



7th December 2017

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**Copy to:**

Mr Henri Fortuin  
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1 Dorp Street  
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Dear Madam,

**HRA's COMMENTS ON FINAL BYPASS EIA DOCUMENT**  
**(DEA&DP Ref: 16/3/1/2/E2/15/2124/14)**

Below please find the comments of the Hermanus Ratepayers Association on the Final Hermanus Bypass EIA Report.

- The first main point, is that it is completely unacceptable that the HRA's previous written comments on (1) the Bypass Final Scoping Report dated 1<sup>st</sup> February 2017, and (2) the Draft Bypass EIA Report dated 27<sup>th</sup> June 2017 have been dealt with in such a cursory and biased manner, and in some instances the responses are simply factually-incorrect.
- The second main point, it that it is completely irregular that the Overstrand "Municipality" plays the multiple contradictory and conflicting roles of

(1) the initiator of the project,

- (2) an active participant in the project, as part of the Technical project team
  - (3) an Interested & Affected Party, as part of the consultation process
  - (4) a formal commenting authority on the Draft EIA Report, and
  - (5) part of the decision-making, when the report is submitted and considered by Council.
- The third main point is that it is procedurally incorrect for the Provincial Consulting team, and SRK in particular, to conveniently interpret comments and letters from one official in the Administration of the Municipality to mean that the Municipality has commented.

The above irregularity is further exacerbated by Overstrand Councillors and the Executive Mayor telling interested and affected parties that the “Municipality” has not yet considered the project and therefore it cannot express a view one way or the other.

The Municipal Systems Act (No.32 of 2000) defines a Municipality as follows,

*“A municipality—*  
*(a) is an organ of state within the local sphere of government exercising legislative and executive authority within an area determined in terms of the 25 Local Government: Municipal Demarcation Act, 1998;*  
*(b) consists of—*  
*(i) the political structures and administration of the municipality; and*  
*(ii) the community of the municipality;*  
*(c) functions in its area in accordance with the political, statutory and other relationships between its political structures, political office bearers and administration and its community; and*  
*(d) has a separate legal personality which excludes liability on the part of its community for the actions of the municipality.”* Our underlining.

As there is no legal mandate that has been sought or approved by Council or the Executive Mayor for the Administration to submit views on the proposed bypass purporting to represent the Municipality in advance of Council considering this project, the HRA insists that all references in the Final Bypass EIA that refer to the “Municipality” be replaced by “the Administration of the Municipality”.

Furthermore, the two letters submitted by “the Administration of the Municipality” (copies attached) that purport to represent the views of the “Municipality” should be interpreted as the views of “the Administration of the Municipality” and not the views of the “Municipality”.

- The comments that have been unsatisfactorily dealt with are as follows, namely;
  1. **Non-compliance with Transport Legislation:** The planning of the proposed Bypass does not comply with the relevant transport planning provisions in the National Land Transport Act, 2009 (No. 5 of 2009) and its Regulations, that provide for National, Provincial and Municipal transport plans – the latter being integral parts of Municipal IDPs.

Referring to the provincial bypass investigation that being undertaken and conveniently interpreting it as being an approved project as part of an Integrated

Transport Plan or Integrated Development Plan does not comply with the requirements of the National Land Transport Act & its Regulations. This non-compliance with transport legislation, in what is a transport project, is a fatal flaw.

2. **The Screening of Alternatives is Qualitative & Biased:** The screening of alternative solutions to address the future forecast transport needs of the Hermanus CBD has been undertaken on a qualitative and biased basis, rather than on a quantitative and objective basis and this is a fatal flaw. The costing undertaken of the various alternatives mistakenly assumes no monetary value for Fernkloof Nature Reserve land, and this is patently incorrect.

Furthermore, the opinion of “one official of the Municipality” that “*Sustainable public transport systems have not been successfully implemented in any of the metros (Johannesburg, Tshwane, Cape Town) or a city like George where there are many more commuters than in Hermanus. Etc, etc....*” is factually incorrect.

Current best practice among the leading transport planners and engineers in developed and developing countries around the world is a strong move towards sustainable transport solutions and away from predominantly motorised transport solutions. What is being proposed as the only solution (i.e. a bypass) is either intended bias towards a predetermined solution or indicative of a lack of sufficient expertise and/or experience in the field of public transport in developing countries.

Finally, how is it possible that the administration of the Municipality can simply ignore the DA’s 2016 Municipal Election Manifesto firmly committing DA local governments (not only Metros) to improving and expanding public transport?

3. **De-proclamation of Main Road does not equal a Bypass through Fernkloof:** Throughout the documentation when referring to and commenting on the CBD Regeneration Framework report, the Provinces Consulting team as well as “one official of the Municipality” repeatedly conveniently use the desire for the de-proclamation of the existing CDB Main Road to mean that there is therefore justification to replace it by a bypass through the Fernkloof Nature Reserve.

In fact, de-proclamation of the Main Road through the CBD is not a necessary prerequisite for CBD Regeneration because the approved CBD Regeneration plan does not propose the downgrading of Main Road at all - it actually proposes the downgrading of High Street.

Assuming however that the de-proclamation of Main Road is advantageous, it could take place by replacing it with a substantially-upgraded Relief Road and everything would still be in alignment with the CBD Regeneration Framework.

4. **The Proposed Hermanus Bypass does not address the Highest Traffic Need on the R43 in Hermanus:** - In the Overstrand Transport Plan, the 2035 traffic forecasts indicate that the worst traffic congestion is predicted to occur on the R43 just to the west of current proposed Bypass, in the vicinity of the Sandbaai intersection.

The requirement of demonstrating need is therefore not satisfied, as based upon the Province's own traffic forecasts; the proposed Bypass is not the highest priority need on the R43 in Hermanus.

In summary, we believe that parts of what has been done to date is legally and procedurally flawed and that other perfectly acceptable alternatives are available to address the forecast transport problems in and around Hermanus CBD e.g. upgrading the CBD/Checkers Relief Road together with much improved public transport.

Please acknowledge receipt of our comments.

Yours sincerely,

A handwritten signature in black ink that reads "B Stanway". The signature is written in a cursive style with a small dot at the end.

Bob Stanway  
HRA EXCO MEMBER for TRANSPORT

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