



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

MINUTES

DATE:	30 SEPTEMBER 2025
VENUE:	TOWN PLANNING BOARDROOM
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM & TEAMS ON 30 SEPTEMBER 2025 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Chief Engineer : Infrastructure Services
Mr H Blignaut, Principal Engineer

OFFICIALS:

Mr R Kuchar, Divisional Manager : Town & Spatial
Planning
Mr S van der Merwe, Senior Town Planner
Ms H van der Stoep, Senior Town Planner
Mr H Olivier, Town Planner
Ms S Swart, Senior Committee Officer

APOLOGIES:


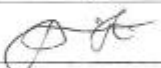


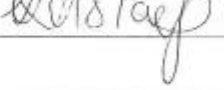

Ms R Louw, Divisional Manager : Strategic Support
Services

**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 30 SEPTEMBER 2025

I, the undersigned, hereby declare:

- that I will make known details of any personal or other interest in respect of matters on the agenda and whether I have been approached by any party prior to the meeting
- that I have read all the information on the agenda

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
H JANSER	CHAIRPERSON DIR. DEV MANAGEMENT	
S MÜLLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	APOLGUY
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	
S VAN DER MERWE	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
H VAN DER STOEP	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
P ROUX	TOWN PLANNER OVERSTRAND MUNICIPALITY	
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
B MINNAAR	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	

1. OPENING

The Chairperson opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms R Louw

RESOLVED:

that the above application for leave of absence **be approved.**

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 28 August 2025****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **28 August 2025, be approved.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 5568, 4 AGAPANTHUS ROAD, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION AND DEPARTURE: PLATINUM TOWN & REGIONAL PLANNERS CC ON BEHALF OF DA & DP CLARKE

5568 KBB (4907/2025)

H van der Stoep

(028) 313 8900

Hermanus Administration

1 September 2025

EXECUTIVE SUMMARY

An application was received on 4 February 2025 from Platinum Town & Regional Planners CC on behalf of DA & DP Clarke on Erf 5568, Betty's Bay for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions B.7 and C.7 as contained in Title Deed T30376/2006 of the property.

The restrictive title deed conditions B.7 and C.7 read as follows:

"B.7. No building or structure or any portion thereof except boundary walls fences shall except with the consent of the Administrator be erected nearer than 5m to the street line which forms a boundary of this erf, nor within 3m of the rear or 3m of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority–

C.7. No building or structure or any portion thereof except boundary walls fences shall except with the consent of the Administrator be erected nearer than 5m to the street line which forms a boundary of this erf, nor within 3m of the rear or 3m of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority–"

- ❖ **Subdivision** in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to subdivide Erf 5568, Betty's Bay into three (3) portions, namely Portion 1 ($\pm 757\text{m}^2$), Portion 2 ($\pm 723\text{m}^2$) and a Remainder ($\pm 970\text{m}^2$).
- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to relax the rear building lines of Portion 1, Portion 2 and the Remainder from 2m to 1m respectively.

RESOLVED:

1. that the objection **be noted**;

2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 5568, Betty's Bay for the removal of restrictive title deed condition B.7 and C.7 as contained in Title Deed T30376/2006 of the property, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to subdivide Erf 5568, Betty's Bay into three (3) portions, namely Portion 1 ($\pm 757\text{m}^2$), Portion 2 ($\pm 723\text{m}^2$) and a Remainder ($\pm 970\text{m}^2$), **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 5568, Betty's Bay for a departure to relax the rear building lines of Portion 1, Portion 2 and the Remainder from 2m to 1m respectively, **be partially approved**, to exclude Portion 2, in terms of the provisions of Section 61 of the By-law;
5. that the above approvals in Points 2-4 be subject to the following conditions:
 - (a) that the approval of the departure of the western boundary building line from 2m to 1m be restricted to the approved buildings on the Remainder of Erf 5568 and proposed Portion 1 only;
 - (b) that the departure for the requested 1m building line will only be applicable to the existing structures as per approved building plan, Plan no 5442/ 2000;
 - (c) that this approval is only for the subdivision as indicated on plan number /01 dated January 2025, as submitted with the application;
 - (d) that the lean-to located on the Remainder of Erf 5568 as indicated on plan dated January 2025, **be demolished**, within 60-days of the final decision;
 - (e) that all other illegal structures on the property/ies, **be demolished**, within 60-days of the final decision;
 - (f) that the approved structures as per building plan no. 5442/2000 **not** be converted into habitable space (extension of a dwelling on the 1m building line);

- (g) that revised building plans be submitted to reflect Points (a) – (f) above to the Building Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (h) that the amended title deed be submitted for record purposes to the Municipality;
 - (i) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (j) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
 - (k) that all the conditions in the Services Report be complied with.
6. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:

- ❖ The building line restrictions in the title deed conditions are more restrictive with regard to the street and rear boundaries, but more lenient in relation to the lateral building lines.
- ❖ The difference between the street building line of the title deed conditions and the Land Use Scheme is approximately 1m in total and would thus have very little impact on the residential character or street view of the area.
- ❖ The lateral building line of 3 meters in the title deed conditions is more lenient than the 2-metre requirement of the Land Use Scheme when applied to outbuildings.
- ❖ The departure from the western lateral building line, reducing it from 2 meters to 1 meter, applies only to the existing, approved structures as shown on Plan 5442/2000, relating to the Remainder and proposed Portion 1 of Erf 5568. These structures were constructed in 2000 with the written consent of the adjoining neighbour.
- ❖ The departure from the western building line in respect of proposed Portion 2 of Erf 5568 is not supported, as no motivation was provided. In the absence of justification, there is no valid reason for development to occur within 1 meter of the rear boundary on this vacant erf, and it will therefore be required to comply fully with the Land Use Scheme development parameters.
- ❖ The removal of the title deed conditions is intended solely to address building line restrictions. All other conditions in the title deed will remain unchanged.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.2

ERF 5629 (A PORTION OF ERF 4576), 1 POPLYRIA ROAD, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND AMENDMENT OF CONDITION IN RESPECT OF AN EXISTING APPROVAL: WRAP PROJECT OFFICE ON BEHALF OF JD & CJ SMIT

5629 KBB (4417/2023)

**H van der Stoep
26 August 2025**

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 22 June 2025 from WRAP Project Office on behalf of JD & CJ Smith on Erf 5629 (a portion of Erf 4576), Betty's Bay for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.7.(a)(i) and B.7.(a)(ii) as contained in Title Deed No. T27446/2021 of the property to accommodate a proposed new dwelling.

The restrictive title deed conditions read as follows:

"B. ONDERHEWIG VERDER aan die volgende voorwaardes vervat in Transportakte Nr. T33675/1977 opgelê deur die Administrateur van die Provinsie Kaap die Goeie Hoop ingevolge Ordonnansie Nr. 33 van 1934 by die goedkeuring van BETTYSBAAI DORP UITBREIDING NR. 6, welke voorwaardes as volg lees:-

7. *Except with the prior consent of the Administrator –*

(a) *no building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 8m to the street line which forms a boundary of this erf, nor within 5m of any other boundary common to any adjoining erf, provided that with the consent of the local authority:-*

(i) *an outbuilding not exceeding 3m in height measured from the floor to the wall-plate may be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 12m measured from the rear boundary of the site; provided that in the case of a corner erf, the distance of 12m shall be measured from the point furthest from the streets abutting the erf.*

(ii) *an outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such boundary."*

- ❖ **Amendment of condition in respect of an existing approval** in terms of Section 16(2)(h) of the By-Law, to allow the owners to position the proposed new dwelling in a previously approved “no-go” environmental zone.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 5629 Betty’s Bay for the removal of restrictive title deed conditions B.7.(a)(i) and B.7.(a)(ii) as contained in Title Deed No. T27446/2021 of the property to accommodate a proposed new dwelling, **be partially approved**, in terms of the provisions of Section 61 of the By-Law; subject to the following conditions:
 - (a) that Condition 7(a) contained in Title Deed No. T27446/2021, **be amended** to read as follows:”
 7. *Except with the prior consent of the Local Authority-*
 - (a) *no building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 5m to the street line which forms a boundary of this erf:-*
 - (b) that Conditions 7.(a)(i) and(ii) contained in Title Deed No. T27446/2021, **be removed**;
 - (c) that this approval is not an approval in terms of any other legislation;
 - (d) that a building plan be submitted to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (e) that the amended title deed be submitted for record purposes to the Municipality;
 - (f) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (g) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (h) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with; and
 - (i) that all the conditions in the Services Report be complied with.

3. that the application in terms of Section 16.(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 5629 Betty's Bay for the amendment of conditions (1.)(a) and (b) in respect of an existing approval dated 18 November 2020 to allow the owners to position the proposed new dwelling in a previously approved "no-go" environmental zone, **be approved**, in terms of the provisions of Section 61 of the By-Law; and
4. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:POINT 2 - 3

- ❖ The amendment of the title deed street building line to 5 meters will align with the prevailing pattern of smaller surrounding erven, ensuring consistency in the urban form.
- ❖ The lateral building lines prescribed in the title deed conditions are less restrictive than those in the Land Use Scheme with respect to outbuildings. Consequently, the impact of outbuildings is more effectively regulated under the Land Use Scheme provisions.
- ❖ Environmental authorisation has been granted for the clearance of the indigenous vegetation in the area previously designated as a no-go area. This follows the determination that disturbance of areas still covered in natural vegetation must be avoided.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.3

**ERF 518, 24 STREAM ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS,
DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: J
DOUGLAS ON BEHALF OF HJ KILIAN - THE EXECUTOR OF LATE ESTATE EK
SNYMAN**

518 KPRB (4635/2024)

H van der Stoep

13 June 2025

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 12 April 2024 from J Douglas on behalf of HJ Killian – The Executor of Late Estate EK Snyman - on Erf 518, Pringle Bay for the following:

- ❖ **Removal of Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed condition A.(d) as contained in Title Deed T13250/1982 of the property to accommodate the existing laundry room on the property.

The restrictive title deed condition read as follows:

“A. As synde ten gunste van die geregistreerde eienaar van enige erf in die dorp en onderheweig aan wysiging of regstelling deur die Administrateur kragtens die bepalings van Artikel 18(3) van Ordonnansie 33 van 1934.

(d) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 1,57 to the lateral boundary common to any adjoining erf.”

- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to relax the southern lateral building line from 2m to 1,22m and 1,77m respectively to accommodate the existing laundry room and garage on the property.
- ❖ **Determination of an Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the unauthorised land use as mentioned above.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 518, Pringle Bay for the removal of restrictive title deed condition A.(d) as contained in Title Deed T13250/1982 of the property on the property, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 518 Pringle Bay for a departure to relax the southern lateral building line from 2m to 1,22m and 1,77m respectively to accommodate the existing laundry room and garage on the property, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals in Points 2 and 3 be subject to the following conditions:
 - (a) that this approval is not an approval in terms of any other legislation;
 - (b) that this approval is only for the development as indicated on plan number RCBA-630 dated 27 March 2024, as submitted with the application;
 - (c) that a building plan be submitted indicating the transgression on the lateral building line of 1,22m (laundry) and 1,77m (garage);
 - (d) that a building plan be submitted to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (e) that the amended title deed be submitted for record purposes to the Municipality;
 - (f) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (g) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (h) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with; and
 - (i) that all the conditions in the Services Report be complied with.

5. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 518, Pringle Bay for the unauthorised building line encroachments as stipulated above, **be imposed**, and that an administrative penalty fee of **R8 222,24** be payable within sixty (60) days of this decision; and
6. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:POINT 2

- ❖ The title deed building line restrictions are more restrictive in terms of the street building lines, but more lenient regarding the lateral building lines.
- ❖ The extent of the building line transgression is approximately 0.35 meters, which is considered negligible and is unlikely to have a material impact on the established character of Pringle Bay Proper.
- ❖ The removal of restrictive condition A(d) from the title deed would allow outbuildings on the 1.57-meter lateral building line without public participation, whereas the Land Use Scheme requires public input for any outbuilding closer than 2 meters to the boundary. Therefore, removing this condition would ensure that adjoining property owners are informed and given the opportunity to comment on proposed developments, thus enhancing transparency and neighbour involvement.
- ❖ The 1.57-meter lateral building line permitted by the title deed is more lenient than the 2 meter requirement of the Land Use Scheme. As such, if only the title deed applied, it could allow the construction of an 8-metre-high building close to the boundary—posing a significantly greater impact on privacy, access to sunlight, and view corridors for adjacent properties than the current single-storey laundry structure. The 2-metre lateral building line in the Land Use Scheme offers a more balanced approach, safeguarding neighbourhood character and amenity.
- ❖ The demolition and relocation of the existing 7.43m² laundry structure is not viable, as it is already connected to essential infrastructure (water and wastewater systems). Relocating the structure would necessitate substantial structural changes, incur significant financial costs for the owner, and could potentially alter the existing residential character of the area.
- ❖ All the other title deed conditions remain unaffected and will continue to apply.

POINT 3

- ❖ The departure of 0,78 metres for the laundry and 0,23 metres for the garage, when measured against the requirements of the Land Use Scheme, is minor and is unlikely to have an significant impact on the streetscape or the character of the immediate surroundings.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.4

PORTION 156 OF THE FARM BAARDSCHEERDERS BOSCH NO. 213, DIVISION BREDASDORP, OVERSTRAND MUNICIPALITY: APPLICATION FOR CONSENT USE: MESSRS TOWN AND COUNTRY CREATIVE LAND SOLUTIONS ON BEHALF OF CM RILLEMA

Ptn 156/213 GRBRE (4680/2024)

SW van der Merwe

(028) 313 8900

Hermanus Administration

04 September 2025

EXECUTIVE SUMMARY

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) was received on 28 May 2024 from Messrs Town and Country Creative Land Solutions for the following:

- ❖ **Consent use** in terms of Section 16(2)(o) of the By-Law to accommodate agri-industry (winery) on the property.

RESOLVED:

1. that the objection **be noted**;
2. that the application in terms of Section 16(2)(o) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Portion 156 of the Farm Baardscheerders Bosch No. 213, Bredasdorp Division for **consent use** (agri-industry) to conduct a boutique winery, **be approved** in terms of the provisions of Section 61 of the By-Law subject to the following conditions:
 - (a) that the consent use for agri-industry be limited to the building / structures indicated on the Site Development Plan Drawing No. *BRE/3152* dated *MAY 2024* submitted with the application;
 - (b) that a parking layout be submitted for approval by the Authorised Official demonstrating on-site parking provision in accordance with the provisions of the applicable scheme regulations;
 - (c) that building plans be submitted to the Building Department for approval and that all conditions of the Building and Fire Departments at that stage, be complied with;
 - (d) that all the conditions imposed by Eskom and Breede-Gouritz Catchment Management Agency be complied with;
 - (e) that the conditions in the Services Report be complied with;

- (f) that the applicable rates and service tariffs, as determined by the annual budget is applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (g) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (h) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
3. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:

- ❖ The application has followed all due legal and procedural requirements.
- ❖ The proposal will not adversely affect any vested rights nor negatively impact the amenity or interests of surrounding property owners.
- ❖ The development is compatible with the rural character of the area and will not compromise the visual integrity of the rural landscape.
- ❖ The proposal aligns with the planning principles set out in both the Land Use Planning Act (LUPA) and the Spatial Planning and Land Use Management Act (SPLUMA).
- ❖ It is consistent with the Spatial Development Framework (SDF) and complies with the applicable rural development.
- ❖ The proposal will make a positive contribution to local tourism, economic development and employment, while remaining in scale and character with the surrounding rural context.

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.5

FARM 905, RESTLESS RIVER, HEMEL-EN-AARDE VALLEY, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE, CONSENT USE, AMENDMENT OF CONDITIONS IN RESPECT OF EXISTING APPROVAL, AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF HERMANUS ABERDEEN 44 PTY LTD

RCAL Farm 905 (4418/2023)

H Olivier

(028) 313 8900

Hermanus Administration

7 July 2025

EXECUTIVE SUMMARY

An application was received on 26 June 2023 from WRAP Project Office on behalf of Hermanus Aberdeen 44 (Pty) Ltd on Farm 905 Restless River, Hemel-en-Aarde Valley in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Consent use** in terms of Section 16(2)(o) in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate an additional dwelling unit; utilise the additional dwelling unit for tourist accommodation; convert the existing main dwelling into a guesthouse; and permit a tourist facility to operate a restaurant and wine-tasting facility.
- ❖ **Departure** in terms of Section 16(2)(b) in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to relax the northern lateral building line from 30m to 23.3m and the western lateral building line from 30m to 16,5m to accommodate the staff room and bathroom, and to relax the eastern lateral building line from 30m to 0.8m;1.6m and 10.4m respectively to accommodate a storage area, an extension to the existing storage room and a proposed pool house.
- ❖ **Amendment of the existing approved site development plan** in terms of Section 16(2)(l) in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate proposed new buildings as well as the expansion of existing buildings on the property.
- ❖ **Amendment of conditions in respect of an existing approval** in terms of Section 16(2)(h) in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate the expansion of the existing agricultural industry from 391m² to 910m² and the existing tourist facility from 33m² to 660m².
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the unauthorised construction of the staff room.

RESOLVED:

1. that the objection **be noted**;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Farm 905 Restless River, Hemel-en-Aarde Valley for a **consent use** to accommodate an additional dwelling, tourist accommodation to convert the existing main dwelling into a guest house and use the additional dwelling for tourist accommodation, and a tourist facility to operate a restaurant and wine tasting facility, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(b) of the of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for a **departure** to relax the northern lateral building line from 30m to 23.3m and the western lateral building line from 30m to 16,5m to accommodate the staff room and bathroom, and to relax the eastern lateral building line from 30m to 0.8m;1.6m and 10.4m respectively to accommodate a storage area, an extension to the existing storage room and a proposed pool house, **be approved**, in terms of the provisions of Section 61;
4. that the application in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Farm 905 Restless River, Hemel-en-Aarde Valley for the **amendment of the site development plan** to accommodate the proposed new buildings as well as the expansion of the existing buildings, **be approved**, in terms of the provisions of Section 61;
5. that the application in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Farm 905 Restless River, Hemel-en-Aarde Valley for the **amendment of conditions** in respect of an existing approval to accommodate the expansion of the existing agricultural industry from 391m² to 910m² and the existing tourist facility from 33m² to 660m², **be approved**, in terms of the provisions of Section 61;
6. that the approvals in Points 1 – 5 above, be subject to the following conditions:
 - (a) that a **revised** Site Development Plan be submitted, with the amendments that the tourist facility (restaurant and wine tasting) with parking and the additional dwelling unit be re-located to the farmhouse precinct, to the satisfaction of the Senior Manager: Town and Spatial Planning;
 - (b) that the tourist accommodation be limited to the three (3) guestrooms in the main dwelling and the proposed dwelling unit;

- (c) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (d) that the owner/manager must reside on the property to oversee the tourist accommodation;
 - (e) that adequate provision be made to manage the behaviour of patrons (both inside and outside the buildings) and protection of surrounding properties;
 - (f) that commercial rates and taxes, as determined by the annual budget, be paid, if applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (g) that the site must have a dedicated waste storage area as per part of the National Building Regulations (SANS 10400), and all refuse must then be removed from the property to a registered dump site;
 - (h) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (i) that there be compliance with all relevant Health and Fire Regulations;
 - (j) that all the conditions in the Services Report be complied with; and
 - (k) that all the conditions of Department of Agriculture Western Cape be complied with.
7. that the following comments be noted:
- BOCMA;
 - Cape Nature;
 - Western Cape Government: EADP (Planning);
 - Eskom;
 - Western Cape Government: EADP (Environmental);
 - Telkom; and
 - Western Cape Government: Infrastructure (Road Planning).
8. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Farm 905 Restless River, Hemel-en-Aarde Valley for the unauthorised encroachments over the building lines of the staff room and bathroom was considered and that an administrative penalty **of R32 202,00 be imposed**, payable within sixty (60) days of the final decision; and

9. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:

POINTS 1 - 6

- ❖ The application has followed all due legal and procedural procedure.
- ❖ The objection regarding the placement of the staff room and bathroom, which claims a negative impact on residents in CochYBundhu and the safety of residents, is not supported. The actual impact of the structures at their current location is considered negligible, as the difference from the required 30m building line is only 6.7m, which is unlikely to materially alter their effect on the adjacent property.
- ❖ None of the internal departments have objected to the application.
- ❖ No new municipal services will be required.
- ❖ No external State Departments objected to the application.
- ❖ The recommendation by the Western Cape Government: Agriculture and Western Cape Government: EADP (Planning) that the additional dwelling unit, restaurant, and wine-tasting facility with parking be relocated to the farmstead precinct, is supported. This recommendation aligns with the Western Cape Land Use Planning Guidelines (2019) for Rural Areas, which seek to minimise the impact of non-agricultural activities on agricultural land and production.
- ❖ The recommendation by the Western Cape Government: Agriculture and Western Cape Government: EADP (Planning) that the additional dwelling unit be limited to 175m² as per the Western Cape Land Use Planning Guidelines, 2019, is not supported, as the Overstrand Municipality Amendment Land Use Scheme, 2020 allows for an additional dwelling of a size of 250m² on farms.
- ❖ The application is in line with SPLUMA principles, and the additional land uses would ensure the land is used more efficiently and provide it with spatial resilience as additional income can be generated should the production of the farm take an economic downturn.
- ❖ The Western Cape Government: EADP (Environmental), Cape Nature and the Municipal Environmental Division supports the application, and therefore it is the opinion that the application will not have a negative environmental impact.
- ❖ The Municipal Engineering Department, BOCMA, Eskom and Western Cape Government: Infrastructure (Road Planning) support the application, and there are no concerns regarding services and accessibility.
- ❖ The application is in line with the aims of the Overstrand SDF, which promotes tourism.
- ❖ It is not foreseen that the application will have a negative effect on the character of the area or surrounding property owners.
- ❖ Only three (3) bedrooms in the main dwelling may be utilised for tourist accommodation, as one (1) bedroom must be retained for use by the owner or manager.

POINT 8

- ❖ The existing property owner is responsible for placing the staff room and bathroom over the building lines and therefore an Administrative Penalty Fee is imposed.

RESPONSIBLE OFFICIAL :

H OLIVIER

4.6

PORTIONS 210 AND 220 (PORTIONS OF PORTION 80) OF FARM AFDACS RIVIER NO. 575, CALEDON DIVISION, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF BENGUELA COVE HOMEOWNER'S ASSOCIATION

HBENG 210 & 220/575 (4336/2023)

H Olivier

(028) 313 8900

Hermanus Administration

28 July 2025

EXECUTIVE SUMMARY

An application was received on 9 February 2023 by WRAP Project Office on behalf Benguela Cove Homeowner's Association on Portions 210 & 220 (Portions of Portion 80) of Farm Afdaks River No.575, Division Caledon in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Consent Use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to allow tourist facilities (operating of a pontoon boat as a recreational facility).
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the unauthorised land use activity as stipulated above.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 for a Consent use to allow tourist facilities (operating a pontoon boat as a recreational facility) on Portions 210 & 220 (Portions of Portion 80) of Farm Afdaks River No.575, Division Caledon, **not be approved**;
3. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Portions 210 & 220 (Portions of Portion 80) of Farm Afdaks River No.575 for the unauthorised land use (operation of a pontoon boat), **not be imposed**; and
4. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 with regard to the above decisions.

REASONS FOR THE RESOLUTION:POINT 1

- ❖ It is not possible to determine the desirability of the proposal at this stage due to a lack of critical information, including:
 - ❖ The number of trips the pontoon will make per day,
 - ❖ The expected volume of visitors to the site on a daily basis,
 - ❖ How visitors will utilise common area facilities, and
 - ❖ How access will be managed within the privately owned Benguela Cove Estate.
- ❖ The concerns raised by objectors regarding security risks, increased noise levels, impacts on privacy, and the potential change to the character of the area are considered valid and reasonable.
- ❖ The objection that the Benguela Cove Estate Homeowners Association (HOA) failed to comply with the requirements of its own Constitution prior to submitting the application, is supported by the Municipal Legal Services Department.

POINT 2

- ❖ The application lacks clarity on who will be held responsible for the Administrative Penalty Fee, especially given that:
 - ❖ the application was submitted by the HOA, but
 - ❖ the operations appear to be managed by a separate party.
- ❖ It would be unfair and procedurally irregular for the general members of the HOA to be held financially accountable for a penalty arising from an application that was not processed in accordance with the internal procedures of the HOA and its Constitution.

RESPONSIBLE OFFICIAL :**H OLIVIER****The meeting adjourned at 11:25**