4.2
PORTION 203 OF THE FARM NO 559, PRINGLE BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: MESSR IC@PLAN ON BEHALF OF C-VIEW AT PRINGLE (PTY) LIMITED

203/559 KHANG
H van der Stoep **(028) 313 8900** **Hermanus Administration**
31 August 2022

1. EXECUTIVE SUMMARY

An application was received on 26 November 2019 from Messrs IC@Plan on behalf of C-View at Pringle (Pty) Limited on Portion 203 of the Farm 559 in terms of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) for the following:

- Removal of Restrictive Title Deed Conditions in terms of Section 16(2)(f) for the removal of restrictive title deed conditions C.(b), C.(d), C.(e), C.(n) and C.(o) as contained in Title Deed T17666//2014 to permit the proposed application.

The restrictive title deed conditions read as follows:

- "C.(b): *No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes*.
- C.(d): *All buildings and other constructional works, including all fences and garden or other gates shall be of good and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of breach of this Clause the Seller shall have the right to require the Purchaser to demolish such unauthorised building or works or works and/or shall have the option to re-purchase the land upon payment of the cost price thereof without compensation for improvements*.
- C.(e): *No signs, advertisements, advertisement boardings or other lettering shall be erected on the land hereby sold and purchased nor shall any advertisements, signs or lettering be painted on any building, walls or fences erected on the said land save and except with the written approval of the Seller*.
- C.(n): *The land shall be used only for agricultural purposes and the breeding of keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept.*
- C.(o): *Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land."*

Amendment of Restrictive conditions as follows

- The amendment of condition C.(r) on page 7 of Deed of Transfer T17666/2014 - No boarding houses, flats, maisonettes, hotel, shops, public garage, filling station, business premises, canteen, restaurant, bioscope, factory, industrial buildings shall be erected on the land nor shall such business or entertainment be conducted on the land be erected by the removal of the following words namely:

  "Shops, business premises, canteen, restaurant"

The amendment of condition D.(i) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions, which read as follow:

Conditions relating to (a) buildings, (b) restriction against the erection of signs, advertisements, etc., (c) restriction against trade, (d) prohibition against making bricks, tiles and pipes, (e) prohibition against the deposit of debris, scrap, etc. (f)… (g) camping (h) access (i) sewerage j) … (k) subdivision and (l) use of land …

Removal of the following words:

(b) restriction against erection of signs, advertisements, etc.;
(c) restriction against trade;

- The amendment of condition D.(ii) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c) and (d) buildings and design (e) advertising (i) trade (g) and (h) building materials and scrap (i) … (j) camping (k) access to roads (sewerage (m) … (n) subdivision (o), (p), (q), (r) (s) use of land and buildings .

  Removal of the following words:

  (e) advertising;
  (i) trade;

- The amendment of condition D.(iii) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c) and (d) buildings and design (e) advertising (i) trade (g) and (h) building materials and scrap (i) … (j) camping (k) access to roads (sewerage (m) … (n) subdivision (o), (p), (q), (r) and (s) use of land and buildings

  Removal of the following words:

  (e) advertising;
  (f) trade;

- The amendment of condition D.(iv) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c) and (d) buildings and design, (e) advertising, (i) trade, (g) and (h) building materials and scrap, (i) …, (j) camping, (k) access to roads (sewerage), (m) …, (n) subdivision (o), (p), (q), (r) and (s) use of land and buildings

  Removal of the following words:

  (e) advertising;
  (f) trade;

The amendment of condition D.(v) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: "Conditions relating to (a) buildings completed in a reasonable time, (b) restriction against wood and iron buildings, (c) restrictions against erection of buildings within certain road boundary, (d) buildings be of good design and sound construction, (e) prohibition against signs, advertisements, etc., (f) prohibition against noxious trade, (g) restrictions against brickmaking, etc., (h) debris on land, (i) …. , (j) camping, (k) access to public roads, (l) sewage, (m)…., (n) restriction against subdivision, (o) land for agricultural purposes only, (p) dwelling and farm buildings, (q) each dwelling for a single family, (r) outbuildings, (s) restriction against creation of boarding houses, flats, etc.

Removal of the following words:

(b) restriction against wood and iron buildings.
(e) prohibition against signs, advertisements.

And

- Consent use in terms of Section 16.2(o) for the conversion of the ground floor of the existing dwelling for a tourist facility (i.e., coffee shop and gift shop).

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The property is located north of the R44 at the main entrance to Pringle Bay. The property is 1,9 ha in extent and is zoned Agriculture Zone 1 with a dwelling on the property. The surrounding properties are mainly zoned for Agriculture and Rural Zone 2: Conservation Usage. The town of Pringle Bay is located south of the R44 (Trunk Road 27).

An application for a farm stall was lodged but withdrawn and closed in 2017.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation can be summarized as follows:

Intent

The owner wishes to convert the ground floor of the dwelling into a tourism facility to allow a coffee shop and a gift shop.

The proposed removal of restrictive conditions is motivated as follows:

Condition: C(b) ***No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes*****.**

Rationale for the removal
The quality of building material has improved considerably since 1969 and is accepted in the industry for construction purposes. The consent from the Hangklip Beach Properties CC has also been obtained for the removal of this condition.

Condition: C.(d) ***All buildings and other constructional works, including all fences and garden or other gates shall be of good and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of breach of this Clause the Seller shall have the right to require the Purchaser to demolish such unauthorised building or works and/or shall have the option to re-purchase the land upon payment of the cost price thereof without compensation for improvements*****.**

Rationale for the removal
The consent has been obtained from the Hangklip Beach Properties CC and the Municipality is the controlling authority for the approval of building plans.

Condition: C.(e) ***No signs, advertisements, advertisement boarding, or other lettering shall be erected on the land hereby sold and purchased nor shall any advertisements, signs or lettering be painted on any building, walls or fences erected on the said land save and except with the written approval of the Seller*****.**

Rationale for the removal
The consent has been obtained from the Hangklip Beach Properties CC and the Municipality is the controlling authority for the approval of building plans.

Condition: C.(n) ***The land shall be used only for agricultural purposes and the breeding of keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept.***

Rationale for the removal
The consent has been obtained from the Hangklip Beach Properties CC to remove the condition. The Overstrand Land Use Scheme does indicate tourism facilities as a consent use, which is allowed on Agricultural zoned properties.

Condition C.(o) ***Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land."***

Rationale for the removal
The consent has been obtained from the Hangklip Beach Properties CC to remove the condition. The Overstrand Land Use Scheme does indicate tourism facilities as a consent use, which is allowed on agricultural zoned properties.

Amendment of Restrictive Title Deed Conditions:

Condition: C.(r)

Removal of the words: "*Shops, business premises, canteen, restaurant"*

Rationale for the removal
The application for tourist facility entails a gift and coffee shop. The amendment proposed is with the consent of the Hangklip Beach Properties CC.

Condition: D.(i)

Removal of the following:

(b) restriction against the erection of signs, advertisements etc.
(c) restriction against trade

Rationale for the removal
The amendment proposed is with the consent of the Hangklip Beach Properties CC.

Condition: D.(ii)

Removal of the following:

(e) advertising
(i) trade

Rationale for removal
The amendment proposed is with the consent of the Hangklip Beach Properties CC.

Condition: D.(iii)

(e) advertising
(i) trade

Rationale for the removal
The amendment proposed is with the consent of the Hangklip Beach Properties CC.

Condition: D.(iv)

Removal of the following:

(e) advertising
(i) trade

Rationale for removal
The amendment proposed is with the consent of the Hangklip Beach Properties CC

Condition: D.(v)

Removal of the following:

(b) restriction against wood and iron buildings
(e) prohibition against signs, advertisements

Rationale for removal
The amendment proposed is with the consent of the Hangklip Beach Properties CC.

These conditions have been imposed before the Land Use Ordinance (Ordinance 15 of 1985) has come into effect. The purpose of these conditions was to control the use of land. Since the then Land Use Ordinance and subsequent Zoning Scheme Regulations are used to control the use of land. The above conditions thus have not any use and thus be removed.

Herewith are the relevant considerations assessed in conjunction with this proposal

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement.
The restrictive conditions which are proposed to be removed or amended do not have any financial or any value for property owner or anybody else.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

There are no personal benefits which accrue to the holder of these rights in terms of the restrictive conditions.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.

The removal of the restrictive conditions will allow the owner to comply with all applicable municipal legislation, allow the owner to apply for tourism facilities and allow the owner to use the current buildings for a shop and restaurant.

The social benefit of the restrictive condition remaining in place.

There is no social benefit if the restrictive conditions remain in place.

The social benefit of the removal of the restrictive condition.

The removal and amendment of the conditions will enable the owner to operate a tourism facility, thus providing employment and attract tourist to the area which will benefit the entire Pringle Bay and surrounds.

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.

Only some of the conditions are either removed or amended. However, none of these conditions include rights that are enjoyed by any member of the society and the removal and amendment of these restrictive conditions do not constitute a deprivation of rights.

The proposed consent is motivated as follows:

The proposal is to convert the ground floor of the dwelling into a tourist facility, i.e., coffee shop and gift shop. The total area of the ground floor, including a kitchen and office is 180m². The application is within the existing building and will not have any additional visual impact. The property does have an existing access from the R44 via the Hangklip Road. Adequate parking is available on the property. The proposed conversion does comply with the development parameters as per the Land Use Scheme e.g.

	Scheme	Consent use
Floor space	5000m²	149m²
Height	8m	8m
Parking	11 bays (6/100m²) 2 bays (residence)	13 bays
Building lines	10m	13m, 31,47m, 70,56m

The facility will operate between 07:00 and 18.00 daily. The operating hours should not be of any nuisance since it is located far from any residential development. At present five (5) people can be employed, which can go up to ten (10) employees during peak season. The shop will consist of local produce, arts and craft. The N2 is a popular tourist route in the Overberg Region due to local tourist attractions such as Peregrine Farmstall, Houwhoek and Dassiesfontein. The strategic positioning of such a facility along the R44 will make the route more attractive for tourist and local alike, thus contributing to the local economy.

Unlike other main tourist routes in the Overberg, this route does not provide a tourist facility where people can stop and refresh. It is envisaged that the consent will enhance the area's tourism potential and will not have any negative impact on the character of the surrounding area.

The property is zoned Agriculture, but is too small to be agricultural viable, but the proposal does not deter the agricultural potential of the property. The proposed facility will promote agri-tourism for the Pringle Bay area.

Services

No additional services will be required as per the dwelling approved.

Forward Planning

Western Cape Spatial Development Framework (PSDF)

The PSDF outlines that rural space economy does not only refer to agricultural development, but also addresses broad based agricultural transformation, diversifying rural economic activities, tourism and preservation of the environment. "*Planning for the future development of tourism in the province is based on the triple*

bottom line approach to sustainable development i.e., economically viable and results in economic benefit to business and communities, conserves and protects natural environment." The proposal will contribute to the tourism industry in the area, especially since it will create a landmark at the entrance at the Overberg. The location of the proposed tourism facility relates specifically to "*Rural Tourism – seeking peace and relaxation of countryside"* and can be seen as a low impact use in a rural setting which contributes to the local economy, whilst preserving the natural environment.

The Integrated Development Framework identified the provincial tourism development area for further development. "*The areas include areas of current strength with relatively high levels of development and tourism activity, as well as areas where growth potential exists based on resource strength. Unlocking these resources will require the establishment of linkages*", which includes the Overstrand – Rooi Els to Pearly Beach. The proposed facility is situated in an area earmarked by the PSDF as having potential for further tourism development.

Section 7.3 of the PSDF lists socio-economic opportunities which include tourism development areas. A number of areas have been identified and include the Overberg coastal areas as depicted on the extract from the *PSDF in Figure 2 (see Page 15/19 of Annexure B.*

The application is complementary to the existing rural sense of place and adheres to the PSDF principle of diverse rural economic activities and tourism who is preserving the natural environment.

Overberg Spatial Development Framework, 2015 (OSDF)

In terms of the OSDF, Pringle Bay is the first town travelling along the R44 from Cape Town to Hermanus. It accordingly makes it the entry point/exit point into/from the Overberg area and creates an opportunity to welcome tourism. The proposed tourist facility adheres to the principles of the OSDF as it will set a landmark which will contribute greatly to introducing Pringle Bay to this scenic whale route.

Overstrand Spatial Development Framework: (2006)

The goals and objectives contained in the SDF include the development and stimulation of economic activity in a responsible and appropriate manner as well as to market the area more effectively. The proposal will contribute to the local economy, whilst respecting the rural character of the area by utilising the existing building to accommodate the tourist facility. The position of the structure will contribute to the marketability of area. The SDF further stipulates Local Spatial Development Principles for the Pringle Bay which includes promotion of Pringle Bay as a retirement and tourism village, contain urban footprint and maintain the unique rural/village character of Pringle Bay.

Planning Principles

Spatial Justice:	The proposal does not impede the principle, but rather seek to address the past spatial development imbalances by providing employment opportunities for residents in the area.

Spatial Sustainability:	No valuable and or environmental land are impacted upon.
Spatial Efficiency:	The property has limited agricultural potential but is located in an agricultural setting and the proposal will contribute to the harmony of the agricultural setting. It will furthermore have a positive impact in the area.
Spatial Resilience	The proposal adheres to all the major policies and the efficient use of land contributes to resilience.
Good Administration:	The property owner chose the best use of the property within the confines of development principles and that is supplementary to the existing uses in the area.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		**Date published**	**Closing date for comments**
Gazette	**Yes**	23/10/2020	27/11/2020
Local newspaper	**Yes**	22/10/2020	27/11/2020
Registered notices	**Yes**	23/10/2020	27/11/2020
Ward councillor	**Yes**	23/10/2020	27/11/2020
Total comments	**TWENTY (20)**		
Total letters of support	**NONE**		

Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?	**Yes**
Was the application processed correctly (if no, elaborate below):	**Yes**
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	**Yes**

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

Name	**Date received**	**Summary of comments**
Building Control	06/11/2020	Supported.
Environmental	18/12/2020, 04/01/2021	Supported.
Fire Department	23/10/2020	Supported.
Engineering Services	05/03/2021	Annexure J.
DEA&DP (Planning)	23/03/2021	Supported. Annexure G

DEA&DP (Environmental)	23/11/2020	Supported. Annexure H.
Department of Agriculture	14/02/2021	Support.
Department of Transport and Public Works	10/02/2021	Annexure I.
Tourism	20/10/2020	Supported.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

Objections were received from the following:

The objections and comments will be grouped as per issue raised, since many were similar. (See Annexure E.) The applicant's response to the objections is attached as Annexure F.

1. Objection: Pringle Bay Ratepayers' Association (PBRA)

Overstrand SDF, 2006

The document is outdated, and reference should be made of the Overstrand SDF, 2020. Should the applicant base their application on applicable current documentation, they would have found that the application for consent use is not aligned with the intentions of the SDF.

Response from applicant

The SDF, 2020 was approved in May 2020 and the application was submitted in 2019. However, the 2020 version and the Western Cape Land Use Planning Guidelines for Rural Development, 2019 does support tourist facilities on agricultural land.

Response from town planner

The application was submitted in 2019 before the Overstrand Spatial Development Framework (SDF) was approved. Both the documents make provision for economic activities on Agricultural Zone 1.

2. Objection: Overstrand GMS, 2010

In terms of the strategy, Pringle Bay, the following is stated: "The settlement edge is set well back from the scenic drive enhancing the visual experience of the scenic corridor. The strategic goals of the PBRA amongst others state the following:

- *Preserve the community's distinctive cultural & natural heritage and unique lifestyle.*
- *Promote sustainable local economy that supports the unique lifestyle.*

- *Influence orderly sustainable growth and development.*

The applicant did not prove on how the proposal will contribute to the above-mentioned goals.

The PBRA is of the opinion that the change in the consent use as per the application does not support densification. It will create a precedent to allow further unwanted ribbon development along the scenic route (the R44).

Response from applicant

The proposal is in line with the SDF and Western Cape Guidelines on rural development.

Response from town planner

The Growth Management Strategy focusses on residential densification. The strategic goals of the PBRA are noted but relates to the township. However, should it include the rural area surrounding the town, this application is in line with the sustainable local economic growth of the area. The objector did not elaborate on the unique lifestyle and is unclear to what they referred.

3. Objection: Traffic

The intersection of Hangklip Road and the R44 (Trunk Road 27) is a busy and dangerous intersection. A TIA must be made compulsory to evaluate the impact of the proposed development on additional traffic generation.
Response from applicant

The Department of Transport is the controlling authority over Trunk Road 27 from which Hangklip Road intersects. They had no objection against the application. The proposed facility gains access from Hangklip Road which ensures a safe access without compromising accessibility thereto.

Response from town planner

The R44 (Trunk Road 27) is under the control of the Department of Transport, which had no objection against the application.

4. Objection: Title Deed conditions

Conditions C.(d), C.(e), C.(n) and C.(o): Apart from the Hangklip Beach Properties that has given their consent, no acceptable motivation is evident to allow any meaningful adjudication of the application for removal of the conditions.

Response from applicant

Condition C.(d): The control and design of buildings is performed by the Overstrand Municipality in accordance with the National Building Regulations.

Condition C.(e): All signage in the Overstrand Municipality must adhere to the Signage By-Law.

Condition C.(n): The condition was imposed before planning legislation came into effect. The purpose of these conditions was to control the use of land. The forward planning policies of the Overstrand Municipality and DEA&DP promotes tourism related uses. The Overstrand Land Use Scheme has agricultural activities as a consent use. The afore mentioned is thus more restrictive than the title deed condition.

Condition C.(o): Same as above.

Response from town planner

Condition C.(d): The condition is unconstitutional since the seller has no jurisdiction over a new owner to control the design of the buildings. The seller is Hangklip Beach Properties CC, which have consented to the application. All building plans and construction thereof has to comply with the National Building Regulations and thus the seller has no jurisdiction over building plans or the construction of buildings.

An owner of property - be it movable or immovable - is entitled to deal with the said property as he/she pleases - not in terms of the whims and fancies of a previous owner, but in terms of the law. In order for a previous owner to enforce this condition of title he will have to prove that the condition was breached, and this will only be possible to gain access to said property and with that he will have to obtain consent of the current owner.

The condition also impacts negatively on the principle of “willing buyer, willing seller. With regard to public interest, the removal will have no impact because the condition in fact has nothing to do with the “public interest”. It would appear that since the condition has nothing to do with public interest it was simply an attempt by the previous owner to retain control over his previous and to negative the rights of the current registered owner.

The condition must be removed to in order to protect the property rights of the current registered owner imposed by a non-owner i.e., the previous owner as seller.

Condition C.(e): The same argument applies. It is common practice for farmsteads, rural properties and residential dwelling to have signage to indicate street number and or ownership, which is mandatory if belonging to a security company. The safety of residents is much more important vis a vie a condition dating back to 1969.

The condition be amended to replace “seller” with “local authority”.

Condition C.(n): The zoning of the property does not allow agricultural activities as a primary right. However, the consent uses do provide an owner with some uses that can only be obtained with an application in order to evaluate the impact that it may have. In terms of this application, the Title Deed allows full scale agricultural activities with no restriction of the extent of buildings and activities. It relates to agricultural purposes and breeding of domestic animals, poultry/ bees, but excludes pigs and goats. The condition is unclear, whether it is only cattle and sheep farming are not specifically mentioned, thus can it be read into agricultural purposes? The impact of poultry batteries has an enormous footprint and pollution impact and in terms of the condition the use is allowed, the same applied for breeding of dogs, birds, etc. The aforementioned activities allowed in terms of the title deed, will

negatively affect the area in terms of pollution. In terms of the Zoning Scheme this is not allowed as a primary right and is thus more restrictive than the title deed.
It is recommended that the condition be removed.

Condition (o): It relates to the structures that may be erected, relating to residential and agricultural. The condition is vague that it should be considered void, especially with reference to "farm buildings". The buildings are not defined, the condition is also silent on how many buildings or structures are permitted. This raises the question whether a "shack" qualifies as a structure, since it is used by people to live in, i.e., "dwell" in. In terms of the Zoning Scheme, agriculture is allowed as a consent use with development parameters but is more restrictive in terms of activity and extent of structures, the Zoning Scheme does restrict buildings to 5000m².

The adjudication is clearly motivated that for a tourist facility and conditions C.(n) and C.(o) needs to be removed.

The above-mentioned is third party conditions which has given her consent for the removal of the conditions.

5. Objection: Amendment of conditions

The proposed amendments will be contradictory to the SDF and Growth Management Strategy and the Lighting Policy.

Response from applicant

The application clearly states that the conditions be amended. The application is in line with the forward policy documents that indicate the guidelines for development of farms, with specific reference to tourism related facilities. The proposed use will operate between 07:00 and 18:00 and therefore not create light pollution.
Response from town planner

The conditions to be amended are to allow the tourist facility and only the restrictions pertaining to the applications needs to be removed, whilst the remainder of the condition remains in place. The SDF does make provision for the accommodation of tourist related activities on any agricultural farmland is supported, subject to specific development parameters and other statutory legislation.

The Lighting Policy is not a policy of the Municipality and cannot be enforced. The adherence to the "policy" is one of goodwill.

Messrs Chennells Albertyn Attorneys, Notaries & Conveyancers

The following objections will be dealt with in a summarised manner under the main points of objection:

6. Objection: Points in Limini

The application was incorrectly advertised and should not be considered. It should have been done with an Order by Judge Davis of 18 November 2008.

Response from applicant

The application was advertised strictly in accordance with Sections 46 - 50 of the Overstrand Municipality Amendment By-Law on Land Use Planning. Registered notices were sent to all the residents, which in the opinion of the Municipality may be affected by the proposal, site notices were put up and the application was advertised in the Overstrand Herald on 22 October 2020 and the Government Gazette on 23 October 2021. The order of Judge Davis (Case 17268/2008) cannot apply to Section 35(3) of the By-Law given that the order was handed down in 2008 whereas the By-Law was promulgated 7 years later. The order was also not strongly worded and merely directed the applicant "if he desires" to give proper notice as per requirements of the applicable legislation at the time. Furthermore, the case contains no ratio descendent, is not a reported case and therefore sets no legal precedent and only makes it binding to the parties of the proceedings.

The Hangklip Environmental Action Group (HEAG) may have locus standi in court proceedings; it is doubtful whether such a group will be seen as having legal persona and qualifies as a "person" in these matters. Section 47 of the By-Law determines that only a person is entitled to be a participant of the process.

As an environmental action group, the HEAG can be rest assured that all environmental laws have been complied with a 97% of land remain untouched. The building plans were approved before any construction took place.

Response from town planner

The application complies with the regulation and processes as stipulated in the By-Law on Land Use Planning. The Judgment is attached on Pages 43/45 of Annexure E, makes reference to a Ratepayer Organisation and the erven immediately surrounding a specific erf. It is erf specific and is not similar to the present application. The notices have been sent to the surrounding owners, the third party, Hangklip Beach Properties CC has given consent pertaining to the removal and amendment, the application was advertised, and a notice were placed on site. The public participation process was duly followed to the interested and affected parties.

7. Objection: The proposal is not in line with the principles of the OMWSDF

The SDF guiding principles applicable to the application, to name a few:

- *Transformation of the Conservation-Agriculture Buffer areas should be prohibited.*
- *Only sustainable use of agricultural land in the Conservation-Agricultural Buffer must be promoted.*
- *Any development must have a minimal impact on high potential agricultural land.*
- *The development decisions should also be informed by existing development function of the town.*
- *Ideal location for business uses is at the existing commercial node off Hangklip road and the location of business users outside the existing area must be prohibited.*

In respect of Pringle Bay area

- *Promote urban, suburban and rural centres as primary commercial areas, and suppress and limit commercial development outside of the areas.*
- *Commercial business uses, commercial retail and offices should be concentrated within the CBD and decentralization of commercial development should not be permitted.*

- *The height of the building is 10m and no building in the Hangklip area exceeds 8m in height.*

The central structure exceeds the allowable 300m² as per the Zoning Regulations and provides for 460m² for the shop.

Response of applicant

The SDF, 2020 shows the property falls in a Sensitive Development Area where restricted development is allowed. The property is zoned Agriculture Zone 1, and a tourist facility is allowed in the Zoning Scheme as a special consent. According to the SDF due cognisance should be taken of the Western Cape Land Use Planning Guidelines for Rural Development, 2019. This document emphasises that the rural economy is largely based on tourism and agriculture. The proposed facility adheres to the guidelines.

Sections 10, 11, 12, 14, 15, 19, 26 and 27 of Messrs Chennels Attorneys refer to a previous application that was withdrawn and closed in 2017. These objections are not applicable to this application and thus not valid.

Response from town planner

The application is not a transformation of the Buffer Zone; the area is restricted in uses that are compatible with the area that of low-density development with limited impact. The proposal is located in an existing building that will have no more impact than the eco-school and developments in the area consisting of dwellings and associated outbuildings in close proximity.

The principles pertaining to Pringle Bay, where it stipulates limited development outside the CBD, it does not restrict development as a no-go area. The principles of development in the rural areas are low key and subject to various other legislation and compliance thereof and should not be confused with development principles within the town.

The remainder of points mentioned refers to a previous application in 2017 and has no relevance. If the objector studied the application, she would have noticed that the application has been down scaled.

8. Objection: The development will have an inappropriate visual impact and is out of keeping with the scenic drive.

The proposed development is outside of the Pringle Bay CBD and will have an inappropriate visual impact totally out of keep with the scenic drive.

Response from applicant

The proposed facility is located in an existing building with approved building plans and will have no additional visual impact.

Response from town planner

The building is not out of keep with the scenic drive; it is a building that complies with a height restriction of 8m similar to the residential dwellings in Pringle Bay. In the event of developing the land as an agricultural unit, the height restriction is 10m for agricultural buildings with a footprint of 5000m². The latter would have a major impact on the scenic drive.

The scenic drive includes the town of Pringle Bay that has been developed up against the mountain, which has more of an impact on the scenic drive.

9. Objection: As the business grows further development rights will be applied for and further impact on the fauna and flora.

Response from applicant

The application for a tourist facility which is allowed under the Scheme Regulations and rezoning to allow a commercial enterprise will therefore not be possible.

Response from town planner

It is speculation and unfounded. Should the owner intend to develop any further, the NEMA Regulations will come into play and the Land Use Scheme. That will entail a public participation process.

10. Objection: The development will create unnecessary strip development in the vicinity of the Kogelberg Mountain which should be avoided. Commercial tourism should not be encouraged

Response from applicant

The Rural Guidelines of the Western Cape Government one of its objectives *"encourage the economic viability of agricultural enterprises through the introduction of non-agricultural land uses including tourist accommodation and facilities and additional dwelling units".*

Appropriate tourism activities, such as the one proposed on this property is therefore allowed on agricultural zoned properties.

Response from town planner

The town of Pringle Bay is located in the vicinity of the Kogelberg Biosphere. It should also be mentioned that the Kogelberg Biosphere Framework does not restrict development, but rather guide development in order to preserve the natural environment.

The point of no commercial tourism should be allowed, is irresponsible since it is the mainstay of the town and the Overstrand revenue base. Should this aspect be

entertained, the overnight huts, walking trails and Cape Nature's tourism development should be removed and rehabilitated.

11. The application still does not show any existing farming activities or the availability of any fresh produce.

Response from applicant

The application is for a tourism facility and not a farm stall.

Response from town planner

Agree with applicant.

12. Objection: Removal/ amendment of the Title Deed conditions

Condition C.(b): "No wood or iron buildings of works of any description shall be erected nor shall corrugated iron be used for roofing purposes"

The application does not address the true purpose of this condition which is to prevent striking and inappropriate developments which will have a negative visual impact and is totally out of keeping with the scenic drive. The HEAG requests proof of the Hangklip Beach Property CC consent.

Response from applicant

Consent has been obtained from the Hangklip Beach Property CC and is available with the Overstrand Municipality. The original intention of the condition is to prevent the use of certain type of material to ensure that structures were built properly. The words "scenic drive" and "visual impact" did not exist at that time, and it is difficult to see how the objector can deduct that from the condition.

Response from town planner

The Title Deed registration in 1969 could not have scenic and visual impact in mind since it was a gravel road and not a Provincial Road that people travelled. The true purpose of the condition was to ensure that no dilapidated, unsightly and rusted structures were erected. The area is prone to fires and 50 years back untreated wooden structures was most probably erected, which is not the case today due to technology, SABS Standards and the National Building Regulations.

The HEAG did not request a copy of the Hangklip Beach Property CC consent since it was available during the comment period.

13. Objection: Condition C(d) "All buildings and other construction works …"

The applicant fails to take into account the purpose of the condition that there is a common understanding of the properties that a particular built environment should be allowed, and development proposed by the applicant should not be allowed.

Response from applicant

The purpose of the condition was that the seller can request the demolishing or to repurchase the property if the construction of buildings is badly designed. This functions and controls the design and construction of buildings is currently performed by the Overstrand Municipality in accordance with the National Building Regulations.

Response from town planner

It is uncertain who the seller will be, and the seller cannot dictate use of material, construction since in terms of the National Building Regulations and any structure must comply with certain standards. The "seller" may not deem a competent person to make that judgement. It is also unconstitutional for a seller to request an owner to demolish a dwelling due to bad design, which is in the eye of the beholder and is not his property.

An owner of property - be it movable or immovable - is entitled to deal with the said property as he/she pleases - not in terms of the whims and fancies of a previous owner, but in terms of the law. In order for a previous owner to enforce this condition of title he will have to prove that the condition was breached, and this will only be possible to gain access to said property and with that he will have to obtain consent of the current owner.

The condition also impacts negatively on the principle of "willing buyer, willing with regard to public interest, the removal will have no impact because the condition in fact has nothing to do with the "public interest". It would appear that since the condition has nothing to do with public interest it was simply an attempt by the previous owner to retain control over his previous and to negative the rights of the current registered owner.

The condition must be removed to in order to protect the property rights of the current registered owner imposed by a non-owner i.e., the previous owner as seller.

The objector mentioned a particular built environment. This point is unclear since neither Pringle Bay, nor the rural area has any Architectural Guidelines which guides a specific built form.

14. Objection: Condition C.(e): " No signs, advertisements…"

The removal of the condition will set a precedent and will result in all the farms obtain approval for signs that will completely disrupt the scenic view.

Response from applicant

All signage erected on properties have to adhere to the Signage By-Law, which makes this condition unnecessary.

Response from town planner

It should be noted that signs along the R44 (Trunk Road 27) must comply with the Signage By-Law but obtains their approval from the Department of Transport. It is common practice for farmsteads, rural properties and residential dwellings to have

signage to indicate street number and/or ownership, which is mandatory if belonging to a security company. The safety of residents is much more important vis a vie a condition dating back to 1969. It is recommended that the condition be amended to replace seller with the local authority.

15. Objection: Condition C.(n): "the land shall be used for agricultural purposes and the breeding of keeping domestic animals …",

Condition C.(n): The zoning of the property does not allow agricultural activities as a primary right. However, the consent uses do provide an owner with some uses that can only be obtained with an application in order to evaluate the impact that it may have. In terms of this application, the Title Deed allows full scale agricultural activities with no restriction of the extent of buildings and activities. It relates to agricultural purposes and breeding of domestic animals, poultry/bees, but excludes pigs and goats. The condition is unclear, whether it is only cattle and sheep farming are not specifically mentioned, thus can it be read into agricultural purposes? The impact of poultry batteries has an enormous footprint and pollution impact and in terms of the condition the use is allowed, the same applied for breeding of dogs, birds, etc. The aforementioned activities allowed in terms of the Title Deed, will negatively affect the area in terms of pollution. In terms of the Zoning Scheme this is not allowed as a primary right and is thus more restrictive than the Title Deed.

It is recommended that the condition be removed.

16. Objection: Condition C.(o): "Only building sand structures to be used as dwellings and farm buildings shall be erected on the land"

The removal will have a devastating effect on the natural and historical built environment and potential future devastating effects on the environment, especially with the farm being located within the buffer zone of the Kogelberg Biosphere.

Response from applicant

It is important to note that the conditions were imposed before planning legislation came into effect. The purpose of these conditions was to control the use of land. Since the planning legislation has provided for planning tools to control the use of land. The conditions are therefore more restrictive than the Zoning Scheme Regulations

Response from town planner

It relates to the structures that may be erected, relating to residential and agricultural. The condition is vague that it should be considered void, especially with reference to "farm buildings". The buildings are not defined, the condition is also silent on how many buildings or structures are permitted. This raises the question whether a "shack" qualifies as a structure, since it is used by people to live in, i.e., "dwell" in. In terms of the Zoning Scheme, agriculture is allowed as a consent use with development parameters but is more restrictive in terms of activity and extent of structures, the Zoning Scheme does restrict buildings to 5000m².

The impact of agriculture in a sensitive environmental area was not deemed conducive to the conserving of the natural environment and therefore agriculture is a consent use, subject to various legislation. The same principle applies to Agriculture

Zoned properties, where land use activities in this sensitive area are allocated under the consent uses.

The removal of the condition will have no impact on the area since it will safeguard the area against a condition as primary agricultural use in the Title Deed, which can be to the detriment of the natural environment. As the case stands now the applicant can exercise his right of agricultural practices both in terms of its zoning and tile deed condition. It is thus to the benefit of all that the condition be removed and more appropriate uses for the area be implemented,

17. Objection: The amendment of conditions

The removal of, D.(i), D.(ii), D.(iii) and D.(iv) which emphasize the previous conditions to protect the site and surrounding sites by those restrictive conditions.

This is a disingenuous argument by the applicant in that, the purpose of the restrictive conditions of title currently has the effect of informing the current zoning restrictions.

This is evident in the principles of the SDF and furthermore aims to suppress and limit commercial development outside the urban, sub-urban and rural centres.

Response from applicant

The abovementioned conditions are not being removed but amended. The OMSDF, 2006 is replaced by the OMSDF 2020 that used the Western Cape Land Use Guidelines for Rural Development, 2019 for development of farms. These guidelines provide for tourism facilities.

Response form town planner

The conditions are to be amended to cater for the tourism facility and not to be removed in totality. It is correct that the title deed conditions are an informant to the Zoning Scheme in relation to land uses allocated as primary uses and consent uses. The Zoning Scheme does not trump the title deed conditions and this is not in dispute. It is also correct that commercial development is restricted outside the urban edge, but not prohibited.

18. Objection: A development of this size and nature is more akin to commercial use, which is clearly not permitted by the SDF or conditions of title

Response from applicant

The application is to convert a portion of the existing dwelling into a tourist facility which is permitted in terms of the SDF and Zoning Scheme.

Response from town planner

The application is in line with the SDF but restricted in terms of the Title Deed. The amendments related to wood and iron, trade, business, shops, canteen and restaurant, one must consider the present situation in South Africa, tourist facilities along major routes, wine tasting/sales etc. is part and parcel of a 2021 South Africa. Most of the objectors have visited such facilities such as Peregrine and the conditions of title in 1969, has never envisaged such major arterial routes and or

development along such routes. The application is not out of sync in the area of the Overstrand

19. Objection: Should the proposed development not work out; the removal of restrictive conditions would allow the applicant to easily convert without approval

Response from applicant

To convert the tourism facility to any other use will require an application in terms of the Zoning Scheme.

Response from town planner

The application will be subject to another application if not part of its primary rights. The only primary right applicable is agriculture, day care centre, guest rooms and has occupation. The consent uses will trigger an application if not in line with the primary rights.

20. Objection: The granting of the application will have an irrevocable negative impact on the fynbos skirting the village

Response from applicant

The application is for the conversion of the use of a portion of an existing building and no additional buildings are proposed and no impacts on the fynbos are envisioned.

Response from town planner

The area has fynbos, but also heavily infested with aliens, thus it is unclear how the proposed application in an existing building can negatively impact the fynbos.

21. The granting will disturb the unique local built form and natural typologies, character and heritage which have been protected by the restrictive conditions and Zoning Scheme.

The development of this nature is not minor and constitutes the expansion of business land use for entertainment purposes in a protected area.

Response from applicant

The application is located within an existing building which was built according to approved building plans. As no additional buildings are proposed, the character and local built form will not be affected.

Response from town planner

It should be noted that there is no unique built form in Pringle Bay and or the rural area. The conditions have never attributed to the uses practiced in town and or the rural areas. The natural environment is preserved by the community and inhabitants of Pringle Bay, its rural areas, the Zoning Scheme and the various environmental legislation of which the applicant is part of.

The character of the area is that of a holiday town/tourist destination and the proposed facility will coincide with the existing character.

22. Objection: The applicant intends to use the premises as a business and would not be in keeping with legislation which aims to protect the conservation agricultural buffer zone

Response from applicant

The application is for the conversion of the use of a portion of an existing building which is in accordance with land uses on agricultural land as per the Zoning Scheme.
Response from town planner

The facility is located in an existing dwelling and the property remains zoned agriculture. The business portion of the building is the application submitted.

23. Objection: Section 16.9.2 of the Zoning Scheme stipulates that restrictive conditions of title take precedence over the use rights and development rules

Response from applicant

Section 16(2) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 allows you to apply for the suspension, amendment or removal of restrictive title deed conditions.

Response from town planner

Both parties are correct.

24. Objection: Provincial Spatial Development Framework

The following principles are applicable:

- *Development should be compact and should not involve the conversion of high potential agricultural land.*
- *Private car use should be limited*
- *Western Cape unique cultural scenic and coastal resources should be safeguarded and celebrated.*
- *Urban growth should be within the urban edges*

The application is not in line with the principles since it will disturb the unique local built form, natural typologies, character and heritage which have been protected by the restrictive conditions.

The proposed development is not minor and is an expansion of business area and not clustered.

Response from applicant

No response was received on this specific point.

Response from town planner

The application does comply with the principles of the PSDF, Guidelines on Rural Development and Overstrand SDF within the principles mentioned by the applicant. The proposed development is compact since it is located within an existing building. The proposal will enable tourist to celebrate the cultural scenic beauty of the Western Cape. The proposal is not related to urban growth as defined in town planning. The title deed restrictions pertaining to trade/business and restaurants as envisaged in 1969 is not similar to present development trends enjoyed by the objectors with regard to tourist facilities in nature reserves, botanical gardens and on farmland.

25. Overstrand Zoning Scheme

The main purpose of the scheme is to enhance the quality of the built environment, contain urban sprawl and manage and control the functioning and appearance of the natural and built environment.

The proposed application would not be in keeping with the legislation which aims to protect the conservation agriculture buffer zone on which the property is situated.

Response from applicant

No response was received on this specific point.

Response from town planner

The application property has an agricultural zoning which allows for tourist facilities as a consent use. The consent uses are associated and subservient to the primary uses in order to manage and control the functioning of the natural and built environment.

The objector did not indicate which legislation she is referring to; however, the property is still subject to any applicable legislation such as the environmental legislation. It should also be noted that the Agriculture Buffer Zone does not prohibit any development.

Objections from H Smit, P & J de Wet, A Halgryn, E Raath, D Lees-Rolfe, M Burns, C Maritz, K Botha, R Pelrine, M Lloyd, R Parsons, S Solomons, J Wilson, B Berkman, H Lamb, N Swanepoel and R Morris, summarised as follows:

26. Objection: The dwelling was never developed as a dwelling. The existing ground floor plan is not consistent with that of a dwelling

Response from applicant

The dwelling has approved building plans and plans submitted with the application indicate how the ground floor will be converted to accommodate the tourism facility.
Response from town planner

The building plan for the dwelling was approved. The plan submitted with the application is a proposed site development plan and floor plan indicating the proposed development.

27. Objection: The motivation is wrongly based on the OMWSDF, the current OMSDF should have been used. The application is not in line with the SDF and Growth Management Strategy

Response from applicant

The OMSDF was approved in May 2020 and the application was submitted in November 2019. However, the OMSDF support tourism facilities on agricultural land as well as the Western Cape Land Use Planning Guidelines for Rural Development, 2019. The Overstrand Zoning Scheme also provide for tourism facilities on agricultural land.

Response from town planner

The OMSDF was approved in May 2020 and the application was submitted in November 2019. However, the OMSDF support tourism facilities on agricultural land as well as the Western Cape Land Use Planning Guidelines for Rural Development, 2019. The Overstrand Zoning Scheme also provide for tourism facilities on agricultural land.

28. Objection: Traffic

The intersection of the Hangklip Road with the R44 (Trunk Road 27) is very dangerous and the proposed land use will further attribute to the present problem.

Response from applicant

The application obtains access from the Hangklip road and has no direct access to the R44 (Trunk Road 27). The application was distributed to the Department of Transport who had no objection.

Response from town planner

The application obtains it access from the Hangklip road and has no direct access to the R44 (Trunk Road 27). The application was distributed to the Department of Transport who had no objection.

29. Objection: It will not be fair to other businesses in Pringle Bay

The consent use will have a detrimental impact on the CBD of Pringle Bay which will result in economic losses.

Response from applicant

The fact that there are other tourism facilities does not mean that no other tourism facilities may be considered.

Marketing of other tourism facilities in the CBD at the proposed facility may result in a positive knock-on effect for local businesses.

Response from town planner

The proposed facility will cater for the tourist on route which would not have necessarily visited the town. The facility will have the same function as all the major route facilities such as Peregrine, Houwhoek and other along coastal routes. The effect on the CBD economy will, if any, be minimal taking into consideration that the proposed facility is only 162m² in extent. However, the facility may rather contribute to marketing the niche shops in the Pringle Bay CBD.

It should be noted that the application is not for a rezoning and no new commercial node is establish which can have an impact on the CBD of Pringle Bay.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

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

See Paragraph 7 above.

Internal and External Departments

The application was supported by all internal municipal departments and external Departments

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

10.1 Background

N/A

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

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

The objectives relating to:

Spatial Justice
N/A

Spatial Sustainability
The proposed land use has no impact on the environment and high potential agricultural land. It adheres to the triple bottom line of equal importance of the social, economic and environmental aspects within the environmental legislation. It will create work opportunities, contribute to the local economy, does not have any impact on the environment.

Efficiency

The building will be optimally used thus contribute to the efficient use of a structure. No municipal services are required and are self-sufficient.

Spatial Resilience
Spatial resilience refers to the built environment. The building complies with the National Building Regulations and thus comply with the SANS requirements with due cognisance of energy efficient requirements.

The proposed land use will further be subject to the Health and Safety regulations to ensure protection of the patrons.

Good Administration
Administrative procedure was followed as prescribed by the relevant legislation.

10.3 Consistency with the principles referred to in Chapter Vl of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 Consistency with the IDP/Various levels of SDF's/Applicable policies

The application is consistent with the principles of the SDF of low key non-intrusive and non-conservative land uses in the rural domain.

10.5 Consistency with guidelines prepared by the Provincial Minister

The Western Cape Government has developed guidelines to ensure the preservation of high potential agricultural land and the environment. This application complies with the guidelines

10.6 Impact on Municipal Engineering Services

No services will be used.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The Overstrand Municipality By-Law on Municipal Land Use Planning and Zoning Scheme Regulations is applicable to this area. The considerations are dealt with in Section 11 and 12.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement.

There is no financial value to the holders of restrictive conditions, rather severe restrictions pertaining to the built environment and land use which is not relevant in 2021**.**

The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

There are no personal benefits accrued by the holder of the rights e.g., the Hangklip Beach Property CC.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.

The applicant will benefit financially if the restrictions are removed relating to the business component of the conditions that will enable him to operate a tourist facility that will generate income.

The social benefit of the restrictive condition remaining in place.

There is no social benefit should the condition remain in place.

The social benefit of the removal of the restrictive condition.

The social benefit is the employment opportunity which will benefit the employee financially that will enable a family to address social needs.

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.

The rights will not be removed in total and will only impact some of the rights. The right to operate a business may deem negative as indicated by the objectors and the applicant, especially relating to the primary right of agriculture that will be removed.

12. THE DESIRABILITY OF THE PROPOSAL

The removal and amendment of the conditions has been dealt with extensively in Section 7 of the report. To summarise, the conditions requested to be removed are third party conditions of the Hangklip Beach Property CC of which the last living member has consented to. Some of the conditions cannot be complied with and are unconstitutional and are under the auspices of the Municipality. Thus, the National legislation is in place to deal with the requirements to manage the rural holdings. The condition as per request to be amended to allow the proposed tourist facility has also the consent of the Hangklip Beach Property CC, the holder of the condition. The amendment of the conditions will ensure that uses on the property complies with the principles of developing tourist hot spots as identified by the PSDF, falls within the type of land uses identified in the Western Cape Land Use Planning Guidelines: Rural Areas. The Overstrand SDF and Land Use Scheme indicate that consent uses may not be detrimental to high potential agricultural and environmental sensitive land.

In terms of desirability, the application will be located within an existing building and not create additional footprint which impact on the natural environment. The proposed application is preferable to an agricultural development which is the only primary right in terms of the title deed conditions. The conditions C.(n) and (o) does

not restrict the structures in terms of size or height and also does not stipulate the number of dwellings. This would have been problematic should there be no Zoning Scheme applicable. Due to the sensitivity of the area a full operational farm and its related infrastructure will not fit into the character of the area, which is more tourism and rural living related nor be constructive to conservation of the buffer of the Biosphere.

The application falls outside the urban edge on agricultural zoned land. Tourism, related activities and amenities are one of the major financial and employment contributors to the Western Cape's revenue base. This is evident in all the national, provincial and local planning policies which propose the development and the hospitality industry, however on a low key and non-intrusive manner. The application complies with these policy documents and guiding requirements of such land uses.

The Overstrand SDF, 2006, Section 5.3: Rural Land Use Policy addresses the following aspects:

Section 5.3.4: On-the-farm and off-the -farm: non-agricultural uses: In terms of the policy statement and guidelines, the uses considered favourable should be related to tourism e.g., accommodation and related facilities.

Section 5.3.7: Tourism related land use policy: Tourism related uses are prevalent in rural settings, especially along on route due to their accessibility and economic benefits it may have, should be carefully managed to the advantage of the community, while retaining natural environments and without destroying agricultural resources.

Scenic routes: Scenic routes development has potential economic advantages to rural communities but must be managed to prevent development to detract from the natural beauty of the landscape or cultural significance of the built environment.

The application is in line with the abovementioned policy for rural land uses as discussed in the SDF. The property is located along a scenic route located in a rural area. The proposed consent use will be located in an approved residential building, thus limiting the footprint on the natural environment and agricultural land. The area is a mixed area with regard to land uses which varies from tourism, school and rural residential and thus the proposed consent does not detract from the present activities.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title deed conditions C.(b), C.(d), C.(n) and C.(o) as contained in Title Deed T17666//2014 and the amendment of title deed conditions C.(r), D.(i), D.(ii), D.(iii), D.(iv) and D.(v) as contained in Title Deed T17666/2014 to permit the proposed application, **be approved** in terms of the provisions of Section 61 of the By-Law;

2. that Condition C.(e) be amended to replace "seller" with "local authority";

3. that the application in terms of Section 16(2)(o) of the By-Law for the conversion of the ground floor of the existing dwelling for a tourist facility (i.e., coffee shop and gift shop), **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that the approvals in paragraphs 1. 2 and 3. be subject to the following conditions:

   (a) that the area to be used as a tourist facility be restricted to 149m² on the ground floor as indicated in Drawing No. *CV 2015/06/26-01 rev 11a* and *CV 2015/06/26-02 rev 11a* dated *26 January 2021*;

   (b) that building plans be submitted to the Building Department for approval, and that any conditions by the Fire- and Building Departments be complied with at that stage

   (c) that the parking layout as per the Site Development Plan be submitted to be implemented;

   (d) that all the conditions imposed by the Department of Transport and Public Works be adhered to;

   (e) that all the conditions in the Services Report (attached as Annexure J), be complied with;

   (f) that the applicable rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;

   (g) that a Certificate of Acceptability from the Health Department of the Overberg District Council and Fire Prevention Certificate be obtained from the Municipal Fire Department;

   (h) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation, and

   (i) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.

5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- The application for the consent use is in line with the planning documents.
- The property is ideally located for a tourism facility. The use will be less detrimental than agricultural activities and buildings.
- The use will be located in an approved building and no additional footprint is created.
- It will attribute and stimulate the rural economy.
- The original township establisher has given consent to the application.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T17666/2014
Annexure E:	Objections received
Annexure F:	Applicant's response to the objection received
Annexure G:	Western Cape Government: Environmental Affairs and Development Planning : *Component Planning*
Annexure H:	Western Cape Government: Environmental Affairs and Development Planning: *Component Environmental*
Annexure I:	Western Cape Government: Transport and Public Works
Annexure J:	Services Report
Annexure K:	Consent from Hangklip Beach Properties CC (Ms. EPE Wallers)

SIGNATURE

REGISTERED PLANNER

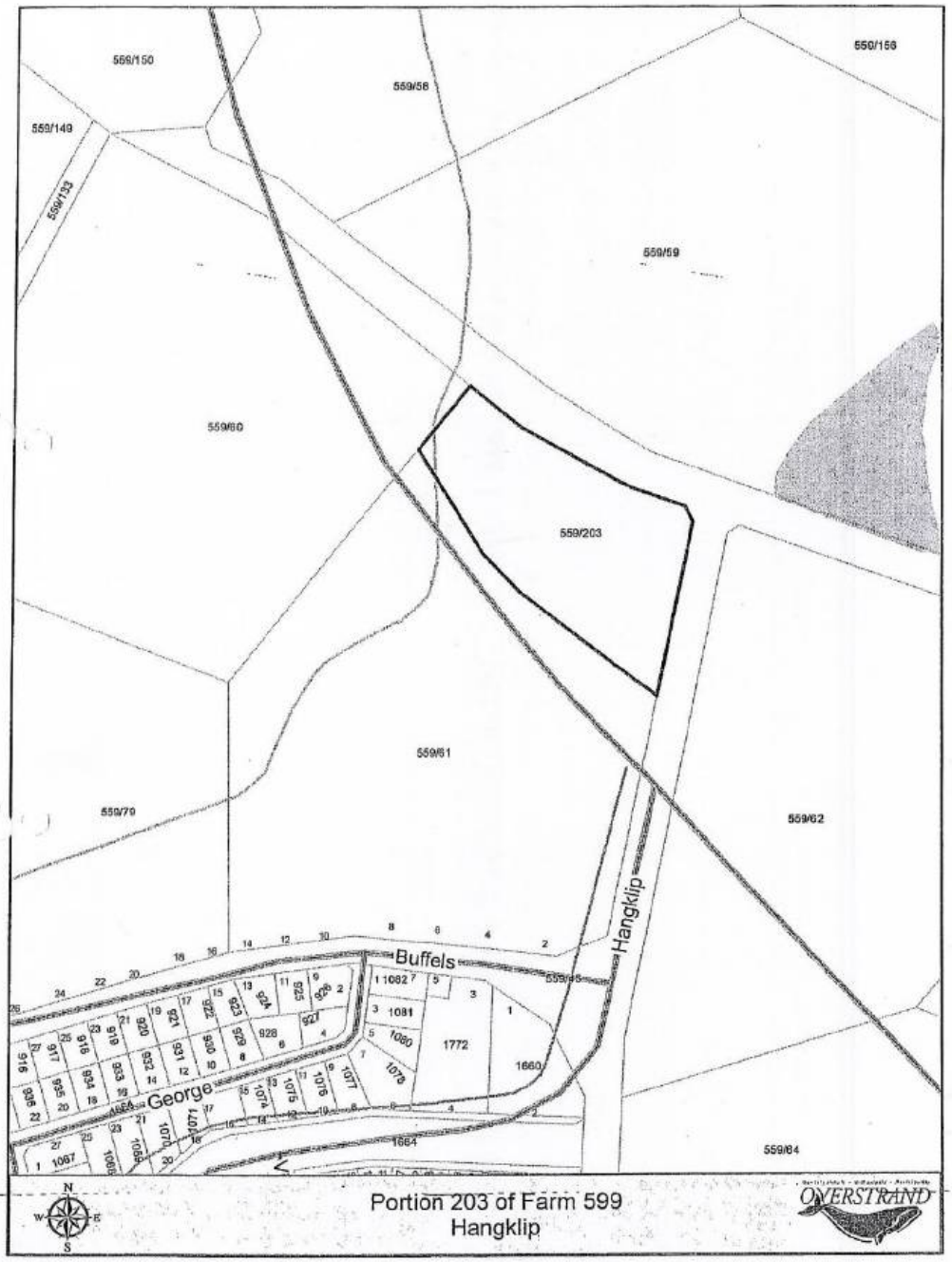
Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____

ANNEXURE A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George
Hangklip
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1660
1664
Portion 203 of Farm 599
Hangklip
OVERSTRAND

1. BACKGROUND

Portion 203 (portion of Portion 61) of the Farm 559, Overstrand (hereafter referred to as "the site") is located opposite the main access into Pringle Bay. The site is zoned Agricultural 1 and currently contain a double story residential dwelling. The owner wishes to convert the ground floor of the dwelling into a tourism facility to allow a coffee shop and gift shop.

I.C.@Plan Town Planners were accordingly appointed by the C-View at Pringle (Pty) Ltd), the owner of the property, to apply for Council's special consent. The Power of Attorney & Company Resolution authorizing this firm to lodge the application is attached in **Annexure B**.

2. THE APPLICATION

Application is hereby made for the following:

I. **Consent use** in terms of the Overstrand Zoning Scheme Regulations to permit the conversion of the ground floor of the existing dwelling on Portion 203 of the farm 559 to a tourist facility (i.e. coffee shop and gift shop);

II. **Removal of Restrictive title conditions** C(b), C(d), C(e), C(n), C(o) as set out in Deed of Transfer Number T17666/2014, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015

III. **Amendment of Restrictive title conditions** C(r), D(i),D(ii), D(iii), D(iv) and D(v) as set out in Deed of Transfer Number T17666/2014, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

The application form duly completed and signed is herewith attached in **Annexure A** for your perusal

3. PROPERTY DETAILS

PROPERTY DESCRIPTION	Portion 203 of the farm 559, Overstrand.
EXTENT	1.9361 ha
TITLE DEED NO	T17666/2014
RESTRICTIVE TITLE CONDITIONS	Yes
REGISTERED OWNER	C-View at Pringle (Pty) Ltd
APPLICANT	I.C.@Plan Town Planners
ZONING	Agricultural Zone 1
PROPOSED USE	Tourist Facilities

Table 1: Property details

3.1 Locality and Accessibility

The property is situated north of the R44 at the main access to Pringle Bay. Hangklip Road forms the eastern border of the property. Sea Villa Craig Conference Venue can be found to the north of the property. Residential uses can be found south of the R44 in Pringle Bay and also adjacent to Hangklip Road, east of the property.

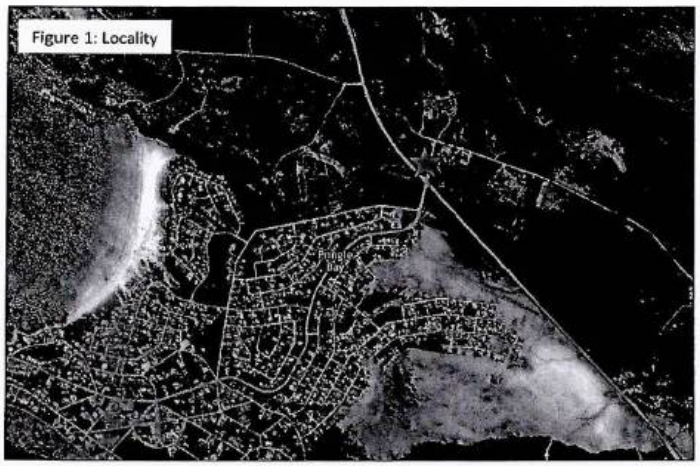


Figure 1: Locality

3.2 Surrounding Land Uses and Zoning

The Overstrand Municipal Zoning Scheme is applicable to this area and in terms of the zoning scheme, the site is zoned Agricultural Zone. The area to the north, east and west of the property is mainly zoned Agricultural and consent uses for e.g. a guest houses has previously approved. The town with its Single Residential erven is situated to the south of the property.

4. OTHER APPLICABLE LEGISLATION

4.1 Section 44 of the National Environmental Management Act, 1998 (Act no. 107 of 1998)

On 21 April 2006 the Minister of Environmental Affairs and Tourism promulgated regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act no. 107 of 1998) (NEMA). These NEMA regulations repeal the environmental impact assessment regulations that were promulgated in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) in 1997 and also introduces new provision regarding Environmental Impact Assessments (EIA's).

Amended NEMA EIA regulations came into effect on December 2014. The NEMA Act lists different categories of development which has to be approved by the Department of Environmental Affairs and Development Planning (DEADP) before the proposed development can commence.

Guillaume Nel Environmental Consultants have scanned the site for possible issues that will necessitate an environmental application. They also looked at the Biodiversity Maps for the area. A small area in the eastern corner are indicated as a threatened ecosystem. This area has been carefully avoided during the placement of the existing building on the site and will not be deterred by the proposed land use. As the proposed facility will make use of the current building on site, the proposed development consent use does not trigger any of the listed activities specified in the NEMA EIA regulations and a no application is therefore necessary.

The site was also more recently exposed to fires which burned through the area and destroyed all the vegetation, as can be seen on the photos below.

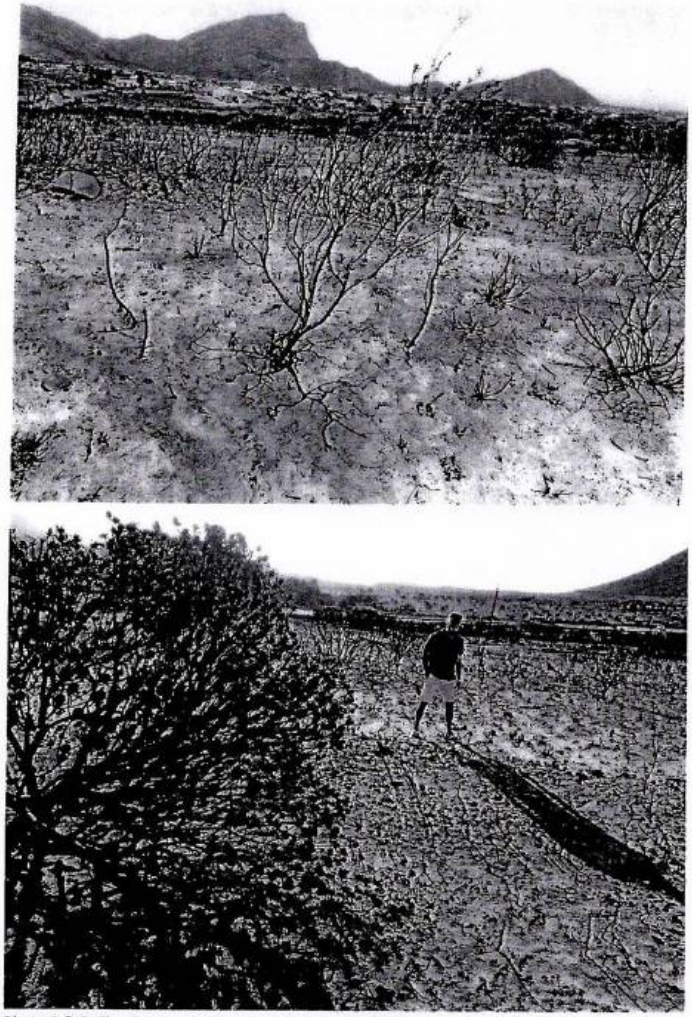


Photo 1 & 2: Fire damage to the vegetation on the site

4.2 REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

Removal and amendment of certain conditions as set out in Deed of Transfer T17666/2014 in respect of Portion 203 (portion of Portion 61) of the farm 559, Overstrand are proposed to be removed and amended. Since no planning legislation existed in 1969 title deed conditions were imposed to regulate the use of the land. The character of the surrounding area as well as the legislation regulating land use matters has significantly changed in the past 50 years since these conditions have been imposed and it can therefore not be seen as relevant anymore. Land use in the Western Cape are also currently regulated by the Land Use Planning Act (Act 3 of 2014)and in the Overstrand areas by the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 and the Overstrand Zoning Scheme. Overstrand Municipality is, in terms of the beforementioned legislation, the controlling authority who regulate land use in the area. The conditions discussed below, do not have any use and can therefore be removed or amended as proposed.

4.2.1 Removal of Restrictive Title Deed Conditions

The following conditions appear in the Deed of Transfer T17666/2014 in respect of Portion 203 (portion of Portion 61) of the farm 559, Overstrand. The consent of Hangklip Beach Properties CC, which imposed the following conditions, has been obtained (see consent attached to this application in **Annexure C**) to <u>remove</u> the following conditions as set out in pages 5,6 and 7 of the Deed of Transfer number T17666/2014:

C "Subject to the following special conditions contained in Deed of Transfer No T.35725/1969 imposed by HANGKLIP BEACH ESTATES LIMITED for it's benefit and for it's Successors in Title as owner of the remainder of the said Portion 45 of the farm "Hangklip" No 599, Caledon: Extent 127,3693 morg and held by certificate of Registered Title No T. 5789/1957...."

- C(b) *No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.*

<u>Motivation for removal</u>: The quality of the above building materials has improved considerably since 1969 and are accepted in the industry for construction purposes. The consent of Hangklip Beach Properties CC has also been obtained for the removal of this condition.

- C(d) *All buildings and other constructional works, including all fences and garden or other gates shall be of good and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of breach of this Clause the Seller shall have the right to require the Purchaser to demolish such*

unauthorised building or works or works and/or shall have the option to re-purchase the land upon payment of the cost price thereof without compensation for improvements.

Motivation for removal: The consent of Hangklip Beach Properties CC has also been obtained for the removal of this condition and the Overstrand Municipality is the controlling authority for the approval of building plans.

- C(e) *No signs, advertisements, advertisement boardings or other lettering shall be erected on the land hereby sold and purchased nor shall any advertisements, signs or lettering be painted on any building, walls or fences erected on the said land save and except with the written approval of the Seller.*

Motivation for removal: The consent of Hangklip Beach Properties CC has also been obtained for the removal of this condition and the Overstrand Municipality is the controlling authority for the approval of building plans.

- C(n)*The land shall be used only for agricultural purposes and the breeding of keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept.*

Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained for the removal of this condition. The Overstrand Municipality is the regulating land use authority and tourism facilities, which are applied for, is indicated in the Overstrand Zoning Scheme as an allowable land use on agricultural land with Council's consent.

- C(o)*Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.*

Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained for the removal of this condition. The Overstrand Municipality is the regulating land use authority and tourism facilities, which are applied for, is indicated in the Overstrand Zoning Scheme as an allowable land use on agricultural land with Council's consent.

4.2.2 The Amendment of Restrictive Title Deed Conditions

The consent of Hangklip Beach Properties CC has been obtained (see consent attached to this application) to **amend** the following conditions of the Deed of Transfer number T17666/2014:

- The amendment of condition C(r) on page 7 of Deed of Transfer number T17666/2014 by the removal of the

following words namely:

"Shops, business premises, canteen, restaurant"

Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained to **amend** the above condition by the removal of the following words because the tourist facilities applied for propose a gift shop and coffee shop.

- The amendment of condition D(i) on page 7 of Deed of Transfer number T17666/2014 by the removal of the following restrictions which reads as follow:

  (b) restriction against erection of signs, advertisements, etc.;
  (c) restriction against trade;
  Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained to **amend** the above condition.

- The amendment of condition D(ii) on page 7 of Deed of Transfer number T17666/2014 by the removal of the following restrictions which reads as follow:

  (e) advertising;
  (i) trade;
  Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained to **amend** the above condition.

- The amendment of condition D(iii) on page 7 of Deed of Transfer number T17666/2014 by the removal of the following restrictions which reads as follow:

  (e) advertising;
  (f) trade;
  Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained to **amend** the above condition.

- The amendment of condition D(iv) on page 7 of Deed of Transfer number T17666/2014 by the removal of the following restrictions which reads as follow:

(e) advertising;

(f) trade;

Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained to **amend** the above condition.

- The amendment of condition D(v) on page 7 of Deed of Transfer number T17666/2014 by the removal of the following restrictions which reads as follow:

(b) restriction against wood and iron buildings;

(e) prohibition against signs, advertisements;

Motivation for removal: The consent of Hangklip Beach Properties CC has been obtained to **amend** the above condition.

Since these conditions has been imposed before the Land Use Ordinance (Ord 15 of 1985) has come into effect, the purpose of these conditions was to control the use of land. Since then The Land Use Ordinance and subsequent zoning scheme regulations are used to control the use of land. The above conditions thus not have any use and can thus be removed.

4.2.3 Requirements for the amendment, suspension or removal of restrictive title conditions

The Overstrand Municipality By-Law on Land Use Planning, 2015 discuss the municipal considerations for the removal, suspension or amendment of restrictive title deed conditions in section 35(4). The above removal and amendment of title deed conditions will now be assessed in terms of these considerations.

• Section 35 (4)(a): *"The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement"*

The restrictive conditions which are proposed to be removed or amended do not have any financial or any other value for property owner or anybody else.

- Section 35 (4)(b):" *The personal benefits which accrue to the holder of rights in terms of the restrictive condition"*

  There are no personal benefits which accrue to the holder of these rights in terms of the restrictive conditions.

- Section 35 (4)(c):" *The personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed"*

  The removal and amendment of the restrictive title deed conditions will allow the property owner to:

  - Comply with all applicable municipal legislation;
  - Allow the owner to apply for a consent use for tourism facilities;
  - Allow the owner to use the current buildings for a shop and restaurant

- Section 35 (4)(d)" The social benefit of the removal or amendment of the restrictive condition"

  There is no social benefit if the restrictive conditions remain in place.

- Section 35 (4)(e)" The social benefit of the removal or of the restrictive condition
  The removal and amendment of the restrictive title deed conditions will enable the owner to operate tourist facilities on the property. This will also contribute to additional employment opportunities in the area. The tourist facility will also attract additional tourists to the area which in turn will benefit the entire Pringle Bay and surrounds.

- Section 35 (4)(e):" 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".
  Only some of the restrictive conditions are proposed to be removed or amended. None of these conditions, however, include rights that are enjoyed by any member of the society and the removal and amendment of these restrictive conditions do no constitute a depravation of rights.

5. THE PROPOSAL

5.1 ENVISAGED PRODUCT

Application is made for Council's Special Consent in terms of the Overstrand Municipal Zoning Scheme to allow the conversion of the ground floor of the existing dwelling on Portion 203 of the Farm 559 into a tourist facility, i.e. coffee shop and gift shop. The total area of the ground floor (including the kitchen, office for administrative use, pantry and scullery) measures ±180m². See **Annexure D** for Site Plan.

The application proposes the use of an existing building and there will accordingly not be any additional visual impact from the R44.

Access to the dwelling is currently via Hangklip Road and it is proposed to provide parking for the tourist facility directly of Hangklip Road - which does not carry much through traffic - as to minimize the impact of the development footprint on the property by eliminating additional access roads. Adequate parking can therefore be provided on the property and an overprovision of 5 parking bays are proposed.

The table below addresses the development parameters vs. the proposed development:

	Required	Provided
Maximum Floor Space	5 000m²	305 m²
Height	8m (base to top of roof)	8m
Parking	11 bays (6/100m²) 2 bays for Residents	18 bays
Building Lines	10m	13m, 31.474m & 70.561m

Table 2: Parameters

In terms of the above, the proposal complies with the parameters as set out in the Zoning Scheme and the consent use is provided for under agricultural land use.

The tourist facility will operate between 07:00 and 18:00 on a daily basis. The operating hours should not have any negative impact on the surrounding area, as it is located far from residential uses. It is proposed to employ five permanent staff, but up to ten staff may be required during peak seasons. The coffee shop will encompass ±100m² within the open plan layout of the tourist facility whilst the gift shop will provide a selection of local produce (e.g. home-made jams, cheeses, fresh bread, biltong and fruit) as well as local art and crafts.

The reasons that the N2 is such a popular tourist route through the Overberg, is not only due to its accessibility, but also due to the tourist facilities situated along the way. These include Perigreen Farmstall in Elgin, Dassiesfontein and Houwhoek Farmstall. Positioning a tourist facility at a strategic place on the scenic R44 Route (as is proposed) will accordingly make the route more attractive for tourists and locals alike and will motivate more people to use the coastal route and accordingly draw more people into the area, thus contributing to the local economy.

From the above it is clear that the proposal will benefit not only the local area, but also contribute to the growth of the local and regional tourism economy.

5.2 CHARACTER OF THE SURROUNDING AREA

The property is located next to the R44 opposite the access to Pringle Bay. The area to the north of the R44 is mainly characterised by agricultural and related consent uses. The area to the south of the R44 contains the town of Pringle Bay. The R44 is a popular route used frequently by tourists to and through the area. Unlike other main tourist routes in the Overberg area, this route does not provide for a tourist facility where people can stop and refresh.

This unique location next to the R44 therefore provides an ideal setting for a tourist facility. The fact that the access to the farm stall is provided from Hangklip road and not directly from the R44, ensures a safe access without compromising accessibility thereto.

It is envisaged that the proposed special consent will enhance the area's tourism potential and – since it is proposed within an existing structure – will have no negative visual or aesthetic impact. It is therefore considered that there would be no negative impact on the character of the surrounding area.

6. MOTIVATION: THE PROPOSAL AND PLANNING POLICIES

6.1 Spatial Planning Land Use Management Act (Act16 of 2013) (SPLUMA) and the Western Cape Land Use Planning Act(Act 3 of 2014) (LUPA)

Section 7 of SPLUMA and Section 59 of LUPA prescribes five development/planning principles that a new development should consider. The proposal adheres to these principles as follow:

- **Spatial Justice** focusses on redressing spatial imbalances by improving access to and use of land with particular focus on access to those who were previously excluded.

  The proposal does not impede this principle as a tourist facility does not exclude anyone from equitable access to the resources and opportunities. The proposal will furthermore seek to address past spatial development imbalances by providing employment for residents in the area (employees, as well as

- **Spatial Sustainability** refers to the protection of valuable agricultural and environmental sensitive land. Spatial sustainability also refers to the prevention of urban sprawl and the consideration of current and future costs of infrastructure.

  No valuable agricultural or sensitive environmental land are impacted upon with this proposal. The application is considered spatially sustainable as the current structures will be utilized to promote agricultural tourism and job security without adversely affecting the environment and biodiversity rich areas. It is thus clear the spatial sustainability principle will be upheld by the proposed development.

- **Spatial Efficiency** dictate the optimum use of existing resources and infrastructure. It also requires the minimalization of negative impacts in terms of financial, economic and environmental impacts.

  The property is 1.9361ha in extent and, due to its size, it therefore considered to have limited agricultural potential. It is, however, situated in an agricultural landscape and the tourist facilities will accordingly contribute to the harmony of the agricultural setting. Due to the minimal agricultural potential, the use of the property for agri-tourism can be seen as the optimal use of vacant land without impacting on the environment. It will furthermore have a positive economic impact in the area.

Spatial resilience refers to flexibility in spatial plans, land use management and policies to ensure sustainable livelihoods most likely to suffer the impact of environment or economic shocks.

The proposal adheres to all the major policies applicable to the area. It can further be seen as the efficiently use of land which contributes to spatial resilience.

Good Administration principle focus on an integrated development approach.

When the owner had to choose what the best use would be for the property, the characteristics of the site and the context thereof in terms of the surrounding area have been carefully considered to ensure that the principles of integrated development were successfully applied. The proposal for a tourist facility is supplementary to the existing uses in the area and proposes the integration of uses which compliment each other

6.2 Western Cape Spatial Development Framework (PSDF)

The PSDF seeks to give spatial expression to the national and provincial development incentives and are a basis from which grass root implementation can be coordinated, integrated and aligned.

The PSDF furthermore outlines that rural space economy does not only refer to agricultural development, but also addresses broad based agricultural transformation, diversifying rural economic activities, tourism and preserving the natural environment.

As a result, the PSDF addresses the importance of tourism in the province, as it contributes greatly to the Gross Regional Product, employment and direct foreign investment.

It therefore states that the tourism industry remains a growing industry, even though there are *"decline in global travel and increasing competitiveness in the global market. The success of tourism in the Western Cape can be explained by the range of natural and cultural magnets which forms the basis for distinctive branding for tourism in the Province, the extremely varied environmental diversity and natural beauty of the Province, the rich socio-cultural heritage, relatively well developed and maintained infrastructure and strong destination image of Cape Town."*

When addressing planning for the development of destination places, the PSDF states that *"Planning for the future development of tourism in the Province is based on the triple bottom line approach to sustainable development i.e.*

economically viable and results in economic benefit to business and communities, conserves and protects natural environments and respects host communities and cultures."

The proposal will contribute to the tourism industry in the area, especially since it will create a landmark at the entrance to the Overberg. The location of the proposed tourist facility relates specifically to *"Rural Tourism - seeking peace and relaxation of countryside"* and can be seen as a low-impact use in a rural setting which contributes to the local economy whilst preserving the natural environment.

The Integrated Tourism Development Framework identified provincial tourism development areas for further development. *"The areas include areas of current strength with relatively high levels of development and tourism activity, as well as areas where growth potential exists based on resource strength. Unlocking these resources will require ... the establishment of linkages..."* which includes Overstrand – Rooi Els to Pearly Beach.

The proposal upheld this PSDF viewpoint as the proposed tourist facility is situated within an area identified by the PSDF as having the potential to further tourism development.

Section 7.3 of the PSDF list socio-economic opportunities which include Tourism Development Areas (TDAs). A number of TDAs have been identified in the Western Cape and include the Overberg coastal area as depicted on the extract from the PSDF in Figure 2 below.

The application proposes the utilisation of an existing building for tourist facilities – a consent use permitted in terms of the Zoning Scheme – which in turn is complimentary to the existing rural sense of place. It adheres to the PSDF's principle of diverse rural economic activities and tourism whilst preserving the natural environment.

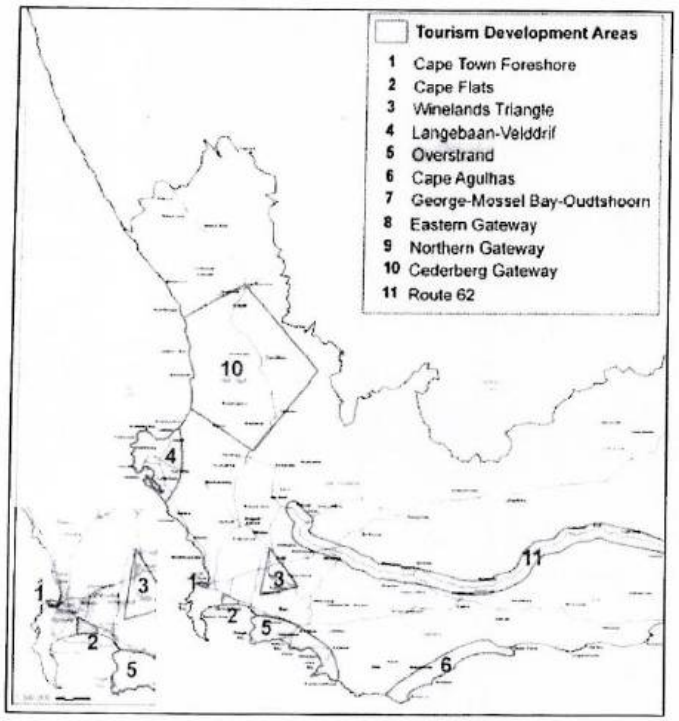


Figure 2 ...: Extract from Figure 7.19 of the PSDF

6.3 Overberg Spatial Development Framework (2015) (OBSDF)

In terms of the OBSDF, Pringle Bay is the first town in the Overberg District when one travels along the R44 from Cape Town to Hermanus (±85km from Cape Town). It accordingly makes it the entry/exit point into/from the Overberg Area and creates an opportunity to welcome tourists/travelers to the area.

The proposed tourist facility adheres to the principles fot he OBSDF as it will set a landmark which will contribute greatly to introducing Pringle Bay as the gateway to this scenic whale route.

6.4 The Overstrand Municipal Wide Spatial Development Framework (2006) (OMWSDF)

According to the OMWSDF, Pringle Bay is a popular holiday and retirement destination within the Overstrand municipal area and function as a residential dormitory node to Kleinmond.

The goals and objectives contained within the OMWSDF include the development and stimulation of economic activity in a responsible and appropriate manner, as well as to market the area more effectively.

The application proposes a use which will contribute to the local economy, whilst respecting the rural character of the area by utilising an existing structure to accommodate a tourist facility. The position of the structure in relation to the R44 will create a landmark which will create awareness and contribute to the marketability of the area. The proposal can therefore be seen as a good example of implementing the OMWSDF's goals and objectives.

The OMWSDF further stipulates Local Spatial Development Principles for the Pringle Bay area. These include:

- Promote Pringle Bay as a retirement and tourism village.
- Maintain the unique rural/village character of Pringle Bay.
- Contain the urban footprint of Pringle Bay and prevent further outward expansion.

From the above, it is clear that the proposal strives to adhere to these principles set out in the OMWSDF in so far as it will establish a tourist facility on the doorstep of Pringle Bay village. The proposed tourist facility will be contained within the existing dwelling on the farm and the area surrounding the dwelling will remain in its natural state. No additional visual impact on the character of the area is therefore foreseen.

6.4.1 Tourism related land uses policy

The OMWSDF also have a Tourism related land uses policy. According to this policy the development of tourism related uses, given their economic benefits, should be carefully managed to the advantage of the community, while retaining natural environments and without destroying agricultural resources.

The application proposes an on-route tourist facility. On-route facilities are defined as roadside related facilities or stop-over facilities which is easily accessible via popular tourist routes. The most important consideration with regard to the location of on- route tourist facility is their accessibility, visual impact and their impact within a rural environment.

The proposed tourist facility is situated on a popular tourist route. It can also be seen as clustered together with another tourist facility, the guest house and conference facility, Sea Villa Craig Conference Venue. Altough both these tourism related uses are situated in close vicinity to the R44, safe access to both these uses are given from Hangklip Road. No visual impact on the surroundign environment is foreseen, as the application proposes the convertion of a protion of the existing dwelling to a tourist facility.

6.4.2 Agricultural Land Use Policy

This document provides an agricultural land use policy where land use guidelines are given for all agricultural land in the Overstrand. The objectives of this policy are:

- To protect prime and unique agricultural areas.
- To assist local communities in identifying potential areas for small-scale farming and
- To provide guidelines that will assist the local authority to assess land use applications outside urban areas.

According to this policy, placement of non-agricultural uses in high agricultural productions areas should satisfy the following requirements

- It should be near/next to access roads and roads intersections
- Undevelopable agricultural areas;
- At locations where the aesthetic impact will be minimal; and
- At locations with minimum disturbance of agricultural land use activities and character.

Although the property is not situated in a high agricultural production area, the proposal has taken into account the above principles and is based on it. The location of the tourist facilities satisfies all the above requirements.

7. DESIRABILITY

- As the property is too small to be agricultural viable, the proposal does not deter the agricultural potential of the land. The proposed tourist facility will enhance the economic viability of the land by promoting agritourism for the Pringle Bay area.

- It is proposed to utilize an existing structure which are compliant with the Zoning Scheme regulations, therefore limiting the impact on the surrounding area.
- The proposal adheres to the requirements of the spatial policies applicable to the area.
- The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.
- Although restrictive conditions are listed in the title deed of the property, the beneficiary has granted her permission for the necessary removals and amendments to permit the tourist facility.
- The subject property is well located on a tourism route and at the entrance to the Overberg, Pringle Bay and other tourist facilities in the surrounding area.
- The proposal will create permanent work for staff working at the tourist facility and will also provide a opportunity for people in the surrounding area to market and sell their produce.
- The tourist facility will be operating as a normal business and no part of the proposed activities can be seen to be noisy or intrusive. It is thus foreseen that the proposed use will have no negative noise impact on the surrounding area.
- The nature of the proposed development will not influence the general health, safety and well being of the surrounding community. Standard health and safety regulations will be applicable in the running of the farm stall.

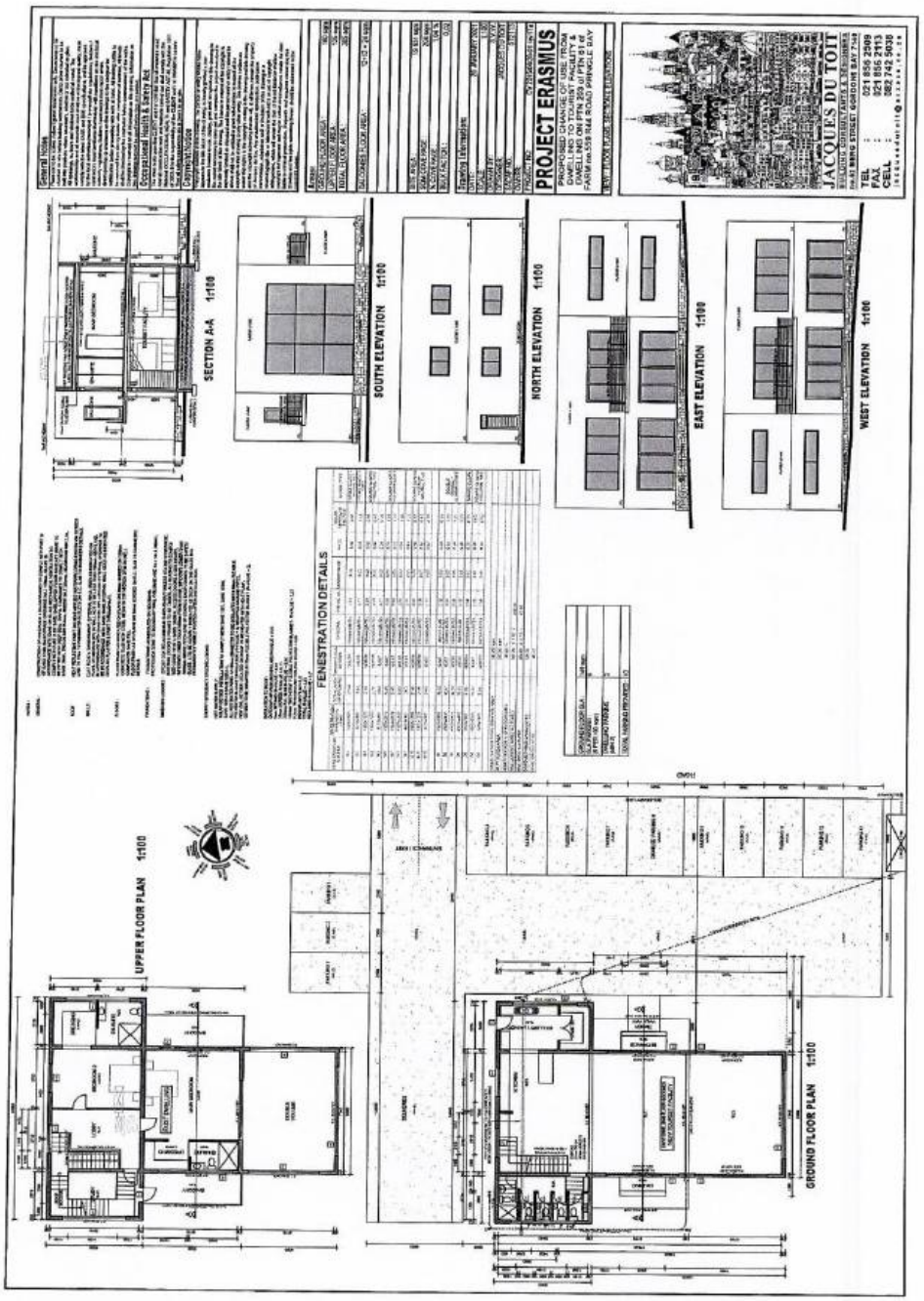
Accordingly, no elements in the proposed special consent can be construed to be undesirable in respect of the safety, welfare and amenity value of the specific site conditions, the immediate surrounding areas, or the broader planning objectives of the area.

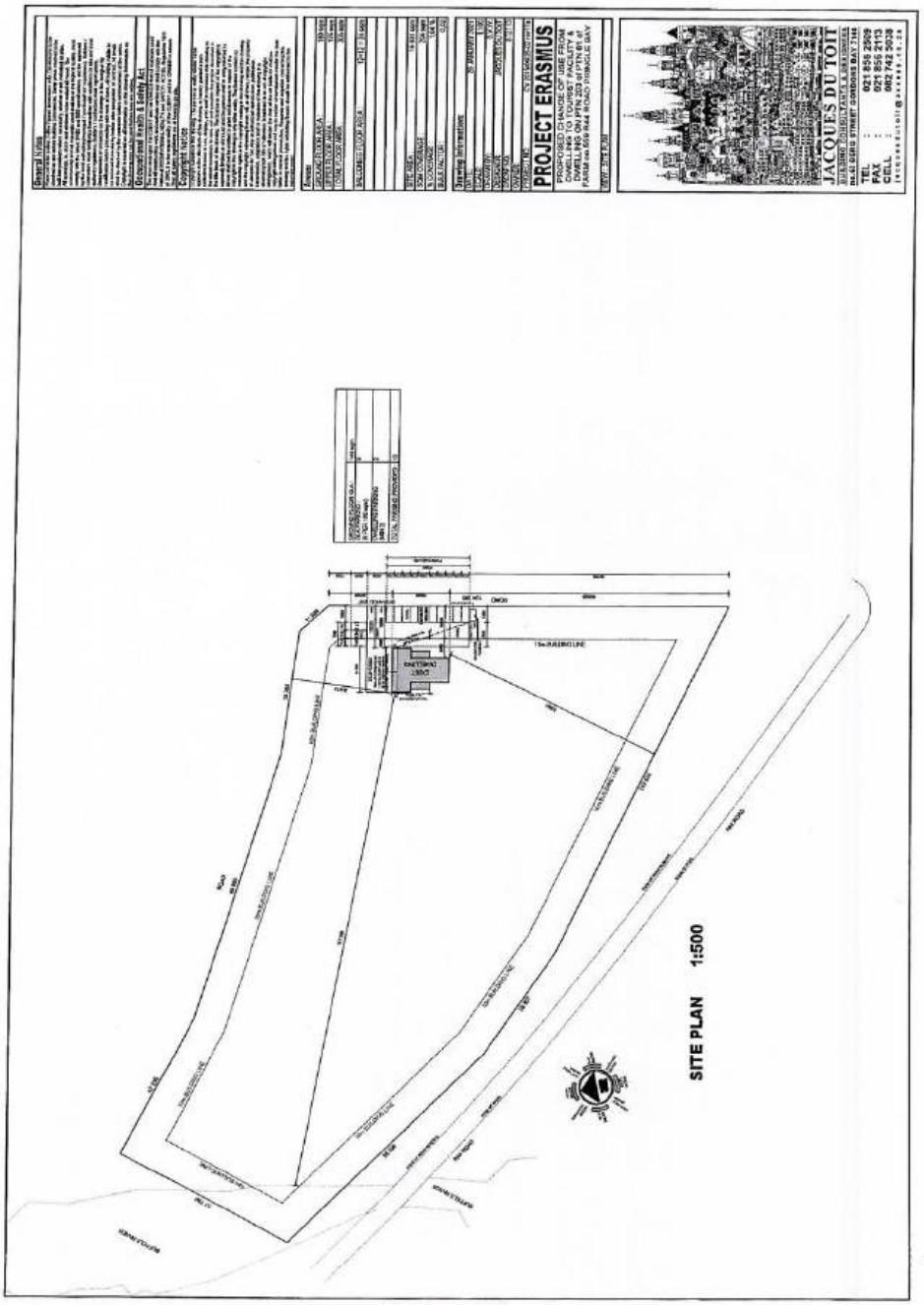
8. CONCLUSION

The proposed development meets statutory requirements, as it is in line with national, provincial, district and local policies applicable to the area. The property is well located on a tourism route. It will create permanent work for staff working at the tourist facility and will also provide an opportunity for people in the surrounding area to market and sell their produce. It will have no negative noise impact on the surrounding area. The proposed tourist facility will not influence the general health, safety and well-being of the surrounding community. Considering the aforementioned the tourist facility is considered to be consistent with good urban development and management.

It will result in the optimal utilization of the properties taking into account the character of the area. With this in mind, it is envisaged that Council will favorably consider the application.

ANNEXURE C 1/2




PROJECT ERASMUS
JACQUES DU TOIT
SITE PLAN 1:500

ANNEXURE D 1/11

BOX 4
DE KLERK & VAN GEND
Ref : 50693

Prepared by me

CONVEYANCER
HENDRIK PETRUS SERFONTEIN

	R 485 000,00	R 500,00
	R	R
		Exempt s.v.o

T000017666/2014

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

~~HENDRIK PETRUS SERFONTEIN~~ DAVID PAUL SMIT

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said appearer being duly authorised thereto by Power of Attorney which said Power of Attorney was signed at PRETORIA on 13 FEBRUARY 2014 granted to him by

The Trustees in the Insolvent Estate of
ALBERTUS JACOBUS KOTZE
Identity Number 640905 5052 08 5
Married out of community of property
T4248/2011

GhostConvey 14.10.4.15

And the appearer declared that his said principal the **Trustees in the Insolvent Estate of ALBERTUS JACOBUS KOTZE Number T4248/2011** had, on 28 November 2013, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

C-VIEW AT PRINGLE PROPRIETARY LIMITED
REGISTRATION NUMBER 2013/234349/07

or its Successors in Title or assigns, in full and free property

PORTION 203 (A PORTION OF PORTION 61) OF FARM HANGKLIP 559, situated in OVERSTRAND MUNICIPALITY, DIVISION CALEDON, PROVINCE WESTERN CAPE

IN EXTENT 1,9631 (ONE COMMA NINE SIX THREE ONE) Hectares

FIRST TRANSFERRED by Deed of Transfer Number T 30713/1990 with Diagram SG No. 5609/1988 relating thereto and held by Deed of Transfer T26517/2005

A. **SUBJECT** to the conditions contained in Deed of Transfer No. T35725/1969.

B. **SUBJECT** to the conditions relating to water rights only as contained in the Servitude Endorsements on Certificate of Consolidated Title No T3720/1937, which endorsements are dated and the relevant portions read as follows:

12th APRIL 1944:

"By Notarial Deed No 109/44 dated 24.2.1944 the Administrator of the Province of the Cape of Good Hope, or his nominee, acting in trust for such Local Authority as may hereafter be constituted for the Pringle Bay Township, has been granted certain rights relating to supply of water by means of a pipeline marked a.b.c.d.e.f.g. on the Servitute Diagram No 2126/1943 annexed to the said Notarial Deed, and certain other rights ancillary thereto.

Subject to conditions as will more fully appear on reference to said Notarial Deed."

a portion of which said servitude pipeline 3,15 meters wide is represented on Diagram No 6393/69 by virtue of the blue line lettered x.y.z.

8th APRIL 1949:

"By Notarial Deed No 107/49 dated the 10th March 1949 the Administrator of the Province of the Cape of Good Hope or his Nominee in Trust for such Local Authority as may hereafter be constituted for the Rooi Els Township held under the Certificate of Township Title No 13367/48 for the benefit of erf holders and such Local Authority, has been granted certain rights relating to (a) supply of water to erf holders and Local Authority (b) delivery of the said water to the abovementioned Township by means of a pipeline indicated on the servitude diagram No 8589/48 by the letters a.b.c.d.e.f.g.h.j.k.l.m.n. annexed to the aforesaid Notarial Deed (c) storage of water and constructing the necessary impounding works (d) aqueductus (e) purification works and reservoirs (f) access to and across from present or future headworks, site pipeline, reservoirs and purification works subject to the conditions as will more fully appear on reference to the said Notarial Deed a copy of which is annexed hereto".

portion of which said servitude pipeline 3,15 meters wide which is represented on Diagram No 6393/69 by the blue line lettered w.x.

2nd JULY 1951:

"By Not. Deed No 363/51 d.d.1/6/51 (a) the owner of the remainder of the land held hereby has been released from the obligations under Notarial Deed of servitude 109/44 insofar as Erf 452 Pringle Bay Township is concerned (b) certain rights to water and ancillary rights affecting the remainder aforesaid, subject to conditions, have been granted by the owner of the property held hereunder in favour of the Administrator in trust for such local authority as may be constituted for the Township for Pringle Bay Extension No 1 held by Certificate of Amended Title No 7575/51 as will more fully appear on reference to the said Deed".

22nd OF OCTOBER 1948:

"By D/T No 24234 dated 22.10.48 certain conditions relating to water supply.....have been imposed, as will more fully appear on reference to the said Deed of Transfer".

1st DECEMBER 1950:

"By Deed of Transfer No 18877/50 dated this day certain condition relating to the water supply.....have been imposed against.....the remaining extent of the property hereby conveyed measuring 6959.0646 mgn. as will more fully appear on reference to said Deed of Transfer."

28TH AUGUST 1951:

"By Deed of Transfer No 14934/1951 dated the 28'8/1951 certain conditions relating inter alia to: ..... water supply arrangements ..... have been imposed over ..... the remainder measuring 6952.8685 mgn. held hereunder as will more fully appear on reference to he said Deed of Transfer."

28th AUGUST 1951:

"By Deed of Transfer No 1493/51 dated 28.8.51 certain conditions relating inter alia to: arrangements re water supply ..... are imposed ..... Against the remainder measuring 6952.8685 mgn. held hereunder, as will more fully appear on reference to said Deed of Transfer."

3rd JULY 1951:

"By Deed of Transfer No 9998 dated this day certain conditions relating inter alia to ..... (i) water ..... have been imposed ..... against the remainder of the land meas 6951.3368 mgn held hereunder as will more fully appear on reference to the said Deed of Transfer."

1st SEPTEMBER 1953:

"By D/T No 13580/1953 dd. 1.9.53 Ptn 29 meas. 1.5272 mgn thereby transferred is subject to certain conditions relating inter alia to ..... water supply ..... which have been imposed.....against the owners and their

successors in title of the land held hereunder meas. 6951.3368 mgn. As will more fully appear on reference to the said Deed of Transfer."

C. **SUBJECT** to the following special conditions contained in Deed of Transfer No. T.35725/1969 imposed by HANGKLIP BEACH ESTATES LIMITED for it's benefit and for it's Successors in Title as owner of the remainder of the said Portion 45 of the farm "Hangklip" No 559, Caledon: Extent 127,3693 morg and held by Certificate of Registered Title No T. 5789/1957:

(a) All buildings and other constructional works commenced shall be completed within a reasonable time. If any building of works shall not be completed the Seller shall have the right to require such uncompleted building or works either to be completed within a specified period or alternatively to be demolished.

(b) No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.

(c) No building shall be erected within 25,19 metres of any road or within 9,45 metres of any boundary of the land.

(d) All buildings and other constructional works, including all fences and garden or other gates shall be of good and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of breach of this Clause the Seller shall have the right to require the Purchaser to demolish such unauthorised building or works and/or shall have the option to re-purchase the land upon payment of the cost price thereof without compensation for improvements.

(e) No signs, advertisements , advertisement boardings or other lettering shall be erected on the land hereby sold and purchased nor shall any advertisements, signs or lettering be painted on any building, walls or fences erected or to be erected on the said land save and except with the written approval of the Seller.

(f) No noxious trade or activity shall be carried on the said land.

(g) Save with the consent in writing of the Seller the Purchaser shall not have the right to make or cause to be made upon the said land for any purpose other than for use in his own building and/or works any bricks, tiles or earthanware pipes or other articles of such nature, nor shall he have the right to dig or quarry any earth, gravel, lime or stone thereon, other than for use in his own buildings and/or works.

(h) No debris, scrap or other unsightly material shall be deposited on the said land nor shall the Purchaser or his Successors in Title deposit or allow to be deposited any debris, scrap or other unsightly material on the said land without the written consent of the Seller first had and obtained.

(i) No person other than the registered Owner and his immediate family shall camp overnight of light open fires on the said land save with the written consent of the Seller which shall have the right to refuse such consent without assigning any reason therefor, or to give such consent subject to such conditions as it thinks fit.

(j) Access to public roads shall be limited to such points on the road boundary as may be approved by the Provincial or Divisional Council through its responsible Officers or by any other competent authority. It shall be the duty of the Purchaser to obtain approval of points of assets.

(k) No sewerage shall be disposed of otherwise than by means of a properly constructed septic tank. No pit or bucket latrine will be permitted, except in the case of camping as provided in (i) above.

(l) The purchaser shall have no right to use the water of the Buffels River for industrial purposes, which right the Seller reserves to itself. The Purchaser shall not do or construct anything which will interfere with or interrupt the natural and normal flow of water in the said River without the written consent of the Seller.

(m) .....

(n) The land shall be used only for agricultural purposes and the breeding or keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept.

(o) Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.

(p) Each dwelling erected on the land shall be designed for a single family. The first dwelling to be erected shall have a superficial area of at least 84 square metres, excluding outbuildings and all additional dwellings shall have a superficial area of at least 37 square metres each.

(q) Outbuildings to serve any dwelling shall not, except with the written consent of the Seller first had and obtained, be erected prior to the dwelling house which shall be a complete dwelling and not one partly bult and intended for completion at a later stage.

(r) No boarding houses, flats, maisonettes, hotels, shops, public garage or filling station, business premises, canteen, restaurant, bioscope, factory or industrial buildings shall be erected on the land nor shall any such business or entertainment be conducted on the land.

"In die voornoemde voorwaardes tensy andersins gemeld of afgelei sal die uitdrukking "die Maatskappy" en "die Verkoper" beteken HANGKLIP BEACH ESTATES LIMITED en die uitdrukking "die Koper" sal insluit die Opvolgers in Titel, Genooides en Persone wat wettiglik die grond of gedeelte daarvan met die toestemming of verlof van die geregistreerde eienaar okkupeer.

D. **ENTITLED** to the benefit of the conditions, (other than that which pertains to the water rights that are reserved for HANGKLIP BEACH ESTATES LIMITED) which are referred to in the following Servitude Endorsements which appear on Certificate of Registered Title No T5789/1957, which Endorsements are dated and reads as follows.

(i) 17th DECEMBER 1959:

"By D.T No 18344/95 dd this day Portion 59 thereby conveyed is subject to conditions relating to (a) buildings (b) restriction against erection of signs, advertisements, etc. (c) restriction against trade (d) prohibition against making of bricks, tiles and pipes (e) prohibition against deposit of debris, scrap. etc (f)..... (g) camping (h) access (i) sewerage (j).....(k) subdivision and (l) use of land ifo the remainder of within Portion 45 meas. 292.8449

morgen held hereunder. As will more fully appear on reference to the said D/T."

(ii) 10TH MAY 1960:

"By deed of Transfer No6799/1960 dated this day, Portion 62= 10.1381 morgen thereby conveyed is (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relaing to (a), (b), (c), and (d) buildings and design (e) advertising (i) trade (g) and (h) building materials and scrap (i) .....(j) camping (k) access to roads (l) sewerage (m).....(n) subdivision (o), (p), (q), (r), and (s) use of land and buildings in favour of the remainder of Portion 45 = 282,7068 morgen held hereunder, as will more fully appear on reference to the said Deed of Transfer."

(iii) 20th NOVEMBER 1961

"By Deed of Transfer No 16184/1961 dd this day Portion 58 meas. 11.3182 mg thereby conveyed (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c) and (d) buildings and design (e) advertising (f) trade (g) and (h) building material and scrap (i) .....(j) camping (k) access to roads (l) sewerage, (m) .....(n) subdivision (o), (p), (q), (r) and (s) use of land and buildings in favour of the Remainder of Portion 45 meas. 271.3886 mg held hereunder , as will more fully appear on reference to the said Deed of Transfer."

(iv) 18th APRIL 1963:

"By Deed of Transfer No 5141/1963 dated this day Portion 57 measuring 10.0949 morgen thereby conveyed and the properties described and held as set out on this page are (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c) and (d) buildings and design (e) advertising (f) trade (g) and (h) building material and scrap (i) .....(j) camping (k) access to roads (l) sewerage, (m) .....(n) subdivision (o), (p), (q), (r) and (s) use of land and buildings in favour of the Remainder of Portion 45 meas.240, 6642 mgn held hereunder as will more fully appear on reference to said Deed of Transfer."

Description and extent of property Held by Deed of Transfer No

Portion 64 = 10,0063 morgen T.7919/63
Portion 56 = 11,4080 morgen T 17779/63
Portion 65 = 10,0020 morgen T 32524/65 Rem 209,2473mgn
Portion 67 = 10,0006 morgen T 32525/65 Rem 199,2467mgn
Portion 54 = 10,9193 morgen T 17674/67 Rem 188.3274mgn
Portion 69 = 10,0036 morgen T 27035/67 Rem 178,3238mgn
Portion 66 = 10,0010 morgen T 16546/68 Rem 168,3228mgn
Portion 68 = 10,0028 morgen T 16547/68 Rem 158,3200mgn
Portion 46 = 10,2017 morgen T 16549/68 Rem 158,3200mgn
Portion 70 = 10,0047 morgen T 16450/96 Rem 148,3153mgn
Portion 63 = 10,0039 morgen T 36451/69 Rem 148,3114mgn
Portion 53 = 11,8430 morgen T 16453/69

(v) 23rd MARCH 1964:

"By D/T No 4756/64 dated this day Portion 47 = 10,4278 morgen thereby conveyed is subject to conditions relating to (a) buildings completed within a reasonable time (b) restriction against wood and iron buildings (c) restrictions against erection of buildings within certain road boundary (d) buildings to be of good design and sound construction (e) prohibition against signs, advertisements (f) prohibition against noxious trade (g) restrictions against brickmaking, etc. (h) debris on land (i).....(j) camping (k) access to public roads (l) serage (m) .....(n) restriction against subdivision (o) land for agricultural purposes only (p) dwelling and farm buildings (q) each dwelling for single family (r) outbuildings (s) restriction against creation of boarding houses, flats, etc, which conditions were imposed in favour of the remainder of within portion 45 measuring 219,2493 morgen. As will more fully appear from said deed of Transfer."

WHEREFORE the said Appearer, renouncing all right and title which the said

Trustees in the Insolvent Estate of ALBERTUS JACOBUS KOTZE Number T4248/2011

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

C-VIEW AT PRINGLE PROPRIETARY LIMITED
REGISTRATION NUMBER 2013/234349/07

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R485 000,00 (FOUR HUNDRED AND EIGHTY FIVE THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape Town on 9 April 2014

q.q.

In my presence

REGISTRAR OF DEEDS

SARS

Transfer Duty TDREP
Declaration

Reference Details

Transfer Duty Reference Number TDE00A323E

Details

Details of Seller / Transferor / Time Share Company

Name / Registered Name	KOTZE T4248/2011	Full Name	INSOLVENT ESTATE ALBERTUS JACOBUS
Number	8409055052085	Date of Birth (CCYYMMDD)	1984-09-05
Company / CC / Trust Reg No.		Marital Status	M.O.C OF PROPERTY
Marital Notes if applicable	South Africa	Spouse Initials	

Details of Purchaser / Transferee

Full Name	C-VIEW AT PRINGLE PROPRIETARY LIMITED	Surname / Registered Name	C-VIEW AT PRINGLE PROPRIETARY LIMITED
Company / CC / Trust Reg No.	2013/234319/07	Marital Notes if applicable	

Details of the Property

Date of Transaction/Acquisition (CCYYMMDD)	2013-11-26		
Total Fair Value	R 485000.00	Total Consideration	R 485000.00

Calculation of Duty and Penalty / Interest

Transfer Duty Payable - Natural Person	R	485000.00

Property Description

PORTION 293 (A PORTION OF PORTION 91) OF FARM HANGKLIP 559, situated in OVERSTRAND, DIVISION CALEDON, PROVINCE WESTERN CAPE IN EXTENT 1.5631 (ONE COMMA NINE SIX THREE ONE) Hectares

Receipt

Receipt Details

Transfer Duty Reference Number	TDE00A323E	Receipt No.	
Receipt Amount	R 0		

Declaration by Conveyancer / Attorney

I hereby that this is a true copy of the transfer duty declaration / receipt / exemption certificate drawn from the SARS eFiling site, which will be retained by me for 5 years from the date of registration of transfer

xxxx

ANNEXURE E 1/45

L Gillion

From: Ruth Morris <pringlegifts@gmail.com>
Sent: Friday, 27 November 2020 09:11
To: L Gillion
Subject: Portion 203 (a portion of 61) Farm Hangklip 559

Good day Loretta,

This email is a comment on the Overstrand Municipality Portion 203 (a portion of portion 61) on Farm Hangklip 559 / to accommodate a tourist facility; coffee shop / gift shop.

TP - A Theart
(H vld stoep)

My details are as follows:
Ruth Morris
Pringle Gifts
368 Pass
Pringle Bay
6
Cell: 0829296014
email: pringlegifts@gmail.com

I've been running a successful gift shop in Pringle Bay since April 2014 & I can not tell how many new clients walk in weekly that will say something like 'We never even knew a little town like Pringle Bay even existed! We were just looking for a quick coffee / cold drink / sandwich on our way.' or 'We did not even realise that Pringle Bay had a CBD!' Those types of walk-in clients are priceless to our little town's businesses.
These are mostly south africans, but also tourists on their travels.

Many travellers, be it local or foreign are usually pressed for time & want to get to their destination; so if they see a shortcut to just quickly stop at a road side business, as the proposed one, they will take it. This will be detrimental to business in Pringle Bay. I would say that it would affect at least 80% of businesses in the CBD if you just look at coffee (big income for most), cold drinks and a quick meal. And those clients that look for a quick snack find my little gift shop & buy a little something. Priceless to me, especially in these struggling financial covid times we are finding ourselves.

I do hope you can see my point of view.
I can only hope that the permission for Portion 203 will not be given.

Regards
Ruth Morris
0829296014

FILE NO: Ptn 203 559 ✓
Hangklip
SCAN NO:
RUTH
COLLABORATOR NO:
1484354

TP

L Gillion

From: Nerine Swanepoel <nerineswanepoel@gmail.com>
Sent: Thursday, 26 November 2020 15:30
To: L Gillion
Subject: Comments on Municipal Notice 127/2020

OVERSTRAND MUNISIPALITEIT / OVERSTRAND MUNICIPALITY
30 NOV 2020

Good Day,

The application for consent for a Coffee Shop on Farm 559 Hangklip, portion 203 refers.

TP - A Theart (H Vld Steep)

A previous application for a Farm Stall was rejected.
Then a residential dwelling was constructed. (still in process)
Now there is an application for a Coffee Shop.
Is there any difference regarding re-zoning between Farm Stall & Coffee Shop - I think not.
What would then prevent it from becoming a full fledged restaurant once it has been re-zoned?

Re-zoning of farmland to commercial is completely against eco principles and could only negatively affect the total Hangklip nature preservation effort.

The level crossing at the entrance of Pringle Bay is, as is, a danger to traffic and pedestrians alike.
If a commercial tourist attraction is allowed just off the crossing it could cause major traffic problems and therefore endanger lives.

I stay in Caspar Road, Pringle Bay and look onto the R44 & entrance to the village. Light pollution at night will also be a bother.
Pringle Bay prouds itself on having very little light pollution and therefore we have a beautiful starry sky at night. A much friendlier tourist attraction!

Please note that I am against the re-zoning.

Kind regards,

Nerine

Nerine Swanepoel
1268 Caspar Road
Pringle Bay 7196
082 6222 079
nerineswanepoel@gmail.com

FILE NO: Ptn 203 | 559
Hangklip
SCAN NO:
NERINE
COLLABORATOR NO:
1484363

TP 27 NOV 2020

TP- A Theart
(H Vld Stoep)

OVERSTRAND MUNICIPALITY
3/45
30 NOV 2020

A response to the invitation to comment on an application that has been made to the Overstrand Municipality for the removal of restrictive title deed conditions on Portion 203 of Farm Hangklip 559

There has been an application by the owner of the above property to have certain title deed restrictions removed, which will allow for the operation of a commercial "Farm Stall". The property is situated on the R44, diagonally opposite (north of) the intersection of the R44 and Hangklip Rd; i.e. opposite the entrance to Pringle Bay.

We feel quite strongly that this should not be allowed and have submitted the following comments regarding the application:

1. PLANNING CONTEXT

In May this year (2020), the Overstrand Municipality published the final version of its **Spatial Development Framework** (Municipal SDF; Overstrand MSDF). The MSDF represents the municipality's overarching spatial planning policy, informed by various council policy documents. The planning framework detail pertaining to Pringle Bay, which is the village immediately adjoining Portion 203/559, is described on pages 165 - 168 of the MSDF report.

The Overstrand MSDF is sure our most important reference document and as such we have extracted that which we consider most pertinent to the matter at hand:

- Ensure that development is confined within urban edges and growth is managed based on sustainable densification principles
- Promote urban, suburban and rural centres as the primary commercial areas ... and suppress and limit commercial development outside of these centres
- Neighbourhood nodes and the Central Business District (CBD) should become the nucleus of business/commercial and other public infrastructure/services
- Commercial business uses, commercial, retail and offices should be concentrated within the CBD and decentralisation of commercial development should not be permitted.

There can be no doubt that the aim behind the application for removal of restrictive title deed conditions directly contradicts the planning principles (and related detail) presented in the Overstrand MSDF. In essence, the proposal would result in decentralised commercial development outside the urban edge, distantly separated from the existing CBD. On this basis, the application should be rejected. In addition, if one takes a look at the building in question, the layout of the ground floor with vaulted ceiling to the upper floor means it is not likely to be both a farm stall at the bottom and then a residence at the top... it is clearly designed for a double volume use of the building.

2. ECONOMIC SUSTAINABILITY CONTEXT

A number of the existing commercial establishments within the Pringle Bay CBD have originated through processes that have often been fraught with some very challenging economic conditions. The services that are offered have been tried, tested, adjusted, etc., with the aim of being

FILE NO: Ptn 203|559
Hangklip
SCAN NO:
HARRIET
COLLABORATOR NO:
1484324

TP 27 NOV 2020

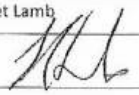
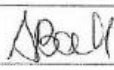
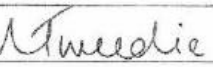
sustainable (commercially, socially, and environmentally). As a consequence, by and large, the establishments are supported and valued by the local community.
What is proposed in the application for removal of restrictive title deed conditions would almost certainly have an impact on the economic status quo within Pringle Bay's CBD. Those that may argue that it will draw business into the village are quite wrong – it will rather divert business away from it. The turn into the village is not well signposted to begin with – the large building looming on the left hand side of the road will further detract from visitors actually seeing the turnoff into Pringle.To have the existing establishments in the Pringle Bay CBD, which are compliant with Overstrand spatial development planning principles, compromised in this way would be very discriminatory.

3. TRAFFIC SAFETY

The intersection of the R44 and Hangklip Road (i.e. the entrance to Pringle Bay) is becoming increasingly unsafe and has seen a number of accidents recently. This appears to be linked particularly to traffic travelling from the direction of Rooi-Els, taking the bend at the bridge across the Buffels River, and almost immediately encountering the intersection, where: (i) there are often stationary vehicles waiting to turn into Pringle Bay, and (ii) there are slow vehicles turning out of Pringle Bay onto the R44. To have a significantly increased proportion of the traffic load turning into or departing from the proposed development (Portion 203/559) will aggravate the traffic safety situation.
As mitigation for the above, major road-works would need to be carried out. However, if this was to be justified on the basis of the proposed development, the cost of this would be a perverse misallocation of scarce financial resources. This is especially in the context of an application that carries with it a number of planning contradictions (see Point #1 above).

4. PRECEDENT

It is accepted that applications such as the one under consideration here deserve to be considered fairly on their individual merits (or otherwise). However, precedents must not be set where, for example, this application is approved while others that are in some ways equivalent, are rejected. There are cases where applications for the removal of title deed restrictions applicable to other farms in the vicinity of Pringle Bay have been rejected. It also sets a bad precedent where developers may feel it's worth a risk to go ahead and build and ask for forgiveness later. The building is clearly not for a farmstall.

Name	Contact number	Address details
Harriet Lamb	082 852 6850 juno@junocorp.co.za	1580 James Avenue, Pringle Bay
		
Susan Ball	073 166 0632	Lawrence Road, Pringle Bay
		
Mary Anne Tweedie	082 772 7247 megstweedie@gmail.com	546 Beach View Road, Pringle Bay
		

TP: N. Theart (Hand Stamp)

OVERSTRAND MUNISIPALITEIT / OVERSTRAND MUNICIPALITY
16 NOV 2020
5/45

L Gillion

From: Brian Berkman <bb@brianberkman.com>
Sent: 14 November 2020 05:33 PM
To: L Gillion
Cc: JP Fluckiger
Subject: ~~Portion 61, Farm 559~~ Portion 203 ~~223~~ of Farm 559 Hangklip

I wish to raise my objection to the rezoning as requested to allow for a "Farm Stall" in the dwelling on portion 61 of farm 559 in Pringle Bay.
We have a thriving CDB with coffee shops, delis and gift shops and market-days on the open space between the businesses. This gives a wonderful village market atmosphere which is, I believe, what attracts locals and visitors alike. Having a coffee and shop attraction on the outside of the village may stop passers by from coming in to our village and experiencing all we have to offer. By the way, our planned home was Kleinmond until a stop in Pringle Bay to get a cool drink en route, convinced us to buy here.
Brian Berkman erf 1332 Edward Road, Pringle Bay. 6711195087081.

Brian Berkman
083 441 8765

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Brian Berkman

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FILE NO: P/N 003/559
Hangklip
SCAN NO:
13
COLLABORATOR NO: 1478483

TP 16 NOV 2020

TP n. Thoard (H. van Stoep)

OVERSTRAND MUNISIPALITEIT / OVERSTRAND MUNICIPALITY
10 NOV 2020

6/45

L Gillion

From: Janet Wilson <janet.wilson2@icloud.com>
Sent: 15 November 2020 06:00 PM
To: Loretta Gillion
Cc: Brent@auvergne.co.za; Sandra Milns; Moray & Jean Wilson; Greg Mills
Subject: Objection to the application for Removal and Amendment of Title Deed Restrictions and application for Consent Use as tourist facility on Portion 203 of Farm 559 Hangklip

Attention:

Messrs H van der Stoep (Overstrand Municipality) and G Williams (Western Cape Provincial Govt)

Subject:

Objection by Mrs J Wilson Mills to the Adpplication for Removal and Amendment of Title Deed Restrictions and Consent Use to accommodate a tourist facility on Portion 203 of Farm 559 Hangklip.

Dear Sirs

As home-owner in Pringle Bay, I wish to object to the application for removal and amendment of title deed restrictions and consent to accommodate a tourist facility (to use the ground floor structure as a coffee and gift shop) on Portion 203 of Farm 559 for the following reasons:

- First, this development will have a deleterious impact on the existing businesses in Pringle Bay, and the community that they serve and in many cases actively support.
- Second, it will create a potential road hazard on an already busy route.
- Third, it will impact negatively on the conservancy established in the area of the proposed development.

You are welcome to contact me should you require elucidation of these points of objection. Please acknowledge receipt of this email.

Sincerely

FILE NO: PAN 203/559
Hangklip
SCAN NO:
18
COLLABORATOR NO: 1478521

Janet M Wilson Mills

ID# 6807110234087

394 High Level Road, Pringle Bay

083-9918477

TP 13 NOV 2020

OVERSTRAND MUNISIPALITEIT
16 NOV 2020
OVERSTRAND MUNICIPALITY

L Gillion

From: Saied Solomons <Saied@sabita.co.za>
Sent: 16 November 2020 09:48 AM
To: L Gillion
Subject: removal of restriction (KHANG 203/559)

TP-n.t.hoof
(1).ud Stoep)

Good morning Loretta
Re removal of restriction portion 203 of farm 559 Hangklip
I'm responding in the matter as a resident of a Pringle Bay – being the owner of ERF 702 Bobbie Road Pringle Bay.
The township of Pringle Bay has a clearly defined business district which allows for trading opportunities as well as a well defined residential sector.
This differentiation is clear in everyone's mind as it assists in traffic flow and also limits certain activities which are not desirable (noise, trading hours, parking space, increased vehicle and human traffic) in the "residential sector".

As such this requested change to the title deed is not supported.

Kind regards

M Saied Solomons
0838280064

FILE NO: PIN 203/559
Hangklip
SCAN NO: 19
COLLABORATOR NO: 1478522

TP 16 NOV 2020

8/45

OVERSTRAND MUNISIPALITEIT
16 NOV 2020
OVERSTRAND MUNICIPALITY

L Gillion

From: roger@pasgc.co.za
Sent: 16 November 2020 09:05 AM
To: L Gillion
Subject: Consent Use Application Portion 203 of Farm 559 Hangklip
Attachments: Consent Use Application Portion 203 of Farm 559 Hangklip.pdf

TP. N. Theart
(11. Jd Sloop)

Loretta

The above application has reference.

I have no objection to the above property being used as a farm stall or coffee shop and gift shop.

However, I object to the process that has been followed. Further to the objections to the farm stall, the owners withdrew their original application. They proceeded to build a structure – that from the outside does not look like a residential unit, but rather looks like a restaurant, farm stall, coffee shop etc. The building as at a very advanced stage, now entering the finishing phase. It would seem to me that the owners have proceeded with their plans without permission, and now seek approval. This is disingenuous and should not be allowed.

Kind regards

Roger

FILE NO: PIN 203/559
Hangklip
SCAN NO:
20
COLLABORATOR NO: 1478527

Dr Roger Parsons
PO Box 151, Pringle Bay, 7196, SOUTH AFRICA
cell: 083-310-6504
email: roger@pasgc.co.za

TP 16 NOV 2020

OVERSTRAND MUNISIPALITEIT / OVERSTRAND MUNICIPALITY
16 NOV 2020
9/45

L Gillion

From: Morne Lloyd <mornelloyd@mweb.co.za>
Sent: 15 November 2020 02:23 PM
To: L Gillion
Subject: Written comments regarding Farm Hangklip 559 (KHANG 203/559)

TP. N/Heard (Ll. ud Sloep)

Good day

Draft consent use Application Portion 203 of Farm 559 Hangklip

I hereby strongly oppose the above mentioned application for the purpose of Tourist facility for coffee and gift shop, for the following reasons:

1. Under the current economic climate, the proposed development will greatly affect businesses in Pringle Bay CBD, who depends on the traffic entering the town to visit existing businesses.
2. It poses a great safety risk, as the entrance to the proposed erf has not a safe entrance
3. Pringle bay consists of 4 Coffee shops and 5 restaurants, and adding to the list will negatively impact business in general.

Kind regards

Morne Lloyd
1861 Peak Road, Pringle Bay
082 894 3019/ 028 273 8931

FILE NO: PIN 203/559
Hangklip
SCAN NO:
21
COLLABORATOR NO: 1478529

TP 16 NOV 2020

10/45

OVERSTRAND MUNISIPALITEIT
17 NOV 2020
OVERSTRAND MUNICIPALITY

TP-n/hear!
(11.vd Stoep)

L Gillion

From: Richard Pelrine <r.pelrine@inspired-international.com>
Sent: 16 November 2020 04:04 PM
To: L Gillion
Cc: pbranews@gmail.com
Subject: Consent Use Application Portion 203 of Farm 559 Hangklip

Dear Municipal Manager:

This email constitutes an objection to the reclassification of Farm 559 Hangklip to allow commercial activity. Clearly, the owner requested to build a residence, and NOT a retail business. I have multiple objections to situating a retail business at that location: (i) the intersection is not adequate for increased turning traffic turning there are already incidents of accidents as a result; (ii) the village already has several retail locations offering the same services which already struggle at low points of the year; (iii) should this business start and fail to be profitable as a gift shop, the owner might then turn to any other activity as his/her motivation is obviously commercial and not residential; (iv) MOST IMPORTANTLY the decision to expand retail to other parts of Pringle Bay is not a decision to be made without the full consideration and consent of the residents as it represents changing dynamics for traffic, increased or decreased visitors, stress to the existing economy, impact on the biosphere and increased stress on local infrastructure. Overall, the owner should approach the village through the ratespayers as a decision to commercialize part of the village is a decision that affects all of us.

I am Richard John Pelrine. I own ERF 356 Hangklip Road. I can be reached by this email address.

Thanks for your invitation to comment on this matter.

--
Richard John Pelrine
Technical Director
INSPIRED International

www.inspired-international.com

FILE NO: P/N 203/559
Hangklip
SCAN NO:
02
COLLABORATOR NO: 1478961

TP 17 NOV 2020

11/45

L Gillion RHANG 203/559

OVERSTRAND MUNISIPALITEIT / OVERSTRAND MUNICIPALITY
17 NOV 2020

From: Koos Botha <hafids@mweb.co.za>
Sent: 16 November 2020 10:50 PM
To: L Gillion
Cc: pbranews@gmail.com
Subject: COMMENTS ON MUNICIPAL NOTICE NUMBER 127/2020

TP-N/Head
(M. vd Stoep)

Dear Mr O'Neill, Municipal Manager, Overstrand Municipality - Municipal Notice No. 127/2020 in respect of an application for the removal and amendment of restrictive title deed conditions and consent use, Portion 203 (a Portion of Portion 61) of the farm Hangklip 559 zoned Agriculture hereafter referred to as "the site".

My interest and **two** (2) reasons for commenting are that of a concerned permanent Pringle Bay resident.

1. The **removal** of condition C(e) namely: No signs and advertisement boarding or other lettering shall be erected on the land could adversely impact on small, medium and micro enterprise businesses (SMME's) e.g. coffee and gift shops in the small village of Pringle Bay as "the site" is opposite the main and only access into Pringle Bay.
The existing building on "the site" is already prominently visible and distracting on the R44 and will most certainly lure motorists to turn in. Prominent advertisement boarding will further contribute to that.

2. As is 11 parking bays and 2 for residents (of top floor) are required for "the site" with the **proviso of 18** parking bays. The R44 carries high traffic volumes, especially over week-ends and during holiday periods. 18 parking bays is totally insufficient for "the site" where a tourist facility, coffee and gift shop and residence will be in operation. Where will the spillover cars (19+) **and** bikers park? Surely not among the fynbos considering the fire danger.

Entrepreneurship are encouraged but not to the detriment of SMME's "hidden" in a little coastal village off the R44. A level playing field is required.

Yours faithfully
JCL Botha
17 Hilton Circle, Pringle Bay, 7141
Email: hafids@mweb.co.za

FILE NO: PIN 203/559
Hangklip
SCAN NO:
01
COLLABORATOR NO: 14789.57

TP 17 NOV 2020

12/45

OVERSTRAND MUNISIPALITEIT
18 NOV 2020
OVERSTRAND MUNICIPALITY

L Gillion

From: Charlene Maritz <charlene.maritz@theconvergency.co.za>
Sent: 18 November 2020 11:14 AM
To: L Gillion
Subject: Objection Consent Use Application Portion 203 of Farm Hangklip 559

TP. Manager
(Mud Slaap)

Charlene Maritz
082-871-9599
162 Hanglklip road
Pringle Bay

I hereby object to the application. The person knew at the outset that there was a restrictive title deed before they began building and he still proceeded.
We do not wish to detract from the centre of the village that brings tourists into town, we already have numerous gift and coffeeshops in town.
We need to support local business in Pringle Bay and keep the centre of town as the main business hub

Regards
Charlene Maritz

FILE NO: PTN 203/559
Hangklip
SCAN NO: 18
COLLABORATOR NO: 479297

TP 18 NOV 2020

OVERSTRAND

OVERSTRAND MUNICIPALITY PORTION 203 (A PORTION OF PORTION 61) OF FARM HANGKLIP 559, SITUATED IN OVERSTRAND MUNICIPALITY, DIVISION CALEDON: APPLICATION FOR THE REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: IC@PLAN (obo C-VIEW AT PRINGLE PROPRIETARY LIMITED)

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) of the following applications that have been received, namely:

1. Application in terms of Section 16(2)(l) of the By-Law for the removal of restrictive title deed conditions C.(b), C.(d), C.(e), C.(n) and C (o) as contained in Title Deed T17666/2014 applicable to Portion 203 (a portion of portion 61) of Farm 559.

2. Application in terms of Section 16(2)(f) of the By-Law for the amendment of restrictive title deed conditions C (r), D.(i), D.(ii), D.(iii), D.(iv) and D.(v) as contained in Title Deed T17666/2014 applicable to Portion 203 (a portion of portion 61) of Farm 559.

3. Application in terms of Section 16(2)(o) of the By-Law for a consent use to permit the conversion of the ground floor of the existing dwelling on Portion 203 (a portion of portion 61) of Farm 559 to accommodate a tourist facility (i.e. coffee shop and gift shop).

OVERSTRAND MUNISIPALITEIT 18 NOV 2020 OVERSTRAND MUNICIPALITY

TP: Nihcar. (1).dd Stoop)

FILE NO: PIN 203 | 34/49
Hangklip
SCAN NO:
16
COLLABORATOR NO: 1479279

L Gillion

From: Michael Burns <mikeburns101@gmail.com>
Sent: 18 November 2020 11:03 AM
To: L Gillion; Michael Burns
Cc: info@pringlebayratepayers.co.za
Subject: Comments of the application for removal of restrictive title deed conditions: Portion 203 (a portion of portion 61) of farm Hangklip 559

I have the following comments regarding the application for the removal of restrictive title deed conditions on Portion 203 (a portion of portion 61) of farm Hangklip 559.

The comments are in response to an invitation provided by the Overstrand Municipal Manager, issued through Municipal Notice No 127/2020.

1. PLANNING CONTEXT

In May this year (2020), the Overstrand Municipality published the final version of its Spatial Development Framework (SDF). The MSDF element therein represents the overarching spatial planning policy, informed by various Council Policy Documents. The planning framework detail pertaining to Pringle Bay, which is the village immediately adjoining Portion 203 of Farm Hangklip 559, is described on pages 165 - 168 of the SDF report.

The Overstrand SDF is the ultimate planning reference through which to consider and comment on the above application, In this regard, the following is a summarised extract from the document, and which is considered most pertinent to the matter at hand:

- "Ensure that development is confined within urban edges and growth is managed based on sustainable densification principles ..."
- "Promote urban, suburban and rural centres as the primary commercial areas ... and suppress and limit commercial development outside of these centres"
- "Neighbourhood nodes and the Central Business District (CBD) should become the nucleus of business/commercial and other public infrastructure/services"
- Commercial "business uses, commercial, retail and offices should be concentrated within the CBD and decentralisation of commercial development should not be permitted".

There can be no doubt that the aim behind the application for removal of restrictive title deed conditions is in direct contradiction with the planning principles and detail presented in the Overstrand SDF. In essence, the proposal would result in decentralised commercial development outside the urban edge, distantly separated from the existing CBD. On this basis, the application should be rejected.

2. ECONOMIC SUSTAINABILITY CONTEXT

A number of the existing commercial developments within the Pringle Bay CBD have become established through processes involving some very challenging economic conditions. The services that the businesses offer have been tried, tested, adjusted, etc., with the aim of becoming sustainable (commercially, socially and environmentally). As a consequence, by and large, they have gained community support and are valued locally.

What is proposed in the application for removal of restrictive title deed conditions would almost certainly have a deleterious impact on the economic *status quo* within Pringle Bay's CBD, by diverting business away from it. To have the existing businesses in the Pringle Bay CBD that are in compliance with Overstand spatial development planning principles and detail affected in this way would be extremely discriminatory.

3. TRAFFIC SAFETY

TP 18 NOV 2020

The intersection of the R44 and Hangklip Road (i.e. the entrance/exit to Pringle Bay) is becoming increasinging unsafe and has seen a number of accidents recently. This appears to be linked particularly to traffic travelling from the direction of Rooiels, taking the bend at the bridge across the Buffels River, and immediately encountering the intersection, where there are often stationary waiting to turn into Pringle Bay. To have a significantly increased traffic load *turning into or departing from the proposed development* will greatly aggravate the traffic safety situation. The alternative is for major road-works to be carried out to make the intersection safer. However, if this is to be justified simply on the basis of the proposed development, the cost of this would be a misallocation of scarce financial resources. This is especially so in a context that carries with it a number of planning contradictions (see point #1 above).

4. PRECEDENT

It is accepted that each application such as the one under consideration here deserves to be considered fairly on individual merits (or otherwise). However, if there is to be consistency, precedents must not be set where, for example, this application is approved while others, that are in some ways equivalent, have been rejected. There are a few cases where this applies pertaining to farms in the vicinity of Pringle Bay .

I trust that the above comments will be taken into account when the municipality considers the application that has been made for removal of title deed conditions pertaining to Portion 203 (a portion of portion 61) of farm Hangklip ,59.

I would also be grateful if your receipt of my comments could be acknowledged.

Yours sincerely

Dr MIKE BURNS
Resident
Erf 825, Vivian Road
Pringle Bay

OVERSTRAND MUNISIPALITEIT
18 NOV 2020
OVERSTRAND MUNICIPALITY
16/45

L Gillion

From: David Lees-Rolfe <david.leesrolfe@gmail.com>
Sent: 18 November 2020 11:39 AM
To: L Gillion
Subject: Objection to consent use - Portion 203 (Portion of portion 62) of Farm Hangklip 559

TP- A. Ahead (Ll. ud Stoep)

Good day.

Municipal Notice 127/2020

I wish to record by **strenuous objection** to changing the Deed conditions and consent use for this property, as set out below.

David Arthur Lees-Rolfe
31 Susan Road, Pringle Bay
Cel 082 654 5495
Resident of Pringle Bay

My reasons for objecting to the application are as follows:

1. Pringle Bay already has a commercial zone with sufficient capacity for many more visitors, so no additional commercially zoned areas are required - or desirable.
2. Allowing this relaxing of the deed restrictions will precipitate more similar commercial ventures to be established in the same area. This would create a new commercial centre that would permanently, and adversely, change the nature of this part of the biosphere.
3. This site will not offer a new or special facility that would accord it special consideration.
4. Previous requests for a farm stall on the same premises have been denied and withdrawn and this is a subterfuge to achieve the original objectives
5. If the relaxation of the title deeds is allowed, this will create an eyesore in an area where the residents are trying to keep the Koggelberg Bioshpere transition and buffer zones working as they were intended. The erosion of the pristine environment MUST NOT BE ALLOWED.

FILE NO: PIN 003/559
Hangklip
SCAN NO: 17
COLLABORATOR NO: 479296

TP 18 NOV 2020

OVERSTRAND MUNISIPALITEIT
23 NOV 2020
OVERSTRAND MUNICIPALITY

17/45

TP-Mthead
(11.ud Stoep)

Overstrand Municipality
Land Use Planning Department
16 Paterson Street Hermanus

FILE NO: PIN 203/559
Hangklip
SCAN NO:
31
COLLABORATOR NO: 1482860

17 November 2020

Etienne Raath
820 Vivian Road
Pringle Bay
7196

Dear Sir/Madam

OBJECTION TO APPLICATION FOR THE REMOVAL AND AMMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: PORTION 203 (A PORTION OF PORTION 61) OF FARM HANGKLIP 559.

Objection Reasons:

1. A previous application was submitted and declined based on overwhelming objections to open a Farmstall.
2. The house appears to have been build as a venue of some sort and not as a private dwelling as alleged.
3. To apply to have the bottom part of the dwelling now used as a coffee shop and a gift shop is misleading as it appears that it was the intention from the outset.
4. Should the property be used as a coffee shop and gift shop, it will most probably divert visitors to Pringle Bay where there are several coffee shops and gift shops already.
5. The area between Bettys Bay and Gordon's Bay is one of the most scenic drives in the world and this dwelling is an eyesore out in the open already and should never have been allowed in the first place. It seems that the owner has little regard for the environment and the Pringle Bay biosphere and conservancy and is only interested in his/her own interests. It further seems that he/she is also trying to obtain permission in a misleading way.
6. Safety is a huge issue at the entrance to Pringle Bay and are at times very congested especially during holidays and the festive season. This will be aggravated if there will be increased traffic from the opposite side of the entrance. Crossing the road is already dangerous as vehicles often approach at high speed from the Rooi-Els side.
7. Pringle Bay is still a growing tourist attraction and many people are still discovering the town and its businesses. Allowing this coffee and gift shop will have a negative impact on the local businesses.
8. Gift shop is a broad term and does not stipulate exactly what can and cannot be sold. It opens a lot of possibilities.

TP 23 NOV 2020

9. An already ugly dwelling (in my opinion) will become an even greater eyesore when there are cars parked on a regular basis and traffic in and out.

10. The area is a conservancy, and all businesses are localised in the centre of Pringle Bay as a result. Allowing this amendment, will certainly open the door for further businesses to develop which in turn will compromise the scenery, fauna and flora and the biosphere in its entirety.

11. As a business owner in Pringle Bay and a resident, I strongly object to this development as well as the way it is been approached.

Yours faithfully

Etienne Raath

Cell: 0724157004

Email: eraath63@gmail.com

This letter was mailed to: loretta@overstrand.gov.za

OVERSTRAND MUNISIPALITEIT
18 NOV 2020
OVERSTRAND MUNICIPALITY

19/45

L Gillion

From: Adriaan Halgryn <adriaan.halgryn@gmail.com>
Sent: 18 November 2020 07:08 AM
To: L Gillion
Subject: Objection towards the Proposed Business on Portion 203(a portion of portion 61 of farm Hangklip 559

TP: Mheed
(11 wd Stage)

Good Morning

We would like to submit our objection ***against*** the removal of restriction on the title deed conditions c(b) C(d) C(e) C(n) and C(o) as contained in the title deed T17666/2014.
by allowing this proposed business to be opened it effects the Sensitive environment and opens the area up for further development that will destroy the already pressured eco system. There's a reason people choose to live on this route and it is for the lesser developed saver area. Such a business will add to traffic that will increase and damaging the peace that the environment and the people have chosen to protect.

All the current Business owner struggling to keep head above water would greatly affect. There are already to many businesses operating in the area. It is not only Pringle bay but also Rooi-els and Betties bay Businesses that will be affected.
Not all areas need to be squatter with business . This new development will definitely not create More Job opportunities than what there currently are in the area.

The applicant has already shown disrespect and their sly intentions by starting building on the property under false pretences knowing all along what they wanted to do with the property even if it is not allowed . They have repeatedly try to make changes to the title deed. And still they continued with the building knowing of the restrictions but without any consideration or respect to rules and regulations. This route is a world renowned rout and the reason there for is the quite vast open spaces and scenery .

Ilse Halgryn
Intebe Hardware CC
t/a Pringle Bay Mini Mart
Tel : 028 273 8821
Cell: 082 533 6662

FILE NO: PIN 203/559
Hangklip
SCAN NO:
34
COLLABORATOR NO: 479146

TP 18 NOV 2020

20/45

L Gillion

From: Joan De wet <thedewets@icloud.com>
Sent: 18 November 2020 06:12 AM
To: L Gillion
Subject: Portion 203 of farm 559 Hangklip

TP Afhaal
Cloud Sleep

To whom it may concern:

We feel the application for business rights at the above address (portion203 of farm 559 Hangklip) should be declined.
1)The intersection on the R44 is already dangerous and more traffic activity would exacerbate the problem.
2) Granting business rights to a residential address would set a precedent.

Thank you

Pieter and Joan de Wet
858 Jally Road
Pringle Bay.

Sent from my iPhone

FILE NO: PIN 203/559
Hangklip
SCAN NO: 35
COLLABORATOR NO: 479148

TP 18 NOV 2020

21/45

OVERSTRAND MUNISIPALITEIT
24 NOV 2020
OVERSTRAND MUNICIPALITY

TP - M/Head
(H. Ud Stoep)

Overstrand Municipality
Land Use Planning Department
16 Paterson Street
Hermanus
23 November 2020

Hendrik Smit

Email: hendrikdwsmit@gmail.com

Cell Number: 0823768875

815 Vivian Road

Pringle Bay

7196

FILE NO: PIN 203 | 559
Hangklip
SCAN NO:
51
COLLABORATOR NO: 1482932

Dear Sir/Madam

OBJECTION TO APPLICATION FOR THE REMOVAL AND AMMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: PORTION 203 (A PORTION OF PORTION 61) OF FARM HANGKLIP 559.

I would like to make use of this opportunity to object to the above application for the following reasons.

My main reason for objecting as a resident in Pringle Bay for the last 25 years does not concern the businesses or the economic wellbeing of Pringle Bay as such, but rather the preservation of the greater Pringle Bay conservancy area and biosphere.

- Clarence drive is without a doubt one of the most beautiful, pristine, and well-preserved scenic drives in the world. Construction started in 1940 and was completed by Italian POW's during World War II. Even today, when driving from Rooi Els towards Betty's Bay, you pass through one of the most beautiful natural and unspoiled valleys.
- It will be a devastating blow in ruining this beautiful drive by allowing a commercial venture next to the road that could have been built in Betty's Bay in the commercial area that currently exists.
- People come from all over the world to experience this beautiful and unspoiled biosphere.
- What we have in Kleinmond is that we allowed that monstrosity of a block of flats right on top of the historic harbour and it can never be rectified. Somebody made a couple of Rands, moved on and ruined this harbour for the locals and for tourists for ever and ever and it will never be the same again.
- We do not want this to happen right on the doorstep of beautiful Pringle Bay.
- The entrance to Pringle Bay as an exquisite village will be no more.
- There are enough businesses and available premises in the village to accommodate this kind of business. Ruining the entrance to Pringle Bay for everyone is totally unnecessary.
- When looking at this "residential dwelling", it is obvious that this building was not built as a private home.

TP 24 NOV 2020

- We are all aware that this application was rejected a couple of years ago and that this application reeks of deception and misrepresentation when looking at the building.
- My faith is in the excellent judgement of the elected councillors pertaining this case that they will preserve the Overberg by again making the right decision by rejecting this deceitful application.

Yours faithfully

HENDRIK SMIT

Local Resident

TP-A Theart (Hvld Stoep)

OVERSTRAND MUNISIPALITEIT / OVERSTRAND MUNICIPALITY
30 NOV 2020

PRINGLE BAY RATEPAYERS' ASSOCIATION
PRINGLEBAAI BELASTINGBETALERSVERENIGING
SARS Reg. 9101/138/16/3
NPO Reg. 214-205
www.pringlebayratepayers.co.za
P O Box 409, Pringle Bay, 7196 / Posbus 409, Pringlebaai, 7196
Chairman / Voorsitter: chairman@pringlebayratepayers.co.za / Tel: 083 556 3345

SUBJECT: MUNICIPAL NOTICE NO: 127/2020: OBJECTION TO THE "APPLICATION FOR THE REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE".

DATE: 26 NOVEMBER 2020

PREAMBLE I, the undersigned, ALBERT WILLEM VORSTER (Identity no. 6110045027084) in my representative capacity as Vice Chairman of the PRINGLE BAY RATEPAYERS' ASSOCIATION (hereafter referred to as PBRA, being a separate legal entity having a constitution, in terms of which it has a right, *inter alia*, to sue and to be sued), on behalf of our members whom have granted a mandate to the PBRA to, amongst others, oppose consent use applications and changes to title deed restrictions, hereby wishes to submit comments on behalf of the PBRA regarding:

> The "APPLICATION FOR THE REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE" related to "PORTION 203 (A PORTION OF PORTION 61) OF THE FARM HANGKLIP 559".

The aforementioned Application is described in fair detail in the Municipal Notice No: 127/2020 (hereafter referred to as *The Application*)

Our comments will address the following subjects:

1. History to the subject application.
2. Conformance to the Overstrand Municipality's Spatial Development Framework (OMSDF)
3. Conformance to the Overstrand Municipality's Growth Management Strategy for Pringle Bay (OMGMS); and
4. Traffic Safety at the R44/Hangklip Road (D1001) intersection.
5. Removal of and and/or Amendment of Restrictive Title Deed Conditions

1. OUR COMMENTS

1.1. Historic Overview

1.1.1. During the course of **2015** an application for special consent and removal of title deed restrictions in respect of Portion 203 of the Farm 559 Hangklip as published in the Overstrand Municipal Notice 122/2015 was lodged. The application was described as a proposed development to function as a "farm stall with a small cafe section".

1.1.2. Farm 559 Hangklip is situated in the environmentally sensitive corridor lying between the Kogelberg Biosphere Reserve and the urban conservancy of Pringle Bay. This scenic corridor forms an important element adjacent to the Reserve in that it provides wildlife access between the mountain reserves and the seashore. This is necessary to maintain the ecological balance of the area.

1.1.3. The R44 provincial road intersects this corridor. It is the stated intention of the Overstrand

TP 27 NOV 2020

FILE NO: Plm 203/559
Hangklip
SCAN NO:
PBRA
COLLABORATOR NO:
1148276

Municipality to preserve the natural vistas and scenic drives along this road and to regulate this in future with the introduction of an Overlay Zoning Scheme which will further protect the area from inappropriate development. The Clarence Drive route is recognized as one of the most scenic drives in the Western Cape.

1.1.4. Currently there are only scattered single story building structures visible on the agricultural properties along the 13km section of the R44 which stretches from Rooi Els to Bettys Bay.

1.1.5. Section 5 of the Application titled "The Proposal" states that application is made "... to allow the conversion of the ground floor of the existing dwelling on Portion 203 of the farm 559 into a tourist facility, i.e. coffee shop and Gift Shop". The Applicant fails to demonstrate how the subject residential dwelling's ground floor is to be converted into a "coffee Shop and Gift shop". The layout plan attached to the application includes a drawing dated 5 March 2020 which in our opinion is nothing more or less than the floor layout that was rejected during 2015 and of which the application was subsequently withdraw (refer to Overstrand Municipality letter referenced "Ptn 203 of 599: KHANG (2965)" dated 17 August 2017). It seems as though the "dwelling" was never developed as a dwelling, specifically the ground floor, it rather seems that it was from day one the intention to be what was applied for in 2015 and what is applied for with the subject application

1.1.6. In 2015 that the application described the proposed development as a "farm stall with a small cafe section". It was our considered opinion at the time that this was not consistent with the floorplan then and we now reason that the existing floorplan is not consistent with that of a ground floor of a residential dwelling. If our interpretation of the floorplan is correct it is false to describe the existing ground floor plan as that of a residential dwelling.

1.1.7. The application cannot be evaluated without an accurate description of the existing ground floor layout compared to what the application wishes to achieve. The application should not be permitted in terms of the Overstrand zoning scheme for agricultural properties and should be rejected.

1.1.8. Along the same line, in our objection to the 2015 application we have pointed out: *"A building of the proposed height and size sited directly alongside the R44 scenic drive would have a striking and inappropriate visual impact which is totally out of keeping with the scenic drive along the Kogelberg Biosphere Reserve. There are no buildings in the Hangklip area which exceed 8 met res. The statement in Section C paragraph 9.2 of the application that there will be no visual impact is false."* Even if the existing "dwelling" is at 8m height, it remains an eyesore.

1.1.9. We wish to enquire whether an Occupation Certificate has been issued on the subject "dwelling".

Taking cognizance of our comments above, we wish to express our dissatisfaction and disappointment on how the Applicant clearly demonstrates ignorance to previous objections in this regard.

1.2. Overstrand Municipality's Spatial Development Framework (OMSDF)

1.2.1. In paragraph 6.4, of the application, the Applicant refers to: "The Overstrand Municipal Wide Development Framework (2006) (OMWSDF)" and reference same to motivate how the application will be in support of same.

We wish to point out that the Applicant is basing an important part of their motivation on an outdated document, which makes the evaluation of the application for all practical purposes irrelevant. The Applicant should rather have used the current document titled:

"Overstrand Municipality Spatial Development Framework. Dated May 2020" (OMSDF).

The above-mentioned OMSDF has the following purpose:

> *"The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the MSA, is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable and habitable regions, cities, towns and residential areas".*

We are of the opinion that should the Applicant have based their application on applicable current documentation, they would have found that the application for consent use is not aligned with the indentions of the OMSDF.

1.3. The Overstrand Municipality's Growth Management Strategy for Pringle Bay (OMGMS)

1.3.1. The "Overstrand Municipal Growth Management Strategy" for Pringle Bay states the following:

"The settlement edge is set well back from the scenic drive enhancing the visual experience of the scenic corridor. The extension of development eastwards parallel to Clarence Drive threatens the sense of a settlement in balance with nature and the inter-connectivity between the natural systems on both sides of the scenic drive".

The PBRA recognizes the above-mentioned in our Vision for the Village, which states:

> "Motivated by the unspoiled beauty of our village and surrounds, the warm embracing spirit of its people, our aim is to grow and nurture a life-enriching community who live, work and play in Pringle Bay"

The PBRA supports the Municipal Growth Management Strategy. Our Strategic Goals amongst others states the following:

- Preserve our community's distinctive cultural & natural heritage and unique life-style.
- Promote a sustainable local economy that supports the unique life-style of the village.
- Influence orderly sustainable growth and development, supporting the uniqueness of the village.

The Applicant fails to convince the PBRA how the proposed change in consent use to allow a coffee shop and a gift shop is in support of the above-mentioned. Our CBD already has several Coffee Shops and Gift Shops, all of which are located such that it is in support of the Municipal Growth Management Strategy, especially considering the principle of Densification.

1.3.2. Densification is part of the broader Overstrand Growth Management Strategy. The Overstrand Densification Study states:

- "Increase economic efficiency by increasing threshold populations and decreasing the range in which they are accommodated
- Prevention of urban sprawl and the promotion of the densification and integration of the existing urban fabric
- Address the spatial inadequacies of past planning which resulted in the segregation of land-uses and hence the reliance on the motor car.
- Protect valuable agricultural, natural and cultural resources
- Minimize cost related inefficiencies in terms of infrastructural provision within the Overstrand municipal areas- achieve economy of scale "

The Applicant fails to convince the PBRA how the above-mentioned is promoted, respected and conformed to, especially considering the PBRA's vision for the village which states amongst others:

"We strive to preserve and protect the Pringle Bay character,

environment, ecotourism-based economy and sense of place in order to ensure a sustainable high quality of life for residents and memorable experiences of visitors."

We are of the opinion that a change in the Consent use as per the subject application, does not support densification. The subject application actually is quite the opposite – We are of the opinion that it will create precedence to allow further development(s) along the mentioned Scenic Drive and will be the root of unwanted ribbon development along the mentioned Scenic Drive. Ribbon development is in direct conflict with the accepted Growth Strategy of the Overstrand Municipality.

Further, we are of the opinion that a change in the Consent use as per the subject application must specify the method for disposal of sewage and grey water on this agricultural property. Assurance is required that there will be no possibility of pollution to the river or adjacent land arising from any grey water or septic tank effluent or other waste product.

1.4. Traffic Safety

1.4.1. We have in the past argued (referring to our objection related to the 2015 application): *"Section C paragraph 6 of the application indicates that a safe entrance to the property will be provided from Hangklip Road. However, the nearby intersection of Hangklip Road and the R44 is a busy and dangerous intersection with regular accidents. Requests through the Overstrand Ward 10 Committee have been made to the Provincial Traffic Authority to introduce turning lanes and speed restrictions at this intersection (refer attached correspondence). Additional tourist cars and buses on the gravel section of Hangklip road would significantly aggravate the existing situation."*

It is unclear how the applicant proposes to address the traffic related issues as described above. Over and above, no Traffic Impact Assessment (TIA) Report is available today to assess the concerns raised already in our objection dated 26 January 2016 (nearly 5 years later). We remain concerned about, amongst others:

- The anticipated Trip generation of the proposed change in consent use;
- What impact the proposed change in consent use would be in the capacity of the subject intersection;
- What impact the proposed change in consent use will be on the traffic safety at the subject intersection;
- What the impact of the proposed change in consent use on pedestrian movements could be at the subject intersection;
- What the impact of bicycle traffic could/would be at the subject intersection.

It is our considered opinion that a change in consent use as per the subject application at this location must be subject to a comprehensive TIA to address at least our highlighted concerns above.

1.5. Title Deed Conditions

1.5.1. Referring to paragraph 4.2.1 of the Application:

1.5.1.1. Referring to C(d), C(e), C(n), and C(o), we wish to point out that, apart from mentioning that Hangklip Beach Properties CC has given their consent, no acceptable motivation is evident to allow us to perform any meaningful adjudication of the application to remove restrictive Title Deed Conditions.

1.5.2. Referring to paragraph 4.2.2 of the Application

1.5.2.1. The amendment of condition C(r): Taking into consideration our comments above, specifically regarding conformance to the OMSDF and the OMGMS, cannot support this change.

1.5.2.2. The amendment of condition D(i): The PBRA is of the opinion that the removal of this condition could potentially be in contradiction to the lighting policy of the area as well as the stated objectives for densification of commercial activities pointed out above..

1.5.2.3. The amendment of condition D(ii): Refer to 1.5.2.2 above: Ditto

1.5.2.4. The amendment of condition D(iii): Refer to 1.5.2.2 above: Ditto

1.5.2.5. The amendment of condition D(iv): Refer to 1.5.2.2 above: Ditto

1.5.2.6. The amendment of condition D(v): Refer to 1.5.2.2 above: Ditto

1.5.2.7. Likewise our comment in 1.5.1.1, the motivations related to the amendment of restrictive conditions are insufficient to make a meaningful adjudication of the application.

2. CONCLUSION

Taking cognizance of our comments above, we wish to place on record our objection to the Application discussed herein on grounds of:

2.1. The Historic application (2015) which was withdrawn in August 2017 as discussed herein in Paragraph 1.1

2.2. Conformance to the Overstrand Municipality's Spatial Development Framework (OMSDF) as discussed herein in Paragraph 1.2

2.3. Conformance to the Overstrand Municipality's Growth Management Strategy for Pringle Bay (OMGMS) as discussed herein in Paragraph 1.3; and

2.4. Traffic Safety at the R44/Hangklip Road (D1001) intersection as discussed herein in Paragraph 1.4.

2.5. Our Comments related to the Removal of and and/or Amendment of Restrictive Title Deed Conditions as discussed herein in Paragraph 1.5

2.6. It is our considered opinion that it would be an incorrect town planning decision to permit the changes in consent use and removal and/or amendments of restrictive Title Deed Conditions. Apart from it not being aligned with the PBRA's Pringle Bay Strategic Plan's Vision and Goals, it would further not only be in conflict with the Overstrand Spatial Development Framework and Overstrand Municipal Growth Management Strategy, but will also potentially further jeopardize the safety of our members at the R44/Hangklip Road intersection which as it is, already poses a significant traffic safety concern.

DATED and SIGNED at Pringle Bay on *this 26th* day of NOVEMBER 2020

AW Vorster (Pr. Eng.)
Vice Chairman of the PRINGLE BAY RATEPAYERS' ASSOCIATION.

CHENNELLS ALBERTYN
ATTORNEYS, NOTARIES & CONVEYANCERS

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27 November 2020

OVERSTRAND MUNICIPALITY
SENIOR TOWN PLANNER
Ms. H van der Stoep

Our ref: 8640GW/aa

TP - A Theart
(H van Stoep)

OVERSTRAND MUNISIPALITEIT
30 NOV 2020
OVERSTRAND MUNICIPALITY

Per email: loretta@overstrand.gov.za

Dear Sir / Madam,

RE: APPLICATION FOR THE REMOVAL AND RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE IN RESPECT OF PORTION 203 (A PORTION OF PORTION 61) OF FARM HANGKLIP 559 SITUATED IN OVERSTRAND MUNICIPALITY, DIVISION CALEDON

We act for Hangklip Environmental Action Group ("HEAG"). We are instructed to note an objection to the above application on behalf of our client which we hereby do. HEAG is prepared to accept notice and service of documents via registered post at P O Box 78, Newlands 7725 by hand at 18A Greenwich grove, Station Road, Rondebosch, 7700 or via email at info@chennellsalbertyn.co.za or sheena-lee@chennellsalbertyn.co.za.

FILE NO: Ptn 203 | 559 ✓
KHANG
SCAN NO:
PTN 203
COLLABORATOR NO:
1484263

Partners: GE Williams BA LLB; F Bester BJuris BProc;
Assisted by: AJ Dorer LLB; S Pearce LLB; S Etsebeth LLB; GJ Hendrikse BSocSc LLB
Consultants: RS Chennells BCom LLB LLM PhD; LK Maenah BA LLB;
WJK Thomson BSocSc BProc LLB DPLR; LJ Jansen-Lawrence BProc LLM

Rondebosch: 18A Greenwich Grove, Station Road, Rondebosch, 7700 • PO Box 78, Newlands, 7725 Tel: 021 685 8354 • Fax: 021 685 0710 • E-mail: info@chennellsalbertyn.co.za

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In association with Chrystelle van Staden Attorneys

WESSA

TP 27 NOV 2020

THE PURPOSE OF HEAG

HEAG is a civic action group established for the purpose of protecting the ecological and environmental integrity of the Kogelberg Biosphere Reserve and the villages and a sense of place located within its boundaries and its surrounding areas. Pringle Bay boasts unique, diverse and endangered indigenous fauna and flora and is surrounded by a sensitive and valuable biosphere in a scenically spectacular mountain and setting. HEAG evaluates proposed developments in the ecological sensitive landscape in terms of National, Provincial, Municipal and Local legislation and its regulations to ensure that the environment maintains its integrity, historical and ecological value and unique sense of place.

POINTS IN LIMINE

i. We note that this is the second application made for development of the same property, the previous one having been withdrawn as set out in the notification from the Overstrand Town Planning Department on 04 August 2017. HEAG objected to that application and should be known to the Applicant to be an interested and affected party whose rights or legitimate expectations will be effected by the approval of the application. Yet, the application was not served on HEAG or its legal representatives.

ii. Section 48(1)(c) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 ("the By-Law") provides for service of notices of any application contemplated in terms of Section 47(1) of the By-Law *"... on each person whose rights or legitimate expectations will be effected by the approval of the application."*

iii. It is submitted that the application for the removal of restrictive title deed conditions is an application expressly contemplated in section 47(1)(g) which necessitate service of the application in terms of section 48(1)(c).

iv. In terms of section 35(3) of the By-law the municipality must cause notice of its intention to consider an application for the removal of restrictive conditions to be served on:

> *"... (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and*
>
> *(d) all persons mentioned in the title deed for whose benefit the restrictive condition applies."*

v. This method of service was pronounced upon in an Order by Judge Davis of 18 November 2008 under Western cape High Court case number 17268/2008 (the "Order") to mean service on "... *(all) property owners (who) have or may have rights by virtue of the title condition which he seeks to have removed, and* ..." serve notice of his intention "... *by prepaid registered post* ..." on each of them.

vi. It is submitted that the terms of this Order applies to section 35 of the By-law. A copy of this Order is annexed, marked "A."

vii. The Western Cape High Court under the case number as referred to above has directed that an applicant, such as the registered owner of the property in the current application must –

(a) identify all other property owner who may have rights by virtue of the restrictive condition of title that it seeks to have removed,
(b) identify the rate payers organisations that represent the property owners contemplated in the preceding paragráph, and
(c) serve on both the property owners and ratepayers organisations who have been identified, notice by pre-paid registered post addressed to the addresses to which their rate accounts are sent by the Overstrand Municipality to enable them to note any objections to the application for the removal of the restrictions.

viii. It appears that the municipality and/or the applicant has failed to properly comply with the above and advertise this application in terms of the By-law and the Order by Judge Davis and for this reason alone the application should not be considered at all.

ix. As will be further discussed in the objections below, not only HEAG and the property owners with reciprocal conditions of title, but also the small to medium business enterprises within the Pringle Bay CBD which offer the same or similar services to that which is proposed by the Applicant's development, will be affected by the proposed development.

x. Section 48(1)(c) of the Overstrand Municipality By-law requires the applicant to serve this application on each person or ("business") whose rights or legitimate expectation will essentially be affected by the approval of this application.

xi. We invite the applicant to provide us with proof that this application has been served on those businesses and the owners who have reciprocal conditions of title as set out in the owner's title deed and who enjoy the protection that it offers.

xii. Failure to provide proof of compliance in terms of the above points renders this application fatally defective. The applicant should be required to withdraw the application and comply with the relevant provisions of the By-law as well as the Order of the Western Cape High Court before resubmitting and re-advertising it.

xiii. The Local authority must refuse to entertain an application for the removal of restrictions in the absence of an applicant complying with the terms of the Order of the Western Cape High Court under the above case number relating to the service of notices when compliance with it has neither been alleged nor proved. Accordingly the Overstrand Municipality should not entertain this application.

GROUNDS OF OBJECTION

THE DEVELOPMENT SITE

1. Farm 559 Hangklip is situated in the environmentally sensitive corridor line between the Kogelberg Biosphere Reserve and the urban conservancy of Pringle Bay. The site is located at the entrance to Pringle Bay on the R44 which is the only entrance and exit to and from that town. The R44 provincial road intersects this corridor. The farm is located within the conservation agricultural buffer zone of the Kogelberg Biosphere Reserve. It is in fact the intention of the Overstrand Municipality to preserve the natural and scenic routes along this road and to regulate this with the introduction of an Overlay Zoning Scheme which will further protect the area from inappropriate development.

2. The Kogelberg Biosphere Reserve has been proclaimed in terms of international legal conventions. The farm is in fact located less than a kilometre from the core conservation zone of the Biosphere Reserve. We are aware that the scenic corridor forms an important element adjacent to the reserve in that it provides wildlife access between the mountain reserves and the seashore. It is therefore essential to maintain the ecological balance of the area.

3. The site is located outside the urban edge of Pringle Bay and less than two kilometres away from the small business development centre located on Hangklip Road in that town.

Currently there are only scattered single-storey structures visible on the agricultural zoned properties along the thirteen kilometer section of the R44 which stretches from Rooi Els to Bettys Bay. We are aware that there are endangered Hangklip San Fynbos which grow on the site. It is also adjacent to wetland that flows through the western part of the farm.

4. The R44 between Gordons Bay and Kleinmond is designed as a scenic route in terms of the provincial and local government forward planning bioregional instruments. Save for the eating establishment and small business development within the towns of Rooi Els and Bettys Bay there exists no other farm stalls or restaurants on the R44 between Gordons Bay and Kleinmond, a distance of approximately 45 kilometers.

THE DEVELOPMENT ON THE SITE AND ITS NON-COMPLIANCE WITH VARIOUS PLANNING LEGISLATION

OVERSTRAND MUNICIPAL WIDE SPATIAL DEVELOPMENT FRAMEWORK ("OMWSDF")

5. The following guiding principles of the OMWSDF apply to the application:

5.1. Transformation of Conservation-Agriculture Buffer areas must be prohibited;
5.2. The distinctive landscape of the area should be protected;
5.3. Only the sustainable use of agricultural land in the Conservation-Agriculture Buffer must be promoted;
5.4. Transformation of existing natural areas which contain Critically Endangered remnants should not be permitted;
5.5. No transformation of natural areas which provide connectivity between protected or threatened eco-systems within and beyond the municipal boundary should be permitted;
5.6. Any development within nodes that will harness the comparative advantage of such nodes must be encouraged;
5.7. Any development must have minimal negative impact on high potential agricultural land, specifically that which is located along the coast from Rooi El to Buffelsjag must be retained exclusively for agricultural purposes;
5.8. The development decisions should also be informed by existing development and function of the town;
5.9. Specifically, in Pringle Bay, a development must be contained within its current urban footprint and outward expansion prevented; and

5.10. The ideal location for business uses is at the existing commercial node off Hangklip Road, and the location of business users outside the existing area must be prohibited.

6. Further, in respect of the Pringle Bay area the SDF aims to :

6.1. ensure that development is confined within the urban edges and growth is managed based on sustainable densification principals,

6.2. promote urban, suburban and rural centres as the primary commercial areas, and suppress and limit commercial development outside of these areas; and

6.3. neighbourhood nodes and the Central Business District ("CBD") should become the nucleas of business or commercial and other public infrastructure or services;

6.4. commercial business uses, commercial retail and offices should be concentrated within the CBD and decentralization of commercial development should not be permitted.

7. The current development essentially proposes to act in complete deviance of the abovementioned principles by removing the restrictive conditions of title which, as it stands, is supported by the OMWSDF.

8. Should this application be allowed, the removal of those title deed conditions will not only effect the reciprocal title deed conditions of the fellow properties within the affected neighbourhood but it would in fact be in complete contradiction of the current planning principles that has been detailed in the OMWSDF.

9. In essence the proposed development would result in decentralized commercial development this notwithstanding that the applicant described the proposed development as a "coffee shop and gift shop". We are reminded that the previous application described the development as "*a farm stall with a small café section*"; notably the development extends over the same or remarkably similar space and height.

10. The floorplan in fact proposes seating for approximately a 168 people that is 18 x 4 seated tables and 16 x 6 seater bench tables. This is a particularly large development for what the applicant is masking as a coffee shop and gift shop.

11. The proposed height of the building is 10 metres high whereas the current zoning regulations provide that it be a maximum height of 8 metres. We are instructed to request reasons as to what requires the building's height to tower an extra 2 meters when the proposed shop, as per the consent use application, would only require the bottom floor.

12. There are in fact no buildings within the Hangklip area which exceed 8 metres. The applicant's contention that there will be no visual impact is in this respect false. Not only will this development be completely out of character but it will also have an impact on the economic *status quo* within Pringle Bay CBD by diverting businesses away from the already established businesses within the CBD.

13. Pringle Bay CDB has become established in its existing commercial developments which have gone through ever-changing and challenging economic conditions which have been tried and tested and adjusted with the aim of it becoming sustainable commercially, socially and environmentally. This development being outside of the Pringle Bay CBD area will have an inappropriate visual impact totally out of keeping with the scenic drive along which it is situated.

14. The central structure of the proposed development is 300 square metres along with a covered stoep area of a 160 square metres which essentially results in the spacing of 460 square metres which will be used for the shop. This also being in violation of the 300 square metre floor space as allowed by the zoning regulations.

15. The application makes provision for 18 parking bays. There is in fact no way to regulate the number of tourists and/or locals who will visit the site – this being emphasized by the number of vehicles passing through the R44, making 18 bays totally insufficient. Vehicles in excess of the parking allowed will only be able to find parking within the Fynbos area surrounding the property. This is a grave concern.

16. It can only be foreseen that if the business grows, further developmental rights will have to be applied for and the natural environment will be further impacted endangering the fauna and flora which ought to be protected within the conservation/ agricultural buffer zone on which the property is situate.

17. The application proposes that the entrance to the property will be provided from Hangklip Road, this is a gravel section of Hangklip Road. The intersection leading to this section of Hangklip Road is known for its dangerous and regular accidents. Contrary to what the Applicant contends.

18. Additional tourists' cars and busses on this gravel section of Hangklip Road leading from that intersection would significantly aggravate the existing situation. No measures have been introduced to date to limit the speed of vehicles turning into this intersection or to regulate the traffic.

19. Allowing a development of this nature, along with the application to change all the building lines to 10 metres from the road boundaries, will set an unacceptable precedent permitting building structures in this fashion on the agricultural zoned properties in this area. This being the exact situation which the restrictive conditions of title which are reciprocal to those of other property owners within the area is aimed at preventing. This is also further supported by the OMWSDF and other guiding planning principles.

20. It is submitted that this development would create unnecessary radial or "*strip development*" in the vicinity of the Kogelberg Mountain which must be avoided.

21. The commercial tourism which the application suggests that it would be encouraging should only be encouraged within the existing development nodes and not on the agriculturally zoned properties.

22. Administrative action ought to be fair, reasonable and consistent and if this application is allowed it would set an unconscionable precedent that cannot be sustained within the areas that are zoned agricultural. Other applicants with similar developmental plans will fight to obtain the same treatment from the municipality.

23. To allow this application would be to undermine the scenic attraction of the route on which the development is proposed and divert tourism from the already developed CBD area which caters for amongst others deli's, coffee shops and restaurants.

RELEVANCE OF PREVIOUS APPLICATION TO CURRENT APPLICATION

24. The current site plan by the applicant appears to be simply have been revised to comply with certain building restrictions and avoid the requirement of an environmental impact assessment in order for the applicant to obtain trading rights which are, as stated above in conflict with not only the restrictive conditions of title but also with the current OMWSDF.

25. The application still does not show that there is any existing farming activity on the property or the availability of fresh produce within the immediate vicinity of the area to justify the need for the establishment of a shop selling these goods. While it is not evident from the description of the use of the proposed structure in the application, it is clear from the position of the structure that the building will aim to command the views of the False Bay Coast and Koggelberg Mountains rather than function as a simple coffee/gift shop. Should this be true, this application lacks the necessary transparency which is required for proper public participation.

26. In the previous application the construction was described as a farmstall however in section (c) of that application and the motivation therefore the applicant acknowledged that the farmstall will also contain a small café section. The current application now refers to the proposed development being of a similar height and size to the previous one, by now being called a coffee and gift shop.

27. As previous objections related to the disingenuous attempt by the applicant to term the proposed development as a farmstall following the discovery that in fact no agricultural produce was grown on the site the applicant has now merely changed the proposed name to coffee/ giftshop which we perceive to be a devious attempt by it to mask its actual intended use of the development.

RESPONSE TO CERTAIN SPECIFIC POINTS IN RESPECT OF THE REMOVAL OF RESTRICTIVE CONDITIONS OF TITLE IN THE APPLICATION

28. In respect of item 4.2.1 the applicant seeks to remove restrictive title condition c(b) being:

"No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes."

The applicant motivates the removal of this condition by simply offering that the quality of the proposed building or the potentially the building materials used to construct the building has improved considerably since 1969. However, this does not address the full purpose of the restrictive condition of title which is to prevent striking and inappropriate developments which have a negative visual impact and is totally out of keeping with the scenic drive along which the proposed development is situated. The applicant goes further to allege that it had obtained the consent of the Hangklip Beach Property CC for the removal of this condition, however,

HEAG has not had sight of this consent and further requests that the Applicant prove that the close corporation represents the interest of all those property owners who hold reciprocal conditions of title.

29. In respect of condition c(d):

"All buildings and other constructional works, including all fences and gardens or other gate shall be of good and sound construction and plans thereof must be approved by the seller before construction is commenced. In the event of breach of this clause the seller shall have the right to require the purchaser to demolish such unauthorized building or work/works and/or shall have the option to repurchase the land upon payment of the cost price thereof without compensation for improvements."

The applicant's motivation for the removal of this condition is that it has obtained the consent of Hangklip Beach Properties CC. Once again this fails to take into account the purpose of the restrictive condition of title. It is submitted that because the restrictive condition of title refers to the seller and not the purchaser and further considering the fact that the surrounding properties all have the same reciprocal restrictive conditions of title, it proposes that there is a common understanding amongst the owners of the properties that a particular built environment should be allowed and developments of the nature as proposed by the applicant should not be allowed. This being a means of preserving the visual impact, serenity and scenic value of the agricultural zoned properties within the area as well as along the scenic route.

30. In respect of condition c(e):

"No signs, advertisements, advertisement boardings or other lettering shall be erected on the land hereby sold and purchased nor shall any advertisement, sign or lettering be painted on any building, walls or fences erected on the said land safe and accept with the written approval of the seller."

The motivation by the applicant for the removal of this condition is solely that the consent of Hangklip Beach Property CC has been obtained. The attempt by the applicant to remove this restrictive condition of title will set a precedent for the surrounding properties to also obtain approval for the posting of signs, adverts and/or billboards which would completely disrupt

the scenic view of the drive along which the proposed development is situated. This too has an inappropriate visual impact for these surrounding area contrary to what the applicant avers.

31. In respect of condition c(n) and (o):

"*The land shall be used only for agricultural purposes and the breeding of keeping domestic animals, poultry and/or bees provided that no goats or pigs maybe kept.*" and "*Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.*"

The inclusion of these restrictive conditions of title ensures that the property is in keeping with the appropriate zoning, being agriculture. The proposed complete removal of these conditions will have a devastating effect on the natural and historical build environment and have potential future devastating impacts on the environment which the conservation / agricultural buffer zone aims to protect - the farm being located within this buffer zone of the Koggelberg Biosphere Reserve.

32. As regards Item 4.2.2 of the application – The amendment of restrictive title deed conditions:

32.1. The applicant seeks to remove condition C(r), D(i), D(ii), D(iii), D(iv), D(v) all of which emphasize the previous conditions, which protect the site and surrounding sites by those restrictive conditions.

32.2. The applicant alleges that since these conditions were imposed before the Land Use Ordinance 15 of 1985, the purpose of which were to control the use of the land. Further, that subsequent to the zoning scheme regulations which are now in effect; the above conditions no longer have any use and can thus be removed.

32.3. This in effect is a disingenuous argument by the applicant in that, the purpose of the restrictive conditions of title currently have the effect of informing the current zoning restrictions that being an agricultural buffer zone to the Kogelberg Biosphere Reserve.

32.4. It is therefore ill-informed of the applicant to contend that those conditions no longer have any use when in fact the OMWSDF, being the ultimate planning reference which needs to be considered in this application, aligns its principles with those restrictive conditions of title as set out above.

32.5. We emphasize that those planning principals are to ensure that development is confined within the urban edges and growth is to manage based on sustainable densification principles.

32.6. Furthermore it aims to suppress and limit commercial development outside of the urban, sub-urban and rural centers which ought to be the primary commercial areas promoted by development.

FURTHER GENERAL GROUNDS OF OBJECTION

33. A development of this nature and size is more akin to commercial use which clearly is not permitted by the OMWSDF or the conditions of title which the applicant seeks to remove and/or amend.

34. As Pringle Bay CBD already boasts with several retail locations offering the same services as what the applicant proposes, bearing in mind that tourism is seasonal, it would not be fair to the existing businesses that this development be allowed at the entrance to the Pringle Bay CBD. In essence creating a diversion for tourism from the existing offerings within the CBD and taking away from tourism which is already so scarce at different times of the year.

35. The site is opposite the main and only access into Pringle Bay, the removal of the condition that no signs or advertisement boarding or other lettering being erected on the land will adversely impact the small, medium and micro enterprise businesses within the CBD which empower the ever-growing Pringle Bay community.

36. As the existing building is already prominently visible on the R44 any additional adverting will most certainly contribute to luring motorist to turn in the opposite direction to that of the Pringle Bay CBD.

37. Should the proposed development not reap the rewards of the applicant's intention, the removal of the restrictive conditions would allow for the applicant to easily convert, without authority, the current proposed coffee and gift shop to other commercial activity which should be guarded against.

38. As HEAG's primary objective is to protect the integrity of the biosphere, it is of the opinion that the granting of application would have an irrevocable negative and destructed impact on the present largely pristine fynbos environment skirting the village.

OTHER LEGISLATIVE AUTHORITY TO INFORM DECISION MAKING

PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK ("WCPSDF")

39. The following guiding principles apply to this application:

39.1. Land development should be spatially compact, compatible with scenic landscapes and should not involve the conversion of high potential agricultural land or compromise ecosystems...;

39.2. Private car use should be limited and pedestrian and bicycle access emphasized;

39.3. High Potential agricultural land should be preserved,

39.4. the Western Cape's unique cultural scenic and coastal resources should be safeguarded and celebrated, and

39.5. Urban growth should be located within the urban edge of existing urban nodes;

39.6. Capitalise and preserve unique local built form and natural typologies, character and heritage;

39.7. Cluster all social activities and complementary activities.

40. If this application is granted it would in fact completely disturb the unique local built form and natural typologies, character and heritage which has been protected by the restrictive conditions of title and zoning scheme regulations. A development of this nature is certainly not minor and will be a dramatic change in the local built form and character of the farm.

41. This development constitutes the expansion of business use for land and entertainment purposes into a protected area and is certainly not clustered within the existing Pringle Bay CBD.

42. Planning principals dictate that the municipality ensure that ongoing pressure and its spatial implications are managed in a sustainable manner that protects the unique character of the

existing cultural landscapes and the place specific character and form of the existing settlement pattern. This development will be in complete conflict of the above principle.

OVERSTRAND MUNICIPALITY ZONING SCHEME

43. In terms of this scheme, "Business premises" means a property from which business or services is conducted and includes a shop.
44. "Shop" means a property - used for the retail sale of goods, items and services to the public.

45. It is submitted that the main purposes of the zoning scheme in relation to this application are the following namely:

    45.1. to enhance the quality of the built environment,
    45.2. contain urban sprawl, and
    45.3. to manage and control the functioning and appearance of the natural and built environment.

46. It is submitted that the applicant intends to use the premises to conduct a business and it would not be in keeping with the legislation which aims to protect the conservation agriculture buffer zone on which the property is situated.

47. Section 16.9.2 of the Zoning Scheme stipulates that "restrictive conditions of title take precedence over the use, rights and development rules defined in terms of the zoning scheme."

CONCLUSION

48. Taking into account the relevant legislation referred to above and the existing Court Order if an application for the removal of restrictive conditions or consent use is granted it will set an unacceptable precedent which is both unlawful and that could have an adverse impact on the integrity of the national environment and sense of place, which should be avoided at all costs.

49. Furthermore in terms of section 16.9.2 of the Overstrand municipality Zoning Scheme 2013 restrictive conditions of title take precedent over the use right and development rules defined in the Zoning Scheme. Therefore, should the removal of restrictive conditions of title be

refused based on non-fulfilment of procedural or substantive requirements, the consent use and any departure applications should not be considered at all.

50. If the authority were to grant the application, it would be acting contrary to its own legislative provisions and furthermore, permit other farmers or home owners in the buffer zone to apply for and be granted developmental rights to use part of their farms for business purposes, which is unlawful and will be used as a motivation for further developments.

51. Not only is the application in itself contrary to the provisions of the Zoning Scheme Regulations and Land Use Planning instruments of the Overstrand Municipality, but it would negatively impact on the immediate environment of the site and surrounding areas by interfering with and/or destructing the present tranquility of the area located on the scenic route in the protected environmental buffer zone.

We trust that our client's objections will inform your decision appropriately.

Yours faithfully,

CHENNELLS ALBERTYN
Per. Sheena-Lee Pearce

"A" 43/45

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IN THE HIGH COURT OF SOUTH AFRICA

(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

CASE NO.:17268/2008

CAPE TOWN: TUESDAY, 18 NOVEMBER 2008

BEFORE HIS HONOURABLE JUSTICE DAVIS

In the *ex parte* application of:

GERHARD FRANCOIS KIRSTEN Applicant

(Application for the removal of a title deed restriction)

DRAFT ORDER

The Court having read the documents filed of record and having heard representations from counsel:

IT IS ORDERED THAT:

1. The application is postponed to 26 January 2009.

2. The applicant is directed, if he desires to pursue this application, to supplement his papers by filing an affidavit and/or conveyancer's

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certificate by no later than 2 December 2008 which serves to fully inform the Court about;

2.1 which property owners have or may have rights by virtue of the title condition which he seeks to have removed, and

2.2 which of the property owners contemplated in sub-paragraph 2.1 above are the owners of the erven immediately surrounding erf 3371, Betty's Bay, in the Municipality of Hangklip/Kleinmond, Division Caledon, Western Cape Province, and

2.3 which ratepayers organisation(s) represent the property owners contemplated in sub-paragraphs 2.1 and 2.2 above.

3. A copy of the Notice of Motion filed of record in this application, together with a copy of this order, is to be sent by pre-paid registered post to the owners of all the erven contemplated in sub-paragraph 2.2 above at the address to which their rates accounts are sent by the Overstrand Municipality.

4. A copy of the Notice of Motion filed of record in this application, together with a copy of this order and the affidavit or certificate mentioned in paragraph 2 above, is to be served on the ratepayers' organisation(s) contemplated in sub-paragraph 2.3 above

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5. A copy of the Notice of Motion filed of record in this application together with a copy of this order is to be published, by no later than 19 December 2008 in both English and Afrikaans;

   5.1 Once only in the Government Gazette, and

   5.2 Twice, with an interval of one week, in the Overstrand Herald newspaper.

6. That the applicant shall obtain, and cause to filed prior to the hearing of this application, the Report from the Registrar of Deeds, Cape Town.

BY ORDER OF COURT

COURT REGISTRAR

Barry Nortje Attorneys
GORDON'S BAY
c/o 42 Fairbridge Arderne & Lawton Inc
CAPE TOWN

/ec

TP. Linear
(H. Van Straaten)

OVERSTRAND MUNICIPALITY
22 FEB 2021

ANNEXURE F 1/10

I.C.@ PLAN
Town Planners

Growth Innovation
Customer service
Meeting business standards

25 De Beers Avenue
Unit 2A Crossfire House
Paardevlei
7130

Postnet Suite 176
Private Bag X15
Somerset West
7129

Our Reference: Portion 203 (portion of Portion 61) of the farm 559, Overstrand.

10 February 2021

FILE NO: PRN 203/559
Klangdip
SCAN NO:
Farm 559
COLLABORATOR NO:
1509671

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

ATTENTION: HANNEEN VAN DER STOEP

Dear Madam

PROPOSED SPECIAL CONSENT: PORTION 203 (PORTION OF PORTION 61) OF THE FARM 559, OVERSTRAND: COMMENT ON OBJECTIONS

An application was submitted to Overstrand Municipality on 26 November 2019 for the following:

I. **Consent use** in terms of the Overstrand Zoning Scheme Regulations to permit the conversion of the ground floor of the existing dwelling on Portion 203 of the farm 559 to a tourist facility (i.e. coffee shop and gift shop);

II. **Removal of Restrictive title conditions** C(b), C(d), C(e), C(n), C(o) as set out in Deed of Transfer Number T17666/2014, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015

III. **Amendment of Restrictive title conditions** C(r), D(i),D(ii), D(iii), D(iv) and D(v) as set out in Deed of Transfer Number T17666/2014, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015

22 FEB 2021

Eighteen (18) objections were received against the above application. The objectors are listed below.

NAMES OF OBJECTORS AGAINST APPLICATION

1. Pringle Bay Rate Payers Association
2. R Morris
3. H Lamb
4. N Swanepoel
5. Chennels Albertyn Attorneys (obo HEAG)
6. H Smit
7. P & J de Wet
8. I Halgryn
9. E Raath
10. D Lees-Rolfe
11. M Burns
12. C Maritz
13. JCL Botha
14. M Lloyd
15. R Parsons
16. M Saied Solomons
17. JM Wilson Mills
18. B Berkman

The owner's letter stating his intent with the proposed tourist facility can be seen below.

Ingrid Germishuys

Subject: FW: Besware

From: Frikkie Erasmus <frikkie@synercore.co.za>
Sent: 09 February 2021 12:06 PM
To: Ingrid Germishuys <ingrid@licaplan.co.za>
Subject: Besware

Dear Ingrid

Being mindful that many of the objections received were raised by current business owners that might feel threatened by the planned tourist facility kindly allow me (as the beneficial owner of the applicant) the following:

My parents bought our Pringle Bay holiday home in 1983 when I was 10 years old with my mother a permanent resident since 2005. Every opportunity – be it weekends or holidays – was spent at this wonderful location.

I was there when Dirk de Villiers opened Miems in the building currently occupied by Lemon and Lime and also auditioned as an extra for his Arende tv series but a late night in the Hangklip Hotel made me miss the intro with result that my potential acting career never took flight. I am also a member of the Pringle Bay aquatic club since its inception 29 years ago. The reason for mentioning these events is to provide some credibility that I am not an "outsider" wanting to tarnish the fabric and unique character of Pringle Bay but rather to promote these attributes.

In casual conversations over the years I was surprised at how few people knew that Pringle Bay had one of the best beaches within easy reach of Cape Town and have never driven in even though they frequently use the scenic route. Surprised that so many people were oblivious to this amazing place had me counting cars when I was out cray fishing or visiting local friends living on the higher lying parts always with the same conclusion that if only I could divert 1 out of 20 cars what that would mean for the local economy be it restaurants, land owners, property agents etc.

I won't be financially worse off if the application was not to succeed with a nice holiday home to boot but I really am of opinion that the planned facility will get many passers-by to stop. This will allow an opportunity to market all the restaurants, art studios and other attractions that Pringle Bay has to offer with a resultant positive knock on effect for local businesses. I have not yet decided on a model of operation and remain open to discuss such with the relevant representatives of the business community and to mitigate as far as possible any negative effects for the local business owners if the application was to proceed.

Thank you and regards
Frikkie

1. COMMENTS ON OBJECTIONS:

1.1 Chennels Albertyn Attorneys (obo HEAG)

1.1.1 Objection: The application was advertised incorrectly and should not be considered. It should have been done in accordance with an Order by Judge Davis of 18 November 2008

Comment

The application was advertised strictly in accordance with the Sections 47-50 of the Overstrand Municipality By-law on Land Use Planning. Registered notices were sent to all the residents which, in the opinion of the Overstrand Municipality, may be affected by the proposal, Site Notices were put up and the application were advertised in the Overstrand Herold on 22 October 2020 and the Official Gazette on 23 October 2020.
The order of judge Davis (case 17268/2008) can not apply to Section 35 (3) of the By-law as per the submission of Chennels given that the order was handed down in 2008 whereas the By-Law was promulgated 7 years later in 2015.

The order was also not strongly worded and merely directed the applicant "if he desires" to give proper notice as per the requirements of the applicable legislation at the time. Furthermore, the case contains no ratio decedendi, is not a reported case and therefor sets no legal precedent and only makes it binding to the parties of the proceedings.

Although some legislation might afford HAEG locus standi in court proceedings, on face value very little is known of their corpus and it is doubtful whether such a group will be seen as having legal persona and qualify as a "person" in these matters. Section 47 of the By-Law determines that only a "person" is entitled to be a participant of this process.

As an environmental action group HAEG can however rest assured that all environmental laws have been complied with and that more than 97% of the land will remain untouched. Building plans for the building was also approved before construction thereof commenced.

1.1.2 Objection: The proposal is not in line with the principles of the OMWSDF and SDF. It will result in decentralised commercial development.

Comment

The Overstrand Municipality Spatial Development Framework 2020(OMSDF 2020) shows that the property falls within the Sensitive Development Area where restricted development is allowed. The property is zoned Agricultural Zone I and a tourist facility is allowed in this zoning with Council's Special Consent. The property is situated outside the urban edge in the rural area. According to the OMSDF (2020) rural development should take place in accordance with Western Cape Land Use Planning Guidelines for Rural Development 2019. This document emphasises the fact that the rural economy is largely based on tourism and agriculture. The proposed tourist facility adheres to the guidelines as set out in the above document.

1.1.3 **Objection & Comment**: Section 10, 11, 12, 14, 15,19,26, 27 of Chennels Albertyn Attorneys's objection letter on behalf of HEAG refers to a previous application which was withdrawn and closed in 2017. These objections are not applicable to this application and thus not valid.

1.1.4 **Objection**: The development will have an inappropriate visual impact out of keeping with the scenic drive.

Comment

The tourist facility is proposed in a portion of an existing dwelling constructed from approved building plans. No additional visual impact will therefore be created.

1.1.5 **Objection**: As the business grows further development rights will be applied for which will further impact on the fauna and flora.

Comment

It is important to note that the applicant is applying for a consent use for a tourist facility which is allowed under the Agricultural Zoning in terms of the Overstrand Scheme Regulations. The property is situated outside the urban edge and rezoning to allow a commercial enterprise will therefore not be possible.

1.1.6 **Objection**: The development will create unnecessary strip development in the vicinity of the Kogelberg Mountain which should be avoided. The commercial tourism proposed should not be encouraged.

Comment

As stated before, the property is situated outside the urban edge and is zoned Agriculture Zone 1. The Rural Development Strategy of the OMSDF 2020 is therefore appliable to this property. As set out in Section 4.3.7. of the OMSDF 2020, rural development should be informed by the Western Cape Land Use Planning Guidelines for Rural Development 2019. One of the objectives of these guidelines is to:

"Encourage the economic viability of agricultural enterprises through the introduction of non-agricultural land uses including tourist accommodation and facilities and additional dwelling units".

Appropriate tourism activities such as the one proposed on this property is therefore allowed on Agricultural zoned properties. It is unclear how the proposed tourist facility in an existing dwelling will be the cause of strip development in the area.

1.1.7 **Objection**: The application still does not show that there is any existing farming activity on the property or the availability of any fresh produce in the immediate vicinity to justify the need for the establishment of a shop selling these goods.

Comment

The application is for a **tourist facility** and not a **farmstall**. There is therefore not requirement regarding fresh produce.

1.1.8 Objections to the removal/amendment of conditions General Comment

Since no planning legislation existed before 1985, title deed conditions were imposed to regulate the use of the land. The character of the surrounding area, as well as the legislation regulating land use matters, has significantly changed in the past 50 years since these conditions have been imposed and it can therefore not be seen as relevant anymore. Land use in the Western Cape is also currently regulated by the Land Use Planning Act (Act 3 of 2014) and in the Overstrand areas by the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 and the Overstrand Zoning Scheme. Overstrand Municipality is, in terms of the beforementioned legislation, the controlling authority who regulate land use in the area whilst architectural design and safe and good construction are regulated by the National Building Regulations. This legislation, policies and regulations are aimed and based on the current urban and rural landscape and land uses and takes into account the high quality of modern building materials and building methods and is in most instances more restrictive than the title deed conditions written in the 1940's.

The specific objections relating to the restrictive conditions will now be discussed.

1.1.9 Objection: to the motivation of condition C(b)"*No wood and iron buildings or works of any description* shall be erected nor shall corrugated iron be used for roofing purposes". The applicant's motivation for the removal of this condition does not address the true purpose of this condition which is to prevent striking and inappropriate developments which have a negative visual impact and is totally out of keeping with the scenic drive along which the proposed developments is situated. The applicant goes further to allege that it had obtained the consent of the Hangklip Beach Property CC for the removal of this condition. HEAG request prove of this.

Comment

Consent has been obtained from Hangklip Beach Property CC for the removal and amendment of the conditions contained in the Title Deed of the above property. The consent is available for inspection at the Overstrand Municipality.

The original intention of this condition is to prevent the use of a certain type of building material i.e iron, wood and corrugated iron to ensure that the structures were built properly. The term "scenic drive" and "visual impact" especially in terms of land use did not exist at that time and it is difficult to see how the objector can deduct that from the condition in question.

1.1.10 Objection to the motivation of condition C(d)" *All buildings and other constructional works, including all fences and garden or other gates shall be of good and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of breach of this Clause the Seller shall have the right to require the Purchaser to demolish such unauthorised building or works or works and/or shall have the option to re-purchase the land upon payment of the cost price thereof without compensation for improvements*." The applicant fails to take into account the purpose of this condition and that is that there

is a common understanding between owners of the properties that a particular built environment should be allowed and development of that proposed by the applicant should not be allowed. This being a means of preserving the visual impact, serenity and scenic value of the agricultural zoned properties within the area as well as along the scenic route.

Comment

The purpose of this condition was that the seller can request the demolishing or to repurchase the property if the construction of the buildings is badly designed or construction was poorly done. This function, to control the design and construction of buildings, is currently performed by the Overstrand Municipality in accordance with the National Building Regulations.

1.1.11 C(e) *"No signs, advertisements, advertisement boardings or other lettering shall be erected on the land hereby sold and purchased nor shall any advertisements, signs or lettering be painted on any building, walls or fences erected on the said land save and except with the written approval of the Seller."* The removal of this condition will set a precedent and will result in all the farms obtain approval for signs, adverts and billboards that would completely disrupt the scenic view of the drive. It will also have a visual impact on the surrounding area.

Comment

All signage erected on properties in the Overstrand Municipality have to adhere to Signage By-law of the Overstrand Municipality which makes this condition unnecessary.

1.1.12 *C(n")The land shall be used only for agricultural purposes and the breeding of keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept."*

C(o)"Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land."

The proposed complete removal of these conditions will have a devastating effect on the natural and historical build environment and potential future devastating effects on the environment.

Comment

It is important to keep in mind that the above conditions have been imposed before planning legislation such as the Land Use Ordinance (Ord 15 of 1985) and the Land Use Planning Act (2015) came into effect. The purpose of these conditions was to control the use of land. Since then, planning legislation has provided for planning tools such as zoning scheme regulations and by-laws to control the use of land. The Overstrand Zoning Scheme Regulations allows for the following uses on Agricultural zoned land:

(a) ***Primary uses:*** *agriculture, dwelling house, day care centre, guest rooms, home occupation;*

(b) ***Consent uses*** *:additional dwelling units, agricultural industry, animal care centre, aquaculture, crèche, farm shop/stall, guest house, hotel, institution, intensive animal farming, intensive horticulture, mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, rooftop base station, service trade, tourist accommodation, tourist facilities, transmission tower, utility services, wellness centre, 4 x 4 trail. and the above conditions therefore do not have any use and can be removed.*

The forward planning policies such as the OMSDF and DEADP's Rural Development Guidelines also promote tourism related uses, with Council's Special Consent in this zoning. The conditions are therefore more

restrictive than the Overstrand Zoning Scheme Regulations and as the owner only wants to use his property in accordance with these regulations, the conditions should be removed.

1.1.13 Objections to the amendment of conditions

The applicant seeks to remove C(r), D(i), D(ii),D(iii), D(iv) all of which emphasize the previous conditions which protect the site and surrounding sites by those restrictive conditions. The objector states that the restrictive conditions inform the current zoning restrictions and that the OMWSDF aligns its principles with the restrictive conditions. These principles are to ensure that development is to be within the urban edges and based on sustainable densification principles. These principles also aim to suppress and limit commercial development outside urban, sub-urban and rural centres.

Comment

- The application clearly states that the conditions mentioned above are to be amended not removed.
- The OMSWDF is replaced by the OMSDF 2020.
- The OMSDF 2020 uses the Western Cape Land Use Planning Guidelines for Rural Development 2019 for development on farms. These guidelines provide for tourism facilities on farms.
- The Overstrand Zonings regulations makes provision for the owner of an agriculturally zoned property to apply for tourist facilities as a special consent.

1.1.14 Objection: A development of this nature and size is more akin to commercial use which is clearly not permitted by the OMSWDF or conditions of title.

Comment

The application is to convert a portion of an existing dwelling into a tourist facility which is a permitted use in terms of the OMSDF and the Zoning Scheme.

1.1.15 Objection: Should the proposed development not work out; the removal of restrictive conditions would allow the applicant to easily convert without approval.

Comment

To convert the proposed tourist facility to another use would require an application in terms of the Overstrand Zoning Scheme.

1.1.16 Objection: The granting of the application will have an irrevocable negative and impact on the fynbos skirting the village.

Comment

The application is for the conversion of the use of a portion of an existing building for a tourist facility. No additional buildings are proposed and no impact on the fynbos are therefore envisioned.

1.1.17 Objection: The granting of this application will disturb the unique local built form and natural typologies, character and heritage which has been protected by the restrictive conditions and zoning scheme

regulations. A development of this nature is certainly not minor and will be a dramatic change in the local built form and character of the area. The development constitutes the expansion of business land use for land and entertainment purposes into a protected area.

Comment

The proposed tourist facility will be in a portion of the existing dwelling on the property which was built in accordance to approved building plans. As no additional buildings are proposed, the character and local built form will not be affected. Tourist facilities are permitted on farms in terms of the relevant zoning scheme and forward planning policies.

1.1.18 **Objection:** The applicant intends to use the premises as a business, and it would not be in keeping with the legislation which aims to protect the conservation agriculture buffer zone on which the property is situated.

Comment

The intention of the applicant is to use a portion of the existing dwelling as a tourist facility in accordance with the land uses on Agricultural zoned land in terms of the Overstrand Zoning Scheme

1.1.19 **Objection:** Section 16.9.2 of the Zoning Scheme stipulates that restrictive conditions of title take precedence over the use rights and development rules defined in terms of the zoning scheme.

Comment

Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 allows you to apply for the suspension, amendment or removal of restrictive title deed conditions.

1.2 **Comment on other objections: key issues**

1.2.1 **Objection:** The dwelling was never developed as a dwelling. The existing ground floorplan is not consistent with that of a dwelling. The application cannot be evaluated without an accurate description of the ground floor layout.

Comment

The dwelling has approved building plans and was built accordingly. The plans submitted with the application shows how the ground floor of the dwelling will be converted to accommodate a tourist facility.

1.2.2 **Objection:** The motivation of the application is wrongly based on the OMWSDF, the current OMSDF should have been used. The application is not in line with the OMSDF and the Overstrand Growth Management Strategy for Pringle Bay. The application does not support the densification strategy.

Comment

The OMSDF was approved in May 2020 and the application was submitted on 4 November 2019. However, the OMSDF 2020 supports tourist facilities on agricultural land uses Western Cape Land Use Planning Guidelines for Rural Development 2019 for development on farms to guide tourism related uses on farms. The Overstrand Zoning Scheme also makes provision for an owner of an agriculturally zoned property to

apply for tourist facilities as a special consent. It should be noted that the agricultural zoned property is situated outside the urban edge. As stated above the Rural Development Guidelines is therefore applicable.

1.2.3 **Objections** was received regarding traffic which include the following: anticipated trip generation, impact of the consent use on the capacity of the intersection, traffic safety, pedestrian and bicycle movements at the intersection, the intersection to Hangklip Road is dangerous, additional tourist cars and busses from that intersection will only aggravate the situation. Eighteen parking bays is totally insufficient.

Comment

It is important to note that the Department of Transport and Public Works from the Western Cape Government is the controlling authority over Trunk Road 27 from which Hangklip Road intersects. They do not have any objections against the proposed consent use application for a tourist facility on the property.

The proposed tourist facility is not gaining access directly from the R44 but from Hangklip Road. This ensures safe access without compromising accessibility thereto. The proposed use can also be seen as clustered together with another tourist facility, the guest house and conference facility, Sea Villa Craig Conference Venue, which are currently safely using Hangklip road via the R44/Hangklip road crossing as an access road. The parking bays provided is in accordance with the requirement of the zoning scheme.

1.2.4 **Objection:** It will not be fair to other businesses in Pringle Bay to allow this development at the entrance to Pringle Bay CBD. The consent use will have an economic impact on the status quo within Pringle Bay CBD. The removal of the condition that no signs or advertisement boarding be erected will adversely impact on the small, medium and micro enterprise businesses within the CBD. It is likely that the removal of the condition against the establishment of a shop or restaurant will cause established businesses in Pringle Bay to suffer losses.

Comment

The fact that there are other tourist facilities in the area does not mean that no other tourism facilities may be considered. To assume that one tourist facility on a farm will have a detrimental economic impact on the entire CBD of Pringle Bay is doubtful and not based on facts. Consideration must also be given to the positive impact that the proposed tourist facility may have on tourism in Pringle Bay. Marketing (such as brochures) for tourism related businesses in Pringle Bay (restaurants, art studios and other attractions that Pringle Bay has to offer) at this facility may result in a positive knock-on effect for local businesses.

1.2.5 **Objection:** The proposal would result in decentralised commercial development outside the urban edge distantly separated from the existing CBD.

Comment

The above is a misinterpretation of the proposal and factually incorrect. The application is to convert a portion of an existing dwelling into a tourist facility which is a permitted use in terms of the OMSDF and the Zoning Scheme.

1.2.6 **Objection:** The house appears to have been built as a venue of some sort and not as a private dwelling as alleged. It seems that the owner is trying to obtain permission in a misleading way. The rezoning of farmland to commercial is completely against eco principles and could only negatively affect the total Hangklip nature preservation effort. The owner has proceeded with their plans without permission and now seek approval. This is disingenuous and should not be allowed.

Comment

The above is a misinterpretation of the proposal and factually incorrect. The construction of the existing dwelling is based on approved building plans. The purpose of this application is for Council's special consent (not rezoning) in terms of the zoning scheme. It is based on the Overstrand Municipal forward planning policies to operate a tourist facility in a portion of the existing dwelling. It is difficult to see how the objector can interpret the above as misleading or disingenuous.

1.2.7 **Objection:** Light pollution at night will be a bother.

Comment

The tourist facility will operate between 07:00 and 18:00 daily and will therefore not create light pollution at night.

2. **CONCLUSION**

The proposed development meets statutory requirements, as it is in line with national, provincial, district and local policies applicable to the area. The property is well located on a tourism route and will create permanent work for staff working at the tourist facility. The proposed tourist facility will not influence the general health, safety and well-being of the surrounding community. Considering the aforementioned the tourist facility is considered to be consistent with good urban development and management. It will result in the optimal utilization of the property taking into account the character of the area. With this in mind, it is envisaged that Council will favourably consider the application.

Kind Regards

Ingrid Germishuys

ANNEXURE G

Western Cape Government
Environmental Affairs and Development Planning

DIRECTORATE: DEVELOPMENT MANAGEMENT (REGION 2)

Kobus.Munro @westerncape.gov.za
Tel: +27 21 483 3544 Fax: +27 21 483 3633
1 Dorp Street, Cape Town, 8000
www.westerncape.gov.za/eadp

OVERSTRAND MUNISIPALITEIT / OVERSTRAND MUNICIPALITY
23 MAR 2021

REFERENCE: 15/3/2/12/BO3

TP: A. Theart (H. v.d. Stoep)

FILE NO: PTN 203 of Farm 559 Hangklip
SCAN NO: PTN 203
COLLABORATOR NO: 1519396

Overstrand Municipality
PO Box 20
HERMANUS
7200

FOR ATTENTION: DIRECTOR INFRASTRUCTURE & PLANNING

REQUEST FOR COMMENT - PROPOSED REZONING AND CONSENT USE ON PORTION 203 (A PORTION OF PORTION 61) OF THE FARM HANGKLIP NO 559, CALEDON DIVISION

1. Your request for comment, dated 23 October 2020, but only received by this Directorate on 4 March 2021, has reference.

2. The application submitted is for the removal and amendment of restrictive title deed conditions and consent use to accommodate a tourist facility (i.e. coffee shop and gift shop) on the ground floor of the dwelling house on the subject property (measuring 180m²).

3. This Directorate has no objection to the proposed consent use and the removal/amendment of those conditions that preclude the establishment of a coffee/gift shop on the premises.

Kobus Munro Digitally signed by Kobus Munro Date: 2021.03.23 10:51:20 +02'00'

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

23 MAR 2021

TP - A Theart
(H Van Der Stoep)

OVERSTRAND MUNISIPALITEIT
ANNEXURE H 1/2
04 FEB 2021
OVERSTRAND MUNICIPALITY

Western Cape Government

Department of Environmental Affairs and Development Planning
D'mitri Matthews
Development Management
D'mitri.Matthews@westerncape.gov.za | Tel: 021 483 8350

REFERENCE: 16/3/3/6/E2/27/1264/20
DATE: **23 NOVEMBER 2020**

FILE NO: Ptn 203 | 559
Hangklip
SCAN NO:
19
COLLABORATOR NO: 1504538

The Municipal Manager
Overstrand Municipality
P. O. Box 20
HERMANUS
7200

Attention: Ms. H. van der Stoep

Tel.: (028) 313 8900
Email: hvdstoep@overstrand.gov.za

Dear Madam

RE: APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED), WITH RESPECT TO THE PROPOSED APPLICATION FOR REMOVAL, AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE ON PORTION 203 OF THE FARM HANGKLIP NO. 559, OVERSTRAND

1. The correspondence dated 23 October 2020, as received by this Department on the same day, refers.

2. Following the review of the new information contained in the electronic correspondence, this Department draws your attention to the following:

   2.1 The proposal entails the conversion of the ground floor of an existing double story residential dwelling into a coffee shop and gift shop.

3. Your attention is therefore drawn to the listed activities in terms of the NEMA EIA Regulations 2014 (as amended) as defined in Listing Notices ("LN") 1, 2 and 3 of 7 April 2017. Be advised that, based on the information provided, the proposed conversion of the ground floor of an existing double story dwelling on the property, **does not** constitute any listed activities as defined in terms of the NEMA EIA Regulations 2014 (as amended). Environmental Authorisation is therefore not required prior to the proposed development.

4. The above-mentioned is based on the following:
   4.1 No overnight tourist accommodation facilities are associated with the proposal.
   4.2 The development will take place through the conversion of an existing building and the development footprint will not be increased.

5. However, should any future development of the consolidated portions trigger any listed activity in terms of the EIA Regulations, 2014 (as amended), an application form for Environmental Authorisation must be submitted to the Competent Authority and the Environmental Authorisation

TP - 4 FEB 2021

obtained prior to the development proposal being commenced with on the proposed site. The relevant application forms are available on this Department's website: www.westerncape.gov.za/eadp.

6. You are further reminded of your general duty of care towards the environment in terms of section 28(1) of NEMA which states:
"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."

7. Please note that the applicant must comply with any other statutory requirements that may be applicable to the undertaking of the activity.

8. Kindly quote the abovementioned reference number in any future correspondence concerning the proposed development.

9. This Department reserves the right to revise or withdraw its comments and request further information based on any information received.

Yours faithfully

pp Koetzee

HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

ANNEXURE I

Western Cape Government

TRANSPORT & PUBLIC WORKS: ROADS
Chief Directorate: Road Planning
Email: grace.swanepoel@westerncape.gov.za
Tel: +27 21 483 4669
Room 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

OVERSTRAND MUNISIPALITEIT
29 APR 2021
OVERSTRAND MUNICIPALITY

TP - A Theart
(H vld Stoep)

REFERENCE: **TPW/CFS/RP/LUD/REZ/SUB-21/216 (Job 28117)**
ENQUIRIES: **Ms G Swanepoel**
DATE: **10 February 2021**

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

Attention: Ms H van der Stoep

Dear Madam

PORTION 203 OF FARM HANGKLIP 559, PRINGLE BAY: TRUNK ROAD 27 SECTION 1: PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE

1. The following refer:

1.1. Your letter 203/559KHANG dated 23 October 2020;

1.2. This Branch's even-numbered letter dated 24 November 2020 and

1.3. Revised Site Development Plan received on 27 January 2021.

2. The revised SDP dated 26 January 2021 has an acceptable on-site parking layout.

3. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014.

Yours Sincerely

SW CARSTENS
***For* DEPUTY DIRECTOR-GENERAL: ROADS**

FILE NO: Ptn 203 / 559
Hangklip
SCAN NO:
PTN 203
COLLABORATOR NO:
153372

ANNEXURE J 1/2

COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR: APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS & CONSENT USE: PORTION 203 (A PORTION OF PORTION 61) OF FARM HANGKLIP 559, DIVISION CALEDON

Electricity	:	Eskom area
Stormwater	:	No services available
Water	:	No services available
Sewer	:	No services available
Roads and traffic	:	No services available

Conditions:

1. that the developer arrange with ESKOM for the provision of electricity and that he complies with all conditions as may be set by ESKOM;

2. that no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permit from the applicable authorities (water affairs, health, BOCMA etc.) for the use of any other water resources and the extraction thereof;

3. that the quality of potable water comply with SANS0241 standards and that relevant proof be submitted to the Manager : Water Infrastructure & Quality, Overstrand Municipality (Telephone: 028 313 8972);

4. that no sewerage service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permit from the applicable authorities (water affairs, health, etc.) for the use of any sewage disposal;

5. that the owner will be responsible for the removal of sewerage from the proposed development, and the safe disposal thereof at a licensed municipal sewerage treatment facility;

6. that, alternatively, the developer will be responsible to obtain the necessary approval, licences and permits from the applicable authorities (water affairs, health, etc.) for the use of any other method of sewage disposal;

7. that the owner is responsible for the removal of all refuse generated on the property and the disposal thereof at a registered municipal waste transfer station or –waste disposal facility;

8. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and the Department of Water Affairs for approval;

9. that the developer complies to all the conditions set by Department Of Water & Environmental Affairs;

10. that on-site parking facilities are provided as per Planning Schedule and to the satisfaction of the Department: Operational Services;

11. that the developer will arrange with Provincial Administration to obtain approval for any new access from the Provincial road.

p.p. [signature]
DENNIS HENDRIKS

05/03/2021
DATE

SENIOR MANAGER: ENIGINEERING SERVICES

Annexure K 1/3

Prepared by me

CONVEYANCER
WILLEM JOHANNES ANDRÉ DU TOIT

CONSENT TO REMOVAL OF RESTRICTIVE CONDITIONS

I, the undersigned,

HANGKLIP BEACH PROPERTIES CC
Registration Number 1985/010241/23

herein represented by **ELIZABETH PHYLLIS ELSA WALLERS**, in her capacity as Sole Member of the Close Corporation, duly authorized by a Resolution

(the Successors in Title of Hangklip Beach Estates Limited)

HEREBY CONSENTS to the amendment / removal of the undermentioned suspensive conditions as contained in Deed of Transfer Number T17666/2014 in respect of :

PORTION 203 (A PORTION OF PORTION 61) OF THE FARM HANGKLIP NO. 559
IN THE OVERSTRAND MUNICIPALITY
DIVISION CALEDON
WESTERN CAPE PROVINCE

IN EXTENT : 1,9631 (ONE COMMA NINE SIX THREE ONE)TWO COMMA SIX SEVEN TWO FIVE) hectare

HELD BY Deed of Transfer Number T17666/2014

which property is registered in the name of :

C-VIEW AT PRINGLE PROPRIETARY LIMITED
REGISTRATION NUMBER 2013/234349/07

1. To the removal of the undermentioned conditions as set out on pages 5, 6 of Deed of Transfer Number T17666/2014, which reads as follows :

   C(b) No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.

   C(d) All buildings and other constructional works, including all fences and garden or other gates shall be of good and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of breach of this Clause the Seller shall have the right to require the Purchaser to demolish such unauthorised building or works and/or shall have the option to re-purchase the land upon payment of the cost price thereof without compensation for improvements.

   C(e) No signs, advertisements, advertisement boarding's or other letting shall be erected on the land hereby sold and purchased nor shall any advertisements, signs or lettering be painted on any building, walls, or fences erected or to be erected on the said land save and except with the written approval of the seller.

   C(n) The land shall be used only for agricultural purposes and the breeding or keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept.

   C(o) Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.

2. The amendment of Condition C(r) on page 7 of Deed of Transfer Number T17666/2014 by the removal of the following words, namely :

   "~~maisonettes~~, shops, business premises, canteen, restaurant"

3. The amendment of Condition D (i) by the removal of the following restrictions, which reads as follows :

   (b) restriction against erection of signs, advertisements, etc;
   (c) restriction against trade;

4. The amendment of Condition D (ii) by the removal of the following restrictions, which reads as follows :

   (e) advertising;
   (i) trade;

5. The amendment of Condition D (iii) by the removal of the following restrictions, which reads as follows :

   (e) advertising;
   (f) trade;

6. The amendment of Condition D (iv) by the removal of the following restrictions, which reads as follows :
   (e) advertising;
   (f) trade;

7. The amendment of Condition D (v) by the removal of the following restrictive conditions, namely :

   (b) restriction against wood and iron buildings;
   (e) prohibition against signs, advertisements;

SIGNED at KLEINMOND this 17 day of OCTOBER 2019

AS WITNESSES:

1. _____

2. Smitchell

Elizabeth Wallers

E P E WALLERS
For and on behalf of
HANGKLIP BEACH PROPERTIES CC