

MEDIATION IN PRACTISE



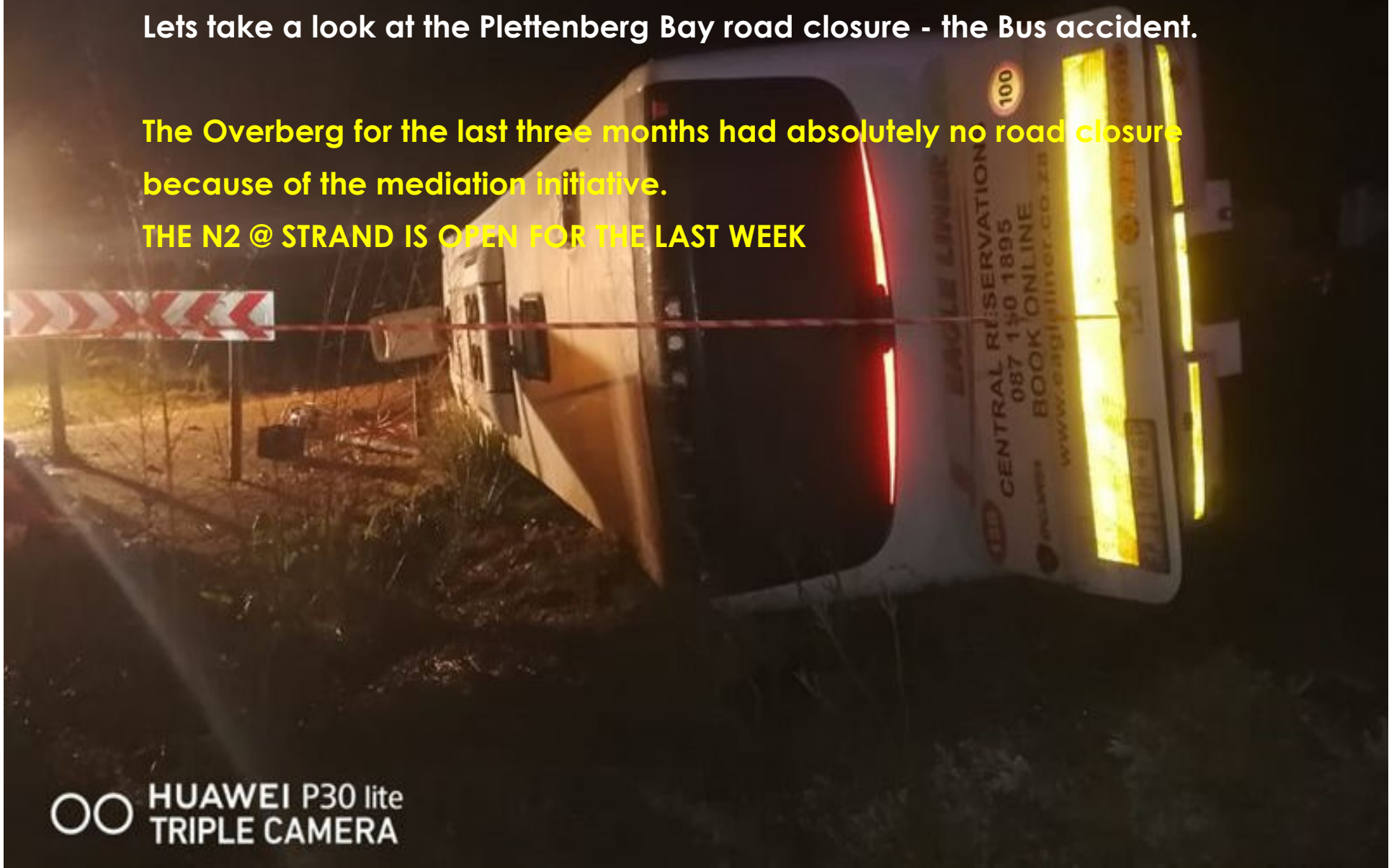
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MEDIATION SAVES LIVES

Lets take a look at the Plettenberg Bay road closure - the Bus accident.

The Overberg for the last three months had absolutely no road closure because of the mediation initiative.

THE N2 @ STRAND IS OPEN FOR THE LAST WEEK



MEDIATE CONFLICT



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WHAT IS MEDIATION?

MEDIATION DEFINED

Mediation is a process in which a third party works with parties in conflict to help them change the quality of their conflict interaction from negative and destructive to positive and constructive, as they discuss and explore issues and possibilities for resolution

Friendly or diplomatic intervention, usually by consent or invitation, for settling differences between persons, nations, etc.

The act of a third party intervener who mediate between two contending parties with a view to persuading them to adjust or settle their dispute “Mediation” a process whereby a neutral third party person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and non adversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement.







7 MAIN CAUSES OF CONFLICT

- **Perception**
- **Communication**
- **Beliefs / Values**
- **Resources**
- **Failed Promises**
- **Un employment**
- **Poverty**



COMMON USED METHODS

ALTERNATIVE WAYS OF HANDLING CONFLICT ARE:

1. Negotiation

- This is a voluntary process where a third party is not used. The disputing parties work together to gain consensus, compromise etc. by discussing, facts, feelings, interests, needs perceptions, ideas, solutions etc.**

2. FACILITATION

An impartial third party or parties manages meetings and negotiations for various public and private agencies, labor groups and coalitions.

4 STYLES OF MEDIATION

- **Facilitative Mediation**
- **Evaluative Mediation**
- **Transformative Mediation**
- **Narrative Mediation**

THE MEDIATION MOVEMENT

- **The Satisfaction Story (parties satisfaction with process)**
- **Flexibility, informality and consensual**
- **Not limited by legal rules**
- **Allow parties to be creative in coming up with solutions**
- **Can reduce economic and emotional cost of disputes**
- **Higher rates of compliance**
- **Speedier**
- **Sees Mediation as creative problem solving, which produces settlements that**
- **Satisfy disputing parties on all sides.**

MEDIATORS ENGAGEMENT METHOD

- 1. Walk to the crowd**
- 2. While walking gather information about the situation from community**
- 3. Never drive in or be accompanied by SAPS / Law Enforcement**
- 4. Test the information received from SAPS and First Responder**
- 5. Find out who are the leader**
- 6. Form a profile of your situation**
- 7. UNDERSTAND THE DYNAMICS OF THE COMMUNITY IN CONFLICT**

OPENING COMMENTS

- **Introductions and clarify who is in the room**
- **Thank parties for choosing mediation**
- **Establish Credibility and Neutrality**
- **No knowledge of any party**
- **No knowledge of issues/situation other than what is on the referral form**
- **Explain Mediation**
- **Not a trial. It s a facilitated discussion.**
- **It's an opportunity for parties to discuss the issues and explore options for resolution.**
- **Resolution is one option the others are no agreement, OR withdrawal of the complaint, the decision is yours.**
- **Mediation is a tool for self-determination, you the parties will make all decisions concerning outcome of this session; including whether or not you want the case to return to court (if a court case)**

OPENING COMMENTS

- Explain that mediation is voluntary
- Address Confidentiality and exceptions
- Explain Mediators Role
- To facilitate your discussion to assist you in gaining clarity and understanding on the issues that brought you to mediation.
- Remain neutral and impartial
- Not to give legal advice or advocate for either party
- Not to determine who is right or wrong
- Agreement to Mediate (if one exists review the for

WHO CAN BE A MEDIATOR

- 1. A person with integrity**
- 2. Non political**
- 3. Respected Community Leaders**
- 4. Must be able to speak one or two of the Languages of the local community**
- 5. Must know how to work with Stakeholders**
- 6. Must have knowledge on different Legislation and Acts**

HOW IS THE MEDIATION TEAM STRUCTURED

- **FIRST RESPONDERS**
- **MEDIATORS.**
- **ADVISORY PANEL. { PEOPLE WITH A LEGAL BACKGROUND}**

LOOKING AT LEGISLATION

ESTA.

FOCUS ON FARM LAND AND FARM EVICTIONS

PIE.

**DEALS WITH ALL LAND SPECIFICALLY PUBLIC LAND
DEALS WITH LAND INVITATION**

LABOUR ACT:

LABOUR RELATED MATTERS

ROLE PLAY

1. SERVICE DELIVERY PROTEST { HOUSING ; ELECTRICITY , WATER }
2. LAND INVATION PROTEST
3. LABOUR PROTEST
4. FARM IVICTION PROTEST

THE WAY FORWARD

- **Identify first responders**
- **Identify mediators**
- **Train mediators**
- **Compile a narrative and community profile**



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