

**AGENDA of the
Portfolio Committee : Planning and Development
9 April 2025
(Also the agenda for the Mayoral Committee Meeting : 16 April 2025)**

2.

AMENDMENT OF RESOLUTION DATED 24 AUGUST 2021 FOR THE ENCROACHMENT BY MEANS OF A RETAINING WALL ON A PORTION OF ERF 1199 ZWELIHLE (PUBLIC PLACE, BEACH CLUB)

**A Le Roux
21 February 2025**

**Divisional Manager: Property Management
(028) 316 5623**

1. Executive Summary

To obtain approval for the amendment of the resolution taken by the Executive Mayor at the Mayoral Committee meeting held on 24 August 2021 for the encroachment by means of a retaining wall on a portion of Erf 1199 Zwelihle, adjacent to Erf 1248 Zwelihle, situated in Beach Club.

The amendments will entail the substitution of the name of the previous owner, Mr. H.R.A. Lubbe, of Erf 1248 Zwelihle, with the new owner of said erf, Demix (Pty) Ltd, the amendment of the encroachment amount to reflect the prescribed tariff for the current financial year, the next escalation date will be updated accordingly and lastly the removal of Paragraph 3. See the locality plans attached hereto marked as “**Annexure A1**” and “**Annexure A2**”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Planning and Development
Property Management

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality, as amended
- Municipal Asset Transfer Regulations (R. 878 of 2008)

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6. Background/Discussion/Evaluation/Conclusion

Background/Discussion/ Evaluation

Whenever Hermanus experiences a storm with associated high swells and waves, the owner of Erf 1248 Zwelihle, situated in Beach Club next to the ocean, suffers severe damage to its house. The previous owner of Erf 1248 Zwelihle, Mr. Lubbe, applied to erect a retaining wall of approximately 2,5 metre wide and 800mm high in front of his property to prevent further damage to the property, especially during the winter months. The application process was duly followed.

The Executive Mayor at a Mayoral Committee Meeting on 24 August 2021 resolved as follows:

- “1. *that the encroachment on municipal property, being a portion of Erf 1199 Zwelihle ($\pm 38\text{m}^2$ in extent), adjacent to Erf 1248 Zwelihle, to Mr Henry Richard Adriaan Lubbe at an amount of R528.58 (FIVE HUNDRED AND TWENTY EIGHT RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month for a period of 5 (FIVE) years in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;*
2. *that the prescribed tariff mentioned in 1 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2021; and*
3. *that the approval in 1 above be subject thereto that, should any objections be received against the proposed encroachment, the matter be referred back to the Executive Mayor for consideration.*

After above approval was given and before the encroachment agreement was signed, Mr. Lubbe informed the Property Management Division in March 2022 that he was in the process of selling Erf 1248 Zwelihle. The Property Management Division then advised Mr. Lubbe to inform the new owner to contact the Municipality should he/she wish to continue with the process. Demix (Pty) Ltd, the new owner of Erf 1248 Zwelihle, however only submitted an application to continue with the encroachment in November 2024.

As Erf 1248 Zwelihle was sold the Municipality cannot enter into an agreement with Mr. Lubbe but must enter into an agreement with the new owner, Demix (Pty) Ltd. Therefore, it is requested that paragraph 1 of the Executive Mayor’s resolution dated 24 August 2021 be amended to reflect the encroacher’s name as Demix (Pty) Ltd and the prescribed tariff mentioned must be amended in accordance with the tariffs for the current financial year which is currently an amount of R2.61/m² (TWO RAND AND SIXTY ONE CENTS PER SQUARE METRE) (VAT excluded) per month. The total encroachment amount will be an amount of R99.18 (NINETY-NINE RAND

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AND EIGHTEEN CENTS) (VAT excl.) per month. It is further requested that paragraph 2 be amended to indicate the next escalation date as 1 July 2025.

Paragraph 3 of the above-mentioned approval for the encroachment on a portion of Erf 1199 Zwelihle (hereinafter referred to as “the Property”) stipulated that should any objections/comments be received the matter be referred back to the Executive Mayor. The advertisement was published in the Village News on 21 May 2021 for a 30 (THIRTY) day objection/comment period at the previous owner’s cost. No objections/comments were received and therefore it is requested that paragraph 3 be removed and not be included in the amended resolution as it is no longer relevant.

Save for the approval by the Executive Mayor of the transaction, all other conditions of the Administration of Immovable Property Policy (2025) were met.

Conclusion

It is recommended that the resolution taken by the Executive Mayor at the Mayoral Committee meeting on 21 February 2021 be amended as follows:

1. that the encroachment on municipal property, being a portion of Erf 1199 Zwelihle ($\pm 38\text{m}^2$ in extent), adjacent to Erf 1248 Zwelihle, to Demix (Pty) Ltd at an amount of R99.18 (NINETY-NINE RAND AND EIGHTEEN CENTS) (VAT excluded) per month for a period of 5 (FIVE) years in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**, and
2. that the prescribed tariff mentioned in 1 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2025.

7. Financial Implications

The Municipality stands to gain an income of R2.61/m² (TWO RAND AND SIXTY ONE CENTS PER SQUARE METRE) (VAT excluded) which calculates to an amount of R99.18 (NINETY-NINE RAND AND EIGHTEEN CENTS) (VAT excluded) per month for the 2024/2025 financial year where after the encroachment fee will escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2025. All expenses pertaining to the proposed encroachment will be borne by Demix (Pty) Ltd.

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

The comments from other Divisions were obtained when the initial approval was obtained. There were no objections to the encroachment.

10. Annexures

Annexure A1 & A2: Locality maps

RECOMMENDATION:

that the resolution taken by the Executive Mayor at the Mayoral Committee meeting on 24 August 2021 be amended to read as follows:

1. that the application to encroach by means of a retaining wall on municipal property, being a portion of Erf 1199 Zwelihle ($\pm 38\text{m}^2$ in extent), adjacent to Erf 1248 Zwelihle, by Demix (Pty) Ltd at an amount of R2.61/m² (TWO RAND AND SIXTY ONE CENTS PER SQUARE METRE) (VAT excluded) per month for a period of 5 (FIVE) years in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**, and
2. that the prescribed tariff mentioned in 1 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2025.

RESPONSIBLE OFFICIAL :	WILLMARY MURTZ
TARGET DATE FOR IMPLEMENTATION :	30 MAY 2025
TARGET DATE TO INFORM APPLICANT :	16 MAY 2025
TARGET DATE TO INFORM OBJECTOR :	N/A

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**A Le Roux
21 February 2025**


**Divisional Manager: Property Management
(028) 316 5623**

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
9 APRIL 2025, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**


RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	30 MAY 2025
TARGET DATE TO INFORM APPLICANT :	16 MAY 2025
TARGET DATE TO INFORM OBJECTOR :	N/A



OVERSTRAND MUNICIPALITY



A portion of Erf 1199 Zweihhle



Date: 2025/02/25



Portion Of Erf 1199
Zwelihle
±38m² in extent
(Beach Club)