

# STATUS QUO REPORT – GREYTON OVERLAY AND GUIDELINES

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**Ward 2 Forum**  
SERVING THE COMMUNITY TOGETHER

**Ward 2 Forum Team**  
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## STATUS QUO REPORT – GREYTON OVERLAY AND GUIDELINES

The future of Greyton could be adversely affected if a suitable Overlay is not incorporated into the Zoning Scheme in order to provide a satisfactory system for the protection of the place from the kind of inappropriate development that already has spread widely. Greyton is currently experiencing a building boom, as more and more of a diminishing stock of vacant erven are being sold, and some property owners apply to develop existing properties. There is therefore leading to increasing pressure for the Commonage to be developed. This makes the need for an Overlay more urgent than ever.

*We are proposing that the Ward 2 Forum and TWKM Planning could co-operate to **urgently** produce an Overlay and Guidelines that would be aligned with existing planning policy. This could be augmented later with the heritage management system when that is ready for implementation. Initially we propose that the original Guidelines are clarified, with no alteration to the provisions, and that the presentation and availability to the public is improved.*

### 1. BACKGROUND

Proposed changes to land use and development rules in the Zoning Scheme, by means of an Overlay, and reasons for these changes, have to be supported by a public participation process, which started in 1998 -2000 as part of the production of the Greyton Structure Plan. The resulting Guidelines were approved by Province in 2000, and have been municipal policy ever since, supported by GAAC acting as an advisory committee to TWKM.

The attempt by TWKM during 2013 to create Overlays for Greyton and Tesselaarsdal failed because of the Consultant's insufficient experience, negative interference by Province and refusal by TWKM Planning at the time to support the principles of an Overlay or allow a full public participation process. A team of people experienced in aesthetics and architectural design over many years produced a draft Overlay for Greyton which was largely accepted by the Consultant but ignored by TWKM.

The Heritage Survey was carried out during 2016 without due attention to the implications, both legal and financial. It was claimed that the results would inform the Overlay. It seems to have been indefinitely delayed.

HOZAC was established to assist in carrying out the heritage survey and implementing the Overlay.

We are told by GAAC that, contrary to visually obvious non-compliance with the Guidelines, recently completed buildings in fact do *mostly* comply, one particular exception being 136 Main Road (erf 583), which is now subject to an Appeal on behalf of Greyton Council, Greyton Conservation Society, GAAC, GRRO and others on the grounds of wrongful approval of the planning application. The house is almost complete and it would therefore be very costly to enforce conformity so late in the process.

### 2. STATUS QUO

#### **The original Guidelines**

They have worked reasonably well until recently. They do not require any *improvement*, as GAAC has attempted to do, but they should be clarified in order to be better understood by all. Also, they should be more actively promoted and supported by Estate Agents and TWKM, and be permanently available on the TWKM website and municipal offices.

They will be replaced by new Guidelines that will be based on the Overlay.

### **Heritage Survey**

The public participation process, essential to the compiling of a Register of Greyton's heritage resources and the subsequent implementation of a protective heritage management system, has failed its purpose. Sections 30.7 and 31.5 of the NHRA require that the Register cannot be completed, and Heritage Areas cannot be designated, until property owners and the affected community have been *consulted* regarding the provisions to be established for the protection of the resources and the areas respectively. There are no regulations in place yet to prescribe this consultation process, and the provisions required are yet to be compiled and approved by Provincial Planning, Heritage Western Cape and TWKM, as required by Section 30.11 and 31.7 of the Act.

Further, there has been no response to a number of significant issues raised by us in our comments on the Survey Report of September 2016.

### **New Guidelines**

These can only be compiled after completion of the Overlay. They must be used with, and clarify the understanding of, the mandatory provisions of the Overlay Zone(s), assist in the interpretation of aesthetic preferences and value judgments', and propose suitable alternatives where applicable. Once approved by Council and the community, they should be gazetted.

### **The Overlay**

The Overlay must not be further delayed by a lack of progress on the Heritage project, the results of which can be incorporated at a later date when completed.

The Overlay for Greyton should be based on Local Area Protection Zones. Although areas outside the heritage precinct may be subject to less prescriptive provisions, in order to encourage the development of a more integrated community, such areas, including outside the urban edge, also need Overlay protection.

This document should be placed in the public domain as a draft as soon as possible to give maximum exposure to the community and TWKM. The process of checking and correcting it must not be compromised by rushing it through the approval procedure. In particular, legal aspects must be examined and verified by experts on zoning schemes.

## **3. ADDITIONAL ISSUES**

### **Inappropriate buildings**

The current Appeal by organisations and affected parties for wrongful planning approval of 136 Main Road, in terms of Section 62 of the Municipal Systems Act, is considered to be irrelevant and misleading. This is confirmed in section (7) of SPLUMA which says *that no appeal in respect of a decision taken in terms of or pursuant to this Act may be lodged in terms of section 62 of the Municipal Systems Act*. There is, however, an Appeal process under SPLUMA.

Section 2.9.1 of the TWKM Integrated Zoning Scheme (IZS: 2011) allows for a written complaint to be made by any person who is of the opinion that any provision of these regulations, or a condition of approval imposed under these regulations, is contravened.

Section 2.9.2 states that where any such contravention occurs, the Council may serve a written directive on the alleged offender and, if the alleged offender is not the owner of the land concerned, also on the land owner, requiring such person(s) to rectify the contravention. The directive may suspend any approval already granted or impose certain conditions, which, if not punctually complied with, may cause withdrawal of the approval.

Despite the above, it should be clear to all that the planning process, including the advisory function of GAAC, should not allow incorrect decisions to be taken in terms of the zoning scheme, municipal policy or Guidelines. Any significant variation from the provisions should only be possible after approval of a Departure or Consent application, following a suitable public participation process. It is the responsibility of Planning Department to ensure that owners and their Agents are made aware of this at the start of the application process.

It is considered essential that TWKM must be able to impose reasonable conditions that are intended to mitigate adverse impacts resulting from non-compliance with planning provisions.

### **GAAC**

GAAC, as an advisory committee to TWKM, should be set up in terms of section 2.12 of the IZS, with a clear mandate to advise property owners and TWKM Planning Department concerning architectural and aesthetic aspects related to the zoning scheme, in particular any Overlays and associated Guidelines.

All development applications should be reviewed by GAAC, using a procedure to be established, the resulting comments to be made available to the public in a manner to be established (as a minimum the TWKM or Conservation Society website and municipal notice boards). There should also be a procedure to review any decision by TWKM that is contrary to GAAC's recommendations, giving an opportunity to change or amend the decision.

### **HOZAC**

At the moment, this committee has the TWKM Planning Manager as Chairman, no official mandate or terms of reference, and an exclusive agenda in favour of heritage management that is considered incompatible with the requirement to protect all of Greyton from inappropriate development. It is difficult to see how this committee can contribute to the timely completion of this project.

### **Public Participation Process**

Recent experience of inadequate communication of sufficient and timely information to **all** potentially affected persons in the community that should allow proper consideration of the effects of development applications, indicates that the process should be reviewed and improvements discussed.

### **Planning Department**

The Municipal Systems Act (section 6(2)) states that the municipality must:

- Be *responsive* to the needs of the local community;
- *Facilitate co-operation* between it and the local community.

The current reorganisation of the Planning Dept encourages us to believe that the experience and motivation now exists to create a successful working facility that will protect Greyton from any more inadequate development, satisfy the reasonable expectations of the property owners, and still facilitate sustainable development, within the existing environmental, infrastructure and municipal constraints.

*The first requirement is to agree a plan that includes input into the SDF and IDP and an adequate budget for completion of the project.*



On behalf of Ward 2 Forum