

BERGRIVIER MUNISIPALITEIT / MUNICIPALITY

VISIE:

Bergrivier: 'n vooruitstrewende gemeenskap waar almal wil leef, werk, leer en speel op 'n menswaardige manier.

VISION:

Bergrivier: a prosperous community where all want to live, work, learn and play in



KERN WAARDES / CORE VALUES

We are all part of Bergrivier Municipality.
We render good services to ensure dignified living to all.
We are unashamedly pro-poor.
We believe in close innovative partnerships.
We believe in social and economic development of our area.
We care about our work and our colleagues.
We are disciplined.
We believe in good relationships.
We serve with pride.

MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON TUESDAY, 18 FEBRUARY 2025 AT 11:00 ON MS TEAMS, AN ELECTRONIC PLATFORM.

PRESENT

MEMBERS

Municipal Manager (Adv. H Linde: Chairperson)
Director: Corporate Services (Mr JWA Kotzee: Vice-Chairperson)
Director: Technical Services (Mr D van Turha)
Manager: Expenditure, SCM and Assets (Mrs N Bothma)
External Member (Ms D Kotze)
External Member (Mr J de Jongh)

OFFICIALS

Town & Regional Planner (East) (Mr K Abrahams)
Administrative Officer (Mr S Lombard)

ACTION

PTN001/02/2025

OPENING AND WELCOME

The Chairperson opened and welcomed everyone to the meeting.

PTN002/02/2025

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

Manager: Town Planning & Environmental Management (Mr W Wagener) - Sick leave.

PTN003/02/2025

DECLARATION OF INTEREST IN ACCORDANCE WITH SCHEDULE 1: CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

3/3/1/6

All members of the Municipal Planning Tribunal present declared that they have no personal interest with regards to the item on the agenda in terms of Schedule 1 of the Code of Conduct of Tribunal Members. Mr J de Jongh declared an interest in item PTN008, as he commented/provided inputs on the item in his capacity as Provincial Official.



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PTN004/02/2025
COMMUNICATION BY THE CHAIRPERSON

3/3/1/6

None.

PTN005/02/2025

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: THURSDAY, 14 NOVEMBER 2024

3/3/2/2

That the minutes of the Municipal Planning Tribunal meeting held on Thursday, 14 November 2024 be confirmed.



ADMINISTRATIVE OFFICER

PTN006/02/2025
APPLICATION FOR CONSOLIDATION: ERVEN 3149 AND 3150 PORTERVILLE
PTV. 3149 & 3150

The Town & Regional Planner (East) gave a brief summary to the item under discussion.

RESOLUTION: CONDITIONALLY APPROVED

- 1) That the application made in terms of section 15 of Bergrivier Municipality: By-Law on Municipal Land Use Planning for consolidation of Erven 3149 & 3150, Porterville in order to create a newly consolidated property of ±393m² in extent for residential purposes, **be approved**, in terms of section 60 of the Bergrivier Municipality: By-Law on Municipal Land Use Planning, subject to the following conditions:
 - a) After consolidation the services connection to one of the land units must be disconnected or upgraded as only one connection per erf is allowed; and
 - b) Expansion of the existing town house must still comply with/promote the harmonious architecture of the Lemoenkloof town house development.

TOWN PLANNER (EAST)

REASONS FOR RESOLUTION

• **Bergrivier Municipality Spatial Development Framework 2024-2029**

The Bergrivier Municipality Spatial Development Framework (BMSDF 2024-2029). Erven 3149 & 3150, Porterville which is located in Zone C, a medium to low density residential area with supporting amenities. Opportunities for residential development along the periphery of the zone.” The zoning of the property will remain the same after consolidation which do not give rise to circumstances inconsistent with the BMSDF 2024-2029.

• **Consideration of objections, applicant’s response thereto and evaluation thereof.**

Erven in Lemoenkloof Estate range in size between 157m² to 310m². The size of the consolidated property ±393m² is still reasonably in keeping with other



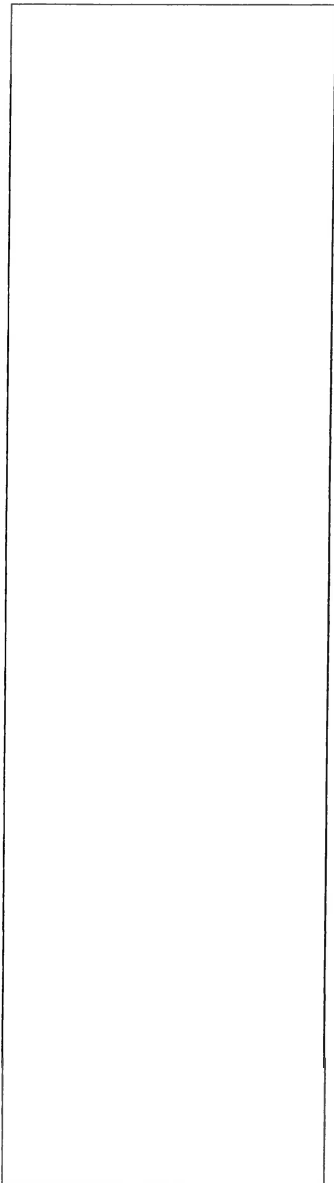
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larger erven in Lemoenkloof Estate in accordance with registered General Plan 3887/2005. The zoning of the properties will remain the same after consolidation. In terms of the Bergrivier Municipality Integrated Zoning Scheme By-law the land use description of Town Housing is ***“town housing” means a row or group of linked or attached dwelling units, planned, designed and built as a harmonious architectural entity of which every dwelling unit has a ground floor and which dwelling units may be cadastrally subdivided.*”**

No departure may be granted from a land use description in a zoning scheme. The maximum coverage for all buildings on a town housing land unit is 60%. Furthermore, no building plans can be submitted to the Municipality for consideration prior to confirmation of the Homeowners Association that proposed building plans are in accordance with their architectural guidelines. It is therefore submitted that with the statutory matters and guidelines in place that proposed development or extension of a town housing on a consolidated property will be in keeping with the architectural uniformity of Lemoenkloof Estate.

The Municipality will not consider an application for consolidation without the input or providing reasonable opportunity for comment from the Lemoenkloof Homeowners Association. Every consolidation application is considered on its own merit.

Rates and property taxes will still be payable to the Municipality on the consolidated land unit in accordance with Municipal approved budget tariffs according to the valuation category of the property. The impact on Municipal property rates and service fee income collection is regarded minimal since undeveloped erven only pay property tax for the vacant property and service availability fees. The Homeowners association also confirmed in their annual meeting that the consolidated property will be charged double for levies payable to the Homeowners association, however this is an internal matter of the estate.



PTN007/02/2025

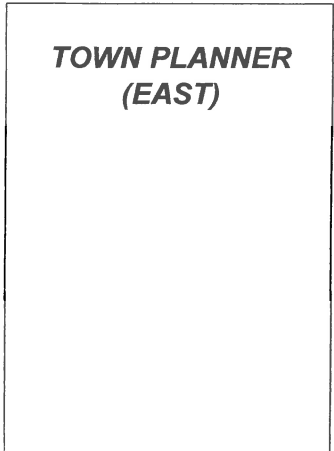
APPLICATION FOR REZONING AND PERMANENT DEPARTURE: ERF 1779, PORTERVILLE PTV. 1779

The Town & Regional Planner (East) gave a brief summary to the item under discussion.

RESOLUTION: CONDITIONALLY APPROVED

That the application made in terms of section 15 of Bergrivier Municipality By-Law on Municipal Land Use Planning for the rezoning of Erf 1779, Porterville from Single Residential Zone 1 (Dwelling House) to General Residential Zone 3 (Town Housing) in order to allow the conversion of the approved dwelling house and outbuildings into seven town housing units and permanent departure of the street building line applicable to town housing from 5m to 3m in order to accommodate an existing approved covered stoep, **be approved**, reasonable in accordance with the site plan submitted with the application (drawn by H Godden, dated 17 May 2024) in terms of section 60 of Bergrivier Municipality By-law on Municipal Land Use Planning, subject to the following conditions:

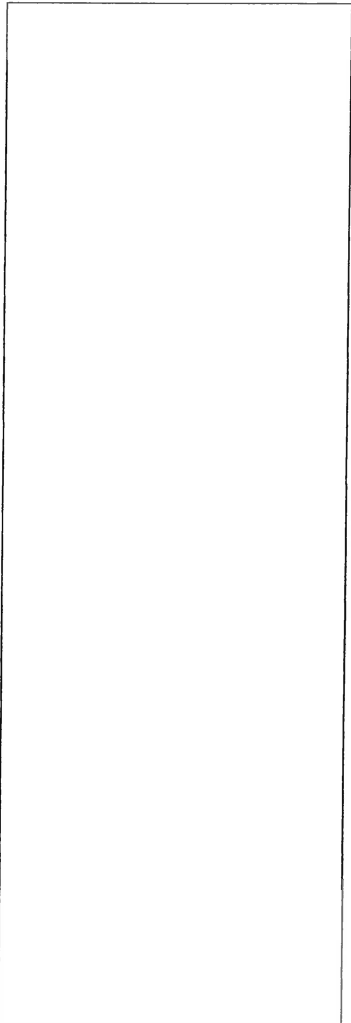
**TOWN PLANNER
(EAST)**





MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON TUESDAY, 18 FEBRUARY 2025 AT 11:00 ON MS TEAMS, AN ELECTRONIC PLATFORM.

1. Bulk Service Contributions, as predetermined in the Municipal Budget, be paid for each additional unit created. In addition to this the developer will be responsible for the provision and upgrading of all service infrastructure required as a result of additional burden created by the development, as negotiated and agreed upon between the developer and the Municipality's Directorate: Technical Services by means of a Services Level Agreement (SLA);
2. Distribution of municipal services on the property to the respective town housing units will be for the account of the owner(s)/developer;
3. All buildings and structures must be designed and built as a harmonious architectural entity;
4. 14 Off-street (on-site) parking bays must be clearly marked out on the property;
5. The town housing units is restricted to single storey;
6. The owner(s) must exercise control over the tenants on the property, to ensure that activities do not occur which is in conflict with Bergrivier Municipality By-law Relating to The Prevention of Public Nuisances and Public Nuisances Arising from the Keeping of Animals;
7. Compliance with all other development parameters as provided in the zoning scheme by-law; and
8. Amended building plans must be submitted to this Municipality for consideration in terms of National Building Regulations and Building Standards Act, 1977 as amended and that the sewerage connection/redistribution thereof on site under the existing structure be addressed with the final building plans submission.



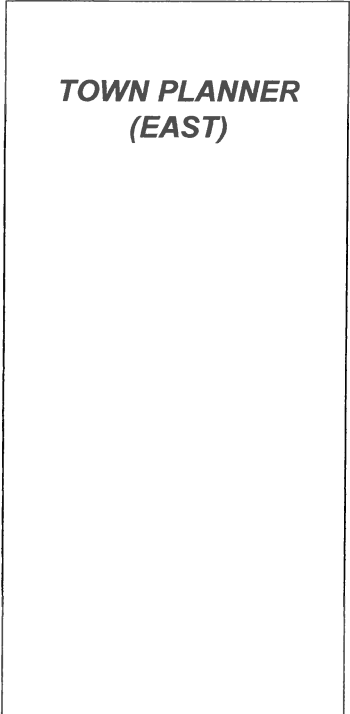
REASONS FOR RESOLUTION

Section 65 (i) of Bergrivier Municipality By-law on Municipal Land Use Planning requires consideration of the integrated development plan, including the municipal spatial development framework:

The property is in Zone D which "has been identified as the town's CBD and allows for future business expansion. Strengthen the area as the business core of the town and allow for various mixed uses within the identified mixed-use precincts." Medium residential development is also encouraged within Zone D in accordance with the envisioned future of the Bergrivier Municipality Spatial Development Framework 2024-2029. The property is furthermore also located on the activity street and a portion thereof falls within the Central Business District of Porterville. It is therefore submitted that the proposed application for medium density town housing units is consistent with Bergrivier Municipality Spatial Development Framework 2024-2029 (BMSFD).

Relevant consideration were given to the development principles of Spatial Sustainability and Spatial efficiency as prescribed in terms of Chapter VI of the Land Use Planning Act, 2014.

- The property is located along Voortrekker Street (activity street). The proposal contributes to restructuring Porterville lower density residential area, by promoting medium density housing opportunities at a



**TOWN PLANNER
(EAST)**



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sustainable location, which can provide affordable rental opportunities to any person who wish to stay in this part of town. The property is located in close proximity to the Central Business District (supporting services/facilities (where spatial transformation should occur, the application contribute to integration by means of affordable residential opportunities. The application has some contribution to new spatial norms and is considered acceptable and sustainable within its location.

- The technical department of Bergrivier Municipality confirmed that services are available to the property, but any additional services required as a result of the proposed utilisation will be for the account of the developer/owner at own expense to ensure that the application has no financial burden on the municipality or other taxpayers. The development is efficiently proposed in an area where municipal services is available and can be accommodated.

Section 65 (s) of the Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the provisions of the applicable zoning scheme.

- General Residential Zone 3 (objective as provided in Bergrivier Municipality Integrated Zoning Scheme By-law) states:

The objective of this zone is to encourage residential development of a greater density than for General Residential Zone II, while retaining the emphasis on design coordination and a modest scale in terms of height. This zone has particular location requirements, such as proximity to transport and amenities, and should not be randomly located without due consideration of the availability of open space and community facilities. Town housing may be in and around central business areas, near high density nodes and along activity axis such as railway lines and main traffic routes, where flats are often found.

- The seven dwelling units is uniform in architectural style and character as well as located along Voortrekker Street (activity street/axis/main road) and in close proximity to the Central Business District of Porterville which is consistent with the abovementioned objective. The existing approved dwelling house's covered stoep encroach the 5m street building line to 3m, which is an historical approved encroachment, and the departure applied for will have no further impact on the streetscape. The proposal can furthermore comply with all other development parameters under General Residential Zone 3 (Town Housing), and conditions is imposed to ensure this.

Section 65 (d) & (e) of the Bergrivier Municipality By-law on Municipal Land Use Planning requires consideration of the comments in response to the notice of the application, including comments received from organs of state, municipal departments as well as response by the applicant, if any, to the comments referred to in paragraph (d);

- Building plans was submitted and approved for a interleading dwelling house and second dwelling unit not exceeding 60m² in extent in terms of the National Building Regulations and Building Standards Act , 1977 as



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amended on 18 January 2023. The approved dwelling house and second dwelling unit also complied with the provisions of the zoning scheme by-law for single residential properties. No public participation process was therefore triggered by aforesaid building plan.

- Non-compliance notices were served on the property owners by building control to stop the unauthorised building work on 13 April 2023 in terms of Article A25 of the National Building Regulations and Building Standards Act (Act no. 103 of 1977) as a result of deviating from an approved building plans without the approval of the local authority. The non-compliance aspects is still a subject of further legal proceedings in terms of law by the Municipality and no further information can't be given at this stage.
- This land use planning application were advertised in the Weslander, Municipal Notice boards and Municipal Website on 18 July 2024. Notices were also served on surrounding affected property owners for comment and objections, of which four written representations were received. Public participations were therefore conducted in accordance with the provisions (section 45 & 46) of Bergrivier Municipality By-law on Municipal Land Use Planning for this land use planning application, which is considered sufficient for this application.
- A land use planning application must be processed and considered in terms of land use planning law. A Municipality may therefore not delay a land use planning application because of non-compliance with the National Building Regulations and Building Standards Act, 1977 (parallel legislation). Section 40(7) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states that a Municipality may not approve a land use application, subject to a condition that approval in terms of other legislation is required.
- The Technical Departments (Civil & Electrical Services) did not object to the application subject to conditions. The electrical & civil services departments would have indicated that the current infrastructure supply is not sufficient or can't be accommodated within available resources in their comment if the development could not be accommodated.
- Traffic services department and the Department of Infrastructure, confirmed upon inspection that there are no objections against the application. Sufficient space is also available for off-street parking on the premises. Bergrivier Municipality is the road authority for this portion of Voortrekker Street.
- The Western Cape Government: Department of Infrastructure has no objection to the application.
- Erf 1779, Porterville is enclosed by existing 1.5m high vibrecrete fencing on the west and south. The northern boundary is enclosed by a 1.8m high vibrecrete wall and street boundary with a 1.8m high boundary wall. Four dwelling units (numbered 1 to 4) windows/doors fronts onto the water channel and to the inside of Erf 1779, Porterville, while the existing larger dwelling unit faces Voortrekker Street. The other two dwelling units (6 &



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7) front Erf 1777, Porterville to the rear, but is constructed 3m from the boundary. The privacy of the objectors of erven 1774 and 1780, Porterville is already mitigated through these measures.

- Behavioural characteristics of possible tenants should be controlled by the owner(s) or homeowners' association in terms of the Sectionals title Act in the event that dwelling units is alienated separately. Any property owner must ensure that activities do not occur which conflicts with Bergrivier Municipality By-law Relating to The Prevention of Public Nuisances and Public Nuisances Arising from the Keeping of Animals.
- The objectors' properties are also situated along and near the retail/node (Voortrekker Street) the main transport route of the town where businesses also exist. Noise and disturbances are generally experienced with high volume traffic along main retail nodes where businesses are established. Similar medium density developments have occurred along Voortrekker Street (main road) and CBD where housing/residential opportunities is located in close proximity to support services/facilities.
- Controlled access to and from the property is already in place on-site to ensure that the property is not easily assessable to unauthorized persons/workers/visitors.
- Section 7(a) (vi) of SPLUMA states that the Municipal Planning Tribunal/Competent Authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application. The seven dwelling units is uniform in architectural style and character as well as located along Voortrekker Street (activity street/axis/main road) and near the Central Business District of Porterville which is consistent with the objective of General Residential Zone 3.
- The surrounding area is characterised by low density residential properties. The area and larger properties along Voortrekker Street have been earmarked for infill opportunities to allow medium density residential developments. Similar rezoning has occurred in Voortrekker Street (main road) because of limited housing stock/residential opportunities in Porterville. The proposed dwelling unit is similar in architecture and style which give a visual indication of uniformity. The application is therefore visually compatible with the immediate surroundings.
- The proposed rezoning will provide an economic and investment opportunity to the property owners and rental opportunities to potential tenants improving the social well-being providing an additional residential opportunity where limited housing stock is available near support services/facilities (CBD), saving possible tenants time and money to travel elsewhere. The location of the property in proximity to the Central Business District of town and main road is regarded sustainable and the residential opportunities will promote integration.

The Chairperson left the meeting at 11:44 due to lack of network connectivity and asks the Vice- Chairperson to continue to lead the meeting as Chairperson.



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Mr J De Jongh leaves the meeting at 12:12 before item PTN008 is discussed.

PTN008/02/2025

APPLICATION FOR REZONING AND CONSENT USE: PORTION 25 OF FARM GROOTE EYLANDS VALLEY NO. 156, DIVISION PIKETBERG

F. 156/25

The Town & Regional Planner (East) gave a brief summary to the item under discussion.

RESOLUTION: BE REFUSED

That the application is made in terms of section 15 of Bergrivier Municipality By-Law on Municipal Land Use Planning for rezoning of a Portion (±5400m² in extent) of portion 25 of Farm Groote Eylands Valley no. 156, division Piketberg from Agriculture Zone 1 (agriculture) to Business Zone 2 (shop) as well as consent use in order to allow a service station (storage and selling of fuel) on the rezoned portion, **be refused**, in terms of section 60 of Bergrivier Municipality By-Law on Municipal Land Use Planning for the reasons provided in the reasons for resolution.

REASONS FOR RESOLUTION

The application is regarded inconsistent with the Bergrivier Municipality Spatial Development Framework 2024-2029 (page 177) and Western Cape Land Use Planning Guidelines for Rural Areas March 2019 (pages 56 - 57) for the following reasons:

- The area is not earmarked as business node neither does the BMSDF support the creation of additional business nodes at the current location considering the envisioned rural proposals of the BMSDF 2024-2029.
- Service station means the retail supply of fuel within a rural area (including washing of vehicles, a convenience shop and a restaurant) which is available to the public on business zoned property which is not directly related to the primary land use or surrounding primary agricultural activities (The sale of fuel for heavy vehicles/trucks associated with the primary activities of an i.e. agricultural industry (silos) for exclusive use is regarded ancillary or related). The previous MSDF 2019-2024 contained similar rural land use management guidelines.
- Ad hoc rezoning and business development (service station) of agricultural property in a rural setting can potentially erode the rural areas character and rural social structure ±13km from existing service station in an urban area (Piketberg). The current proposal does not take into account sustainable locations or prominent transport intersections links for business expansion.
- Western Cape Land Use Planning Guidelines for Rural Areas March 2019 states that “non-place-bound businesses (businesses not ancillary to agriculture or serving rural needs), should be located within urban areas and should only be considered in the rural area when exceptional cases and locational factors warrant such a land use. Examples include a petrol station. The proposed application is inconsistent with aforesaid rural guideline since a service station is not regarded an ancillary land use.

**TOWN PLANNER
(EAST)**



Consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

- Ad hoc rezoning and business development of agricultural property in a rural setting can potentially erode the rural areas character and rural social structure. The current proposal does not take into account sustainable locations for business expansion as provided in planning policy in the BMSDF 2024-2029.
- The proposed development is not suitable to integrate with the rural area without adversely affecting the amenity of the rural community, since business development is not regarded an ancillary of related land use that will support or supplement the immediate agricultural surroundings. By allowing the proposed land use change will enable urban functions/urban land development infringing into rural areas, and in so doing will not result in the efficient functioning of the immediate rural area.
- The proposed rezoning of the property at an ad hoc location does not strengthen any of the already existing commercial nodes earmarked for expansion within Bergrivier Municipality. The current proposal does not consider spatially sustainable locations for business/retail expansion in terms of spatial policy.

The proposed application is inconsistent with the development principle of spatial sustainability and efficiency by supporting the goals of the BMSDF 2024-2029.

Bergrivier Municipality Integrated Zoning Scheme By-law.

- The site development plan did not address matters pertaining to risk management of fuel pumps and fuel storage areas, screening and minimising any visual intrusion or operational disturbance with adjoining properties. Even though final detail of the development is not known by the applicant as stated in their response to objections certain development parameters must have been included and addressed with submission of the application, as stated in the development parameters for service station.

The need and desirability of the proposal

- The proposed development is not proposed at a business node and allowing the proposed land use will negatively impact on the social well-being of the adjacent property owners since retail facilities within rural areas can result in a negative impact on safety, security and the ability to enjoy rural surrounding area , which will detract from the rural character, since unfamiliar passing visitors/motorist will make use of the proposed service station.
- If it was the exclusive purpose of the owner to establish a fuel tank for the silo trucks at Pools, it would have been a related land use to strengthen the agricultural industry and a rezoning/consent application would not have been required. The need for the retail supply of fuel to surrounding farmers about ±13km from the nearest service station (Piketberg) was not established by immediate surrounding property owners and residents living in the immediate



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area, as submitted within the objections. It is therefore submitted that the proposed application is for passing heavy vehicles/trucks and not as stated by the applicant. The establishment of a service station at this position is not desirable and alternative sustainable/ prominent transport intersection links could have been explored.

**TOWN PLANNER
(EAST)**

- The intersection between the N7 and divisional road 2165 is used as pick up/drop-off area for leaners. The traffic safety concerns between pedestrians (leaners) and increased heavy vehicles during peak times to the facility for primary use and secondary for public use, is not adequately addressed and remains a safety concern to surrounding property owners.
- Additional 20 trucks to the service station might vary and can't be guaranteed at a service station since it may increase at any day, and allowing such development is usually characterised as a land use that attract relatively large numbers of customers (considering the land uses that is allowed under service station such as washing of vehicles, a convenience shop and a restaurant) which will bring unfamiliar persons into the immediate vicinity of rural dwellers, which has the potential to result in an unsafe living environment affecting the social well-being of the rural community.
- Matters related to risk management of fuel pumps and fuel storage areas, screening and minimising any visual intrusion or operational disturbance with adjoining properties can't be determined or evaluated since it was not included with submission of the application and sufficient opportunity was allowed for the applicant to address these aspects.
- The need for service station could not be illustrated by the applicant and the immediate surrounding property owners do not support a service station since service stations/fuel filling facilities are already established in Piketberg (±13km) on a sustainable intersection (N7 national road and R44 provincial.)

PTN009/02/2025

DATE OF NEXT MEETING

The next Municipal Planning Tribunal meeting will be held on **Thursday, 20 March 2025 at 11:00** on an Electronic Platform.

**ADMINISTRATIVE
OFFICER**

NOTED

**THE MEETING ADJOURNED AT 12:20
CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**



CHAIRPERSON



DATE