

22.

TRIBUNAL: PROPOSAL TO CALL FOR NOMINATIONS FOR EXTERNAL MEMBERS FOR PLANNING TRIBUNAL

15/1/3/10/4

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3 August 2022

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1. Executive Summary

At Council's Special Meeting held on 26 January 2022 the following resolutions were taken:

- "1. that Council rescinds its full decision of 28 October 2020;*
- 2. that the Policy for the appointment of members on the Municipal Tribunal be urgently reviewed to ensure that the Municipal Policy and the SPLUMA legislation are in sync with one another; and*
- 3. that the incumbent Municipal Planning Tribunal continues with its work until a new decision is taken by Council."*

To give effect to above resolution, Council needs to take certain decisions in terms of the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters 2015.

Council also has to decide what and if amendments need to be made to the Amendment By-Law on Municipal Land Use Planning, 2020.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure & Planning
Town Planning / Spatial Development

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance
The encouragement of structured community participation, particularly in matters of the Municipality

4. Delegated Authority

None

5. Legal Requirements

Municipal Structures Act, Act 117, 1998
Municipal Systems Act, Act 32, 2000
Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)
(SPLUMA)

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Regulations in terms of the Spatial Planning and Land Use Management (Act 16, 2013)
Amendment By-Law on Municipal Land Use Planning, 2020

6. Background/Discussion/Evaluation/Conclusion**6.1 Background****6.1.1. Nomination in terms of Council resolution 24 February 2021**

In terms of the Council resolution that was taken on 26 January 2022 under Resolution 2., Council resolved the following:

“2. that the Policy for the appointment of members on the Municipal Tribunal be urgently reviewed to ensure that the Municipality’s Policy and the SPLUMA legislation are in sync with one another; and”

In terms of the Spatial Planning and Land use Management Regulations: Land Use Management and General Matters, 2015, the following:

“3(1)(e) – identify any additional criteria that a person referred to in paragraph (b) must comply with;”

In terms of the Spatial Planning and Land Use Management Act, 2013 Section 36(1)(b) the following:

“persons appointed by the Municipal Council who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.”

In addition to this, Council at its meeting on 24 February 2021 took the following resolution:

- “1. that a notice be published inviting external nominations to serve on the Municipal Planning Tribunal (MPT);*
- 2. that external nominations member must comply with the following criteria:*
 - (a) has at least 7 years’ experience in either spatial planning, land use management, land development - law related;*
 - (b) be a permanent resident in the Overstrand area (must reside here permanently);*
 - (c) not be active in his/her profession within Overstrand area.*
- 3. that the external MPT member be remunerated according prescribed in Regulation (2)(e) – “in the case of a person referred to in Regulation 3(2)(b), is entitled to a seating and travel allowance*

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for each meeting of the Municipal Planning Tribunal that he or she sits on”;

4. *that the Municipal Manager and Authorised Official be appointed as members of the panel to evaluate the nominees received in 1 above and to submit a report to Council requesting the appointment of the external member of the Municipal Planning Tribunal; and*
5. *that the Authorised Official be mandated to affect the process for appointment of external member together with all necessary administration thereto.”*

The above resolution was not rescinded by Council’s Resolution taken on 26 January 2022, and therefore stands.

Thus, notices were advertised, inviting nominations for external members for the Planning Tribunal subject to the above criteria. These notices were placed in terms of the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 which requires the notices be placed in at least one local newspaper.

However, reservations were received from prospective candidates regarding the criteria which stated the candidate must be a permanent resident.

The notice was than recalled on instruction, and the criteria amended by removing the criteria of being a permanent resident in Overstrand.

A total of eight (8) nominations were received during the 2nd advert. The nominations were evaluated according to the nomination forms and criteria by the Municipal Manager and Authorised Official as stipulated in Council Resolution taken on 24 February 2021. The evaluation outcome is attached per Annexure E.

As there were concerns regarding the criteria and change thereof the comment of the Legal Department was requested in order to provide direction. This opinion is attached per Annexure A.

In this opinion it is clear that in order to have a credible process to invite and appoint members to the Planning Tribunal, Council will need to take certain decisions as prescribed, and required by the applicable legislation. This will be discussed under the heading of Discussion with recommendation to Council to consider and decide upon.

6.1.2 Legislative Framework to establish a Planning Tribunal, and current size of composition of Planning Tribunal

In terms of Spatial Policy and Land Use Management Act, 2013, the following:

“Composition of Municipal Planning Tribunals

- 36(1) *A Municipal Planning Tribunal must consist of –*
 - a) *Officials in the full-time service of the municipality; and*
 - b) *Persons appointed by the Municipal Council who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.*
- (2) *Municipal councillors may not be appointed as members of Municipal Planning Tribunal.*
- (3) *A Municipal Planning Tribunal must consist of at least **five members or more** as the Municipal Council deems necessary.*
- (4) *The Municipal Council must designate –*
 - a) *A member of the Municipal Planning Tribunal as chairperson; and*
 - b) *another member as deputy chairperson, to act as chairperson of the Municipal Planning Tribunal when the chairperson is absent or is unable to perform his or her duties.”*

Chapter 2 Part B of the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015, determine the following:

- “3. *Institutional requirements for establishment of Municipal Planning Tribunal for municipal area:*
 - 1) *A municipality, in establishing a Municipal Planning Tribunal for its municipal area in terms of Section 35(1) of the Act, must, amongst others–*
 - a) *Determine the number and designation of officials in the full-time service of the municipality to serve on the Municipal Planning Tribunal;*
 - b) *Determine the number of members who are not officials of that municipality to be appointed to the Municipal Planning Tribunal, the knowledge and experience that they should represent and their term of office, if it is of the opinion that it should be less than five years as contemplated in Section 37(1) of the Act;”*
 - 2) *“A member of the Municipal Planning Tribunal appointed in terms of Section 36(1)(b) of the Act may be-*
 - a) *An official or employee of-*
 - i) *Any department of state or administration in the national or provincial sphere of government;*
 - ii) *A government business enterprise;*

- iii) *A public entity*
 - iv) *Organised local government as envisaged in the Constitution;*
 - v) *An organisation created by government to provide municipal support;*
 - vi) *A non-governmental organisation; and*
 - vii) *Any other organ of state not provided for in subparagraph (i) to (v).*
- b) *An individual in his or her own capacity.”*

Currently Overstrand’s Amendment By-Law on Municipal Land Use Planning, 2020 and Section 72 determines the following:

“72. Composition of Municipal Planning Tribunal for municipal area:

1. *A Municipal Planning Tribunal established under Section 71(1)(a) must consist of the following members:*
 - a) *A **minimum** of 4 employees in the full-time service of the Municipality appointed by the Municipality; and*
 - b) *A **minimum** of 1 person who is not a municipal employee or councillor and who have knowledge and experience of spatial planning, land use management or the Law related thereto, appointed by the Municipality.”*

Overstrand Municipal Tribunal currently consists of four (4) Municipal officials and one (1) external member (Provincial Government).

Overstrand Municipality is keen to make provision in the Planning Tribunal for more external representatives. In order to achieve this, the Council need to take decision on how or if the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 needs to be amended. Council also needs to decide on certain criteria as contained in the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015.

It is important that Council takes a firm decision on the following aspects before the By-Law is amended and nominations called for external members for the Planning Tribunal. Therefore, the purpose of this item is for Council to resolve on the following:

- (a) *decide on the composition of the MPT, including the number of members, both internally and externally, and*
- (b) *to approve of the nomination process that needs to be followed in establishing the MPT, including agreeing on the members of the evaluation panel and in terms of what criteria the latter must assess potential applicants, where relevant.*

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In terms of the Municipal By-Law and Regulations –

In terms of the Spatial Planning and Land Use Regulation: Land Use Management and General Matters 2015 Section 3(1)(a) and by the following:

“3. *Institutional requirements for establishment of Municipal Planning Tribunal for municipal area:*

1) *A municipality in establishing a Municipal Planning Tribunal for its municipal area in terms of sections 35(1) of the Act, must, amongst others –*

a) *Determine the number and designation of officials in the full-time service of the municipality to serve on the Municipal Planning Tribunal;*

b) *Determine the number of members who are not officials of that municipality to be appointed to the Municipal Planning Tribunal, the knowledge and experience that they should represent and their term of office, if it is of the opinion that it should be less than five years as contemplated in section 37(1) of the Act;”*

Section 72 (1)(a) and (b) of the Amendment By-Law on Municipal Land Use Planning, 2020, the following:

“(1) *A Municipal Planning Tribunal established under Section 71(1)(a) must consist of the following members:*

a) *A minimum of four employees in the full-time service of the Municipality appointed by the Municipality, and*

b) *A minimum of 1 person who is not a municipal employee or councillor and who have knowledge and experience of spatial planning, land use management or the Law related thereto, appointed by the Municipality.”*

As Council want to add additional external members to the tribunal, the By-Law does not have to be amended and Council only needs to resolve on the additional criteria for external members and then call for nominations.

6.1.3. Current Applicable Criteria and Experience

In terms of the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015, the following:

“3(1)(e) – *identify any additional criteria that a person referred to in paragraph (b) must comply with;”*

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In terms of the Spatial Planning and Land Use Management Act, 2013 Section 36(1)(b) the following:

“persons appointed by the Municipal Council who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.”

In addition to this, Council at its meeting on 24 February 2021 took the following resolution:

1. *that a notice be published inviting external nominations to serve on the Municipal Planning Tribunal (MPT);*
2. *that external nominated member must comply with the following criteria:*
 - (a) *has at least 7 years’ experience in either spatial planning, land use management, land development or the law related thereto.*
 - (b) *be a permanent resident in the Overstrand area (must reside here permanently).*
 - (c) *not be active in his profession within Overstrand area.*
3. *that the external MPT member be remunerated as prescribed in Regulation (2)(e) – “in the case of a person referred to in Regulation 3(2)(b), is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on”;*
4. *that the Municipal Manager and Authorised Official be appointed as members of the panel to evaluate the nominees received in 1. above and to submit a report to Council requesting the appointment of the external member of the Municipal Planning Tribunal; and*
5. *that the Authorised Official be mandated to affect the process for appointment of external member together with all necessary administration thereto.”*

The Council therefore need to rescind/amend the decision in order to amend the criteria as stipulated in above Council Resolution taken on 24 February 2021, should Council want to determine new criteria.

6.1.4. Evaluation Panel

In terms of Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015, Part B, Section 3(g), Council:

“(g) convene an evaluation panel to evaluate the nominations received by the Municipality and determine the terms of reference of that evaluation panel.”

According to Council’s Resolution taken on 24 February 2021, the Municipal Manager and the Authorized Official are appointed as members of the panel to evaluate the nominations received for external members.

6.1.5. Remuneration

Spatial Planning and Land Use Regulation: Land Use Management and General Matters, 2015:

“(2)(e) – in the case of a person referred to in Regulation 3(2)(b), is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on”

It is estimated that the cost of one (1) additional external member will be approximately R50 000 per year. Adequate budget provision is available.

6.1.6. Terms and Conditions of Service and Code of Conduct

The Spatial Planning and Land Use Management Regulation: Land Use Management and General Matters, 2015, Part B, Section 3(1)(c):

(1). *“A Municipality in establishing a Municipal Planning Tribunal from its municipal area in terms of Section 35(1) of the Act must amongst others-*

(1)(c) determine the terms and condition of service of the member of the Municipal Planning Tribunal in accordance with the norms and standards referred to in Schedule 1;”

6.2 Discussion**6.2.1. Nomination in terms of Council resolution 24 February 2021**

The eight nominations received at the second advertisement were evaluated by the Municipal Manager and Authorized Official. Due to the explicit criteria regarding the expertise required and the prescription of the nomination forms, most of the nominees does not comply with the requirements and therefore can not be nominated to Council for appointment to the Planning Tribunal. Further as a result of the legal inputs received it is also proposed that Council do not appoint any person to the Planning Tribunal in the current situation, but that Council take firm decision on the criteria etc. before calling for new nominations. If a member is currently serving on more than one Planning Tribunal for other municipalities, it might be in conflict of attendances to tribunal meetings. The conflict must be addressed in the nomination forms in order to ensure smooth operation of Overstrand tribunal meetings.

In light of this as well as the fact mentioned in the item it is proposed that one of the eight nominees be appointed. Further, that the nominees be advised that they submit the nomination as and when Council call for new nominations.

6.2.2. Legislative Framework to establish a Planning Tribunal and Composition

It is proposed that Council do not amend Section 2(1)(a) and (b) of the Overstrand Municipality Amendment By-Law on Municipal Land use Planning, 2020 which reads as follows:

- a) *“a minimum of four (4) employees in full time service of the Municipality appointed by the Municipality; and*
- b) *a minimum of one (1) person who is not a municipal employee or Councillor and who have knowledge and experience of spatial planning and Land Use Management or the Law related thereto by the Municipality.’*

Council does not have to amend the By-Law in order to accommodate more external members on the Municipal Planning Tribunal. The By-Law makes provision that the Council can appoint more external members to the Tribunal.

Should Council opt for this route, nomination can immediately be invited. After evaluation of the nominees, and decision by Council, the new reconstituted Tribunal can commence with its tasks. (See also comments of the Legal Department on composition of Planning Tribunal attached as Annexure A).

6.2.3. Call/Request for nominations to serve on Planning Tribunal

It is proposed that Council advertise in local papers for nominations as external members of the Municipal Planning Tribunal.

6.2.4. Criteria and Experience

As the previous criteria were too limiting in a certain sense, only allowing permanent residents to be nominated etc. it will be proposed that this criteria be rescinded / amended.

Further it is also proposed that Council should stipulate in more detail the qualification and experience required by nominees.

It is proposed that the following criteria be adopted before nominations are called for:

- a) Person must have a Town Planning / Law degree;
- b) Person must have been registered with the Planning Council for at least seven (7) years;
- c) Person with Law degree should be an admitted attorney with at least seven (7) years practising experience in Town Planning related matters.

- d) That the person must either reside in Overstrand or own property in Overstrand;
- e) That the nominees not be active in his/her profession in Overstrand (being it individual or company).

6.2.5. Evaluation Panel

Council needs to appoint persons to the evaluation panel, who would evaluate the nominees and make a recommendation to Council.

It is proposed that the Municipal Manager and the Authorised Official be nominated to form the panel.

6.2.6. Remuneration

The external members of the Tribunal are entitled to remuneration according to the prescript as determined by National Treasury. (The tariff is attached per Annexure B).

It is recommended that Council determine that a preparation fee be set at a maximum of three (3) hours per sitting and one (1) day per cycle sitting.

It would also be desirable that Council determines the maximum kilometres that an external member can claim per sitting. Those external members who reside in Overstrand area or have property in Overstrand area be allowed to traveling expenses from that address to the place of sitting.

6.2.7. Terms and Conditions of Service and Code of Conduct

That the terms and conditions of service for the Municipal Planning Tribunal members as attached per Annexure C, be applicable.

The code of conduct as contained in Annexure D be applicable to the Planning Tribunal members.

7. Financial Implications

The SPLUMA Regulations Schedule 1 stipulated the following:

“(2)(e) - in the case of a person referred to in Regulation 3(2)(b), is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on.”

It is estimated ±R50 000 per year be made available for external members. This is calculated on ten (10) sittings per year. Adequate budget provision is available.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

| | |
|-------------|---|
| Annexure A: | Legal Opinion |
| Annexure B: | Tariffs determined by National Treasury |
| Annexure C: | Terms and conditions for MPT members |
| Annexure D: | Code of Conduct for MPT members |
| Annexure E: | Evaluation of Nominees |

RECOMMENDATION TO THE COUNCIL:

1. that council rescinds its previous criteria as contained in Council Resolution 24 February 2021;
2. that the Council rescinds its previous decision taken on 26 January 2022;
3. that the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, specifically Section 72(1)(a) and (b) remain the same:
 - 72(1)(a) A minimum of four (4) employees in full time service of the Municipality be appointed.
 - 72(1)(b) that a minimum of one (1) person who is not a Municipal employee or Councillor and who have the knowledge and experience of Spatial Planning, Land Use Management or the Law related thereto, be appointed by the Municipality.”
4. that Council call for nominations for external members for the Municipal Planning Tribunal from the public as well as Provincial Administration;
5. that the following additional criteria be made applicable when calling for nominees for external members of the public:
 - a) person must have a Town planning / Law degree;
 - b) person must have been registered with the Planning Council for at least seven (7) years;
 - c) person with Law degree should be an admitted attorney with at least seven (7) years practising experience in Town Planning related matters.
 - d) that the person must either reside in Overstrand or own property in Overstrand, and
 - e) that the nominees not be active in his/her profession in Overstrand.

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6. that the call for nominations be advertised in local paper(s);
7. that the Code of Conduct and the Terms and Conditions as contained in Annexures B and C, be applicable; and
8. that remuneration is according to tariff as contained in Annexure A, subject to the following:
 - a) three (3) hours preparation time be allowed per sitting;
 - b) tariff per sitting as prescribed, and
 - c) travel allowance for people who reside or have a property be determined from that property to place of sitting.

RESPONSIBLE OFFICIAL:**R KUCHAR****TARGET DATE FOR IMPLEMENTATION:****10 OCTOBER 2022**

R Kuchar

ANNEXURE A 1/5

From: A Olivier
Sent: Monday, 27 June 2022 15:37
To: L Smuts
Cc: R Kuchar; Desiree Arrison; J Wilkinson
Subject: RE: AMENDMENT OF AMENDMENT BY-LAW ON MUNICIPAL LAND USE PLANNING 2020

Good afternoon, Liana

Re the proposed Agenda of the Portfolio Committee: Investment and Infrastructure 2 June 2022, the following is proffered:

Riaan please let me know your thoughts on this opinion.

Regards

Andre Olivier

I have been requested to provide a legal opinion which must address the subject matter contained in the **Agenda of the Portfolio Committee: Investment & Infrastructure of June 2022** (and the Agenda for the Mayoral Committee Meeting: 27 June 2022) namely the following aspects pertaining to the **Municipal Planning Tribunal**:

1. Its composition; and,
2. The requirements and qualifications of the non-municipal members of said Tribunal.

A **Municipal Planning Tribunal (MPT)** is made provision for in **Part B of Chapter 6 of the Spatial Planning and Land Use Management Act No 16 of 2013 (SPLUMA / the Act)**; **Chapter 2 of the Regulations in terms of the Spatial Planning and Land Use Management Act (the Regulations)**, and sections 71 – 77 of Chapter VIII of the **Overstrand Amendment By-Law on Municipal Land Use Planning 2020 (the By-law)**.

- 1 In terms of **Part B of Schedule 4 of the Constitution of South Africa** read with **section 155(7), sections 156(1)(a), 156(2) and 156(5)** thereof and further read with **SPLUMA** municipal planning is “**primarily the executive function**” of the local sphere of government with the municipality being the “**authority of first instance**” and therefore the “**competent authority**” which by definition in relation to land use means the authority that is empowered to grant or approve a right to use land for a specified purpose. The “**executive authority**” in the context of Municipal Planning does not mean the **executive mayor** of the municipality.

The Composition of the MPT.

- 1 The **composition of the MPT** is made provision for by:

Section 36 of SPLUMA which determines the following:

36(1) “(a) officials in the full-time service of the municipality; and,

(b) persons appointed by the Municipal Council who are **not** municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto."

36(3) " A MPT must consist of at least 5 members or more as the Municipal Council deems necessary."

Regulation 3(1)(a) states that the municipality must:

"(a) determine the number and designation of officials in the full-time service of the municipality..." and,

"(b) determine the number of members who are not officials...to be appointed to the MPT, the knowledge and experience that they should represent..." and,

Section 72(1)(a) of the By-law which states that the MPT must consist of:

"(a) a minimum of 4 employees in the full-time service of the municipality; and,

(b) and a minimum of 1 person who is not a municipal employee or councillor and who have (has?) knowledge and experience of ..."

- 2 According to the minutes of the **Special Meeting of Council** taken on **26 January 2022** with reference to **Item 7 on page 7** of the **Special Mayoral Committee Meeting**, it was resolved that:

"2. that the Policy for the appointment of members of the Municipal Tribunal be urgently reviewed to ensure that the Municipality's Policy and the SPLUMA legislation are in sync with one another..."

In my opinion the provisions of **SPLUMA and the By-law** (not the "Policy") (and the **Regulation** to boot) re the **composition** of the **Municipal Planning Tribunal** (not the "Municipal Tribunal") **are already "in sync"** with each other because **SPLUMA** requires that the MPT must consist of **at least 5 or more members**. The **By-law** already in fact determines that this is the case: **4 + 1 = 5 members**. **SPLUMA** and the **Regulation** make it possible for the municipality to appoint **more than 5 members** but always keeping in mind that the **statutory minimum number of members is 5**. What **SPLUMA and the Regulation do not determine** is the **split** for want of a better expression, ie: how many of the composition (whatever it is) should be municipal officials and how many should be non-municipal officials – this is for the **municipality** in its **discretion** to decide which will be in line with **SPLUMA** and the **Regulations**.

The above must not be confused with the provisions of **sections 40(1) and 40(2) of SPLUMA** which allows for a matter to be **determined by at least 3 members**, which means that as it **currently** stands, of the 5 members the MPT may designate **3 members** (minimum) to hear, consider and decide a matter before it, with at least **1 member of the 3 members** being a non-municipal official. **Sections 40(1) and 40(2) have nothing to do with the actual composition of the MPT.**

The "split" between municipal officials and non-municipal officials.

Will it be legal for the MPT to be comprised of more non-municipal officials than municipal officials, and even if it were legal, will it be desirable?

From the provisions of SPLUMA I can find no direct indication that such a "split" will be unlawful but if one considers that which I quoted above with special emphasis on the provisions of the Constitution, ie, that:

- a) **municipal planning is "primarily the executive function "of the local sphere of government, and,**
- b) **The municipality is the "authority of first instance", and,**
- c) **The municipality is the "competent authority" re municipal planning,**

then it would appear that the "split" should favour municipal officials, the reason being that non-municipal officials are exactly that: **"non-municipal"**. If it is argued that by having more non-municipal officials than municipal officials

transparency of the whole process will be promoted, I fail to see how this argument can hold water because in the **first place**, the fact that there must be non-municipal officials serving on the MPT is already a guarantee that the process is and

will be transparent because these non-municipal members as representatives of the broader community and not the municipality, ensure that the MPT's decisions are taken as objectively as possible – the Minutes of the MPT will reflect this.

In the **second place**, the **appeal procedure** made provision for in SPLUMA, and the By-law **guarantees** transparency because every decision of the MPT may be appealed against, be it by the Applicant or an objector or the municipality itself. A

decision may even end up in the High Court. If this is not a guarantee of transparency, then what is?

In the **third place** the MPT **must** consider all timeously lodged objections and comments by objectors and interested persons and after having heard/considered the objections and/or comments, the applicant or any other parties, either approve,

or approve with amendments or refuse or postpone/refer for further investigation the application.

In the **fourth place** the **Code of Conduct** as made provision for in **section 71(1)(a)** with reference to **section 1 of Schedule 1** of the **by-law** determines in **section 1(a)** that:

"A member of the MPT must at all times-

- (a) **act in accordance with the principles of accountability and transparency"** (my emphasis).

The above essentially means that all decisions must be made fairly, impartially, and promptly and in itself guarantees transparency in and of the process. If an applicant or an objector or an interested person is dissatisfied with a decision the

provisions of the **Promotion of Administrative Justice Act** is available to such a person to take the matter on judicial review.

With regard to the requirement of **"accountability"** of members (and in accordance with the provisions of **sections 195(1)(a);(f) and (g)** of the SA Constitution) in the matter:

KAREN ZIMMERMAN AND NDLAMBE MUNICIPALITY AND 5 OTHERS CASE No: 226/2017 HIGH COURT EASTERN CAPE.

the following was said by the Court:

"[97] Officials of municipalities as organs of state are expected when executing their daily functions to adhere to the well-meaning principles of 'Batho Pele' (people first) when dealing with land owning

ratepayers. Those principles are about placing the interests of people before any other demands and the end objective is the promotion of accountability and good governance. Section 195(1) of the

Constitution invokes the principle that public administration must be accountable. What was done is contrary to these lofty aspirations of the Constitution, PAJA and SPLUMA expected of officials charged with the responsibility to manage the first respondent.

I am therefore in agreement with the proposed **Agenda: Recommendation to Council** that the MPT should be comprised of **5 (five) members** of which:

- (a) **3 (three)** members are in the full-time employee of the Municipality, and
- (b) **2 (two)** non-municipal persons.

I also agree with the further Recommendation in **paragraphs 2(b) and 3** that the non-municipal members should be **qualified and experienced** as stated, which in my opinion is stating the obvious because of the high level of technical difficulty of most of the issues that have to be adjudicated on by the MPT. If a member is not qualified and experienced how will such a non-municipal official be able to argue with conviction and technical correctness on an issue before the MPT? In this regard **Regulation 3(12)** is clear that the Municipality may not appoint any person to the MPT if that person does not possess the knowledge or experience required in terms of **section 36(1)(b) of SPLUMA** or the additional criteria determined in terms of **Regulation 3(1)(e).**

With regard to the **Recommendation in paragraph 3(d)** a vexing question to be determined seems to be whether non-municipal officials of the MPT must reside in the Overstrand jurisdiction or not, or only have to own property in the Overstrand?

In my opinion this is without a doubt an important consideration because should a prospective external non-municipal person **not** be required to reside in the Overstrand jurisdiction does this mean that such a member may reside **anywhere in the Republic or even abroad**? If for instance a member resides in **Polokwane** in the Limpopo province which is approximately 1700 km from Hermanus, will this not result in very real challenges for such a member not only to attend to his / her responsibilities and meetings in Hermanus proper re the MPT, but also impact on especially the travel and subsistence **costs** for such a person from Polokwane to Hermanus and back to Polokwane given the provisions of **section 73(6) of the by-law** in terms of which such a member will be entitled to be **reimbursed for his/her expenses** even as may be determined by Council? And what if the 2(second) prospective member resides in **Durban**? What will be the rational and objective reasons for permitting this given the fact that the SPLUMA, its Regulations and the by-law **offer no guidance**? Or will the Council determine that a prospective member **must reside in the Western Cape only** and nowhere else, and if so, how will this be any different from the Polokwane and Durban examples? Will it not be prudent to simply require that a prospective member **must reside in the Overstrand jurisdiction** because in this way such members will possess an immediate interest and knowledge of the local conditions and circumstances, and it will also negate the challenges discussed above, time and costs?

The amendment of the Amendment By-Law on Municipal Land Use Planning

This can only be approved by Council and **then only** after Council has **rescinded** its resolution taken on **24 February 2021** in terms of which it approved the **Criteria and Experience** of non-municipal persons and replaced it with **new Criteria and Experience** requirements for non-municipal persons to be appointed to the MPT. **As it stands**, if, in terms of **regulations 3(1)(d) and (f) of the SPLUMA regulations**, the Municipality is desirous to determine procedures for the invitation and calling for nominations of **new** persons contemplated in **section 36(1)(b) of the SPLUMA to serve on the MPT** it will have to do so in terms of the **existing approved Criteria and Experience** as per its resolution taken on 24 February 2021, and **not on** any contemplated **new** Criteria and Requirements.

Andre Olivier

27 June 2022

R Kuchar

From: A Olivier
Sent: Monday, 01 August 2022 12:14
To: R Kuchar
Cc: L Smuts; J Wilkinson
Subject: RE: AMENDMENT OF AMENDMENT BY LAW MUNICIPAL LAND USE - EXTERNAL MEMBER MPT - ITEM

Good morning, Riaan

Your Item refers

In addition to my opinion dated 27 June 2022, I agree with your arguments re the proposed composition etc of the Municipal Planning Tribunal with special emphasis to the following paragraphs of your Item:

6.1.2, 6.2.1 and 6.2.3 - the by-law as it is currently constituted does not have to be amended in order to effect changes to the composition of the MPT, ie, to appoint more external members. All that Council has to decide on, and resolve is what additional criteria (if any) should apply to all external members, and only after this has been resolved may it call for nominations but with the important proviso that Council will have to rescind the resolution taken on 24 February 2021, because council resolutions may not be in conflict with each other. If the last-mentioned council resolution is not rescinded requiring additional criteria for external members will not be valid.

6.1.4 and 6.2.4 – I agree with the proposal that at least the Municipal Manager and the Authorised Official form part of the Evaluation Panel because they are best suited to consider applications.

The above exposition must be read in conjunction with the **Recommendation to Council**.

Regards

Andre

From: L Smuts <lsmuts@overstrand.gov.za>
Sent: Thursday, 28 July 2022 15:53
To: A Olivier <aolivier@overstrand.gov.za>
Cc: R Kuchar <rkuchar@overstrand.gov.za>
Subject: AMENDMENT OF AMENDMENT BY LAW MUNICIPAL LAND USE - EXTERNAL MEMBER MPT - ITEM

Beste André

Aangeheg vir jou kommentaar – (ons gaan more die opskrif verander)

Vriendelike groete

LIANA SMUTS

Administrator, Town & Spatial Planning Department
 Overstrand Municipality
 T: +27 (0) 28 313 8039
 E: lsmuts@overstrand.gov.za



NATIONAL TREASURY
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 Tel: +27 12 315 5111, Fax: +27 12 315 5234

Enquiries: JC Krüger Ref: FP20-8/6/2/24/1/001 Tel: 012 315 5219 E-mail: Chris.Kruger@treasury.gov.za

TO ALL –

ACCOUNTING OFFICERS OF CONSTITUTIONAL INSTITUTIONS, AND NATIONAL AND PROVINCIAL DEPARTMENTS, HEADS OF PROVINCIAL TREASURIES AND ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES

2019 REMUNERATION OF NON-OFFICIAL MEMBERS: COMMISSIONS & COMMITTEES OF INQUIRY, AND AUDIT COMMITTEES

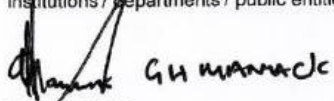
1. The Minister of Finance has declined an amendment to the **maximum remuneration payable per day** to non-official members of *Commissions and Committees of Inquiry*. The rates with effect from 1 April 2018 remain valid and are as follows:

| | COMMISSION OF INQUIRY | | COMMITTEE OF INQUIRY | |
|-------------|-----------------------|----------|----------------------|----------|
| | Per day | Per hour | Per day | Per hour |
| Chairperson | R5 230 | R654 | R4 317 | R540 |
| Member | R3 888 | R486 | R2 619 | R327 |

2. With reference to Treasury Regulation 3.1.6, the remuneration applicable to **Committees of Inquiry** is applicable to members of **Audit Committees** appointed from outside the public service.
3. The indicated rates are sitting fees and exclusive of payments in respect of preparation, research and travelling (to and from meeting venues) time.
4. Current VAT law requires non-executive directors (NEDs) of companies to register for and charge VAT in respect of any director's fees earned for services rendered as a non-executive director. **Kindly note that the above rates are VAT inclusive.**
The value of the fees must, however, exceed the compulsory VAT registration threshold of R1 million in any 12-month consecutive period but NEDs can voluntarily register for VAT as well.¹
5. *Employees of National, Provincial and Local Government or Institutions, Agencies and Entities of Government serving on Commissions or Committees of Inquiry or audit committees are not entitled to additional remuneration.*

¹ Further details on the remuneration of Non-executive Directors is available on <http://www.sars.gov.za/Media/MediaReleases/Pages/14-February-2017-Non-Executive-Directors-of-Companies-must-register-for-VAT.aspx>.

6. All expenditure that could arise from applying this circular must be defrayed from institutions'/ departments'/ public entities' existing budget allocations.



GOOLAM MANACK
(CHIEF DIRECTOR: PUBLIC ENTITIES GOVERNANCE UNIT)
for DIRECTOR-GENERAL: NATIONAL TREASURY
DATE 30/8/2019

SCHEDULE 1

**Norms and standards for the terms and conditions of service of members of
Municipal Planning Tribunal**

- (1) An official of a municipality authorised by the municipality in terms of section 36(1)(a) of the Act as a member of the Municipal Planning Tribunal –
- (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal.
- (2) A person appointed by a municipality in terms of section 36(1)(b) of the Act as a member of the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of that municipality;
 - (b) in the case of a person referred to in regulation 3(2)(a), is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
 - (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) in the case of a person referred to in regulation 3(2)(b), is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on as determined by provincial legislation or the municipality or, in the absence of such legislation or determination, the applicable treasury regulations and the rates as determined by the Department of Transport;
 - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (3) The seating allowance referred to in subregulation (2)(e) is subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Service.
- (4) All the members of the Municipal Planning Tribunal must adhere to a code of conduct for members of a Municipal Planning Tribunal approved by the municipality and non-

compliance thereof is grounds for or a disciplinary hearing by the municipality if the member is designated or removal from office of a member appointed in terms of regulation 3(1)(b).

(5) A municipality may use the standard Code of Conduct for Members of a Municipal Planning Tribunal contained in Schedule 3, subject to any modifications and qualifications as the municipality deems necessary.

SCHEDULE 3

Code of Conduct for Members of the Municipal Planning Tribunal

General conduct

1. A member of the Municipal Planning Tribunal must at all times—
 - (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the municipality has given written approval and has expressly authorised his or her participation.
2. A member of the Municipal Planning Tribunal may not—
 - (a) use the position or privileges of a member of the Municipal Planning Tribunal or confidential information obtained as a member of the Municipal Planning Tribunal for personal gain or to improperly benefit another person; and
 - (b) participate in a decision concerning a matter in which that member or that members' spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

Gifts

3. A member of the Municipal Planning Tribunal may not receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended or expected to influence a person's objectivity as an advisor or decision-maker in the planning process.

Undue influence

4. A member of the Municipal Planning Tribunal may not—
 - (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
 - (b) use confidential information acquired in the course of his or her duties to further a personal interest;
 - (c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and

- (d) commit a deliberately wrongful act that reflects adversely on the Municipal Planning Tribunal, the Municipality, the government or the planning profession by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions of the Municipal Planning Tribunal by improper means.

MUNICIPAL PLANNING TRIBUNAL APPLICATION NOMINATIONS

| No. | NAME | NOMINATION | PROOF OF QUALIFICATIONS | QUALIFICATION | EXPERIENCE | MINIMUM 7 YEARS EXPERIENCE (in either spatial planning, land use management, land development - law related) | ACTIVE IN PROFESSION WITHIN OVERSTRAND | COMMENT |
|-----|----------------|----------------------------------|--|--|---|--|--|--|
| 1 | F.H.L. RAYMOND | Nominated by Deon Jacobus Bekman | Yes Copies of qualifications submitted but certification is on separate page (Not valid). | Stellenbosch 1. Bachelors Law Degree 2. Masters Law Degree 3. Bachelors (Lettere en wysgeerte) | <p>From 1985 to 1988</p> <ol style="list-style-type: none"> 1. Worked as a state prosecutor <p>From 1990 to 1998</p> <ol style="list-style-type: none"> 2. Worked at states attorneys 3. Worked closely with various provincial ministers (specifically dealing with planning and environment matters) <p>From 1990 to 1998</p> <ol style="list-style-type: none"> 4. Worked for the provincial government in planning review applications <p>From 1990 to present</p> <ol style="list-style-type: none"> 5. Dealt with various planning matters in the western cape high court <p>Additional</p> <ol style="list-style-type: none"> 6. Dealt with various cases on planning, mediation and arbitration at the law society. 7. Elected as part-time city councillor from the city of cape town 2006-2021 8. Served on the planning & environmental committee 2006-2021 9. Served as deputy councillor of the planning committee 2018-2021 10. Served on the city planning by-law drafting committee of the city of cape town 11. Served as a member of the section 62 appeals committee 12. Served as member of the roleis rate payers committee as executive member 13. Served on the overstrand ward committee 14. Served on the Hangklip Kleinmond and various environment advisory boards 15. Served on the Hangklip Kleinmond property valuation board | <p>Yes</p> <p>The Candidate does meet the minimum requirement due to previous involvement in various planning matters as a lawyer.</p> <p>Candidate himself indicated that he does not meet the minimum requirement on the application form.</p> | <p>Yes</p> <p>The candidate serves on the local appeal committee.</p> <p>Candidate himself indicated that he is not active in his profession within the Overstrand Municipal Area.</p> | <p>The candidate does not comply. Qualifications are not properly certified & he is active in his profession within the Overstrand area.</p> |
| 2 | C.K. RABIE | Self-Nominated | Yes Certified copies of qualifications is attached | 1. Bachelors Degree in Geography 2. Masters in Town & regional Planning 3. Honours in Public Administration 4. Registered as a Professional Planner in terms of SACPLAN | <p>From 1976 to 1997</p> <ol style="list-style-type: none"> 1. Town & Regional Planner at then Provincial Administration of the Cape. 2. Chief Town & Regional Planner at then Provincial Administration of the Cape. 3. Project Manager for various residential areas for lower income groups such as Sasmile (Port Nolloth), Nonnalspont, Grabouw, Izamoyethu (Hout Bay), Happy Valley (Blackheath), Plettenberg Bay etc. 4. Represented provincial government in various committees and important consultations 5. Acted as chairman of committee which evaluated town planning schemes compiled under the Townships ordinance, 1934 6. Chairman of committee which compiled development strategies for the former black townships to coordinate availability of funds and infrastructure 7. Chairman of committee which evaluated applications for industrial development in the then Cape Province in terms of section 2 of Physical Planning Act, 1987 <p>From 1997 to 2002</p> <ol style="list-style-type: none"> 1. Director Land Development Management in Community Services Branch of the then Department of Planning, Local Government and Housing. 2. Acting Chief Director for a period of 7 months during 2002 <p>From 2002 to 2004</p> <ol style="list-style-type: none"> 1. Formed part of Management to evaluated integration of the planning and environment functions of the department during the amalgamation forming the Department of Environmental Affairs and Development Planning. <p>From 2004 to 2008</p> <ol style="list-style-type: none"> 1. Director of Integrated Environmental Management for Region A 2. Competent Authority handling applications under the Environmental Protection Act, 1997 <p>From 2008 to 2014</p> <ol style="list-style-type: none"> 1. Director of Environmental and Spatial Planning <p>From 2014 onwards</p> <ol style="list-style-type: none"> 1. Retired and Consulting on Town Planning work. 2. Since 2015: member of MPT's Stellenbosch, Swardland and Theewatersdooop (became Chairperson of Tribunal) | <p>Yes</p> <p>The Candidate does meet the minimum requirement due to being registered as a Professional Planner with Sacplan.</p> | <p>No</p> | <p>The candidate does comply.</p> <p>The candidate currently serves on 2 Tribunals. There is a risk of operational availability.</p> |

| No. | NAME | NOMINATION | PROOF OF QUALIFICATIONS | QUALIFICATION | EXPERIENCE | MINIMUM 7 YEARS EXPERIENCE (in either spatial planning, land use management, land development - law related) | ACTIVE IN PROFESSION WITHIN OVERSTRAND | COMMENT |
|-----|--------------|---|--|---|--|--|--|---|
| 3 | J.W. GARDNER | Self-Nominated | No The applicant did not provide the municipality with a comprehensive CV, proof of qualifications or detailed work experience. | The applicant did not provide the municipality with a comprehensive CV, proof of qualifications or detailed work experience. | The applicant did not provide the municipality with a comprehensive CV, proof of qualifications or detailed work experience. | No The applicant did not provide the municipality with a comprehensive CV, proof of qualifications or detailed work experience. | The applicant did not provide the municipality with a comprehensive CV, proof of qualifications or detailed work experience. | The candidate does not comply. CV & experience is not provided. |
| 4 | KATIE SMUTS | Nominated - Stanford Conservation Association | Yes However, the qualifications provided is not certified & no heritage qualification is attached. | 1. Bachelor of Arts (Honours) in Western Cape Historical Studies - UCT 2. Architectural and Urban Conservation short courses 1 & 2 - UCT 3. Bachelor of Arts Majored in Greek and Roman Literature and Thought and Archaeology - UCT 4. Master of Philosophy Specialising in Archaeology - UCT 5. Professional Heritage Practitioner (1 June 2020- 1 July 2022) | 1. Several years in development led archaeology 2. Heritage officer with South African Heritage Resource Agency (SAHRA). 3. Manager of SAHRA 4. Currently working for Rennie Scury Adendorff Architects (one of the pre-eminent heritage architecture firms in the country). 5. Served as a member and Chair of the Stanford Heritage Committee 6. Currently Chair of the Overstrand Heritage and Aesthetics Committee 7. Currently serve on the Executive Council of the Association of Southern African Professional Archaeologists as chair of the Cultural Resources Management. 8. Member of Association of Professional Heritage Practitioners since 2015 | Yes However, her knowledge is restricted to Heritage and architecture. In addition, she does not provide the period (months or years) of experience. | Yes The candidate currently serves as the Chair of the Overstrand Heritage and Aesthetics Committee. | The candidate does not comply. The qualifications are not certified & she is currently active in her profession within the Overstrand area. There could be a possible conflict of interest due to serving the candidate being on the Overstrand Heritage and Aesthetics Committee. The candidate can also impact the operation of the tribunal. |

| No. | NAME | NOMINATION | PROOF OF QUALIFICATIONS | QUALIFICATION | EXPERIENCE | MINIMUM 7 YEARS EXPERIENCE (in either special planning, land use management, land development - law related) | ACTIVE IN PROFESSION WITHIN OVERSTRAND | COMMENT |
|-----|---------------|-----------------------------------|---|---|--|--|---|---|
| 5 | PIERRE CROUPE | Self-Nominated | Yes Certified copies of candidate's qualifications is attached | <ol style="list-style-type: none"> Bachelor in Planning - Potchefstroom University - 1980 Programme in Project Management from University of Stellenbosch, Graduate School of Business - 2011 Master of Development Finance from University of Stellenbosch, Graduate School of Business - 2013 Master of Science in Property Studies from UCT - 2019 Professional designation of Senior Project Manager from Project Management South Africa - 2019 | <p>From 1999 to 2006</p> <ol style="list-style-type: none"> Town Planner at City of Cape Town <p>From 2007 to 2019</p> <ol style="list-style-type: none"> Programme Manager - PRASA CREC, Capital Project Management Unit managing and executing refurbished and upgraded to corporate and commercial buildings Manager South African Operation - Recaliff, managing structured construction, maintenance solutions and facilities services to the retail sector Manager South African Operation - Recaliff, managing structured construction, maintenance solutions and facilities services to the retail sector <p>2026 to present</p> <ol style="list-style-type: none"> Project Manager - setting up an aquaponic farmery. | Yes The applicant has the relevant town planning experience as a town planner. | No The candidate is not active as a town planner within the Overstrand Municipal Area. | The candidate does comply. The Town planning experience would serve to be useful for a member of the Tribunal, however the applicant has not been active as a Town Planner from 2007. New legislation was passed after that. |
| 6 | E. BRINK | Nominated - Kathleen Ann Leresche | No The candidate did not provide proof of any qualifications. | <ol style="list-style-type: none"> B. Comm (Law) 1971 L.L. B. 1973 Honours B. Comm. (Accounting) 1975 Qualifying Examination Public Accountants and Auditors Board 1976 | <p>From 1976 to 1982</p> <ol style="list-style-type: none"> Audit Manager and Partner of Theron Van Der Poel (then became PitwaterhouseCoopers) <p>From 1980</p> <ol style="list-style-type: none"> Served on the Executive Committee of Rooiels Ratepayer's Association for a decade <p>From 1987</p> <ol style="list-style-type: none"> Served as a member of the City Bowl Ratepayers' Association <p>From 2003</p> <ol style="list-style-type: none"> Served as founding Executive Committee member of RE Conservancy for a number of years <p>From 2019</p> <ol style="list-style-type: none"> Acted as co-ordinator on behalf of Rooiels Ratepayers' Association by providing legal input on Rooiels Conservation Overlay Zone. <p>From 2021</p> <ol style="list-style-type: none"> Serving as an Executive Committee member of Rooiels Ratepayer's Association Assisted in registering Rooiels Native Reserve as a protected area in terms of the environmental legislation Assisted Overstrand Municipality preparing a draft formal legal complaint to WC government in terms of the environmental legislation in respect of current unlawful activities in environmentally sensitive smallholding in Rooiels Riverty Estuary | No The candidate does not provide proof that he practiced law for the minimum of 7 years. The candidate did however indicate that he does meet the relevant requirement. | No The candidate is not active as a lawyer within the Overstrand Municipal Area. | The candidate does not comply: The qualifications is not provided. There is no proof that the candidate practiced law apart from the preparing a draft formal complaint on behalf of Overstrand Municipality. |

| No. | NAME | NOMINATION | PROOF OF QUALIFICATIONS | QUALIFICATION | EXPERIENCE | WORKING 7 YEARS EXPERIENCE (in either spatial planning, land use management, land development - any related) | ACTIVE IN PROFESSION WITHIN OVERSTRAND | COMMENT |
|-----|--------------|--|--|---|--|--|---|--|
| 7 | F.H. LAUSHER | Nominated - Anna Maria Elizabeth Sevensler | Yes However, only the Civil Engineering Certificate is certified. | 1. B.Sc. B.Eng.(Civil) at Stellenbosch University 2. Registered as a Professional Engineer (Pr.Eng) with ECSA - Reg.No:770178 | From 1971 to 1972 1. S.A. Railways as Assistant Engineer From 1973 to 1974 2. Western Industries (Pty) Ltd as Project Engineer in charge of all Civil Engineering From 1974 to 2002 3. S.A. National Parks as Construction Engineer at Kruger National Park 4. S.A. National Parks as Chief Construction Engineer at Kruger National Park 5. S.A. National Parks as General Manager/ Technical Services at Kruger National Park 6. S.A. National Parks as Head: Project Development and Management at Kruger National Park 7. SANParks Contract expired and hired as special Adviser to Director of the Kruger National Park From 2003 to 2006 8. Established own Company: FHL Project Management From 2006 to 2011 9. Assisted Buckridge Local Municipality through the Siyenza Manje Programme of DBSA. 10. Assisted Cape Agulhas Local Municipality as well as Overberg District Municipality through the Siyenza Manje Programme of DBSA 11. Consulting engineer at the Department of Local Government From 2015 to 2019 12. Private capacity: Assisting Theewaterskloof Local Municipality as Consulting Engineer From 2020 to 2021 13. Chief Engineer at Overberg District Municipality | No The candidate does not meet the requirement of having a minimum of 7 years experience within the spatial planning, land use management, land development or related profession. The candidate did however indicate that he does meet the minimum requirement. | Yes The candidate is practising as an engineer on a freelance basis within the Overstrand Municipal Area. | The candidate does not comply. The candidate does not have experience in the spatial planning, land use management, land development or law related profession. The engineers experience is not necessary planning and law related. |
| 8 | M. AUSTIN | Self-nominated | Yes However, only Masters in agriculture is attached and certified. | 1. Bachelors Sc. Agr (Production) at University of Natal 2. Masters Sc. Agri (Pasture Science) at University of Natal 3. Project Management Course at UCT 4. Introduction to Landscaping 6. Online university courses on climate change, risk management and environmental issues | From 1974 - 1977 1. Willowbrook farm manager From 1977 2. worked on Kibbutz in Israel for 3 months From 1978 3. Farm manager of Thorne Estates From 1980 4. Land Use Planning lecturer during Masters at University of Natal From 1981 to 1988 5. Lecturer and researcher in Agriculture at University of Fort Hare From 1989 6. Consultant (Contract Research) at university of Fort Hare From 1989 to 2018 7. Started building and renovating company From 2017 to present 8. Started Greenheart Projects (an environmental, land use and building projects management company). | Yes The candidate started a company dealing with environmental, land use and building project management. The owner therefore has the relevant experience in the land development profession. | Yes The candidate has only qualification in agriculture is attached and certified. The candidate development started in Harmanus. | The candidate does comply. However, only qualification in agriculture is attached and certified. |