one of its 5 strategic objectives where in addition, Gansbaai was voted as the "best tourism destination in the world". Retaining the existing and developing new telecommunication infrastructure can therefore only go a long way towards maintaining this positive tourism profile of the Municipality.

- Decision-making procedures in land development matters must minimise negative financial, social, economic or environmental impacts of such developments.

It is argued here that should the Municipality decide not to grant this application, the financial and social implications of such a decision will be immeasurable. Not only will a vital

infrastructure providing the local communities with much needed local service be destroyed but the social and economic implications of such a decision will be felt for an extended period of time while another application is made in the process.

- Land development must lead to efficient and streamlined application procedures and timeframes adhered to.

This is merely an administrative process under the control of the Authorised Official of the Municipality and so far, we are pleased with the co-operation we are receiving from the Municipality and constant communication we continue to receive in order to resolve the pending matters pertaining to this application.

9.4. The Principle of Spatial Resilience

This spatial principle emphasises the following considerations:

- **Mitigation of potential economic and environmental shocks likely to be brought by land development:**

We have already indicated in the preceding sections that no negative environmental impact will be brought by the continued existence of the telecommunication base station as to date none have been recorded over the last five or so years since the mast infrastructure was constructed. Similarly, we have indicated the positive economic spin-offs of the continued existence of this facility insofar as they relate to business opportunities on a range of local offerings and local benefits.

On the contrary though, rejecting to continue with the current mast infrastructure can only lead to so many telecommunication disruption in and around the feeder area to the extent that local business and the beneficiary community will suffer intolerable harm to suddenly realise they can no longer communicate freely as they have been doing so for the past five or so years since the mast was first erected.

- **Ability to adapt to changes.**

In this case no changes to the status quo will be anticipated if the application for a Consent use is granted because practically the telecommunication mast has been in operation for the last five years already and local communities have been connecting more frequently to this service from MTN. We believe rather that the shocking changes which would be hard to comprehend would emanate from a scenario where the telecommunication mast is discontinued by the Municipality and thus negatively impacting on the amenity of the community and consumers to this vital telecommunication service.

- **Ability and flexibility of land development to adapt to and support sustainable livelihoods.**

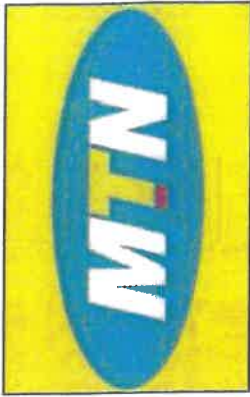
The question to ask here is whether the refusal of the application for consent use as argued in this application will deprive the local community of any resources necessary to sustain their livelihoods and the answer is a resounding YES given the broad benefits that this telecommunication facility offers to these local communities. As the saying goes, "an informed community is an educated community" and one of the most powerful ways of informing communities is through various means of communication platforms – telecommunication being one of those platforms.

10. CONCLUSION

Based on the grounds and motivation provided above, we hereby request the Municipality to:

- Grant the first part of this application for consent use for permission for a rooftop base telecommunication station which has been lodged in terms of Section 16 (2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.
- Grant the second part of this application for a permanent departure for permission to increase the height from 10,5-metres to 18-metres (including the 4-metre existing water tanks and the rooftop telecommunication infrastructure) in order to allow for the rooftop base telecommunication station lodged in terms of Section 16(2)(b), of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 and
- Grant the 3rd part of this application for the amendment of restrictive condition under Clause 4 of Deed of Transfer No. T15886/1971 lodged in terms of Section 35 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.
- It is the client's intention to retain the existing rooftop base telecommunication station with its MTN panel antennae's together with the MTN equipment room. Simultaneous to the consent application we also apply for a permanent departure application for the height restriction as per the zoning certificate.
- Since the construction of this site over five years ago, there has been no concerns regarding health and safety issues, impact on existing services, environmental impact or any negative visual impact.

In light of the above, it is therefore the request of the applicant that Council grants this application as proposed and with the conditions the Municipality may impose.



DRAWINGS

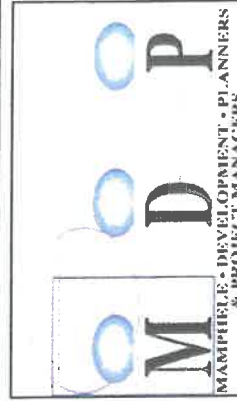
SITE NAME

HUIS LETTIE THERON

REVISIONS

No. Revision/Issue

01 ISSUED FOR APPROVAL 12/11/20



PROJECT NO. REQ NO. SURVEY DATE

PROJECT NO.

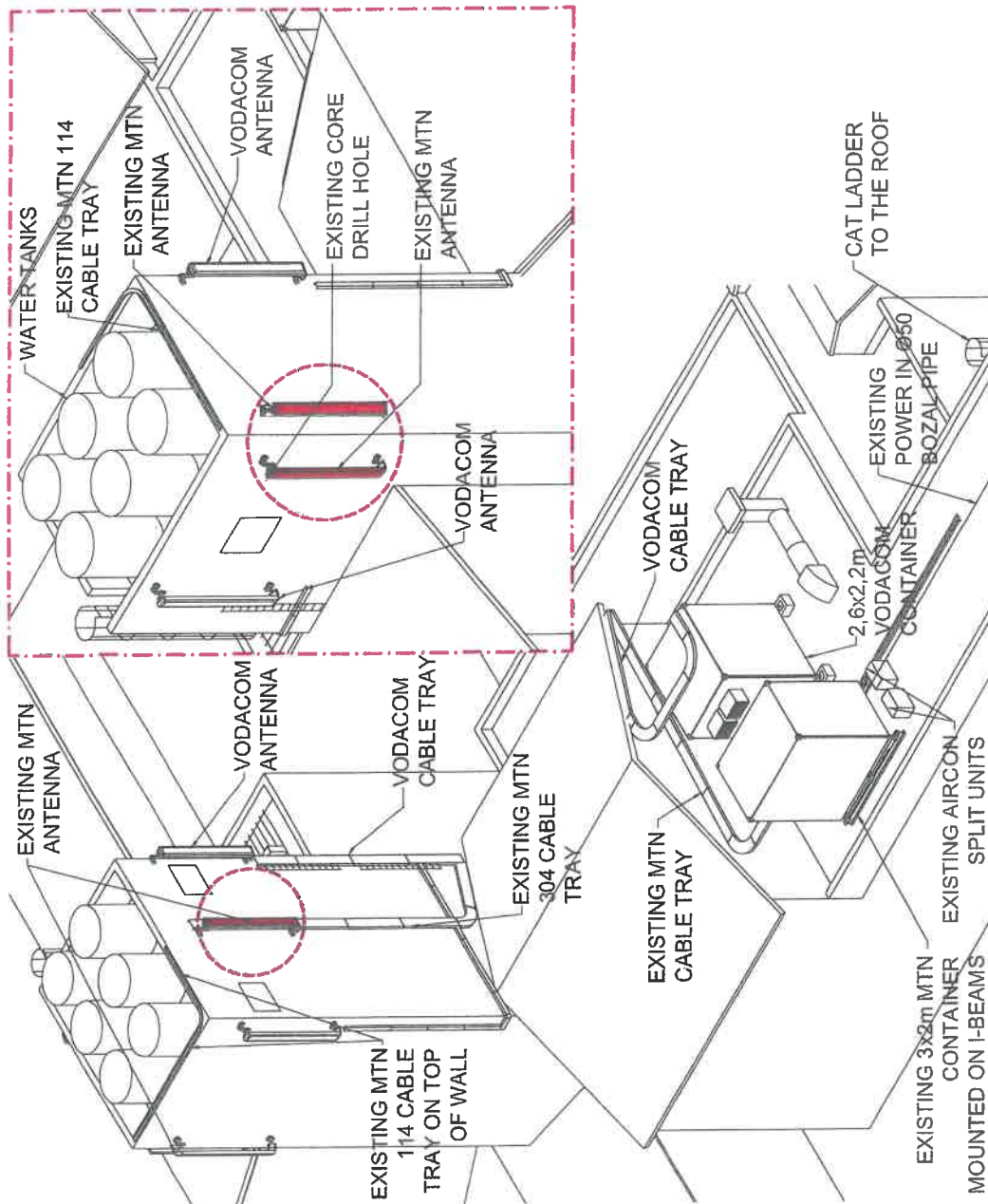
DRAWN F.SHONGWE 12/11/2020

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CLIENT SITE NO SHEET REV
MTN 3775 MTN/002 01

FILE NAME: HUIS LETTIE THERON

DRAWING NO:

3D DRAWING
N.T.S.

PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN
 PREPARED BY : DRS88879 - TSHANGELA ERIC

DATE : 28199468 TIME : 11:24:41.5 PAGE : 1

PROPERTY DETAILS PRINT FOR PORTION 0
 ERF NO 5392
 TOWNSHIP HERMANUS
 REG DIV CALEDON RD

PROVINCE WESTERN CAPE
 PREV DESCRIPTION PTN OF 243
 DIAGRAM DEED NO T15886/1971
 EXTENT 1.7346
 CLEARANCE HERMANUS MUN

FIRM NR : 999
 FIRM NAME : AKTEKANTOOR KAAPSTAD
 FILE NR : PREP
 FEE AMOUNT: R .00

NO INTERDICTS

NO DOCUMENTS

OWNER DETAILS

FULL NAME & SHARE	PURCH DATE	AMOUNT/REASON	O/P/A	IDENTITY	DATE OF BIRTH	TITLE DEED	PMDD	SCAN/MICRO REF
GOEDE HOOP BEHUUSINGSMAATSKAPPY				194461772888		T15886/1971	0618	1994 0094 2923

* O/P/A - 0 - MULTIPLE OWNER P - MULTIPLE PROPERTY A - MULTIPLE OWNER AND PROPERTY

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*** END OF REPORT ***

BC 5247994
 GEKANGS LEER
 28.01.91

5. FT SEQ

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 1971

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 15-8-973
 1971

Deed of Transfer

BY VIRTUE OF A POWER OF ATTORNEY.

Drawn by

TRUTER & LOMBARD
 Attorneys, etc.,
 CAPE TOWN.

Handwritten: 2 TL
 Conveyancer

EVR

Know all men whom it may concern,

THAT JAN DANIEL DE VILLIERS TRUTER appeared before me, Registrar of Deeds, at Cape Town he, the said Appraiser, being duly authorised thereto by a Power of Attorney, granted to him by

DOUGLAS ARTHUR THOMPSON and CHARLES SIM in their respective capacities as Mayor and Town Clerk of The Municipality of Hermanus.

dated the 22nd day of December 19 70 drawn up at Hermanus and witnessed in accordance with law which Power has been lodged with me; and the said Appraiser declared that

the /

the said Municipality had truly and legally sold the hereinaftermentioned property to the undermentioned transferee on 6th October 1970.

Now therefore the said Appraiser in his capacity as aforesaid did by these presents, cede and transfer in full and free property to and on behalf of :

GOEDER COOP BEHULINGSMAATSCHAPPIJ

(Nr. U.C. 17725)

- White Group -

its Administrators or Assigns;

CERTAIN piece of land situate in the Municipality of Hermanus, Division of Caledon, being ERF No. 5392, a portion of ERF No. 243 Hermanus, granted to the said Municipality of Hermanus on 5th August 1922 (Caledon Freeholds Vol. 2 No. 3)

MEASURING : One comma seven three four six (1,7346) hectares.

AS will more fully appear from the annexed diagram No. 5876/70.

SUBJECT to the following conditions contained in the said Deed of Grant dated 5th August, 1922 (Caledon Freeholds Volume 3 No. 8) namely :-

"2. THAT all roads and thoroughfares over the land, whether or not described in the plan or diagram thereof, shall remain free and uninterrupted unless closed, diverted, or altered by competent authority.

3. THAT all rights to minerals, mineral products, mineral oils and precious stones, precious or base metals on or under the land hereby granted are expressly reserved to the Crown, together with the right of access to any mines or works undertaken for mining or prospecting purposes by any person duly authorised in that behalf. The land is subject to such further rights as the public or the Government now may or may hereafter have or be entitled to obtain under or by virtue of any law relating to the prospecting, digging, mining or exploitation of minerals, mineral products,

mineral / ...

WHITE GROUP
BLANKE GROEP

mineral oils, precious stones, precious or base metals on or under the land hereby granted, which rights shall not be impaired or in any way affected by the title deed.

4. THAT the land hereby granted shall be subject to all rights and servitudes which now affect or at any time hereafter may be found to affect the title of the land hereby granted, or which may be binding on the Government in respect of the said land as at the date hereof.

BUT NOT SUBJECT to condition No. 1 in the said Deed of Grant relating to resumption by the Government, by reason of this transfer.

NOT ENTITLED to rights under the Servitude Enjoinder dated 10th December 1948 on said Deed of Grant, the exercise of which rights is restricted to the land still held by the Municipality of Hermanus.

SUBJECT to the following conditions imposed by the Municipality of Hermanus for its benefit, namely:

1. "The transferee or its successors in title shall utilise the land hereby transferred for the erection of a building/s to be used exclusively for Home for the Aged purposes. Should the erection of such building/s not be commenced within a period of five years after transfer or within such further period as the Council with the consent of the Administrator, may allow, or should the land at any time cease to be used for Home for the Aged purposes by the transferee or its successors in title, the transferee or its successors in title shall pay an amount equal to the difference between the purchase price of R2.00 and the market value of the land at the date of sale, namely R9,000.00, i.e. an amount of R8,998.00 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; or alternatively, 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 transfer to be borne by the transferee or its successors in title."

WHEREFORE /

-4-

the said Municipality
 When ore the Appearer, renouncing all the right and title ~~his~~ Principal
 heretofore had to the premises, did in consequence acknowledge his
 Principal the said Municipality to be entirely dispossessed of,
 and disentitled to the same; and that by virtue of these presents the said
 Transferee, its ~~Heirs~~ Executors, Administrators, or Assigns, now
 is ^{State} and henceforth shall be entitled thereto, conformably to local
 custom; ~~Government~~ however reserving its rights; and, finally acknowledging
 his Principal to be satisfactorily paid or secured the whole of the purchase-
 money amounting to the sum of

TWO RAND (R2.00)

Exempt from Transfer duty i.t.o. Section 9(1)(c) of Act 10/49

In Witness whereof I, the said Registrar, together with the Appearer, q.q.
 have subscribed to these presents, and have caused my Seal of Office to be affixed
 thereto.

Thus done and executed at the Office of the Registrar of Deeds, at
 Cape Town Province of Cape
 on the 18th day of the month of
 June in the Year of Our Lord
 One Thousand Nine Hundred and Seventy One (1971)

Conveyancer: q.q.

In my presence,

Registrar of Deeds.

Registered in the ~~Even~~

Register of Hermon
 Book Folio 5392

Clerk in Charge

BLADSY/PAGE.....
 ENDOSSEMENT OF T 15886 / 1911.
 ENDOSSEMENT ON.....

ENDOSSEMENT/PROPERTY.....
 E 5392 geo. erf 43
 Hermanns.

BC 5247194
 GEKANSSEER
 HOUSING ACT 4/66 CANCELLED
 8069 /1953
 VERBOD
 MORTGAGED
 1130882.08 (last to value)
 The vendor's Deed was
 for an additional amount not exceeding
 200.00
 Date of Deed: 28-01-94
 Deeds Office
 KAAPSTAD/CAPE TOWN

HOUSING ACT NO. 4 OF 1957
 BEROUWINGSWET NO. 4 VAN 1958
 THE WITHIN PROPERTY IS SUBJECT TO THE PROVISIONS OF
 DIE BINNEN EIGENDE EIGENDOM IS ONDERWERP VAN DIE
 SECTION 56 OF THE ABOVE-MENTIONED ACT.
 BEPALINGS VAN ARTIKEL 56 VAN DIE BO-GEWELDE WET.
 DEEDS RE 1875,
 REK NIDOK,
 C.F.E. TOWN,
 KAAPSTAD.
 ASSISTANT REGISTRAR OF DEEDS
 ASSISTENT-REGISTRATEUR VAN AKTES.

A Conradie

From: The Gables Boutique Guesthouse <info@thegableshermanus.co.za>
Sent: Tuesday, 06 April 2021 16:35
To: S Van Der Merwe
Cc: A Conradie
Subject: FW: Municipal Notice no, 25/2021 - Erf 5392 De Goede Street, Westcliff, Hermanus - MTN mast application

From: The Gables Boutique Guesthouse [mailto:info@thegableshermanus.co.za]
Sent: Tuesday, April 6, 2021 4:24 PM
To: svdmerwe@overstrand.go.za
Cc: alida@overstrand.go.za
Subject: Municipal Notice no, 25/2021 - Erf 5392 De Goede Street, Westcliff, Hermanus - MTN mast application

The Senior Town Planner
 Mr SW van der Merwe

06/04/2021

Dear Sir

Before reading the below comments please refer below to our two emails sent on 02/04/2021 to your offices, which were returned undelivered .

Municipal Notice no, 25/2021 – Erf 5392 De Goede Street, Westcliff, Hermanus – MTN mast application

RUDOLF & ROBYN KRAUS
 THE GABLES GUESTHOUSE
 19 DE GOEDE ST
 WESTCLIFF
 HERMANUS
 TEL 028 3121879

We wish to oppose the above MTN application for the following reasons:

- 1) Our property/guesthouse is located directly opposite from Huis Lettie Theron .
- 2) Point 5 in the application states that the positioning of the tower is ideal as there are no health concerns. There is no conclusive evidence to support that theory.
- 3) Point 7.2 in the application . The Department of Health stated on 23 June 2015 that the health of the general public is not being compromised by their exposure to the microwave emissions of cellular base stations and that there is no need to set any restrictions on the height of the mast , distance to the mast and duration of exposure. This statement was made almost 6 years ago so surely cannot be relied on conclusively since there is bound to have been more research conducted by scientists globally on the risks to human health , which surely needs to be investigated first.
- 4) Point 7.3 Willing landlord ie Goeie Hoop Behuisingsmaatskappy . Does the landlord not have a moral and ethical responsibility to protect the physical and mental health of the aged residents in Huis Lettie Theron by not consenting to the telecommunications base station on the property, which would mean that the incumbent

residents , including the staff , will be dangerously exposed to the microwave emissions from the cellular base station as they will not be in the public safety zone relating to distance from the antennae. Have staff and residents at Huis Lettie Theron been approached for their view and concerns on the matter ? It has been discovered that men exposed to high levels of Radio Frequency Radiation (RFR) while working on transmission masts have suffered health effects such as headaches, diarrhoea, malaise, lassitude, paresthesia.

- 5) Ongoing research has revealed that exposure to RFR produces harmful biological health effects namely: increased cancer risk, genetic damages, changes to the reproductive system, learning and memory deficits, neurological disorders.
- 6) The telecommunications industry have accused many scientists who have researched the effect of exposure to RFR (microwave emissions) of fear mongering . In this MTN application it seems that the justification by MTN for locating the telecommunications base station in an urban area is being based disproportionately on spatial justice and the social and economic benefits to the urban population, while downplaying or even dismissing any health risk concerns.
- 7) Scientists have recommended that in order to reduce RFR exposure , placing cell towers and antennae close to schools, homes and the workplace is to be avoided and instead cable or optical fibre connections should preferably be installed .
- 8) Point 9.2 in the application – Principle of spatial sustainability . In view of health risk concerns relating to exposure to microwave emissions a random survey conducted in Hermanus might likely find that the general population would far prefer to have telecommunication base stations located in remote agricultural areas as opposed to urban areas. And is another option not to have the telecommunications base station erected on top of the mountain overlooking Hermanus ?
- 9) Points 10b and 10d in the application . In the event of the MTN application for a permanent as opposed to temporary departure from the height restriction for the rooftop base telecommunication station , equipment room and antennae being consented to, this will give MTN free reign to increase the mast to any height in the future , the sky will be the limit for MTN.
- 10) Point 7.6 in the application . Why is it necessary to amend Clause 4 in the title deed concerning land use when this amendment was not required previously when the existing telecommunications base station was erected on the property. Would not amendment of clause 4 in favour of MTN open the door for MTN to gain increasingly more control in the decision making over the land use of the property which could ultimately override and encroach on the vested interests of Huis Lettie Theron in providing shelter and accommodation for our aged and vulnerable population who contributed immensely to the economic prosperity that South Africa enjoyed in the past .
- 11) The presence of a telecommunication base station in an urban area would be detrimental to the market value of residential property in the immediate vicinity. In the past it was an unwritten rule that purchasing residential property located near power lines was to be avoided at all costs, due to potential health hazards . This surely also applies to having a telecommunications base station located in a residential area.
- 12) No mention is made in the application of the real purpose for the MTN mast , namely to facilitate the installation of 5G technology in Hermanus and surrounding areas. This technology will employ millimetre waves in addition to microwaves and given limited reach will require cell antennae every 100 to 200 metres exposing many people to millimetre wave radiation . Millimetre waves are mostly absorbed within a few millimetres of human skin and in the surface layers of the cornea. Short term exposure can have adverse physiological effects on the peripheral nervous system , immune system and the cardiovascular system.

Yours sincerely

Robyn and Rudolf Kraus
The Gables

From: The Gables Boutique Guesthouse [mailto:info@thegableshermanus.co.za]
Sent: Friday, April 2, 2021 11:02 AM
To: 'alida@overstrand.gov.za'

Cc: 'svdmerwe@overstrand.gov.za'

Subject: FW: re Municipal notice no.25/2021 - Erf 5392 De Goede Street Westcliff, Hermanus - MTN mast application

Good Day Ms Conradie

Please refer below email sent @ 12.03am which was first undelivered as the email address given in the municipal notice was not valid.

Kind Regards

Robyn Kraus

The Gables guesthouse

From: The Gables Boutique Guesthouse [<mailto:info@thegableshermanus.co.za>]

Sent: Friday, April 2, 2021 12:03 AM

To: aconradie@overstrand.gov.za

Subject: re Municipal notice no.25/2021 - Erf 5392 De Goede Street Westcliff, Hermanus

Good Day Mr/Ms Conradie

re Municipal notice no.25/2021 - Erf 5392 De Goede Street Westcliff, Hermanus

Please allow me an extension to submit written comments via email by the end of the Easter weekend with respect to opposing the above application .

We own a guesthouse @ 19 De Goede Street which is directly opposite the MTN radio telecommunication base station on the Huis Lettie Theron property.

Please accept my apologies for this delay which is largely due to time constraints owing to us having to prepare for and attend to our guests in the last few weeks.

with kind regards,

R /n Kraus

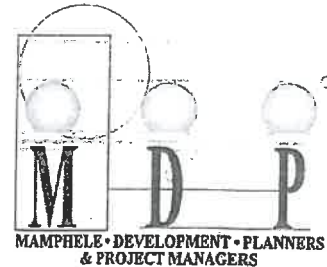
The Gables guesthouse





TP - A Theart
(H Olivier)

16 April 2021
Overstrand Municipality
P.O box 20
Hermanus
7200



CK: 2002/062913/23

Tel: 012 460 8548 / 460 6678 Fax: 012 460 4861

P.O Box 5558, The Reeds, 0158

Email: mdp1@mamphele.co.za

Website: www.mamphele.co.za

Att: A. Conradie

RE: APPLICANT TO COMMENT ON LATE OBJECTION: ERF 5392, DE GOEDE STREET, WESTCLIFF, HERMANUS: APPLICATION FOR AMENDMENT OF RESTRICTIVE TITLE DEED CONDITION, CONSENT USE AND DEPARTURE.

We hereby acknowledge your letter on the above-mentioned application dated 12/04/2021.

Insofar your item No.3 of the said letter is concerned, we hereby respond as follows:

- We agree with the position of the Municipality that indeed any objection lodged after the legal objection and /or comment period (in this case after 1st April 2021) is not legally binding on the applicant to reply and it must therefore be rejected;
- Kindly be advised that as the applicant we are now still preparing proof of advertisement and affidavits which will be delivered to the municipality prior to the lapsing of 30 days from the 13th April 2021.

We trust that you will find the above in order.

Yours sincerely

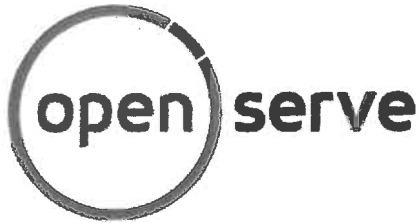
M.V Malla: PrPinA1040/1998

For the applicant

FILE NO:	EL 5392 - HWC ✓
SCAN NO:	
COLLABORATOR NO:	1530383

16/04/2021

Date



Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Wayleave Office Western Region

Tel: 021 414 5707

Email: WayleavesWR@telkom.co.za

Our Ref.: WWIP_WHMN0805_21

Your Ref.: 5392 HWC

12 March 2021

Attention: S.W. van der Merwe
Overberg Municipality

PLANT AFFECTED – COPPER & OPTIC FIBRE

APPLICATION FOR OPENSERVE WAYLEAVE: ERF 5392, DE GOEDE STREET, WESTCLIFF, HERMANUS:
APPLICATION FOR AMENDMENT OF RESTRICTIVE TITLE DEED CONDITION, CONSENT USE AND
DEPARTURE: MAMPHELE DEVELOPMENT PLANNERS (obo GOEIEHOOP BEHUISINGSMAATSKAPPY t/a
HUIS LETTIE THERON).

With reference to your application received 24 February 2021.

As important cables and other infrastructure are affected, please contact our representative Melt van As on 021 852 1717/081 363 7873/MeltVA@openserve.co.za 48 hours prior to commencement of construction work.

I hereby inform you that Openserve approves the proposed work indicated on your drawing in principle. This approval is valid for **12 MONTHS ONLY**, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per sketch attached, Openserve infrastructure **WILL BE AFFECTED**, consequently the conditions below and on the attached legend will apply.

12 MAR 2021

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Openserve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Openserve rights remain reserved.

Yours faithfully



For Selwyn Bowers
Operations Manager
Wayleave Management: Western Region



This wayleave, Reference Number **WWIP WHMN0805 20** is valid for 12 months from date here of and is subject to the following conditions:

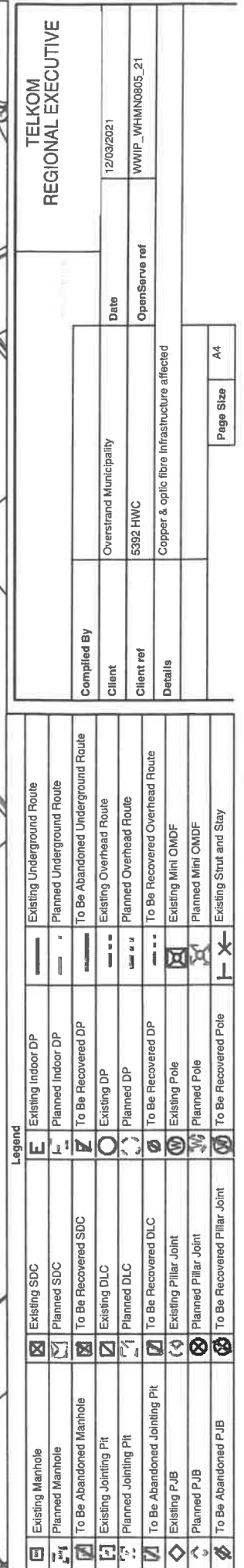
1. No mechanical plant or vibrator type compactors may be used within three metres of any Open Serve plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate approximate and **Melt van As** at telephone number **081 363 7873** email address : **MeltVA@openserve.co.za** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Open Serve Plant will be indicated on site.
3. A written request must be submitted to Open Serve for consideration should the applicant require our plant to be relocated. The cost of such relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify Open Serve immediately should the applicant locate any Open Serve plant which is not indicated on the plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for the damage or loss as a result thereof.

Date: 12 March 2021

Wayleave Management
Western Cape

Legend	
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC)	
5. Jointing Pit / AJB	
6. Jointing Pillar (PJ)	
7. Pipe Junction Box (B/S)	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable (A/C)	

The pipeline indicated contains **OPTIC FIBRE** cables.
Melt van As at telephone **021 852 1717/ 081 363 7873/**
MeltVA@openserve.co.za must be contacted at least 48 hours
before commencement of work.



Alida Conradie

From: Anja le Roux
Sent: Tuesday, 15 September 2026 08:53
To: Schalk Van Der Merwe
Cc: Alida Conradie
Subject: RE: MTN AANSOEK - HUIS LETTIE THERON

Good day Schalk

With reference to the below email, as well as our telephone conversation.

The relevant title deed restriction was imposed by Council with the sale of the property. This means that only Council can approve the amendment/removal thereof. As it was imposed as a condition of sale, and as the Removal of Restrictions Act was repealed, the application to amend/remove does not need to be addressed in accordance with SPLUMA. The applicant must submit a separate application to my offices for consideration by Council. Please make your recommendation then subject to the mentioned Property Management process.

I am not opposed to the amendment of the condition, depending on the proposed new wording, but cannot support the removal of the condition.

I trust that you find the above in order.

Regards

Ms Anja Le Roux

Divisional Manager: Property Management, Planning & Development Directorate
 Overstrand Municipality
 Corner of Molteno & Viljoen Street, Onrustrivier, 7201

T: +27 (0) 28 316 5623 | **F:** +27 (0) 28 316 3721 | **E:** anjaleroux@overstrand.gov.za

From: Schalk Van Der Merwe <svdmerwe@overstrand.gov.za>
Sent: Tuesday, 15 September 2026 07:43
To: Anja le Roux <anjaleroux@overstrand.gov.za>
Cc: Alida Conradie <alida@overstrand.gov.za>
Subject: RE: MTN AANSOEK - HUIS LETTIE THERON

Beste Anja

Ek volg net op of jy vir my teen môre kan terugvoer gee asb soos versoek? Item aangeheg het Alida reeds reggetrek. Ignoreer dus die vorige weergawe.

Groete

Schalk van der Merwe

Principal Town Planner, Town & Spatial Planning Department
 Overstrand Municipality

A: 16 Paterson Street, Hermanus, 7200 **P:** P O Box 20, Hermanus, 7200
T: 028 313 8900 | **F:** 028 313 2093 **E:** svdmerwe@overstrand.gov.za

From: Schalk Van Der Merwe
Sent: Thursday, 10 September 2026 09:28

From: A Olivier <aolivier@overstrand.gov.za>
Sent: Tuesday, 02 August 2022 11:23
To: M Erasmus <merasmus@overstrand.gov.za>; H Boshoff <hboshoff@overstrand.gov.za>
Cc: Anja le Roux <anjaleroux@overstrand.gov.za>; A Conradie <alida@overstrand.gov.za>; S Van Der Merwe <svdmerwe@overstrand.gov.za>
Subject: RE: Erf 5392, Westcliff (Huis Lettie Theron)

More Helgaard

Stuur v my die titleakte asb

Dankie

Andre

From: M Erasmus <merasmus@overstrand.gov.za>
Sent: Tuesday, 02 August 2022 08:38
To: H Boshoff <hboshoff@overstrand.gov.za>
Cc: Anja le Roux <anjaleroux@overstrand.gov.za>; A Conradie <alida@overstrand.gov.za>; S Van Der Merwe <svdmerwe@overstrand.gov.za>; A Olivier <aolivier@overstrand.gov.za>
Subject: RE: Erf 5392, Westcliff (Huis Lettie Theron)

Beste Helgaard,

Jou versoek vir kommentaar het verwysing.

Hierdie geval is presies soos die aansoek wat die AGS verlede jaar ingedien het.

Ongelukkig kan daar nie net toestemming gegee word vir die wysiging van die titel voorwaarde nie. Aangesien dit 'n voorwaarde is wat deur die Raad opgelê is kan slegs die volle raad die wysiging goedkeur.

Die spesifieke voorwaarde in die koopvooreenoms lees soos volg:

"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 Home for the Aged purposes. Should the erection of such building/s not be commenced within a period of five years after transfer or within such further period as the Council with the consent of the Administrator, may allow, or should the land at any time cease to be used for a Home for the Aged purposes by the transferee or its successors in title, the transferee or its successors in title shall pay an amount equal to the difference between the purchase price of R2.00 and the market value of the land at the date of sale, namely R9,000.00, i.e. an amount of R8,998.00 whereafter the land with the approval of the Council and the administrator may be used for such purposes as agreed to by the Council and the administrator; or alternatively, 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 all things necessary and to sign all documents for the purpose of affecting re-transfer to the Council the cost of the transfer to be borne by the transferee or its successors in title."

Die implikasie, sou die aansoeker versoek om voort te gaan met die aansoek, sal dan behels dat die aansoek voor die Raad moet dien vir goedkeuring van die addisionele gebruik, onderhewig aan die betaling van die verskil in die koopprijs van R8,998.00 aan die Raad.

Kind regards / Vriendelike groete

Madelein Erasmus

Administrative Officer: Property Administration, Infrastructure and Planning Directorate /
 Administratiewe Beampte: Eiendomsadministrasie, Direkoraat Infrastruktuur en Beplanning