

ITEM NUMBER: C 26/10/20

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 6 OCTOBER 2020

MC 09/10/20 UPDATED CATEGORISATION OF APPLICATIONS TO BE DECIDED BY THE MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIALS FOR THE EFFECTIVE ADMINISTRATION OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015

It is **RECOMMENDED** that Council review and amend the Council decision of 28 May 2020 (C 65/05/20 [h]) in order for it to read as follows:

- (h) *Council prescribe that the category 1 applications listed in Annexure B to the report be decided by the Municipal Planning Tribunal and the category 2 applications listed in Annexure B be decided by an authorised official for the purposes of section 114(1) of the City of Cape Town Municipal Planning By-law.*
- a. *Council designate the Executive Director: Spatial Planning and Environment or his successor in title, as an authorised official for the purposes of section 114(1)(b) of the City of Cape Town Municipal Planning By-law to decide on category 2 applications.*
- b. *Council designate employees in the following positions as authorised officials for the purposes of section 114(1)(b) of the City of Cape Town Municipal Planning By-law to decide on category 2 applications, subject to conditions as may be determined by the Executive Director: Spatial Planning and Environment or his successor in title, namely: Director: Development Management , Manager: Development Policies, Processes and Legislation, Head: Land Use Management, Manager: Land Development, District Manager, Section Head: Land Use Management, Section Head: Customer Interface, Principal Professional Officer (LUM), Senior Professional Officer (LUM) and Professional Officer (LUM).*
- c. *Council authorise the Executive Director: Spatial Planning and Environment to withdraw the designation of any of the authorized officials listed above in the event of non-compliance with the Spatial Planning and Land Use Management Act, the City of Cape Town Municipal Planning Bylaw or in terms of the authorization given to the Executive Director: Spatial Planning and Environment.*

REPORT TO: COUNCIL

1. ITEM NUMBER MC 09/10/20

2. SUBJECT

UPDATED CATEGORISATION OF APPLICATIONS TO BE DECIDED BY THE MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIALS FOR THE EFFECTIVE ADMINISTRATION OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015

ABYGEWERKTE KATEGORISERING VAN AANSOEKE VIR BESLUITNEMING DEUR DIE MUNISIPALE BEPLANNINGSTRIBUNAAL EN GEMAGTIGDE AMPTENARE VIR DIE DOELTREFFENDE ADMINISTRASIE VAN DIE STAD KAAPSTAD: VERORDERING OP MUNISIPALE BEPLANNING, 2015

UKUHLAZIYWA KOLWAHLULWA-HLULO LWEZICELO OKUZAKUGQITYWA YIKOMITI ENGOCWANGCISO KAMASIPALA KUNYE NAMAGOSA AGUNYAZISIWEYO UKULUNGISELELA UKUSEBENZA NGOKUFANELEKILEYO KOMTHETHO KAMASIPALA ONGOCWANGCISO LUKAMASIPALA, WANGO-2015

[LSU: J3927]

3. DELEGATED AUTHORITY

In terms of delegation

This report is FOR DECISION BY

Committee name :

The Executive Mayor together with the Mayoral Committee (MAYCO)

Council

4. DISCUSSION

The City of Cape Town Municipal Planning By-law, 2015 (MPBL), which is consistent with the requirements set in the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) (SPLUMA) and the Western Cape Land Use Planning Act, 2014

(Act no. 3 of 2014) (LUPA), deals inter-alia with the decision-making structure for the City of Cape Town in respect of land use and land development applications (referred to as “applications” in the MPBL). Applications are to be decided by either the Municipal Planning Tribunal (MPT) or an authorised official.

Section 114(1) of the MPBL requires Council to prescribe the category of applications to be decided by the MPT and those to be decided by authorised officials.

In resolution C65/05/20 (h) (see Annexure A) on 28 May 2020 Council prescribed that the category 1 applications listed in Annexure B to the report be decided by the Municipal Planning Tribunal and the category 2 applications list in Annexure B be decided by an authorised official for the purposes of section 114(1) of the City of Cape Municipal Planning By-law, 2015.

Council furthermore designated the Executive Director: Spatial Planning and Environment or his successor in title, as an authorised official for the purposes of section 114(1)(b) of the MPBL to decide on category 2 applications. Council also designated employees in the following positions as authorised officials for the purposes of section 114(1)(b) of the MPBL to decide on category 2 applications, subject to conditions as may be determined by the Executive Director: Spatial Planning and Environment or his successor in title, namely:

- Director: Development Management; Manager: Development Policies, Processes and Legislation, Head: Land Use Management, Head: Building Development Management, Section Head: Land Use Management, Section Head: Customer Interface, Principal Professional Officer (LUM), Senior Professional Officer (LUM) and Professional Officer (LUM).

The positions of Manager: Land Development and District Manager were erroneously omitted from the above designations and the position of Head: Building Development Management was erroneously included.

The purpose of this report is to correct the above by including the critical positions and omitting the unnecessary position from designated authorised officials, in order to have effective decision-making structures in place in Development Management.

- 4.1. Financial Implications None Opex Capex
- Capex: New Projects
 - Capex: Existing projects requiring additional funding
 - Capex: Existing projects with no additional funding requirements

4.2. Policy and Strategy Yes No

4.3. Legislative Vetting Yes No

4.4. Legal Compliance

Section 114(1) of the MPBL provides that -

114(1) The Municipal Council must prescribe the categories of applications to be decided by –

- (a) the Municipal Planning Tribunal; and*
- (b) an authorised official.*

Section 42 of the MPBL lists the different applications types that may be submitted by an applicant. Council must prescribe the categories of applications to be decided by the MPT and those to be decided by authorised officials.

The purpose of this report is to designate the Executive Director: Spatial Planning and Environment to be the authorised official in terms of section 114(1)(b) of the MPBL and also to indicate the positions of employees that may be designated as further authorised officials by the Executive Director: Spatial Planning and Environment.

4.5. Staff Implications Yes No

4.6. Risk Implications Yes No

5. RECOMMENDATIONS

Recommendation from the Executive Mayor together with the Mayoral Committee

Not delegated: For decision by Council:

It is recommended that the Executive Mayor together with the Mayoral Committee recommend to Council to:

Review and amend the Council decision of 28 May 2020 (C 65/05/20 [h]) in order for it to read as follows:

- (h) Council prescribe that the category 1 applications listed in Annexure B to the report be decided by the Municipal Planning Tribunal and the category 2 applications listed in Annexure B be decided by an authorised official for the purposes of section 114(1) of the City of Cape Town Municipal Planning By-law.
 - a. Council designate the Executive Director: Spatial Planning and Environment or his successor in title, as an authorised official for the purposes of section 114(1)(b) of the City of Cape Town Municipal Planning By-law to decide on category 2 applications.
 - b. Council designate employees in the following positions as authorised officials for the purposes of section 114(1)(b) of the City of Cape Town Municipal Planning By-law to decide on category 2 applications, subject to conditions as may be determined by the Executive Director: Spatial Planning and Environment or his successor in title, namely: Director: Development Management , Manager: Development Policies, Processes and Legislation, Head: Land Use Management, Manager: Land Development, District Manager, Section Head: Land Use Management, Section Head: Customer Interface, Principal Professional Officer (LUM), Senior Professional Officer (LUM) and Professional Officer (LUM).
 - c. Council authorise the Executive Director: Spatial Planning and Environment to withdraw the designation of any of the authorized officials listed above in the event of non-compliance with the Spatial Planning and Land Use Management Act, the City of Cape Town Municipal Planning By-law or in terms of the authorization given to the Executive Director: Spatial Planning and Environment.

AANBEVELINGSAanbeveling van die uitvoerende burgemeester tesame met die burgemeesterskomiteeNie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat die uitvoerende burgemeester tesame met die burgemeesterskomitee by die Raad aanbeveel dat:

Die Raadsbesluit van 28 Mei 2020 (C 65/05/20 [h]) hersien en gewysig word sodat dit soos volg lui:

- (h) Dat die Raad voorskryf dat die Munisipale Beplanningstribunaal oor die kategorie 1-aansoeke in bylae B beslis en dat 'n gemagtigde beampte oor die kategorie 2-aansoeke beslis vir die doeleindes van artikel 114(1) van die Verordening op Munisipale Beplanning.
- a. Dat die Raad die uitvoerende direkteur: ruimtelike beplanning en omgewing of sy regsopvolger as 'n gemagtigde beampte aanwys vir die doeleindes van artikel 114(1)(b) van die Verordening op Munisipale Beplanning om oor kategorie 2-aansoeke te beslis.
 - b. Dat die Raad werknemers in die volgende poste as gemagtigde beamptes aanwys vir die doeleindes van artikel 114(1)(b) van die Verordening op Munisipale Beplanning om oor kategorie 2-aansoeke te beslis, onderworpe aan die voorwaardes opgelê deur die uitvoerende direkteur: ruimtelike beplanning en die omgewing of sy regsopvolger, naamlik die direkteur: ontwikkelingsbestuur; bestuurder: ontwikkelingsbeleide, -prosesse en -wetgewing; hoof: grondgebruikbestuur; hoof: grondontwikkeling; distriksbestuurder; afdelingshoof: grondgebruikbestuur; afdelingshoof: kliëntekontakvlak; hoof- professionele beampte (grondgebruikbestuur); senior professionele beampte (grondgebruikbestuur) en professionele beampte (grondgebruikbestuur).
 - c. Dat die Raad magtiging aan die uitvoerende direkteur: ruimtelike beplanning en omgewing verleen om die aanwysing van enige van die gemagtide amptenare wat hierbo gelys word, te mag terugtrek in die geval van nienakoming van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, die Verordening op Munisipale Beplanning of

ingevolge die magtiging verleen aan die uitvoerende direkteur: ruimtelike beplanning en omgewing.

IZINDULULO

Isindululo esivela kuSodolophu weSigqeba kunye neKomiti yeSigqeba sakhe

Azigunyaziswanga: zezokuba kuthathwe isigqibo liBhunga:

Kundululwa ukuba uSodolophu weSigqeba kunye neKomiti yeSigqeba sakhe mabandulule kwiBhunga okokuba:

Kuphononongwe kwaye kulungiswe isigqibo seBhunga somhla wama-28 kuCanzibe 2020 (C 65/05/20 [h]) ukuze sifundeke ngolu hlobo lulandelayo:

- (h) IBhunga malimisele okokuba izicelo zodidi 1 ezidweliswe kwiSihlomelo B sengxelo mazithathelwe isigqibo yiTraybhunali yezoCwangciso kaMasipala kananjalo nezicelo zodidi 2 ezidweliswe kwiSihlomelo B mazithathelwe isigqibo ligosa eligunyazisiweyo kulungiselelwa icandelo 114(1) loMthetho weZocwangciso kaMasipala.
- a. IBhunga malityumbe uMlawuli weSigqeba: kuCwangciso lweMihlaba engamabala nokuSingqongileyo okanye olandela yena ngesikhundla, njengegosa eligunyazisiweyo ngokwecandelo 114(1)(b) loMthetho kaMasipala woCwangciso lukaMasipala weSixeko saseKapa, ukuba kuthatyathwe isigqibo ngezicelo zodidi 2.
- b. IBhunga malityumbe abaqashwa kwezi zikhundla zilandelayo njengamagosa agunyazisiweyo ngokwecandelo 114(1)(b) loMthetho kaMasipala woCwangciso lukaMasipala weSixeko saseKapa ukuba kuthathwe isigqibo ngezicelo zodidi 2 ngokuxhomekeke kwiimeko ezinokuthi zimiselwe nguMlawuli weSigqeba: kwezoCwangciso lweMihlaba kunye nokuSingqongileyo okanye ongena endaweni yakhe ngokwesikhundla ezi zezi: uMlawuli kuLawulo lwezoPhuhliso, uMphathi weMigaqo-nkqubo yezoPhuhliso, iiNkqubo neMithetho, iNtloko: kuLawulo loSetyenziso lweMihlaba, uMphathi: kuPhuhliso lweMihlaba, uMphathi weSithili, iNtloko yeCandelo: kuLawulo loSetyenziso lweMihlaba, iNtloko yeCandelo: uNxibelelwano nabaXumi, iNgcali eliGosa eliphezulu (LUM), ingcali eliGosa elingaphezulwana (LUM), neGosa eliyiNgcali (LUM).
- c. IBhunga maligunyazise uMlawuli weSigqeba: kuCwangciso lweMihlaba engamabala nokuSingqongileyo ukuba atshitshise isikhundla salo naliphina igosa eligunyazisiweyo kulawo adweliswe apha ngentla ukuba athe

awawuthobela uMthetho woCwangciso lweMihlaba engaNobala kunye noLawulo loSetyenziso lweMihlaba, uMthetho kaMasipala woCwangciso lukaMasipala weSixeko saseKapa okanye ngokogunyaziso olukunikwe uMlawuli weSigqeba: kuCwangciso lweMihlaba engaNobala nokuSingqongileyo.



[M0761]

ANNEXURES

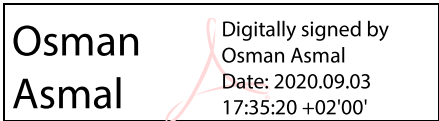
Annexure A: Resolution C65/05/20 (h)

Annexure B: Categorisation of application types

FOR FURTHER DETAILS CONTACT

NAME	Schalk de Jager	CONTACT NUMBER	021 400 7580
E-MAIL ADDRESS	schalk.dejager@capetown.gov.za		
DIRECTORATE	Spatial Planning and Environment	FILE REF NO	1/1/3/2/65
SIGNATURE : DIRECTOR	 Cheryl Walters <small>Digitally signed by Cheryl Walters Date: 2020.08.28 12:07:19 +02'00'</small>	 Jaco van der Westhuizen <small>Digitally signed by Jaco van der Westhuizen Date: 2020.08.27 08:29:54 +02'00'</small>	

EXECUTIVE DIRECTOR: SPATIAL PLANNING AND ENVIRONMENT

NAME	_____	COMMENT:	_____
DATE	_____		_____
SIGNATURE	 Osman Asmal <small>Digitally signed by Osman Asmal Date: 2020.09.03 17:35:20 +02'00'</small>		_____

LEGAL COMPLIANCE

- REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.
- NON-COMPLIANT

NAME	_____	COMMENT:	_____
DATE	_____	Certified as legally compliant based on the contents of the report.	_____
SIGNATURE	 Joan-Mari Holt <small>Digitally signed by Joan-Mari Holt Date: 2020.09.07 14:45:09 +02'00'</small>		_____

EXTRACT FROM MINUTES

OF THE CONTINUATION OF THE ADJOURNED MEETING OF THE COUNCIL OF THE CITY OF CAPE TOWN HELD VIA THE CITY'S DIGITAL PLATFORM ON THURSDAY, 28 MAY 2020 AT 10H00.

- C 65/05/20** TO CONSIDER VARIOUS ISSUES WITH RESPECT TO THE FUNCTIONING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT):
- EXTENSION OF EXTERNAL MEMBERS;
 - DESIGNATION OF AUTHORISED OFFICIALS;
 - COMPOSITION OF THE MPT AND APPOINTMENT OF CHAIRPERSON AND DEPUTY CHAIRPERSON;
 - REMUNERATION OF EXTERNAL MEMBERS, CHAIRPERSON AND DEPUTY CHAIRPERSON;
 - REVIEW OF THE RULES AND PROCEDURES OF THE MPT MEETINGS;
 - REVIEW OF TERMS OF CONDITIONS FOR SERVING AS EXTERNAL MEMBER
 - REVIEW OF THE CATEGORISATION OF APPLICATION TYPES;
 - CONFIRMATION OF TECHNICAL ADVISORS TO THE MPT; AND
 - DESIGNATION OF RESPONSIBLE LINE DEPARTMENT TO SUPPORT AND BUDGET FOR THE FUNCTIONING OF THE MPT

RESOLVED that all previous resolutions listed in the report on the agenda, excluding the resolution to establish the MPT, on the related matters below are reviewed and amended with the following decision;

- (a) the contracts and appointments of the current external members be renewed for one year, from 1 July 2020 until 30 June 2021.

The current external members whose contracts is recommended for renewal are as follows:

Name	Position
David P Daniels	(current) Chairperson
Sydney N Holden	(current) Deputy Chairperson
Nigel Burls	Ordinary member
Derek R Chittenden	Ordinary member
Rodney Cronwright	Ordinary member
Wilfred W Johnstone	Ordinary member
Cecil V Madell (Dr)	Ordinary member
Simon C Nicks	Ordinary member
Geoffrey C Underwood	Ordinary member

- a. David Daniels be designated as the chairperson of the MPT, in terms of section 120(1) of the Municipal Planning Bylaw.

- b. Sydney Holden be designated as the deputy chairperson of the MPT, in terms of section 120(1) of the Municipal Planning Bylaw.
- (b) the composition of the MPT be determined to consist of 25 members, 9 external members and 16 authorised officials in terms of sections 115(2)(a) and (b) of the Municipal Planning Bylaw.
- a. the MPT must constitute itself to comprise of 5 panels in terms of section 120(3) of the Municipal Planning Bylaw of which four panels will deal with applications within a geographical area as determined by the chairperson, provided that the chairperson may authorise that urgent items may serve at a different regional panel. The fifth panel will as and when determined by the chairperson consider administrative penalty applications.
- b. the chairperson after considering Council recess periods, arrange that each regional panel meets at least once a month.
- c. meetings of the panels consist of 5 members, as determined by the chairperson. The composition of the panels should be 2 external members and 3 authorised officials.
- (c) the officials listed in the table below be designated as authorised officials in terms of section 115(2)(c) of the Municipal Planning Bylaw to serve as members of the MPT. This resolution provides that the existing authorised officials serving on the MPT term is renewed with 5 years and the new authorised officials to be designated be appointed for a term of 5 years.

Name	Position	Existing Member	New Member
Pieter Terblanche	Manager: Land Development Areas 3&4	Y	
Emil Schnackenberg	Manager: Land Development Areas 1&2	Y	
Daan Visser	District Manager	Y	
Margot Muller-Lovember	District Manager	Y	
Ursolino (Ossie) Gonsalves	District Manager	Y	
Susanna (Susan) Matthysen	District Manager	Y	
Marx Mupariwa	District Manager	Y	
Gideon Brand	Manager: Programme Coordination and Partnerships	Y	
Timothy (Tim) Hadingham	Manager: Investment Facilitation	Y	

Nigel Titus	Manager: District and Planning Mechanisms	Y	
Dewaldt Smit	District Manager		Y
Ngwanamogano (Linah) Dube	District Manager		Y
Chad Newman	District Manager		Y
Dimitri Georgeades	Manager: Environmental and Heritage Management		Y
Lorraine Gerrans	Head: Sustainable Partnerships and Finance		Y
Peter Ahmad	Manager: Metro Spatial Planning and Growth Management		Y

- (d) all external members be remunerated at a rate equal to the SACPLAN hourly tariff charge for category B professionals with a maximum capping of 16 hours per meeting inclusive of preparation and travel time. All members may submit travel cost for attending meetings. The presiding officer (inclusive of the chairperson and deputy chairperson) at the MPT meeting may claim one and a half times the SACPLAN rate set out above only for the time of the actual meeting subject to the capping on the hours as provided for above.
- (e) the amended rules of procedures for meetings of the MPT as set out in **Annexure B** to this report be adopted in terms of section 120(17) of the Municipal Planning Bylaw.
- (f) the minimum requirements as set out in section 117(2) of the Municipal Planning Bylaw will apply as the code of conduct of all members serving on the MPT.
- (g) the amended terms and conditions for the external members of the MPT be determined as set out in **Annexure C** to the report in terms of section 117(1) of the Municipal Planning Bylaw.
- (h) Council prescribe that the category 1 applications listed in **Annexure D** to the report be decided by the Municipal Planning Tribunal and the category 2 applications list in **Annexure D** be decided by an authorised official for the purposes of section 114(1) of the Municipal Planning Bylaw.
- a. Council designate the Executive Director: Spatial Planning and Environment or his successor in title, as an authorised official for the purposes of section 114(b) of the

- Municipal Planning Bylaw to decide on category 2 applications.
- b. Council designate employees in the following positions as authorised officials for the purposes of section 114(b) of the Municipal Planning Bylaw to decide on category 2 applications subject to conditions as may be determined by the Executive Director: Spatial Planning and Environment or his successor in title, namely: Director Development Management , Manager Development Policies, Processes and Legislation, Head: Land Use Management, Head: Building Development Management, Section Head: Land Use Management, Section Head: Customer Interface, Principal Professional Officer (LUM), Senior Professional Officer (LUM) and Professional Officer (LUM).
 - c. Council authorise the Executive Director: Spatial Planning and Environment to withdraw the designation of any of the authorized officials listed above in the event of non-compliance with the Spatial Planning and Land Use Management Act, the Municipal Planning Bylaw or in terms of the authorization given to the Executive Director: Spatial Planning and Environment.
- (i) the Manager: Development Policies, Processes and Legislation, Head: Land Use Management and Head: Enforcement and Legislation be appointed as the technical advisors to the Municipal Planning Tribunal.
 - (j) the technical and budgetary support to the Municipal Planning Tribunal be allocated to the Development Management Department. The budget for both the remuneration of the MPT members and the Chairperson of the MPT be consolidated within the OPEX budget of the Development Management under supervision of the Director: Development Management and Manager: Development Policies, Processes and Legislation.

ACTION: J VAN DER WESTHUIZEN, O ASMAL

CATEGORISATION OF APPLICATION TYPES

CATEGORY 1: APPLICATIONS DECIDED BY MPT	
1.1	Amendment, suspension or removal of a restrictive title deed condition
1.2	Any other application provided for or prescribed in the by-law
1.3	Rezoning
1.4	Subdivision
1.5	Land consolidation
1.6	Consent, approval or other permission in the Development Management Scheme
1.7	Consent or approval in, or relaxation of, a restrictive title deed condition where restriction relates to use, subdivision, development rules or design criteria
1.8	Permanent departure
1.9	Temporary departure
1.10	Amendment, deletion or addition of conditions in respect of an existing approval
1.11	Applications where delegated officials elect not to exercise power
1.12	Determination of an administrative penalty
CATEGORY 2: APPLICATIONS DECIDED BY AUTHORISED OFFICIAL	
2.1	All applications in category 1.3 to 1.10 above, where there are no public objections and where consistent with policy
2.2	Subdivision phasing
2.3	Exemption of subdivision from approval in the by-law
2.4	Extension of period of validity of previous approval
2.5	Permission / approval required in the conditions of approval of an application
2.6	Correction of zoning map error
2.7	Determination of zoning, non-conforming use right or any other matter City may determine in the by-law
2.8	Approval, alteration or amendment of a street name or number where a correction is required
2.9	Amendment or cancellation of approved plan of subdivision or general plan
2.10	Permission for the reconstruction of a building or substantial part of it within the envelope of a non-conforming use
2.11	Approval in terms of section 55(4)(b) of the by-law