

**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 HELD ON WEDNESDAY 07 NOVEMBER 2018 AT 11:00 IN THE COUNCIL CHAMBERS, MUNICIPAL OFFICES, PIKETBERG**

**PRESENT**

**MEMBERS**

Municipal Manager (Acting) (JWA Kotzee: *Chairperson*)  
Director Financial Services (G Goliath)  
Director Technical Services (H Kröhn)  
External Member (Ms. D Kotze)  
External Member (Ms. S van der Merwe)

**OFFICIALS**

Manager: Planning and Environmental Management (W Wagener)  
Head: Secretariat & Records Management (NJ Scheepers)  
Senior Typist (CC Cloete)  
Personal Assistant: Director Corporate Services (A van Rossum)

**ACTION**

**PTN001/11/2018**

**OPENING AND WELCOME**

The Chairperson welcomed everyone to the meeting. A special welcomed were made to the external members of the Committee.

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**PTN002/11/2018**

**REQUEST FOR LEAVE OF ABSENCE**

**3/3/1/4**

Municipal Manager – sick leave

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**PTN003/11/2018**

**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 any items on the agenda.

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**PTN004/11/2018**

**COMMUNICATION BY THE CHAIRPERSON**

**3/3/1/6**

The Chairperson informed the Committee regarding the resignation of the Director Financial Services, whereafter he thanked him for his contributions and wish him all the best.

The Director Financial Services thanked the Municipal Manager in her absence and the members for the opportunity to be part of the Municipal Planning Tribunal Committee.

Furthermore the Chairperson welcomed the newly appointed Compliance Officer, Ms Adele van Rossum as from 01 December 2018.

**NOTED**

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**PTN005/11/2018**

**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: WEDNESDAY 03 OCTOBER 2018**

**3/3/2/2**

That the minutes of the Municipal Planning Tribunal meeting held on Wednesday 03 October 2018 be confirmed with the following correction:

**PTN006/10/2018**

f) That a set back line of at least 30 metres on the Laaiplek, Dwarskerbos road be implemented or subject to the requirements of the Department of Transport and Public Works, whichever is the strictest.

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**PTN006/11/2018**

**APPLICATION FOR SUBDIVISION AND REZONING: PORTION OF REMAINDER FARM GROOTE FONTEIN NR. 241, PIKETBERG**

**15/3/4,15/3/3, Farm no. 241**

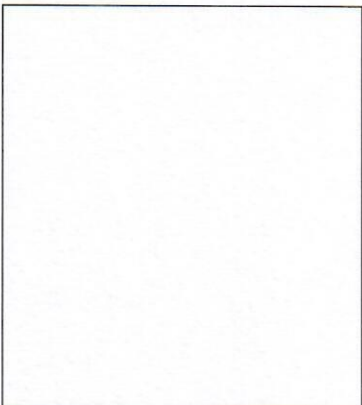
***(Pages 4-10 of the recommendation were tabled)***

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

**RESOLUTIONS**

That the application for subdivision of Remainder Farm Groote Fontein No. 241, division Piketberg into four portions namely: Portion 1 (approximately 2.5ha), Portion 2 (approximately 10.8ha), Portion 3 (street approximately 1.3ha) and Remainder as well as rezoning of Portion 1 and 2 from Agricultural Zone 1 to Industrial Zone 2 and Portion 3 from Agricultural Zone 1 to Transport Zone 2, **be approved**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following condition.

1. The required municipal services that may arise as a result of the proposed utilization on Portion 1 and 2, will be for the account of the developer and/or further owner(s). In addition to this the owner(s)/developer will be responsible for the provision and upgrading of all service infrastructure required as a result of additional burden created by the proposed utilization, as negotiated and agreed upon between the developer and the Municipality's Directorate: Technical



**SENIOR TYPIST**

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Services by means of a Services Level Agreement (SLA); and

2. Compliance with the conditions of Environmental Authorisation, referenced 16/3/3/1/F/11/2051/17 date 17 May 2018.

**REASONS FOR RESOLUTION**

The Spatial Planning and Land Use Management Act (SPLUMA), Act 13 of 2013 provides specific development principles for spatial planning, namely: the principle of (a) spatial justice, (b) spatial sustainability, (c) efficiency, (d) spatial resilience, and (e) good administration.

The civil department of this municipality has no objection against the proposed rezoning and subdivision, furthermore they indicated that existing services are available but because the capacity of services required for the development is currently unknown and the required municipal services that may arise as a result of the proposed utilization, will be for the account of the developer and/or further owner(s). In addition to this the owner(s)/developer will be responsible for the provision and upgrading of all service infrastructure required as a result of additional burden created by the proposed utilization, as negotiated and agreed upon between the developer and the Municipality's Directorate: Technical Services by means of a Services Level Agreement (SLA). The required civil and electrical services can therefore be efficiently accommodated by means of aforesaid.

The subdivision and rezoning of municipal commonage is exempted from Act 70 of 1970. The proposed application can be efficiently establish industrial land that may contribute to strengthening Piketberg as agricultural service centre, by creating the opportunity for investment.

Section 65 (h) of Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the impact of the proposed land development on municipal engineering services.

The provision of civil and electrical services can be secured by means of service level agreement between the developer and the municipal technical department, to ensure that the application has no financial burden on the municipality.

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

Bergrivier Municipal Spatial Development Framework provide the following spatial guidelines and proposals for Rural Development in Ward 3 and 4 and include amongst other the following:

- "Strategy 1: Support Growth in areas with economic potential" by means of "providing sufficient land to promote agricultural industry in and around Piketberg"*
- Strategy 2: "Grow and diversify agricultural markets and products" by means of "promoting the production of produce creating work in the Bergrivier Rural Areas i.e product from fruit, vegetable and grain"*

The expansion of the industrial area is also in line with the spatial proposal map for Piketberg as included in the Municipal Spatial Development Framework.

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The application is consistent with the directives of the Bergrivier Spatial Development Framework 2012-2017.

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 and section 65.(d) and (e) of Bergrivier Municipal By-Law on Municipal Land Use Planning, requires the consideration of comments/objections obtained during the public participation process.

The dimensions of the proposed land units are considered sufficient to accommodate a future industry within the development parameters of the applicable zoning scheme by-law. The properties are located in an existing industrial area gaining access from an existing municipal street, the extension of the proposed road reserve (Portion 3) will give access to the newly created land units. Sufficient space are also available on site to ensure on-site parking and loading bays are provided in accordance with the zoning scheme by-law.

No objections were received against the application from surrounding property owners or the general public. The comments from the internal department contributed meaningfully in considering this application.

The application is consistent with the directives of the Bergrivier Spatial Development Framework 2012-2017. The application is determined desirable from a land use planning perspective and can therefore be supported, subject to conditions.

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**PTN007/11/2018**

**APPLICATION FOR SUBDIVISION: ERF 259, AURORA**  
**15/3/4, A. 259**

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

**RESOLUTIONS**

That the application for subdivision of Erf 259, Aurora into three portions namely Portion 1 ( $\pm 801\text{m}^2$  in extent), Portion 2 ( $\pm 812\text{m}^2$  in extent) and Remainder ( $\pm 869\text{m}^2$  in extent ) for residential purposes , **be approved**, in terms of section 60 of the Bergrivier Municipal By-Law relating to Land Use Planning, subject to:

- 1 the provision of the subdivided portions with separate water and electricity connections as well as separate conservancy tanks and accesses.
- 2 Bulk Service Contributions, as predetermined in the Municipal Budget, be paid for each additional Erf created by subdivision OR 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). The SLA will be drawn up by a municipal appointed attorney for the account of the developer.

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**REASONS FOR RESOLUTION**

The Bergrivier Municipal Spatial Development Framework (BMSDF) 2012 - 2017 supports the Western Cape Spatial Development Framework's principle of densification within the existing urban areas. Densification not only limits uncontrolled urban expansion, but also supports and promotes the optimal use of land, infrastructure and services within the urban context. Infill development, by the subdivision of existing larger plots into smaller units within the existing urban areas, is one of the proposed ways that densification in the urban areas can take place. The proposed subdivision supports the densification strategies of the Municipality and will help promote integration and more sustainable use of land and infrastructure. According to the BMSDF Aurora has an average density of 4du/ha, while the BMSDF proposes an average densification target of 10 du/ha for Aurora. Combined with the density of the surrounding area ( $\pm 5.48$  du/ha), the resulting density of the subject neighbourhood would be 6.2 du/ha. The proposed subdivision would therefore facilitate densification of the urban area, with the resulting density still consistent with the prevailing density of the surrounding area.

Section 59 (1) (g) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states that the right of owners to develop land in accordance with current use rights should be recognized. Erf 259, Aurora is currently zoned as Single Residential Zone 1 in terms of the Bergrivier Municipality Integrated Zoning Scheme By-Law. This application does not involve a change in the zoning of the property. The properties created from the subdivision will be subject to the same development parameters and land use restrictions as the adjacent properties. Irrespective of the subdivision application under consideration, the current zoning of Erf 259, Aurora allows for the development of a dwelling house with a maximum height of 8.5m and thus permits a double storey to be built on the property without requiring the consent of surrounding land owners.

Section 59(1)(a) of the Land Use Planning Act, Act 3 of 2014 (LUPA) requires that past spatial and other imbalances should be redressed through improved access to, and utilisation of, land, to facilitate spatial justice. Section 59(2)(a) of the Land Use Planning Act, Act 3 of 2014 (LUPA) requires that land use planning should promote land development that is spatially compact, resource frugal and is within the fiscal, institutional and administrative means of the relevant authority to facilitate spatial sustainability. The proposed subdivision creates access to more residential land in Aurora and enable densification of the urban area, thereby aiding to address spatial justice and the spatial sustainability of the town. The subdivision of the property will help achieve a more integrated, resource efficient town without changing the current zoning (Single Residential Zone 1) or development parameters of the proposed properties. According to the Manager Civil Engineering Services, the proposed subdivision will have a minimal impact on the services network.

The subject property has direct road access from two sides. The proposed subdivision will create three Single Residential Zone 1 properties, of which two will be access from Kloof Street and one from Buitengracht Street. The potential increase in vehicular traffic as a result of the subdivision will therefore be negligible.

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The application for subdivision of Erf 259, Aurora is considered consistent with the development principles of LUPA and SPLUMA. The proposed application furthermore is aligned with the guidelines of Municipal Spatial Development Framework, and is considered desirable from a planning perspective taking into account the relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to land Use Planning.

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**PTN008/11/2018**

**APPLICATION FOR CONSOLIDATION, SUBDIVISION & REZONING : ERF 393 AND 665 PIKETBERG  
15/3/4,15/3/3**

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

After thorough discussions the following resolution was taken:

**RESOLUTIONS**

1. That the application for the following: Consolidation of Erf 393 and 665, Piketberg and the subdivision of the newly created consolidated land unit into six portions **BE PARTIALLY APPROVED**, in terms of section 60 of Bergrivier Municipality By-law on Municipal Land Use Planning as follow:
  - 1.1. Portion A (unregistered Erf 3827)  $\pm 474\text{m}^2$  in extent,
  - 1.2. Portion B (unregistered Erf 3828)  $\pm 234\text{m}^2$  in extent,
  - 1.3. Portion C (unregistered Erf 3829)  $\pm 503\text{m}^2$  in extent,
  - 1.4. Remainder (unregistered Erf 3832)  $\pm 1,0793$  hectare, and
  - 1.5. An amended subdivision diagram be submitted by a registered land surveyor for approval of Portion D (unregistered Erf 4426) and Portion E (unregistered Erf 4427) to exclude the business portion (facebrick building) on unregistered erf 4426, Piketberg that should remain part of unregistered Erf 4427, Piketberg.
2. The applications for the further subdivision of Portion A (unregistered Erf 3827) into three portions namely: Portion F ( $\pm 182\text{m}^2$  in extent), Portion G ( $\pm 127\text{m}^2$  in extent) and Portion H ( $\pm 165\text{m}^2$  in extent) as well as rezoning of Portions F, G, H (Portions of Portion A, unregistered Erf 3827) and Portion B (unregistered Erf 3828) from General Residential Zone 3 (Town Housing) to Single Residential Zone 1 (Dwelling House); and the rezoning of Portion D (unregistered Erf 4426 on the amended subdivision diagram) from General Residential Zone 3 (Town Housing) to General Residential Zone 4 (flats) as well as registration of right-of-way servitudes over Portion B (unregistered Erf 3828), Portion H and Portion G (portions of Portion A, unregistered Erf 3827) respectively, **BE APPROVED** in terms of Section 60 of Bergrivier Municipality By-law on Municipal Land Use Planning, subject to conditions:
  - 2.1. The zoning of Portion D (unregistered Erf 4426, Piketberg) follows the cadastral boundary of the amended subdivision diagram; required in terms of 1.5 above;
  - 2.2. Only four flats is allowed and restricted to the current footprint of the existing buildings on the amended subdivision of Portion D (unregistered Erf 4426, Piketberg) as referred to in 2.1 above;

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- 2.3. A layout plan be submitted for the internal conversions of the four flats for approval by this municipality,
- 2.4. The owner(s)/applicant/developer will be responsible for the provision and upgrading of all service infrastructure required as a result of additional burden created by the proposed utilization, for his/her/their own account, as negotiated and agreed upon with the Municipality's Directorate: Technical Services by means of a Services Level Agreement (SLA);
- 2.5. Future development of the Remainder (Unregistered Erf 3832, Piketberg), must comply with the land use description of town housing as provided in Bergrivier Municipality Integrated Zoning Scheme By-law and the development parameters applicable thereto; and

If subdivision of the Remainder (Unregistered Erf 3832, Piketberg) is considered, a new application must be submitted for subdivision and establishment of a home owners association (including architectural guidelines) in terms of Section 15 of Bergrivier Municipal By-law relating to Municipal Land Use Planning.

**REASONS FOR RESOLUTION**

The Spatial Planning and Land Use Management Act (SPLUMA), Act 13 of 2013 provides specific development principles for spatial planning, namely: the principle of (a) spatial justice, (b) spatial sustainability, (c) efficiency, (d) spatial resilience, and (e) good administration.

The property borders onto activity street (Hoof Street) as identified in the spatial development framework direct adjacent to the central business district of Piketberg. The proposed development is well located within the vicinity of activity node with regard to support services, Central Business District etc. and considered appropriate as it will give easy access for people to support services/facilities as well as offer accommodation within walking distances to and from the central business district, which can be seen as a contribution to create an integrated town centre and contribute to spatial justice in this form.

The development can furthermore create housing stock that are more affordable. It therefore give the middle income group an opportunity to rent or buy in close proximity to support/services facilities.

The Electrical Services Department indicated that services is available to the development to a maximum of 50kVA, the cost of infrastructure (Civil and Electrical) as a result of the proposed development will be borne by the developer to ensure that the proposed utilisation of land do not have a financial burden on the municipality.

Section 65 (h) of Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the impact of the proposed land development on municipal engineering services.

The provision of civil and electrical services can secured by means of service level agreement between the developer and the municipal technical department, to ensure that the application has no financial burden on the municipality.

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

The spatial proposals for residential development in Piketberg as prescribed in Bergrivier Municipal Spatial Development Framework are as follow:

- *“Support the inclusion of different densities and types of residential development in Piketberg. Allow for medium density and higher residential development (group housing) along activity streets and on larger properties.*
- *Opportunities for infill residential developments exists in town and introduction of a broader spectrum of housing types;*
- *Densification in Piketberg must be promoted via: Infill development, subdivision of larger plots in town (sectional title)*
- *Maintain the ‘cupcake’ principle by means of infill as well as urban renewal and the creation of an integrated centre of town”*

The application support the inclusion of different densities and types of residential development and is consistent with Bergrivier Municipality Spatial Development Framework.

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 and section 65.(d) and (e) of Bergrivier Municipal By-Law on Municipal Land Use Planning, requires the consideration of comments/objections obtained during the public participation process.

The objector’s concern does have merit. The applicant intends to construct more than four flats on unregistered Erf 4426, Piketberg, this is also confirmed in the applicants reply on objections and responses on his meaning of “herberg”. The rezoning being applied for do not include boarding house as a primary land use on General Residential Zone 4 (flats). The proposed utilisation of land (boarding house/“herberg”) will therefore be in conflict with the land use description of flats/dwelling unit as provided in Bergrivier Municipality Integrated Zoning Scheme By-law from which no departure may be granted.

The portion of land currently utilised for business purposes above groundfloor on unregistered Erf 4426, Piketberg will also be in contravention with the zoning being applied. The business portion (facebrick building) on unregistered erf 4426, Piketberg should remain part of unregistered Erf 4427, Piketberg as currently operated and be excluded from Erf 4426, Piketberg. The footprint of the remaining buildings on unregistered Erf 4426, Piketberg is restricted to four flats as previously approved by the Mayorall Committee, to prevent further deviations and/or contravening land uses on unregistered Erf 4426, Piketberg. The on-site parking requirement for flats is 1,75 bays per dwelling unit, plus 0,25 bays per dwelling unit for visitors as prescribed in Bergrivier Municipality Integrated Zoning Scheme By-law, for four flats 8 parking bay’s should therefore be provided on-site. However, in terms of historical approval one on-site parking bay was sufficient per flat and the property was able to accommodate five parking spaces on site. Therefore if more than four flats is established on unregistered Erf 4426, Piketberg it will be unpracticle to provide the amount of on-site parkings in terms of Bergrivier Municipality Integrated Zoning Scheme Bylaw.

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**PTN009/11/2018**

**APPLICATION FOR CONSENT USE: ERF 1833, PORTERVILLE  
15/3/5**

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

**RESOLUTION**

That the application for consent use in order to allow the operation of a house shop (that include take away food) from an existing outbuilding (garage) on Erf 1833, Porterville, **be approved** in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions:

1. All relevant certification must be obtained for the respective land uses i.e. business license, certificate of acceptability from the Environmental Health Practitioner, Fire Safety Certificate etc. where applicable;
2. Compliance with the limitations and requirements of Bergrivier Municipality Policy relating to House Shops.
3. The house shop operation area is restricted to the existing double garage on the property;
4. Provision be made for on-site delivery/parking for a clients additional to the one required for the residential use, and
5. Compliance with the conditions prescribed in the bondholders letter of consent dated 06 July 2018.

**REASONS FOR RESOLUTION**

Section 65(d) of Bergrivier Municipality By-law on Municipal Land Use Planning required the consideration of the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;

No objections where received from surrounding affected property owners. Conditions is imposed to address safety and health factors. No objections were received from internal municipal and external department and conditions is imposed to address the problem aspects foreseen.

Section 65 of Bergrivier Municipality By-law on Bergrivier Municipal Land Use Planning requires the consideration of the applicable policies of the Municipality that guide decision making;

An approved house shop is within a radius of 200m and in the same street within 500m. The application do not comply with aforesaid requirement. However, aforesaid house shop was approved by means of temporary departure on Erf 2386 Porterville by the Mayoral Committee in March 2014 and approval is therefore only valid till March 2019. During the house shop survey on 10 November 2017 no house shop were in operation on Erf 2386 Porterville.

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

The total floor space of the dwelling house is  $\pm 207.56\text{m}^2$ . The residential use of the dwelling house is  $\pm 148.35\text{m}^2$  (this excludes the house shop  $\pm 36.9\text{m}^2$  area and covered stoep  $\pm 22.31\text{m}^2$ ). The total floor space of the proposed business land uses occupy  $\pm 24.8\%$  floor space of the dwelling house, compliant with the

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land use description of house shop provided in the zoning scheme by-law.

Section 65 of Berggriver Municipality By-law on Municipal Land Use Planning requires consideration of the development principles provided in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The businesses is proposed due to supply and demand. The proposed house shop will provide retail facilities within close walking proximity to the surrounding property owners to purchase their daily resources.

The application take into account low income housing areas by bringing retail services at residential scale closer to this community, saving them time and money to travel to shops further in Piketberg. The proposal will contribute to address past spatial imbalances on account of aforesaid.

The proposed house shop do not require additional municipal services, and therefore has no financial burden on the municipality.

The application is desirable from a land use planning perspective taking into account all relevant factors of consideration as prescribed in Section 65 of Berggrivier Municipality By-law on Municipal Land Use Planning, subject to conditions.

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**PTN010/11/2018**  
**DATE OF NEXT MEETING**

The next Municipal Planning Tribunal meeting will be held on **Wednesday 05 December 2018** at **11:00** in the Council Chambers, Municipal Offices, Church Street, Piketberg.

**NOTED**

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**HEAD: SECRETARIAT  
AND RECORDS  
MANAGEMENT**

**THE MEETING ADJOURNED AT 11:40  
CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**

  
\_\_\_\_\_  
**CHAIRPERSON**

  
\_\_\_\_\_  
**DATE**

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