



**Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni**

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## **MOSSEL BAY MUNICIPALITY**

### **NOTICE FOR EDEN JOINT MUNICIPAL PLANNING TRIBUNAL**

Notice is hereby given that the following Municipalities in the Garden Route Region District have, in terms of Section 34(1) of the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013) and the relevant corresponding provisions in the applicable By-Laws on Land Use Management in the respective participating Municipalities, agreed to the establishment of a Joint Municipal Planning Tribunal for the Garden Route Region (Eden JMPT) to determine land development and land use applications:

- a) George Municipality (WC 044)
- b) Hessequa Municipality (WC 042)
- c) Kannaland Municipality (WC 041)
- d) Oudtshoorn Municipality (WC 045)
- e) Mossel Bay Municipality (WC043)

Notice is further hereby in terms of Section 34(3) of the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013) of the following Memorandum of Agreement (MOA) that was consequently concluded and adopted by the participating Municipalities for the establishment of such Eden JMPT:

## **MEMORANDUM OF AGREEMENT**

### **FOR A JOINT MUNICIPAL PLANNING TRIBUNAL FOR THE EDEN REGION**

Concluded by and between:

- a) **GEORGE MUNICIPALITY** (WC 044)

Herein represented by Mr T Botha as the duly authorised person in his/her capacity as Municipal Manager from such Municipality;

AND

- b) **HESSEQUA MUNICIPALITY** (WC 042)

Herein represented by Mr J Jacobs as the duly authorised person in his/her capacity as Municipal Manager from such Municipality;

AND

- c) **KANNALAND MUNICIPALITY** (WC 041)

Herein represented by Mr S Renaults as the duly authorised person in his/her capacity as Municipal Manager from such Municipality;

AND

**d) OUDTSHOORN MUNICIPALITY (WC 045)**

Herein represented by Mr G de Jager as the duly authorised person in his/her capacity as Municipal Manager from such Municipality;

**e) MOSSEL BAY MUNICIPALITY (WC 043)**

Herein represented by Adv T Giliomee as the duly authorised person in his/her capacity as Municipal Manager from such Municipality;

WHEREAS the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013) makes provision in section 34(1) for the establishment of a Joint Municipal Planning Tribunal to determine land development and land use applications;

AND WHEREAS the Parties have undertaken an assessment as contemplated in regulation 2 of the Regulations No R 239 of 23 March 2015;

AND WHEREAS the Parties are desirous to conclude an agreement to establish a Joint Municipal Planning Tribunal to jointly consider and decide the land development and land use applications submitted to their respective Municipalities.

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

**PART 1**

**INTRODUCTORY PROVISIONS**

**1. Definitions and interpretation**

The headings of the clauses in this Memorandum of Agreement, hereafter referred to as "the Agreement", are for the purposes of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.

In this Agreement, unless a contrary intention clearly appears:

**1.1 Words importing-**

1.1.1 any one gender includes the other gender;

1.1.2 the singular includes the plural and vice versa; and

1.1.3 natural persons include created entities (corporate or non-corporate) and vice versa.

1.2 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as

if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

- 1.3 When any number of days is prescribed in this Agreement, it shall be reckoned exclusively of the first and inclusively of the last day.
- 1.4 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:
  - 1.4.1 “**commencement date**” means the date of publication of the relevant notice irrespective of the date of signature hereof;
  - 1.4.2 “**external member**” means a person appointed in terms of section 36(1)(b) of the Act as a member of the Joint Municipal Planning Tribunal.
  - 1.4.3 “**internal member**” means an official of a Municipality authorised by the municipality in terms of section 36(1) (a) of the Act as a member of the Joint Municipal Planning Tribunal.
  - 1.4.4 “**notice**” means a written notice;
  - 1.4.5 “**Parties**” mean the parties to this Agreement identified herein;
  - 1.4.6 “**registered planner**” means a professional or technical planner registered in terms of the Planning Profession Act, 2002 (Act 36 of 2002),
  - 1.4.7 “**the Act**” means the Spatial Planning and Land Use Management Act, 16 of 2013 and the Regulations issued thereunder;
  - 1.4.8 “**the Regulations**” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, No. R.239 of 23 March 2015;
  - 1.4.9 “**this MOA**” means the subject Memorandum of Agreement duly signed by all authorised persons representing the participating Municipalities in the Garden Route Region Joint Municipal Planning Tribunal.
  - 1.4.10 “**the designated Municipal Manager**” means that Municipal Manager who represents that municipality to whom the Chairpersonship of the Garden Route Region Joint Municipal Planning Tribunal has been assigned for that period in accordance with the provisions of this Agreement.

## **PART 2**

### **INSTITUTION OF JOINT MUNICIPAL PLANNING TRIBUNAL**

#### **2. Type of Municipal Planning Tribunal and purpose**

This Memorandum of Agreement (MOA) makes provision for a Joint Municipal Planning Tribunal (JMPT) for participating local Municipalities within the Garden Route Region District as provided for in Section 34(1) of the Act, hereafter referred to as the “*Eden JMPT*”.

The main purpose of the Eden JMPT is to provide for a pool of suitably qualified planners to serve as a credible independent and professional authority to responsibly consider and decide the land development and land use applications submitted by the participating Municipalities.

#### **3. Criteria for participating Municipalities**

The criteria for Local Municipalities to participate in the Eden JMPT are:

- a) Council Resolution to participate in JMPT;
- b) Adoption of the Memorandum of Agreement;
- c) Adoption of a Land Use Planning By-Law;
- d) Must have a functional Zoning Scheme;
- e) Sufficient capacity to administer the Land Use Planning Process;
- f) Registered Planner(s) in terms of the Planning Profession Act, 2002 (Act No 36 of 2002) to evaluate the Land Use Applications or have an agreement in place with a service provider for such evaluation of Land Use Applications by a Registered Planner;
- g) The fulfilment of any other criteria in terms of this Agreement.

#### **4. Participating Municipalities**

The signatory Municipalities will be party to the Eden JMPT.

#### **5. Duration**

- 5.1 This Agreement commences on the commencement date.
- 5.2 The term for the Eden JMPT will be a total period of 5 years after which the participating Municipalities must review this MOA and participation in the Eden JMPT.

- 5.3 This Agreement shall otherwise terminate on the date that the term of office of the members of the Joint Municipal Planning Tribunal expires.
- 6. Conditions and rules for withdrawal of participation from or winding up of operation of JMPT**
- 6.1 When any Municipality wants to withdraw from the Eden JMPT, the provisions of the Regulations will apply
- 6.2 The Eden JMPT will wind up when so many of the participating Municipalities withdraw from the Agreement that it is neither viable nor feasible for the remaining participating Municipalities to continue with such JMPT.
- 7. Publication of notice**

When the Eden JMPT is ready to commence operations, the designated Municipal Manager shall publish the Notice referred to in Section 37(4) of the Act.

### **PART 3**

#### **COMPOSITION AND APPOINTMENT OF TRIBUNAL MEMBERS**

**8. Internal Members**

The internal members of the JMPT will consist of such full-time officials as nominated by the respective participating Municipalities in accordance with the terms and conditions for such JMPT Members as provided for in this MOA.

**9. Appointment of internal JMPT members**

- 9.1 Each participating Municipality must nominate members who are officials in the full-time employ of the Parties and qualify to serve on the JMPT.
- 9.2 Each Municipality should nominate a number of members to the JMPT appropriate to the capacity of such Municipality.
- 9.3 Each Council should mandate the Municipal Manager to nominate such JMPT Members in order to curb undue delays and ensure uninterrupted service delivery.
- 9.4 Each nomination of a JMPT member should be accompanied by a Curriculum Vitae in the format attached as Annexure "A" to this agreement, together with certified copies of the member's academic qualifications and professional registration.

- 9.5 The Parties shall, where applicable, review and amend the contracts of service of the officials designated to serve on the Joint Municipal Planning Tribunal.
- 9.6 The designated Municipal Manager must review the nominations from each Municipality and certify that each such nominee qualifies to serve as a Tribunal Member.
- 9.7 The designated Municipal Manager must accordingly include such tribunal members to serve on the Eden Joint Municipal Planning Tribunal in Schedule 1 to this Agreement and duly inform the Chairperson and other parties, as well as publish the names of such members, as required by the regulations.
- 9.8 Should any officials be added or removed from the Eden Joint Municipal Planning Tribunal in accordance with the provisions of this agreement, the designated Municipal Manager should amend Schedule 1 accordingly and duly inform the Chairperson and other parties, as well as publish the name(s) of such member(s), as required by the regulations.

## **10. External Members**

- 10.1 The external members of the JMPT will consist of nominated full-time officials in accordance with the terms and conditions for such JMPT members as provided for in this agreement, from the Department of Environmental Affairs and Development Planning of the Western Cape Government (DEADP).
- 10.2 If the external membership from DEADP is insufficient to serve in the needs of the Eden JMPT, additional external members may also be elected from:
  - a) Any non-participating Local or District Municipality;
  - b) The South African Local Government Association;
  - c) The Department of Rural Development and Land Reform;
  - d) Private Professional Registered Town Planner in terms of the Planning Professionals Act, Act 36 of 2002.
  - e) Any other nominations as provided for in the regulations.

## **11. Appointment of external JMPT members**

- 11.1 The designated Municipal Manager must issue an invitation for nominations for external members to serve on the Eden JMPT in the

manner and form provided for in the Regulations and/or respective Municipal Land Use Planning By-Law(s).

- 11.2 The Designated Municipal Manager must constitute a Joint Evaluation Panel from the Heads of Planning of the respective parties to evaluate all nominations received.
- 11.3 The Joint Evaluation Panel of the Parties shall evaluate all nominations received and make recommendations to the designated Municipal Manager.
- 11.4 The designated Municipal Manager shall evaluate the recommendations of the Joint Evaluation Panel and appoint such persons who qualify for appointment as members of the Joint Municipal Planning Tribunal subject to all the terms and conditions of appointment to and serving on the Joint Municipal Planning Tribunal referred to in the Act and the Regulations.
- 11.5 The designated Municipal Manager shall inform the successful nominees of their appointment to the Joint Municipal Planning Tribunal.

#### **PART 4**

##### **TERMS AND CONDITIONS OF TRIBUNAL MEMBERS**

#### **12. Norms and standards for the terms and conditions of service of members of Joint Municipal Planning Tribunal**

- 12.1 An internal member of the Joint Municipal Planning Tribunal-
  - (a) may only serve as member of the Joint 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 Joint Municipal Planning Tribunal.
- 12.2 An external member of the Joint Municipal Planning Tribunal-
  - (a) is not an employee on the staff establishment of any of the participating Municipalities;
  - (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 Joint Municipal Planning Tribunal;

- (c) performs the specific tasks allocated by the Chairperson of the Joint Municipal Planning Tribunal to him or her for a decision hearing of the Joint Municipal Planning Tribunal;
- (d) sits at such meetings of the Joint Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the Chairperson of the Joint Municipal Planning Tribunal.

### **13. Term of Office for JMPT Members**

The term of office of members of the Joint Municipal Planning Tribunal shall be:

- a) five years calculated from the commencement date of this Agreement; or
- b) when the party represented by a member withdraws from the JMPT; or
- c) when the JMPT winds up.

### **14. Qualifications & Experience for JMPT Members**

- 14.1 All JMPT members must hold a valid qualification in Town and Regional Planning from a tertiary institution recognised by the South African Council for Planners (SACPLAN) in terms of the Planning Profession Act, 2002 (Act No 36 of 2002).
- 14.2 All JMPT members must be registered with the South African Council for Planners (SACPLAN) as a Professional or Technical Planner.
- 14.3 JMPT members must possess an adequate range of knowledge and experience in Spatial Planning, Land Use Management and Land Development or the law related thereto and be in good standing with the profession in general and in particular with the South African Council for Planners (SACPLAN).

### **15. Code of Conduct for JMPT Members**

- 15.1 All the members of the JMPT must adhere to the following code of conduct for members of the Eden JMPT:

#### **General conduct**

- 15.1.1 A member of the Joint Municipal Planning Tribunal must at all times-

- a) act in accordance with the principles of accountability and transparency and with integrity, fidelity and honesty;
- b) discharge their duties with efficiency, professionalism, knowledge, competence, due care and diligence;
- c) apply their knowledge and skill in the interest of humanity, of the public and of the environment and ensure that our natural and cultural environment is taken into consideration in planning decisions;
- d) fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- e) 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;
- f) 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 chairperson of the JMPT has given written approval and has expressly authorised his or her participation.

15.1.2 A member of the Joint Municipal Planning Tribunal may not-

- a) use the position or privileges of a member of the Joint Municipal Planning Tribunal or confidential information obtained as a member of the Joint Municipal Planning Tribunal for personal gain or to improperly benefit another person; or
- b) participate in a decision concerning a matter in which that member or that member's spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

### **Gifts**

15.1.3 A member of the Joint 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**

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

15.2 A member of the Joint Municipal Planning Tribunal must immediately notify the Chairperson in writing if they become aware of any Tribunal Member breaching the code of conduct.

15.3 The non-compliance with the code of conduct by any Tribunal Member is grounds for 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).

15.4 The Chairperson must, when he/she has been notified of a breach of the code of conduct by any Tribunal Member, notify in writing the designated Municipal Manager and the Municipality that nominated such Tribunal Member or such other institution to which an external member is affiliated.

## **16 Remove, recall, replace or adding of a Tribunal Member**

16.1 A Municipality may at any time:

- a) remove or recall a Tribunal Member nominated by such Municipality; and/or
- b) nominate an official to replace an existing Tribunal Member or to add an additional new Tribunal Member.

- 16.2 The designated Municipal Manager may suspend a Tribunal Member if there are reasonable grounds that such member has breached the code of conduct and that the Tribunal Member's continued service on the Tribunal is not in the best interest of the Tribunal.
- 16.3 If a Tribunal Member is suspended, the designated Municipal Manager must notify in writing the Municipal Manager of the Municipality that nominated such Tribunal Member or such other institution to which an external member is affiliated.

## **PART 5**

### **CHAIRPERSON AND DEPUTY CHAIRPERSON**

#### **17. Appointment of Chairperson and Deputy Chairperson**

- 17.1 The JMPT Chairperson and Deputy Chairperson will be appointed on a pre-determined rotational basis from the participating Municipalities, as provided for in this Agreement.
- 17.2 The term of office of the Chairperson and the Deputy Chairperson shall be for a period of one year calculated from the commencement date of this Agreement.
- 17.3 At the end of each term, the serving Deputy Chairperson will automatically succeed as the Chairperson for the next term.
- 17.4 Each Municipality is to nominate a candidate and alternative candidate from the ranks of the Tribunal Members for the position of Chairperson and the Deputy Chairperson of the Joint Municipal Planning Tribunal.
- 17.5 The JMPT Chairperson and Deputy Chairperson must:
- a) be registered as a Professional Planner with the South African Council for Planners (SACPLAN);
  - b) have a minimum of 5 years Town and Regional Planning experience;
  - c) be employed in a senior capacity with proven managerial experience.
- 17.6 The designated Municipal Manager must review the nominations from each Municipality and certify that such nominees qualify to serve as the Chairperson and Deputy Chairperson of the Joint Municipal Planning Tribunal.
- 17.7 The designated Municipal Manager must accordingly include such nominations for the Chairperson and Deputy Chairperson of the Joint

Municipal Planning Tribunal in Schedule 2 to this Agreement and duly inform the other parties.

- 17.8 Should any such nomination be changed by any of the parties, the designated Municipal Manager should amend Schedule 2 accordingly and duly inform the other parties.
- 17.9 If the Chairperson fails to perform the designated duties and functions as required by the Agreement and/or who's conduct is detrimental to the operational efficiency or integrity of the Planning Tribunal, any Tribunal Member, with the secondment of another Tribunal Member, must lodge a complaint of such conduct or failure to perform the duties to the designated Municipal Manager.
- 17.10 The designated Municipal Manager must investigate any complaint received against the Chairperson and if found guilty of unfavourable conduct or failure to perform the duties and functions of a Chairperson, the designated Municipal Manager must remove such Chairperson from office.
- 17.11 When a Chairperson or Deputy Chairperson are dismissed or vacates office for whatever reason, the designated Municipal Manager must cause the appointment of the eligible Chairperson and/or Deputy Chairperson.

## **18. Duties and functions**

- 18.1 In general, the Chairperson is to ensure the efficient and effective functioning of the Joint Municipal Tribunal and in particular to fulfil the functions and duties as provided for in this Agreement including the following:
  - a) Provide and manage an annual schedule of Tribunal Meetings with allocated Tribunal Members in accordance with the provisions of this Agreement;
  - b) Arrange extraordinary Tribunal Meetings as provided for in the Agreement.
  - c) Receive, consider and grant or refuse an application for intervener status in a Tribunal Meeting as provided for.
  - d) On request from a Presiding Officer of a Tribunal Panel, to consult with such Presiding Officer to consider and grant or refuse an application for intervener status in a Tribunal Panel Meeting as provided for.
  - e) Receive, consider and grant or refuse an application for an oral hearing in a Tribunal Meeting as provided for.

- f) On request from a Presiding Officer of a Tribunal Panel, to consult with such Presiding Officer to consider and grant or refuse an application for an oral hearing in a Tribunal Panel meeting as provided for.

**19. Rotational basis for Chairpersons and Deputy Chairpersons**

- 19.1 The rotational and sequential basis for the Chairperson and the Deputy Chairperson for the Planning Tribunal will be as follows:
  - a) Mossel Bay Municipality
  - b) Hessequa Municipality
  - c) George Municipality
  - d) Kannaland Municipality
  - e) Oudtshoorn Municipality
- 19.2 If any of the Municipalities cannot present a suitable candidate for any of such positions during its term of office, the next Municipality in line must take up such term.
- 19.3 Any two Municipalities can, by mutual written Agreement, exchange their designated terms, which agreement must be communicated by such Municipalities to all other participating Municipalities.
- 19.4 The Municipality in whose full-time service the Chairperson and Deputy Chairperson is, shall provide the necessary administrative support to fulfil their functions and duties and manage the Joint Municipal Planning Tribunal and shall be responsible for any other operational requirements of the Joint Municipal Planning Tribunal.

**PART 6**

**OPERATIONAL PROCEDURES**

**20. Applications to be considered and decided by the Joint Municipal Planning Tribunal**

- 20.1 The Joint Municipal Planning Tribunal shall exercise and perform all the powers, duties and functions of a Joint Municipal Planning Tribunal referred to in the Act, the relevant Provincial Legislation and the By-Laws of the Parties.
- 20.2 Each participating Municipality shall, in accordance with the criteria determined in the Regulations, categorise Land Development and Land Use Applications.

- 20.3 The participating Municipalities shall refer such categories of applications determined by them to the Joint Municipal Planning Tribunal.
- 20.4 All Land Development and Land Use Applications submitted to the Planning Tribunal to be considered and decided on, must be accompanied by an Evaluation Report in the format required by the Planning Tribunal and be signed off by a Registered Planner.

## **21. Format of Tribunal Meetings**

- 21.1 The Joint Municipal Planning Tribunal will conduct dedicated Tribunal Panel Meetings in each of the participating Municipalities to dispose of its applications.
- 21.2 Meetings may be conducted by means of direct interface meetings, virtual meetings or in any other practical way as determined by the Municipality and agreed by the Chairperson of the Tribunal Meeting.
- 21.3 Each Municipality must provide the Chairperson with an annual schedule of Tribunal Panel Meetings for the subject Municipality in accordance with which the Chairperson must draft an Annual Program of Tribunal Panel Meetings.
- 21.4 Each participating Municipality is entitled to hold a scheduled monthly panel meeting but may elect to have scheduled bi-monthly or quarterly meetings instead.
- 21.5 Any Municipality may request the Chairperson with an appropriate written motivation to convene an extraordinary Tribunal Panel Meeting in order to dispose of an application on the basis of urgency as it relates to social wellbeing, economic vitality or the integrity of the environment.
- 21.6 When any Municipality puts a request to the Chairperson to consider and decide an application on an urgent basis, the Chairperson may also elect for such extraordinary Agenda to serve at another scheduled Tribunal Panel Meeting at another Municipality.
- 21.7 With the consent of the subject Municipalities, the Chairperson may rule that the Tribunal Panel Meetings for two or more Municipalities, may be combined into a single Tribunal Panel Meeting at a venue to be agreed upon by the parties and with the understanding that each Municipality's separate Agenda will serve at such meeting and that each Municipality will continue to be responsible for all secretariat and administrative duties related to their Agenda.
- 21.8 The Chairperson may elect on his/her own judgement, or on request by a Municipality concerned or any Tribunal Member, to convene the full membership of the JMPT to consider and determine applications which

may warrant such pool of experience and knowledge on the basis of the scale, nature, complexity, impact, or a regional influence of such application(s).

- 21.9 Any meeting of the Tribunal will be open to the general public and each Municipality at which any Tribunal Meeting is convened, must make the necessary provision for the attendance of the general public

## **22. Designation of members to consider and determine an application**

- 22.1 The Chairperson must designate the Tribunal Members for each Tribunal Panel Meeting in accordance with the Annual Schedule for such Tribunal Panel Meetings provided by each participating Municipality.
- 22.3 The minimum number of members for a Tribunal Panel Meeting will be three members of which at least one such member will be an external member.
- 22.4 For each Tribunal Panel Meeting, a standby additional Internal and External Tribunal Member must also be identified which may be called upon by the Chairperson should any of the designated Tribunal Members of a Tribunal Panel Meeting cannot attend the meeting due to unforeseen circumstances.
- 22.5 The Chairperson must ensure an appropriate level of experience and skills for each scheduled Tribunal Panel Meeting.

## **23. Appointment of Tribunal Panel Presiding Officer and duties**

- 23.1 The Chairperson must appoint a Presiding Officer for each Tribunal Panel Meeting from the appointed Tribunal Panel Members.
- 23.2 The Presiding Officer must be a senior official and registered as a Professional Planner with SACPLAN.
- 23.3 On receipt of the Agenda for a Tribunal Panel Meeting, the appointed Presiding Officer shall evaluate the applications on such Agenda and determine and decide if the appointed Tribunal Panel Members have the appropriate knowledge and skills required to consider and determine the applications at hand.
- 23.4 If the Presiding Officer is of the opinion that the knowledge and skills base of the appointed Tribunal Members for a Panel Meeting is insufficient to consider and determine such applications, the Presiding Officer must, in good time, request the Chairperson to assign additional Tribunal Members with appropriate knowledge and experience for such Panel Meeting.



- 23.5 The Chairperson must duly assign such additional Tribunal Members for such scheduled Tribunal Panel Meeting and ensure that such members receive the subject Agenda in good time.
- 23.6 The relevant Presiding Officer must receive, consider and grant or refuse an application for intervener status in a Tribunal Panel Meeting as provided for, or, may elect to approach and refer such application to the Chairperson for a decision.
- 23.7 The relevant Presiding Officer must receive, consider and grant or refuse an application for an oral hearing in a Tribunal Panel Meeting as provided for, or, may elect to approach and refer such application to the Chairperson for a decision.
- 23.8 When an Applicant submits an Appeal against a condition of approval, the appropriate Authorised Official from the relevant Municipality, must decide if the approval can be implemented whilst the Appeal against the condition of approval is being decided on.

## **24. Venue of Tribunal Meetings**

- 24.1 The Tribunal Panel Meetings for each of the participating Municipalities shall be held at the designated venue, or virtually, in each participating Municipality.
- 24.2 Each participating Municipality shall determine a designated venue for its Tribunal Panel Meetings and communicate such venue to the Chairperson and by means of the appropriate Notice for such meetings.
- 24.3 Any meetings of the Joint Municipal Planning Tribunal shall be held at the offices of the Municipality in whose employ the Chairperson is for that particular year or he/she may elect to hold such meeting at the offices of the Municipality in the area of jurisdiction of the subject application that must be considered and determined.
- 24.4 The above will be done in consideration of arrangements as stipulated in Paragraph 21.2.

## **25. Appointment of technical and other advisers**

- 25.1 The Parties shall establish and maintain-
  - a) a database of public sector technical and other advisers; and
  - b) a database of private sector technical and other advisers.

25.2 The Parties shall-

- a) in writing request the employer of an official or employee referred to in Regulation 11(2)(a) to make that official or employee available on an ad hoc basis for technical and other support before that official or employee is placed on the database of public sector technical and other advisers; and
- b) publish an invitation in one newspaper circulating in the municipal areas of the Parties for persons referred to in Regulation 11(2) to be registered on the database of private sector technical and other advisers and may determine conditions for incorporation into that database.

25.3 The Chairperson, on the request of a Tribunal Panel Presiding Officer, may appoint technical and other advisers to assist the Joint Municipal Planning Tribunal or Tribunal Panel per application that it has to consider and determine, if necessary.

25.4 The Chairperson shall first consider appointing an adviser from the database of public sector technical and other advisers and only if there is no such adviser available or no adviser available with the requisite knowledge and skill, shall the Chairperson consider an adviser from the database of private sector technical and other advisers.

25.5 The Municipality for who's benefits such advisor is sourced, is responsible to remunerate that technical or other adviser for services rendered to the Joint Municipal Planning Tribunal, if that adviser is not a public service official.

25.6 If an adviser from the database of private sector technical and other advisers is contemplated for appointment, the Chairperson must first consult with the relevant Municipality on the cost of such appointment.

**26 Site inspection for Tribunal Members**

26.1 No Tribunal Member may conduct an individual Site Inspection for any application to be considered and determined without the prior knowledge of the Chairperson or, where applicable, the relevant Presiding Officer, and may not conduct such individual Site Inspection without the presence of a Town Planner or a designated Town Planning Inspector from the relevant Municipality.

26.2 On request from a Tribunal Member for a Site Inspection for any application to be considered and determined, the Chairperson or where applicable, the relevant Presiding Officer, must contemplate the need for such Site Inspection and accordingly arrange for a Site Inspection where all relevant Tribunal Members are present.

- 26.3 An in-loco Site Inspection may be called by the Chairperson or, where applicable the Presiding Officer, at the commencement or during any stage of any Tribunal Meeting for any application to be considered and decided on at or during such Tribunal Meeting.

## **PART 7**

### **SECRETARIAT AND ADMINISTRATION**

#### **27 Submission and processing of applications**

- 27.1 Each Municipality will be responsible to administer the applications within its own area of jurisdiction as well as providing the necessary secretariat services for a Planning Tribunal where such Agenda is submitted to consider and decide on Land Development and Land Use Applications for the subject Municipality, and includes:
- a) All Land Development and Land Use Applications to be considered and decided on by the JMPT, shall be submitted by an Applicant to the Municipality in whose municipal area the land to which the application relates, is located.
  - b) Every Municipality will keep and administer its own Application Register.
  - c) The Municipality in whose municipal area the land to which the application relates, is located, shall undertake all the required Public Participation Procedures, Intergovernmental Participation Procedures and Internal Procedures, inclusive of the proper Evaluation Report of such Land Development and Land Use Applications.
  - d) Each participating Municipality is responsible to compile and submit for each designated Tribunal Meeting or Panel Meeting, the Agenda with the Items on Land Development and Land Use Applications to be considered and decided on.
  - e) The Agenda must be made available to the Chairman of the Tribunal and the Presiding Officer of the relevant panel at least 14 days before the date of the meeting and must be published by the participating Municipality on its website at least 7 days before the date of the meeting.
  - f) Any request by a Municipality to add a late but urgent Item after the closing of an Agenda for a Tribunal Meeting must be directed to and decided on by the Chairperson, who may grant such request if there are valid urgent reasons and the addition of such late Item to an Agenda will not compromise any rights of any party who may have an interest in such application.

- g) When an application for a late but urgent Item after the closing of an Agenda is considered, the Chairperson may, with the consent of the concerned Municipality, refer such application to another scheduled Panel Meeting for another Municipality.
- h) During the Tribunal Meeting, the subject Municipality is responsible for all secretariat duties and administrative support, inclusive of taking the Minutes for such meeting.
- i) Following a Tribunal Meeting, the subject Municipality is responsible for the finalisation, distribution and record keeping of the Minutes of the meeting.
- j) Following the approval of the Minutes of a meeting, the subject Municipality is responsible to communicate the decisions to all parties concerned.
- k) Each Municipality is responsible to receive process and submit any Appeals against the decisions of the Planning Tribunal to the respective Municipality's Appeal Authority.

## **28 Rules and procedures**

- 28.1 Each Municipality may decide and use their own format of choice for any Records, Minutes, Notices.
- 28.2 The Planning Tribunal must decide on an Agenda format for operational efficiency.
- 28.3 The Planning Tribunal must decide on a standard and quality of the Evaluation Report for Land Development and Land Use Applications to be submitted by the Municipalities to the Planning Tribunal in order to ensure compliance to the related planning laws and facilitate responsible decision making.
- 28.4 Agendas must be formulated electronically and be submitted by means of electronic mail to the Chairperson, Deputy Chairperson and the relevant Tribunal Members at least 14 days prior to the scheduled Tribunal Meeting.
- 28.5 Municipalities must make provision for the electronic recording of proceedings of the Tribunal Meetings.
- 28.6 Municipalities must make provision for access to live Google Earth@ imagery at the Tribunal Meetings to facilitate the evaluation of applications.
- 28.7 Municipalities must ensure that the relevant files for the applications to be decided on are present at the Tribunal Meetings, as well as the SDF, the Land Use Planning By-Law, Zoning Schemes, and any

other relevant Development Plan or Policy applicable to any such applications.

- 28.8 Municipalities must make provision for the electronic capturing of the relevant Decisions into Minutes at the Tribunal Meetings to facilitate final Minutes of such meeting which may be approved and signed off by the present Tribunal Members at the closing of the Tribunal Meeting, after which the relevant Municipality may proceed without delay to communicate same to the relevant parties.
- 28.9 The Tribunal must provide reasons for the decisions they take and which must be included in the Minutes of the meetings.
- 28.10 Each Municipality must give due notice in accordance with legislative provisions and their internal Policy of any Tribunal Meeting at which an Agenda with Land Development and Land Use Applications for such Municipality will serve to be considered and decided on.
- 28.11 The Municipal Managers will be the designated Official from participating Municipalities to inspect the Records and Minutes of the JMPT Operations and Meetings.
- 28.12 Each Municipality is responsible to submit the required Quarterly Report to their Council.

## **PART 8**

### **FUNDING OF OPERATIONAL COST**

#### **29 Funding**

- 29.1 The Parties shall make provision in their respective budgets to fund the cost of proceedings of the Tribunal Meetings convened for their benefit, including any additional cost such as the remuneration of advisors appointed to it and any other necessary operational costs, on an annual basis.
- 29.2 Any unforeseen shared cost that may arise from the Eden JMPT such as the appointment of an independent external member if necessary, must obtain the prior approval from all the parties and will be paid by all parties on the basis as must be agreed upon.
- 29.3 Each Municipality must bear the related cost of the officials assigned to the Tribunal Meeting, irrespective when such Tribunal Member serves on a Tribunal Meeting for another party, and such cost are inclusive of their time, travelling, subsistence and accommodation where applicable.
- 29.4 There will be no transfer of funds between the Parties.

## PART 9

### GENERAL PROVISIONS

#### 30. Assets

30.1 The Eden Joint Municipal Planning Tribunal shall not acquire any assets or incur liabilities and shall not employ any staff.

#### 31. Liaison between the parties

The Parties agree to liaise through the following persons or their successors, duly authorised by the Parties:

- a) George Municipality  
Contact person: Mr T Botha (Municipal Manager)  
Telephone Number: 044 801 9069  
E-Mail: [tbotha@george.gov.za](mailto:tbotha@george.gov.za)
- b) Hessequa Municipality  
Contact person: Mr J Jacobs (Municipal Manager)  
Telephone Number: 028 713 8003  
E-Mail: [mm@hessequa.gov.za](mailto:mm@hessequa.gov.za)
- c) Kannaland Municipality  
Contact person: Barnard (ED Corporate Services)  
Telephone Number: 028 5511023  
E-Mail: [hendrik@kannaland.gov.za](mailto:hendrik@kannaland.gov.za)
- d) Oudtshoorn Municipality  
Contact person: Mr J Eastes  
Telephone Number: 044 203 3981  
E-Mail: [jaco@oudtmun.co.za](mailto:jaco@oudtmun.co.za)
- e) Mossel Bay Municipality  
Contact person: Adv T Giliomee (Municipal Manager)  
Telephone Number: 044 606 5003  
E-Mail: [admin@mosselbay.gov.za](mailto:admin@mosselbay.gov.za)

#### 32. Disputes

32.1 Any dispute which arise between the Parties in connection with the interpretation of or giving effect to this Agreement, shall be resolved amicably through consultation and negotiation.

32.2 Should a dispute remain unresolved, the provisions of the Intergovernmental Relations Framework Act, 13 of 2005 shall apply in the absence of specific dispute resolution measures prescribed by the Act.

**33. Limitation of liability**

Notwithstanding anything contained in this Agreement, the liability of each Municipality shall be limited to-

- (a) an act or omission of the Authorised Official referred to in Section 35(2) of the Act; and
- (b) an act or omission of a member of the Joint Municipal Planning Tribunal.

**34. Entire Agreement**

34.1 This Agreement constitutes the entire Agreement and supersedes any and all previous Agreements regarding this subject matter that may exist between the Parties.

34.2 No representations, either verbal or written, made by either party during the tenure of this Agreement shall be of any force or effect unless agreed to by both Parties, reduced to writing, and annexed hereto, as an addendum.

**35. No waiver**

The failure of either Party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy consequent upon a breach hereof, shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Agreement.

**36. Notices and domicile**

36.1. The Parties choose as their domicilia citandi et executandi the following addresses-

- (a) **GEORGE MUNICIPALITY (WC 044)**

71 York Street  
PO Box 19  
GEORGE  
6530

- (b) **HESSEQUA MUNICIPALITY (WC 042)**

Municipal Buildings  
Van Den Berg Street  
RIVERSDALE  
6670

(c) **KANNALAND MUNICIPALITY (WC 041)**

PO Box 30  
32 Church Street  
LADISMITH  
6655

(d) **OUDTSHOORN MUNICIPALITY (WC 045)**

PO Box 255  
69 Voortrekker Road  
OUDTSHOORN  
6620

(e) **MOSSEL BAY MUNICIPALITY (WC 043)**

101 Marsh Street  
Private bag X29  
MOSSEL BAY  
6500

36.2 Either party hereto shall be entitled from time to time by written Notice to the other party, to vary its domicilium to any other physical address.

36.3 Any Notice required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing and if received or deemed to have been received by the addressee.

36.4 Any Notice given by one party to the other, referred to as the addressee, which-

- (a) is delivered by hand during the normal business hours of the addressee at the addressee's domicile/ium and for which receipt must be signed;
- (b) is posted by prepaid registered post from an address to the addressee at the addressee's domicile/ium for the time being, shall be presumed, until the contrary is proved, to have been received by the addressee on the day after the date of posting.

### **37. Authority**

The Parties confirm that they have the necessary authorisation to sign this Agreement on behalf of the applicable Party.



Notice is also hereby given in terms of Section 37(4) of the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013) that the following persons have been appointed as members of the Eden JMPT:

Internal members in terms of Section 36(1)(a) of the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013):

Mr C Venter	PrPln A/1152/1999
Mr F Krüger	PrPln A/1896/1996
Mr J Roux	PrPln A/05/2007
Ms O le Roux	PrPln A/1431/2011
Mr R le Roux	PrPln A/2669/2018
Mr R Fernandez	PrPln A/2864/2019
Ms D Power	PrPln A/1973/2014
Ms J Fourie	PrPln A/1429/2011
Ms I Huyser	PrPln A/1664/2013
Mr C Petersen	B/8336/2016
Mr H Visser	PrPln A/1233/2002
PJ Louw	PrPln A/1385/2010
WJA van Brakel	PrPln A/2757/2019
BJ Eastes	PrPln A/2541/2017
G Cairncross	Tech Pln B/8378/2017

External Members in terms of Section 36(1)(b) of the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013):

Ms E Vreken	PrPln A/1213/2001
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Notice is further given in terms of Section 37(4) of the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013) that the Eden JMPT will commence its operations on 1 February 2021.

**ADV THYS GILIOMEE**  
**DESIGNATED MUNICIPAL MANAGER**  
**EDEN JOINT MUNICIPAL PLANNING TRIBUNAL**





