



**OVERSTRAND MUNISIPALITEIT**  
**ERF 5392, DE GOEDE STREET, WESTCLIFF,**  
**HERMANUS : AANSOEK OM WYSIGING VAN**  
**BEPERKENDE TITELAKTE VOORWAARDE,**  
**VERGUNNINGSGEBRUIK EN AFWYKING:**  
**MAMPHELE DEVELOPMENT PLANNERS (nms**  
**GOEIEHOOP BEHUISINGSMATSKAPPY t/a HUIS**  
**LETTIE THERON)**

Kennis geskied hiermee ingevolge Artikels 47 en 48 van die Overstrand Munisipaliteit Verordening vir Munisipale Grondgebruikbeplanning, 2015 (Verordening), dat die volgende aansoeke van toepassing op Erf 5392, Hermanus ontvang is:

**Wysiging van 'n Beperkende Titelvoorwaarde**

Aansoek ingevolge Artikel 16(2)(f) van die voorgenoemde Verordening vir die voorgestelde wysiging van Klousule 4 van Titelakte T15886/1971.

**Vergunningsgebruik**

Aansoek ingevolge Artikel 16(2)(o) van die voorgenoemde Verordening om 'n bestaande telekommunikasie-basisstasie te akkommodeer.

**Afwyking**

Aansoek ingevolge Artikel 16(2)(b) van die voorgenoemde Verordening ten einde die maksimum toelaatbare hoogte vanaf 10,5m na 18m te oorskrei om 'n bestaande telekommunikasie-basisstasie te akkommodeer.

Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentaar moet skriftelik ingedien word in terme van Artikels 51 en 52 van die bogenoemde Verordening aan die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [aconradie@overstrand.gov.za](mailto:aconradie@overstrand.gov.za)) voor of op **1 April 2021**, stipuleer u naam, adres, kontak besonderhede, belang in die aansoek en redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Mnr. SW. van der Merwe** by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, **HERMANUS**, 7200

Munisipale Kennisgewing Nr. 25/2021

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

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality By-Law for Municipal Land Use Planning, 2015 (By-Law), that the following applications were received on Erf 5392, Hermanus:

**Amendment of a Restrictive Title Condition**

Application in terms of Section 16(2)(f) of the aforementioned By-Law for the proposed amendment of Clause 4 of Title Deed T15886/1971.

**Consent Use**

Application in terms of Section 16(2)(o) of the aforementioned By-Law to accommodate the existing telecommunication base station.

**Departure**

Application in terms of Section 16(2)(b) of the aforementioned By-Law to exceed the maximum permissible height from 10,5m to 18m in order to accommodate the existing telecommunication base station.

Detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department : Town Planning at 16 Paterson Street, Hermanus.

Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [aconradie@overstrand.gov.za](mailto:aconradie@overstrand.gov.za)) on or before **1 April 2021**, quoting your name, address, contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Senior Town Planner, Mr. SW. van der Merwe** at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

Municipal Manager, Overstrand Municipality, P.O. Box 20, **HERMANUS**, 7200

Municipal Notice No. 25/2021

**UMASIPALA WASE-OVERSTRAND**  
**ISIZA 5392, DE GOEDE STREET, WESTCLIFF, E-**  
**HERMANUS: ISICELO SOKULUNGISA IMIQATHANGO**  
**YESITHINTELO YETAYITILE YOBUNINI,**  
**UKUSETYENZISWA KWEMVUME KUNYE**  
**NOPHAMBUKO: MAMPHELE DEVELOPMENT**  
**PLANNERS (egameni lika GOEIEHOOP**  
**BEHUISINGSMATSKAPPY t/a HUIS LETTIE THERON)**

Isaziso sinikwe ngokwemiqathango yeCandelo 47 nelama-48 oMthetho oYilwayo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, wowama-2015 (uMthetho kaMasipala) sezicelo ezichazwe ngezantsi ezihambelana neSiza 5392, e-Hermanus koku kulandelayo:

**Ukulungiswa kweMiqathango Yesithintelo yeTayitile**

Isicelo ngokweCandelo le 16(2)(f) loMthetho kaMasipala okhankanywe ngentla apha malunga nesilungiso esicetywayo seGatya 4 leTayitile yobunini T15886/1971.

**Isicelo Semvume**

Isicelo semvume yosetyenziso ngokwemiqathango yeCandelo 16(2)(o) loMthetho oYilwayo ukulungiselela ulwakhiwo lophongoma olucetywayo lonxibelelwano.

**Isicelo Sophambuko**

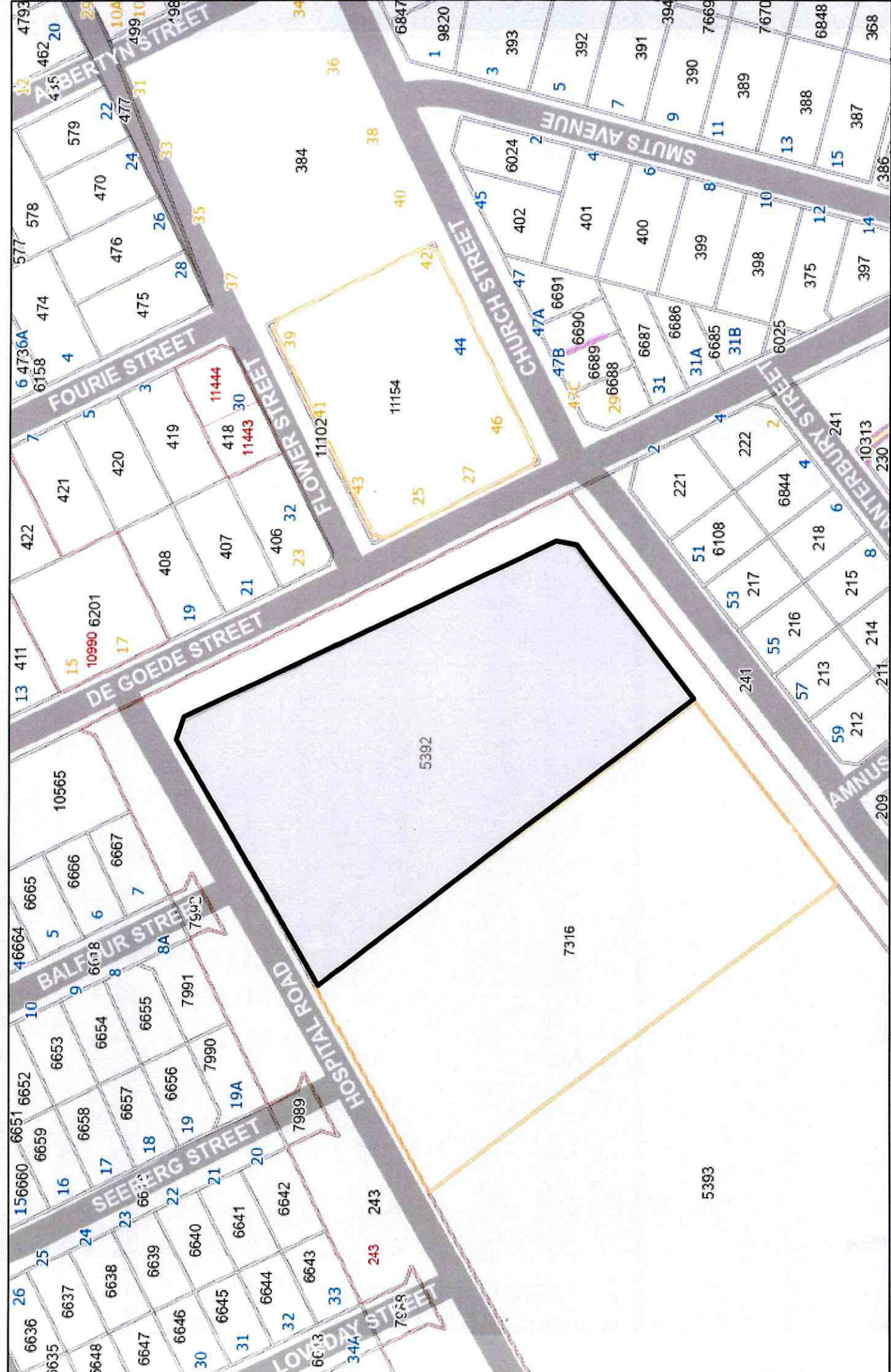
Isicelo sophambuko ngokwemiqathango yeCandelo 16(2)(b) loMthetho oYilwayo ukulungiselela uphambuko lokugqitha kumphakamo ovumelekileyo we-10,5m ukuya ku-18m ukulungiselela uphongoma lonxibelelwano esele lukho.

linkcukacha ezimayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusukela phakathi kwentsimbi yesi-08:00 ne-16:30 kwiSebe: ucwangciso lweDolophu kwa-16 Paterson Street, e-Hermanus.

Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zeSolotyama lama-51 nelama-52 oMthethwana kaMasipala ochazwe ngentla (16 Paterson Street, e-Hermanus / (f) 0283132093 / (e) [aconradie@overstrand.gov.za](mailto:aconradie@overstrand.gov.za)) ngomhla okanye ngaphambi **komhla wama-1 u-Apreli 2021**, uchaze igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla. Imibuzo ngefowuni ingathunyelwa ku-**Mcwangcisi Omkhulu weDolophu, uMnu. SW van der Merwe** kule nombolo 028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angahambela iSebe leZicwangciso ngeDolophu apho igosa likamasipala liza kumnceda akwazi ukufaka izimvo zakhe ngokusemthethweni.

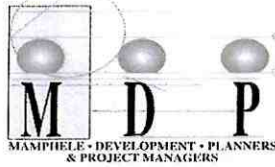
Umlawuli kaMasipala, Overstrand Municipality, P.O. Box 20, **HERMANUS**, 7200

Inothi kaMasipala Nombolo. 25/2021



Locality Map  
Erf 5392 Westcliff





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**PROPOSED CONSENT USE ON  
ERF 5392, HERMANUS,**

**OVERSTRAND LOCAL MUNICIPALITY**

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**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.**

**2<sup>nd</sup> AMENDMENT OF MOTIVATION: 12  
NOVEMBER 2020**

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## 1. INTRODUCTION

*Mamphole 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 and 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**

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

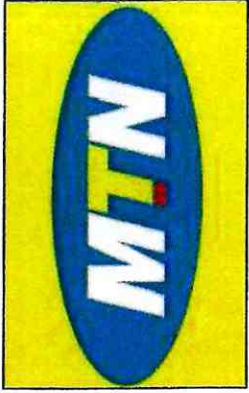
The question to ask here is whether the refusal of the application for consent use as argued in this application will deprive the local community of any resources necessary to sustain their livelihoods and the answer is a resounding YES given the broad benefits that this telecommunication facility offers 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:

- (a) 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.
- (b) 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
- (c) Grant the 3<sup>rd</sup> 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.
- (d) 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.
- (e) 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.



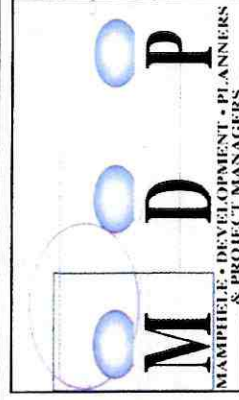
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**SITE NAME**

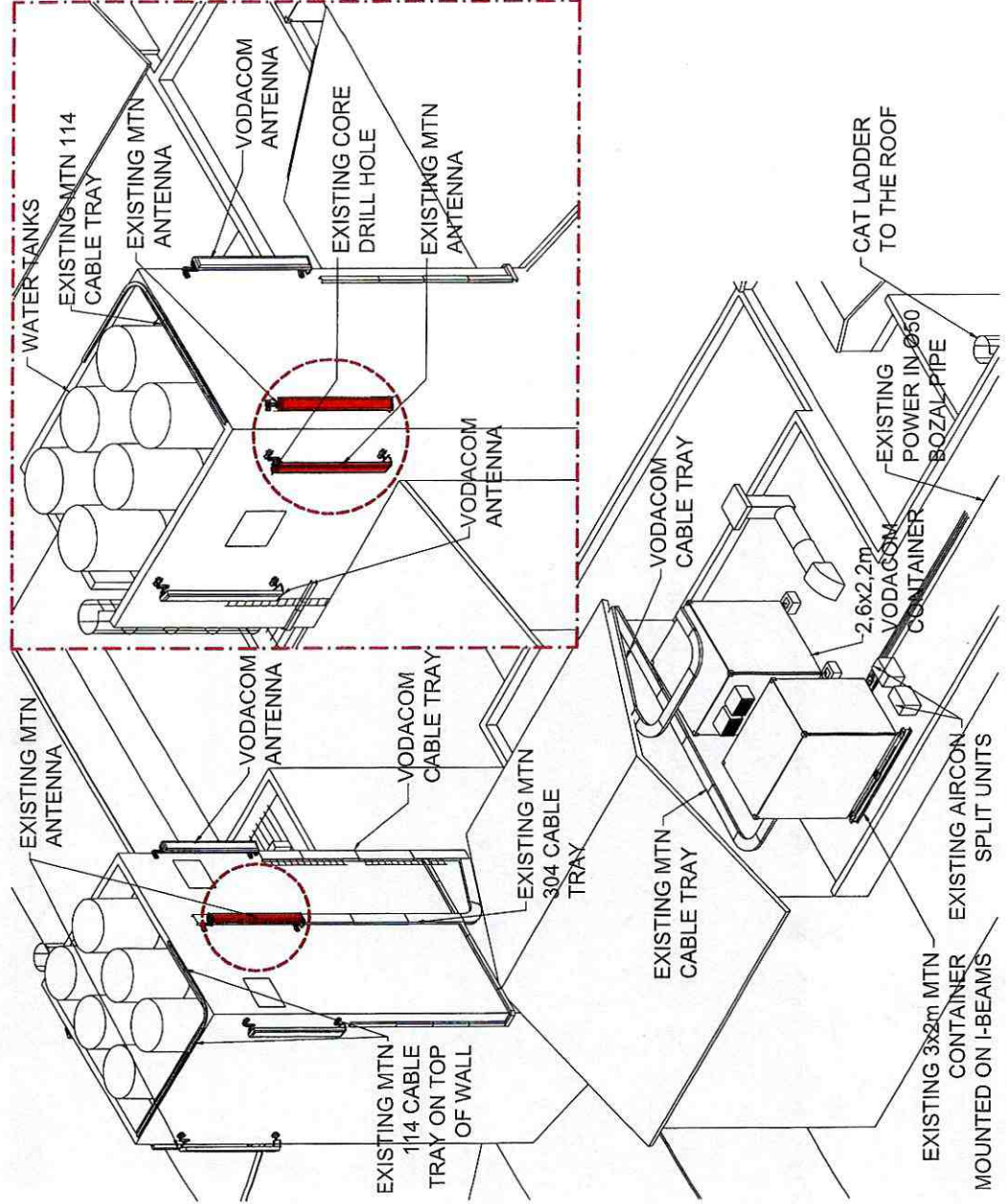
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**REVISIONS**

No.	Revision/Issue	Date
01	ISSUED FOR APPROVAL	12/11/20



PROJECT NO.	RFQ NO.	SURVEY DATE
PROJECT NO.		
DRAWN	F.SHONGWE	12/11/2020
CHECKED	V.MAILA	
CLIENT	SITE NO	SHEET
MTN	3775	MTN/002
		REV
		01
FILE NAME: HUIS LETTIE THERON		
DRAWING NO:		



3D DRAWING  
N.T.S.



DRAWINGS

SITE NAME

HUIS LETTIE THERON

PROJECT ADDRESS

ERF 5392 HERMANUS, DE WESSE STREET  
WESTCLIFF, HERMANUS  
CAPE PROVINCE

LATITUDE

34°25'18.21" S

LONGITUDE

19°10'56.81" E

APPROVAL

MTN RAIN

ENGINEERING

NAME

Sipho Ntsebe

MTN PLANNER

NAME

MDP

ENGINEER

NAME

COMPLETION OF WORKSHOP TO ABOVE APPROVAL

REVISIONS

No.	Revision/Issue	Date
01	ISSUED FOR APPROVAL	10/02/20
02	ISSUED FOR APPROVAL	25/06/20
03	ISSUED FOR APPROVAL	13/09/20
04	ISSUED FOR APPROVAL	12/11/20

PROJECT NO. / REF. NO. / SURVEY DATE

DRAWN F. SHONORWE 12/11/2020

CHECKED VANILLA

CLIENT MTN

SITE NO. 3775

SHEET REV. MNY/001 04

FILE NAME: HUIS LETTIE THERON

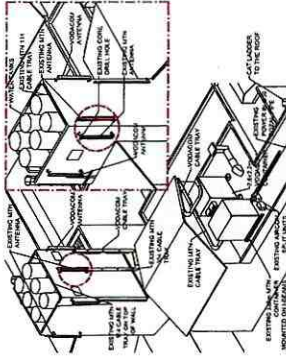
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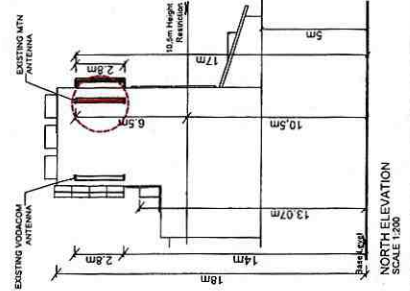
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01	ISSUED FOR APPROVAL	10/02/20
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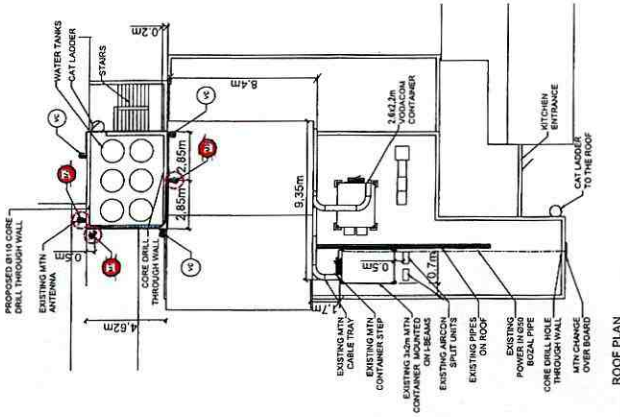
SITE PLAN  
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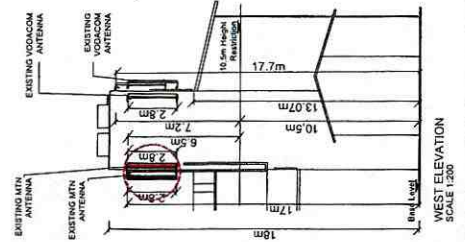
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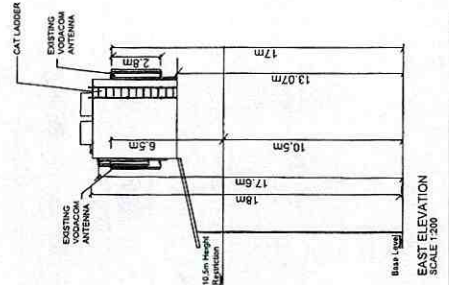
NORTH ELEVATION  
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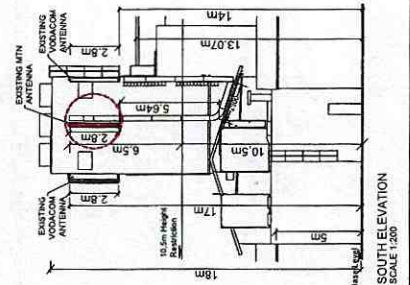
ROOF PLAN  
SCALE 1:200



WEST ELEVATION  
SCALE 1:200



EAST ELEVATION  
SCALE 1:200



SOUTH ELEVATION  
SCALE 1:200



SITE IMAGE  
N.T.S.

Note: Base level sits @ 14200mm above NGL  
Antenna levels are measured above Base level