



3 March 2022

To Senior Manager: Fire & Disaster Management and Security
Overstrand Municipality
Lester Smith

Dear Mr Smith

COMMENT ON: **POLICY FOR CREATING AND MAINTAINING FIRE WISE VACANT ERVEN IN URBAN AND SUBURBAN AREAS OF THE OVERSTRAND MUNICIPALITY**

This document from the Bettys Bay Conservancy (BBC) highlights some of the problems associated with the Notice that is sent to property owners and the current version of the Policy and some suggested solutions. We note that there seems to have been no change to the September 2021 version of the Policy after the public participation in September last year.

We thank you for opening up another round of public participation on this version and hope that there will be a good response and positive way forward to a win-win situation of an environmentally appropriate Fire Wise Policy – especially for the Kogelberg biosphere Villages.

SOME BASIC PROBLEMS IDENTIFIED

SECTION A: NOTICE SENT TO PROPERTY OWNERS

1. Problem: Misinterpretation: resulting in plots being stripped

A: Current incongruent wording in Notice to property owner vs the Policy

The first point of contact from Overstrand Municipality (OM) to the property owner regarding the “Fire Wise Vacant Erven Policy” is already setting them up for misinterpretation: The Notice sent to the owner is called the “Plot clearing notice”. This creates the **misunderstanding/wrong impression** that a plot has to be CLEARED or stripped as does the repeated use of wording “clear” in the notice:

- Title of the document sent “ Plot *clearing* Notice
- Heading of the “Notice to *clear a property* creating a fire hazard”;
- “You are required to *clear* and maintain your property”;
- Should you decide to *clear* the plot yourself..”
- “you undertake to *clear* the premises before the compliance date”,
- Guidelines for *cleaning* of property” ,
- if the Municipality has to *clear* the plot, it will be over and above the actual *cleaning* cost...”

B: Solution:

1. There needs to be consistency with the Policy name and terminology in the Notice and policy to avoid the wrong impression and misinterpretation: It is to “Create and maintain Fire Wise vacant erven” and NOT to “CLEAR (strip) vacant erven”.

1. Change the Title of the Notice sent to property owners to: “Fire Wise Vacant Erven Notice”
2. Change the repeated use of ‘clear’ in the Notice to be in line with the Policy name too e.g. “create a Fire Wise vacant erf” or “reduce the fire risk on your property”:

CURRENT WORDING	CHANGE TO
Title of the document sent “ Plot clearing Notice	Fire Wise Vacant Erven Notice”
Heading of the Notice : “Notice to <i>clear a property</i> creating a fire hazard”;	“Notice to <i>create a Fire Wise vacant erf</i> ”
“You are required to <i>clear</i> and maintain your property”;	“you are required to <i>reduce the fire risk on your property</i> ”
Should you decide to <i>clear</i> the plot yourself” ...	Should you decide to <i>reduce the fire risk on the plot yourself</i> ” ...
“you undertake to <i>clear</i> the premises before the compliance date”,	you undertake to <i>reduce the fire risk on the premises before the compliance date</i> ”,
Guidelines for cleaning of property” ,	Guidelines for <i>reducing the fire risk on the property</i> ” ,
if the Municipality has to <i>clear</i> the plot, it will , over and above the actual <i>cleaning cost</i> ...”	if the Municipality has to <i>reduce the fire risk on the plot</i> , it will over and above the actual <i>fire risk reduction cost</i>”

3. It should also be made 100% clear in this Notice that:

- it is NOT an instruction to clear the property of ALL vegetation
- that only manual methods using hand held tools are permitted for fire risk reduction of vegetation in protected areas (section 3.4) e.g. in Kogelberg Biosphere villages of Rooiels, Pringle Bay and Bettys Bay

This wording must be included under the “Guidelines for reducing the fire risk on a property” section.

4. I have edited the wording in the Notice in the attached document – you will need to use the “review” and “All markup” in the ‘track changes’ option to view them clearly.
5. This Notice should be made longer to include this important information and then printed “back to back” to keep it to one page if that it necessary.

2. The “Guidelines for Fire Risk Reduction on a property” section of the Notice

A: Problem: These Guidelines are also responsible for the destructive stripping of plots, especially in the Kogelberg Biosphere Villages:

Currently in the notice they read as:

- The cutting down of grasses and other vegetation to maximum of 500mm in height.
- **The minimum reduction of 50% of the density of indigenous vegetation. (this is a BIG problem and must be changed!)**
- Removal of all deadwood and combustible material from beneath trees and shrubbery.
- Removal of excess growth on desired shrubs and trees from the ground level to a minimum height of 1,2m.
- All garden refuse and combustible material must be removed from the property. No cut down vegetation may be left on the property or placed on municipal road verges after clearing has been completed

B: Solution:

This section needs to be revised, as well as the related section 8.2 and 8.3 of the Policy. This is the main aspect where the comments and concerns of local experts and environmentally concerned residents have focused

over the past policy drafts since at least 2018. Yet it appears that little or nothing has been modified from their input and assistance.

1. Note in the 2013 “Fire Hazards management Policy” version of this policy, the guidelines generally and for Conservancy/protected area focused on:

*“Eradication and removal of all **alien invasive vegetation**. **All combustible deadwoods**, refuse, litter and other verified fire hazards shall be removed. Grasses shall not exceed a height of 30cm. Maintain safe distance between possible/future fire hazards and structures”*

Simple.

These 2013 Guidelines didn’t focus on destroying the indigenous vegetation and trying to put ill-fitting and somewhat irrelevant/inappropriate height conditions on it.

2. Please see in particular the prior Kogelberg Botanical Society, the Kogelberg Biosphere Company (by Jan Briers) and Prof Brian van Wilgen’s 2022 comments. All are attached to this email.

3. I suggest that the Fire Dept. works with e.g. Prof van Wilgen to produce clear, expert advised and appropriate sections for 8.2 and 8.3 which are then summarized in a simple and easy to implement list in the “Guidelines for Fire Risk Reduction on a property” of the Notice to the property owner. The current lists in 8.2 are disordered and duplicate points (see attached doc). Once appropriate points have been finalized with the experts – it can be written in a much easier manner.

Prof Van Wilgen’s comments are supported by Raymond Smith and Prof Tony Cunningham, both professionals with years of experience.

Some suggested points as per 2013 Policy:

- Remove alien invasive vegetation e.g. Rooikrans, Port Jackson, Spidergums, Pines
- Removal of all deadwood, refuse, litter
- A maximum reduction of 40% of the density of vegetation- (species appropriate trimming).
- All garden refuse and combustible material must be removed from the property. No cut down vegetation may be left on the property or placed on municipal road verges after clearing has been completed

3. The Process of this Policy

A: Problem: This Policy is linked to the sale of an erf i.e. the rates clearance/property transfer transaction:

The seller is forced to do a “plot clearing” – which should correctly be termed a “Fire wise reduction” - in order to be able to complete the sales transaction for his property. The sale of the erf is currently not finalized unless the Fire Dept./Fire Chief approves that the vacant erf has been “cleared” to their satisfaction – based purely on a fire perspective and no environmental impact consideration.

The buyer then receives an erf in a different condition, i.e. stripped of much vegetation or even stripped barren, to that which he paid a large sum of money for.

If there were any, for example, protected, threatened, rare endemic or red-listed species on the erf, these could all just be lost/ stripped in this “compulsory Fire wise reduction” (plot clearing) process BEFORE Tamzyn from the Environmental Dept. has been made aware. She sees plans when they are submitted by the new owner and if she then assesses where the erf is and that it is an ecologically sensitive erf that needs special conditions/advice ... IT IS TOO LATE if the erf has been stripped in a “plot clearing” process.

It also does not make sense for this policy to be triggered by the sale of a vacant erf, which in all likelihood has been bought for the new owner to build on, which will shortly thereafter have vegetation cleared for the space for building.

What is the point for double clearing i.e.? Forced at the point of sale and then when the new owner clears to build?

B: Solution

This Policy should not be linked to the sale/transfer of a vacant erf. Is that legal anyway? This “Fire Wise Vacant erven” Policy is based on one clause from the Community Fire Safety Bylaw! *“The owner or person in charge of the premises may not permit **vegetation to grow or accumulate thereon**, or other combustible material to accumulate thereon, **in a manner likely to cause a fire hazard** or other threatening danger.”*

The only clearing linked to a sale of a vacant erf could be the removal of alien invasive plants and deadwood – as per the 2013 Fire Hazards management Policy.

What should be linked to a sale of a vacant is the trigger of environmentally sensitive erfs whereby Tamzyn /the Environmental Dept. is alerted and can advise the new owner of appropriate building conditions for the erf and what is protected on the erf.

SECTION B: DRAFT FIRE WISE VACANT EVEN POLICY

COMMENT ON THE SEPTEMBER 2021 Policy Document

Please respond to the following points, questions, suggested edits and changes:

Chapter 1:

<i>Public open space 2:</i>	is still missing from the definitions list on pg. 5. It is referred to on pg. 6 in 2. 4.2 But there is no definition of it in the definitions list
<i>Urban Area:</i>	definition should come before” waste material” one on the list
<i>Protected Tree:</i>	why was this definition removed from the version dated April/Sept 2019?

Chapter 2:

2.4 Objective:

This “Fire Wise Vacant erven” Policy is based on one clause from the Community Fire Safety Bylaw! <i>“The owner or person in charge of the premises may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.”</i>	
and a perception of “overgrown”:. <i>“to grow or accumulate thereon. ... in a manner likely to cause a fire hazard ..”</i>	This is not standardized or measurable so it is not consistent but relative to someone’s perception of “grown or accumulateor likely to cause..”. Indigenous vegetation is the natural occurring vegetation in the KBR, so it does not make clear sense to base a policy on a clause re “may not permit vegetation to grow or accumulate thereon...” .. in a manner to cause a fire hazard

Chapter 3:

3.2: what is section 58 of Community Fire Safety Bylaw? The copies I have end at section 57 or refer to Fireworks permits?	Please can you send the BBRA this section so we know what it refers to . Thanks
3.4 Only manual clearing methods shall be used for reducing fire hazards in areas proclaimed as protected	Should be bolded - to make it clearer that only manual methods in the conservancy villages. Bettys Bay sees bulldozers striping erfs to barren sand pits.
3.8 <i>“Where permitted, driven motorised lawnmowers or tractor drawn brush cutters (‘bossiekappers’) may be used at the discretion of a land-owner, who is encouraged to consider the protection of animals and natural vegetation in the process</i>	Should be clear that this is NOT permitted in Protected areas This happens in Betty’s Bay regularly – why?

I suggest that the order of wording and points in Chapter 3 is changed, as below, to make it clearer regarding the methods allowable in protected areas:

Current wording and order	Suggested changes to make it clear re manual and mechanical methods
3.4 Only manual clearing methods shall be used for reducing fire hazards in areas proclaimed as protected. Mechanical clearing shall be permitted in areas that are not proclaimed as protected in accordance with the relevant legislation.	3. 4 Only manual clearing methods shall be used for reducing fire hazards in areas proclaimed as protected. Manual clearing is done using hand tools such as bow-saws, pruning scissors, motor operated hand held chain saws or motor operated hand held brush cutters.
3.5 Manual clearing is done using hand tools such as bow-saws, pruning scissors, motor operated hand held chain saws or motor operated hand held brush cutters.	3.5 Mechanical clearing shall be permitted in areas that are not proclaimed as protected in accordance with the relevant legislation. Mechanical Clearing is done using industrial driven motorised lawnmowers or tractor drawn bush cutters (‘bossiekappers’).
3.6 Mechanical Clearing is done using industrial driven motorised lawnmowers or tractor drawn bush cutters (‘bossiekappers’).	3.6 Where permitted, in areas not proclaimed as protected , driven motorised lawnmowers or tractor drawn brush cutters (‘bossiekappers’) may be used at the discretion of a land-owner, who is encouraged to consider the protection of animals and natural vegetation in the process.
3.7 Fire Breaks free of combustible material shall be created on urban perimeters where necessary, as determined by the Chief Fire Officer in order to	3.7 Fire Breaks free of combustible material shall be created on urban perimeters where necessary, as determined by the Chief Fire

assist in preventing fires from spreading and to provide the necessary access for firefighting vehicles of all types to control fires.	Officer in order to assist in preventing fires from spreading and to provide the necessary access for firefighting vehicles of all types to control fires.
3.8 Where permitted, driven motorised lawnmowers or tractor drawn brush cutters ('bossiekappers') may be used at the discretion of a land-owner, who is encouraged to consider the protection of animals and natural vegetation in the process.	3.8 Areas such as roadside verges, public gardens, parks, fire breaks or sports/playing fields where continuous maintenance takes place, are subject to compliance with the minimum standards of this policy.
3.9 Areas such as roadside verges, public gardens, parks, fire breaks or sports/playing fields where continuous maintenance takes place, are subject to compliance with the minimum standards of this policy	

Chapter 4

What happened to the clause on disputes from the "April 2019" version?	
4.4 is supposed to be 40 working days	this was corrected in April 2019 version but is missing again in the 2021 version
4.8 contractors provided with " <i>specific instructions</i> "	please clarify as these " <i>specific instructions</i> ". The devastation on erfs do not indicate that clear instructions are given to the contractors.

Chapter 7

The clause regarding settling of disputes is missing – it was in April/Sept 2019. This was discussed and agreed on at the Sept 2019 meeting	Why has this clause been removed?
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Section 8: Prescribed Standards for clearing vegetation

This is the important section that needs to be redone in association with e.g. Prof Brian van Wilgen

Points in 8.2 and 8.3 are duplicated. Please see other document that compares these 2 sections in a table to make it easy to see "at a glance" what is duplicated in both. This section needs the most attention to make it simple and easy to follow and clear what is the difference between the protected area e.g. villages in the KBR.

8.1 Contractors appointed by the Municipality for **the fire risk reduction** (*delete clearing of erven*) are not permitted to use any herbicides on private erven, unless specified by the landowner, but may, under direction

of the relevant municipal departmental manager, use suitable herbicides and application methods to control invasive species on municipal property.

Current	Comment
8.2.3 : <i>"indigenous ground-covering plants"</i>	Ground covers are usually low growing plants; not all indigenous vegetation can be put into one "ground covering" plant clause and chopped off at 500mm. not appropriate
8.2.4: <i>"The area around trees shall be cleared of growth to a minimum height of 1.5m on the underside of the canopy..."</i> :	What is done to trees shorter than 1.5m within fynbos areas?
8.2.5: <i>On erven that are surrounded by 1.8m or higher boundary walls the density of indigenous vegetation must be reduced by a minimum of 50%.....:</i>	Where are vacant plots surrounded by 1.8m high walls?
8.2.9 ... <i>on the verge for longer than 3 (three) days.</i>	Was changed to 3 working days in April/Sept2019
8.2.10..chips spread uniformly over the total area:	Ecologist commented already that this results in soil changes and <i>more</i> alien vegetation growing
8.2.12 re contractors..... <i>and environmentally sensitive clearing methods. These contractors must also be sanctioned by the relevant Conservation Associations within the designated areas."</i>	why was this removed from 2019 version? In the Conservancy's there should be only contractors who know how to do fire risk reduction on a plot in environmentally appropriate
It is said that the OM deducts R5000 or more from homeowners for clearing yet private contractors charge about half that? On what does OM base this figure that is much higher?	

8.3 Very important section re protected areas

Current clause	Suggested change
Current title: The following minimum requirements are applicable to erven located in proclaimed biospheres and other protected areas in urban and suburban areas that are zoned for development, with the exception of erven situated within 50m of any thatched roof dwelling or structure:	<p><i>This was the title in the prior version:</i> <i>The following added minimum requirements are applicable to erven located in proclaimed biospheres, Nature Reserves, Conservancies and the Kogelberg Biosphere Nature Reserves in urban and suburban areas that are zoned for development</i></p> <p><i>It was decided at Sep 2019 Workshop that the issue of thatch rooves would be removed from Fire Policy and dealt with in building recommendations</i></p> <p><i>Suggested Change to title</i> The following added minimum requirements are applicable to erven located in proclaimed Biospheres (e.g Kogelbeg Biosphere Reserve), Nature Reserves and Conservancies in urban and suburban areas that are zoned for development</p>
Add in as a reminder:	Only manual clearing is allowed in protected areas. No mechanical clearing with tractor driven lawnmowers or bush cutters (bossiekappers) is allowed.

<p>8.3.1 Remove all combustible deadwood, and any other ground level fire hazards.</p>	<p>Add in : Remove alien invasive vegetation</p>
<p>8.3.2 Retention of desired trees is subject to them being cleared of growth from ground level to a minimum height of 1.5m below the canopy.</p>	<p>Protected areas in the OM /Kogelberg Biosphere are fynbos areas with a lot of smaller trees than 1.5 m. This still doesn't adequately deal with fynbos tall bushes that are not trees? The botanical experts have given their input here many times – this isn't appropriate</p>
<p>8.3.3 Reduce (thin out) the density of vegetation by a minimum of 50% across the total area of the erf.</p>	<p>“by a minimum of 50%” - This can result in plots being stripped clean. Rather use something like “ a reduction of not more than 40% of the density of the vegetation”. <i>It should be included that: Removal of alien vegetation/deadwood should make up the biggest percentage of the reduction and thereby minimal indigenous vegetation should be removed.</i> <i>Continuous removal of 50% (or worse the total destruction) of indigenous vegetation on vacant erven in this Fire Wise process , is destroying wildlife habitat in conservancy villages in a protected area.</i></p>
<p>8.3.4 Provide for a safe distance between the vegetation and any structures on abutting erven by making certain that that vegetation does not encroach over the standard 2m building or other scheme lines;</p>	<p>The clause in the April/Sept 2019 version removed the bit re “over the standard 2m building or other schemes lines” and was more appropriate. The current clause would leave for 2m around the edges of all vacant erven making it inappropriate. Please can this wording be reinstated for this clause: <i>Provide for a safe distance between the vegetation and any structures on abutting erven by making certain that vegetation does not encroach on the structures. Such vegetation must be trimmed back</i></p>
<p>8.3.5 Maintain grass and indigenous ground-covering plant species at a maximum height of 500mm (0.5m).</p>	<p>Clarity needed on what “indigenous ground – covering plants” are versus general indigenous bushes of varying sizes that can't just be chopped to 50cm . This one size fits all isn't appropriate</p>
<p>8.3.6 All vegetation refuse produced in the course of clearing an erf must be removed from the cleared erf and may not be left on an erf or on the verge for longer than 3 (three) days;</p>	<p>Was changed in April/Sept 2019 to 2 (three) working days</p>
<p>8.3.7 Erven that are located within 50m of thatched roof structures shall be cleared of vegetation to the minimum standard at all times, irrespective of vegetation species and location, with the exception of trees, which must be trimmed in accordance with section 8.2.4 of this chapter.</p>	<p>This clause was removed in the April/Sept 219 version. Why is it back in Sept 2021?</p>
<p>8.3.8 The clearing of erven shall be done in a manner that does not contribute to soil erosion.</p>	<p>.....Done in a manner that does not strip the plot and remove top soil or disturb the soil.</p>
<p>8.3.9 Cuttings may be chipped into pieces not larger than 100 x 100mm in size, which may either be removed or spread uniformly over the total area of the cleared</p>	<p>As per prior ecologist feedback – chips left all over the erf change the soil and results in increase growth of alien vegetation.</p>

<i>erf but may not be left as heaps that will give rise to spontaneous combustion.</i>	
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Other points noted by the experts who concur with points by Prof van Wilgen

1. Problem: the standards for excessive plot clearing/vegetation removal i.e.

- “thin out density of vegetation (including indigenous) to a minimum of 50% “. This can simply be interpreted by contractors and owners as stripping the plot of ALL vegetation
- rules that ignore endangered species
- inappropriate height criteria on fynbos
- Solution: consult with the experts for appropriate standards and wording of a “Fire wise vacant erf” policy

2. **Problem:** The recent (November 2021) case where SANBI were legally forced to start clearing a firebreak from Fourstreams Road to the turning circle at the Dawidskraal end of Marine drive – without consultation with the landowners; requests to OM /Fire Dept to stop the process were ignored; and the resulting “firebreak “ has created a poachers path and threatened the security of the landowners; an alternative location on municipal lands and in an area of less environmental impact along the old Dawidskraal River would have been more suited.

Appropriate firebreaks also need to be maintained

Solution: What is needed is consultation on the location of fire breaks with knowledgeable local scientists aware of multi-disciplinary issues. We live in a Biosphere Reserve where land-use planning is complex. And the fire legislation should NOT give this section of the OM the right to ride rough shod over alternative locations of fire breaks that take multi-disciplinary drives of “unintended consequences” (crime, illegal settlement, abalone poaching) into account.

3. Public open spaces/municipal land should also be dealt with in an **ecological appropriate** and fire wise manner.

4. The Post Office system is not functional to be relied upon to deliver a Notice. Perhaps a courier service needs to be used.

Problem: This draft Policy is not accepted in Rooiels, Pringle Bay and Betty’s Bay

This Policy in its current form from the past few years is NOT accepted by the Kogelberg Biosphere Villages as it is inappropriate for vacant erfs in this ecologically sensitive area.

Solution:

The way that this policy will be accepted is for the Fire Dept. to work with e.g Prof van Wilgen and other experts from the villages and to sit down and draw up clear and suitable Biosphere guidelines that are easily understood and implementable in a manner that is both fire wise and ecological appropriate.

Until that happens , these public participation processes are just tick box exercises that go around the same mountain each time, the input seems to be shelved and the policy is not finalized. People from the Conservancy Villages all share and have submitted similar concerns for years now.

Yours sincerely

Carol Clark

Chair of the Betty’s Bay Conservancy