`

MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

A G E N D A

DATE:	**28 AUGUST 2025**
VENUE:	**TOWN PLANNING COMMITTEE ROOM**
TIME:	**10:00**

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

12 August 2025

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

NOTICE IS HEREBY GIVEN that the **Municipal Planning Tribunal (MPT)** will go into session in the Town Planning Committee Room on **Thursday, 28 August 2025** at **10:00** to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Ms H Janser (Chairperson)
2. Mr S Müller (Vice Chairperson)
3. Mr H Blignaut (Member)
4. Ms R Louw (Member)
5. Mr R Kuchar (Authorised Official)
6. Mr S van der Merwe (Senior Town Planner)
7. Ms H van der Stoep (Senior Town Planner)
8. Mr P Roux (Town Planner)
9. Mr H Olivier
10. Mr B Minnaar

9 Secretariat

MUNICIPAL PLANNING TRIBUNAL
(MPT)

28 August 2025

I N D E X

ITEM		PAGE NUMBER
	APPLICATIONS FOR LEAVE OF ABSENCE	
4.1	ERVEN 379 AND 6137, 18 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING, SUBDIVISION, CONSOLIDATION AND CLOSURE OF A PUBLIC PLACE: MESSRS. INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF MG OTTO	1
4.2	ERF 298, 67 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF AJ AND E ROOS	43
4.3	ERF 1878, 60 BUFFELS ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR RELAXATION OF TITLE DEED CONDITIONS: J DOUGLAS ON BEHALF OF E KAISER	80
4.4	ERF 2662, 207 PORTER DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: EMENDO PROJECT MANAGERS & PLANNING ON BEHALF OF WHALING STATION BETTYS BAY (PTY) LTD	142
4.5	ERF 3970, 13 HIBISCUS ROAD, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF SC MARCOVECCHIO	251

4.6	**ERF 6862, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAME AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY *[INFILL HOUSING DEVELOPMENT]***	**315**
4.7	**ERF 6936, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAMES AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY**	**489**
4.8	**PORTION 94 OF THE FARM HEMEL EN AARDE NO. 587, DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD**	**605**

AGENDA : MUNICIPAL PLANNING TRIBUNAL: 28 AUGUST 2025

---

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 31 July 2025

4. ITEMS FOR CONSIDERATION

4.1 ERVEN 379 AND 6137, 18 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING, SUBDIVISION, CONSOLIDATION AND CLOSURE OF A PUBLIC PLACE: MESSRS INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF MG OTTO

Report attached

4.2 ERF 298, 67 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF AJ AND E ROOS

Report attached

4.3 ERF 1878, 60 BUFFELS ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR RELAXATION OF TITLE DEED CONDITIONS: J DOUGLAS ON BEHALF OF E KAISER

Report attached

4.4 ERF 2662, 207 PORTER DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: EMENDO PROJECT MANAGERS & PLANNING ON BEHALF OF WHALING STATION BETTYS BAY (PTY) LTD

Report attached

4.5 ERF 3970, 13 HIBISCUS ROAD, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF SC MARCOVECCHIO

Report attached

4.6 **ERF 6862, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAME AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY *[INFILL HOUSING DEVELOPMENT]***

Report attached

4.7 **ERF 6936, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAMES AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY**

Report attached

4.7 **PORTION 94 OF THE FARM HEMEL EN AARDE NO. 587, DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD**

Report attached

4.1
ERVEN 379 AND 6137, 18 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING, SUBDIVISION, CONSOLIDATION AND CLOSURE OF A PUBLIC PLACE: MESSRS INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF MG OTTO

379 & 6137 HWC (4691/2024)
B Minnaar (028) 313 8900 Hermanus Administration
15 July 2025

1. EXECUTIVE SUMMARY

An application has been received on 11 June 2024 from Messrs Inter-Active Town & Regional Planners on behalf of Overstrand Municipality and MG Otto on Erven 379 and 6137, Westcliff, Hermanus in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- **subdivision** of Erf 379, Hermanus in terms of Section 16(2)(d) of the By-Law into two (2) portions, namely Portion A (±99m²) and a Remainder;

- **closure of public place** in terms of Section 16(2)(n) of the By-Law to accommodate the closure of the public road on subdivided Portion A (±99m²);

- **rezoning** in terms of Section 16(2)(a) of the By-Law of subdivided Portion A from Transport Zone 2: Road and Parking to Residential Zone I: Single Residential (SR1), and

- **consolidation** in terms of Section 16(2)(e) of the By-Law of subdivided Portion A (±99m²) with Erf 6137, Hermanus to create a single residential property of ±1217m² in extent.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Subdivision and Consolidation Plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The property owner of Erf 6137, Hermanus intends to increase their property by means of acquiring additional land (a portion of Erf 379, Hermanus – municipal owned land). By acquiring the additional land, the property owner can allow for a gate with a fence behind the parked vehicles that can be closed off before garages are open or before exiting the vehicle. The property owner lodged an application to comply with the Overstrand Land Use Scheme.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is as follows:

- On 5 March 2024, the sale of a portion of municipal property (Erf 379, Hermanus) was in principle approved by council. It must be noted that the approval appears to contain a typing error, since the application was to purchase 99m² (48m² + 51m²) while the in-principal approval is for 88m².
- The application is to increase the safety and security of the property when entering or exiting the vehicle before opening or closing the garage doors.
- A relatively small portion of the road will be incorporated into the application area.
- The portion of road will be rezoned to allow for the consolidation of Erf 6137, Hermanus and Portion A.
- The sidewalk on the road reserve remains wide enough for pedestrians.
- The De Goede Street, Westcliff Road intersection remains the same width.
- No services are impacted by the proposal.
- The proposal will not have a negative impact on the surrounding properties.
- The property falls within the urban development area and is therefore consistent with the SDF.
- The proposal will not contribute to densification and is therefore consistent with the Overstrand Municipality Growth Management Strategy.
- The planning principles will be discussed later in this report.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		**Date published**	**Closing date for comments**
Local Newspaper	**Yes**	31 January 2025	07 March 2025
Provincial Gazette	**Yes**	31 January 2025	07 March 2025
E-mail notices & site notice	**Yes**	29 January 2025	07 March 2025
Notices *(persons mentioned in title deed)*	**No**	N/A	N/A
Internal departments	**Yes**	29 January 2025	07 March 2025
Ward Committee	**Yes**	29 January 2025	07 March 2025
External Departments	**Yes**	29 January 2025	07 April 2025
Total comments	**2 Objections received**		
Total letters of support	**NONE**		

Was public participation undertaken in accordance with section 46- 50 of the By-law on Municipal Land Use Planning?	**Yes**
Was the application processed correctly (if no, elaborate below):	**Yes**
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	**Yes**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	29/01/2025	No objection. Any building plan application must comply with all applicable law.
Waste Management	31/01/2025	No objection.
Fire Department	05/02/2025	No objection subject to compliance with the provisions of SANS 10400-A, SANS 10400-T:2024 and the By-Law relating to fire safety.
Services Report	17/02/2025	See Annexure G.
Eskom	24/02/2025	No objection.
Environmental Management	04/03/2025	No objection.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

During the public participation process one (1) no objection was received by D Sedgewick on 29 January 2025 and one (1) objection was received by Gavin Theron on behalf of the Edwellen Trust (refer to Annexure D).

The applicant was granted the opportunity to respond to the comments and objections (refer to Annexure F). The comment, objections, Response from applicant to the objections and the Response from town planner thereto are as follows:

Comment by D. Sedgewick
"No objection from us as the registered owners of 21 Westcliff Road."
Response from applicant No response provided.
Response from town planner Noted.

Objection by G Theron on behalf of the Edwellen Trust
Objection 1
"Public roads are intended to serve the future road and access requirements of the public and not just individual property owners. The application does not provide any benefit to the public."

Response from applicant The road network for the area has already been designed and accordingly built. This has been cleared and confirmed as part of the application process with the municipal engineering department and other relevant departments of the Overstrand Municipality. The land portion proposed to be used is a relatively small portion (99m²) and in contradiction to the objector's statement this portion is a fallow and unused portion and does not provide any specific benefit to the public, but on the other hand will provide a material benefit to the applicant in terms of security and safety.
Response from town planner The application was circulated to the engineering services for their comment twice. The first public participation process was with regards to the sale of a portion of municipal land (±99m²). The second public participation process was with regards to the current land use planning application. During both processes, the Engineering Department provided a comment of no objection to the proposal. Although the application does not provide any public benefit, the subject property owner of Erf 6137, Hermanus will benefit in terms of safety and security when entering or exiting their garage.
Objection 2:
"Public roads are intended to be space to accommodate municipal services. The closure of this Public Road means that services that that may be required to serve the public in future may not be able to be accommodated. The application is therefore not in the best interest of the public."
Response from applicant As mentioned here-above the portion being applied for has been investigated by the local authority whether the portion will be needed for municipal services or the public in future as part of the application process and it has been confirmed that it is not required for any specific municipal use. Therefore, in contradiction to the objector's statement the subject portion does not provide any specific benefit to the public, but on the other hand will provide a material benefit to the applicant in terms of security and safety.
Response from town planner The response by the applicant is agreed with, in both instances of public participation, the Engineering Department provided no objection to the proposal, therefore it is not foreseen that the approval of the application will impact on any future services requirements.
Objection3
"The sale price for the land is not market related and therefore the sale will not be in the interest of the public."

Response from applicant
The value of the land being applied for has as part of the municipal application process has been valued by an independent valuer. Therefore, the statement of the objector is incorrect and should be rejected. It is evident that the objector is not familiar with the processes to alienate municipal land.

Response from town planner
This objection relates to the price the municipal land will be sold and therefore has no relevance to the current land use planning application approval.

Objection 4

"The intersection of De Goede and Westcliff Road is a difficult intersection with blind spots in both directions. From a traffic safety point of view, it may make sense to reconfigure this intersection (as has been done elsewhere on Westcliff Road) and reducing the available public road space may prevent the reconfiguration of this intersection. A dangerous intersection is not in the best interest of the Public and also not in the best interest of the Overstrand Municipality."

Response from applicant
As reflected in the sketch, provision has been made for a splay by tapering the subject portion down towards Westcliff Road resulting should any reconfiguration of the intersection be required the portion to be subdivided or closed will not interfere with such a design or alignment. Therefore, the point of objection is considered irrelevant.

Response from town planner
The objection relates to the "difficult" intersection at De Goede and Westcliff Drive. This issue must be addressed to the Engineering Department and not through an objection to a land use planning application. Furthermore, the road reserve is wide enough, and the residential erven located at the intersection are splayed which will enable a redesign of a traffic intersection similar to the intersection of Albertyn Street, Marine Drive and Westcliff Road (see GIS extract).

Objection 5

"Rezoning public road to residential zoning only serves the interest of the individual property owner and is not in the interest of the public."

Response from applicant

The road network for the area has already been designed and accordingly built. This has been cleared and confirmed as part of the application process with the municipal engineering department and all other relevant departments of the Overstrand Municipality as already described here-above.
Therefore, the portion applied for to be rezoned is not usable/viable land for public road purposes and will therefore not be to the benefit of the public but will provide a material benefit to the applicant in terms of security and safety.

Response from town planner

The rezoning of Portion A (public road) is required to consolidate Portion A with Erf 6137, Hermanus. It is true that the Portion A will be to the benefit and use of the individual property owner and not the interest of the public. It is considered that this objection point should be dismissed due to the applicant having an unregular shaped erf which results in development constraints and actual use of the property in terms of its safety and security.

Objection 6

"The motivation put forward by the application is flawed as currently there is already enough space to construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence."

Response from applicant

The objector is not correct in his point of objection namely that there is enough space to "construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence" is not correct.

The adjacent sketch shows the space required to accommodate a typical bakkie with the garage doors open and sufficient space to move around the vehicle towards the dwelling.

Therefore, this point of objection is incorrect and should thus be omitted.

Response from town planner

The response by the applicant regarding the space required for a large vehicle to park between the garage and fence/gate is not sufficient. Furthermore, the proposed subdivided Portion A is approximately half the width of Erf 379, Hermanus at the west and reduces is size to the east. The way Portion A is subdivided results in a relatively uniform shape rather than having jagged edges. Therefore, the objection point is dismissed.

Objection 7

"The proposal will have a negative impact on the surrounding properties as it will create an unsightly step in the property line along De Goede Street."

Response from applicant

The point of objection is considered a subjective point from the objector. The owner intends to landscape the area which is in contradiction with the objector's subjective viewpoint have the opposite effect.

It should also be mentioned that an engineer investigated alternative measures but considered the proposal as the most appropriate measure.

Therefore, this point of objection is considered invalid.

Response from town planner

This objector did not consider Erf 12315, Hermanus when stipulating this objection point. Erf 12315, Hermanus already creates a step in the property line along De Goede Street, refer to the GIS extract below.

Therefore, the objection point is dismissed.

Objection 8

"The proposed consolidation only serves the interest of the individual property owner and is not in the interest of the public."

Response from applicant

The portion applied for to be rezoned is not viable / usable land for public road purposes and will therefore have no benefit to the public but will provide a material benefit to the applicant in terms of security and safety.

Response from town planner

This objection point has already been discussed under the heading of subdivision as well as rezoning. In order for the property owner to utilise the subdivided Portion A, it must be subdivided from Erf 379, Hermanus, undergo a closure of public place, rezoned and consolidated with the subject property (Erf 6137, Hermanus).

Objection 9

"The motivation put forward by the applicant is flawed as currently there is already enough space to construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence."

Response from applicant Refer to the similar point dealt with here-above illustrating the additional space is required to accommodate a vehicle with sufficient space required to open the garage door and move around the vehicle. Therefore, it is requested that the deciding authority ignores this point of objection.
Response from town planner This point will be dismissed since it was already discussed under objection point 6.
Objection 10
"Municipal services currently running below the portion which is intended to be incorporated into Erf 6137."
Response from applicant As part of the application process to purchase municipal land, the necessary surveys were conducted through a land surveyor as well as collaboration with all municipal departments and it was accordingly confirmed that the portion proposed to be purchased from the Overstrand Municipality does not affect any services. Therefore, this point of objection is incorrect and subsequently invalid.
Response from town planner The proposal went through two (2) public participation process and in both processes, the proposal was circulated to the Engineering Department for comment. In both public participation processes, the Engineering Department did not object. Therefore, this point will be dismissed.
Objection11
"The proposal will have a negative impact on the surrounding properties as it will create an unsightly step in the property line along De Goede Street."
Response from applicant As per the previous point, this point of objection is considered a subjective point of objection and therefore considered an invalid point of objection and should accordingly be rejected by the subject decision-makers.
Response from town planner This point has already been discussed in objection point 7. This objection point will therefore be dismissed.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to point 7 of this report.

9. MUNICIPAL ASSESSMENT OF COMMENTS

Refer to point 7 of this report.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice
The application proposes to increase security for a single residential property and will not promote spatial injustice.

Spatial Sustainability
The subject property is located within the urban edge and will not negatively impact on any sensitive or environmentally protected areas.

Efficiency
The application is only to ensure the safety and security in relation to the property and will not negatively impact on the existing or future services in the area.

Spatial Resilience
The application will increase safety and security in relation to the property and will therefore be less susceptible to risk of shocks.

Good Administration
The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-laws and the public participation process has been followed.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The application is located within the Urban Development area of the and is consistent with the Spatial Development Framework.

The proposal does not propose any densification and is therefore consistent with the Overstrand Municipality Growth Management Strategy.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

The existing services are available and have been viewed positively by the Engineering Services Department.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial Documents. The application is in line with the Overstrand Zoning Scheme.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The application property is located within Westcliff, Hermanus and is 1118m² in extent. The proposal is to increase the safety and security of the subject property by means of the following:

- Subdivision of Erf 379, Hermanus into two properties namely Portion A and Remainder Erf 379, Hermanus;
- Closure of a public place (Portion A);
- Rezoning of the subdivided Portion A from Transport Zone 2: Road and Parking to Residential Zone 1: Single Residential, and
- Consolidation of Erf 6139, Hermanus with the subdivided Portion A.

DESIRABILITY

The property owner intends to improve the safety and security of the property by enclosing the property with a fence and gates. To improve the safety and security of the property, the property owner requires additional space between the garage and fence to park their vehicles. Therefore, an application was submitted to Property Administration to purchase a portion Erf 379, Hermanus to ensure the space between the fence/gate and the garage is large enough to park vehicles while loading/offloading and opening/closing the garage. The in-principal sale of a portion of Erf 379, Hermanus was approved on 5 March 2024 subject to the alienation of a portion of Erf 379, Hermanus only to allow for the construction of a boundary wall or fence and the submission of this application.

It must also be noted that Council's decision dated 5 March 2024, appears to contain a typing error since the application was to purchase a 99m² (48m²+51m²) while the in-principal approval is for 88m². The typing error was brought to the attention of Property Administration which they confirmed that the 99m² size is not far from the 88m² size, Property Administration does not have a problem with the 99m² application area (refer to Annexure H).

De Goede Street has a wide road reserve which enables the property owner of Erf 6137, Hermanus to alienate a portion of Erf 379, Hermanus for purposes of safety and security. The application does not have a negative impact on any current or future engineering services nor did the Engineering Department object to the application.

The application does create a step in the property line along De Goede Street however; this is not the first application of its kind within De Goede Street. The current Erf 12315, Hermanus which is located diagonally opposite the subject property (see extract below), previously had undergone a similar land use planning process that was approved in 2020.

The application does not impact on any views or negatively impacts the character of the surrounding erven / area.

It is noted that the intersection of De Goede Street and Westcliff Drive is a difficult intersection, therefore the subdivided Portion A is designed in a manner that maintains the splay of Erf 6137, Hermanus that will allow for future redesigns for a traffic circle similar to the intersection of Albertyn Street, Marine Drive and Westcliff Road, (see GIS extract below).

The application is for the execution of the Sales Agreement condition in order to affect the Agreement.

The application is recommended for approval.

13. RECOMMENDATION

1. that the objection is noted;

2. that the application in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **subdivision** of Erf 379, Hermanus into two (2) portions, namely a Remainder and a Portion A (±99m²), **be approved**, in terms of Section 61 of the By-Law;

3. that the application in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **rezoning** of subdivided Portion A from Transport Zone 2: Road and Parking to to Residential Zone I: Single Residential (SR1), **be approved**, in terms of Section 61 of the By-Law;

4. that the application in terms of Section 16(2)(e) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **consolidation** of subdivided Portion A (±99m²) with Erf 6137, Hermanus to create a single residential property of ±1217m² in extent, **be approved**, in terms of Section 61 of the By-Law;

5. that the application in terms of Section 16(2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **closure of public place** to accommodate the closure of a public place (subdivided Portion A (±99m²), **be approved**, in terms of Section 61 of the By-Law;

6. that the approvals in Points 2. to 5. above be subject to the following conditions:

   (a) that this approval is only for the development as indicated on the plan numbers *Rev1* dated *14/05/2021,* as submitted with the application;

   (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control – and the Fire Department be complied with at that stage;

   (c) that all the conditions in the Services Report (attached as Annexure G), be complied with;

   (d) that all conditions stipulated in Council's decision, dated 5 March 2024 (attached as Annexure I) be complied with;

   (e) that this approval does not absolve the applicant from compliance with any other relevant legislation, and

   (f) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.

7. that the amended title deed be submitted to the office for record purposes; and

8. that the applicant and the objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- The application has an in-principal approval from Council for the Alienation of a Portion of Erf 379, Hermanus.
- That the proposal has gone through two (2) public participation processes.
- That the Engineering Department do not foresee any impact on the current or future services for the area in relation to the subject property.
- The application is designed in a way that will not negatively impact on views or traffic related matters.
- That should a traffic circle be proposed at the difficult intersection of De Goede Street and Wesrtcliff Drive, there is sufficient space to do so.
- The objection mostly relates to the public interest and benefit; the road reserve is wide enough to maintain sufficient space for a sidewalk and road widening.
- The application will not have a negative impact on the surrounding area.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Objection received
Annexure E:	Response from applicant to objection
Annexure F:	Response from Property Administration on objection
Annexure G:	Services Report

Annexure H: Property Administration comment on size of subdivision
Annexure I: Council's Decision to Alienate a portion of Erf 379, Hermanus

SIGNATURES

AUTHOR

Name: **BC MINNAAR**

SACPLAN Reg No: **C/8630/2021**

Signature: _____

Date: _____

REGISTERED PLANNER

Name: **SW VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

Signature: _____

Date: _____

PROJECT
Erven 6137 & 379, Westcliff, Hermanus

TITLE
Locality Plan
Local Context

Subject Properties

DISCLAIMER
INTERACTIVE TOWN & REGIONAL PLANNING MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

CLIENT

DRAWN BY	CHECKED BY	DATE
Author	Checker	2023/09/18

SCALE @ A4	PROJECT NUMBER
As indicated	0001

DRAWING NUMBER
Rev1

InterActive Town & Regional Planning

ANNEXURE A

1. Introduction

a. Brief Refer to **Annexure B** for the Power of Attorney.	Interactive Town and Regional Planning was appointed by the owner of Erf 6137 Westcliff, Magdalena Gertruida Otto to prepare and submit an application for the subdivision of Erf 379 Westcliff, the closure of a public road and the rezoning of a subdivided portion and the consolidation of the rezoned subdivided portion of Erf 379 with Erf 6137 Westcliff in terms of the relevant legislation.
b. Background	On 5 March 2024 in principle approval was obtained to purchase a portion of Municipal land subject to inter alia a subdivision, rezoning, consolidation and closure of a portion consisting of 99m² of the public road.

c. Proposal	The application objective is to incorporate the purchased portion of Erf 379 Westcliff into Erf 6137 Westcliff.
	
	Application is therefore for:
	• The subdivision of Erf 379 Westcliff into 2 Portions as follows:
	  o Portion A, being 99m²
	  o the remainder
	• the closure of the public road on subdivided Portion A.
	• the rezoning of subdivided Portion A to Residential Zone 1: Single Residential.
	• The consolidation of the subdivided Portion A of Erf 379 Westcliff with Erf 6137 Westcliff.

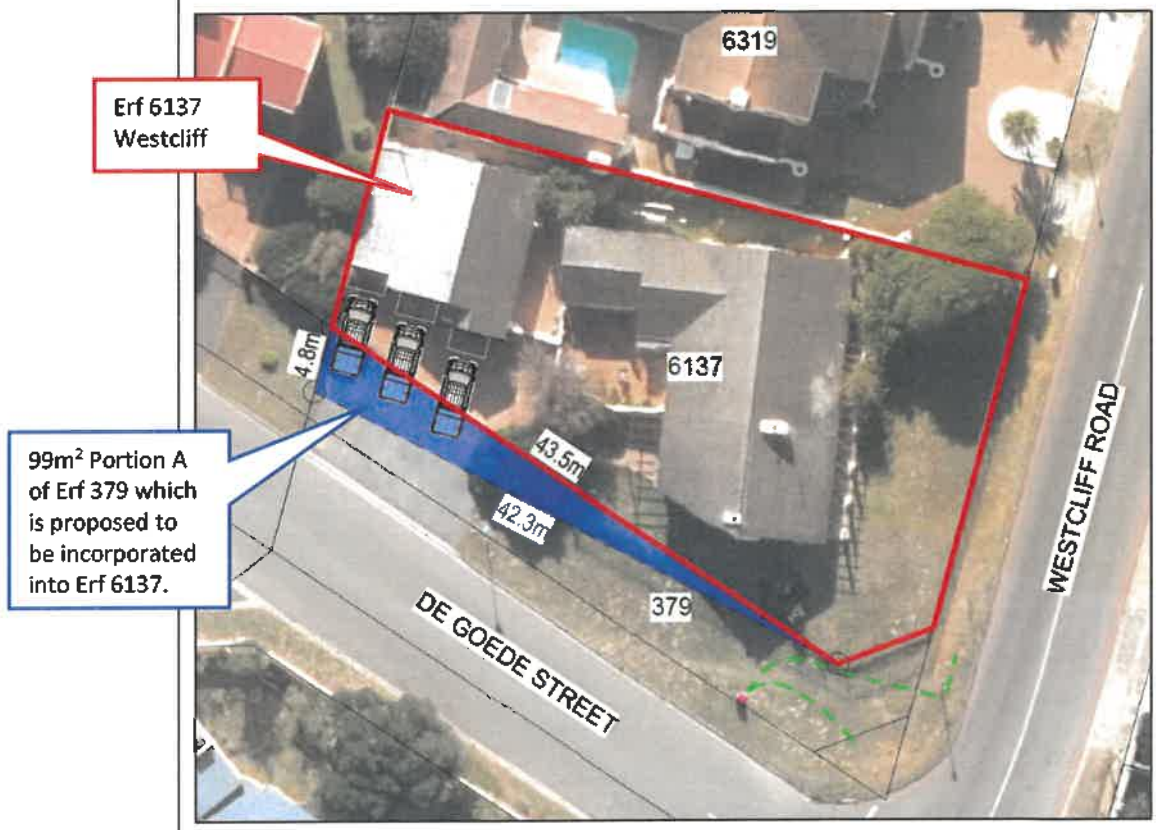


Figure 1: Proposal illustration

2. The Application

a. Analysis: Title Deed

No title deed conditions exists which restricts the application proposal on Erven 379 & 6137 Hermanus.

b. Analysis: Development Criteria:

The development parameters for Erven 379 & 6137 Hermanus as per the Overstrand Municipality Land Use Scheme, 2020 are summarised as follows:

Parameters		Existing Zoning:	Proposal:	Comments
Zoning		Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Consistent
Primary Use		Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering	Dwelling house	Consistent
Consent Uses		Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	None	Consistent
Coverage		50%		Consistent
Height		8m		Consistent
Building lines	**Street**	4m		Consistent
	Side	2m		Consistent
Parking		Dwelling house: 2 bays	Dwelling house: 2 bays	Consistent

c. Application:

The application form is attached as **Annexure A**.

Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020:

- The subdivision of Erf 379 Westcliff into 2 Portions as follows in terms of Chapter IV, Section 16(d):
  - Portion A, being 99m^2
  - the remainder
- the closure of the public road on subdivided Portion A in terms of Chapter IV, Section 16(2)(n).
- the rezoning of subdivided Portion A to Residential Zone 1: Single Residential in terms of Chapter IV, Section 16(a).
- The consolidation of the subdivided Portion A of Erf 379 Westcliff with Erf 6137 Westcliff in terms of Chapter IV, Section 16(e).

3. Contextual Site Information

a. Property Description

Refer to **Annexure E** for the SG Diagrams, **Annexure C** for the Title Deed of **Erven 379 & 6137** Westcliff.

Property	Extent	Title Deed	Registered Owner
Erf 6137 Hermanus	1118m²	T21447/1982	Magdalena Gertruida Otto
Erf 379 Hermanus	314m²	T17394/1956	Overstrand Municipality

The following Surveyor General Plans reflect the application site:

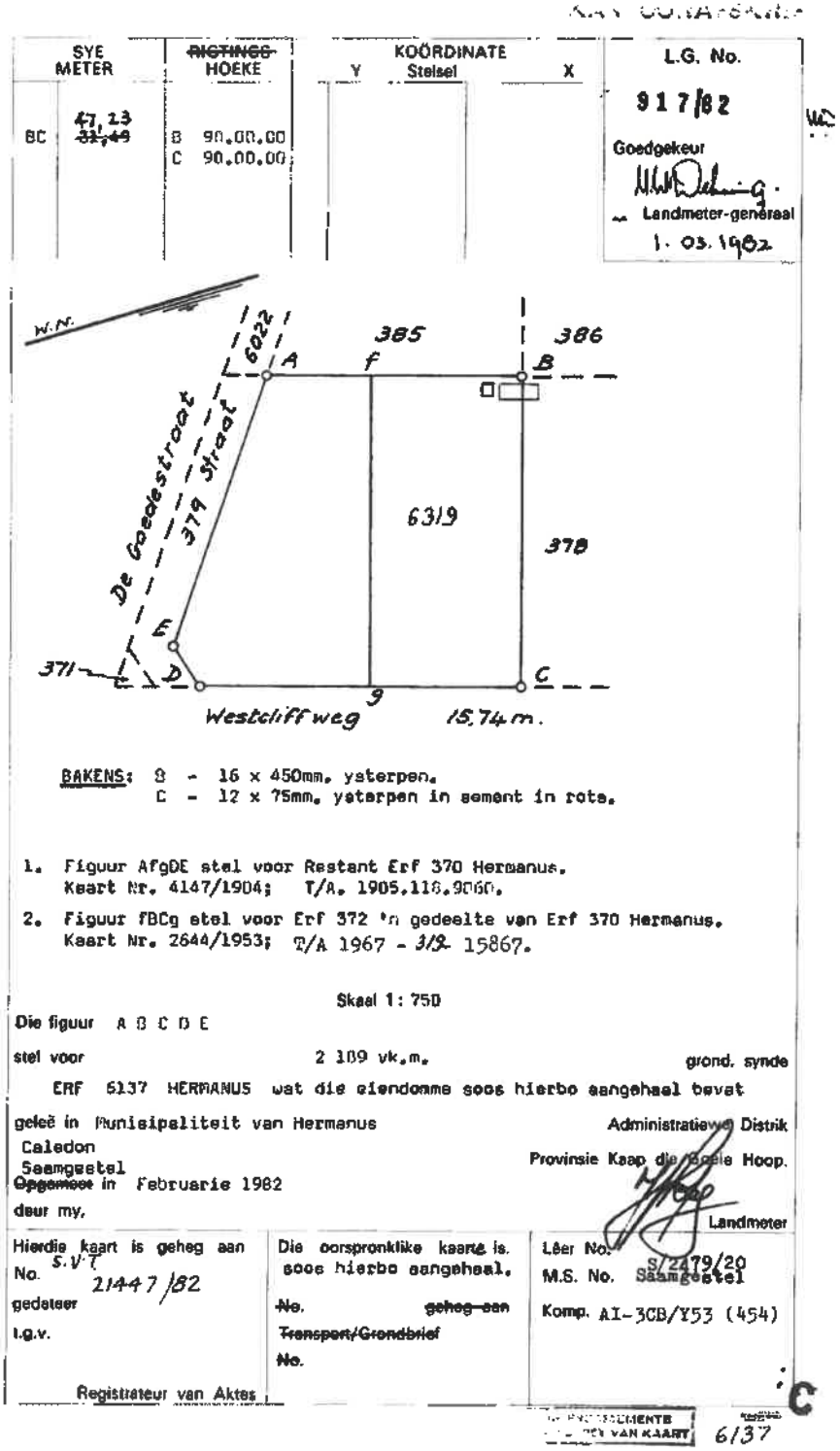
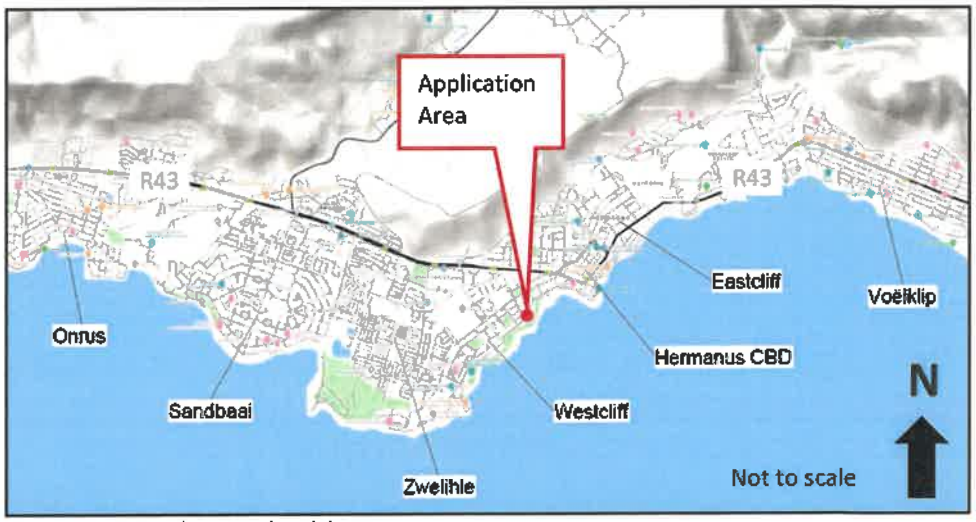


Figure 2: Extracts of the Surveyor General Plans of the application site

b. Location: For the Locality Plans refer to **Annexure F**	**Regional Context:** Within the regional context, the Application Area are located within Westcliff. Westcliff is located on the Western side of the Hermanus Central Business District.  **Figure 3: Locality Plan – Regional Context** **Local Context:** Erf 6137 Westcliff is a residential erf and Erf 379 is a road erf within Westcliff. Erf 6137 Westcliff is located at number 18 Westcliff Road. **Figure 4: Locality Plan – Local Context**

c. Land Use

Refer to the Extract of Hermanus Zoning plan attached as **Annexure G.**

The application area is used for single residential purposes. The surrounding erven are used for single residential purposes as well. A relatively small portion of road is proposed to be incorporated into the application area. The proposal is consistent with the land use of the area.

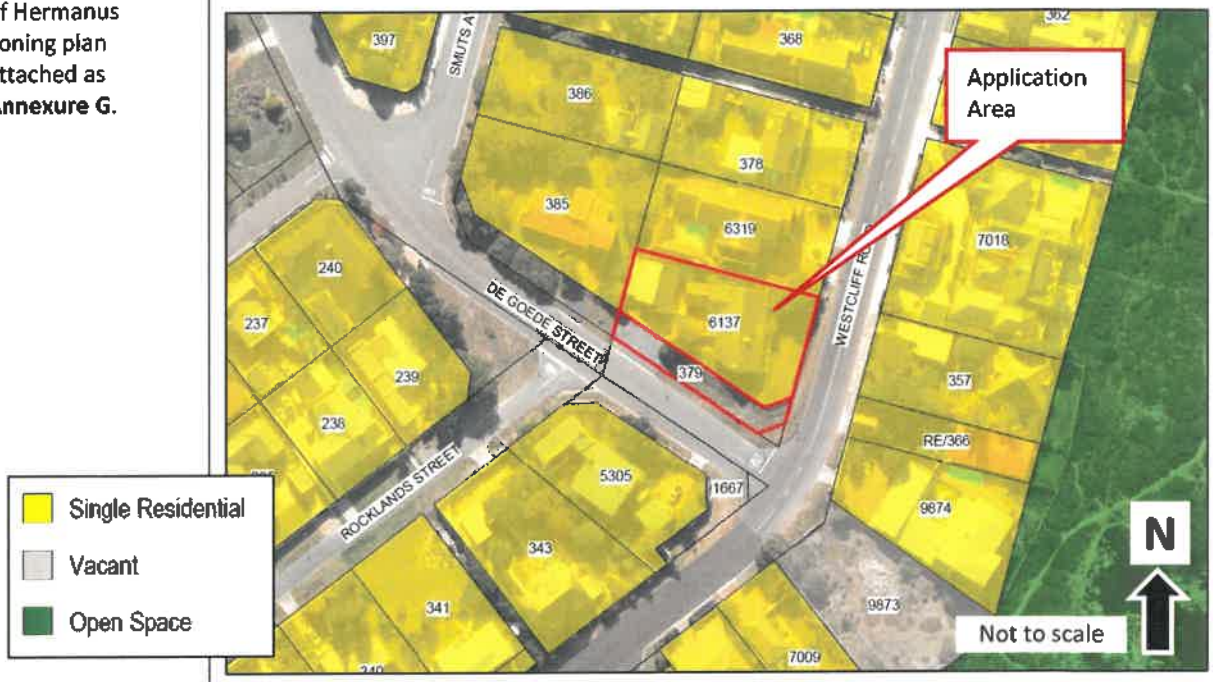


Figure 5: Land Use Plan

d. Zoning:

Refer to the Extract of Hermanus Zoning plan attached as **Annexure H.**

Erf 6137 Westcliff is Zoned Residential Zone 1: Single Residential. Erf 379 Westcliff is zoned Transport Zone 2: Roads & Parking. The application includes the rezoning of a subdivided portion of Erf 379 to Residential Zone 1: Single Residential. The application proposal is consistent with the zoning of the area.

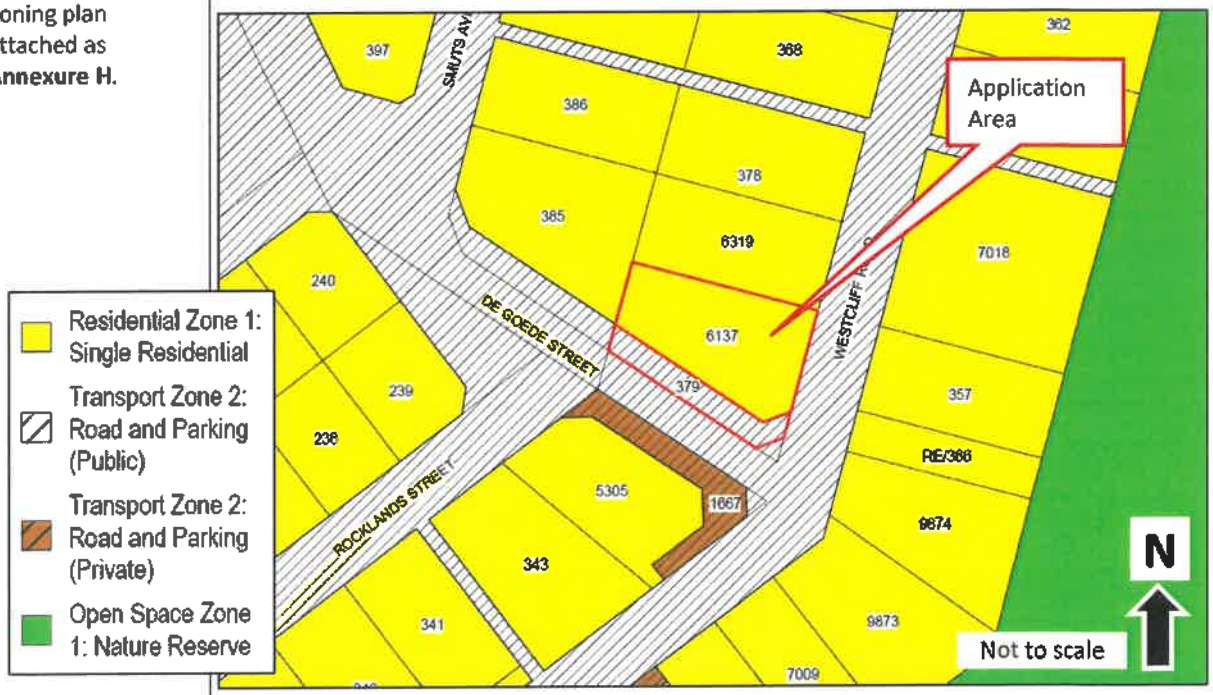


Figure 6: Extract from the Overstrand Municipality: Online zoning viewer

e. Laws and policies relevant to the consideration of the application and forward planning and land use documents	The following policy is applicable to the application area. **i. Overstrand Municipal Spatial Development Framework, 2020** The application area falls within an Urban Development area. The application is consistent with the Overstrand Municipal Spatial Development Framework, 2020.

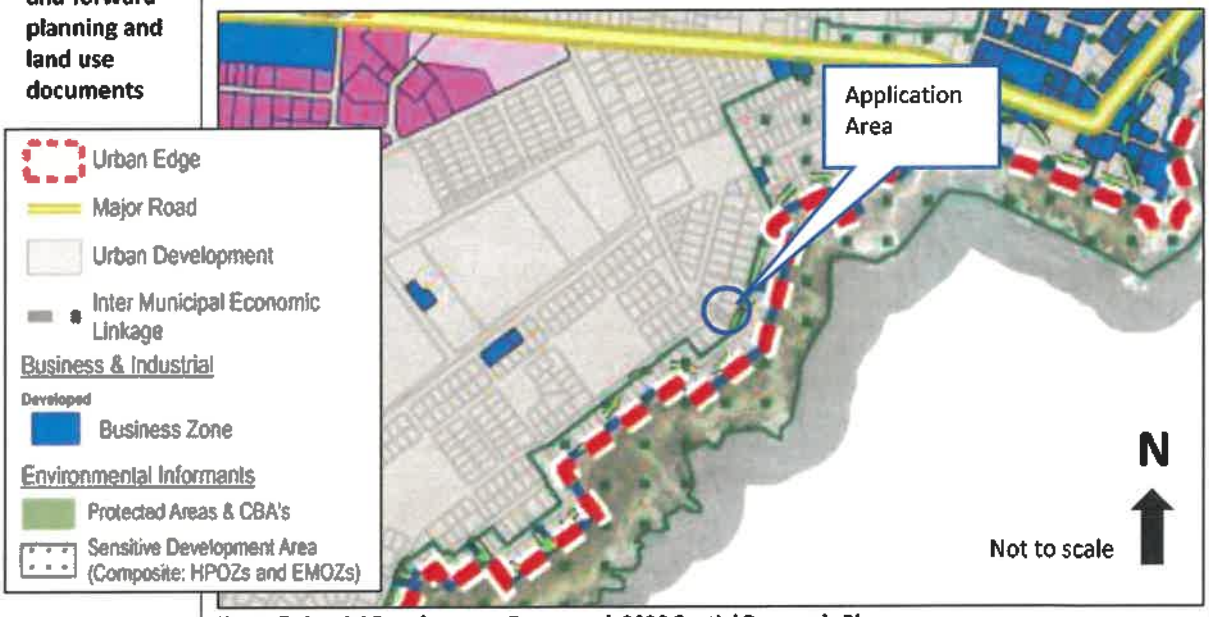


Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan

ii. Overstrand Municipality Growth Management Strategy, 2010

The application area is within a less than 10 dwelling units per hectare densification zone.

No densification is applicable to this application.

The application is thus consistent with the Overstrand Municipality Growth Management Strategy, 2020.

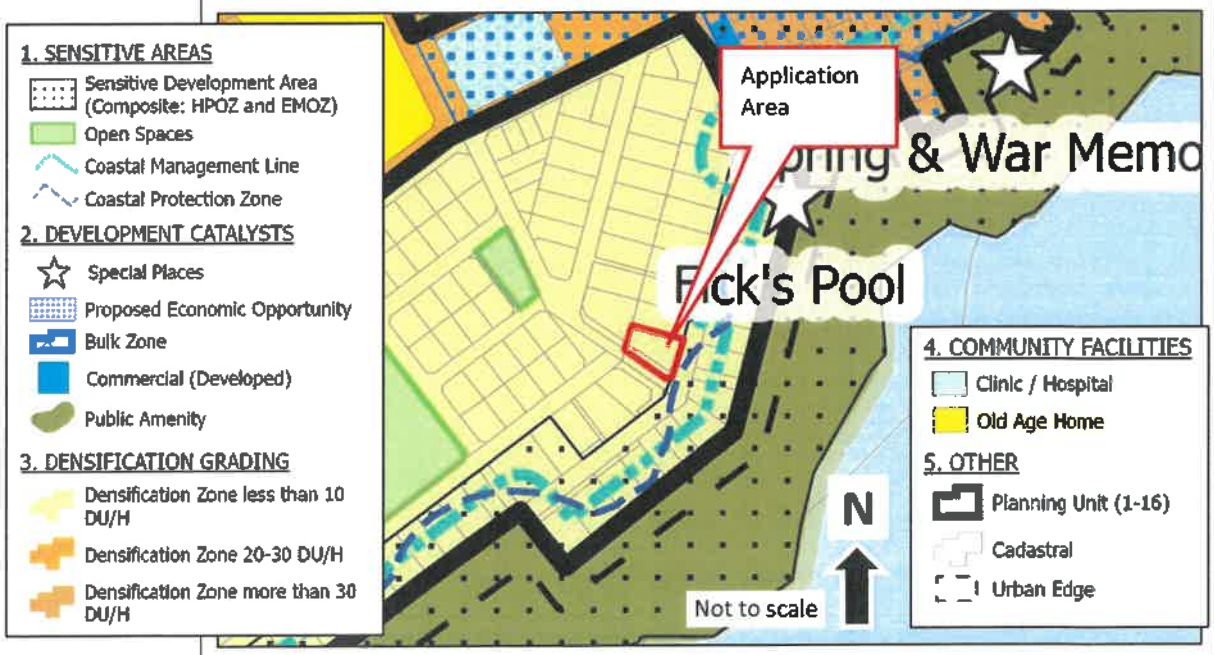


Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2020

4. Motivation

Motivation for the application:

Refer to **Annexure I** for the purchase approval

a. Introduction and Background

In principle approval was received 5 March 2024 for the purchase of a portion of Municipal land subject to inter alia a subdivision, rezoning, consolidation and closure of a portion of the public road.

The approval however appears to contain a typing error, since application was to purchase 99m² (48m² + 51m²) while the in principle approval is for 88m².

b. Proposal

The application objective is to consolidate the purchased portion of Erf 379 Westcliff with Erf 6137 Westcliff.

Application is therefore for:

- The subdivision of Erf 379 Westcliff into 2 Portions as follows:
  - Portion A, being 99m²
  - the remainder
- the closure of the public road on subdivided Portion A.
- the rezoning of subdivided Portion A to Residential Zone 1: Single Residential.
- The consolidation of the subdivided Portion A of Erf 379 Westcliff with Erf 6137 Westcliff.

Figure 9: Proposal illustration

The sole purpose of the proposal is to improve the safety and security of Erf 6137 Westcliff. The additional land will allow for a gate with fencing behind parked vehicles that can be closed before garages are opened or before exiting the vehicle.

	The sidewalk on the road reserve remains wide enough for pedestrians and the De Goede Street, Westcliff Road intersection remains the same width. No services are impacted by the proposal.
	c. Desirability The application proposal is considered desirable for the following reasons: • The proposal is for the sole purpose of improving safety and security. • In principle approval was already granted by Council. • The application is consistent with the relevant procedures and policy documents. • No services are affected by the application proposal. • The remainder of the road reserve will still be wide enough to accommodate the existing road, services and a sidewalk for pedestrians. • The proposal will not have a negative impact on the surrounding properties.
	d. Planning Principles In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site: 1) **Spatial Justice** which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land. **Possible results of the development** The application proposal is to increase security for a single residential property and will not impact on spatial justice. The application proposal is **consistent** with the principle of **spatial justice**. 2) **Spatial Sustainability** which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl. **Possible results of the development** The application proposal relates to improved security of an existing developed erf and will not impact on valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic or cultural landscapes. The application proposal is consistent with the principle of **spatial sustainability**. 3) **Spatial Efficiency** which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities. **Possible results of the development** The application proposal will not impact the layout of a settlement and will not impact on spatial efficiency. The application proposal is **consistent** with the **efficiency principle**. 4) **Spatial Resilience** which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner. **Possible results of the development** The application proposal will improve the security on the application erf, thus reducing the risk of shocks.

	The application proposal is **consistent** with the principle of **spatial resilience.** 5) **Good Administration** which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued. **Possible results of the development** Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the relevant government tiers and the general public to participate in the eventual decision-making process. The application proposal is **consistent** with the principle of **good administration**.

5. Conclusion

The application as motivated in this report is regarded **desirable** within its local context and well-integrated within the existing community land-use activities.

It is therefore recommended that the application **be approved** in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020:

- The subdivision of Erf 379 Westcliff into 2 Portions as follows in terms of Chapter IV, Section 16(d):
  - Portion A, being 99m^2
  - the remainder
- the closure of the public road on subdivided Portion A in terms of Chapter IV, Section 16(2)(n).
- the rezoning of subdivided Portion A to Residential Zone 1: Single Residential in terms of Chapter IV, Section 16(a).
- The consolidation of the subdivided Portion A of Erf 379 Westcliff with Erf 6137 Westcliff in terms of Chapter IV, Section 16(e).

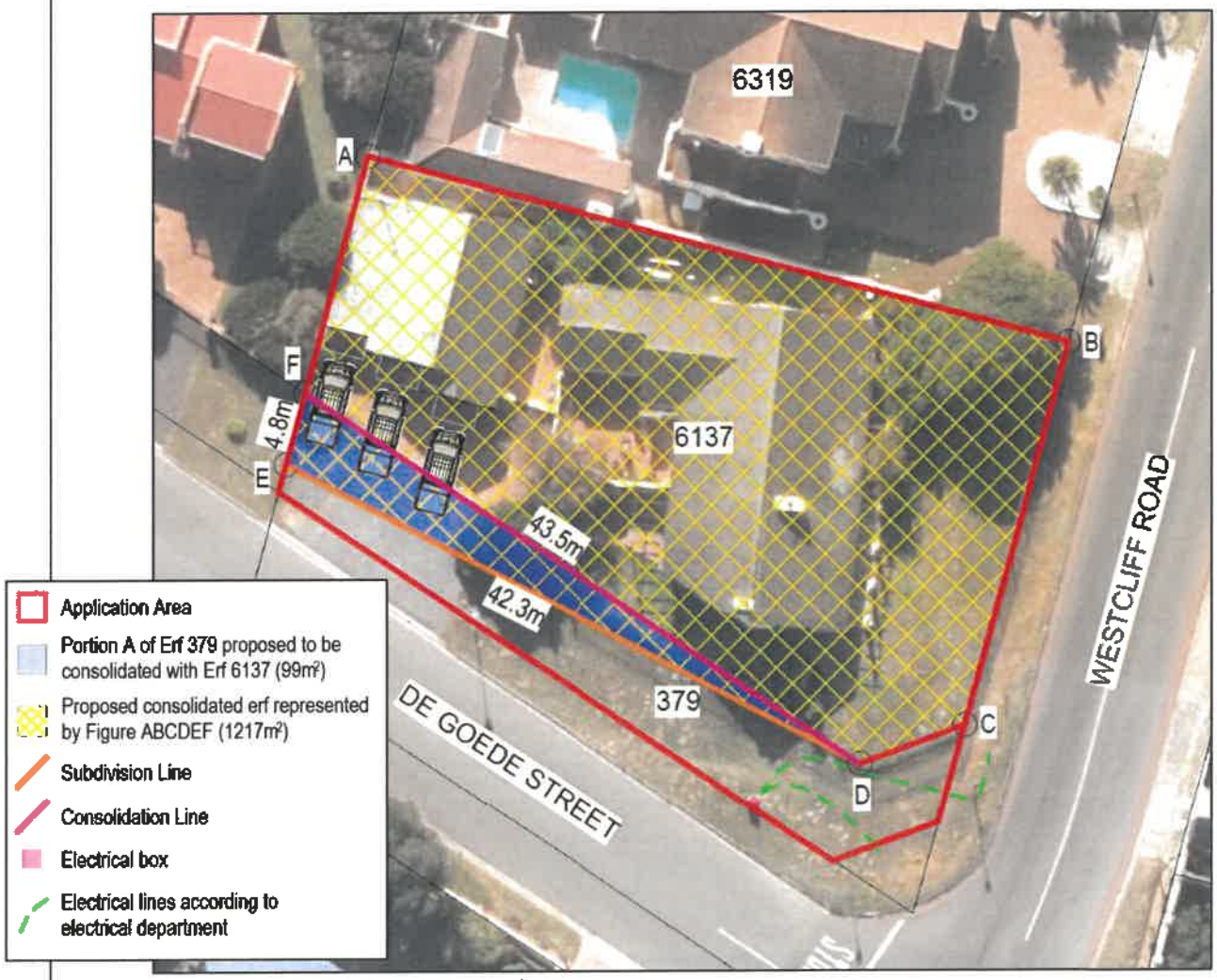


Figure 10: Subdivision & Consolidation Plan extract

PROJECT

Erven 6137 & 379, Westcliff, Hermanus

TITLE

Subdivision & Consolidation Plan

- Application Area
- Portion A of Erf 379 proposed to be consolidated with Erf 6137 (99m²)
- Proposed consolidated erf represented by Figure ABCDEF (1217m²)
- Subdivision Line
- Consolidation Line
- Electrical box
- Electrical lines according to electrical department

N

CLIENT

DRAWN BY	CHECKED BY	DATE
Author	Checker	14/09/2021

DRAWING NUMBER

Rev1

A4 SCALE As indicated

ASSUMPTIONS

INTERACTIVE TOWN & REGIONAL PLANNING MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

InterActive Town & Regional Planning

Andre Wiehahn Pr Pln A/927/1996
B Art et Sc (Town and Regional Planning)
Telephone 028 312 1668
Cell phone: 082 466 0490
E-Mail: wiehahn.a@gmail.com

14 February 2025

Our Ref:
Your Ref:

Gavin Theron on behalf of the Edwellen Trust
23 Westcliff Rd
Hermanus
7200
Erf 7009

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
17 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart (H Olivier)

Town and Spatial Planning
Directorate: Planning & Development,
Overstrand Municipality
Hermanus
7200

Attention: Mrs Alida Conradie

alida@overstrand.gov.za
ajfourie@overstrand.gov.za

Dear Mr Absolon,

Objection to ERVEN 379 & 6137, 18 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, CLOSURE OF A PUBLIC ROAD, REZONING AND CONSOLIDATION

Your notice email dated 29/01/2025 dealing with the above refers.

OBJECTION TO SUBDIVISION & CLOSURE OF A PUBLIC ROAD

We hereby notify you that we wish to object to the proposed subdivision of Public Road Erf 379 and then closure of a portion of a Public Road as it is neither desirable nor in the interest of the public. The reasons for this objection are more fully set out below

- Public roads are intended to serve the future road and access requirements of the Public and not just individual property owners. The application does not provide any benefit to the public.
- Public roads are intended to be a space to accommodate municipal services. The closure of this portion of Public Road means that services that may be required to serve the public in future may not be able to be accommodated. The application is therefore not in the best interest of the public.
- The sale price for the land is not market related and therefore the sale will not be in the best interests of the public.
- The intersection of De Goode & Westcliff Road is a difficult intersection with blind spots in both directions. From a traffic safety point of view it may make sense to reconfigure this intersection (as has been done elsewhere on Westcliff Road) and reducing the available public road space may prevent the reconfiguration of this intersection. A dangerous intersection is not in the best interests of the Public and also not in the best interests of the Overstrand Municipality.

FILE NO. Erven 379 & 6137 - HWC
SCAN NO. 2608965
COLLABORATOR NO.

TP: Attn: HA

OBJECTION TO REZONING

We hereby notify you that we wish to object to the proposed rezoning as it is neither desirable nor in the interest of the public. The reasons for this objection are more fully set out below

- Rezoning public road space to a residential zoning only serves the interest of the individual property owner and is not in the interest of the public.
- The motivation put forward by the applicant is flawed as currently there is already enough space to construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence.
- The proposal will have a negative impact on the surrounding properties as it will create an unsightly step in the property lines along De Goode Street.

OBJECTION TO CONSOLIDATION

We hereby notify you that we wish to object to the proposed consolidation as it is neither desirable nor in the interest of the public. The reasons for this objection are more fully set out below.

- The proposed consolidation only serves the interest of the individual property owner and is not in the interest of the public.
- The motivation put forward by the applicant is flawed as currently there is already enough space to construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence.
- Municipal services currently run below the portion which is intended to be incorporated into Erf 6137
- The proposal will have a negative impact on the surrounding properties as it will create an unsightly step in the property lines along De Goode Street.

Yours faithfully,

GAVIN THERON on behalf of the Edwellen Trust

Alida Conradie

From: David Sedgwick
Sent: Wednesday, 29 January 2025 14:56
To: Alida Conradie
Subject: RE: Erven 379 & 6137, 18 Westcliff Road, Westcliff, Hermanus - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner

Good afternoon,

No objection from us as the registered owners of 21 Westcliff Road.

Best,
David

DAVID SEDGWICK
Group Managing Director
BCom (UCT) Chartered Accountant (SA)
Property Practitioner

HORIZON CAPITAL (PTY) LTD

Important Note: Due to the high number of internet & email based scams, please confirm bank details telephonically with a known contact at Horizon Capital before making a payment for the first time. Should the payment be for a large amount, a test payment with telephonic confirmation of receipt is also advised.

Disclaimer: : Horizon Capital (Pty) Ltd holds a Fidelity Fund Certificate in its capacity as a business property practitioner, is registered with the PPRA and operates a Trust Account. The information in this email is confidential and legally privileged. It is intended solely for the addressee. If you are not the intended recipient, please delete the email. You may not copy, distribute, or disclose the included information to anyone. Whilst all reasonable steps have been taken to ensure the accuracy and integrity of all data transmitted electronically, Horizon Capital Holdings (Pty) Ltd and its subsidiaries do not accept liability if the data, for whatever reason, is corrupt or does not reach its intended destination. No representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted by Horizon Capital Holdings (Pty) Ltd, or its subsidiaries, employees, or agents in relation to the accuracy, completeness or fitness for any purpose of this information or for any loss, liability, damage (whether direct or consequential) or expense of any nature whatsoever which may be suffered as a result of or which may be attributable, directly or indirectly, to the use of or reliance upon any of this information. Past performance is not a reliable indicator of future results. The information stated, opinions expressed and estimates given are subject to change without prior notice. This information is for informative purposes only and does not constitute investment advice or any other advice, or a personal recommendation. All aspects of any transaction would need to be reviewed by the client's preferred advisor prior to implementation.

P Please consider the environment before printing this email

InterActive Town & Regional Planning
Broad Street 6
Hermanus
7200

Reference: Westcliff 379

Date: 10 May 2025

Attention: Me Alida Calitz

RESPONSE TO OBJECTION: ERVEN 379 & 6137, 18 WESTCLIFF ROAD WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, CLOSURE OF A PUBLIC ROAD, REZONING AND CONSOLIDATION

1. **Introduction:**

Your email dated 13 March 2025 29 requesting a written reply to the objection from Gavin Theron on behalf of the Edwellen Trust, 23 Westcliff Road Hermanus, forthcoming from the public participation process, is requested. The objector indicates that she is the owner of Erf 7009 Westcliff, located diagonally opposite the application area.

A letter of "no objection was also received from Mr David Sedgewick, property owner of Erf 9874 Westcliff also diagonally opposite of the application site and directly adjacent the objector's property.

2. **The objection:**

The objection is broken up in three headings being objections to:

- The subdivision and closure of a public road
- The rezoning
- The consolidation

Each of the headings are motivated by separate points and subsequently our response is provided by responding to each individual point of objection.

3. Application background:

The objective of this application is to purchase additional land is primarily to improve the safety and security for the residents and their property of Erf 6137 Westcliff. The additional land will allow for a gate with fencing behind a parking area that can be closed before garages are opened or before exiting the vehicle as reflected in the adjacent sketch:

The applicant had several serious criminal incidents from intruders, leading to this application for the enclosure of the stopping area in front of the garage prior to entering the garages or the dwelling.

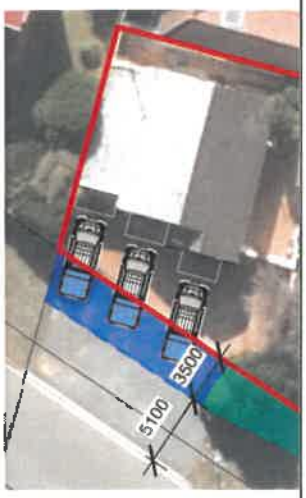
It should also be mentioned that apart from the measures to enclose and gate the stopping area in front of the garage, several other security measures were also implemented to secure the house and it surrounds.

As background it should also be mentioned that prior to determining the area to purchase, the Municipal Engineering Departments ensured that no services are affected, sightlines in terms of traffic safety are adhered to and that the future planning of the road reserve taken into consideration.

No objections were received from the immediate neighbours. The only objection was received from the owners located on the opposite side and being less affected as reflected in the following extract from the Overstrand GIS system:

In the following paragraph each of the specific points of objections are being responded to:

Point of Objection	Response
Objection to the subdivision and closure of the public road.	
Public roads are intended to serve the future road and access requirements of the public and not just individual property owners. The application does not provide any benefit to the public.	The road network for the area has already been designed and accordingly built. This has been cleared and confirmed as part of the application process with the municipal engineering departments and other relevant departments of the Overstrand Municipality. The land portion proposed to be used is a relative small portion (99m²) and in contradiction to the objector's statement this portion is a fallow and unused portion and does not provide any specific benefit to the public, but on the other hand will provides a material benefit to the applicant in terms of security and safety.
Public roads are intended to be space to accommodate municipal services. The closure of this Public Road means that services that that may be required to serve the public in future may not be able to be accommodated. The application is therefore not in the best interest of the public.	As mentioned here-above the portion being applied for has been investigated by the local authority whether the portion will be needed for municipal services or the public in future as part of the application process and it has been confirmed that it is not required for any specific municipal use. Therefore in contradiction to the objector's statement the subject portion does not provide any specific benefit to the public, but on the other hand will provide a material benefit to the applicant in terms of security and safety.
The sale price for the land is not market related and therefore the sale will not be in the interest of the public.	The value of the land being applied for has as part of the municipal application process has been valued by an independent valuer. Therefore, the statement of the objector is incorrect and should be rejected. It is evident that the objector is not familiar with the processes to alienate municipal land.
The intersection of De Goede and Westcliff Road is a difficult intersection with blind spots in both directions. From a traffic safety point of view it may make sense to reconfigure this intersection (as has been done elsewhere on Westcliff Road) and reducing the available public road space may prevent the reconfiguration of this intersection. A dangerous intersection is not in the best interest of the Public and also not in the best interest of the Overstrand Municipality	As reflected in the sketch here-below, provision has been made for a splay by tapering the subject portion down towards Westcliff Road resulting should any reconfiguration of the intersection be required the portion to be subdivided or closed will not interfere with the such a design or alignment. Therefore the point of objection is considered irrelevant.

Objection to the rezoning	
The rezoning is not desirable or in the interest of the public for the following reasons:	
Rezoning public road to residential zoning only serves the interest of the individual property owner and is not in the interest of the public	The road network for the area has already been designed and accordingly built. This has been cleared and confirmed as part of the application process with the municipal engineering departments and all other relevant departments of the Overstrand Municipality as already described here-above. Therefore the portion applied for to be rezoned is not usable/viable land for public road purposes and will therefore not be to the benefit of the public, but will provide a material benefit to the applicant in terms of security and safety.
The motivation put forward by the applicant is flawed as currently there is already enough space to construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence.	The objector is not correct in his point of objection namely that there is enough space to "construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence." is not correct.  The adjacent sketch shows the space required to accommodate a typical bakkie with the garage doors open and sufficient space to move around the vehicle towards the dwelling: Therefore this point of objection is incorrect and should thus be omitted.

The proposal will have a negative impact on the surrounding properties as it will create an unsightly step in the property line along De Goede Street.	The point of objection is considered a subjective point from the objector. The owner intends to landscape the area which is in contradiction with the objector's subjective viewpoint have the opposite effect. It should also be mentioned that an engineer investigated alternative measures but considered the proposal as the most appropriate measure. Therefore this point of objection is considered invalid.
Objection to the consolidation- as it is neither desirable nor in the interest of the public for the following reasons:	
The proposed consolidation only serves the interest of the individual property owner and is not in the interest of the public.	The portion applied for to be rezoned is not viable / usable land for public road purposes and will therefore have no benefit to the public, but will provide a material benefit to the applicant in terms of security and safety.
The motivation put forward by the applicant is flawed as currently there is already enough space to construct a fence on the property boundary and still be able to park a vehicle between the garage and the fence	Refer to the similar point dealt with here-above illustrating the additional space is required to accommodate a vehicle with sufficient space required to open the garage door and move around the vehicle. Therefore it is requested that the deciding authority ignores this point of objection.
Municipal services currently running below the portion which is intended to be incorporated in to Erf 6137.	As part of the application process to purchase municipal land, the necessary surveys were conducted through a land surveyor as well as collaboration with all municipal departments and it was accordingly confirmed that the portion proposed to be purchased from the Overstrand Municipality does not affect any services. Therefore this point of objection is incorrect and subsequently invalid.
The proposal will have a negative impact on the surrounding properties as it will create an unsightly step in the property line along De Goede Street.	As per the previous point, this point of objection is considered a subjective point of objection and therefore considered an invalid point of objection and should accordingly be rejected by the subject decision-makers.

It can thus be concluded that the points of objections are mostly subjective opinions, invalid objections and with flawed incorrect interpretations.

In the light of the above it is requested that the objection from the objector be rejected and that the application be supported by the relevant deciding authority.

Kind Regards

Andre Wiehahn Pr Pln A/927/1996, B Art et Sc (Town and Regional Planning)

Alida Conradie

From: Madelein Erasmus
Sent: Monday, 19 May 2025 12:56
To: Alida Conradie
Subject: FW: Erven 379 & 6137, Westcliff - Request for comment DRINGEND

Beste Alida,

Ons kommentaar op die besware is soos volg:

Objection:

1. Public roads are intended to serve the future road and access requirements of the Public and not just individual property owners.
2. Public roads are intended to be a space to accommodate municipal services. The closure of this portion of Public Road means that services that may be required to serve the public in future may not be able to be accommodated.

Property Management Response:
Erf 379 Hermanus is 314m ^{2} in extent and only approximately 88m ^{2} in extent area is proposed to be alienated to Ms Otto. Further, there is another approximate 129m ^{2} in extent sidewalk in front of Ms Otto's property, between De Goede Street and the boundary of Erf 379 Hermanus. There is thus ample space should a road widening be considered in the future. It must however be noted that the Internal Departments confirmed that the portion of Erf 379 Hermanus is not needed for the provision of municipal services which also includes road.

Objection:

3. The sale price for the land is not market related and therefore the sale will not be in the best interest of the public.

Property Management Response:
HCB Property Valuations determined the market related value at an amount of R750.00/m2 (SEVEN HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning, and proposed use (restriction) of the Property. No community value is applicable to this transaction.

Objection:

4. The intersection of De Goede & Westcliff Road is a difficult intersection with blind spots in both directions. From a traffic safety point of view it may make sense to reconfigure this intersection and reducing the available public road space may prevent the reconfiguration of this intersection.
5. The motivation put forward by the applicant is flawed as currently there is already enough space to construct a fence o the property boundary and still be able to park a vehicle between the garage and the fence.

Property Management Response:
Various options were considered and meeting were held whereafter the best suitable option was arrived at taking into account the intersection, the services and the boundary line of the adjoining property. A smaller area than was originally applied for was identified as the most suitable option.
During a meeting with the Applicant, she explained in detail regarding the space that is not sufficient for a parked vehicle on their own property as well as the attempted break-ins they have had in the past. There is not enough space to erect a fence on the boundary, park a car between the garage and fence and be able to move around the car to unload the car. Furthermore, the Applicant explained that the garage is not big enough for her to park in and unload her car, thus she must unload her car in front of the garage which is a safety risk for her and her daughters.

Objection:

6. Municipal services currently run below the portion which is intended to be incorporated into Erf 6137.

Property Management Response:

There are no municipal services beneath the area that is proposed to be alienated and the various departments' comments confirmed this. Further see the below map indicating the portion proposed to be alienated as well as where the municipal services are located.

Proposed portion to be alienated:

Municipal services indicated in blue and yellow:

COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR: APPLICATION FOR SUBDIVISION, CLOSURE OF A PUBLIC ROAD, REZONING & CONSOLIDATION: ERVEN 379 & 6137, WESTCLIFF (4691/2024)

Stormwater (SW)	:	Refer to conditions
Electricity	:	Refer to conditions
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;

2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;

3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;

4. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Principal Technologist: Hermanus for written approval;

5. that any additional and / or extended vehicle entrances will be for the owner's account;

6. that no reservation of on-street parking be allowed;

7. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;

8. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.

17/02/2025

RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL

DATE

Brady Minnaar

From: Brady Minnaar
Sent: Wednesday, 04 September 2024 12:01
To: Madelein Erasmus
Cc: AJ Fourie; Magda Bekker; Rovaida October; Alida Conradie
Subject: RE: Erf 379 Westcliff - Purchase of a Portion of Erf 379 Westcliff

Dear Madelein,

Thank you for the clarification. It is much appreciated.

Kind regards,

Brady Minnaar
Town Planner
Town & Spatial Planning
Planning & Development
Overstrand Municipality Hermanus
A: 16 Paterson Street, Hermanus, 7200
T: 028 313 8900 | E: bminnaar@overstrand.gov.za

From: Madelein Erasmus <merasmus@overstrand.gov.za>
Sent: Wednesday, September 4, 2024 11:58 AM
To: Brady Minnaar <bminnaar@overstrand.gov.za>
Cc: AJ Fourie <ajfourie@overstrand.gov.za>; Magda Bekker <mbekker@overstrand.gov.za>; Rovaida October <roctober@overstrand.gov.za>
Subject: RE: Erf 379 Westcliff - Purchase of a Portion of Erf 379 Westcliff

Dear Brady,

When we deal with an application we measure an approximate size on GIS. What often happens is that when a diagram is then drawn up the actual measured size will differ a bit from the approved size. As the approved size is an approximate size and the size applied for is not far out from the approved size we do not have a problem with the 99sqm application. I also confirmed this with Anja before sending you this message.

You can continue on the 99square application. When the Town Planning approvals is granted and there is a new erf number we do an addendum to the deed of sale in any case to record the new erf number of the property alienated.

Vriendelike groete / Kind regards

Madelein Erasmus
Administrative Officer: Property Management, Planning and Development Directorate / Administratiewe Beampte: Eiendomsbestuur, Direktoraat Beplanning en Ontwikkeling
Overstrand Municipality / Munisipaliteit Corner of / Hoek van Molteno & Viljoen Street/Straat, Onrustrivier
T: +27 (0) 28 316 5602 F: +27 (0) 28 316 3721 E: merasmus@overstrand.gov.za

From: Brady Minnaar <bminnaar@overstrand.gov.za>
Sent: Wednesday, September 4, 2024 10:36 AM
To: Madelein Erasmus <merasmus@overstrand.gov.za>

Cc: AJ Fourie <ajfourie@overstrand.gov.za>
Subject: Erf 379 Westcliff - Purchase of a Portion of Erf 379 Westcliff

Good day Madelein,

I trust that you are well.

As discussed telephonically, the applicant submitted a land use application which included the purchase of a portion of Erf 379 Westcliff. The Portion extent in the land use application is ±99² and in your departments approval it states that it is ±88². I hereby require clarity regarding the correct size to be purchased. Additionally, can you please confirm if the applicant submitted the wrong details when they made the application to purchase a Portion of Erf 379 Westcliff.

Thank you for your assistance in advance.

Kind regards,

Brady Minnaar
Town Planner
Town & Spatial Planning
Planning & Development
Overstrand Municipality Hermanus
A: 16 Paterson Street, Hermanus, 7200
T: 028 313 8900 | E: bminnaar@overstrand.gov.za

KANTOOR VAN DIE DIREKTEUR: INFRASTRUKTUUR & BEPLANNING
OFFICE OF THE DIRECTOR: INFRASTRUCTURE & PLANNING

Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

NAVRAE | ENQUIRIES: Ms M Bekker
LEÊRVERWYSING | FILE REFERENCE: 7/2/3/2 – HWC 379 – M Otto
DATE | DATUM: 5 March 2024

M Otto
PO Box 384
HERMANUS
7200

PER EMAIL: info@iatrp.co.za;
admin@hermanus102.co.za

Dear Ms Otto,

RE: IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 379 HERMANUS, ADJACENT TO ERF 6137 HERMANUS, SITUATED IN DE GOEDE STREET, HERMANUS, TO MS. M OTTO

The abovementioned refers.

Council, at a meeting held on 28 February 2024, resolved as follow:

1. *" that the direct alienation of a portion of Erf 379 Hermanus (adjacent to Erf 6137 Hermanus) situated on the corner of De Goede Street and Westcliff Road, Hermanus (±88m2 in extent), to the owner of the adjoining Erf 6137 Hermanus, Ms Magdalena Otto, at an amount of R750.00/m² (SEVEN HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded), for the purpose of a boundary wall/fence,* ***be approved*** *in principle;*

2. *that it be noted that the direct alienation is possible as the said portion of Erf 379 Hermanus can be classified as a non-viable property;*

3. *that it be noted that a condition for the alienation will be that the said portion of Erf 379 Hermanus must be consolidated with the adjoining property of Ms Magdalena Otto, being Erf 6137 Hermanus;*

4. *that no structures of any kind (excluding a boundary wall or fence) may be erected on the said portion of Erf 379 Hermanus, which condition must be registered against the title deed of the consolidated property;*

5. *that the alienation of said portion of Erf 379 Hermanus be subject to a suspensive condition that the applicant/purchaser obtains approval for all the required land use rights, which include, the closure of public place (road), rezoning, subdivision, and consolidation;*

6. *that all the costs pertaining to the transaction, e.g., application costs, valuation cost, closure of public open space, rezoning, subdivision and consolidation, advertisement, and the related costs, etc. be paid by the Applicant/purchaser, Ms Magdalena Otto;*

7. *that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and*

Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

8. that it be noted that a different decision is taken than the Council decision of 28 October 2021 due to the following reasons:

(a) the area applied for was amended to form a more desirable property boundary outline;
(b) the relevant internal department responsible for the planning for road widening did not have an objection to the proposed sale as the area applied for was amended;
(c) the applicant provided further information as to the need to purchase the property for safety and security purposes as the garage on her property is too small to park in and offload items which forces her to park in front of the garage on an area which is not enclosed, which is a safety risk; and
(d) the applicant confirmed that she has had several attempted break-ins at her property which can only be mitigated if the property is enclosed."

Should you have any queries in this regard, please do not hesitate to contact Ms. A Le Roux (Manager: Property Administration) at 028 316 5623.

We trust you find the above in order and herewith request your written acceptance of the conditions as imposed by the Overstrand Municipality in this letter in order to proceed with the application process.

Kindly provide us with a copy of your ID document and confirm whether you are married in or out of community of property in order for us to finalise the Deed of Sale for signature.

As soon as the agreement is signed you may continue to apply for the Town Planning processes.

Yours sincerely,

MBekker.

MAGDA BEKKER
PROPERTY ADMINISTRATION

I, _____(full names) with Identity Number _____, acknowledges that as the owner of Erf 6137 Hermanus, I understand and accept the conditions as stipulated in this council resolution.

_____ _____

Signature **Date**

Tel: 028 316 5606 | Fax: 028 316 3724 | E-mail: mbekker@overstrand.gov.za
PO Box 20 | **HERMANUS** 7200
www.overstrand.gov.za

Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

Locality Map

Tel: 028 316 5606 | Fax: 028 316 3724 | E-mail: mbekker@overstrand.gov.za
PO Box 20 | **HERMANUS** 7200
www.overstrand.gov.za

4.2
ERF 298, 67 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF AJ AND E ROOS

298 HSB (4728/2024)
B Minnaar (028) 313 8900 Hermanus Administration
31 July 2025

1. EXECUTIVE SUMMARY

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) has been received on 30 July 2024 from Messrs PlanActive Town & Regional Planners on behalf of AJ and E Roos applicable to Erf 298, Westcliff, Hermanus, for the following:

- **consent use** in terms of Section 16(2)(o) of the By-Law to accommodate a five-bedroom guesthouse on the property.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf measures 1041m² in extent and is developed with a two-storey dwelling and associated outbuildings situated on 67 Westcliff Road. The property owners intend to establish a five-bedroom guesthouse on the subject property, hence the submission of the land use planning application for a consent use.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

- The property owners intend to operate a five-bedroom guesthouse on the property, hence the application for consent use to accommodate the proposed use.
- The property offers strategic advantages due to its location in Hermanus.
- The property is also in close proximity to key amenities and attractions in Hermanus that present a promising opportunity for a hospitality development.
- The proposed use is in line with the single residential zoning (consent use).
- The property is currently undergoing alterations in accordance with their latest approved building plan.
- The ground floor will accommodate the five-bedroom guesthouse, and the first floor will accommodate a dwelling unit on its own.
- There are 7 parking bays proposed. A double garage (2 parking bays) and 5 parking bays on site.
- Access to the double garage and 3 parking bays will be accessed from Westcliff Road and the remaining 2 parking bays will be accessed via Cliff Road.

- The provision of parking bays is to mitigate any adverse effects on traffic flow.
- The title deed does not contain restrictive conditions that prohibit the proposal.
- The property is connected to municipal services that will not be affected by the proposal.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices and site notice	**Yes**	10/09/2024	18/10/2024
Advertisement (local newspaper)	**Yes**	13/09/2024	18/10/2024
Internal Departments	**Yes**	10/09/2024	18/10/2024
Ward councillor	**Yes**	10/09/2024	18/10/2024
Total comments	**Two (2) objections**		
Total letters of support	**Two (2) letters of no objection**		
Was public participation undertaken in accordance with Section 46 - 50 of the By-law on Municipal Land Use Planning?			**Yes**
Was the application processed correctly (if no, elaborate below):			**Yes**
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			**Yes**
In case of application for removal, amendment, or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies.			**N/A**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Waste Management	10/09/2024	No objections. See attached as Annexure F.
Building Department	10/09/2024	No objection. All buildings to comply with NBR and all other applicable law.
Fire Services	25/09/2024	No objection, subject to compliance with the provisions of SANS 10400 A:2016, 10400 T:2024 and the By-Law relating to fire safety.
Services Report	17/10/2024	Attached as Annexure E.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was circulated to relevant internal departments, the Ward Councillor, the surrounding affected property owners and advertised in the local newspaper (Village News). Two (2) letters of no objection were received, and two (2) objections were received. The comments and objections are attached as Annexure D and the response from the application is attached as Annexure E.

The objection/comments, applicants' response to the objection/comments and the town planner's response thereto are as follows:

LETTERS OF NO OBJECTION FROM M BROWN & P THERON
M Brown *"I have no objection. Regards Mark Brown 62 Westcliff"* ***P Theron*** *"As the owners of Erf 12719 – 5 Cliff Road, Westcliff, Hermanus we have no objections to the application as presented. The owners have made arrangements for sufficient on-site parking for all their guests."*
RESPONSE FROM APPLICANT "Additionally, we would like to inform you that M Brown of 62 Westcliff Road and P Theron of 5 Cliff Road have expressed no objection to the proposed guesthouse. Their support reflects a positive perspective on the development within our community."
RESPONSE FROM TOWN PLANNER The letters of support are noted.

OBJECTIONS FROM M BOUSTRED AND P LAWRENCE
M Boustred *"I am the owner of 9 Cliff Road, Westcliff, and the new guest house referred to below is diagonally behind us. I see that the alterations are coming to an end on the property and why have we only received notification now. Five guest rooms plus the owners means about 14 people living or working on the residential property, which I believe is completely over the top. The one concern is visitors parking in the road and on pavements etc. Please keep me informed of developments."* ***P Lawrence*** *"My wife (Michelle Therese Lawrence) and I are the owners of 10 Cliff Road (also 69 Westcliff Road) Westcliff – Erf number 5528 Hermanus. We are direct neighbours to Erf 298, 67 Westcliff Road, Hermanus. Thank you for drawing our attention to the notice. We are surprised at the late timing of this notice / advert as we noticed the alterations to the home at 67 Westcliff Road were already at roof level at the start of July 2024. We do have concerns regarding the application. We trust all the necessary by-laws and building regulations have been complied with? Have the alterations been built within the correct building lines and are the services able to accommodate the proposed increased usage? The house is being converted to accommodate five new guest suites, staff and also accommodate the current residents. This could amount to more than 15 people? Should laundry and cooking be carried out for the guest house – will there be necessary extract and noise*

attenuation provided? Another major concern is the provision for parking. We definitely object to kerb side and pavement parking."
RESPONSE FROM APPLICANT Firstly, the building plan for the dwelling on Erf 298 was duly submitted and approved by the Overstrand Municipality prior to the commencement of construction. The alterations you have observed are part of this approved plan, and construction has proceeded in full compliance with municipal regulations. The application for the guesthouse was submitted following the approval of the dwelling's building plan. We apologize if the timing of the notification regarding the guesthouse application has caused any concern. The notification process was conducted in accordance with legal requirements, but we understand how the timing may have been perceived as delayed. Regarding the number of people on the property, the proposed guesthouse, which consists of 5 guestrooms in addition to the owners' quarters, has been carefully planned to comply with all zoning and municipal regulations. While this may potentially accommodate up to 14 people at full capacity, including guests, owners, and occasional staff, we are confident that operations will be managed in a way that minimizes any disruption to the residential character of the area. We understand your concerns about parking and would like to reassure you that the property has sufficient on-site parking to accommodate both guests and owners. This will help prevent the need for visitors to park in the road reserve. The guesthouse complies with the Overstrand Municipality's parking requirements to ensure that parking-related issues are effectively addressed.
RESPONSE FROM TOWN PLANNER The building plan for the subject property was approved on 26 March 2024 for a two-storey dwelling house with associated outbuildings. Thereafter, the property owner submitted the application for a guest house. The renovations observed by the objectors were in relation to the approved building plan which complies with both town planning and building plan regulations and legislation. It must be noted that due to the submission of a land use planning application to operate a guest house (consent use application in terms of the applicable zoning for the property), the application went through a public participation process to notify the immediate surrounding property owners of the proposed use. Furthermore, the five-bedroom guest house can accommodate 10 transient guests, and the required 5 bays have been provided on site. The manager's/owner's section of the house can accommodate the housing of a single family which is within their primary right with the provision of 2 parking bays provided on site by means of a double garage. Note that notices for future developments are uploaded to the municipal website under the town planning applications section.

Conclusion

It is considered that the comment and objections has been adequately responded to.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

All municipal departments and other institutions support the application.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The property is situated in an existing town; thus the principle of spatial justice is not applicable.

Spatial Sustainability

The application will not impact valuable agricultural and sensitive environmental land.

Efficiency

Existing property will be optimally used within existing service capacities to allow for promotion of tourism.

Spatial Resilience

The application is in line with spatial planning policies which promote a variety of residential opportunities as well as the promotion of tourism and economic development.

Good Administration

Procedure as determined by the relevant By-Law of the municipality has been followed and a good public participation process was followed.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The application is consistent with the planning principles.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

No changes are made in terms of the zoning of the property nor are there any additional densification proposals. Tourism will be promoted as discussed in the SDF and the van Dyksbaai Nodal Development Framework.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

All municipal services exist and will not be impacted upon by the proposal.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand spatial documents that accommodate the proposal via an application process.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

Proposed consent use

The application to accommodate a five-bedroom guest house on the property is considered for approval since the existing dwelling house with approved plan can be converted into a guest house with a manger's/owner's dwelling unit as well, without requiring the need for departures. The only requirement is to apply for the consent use application.

Furthermore, the addition of a guest house aligns with the Spatial Development Framework key policies:

- ECO 1(ii) Ensure that tourism destinations are accessible, safe and attractive by means of maintain and developing new facilities.
  The proposed guest house is located close to the other economic and tourist locations. Therefore encouraging the local economy within the Overstrand municipal jurisdiction. The guest house will also provide much needed employment opportunities, thereby benefitting the local economy.

The subject site will remain residential and will therefore not change the character of the site. The impact of the character of the area will not negatively impact since there are many guest houses within the Westcliff area.

The application proposes 7 parking bays which are located on site. 5 parking bays for each guest room and 2 parking bays (double garage) for the manager/owner.

The parking provision therefore complies with the parking provision in terms of the Overstrand Municipality Land Use Scheme.

The access will be gained from both Westcliff Road and Cliff Road. Providing access from both roads reduces the possible traffic impact on Westcliff Road.

There are no additional services required, however should the property owner require additional capacity, it will be on their own account, refer to the service report by the Engineering Department.

There is no impact on the biophysical environment since the property is located within the urban fabric and not located on any environmentally sensitive or protected areas.

The proposal to accommodate a guest house on site is therefore considered for approval.

13. RECOMMENDATION

1. that the objections be noted;

2. that the application in terms of Section 16(2)(o) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 298, Westcliff, Hermanus for **consent use** to accommodate a five-bedroom guesthouse, **be approved**, in terms of the provisions of Section 61 of the By-Law;

3. that the decisions in paragraph 2. above, be subject to the following conditions:

   (a) that this approval is limited to a guest house only;

   (b) that the approval be limited to the building/structures as per Site Plan: *House Roos Alteration to Existing Council Approval Drawing* as submitted with the application;

   (c) that a maximum of five (5) bedrooms be let to guests/tourists which is applicable to the main dwelling;

   (d) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control – and the Fire Department be complied with at that stage;

   (e) that the general development parameters for guest houses under Single Residential 1 zoning (with reference to Section 16.10.8 of the Overstrand Municipal Land Use Scheme, 2020, attached as Annexure H) be applicable to the subject property;

   (f) that the applicable rates and service tariffs, as determined by the annual budget is applicable, which tariffs are automatically adjusted in terms of the annual budget;

(g) that all the conditions imposed by Waste Management and the Engineering Department (attached as Annexures F and G), be complied with;

(h) that the Overstrand Municipality retains the right to enforce any relevant legislation, as well as law and order on the premises, on the landowner/s;

(i) that this approval does not absolve the applicant from compliance with any other relevant legislation, and

(j) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;

4. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 regarding the above decision.

14. REASONS FOR RECOMMENDATION

- That the objections have adequately been resolved.
- The alterations to the building of the subject property were done as per the latest approved plans which were approved on 26 March 2024. Thereafter, the planning application was submitted which followed a public participation process to accommodate a five-bedroom guest house.
- The parking provision is in complies with the relevant parking requirements as per the Overstrand Land Use Scheme.
- The provision of access on Westcliff Road and Cliff Road reduces the possible impact of congestion on Westcliff Road.
- The proposal is in line with the SDF and the residential character of the Westcliff neighbourhood.
- The Westcliff area is known for having guesthouse accommodation.
- The ground floor of the building is to cater for the guests, and the first floor of the building is to cater for a manager or the property owner.
- The established use and management of the property does not have a negative effect on the character of the area.
- The accommodation establishment will be beneficial for optimization of the erf.
- It will promote the tourism industry, thus in line with the forward planning documentation of the municipality.
- Is not regarded as being undesirable from a town planning point of view.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Comment received
Annexure E:	Response from applicant
Annexure F:	Comment: Waste Management
Annexure G:	Services Report
Annexure H:	General development parameters for guest houses

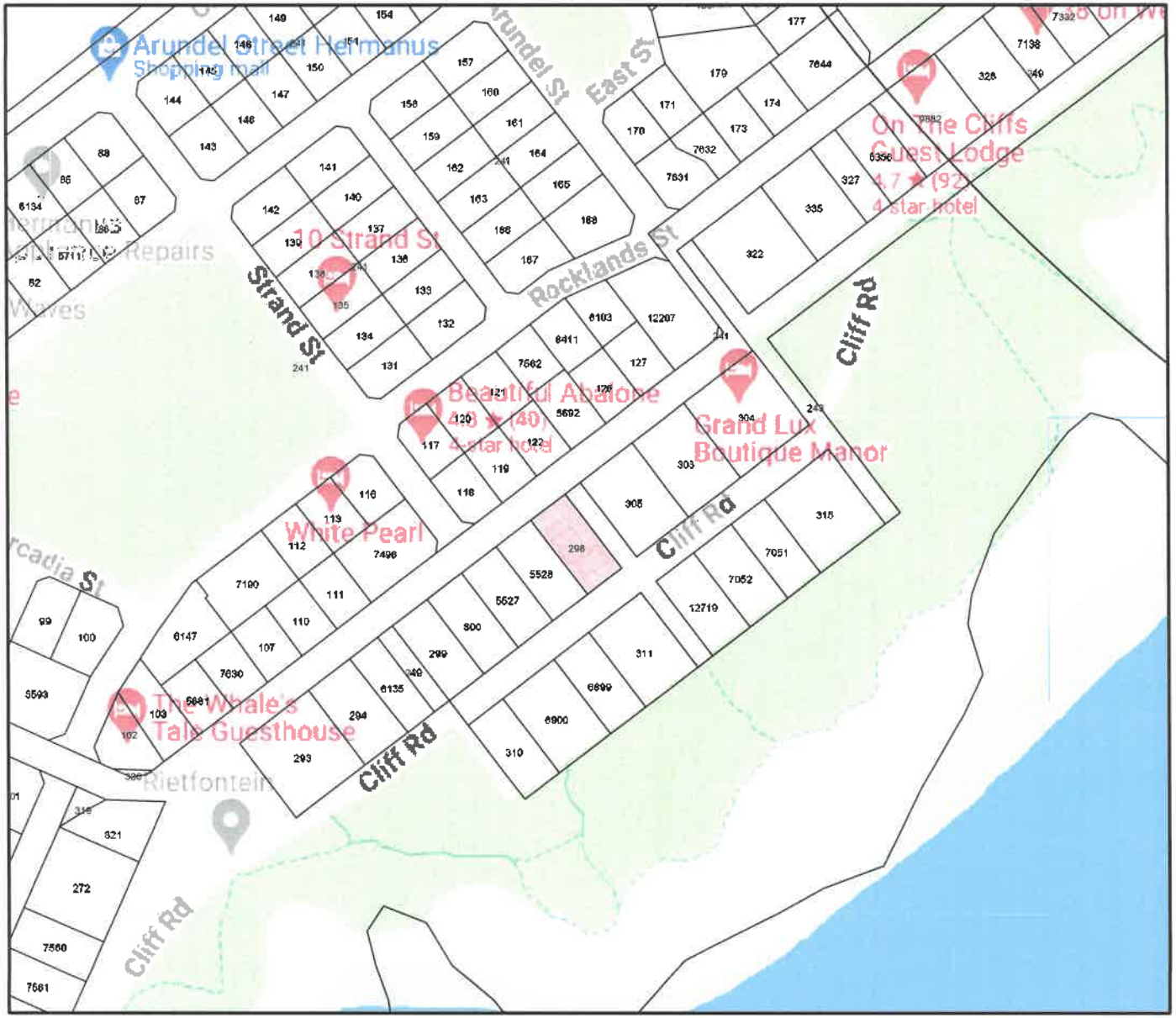
SIGNATURES

REGISTERED PLANNER

Name:	**B MINNAAR**
SACPLAN Reg No:	**C/8630/2021**
Signature:	_____
Date:	_____

REGISTERED PLANNER

Name:	**SW VAN DER MERWE**
SACPLAN Reg No:	**A/1850/2014**
Signature:	_____
Date:	_____



PlAn Active Stads- en Streeksbeplanners Town & Regional Planners	All distances approximate and subject to survey. COPY RIGHT RESERVED	Property Description: ERF 298 HERMANUS	Plan Description: LOCALITY MAP	Scale: NTS Drawing Nr: Hermnus298.dwg Date: 29 Jul 2024	N

ANNEXURE A

PROPOSED CONSENT USE TO ESTABLISH A GUESTHOUSE ON ERF 298 HERMANUS

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

This report outlines the background and details regarding the proposed establishment of a guesthouse on Erf 298 Hermanus, owned by Mr. A.J. Roos and Mrs. E. Roos. Plan Active has been appointed to apply for the necessary consent on behalf of the owners.

Erf 298 Hermanus is located at 67 Westcliff Road and 8 Cliff Road, Westcliff, Hermanus. The property spans an area of 1041m² and is registered under Title Deed number T39680/2021. An existing bond is currently registered against the property.

The owners plan to establish a guesthouse featuring five guestrooms on the property. This project requires obtaining consent for the proposed use.

The property's location in the vibrant area of Hermanus offers strategic advantages for the proposed guesthouse. It caters to the growing demand for accommodation options in the region. With its proximity to key amenities and attractions in Hermanus, Erf 298 presents a promising opportunity for hospitality development.

The initiative to establish a guesthouse on Erf 298 Hermanus represents a significant investment in the local hospitality sector. The owners aim to navigate the regulatory framework effectively and unlock the property's potential, thereby contributing to the economic and tourism growth of the area.

2. APPLICATION DETAILS

This application is made in accordance with:

- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for consent to establish a guesthouse on Erf 298 Hermanus.

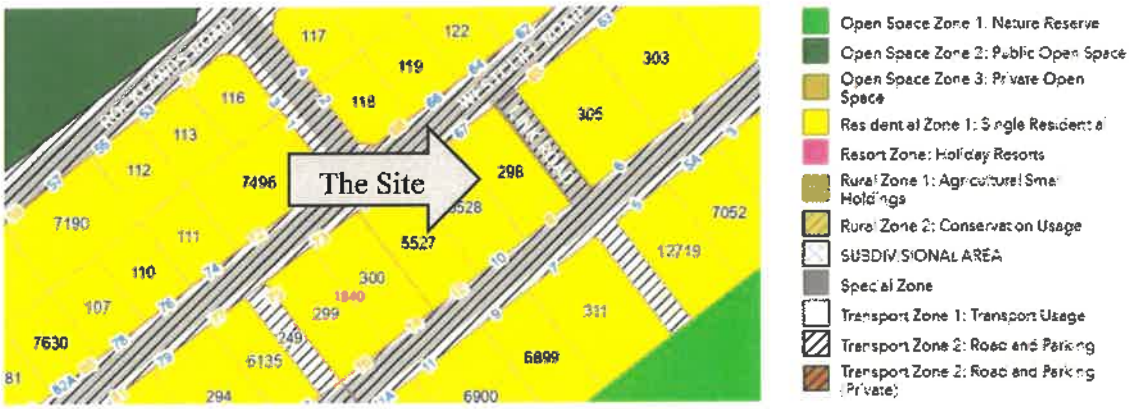
3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

Erf 298 Hermanus is located at 67 Westcliff Road and 8 Cliff Road, Hermanus. Please refer to the attached locality plan for further details. The property encompasses an area of 1041m² and is situated in a primarily residential environment. Notably, consent uses for guesthouse purposes have been approved in this area in the past.

3.2 ZONING

Erf 298 Hermanus is zoned as Residential Zone 1: Single Residential. This zoning classification allows for residential development with certain restrictions and standards aimed at maintaining the character and integrity of the area. Please refer to the zoning map abstract below:



The properties surrounding Erf 298 Hermanus are also zoned as Residential Zone 1: Single Residential, indicating a cohesive and uniform residential environment. This

zoning consistency ensures that the neighbourhood maintains its residential nature, providing a stable and attractive setting for potential developments such as a guesthouse.

The establishment of a guesthouse in this zoning area is aligned with past approvals for similar consent uses, demonstrating that such developments are compatible with the existing residential character. This background supports the feasibility and appropriateness of the proposed guesthouse on Erf 298 Hermanus, contributing positively to the local community while adhering to zoning regulations.

3.3 LAND USE

Erf 298 Hermanus is currently developed with an existing dwelling and associated structures. Building plans for alterations and additions to the existing dwelling have been submitted and approved, with construction already underway.

The land uses surrounding Erf 298 Hermanus include single residential dwellings, some of which are being used as guesthouses, as well as public open spaces and public roads. This diverse yet harmonious mix of residential and guesthouse properties, along with the availability of public amenities and infrastructure, enhances the suitability of establishing a guesthouse on Erf 298 Hermanus.

3.4 PROPOSED DEVELOPMENT

This application seeks consent to establish a guesthouse on Erf 298 Hermanus in accordance with Chapter 4, Section 16(2)(o) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

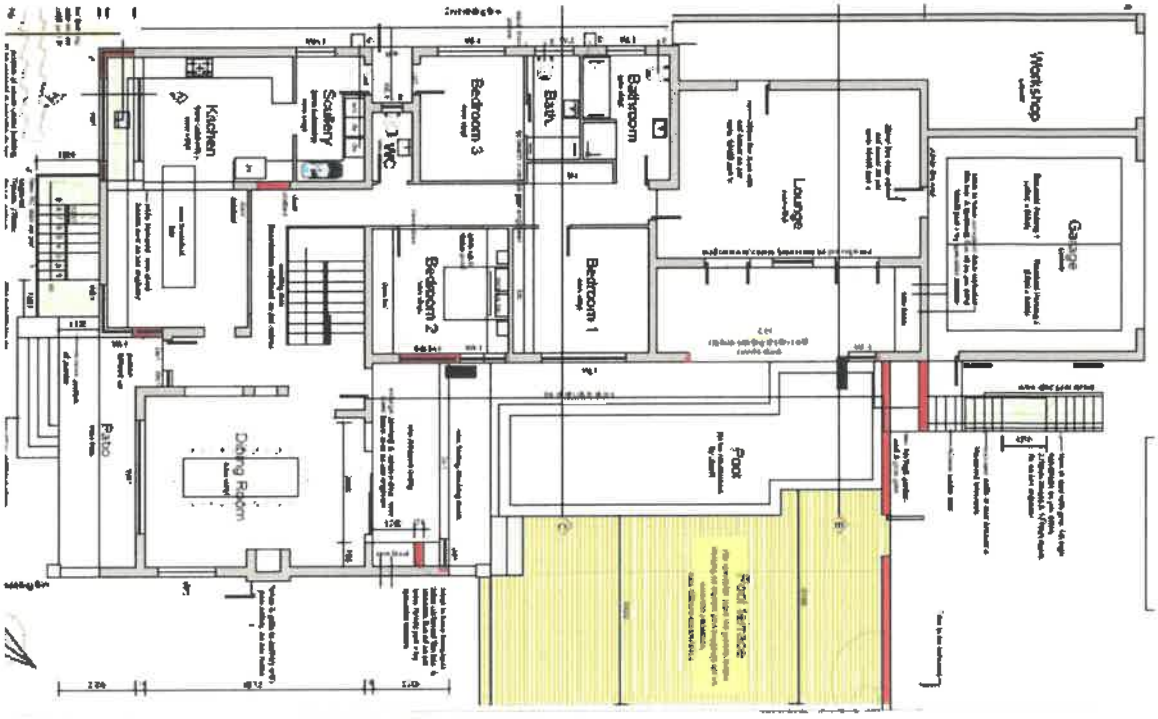
The proposed guesthouse will feature five guestrooms and facilities designed for both guests and the owner/manager, aiming to provide comfortable and functional accommodation. The uses of the guesthouse can be listed as follow:

Ground Floor:

- Patio: Creating a welcoming entrance to the guesthouse.

- Open Plan Kitchen and Breakfast Bar: A modern kitchen setup that allows for meal preparation and casual dining.
- Scullery: A dedicated area for cleaning and storage, ensuring the kitchen remains organized and efficient.
- Dining Room: A communal space where guests can enjoy meals together, fostering a sense of community and providing a pleasant dining experience.
- Three Bedrooms: Designated for use by the owners, these rooms provide a comfortable living space within the guesthouse.
- Two Bathrooms: Shared among the owners' bedrooms, these facilities ensure convenience and comfort.
- Lounge: A comfortable area for relaxation and socializing, offering guests a space to unwind.
- Swimming Pool and Pool Terrace: Recreational amenities that provide a luxurious touch, enhancing the overall guest experience.
- Double Garage: Secure parking for the owners' vehicles, ensuring safety and convenience.
- Five Guest Parking Bays: Ample parking space for guests, ensuring easy access and convenience.

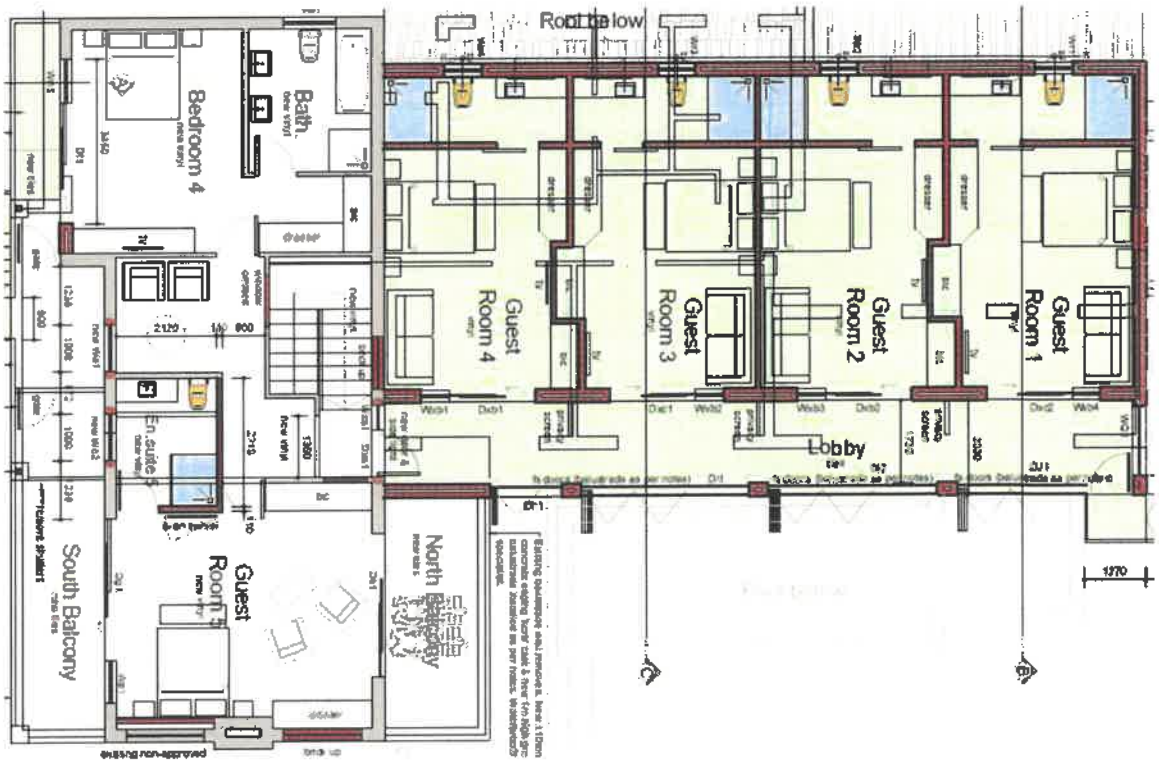
Please refer to the attached set of building plans for detailed layout and design and the building plan abstract below:



First Floor:

- Five Guestrooms with En-suite Bathrooms: Each room is equipped with private bathroom facilities to ensure guest comfort and privacy, catering to their needs and preferences.
- Fourth Bedroom: An additional bedroom for the owners' use, providing flexibility in accommodation.

Please refer to the attached set of building plans for detailed layout and design and the building plan abstract below:



The strategic allocation of guestrooms and communal areas across two floors maximizes space utilization while maintaining a comfortable environment for occupants. This design ensures that both guests and owners have ample space to enjoy. Ensuring that each guestroom has an en-suite bathroom enhances privacy and convenience for guests, catering to their diverse preferences and needs. This feature is particularly appealing for guests seeking a high level of comfort and autonomy during their stay.

Providing dedicated bedrooms and facilities for the owner/manager ensures their comfort and convenience, allowing them to oversee operations effectively while maintaining a distinct living space. This separation helps in managing the guesthouse efficiently without compromising on personal living standards.

The proposed guesthouse development on Erf 298 Hermanus aims to offer a well-designed and functional accommodation option for visitors. With five guestrooms featuring en-suite bathrooms and well-planned communal areas for dining and relaxation, the guesthouse is designed to provide a comfortable and enjoyable experience for guests. Additionally, the accommodation needs of the owner/manager are addressed, ensuring they can efficiently manage the guesthouse operations while enjoying a comfortable living environment.

By integrating modern amenities and thoughtful design elements, the guesthouse seeks to attract a diverse range of visitors, from tourists seeking a pleasant vacation stay to business travellers needing convenient and comfortable lodging. This development not only enhances the property's value but also contributes to the local tourism and hospitality sector, promoting economic growth and community development in Hermanus.

3.4.2. PROPOSED CONSENT USE

The subject property, Erf 298 Hermanus, is zoned for single residential purposes. According to the Zoning Scheme Regulations, a guesthouse can be established on the property through a consent use application in accordance with Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020.

The owner intends to establish a 5-guestroom guesthouse on Erf 298 Hermanus, as described in detail above. This proposed development aims to provide high-quality accommodation while adhering to the regulatory framework set forth by the municipality. The guesthouse will feature modern amenities and facilities designed to offer comfort and convenience to guests, contributing positively to the local hospitality sector.

3.5 CHARACTER OF THE ENVIRONMENT

Erf 298 Hermanus enjoys an advantageous location that provides easy access to beaches and other tourist attractions, enhancing its appeal for establishing a guesthouse. The proposed diversification of land use on the property is expected to complement the existing built and natural environment seamlessly. Notably, the surrounding area of Hermanus is well-known for its established guesthouses, aligning well with the intended use of Erf 298 Hermanus.

Upon finalizing the application, building plans for the alteration of the existing dwelling into a 5-guestroom guesthouse will be submitted for approval. We anticipate minimal impact on the area's existing character, as the proposed development aims to preserve and enhance the local environment while meeting regulatory standards.

The conversion of the dwelling into a guesthouse is anticipated to add significant value to the area without adversely affecting surrounding property values. We foresee positive contributions to the local economy and tourism sector, aligning with the municipality's goals for sustainable development.

The guesthouse is classified as a low-impact development, ensuring minimal disruption to traffic flow, streetscape aesthetics, and the overall character of the neighbourhood. The design and operational plans are structured to maintain harmony with the residential nature of the area while providing a comfortable and welcoming environment for guests.

By adhering to these principles, we aim to contribute positively to the community of Hermanus while fulfilling the potential of Erf 298 Hermanus as a distinguished guesthouse destination.

3.6 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)

The subject property's zoning will remain unchanged, retaining its designation for single residential purposes. This zoning allows for future development under low impact land use categories only. The proposed consent use will not restrict any potential future land uses, affirming that the guesthouse can also function as a single residential dwelling unit if needed.

Given that the zoning remains unchanged and the guesthouse will operate within the parameters of a single residential zoned property, the impact on surrounding properties is expected to be minimal. Consequently, property values of neighboring properties are not anticipated to be negatively affected by the proposed application.

Erf 298 Hermanus benefits from its strategic location within a single residential area, which is conducive to the proposed guesthouse use. The area's characteristics and amenities make it an ideal setting for hospitality ventures. Additionally, the property's ample size allows for the accommodation of a guesthouse, including sufficient parking and open spaces, further enhancing its suitability for this purpose.

The potential of Erf 298 Hermanus to accommodate a guesthouse aligns well with its unchanged zoning status and the low impact nature of the proposed development. This ensures compatibility with the surrounding residential environment while leveraging the location's opportunities for tourism and hospitality. The property's attributes and strategic location support its desirability for the establishment of a guesthouse, contributing positively to both local economic growth and community enhancement.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All services on the subject property already exist. Any additional services required to the subject property will be done according to the specifications of the Overstrand Municipality.

3.7.2 PARKING, ACCESS AND TRAFFIC IMPACT

Erf 298 Hermanus benefits from dual access points via Westcliff Road and Cliff Road, facilitating convenient entry and exit for guests and residents alike.

According to the Overstrand Zoning Scheme Regulations (2020), the guesthouse must provide one parking bay per guest room on site, along with an additional two parking bays for the owner/manager. Consequently, a total of 7 parking bays are allocated onsite:

- Owner/Manager Parking: Two parking bays are located within the double garage, exclusively for the owners/managers of the guesthouse, accessible from Westcliff Road.
- Guest Parking: Three parking bays, each measuring 2.5m x 5m with manoeuvring space of 9m, are designated for guest use, also accessed from Westcliff Road.
- Additional Guest Parking: Two parking bays, each 2.5m x 5m in dimension, are located on the opposite side of the erf, accessible from Cliff Road.

Please refer to the enclosed set of building plans for detailed location references.

The proposed guesthouse is categorized as a low-impact development, and therefore, the provision of parking bays is designed to mitigate any adverse effects on traffic flow, streetscape aesthetics, or the overall character of the area. These measures ensure

that the guesthouse integrates harmoniously with the existing single residential land uses in the vicinity.

Given the compatibility of the proposed guesthouse with surrounding land uses and its strategic location within a single residential area, the anticipated impact on traffic flow is expected to be minimal. The provision of adequate parking facilities onsite further supports this assessment, ensuring smooth ingress and egress without causing disruptions to the local neighbourhood.

By adhering to these guidelines, we aim to uphold the integrity of the area while enhancing the guest experience through convenient and well-managed parking solutions.

3.8 TITLE DEED

Title Deed No. T39680/2021 for Erf 298 Hermanus does not contain any restrictive conditions that would hinder the approval of the proposed consent use.

The absence of restrictive Title Deed conditions allows for the smooth processing of the consent application to establish a guesthouse on Erf 298 Hermanus. Consequently, the proposed development can proceed without any impediments, fully complying with regulatory requirements and enhancing the property's potential for future use.

A bond is registered against the property. Enclosed, please find a copy of the Bondholder's letter of consent from Standard Bank.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Erf 298 Hermanus is not situated within a Heritage Overlay Zone as defined by the Overstrand Municipal Growth Management Strategy (2010). Furthermore, the property is not designated for heritage conservation purposes and has no association with important persons, groups, events, activities, or historical ties to slavery or living heritage.

Given these factors, it is evident that the proposed consent use to establish a guesthouse on Erf 298 Hermanus will not adversely impact the heritage value of the Hermanus area. The development aligns with local regulations and does not trigger any listed activities under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

This assessment ensures that the proposed development respects and preserves the existing heritage context of Hermanus while contributing positively to the local economy and community.

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed consent use to establish a guesthouse on Erf 298 Hermanus does not trigger any listed activities under the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998).

This determination signifies that the development complies with environmental regulations and guidelines set forth by NEMA. It indicates that the proposed guesthouse will not have significant environmental impacts that would necessitate further assessment or mitigation measures under NEMA.

By adhering to these standards, the development aims to operate in harmony with its natural surroundings while promoting sustainable practices within the community of Hermanus.

3.10 FORWARD PLANNING AND LAND USE DOCUMENTS

Overstrand Growth Management Strategy

Erf 298 falls within Planning Unit 16 of the Overstrand Growth Management Strategy, predominantly comprising the established Westcliff residential area. The strategy allows for incremental development, including subdivision for second and third dwelling units on approximately 20% of the area within this planning unit.

The proposed application for consent use to operate a guesthouse aligns with the objectives outlined in the Overstrand Growth Management Strategy. By utilizing an existing dwelling for this purpose, the proposal supports sustainable development practices while contributing to the area's residential character.

Overstrand Municipality Spatial Development Framework (May 2020)

According to the Overstrand Municipality Spatial Development Framework (May 2020), the subject property and surrounding erven are designated as an Urban Development Area. This designation supports the proposed consent use for a 5-guestroom guesthouse, aligning with key policies aimed at guiding future management and development initiatives.

The proposed consent use application for Erf 298 Hermanus to establish a guesthouse is in accordance with both the Overstrand Growth Management Strategy and the Overstrand Municipality Spatial Development Framework (May 2020). This alignment underscores the compatibility of the proposal with current land use trends and strategic development goals for the area.

By adhering to these frameworks, the development seeks to enhance local tourism offerings while maintaining the area's residential charm and supporting sustainable growth practices as outlined by municipal planning guidelines.

3.11 PLANNING PRINCIPLES

The planning principles of spatial justice and spatial resilience do not apply to this application.

Spatial sustainability: Spatial sustainability refers to the responsible management and development of physical spaces to ensure long-term environmental, social, and economic benefits. In the context of the proposed guesthouse on Erf 298 Hermanus, spatial sustainability principles are integral to achieving harmony between development goals and environmental stewardship.

The design and operation of the guesthouse will respect and complement the existing residential character of the Westcliff area. By utilizing an already developed property, the proposal minimizes environmental impact and preserves open spaces.

Utilizing an existing dwelling for the guesthouse minimizes the need for a totally new construction and reduces urban sprawl. This approach supports efficient land use patterns and enhances the area's overall sustainability by optimizing existing infrastructure.

The guesthouse's location, accessible from both Westcliff Road and Cliff Road, promotes accessibility without significantly increasing traffic congestion. Adequate on-site parking provision ensures minimal impact on local traffic flow and enhances guest convenience. The guesthouse will contribute positively to the local economy by creating employment opportunities and supporting local businesses.

The proposal aligns with the Overstrand Municipality's Growth Management Strategy and Spatial Development Framework, demonstrating compliance with local planning policies aimed at sustainable development practices.

By embracing spatial sustainability principles, the proposed guesthouse on Erf 298 Hermanus aims to enhance the quality of life for residents, promote responsible tourism, and contribute to the long-term resilience and attractiveness of the Hermanus area. This approach ensures that development not only meets immediate needs but also safeguards resources for future generations.

Efficiency: Efficiency in the context of developing a guesthouse on Erf 298 Hermanus encompasses several key aspects aimed at optimizing resources and operations to achieve sustainable and effective outcomes.

The proposed guesthouse maximizes the use of existing infrastructure by converting an already developed property into a hospitality establishment. This approach minimizes the need for new construction and reduces environmental impact while utilizing space effectively.

Designing the guesthouse with functional and ergonomic layouts enhances operational efficiency. The division of spaces, such as guestrooms, communal areas, and owner/manager quarters, ensures smooth workflow and guest satisfaction.

Efficient guest services, including streamlined check-in/check-out processes, responsive customer service, and well-maintained facilities, enhance overall guest satisfaction and loyalty. Positive guest experiences contribute to the guesthouse's reputation and occupancy rates.

By prioritizing efficiency in its design, operations, and management practices, the proposed guesthouse on Erf 298 Hermanus aims to achieve optimal use of resources while delivering high-quality hospitality services. This approach not only enhances

operational performance but also reinforces the guesthouse's commitment to sustainability and responsible tourism practices.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2016.

4. RECOMMENDATION

Based on the comprehensive assessment of Erf 298 Hermanus and its proposed development as a 5-bedroom guesthouse, the following recommendations support the application for consent use:

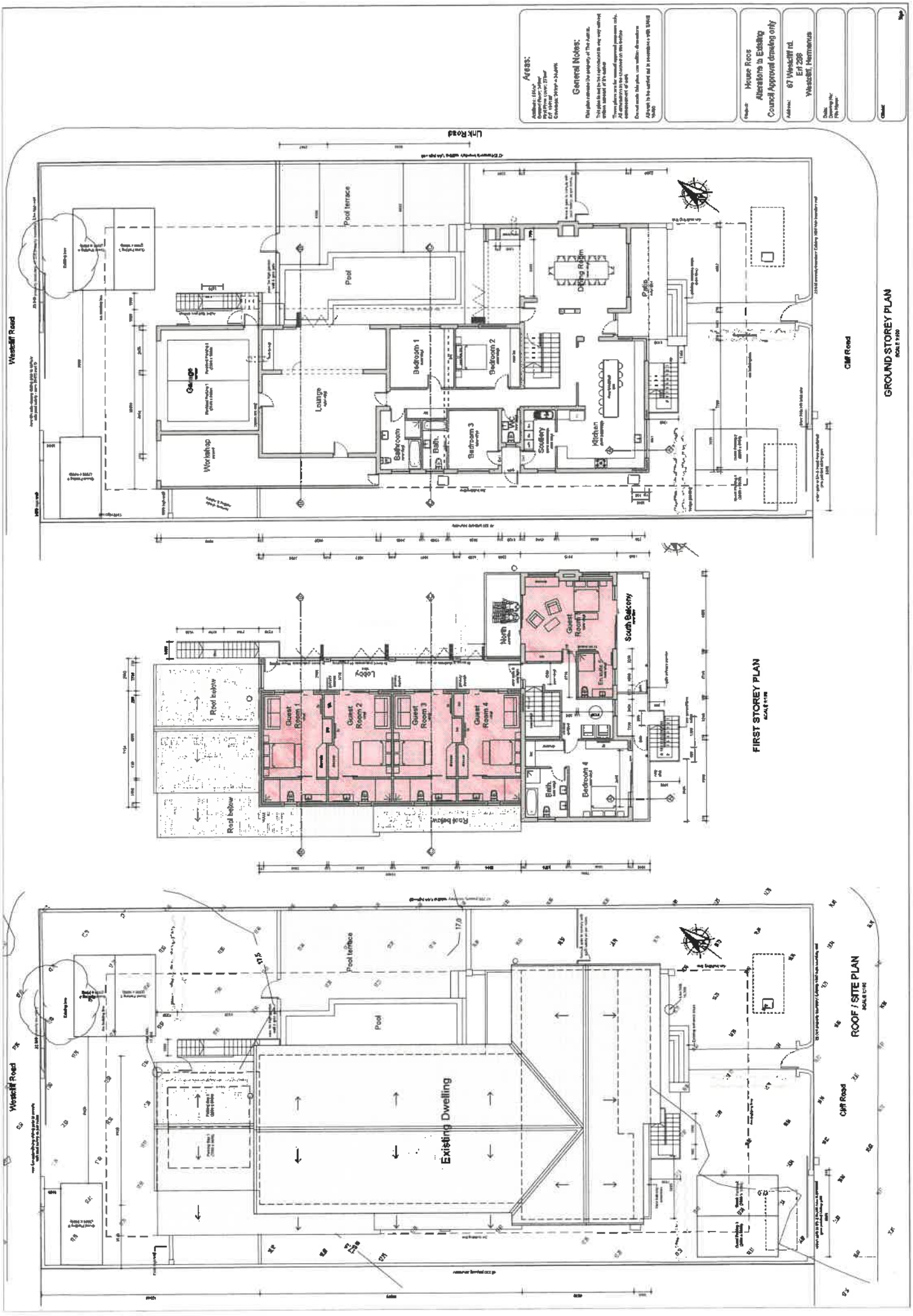
- Erf 298 Hermanus is strategically located within a single residential area near beaches and tourist attractions, making it an ideal spot for a guesthouse catering to diverse visitor preferences.
- The property is zoned for single residential purposes, and the proposed guesthouse aligns with the Overstrand Municipality's regulations for consent use under Chapter 4, Section 16(2)(o) of the Municipal Land Use Planning By-law, 2020.
- The development adheres to spatial sustainability principles by utilizing existing infrastructure, minimizing environmental impact, and integrating with the mature Westcliff residential area as per the Overstrand Growth Management Strategy.
- Adequate on-site parking provision, totalling 7 parking bays, ensures minimal impact on local traffic flow and enhances accessibility for guests from both Westcliff Road and Cliff Road.

- The property is not within a Heritage Overlay Zone and does not trigger any listed activities under the National Heritage Resources Act or the National Environmental Management Act, indicating minimal impact on heritage and environmental values.
- The guesthouse will contribute positively to the local economy by creating employment opportunities and supporting local businesses, while integrating seamlessly with the existing residential community.
- Incorporating energy-efficient technologies, water-saving measures, and waste reduction strategies ensures operational efficiency and cost-effectiveness, enhancing long-term sustainability and guest satisfaction.
- The proposal aligns with the Overstrand Municipality's Spatial Development Framework, indicating compatibility with future management and development policies for urban growth areas.

In conclusion, the proposed development of a 5-bedroom guesthouse on Erf 298 Hermanus is well-supported by its location, zoning compliance, sustainable design principles, and alignment with municipal planning frameworks. The project promises to enhance local tourism offerings, contribute positively to the community, and operate efficiently while respecting environmental and heritage considerations. Therefore, we recommend approving the application for consent use to establish the guesthouse on Erf 298 Hermanus, ensuring responsible development and long-term benefits for Hermanus and its residents.

With regards to the above-mentioned application, it would be appreciated if the Overstrand Municipality would consider the application favourably for the consent use of Erf 298 Hermanus.

ANNEXURE C


Areas:
General Notes:
Project: House Roos
Alterations to Existing
Council Approval drawing only
Address: 67 Westcliff rd.
Erf 298
Westcliff, Hermanus
Link Road
Westcliff Road
Cliff Road
Pool terrace
Pool
Dining Room
Patio
Lounge
Bedroom 1
Bedroom 2
Bedroom 3
Bedroom 4
Kitchen
Scullery
Bath.
Workshop
Garage
GROUND STOREY PLAN
Guest Room 1
Guest Room 2
Guest Room 3
Guest Room 4
Lobby
North
South Balcony
Roof balcony
FIRST STOREY PLAN
Existing Dwelling
ROOF / SITE PLAN

ANNEXURE D 1/4

REKORDBEHEER
11 SEP 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart (Hollvier)

AJ Fourie

From: Murray Boustred
Sent: Tuesday, 10 September 2024 17:15
To: AJ Fourie; Alida Conradie
Cc: datod@worldonline.co.za; Peter@neolithpm.co.za
Subject: RE: Erf 298, 67 Westcliff Road, Westcliff, Hermanus - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner.

Good Afternoon,

I am the owner of 9 Cliff Road, Westcliff, and the new guest house referred to below is diagonally behind us.

I see that the alterations are coming to an end on the property and why have we only received notification now. I am sure you agree that this has come far to late for affected property owners.

5 guest rooms plus the owners means about 14 people living or working on the residential property, which I believe is completely over the top.

The one concern is visitors parking in the road and on pavements etc.

Please keep me informed of developments.

Kind regards,

Murray Boustred
Remhoogte Wine Estate
R 44, Stellenbosch

FILE NO. Erf 298 - HWC
SCAN NO.
COLLABORATOR NO. 2118669

13.09.24

TP - A Theart (H Olivier)

REKORDBEHEER
13 SEP 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

AJ Fourie

From: Peter Lawrence
Sent: Friday, 13 September 2024 11:59
To: AJ Fourie; Alida Conradie
Subject: RE: Erf 298, 67 Westcliff Road, Westcliff, Hermanus - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner.

Good afternoon

My wife (Michelle Therese Lawrence) and I are the owners of 10 Cliff Road (also 69 Westcliff Road) Westcliff – Erf number 5528 Hermanus. We are direct neighbours to Erf 298, 67 Westcliff Road, Hermanus.

Thank you for drawing our attention to the notice.

We are surprised at the late timing of this notice / advert as we noticed the alterations to the home at 67 Westcliff Road were already at roof level at the start of July 2024.

We do have concerns regarding the application.
We trust all the necessary bye-laws and building regulations have been complied with?
Have the alterations been built within the correct building lines and are the services able to accommodate the proposed increased usage? The house is being converted to accommodate five new guest suites, staff and also accommodate the current residents. This could amount to more than 15 people?
Should laundry and cooking be carried out for the guest house – will there be necessary extract and noise attenuation provided?
Another major concern is the provision for parking. We definitely object to kerb side and pavement parking.

We look forward to your feedback.

Regards

Peter Lawrence

FILE NO. Erf 298 - HWC
SCAN NO. Peter
COLLABORATOR NO. 2120667

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
10 SEP 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart (Holtzier)

AJ Fourie

From: Mark Brown
Sent: Tuesday, 10 September 2024 13:46
To: AJ Fourie
Cc: Alida Conradie
Subject: Re: Erf 298, 67 Westcliff Road, Westcliff, Hermanus - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner.
Attachments: Notification to potentially affected property owner.pdf; Erf 298 Westcliff - Annexures.pdf

I have no objection

Rgds Mark Brown 62 Westcliff

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 8 OCT 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart (Olivier)

Alida Conradie

From: Peter Theron
Sent: Monday, 07 October 2024 17:19
To: Alida Conradie
Cc: Mariette Theron
Subject: Erf 298, 67 Westcliff Road, Westcliff, Hermanus - PUBLIC PARTICIPATION

Dear Alida

As the Owners of Erf 12719 - 5 Cliff Road, Westcliff, Hermanus we have no objections to the Application as presented. The Owners have made arrangements for sufficient on site parking for all their Guests.

Kind Regards

Peter Theron

prime | resources

the workshop • 70 - 7th avenue • parktown north • johannesburg • 2193
postnet suite # 002 • private bag x1 • woodhill • 0076

www.resources.co.za

This e-mail is confidential and it is intended only for the addressees. Any review, dissemination, distribution, or copying of this message by persons or entities other than the intended recipient is prohibited. If you have received this e-mail in error, kindly notify us immediately by telephone or e-mail and delete the message from your system. The sender does not accept liability for any errors or omissions in the contents of this message which may arise as a result of the e-mail transmission

FILE NO. Erf 298 - HWC
SCAN NO. HWC 298
COLLABORATOR NO. 2136237

TP

PLAN ACTIVE
TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email:
planactive@hermanus.co.za
Website: www.planactive.co.za

Our reference: PA24025

28 October 2024

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

For attention: Mr. Petrus Roux

Sir

COMMENTS ON OBJECTIONS: PROPOSED CONSENT USE TO ESTABLISH A GUESTHOUSE: ERF 298 HERMANUS.

We refer to your email dated 22 October 2024, which included 2 objections and 2 letters of no objection submitted during the public participation process. We appreciate the opportunity to respond to these objections and have provided our comments below.

1. **Response to Murray Boustred & Peter Lawrence Objections Regarding the Proposed Guesthouse**

Firstly, the building plan for the dwelling on Erf 298 was duly submitted and approved by the Overstrand Municipality prior to the commencement of construction. The alterations you have observed are part of this approved plan, and construction has proceeded in full compliance with municipal regulations. The application for the guesthouse was submitted following the approval of the dwelling's building plan.

We apologize if the timing of the notification regarding the guesthouse application has caused any concern. The notification process was conducted in accordance with legal requirements, but we understand how the timing may have been perceived as delayed.

Regarding the number of people on the property, the proposed guesthouse, which consists of 5 guestrooms in addition to the owners' quarters, has been carefully planned to comply with all zoning

and municipal regulations. While this may potentially accommodate up to 14 people at full capacity, including guests, owners, and occasional staff, we are confident that operations will be managed in a way that minimizes any disruption to the residential character of the area.

We understand your concerns about parking and would like to reassure you that the property has sufficient on-site parking to accommodate both guests and owners. This will help prevent the need for visitors to park in the road reserve. The guesthouse complies with the Overstrand Municipality's parking requirements to ensure that parking-related issues are effectively addressed.

Additionally, we would like to inform you that M. Brown of 62 Westcliff Road and P. Theron of 5 Cliff Road have expressed no objection to the proposed guesthouse. Their support reflects a positive perspective on the development within our community.

We trust that our response has addressed your concerns, and we look forward to a favourable outcome for our application.

Yours faithfully

John Mc Lachlan

FILE REF: 298 HWC
APP ID:4728/2024
AJ F

Internal Memorandum

FROM:

TOWN & SPATIAL PLANNING

TOWN PLANNER:
Brady Minnaar

DATE:
10 September 2024

APPLICANT:
MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF A.J & E ROOS

PROPERTY DETAILS:
ERF 298, 67 WESTCLIFF ROAD, WESTCLIFF, HERMANUS

APPLICATION:
CONSENT USE

PUBLIC LIAISON MANAGER	***BUILDING CONTROL***	***DISTRICT HEALTH***	***ELECTRICAL***
ENVIRONMENTAL	***ENGINEERING SERVICES***	***FIRE DEPARTMENT***	TRAFFIC
OPERATIONAL	***TOURISM***	***WASTE MANAGEMENT***	***WARD COUNCILLOR***

INTERNAL DEPARTMENT COMMENTS

NO OBJECTION FROM WASTE MANAGEMENT.

NOTE THE PROPOSED DEVELOPMENT WILL PROBABLY GENERATE MORE THAN 1 X240LT BINS WASTE AND AS SUCH WILL BE REQUIRED TO PAY FOR THE ADDITIONAL SERVICE REQUIRED, NUMBER OF UNITS TO BE ESTABLISHED ONCE OPERATIONAL.

NOTES:
Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo **by not later than the date stipulated below.** If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the MPT will be informed accordingly.

Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

SIGNATURE:	
DATE:	**10 SEPTEMBER 2024**

Municipality • U-Masipala • Munisipaliteit
OVERSTRAND

CLOSING DATE:
18 OCTOBER 2024

Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.

COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR: APPLICATION FOR CONSENT USE: ERF 298, WESTCLIFF (4728/2024)

Stormwater (SW)	:	Refer to conditions
Electricity	:	Refer to conditions
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;

2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;

3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;

4. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;

5. that any additional and / or extended vehicle entrances will be for the owner's account;

6. that no reservation of on-street parking be allowed;

7. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;

8. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.

R Andrew

RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL

17/10/2024

DATE

e) A register of children must be kept and completed, and the register must be produced for inspection on the request of the Municipality;

f) The hours of operation shall be restricted to 06h00 to 18h00 from Mondays to Fridays and from 06h00 to 13h00 on Saturdays, and

The proprietor of the day care centre shall reside on the property.

Factory shop

16.10.6 The occupant of an industrial property or portion thereof may operate a shop for the sale of goods which have been completely or partially manufactured on the property, and such other goods as the Municipality may permit, provided that:

(i) the total floor space of the property or portion thereof devoted to the sale of goods shall not exceed 10% of the total floor space of all buildings on the land unit; and

(ii) such other goods that are offered for sale but have not been manufactured on the property are related to the goods that are manufactured on the property.

Farm shop/stall

16.10.7 The Municipality may approve a farm shop, provided that:

a) the maximum floor area of the farm shop/stall shall not exceed 300 m^2;

b) the maximum height does not exceed a single storey, measured from the base level to the top of the structure;

c) sufficient parking is provided to the satisfaction of the Municipality; and

d) the access requirements of the relevant road authority must be complied with.

Guest house (only applicable in Residential Zone 1)

16.10.8 The following provisions shall apply where a dwelling house or a second dwelling is used for a guest house:

a) The manager and/or owner shall reside in the main or second dwelling (excluding outbuildings) on the property;

b) A maximum of 5 bedrooms (10 persons) per property may be used for paying transient guests;.

c) Guest rooms may not be converted to or used as separate dwelling units.

d) Meals may also be provided to bona fide guests on the property;

e) The residential character must be retained;

f) Subject to obtaining a liquor licence, alcoholic beverages may only be sold to resident guests for consumption with meals on site;

g) Home occupation will not be permitted on the same property as a guest house.

h) A place of entertainment shall not be permitted;

i) No more than 3 staff members shall be employed in support of the establishment at any given time;

j) No advertising sign shall be displayed without the written approval of the Municipality other than a single, un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law at any given time.

k) No activities constituting a source of public nuisance shall be carried out;

l) No disturbance from loud music and other sources are allowed after 22:00;

m) The minimum parking provisions as listed in section 17.1.3 shall apply;

n) Occupation shall be subject to the submission of a site plan (for record purposes) demonstrating compliance with the requirements pertaining to guest rooms, and

o) No cooking facilities or prep bowl may be provided in the guest room.

4.3
ERF 1878, 60 BUFFELS ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR RELAXATION OF TITLE DEED CONDITIONS: J DOUGLAS ON BEHALF OF E KAISER

1878 KPRB (4886/2024)
H van der Stoep **(028) 313 8900** **Hermanus Administration**
17 July 2025

1. EXECUTIVE SUMMARY

An application has been received on 9 December 2024 from J Douglas on behalf of E Kaiser on Erf 1878, Pringle Bay is in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the **relaxation** of Clause B.6.(2)(a) of Title Deed No. T41294/2024 to relax the northern lateral building line from 5m to 2m and the southern lateral building line from 5m to 2,1m and 2,5m respectively, to accommodate the proposed new dwelling house.

The restrictive title deed condition B.6.(2)(a) read as follows:

"B. SUBJECT FURTHER to the conditions contained in Deed of Transfer No. T46818/1981 imposed by the Administrator when approving the establishment of Pringle Bay Township Extension No 3 in terms of Ordinance 33 of 1934 which reads as follows:

6.(2) Except with prior consent of the Administrator -

(a) No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 8 metres to the street line which forms a boundary of this erf, nor within 5 metres of any other boundary common to any adjoining erf, provided that with the consent of the local authority:"

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C. The Title Deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The property is located in Pringle Bay, in the area known as The Ridge. A subdivision of Erf 724 into four (4) residential erven was approved in 2008 and the application erf was one of the erven created.

4. SUMMARY OF APPLICANT'S MOTIVATION

DESCRIPTION:

Zoning: Residential 1

Area in extent: 1000m²
Title Deed Number: T41294/2024

DEVELOPMENT PROPOSAL

To accommodate a proposed new dwelling structure an application is submitted for a relaxation for the following:

- **Northern lateral building line** from 5m to 2m and **southern lateral building line** from 5m to 2,2m and 2,5m respectively to accommodate a new dwelling.

NEED AND DESIRABILITY

It is the intent of the property owner to erect a new dwelling house on the property and is subject to a title deed restrictive condition (building parameters) and environmental development restrictions. The dwelling house is proposed in such a position that it is setback to the 5m rear title deed building line and the dwelling unit encroaches the lateral title deed building lines and does not encroach the 2m lateral scheme building lines.

The building is also subject to environmental constraints such as the Proposed Ridge Conservation Area, Pringle Bay and the Ecological corridor which advises the applicable/acceptable development position which is discussed at point 9 of this report. The proposal seeks to comply with both the Land Use Scheme parameters and environmental constraints therefore limiting the applicable development footprint.

This proposal is in harmony with all relevant planning principles and forward planning documents and should be considered desirable from a town planning point of view.

Conclusion

The following should be noted when considering the potential of the site:

- The position of the dwelling on erf does not have a negative impact on neighbours' views towards the ocean and mountain.
- The massing and scale of the As Built structures are compatible with the area.
- Except for the lateral building lines deviation, all other land use parameters are met.
- The scale of the surrounding built environment and the low impact on the streetscape are also factors that must be considered when contemplating the potential of the property to accommodate the departure and removal of restrictive title deed conditions.

The following factors confirm the potential of the property to accommodate the proposed building line deviations:

- Good quality materials were / will be used for the construction of the dwelling;
- The dwelling will add value to the property and the area.

ACCESS

Access is obtained via a right of way servitude from Buffels Road.

SERVICES

The erf has access to Municipal services to connect.

CONSISTENCY WITH SPLUMA AND LUPA PRINCIPLES:

- **Spatial Justice**

  Spatial Justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to depart from the title deed building lines will not trigger the principle of spatial justice due to the normal residential nature of the structure

- **Spatial Sustainability**

  Spatial sustainability refers to planning proposals which result in communities that are viable. The subject property is affected by the Proposed Ridge Precinct Conservation Area, Pringle Bay and is located within an ecological corridor. The development is positioned in such a way to minimize the encroachment into the ecological corridor. Furthermore, the encroachment into the ecological corridor has been taken into account therefore a WULA application has been submitted, and the mitigation measures were discussed in section 9 of this report

- **Spatial Efficiency**

  The proposed development was positioned in such a way to maximise the utilization of the property while taking the environmental constraints into consideration. The design does however encroach the ecological corridor; however a WULA application has been submitted for consideration

- **Spatial Resilience**

  The proposed application is in line with the normal residential nature of the predominantly residential neighbourhood; however, the building was positioned in such a way, to reduce the possible environmental impacts

- **Good Administration**

  The Overstrand Municipality has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications

POLICY DOCUMENTS:

Overstrand Wide Development Framework, 2020, earmarks the area where the erf is located within the urban edge and indicated as part of area for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential).

Overstrand Growth Management Strategy, 2010

The Growth Management Strategy promotes the longer-term sustainability of the municipal area and its subregions. The property falls within the planning unit 2 which promotes residential densification. The new dwelling should be considered in line with the residential nature of the area since the property is already situated within the existing established residential neighbourhood. The proposal should therefore be deemed in line with this forward planning document

Environmental Management Framework, 2023-2028

The proposed design was informed by environmental aspects, these aspects are namely the Environmental Management Framework, 2023- 2028 (Proposed Ridge Precinct Conservation Area, Pringle Bay) and Ecological corridor under the EMOZ (Environmental Management Overlay Zone) as depicted on the Overstrand GIS Arc viewer.

With the above-mentioned Environmental restriction, the proposed dwelling house can only be located in its current proposed position. It must however be noted that the proposed dwelling house still encroached over the Ecological Corridor. Therefore, a WULA application was submitted

The Environmental Management Framework for the “Ridge” precinct in the Pringle Bay area strives to promote the effective environmental management of the identified areas of the precinct as a conservation area. It encourages the formation of a conservancy entity consisting of the precinct landowners who through their joint, coordinated, prioritises, and focused efforts could effectively protect and conserve the identified conservation area of this precinct.

The precinct in Pringle Bay was identified as a potential conservation worthy ecological corridor within the urban residential area that can contribute towards the conservation of the environment of the area and therefore included in the Environmental Management Overlay Zone (EMOZ). This adds as a conservation focus area and enables the implementation of statutory measures to support this. The overlay zone was implemented by the Overstrand Municipality between 2015 and 2016.

The “Ridge” precinct is bounded by Bobbie, Buffels and Williams Road which make up the Ridge area. The Ridge area covers an extent of 4.2 hectares and comprises 19 erven, including the subject erf. The Ridge consists of larger private properties and is still covered with natural vegetation. There has been interest in developing these properties.

The Overstrand Municipality owns 4 of the 19 erven mentioned in the report which is zoned as Open Space Zone2: Public open space. Unfortunately the Municipality cannot conserve the environmental corridor effectively as the properties are not all contiguous, they are in places that are too narrow to be a viable conservation corridor area and mainly traverse the higher vegetated dune ridge that runs the length of the Ridge precinct, therefore offering no protection to the lower lying areas and the important wetlands found lower down on the western side of the Ridge precinct.

The only way for an effective environmental corridor that will protect the ecological processes cannot be achieved unless the adjacent property owners assist in conserving portions of their properties.

In order to reduce the impact of the various aspects listed in the proposed Ridge precinct conservation area, Pringle Bay, the dwelling house is proposed to be situated closer to the rear of the property but setback 5m away from the rear property boundary line which is in accordance with the title deed building line restriction. Furthermore, the dwelling house is situated further away from the ecological corridor which runs across the property and is situated closer to the street thus making it the only viable option for the position of the dwelling house.

The proposed dwelling house footprint stretches from north to south and due to the size of the dwelling both the 5m title deed lateral building lines are encroached. However, it does not encroach the scheme building lines. Alternatively, if the dwelling were to be positioned from west to east the impact that the dwelling house would have on the ecological corridor would have been much larger and the mitigation measures contained in the said document would not be taken into account. Therefore, the only viable option with the least impact on the environmentally sensitive area would be the proposed position. Furthermore, the house will be developed on stilts which will maintain most of the vegetation on the property apart from the sections or the portion where the stilts will be placed which is in line with the mitigation measures of the EMOZ regulations.

Furthermore, to reduce the size of the dwelling to comply with the environmental constraints (specifically the ecological corridor) will cause the design of the dwelling house to be an irregular, undesirable and impractical shape. Therefore, the dwelling house in its proposed location should be supported from a town plannings perspective

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		**Date published**	**Closing date for comments**
Email notice to Ratepayers Association	**Yes**	24 February 2025	24 March 2025
Internal departments	**Yes**	24 February 2025	24 March 2025
Ward Councillor	**Yes**	24 February 2025	24 March 2025
Total comments	**ONE (1)**		
Total letters of support	**NONE**		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			**Yes**
Was the application processed correctly (if no, elaborate below):			**Yes**
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			**Yes**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Engineering Services	14/04/2025	See Annexure H.
BOCMA	24/04/2025	See Annexure I.
Western Cape Government: EADP (Environmental)	16/05/2025	See Annexure J.
Cape Nature	10/04/2025	See Annexure K.
Western Cape Government: EADP (Planning)	24/02/2025	No comment.
Environmental Section	18/03/2025	**No objection, however, please consider the following:** • Due to erf 1878 being located within an ecological process corridor, as per EMOZ the purpose of an ecological process corridor is to allow for genetic flow of fauna and flora species. although the building plans submitted do not include a boundary wall, please be aware that should you want to submit plans for a boundary wall in the future, the design of this should allow for the movement of small animal species (e.g. porcupines, genet cats, mongoose, etc.). ecological process corridors may not have hard/solid fencing and other structures that may hinder the movement of small fauna within the corridor. • The EIA trigger for the removal of 300m² or more of vegetation except where vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan. • Consider WULA process and the mitigation measures as indicated on the Risk Matrix Assessment report.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

A letter of objection Pringle Bay Ratepayers Association was received forthcoming the public participation process. Consent letters to support the application were also received. See Annexure E and F respectively.

The applicant was provided with an opportunity to respond to the objection. See Annexures G.

The objection, the applicant's reply and the Municipal Town Planners response thereon can be summarized as follows:

OBJECTION

3.1 Ratepayers' association objects due to the fact that notice was not given to all erf owners of the Pringle Bay Development of which the application erf forms part.

APPLICANT'S RESPONSE

The immediate affected neighbours of the subject property, as indicated by the Overstrand Municipality Town & Spatial Planning Department, were informed of the application and the subsequent neighbours' consents were submitted together with the land use planning application. The process followed was for the relaxation of the title deed building line parameters and not a removal of the land use restriction. Therefore the application for the removal of title deed restrictions is not applicable.

In the event that the neighbours' consents were not obtained, an application for the **removal** of title deed restrictive conditions would have been submitted which will trigger the need to advertise the application in the local newspaper as well as send notices to each erf owner of the Pringle Bay area, which is not the case for this application. It is therefore recommended that this objection point be dismissed.

TOWN PLANNER'S RESPONSE

The application is for the relaxation of the conditions in Title. The Title Deed makes provision that with consent of the Administrator (Overstrand Municipality), the conditions can be amended. The application for a relaxation is not a removal of conditions, but to relax the condition to accommodate a proposed new dwelling, as in this case.

OBJECTION

3.2 Application should be amended so that the application reads suspension and not relaxation.

APPLICANT'S RESPONSE

Suspension, in laymen's terms, means a temporarily extinguishment of a right or title. Building lines cannot be suspended since it is a temporary approval, in contrast, a land use right can be suspended since the utilisation of a building can be changed. A relaxation in terms of the title deed building line parameters similarly acts as a departure in terms of the land use scheme building line parameters. It must be noted that the proposal remains compliant with the Overstrand Land Use Scheme building line parameters. It is therefore recommended that this objection point be dismissed

TOWN PLANNER'S RESPONSE

Agree with the Applicant's response.

OBJECTION

3.3 Not necessary to elaborate on conservation history.

APPLICANT'S RESPONSE

This point is only a statement and does not warrant a response. However, the background regarding the conservation history of the building line requirements were provided to adequately motivate the positioning of the proposed dwelling house. With that said, this objection point should only be noted

TOWN PLANNER'S RESPONSE

The conservation history is relevant pertaining developments of The Ridge. It gives insight into to the development of the area and progression thereof in terms of planning and build plan evaluation.

OBJECTION

3.4 Welcome support by applicant for conserving the Ridge.

APPLICANT'S RESPONSE

This point is noted.

TOWN PLANNER'S RESPONSE

Noted.

OBJECTION

3.5 If legal requirement is met as per point 3.1 and no serious objections, no further objection to application.

APPLICANT'S RESPONSE

Please refer to the response point to objection 3.1.

This point should therefore be dismissed.

TOWN PLANNER'S RESPONSE

The application is for the relaxation of the conditions in Title. The Title Deed makes provision that with consent of the Administrator (Overstrand Municipality), the conditions can be amended. The application for a relaxation is not a removal of conditions, but to relax the condition to accommodate a proposed new dwelling, as in this case.

OBJECTION

4.1 - 4.3 Relaxation should read suspension.

APPLICANT'S RESPONSE

Please refer to the objection point 3.1 and point 3.2 which adequately stipulate the reasoning for the application for a relaxation of title deed line parameters and not for a suspension of title deed restrictive conditions. Points 4.1 to point 4.3 should therefore be disregarded.

TOWN PLANNER'S RESPONSE

Agreed with applicant's response.

OBJECTION

4.4.1 & 4.4.2 Notification

APPLICANT'S RESPONSE

Prior to the submission of the application, discussion was held with the Town Planner regarding the proposal. The process entails the obtaining the consent from the immediate neighbours of the subject property which was obtained and submitted with the application. In the instance that one of the neighbours did not provide their consent, a different land use planning would be required (application for the removal of restrictive title deed conditions). Since all the immediate neighbours provided their consent, it was not necessary to circulate the application to all the property owners within the Pringle Bay area. Furthermore, the application was circulated to the various internal and external departments for their feedback/comment. In addition to the ward councillor and the Pringle Bay Ratepayer's Association.

TOWN PLANNER'S RESPONSE

The applicant was requested to notify the direct affected neighbours with regard to the proposed relaxation of the lateral building lines. It is important to note that the direct neighbours are the ones that are materially and directly affected by the proposed development. Should at any time they did not consent, the applicant would have been forced to do a removal of the restrictive conditions. This is the requirement from the Overstrand Municipality that cannot be deviated from.

OBJECTION

4.5 Building lines – what is applied for?

APPLICANT'S RESPONSE

The motivation has been amended to indicate the correct departures and distances being applied for.

TOWN PLANNER'S RESPONSE

The amended and correct motivation was sent to the objector. The amendment was noted by the Municipality.

OBJECTION

5 Withdraw the application.

APPLICANT'S RESPONSE

As stipulated in the response to objection 3.1, it is not required for the application to be re-advertised since the administrative process was adequately followed as per the requirements of the Overstrand Municipality – Town & Spatial Planning Department.

TOWN PLANNER'S RESPONSE

The applicant complied with the requirements pertaining to a relaxation application and thus there is no need for re-advertisement. The application is similar to the adjacent erf (Erf 1879 Pringle Bay), which the Pringle Bay Ratepayers Association did not object to in a letter dated 5 March 2024 with regard to the process followed.

CONSENT LETTER - ERF 721

The conditions put forward by the property owner of Erf 721 are as follows:

- The excessive disturbance of topsoil, where eroded by bulldozing to be rehabilitated with endemic indigenous vegetation only, and exposed sand of dunes stabilised.
- Property to be kept from alien vegetation.
- No vibracrete walls.
- No hard/solid fencing or other structures that hinders the movement of small fauna within the ecological corridor.
- Household pets to be kept on property, no off leash roaming

APPLICANT'S RESPONSE

The owner acknowledged and accepted the conditions.

TOWN PLANNER'S RESPONSE

Points 1 to 4 be addressed in the maintenance plan.
Point 5 is catered for in the Amendment By-Law relating to the Keeping of Dogs and Cats.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Point 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See Point 7 above.

Internal/External Departments

COMMENTS FROM CAPE NATURE:

COMMENT 1

- ***Located in Hangklip Fynbos: Critically endangered***

APPLICANT'S RESPONSE

This point does not require a response and is noted.

TOWN PLANNER'S RESPONSE

Noted.

COMMENT 2

- ***Located in a Critical Biodiversity Area***

APPLICANT'S RESPONSE

This point does not require a response and is noted.

TOWN PLANNER'S RESPONSE

Noted, however the CBA areas is a generic area of concern in terms of Biodiversity and not site specific. In terms of development proposals, the generic comment is noteworthy but vague and does not really give any substance to work from.

COMMENT 3

- ***New Dwelling Extent***

APPLICANT'S RESPONSE

The deck size is included in the 178.5m². The pool will be built on the deck as per the proposed site plan indicates. In addition, as per the EMOZ overlay zone, the dwelling house must be built on stilts in order to mitigate the possible impact. It must also be noted the vegetation will receive sunlight due to the dwelling house being built on stilts, however it will not be as much.

TOWN PLANNER'S RESPONSE

Noted.

COMMENT 4

- ***EIA Triggers***

APPLICANT'S RESPONSE

It is not clear at this stage of development how much vegetation will be clear for vehicular access to the proposed new dwelling house. This will only be determined at building plan phase. It must be mentioned that the access to the dwelling house (staircase) is located to the south of the site. Due to the shape of the erf, the shortest distance from Row Road to the proposed dwelling house is on the southern portion of the site which will reduce the amount of vegetation that will be cleared for vehicular access. Furthermore, the wetland areas are indicated in blue on as per the Ridge Conservation Area Management Framework (see the figure below).

Since the development complies with the 5m rear title deed building line, the property is setback far enough, the possible impact on the wetland area is reduced.

TOWN PLANNER'S RESPONSE

DEA&P In a letter dated 16 May 2025 does not object since the activities does not trigger any listed activities as per application.

COMMENT 5

- ***Relocation of dwelling***

APPLICANT'S RESPONSE

It is noted that the property is located within the EMOZ layer and could be considered as an urban conservation-worthy area. However, the proposed new dwelling is positioned in such a manner which is setback far enough from the Ridge EMOZ urban conservation corridor in the west as well as setback enough from the ecological corridor located (runs across the centre of the erf) to the east of the proposed dwelling to reduce the possible environmental impact. The distance suggestion by CapeNature to move the development slightly to the east is not quantified. With reference to the above paragraph, shifting the dwelling slightly to the east will have an increased impact ecological corridor.

Furthermore, the exact position of the dwelling house dealt with at building plan phase prior to the commencement of the construction of the dwelling house.

TOWN PLANNER'S RESPONSE

Comments are noted but are unclear what "slightly to the east" entails. Therefore, the comment is irrelevant.

COMMENT 6

- ***Recommendation***

APPLICANT'S RESPONSE

The comment is noted and will be considered at during the construction and operation of the development.

TOWN PLANNER'S RESPONSE

Comment is relevant and accepted and not considered as per applicant's response.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

Pringle Bay Extension 3 has been established in 1970; however, the application will not contribute to past apartheid development trends. Since 1994 properties were on the open market to the general public.

Spatial Sustainability

The building does not impede on high potential agricultural land. In terms of the proposed development on the environment, which is in this case deemed a sensitive and high biodiversity area, the proposed development needed to be located in an area, which will be of the least disturbance.

Efficiency

The proposed development will make use of existing municipal services available for a single residential building. Thus, attribute to financial efficiency of municipal services.

Spatial Resilience

The proposed development will be compliant to the forward planning documents and the national Building Regulations, which promotes resilience of developments and in this case mitigating factors to minimize the impact on the environment.

Good Administration

The Consultant followed due procedure as prescribed by the Municipality.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The application is in line with the Overstrand Forward planning documents.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

Existing services are provided by the Municipality.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The zoning and status quo remain in place. The erf is to be utilized for residential purposes only.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

DESIRABILITY

Position of the proposed dwelling:

The property is located on the area known as The Ridge. The Title Deed building lines are 5m alongside the Open Space as depicted by the Development Plan for The Ridge i.e. 5m lateral building lines and an 8m street building line.

The application is to comply with the 5m building line alongside the Open Space, but to relax the 5m lateral building lines to the Overstrand Land Use Scheme lateral building lines of 2m.

The erf is a rectangular shape with a western building line of 5m, the north and southern building lines of 5m and a street building line of 8m, which will entail a rectangular building in an easterly to westerly direction. These restrictive building lines have an impact on the type of building that can be accommodated on the erf. The erf is subject to an ecological corridor transitioning the erf from northeast to south, located towards the east of the erf.

The proposed dwelling has been designed and positioned towards the west of the property still complying with the 5m Open Space building line but transgressing the 5m Title Deed northern and southern lateral to remain outside the core of the ecological corridor. To mitigate the impact on this corridor, the Title Deed lateral building lines of 5m have to be transgressed. Important is that the Land Use Scheme lateral building lines are adhered to applicable to single residential erven.

The proposed dwelling is on stilts with the access road located to the south, which will have a lessor impact on the corridor *vis a vie* an access road on the northern side of the erf, transgressing most of the corridor.

The proposed dwelling, its positioning was discussed with the Environmental Section of the Municipality before lodging the land use application.

The positioning of the building does force the applicant to have a design that is more compact and not have a long rectangular structure, which is aesthetically not pleasing, especially considering the visibility of the proposed dwelling on The Ridge. The adjacent erf, Erf 1879, was also subject to the environmental constraints, which determined the location of the building.

The application for the relaxation of the lateral building lines to accommodate the proposed dwelling to mitigate the environmental constraints, is therefore recommended.

WESTERN CAPE GOVERNMENT: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

The application does not trigger the 300m² disturbances of natural vegetation. The mitigating factor is that the house is built on stilts to minimize the impact on the sensitive vegetation. The location and extent of the building was deemed desirable for an environmental perspective. The one aspect that will be addressed during the building plan process is to ensure that the right of way remains open for vehicles and not be impeded by construction vehicles and or material.

MUNICIPAL ENVIRONMENTAL SECTION

The application was supported, but with a recommendation that a maintenance management plan be submitted. It is agreed that during the building plan process a maintenance management plan be submitted before any building activity commence.

Building lines are there for a reason in order to ensure the following:

Ensuring Safety and Accessibility
One of the primary purposes of building lines is to ensure the safety and accessibility of properties. Setbacks provide space for emergency services, pedestrian walkways, and vehicular access, contributing to the overall safety and functionality of the built environment.

Preserving Aesthetic Appeal and Privacy
Building lines also play a role in preserving the aesthetic appeal of neighbourhoods and ensuring privacy between properties. By establishing uniform setbacks, building lines help create a cohesive and visually pleasing streetscape while providing adequate space between structures for light, ventilation, and privacy.

Preservation of environmental integrity of the site
In recent times building lines also play a role in conserving the environment, whether it is to protect biodiversity and or to accommodate physical environmental changes.

CONCLUSION:

The application is an example where development and sensitive environmental areas can compromise for a practical solution to a given situation and is recommended for approval.

13. RECOMMENDATION

1. that the objection be noted.

2. that the application in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 1878, Pringle Bay for the **relaxation** of Clause B.6.(2)(a) of Title Deed No. T41294/2024 to relax the northern lateral building line from 5m to 2m and the southern lateral building line from 5m to 2,1m and 2,5m respectively, to accommodate the proposed new dwelling house, **be approved**, in terms of the provisions of Section 61 of the By-law subject to the following conditions:

   (a) that the relaxation is only applicable to Plan numbers PP01/24 (1-5) dated January 2024, submitted with the application;

   (b) **that before the building process commences a Maintenance Management Plan be submitted and approved, including but not limited to addressing the following:**
   - ❖ the excessive disturbance of topsoil, where eroded by bulldozing to be rehabilitated with endemic indigenous vegetation only, and exposed sand of dunes stabilised, property to be kept from alien vegetation, no vibracrete walls, no hard/solid fencing or other structures that hinders the movement of small fauna within the ecological corridor;

(c) that no construction activities and or clearing of the erf for construction commences before the maintenance and building plans have been approved;

(d) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control– and the Fire Departments be complied with at that stage;

(e) that this approval is not an approval in terms of any other legislation;

(f) that this approval does not absolve the applicant from compliance with any other relevant legislation;

(g) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with, and

(h) that all the conditions in the Services Report (attached as Annexure H), be complied with.

6. that the comments received from the following departments be noted:

- BOCMA (Annexure I);
- Western Cape Government: EADP (Environmental) (Annexure J), and
- Cape Nature (Annexure K).

7. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- The location of the built structure accommodates the environmental sensitivity of the area known as The Ridge.
- The structure is built on stilts to ensure movement of animals and biophysical processes and minimize the physical footprint on the erf.
- Compliance with the 5m setback from the Open Space area is retained.
- The ecological buffer is protected with the proposed location of the building.
- The location complies with the Draft Environmental Management Framework, 2023-2028, compiled by Mr D Heard, a more recent study that takes into account climate change and ecological processes of the benefit of The Ridge.
- The location is an example of successfully mitigating and compromise on a highly sensitive erf and existing land use rights.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plans
Annexure D:	Title Deed T41294/2024
Annexure E:	Consent letters received
Annexure F:	Objection letter received
Annexure G:	Applicant’s response to the objection received
Annexure H:	Services Report

Annexure I: Comment: BOCMA
Annexure J: Comment: Western Cape Government: EADP (Environmental)
Annexure K: Comment: Cape Nature
Annexure L: Comment: Municipal Environmental

SIGNATURE

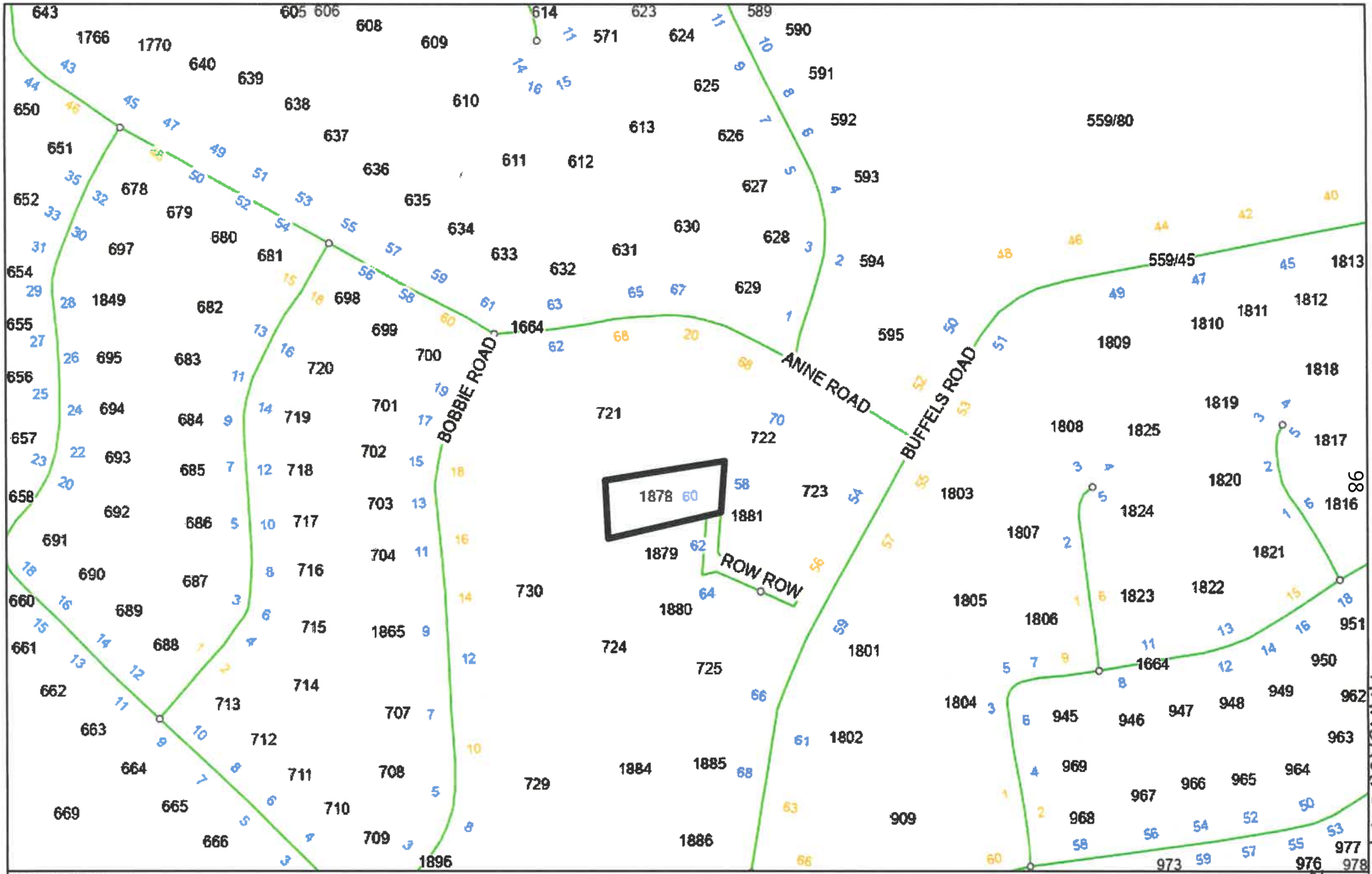
REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature: _____

Date: _____



OVERSTRAND MUNICIPALITY

Locality Map

Erf 1878, 60 Buffels Road, Pringle Bay

Date: 2024/12/10

Annexure B 1/7

1. Background

The subject property Erf 1878 is situated in the residential neighbourhood of Pringle Bay and is located along Buffels Road with an extent of 1000m². According to the zoning map & Overstrand Municipal Land Use Scheme, 2020 the property is zoned as Residential Zone I: Single Residential (SRI). The property is currently vacant.

It is the intent of the property owner to erect a dwelling house on the property. The dwelling house will consist of a three-bedroom house, two bathrooms with an open plan living area and kitchen. Upon submission of building plans to the building control department it was requested that the property owner apply for a title deed building line relaxation as the new dwelling house is encroaching the 5m lateral title deed building line,

Jeané Douglas is hereby duly appointed by the property owner (Elizabeth kaiser) to submit a land use planning application to accommodate the new dwelling house.

See Appendix-B for the Power of Attorney & Appendix- C for the Site Development Plan

2. Application

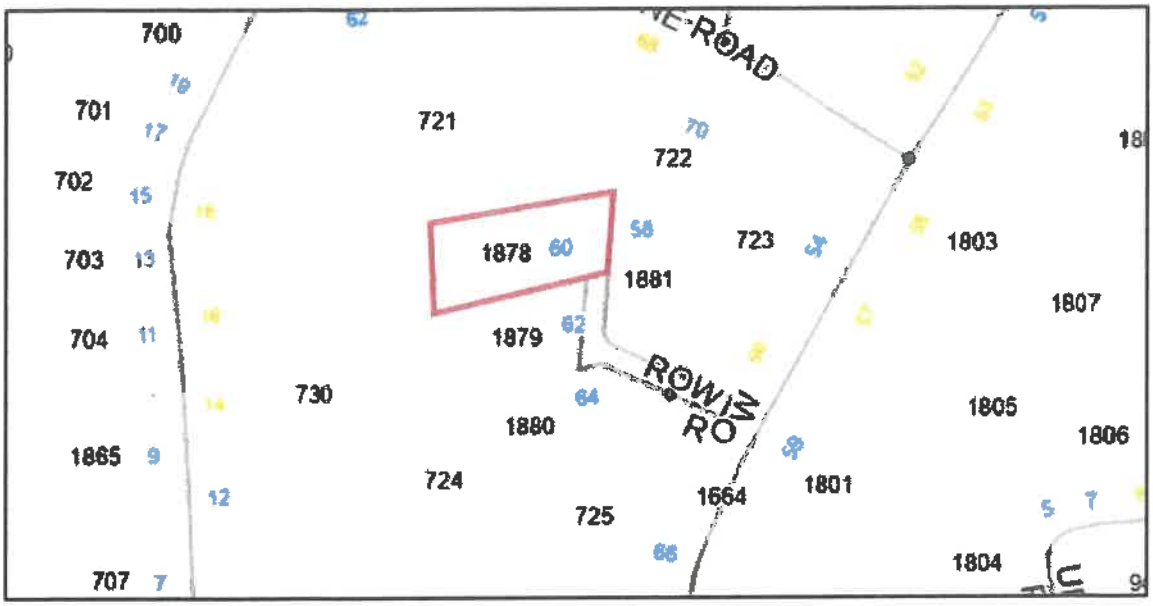
The following is proposed:
Application is hereby submitted in terms Section 16 (2)(b) and Section 16 (2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for departure for the following:

- Relaxation of the northern lateral title deed building line from 5m to 2m, in order to accommodate the new dwelling house
- Relaxation of the southern lateral title deed building line from 5m to 2.2m, and from 5m to 2.5m in order to accommodate the new dwelling house

3. Locality

The subject property is situated within the Overstrand Municipality, located at 60 Buffels Road, Pringle Bay. The location of the property is shown in the figure below.

2|7



4. Land Use Environment

The property is situated in the residential neighbourhood of Pringle Bay where the predominant use of the area is for residential purposes. The zoning of the subject erf and the surrounding properties are zoned Residential Zone 1: Single Residential Zone (SR1) with open spaces in close proximity. The zoning in the area is shown below as Figure 2 and Appendix D.

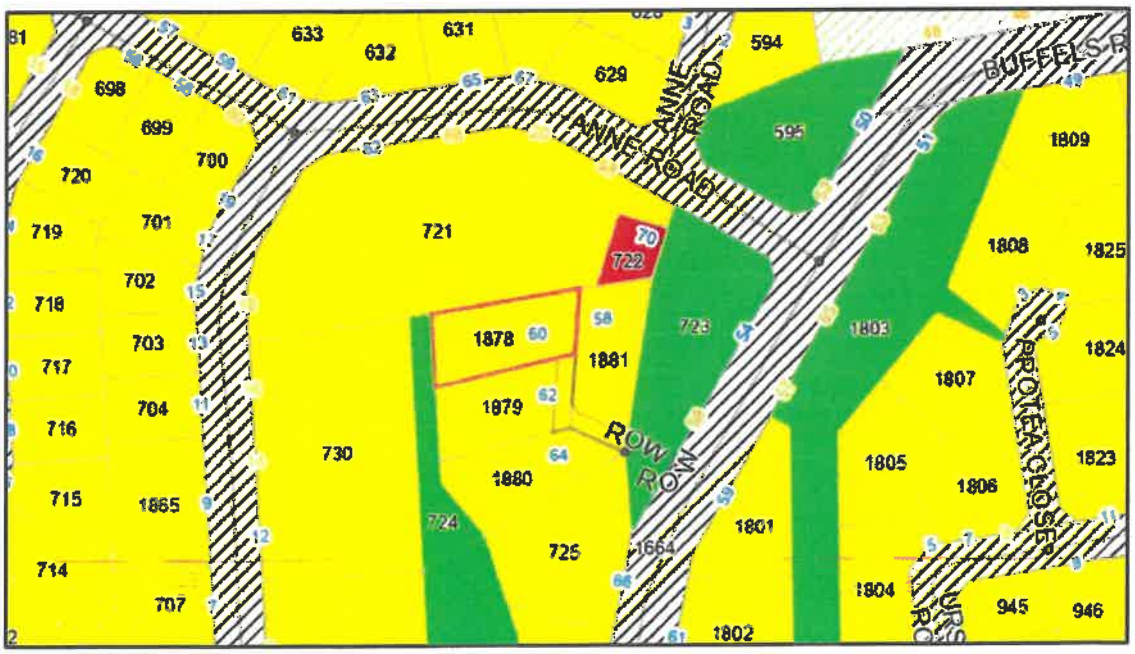


Figure 2: Surrounding Zoning

3|7

5. Land Use Scheme Parameters

The property is zoned Residential Zone 1: Single Residential Zone (SR1) in terms of the Overstrand Municipality Land Use Scheme, 2020. The proposed development does not trigger any departure in terms of the applicable land use scheme building parameters. Please refer to the table in point 7 of this report.

6. Title Deed

In terms of the Title Deed No T/ 41294/2024, Erf 1878 Pringle Bay is registered in the name of Elizabeth Kaiser with title deed conditions restricting the proposed development. The Title Deed is attached hereto as Appendix E.

The proposal is restricted by the following section 6 (2)(a) contained in the title deed No T/ 41294/2024:

"6(2)(a) *No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 8 metres to the street line which forms a boundary of this erf, nor within 5 metres of any other boundary common to any adjoining erf, provided that with the consent of the local authority:"*

The property is subject to a title deed lateral building line which restricts the proposal. Application is therefore made for relaxation from the aforementioned title deed building line in order to accommodate the dwelling house. The dwelling house is situated 2m from the northern lateral boundary line respectively from the southern boundary line. Therefore, the building encroaches the 5m northern title deed building line up to the 2m to northern scheme building line. The building also encroaches the 5m southern lateral title deed building line up to 2,1m and 2.5m respectively. It is therefore evident that the dwelling only encroaches the northern and southern title deed building lines and not the scheme building lines. Furthermore, the building is setback to the rear side of the property and is in line with the dwelling houses on the adjacent property to the south of the subject property. It must also be noted that the dwelling house does not encroach the 2m rear scheme building line or the 5m rear title deed building line which clearly indicates the building setback away from the ridge.

The reason for the dwelling being proposed in its current proposed position is so that the development footprint will be in line with the neighbouring property building along the ridge. The proposed position should therefore be supported due to the property not building the entire length of the property but rather have a well-designed dwelling which only stretches over a portion of the applicable title deed lateral building lines. The proposed design should therefore be supported due to having to comply with the environmental management constraints that will be discussed in point 9 of this report.

7. Proposed Development Parameter Compliance

	Scheme Parameters	Proposed Development	Departure Required
Coverage	50%	17.8%	No
Southern Building Line	2m	Not applicable	No
Southern Title Deed Building Line	5m	Dwelling house encroaches the 5m lateral title deed building, requires relaxation.	Yes
Northern Side Building Line	2m	Not applicable	No

4/7

Northern Title Deed Building Line	5m	Dwelling house encroaches the 5m lateral title deed building, requires relaxation.	Yes
Street Side Building Line	2m	Not applicable	No
Street Title Deed Building Line	5m	Not applicable	No
Rear Building Line	2m	Not applicable	No
Rear Title Deed Building Line	5m	Not applicable	No

8. Engineering Services

The subject property will be required to connect to the Overstrand Municipality services network, which will create additional connection requirements.

9. Policies and Regulations

Overstrand Municipal Spatial Development Framework, 2020 (MSDF)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the MSA, is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable, and habitable regions, cities, towns and residential areas.

The proposed application is located within the urban edge and is indicated as part of the "urban development area". The proposed addition to the residential zoned property is therefore in line with this forward planning document.

Overstrand Municipality Spatial Growth Management Strategy, 2010 (OMSGMS)

The Growth Management Strategy promotes the longer-term sustainability of the municipal area and its sub-regions. The property falls within the planning unit 2 which promotes residential densification.

The new dwelling should be considered in line with the residential nature of the area since the property is already situated within the existing established residential neighbourhood. The proposal should therefore be deemed in line with this forward planning document.

Environmental Management Framework, 2023-2028

The proposed design was informed by environmental aspects, these aspects are namely the Environmental Management Framework, 2023- 2028 (Proposed Ridge Precinct Conservation Area, Pringle Bay) and Ecological corridor under the EMOZ (Environmental Management Overlay Zone) as depicted on the Overstrand GIS Arc viewer.

With the above-mentioned Environmental restriction, the proposed dwelling house can only be located in its current proposed position. It must however be noted that the proposed dwelling house still encroached over the Ecological Corridor. Therefore, a WULA application was submitted.

The Environmental Management Framework for the "Ridge" precinct in the Pringle Bay area strives to promote the effective environmental management of the identified areas of the precinct as a conservation area. It encourages the formation of a conservancy entity consisting of the precinct landowners who

through their joint, coordinated, prioritises, and focused efforts could effectively protect and conserve the identified conservation area of this precinct.

The precinct in Pringle Bay was identified as a potential conservation worthy ecological corridor within the urban residential area that can contribute towards the conservation of the environment of the area and therefore included in the Environmental Management Overlay Zone (EMOZ). This adds as a conservation focus area and enables the implementation of statutory measures to support this. The overlay zone was implemented by the Overstand Municipality between 2015 and 2016

The "Ridge" precinct is bounded by Bobbie, Buffels and Williams Road which make up the Ridge area. The Ridge area has an extend of 4.2ha which consists of 19 erven where the subject erf is part of. The Ridge consists of larger private properties and is still covered with natural vegetation. There has been interest in developing these properties.

The Overstrand Municipality owns 4 of the 19 erven mentioned in the report which is zoned as Open Space Zone2: Public open space. Unfortunately the Municipality cannot conserve the environmental corridor effectively as the properties are not all contiguous , they are in places that are too narrow to be a viable conservation corridor area and mainly traverse the higher vegetated dune ridge that runs the length of the Ridge precinct, therefore offering no protection to the lower lying areas and the important wetlands found lower down on the western side of the Ridge precinct.

The only way for an effective environmental corridor that will protect the ecological processes cannot be achieved unless the adjacent property owners assist in conserving portions of their properties.

In order to reduce the impact of the various aspects listed in the proposed Ridge precinct conservation area, Pringle Bay, the dwelling house is proposed to be situated closer to the rear of the property but setback 5m away from the rear property boundary line which is in accordance with the title deed building line restriction. Furthermore, the dwelling house is situated further away from the ecological corridor which runs across the property and is situated closer to the street thus making it the only viable option for the position of the dwelling house.

The proposed dwelling house footprint stretches from north to south and due to the size of the dwelling both the 5m title deed lateral building lines are encroached. However, it does not encroach the scheme building lines. Alternatively, if the dwelling were to be positioned from west to east the impact that the dwelling house would have on the ecological corridor would have been much larger and the mitigation measures contained in the said document would not be taken into account. Therefore, the only viable option with the least impact on the environmentally sensitive area would be the proposed position. Furthermore, the house will be developed on stilts which will maintain most of the vegetation on the property apart from the sections or the portion where the stilts will be placed which is in line with the mitigation measures of the EMOZ regulations.

Furthermore, to reduce the size of the dwelling to comply with the environmental constraints (specifically the ecological corridor) will cause the design of the dwelling house to be an irregular, undesirable and impractical shape. Therefore, the dwelling house in its proposed location should be supported from a town plannings perspective.

6/7

10. Planning Principles

Spatial Planning and Land Use Management Act,2013 (Act 16 of 2013) (SPLUMA)

Section 7 of the "Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)" list 5 development principles based on which any development application must be evaluated.
The principles referred to are as follows:

1. Spatial Justice

Spatial Justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to depart from the title deed building lines will not trigger the principle of spatial justice due to the normal residential nature of the structure.

2. Spatial Sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The subject property is affected by the Proposed Ridge Precinct Conservation Area, Pringle Bay and is located within an ecological corridor. The development is positioned in such a way to minimize the encroachment into the ecological corridor. Furthermore, the encroachment into the ecological corridor has been taken into account therefore an WULA application has been submitted, and the mitigation measures were discussed in section 9 of this report

3. Spatial resilience

The proposed application is in line with the normal residential nature of the predominantly residential neighbourhood, however, the building was positioned in such a way, to reduce the possible environmental impacts.

4. Efficiency

The proposed development was positioned in such a way to maximise the utilization of the property while taking the environmental constraints into consideration. The design does however encroach the ecological corridor, however a WULA application has been submitted for consideration.

5. Good administration

The Overstrand Municipality has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.

11. Neighbours consent

As part of the planning pre consultation discussion with the municipal town planner it was requested that the property owner should obtain neighbours consent from the immediate effected neighbours to continue with the application. The following neighbour has concerns regarding the proposed application which will be discussed below:

1. **The excessive disturbance of topsoil where eroded by bulldozing to be rehabilitated with indigenous vegetation only**:
   This could be a condition of approval.
2. **Stabilised Dunes**:
   This could be a condition of approval.

7/7

3. **Property to be kept from alien vegetation:**
   This could be a condition of approval.
4. **Household pet to be kept on leash:**
   The suggestion has no merit on the current application.
5. **No vibracrete walls or hard solid fences**:
   This could be a condition of approval.

12. Need and Desirability

It is the intent of the property owner to erect a new dwelling house on the property and is subject to a title deed restrictive condition (building parameters) and environmental development restrictions.

The dwelling house is proposed in such a position that it is setback to the 5m rear title deed building line and the dwelling unit encroaches the lateral title deed building lines and does not encroach the 2m lateral scheme building lines. The building is also subject to environmental constraints such as the Proposed Ridge Conservation Area, Pringle Bay and the Ecological corridor which informs the applicable/ acceptable development position which is discussed at point 9 of this report

The proposal seeks to comply with both the land use scheme parameters and environmental constraints therefore limiting the applicable development footprint.

This proposal is in harmony with all relevant planning principles and forward planning documents and should be considered desirable from a town planning point of view.

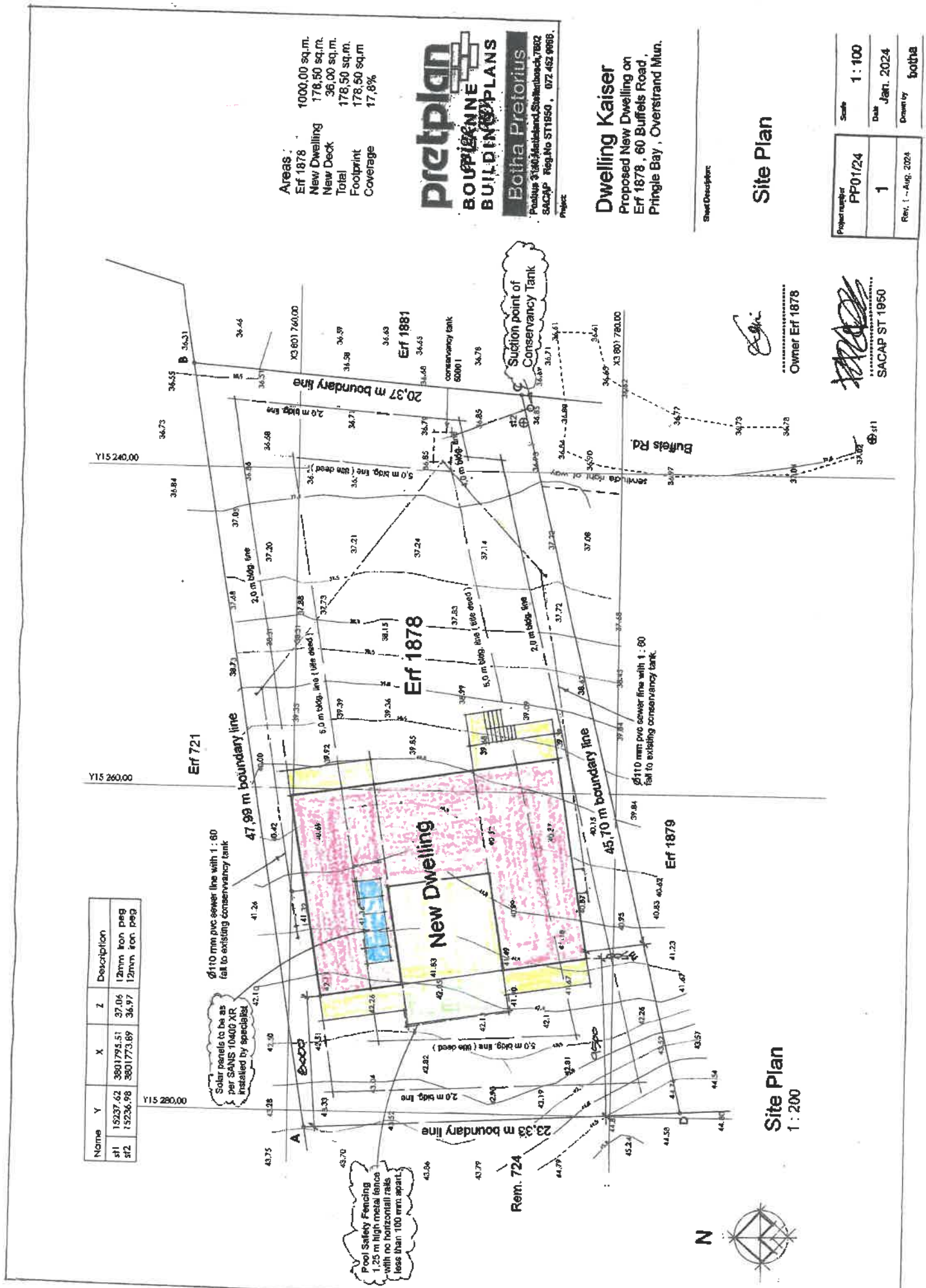
13. Recommendations

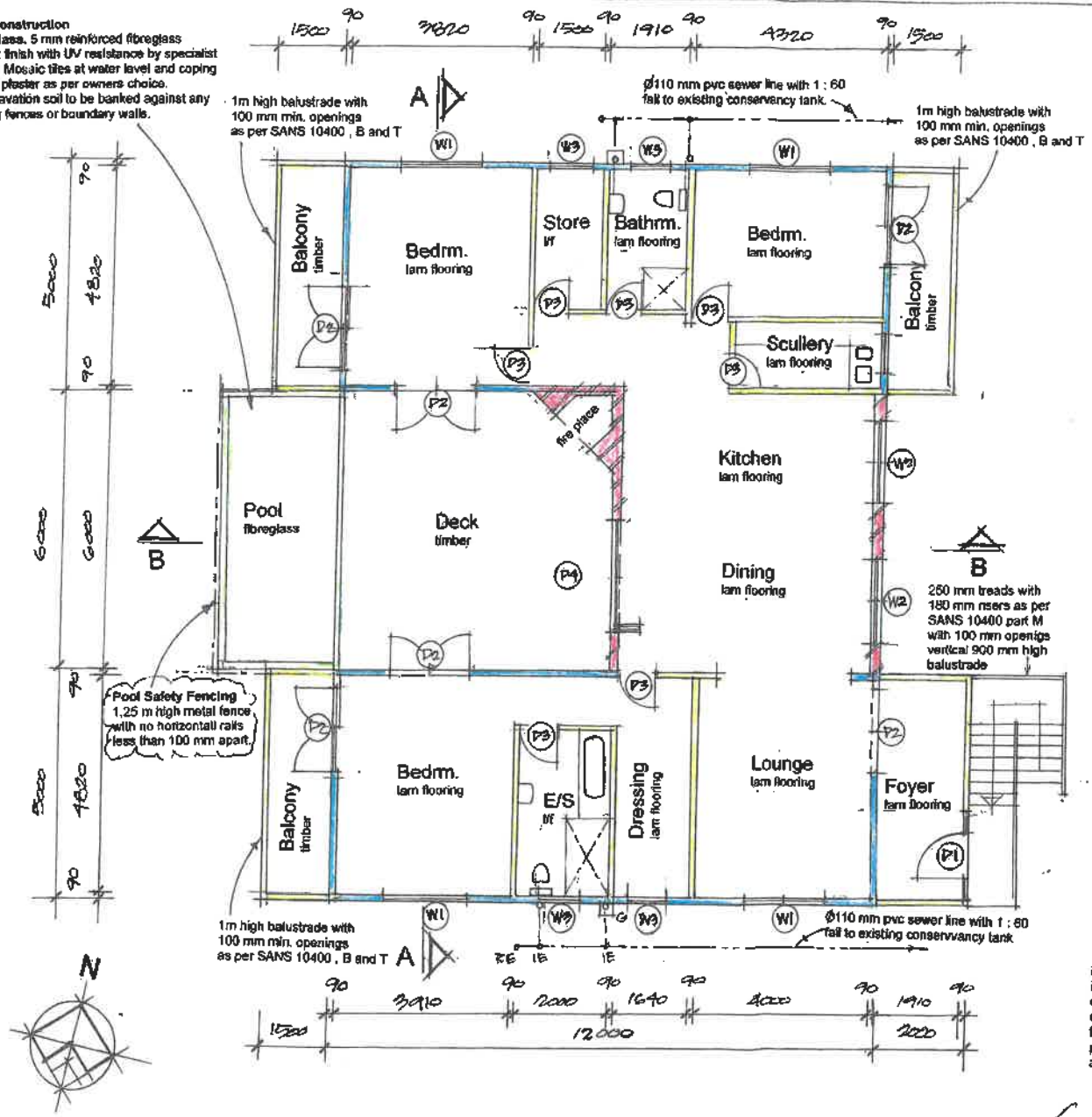
Based on the abovementioned motivation, it is recommended that the following be approved:

Application is hereby submitted in terms Section 16 (2)(b) and Section 16 (2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for departure for the following:

- Relaxation of the northern lateral title deed building line from 5m to 2m, in order to accommodate the new dwelling house
- Relaxation of the southern lateral title deed building line from 5m to 2.2m, and from 5m to 2.5m in order to accommodate the new dwelling house

Annexure C 1/5





Ground Floor Plan
1 : 100

Pool Construction
Fibreglass. 5 mm reinforced fibreglass gelcoat finish with UV resistance by specialist
Finish. Mosaic tiles at water level and coping marble plaster as per owners choice.
No excavation soil to be banked against any existing fences or boundary walls.

Walls.
270 mm walls built with ROK clay bricks layed in stretcher bond in 1 : 5 cement mortar with wall ties and brickforce to every second course. Plaster and painted with 1 layer under coat and 2 coats Wall and All at Kitchen and Dining areas.
90 mm steal walls of containers with nutec cladding and 135 mm Isotherm insulation fixed on 460 x 460 brick columns at 3 m centres with 230 x 50 timber joists
Floor Construction.
Lam flooring by specialist on Sisalation on 25 mm WP boarding on 230 x 50 beams at 400 mm centres with 135 mm Isotherm inbetween beams with 6 mm Nutec sheets screwed on beams.
Foundations.
All foundations to comply to SANS 10400 Part H and K. and as per engeers design and approval.
Doors.
D1 – 1900 x 2100 timber and glass door with 6,4 mm safety glass door by specialist.
D2 – 1700 x 2100 epoxy coated aluminium swing doors by specialist.
D3 – 813 x 2032 x 40 mm semi-solid doors painted in wooden frame.
D4 – 2400 x 2100 epoxy coated aluminium stacked doors with 6,4 mm safety glass installed by specialist. All aluminium doors colour as per client choice.
Windows.
W1 – 1800 x 1500 epoxy coated aluminium top hung opening out.
W2 – 1800 x 1200 epoxy coated aluminium top hung opening out
W3 – 900 x 900 epoxy coated aluminium top hung opening out. All aluminium windows colours as per clients choice.
W4 - 2400 x 500 epoxy coated aluminium fixed windows.

Notes :
Pool Construction.
Fibreglass : 5 mm reinforced fibreglass gelcoat finish with UV resistance by specialist.
Finish : Mosaic tiles at water level and coping marble plaster as per owners choice.
No excavation soil to be banked against any existing fences or boundary walls.
Fencing Regulations.
1. Metal fencing not less than 1,25 m high. No horizontal rails less than 100mm apart. Self closing / self locking gate with min. width 815 mm.
2.Fencing to comply with Local Authority regulations – City Council Ref. PW73/1973 W.C.R.S. Council Nat. Bldg. Reg. Act No.103 of 1977 and SANS 10400 – D for public safety.
Backwash.
Backwash water may only disposed of on this property provided that (a) no seepage of water is allowed past the boundaries (b) no nuisance is created. Should the council find that such disposal of water on the property at any future date is unsatisfactory it reserves the right to call for a sewer connection and the owner of the property will be held responsible for any claim and cost in respect of damages which may arise.

Notes :
Roof Construction.
0,8 mm chromadek Charcoal victorian profile roof sheeting on 75 x 50 purlins at 1000 mm centres on 230 x 50 beams at 1000 mm centres with 38 mm galv. hoop iron anchors at beam centres welded to container and tied around beams and 114 x 38 wall plates.
Pitch of roof to be more than 5 degrees.
Fascias.
Everite 228 x 12 fibre cement fascias and bargeboards screwed to beams.
Insulation.
Provide 410 Sisalation under sheets and 135 mm Isotherm on ceilings.
Ceilings.
6,4 mm Rhinobord ceiling cretestone skimmed and fixed to underside of 38 x 38 brandering at 400 mm centres.

Areas :

Erf 1878	1000,00 sq.m.
New Dwelling	178,50 sq.m.
New Deck	36,00 sq.m.
Total	178,50 sq.m.
Footprint	178,50 sq.m
Coverage	17,8%

pretplan
BOUTEKENNE
BUILDING PLANS
Botha Pretorius
Postbus 3140,Matieland,Stellenbosch,7602
SACAP Reg.No ST1950 ; 072 452 9666.

Project

Dwelling Kaiser
Proposed New Dwelling on Erf 1878 , 60 Buffels Road , Pringle Bay , Overstrand Mun.

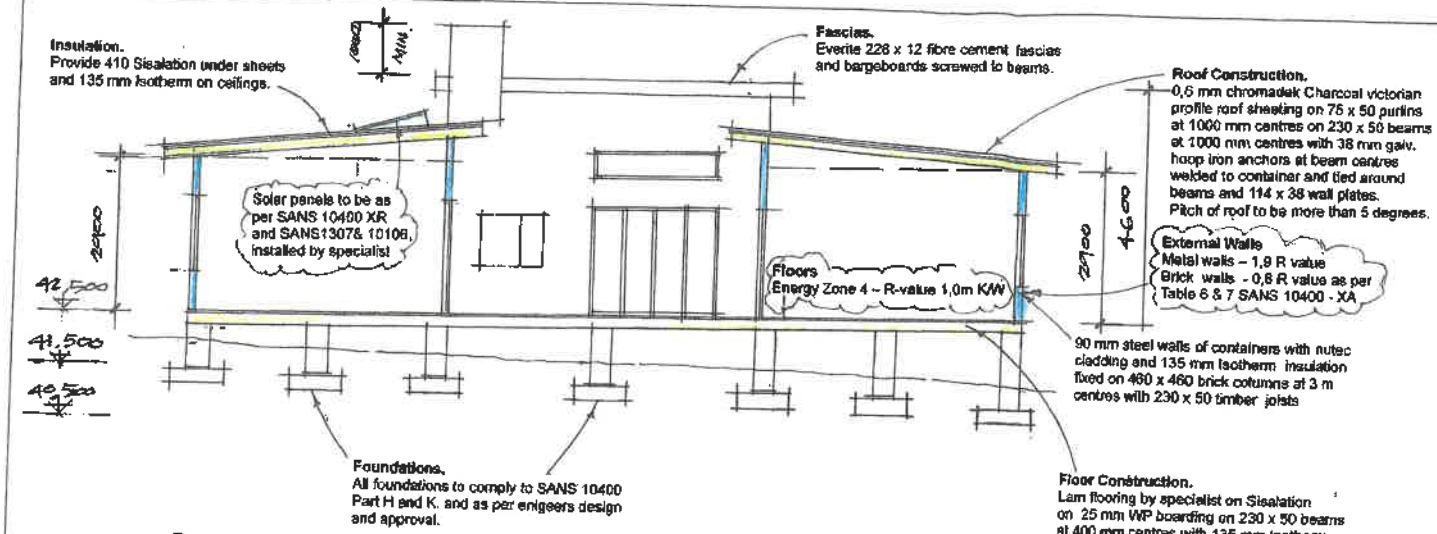
Sheet Description

Ground Floor Plan

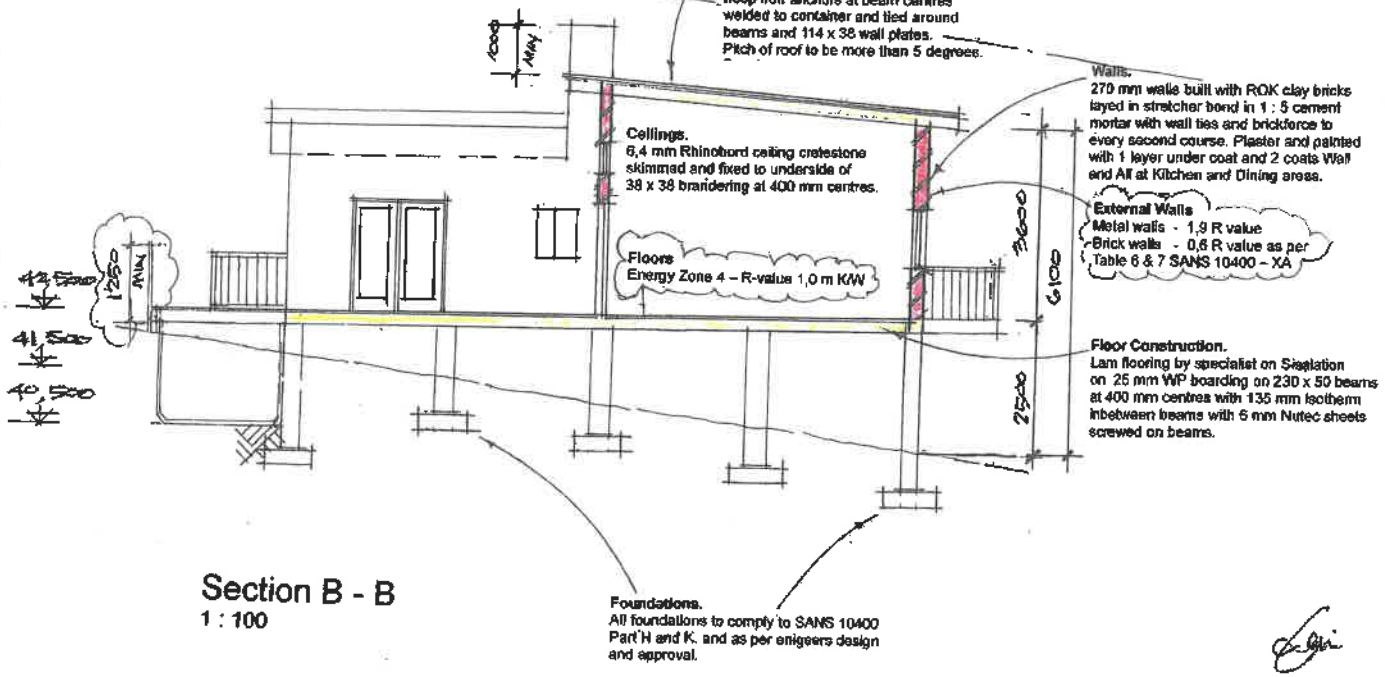
Owner Erf 1878

SACAP ST1950

Project number PP01/24	Scale 1 : 100
2	Date Jan. 2024
Rev. 1 – Aug. 2024	Drawn by botha



Section A – A
1 : 100



Section B - B
1 : 100

Owner Erf 1878

SACAP ST1950

pretplan
BOUPLANNE
BUILDING PLANS
Botha Pretorius
Postbus 3140,Mattieland,Stellenbosch,7602
SACAP Reg.No ST1950 ; 072 452 9966.

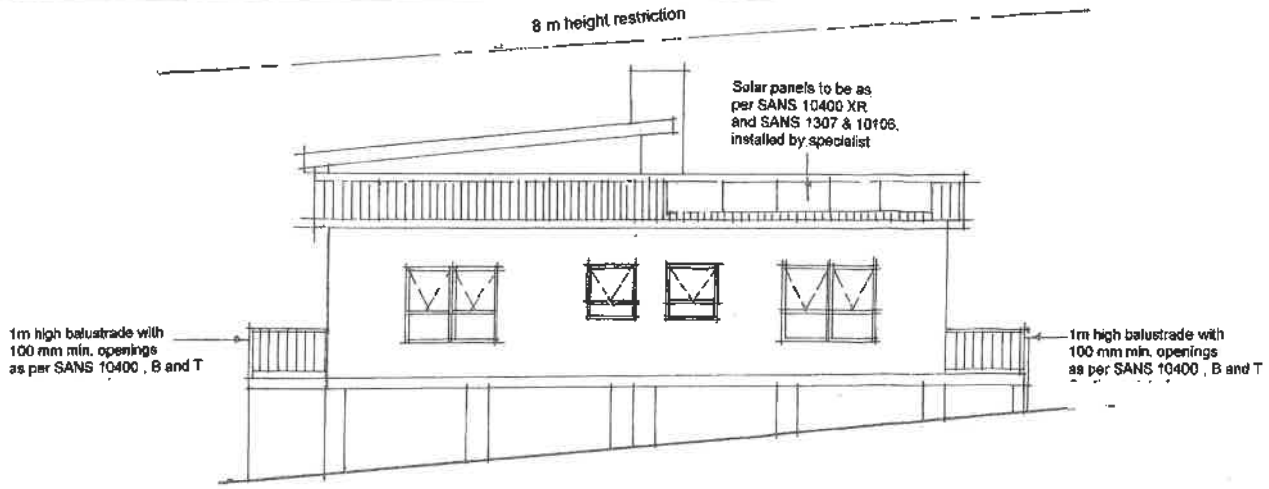
Project:

Dwelling Kaiser
Proposed New Dwelling on
Erf 1878 , 60 Buffels Road ,
Pringle Bay , Overstrand Mun.

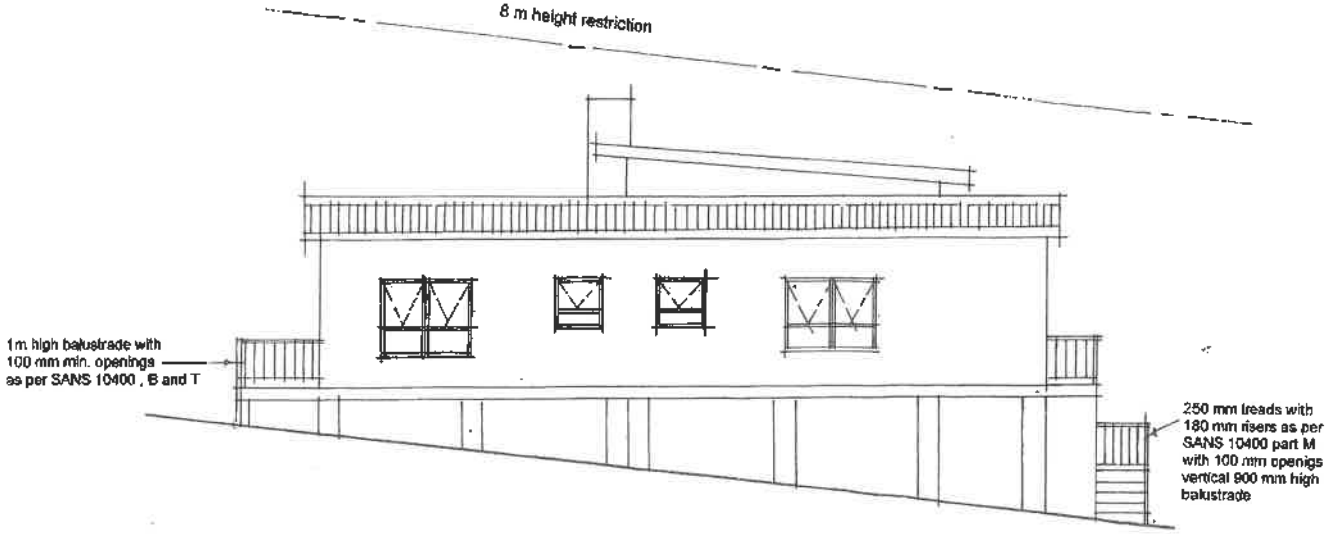
Sheet Description:

Sections

Project number: PP01/24	Scale: 1 : 100
3	Date: Jan. 2024
Rev. 1 – Aug. 2024	Drawn by: botha



North Elevation
1 : 100



South Elevation
1 : 100

pretplan
BOUTEKENNE
BUILDING PLANS
Botha Pretorius
Postnus 3140,Matieland,Stellenbosch,7602
SACAP Reg.No ST1950 , 072 452 9966.

Project

Dwelling Kaiser
Proposed New Dwelling on
Erf 1878 , 60 Buffels Road ,
Pringle Bay , Overstrand Mun.

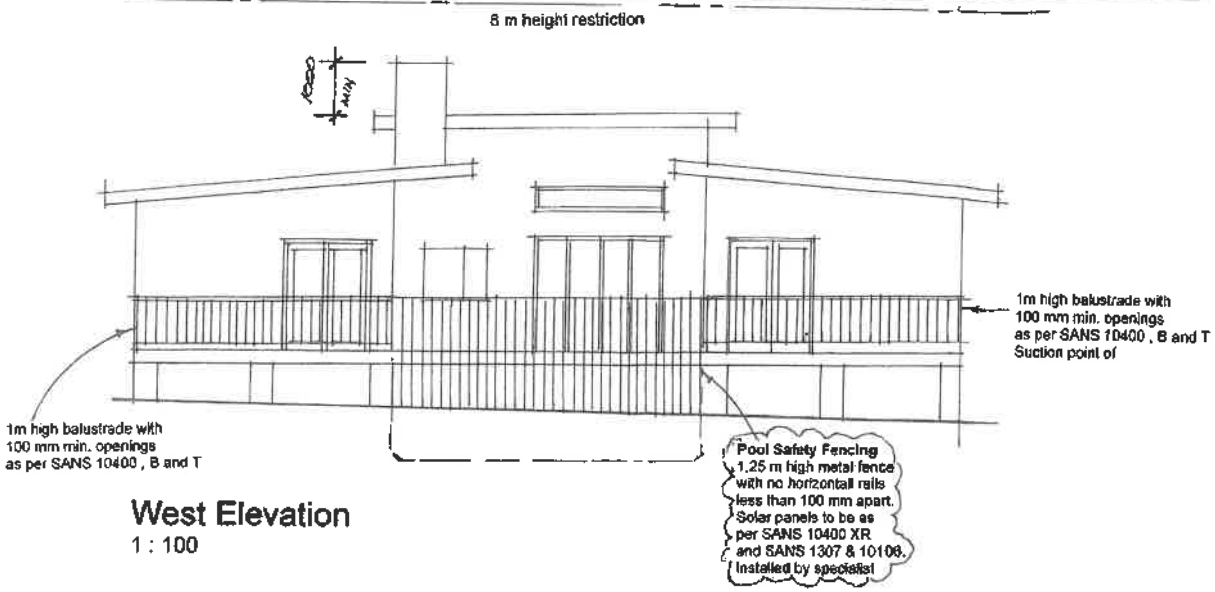
Sheet Description

Elevations

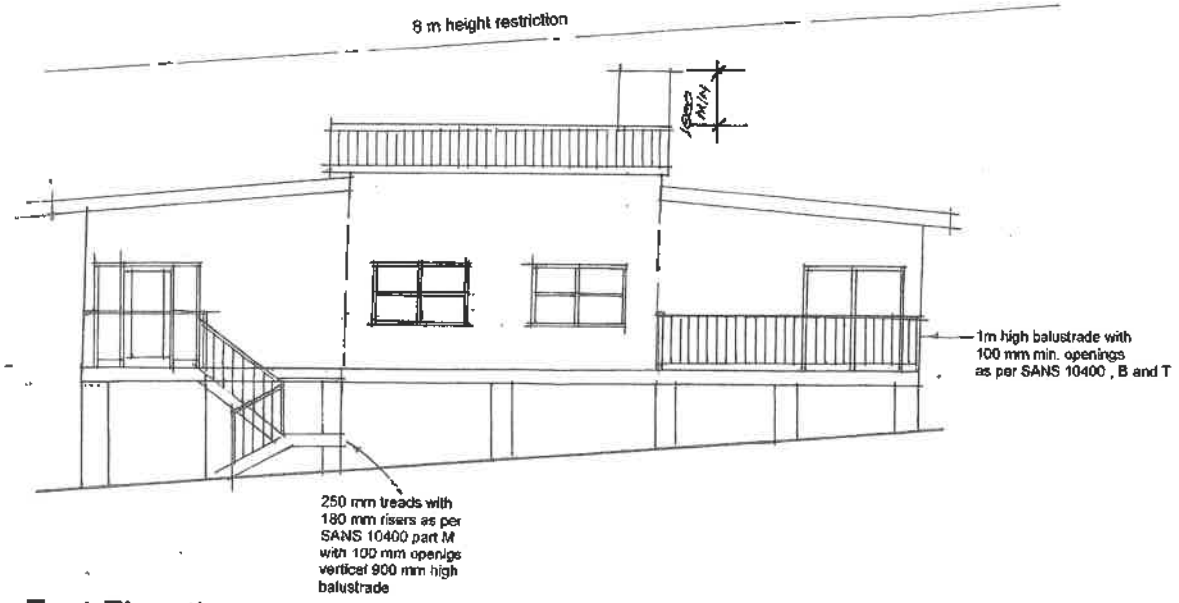
Owner Erf 1878

SACAP ST 1950

Project number	PP01/24
	4
Rev. 1 – Aug. 2024	
Scale	1 : 100
Date	Jan. 2024
Drawn by	botha



West Elevation
1 : 100



East Elevation
1 : 100

pretplan
BOUPLANNE
BUILDING PLANS
Botha Pretorius
4 Pelikaan Street , Stellenbosch , 7600
SACAP Reg.No. ST1950 – 072 452 9866

Project:

Dwelling Kaiser
Proposed New Dwelling on Erf 1878 , 60 Buffels Road , Pringle Bay , Overstrand Mun.

Sheet Description:

Elevations

Owner Erf 1878

SACAP ST 1950

Project Number	PP01/24
	5
Rev. 1 – Aug. 2024	
Scale	1 : 100
Date	Jan. 2024
Drawn by	botha

Annexure D 1/5

285

Prepared by me

PULLOCK ATTORNEYS
NO. 5, THE HAMPTONS
440 DIAGONAL ROAD
PRINGLE BAY
7196

CONVEYANCER
TRACY PULLOCK
(96590)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R 1 100 000 00	R 1 544 00
Reason for exemption	Category Exemption.....	Exemption i t o. Sec/Reg..... Act/Proc.....

SV

VERBIND MORTGAGED SV

VIR FOR R 660 000 00

B 000018645 / 2024

2024 -07- 04

REGISTRATEUR/REGISTRAR

T 000041294 / 2024

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT JACOBUS PETRUS VAN ZYL

LPCM 79800

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

DAVID HUGH PRETORIUS
Identity Number 540828 5140 083
Unmarried

DATA VERIFY 10 -07- 2024 ELIZA...

which said Power of Attorney was signed at Cape Town on 25 April 2024

And the appearer declared that his/her said principal had, on 20 December 2023, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

ELISABETH KAISER
Identity Number 851022 1189 186
Unmarried

her Heirs, Executors, Administrators or Assigns, in full and free property

ERF 1878 PRINGLE BAY
in the Overstrand Municipality
Division Caledon
Province Western Cape

IN EXTENT 1000 (ONE THOUSAND) Square metres

FIRST TRANSFERRED and still held by Deed of Partition Transfer Number T 10057/2010 with General Plan SG No. 5466/2008 relating thereto

A. SUBJECT to the conditions referred to in Deed of Transfer No. T17388/1966.

B. SUBJECT FURTHER to the conditions contained in Deed of Transfer No.T46818/1981 imposed by the Administrator when approving the establishment of Pringle Bay Township Extension No 3 in terms of Ordinance 33 of 1934 which reads as follows:

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 623 dated 14th August 1970.

2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of Section 146 of ordinance No 15 of 1952, as amended.

3. The owner of this erf shall, without compensation, be obliged to allow electricity cables and or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven inside or outside this township, to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.

4. The owner of this erf shall be obliged without compensation to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing

to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

5. No building on this erf shall be used or converted to be used for any purpose other than that permitted in terms of these conditions.

6. (1) This erf shall be used solely for the purposes of erecting thereon one dwelling, a residential building or an institution, or other buildings for such purpose as the Administrator may, from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other uses as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme.

(2) Except with the prior consent of the Administrator –

(a) No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 8 metres to the street line which forms a boundary of this erf, nor within 5 metres of any other boundary common to any adjoining erf, provided that with the consent of the local authority:

(i) an outbuilding not exceeding 3 metres in height measured from the floor to the wall-plate may be erected within the above prescribed rear space for a distance of 12 metres measured from the rear boundary of the site; provided that in the case of a corner erf the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf.

(ii) an outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed space, if no windows or doors are inserted in any wall facing such boundary.

(b) Not more than 25% of the area thereof shall be built upon.

(c) No building erected on this erf shall exceed 3 storeys in height excluding any floor used exclusively for the parking of cars.

(d) No residential building or institution may be erected on this erf, unless provision shall simultaneously be made, to the satisfaction of the local authority for parking bays to accommodate not less than one motor-car for every flat or in the case of other residential accommodation for every two bedrooms contained in the building, provided that –

(i) if situated under the building the said parking area shall not be enclosed for more than 50% of its perimeter.

(ii) the said parking area and the access and exit thereto shall be located, hardened and surfaced to the satisfaction of the local authority.

(iii) if in erecting his buildings the owner provides lock-up garages on the erf, the required parking area may be reduced by one parking bay for each garage up to a maximum of 75% of the original area required in terms of the foregoing.

(3) On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf.

(4) In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf.

C. ENTITLED FURTHER to a servitude right of way contained in Deed of Partition Transfer T10057/2010 as depicted by the figure abcd on General Plan SG No. 5466/2008 imposed by the Overstrand Municipality over Erf 1879 Pringle Bay, as a condition of subdivision in terms of Ordinance 15/1985.

D. ENTITLED FURTHER to a servitude area contained in Deed of Partition Transfer T10057/2010 as depicted by the figure Ckh on General Plan SG No. 5466/2008 imposed by the Overstrand Municipality over Erf 1880 Pringle Bay as a condition of subdivision in terms of Ordinance 15/1985.

E. ENTITLED FURTHER to the terms of the endorsement dated 02 March 2010 on Deed of Partition Transfer T 10057/2010, which reads as follows:

"By virtue of Notarial Deed of Servitude Right of Way No. K 207/2010 dd 16/7/09 the withinmentioned ppty is entitled to a servitude right of way depicted by the figure CcEfg on General Plan No. SG 5466/2008 over Erf 1881 Pringle Bay, 1000 m² held by Certificate of Registered Title No. T 10055/2010 with ancillary rights.
As more fully appear from said Not. Deed."

F. ENTITLED FURTHER to the terms of the endorsement dated 02 March 2010 on Deed of Partition Transfer T 10057/2010, which reads as follows:

"By virtue of Notarial Deed of Servitude Right of Way No. K208/2010 dd 16/7/09 the withinmentioned ppty is entitled to a servitude right of way OVER Erf 723 Pringle Bay measuring 2316 m² held by Deed of Transfer No. T 10059/2010 which servitude is depicted by the figures ABCD on diagram No. SG 5463/2008 with ancillary rights.
As more fully appear from said Not. Deed."

WHEREFORE the said Appearer, renouncing all rights and title which the said

DAVID HUGH PRETORIUS, Unmarried

heretofore had to the premises, did in consequence also acknowledge him to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

ELISABETH KAISER, Unmarried

her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 100 000,00 (ONE MILLION ONE HUNDRED THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on - 4 JUL 2024 2024

q.q.

In my presence

REGISTRAR OF DEEDS

Annexure E 1|4

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

The owner of the undermentioned property contemplates to erect a dwelling/do additions to the existing dwelling which will encroach upon the building lines (as per enclosed plan). This requires the consent /comments of the adjacent property owners.

DETAILS OF OWNER(S) THAT NEED/S CONSENT FOR RELAXATION OF BUILDING LINES		
ERF NO	1878	
STREET ADDRESS	60 BUFFELS ROAD, PRINGLE BAY, 7196	
NAME AND SURNAME	ELISABETH KAISER	
TEL NO	071 309 1034	
POSTAL ADDRESS	~~SAME~~ 1040 ELIZABETH ROAD	
	PRINGLE BAY	
	7196	

		DETAILS OF APPLICATION (complete where necessary)			
RELAXATION OF:	MARK (√)	BUILDING LINE ACCORDING TO SCHEME REGULATIONS		BUILDING LINE ACCORDING TO TITLE DEED:	
		From	To	From	To
LATERAL BUILDING LINE	✓	8 m ERF 1879	2 m ERF 1879	5m	2m
REAR BUILDING LINE			m		m
STREET BUILDING LINE			m		m

DETAILS OF ADJACENT PROPERTY OWNER(S)			
ERF NO	1879		
STREET ADRESS	62 BUFFELS RD, PRINGLE BAY		
NAME AND SURNAME	BELINDA PALMER AND MATHEW STREATFIELD		
TEL NO	082 805 9522		
POSTAL ADDRESS	5 HIGHLANDS AVE		
	TOKAI		
		POSTAL CODE	7945

NB: CONSENT TO RELAXATION IS INCOMPLETE IF NOT ACCOMPANIED BY A SITE PLAN SIGNED BY ADJACENT PROPERTY OWNER(S).

☑ *~~I~~/We hereby give ~~my~~/our consent to the abovementioned relaxation.*

Belinda Palmer — NAME — SIGNATURE — 19/10/2024 — DATE

Mathew Streatfield — NAME — SIGNATURE — 19/10/2024 — DATE

COMMENTS/CONDITIONS _____

Tel: 028 313 8900
Fax: 028 313 2093
E-mail : loretta@overstrand.gov.za

PO Box 20 / Posbus 20
HERMANUS
7200

2/4

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

The owner of the undermentioned property contemplates to erect a dwelling/do additions to the existing dwelling which will encroach upon the building lines (as per enclosed plan). This requires the consent /comments of the adjacent property owners.

DETAILS OF OWNER(S) THAT NEED/S CONSENT FOR RELAXATION OF BUILDING LINES		
ERF NO	1878	
STREET ADDRESS	60 BUFFELS ROAD, PRINGE BAY	
NAME AND SURNAME	ELISABETH KAISER	
TEL NO	071 309 1034	
POSTAL ADDRESS	1040 ELIZABETH ROAD	
	PRINGLE BAY	
	7196	

		DETAILS OF APPLICATION (complete where necessary)			
RELAXATION OF:	MARK (√)	BUILDING LINE ACCORDING TO SCHEME REGULATIONS		BUILDING LINE ACCORDING TO TITLE DEED:	
		From	To	From	To
LATERAL BUILDING LINE	✓		m	5m	2m m
REAR BUILDING LINE			m		m
STREET BUILDING LINE			m		m

DETAILS OF ADJACENT PROPERTY OWNER(S)			
ERF NO	1881		
STREET ADRESS	BUFFELS CO		
NAME AND SURNAME	NEIAR Raunel & Hannes Loots		
TEL NO	072 506 6907	071 851 3145	
POSTAL ADDRESS	ECP 1488		
	Pringle Bay	POSTAL CODE	7196

NB: CONSENT TO RELAXATION IS INCOMPLETE IF NOT ACCOMPANIED BY A SITE PLAN SIGNED BY ADJACENT PROPERTY OWNER(S).

☑ *I/We hereby give my/our consent to the abovementioned relaxation.*

Raunel Neyar — NAME — signature — SIGNATURE — 18/10/2024 — DATE

Johannes Loots — NAME — signature — SIGNATURE — 18/10/2024 — DATE

COMMENTS/CONDITIONS _____

Tel: 028 313 8900
Fax: 028 313 2093
E-mail : loretta@overstrand.gov.za

PO Box 20 / Posbus 20
HERMANUS
7200

3|4

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

The owner of the undermentioned property contemplates to erect a dwelling/do additions to the existing dwelling which will encroach upon the building lines (as per enclosed plan). This requires the consent/comments of the adjacent property owners.

DETAILS OF OWNER(S) THAT NEED/S CONSENT FOR RELAXATION OF BUILDING LINES	
ERF NO	1878
STREET ADDRESS	60 BUFFELS ROAD
NAME AND SURNAME	ELISABETH KAISER
TEL NO	0713091034
POSTAL ADDRESS	~~60 BUFFELS ROAD~~ C/K 1040 ELIZABETH ROAD PRINGLE BAY. 7196

DETAILS OF APPLICATION (complete where necessary)					
RELAXATION OF:	MARK (√)	BUILDING LINE ACCORDING TO SCHEME REGULATIONS		BUILDING LINE ACCORDING TO TITLE DEED:	
		From	To	From	To
LATERAL BUILDING LINE	✓		m	5m	2m m
REAR BUILDING LINE			m	—	— m
STREET BUILDING LINE			m	—	— m

DETAILS OF ADJACENT PROPERTY OWNER(S)	
ERF NO	721
STREET ADRESS	6 Anne Rd
NAME AND SURNAME	MOLLY TAGG
TEL NO	0820607016
POSTAL ADDRESS	As above POSTAL CODE 7196

NB: CONSENT TO RELAXATION IS INCOMPLETE IF NOT ACCOMPANIED BY A SITE PLAN SIGNED BY ADJACENT PROPERTY OWNER(S).

☐ *I/We hereby give my/our consent to the abovementioned relaxation.*

Molly Faith Tagg — NAME

[signature] — SIGNATURE

30/10/24 — DATE

NAME — SIGNATURE — DATE

COMMENTS/CONDITIONS Consent given with the following adherence to these conditions:
1) The existing disturbance of topsoil, where eroded by bulldozing, to be rehabilitated with endemic, indigenous vegetation only, and exposed sand dunes stabilised
2) Property to be kept free from alien vegetation
3) Homestead path to be kept on property, no off leash dog running
4) No vibracrete walls
5) No hard/solid fencing or other structures that hinder the movement of small fauna within the Ecological Focus Corridor

Tel: 028 313 8900
Fax: 028 313 2093
E-mail : loretta@overstrand.gov.za

PO Box 20 / Posbus 20
HERMANUS
7200

4/4

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

The owner of the undermentioned property contemplates to erect a dwelling/do additions to the existing dwelling which will encroach upon the building lines (as per enclosed plan). This requires the consent/comments of the adjacent property owners.

DETAILS OF OWNER(S) THAT NEED/S CONSENT FOR RELAXATION OF BUILDING LINES	
ERF NO	1878
STREET ADDRESS	60 BUFFELS ROAD, PRINGLE BAY
NAME AND SURNAME	ELISABETH KAISER
TEL NO	071 3091034
POSTAL ADDRESS	1040 ELIZABETH ROAD PRINGLE BAY 7196

		DETAILS OF APPLICATION (complete where necessary)			
RELAXATION OF:	MARK (√)	BUILDING LINE ACCORDING TO SCHEME REGULATIONS		BUILDING LINE ACCORDING TO TITLE DEED:	
		From	To	From	To
LATERAL BUILDING LINE	✓		m	5m	2m
REAR BUILDING LINE			m		m
STREET BUILDING LINE			m		m

DETAILS OF ADJACENT PROPERTY OWNER(S)	
ERF NO	1880
STREET ADRESS	64 BUFFELS ROAD
NAME AND SURNAME	CHRIS MANCHIP & VIRGINIA MANCHIP
TEL NO	082 331 6945
POSTAL ADDRESS	10 GLOXINIA RD WELGEMOED POSTAL CODE 7530

NB: CONSENT TO RELAXATION IS INCOMPLETE IF NOT ACCOMPANIED BY A SITE PLAN SIGNED BY ADJACENT PROPERTY OWNER(S).

☑ *I/We hereby give my/our consent to the abovementioned relaxation.*

CHRIS MANCHIP — NAME — SIGNATURE — 24/10/2024 — DATE

VIRGINIA MANCHIP — NAME — SIGNATURE — 24/10/2024 — DATE

COMMENTS/CONDITIONS None!

Tel: 028 313 8900
Fax: 028 313 2093
E-mail : loretta@overstrand.gov.za

PO Box 20 / Posbus 20
HERMANUS
7200

Annexure F 1/7

PRINGLE BAY RATEPAYERS' ASSOCIATION

PRINGLEBAAI BELASTINGBETALERSVERENIGING

SARS Reg. 9101/138/16/3
NPO Reg. 214-205
www.pringlebayratepayers.co.za
P O Box 409, Pringle Bay, 7196 / Posbus 409, Pringlebaai, 7196
Chairman / Voorsitter: chairman@pringlebayratepayers.co.za / Tel: 084 222 1242

21 MARCH 2025

TOWN PLANNING DEPARTMENT
OVERSTRAND MUNICIPALITY
HERMANUS
7200

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
24 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart (Hvld stoep)

PER EMAIL: loretta@overstrand.gov.za

Dear Sir/Madam

SUBJECT: ERF 1878, 60 BUFFELS ROAD, PRINGLE BAY: APPLICATION FOR TITLE DEED BUILDING LINE RELAXATION

PREAMBLE

I, the undersigned, ALBERT WILLEM VORSTER (Identity no. 611004 5027 084) in my capacity as representative of the PRINGLE BAY RATEPAYERS' ASSOCIATION (hereafter referred to as PBRA, being a separate legal entity having a constitution, in terms of which it has a right, inter alia, to sue and to be sued), on behalf of our members who have granted a mandate to the PBRA to, among others, comment on and provide input on land use applications referred to the PBRA, hereby wishes to submit comments on behalf of the PBRA regarding the subject application.

1. ORGANISATION

The Pringle Bay Ratepayers' Association (PBRA) was started in 1967 by the first property owners of Pringle Bay to represent the interests of ratepayers and residents. Today it is a registered Non-Profit, Public Benefit Organisation.

Our primary function is to liaise with the Overstrand Municipality, with whom we enjoy a close relationship and to support local environmental conservation. We represent the community on the local Ward Committee and other consultative bodies. We maintain close contact with local authorities and service providers, particularly on matters affecting ratepayers and residents.

The PBRA represents the ratepayers within the declared Urban Edge. This currently constitutes approximately 1,800 properties (erven) of which approximately 1,200 are developed (thus having a habitable structure erected on it either for residential or business purposes).

FILE NO. Erf 1878-KPRB ✓
SCAN NO.
COLLABORATOR NO. 2630636

TP
24 MAR 2025

2. OUR REQUEST PLEASE

We request that the OM please take into consideration our comments in paragraphs 3 and 4 below, and henceforth we request please:

2.1. That the application be withdrawn for resubmission in accordance with the legal requirements.

3. WE PRESENT THE FOLLOWING EXECUTIVE SUMMARY IN SUPPORT OF OUR REQUEST ABOVE

3.1. **We object to the application as presently advertised, because the required notice had apparently not been given to all the erf owners of the Pringle Bay development of which the application erf forms part.**

See paragraph 4 for our motivation why notice to all erf owners is mandatory, failing which, we submit that the present application is unlawful.

The application should therefore be withdrawn and re-advertised.

3.2. The suspended title deed condition should also preferably be **amended** to reflect the applied for "relaxation" (to be read as "suspension", refer to paragraph 4.1) of the building lines on the northern and southern boundaries, to avoid possible future disputes with neighbours.

3.3. It is not necessary for the purpose of this application to elaborate on the background conservation history of the building line requirements, in addition to the information supplied by applicant's consultant.

3.4. We welcome the support to the conservation of The Ridge by the applicant by the conservation conditions that the applicant has proposed as per the application, and we request that the conditions please be accepted by the OM in their eventual approval of the application.

3.5. Provided the legal requirements as per par 3.1 are met, and provided serious objections are not raised by other property owners upon re-advertising, we have no further objection to the substance of the application.

4. NOTICE TO ALL ERF OWNERS IS MANDATORY

4.1. IN THE PRESENT APPLICATION "**RELAXATION**" OF A TITLE DEED CONDITION SHOULD READ "**SUSPENSION**"

The land use legislation does not recognise "relaxation" as a legal term.

It may be that the term is used by town planning professionals in an attempt to facilitate less onerous requirements for an application.

The legal term is "suspension" of a title deed condition, e.g. to allow building within the title deed building line restrictions. For that an application has to be made in terms of section 47 of SPLUMA (see par 4.2 below), and which has to be advertised in terms of the SA Constitution to all erf owners, **because the praedial rights of the other erf owners are affected.**

The OM has already obtained a legal opinion to this effect.

Conversely consent can be given, if so formulated in a title deed condition, for certain structures such as a garage or storeroom to be erected within the building lines. The praedial rights of the other erf owners are not affected, and the OM has a discretion as to which erf owners should receive notice.

The present title deed condition contains both the above eventualities, but the present application is not for consent, but for a suspension.

The present application will moreover only be for a departure if a departure from the OM scheme regulations building lines is required, which is not the present case.

4.2. SPLUMA REFERENCE TO "**SUSPENSION**"

SPLUMA section 47(1) reads as follows:

"Restrictive conditions

*47. (1) A restrictive condition may, with the approval of a Municipal Planning Tribunal and in the prescribed manner, be removed, amended or **suspended. (Our emphases)***

*(2) A removal, amendment or **suspension** of a restrictive condition contemplated in subsection (1) must, in the absence of the contemplated written consent, be effected—*

(a) in accordance with section 25 of the Constitution and this Act;

(b) with due regard to the respective rights of all those affected, and to the public interest; and

(c) In the prescribed manner,

If such removal, amendment or suspension will deprive any person of property as contemplated in section 25 of the Constitution."

4.3. THE CONSENT OF THE ADMINISTRATOR

4.3.1. The title deed of erf 1878 reads:

"6.(2) Except with the prior consent (**suspension – our emphasis**) of the Administrator -

(a) *No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 8 meters to the street line which forms a boundary of this erf, nor within 5 metres of any other boundary common to any adjoining erf, provided that with the consent of the local authority* ***(consent- our emphasis)*** *an outbuilding.....may be erected within the prescribed rear space....."*

4.3.2. SPLUMA section 45(6) read:

"Where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the ***administrator (our emphasis)****, a Premier, the townships board or any controlling authority, such consent may be granted by the municipality and such reference to the administrator, a Premier, the townships board or controlling authority is deemed to be a reference to the municipality."*

4.3.3. The Administrator previously exercised his powers in terms of the Removal of Restrictions Act 1967. **His powers included exercising a discretion as to which (note: not all) erf owners were to receive notice.**

4.3.4. After the entry into force of the Constitutional provisions of Section 25 in respect of property rights the old act was repealed and replaced with SPLUMA sect 45(6) as per par 4.3.2 above, and which refers to the **municipality (our emphasis)** instead of to the **administrator (our emphasis).**

4.3.5. Ex Parte Whitfield and Related Matters 2017 (5) SA 161 (ECP) (28 March 2017) par 37 reads:

".....Section 47(1) says no more than that a restrictive condition may, pursuant to the Spatial Planning Act (SPLUMA), be removed with the consent of a municipal planning tribunal. ***Such consent is to be obtained in the prescribed manner (our emphasis),*** *i.e. by way of an application made to the municipal planning tribunal and is to be granted subject to ss 42 and 47(2)."*

4.3.6. The OM has merely replaced the administrator as the body which may, in the prescribed manner, remove, amend or **suspend a restrictive condition.**

This the OM must do via the Municipal Planning Tribunal or the Authorised Official in the prescribed manner, as required by SPLUMA and the SPLUMA Regulations as to categorisation.

4.3.7. Prior to the Removal of Restrictions Act 1967 title deed conditions could only be "removed, amended or **suspended"** by agreement with the holders of the praedial rights. To solve this problem and for practical planning purposes, title deeds usually provided, as in the case of erf 1878, that with the consent of the Administrator title deed conditions could be "removed, amended or suspended".

The suspension etc. took place in terms of the old act, and after SPLUMA, in accordance with SPLUMA.

4.4. APPARENTLY INSUFFICIENT PUBLIC NOTICES AND ADVERTISEMENTS IN THE FOLLOWING:

4.4.1. **The Local Printed Media, for instance the Overstrand Herald**: No proof of an Advertisement or Notice inviting comments on the subject application has occurred in an issue of The Herald since the date of our receiving the request for comment from OM via email (24 February 2025).

4.4.2. **The OM Webpage**, namely **Documents/Town and Spatial Planning/Land Use Planning Applications:** The OM website also shows no record of the subject application (Refer to Annexure 1: Screenshot of Land Use Planning Applications page).

4.5. **BUILDING LINES: WHAT IS APPLIED FOR?**

4.5.1. In the Motivation Report, the applicant on page 2 states the following:

"Application is hereby submitted in terms Section 16 (2)(b) and Section 16 (2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for departure for the following:

- *Relaxation of the northern lateral title deed building line from 5m to 2m, in order to accommodate the new dwelling house*
- *Relaxation of the southern lateral title deed building line from 5m to 2.2m, and from 5m to 2.5m in order to accommodate the new dwelling house "*

4.5.2. Referring to the Application Form (2024/2025), Section E -Details of Application, it is stated that the application is for :

"Building Line encroachment:	*Side/Lateral: From*	*5m to 2m*
	Side/Lateral: From	*5m to 1.3m* *5m to 2.2m"*

4.5.3. If indeed the application is for 5m to 1.3m, an application for departure from the Scheme Regulation should also be addressed in the application. We suggest that the applicant address this aspect in the requested re-submission of the application.

4.5.4. Furthermore, we also suggest that the applicant consider a uniform building line on the side/lateral boundaries which is consistent with the requirements of the Scheme Regulation, namely 2.0m.

6/7

5. REQUEST PLEASE:

We conclude by requesting that the OM please take into consideration our comments above and henceforth please:

A. Request the Applicant to withdraw the current application to afterwards proceed with preparing a legally conforming application requiring all erf owners in the subject township development to receive notice.

We are looking forward to receiving your confirmation of receipt hereof and subsequently your reply hereto.

Kind Regards

AW Vorster
Vice Chair: PBRA

ANNEXURES:

ANNEXURE 1: Screenshot of Land Use Planning Applications page

ANNEXURE 1:

Screenshot of Land Use Planning Applications page

Land Use Planning Applications

Advertisements : Archived (249)

Notices : Archived (421)

NOTICE Erf 1168, 245 Main Road, Eastcliff (Departure and amendment of condition of approval) (pdf, 3.92 MB) (5 downloads)	07 Mar 2025
NOTICE Erf 6820, 32 McFarlane Street, Eastcliff (Departure and penalty) (pdf, 3.68 MB) (2 downloads)	07 Mar 2025
NOTICE Portion 2 of Farm 586 Hemel Aarde Valley (Consent use, departure, amendment of conditions of approval) (pdf, 3.29 MB) (2 downloads)	07 Mar 2025
NOTICE Erf 6391, 28 Boekenhout Avenue, Kleinmond (Subdivision & Departure) (pdf, 1.07 MB) (10 downloads)	28 Feb 2025
NOTICE Erf 3664, 43 Myrica Road, Betty's Bay (Departure & admin penalty) (pdf, 8.16 MB) (12 downloads)	28 Feb 2025
NOTICE Erf 2621, 130 Eight Street, Voëlklip (Departure Penalty) (pdf, 766 KB) (10 downloads)	28 Feb 2025
NOTICE Farm 969 (Consent use and administrative penalty) (pdf, 1.72 MB) (8 downloads)	28 Feb 2025
NOTICE Erf 1313, 329 Main Road, Eastcliff (Departure and penalty) (pdf, 1.27 MB) (9 downloads)	28 Feb 2025
ADVERTISEMENT Erven 146 & 631 Gansbaai (Rezoning, Consolidation, Consent use, Amendment of Conditions of Approval & Penalty) (pdf, 2.07 MB) (9 downloads)	28 Feb 2025
ADVERTISEMENT Erf 6305, 90 Main Road, Kleinmond (ROR Rez) (pdf, 1.09 MB) (9 downloads)	28 Feb 2025
ADVERTISEMENT Erf 5568, 4 Agapanthus Roa,d Betty's Bay (ROR Subd Dep) (pdf, 1.38 MB) (10 downloads)	28 Feb 2025
ADVERTISEMENT Erf 3326, 3 Riverside Lane, Onrustrivier (ROR and Departure) (pdf, 1.04 MB) (8 downloads)	28 Feb 2025
NOTICE – Erf 2142, 19 Fourth Avenue, Voëlklip (Departure and Penalty) (pdf, 1.63 MB) (12 downloads)	21 Feb 2025
NOTICE – Rem Portion 2 of Farm 672 and Portion 13 of Farm 672 (Consolidation, subdivision and consent use) (pdf, 1.51 MB) (17 downloads)	21 Feb 2025
ADVERTISEMENT – Erf 2648, 97 Clarence Drive, Betty's Bay (Consent Use) (pdf, 4.54 MB) (21 downloads)	14 Feb 2025
ADVERTISEMENT – Erf 6184, 124 Malva Street, Mount Pleasant (Consent use and departure) (pdf, 1.93 MB) (26 downloads)	14 Feb 2025
ADVERTISEMENT – Erf 6862, Nemesia Avenue, Kleinmond (Rez, Subdivision) (pdf, 7.48 MB) (20 downloads)	14 Feb 2025

Annexure G 1|5

Loretta Gillion

From: Jeane Douglas <jeaned04@outlook.com>
Sent: Tuesday, 20 May 2025 21:33
To: Loretta Gillion
Subject: Erf 1878 Pringle Bay
Attachments: Response to objections.pdf

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
21 MAY 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart (Hvld stoep)

Dear Hanneen

Please see attached comments for the objections

Kind Regards
Jeane

FILE NO. Erf 1878 - KPRB
SCAN NO.
COLLABORATOR NO. 266172

TP 21 MAY 2025

Comments and Objection from Pringle Bay Ratepayer's Association
Objection 3.1: Ratepayers' association objects due to the fact that notice was not given to all erf owners of the Pringle Bay Development of which the application erf forms part of?
RESPONSE: The immediate affected neighbours of the subject property, as indicated by the Overstrand Municipality Town & Spatial Planning Department, were informed of the application and the subsequent neighbours' consents were submitted together with the land use planning application. The process followed was for the relaxation of the title deed building line parameters and not a removal of the land use restriction, therefore the application for the removal of title deed restrictions is not applicable. In the event that the neighbours consents were not obtained, an application for the removal of title deed restrictive conditions would have been submitted which will trigger the need to advertise the application in the local newspaper as well as send notices to each erf owner of the Pringle Bay area, which is not the case for this application. It is therefore recommended that this objection point be dismissed.
Objection 3.2: Application should be amended so that the application reads suspension and not relaxation
RESPONSE: Suspension in laymen's terms means a temporarily extinguishment of a right or title. Building lines cannot be suspended since it is a temporary approval, in contrast, a land use right can be suspended since the utilisation of a building can be changed. A relaxation in terms of the title deed building line parameters similarly acts as a departure in terms of the land use scheme building line parameters. It must be noted that the proposal remains compliant with the Overstrand Land Use Scheme building line parameters. It is therefore recommended that this objection point be dismissed.
Objection 3.3:
RESPONSE: This point is only a statement and does not warrant a response. However, the background regarding the conservation history of the building line requirements were provided to adequately motivate the positioning of the proposed dwelling house. With that said, this objection point should only be noted.
Objection 3.4:
RESPONSE: This point is noted.
Objection 3.5:
RESPONSE: Please refer to the response point to objection 3.1 since this application does not warrant the need for re-advertising to all the erf owners in the Pringle Bay area. This point should therefore be dismissed.

Objection 4.1 to 4.3:
RESPONSE: Please refer to the objection point 3.1 and point 3.2 which adequately stipulates the reasoning for the application for a relaxation of title deed line parameters and not for a suspension of title deed restrictive conditions. Points 4.1 to point 4.3 should therefore be disregarded.
Objection 4.4.1 & 4.4.2:
RESPONSE: Prior to the submission of the application, discussion was held with the Town Planner regarding the proposal. The process entails the obtaining the consent from the immediate neighbours of the subject property which was obtained and submitted with the application. In the instance that one of the neighbours did not provide their consent, a different land use planning would be required (application for the removal of restrictive title deed conditions). Since all the immediate neighbours provided their consent, it was not necessary to circulate the application to all the property owners within the Pringle Bay area. Furthermore, the application was circulated to the various internal and external departments for their feedback/comment. In addition to the ward councillor and the Pringle Bay ratepayer's association.
Objection 4.5:
RESPONSE: The motivation has been amended to indicate the correct departures and distances being applied for.
Objection 5:
RESPONSE: As stipulated in the response to objection 3.1 and 3.1, it is not required for the application to be re-advertised since the administrative process was adequately followed as per the requirements of the Overstrand Municipality – Town & Spatial Planning Department.

Comment from Overstrand Municipality – Environmental management Services
RESPONSE: The no-objection and the comments are noted. The comments provided will be taken into consideration and a WULA application has been submitted.

Comment from Cape Nature
Comment 1:
RESPONSE: This point does not require a response and is noted.

Comment 2:
RESPONSE: This point does not require a response and is noted.
Comment 3:
RESPONSE: The deck size is included in the 178.5m^2. The pool will be built on the deck as per the proposed site plan indicates. In addition, as per the EMOZ overlay zone, the dwelling house must be built on stilts in order to mitigate the possible impact. It must also be noted the vegetation will receive sunlight due to the dwelling house being built on stilts, however it will not be as much.
Comment 4:
RESPONSE: It is not clear at this stage of development how much vegetation will be clear for vehicular access to the proposed new dwelling house. This will only be determined at building plan phase. It must be mentioned that the access to the dwelling house (staircase) is located to the south of the site. Due to the shape of the erf, the shortest distance from Row Row Road to the proposed dwelling house is on the southern portion of the site which will reduce the amount of vegetation that will be cleared for vehicular access. Furthermore, the wetland areas are indicated in blue on as per the Ridge Conservation Area Management Framework (see the figure below).   Since the development complies with the 5m rear title deed building line, the property is setback far enough, the possible impact on the wetland area is reduced.

Comment 5:
RESPONSE: It is noted that the property is located within the EMOZ layer and could be considered as an urban conservation-worthy area. However, the proposed new dwelling is positioned in such a manner which is setback far enough from the Ridge EMOZ urban conservation corridor in the west as well as setback enough from the ecological corridor located (runs across the centre of the erf) to the east of the proposed dwelling to reduce the possible environmental impact. The distance suggestion by CapeNature to move the development slightly to the east is not quantified. With reference to the above paragraph, shifting the dwelling slightly to the east will have an increased impact ecological corridor. Furthermore, the exact position of the dwelling house dealt with at building plan phase prior to the commencement of the construction of the dwelling house.
Comment 6:
RESPONSE: The comment is noted and will be considered at during the construction and operation of the development.

Annexure H

COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR: APPLICATION FOR RELAXATION OF TITLE DEED: ERF 1878, PRINGLE BAY (4886/2024)

Electricity	:	Eskom Area
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Stormwater	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;

2. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;

3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Principal Technologist: Kleinmond for written approval;

4. that any additional and / or extended vehicle entrances will be for the owner's account;

5. that no reservation of on-street parking be allowed;

6. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;

7. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if require

RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL

14/04/2025.
DATE

Annexure I 1/2

BREEDE-OLIFANTS

A. Corner Mountain Mill & Eastlake Road.
Worcester. Western Cape.
South Africa 6850

T. 023 346 8000 E. info@bocma.co.za W. www.breedegouritzcma.co.za

ENQUIRIES: VHENGANI LIGUDU
REF: 4/10/1/G40B/ERF 1878, PRINGLE BAY
DATE: 24/04/2025

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
25 APR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 1878
Pringle Bay
SCAN NO.
COLLABORATOR NO.
2650382

The Municipal Manager
Overstrand Municipality
P. O. Box 20
Hermanus
7200

Attention: Mrs. H van der Stoep

RE: ERF 1878, 60 BUFFELS ROAD, PRINGLE BAY: APPLICATION FOR RELAXATION OF THE TITLE DEED

With reference to the above-mentioned document received by this office on the **26/03/2025** requesting comments.

This office has reviewed the above-mentioned report and has the following comments:

1. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered.

2. Kindly note that this office has no objection on the application for relaxation of title deed. However, the applicant must contact this office before any construction commences as the property Erf 1878, Pringle Bay is within the Regulated Area (information based on desktop assessment) in terms of the NWA, 1998 and may require authorisation:

Regulated Area of a watercourse for section 21(c) or (i) of the Act water uses means:

(a) The outer edge of the 1 in 100 year flood line and /or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, lake or dam;
(b) In the absence of a determined 1 in 100 year flood line or riparian area the area within 100m from the edge of a watercourse where the edge of the watercourse is the first identifiable annual bank fill flood bench (subject to compliance to section 144 of the Act); or
(c) ***A 500 m radius from the delineated boundary (extent) of any wetland or pan.***

3. No pollution of surface water or groundwater may occur due to any activity in the property.

Water for domestic use

- Water provided for domestic use must comply with the SANS 241:2015 guidelines for drinking water.

25 APR 2025

BREEDE-OLIFANTS

A. Corner Mountain Mill & Eastlake Road,
Worcester, Western Cape,
South Africa 6850

T. 023 346 8000 E. info@bocma.co.za W. www.breedegouritzcma.co.za

Disposal of sewage

- The disposal of sewage must at all times comply with the requirements of Sections 22 and 40 of the National Water Act of 1998, (Act 36 of 1998).
- It is noted from the report that the property will connect to Overstrand Municipality services network.

This office reserves the right to amend and revise its comments as well as to request any further information.

The onus remains on the registered property owner to confirm adherence to any relevant legislation concerning the activities that might trigger and/or need authorization.

Please do not hesitate to contact the above official should there be any queries.

Yours faithfully

Liguduwc

MR JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (Acting)

Annexure J 1/3

Western Cape Government

Department of Environmental Affairs and Development Planning
Sumaya Arendse
Directorate: Development Management, Region 1
Sumaya.Arendse@westerncape.gov.za
DEADPEIAadmin@westerncape.gov.za Tel: 021 483 2700

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAY 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

REFERENCE NUMBER: **16/3/3/6/6/E2/31/1077/25**
DATE OF ISSUE: 16 May 2025

TP - A Theart (Hvld Stoep)

Overstrand Municipality
P O Box 20
Hermanus
7200

Attention: Mrs H. van der Stoep

Tel: 028 313 8900
E-mail: loretta@overstrand.gov.za

Dear Madam

ACKNOWLEDGEMENT OF RECEIPT AND CONFIRMATION ON THE DETERMINATION OF THE APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): APPLICATION FOR THE RELAXATION OF THE TITLE DEED ON ERF NO. 1878, PRINGLE BAY.

1. The request for comment from the Overstrand Municipality (File Ref: 1878/KPRB) received by the Directorate: Development Management Region 1 (hereinafter referred to as "this Directorate") on 24 February 2025, the telephonic conversation on 16 April 2025 and the subsequent email correspondence between this Directorate and the Municipality dated 16 April, 5 May and 14 May 2025 refer.

2. This serves as an acknowledgement of receipt of the aforementioned documents.

3. This Directorate has reviewed your correspondence and noted the following:
   - 3.1 The subject property, Erf No.1878, is situated in the residential neighborhood of Pringle Bay, along Buffels Road, and has an extent of 1000m².
   - 3.2 The property is currently vacant and zoned as Residential Zone I: Single Residential (SRI).
   - 3.3 The intent is to build a dwelling which will consist of three bedrooms, two bathrooms with an open plan living area and kitchen. The footprint of the proposed new dwelling is 178.5m².
   - 3.4 The proposed dwelling will be developed on stilts which will maintain most of the vegetation on the property apart from the sections or the portion where the stilts will be placed which is in line with the mitigation measures of the EMOZ regulations.
   - 3.5 Application, as follows, has been made to the municipality for relaxation of the title deed building lines to accommodate the dwelling house:
     - The northern lateral title deed building line: from 5m to 2m, and
     - The southern lateral title deed building line: from 5m to 2.2m, and from 5m to 2.5m.

     These adjustments are intended to allow for the most suitable positioning of the proposed dwelling, while minimizing encroachment into the ecological corridor.

   - 3.6 The proposed dwelling house will encroach over the Ecological Corridor, which is known as the "Ridge" precinct.
   - 3.7 The Ridge precinct is a 4.2ha conservation zone bounded by Bobbie, Buffels and Williams Roads.
   - 3.8 The ridge Precinct consists of 19 erven, including the subject erf and features larger private properties still covered with natural vegetation

TP 19 MAY 2025

FILE NO. Erf 1878-KPRB
SCAN NO. 2664802
COLLABORATOR NO.

3.9 The Ridge precinct in Pringle Bay was identified as a potential conservation worthy ecological corridor within the urban residential area of Pringle Bay and therefore was included in the Environmental Management Overlay Zone (EMOZ).

3.10 The "Ridge" precinct in the Pringle Bay area strives to promote the effective environmental management of the identified areas of the precinct as a conservation area.

3.11 The vegetation type occurring on Erf No. 1878, Pringle Bay and it surroundings is Hangklip Sand Fynbos, which is classified as a critically endangered ecosystem as per the Revised National List of Threatened Terrestrial Ecosystems – 2022 as gazette under the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA").

3.12 A Water Use License Application ("WULA") has been submitted to the Department of Water and Sanitation, because a wetland floodplain is present across Erf No. 1878, Pringle Bay.

4. Your attention is therefore drawn to the listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in Listing Notices ("LN") 1, 2 & 3 of 7 April 2017. Please be advised that, based on the above information provided, the application for the relaxation of the title deed on Erf No. 1878, Pringle Bay, does not appear to constitute any listed activities as defined in terms of the EIA Regulations, 2014 (as amended).

Written authorisation is therefore **not required** from the competent authority prior to the undertaking of the said activity. This determination is based on the following:

Listed Activities	**Reason why listed activity not triggered**
Listing Notice 1 of the EIA Regulations 2014 (as amended): Activity Number: 27 The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for— (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.	The threshold of clearing an area of 1 hectare or more will not be triggered by the proposed activity.
Listing Notice 1 of the EIA Regulations 2014 (as amended): Activity Number: 19 The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving— (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.	Even though infilling or depositing of any material or the removal or moving or moving of soil, sand etc will take place from within a watercourse, it should be noted that the threshold of this activity will not be triggered by the development of the proposed dwelling.
Listing Notice 3 of the EIA Regulations 2014 (as amended): Activity Number: 12 The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.	The clearance of indigenous vegetation will be minimized by the development of the proposed dwelling on stilts and therefore will not trigger the 300 square metre threshold.

i. Western Cape i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; i Within critical biodiversity areas identified in bioregional plans; iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas; iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.	The footprint of the proposed new dwelling will be 178.5 square metres.

5. However, should any other revision of the proposed development on the said erf constitute a listed activity(ies) as defined terms of Listing Notice 1, 2 and 3, an application must be submitted and environmental authorisation obtained before such activity(ies) may commence.

6. Please be reminded of your general duty of care and the remediation of environmental damage in terms of Section 28(1) of the NEMA, wherein it is specifically stated that –

   "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment". The obligation to take reasonable measures is imposed on, *inter alia*, *"an owner of land, a person in control of land or a person who has a right to use the land or premises on which or in which (a) any activity or process is or was performed or undertaken or (b) any other situation exists which causes, has caused or is likely to cause significant degradation of the environment...."*

7. This Directorate reserves the right to revise or withdraw its comments and request further information based on any information received.

Yours faithfully

Marbe ppCoetzee

Digitally signed by Marbe Coetzee
Date: 2025.05.16 12:56:16 +02'00'

HEAD OF COMPONENT
DIRECTORATE: DEVELOPMENT MANAGEMENT (REGION 1)

Annexure K 1/3

CapeNature

CONSERVATION INTELLIGENCE: LANDSCAPE CENTRAL

postal	Private Bag X5014 Stellenbosch 7599
physical	Assegaaibosch Nature Reserve Jonkershoek
website	www.capenature.co.za
enquiries	Leandra Knoetze
telephone	+27 21 866 8022 **cell** +27 83 278 0949
email	lknoetze@capenature.co.za
reference	SSD14/2/6/1/7/2/1878_Erf_Title Deed_Buffels Road_Pringle Bay
date	10 April 2025

Loriaan Isaacs / Loretta Gillion
Overstrand Municipality
Directorate: Planning & Development – Town & Spatial Planning
P.O. Box 20
Hermanus
7200

By email: loriaanisaacs@overstrand.gov.za / loretta@overstrand.gov.za

Dear Ms Isaacs

RE: Erf 1878, 60 Buffels Road, Pringle Bay: Application for Relaxation of Title Deed: J Douglas on behalf of E Kaiser
APP ID: 4886/2024

CapeNature would like to thank you for the opportunity to comment on this application. Please note that our comments pertain primarily to impacts on biodiversity and not to the overall desirability of the project.

1. According to the South African Vegetation Map (2018), the proposed development area supports Hangklip Sand Fynbos, a Critically Endangered vegetation type. The area is undeveloped and consists of pristine natural vegetation.

2. The 2017 Biodiversity Spatial Plan (BSP) indicates that the development area is situated within an Ecological Support Area (ESA: Restore) – which play an important role in supporting the functioning of Critical Biodiversity Areas (CBAs) and are often vital for delivering ecosystem services. The ESA was determined due to the presence of the Critically Endangered vegetation type, NFEPA (National Freshwater Ecosystem Priority Areas) Wetland, coastal corridor and a water source protection (Hangklip) and it is essential that this area is maintained in a functional, near-natural state and underlying biodiversity objectives are not compromised. According to the 2023 BSP, the area is situated within an Aquatic Critical Biodiversity Area (CBA) - which include areas in a natural condition that are required to meet biodiversity targets. No further loss of natural habitat should occur in CBAs and degraded areas should ideally be rehabilitated. The Aquatic CBA was determined due to the presence of the Southwest Sand Fynbos Channelled Valley Bottom Wetland, Upland-lowland interface and Buffelsrivier FEPA River Corridor and Overberg Coastal resource protection.

3. The application is for the development of a new dwelling or house. The house will consist of three-bedrooms, two bathrooms, an open plan living area and a kitchen. The site development plan indicates that the new dwelling will cover 178.50 m² and that the deck will be 36m². Please can you indicate whether the deck is included in the 178.50 m² total footprint area. And also, whether the pool will be located on the deck (seeing that the house will be developed on stilts). Even though the house will be developed on stilts, the vegetation covered by the house will be lost due to no sunlight and other possible disturbances.

The Western Cape Nature Conservation Board trading as **CapeNature**
Board Members: Ms Marguerite Loubser (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Mr Tom Blok, Mr Mervyn Burton, Ms Reyhana Gani, Dr Colin Johnson, Ms Ayanda Mvandaba, Prof Nicolaas Olivier, Mr Paul Slack

2/3

4. Furthermore, can you clarify how much vegetation would need to be cleared for an access road to the new dwelling – seeing that the Row Row Road is on the eastern side of the property. This together with the original clearing for the dwelling might trigger an EIA (Environmental Impact Assessment) in terms of NEMA and Specialist Reports/Studies might have to be done, because there will be loss of Critically Endangered vegetation, and a Risk Matrix Assessment will need to be conducted due to the proximity of a wetland.

5. We would suggest that the proposed position of the house be reconsidered or moved slightly to the east. We understand that the current position was chosen due to the Ecological corridor (Figure 1 - below), however according to the Overstrand Environmental Management Overlay Zone (EMOZ) – the whole area (entire Erf 1878 and surrounds) can be considered as an Urban Conservation area. Furthermore, Figure 2 (from a previous application on Bobbie Road) indicates that the western side of the Erf (position of the new dwelling) is part of the Ridge EMOZ and considered as urban conservation-worthy corridor area. Proper approval from the competent authority needs to be obtained for the exact position of the house, before any construction commence.

6. We recommend that the development footprint be kept as small as possible – seeing that Erf 1878 is situated within the Critically Endangered, Hangklip Sand Fynbos vegetation type; a CBA; a NFEPA Channelled Valley-Bottom Wetland and a Coastal Corridor. We also recommend that the Wetland areas are avoided as far as possible (and clearly demarcated as No-go areas) during the construction and operation of the development and that no further loss of natural vegetation on the property occurs.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely

Leandra Knoetze

Figure 1: Overstrand Environmental Management Overlay Zone (EMOZ) – Pink color showing the Ecological Corridor and Green color showing Urban Conservation areas

3/3

Map 4: Illustration of recommended Municipal erven (solid shading) and portions of Private erven (translucent shading) for the Ridge EMOZ urban conservation-worthy corridor area.

Figure 2: Ridge EMOZ and conservation-worthy corridor area

The Western Cape Nature Conservation Board trading as **CapeNature**
Board Members: Ms Marguerite Loubser (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Mr Tom Blok, Mr Mervyn Burton, Ms Reyhana Gani, Dr Colin Johnson, Ms Ayanda Mvandaba, Prof Nicolaas Olivier, Mr Paul Slack

Annexure L

FILE REF: 1878 KPRB
APP ID: 4886/2024

Internal Memorandum

FROM:
Town & Spatial Planning

TOWN PLANNER:
Hanneen van der Stoep

DATE:
24 February 2025

APPLICANT:
J DOUGLAS ON BEHALF OF E KAISER

PROPERTY DETAILS:
ERF 1878, 60 BUFFELS ROAD, PRINGLE BAY

APPLICATION: RELAXATION OF TITLE DEED

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for the **relaxation** of Clause B.6.(2)(a) of Title Deed No. T41294/2024 to relax the northern lateral building line from 5m to 2m and the southern lateral building line from 5m to 2,1m and 2,5m respectively, to accommodate the proposed new dwelling house.

BUILDING CONTROL	DISTRICT HEALTH	**ELECTRICAL**	**ENGINEERING SERVICES**
ENVIRONMENTAL	FIRE SERVICES	LOCAL HERITAGE	**OPERATIONAL**
PROPERTY ADMINISTRATION	PUBLIC LIAISON MANAGER	TOURISM	TRAFFIC
	WARD COUNCILLOR	**WASTE MANAGEMENT**	

INTERNAL DEPARTMENT COMMENTS

The EMS department has no objection to the above however please consider the following:

- Due to erf 1878 being located within an ecological process corridor, as per EMOZ the purpose of an ecological process corridor is to allow for genetic flow of fauna and flora species. although the building plans submitted do not include a boundary wall, please be aware that should you want to submit plans for a boundary wall in the future, the design of this should allow for the movement of small animal species (e.g. porcupines, gennet cats, mongeese etc.). ecological process corridors may not have hard/solid fencing and other structures that may hinder the movement of small fauna within the corridor.
- The EIA trigger for the removal of $300m^2$ or more of vegetation except where vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.
- Consider WULA process and the mitigation measures as indicated on the Risk Matrix Assessment report.

NOTES:

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo **by not later than the date stipulated below.** If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the MPT will be informed accordingly.

Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

4.4
ERF 2662, 207 PORTER DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: EMENDO PROJECT MANAGERS & PLANNING ON BEHALF OF WHALING STATION BETTYS BAY (PTY) LTD

2662 KBB (4857/2024)
H van der Stoep **(028) 313 8900** **Hermanus Administration**
1 July 2025

1. EXECUTIVE SUMMARY

An application was received on 4 November 2024 from Emendo Project Management & Planners on behalf of Whaling Station Bettys Bay Pty Ltd on Erf 2662, Betty's Bay in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for a consent use to operate a bottle store on the property.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The application shop is situated in a building known as the Whaling Station, Betty's Bay and zoned Business Zone 3: Local Business. The property measures 1330m² in extent and is developed with existing buildings being utilised for business purposes.

At present a "Wine Boutique" is being operated from Erf 2989, Bettys Bay (The Hub). The operator (Tennant) of the "Wine Boutique" and Bistro (since relocated to Erf 2662, Bettys Bay (Whaling Station)) applied to the Western Cape Liquor Authority for the Removal of a Licence in terms of Section 66.(2) of the Western Cape Liquor Act, 2008 (Act 4 of 2008) from Erf 2989 (The Hub) to Erf 2662 (Whaling Station).

The above application for relocation was necessitated by challenges pertaining to the future expansion of the wine boutique, connection with supporting retail facilities and community concerns (i.e. traffic, social impact).

4. SUMMARY OF APPLICANT'S MOTIVATION

<u>The main grounds of motivation for the application are as follows:</u>

The old Whaling Station (Erf 2662) was upgraded in line with the approved building plans dated 30 November 2023. In terms of the development controls, as per the Overstrand Municipal Land Use Scheme, 2020, the building comprises of a Gross Leasable Area (GLA) of 516m², of which a total of 21 parking bays is required (22 parking bays have been provided at a ratio of 4 bays per 100m² GLA). Adequate on-site parking is provided.

The coverage (42,39%) and the Floor Area Ratio (FAR) (0,61) is in line with the provisions of the Land Use Scheme.

<u>The building (Whaling Station) on Erf 2662 Bettys Bay has been upgraded during 2024 and comprises of the following existing mixed activities:</u>

- Restaurant (*Waaygat*)
- Bistro
- Offices (*Pam Golding and Beinbettysbay*)
- Art Studio

A total of eleven (11) parking areas are provided along Clarence Drive (R44) and eleven (11) parking areas to the south of the building where access is obtained via Porter Drive.

Erf 2662, Bettys Bay is surrounded by higher order zonings which include the following activities:

<u>Area to the east</u>

PROPERTY	ZONING	
Erf 2663	Local Business	▪ Jocks Restaurant; ▪ Coffee Shop; ▪ Bed and Breakfast Accommodation, and ▪ Vet Shop

Area to the west / southwest

PROPERTY	ZONING	
Erf 5140	Service Station	Caltex Filling Station; Greeff Architects; Build It Better Construction, and Sandown Bay Security.
The property is accessible from both Clarence Drive and Porter Drive.		

PROPERTY	ZONING	
Erf 2667	Local Business	The Village Centre is a small, localized centre which provides a variety of convenience goods to the local community. Several parking areas are provided with access from Porter Drive.

The activities include:

- Bettys Bay Post Office
- Butchery
- Wellness Studio
- Boutique Shop
- Laundry
- Print and Gift Shop
- Charity Shop
- Fish and Chips Shop

PROPERTY	ZONING	
Erf 2659	Local Business	Disa Centre
Located directly to the west of Village Centre, it has direct access off Clarence Drive and provides the following activities: • Sitar Restaurant • Seeff Properties		

PROPERTY	ZONING	
Erf 5139	Local Business	
The following activities are located on the property, namely: • Centre Shop (Convenience store) • Shakies (Restaurant / Pub) • Parking (+/- 31 Bays)		

PROPERTY	ZONING	
Erf 2666	Local Business	This property is being used by ASK Security.
Erf 2674	Local Business	This property is being used as a Restaurant and Pub (Camelot).
Erf 2658 & 2673	Local Business	This site is vacant.
Erf 5580	Local Business	This property was used for the purposes of a pre-school but has since closed. The building is currently vacant.

Area to the north / northwest:

PROPERTY	ZONING	
Erf 2648	Utility Service	The site is being used as a Telkom Tower / facility.
Erf 2649	Authority Usage	This site is used for the purposes of community activities (Council owned) which include a library and small household transfer station.
Farmland	Agriculture	This site is vacant which forms part of the Nature Conservation area.

Area to the south:

PROPERTY	ZONING	
Erf 2478	Single Residential	This erf is being used for residential purposes, lodge and spa.
Erf 2479	Single Residential	This site is vacant.
Erf 2480	Single Residential	Residential dwelling.

CONCLUSIONS

The conclusions are as follows:

- Erf 2662, Bettys Bay is surrounded by Local Business zonings linked to a variety of existing shops, community activities and utilities.
- Erf 2662, Bettys Bay is located within the existing Business Node at the intersection of Clarence Drive (Scenic / Tourism Route) and Porter Road (higher order circulation and collection road).
- Access to Erf 2662 is directly off Clarence Drive and Porter Road.
- Several restaurants / pubs within the Business Node provide on-site sale of alcoholic beverages.

CATCHMENT AREA

Bettys Bay extends +/- 10km in length along Clarence Drive between Pringle Bay and Kleinmond.

Based on an assessment of the residential distribution of properties in Bettys Bay from Harold Porter Botanical Gardens eastwards and westwards, a total of 2235 **(77%**) residential properties are located to the west of Harold Porter Botanical

Gardens and 661 (**23%**) properties to the east. This assessment supports the strengthening of the Business Node and the provision / establishment of additional complimentary uses to the node as the majority of residents are located within the western section of Bettys Bay (Silversands, Rondevlei, Stony Point, Disa Circle and Central).

OVERSTRAND MUNICIPALITY SPATIAL DEVELOPMENT FRAMEWORK, 2020

In terms of the Overstrand Municipal Spatial Development Framework, the following principles and guidelines have been approved by Council for Bettys Bay:

- Ensure that development is confirmed within the urban edge and growth is managed based on sustainable densification principles.
- Ensure that mixed-use densification of land uses is achieved when managing urban growth.
- Ensure that facilities / amenities cater for the needs of all of the Overstrand inhabitants, including those reliant on public transport, the elderly and physically impaired.
- Ensure that tourist destinations are accessible, safe and attractive by means of maintaining and developing new facilities.
- **Southern Retail Node:**
  Promote the establishment of a mixed-use medium density retail centre forming the primary node of Bettys Bay, based on strict development and design parameters to preserve views from the scenic drive. This node is the preferred option for densification.
- **Commercial:**
  Business uses, commercial, retail and offices should be concentrated within the Central Business District as far as possible and prevent further large-scale decentralisation of commercial development should not be permitted.

CONCLUSIONS

Erf 2662, Bettys Bay (Whaling Station) falls within Southern Retail Node (CBD) and complies with all the principles and guidelines for the establishment of a “Bottle Store”. The SDF refers to the promotion of “Business Uses” (under Commercial), which includes the off-site sale of alcoholic beverages. Thus, the establishment of a “Bottle Store” is in line with the policy directive.

OVERSTRAND POPULATION

The Overstrand Municipal area population statistics are indicated in the Table below:

Year	Source	Population	Growth
2011	Stats SA	80 432	2,6 %
2022	Stats SA	132 495	
2025 (Projection)	Western Cape Government	150 639	
Although Bettys Bay only represents a small percentage of the total Overstrand Municipality population, the importance of the above Table is that the Municipal area has shown a growth of almost 100% between 2011 and the projected 2025 figure. Semigration to the region is the largest growth contributor.			

The above population growth has the following implications:

- Increased traffic flow along the N2 and Clarence Drive (R44) which traverses Bettys Bay.
- Influx of purchasing power to the region.
- Need for higher order retail and social services.
- Emphasis on Clarence Drive as a scenic/tourism route which will attract more tourists orientated through traffic.
- Pressure on infrastructure.

BETTYS BAY
With regard to Bettys Bay, the following information could be obtained:

Overstrand Municipal Spatial Development Framework, 2020 (Population)

The terms of the Overstrand Municipal Spatial Development Framework, the population figures and projections for Bettys Bay are indicated in the Table below:

Year	Population
2001 Census	893
2011 Census	1380
2022 – Projected MPBS, 2019	2216
2025 – Projected MPBS, 2019	2521
2028 – Projected MPBS, 2019	2869

From the above Table, the following can be concluded:
- Since the 2001 Census, it is projected that Bettys Bay population will triple (more than 300%) by the year 2028.
- Unfortunately, the 2022 Census ward information is not yet available.

Independent Electoral Commission (IEC)

Based on registration voters' role for Ward 10 (Rooiels, Pringle Bay and Bettys Bay), the number of registered voters during the 2019 National General Election was 2550 and during the 2024 National General Election, 4199.

Although several residents have not registered as voters in Ward 10, the importance of this information is that there was an increase of 1649 voters which relates to the increase of population and purchasing power within the ward.

PROPERTY TRENDS

Based on the information as obtained from "Property 24", a summary of the property trends in Bettys Bay is as follows:

- The average selling price of property in Bettys Bay in 2024 is R1,6m (asking price – R2,1m) as compared to 2020 where the average selling price was R600000 (vacant erven included).
- The total number of properties for sale (September 2024) is 254 of which 142 properties are vacant (56%).
- The average listing price for a 2-bedroom house is R2,1m, R2,9m for a 3-bedroom house and R4,7m for a 4-bedroom house.

- The average sold price of vacant erven in 2019 was R450 000 as opposed to the average sold price of R1,6m in 2024.
- The majority (51,2%) of sellers falls in the age category of 65 years and older.
- The majority (73%) of buyers falls between the ages of 36 to 64 years of age.
- The majority (42,7%) of owners falls between the age of 50 and 65 years of age.

CONCLUSIONS

Deriving from this section, the following can be concluded:

- That Bettys Bay is experiencing a population growth as reflected in the different statistics.
- That the age profile of new owners is younger, with 32% buying in the 34 to 49 age group and 41% in the age group between 49 and 65 years (73% new buyers).
- The majority (42,7%) of owners fall within the 49 to 65 years age group.
- The majority (51,2%) of sellers are above the age of 65 years, who also relocate from Bettys Bay owing to a lack of sufficient retirement facilities.
- The property prices have dramatically increased over the last 5 years where the income profile can be categorised as higher / middle to high income residents.

FROM THE ABOVE, IT IS EVIDENT THAT THE POPULATION IS NOT ONLY INCREASING, BUT THAT THE SOCIO-ECONOMIC PROFILE OF BETTYS BAY RESIDENTS IS CHANGING TO A YOUNGER AGE GROUP WITH DIFFERENT PURCHASING NEEDS.

VISION

- The primary focus of the boutique “Bottle Store” will be to provide an exclusive, up market and artisan liquor experience, in providing primarily locally produced products to the benefit of the local community and visitors to the area.
- To provide a facility which is accessible to the residents of Bettys Bay.
- No large scale commercially produced liquor will be sold.
- To respond to the changing socio-economic profile of the local community.
- To promote economic growth within the sub-region, where locally produced goods can be marketed and sold. This activity will facilitate additional awareness of the locally produced liquor (wines/other) to the benefit of economic growth in the sub-region.
- To provide a complimentary service to un-licenced restaurants within the area, where patrons can purchase goods to be consumed at the respective restaurants.
- To establish a safe and healthy environment.
- To establish additional work opportunities within the area which is much needed with the existing high level of unemployment.

OPERATIONAL

Locality and Extent
The activity will be located within the recently upgraded “Whaling Station” building on Erf 2662, Bettys Bay. The activity was allocated Shop 4, which measures 40m² in extent.

The entrance to the “Bottle Store” will be onto the passageway which provides access to the other activities within the retail centre (Offices, Restaurant and Bistro).

The passageway provides pedestrian through movement to the respective activities from the Clarence Drive (R44) parking towards the Porter Drive parking, and vice versa.

In view of the restricted extent of the facility, the provision / stocking of liquor products will be limited in terms of volume and variety.

Interior

The interior of the activity will comprise of the following:
- Solid wood shelving units.
- 3 x wine barrels on wheels.
- 2 x small display tables.
- 2 x wine fridge and an ice freezer

Delivery

No large trucks will be used for delivery. In most cases, delivery will be undertaken by normal SUV vehicles (small quantities). There will be deliveries on a Tuesday and Friday.

Operating Hours
The operating hours will be established by the operator in line with local conditions and in line with the conditions from the Western Cape Liquor Authority.

Security
The passageway within the retail centre will be locked at night and has CCTV cameras which are monitored by Sandown Bay Security 24 hours per day.

Sandown Bay Security is located directly adjacent (off Porter Drive) to Erf 2662 (Whaling Station).

Parking
Adequate parking is provided to the proposed activity**.**

Services
Water, sanitation and electricity are provided to the Whaling Station Retail Centre.

PLANNING PRINCIPLES:

SPATIAL JUSTICE / GOOD GOVERNANCE

Legal and policy compliance:

The establishment of the boutique “Bottle Store” on Erf 2662, Bettys Bay is located within the Business Node of Bettys Bay as indicated in the Spatial Development Framework.

The zoning and the land use on Erf 2662, Bettys Bay and adjacent thereto is already being used and zoned for a variety of retail and complementary uses.

The zoning (Local Business 3) makes provision for the establishment of a “Bottle Store” as a Consent Use which have the implication that the right of the owners to develop the proposed activity should be recognised. The Overstrand SDF also

refers to the proposal that “businesses” should develop within the Business Node. The establishment of the boutique “Bottle Store” falls within the definition thereof and should be supported.

Building compliance:

The approval of the 2023 Building Plan for Erf 2662, Bettys Bay has made provision for sufficient parking areas in line with the proposed uses and Gross Leasable Area.

Engineering services:

Engineering services are already being provided to Erf 2662, Bettys Bay. No additional bulk will be required.

SPATIAL SUSTAINABILITY

The establishment of the “Bottle Store” will have **no** impact on the structuring and functioning of the existing Business Node owing to the following reasons:

Need for diversity/symbiotic cohesion: The proposed activity will promote the diversity of existing activities within the Business Node by creating symbiotic cohesion with other retail land uses in support of each other.

Within the context of Bettys Bay, the existing retail, recreation and social services which are located within the Business Node addresses convenience needs to primarily residents and visitors / tourist to the area. The establishment of the “Bottle Store” will provide a complimentary need to residents, visitors and tourists regardless of race or income level.

Traffic impact: There will be **no** additional traffic generation along Clarence Drive (R44) or Porter Drive as potential clients could visit the activities within the Local Node for other required goods. The proposed boutique “Bottle Store” will be “added” to the retail experience.

In some cases, the traffic between Bettys Bay towards either Pringle Bay or Kleinmond could be less as certain alcoholic beverages could be purchased in Bettys Bay.

Clarence Drive: With the increase of permanent residents and tourists, the sub-region (Rooi Els, Pringle Bay, Bettys Bay, Kleinmond and Hermanus) an increase along Clarence Drive (R44) along the scenic corridor from Cape Town towards Hermanus / Garden Route and back can be expected.

The Bettys Bay Business Node has been in existence for some years with direct access being obtained from Clarence Drive (R44) and Porter Road.

The sight distance from Erf 2662, Bettys Bay along Clarence Drive towards the east and west is at least 700m in both directions. The occurrence of vehicular or pedestrian accidents will be minimised.

Need to increase and diversify retail offerings: The socio-economic profile of residents within Bettys Bay and surrounding areas are changing (younger age), with the result that purchasing patterns are also changing. Residents must have access to a diversity of facilities to fulfil personal preferences. The establishment of a

boutique “Bottle Store” at the Business Node will complement existing facilities within the Business Node with different offerings.

Residential /social impact: Except for some residential properties to the south of Erf 2662, Bettys Bay (Erf 2478-lodge and spa), the other properties are located towards the intersection of Clarens Drive and Porter Drive. The properties are defined and buffered by Porter Road (higher order collector /circulation road), with the implication that the proposed boutique “Bottle Store”, together with the already existing (being there for some years) will not increase the status quo which have been there for some time.

No other social facilities are near the proposed boutique “Bottle Store”.

EFFICIENCY

Population Growth: With the increased population growth within the sub-region and the change of demographic profile (ages, groups), the need to accommodate holistic and integrated retail experiences will increase. The establishment of the boutique “Bottle Store” will contribute to this need as residents do not have to travel to either Pringle Bay or Kleinmond for basic purchases. Other alcoholic purchases will continue in surrounding towns.

Existing consumption: Within the Business Node there is several existing restaurants/pubs which have liquor licences for on-site consumption. Thus, the use of alcoholic beverages within Bettys Bay has been present for some time without any incidents or crime.

The sale of off-site alcoholic beverages will not increase any crime related activity as most households within Bettys Bay, regardless of income or race, make use of alcoholic beverages for the purposes of cooking, home entertainment or gifts.
With the establishment of the boutique “Bottle Store”, the sales will be off-site, as opposed to being on-site. Thus, the sale of alcoholic beverages will continue, regardless of the type of licence.

The establishment of the boutique “Bottle Store” will have **no** impact on the sale of alcoholic beverages.

Extent: The proposed “Bottle Store” will be small in extent (+/- 40m²) and will focus primarily on locally selected alcoholic beverages. The average retail prices for these products are usually higher than the prices of national producers and breweries which will not be sold at the “Bottle Store”. Thus, the proposed “Bottle Store” products will focus on the “Niche” market.

Safety /crime: Crime is a national phenomenon and even Bettys Bay is not crime free. The “whaling station” building and management have made adequate provision to prevent any potential incidents by implementing a 24-hour surveillance camera system and the closing of the passageway (entrance to boutique “Bottle Store”) after the closure of the respective restaurants at night.

Tourism Value Chain: To grow the economy and to establish jobs, a “Tourism Value Chain” needs to be structured / established in Bettys Bay, where tourists can experience a diversity of attractions and services offered, which include the purchase of up-market locally produced alcoholic beverages. These beverages could be used as memories, gifts or consumption with friends.

With the identification and emphasis of Clarence Drive as a scenic/tourism route, businesses along this road should capitalize on the interception of through traffic where activities in support of each other (restaurants, pubs, services, etc.), including the boutique “Bottle Store” will benefit.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	**Yes**	6 February 2025	14 March 2025
E-mail notices & site notice	**Yes**	6 February 2025	14 March 2025
Internal Departments	**Yes**	6 February 2025	14 March 2025
Ward Councillor	**Yes**	6 February 2025	14 March 2025
Total comments/objections	**3**		
Total letters of support	**23**		

Was public participation undertaken in accordance with section 46 - 50 of the By-law on Municipal Land Use Planning?	**Yes**
Was the application processed correctly (if no, elaborate below):	**Yes**
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	**Yes**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	05/02/2025	No objection.
Fire Department	28/02/2025	No objection subject to compliance with the provisions of SANS 10400-T:2024 and the By-Law relating to fire safety.
Services Report	28/05/2025	Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION.

E-mail notifications were sent out to the potentially affected property and the Betty’s Bay Ratepayers Association.

During the public participation process the following **26** comments were received:

No.	First Name	SUPPORT / OBJECTION	
1	Janet Meyer	*SUPPORT*	
2	Richard Starke	*SUPPORT*	
3	Hanni & Nico van der Oever	*SUPPORT*	
4	Trevor de Beer	*SUPPORT*	
5	Anita Louw	*SUPPORT*	
6	Joan Mac Iver	*SUPPORT*	
7	Robyn Lee Brown	*SUPPORT*	
8	Belinda Remane & Peter Edge	SUPPORT	
9	Inge & Bert Verster	SUPPORT	
10	Tricia Horne	SUPPORT	
11	Christiaan Bernardo	SUPPORT	
12	Theresa Els (Ward Councillor)	SUPPORT	
13	Izak Smit	SUPPORT	
14	Betty's Bay Ratepayers Association	SUPPORT	
15	William Kuhn	SUPPORT	
16	Greta Kuhn	SUPPORT	
17	Nerine Swanepoel	SUPPORT	
18	Yvonne Garnar	SUPPORT	
19	Ashley Truscott	SUPPORT	
20	Ingrid Boag	SUPPORT	
21	Engela De Jager	SUPPORT	
22	Jonathan Beattie	SUPPORT	
23	Yolanda Roozen	SUPPORT	
24	Esther Niemand	SUPPORT	***Objection withdrawn***
25	Andre Middleton le Roux	SUPPORT	***Objection withdrawn***
26	Jack - Betty's Bay	**COMMENT**	

The applicant was provided with the opportunity to respond to the comments/objections. See Annexure D and E, respectively.

The comments/objections/support letters, applicant's reply, and municipal Town Planner's comments are summarized as follows:

(Summary is in the same numerical order as the applicant's response for ease of reference.)

LETTERS OF SUPPORT / OBJECTIONS RECEIVED

The Overstrand Municipality provided comments on the application (support / objections) on 11 April 2025, which was +/- 2 weeks overdue in line with Section 56 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

A total of 26 inputs were received, of which 23 submissions were in support of the application and 3 objections to the application.

2.2 Letters of Support

From the letters of support, it is evident that the majority of Betty's Bay residents are in support of the application. The aforementioned is emphasized by the letters of support from the Betty's Bay Rate Payers Association (with conditions) and Councillor Theresa Els (Ward 10).

2.3 Letter of Objection

A total of three (3) objections were received from the following persons:
a) Andre Middleton Le Roux
b) Laura Brown (Jacks- Betty's Bay)
c) Esther Niemand

One of the objections, namely Mr. Andre Middleton Le Roux **withdrew** his objection to the proposed "Bottle Store" on 11 April 2025.

The response will only relate to the remaining two (2) objections.

3. RESPONSE TO OBJECTIONS

OBJECTION – PARKING PROVISION

3.1 Laura Brown (Jacks – Erf 2663)

A. The objection is not against the proposed "Bottle Store", but the parking arrangements and utilization of parking bays between the respective premises.

APPLICANT'S RESPONSE

Erf 2662, Betty's Bay (Whaling Station) is zoned "Business Zone III: Local Business (B3) in terms of the Overstrand Municipal Land Use Scheme, 2020.

As per the application submitted, the Overstrand Land Use Scheme, 2020 and the approved building plan, the parking areas provided on Erf 2662, Betty's Bay can be summarized as follows:

- Parking areas required (shops, restaurants and offices) – 4 bays per 100m² Gross Leasable area.
- Erf 2662 (Whaling Station) Gross Leasable area as per approved building plan - 516m².
- Parking areas required: 20,64 bays.

- Parking areas provided: 22 bays, of which 11 parking bays is provided off Clarence Drive and 11 parking bays off Porter Road.

From the above it is evident that sufficient Parking Bays have been provided in line with the requirements of the Overstrand Municipal Land Use Scheme, 2020 and the approved Building Plan.

OBJECTION

A. Parking Configuration within the Retail Node

APPLICANT'S RESPONSE

The retail activities within the Southern Retail Node are characterized by a number of separate "Business" zoned erven, each with its own designated parking bays.

At present, the respective parking areas are not fenced or demarcated but operate as a collective and in support of each other within the Retail Node. In the case of events or during holiday "peak" times, parking areas / bays are "shared" over a short time span, where patrons / visitors walk from one shop to the next between business activities to enhance their shopping experience without driving between 50 and 100 metres. It is within this "spirit" of collectiveness and symbolic synergy that existing business share and function.

The overflow of parking bays is the exception as opposed to the rule within the Southern Retail Node.

There is a strong sense of collective sharing of parking bays in the Retail Node during events and peak Holiday periods. This is an international phenomenon and not only local.

OBJECTION

B. Erf 2662 Flexible Operating Hours

APPLICANT'S RESPONSE

The existing activities on Erf 2662 (Whaling Station) varies between offices, bistro and restaurant with different operating hours, for example, offices operate during weekdays between 8am and 4pm, as opposed to the restaurant which primarily operates after 4pm and over weekends.

Flexible operating hours between the respective activities ensures that not all parking bays are required at the same time (employees and patrons).

OBJECTION

C. The Objector's Choice

APPLICANT'S RESPONSE

The objector operates self-catering accommodation, restaurant and vet shop from the premises which are subject to similar challenges as other business owners during events and peak holiday periods.

The objector has the choice to demarcate and "police" the parking bays on the Jack's property and to inform patrons visiting Jacks to refrain from using other parking areas in the Local Node.

TOWN PLANNER'S RESPONSE

The parking provided is in compliance with the Overstrand Land Use Scheme. The objector is correct that the non-demarcation of the parking bays of Porter Drive needs to be addressed, and that the owner of the Whaling Station demarcates the parking bays as per the approved site development plan.

The parking provided is for the whole development and thus demarcation of parking bays per land use is not allowed. The development must ensure that employees do not take up the bulk of the parking and must manage that parking arrangement between the various land use operators to the benefit of the development as a whole.

OBJECTION

3.2 Esther Niemand (Erf 2656, Betty's Bay)

A. Locality

APPLICANT'S RESPONSE

Erf 2656, Betty's Bay is not located across the proposed "Bottle Store" as mentioned in the objection letter, but +/- 250m to the west of Erf 2662 (Whaling Station).

OBJECTION

3.2 Esther Niemand (Erf 2656, Betty's Bay)

B. "There are more than enough existing establishments where once could buy liquor and Betty's Bay does not need another one"

APPLICANT'S RESPONSE

At present there is only one (1) off-site liquor outlet (Wine Shop at Hub) in Betty's Bay. It is the intention through this application to relocate this activity to Erf 2662 (Whaling Station) from the Hub.

The other liquor establishment within Betty's Bay are on-site, where alcoholic beverages can only be consumed on the premises. No off sales are permitted.

TOWN PLANNER'S RESPONSE

A bottle store was approved on Erf 2989, Betty's Bay. The approved bottle store is located on the northern side of Clarence Drive and the proposed bottle store is on the southern side of Clarence Drive in two difference business nodes.

The stores will serve different communities and passing traffic. It should be mentioned that a business objection is not a main factor deterring the success of a business since the market will determine the viability of such a business.

OBJECTION

3.2 Esther Niemand (Erf 2656, Betty's Bay)
C. "Rowdy and Inebriated Pedestrians"

APPLICANT'S RESPONSE

The issues which are mentioned in the objection have no relevance to the proposed activity as it addresses existing challenges.

Spontaneous group interaction should not be linked to intoxication or security risk.

As an applicant, we cannot comment on the on-site (liquor sales) management of the respective restaurants within the Local Node.

The use of alcohol is prohibited in public spaces in terms of respective Liquor Acts and Municipal By-Laws.

TOWN PLANNER'S RESPONSE

Noted and agrees with applicant.

OBJECTION

3.2 Esther Niemand (Erf 2656, Betty's Bay)
D. "Bottle Store across the road"

APPLICANT'S RESPONSE

The proposed "Bottle Store" at Erf 2662, Betty's Bay (Whaling Station) must be viewed as the "relocation" of the existing "wine shop" at the Hub, with limited expansion of products.

The following important information needs to be taken into consideration:

- On 27 February 2025, a letter was addressed to the Overstrand Local Municipality (see attached) where the definition and use of "Bottle Store" was downscaled in line with the sentiments and concerns of the Betty's Bay Community. The proposed conditions as per the letter could be imposed during the approval of the application (see Annexure A).
- The proposed "Bottle Store" is aimed at the middle to higher income users where goods will be purchased for gifts or used at private premises.
- In terms of the Municipal Liquor By-Laws, no alcohol can be consumed in public areas.
- The average time spent within the proposed activity will be between 10-15 minutes, where customers will either leave the "Bottle Store" without a purchase or with a purchase to consume at private space.
- The existing "Wine Shop" at the Hub has been in operation for almost two (2) years where no incident of intoxication occurred in close proximity to the venue.

- The entrance to the premises is located in a closed foyer, which is locked during the evening and monitored by cameras and security systems.

TOWN PLANNER'S RESPONSE

Agree with applicant.

OBJECTION

3.2 Esther Niemand (Erf 2656, Betty's Bay)
E. "Pedestrian Short Cut"

APPLICANT'S RESPONSE

The vacant erf adjacent to the objector's property, which is being used for pedestrian short-cuts have no relevance to the application. This matter is of private nature which needs to be discussed with the adjacent landowner.

TOWN PLANNER'S RESPONSE

The objector withdrew her objection, subject to the conditions as per the Applicants letter, dated 27 February 2025.

CONCLUSION

The conclusions can be summarized as follows:

Only two (2) objections were received and twenty-three (23) letters of support which indicates overwhelming support for the proposed "Bottle Store".

The parking provision on Erf 2662, Betty's Bay is in line with the provisions of the Overstrand Municipal Land Use Scheme, 2020 and the approval building plan.

Other objections (Esther Niemand), which is located +/- 250m from Erf 2662, Betty's Bay has no relevance to the proposed "Bottle Store" application as it addresses existing challenges relating to the pedestrian movement (adjacent Erf) and rowdiness after hours. The response relating to the aforementioned was stated in Section 3.2 of this letter.

The negative perception of the "Bottle Store" in terms of operation and sale of goods was qualified, with conditions for approval as stated in a letter to the Overstrand Municipality on 27 February 2025.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Point 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See Point 7 above.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application. The objectives relating to:

Spatial Justice
The proposal will not further perpetuate historic spatial imbalances.

Spatial sustainability
Sustainability concept is to limit the human impact on the environment and improve the quality of life of communities. The application is located within an existing building earmarked for business purposes. Thus, there is no impact on the environment since the erf has been in existence since 1942.

The erf is located within the urban edge of the town of Betty's Bay, earmarked for human development. Thus, ensuring the sustainability of the area with limited impact on the buffer and core of the Kogelberg Biosphere.

Efficiency
The proposed development intends to make optimal use of existing infrastructure, thereby optimising existing resources.

Spatial Resilience
The development of the property will be in synchrony with the relevant spatial planning policies that adhere to the principle of spatial sustainability in terms of the Spatial Development Framework.

The building does comply with the National Building Regulations and SANS requirements who advocate resilience buildings.

Good administration
The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and a public participation process had been followed.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

Consistent.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

No additional services will be required. The proposed development is supported by the Engineering Services Department, subject to conditions (attached as Annexure E).

10.7 Outcomes of investigations/applications i.t.o other legislation

The additional application once the land use application is finalised, related to an application to the Liquor Board.

10.8 Existing and proposed zoning comparisons and considerations

N/A

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The application is for a Bottle Store in the Whaling Station Complex. Betty's Bay households have increased dramatically since COVID as indicated in the motivation report. Betty's Bay can be divided into western and eastern developed areas with the Harold Porter Botanical Gardens as die dividing factor. The eastern area of Betty's Bay does have an approved bottle store in the development known as the Hub. The application is located in the western area of Betty's Bay, thus serving the immediate community in that area.

The application as per motivation does seem to cater for an upmarket buyer's segment in terms of the produce available. The motivation relates to a wine boutique shop with craft spirits such as gins and whiskeys. The Bottle Store/Wine Shop is located in an established development with a managerial component that maintains and deals with the operation of the commercial building and the possible nuisance factor will be less than a stand-alone bottle store.

In terms of the motivation the need for a bottle store can equate to the influx of owners in the area to validate a shop selling alcoholic beverages. A more elderly retired segment of the population is evident in the research by the applicant that will be able to support a Wine Boutique Shop. The type of beverages sold will cater for a niche market of individuals whether permanent residents or tourists who support local wines and spirits for the area. The craft industry is growing every year due to its unique tastes and individualist approach to the wine and craft industry.

One of the objectors, Ms Niemand, did withdraw her objection subject to the proposal of conditions as per the applicant's letter dated 27 February 2025. It is conditions that the Applicant proposes to address concerns of the community. This will then also be made conditions of approval.

CONCLUSION:

The application is supported.

13. RECOMMENDATION

1. that the comment/objection be noted.

2. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Remainder of Erf 2989, Betty's Bay for a consent use to operate a bottle store on the property, **be approved** in terms of the provisions of Section 61 of the By-Law subject to the following conditions:

   (a) that the bottle store be limited to Shop 4 within the existing building;

   (b) that this approval is not an approval in terms of any other legislation;

   (c) that building plans be submitted to the Building Department for approval, and that all conditions of the Building– and the Fire Department be complied with at that stage;

   (d) that a Health Certificate be obtained from the Health Department of the Overberg District Municipality and a Fire Prevention Certificate from the Municipal Fire Department;

   (e) that only one un-illuminated sign, which complies with the Municipal By-Law on Signage, may be displayed on the premises;

   (f) that commercial rates and service tariffs as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;

   (g) that no accumulation of refuse may occur on the premises;

   (h) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;

   (i) that approval for a liquor licence be obtained from the Western Cape Liquor Authority;

   (j) that the parking bays be demarcated as per approved Site Development Plan;

   (k) that the bottle store operating hours be limited as per the Overstrand By-Law Liquor Trading Hours from Monday to Saturday. Sundays are restricted to 08h00 - 13h00;

   (l) that no delivery vehicles for the Bottle Store *("Thirsty's"*) may utilise Clarence Drive as a loading area;

(m) that adequate provision be made to manage the behaviour of patrons (both inside and outside the buildings) and protection of surrounding properties;

(n) that the site must have a dedicated waste storage area as per part of the National Building Regulations (SANS 10400), and all refuse must then be removed from the property to a registered dump site;

(o) that there be compliance with all relevant Health and Fire Regulations;

(p) that all the conditions in the Services Report (attached as Annexure G), be complied with;

(q) that conditions 2(a), (b), (c), (d) and (f) of the applicant's letter dated 27 February 2025 (attached as Annexure H), be complied with;

(r) that this approval does not absolve the applicant from compliance with any other relevant legislation, and

(s) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with.

3. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- The bottle store is located in an existing business node.
- The bottle store will be located in an existing building.
- The building has an approved building plan and complies with the development parameters as per the Overstrand Municipality Land Use Scheme.
- The refuse area was approved by the Municipality.
- The proposed bottle store is located adjacent Clarence Drive, which in itself is a noise polluter.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Comments / objections / support letters received
Annexure E:	Objection withdrawal letters (x2)
Annexure F:	Applicant's response
Annexure G:	Services Report
Annexure H:	Letter from applicant dated 27 February 2025

SIGNATURE

REGISTERED PLANNER

Name:	**H VAN DER STOEP**
SACPLAN registration number:	**A/1708/2013**
Signature:	_____
Date:	_____

LOCALITY MAP

Erf 2662, Betty's Bay

Overstrand Local Municipality

Western Cape Province

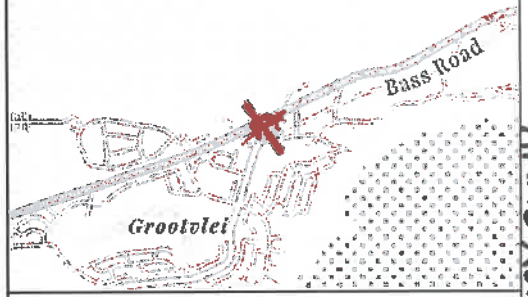
Legend

- Site Boundary - Erf 2662
- Erf Boundary
- Farm Portion Boundary

1:2 000 Page size: A4

40 Meters

Date created: Thursday, 31 October 2024
Author: gisoffice@emendo.co.za
Projected Coordinate System: WGS



Emendo

Betty's Bay
Western Cape

165

Annexure A

Annexure B 1|17

1. APPLICATION

Application is herewith made for Consent Use in terms of Section 16(2)(0) read with Section 21 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the purposes of a boutique "Bottle Store" as defined in terms of the Overstrand Municipal Land Use Scheme, 2020 on Erf 2662, Bettys Bay (subject property). The proposed activity (intent and operational) will be explained in detail in Section 6 of this application.

2. LOCALITY

Erf 2662, Bettys Bay (Whaling Station) is located in the Bettys Bay Business Node at the intersection of Clarence Drive (R44) and Porter Road as indicated on the attached Locality Map.

3. LEGAL

3.1 COMPANY RESOLUTION

The Company Resolution is attached in **Annexure A**, where Messrs Whaling Station Bettys Bay have mandated Helena Oerlemans to act on behalf of the company in matters pertaining to the Consent Use Application on Erf 2662, Bettys Bay (Whaling Station).

3.2 POWER OF ATTORNEY

Annexure B contains the "Power of Attorney" where Emendo (Pty) Ltd, as represented by Mr. Andre Kotze has been provided by Helena Oerlemans, as fully authorised by Whaling Station Bettys Bay (Pty) Ltd.

3.3 TITLE DEED/S

Erf 2662, Bettys Bay is owned by "Whaling Station Bettys Bay (Pty) Ltd" by virtue of Title Deed No: T000040731/2023. Erf 2662 measures 1330m² in extent. (see **Annexure C**).

In terms of the above Title Deed, there are **no** restrictions pertaining to the use of the building for the purposes of "Off-Sales Liquor and Bottle Store".

The use of "Off-Sales Liquor and Bottle Store" was removed from the previous Title Deed (T76798/91) during 1998 as indicated by way of an endorsement against the Title Deed (Condition DA(a), Proclamation No: 204, dated 24-4-98 in Official Gazette No: 5253). (Refer to **Annexure D**, Page 8).

2|17

3.4 BONDHOLERS CONSENT

The subject property is bonded. **Annexure E** contains the bondholder's consent for the use of a "Bottle Store" on Erf 2662, Bettys Bay.

3.5 LIQUOR LICENCE

3.5.1 Background

At present a "Wine Boutique" is being operated from Erf 2989, Bettys Bay (The Hub). The operator (Tennant) of the "Wine Boutique" and Bistro (since relocated to Erf 2662, Bettys Bay (Whaling Station)) applied to the Western Cape Liquor Authority for the "Removal of a Licence" in terms of Section 66(2) of the Western Cape Liquor Act, 2008 (Act 4 of 2008) from Erf 2989 (The Hub) to Erf 2662 (Whaling Station).

The above application for relocation was necessitated by challenges pertaining to the future expansion of the Wine Boutique, connection with supporting retail facilities and community concerns (traffic, social impact).

3.5.2 Procedure

The application procedure was as follows:

A) An application was submitted to the Western Cape Liquor Authority on the 23rd August 2023 for the "Removal of a Licence".
B) The application notice as displayed at the proposed "Bottle Store" premises (Erf 2662) in terms of Regulation 33(2) of the Western Cape Liquor Act, 2008, upon which any potential objector could scrutinize the application and submit an objection if deemed necessary. The notice served for a period of 28 days as from the 22nd August 2023. The application was also submitted to the Overstrand Municipality for consideration.
C) No objections were received from the Public.
D) The Overstrand Municipality responded by **not** supporting the Liquor Licence since an application for a Consent Use had to be submitted in line with the zoning of Erf 2662. At present Erf 2662, Bettys Bay does not allow the use of a "Bottle Storer" as a primary land use.
E) Once the application for Consent Use have been submitted, considered and approve by the Council, the Liquor Licence will be issued.

3|17

4. TOWN PLANNING

4.1 ZONING

Erf 2662 is zoned "Business Zone III": Local Business (B3) as per the Zoning Certificate which is attached in **Annexure F**.

The zoning of the subject property permits the following uses:

A) **Primary Use**: Shops, dwelling must be (above ground floor) in accordance with 6.3.2, Flats (above ground floor), offices, restaurant, caretakers' accommodation and self-catering.
B) **Consent Uses** (to be applied for to Council): Bottle store, business premises, clinic, conference facility, dwelling must (on ground floor) in accordance with 6.3.2, tourist accommodating, hotel, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus (subject to provisions of Chapter 16.10).

The Consent Use refer to two (2) types of activities where alcoholic beverages can be sold namely, "Bottle Store" and "Sale of Alcoholic Beverages". The definition of each is indicated below:

A) "**Bottle Store**" means an establishment where the main purpose is the retail sale of alcoholic beverages for off-site consumption.
B) "**Sale of Alcoholic Beverages**" means the sale or offering for sale of drinks capable of producing intoxication in a consumer and may indicate bars, pubs and taverns.

In view of the above, it is **not** the intention for the landowner to provide bars, pubs and taverns, but rather to focus on off-site sale of alcoholic beverages hence, the proposal to apply for a Consent Use for "Bottle Store" as opposed to "Sale of Alcoholic Beverages".

4.2 BUILDING CONTROLS

The old Whaling Station (Erf 2662) was upgraded in line with the approved building plans dated 30 November 2023. In terms of the development controls, as per the Overstrand Municipal Land Use Scheme, 2020, the building comprises of a Gross Leasable Area (GLA) of 516m², of which a total of 21 parking bays are required (22 parking bays have been provided at a ratio of 4 bays per 100m² GLA). (**Annexure G**). Adequate on-site parking is provided.

The coverage (42,39%) and the Floor Area Ratio (FAR) (0,61) is in line with the provisions of the Land Use Scheme.

4.3 EXISTING LAND USE

The building (Whaling Station) on Erf 2662, Bettys Bay have been upgraded during 2024 and comprise of the following exiting mixed activities;

- Restaurant (Waaigat)
- Bistro
- Offices (Pam Golding and Beinbettysbay)
- Art Studio

A total of eleven (11) parking areas are provided along Clarence Drive (R44) and eleven (11) parking areas to the south of the building where access is obtained via Porter Drive.

4.4 ADJACENT ZONING AND LAND USES

Erf 2662, Bettys Bay is surrounded by higher order zonings which includes the following activities (see **Annexure H**);

A) **Area to the east:**
* Erf 2663 (Zoning – Local Business)
Jocks Restaurant, Coffee Shop, Bed and Breakfast Accommodation and a Vet Shop.

5|17

B) Area to the west / southwest:

* Erf 5140 (Zoning – Service Station)

Caltex Filling Station, Greeff Architects, Build It Better Construction and Sandown Bay Security. The Erf is accessible from both Clarence Drive and Porter Drive.

* Erf 2667 (Zoning – Local Business)

Village Centre: The Village Centre is a small localized centre which provides a variety of convenience goods to the local community. The activities include:

- Bettys Bay Post Office
- Butchery
- Wellness Studio
- Boutique Shop
- Laundry
- Print and Gift Shop
- Charity Shop
- Fish and Chips Shop

Several parking areas are provided with access from Porter Drive.

6/17

* Erf 2659 (Zoning – Local Business)

Disa Centre: Located directly to the west of Village Centre, it has direct access off Clarence Drive and provides the following activities:

- Sitar Restaurant
- Seeff Properties

* Erf 5139 (Zoning – Local Business)

The following activities are located on the property, namely:

- Centre Shop (Convenience store)
- Shakies (Restaurant / Pub)
- Parking (+/- 31 Bays)

* Erf 2666 (Zoning – Local Business)

This property is being used by ASK Security.

7/17

* Erf 2674 (Zoning – Local Business)
This property is being used as a Restaurant and Pub (Camelot).

* Erf 2658 and 2673 (Zoning – Local Business)
This site is vacant.

* Erf 5580 (Zoning – Local Business)
This property was used for the purposes of a pre-school but has since closed. The building is currently vacant.

C) Area to the north / northwest:

* Erf 2648 (Zoning – Utility Service)
The site is being used as a Telkom Tower / facility.

* Erf 2649 (Zoning – Authority Usage)
This site is used for the purposes of community activities (Council owned) which includes a library and small household transfer station.

* Farm land (Zoning – Agriculture)
This site is vacant which forms part of the Nature Conservation area.

D) Area to the south:

* Erf 2478 (Zoning – Single Residential)
This erf is being used for residential purposes, lodge and spa.

8/17

* Erf2479 (Zoning – Single Residential)
This site is vacant.

* Erf2480 (Zoning – Single Residential)
Residential Dwelling.

CONCLUSIONS

The conclusions are as follows:

A. **Erf 2662, Bettys Bay is surrounded by Local Business zonings linked to a variety of existing shops, community activities and utilities.**

B. **Erf 2662, Bettys Bay is located within the existing Business Node at the intersection of Clarence Drive (Scenic / Tourism Route) and Porter Road (higher order circulation and collection road).**

C. **Access to Erf 2662 is directly off Clarence Drive and Porter Road.**

D. **Several restaurants / pubs within the Business Node provide on-site sale of alcoholic beverages.**

4.5 CATCHMENT AREA

Bettys Bay extends +/- 10km in length along Clarence Drive between Pringle Bay and Kleinmond.

Based on an assessment of the residential distribution of properties in Bettys Bay (see **Annexure I**) from Harold Porter Botanical Gardens eastwards and westwards, a total of 2235 **(77%)** residential properties are located to the west of Harold Porter Botanical Gardens and 661 (**23%**) properties to the east. This assessment supports the strengthening of the Business Node and the provision / establishment of additional complimentary uses to the node as the majority of residents are located within the western section of Bettys Bay (Silversands, Rondevlei, Stony Point, Disa Circle and Central).

4.6 OVERSTRAND MUNICIPALITY SPATIAL DEVELOPMENT FRAMEWORK, 2020

In terms of the Overstrand Municipal Spatial Development Framework, the following principles and guidelines have been approved by Council for Bettys Bay;

- Ensure that development is confirmed within the urban edge and growth is managed based on sustainable densification principles.
- Ensure that mixed-use densification of land uses is achieved when managing urban growth.
- Ensure that facilities / amenities cater for the needs of all of the Overstrand inhabitants, including those reliant on public transport, the elderly and physically impaired.
- Ensure that tourist destinations are accessible, safe and attractive by means of maintaining and developing new facilities.
- Southern Retail Node: Promote the establishment of a mixed-use medium density retail centre forming the primary node of Bettys Bay, based on strict development and design parameters to preserve views from the scenic drive. This node is the preferred option for densification.
- Commercial: Business uses, commercial, retail and offices should be concentrated within the Central Business District as far as possible and prevent further large-scale decentralisation of commercial development should not be permitted.

CONCLUSIONS

Erf 2662, Bettys Bay (Whaling Station) falls within Southern Retail Node (CBD) and complies to all the principles and guidelines for the establishment of a "Bottle Store". The SDF refers to the promotion of "Business Uses" (under Commercial), which includes the off-site sale of alcoholic beverages. Thus, the establishment of a "Bottle Store" is in line with the policy directive.

5. POPULATION GROWTH / PROPERTY TRENDS

5.1 OVERSTRAND POPULATION

The Overstrand Municipal area population statistics is indicated in the Table below:

Year	Source	Population	Growth
2011	Stats SA	80 432	2,6 %
2022	Stats SA	132 495	
2025 (Projection)	Western Cape Government	150 639	

Although Bettys Bay only represents a small percentage of the total Overstrand Municipality population, the importance of the above Table is that the Municipal area has shown a growth of almost 100% between 2011 and the projected 2025 figure. Semigration to the region is the largest growth contributor.

The above population growth has the following implications:

- Increased traffic flow along the N2 and Clarence Drive (R44) which traverses Bettys Bay.
- Influx of purchasing power to the region.
- Need for higher order retail and social services.
- Emphasis on Clarence Drive as a scenic/tourism route which will attract more tourist orientated through traffic.
- Pressure on infrastructure.

5.2 BETTYS BAY

With regard to Bettys Bay, the following information could be obtained:

A. Overstrand Municipal Spatial Development Framework, 2020 (Population)

The terms of the Overstrand Municipal Spatial Development Framework, the population figures and projections for Bettys Bay is indicated in the Table below:

Year	Population
2001 Census	893
2011 Census	1380
2022 – Projected MPBS, 2019	2216
2025 – Projected MPBS, 2019	2521
2028 – Projected MPBS, 2019	2869

From the above Table, the following can be concluded:

- Since the 2001 Census, it is projected that Bettys Bay population will triple (more than 300%) by the year 2028.
- Unfortunately, the 2022 Census ward information is not yet available.

B. Independent Electoral Commission (IEC)

Based on registration voters' role for Ward 10 (Rooiels, Pringle Bay and Bettys Bay), the number of registered voters during the 2019 National General Election was 2550 and during the 2024 National General Election, 4199.

Although several residents have not registered as voters in Ward 10, the importance of this information is that there was an increase of 1649 voters which relates to the increase of population and purchasing power within the ward.

5.3 PROPERTY TRENDS

Based on the information as obtained from "Property 24", a summary of the property trends in Bettys Bay is as follows:

- The average selling price of property in Bettys Bay in 2024 is R1,6m (asking price – R2,1m) as compared to 2020 where the average selling price was R600 000 (Vacant erven included).
- The total number of properties for sale (September 2024) is 254 of which 142 properties are vacant (56%).
- The average listing price for a 2-bedroom house is R2,1m, R2,9m for a 3-bedroom house and R4,7m for a 4-bedroom house.
- The average sold price of vacant erven in 2019 was R450 000 as opposed to the average sold price of R1,6m in 2024.
- The majority (51,2%) of sellers falls in the age category of 65 years and older.
- The majority (73%) of buyers falls between the ages of 36 to 64 years of age.
- The majority (42,7%) of owners falls between the age of 50 and 65 years of age.

CONCLUSIONS

Deriving from this section, the following can be concluded:

A. **That Bettys Bay is experiencing a population growth as reflected in the different statistics.**

B. **That the age profile of new owners is younger, with 32% buying in the 34 to 49 age group and 41% in the age group between 49 and 65 years (73% new buyers).**

C. **The majority (42,7%) of owners fall within the 49 to 65 years age group.**

D. **The majority (51,2%) of sellers are above the age of 65 years, who also relocate from Bettys Bay owing to a lack of sufficient retirement facilities.**

E. **The property prices have dramatically increased over the last 5 years where the income profile can be categorised as higher / middle to high income residents.**

FROM THE ABOVE, IT IS EVIDENT THAT THE POPULATION IS NOT ONLY INCREASING, BUT THAT THE SOCIO-ECONOMIC PROFILE OF BETTYS BAY REDIDENTS IS CHANGING TO A YOUNGER AGE GROUP WITH DIFFERENT PURCHASING NEEDS.

The above have a major impact on retail needs, where complimentary facilities, linked to higher order retail and other services will be required.

6. PROPOSED BOTTLE STORE (THIRSTY'S LIQUOR BOUTIQUE)

The proposed boutique "Bottle Store" to be established on Erf 2662, Bettys Bay will focus on the following vision, goods and operational structure:

6.1 VISION

- The primary focus of the boutique "Bottle Store" will be to provide an exclusive, up market and artisan liquor experience, in providing primarily locally produced products to the benefit of the local community and visitors to the area.
- To provide a facility which is accessible to the residents of Bettys Bay;
- No large scale commercially produced liquor will be sold.
- To respond to the changing socio-economic profile of the local community.
- To promote economic growth within the sub-region, where locally produced goods can be marketed and sold. This activity will facilitate additional awareness of the locally produced liquor(wines/other) to the benefit of economic growth in the sub-region.
- To provide a complimentary service to un-licenced restaurants within the area, where patrons can purchase goods to be consumed at the respective restaurants.
- To establish a safe and healthy environment.
- To establish additional work opportunities within the area which is much needed with the existing high level of unemployment.

6.2 OPERATIONAL

A. Locality and Extent

The activity will be located within the recently upgraded "Whaling Station" building on Erf 2662, Bettys Bay. The activity was allocated Shop 4 (see **Annexure J**), which measures 40m^2 in extent.

The entrance to the "Bottle Store" will be onto the passageway which provide access to the other activities within the retail centre (Offices, Restaurant and Bistro). The passageway provides pedestrian through movement to the respective activities from the Clarence Drive (R44) parking towards the Porter Drive parking, and vice versa.

In view of the restricted extent of the facility, the provision / stocking of liquor products will be limited in terms of volume and variety.

B. Interior

The interior of the activity will comprise of the following:

- Solid wood shelving units.
- 3 x Wine barrels on wheels.
- 2 x Small display tables.
- 2 x Wine fridge and an ice freezer

C. Delivery

No large trucks will be used for delivery. In most cases, delivery will be undertaken by normal SUV vehicles (small quantities). There will be deliveries on a Tuesday and Friday.

D. Operating Hours

The operating hours will be established by the operator in line with local conditions and in line with the conditions from the Western Cape Liquor Authority.

E. Security

The passageway within the retail centre will be locked at night and has CCTV cameras which is monitored by Sandown Bay Security 24 hours per day.

Sandown Bay Security is located directly adjacent (off Porter Drive) to Erf 2662 (Whaling Station).

F. Parking

Adequate parking is provided to the proposed activity, as indicated in **Annexure G.**

G. Services

Water, sanitation and electricity is provided to the Whaling Station Retail Centre.

7. ARGUMENTS IN SUPPORT OF APPLICATION

The desirability of the application is motivated in line with the principles as set out in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and Chapter VI of the Land Use Planning Act, 2014 (LUPA).

7.1 SPATIAL JUSTICE / GOOD GOVERNANCE

A. **Legal and policy compliance**: The establishment of the boutique "Bottle Store" on Erf 2662, Bettys Bay is located within the Business Node of Bettys Bay as indicated in the Spatial Development Framework.

The zoning and the land use on Erf 2662, Bettys Bay and adjacent thereto is already being used and zoned for a variety of retail and complementary uses.

The zoning (Local Business 3) makes provision for the establishment of a "Bottle Store" as a Consent Use which have the implication that the right of the owners to develop the proposed activity should be recognised. The Overstrand SDF also refers to the proposal that "businesses" should develop within the Business Node. The establishment of the boutique "Bottle Store" falls within the definition thereof and should be supported.

B. **Building compliance**: The approval of the 2023 Building Plan for Erf 2662, Bettys Bay have made provision for sufficient parking areas in line with the proposed uses and Gross Leasable Area.

C. **Engineering services**: Engineering services are already being provided to Erf 2662, Bettys Bay. No additional bulk will be required.

7.2 SPATIAL SUSTAINABILITY

The establishment of the "Bottle Store" will have **no** impact on the structuring and functioning of the existing Business Node owing to the following reasons:

A. **Need for diversity/symbiotic cohesion**: The proposed activity will promote the diversity of existing activities within the Business Node by creating symbiotic cohesion with other retail land uses in support of each other.

Within the context of Bettys Bay, the existing retail, recreation and social services which are located within the Business Node addresses convenience needs to primarily residents and visitors / tourist to the area. The establishment of the "Bottle Store" will provide a complimentary need to residents, visitors and tourists regardless of race or income level.

B. **Traffic impact**: There will be **no** additional traffic generation along Clarence Drive (R44) or Porter Drive as potential clients could visit the activities within the Local Node for other required goods. The proposed boutique "Bottle Store" will be "added" to the retail experience.

In some cases, the traffic between Bettys Bay towards either Pringle Bay or Kleinmond could be less as certain alcoholic beverages could be purchased in Bettys Bay.

C. **Clarence Drive**: With the increase of permanent residents and tourists, the sub-region (Rooi Els, Pringle Bay, Bettys Bay, Kleinmond and Hermanus) an increase along Clarence Drive (R44) along the scenic corridor from Cape Town towards Hermanus / Garden Route and back can be expected.

The Bettys Bay Business Node has been in existence for some years with direct access being obtained from Clarence Drive (R44) and Porter Road.

The sight distance from Erf 2662, Bettys Bay along Clarence Drive towards the east and west is at least 700m in both directions. The occurrence of vehicular or pedestrian accidents will be minimised.

D. **Need to increase and diversify retail offerings:** The Socio-economic profile of residents within Bettys Bay and surrounding areas are changing (younger age), with the result that purchasing patterns are also changing. Residents must have access to a diversity of facilities to fulfil personal preferences. The establishment of a boutique "Bottle Store" at the Business Node will complement existing facilities within the Business Node with different offerings.

E. **Residential /social impact:** Except for some residential properties to the south of Erf 2662, Bettys Bay (Erf 2478-lodge and spa), the other properties are located towards the intersection of Clarens Drive and Porter Drive. The properties are defined and buffered by Porter Road (higher order collector /circulation road), with the implication that the proposed boutique "Bottle Store", together with the already existing (being there for some years) will not increase the status quo which have been there for some time.

No other social facilities are near the proposed boutique "Bottle Store".

7.3 EFFICIENCY

A. **Population Growth**: With the increased population growth within the sub-region and the change of demographic profile (ages, groups), the need to accommodate holistic and integrated retail experiences will increase. The establishment of the boutique "Bottle Store" will contribute to this need as residents do not have to travel to either Pringle Bay or Kleinmond for basic purchases. Other alcoholic purchases will continue in surrounding towns.

B. **Existing consumption:** Within the Business Node there are several existing restaurants/pubs which have liquor licences for on-site consumption. Thus, the use of alcoholic beverages within Bettys Bay has been present for some time without any incidents or crime.

The sale of off-site alcoholic beverages will not increase any crime related activity as most households within Bettys Bay, regardless of income or race, make use of alcoholic beverages for the purposes of cooking, home entertainment or gifts.

With the establishment of the boutique "Bottle Store", the sales will be off-site, as opposed to being on-site. Thus, the sale of alcoholic beverages will continue, regardless of the type of licence.

The establishment of the boutique "Bottle Store" will have **no** impact on the sale of alcoholic beverages.

C. **Extent**: The proposed "Bottle Store" will be small in extent (+/- 40m²) and will focus primarily on locally selected alcoholic beverages. The average retail prices for these products are usually higher than the prices of national producers and breweries which will not be sold at the "Bottle Store". Thus, the proposed "Bottle Store" products will focus on the "Niche" market.

D. **Safety /crime**: Crime is a national phenomenon and even Bettys Bay is not crime free. Adequate provision has been made by the "whaling station" building and management to prevent any potential incidents by implementing a 24-hour surveillance camera system and the closing of the passageway (entrance to boutique "Bottle Store") after the closure of the respective restaurants at night.

E. **Tourism Value Chain**: To grow the economy and to establish jobs, a "Tourism Value Chain" needs to be structured / established in Bettys Bay, where tourists can experience a diversity of attractions and services offered, which include the purchase of up-market locally produced alcoholic beverages. These beverages could be used as memories, gifts or consumption with friends.

With the identification and emphasis of Clarence Drive as a scenic/tourism route, businesses along this road should capitalize on the interception of through traffic, where activities, in support of each other (restaurants, pubs, services, etc), including the boutique "Bottle Store" will benefit.

7.4 GENERAL

Although the proposed "Bottle Store" will not contribute to increased traffic flow, the value-added activities within the Business Node, increased population and the sub-regional increase of traffic along Clarence Drive will require speed reducing measures along certain sections within Bettys Bay. Although not a traffic engineer, proposed turning circles could be investigated at the intersection of Disa Road / Clarence Drive and Porter / Clarence Drive (R44) with reduced speed limits between the mentioned intersections.

8. CONCLUSIONS AND RECOMMENDATIONS

Deriving from the information that was provided in the memorandum, it was clearly established that the proposed boutique "Bottle Store" will contribute to the tourist (value chain), economic growth, symbiotic cohesion with existing retail facilities and strengthening of the existing Business Node.

It is herewith recommended that the applications for Consent Use in terms of Section 16(2)(0) of the Overstand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for a "Bottle Store" on Erf 2662, Bettys Bay be approved.

A. Kotze (0833759448)

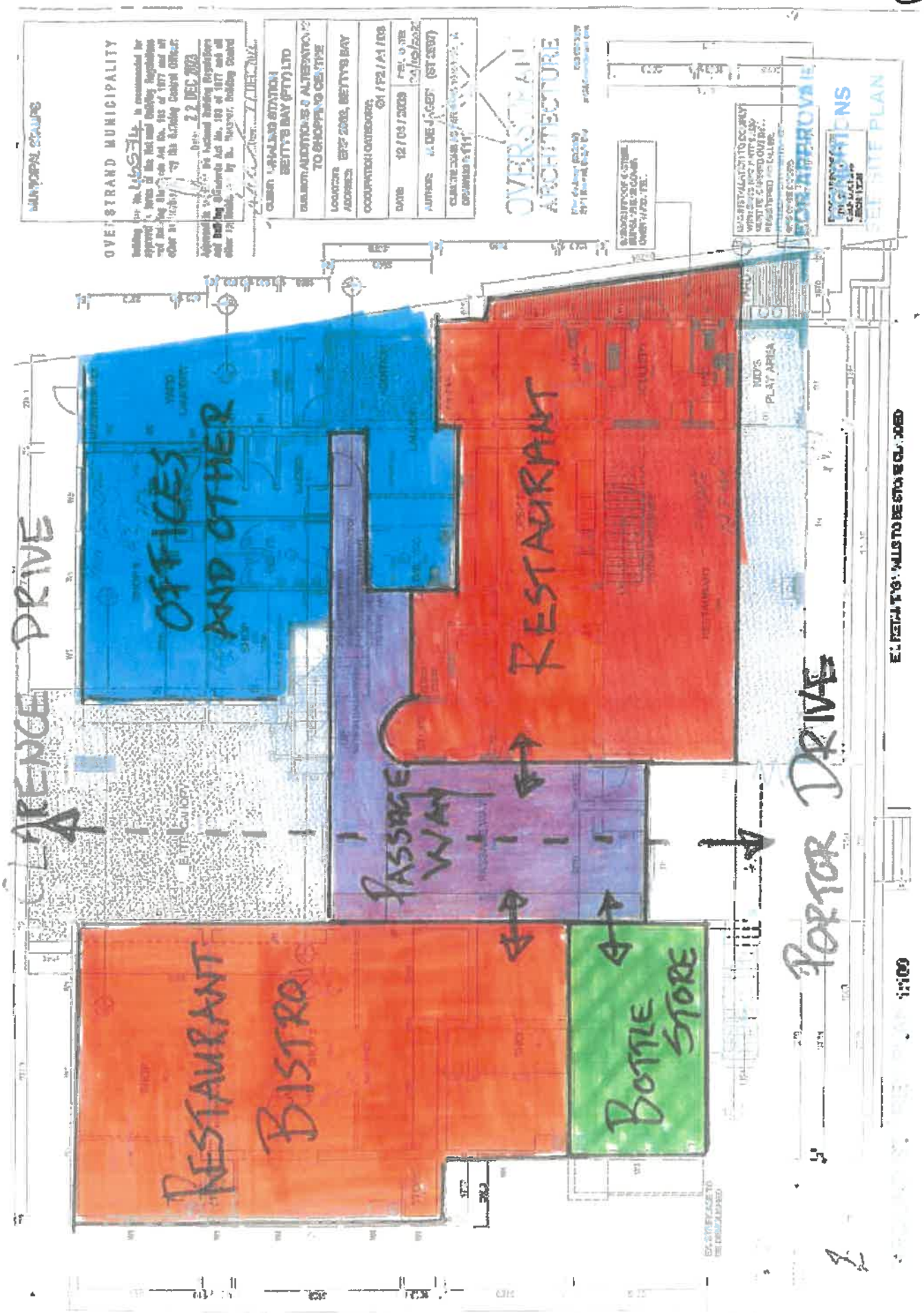
(SAPLAN: A/646/1991)

andre@emendo.co.za

reception@emendo.co.za

11 NOVEMBER 2024

Annexure C


OVERSTRAND MUNICIPALITY
OVERSTRAND ARCHITECTURE
OFFICES AND OTHER
RESTAURANT
PASSAGE WAY
RESTAURANT BISTRO
BOTTLE STORE
PORTER DRIVE
ARENDS DRIVE

Annexure D 1/48

REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion

From: Janet Meyer <[redacted]>
Sent: Friday, 14 March 2025 09:35
To: Loretta Gillion
Subject: Consent for bottle store at the Hub, Bettys Bay (Erf 2989 KBB)

Good Day Loretta,

It has come to my attention that consent has been granted for a full bottle store at the HUB in Bettys Bay.

I am appealing against this consent. The residents of Bettys Bay have always supported the ethics of this town. I and my family have been residents of Bettys Bay for 50 years.

There are bottle stores at Kleinmlnd and Pringle. Do we really need another bottle store in a congested area such as the Hub?

A bottle store is totally different from a Boutique Wine Shop, which is specifically meant to introduce the incredible selection of wines of this region to the people of the Overberg, and tourists alike. Not to sell cheap hard liquor to all and sundry.

A wine boutique serves the purpose of enhancing tourism, it enhances the wines knowledge of the residents of this amazing area and ,it provides opportunity and jobs for many people at the same time. It also showcases the wine farms of this region. Which adds to the economy of the country in general.

A bottle store has a totally different connotation. People buy "booze"at a "bottle store".

At the wine boutique, they appreciate and savour good wines. BIG DIFFERENCE.

The Hub is already SO busy, and traffic is appalling. If you pass throiugh Bettys Bay , you don't necessarily park in parking behind the hub. You just park on Clarence Drive.

And the parking at the back of the Hub is way too limited.

At this position, walking across Clarence is a huge risk. The cars come hurtling down that road. There are bends in the road and visibility is very limited. There have already been several accidents here.

Driving out of the side road,Twist street, is hazardous.

Laurence Weddell has a wine boutique shop at present at shop 4 at the Hub. His clients are people who appreciate fine wines and having the priviledge to be able to purchase a vast selection of locally produced wines because of the expertise of Laurence Weddell. He is applying to move this Wine Boutique to The Whaling Station, which is a perfect location . It is spacious, parking is plenty and the venue has many access points. There are no hidden bends or difficult entry points.

I myself, try not go to the Hub because of the small spaces and limited access and parking.

Thank you for registering my objection to this consent.

Regards,

(Mrs) Janet Meyer.

FILE NO. Erf 2989 -KBB
SCAN NO.
COLLABORATOR NO. 2628871

19 MAR 2025

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion 2/48

From: Janet Meyer <
Sent: Wednesday, 19 March 2025 12:43
To: Loretta Gillion
Subject: Re: Consent for bottle store at the Hub, Bettys Bay (ERF 2989 BETTY'S BAY)

Good Day, Loretta,

Thank you for your email explaining the situation. I had not seen that there was notice given earlier to apeal gainst a full bottle store at the HUB. Where was it advertised? I am sure there are many people in this area did not see that notice.

However...
Yes I do definitely want to confirm that I very much support the application for the wine boutique shop at The Whale Station. It is an excellent venture supporting tourism, community, and at the same time offering job opportunities and employment for people in this area, who desperately need it.

There is plenty of space and parking.

The congestion and traffic and lack of parking at the Hub is appalling .Plus the fact that the owner has locked off 2 of the available toilets in the building.

Regards,

Janet Meyer.

> On 19 Mar 2025, at 09:10, Loretta Gillion <loretta@overstrand.gov.za> wrote:
>
> Dear Ms Meyer
>
> Your email below refers.
>
> According to our records you did not submit any comments/objections to the application on Erf 2989 (The Hub) during the public participation process. It is therefore confirmed that no right to appeal is applicable.
>
> Kindly confirm whether you meant to submit your support for the application on Erf 2662 (Whaling Station).
>
> Kindly advise.
>
> Regards
>
> Loretta Gillion
> Administrative Officer: Town & Spatial Planning
> Directorate: Planning & Development, Overstrand Municipality, Hermanus
> A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
> T: 028 313 8900 | E: loretta@overstrand.gov.za
>
>
>
> -----Original Message-----
> From: Janet Meyer <
> Sent: Friday, 14 March 2025 09:35
> To: Loretta Gillion <loretta@overstrand.gov.za>

FILE NO. Erf 2989 - KBB
SCAN NO.
COLLABORATOR NO.
2629301

19 MAR 2025

3/48

> Subject: Consent for bottle store at the Hub, Bettys Bay
>
> Good Day Loretta,
>
> It has come to my attention that consent has been granted for a full bottle store at the HUB in Bettys Bay.
>
> I am appealing against this consent. The residents of Bettys Bay have always supported the ethics of this town. I and my family have been residents of Bettys Bay for 50 years.
>
> There are bottle stores at Kleinmlnd and Pringle. Do we really need another bottle store in a congested area such as the Hub?
>
> A bottle store is totally different from a Boutique Wine Shop, which is specifically meant to introduce the incredible selection of wines of this region to the people of the Overberg, and tourists alike. Not to sell cheap hard liquor to all and sundry.
>
> A wine boutique serves the purpose of enhancing tourism, it enhances the wines knowledge of the residents of this amazing area and ,it provides opportunity and jobs for many people at the same time. It also showcases the wine farms of this region. Which adds to the economy of the country in general.
>
> A bottle store has a totally different connotation. People buy "booze"at a "bottle store".
>
> At the wine boutique, they appreciate and savour good wines. BIG DIFFERENCE.
>
> The Hub is already SO busy, and traffic is appalling. If you pass throiugh Bettys Bay , you don't necessarily park in parking behind the hub. You just park on Clarence Drive.
>
> And the parking at the back of the Hub is way too limited.
>
> At this position, walking across Clarence is a huge risk. The cars come hurtling down that road. There are bends in the road and visibility is very limited. There have already been several accidents here.
>
> Driving out of the side road,Twist street, is hazardous.
>
> Laurence Weddell has a wine boutique shop at present at shop 4 at the Hub. His clients are people who appreciate fine wines and having the priviledge to be able to purchase a vast selection of locally produced wines because of the expertise of Laurence Weddell. He is applying to move this Wine Boutique to The Whaling Station, which is a perfect location . It is spacious, parking is plenty and the venue has many access points. There are no hidden bends or difficult entry points.
>
> I myself, try not go to the Hub because of the small spaces and limited access and parking.
>
> Thank you for registering my objection to this consent.
>
> Regards,
>
> (Mrs) Janet Meyer.
>
>
>
>
> [https://zaf01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fus-
> east-2.protection.sophos.com%2F%3Fd%3Doverstrand.gov.za%26u%3DaHR0cHM6
> Ly93d3cub3ZlcnN0cmFuZC5nb3YuemEvaW1hZ2VzL2hvbGRlci5qcGc%3D%26p%3Dm%26i
> %3DNWQwOWY0ZjQxMjgyMzExNGExY2M0N2Qw%26t%3DZHlvNnlibW9EMUxWRGFLUEs5TTAw
> K2J6cXRBSkJacWZlNlBsdVhNQVJlMD0%3D%26h%3D3ac5fff48e254c49a84739c60e1ed

4/48

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart (Hvld Stoep)

Loretta Gillion

From: Richard Starke <
Sent: Wednesday, 19 March 2025 11:15
To: Loretta Gillion
Subject: RE: Not Supporting Hub Bottle Store

Yes I did
thank you

Richard Starke
PO Box 68
2433 Plateau Rd
Betty's Bay 7141
Cape
South Africa
Voip
Mobile

In order to win you have to do something

that the boat next to you isn't willing to do."

FILE NO. Erf 2989-KBB
SCAN NO.
COLLABORATOR NO. 2629274

From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: 19 March 2025 10:11 AM
To:
Subject: RE: Not Supporting Hub Bottle Store

Dear Mr Starke

Your email below refers.

According to our records you did not submit any comments/objections to the application on Erf 2989 (The Hub) during the public participation process. It is therefore confirmed that **no** right to appeal is applicable.

Kindly confirm whether you meant to submit your **support** for the application on Erf 2662 (Whaling Station).

Kindly advise.

Regards

Loretta Gillion
Administrative Officer: Town & Spatial Planning
Directorate: Planning & Development, Overstrand Municipality, Hermanus
A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
T: 028 313 8900 | E: loretta@overstrand.gov.za

From: Richard Starke <
Sent: Friday, 14 March 2025 10:24

19 MAR 2025

5|48

To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Not Supporting Hub Bottle Store

REMAINDER OF ERF 2989 BETTYS BAY.- APPLICATION FOR CONSENT USE BOTTLE STORE

Attention Loretta

Dear Sirs
Please note I never sent or wrote or signed any form of support for this application.

Betty's Bay has been a home to me since our first house was built ön Bass Lake in 1948.
The facilities available to us over the years have been sparse and rather unsophisticated. Just recently a small centre referred to as the Hub was built and one of the tenants set up a small wine shop selling upmarket wines from wineries in our local area.

The shop arranged for wine tastings presented by the local wineries and it has been a major success in bringing people together in a village-like atmosphere. The Hub owner has now prevented or restricted these tastings and as a result, the successful tenant is moving his license and shop to a new venue which is more the centre of Betty's Bay. This move has the support of all his customers. The Whine Shoppe has been a boon the tourists and residents alike mostly due to the imaginative way the shop has operated.
I have recently received a communication from OM that appears to be acceptance by the municipality of a second bottle store in the shop to be vacated by the present tenant. This is unnecessary and there will be no restriction on the owner of the type of liquor sold and this results in the one thing that causes people to object to bottle stores, the availability of cheap alcohol.

I as one of the longest-standing residents of Bettys Bay object strongly to this Consent Use.

Richard Starke
2433 Plateau Rd
Betty's Bay 7141
Cape
South Africa
Voip
Mobile

In order to win you have to do something that the boat next to you isn't willing to do."

Virus-free.www.avast.com

Overstrand Municipality
A: 1 Magnolia Street, Hermanus, 7200
P: P.O Box 20, Hermanus, 7200
T: +27 (0)28 313 8000 | **F:** +27 (0)28 312 1894</span<>
E: enquiries@overstrand.gov.za

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

6|48

Loretta Gillion

TP- A Theart (Hvld Stoep)

From: Richard Starke < >
Sent: Friday, 14 March 2025 10:24
To: Loretta Gillion
Subject: Not Supporting Hub Bottle Store

REMAINDER OF ERF 2989 BETTYS BAY.- APPLICATION FOR CONSENT USE BOTTLE STORE

Attention Loretta

Dear Sirs
Please note I never sent or wrote or signed any form of support for this application.

Betty's Bay has been a home to me since our first house was built on Bass Lake in 1948.
The facilities available to us over the years have been sparse and rather unsophisticated. Just recently a small centre referred to as the Hub was built and one of the tenants set up a small wine shop selling upmarket wines from wineries in our local area.

The shop arranged for wine tastings presented by the local wineries and it has been a major success in bringing people together in a village-like atmosphere. The Hub owner has now prevented or restricted these tastings and as a result, the successful tenant is moving his license and shop to a new venue which is more the centre of Betty's Bay. This move has the support of all his customers. The Whine Shoppe has been a boon the tourists and residents alike mostly due to the imaginative way the shop has operated.
I have recently received a communication from OM that appears to be acceptance by the municipality of a second bottle store in the shop to be vacated by the present tenant. This is unnecessary and there will be no restriction on the owner of the type of liquor sold and this results in the one thing that causes people to object to bottle stores, the availability of cheap alcohol.

I as one of the longest-standing residents of Bettys Bay object strongly to this Consent Use.

Richard Starke
2433 Plateau Rd
Betty's Bay 7141
Cape
South Africa
Voip
Mobile

"In order to win you have to do something that the boat next to you isn't willing to do."

Virus-free.www.avast.com

FILE NO. Erf 2989 - KBB
SCAN NO.
COLLABORATOR NO. 2628642

19 MAR 2025

7/48

REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion

From: Hanni van den Oever <
Sent: Thursday, 13 March 2025 15:19
To: Loretta Gillion
Subject: Consent usage at The Whaling Station, 2662 Clarence Drive

TP- A Theart (Hvld Stoep)

To whom it may concern,

We support the consent for the Whine Shoppe at the Whaling Station on Clarence Drive including the wine tasting experience presented by local wine makers from the Overberg region on Saturdays.

This has been a novel experience for us, friends and tourists.

This initiative offers a unique opportunity to highlight the exceptional wines from local winemakers in the Overberg region and create a lasting positive impact on our community.
This initiative not only promotes the local wine industry, but also plays a key role in driving tourism to our town. Tourism, in turn, will generate new job opportunities for local residents, contributing to a sustainable and thriving local economy.

An additional benefit of hosting these tastings at The Whaling Station is the parking space available on the premises. This is crucial in minimizing congestion, particularly at the blind corner of The Hub, where traffic can often be challenging.

The location of The Whaling Station, situated in the heart of the CBD and away from residential properties and churches, ensures that the tastings will have minimal impact on the peaceful nature of our town's residential areas. It offers the convenience of access from two different roads, making it more accessible to both locals and visitors.

This initiative also aligns with a commitment to upmarket, locally sourced, artisanal drinks, which will elevate the town's profile as a destination for quality local products.
We support this project and believe it will benefit not only the local wine industry but the entire community through job creation, tourism, and social engagement.

Kind regards

Nico and Hanni van den Oever
34 Myrica Road
Bettys Bay

Virus-free.www.avg.com

FILE NO. Erf 2662-KBB
SCAN NO.
COLLABORATOR NO. 2628555

19 MAR 2025

2662 KBB

8/48

Loretta Gillion

From: Laurence Weddell <laurence@sonicmail.co.za>
Sent: Friday, 14 February 2025 08:01
To: Loretta Gillion
Subject: Whine Shoppe move

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
2 1 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart (Hvid Stoep)

-----Original Message-----
From: Nico Van den oever <i >
Sent: 13 February 2025 17:03
To: laurence@sonicmail.co.za
Subject: Whine Shoppe move

To whom it may concern

We, Nico and Hanni van den Oever, are happy to hear that the Whine Shoppe is moving to the Whaling Station Centre/Deli Bistro and support this move!
The upgrade of this area is exciting!!

Kind regards
Hanni and Nico van den Oever

3675 Myrica Rd
Betty's Bay

Sent from my iPhone=

--
This email has been checked for viruses by AVG antivirus software.
https://zaf01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fus-east-2.protection.sophos.com%2F%3Fd%3Davg.com%26u%3Dd3d3LmF2Zy5jb20%3D%26p%3Dm%26i%3DNWQwOWY0ZjQxMjgyMzExNGExY2M0N2Qw%26t%3Dc2tUa0UyY3JlNWUzTTR0RUp0MVQ0NlBlcFFuNFA0R1RZZTBZL3pZR08zcz0%3D%26h%3Dfb561ddb25eb4c5995dcb13f5c046e18%26s%3DAVNPUEhUT0NFTkNSWVBUSVaLHVwfBHFP6W0FPGhvGSbOtm1ItT4fDPBZz88NRHiRag&data=05%7C02%7Cloretta%40overstrand.gov.za%7Cf6e5d2158cf3437cdca308dd4cbd057d%7C2e61666ecb6e4dbdbb45bdadab146352%7C0%7C0%7C638751097446511806%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C80000%7C%7C%7C&sdata=sGbtoN3JRbP%2BWLjPqRYzjiRIofi1AwDhLsvcHG2tC%2Fg%3D&reserved=0

FILE NO. Erf 2662 - KBB
SCAN NO.
COLLABORATOR NO. 2611837

2 1 FEB 2025

9/48

Erf 2662 Betty's Bay

Loretta Gillion

From: Trevor de Beer <t >
Sent: Monday, 10 March 2025 16:41
To: Loretta Gillion
Subject: Wine Tasting

Good afternoon,
I wish to support that permission for wine tasting be granted to the Wine shop on Saturdays between 13h00 and 15h00. This is a well attended weekly event. Also gives wine farms, over a wide area, chance to promote their wines, which is good for local business, expecially in these trying times. It will be a loss for the community if this weekly activity will not take place. It is also a get together where new friendships are formed.
Thank you,
Trevor de Beer
11 Polygala rd,
Bettys Bay

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
11 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP- A Theart (Hvld Stoep)

FILE NO. Erf 2662-KBB
SCAN NO.
COLLABORATOR NO. 2624195

11 MAR 2025 TP

10/48

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
12 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion

From: Anita Louw <
Sent: Tuesday, 11 March 2025 16:08
To: Loretta Gillion
Subject: Consent usage - The Whaling Station 2662 Clarence Drive

TP- A Theart
(Hyld Stoep)

To whom it may concern

The liquor licence from the Hub to The Whaling Station.

I Anita Louw if 3441 Abalone Street, Bettys Bay am in support of the liquor license usage at The Whaling Station, 2662.

Herewith a few reasons for my support-

-Convenient and great for job creation.

-Support of local wine industry through tastings and education.

-Social and community engagement by bring people together at weekly tastings.

-More parking available than at The Hub.

-In the CBD area of the town away from residential properties churches etc avoids noise and pollution issues.

-Access via two different roads less congestion

Kind regards,

Anita Louw
Sent from my iPhone

FILE NO. Erf 2662- KBB
SCAN NO.
COLLABORATOR NO.
26250885

12 MAR 2025
TP

A. Theart
(H. vld Stoep) 11|48

Loretta Gillion

From: Joan Mac Iver < : n>
Sent: Monday, 10 March 2025 15:14
To: Loretta Gillion
Subject: Consent Usage: The Whaling Station, 2662 Clarence Drive

To whom it may concern

I hereby wish to express my support for the above proposed site of The Whine Shoppe, so that the local winemaking sector and the community of Betty's Bay, and visitors to the area, can continue to benefit from the service they provide, by the promotion of local wines and education of consumers, at wine tasting events, respectively, at the Whaling Station, where there is plentiful and safe parking facilities already in place.

Yours sincerely
Joan Mac Iver

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
10 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO.
Erf 2662 KBB
SCAN NO.
COLLABORATOR NO.
2623643

Loretta Gillion 12|48

From: Joan Mac Iver <
Sent: Tuesday, 11 March 2025 14:56
To: Loretta Gillion
Subject: Re: Consent Usage: The Whaling Station, 2662 Clarence Drive

Thank you for your response, Loretta. I live at 2401 Una Drive.

Kind regards
Joan Mac Iver

On Mon, 10 Mar 2025, 15:29 Loretta Gillion, <loretta@overstrand.gov.za> wrote:

Dear Ms Mac Iver

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning

Directorate: Planning & Development, Overstrand Municipality, Hermanus

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | E: loretta@overstrand.gov.za

From: Joan Mac Iver < >
Sent: Monday, 10 March 2025 15:14
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Consent Usage: The Whaling Station, 2662 Clarence Drive

A. Theart
(H vld Stoep) 13/48

Loretta Gillion

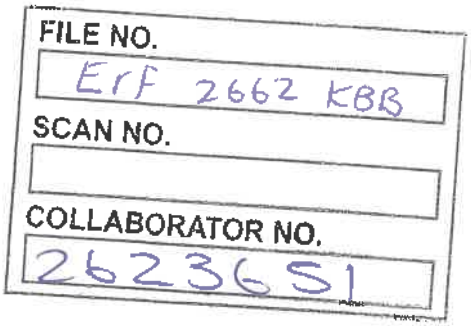
From: Robyn Brown <
Sent: Monday, 10 March 2025 13:45
To: Loretta Gillion
Subject: Objection to Bottle store at Hub but approval re Whinneshoppe

To whom it my concern:

I have had the privilege of living in Betty's bay for 11 years and have watched significantly how our beautiful town has grown each and every year.

The opening of the Whinneshoppe at The Hub in Betty's bay, was opened with the best intentions to stock mainly locally produced wines from the Overberg area never to ever convert to a bottlestore. The current owner Mr Laurence Wendell of The Whinneshoppe has worked tirelessly to offer locally produced wines at cellar door pricing as well as educational wine tastings held on Saturday for free to the community to educate & promote the sales of our regional wine farms. I have attended many of these events at the whineshoppe and have gained much general knowledge all in all a great afternoon meeting new people & local winemakers.
I look forward to the Whinneshoppe moving premises to the Whaling Station as it is a more central location with better access & parking facilities but vehemently oppose the opening of a bottlestore at The Hub or anywhere else in Betty's bay as it's not necessary as Kleinmond is 10/ 15mins driveaway offering more than 5x locations to purchase a variety of alcohol and Pringle bay has a bottlestore. The Hub is located on a busy street in the heart of a residential area near a church congregation who certainly do not want a bottlestore.

Thanks
Kind regards
Robyn Lee Brown
2402 Una drive Betty's bay



A. Theart
(H vld Stoep) 14|48

Loretta Gillion

From: Belinda Remane < >
Sent: Monday, 10 March 2025 13:38
To: Loretta Gillion
Subject: Relocation license Whine Shop from The Hub to the Whaleing Station, Betty's Bay

To whom it may concern

We have no hesitation in submitting this email and strongly appeal that The Whine Shop at The Hub be relocated to the Whaleing Station in Betty's Bay and that the upmarket wine tastings be allowed here at The Whaleing Station too.
The reasons noted below:
This is an extremely classy shop which introduces local wines into the area and to the people living in the area. The tastings bring local business people together and are most informative and educational and appeals to decent people. This networking allows for stimulation of ideas to be exchanged in the area and for an opportunity of meeting good quality people in the area. The wines are of excellent quality and standard and unaffordable to people or riff raff looking to buy cheap alcohol. It would attract the right kind of people visiting the area, including overseas guests and would stimulate economic growth in the area in a very positive way.
Also, the Whaleing Station Centre is now a very classy Centre and this upmarket shop would add to the sophistication of this new Centre attracting the right kind of people.
There is more than sufficient parking and the parking at The Whaleing Station is far safer and accessible than The Hub which is on a busy and dangerous road, Clarence Drive.
We fully and strongly support the relocation of The Whine Shop including tastings of the wine in the area to be relocated from The Hub to The Whaleing Station. The area needs the caliber of these businesses in order to stimulate positive growth, networking and attracting the right people and visitors to Betty's Bay.

We appeal that this licence be granted for The Wine Shop to be moved to The Whaleing Station building and that the wine tastings be allowed there.

Yours faithfully
Belinda Remane and Peter Edge
2228 Porter Drive, Betty's Bay.

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
10 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Sent from my phone

FILE NO.
Erf 2662 KBB
SCAN NO.
COLLABORATOR NO.
2623664

10 MAR 2025

A. Theart
(H v/d Stoep) 15|48

Loretta Gillion

From: Inge Verster <
Sent: Monday, 10 March 2025 10:26
To: Loretta Gillion
Subject: Consent usage The Whaling Station 2662 Clarence Drive

To Whom it may concern

We are Residents of Bettys Bay and support the consent usage for a "Bottle store" for Artisinal beverages for the Whine shoppe move to the Whaling Station 2662 – there are many benefits to Bettys Bay supporting such an endeavour but significant ones being:
Marketing of our regions produce, especially as it allows visitors to get a one stop view of what is available in the Overstrand.
The concept supports and spotlights the local wine industry through the availability of the wines and the tasting events bring the farms onto our doorstep, this put Bettys Bay on the map for a unique experience. This concept has allowed us to market the local region to our overseas visitors.

The Whine Shoppe is an upmarket concept and has definitely been an improvement to the community for greater engagement as well as a supporting out towns tourism opportunities.

The Whaling station is better situated as there is lot more parking and easily accessible with the biggest benefit being that it is situated on safer section of Clarence Drive.

Kind regards

Inge and Bert Verster
Muraltia road, Bettys Bay

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
10 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Inge Verster

1 Silo Square, V&A Waterfront, Cape Town, 8001
PO Box 51318, V&A Waterfront, Cape Town, 8002, South Africa
info@allangray.co.za | www.allangray.co.za
Read our email legal notice

FILE NO.
Erf 2662 KBB
SCAN NO.
COLLABORATOR NO.
2623665

Loretta Gillion 16/48

From: Inge <
Sent: Monday, 10 March 2025 21:11
To: Loretta Gillion
Subject: Re: Consent usage The Whaling Station 2662 Clarence Drive

Hi Loretta
Thanks for the confirmation

Muraltia road Erf 3708 and 12 Myrica road.

Sent from my iPhone

On 10 Mar 2025, at 15:34, Loretta Gillion <loretta@overstrand.gov.za> wrote:

Dear I & b Verster

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

Regards

Loretta Gillion
Administrative Officer: Town & Spatial Planning
Directorate: Planning & Development, Overstrand Municipality, Hermanus
A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
T: 028 313 8900 | E: loretta@overstrand.gov.za

From: Inge Verster <
Sent: Monday, 10 March 2025 10:26
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Consent usage The Whaling Station 2662 Clarence Drive

To Whom it may concern

We are Residents of Bettys Bay and support the consent usage for a "Bottle store" for Artisinal beverages for the Whine shoppe move to the Whaling Station 2662 – there are many benefits to Bettys Bay supporting such an endeavour but significant ones being:
Marketing of our regions produce, especially as it allows visitors to get a one stop view of what is available in the Overstrand.
The concept supports and spotlights the local wine industry through the availability of the wines and the tasting events bring the farms onto our doorstep, this put Bettys Bay on the map for a unique experience. This concept has allowed us to market the local region to our overseas visitors.

The Whine Shoppe is an upmarket concept and has definitely been an improvement to the community for greater engagement as well as a supporting out towns tourism opportunities.

Re: 2662 KBB 17/48

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
21 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart (Hvld Stoep)

Loretta Gillion

From: Laurence Weddell <laurence@sonicmail.co.za>
Sent: Friday, 14 February 2025 08:00
To: Loretta Gillion
Subject: Whine Shoppe Move

-----Original Message-----
From: Inge < >
Sent: 13 February 2025 17:01
To: laurence@sonicmail.co.za
Subject: Whine Shoppe Move

To Whom it may concern

We would support the move of the the Whine Shoppe to the Whaling station as this brings a premium shop closer to our doorstep.

Kind regards
Bert and Inge Verster
3 Muraltia Road
Betty's Bay

Sent from my iPhone=

--
This email has been checked for viruses by AVG antivirus software.
https://zaf01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fus-east-2.protection.sophos.com%2F%3Fd%3Davg.com%26u%3Dd3d3LmF2Zy5jb20%3D%26p%3Dm%26i%3DNWQwOWY0ZjQxMjgyMzExNGExY2M0N2Qw%26t%3Dc2tUa0UyY3JlNWUzTTR0RUp0MVQ0NlBlcFFuNFA0R1RZZTBZL3pZR08zcz0%3D%26h%3D5b40da085aef40168c57ba4d188ccf57%26s%3DAVNPUEhUT0NFTkNSWVBUSVaLHVwfBHFP6W0FPGhvGSbOtm1ItT4fDPBZz88NRHiRag&data=05%7C02%7Cloretta%40overstrand.gov.za%7C181bc6e79e074b0c516208dd4cbce7e5%7C2e61666ecb6e4dbdbb45bdadab146352%7C0%7C0%7C638751096421553282%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=amhQwmPzhExO%2BbbkkDIWJzTwVLM6qxn33r15w%2B3RW8Y%3D&reserved=0

FILE NO. Erf 2662 - KBB
SCAN NO.
COLLABORATOR NO. 2611810

21 FEB 2025

REKORDBEHEER
07 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion 18/48

From: Tricia Horne <
Sent: Thursday, 06 March 2025 09:44
To: Loretta Gillion
Subject: Consent Usage The Whaling Station 2662 Clarence Drive

Good day,

Hereby with this email, I am totally in support of consent usage at The Whaling Station 2662 Clarence Drive.

Reasons being the current location for wine tasting events is too small, and interferes with the flow of customers into the neighbouring shops.
There is more parking available at The Whaling Station and there are less traffic risks than at the current location.
These wine tastings support our local wine industry, and encourage social and community engagement.

I thank you for your consideration and trust you will grant the consent usage for the new location.

Kind regards,

Mrs Tricia Horne

3193 Pearl Drive, Betty's Bay 7141

FILE NO. Erf 2662 - KBB
SCAN NO.
COLLABORATOR NO. 26219729

7 MAR 2025

REKORDBEHEER
07 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion 19|48

From: Christiaan Barnardo < >
Sent: Thursday, 06 March 2025 09:01
To: Loretta Gillion
Subject: Consent usage The Whaling Station 2662 Clarence Drive

Dear Lotetta,

With regards to the Whine shoppe.

I formally support the move on the basis of the following:
Improved parking and traffic safety
Enhancement if tourism and job creation
Convenience & good quality product

Regards
Christiaan

FILE NO. Erf 2662 - KBB
SCAN NO.
COLLABORATOR NO.
2621901

7 MAR 2025

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
07 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

20/48

Loretta Gillion

TP-A Theart (LH Vld Steep)

From: Theresa Els
Sent: Thursday, 06 March 2025 13:46
To: Loretta Gillion
Subject: Erf 2662, 207 Porter Drive, Betty's Bay (consent use)
Attachments: EMENDO Letter 27.02.2025.pdf

Good day,

Referring to the Land-use Application for "*consent*" to operate a "*bottle store*" on Erf 2662 Betty's Bay. The reference number is 2662 KBB and the ID number is 48557/2024. The said Application was submitted by Emendo Project Managers and Planners.

Good day,

Following the attached Letter from Emendo requesting the amendment of the said Application to limit the operations of the proposed "*bottle store*", I would like to give the following support / input:

1. *There is no objection regarding the relocation of the current "Wine Cellar" at The Hub to Erf 2662 Betty's Bay, provided that the same "extent of business" be conducted from the latter and be limited to the following:*

    a. *The selling of wines focusing on boutique wines.*
    b. *The sale of upmarket artisanal and boutique alcoholic beverages, sourced locally (i.e., craft beers and gin).*
    c. *The sale of imported high value items including i.e. Single malt whiskies, Cognacs, Ports and Champagnes.*
    d. *No commercially produced alcohol can be sold.*
    e. *The operating hours will be between 09h00 and 18h00 (Monday to Saturday) and 09h00 to 14h00 (Sundays).*
    f. *In the event of any future changes in the lessee of the specified space, the same consent use requirements must apply to the new lessee to uphold this principle.*

2. ***However, should the Overstrand Local Municipality, notwithstanding the afore-going, intend to consider the approval of a "bottle store" to its full extent as defined in the Overstrand Municipality Land-Use Scheme (2020), a formal objection is herewith lodged against such Approval.***

We await due and timeous notification of such consideration in accordance with the Overstrand Municipality Amendment By-law on Municipal Land Use Planning 2020 / *Overstrand Municipality Land-Use Scheme (2020)(supra)*.

Kind Regards

Theresa Els
Ward 10 Councillor

0724941310
tels@overstrand.gov.za

FILE NO. Erf 2662-KBB
SCAN NO.
COLLABORATOR NO. 2621892

- 7 MAR 2025

21/48

OVERSTRAND LOCAL MUNICIPALITY

PO BOX 20

HERMANUS

7200

Ref:2662 KBB

APP ID: 48557/2024

Emendo (Pty) Ltd
Project Managers & Planners
Reg No: 1996/002835/07

Pretoria
404 Anderson Street
Menlo Park
Pretoria

PO Box 240
Groenkloof 0027

Tel: +27 12 346 2526
E-mail: info@emendo.co.za

Alberton
30 Rae Frankel Street
Brackenhurst
Alberton

PO Box 5436
Meyersdal 1447

Tel: +27 11 867 1160
Fax: +27 86 563 5390
E-mail: alberton@emendo.co.za

Bethlehem
38 Muller Street East
Bethlehem

PO Box 1717
Bethlehem 9700

Tel: +27 58 303 9038
Fax: +27 58 303 8755
E-mail: emebhm@iafrica.com

Also at Polokwane and Bloemfontein

ATTENTION: MRS.H VAN DER STOEP

ERF 2662, BETTYS BAY: CONSENT USE APPLICATION FOR THE PURPOSES OF "BOTTLE STORE"

With reference to the above application which was submitted on the 4th November 2024 and the advertisement process which is currently in process (objection period until 14th March 2025), I would like to express the following aspects and inputs for consideration:

1. The perception and definition of a "Bottle Store "is viewed as negative owing to connotations (socio-economic impact) over many years at different localities throughout South Africa. As part of this application, and after consultation with my client, we have agreed that the extent and implementation of the proposed "Bottle Store" use in Bettys Bay be re-defined to align to the local sentiment and tourism focus.

   The extent of the proposed "Bottle Store" will be +- 30m2, which will restrict the sale of extensive alcoholic products.

   It must also be kept in mind that the existing boutique wine shop, which is located at the "HUB-Bettys Bay" will be relocated to the Whaling Station, Bettys Bay (Erf 2662). Thus, the selling of off-site alcoholic beverages is currently being exercised in Bettys Bay.

Directors: Motsamai Mofokeng Dip (TRP) Cert (Housing) Cert (Shopping Centre Management) • André Kotzé (TRP) SA, BA, M(THP), Dip Bus M • Tshiamo Materne B.Pla (UP)

Loretta Gillion 22/48

From: ismit < >
Sent: Monday, 03 March 2025 09:34
To: Loretta Gillion
Subject: [CAUTION: SUSPECT SENDER] Consent usage the whaling station 2662 Clarence drive. The Whine Shop

Dear Loretta,

My reasons in support:
- for all the reasons sighted by the Whine Shop;
- dangerous for parking on Clarence Drive in and in front current premises;
- safer parking and more too at new premises;
- new premises already a strong economic hub;
- no such facility until Kleinmond;
- current premises too small and tasting area cramped;
- could attract more visitors which will be good for the sustainability of this business
- much more convenient for other smaller Villages.

Izak Smit
Rooiels

Sent from my Galaxy

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662 ✓
KBB
SCAN NO.
COLLABORATOR NO.
2619222

TP - 3 MAR 2025

Loretta Gillion 23|48

From: Loretta Gillion
Sent: Monday, 03 March 2025 14:34
To: ismit
Subject: Consent usage the whaling station 2662 Clarence drive. The Whine Shop

Dear Mr I Smit

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

Regards

Loretta Gillion
Administrative Officer: Town & Spatial Planning
Directorate: Planning & Development, Overstrand Municipality, Hermanus
A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
T: 028 313 8900 | E: loretta@overstrand.gov.za

From: ismit < >
Sent: Monday, 03 March 2025 09:34
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: [CAUTION: SUSPECT SENDER] Consent usage the whaling station 2662 Clarence drive. The Whine Shop

Dear Loretta,

My reasons in support:
- for all the reasons sighted by the Whine Shop;
- dangerous for parking on Clarence Drive in and in front current premises;
- safer parking and more too at new premises;
- new premises already a strong economic hub;
- no such facility until Kleinmond;
- current premises too small and tasting area cramped;
- could attract more visitors which will be good for the sustainability of this business
- much more convenient for other smaller Villages.

Izak Smit
Rooiels

Sent from my Galaxy

Loretta Gillion 24|48

From: ismit < >
Sent: Monday, 10 March 2025 13:04
To: Loretta Gillion
Subject: [CAUTION: SUSPECT SENDER] Whine Shop application. consent usage make no sense. the licence are to be moved, for wine tasting too.

Thanks
I Smit
Village resident.

Sent from my Galaxy

25|48

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
07 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Email: bettysbayratepayers@gmail.com
Chairman: 0829281260

Betty's Bay Ratepayers Association
2416 Crassula Road
Betty's Bay
7141
6 March 2025

Senior Town Planner
Mrs. H Van Der Stoep
loretta@overstrand.gov.za
0283138900

ERF 2662, 207 PORTER DRIVE, BETTY'S BAY: APPLICATION FOR CONSENT USE: EMENDO (PTY) LTD ON BEHALF OF WHALING STATION BETTYS BAY PROPRIETARY LIMITED

You are referred to the Land-use Application for consent to operating a bottle store on Erf 2662, Betty's Bay. The reference number is 2662 KBB, and the ID number is 48557/2024. This application has been submitted by Emendo Project Managers and Planners.

In response to the attached letter from Emendo requesting an amendment to the Application to restrict the operations of the proposed "bottle store," we would like to provide the following support and input:

The BBRA expresses no objection to the relocation of the current "Wine Cellar" from The Hub to Erf 2662 Betty's Bay, provided that the same level of business activity is maintained and is restricted to the following parameters:

1. The sale of wines shall focus on boutique offerings.
2. The sale of upmarket artisanal and boutique alcoholic beverages, sourced locally (such as craft beers and gin).
3. The sale of high value imported items, including but not limited to single malt whiskies, cognacs, ports, and champagne.
4. The sale of commercially produced alcohol is prohibited.
5. Operating hours will be established as follows:
   i. 09:00 to 18:00, Monday to Saturday,
   ii. and 09:00 to 14:00 on Sundays.
6. In the event of any future change in the lessee of the specified space, the same consent use requirements must be adhered to by the new lessee to ensure compliance with these principles.

FILE NO. Erf 2662 - KBB ✓
SCAN NO.
COLLABORATOR NO. 2621883

- 7 MAR 2025

26|48

Email: bettysbayratepayers@gmail.com
Chairman: 0829281260

Should the Overstrand Local Municipality, despite the considerations, decide to proceed with the approval of a "bottle store" as fully defined in the Overstrand Municipality Land-Use Scheme (2020), we would like to formally register an objection to such approval.

We look forward to receiving timely notification regarding this matter in accordance with the Overstrand Municipality Amendment By-law on Municipal Land Use Planning 2020 and the Overstrand Municipality Land-Use Scheme (2020).

Kindly keep the BBRA informed regarding the progress of the application.

(W R JACKSON)
BETTY'S BAY RATEPAYERS' ASSOCIATION: CHAIRMAN

27/48

OVERSTRAND LOCAL MUNICIPALITY

PO BOX 20

HERMANUS

7200

Ref:2662 KBB

APP ID: 48557/2024

Emendo (Pty) Ltd
Project Managers & Planners
Reg No: 1996/002835/07

Pretoria
404 Anderson Street
Menlo Park
Pretoria

PO Box 240
Groenkloof 0027

Tel: +27 12 346 2526
E-mail: info@emendo.co.za

Alberton
30 Rae Frankel Street
Brackenhurst
Alberton

PO Box 5438
Meyersdal 1447

Tel: +27 11 867 1160
Fax: +27 86 563 5390
E-mail: alberton@emendo.co.za

Bethlehem
38 Muller Street East
Bethlehem

PO Box 1717
Bethlehem 9700

Tel: +27 58 303 9038
Fax: +27 58 303 8755
E-mail: emebhm@iafrica.com

Also at Polokwane and Bloemfontein

ATTENTION: MRS.H VAN DER STOEP

ERF 2662, BETTYS BAY: CONSENT USE APPLICATION FOR THE PURPOSES OF "BOTTLE STORE"

With reference to the above application which was submitted on the 4th November 2024 and the advertisement process which is currently in process (objection period until 14th March 2025), I would like to express the following aspects and inputs for consideration:

1. The perception and definition of a "Bottle Store "is viewed as negative owing to connotations (socio-economic impact) over many years at different localities throughout South Africa. As part of this application, and after consultation with my client, we have agreed that the extent and implementation of the proposed "Bottle Store" use in Bettys Bay be re-defined to align to the local sentiment and tourism focus.

   The extent of the proposed "Bottle Store" will be +- 30m2, which will restrict the sale of extensive alcoholic products.

   It must also be kept in mind that the existing boutique wine shop, which is located at the "HUB-Bettys Bay" will be relocated to the Whaling Station, Bettys Bay (Erf 2662). Thus, the selling of off-site alcoholic beverages is currently being exercised in Bettys Bay.

Directors: Mickel Pat Molokeng Dip (TRP) Cert (House Corr (Shopping Centre Management) • André Kotzé (TRP) SA, BA, M(TRP), Dip Bus M • Tshiamo Molema B.Plan,BTRP

2. **Conditions:** During the consideration and approval of the application by Council, the following conditions will be acceptable to be imposed to "limit" the bottle store use to its full rights:
   a. The selling of boutique wines.
   b. The sale of upmarket artisanal and boutique alcoholic beverages, sourced locally (i.e. craft beers and gin).
   c. The sale of imported high value items including i.e. Single malt whiskies, Cognacs, Ports and Champagnes.
   d. No commercially produced alcoholic products can be sold.
   e. The operating hours should be between 09h00 and 18h00 (Monday to Saturday) and 09h00 to 14h00 on Sundays.
   f. In the event of any future changes in the lessee of the specified space, the same consent use requirements must be applied to the new lessee to uphold this principle.

I trust that the above assessment and proposals will be received positively during the adjudication and approval of the consent use application.

Should there be any further questions, please contact the undersigned.

Regards

Andre Kotze

27 February 2025

Loretta Gillion 29|48

From: Bettysbay Ratepayers <bettysbayratepayers@gmail.com>
Sent: Friday, 07 March 2025 09:53
To: Loretta Gillion
Subject: ERF 2662, 207 PORTER DRIVE, BETTY'S BAY: APPLICATION FOR CONSENT USE: EMENDO (PTY) LTD ON BEHALF OF WHALING STATION BETTYS BAY PROPRIETARY LIMITED
Attachments: EMENDO Letter 27.02.2025.pdf; Response to Notice for bottle store at the old whaling station.pdf

Dear Loretta,
I hope this message finds you well.
Attached, please find a letter from Emendo along with the BBRA response.
Thank you for all you do for us.
Kind regards,

--
Wayne R Jackson
Betty's Bay Ratepayers Association: Chairman
Email: bettysbayratepayers@gmail.com
Cell: 0829281260

Loretta Gillion 30|48

From: William Kuhn <
Sent: Monday, 03 March 2025 10:39
To: Loretta Gillion
Subject: Consent usage 2662 Clarence Drive - The Whaling Station

Good Day

I would like to put forward my support for consent usage for the moving of The Whine Shoppe from The Hub centre on Clarence Drive, Betty's Bay to The Whaling Station.

The Hub Centre is located on a blind turn on Clarence Drive with motorists continuously speeding on that bend. There is also very limited parking whereas at The Whaling station, there is ample parking.

Further, The Whaling Station is in the business area of Betty's. It is conveniently situated close to most of our shops and one can park and walk to all the other shops.

Next reason is that it will bring more economic activity to Betty's central area, thereby creating job opportunities that our village critically needs. Then there is also the tourism aspect as the Whine Shoppe attracts weekend and seasonal guests, and as people have become aware of the excellent tasting experiences, people already travel from Cape Town on a Saturday to attend the tastings.

The Whine Shoppe has been an excellent addition to Betty's and would be even more visible when moved to The Whaling Station.

Thank you

William Kuhn
3995 Disa Road
Betty's Bay

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662 ✓
KBB
SCAN NO.
COLLABORATOR NO.
26191139

TP - 3 MAR 2025

Loretta Gillion 31|48

From: Greta Kuhn < >
Sent: Monday, 03 March 2025 10:16
To: Loretta Gillion
Subject: 2662 Clarence Drive - The Whaling Station - Consent Usage

Good morning Loretta

I hereby wish to express my support for Consent Usage for the proposed moving of the license for the Whine Shop from The Hub centre to The Whaling Station building.

The reason for my support is that it makes economic sense that we have our own wine shop as we now have to travel to either Pringle Bay or Kleinmond to buy our wine. It is costing the residents of Betty's extra fuel and creating income streams for the other towns which can be to the benefit of our own village.

It will also create employment opportunities for our own village as the wine tastings attract tourists as well as the fantastic selection of our local wines that is stocked.

A further reason for my support is that the spot where the current license is held, The Hub, has very limited parking and is at most times, a dangerous spot to park. You must be aware of the many accidents that happen there weekly.

Kind regards

Greta Kuhn

Mobile

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662
KBB
SCAN NO.
COLLABORATOR NO.
26/9147

- 3 MAR 2025

Loretta Gillion 32 | 48

From: Greta Kuhn <
Sent: Monday, 03 March 2025 14:37
To: Loretta Gillion
Subject: Re: 2662 Clarence Drive - The Whaling Station - Consent Usage

Apologies.

Our Erf no is 3995 Disa Rd, Betty's Bay, 7141.

Regards

On Mon, Mar 3, 2025 at 2:32 PM Loretta Gillion <loretta@overstrand.gov.za> wrote:

Dear Ms G Kuhn

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning

Directorate: Planning & Development, Overstrand Municipality, Hermanus

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | E: loretta@overstrand.gov.za

From: Greta Kuhn <
Sent: Monday, 03 March 2025 10:16
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: 2662 Clarence Drive - The Whaling Station - Consent Usage

- 3 MAR 2025

Loretta Gillion 33|48

From: Nerine Swanepoel < .>
Sent: Monday, 03 March 2025 11:23
To: Loretta Gillion
Subject: Consent Usage The Whaling Station, 2662 Clarence Drive, BB

Good Day,

Herewith I would like to confirm that I would agree to The Whine Shoppe being located at The Whaling Station.

This up-market Bottle Store is quite a different concept from the run of the mill Bottle Stores. They stock local wines which is a wonderful support to our area's wine & spirit makers.

The Whaling Station is conveniently situated with enough easily accessible parking, front and back and the presence of this unique bottle store would boost the surrounding businesses, both socially and business-wise.

I really think it would be a great asset for the area and, added to that, it is a little nearer to Pringle Bay and Rooiels which suits me just fine!

Yours sincerely,

Nerine

Nerine Swanepoel
1268 Caspar Road
Pringle Bay

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662
KBB
SCAN NO.
COLLABORATOR NO.
2619130

- 3 MAR 2025

Loretta Gillion 34|48

From: Yvonne Garnar <
Sent: Monday, 03 March 2025 13:59
To: Loretta Gillion
Subject: Consent useage The whaling station 2662 Clarence Drive

Dear Sirs,
We are in support of the above move to the Whaling Station for the following reasons:-

1. More parking available and less congestion on the blind corner at The Hub
2. Support of local wine industry through tastings and education.
3. Economic benefits for the town, job creation, and convenient.
4. Access via two roads so less congestion.
5. Increased tourism spend which leads to job creation.

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Kind Regards,
Yvonne

Yvonne Garnar
Commercial Broker - Leasing and Sales | Broking
Cushman & Wakefield | BROLL
Full Status Property Practitioner

Direct:
Mobile:
Fax:

CUSHMAN & WAKEFIELD | broll

Broll Property Group (Pty) Ltd
8th Floor,80 Strand Street,Cape Town,8001

Linkedin | Twitter | Level 1 B-BBEE Contributor
Directors | Privacy Policy / Disclaimer | PAIA | Registered with the PPRA & operates trusts

Disclaimer: *Communications are without prejudice. Commercial terms offered or accepted by Broll shall be subject to board or client approval as applicable.*
This e-mail and any attachments thereto may contain confidential and proprietary information. This e-mail is intended for the addressee only and should only be used by the addressee for the related purpose. If you are not the intended recipient of this e-mail, you are requested to delete it immediately. Any disclosure, copying, distribution of or any action taken or omitted in reliance on this information is prohibited and may be unlawful. The views expressed in this e-mail are, unless otherwise stated, those of the sender and not those of the Broll Property Group or its management. E-mails cannot be guaranteed to be secure or free of errors or viruses. No liability or responsibility is accepted for any interception, corruption, destruction, loss, late arrival or incompleteness of or tampering or interfering with any of the information contained in this e-mail or for its incorrect delivery or non-delivery or for its effect on any electronic device of the recipient.

FILE NO. ERF 2662
KBB
SCAN NO.
COLLABORATOR NO.
2619118

- 3 MAR 2025

Loretta Gillion 35|48

From: Yvonne Garnar <
Sent: Monday, 03 March 2025 14:35
To: Loretta Gillion
Subject: RE: Consent useage The whaling station 2662 Clarence Drive

Dear Loretta,
Thank you.
Erf 268 Hangklip road – 160 Street - Pringle Bay.
Regards,
Yvonne

Yvonne Garnar
Commercial Broker - Leasing and Sales | Broking
Cushman & Wakefield | BROLL
Full Status Property Practitioner

Direct:
Mobile:
Fax:

CUSHMAN & WAKEFIELD | broll

Broll Property Group (Pty) Ltd
8th Floor,80 Strand Street,Cape Town,8001

LinkedIn | Twitter | Level 1 B-BBEE Contributor
Directors | Privacy Policy / Disclaimer | PAIA | Registered with the PPRA & operates trusts

Disclaimer: *Communications are without prejudice. Commercial terms offered or accepted by Broll shall be subject to board or client approval as applicable.*
This e-mail and any attachments thereto may contain confidential and proprietary information. This e-mail is intended for the addressee only and should only be used by the addressee for the related purpose. If you are not the intended recipient of this e-mail, you are requested to delete it immediately. Any disclosure, copying, distribution of or any action taken or omitted in reliance on this information is prohibited and may be unlawful. The views expressed in this e-mail are, unless otherwise stated, those of the sender and not those of the Broll Property Group or its management. E-mails cannot be guaranteed to be secure or free of errors or viruses. No liability or responsibility is accepted for any interception, corruption, destruction, loss, late arrival or incompleteness of or tampering or interfering with any of the information contained in this e-mail or for its incorrect delivery or non-delivery or for its effect on any electronic device of the recipient.

From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Monday, 03 March 2025 14:30
To: Yvonne Garnar <
Subject: RE: Consent useage The whaling station 2662 Clarence Drive

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments.

Dear Ms Garnar

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

- 3 MAR 2025

Loretta Gillion 36|48

From: Ashley Truscott <
Sent: Monday, 03 March 2025 09:39
To: Loretta Gillion
Cc: Jonathan Beattie
Subject: Consent usage - The Whaling Station 2662 Clarence Drive

Dear Loretta

I hereby give support to the move of the Whine shoppe to the Whaling Station premises, for the following reasons:

- support of local business in the area which provides economic opportunities and jobs, as well as provides an upmarket store selling wine and whiskey
- there is already an upmarket centre with a lovely restaurant and deli - the whine shoppe will complement this offering
- there is ample, safe parking, off street which is accessible from two different roads. This is a much safer area than at The Hub, the current location
- there are no schools or churches in the area that could be impacted
- there are no residences close by; this is a business area
- as this shop supports local wines, this will enhance the overall industry thus supporting job creation
- convenient for visitors to our town to have easy access to an upmarket wine shop

Kind regards

Ashley Truscott

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662 ✓
KBB
SCAN NO.
COLLABORATOR NO.
2619159

- 3 MAR 2025

Loretta Gillion 37|48

From: Ashley Truscott <
Sent: Monday, 03 March 2025 14:45
To: Loretta Gillion
Subject: Re: Consent usage - The Whaling Station 2662 Clarence Drive

I am an owner at 3935 Disa Road, Betty's Bay

Thanks
Ashley

On Mon, 3 Mar 2025 at 14:33, Loretta Gillion <loretta@overstrand.gov.za> wrote:

Dear A Truscott

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning

Directorate: Planning & Development, Overstrand Municipality, Hermanus

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | E: loretta@overstrand.gov.za

From: Ashley Truscott <
Sent: Monday, 03 March 2025 09:39
To: Loretta Gillion <loretta@overstrand.gov.za>
Cc: Jonathan Beattie <
Subject: Consent usage - The Whaling Station 2662 Clarence Drive

Loretta Gillion 38|48

From: Ingrid Boag <
Sent: Monday, 03 March 2025 09:34
To: Loretta Gillion
Subject: Consent usage, The Whaling Station 2662, Clarence Drive

Good Morning, I support this move because:
1) It is convenient and fewer travelling kilometers.
2) This has a friendly community approach as a meeting place for locals.
3) It has low impact on the surroundings

Thank you, have a nice day, Ingrid B

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662
KBB
SCAN NO.
COLLABORATOR NO.
2619240

- 3 MAR 2025

Loretta Gillion 39|48

From: ENGELA DE JAGER <
Sent: Monday, 03 March 2025 09:17
To: Loretta Gillion
Subject: Consent usage The Whaling Station 2662 Clarence Drive

To whom it may concern.

I hereby give my consent for the above matter. I have no objections whatsoever against it.

Regards.
Engela de Jager

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662
KBB
SCAN NO.
COLLABORATOR NO.
26192444

3 MAR 2025

Loretta Gillion 40|48

From: [redacted]
Sent: Monday, 03 March 2025 09:07
To: Loretta Gillion
Subject: Consent usage : The whaling Station 2663 Clarence Drive.

Dear Loretta

I refer to the above:

I support this new retail store for the following reasons:

- Better location – as it is with the CBD area, it is away from church's, resident houses etc.
- Within a more CBD environment.
- Better access to the retail store, but less congestion – better and more parking. Also safer as the existing area has high accident zone.
- It is an upmarket retail store and will uplift the area.
- Job creation and will help stimulate the local economy.

I do hope you will be receptive to this new store

Kind regards

Jonathan Beattie
+[redacted]
Resident and home owner in Betty's Bay

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 3 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

FILE NO. ERF 2662
KBB
SCAN NO.
COLLABORATOR NO.
26|9248

- 3 MAR 2025

Loretta Gillion 41 | 48

From:
Sent: Monday, 03 March 2025 14:38
To: Loretta Gillion
Subject: RE: Consent usage : The whaling Station 2662 Clarence Drive.

Hi Loretta

84 Disa Road, Betty's Bay (Erf 3935)

Kind regards

Jonathan

From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Monday, 03 March 2025 14:36
To:
Subject: RE: Consent usage : The whaling Station 2662 Clarence Drive.

Dear Mr J Beattie

Receipt is hereby acknowledged of your email.

Kindly also provide your erf / street number.

Regards

Loretta Gillion
Administrative Officer: Town & Spatial Planning
Directorate: Planning & Development, Overstrand Municipality, Hermanus
A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
T: 028 313 8900 | E: loretta@overstrand.gov.za

From: [redacted]za>
Sent: Monday, 03 March 2025 09:07
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Consent usage : The whaling Station ~~2663~~ 2662 Clarence Drive.

Dear Loretta

I refer to the above:

I support this new retail store for the following reasons:

- Better location – as it is with the CBD area, it is away from church's, resident houses etc.
- Within a more CBD environment.
- Better access to the retail store, but less congestion – better and more parking. Also safer as the existing area has high accident zone.
- It is an upmarket retail store and will uplift the area.

42|48

Loretta Gillion

From: Yolanda Roozen <
Sent: Tuesday, 04 March 2025 07:59
To: Loretta Gillion
Subject: Concent usage, 2662 Clarence Drive The Whaling Station

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
04 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart
(Hvld Stoep)

Good morning Loretta,

I vote a huge yes for the wine Shoppe to be at the whaling station.

Closer to my home and an asset to the centre shops.

Regards,

Yolanda Roozen
Stand 3956 Gladiolus Crescent

FILE NO. Erf 2662-KBB ✓
SCAN NO.
COLLABORATOR NO. 26194467

TP - 4 MAR 2025

REKORDBEHEER
14 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion 43/48

From:
Sent: Thursday, 13 March 2025 15:20
To: Loretta Gillion
Subject: OBJECTION TO BOTTLE STORE AT THE WHALING STATION 2662 CLARENCE DRIVE BB
Attachments: ID E NIEMANDT.pdf; 351265600408.pdf

Dear Ms Gillion,

As per a recent display of notice at the WHALING STATION, 2662 Clarence Drive, Betty's Bay, entitled: **APPLICATION FOR CONSENT USAGE: THE WHALING STATION 2662 CLARENCE DRIVE,** which document concluded with a recommendation for a **BOTTLE STORE** on the premises (including beer and spirits). I herewith would like to **RAISE MY OBJECTION**.

Name:
Esther Niemandt

Address:
Erf 2656 Bettys Bay
89 Clarence Drive

Contact Details:
(Cell)
(E-Mail)

FILE NO. Erf 2662 - KBB
SCAN NO.
COLLABORATOR NO. 2626038

Interest in Application:
I am a Permanent and Full time Resident in Betty's Bay and Owner of the property Erf 2656 BB

Reason for the Comment:
I would like to formally **Object to** this application and any application for a **Bottle Store in Betty's Bay**.
I am a permanent and full time resident and owner of the house in Betty's Bay. My elderly mother and I moved to Betty's Bay due to the tranquil atmosphere and the incredibly beautiful nature scenery and the safety that such a quiet town provides. It is very concerning to us that a bottle store will now be moved / opened right across the road from where we live. We all know, and statistics have proven, that with alcohol consumption there is increased crime and violence. We believe very strongly that having a bottle store will negatively impact on the crime and violence in Bettys Bay. We also feel that this will attract a lot more traffic, which we all that are living here, are specifically trying to avoid. There are more than enough existing establishments where one could buy liquor and Betty's Bay does not need another one.
I also want to emphasise that my home is very close and in walking distance from the Whaling Station. The open erf next to my home is regularly used as a short-cut for pedestrians walking to and from the shops. Especially on Friday and Saturday evenings there are often rowdy and clearly inebriated pedestrians walking in front and next to my home sometimes yelling at each other. It sometimes gets very scary to have a large group of people that are under the influence of alcohol shouting and screaming right in front and next to your home. I can only imagine how much worse this will get if there is a bottle store in walking distance and my driveway is being used as a pit stop before they take the short-cut through the erf. The street and erf are also used as a littering ground, and I regularly have to pick up empty bottles and plastic bags around my home. So, you can imagine how much worse this will get if there is a bottle store across the road.
Also, the owner indicates that the intention is to have the liquor limited to artisanal beverages, but the consent usage is for a bottle store. Therefore, once the consent is approved for a bottle store there is no way one can ensure that this will be the case or will stay like that for the long term.

TP 14 MAR 2025

As mentioned, my home is within walking distance from the whaling station and I strongly object to the consent usage of a bottle store, for tranquillity and safety reasons. I pay rates and taxes and moved to this town to get away from the city life, why change what is attracting us to it?

I attach hereto my ID and proof of Residence. Please let me know if you need anything else.

Many thanks and kind regards
Esther Niemandt

45/48

GEREGISTREERDE WOON- EN POSADRES

1. Bewaar die bewys van u GEREGISTREERDE WOON- EN POSADRES in hierdie sakkie

2. Indien u van adres verander het, of indien besonderhede van u huidige adres (bv. straatnaam en/of -nommer, ens.) verander het, moet die vorm KENNISGEWING VAN ADRESVERANDERING, wat in die sakkie agter in die identiteitsdokument is, gebruik word om die verandering aan te meld en moet dit ingedien word by of gepos word aan die naaste streek- of distrikkantoor van die DEPARTEMENT VAN BINNELANDSE SAKE

REGISTERED RESIDENTIAL AND POSTAL ADDRESS

1. Keep the proof of your REGISTERED RESIDENTIAL AND POSTAL ADDRESS in this pocket

2. If you have changed your address, or, if particulars of your present address, e.g. name of street and/or street number, etc., have been changed, the NOTICE OF CHANGE OF ADDRESS form in the pocket at the back of the identity document must be used to report the change and it must be stamped in at or posted to the nearest regional/district office of the DEPARTMENT OF HOME AFFAIRS.

1

I.D.No.

S.A.BURGER/S.A.CITIZEN

VAN/SURNAME
NIEMANDT

VOORNAME/FORENAMES
ESTHER

GEBOORTEDISTRIK OF-LAND/
DISTRICT OR COUNTRY OF BIRTH
SUID-AFRIKA

GEBOORTEDATUM/
DATE OF BIRTH
1971-03-06

DATUM UITGEREIK
DATE ISSUED
2000-07-20

UITGEREIK OP GESAG VAN DIE DIREKTEUR GENERAAL BINNELANDSE SAKE

ISSUED BY AUTHORITY OF THE DIRECTOR GENERAL HOME AFFAIRS

Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

VAT / BTW : 4140106396

HERMANUS ADMIN 20, HERMANUS, 7200
028 313 8000
028 312 1894
enquiries@overstrand.gov.za
HANGKLIP / KLEINMOND ADMIN 028 271 8400
STANFORD ADMIN 028 341 8500
GANSBAAI ADMIN 028 384 8300
FIRE, TRAFFIC, LAW ENFORCEMENT 028 312 2400 (24/7 number)

46|48

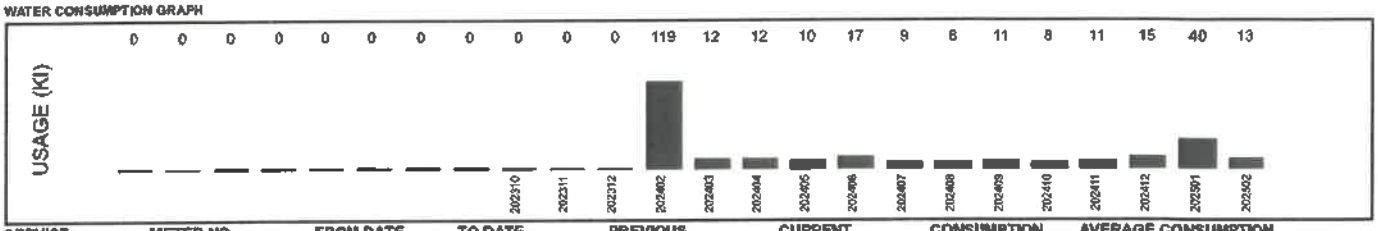
TAX INVOICE

FOR ALL ACCOUNT QUERIES PLEASE CONTACT YOUR LOCAL ADMINISTRATION OFFICE
DEBTORS VAT REG. NO.

E NIEMANDT
2656 CLARENCE DRIVE
BETTY'S BAY
7141

E NIEMANDT	89 CLARENCE DRIVE	BETTYSBAAI			
ACCOUNT NUMBER	**MONTHLY ACCOUNT FOR**	**TAX INVOICE**	**RECEIPTS POSTED TO**		**VALUATION**
351265600408	February 2025	9643452	25/2/2025		3575000
CLR:	**DEP: ELECT:**	**DEP. WATER**	**DEP: OTHER**	**ERF**	**SUBURB**
THERESA ELS	0	-719	0	2656	KBB

WATER CONSUMPTION GRAPH



SERVICE	METER NO.	FROM DATE	TO DATE	PREVIOUS	CURRENT	CONSUMPTION	AVERAGE CONSUMPTION	
W	FRK4134	10/01	07/02	1164	1177	13	0.464	
SERVICE	M/Y		TAR		VALUATION		TARIFF	LEVY
RATES	M		RES		3575000		.004547	1354.62
			REBATES:		15000		.004547	-5.68
					35000		.004547	-13.26
					20%			-267.13

TRANSACTION DETAILS DESCRIPTION	CONSUM.	AMOUNT	VAT	AMOUNT (INC VAT)
BALANCE CARRED FORWARD				**2760.46**
PAYMENTS - THANK YOU				
COUNTER REC: A:RMC9B 1180 REF/VERW:0002037700				-2760.46
SUBTOTAL				0.00
RATES MONTHLY	1	1068.55	0.00	1068.55
	0	0.00	0.00	0.00
WATER W1B - BASIC	1	175.68	26.35	202.03
WATER 0 - 6 KL	5.523	39.87	5.98	45.85
WATER 7 - 18 KL	7.476	110.73	16.61	127.34
REFUSE/VULLIS SAN1A - MONTH	1	253.08	37.96	291.04
REFUSE/VULLIS EQUIT/SUBSIDY	1	0.00	0.00	0.00
SEWER/RIOOL SE8D - BASIC	1	108.16	16.22	124.38
SEWER/RIOOL EQUIT/SUBSIDY	1	0.00	0.00	0.00
SEWER/RIOOL SE8F - INFRAS	1	13.03	1.95	14.98
SEWER/RIOOL SUBS INFSTR2	1	0.00	0.00	0.00
WATER W1A INFRASTR	1	23.86	3.58	27.44
WATER SUBS INFRSTR2	1	0.00	0.00	0.00
SUBTOTAL			108.65	1901.61
TOTAL				1901.61

CREDIT	90 DAY+	90 DAY	60 DAY	30 DAY	CURRENT
0.00	0.00	0.00	0.00	0.00	1901.61

CURRENT ACCOUNT PAYABLE ON OR BEFORE	20/3/2025	TOTAL AMOUNT DUE	1901.61

MESSAGE / BOODSKAP

Overstrand Municipality will no longer send out printed municipal accounts by post. Register to receive your account via E-MAIL or SMS: enquiries@overstrand.gov.za or visit nearest office.

absa
ABSA
BRANCH CODE: 632 005
CURRENT ACCOUNT: 40 6657 8021
SWIFT ADDRESS: ABSAZAJJ
REF: 351265600408

pay@ **11337 3512 6560 0408**

EasyPay **>>>>>>> 9151 9351 2656 0040 81**

OVERSTRAND MUNISIPALITE
REKORDBEHEER
12 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

47/48

Loretta Gillion

From: Fat Lady's Arms Middleton <
Sent: Wednesday, 12 March 2025 09:39
To: Loretta Gillion
Subject: Re: Erf 2662, 207 Porter Drive, Betty's Bay: Public Participation

TP - A Theart (H vld Stoep)

Good morning Loretta

I own Waaygat restaurant in the same building as the proposed Liquor Shop at 2662 Clarence Drive, Betty's Bay. I have no problem with a wine shop as initially planned. However, it came to my attention that the applicant wants to have a full on off-sale, hard liquor shop, a drank winkel. Maybe his intentions are good but what if he sells the business to a person that doesn't have the same intention. My restaurant is 4 meters away from the proposed liquor store and 4 meters from my closest table, dining area. This will draw the wrong crowd, noise and unruliness. The proposed operating hours, selling hard liquor will go on well after dark on Fridays, which pose even further problems.

I strongly object to the sale of hard liquor so close to my restaurant.

Kind regards
Andre Middleton le Roux

Waaygat Restaurant
2662 Clarence Drive
Betty's Bay

FILE NO Erf 2662 - KBB
SCAN NO.
COLLABORATOR NO.
26214796

On Wed, 12 Mar 2025 at 09:15, Loretta Gillion <loretta@overstrand.gov.za> wrote:

Dear Sir

Your telephone enquiry refers.

Attached please find the application for consent use on Erf 2662, Whaling Station, Betty's Bay.

Should you have any comment, objection or representations kindly direct it to Loretta Gillion (loretta@overstrand.gov.za) on or before **14 March 2025**.

TP 12 MAR 2025

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
10 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion 48|48

From: Jack's - Betty's Bay < >
Sent: Saturday, 08 February 2025 09:00
To: Loretta Gillion
Subject: Erf 2662, 207 Porter Drive, Betty's Bay: Public Participation

Good Day Loretta and thank you for the email regarding ERF 2662 Clarence Drive. We are Jack's Restaurant in ERF 2663.

We only have one item that we feel must be taken into consideration and that is one of parking.

Our observation is that just with the current businesses operating from 2662 there is grossly insufficient parking for their customers and staff, and regularly the parking needs of their customers overflow onto our parking areas (Porter and Clarence). With an increased amount of footfall this can only put more demand on their parking area and will negatively impact my business and that of my tenants.
ERF 2662 does not have demarcated parking bays at the rear (Porter Drive) making it difficult for customers to know where to position their cars and not maximising the space.

I would like to request that a full survey is done of the parking required and the parking available especially bearing in mind that on any given day there are upwards of five and sometimes seven staff vehicles belonging to the various businesses therein which do not move during the day, plus the various transient vehicles belonging to Be In Betty's Bay taking up potential customer parking spaces, plus delivery vehicles.

Thank you and kind regards

Laura Brown
Owner
Jack's, 2663 Clarence Drive

Virus-free.www.avast.com

FILE NO. Erf 2662 - KBB
SCAN NO.
COLLABORATOR NO. 2605135

TP 10 FEB 2025

Loretta Gillion Annexure E 1/2

From: Fat Lady's Arms Middleton <>
Sent: Friday, 11 April 2025 11:39
To: Loretta Gillion; andre@emendo.co.za
Subject: Re: ACKNOWLEDGEMENT OF COMMENT / OBJECTION - Erf 2662 Betty's Bay (4857/2024)

Good morning Loretta

The extent of the proposed wine boutique has been explained to me. I am satisfied with the results of this conversation.
I hereby would like to withdraw my objection and instead, offer my support in favour of this project.

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
11 APR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Kind regards
Andre
Waaygat Restaurant
662 Clarence Drive
Betty's Bay

On Fri, 11 Apr 2025, 09:14 Loretta Gillion <loretta@overstrand.gov.za> wrote:

Mr Andre Middleton le Roux

(Waaygat Restaurant)

FILE NO. ERF 2662
Betty's Bay
SCAN NO.
COLLABORATOR NO.
2643120

Dear Sir

ACKNOWLEDGEMENT OF COMMENT / OBJECTION

ERF 2662, 207 PORTER DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: EMENDO (PTY) LTD ON BEHALF OF WHALING STATION BETTYS BAY PROPRIETARY LIMITED

1. Receipt is hereby acknowledged of your e-mail regarding the above dated 12 March 2025.

TP 11 APR 2025

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAY 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

2/2

Loretta Gillion

From: andre@emendo.co.za
Sent: Friday, 16 May 2025 12:25
To: Loretta Gillion
Cc: Loriaan Isaacs; Hanneen van der Stoep
Subject: FW: ERF 2662,BETTIES BAAI-BESWAAR

GOOD AFTERNOON,

With reference to the above application, please refer to the comment below from one of the objectors (Ester Niemand).

Based on the proposed conditions to be imposed with the approval, the input from Ester Niemand should be viewed as a withdrawal of the objection.

Only one (1) objection remains, which was addressed in my reply.

It will be appreciated if you could indicate as to when the application will be considered by the MPT.

Your feedback will be appreciated.

Regards

Andre

FILE NO. Erf 2662-KBB
SCAN NO.
COLLABORATOR NO.
2665091

André Kotze
Director & Town Planner
012 346 2526
andre@emendo.co.za
404 Anderson Street, Menlo Park, Pretoria
www.emendo.co.za
Emendo
Since 1996

[illegible]

From: esther@pmunro.com <esther@pmunro.com>
Sent: Thursday, 15 May 2025 20:14
To: 'Andre' <andre@emendo.co.za>
Subject: RE: ERF 2662,BETTIES BAAI-BESWAAR

Goeie dag Andre,

19 MAY 2025

Annexure F
1/14

5 May 2025

Overstrand Local Municipality
PO Box 20
Hermanus
7200

Ref: 2662 KBB
App ID: 48557/2024

Emendo (Pty) Ltd
Project Managers & Planners
Reg No: 1996/002835/07

Attention: Mrs. H. van der Stoep

ERF 2662, BETTY'S BAY: CONSENT USE APPLICATION FOR THE PURPOSES OF "BOTTLE STORE".

RESPONSE TO COMMENTS RECEIVED

Pretoria
404 Anderson Street
Menlo Park
Pretoria

PO Box 240
Groenkloof 0027

Tel: +27 12 346 2526
E-mail: info@emendo.co.za

Alberton
30 Rae Frankel Street
Brackenhurst
Alberton

PO Box 5438
Meyersdal 1447

Tel: +27 11 867 1160
E-mail: alberton@emendo.co.za

Bethlehem
38 Muller Street East
Bethlehem

PO Box 1717
Bethlehem 9700

Tel: +27 58 303 9038
E-mail: emebhm@iafrica.com

With reference to your email dated 11th April 2025 and in line with Section 56(2) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020, the response to objections / comments received is as follows:

1. APPLICATION BACKGROUND

The application for Consent Use for the purposes of a "Bottle Store" in terms of Section 16(2)(0) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 was submitted to the Council on the 4th November 2024, with an amendment application on the 11th November 2024.

The application was advertised and publicly displayed on the 6th February 2025 (Overstrand Herald) and on the 7th February 2025 (Public Notices). Proof of the notices was provided to the Overstrand Municipality on the 12th January 2025.

The Public Notices were maintained until the 14th March 2025 and proof thereof (with Affidavit) was provided to the Overstrand Municipality on the 17th March 2025.

On the 27th February 2025, a letter was submitted to the Overstrand Municipality where proposed conditions of the approval of the application was proposed (see **Annexure A**).

2. LETTERS OF SUPPORT / OBJECTIONS RECEIVED

2.1 Overstrand Municipality

The Overstrand Municipality provided comments on the application (support / objections) on the 11th April 2025, which was +/- 2 weeks overdue in line with Section 56 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

A total of 26 inputs were received, of which 23 submissions were in support of the application and 3 objections to the application.

2.2 Letters of Support

From the letters of support, it is evident that the majority of Betty's Bay residents is in support of the application. The aforementioned is emphasized by the letters of support from the Betty's Bay Rate Payers Association (with conditions) and Councillor Theresa Els (Ward 10).

2.3 Letter of Objection

A total of three (3) objections were received from the following persons:

a) Andre Middleton Le Roux

b) Laura Brown (Jacks- Betty's Bay)

c) Esther Niemandt

One of the objections, namely Mr. Andre Middleton Le Roux withdrew his objection to the proposed "Bottle Store" on the 11th April 2025 (see **Annexure B**).

The response will only relate to the remaining two (2) objections.

3. RESPONSE TO OBJECTIONS

3.1 Laura Brown (Jacks – Erf 2663)

A. The objection is not against the proposed "Bottle Store", but the parking arrangements and utilization of parking bays between the respective premises.

Parking Provision

Erf 2662, Betty's Bay (Whaling Station) is zoned "Business Zone III: Local Business (B3) in terms of the Overstrand Municipal Land Use Scheme, 2020.

As per the application submitted, the Overstrand Land Use Scheme, 2020 and the approved building plan, the parking areas provided on Erf 2662, Betty's Bay can be summarized as follows:

- Parking areas required (shops, restaurants and offices) – 4 bays per 100m² Gross Leasable area.
- Erf 2662 (Whaling Station) Gross Leasable area as per approved building plan - 516m².
- Parking areas required: 20,64 bays.
- Parking areas provided: 22 bays, of which 11 parking bays is provided off Clarence Drive and 11 parking bays off Porter Road.

From the above it is evident that sufficient Parking Bays have been provided in line with the requirements of the Overstrand Municipal Land Use Scheme, 2020 and the approved Building Plan.

B. **Parking Configuration within the Retail Node**

The retail activities within the Southern Retail Node are characterized by a number of separate "Business" zoned erven, each with its own designated parking bays.

At present, the respective parking areas are not fenced or demarcated, but operates as a collective and in support of each other within the Retail Node. In the case of events or during holiday "peak" times, parking areas / bays are "shared" over a short time span, where patrons / visitors walk from one shop to the next between business activities to enhance their shopping experience without driving between 50 and 100 metres. It is within this "spirit" of collectiveness and symbolic synergy that existing business share and function.

The overflow of parking bays is the exception as opposed to the rule within the Southern Retail Node.

There is a strong sense of collective sharing of parking bays in the Retail Node during events and peak Holiday periods. This is an international phenomenon and not only local.

C. **Erf 2662 Flexible Operating Hours**

The existing activities on Erf 2662 (Whaling Station) varies between offices, bistro and restaurant with different operating hours, for example, offices operate during weekdays between 8am and 4pm, as opposed to the restaurant which primarily operates after 4pm and over weekends.

Flexible operating hours between the respective activities ensures that not all parking bays are required at the same time (employees and patrons).

D. **The Objector's Choice**

The objector operates self-catering accommodation, restaurant and vet shop from the premises which is subject to similar challenges as other business owners during events and peak holiday periods.

The objector has the choice to demarcate and "police" the parking bays on the Jack's property and to inform patrons visiting Jacks to refrain from using other parking areas in the Local Node.

3.2 Esther Niemand (Erf 2656, Betty's Bay)

A. **Locality**

Erf 2656, Betty's Bay is not located across the proposed "Bottle Store" as mentioned in the objection letter, but +/- 250m to the west of Erf 2662 (Whaling Station).(See Annexure C).

B. **"There are more than enough existing establishments where once could buy liquor and Betty's Bay does not need another one"**

At present there is only one (1) off-site liquor outlet (Wine Shop at Hub) in Betty's Bay. It is the intention through this application to relocate this activity to Erf 2662 (Whaling Station) from the Hub.

The other liquor establishment within Betty's Bay are on-site, where alcoholic beverages can only be consumed on the premises. No off-sales are permitted.

C. **"Rowdy and Inebriated Pedestrians"**

The issues which are mentioned in the objection has no relevance to the proposed activity as it addresses existing challenges.

Spontaneous group interaction should not be linked to intoxication or security risk.

As an applicant, we cannot comment on the on-site (liquor sales) management of the respective restaurants within the Local Node.

The use of alcohol is prohibited in public spaces in terms of respective Liquor Acts and Municipal By-Laws.

D. **"Bottle Store across the road"**

The proposed "Bottle Store" at Erf 2662, Betty's Bay (Whaling Station) must be viewed as the "relocation" of the existing "wine shop" at the Hub, with limited expansion of products.

The following important information needs to be taken into consideration:

- On the 27th February 2025, a letter was addressed to the Overstrand Local Municipality (see attached) where the definition and use of "Bottle Store" was downscaled in line with the sentiments and concerns of the Betty's Bay Community. The proposed conditions as per the letter could be imposed during the approval of the application (see **Annexure A**).
- The proposed "Bottle Store" is aimed at the middle to higher income users where goods will be purchased for gifts or used at private premises.
- In terms of the Municipal Liquor By-Laws, no alcohol can be consumed in public areas.
- The average time spent within the proposed activity will be between 10-15 minutes, where customers will either leave the "Bottle Store" without a purchase or with a purchase to consume at private space.
- The existing "Wine Shop" at the Hub has been in operation for almost two (2) years where no incident of intoxication occurred in close proximity to the venue.
- The entrance to the premises is located in a closed foyer, which is locked during the evening and monitored by cameras and security systems.

E. **"Pedestrian Short Cut"**

The vacant erf adjacent to the objector's property, which is being used for pedestrian short-cuts have no relevance to the application. This matter is of private nature which needs to be discussed with the adjacent land owner.

4. CONCLUSION

The conclusions can be summarized as follows:

a) Only two (2) objections were received and twenty-three (23) letters of support which indicates overwhelming support for the proposed "Bottle Store".

b) The parking provision on Erf 2662, Betty's Bay is in line with the provisions of the Overstrand Municipal Land Use Scheme, 2020 and the approval building plan.

c) Other objections (Esther Niemandt), which is located +/- 250m from Erf 2662, Betty's Bay has no relevance to the proposed "Bottle Store" application as it addresses existing challenges relating to the pedestrian movement (adjacent Erf) and rowdiness after hours. The response relating to the aforementioned was stated in Section 3.2 of this letter.

d) The negative perception of the "Bottle Store" in terms of operation and sale of goods was qualified, with conditions for approval as stated in a letter to the Overstrand Municipality on the 27th February 2025.

5. RECOMMENDATION

We herewith request that the Overstrand Municipality approve the Consent Use application for the purposes of "Bottle Store" on Erf 2662, Betty's Bay in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Yours faithfully

Mr. Andre Kotze

6/14

ANNEXURE A

7/14

OVERSTRAND LOCAL MUNICIPALITY

PO BOX 20

HERMANUS

7200

Ref:2662 KBB

APP ID: 48557/2024

Emendo (Pty) Ltd
Project Managers & Planners
Reg No: 1996/002835/07

Pretoria
404 Anderson Street
Menlo Park
Pretoria

PO Box 240
Groenkloof 0027

Tel: +27 12 346 2526
E-mail: info@emendo.co.za

Alberton
30 Rae Frankel Street
Brackenhurst
Alberton

PO Box 5438
Meyersdal 1447

Tel. +27 11 867 1160
Fax. +27 86 563 5390
E-mail: alberton@emendo.co.za

Bethlehem
38 Muller Street East
Bethlehem

PO Box 1717
Bethlehem 9700

Tel: +27 58 303 9038
Fax. +27 58 303 8755
E-mail: emetbhm@iafrica.com

Also at Polokwane and Bloemfontein

ATTENTION: MRS.H VAN DER STOEP

ERF 2662, BETTYS BAY: CONSENT USE APPLICATION FOR THE PURPOSES OF "BOTTLE STORE"

With reference to the above application which was submitted on the 4th November 2024 and the advertisement process which is currently in process (objection period until 14th March 2025), I would like to express the following aspects and inputs for consideration:

1. The perception and definition of a "Bottle Store "is viewed as negative owing to connotations (socio-economic impact) over many years at different localities throughout South Africa. As part of this application, and after consultation with my client, we have agreed that the extent and implementation of the proposed "Bottle Store" use in Bettys Bay be re-defined to align to the local sentiment and tourism focus.

   The extent of the proposed "Bottle Store" will be +- 30m2, which will restrict the sale of extensive alcoholic products.

   It must also be kept in mind that the existing boutique wine shop, which is located at the "HUB-Bettys Bay" will be relocated to the Whaling Station, Bettys Bay (Erf 2662). Thus, the selling of off-site alcoholic beverages is currently being exercised in Bettys Bay.

2. **Conditions:** During the consideration and approval of the application by Council, the following conditions will be acceptable to be imposed to "limit" the bottle store use to its full rights:
   a. The selling of boutique wines.
   b. The sale of upmarket artisanal and boutique alcoholic beverages, sourced locally (i.e. craft beers and gin).
   c. The sale of imported high value items including i.e. Single malt whiskies, Cognacs, Ports and Champagnes.
   d. No commercially produced alcoholic products can be sold.
   e. The operating hours should be between 09h00 and 18h00 (Monday to Saturday) and 09h00 to 14h00 on Sundays.
   f. In the event of any future changes in the lessee of the specified space, the same consent use requirements must be applied to the new lessee to uphold this principle.

I trust that the above assessment and proposals will be received positively during the adjudication and approval of the consent use application.

Should there be any further questions, please contact the undersigned.

Regards

Andre Kotze

27 February 2025

ANNEXURE B

reception@emendo.co.za

From: Andre <andre@emendo.co.za>
Sent: Friday, 02 May 2025 08:54
To: reception@emendo.co.za
Subject: FW: ACKNOWLEDGEMENT OF COMMENT / OBJECTION - Erf 2662 Betty's Bay (4857/2024)

From: Fat Lady's Arms Middleton <fatladysarms@gmail.com>
Sent: Friday, 11 April 2025 11:39
To: Loretta Gillion <loretta@overstrand.gov.za>; andre@emendo.co.za
Subject: Re: ACKNOWLEDGEMENT OF COMMENT / OBJECTION - Erf 2662 Betty's Bay (4857/2024)

Good morning Loretta

The extent of the proposed wine boutique has been explained to me. I am satisfied with the results of this conversation.
I hereby would like to withdraw my objection and instead, offer my support in favour of this project.

Kind regards
Andre
Waaygat Restaurant
2662 Clarence Drive
Betty's Bay
0827864888

On Fri, 11 Apr 2025, 09:14 Loretta Gillion <loretta@overstrand.gov.za> wrote:

Mr Andre Middleton le Roux

(Waaygat Restaurant)

Dear Sir

ACKNOWLEDGEMENT OF COMMENT / OBJECTION

11|14

ERF 2662, 207 PORTER DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: EMENDO (PTY) LTD ON BEHALF OF WHALING STATION BETTYS BAY PROPRIETARY LIMITED

1. Receipt is hereby acknowledged of your e-mail regarding the above dated 12 March 2025.

2. Your comment / objection has been forwarded to the applicant for their attention. Further communication will be addressed to you in due course.

3. Please regard this email as your **formal notification** of acknowledgement.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning

Directorate: Planning & Development, Overstrand Municipality, Hermanus

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | E: loretta@overstrand.gov.za

Overstrand Municipality
A: 1 Magnolia Street, Hermanus, 7200
P: P.O Box 20, Hermanus, 7200
T: +27 (0)28 313 8000 | **F:** +27 (0)28 312 1894

12|14

E:
enquiries@overstrand.gov.za
W: www.overstrand.gov.za

Vision Statement: *"To be a centre of excellence for the community"*
PRIVACY AND CONFIDENTIALITY DISCLAIMER: *The Overstrand Municipality and Staff are committed to ensuring that it safeguards personal/private information of data subjects and to respect their right to privacy in accordance with the provisions of the South African Constitution, the Protection of Personal Information Act, 2013 (POIPA) and the Promotion of Access to Information Act, 2000 (PAIA).*

This email message contains information which may be confidential, personal, private, or privileged in nature and is intended solely for use by the recipient and others authorized to receive it for the specific purpose for which it was sent. If you are not the intended recipient, you are prohibited from using, misusing, disseminating, altering, forwarding, storing, or copying the information, and are hereby notified that such action in relation to the contents of this information is unlawful which may result in your being held liable arising out of your non-compliance. If you have received this message in error, please notify the sender immediately and delete and/or destroy the message from your system.

This email is subject to a disclaimer available HERE, and which disclaimer includes a description of how any personal information that may be provided will be processed.

NOTICE: *The Overstrand Municipality limits all e-mails, including attachments, to 35MB. Your message will not be delivered if it exceeds this limit. Please create a shorter message, remove attachments, or consult your system administrator if your message exceeds the limit.*
Please consider the environment before printing this correspondence.

13/14

ANNEXURE C

LOCALITY MAP

Erf 2656, Betty's Bay

Overstrand Local Municipality

Western Cape Province

Legend

- Site Boundary - Erf 2662
- Erf Boundary
- Farm Portion Boundary

1:2 000 Page size: A4

50

Meters

Date created: Thursday, 17 April 2025
Author: gisoffice@emende.co.za
Projected Coordinate System: WGS19

Betty's Bay
Western Cape

Emende

Annexure G

COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR: APPLICATION FOR CONSENT USE: ERF 2662, BETTY'S BAY (4857/2024)

Electricity	:	Eskom Area
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Stormwater	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;

2. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;

3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Principal Technologist: Kleinmond for written approval;

4. that any additional and / or extended vehicle entrances will be for the owner's account;

5. that no reservation of on-street parking be allowed;

6. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;

7. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if require

RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL

28/05/2025
DATE

Annexure H 1/2

OVERSTRAND LOCAL MUNICIPALITY

PO BOX 20

HERMANUS

7200

Ref:2662 KBB

APP ID: 48557/2024

Emendo (Pty) Ltd
Project Managers & Planners
Reg No: 1996/002835/07

Pretoria
404 Anderson Street
Menlo Park
Pretoria

PO Box 240
Groenkloof 0027

Tel: +27 12 346 2526
E-mail: info@emendo.co.za

Alberton
30 Rae Frankel Street
Brackenhurst
Alberton

PO Box 5438
Meyersdal 1447

Tel: +27 11 867 1160
Fax: +27 86 563 5390
E-mail: alberton@emendo.co.za

Bethlehem
38 Muller Street East
Bethlehem

PO Box 1717
Bethlehem 9700

Tel: +27 58 303 9033
Fax: +27 58 303 8755
E-mail: emebthm@iafrica.com

Also at Polokwane and Bloemfontein

ATTENTION: MRS.H VAN DER STOEP

ERF 2662, BETTYS BAY: CONSENT USE APPLICATION FOR THE PURPOSES OF "BOTTLE STORE"

With reference to the above application which was submitted on the 4th November 2024 and the advertisement process which is currently in process (objection period until 14th March 2025), I would like to express the following aspects and inputs for consideration:

1. The perception and definition of a "Bottle Store "is viewed as negative owing to connotations (socio-economic impact) over many years at different localities throughout South Africa. As part of this application, and after consultation with my client, we have agreed that the extent and implementation of the proposed "Bottle Store" use in Bettys Bay be re-defined to align to the local sentiment and tourism focus.

   The extent of the proposed "Bottle Store" will be +- 30m2, which will restrict the sale of extensive alcoholic products.

   It must also be kept in mind that the existing boutique wine shop, which is located at the "HUB-Bettys Bay" will be relocated to the Whaling Station, Bettys Bay (Erf 2662). Thus, the selling of off-site alcoholic beverages is currently being exercised in Bettys Bay.

2. **Conditions:** During the consideration and approval of the application by Council, the following conditions will be acceptable to be imposed to "limit" the bottle store use to its full rights:
   a. The selling of boutique wines.
   b. The sale of upmarket artisanal and boutique alcoholic beverages, sourced locally (i.e. craft beers and gin).
   c. The sale of imported high value items including i.e. Single malt whiskies, Cognacs, Ports and Champagnes.
   d. No commercially produced alcoholic products can be sold.
   e. The operating hours should be between 09h00 and 18h00 (Monday to Saturday) and 09h00 to 14h00 on Sundays.
   f. In the event of any future changes in the lessee of the specified space, the same consent use requirements must be applied to the new lessee to uphold this principle.

I trust that the above assessment and proposals will be received positively during the adjudication and approval of the consent use application.

Should there be any further questions, please contact the undersigned.

Regards

Andre Kotze

27 February 2025

4.5
ERF 3970, 13 HIBISCUS ROAD, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF SC MARCOVECCHIO

3970 KBB (4743/2024)
H van der Stoep **(028) 313 8900** **Hermanus Administration**
1 July 2025

1. EXECUTIVE SUMMARY

An application has been received on 7 August 2024 from Plan Active Town & Regional Planners on behalf of SC Marcovecchio on Erf 3970, Betty's Bay for the following:

- **Removal of Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions B.7.(i) and B.7.(ii) as contained in Title Deed T24576/2024 applicable to Erf 3970, Betty's Bay to accommodate the unlawful change of use of the approved covered veranda / balcony to a bedroom and lounge and to accommodate an existing water tank that encroach the 3m title deed lateral building line (all structures As Built and positioned on the 2,085m eastern lateral building line).

  The restrictive title deed conditions read as follows:

  *"**B. SUBJECT FURTHER** to the conditions contained in Deed of Transfer No. T45069/1980 and imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of BETTY'S BAY TOWNSHIP EXTENSION NO 3 which conditions read:*

  7. No building or structure or any portion thereof except boundary walls and fences shall, except with the consent of the Administrator, be erected nearer than 5 metres to the street line which forms a boundary of this erf, nor within 3 metres of the rear or 3 metres of the lateral boundary, common to any adjoining erf, provided that with the consent of the local authority:-…

  (i) An outbuilding used solely for the housing of motor vehicles and not exceeding 3 metres in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces and any other outbuilding of the same height may be erected within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf, provided that in the case of a corner erf, the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf;

  (ii) An outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such a boundary;"

- **Determination of an Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the unlawful change of use of the covered veranda / balcony (positioned on the 2,085m eastern lateral building line) to bedroom and lounge on first floor level and for the water tank positioned on the 2m eastern lateral building line.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C. The Title Deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Plan Active Town & Regional Planners has been appointed by Mrs. S.C. Marcovecchio, the owner of Erf 3970 Betty's Bay, to apply for the determination of an administrative penalty and removal of a title deed condition of the subject property.

The architectural draughtsperson, Ms. Ronika Chamier, submitted building plans for approval to Overstrand Municipality. The plans were previously approved with the covered veranda over the 3m eastern lateral building line. The covered veranda was however unlawfully changed to be part of the lounge and bedroom on first floor level. Since the use of the approved structure changed (the structure encroaches the applicable 3m title deed lateral building line), a title deed condition removal application must be submitted to Overstrand Municipality before the building plan can be approved. In addition, one of the water tanks is also positioned within the 3m eastern lateral title deed building line. Refer to a copy of the letter from Building Control Management dated 8 September 2023.

This application proposes to address the unlawful As Built addition / change of use of an approved structure. No new additions or alterations are proposed.

4. SUMMARY OF APPLICANT'S MOTIVATION

CONTEXTUAL INFORMATION

Description:

Zoning of Erf:	Residential 1: Single Residential
Area in extent:	770m²
Title Deed Number:	T24576/2024

DEVELOPMENT PROPOSAL

The zoning and primary land use of the subject property will remain unchanged. The location of the subject property within a single residential area allows the property to be developed for low impact land uses only (such as bed-and-breakfast establishments, day care, second dwelling, guest house and home occupation uses). The proposed removal of the restrictive building line title deed condition will not hinder any possible future land use applications on Erf 3970 Betty's Bay.

The subject property has the potential and allows for the deviations being applied for since the As Built structures have been on the subject property for a considerable period without any complaints to the municipality from neighbours. All existing structures meet the maximum of 8m height requirement for SR1 zoned properties as depicted on the site development plan.

The following should be noted when considering the potential of the site:

- The visual impact will be kept to a minimum since the structures have been on the property for a few years now and no new additions / alterations are proposed.
- The massing and scale of the As Built structures are compatible with the area.
- Except for the title deed lateral building line encroachment, all other land use parameters are met.
- The As Built bedroom and lounge on first storey level are an integral part of the dwelling on the subject property, thus, to demolish the structure to make it compliant to the title deed building line, will diminish the aesthetic value and property value.
- The scale of the surrounding built environment and the low impact on the streetscape are also factors that must be considered when contemplating the potential of the property to accommodate the removal of the building line title deed condition.

The following factors confirm the potential of the property to accommodate the proposed application:

- Good quality materials were used when the existing structures were built.
- The height of the As Built and approved structures will remain unchanged.
- The As Built unlawful structures have been in existence for a few years, with no complaints from neighbours. No alterations or additions to these structures are proposed.
- The As Built structures add value to the subject property.

IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. The As Built structures will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

REMOVAL OF RESTRICTIVE CONDITIONS IS MOTIVATED AS FOLLOWS:

It is proposed to remove the following restrictive title deed condition registered by the Administrator (now the Overstrand Municipality) to allow the owner to retain the As Built extended lounge and bedroom on first storey level. The approved covered veranda / balcony on first floor changed use and was altered to form part of the habitable space of the dwelling. A section thereof was included in the bedroom and the other section was included in the lounge area. The approved structure was altered, and the use changed without the necessary building plan approval. Take note that the unlawful change of use of the covered veranda to a bedroom and lounge use within the approved structure does not encroach the Overstrand Municipality Land Use Scheme Regulations' (2020) lateral building line of 2m.

The bedroom and lounge structure are positioned 2,085m from the eastern lateral erf boundary. In addition, one of the existing water tanks are also positioned within the

3m eastern lateral title deed building line (also positioned 2,085m from the eastern erf boundary). The title deed has stricter 3m lateral building line and as a result the change of use of the veranda to a bedroom and lounge use triggers a title deed building line removal.

No new additions / alterations are proposed – it is proposed to accommodate the As Built structure and water tank in its current position only.

Image 1: As Built lounge and bedroom on first storey level and water tank positioned on the 2,085m eastern lateral building line.

To accommodate the As Built lounge and bedroom on the first storey (approved covered veranda / balcony), it is proposed to remove the lateral building line condition on Page 3, paragraph B.7 i. & ii. of title deed no. T24576/2024 that reads as follow:

*"**B. SUBJECT FURTHER** to the conditions contained in Deed of Transfer No. T45069/1980 and imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of BETTY'S BAY TOWNSHIP EXTENSION NO 3 which conditions read:*

7. No building or structure or any portion thereof except boundary walls and fences shall, except with the consent of the Administrator, be erected nearer than 5 metres to the street line which forms a boundary of this erf, nor within 3

metres of the rear or 3 metres of the lateral boundary, common to any adjoining erf, provided that with the consent of the local authority:-…

(i) An outbuilding used solely for the housing of motor vehicles and not exceeding 3 metres in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces and any other outbuilding of the same height may be erected within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf, provided that in the case of a corner erf, the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf;

(ii) An outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such a boundary;"

The reason for the removal of the conditions specified above is as follows:

- The common boundary (lateral) building line condition is more restrictive (3m) than the land use restrictions prescribed in the Overstrand Municipality Land Use Scheme Regulations, 2020, which is 2m. The As Built extended bedroom and lounge (approved as covered veranda / balcony and changed use) and water tank were constructed on the 2,085m eastern lateral building line and therefore the 3m common boundary building line condition is more restrictive for the As Built dwelling and position of the water tank. It is proposed to remove the building line condition since the Overstrand Land Use Scheme Regulations (2020) now govern land use planning in Betty's Bay and therefore the more restrictive building line condition is considered superfluous.

- There are approved garages on the subject property that does not meet the "within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf" title deed condition.

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement.

The removal of the restrictive condition intends to increase the use rights of the property to permit the As Built dwelling house and water tank as described above. The value of the rights is vested in the owners of the Betty's Bay Township Extension No. 3 where Erf 3970 Betty's Bay is situated.

Property owners not seeking that the title deed building line restriction should be in line with the zoning scheme regulations' restrictions will favour the restrictive title deed condition since the condition impedes the development of a residential property in line with the zoning scheme. The As Built dwelling house with double garage and water tanks meets the 2m and 4m Municipal land use scheme building lines requirement.

The As Built development (and its title deed encroachment) is not an unusually large-scale form of development that encroaches the lateral title deed building line. No municipal land use scheme building lines are encroached.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

The condition was imposed by the Administrator for the benefit of a specific township extension of Betty's Bay. The personal benefit to each holder is that the property is more restricted in terms of developing the subject property. It should however be noted that no new development is proposed. The Administrator is now the Overstrand Municipality, who governs land use applications in line with the existing Land Use Scheme Regulations and relevant spatial planning policies. To keep the title deed building line condition will neither have any personal benefit to the Administrator / Overstrand Municipality nor the properties in whose favour the condition was registered. As previously explained the encroachment is on the eastern common erf boundary only, with no direct neighbour's views or privacy being threatened.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed*.*

The removal of the restrictive title deed condition will bring about personal benefits to the landowner since it will allow her to retain the As Built dwelling on the subject property. The 5m and 3m street and common boundary building lines as stipulated in the title deed make the developable area of the property smaller. With this application proposal the 3m common boundary title deed building line prohibits approval of the As Built bedroom and lounge area on first storey level. The aforementioned structure meets the 2m lateral building line requirement in terms of the land use scheme regulations.

The property owner will be able to enjoy the personal benefits of the As Built structures without repositioning the water tanks on site or demolishing sections of the dwelling and / or reverting to the approved balcony use. To remove the title deed restriction will allow the property owner to retain the As Built dwelling and water tank that was developed in line with the land use scheme regulations.

The social benefit of the restrictive condition remaining in place.

The social benefit if the title deed condition was to remain unchanged and enforced, will be minimal. If the condition remains unchanged, the owner must adhere to the title deed's stricter building lines, and she will not be able to retain the As Built bedroom and lounge on first storey level and the water tank on ground storey level and subsequently obtain the required building plan approval. The impact on the neighbouring properties with regards to privacy, views, noise, etc. will be marginally lower since the title deed's building lines are more restrictive than the land use scheme regulations' building lines.

To keep the title deed building line will have no benefit to neither the property owner nor the adjacent properties since the position of the structure still adheres to the land use scheme's building lines and since the structure is already built. In addition, the adjacent property on the eastern side where the encroachment of the title deed building line applies is a vacant portion of land. The As Built bedroom and lounge area on first storey level and water tank on ground storey level will have a low impact on the adjacent properties. The garage was already approved at its current position.

The social benefit of the removal of the restrictive condition.

The removal of the restrictive title deed condition will allow the scheme regulations' building lines to set the rules for future development on the subject property. Any new development will have to adhere to the scheme regulations or alternatively a new land use application must be submitted to address any proposed encroachments. The social benefit will therefore only be to the property owner of erf 3970 Betty's Bay since it will allow her to retain the As Built dwelling and water tanks that already meet the land use scheme regulations' building lines requirement.

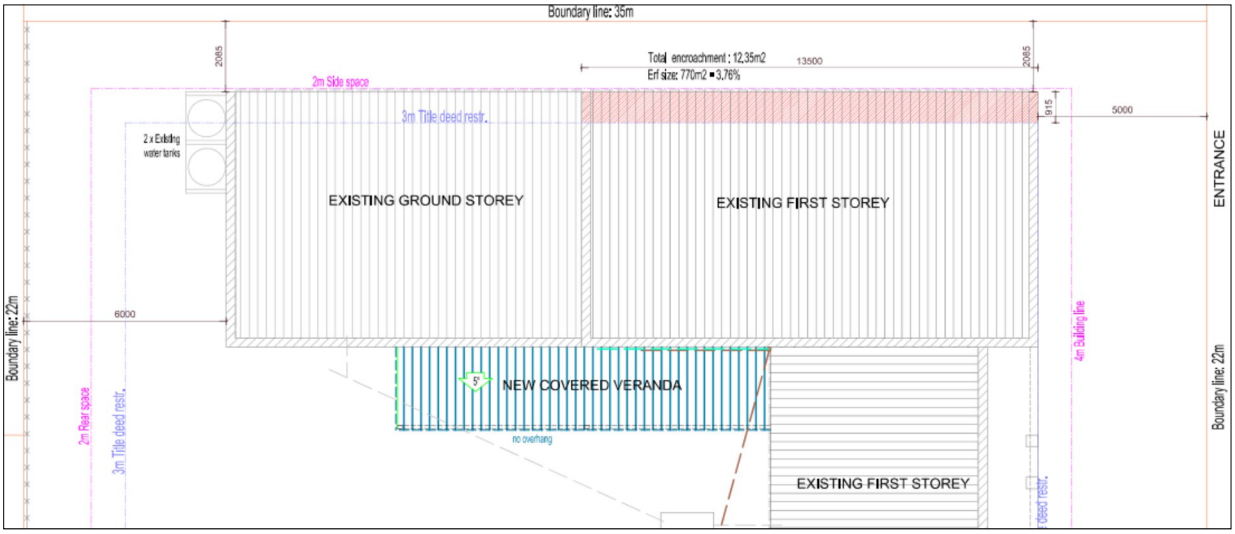
Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

The removal of the restrictive condition will not remove all rights enjoyed by the beneficiaries, but only some rights and will instead expand the value of these rights to accommodate the As Built structures. All other title deed conditions not mentioned in this report will be retained.

The following should be noted when considering the As Built structure:

- The unlawful addition to the dwelling was not undertaken by our client, but by her late husband (they were married out of community of property).
- No new additions or alterations to the As Built structure are proposed with this application.
- The visual impact is considered minimal since the encroachment is only on one erf boundary (eastern erf boundary; vacant neighbouring property) and still meets the land use scheme building line requirements.
- The materials used are aesthetically pleasing.
- The As Built lounge and bedroom on first storey level are an integral part of the dwelling on the subject property thus to demolish the structure to make it compliant to the title deed eastern lateral building line, will diminish the aesthetic value and property value.

Refer to the attached site development plan, floor layout and elevations attached and included below:



Site Plan

The proposed application does not have any impact on the character or property values of the surrounding properties. The existing structures on the subject property do not create an infringement to any passing traffic or public activity due the position of the As Built structures on site in relation to the existing structures on the neighbouring properties and the compliance with the land use scheme regulations.

It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The zoning of Erf 3970 Betty's Bay will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes). The height of all the structures on the subject property complies with the permissible height requirements for SR1 zoned properties. The building and uses thereof that encroach the lateral title deed building line, as indicated on the site **development plan, already** exist and the application addresses existing structures that encroach the title deed lateral building line. Consequently, the proposed removal of the restrictive title deed condition will not have a greater visual impact on the surrounding properties. The impact on the adjacent property owners and the passers-by will therefore be marginally higher than if these structures did not exist.

The area schedule and coverage for the subject property are as follows:

SINGLE RESIDENTIAL

OCCUPATION CLASSIFICATION : H 4

TOWN PLANNING REQUIREMENTS

	NEW	EXISTING	COVERAGE
GROUND STOREY		240.95m2	240.95m2
COVERED VERANDA		10.7m2	10.7m2
NEW COVERED VERANDA	25.58m2		26.58m2
FIRST STOREY		132.84m2	
EXISTING BALCONY INTO BEDROOM / LIVING AREA		28.95m2	
BALCONY		10.7m2	
TOTAL	25.58m2	424.14m2	278.23m2
ERF SIZE : 770M2			36%

The total coverage of 36% does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.

It is submitted that the existing structures are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application. When considering the proposed removal of the restrictive title deed condition, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relates to more responsible resource use or sustainable development.

The proposed removal of the restrictive title deed condition is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

CONSISTENCY WITH SPLUMA AND LUPA PRINCIPLES:

- **Spatial Justice**

The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Betty's Bay Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

- **Spatial Sustainability**

The proposed removal of a restrictive title deed condition will have no impact on the visual elements of the subject property and surroundings since the structures that encroach the eastern lateral building line already exist. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the building line has no impact on the massing of the building and the impact on the streetscape or passers-by. The As-Built unlawful structures merge well with the approved structures. The impact on the biophysical environment will also be kept to a minimum since the structures already exist.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the compliance with the land use scheme building lines, etc. allow for the consideration and approval of the proposed removal of a title deed condition application without having an adverse impact on the spatial sustainability of the area. To accommodate the As Built structures within an established residential area will not impact on urban sprawl, or upon a sensitive environment.

The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The property is compatible with the character of the area and do not impact negatively on the rights of any adjacent property owners

- **Spatial Efficiency**

The subject property is easily accessible and conveniently located in close proximity to major routes. The massing, height and building lines are in line with the relevant land use scheme regulations. It proofs to be resourceful to approve the As Built structures with the respective uses thereof on the subject property since it is compatible with the existing built environment and the way the change of use of the approved structure was done is aesthetically pleasing.

It proofs to be efficient to accommodate the existing structures and its current uses by approving the proposed removal of restrictive title deed condition of erf 3970 Betty's Bay instead of demolishing the structures and as a result negatively impact on the whole look and feel of the subject property.

The proposed application proofs to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

- **Spatial Resilience**

N/A

- **Good Administration**

The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation.

POLICY DOCUMENTS:

Overstrand Wide Development Framework, 2020 earmarks the area where Erf 3970 Betty's Bay is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed removal of the restrictive title deed building line condition on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

Overstrand Growth Management Strategy, 2010, specifies that erf 3970 Betty's Bay forms part of Planning Unit no. 3. This planning unit stipulates that the status quo of the area (i.e. single residential) must be maintained. With this application no new development is proposed. The erf size will be retained and no densification in the form of a second dwelling unit or subdivision is proposed. The proposal will therefore have no impact on the density of the area while still retaining the status quo. The proposal will promote land development in a location that is sustainable. The proposed removal of a restrictive title deed condition is to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

From the above it is evident that the proposed development **adheres and complies** with the relevant municipal spatial planning policies.

HERITAGE VALUE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed application for the removal of a restrictive title deed condition does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 3970 Betty's Bay is not situated within the Heritage Protection Overlay Zone as determined by the Overstrand Municipality's Zoning Scheme (2020). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010).

The dwelling on the subject property is not older than 60 years. The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed application will not have a negative impact on the heritage value of the Betty's Bay area.

BIOPHYSICAL ENVIRONMENT

The proposed removal of a restrictive title deed condition does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998).

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Management Overlay Zone (2020).

DETERMINATION OF AN ADMINISTRATIVE PENALTY:

The nature, duration, gravity and extent of the contravention

Mr A.J. Marcovecchio bought the subject property in 1993. He made additions to the subject property in 2004. These additions included a building line deviation to allow Mr Marcovecchio to construct up to the 1,5m eastern lateral building line. The neighbour (Erf 3969 Betty's Bay) gave consent for the proposed additions to the existing structure at the time. The letter from Building Control Development dated 22 January 2004 and the neighbour's consent are attached. The addition at the time included the construction of the covered veranda / balcony of 28,95m² on the eastern erf boundary side. The covered veranda / balcony was not constructed up to the 1,5m eastern lateral building line, but only up to the 2,085m eastern lateral building line (therefore, meets the 2m land use scheme lateral building line requirement). However, a 3m title deed lateral building line applies to the subject property. The previous building plan approval gave no regard to the title deed building line and the approved structure encroach the 3m title deed lateral building line.

Mr Marcovecchio however went on to include the balcony area (approved structure) in the bedroom and lounge area on the first floor. The approved structure therefore changed use without the necessary building plan and land use approvals.

The new owner since April 2024, Mrs. SC Marcovecchio was unaware that the permission (building plan approval) already obtained from the municipality, did not include the change of use from balcony to bedroom and lounge area. Mr Marcovecchio passed away in August 2023 and as part of his will the property transferred to Mrs. SC Marcovecchio, and she would like to obtain approved building plans for the subject property.

The architectural draughtsperson, Ms. Ronika Chamier, submitted building plans for approval to Overstrand Municipality. The building plans were refused due to the change of use over the title deed lateral building line and since one of the water tanks with its raised base / foundation also encroach the same building line.

The covered veranda / balcony included in the bedroom and lounge area is 28,95m² in extent. As indicated on the site plan only 12,35m² of the As Built structure encroach the 3m eastern lateral title deed building line. That is 4,44% of the total footprint of the structure or 42,66% of the As Built (approved) balcony. A removal of a restrictive title deed condition application is submitted simultaneously to address the building line encroachment.

The As Built bedroom and lounge form part of the first storey of the dwelling unit. It is therefore of utmost importance to our client that the structures be retained. No new additions and alterations are proposed. The water tank that encroaches the title deed building line has no impact on neighbouring properties due to its position next to the house (as an extension of the approved building).

The unlawful change of use from balcony to bedroom and lounge area is considered a habitable area but was constructed inside of the land use scheme building lines.

The position and nature of the As Built first storey bedroom and lounge area are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received up to date.

The conduct of the person involved in the contravention

The As Built structure was constructed by the previous owner (the late Mr Marcovecchio) as set out above. The current owner has never contravened the land use planning By-law in the past. She addressed the matter related to the unlawful structure as soon as she was made aware of the fact and appointed the relevant consultants (architect and town planner) to assist her to obtain the necessary approvals.

Whether the unlawful conduct was stopped

The previous owner (Mr. Marcovecchio) was unaware that the change of use of the approved structure required permission at the local authority. Our client was also only made aware of the unlawful structure when the building plans were submitted and rejected in 2023. The portion of the unlawful structure cannot be demolished since it is now an integral part of the dwelling. The owner now attempts to rectify the contravention by submitting the administration penalty application and subsequent removal of restrictive title deed condition application to legalise the As Built structure on the subject property.

A report by a quantity surveyor in matters of unauthorised building/construction

The owner is not familiar with construction costs, as this was handled by her late husband. In addition, these alterations were made during the building project and not after its completion. Therefore, the plans were adjusted as the construction progressed, after the latest approved building plans. Any expenses related to this matter were considered part of the construction costs at the time. No further changes have been made.

A report from QS+ Quantity Surveyors dated 27 July 2024 is attached showing the costs for the unauthorised building work at the current building rates. The QS made allowances for the finishes, looking at the actual finishes used. The cost for the additions to convert the balcony to living room and bedroom area was R 120 187.69 (refer to the QS report). See Annexure H.

The costing is a bit obscured, as the changes were made during construction. Thus, there were no alterations done, but omission of work substituted for the new enclosed balcony. The QS has calculated the cost of the omission and indicated it as such.

Whether a person involved in the contravention ha previously contravened this By-law or previous planning law29

To the best knowledge of the applicant and as confirmed by the landowner, Mrs Marcovecchio has ever previously contravened this By-Law or any other previous planning law.

CONCLUSION:

- All services on the subject property already exist and no additional loading of the existing infrastructure is anticipated;
- The zoning and primary land use of the subject property will remain unchanged;
- The As Built structures meet the 2m eastern lateral land use scheme regulations' building line requirement;
- The proposal is to accommodate As Built structures only. No new development is proposed;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic will be kept to a minimum;
- There are no heritage aspects that will negatively impact the application;
- There are no environmental aspects that will negatively impact the application, and the application will not have a negative impact on any environmental factors;
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013), and
- We request that a penalty fee not be imposed.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	**Yes**	19 September 2024	25 October 2024
Government Gazette	**Yes**	20 September 2024	25 October 2024
Email notices & site notice	**Yes**	19 September 2024	25 October 2024
Internal departments	**Yes**	19 September 2024	25 October 2024
Ward Councillor	**Yes**	19 September 2024	25 October 2024
Total comments	**TWO (2)**		

Total letters of support	**NONE**
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?	**Yes**
Was the application processed correctly (if no, elaborate below):	**Yes**
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	**Yes**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	19/09/2024	No objection. All buildings to comply with NBR and all other applicable law.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

The application was duly advertised in the local newspaper and Government Gazette. E-mail notifications were sent out to all the property owners in Betty's Bay Extension 3 and the Betty's Bay Ratepayers Association.

Two (2) objections were received from the public participation process which is listed below:

1) *T Lavery*
2) *M Bryant & DJ Chapman*- **LATE**

The applicant was provided with an opportunity to respond to the objections. See Annexures E and F respectively.

The objections, the applicant's reply and the Municipal Town Planners response thereon can be summarized as follows:

- ***OBJECTION – T Lavery***

We are not in favour of the relaxation of the proposed building conditions. The relaxation can lead to many others being changed.

APPLICANT'S RESPONSE

We acknowledge receipt of the objection submitted by Terrence Lavery.

However, we note that no substantive reasons have been provided to support the objection, aside from the statement that "the objection can lead to many others being changed." This statement lacks clarity and does not present a valid or substantial basis for objection. The application pertains solely to the removal of the restrictive title deed condition applicable to Erf 3970 Bettys Bay. It will not set a precedent, as each land use application is considered on its own merits. Any future developments will also be required to preserve the character of the village and comply with the applicable regulations. The proposed application will fully comply with the land use scheme parameters for Erf 3970 Bettys Bay. Additionally, the "As Built" dwelling, including the double garage and water tanks, meets the 2m and 4m municipal land use scheme building line requirements.

Therefore, we submit that the objection should be dismissed.

TOWN PLANNER'S RESPONSE

Agree with applicant.

- ***LATE* OBJECTION – M Bryant & D Chapman**

- ***Rear boundary (adjoining erf 3968):***
  The current title deed restriction on the rear boundary (set at 3m) should remain in place, as there are no buildings encroaching on this boundary. Removing the restriction could allow future owners to build up to the 2m boundary, which would negatively affect the rural ambiance of the area. Therefore, the 3m restriction should be maintained for the rear boundary

- ***Paragraph B7 ii:***
  The application does not mention paragraph B7 ii, and clarification is requested regarding whether this clause will be removed. The objector points out that there are existing windows on the southeast elevation and seeks confirmation that these are not affected.

APPLICANT'S RESPONSE

The application proposes to remove the whole of condition B7, which includes B7 ii. It is proposed to remove the building line condition since the Overstrand Land Use Scheme Regulations (2020) now govern land use planning in Betty's Bay and therefore the more restrictive building line condition is considered superfluous.

In addition, there are approved garages on the subject property that do not meet the "*within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf*" title deed condition. As a result, it is proposed to remove this condition to accommodate the As Built structures.

The following are considered **comments** from Michele Bryant on the application and not objections:

- ***The objector has no issue with changing the title deed restriction for the eastern lateral boundary (adjoining erf 3969), as this is the affected boundary.***

- **The objector believes that no administrative penalty should be applied in this case.**

The comments are noted. The application seeks to remove the existing title deed restrictions in order to regularize the unlawful change of use of the approved covered veranda / balcony, which has been converted into a bedroom and lounge, as well as one of the water tanks that encroaches on the 3m lateral building line. All structures are currently built and positioned on the 2,085m eastern lateral building line. No new structures are proposed.

TOWN PLANNER'S RESPONSE

The request from the objector that the 3m title deed remains in place to ensure the rural ambiance of the area is noted. The structure has been built in 2004 and approved as an open balcony over the 3m title deed building line, has already impacted the rural ambiance.

It should be noted that the title deed is more lenient towards outbuildings and garages which allows these structures to be built on the boundary. The Land Use Scheme restricts buildings on the boundary, except in the case of a garage with neighbours' consent and for other outbuildings through a land use application process.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Point 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See Point 7 above.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The application will not contribute to past apartheid development trends.

Spatial Sustainability

The building does not impede on natural resources or high potential agricultural land.

The impact of a dwelling has been established in 2004 with the approval of the structures over the 3m title deed building line.

Efficiency

No additional services from the Municipality are required.

Spatial Resilience

The building was approved and is in accordance with the National Building Regulations and SANS requirements to limit the impact of climate change.

Good Administration

The Consultant followed due procedure as prescribed by the Municipality.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The application is in line with the SDF 2020.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

Existing services are provided by the Municipality.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application of restrictive conditions can be accommodated in terms of the Overstrand By-Law.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement

There is no financial value to be gained by the community should the restrictive condition be removed.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition

The owner and applicant will gain a benefit in that it does not need to demolish the existing structure.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed

The owner will accrue financial benefit in that the structure does not need to be demolished and rebuilt.

The social benefit of the restrictive condition remaining in place

The social benefit should the condition remain in place that the status quo remain in place.

The social benefit of the removal of the restrictive condition

The benefit is that the Land Use Scheme parameters are applicable. There is only a 0,9m² difference between the title deed restriction and the built structure which will little impact on the character of the area.

Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights

The removal of the restrictive condition will only remove the rights in terms of the title deed lateral building line but is still compliant with the Overstrand Land Use Scheme.

12. THE DESIRABILITY OF THE PROPOSAL

DESIRABILITY

The previous owner applied for an open balcony on first floor level in 2004 on the 1,5m lateral building, which was approved with neighbour's consent. However, the balcony was built on the 2, 085m. During construction in 2004, the open balcony was enclosed and included into the bedroom and lounge. Imperative to note is that the enclosure of the balcony is in line with the approved building and thus does not impede on the objector's view. The same applies to the water tank over the later 3m title deed building line. The water tank is located on a built platform also in line with the approved building.

The enclosed balcony and water tank do not transgress the 2m lateral building line of the Overstrand Land Use Scheme. The dwelling is fully compliant with the development parameters applicable to Single residential proprieties in terms of the Overstrand Land Use Scheme.

The removal of the restrictive conditions will have little impact on the rural ambiance of the area, since the conditions are more lenient regarding structures of housing of vehicles and other outbuildings. The latter allows for the structures to be built on the lateral and rear boundary, whilst the Land Use Scheme requires consent and or a land use application to allow for the mentioned structures over the 2m lateral and rear building lines.

The objector's concern is noted; however her property has an outbuilding on the rear boundary, which will then also have an impact on the rural ambiance of the area. It is correct that the removal will allow buildings to be built on the 2m lateral building line in terms of the Land Use Scheme but is more restrictive with regard to outbuildings on the boundary of erven.

The guiding principle of the land use scheme is to restrict outbuildings (non-habitable spaces) on boundaries except for garages with neighbour's consent. This is to ensure view corridors, limitation of noise and safety aspects and ensure privacy. The title deed conditions in this case does allow for outbuildings, habitable to be located on the boundaries of an erf, which is not in line with the principles of the planning documents.

CONCLUSION

Building lines are there for a reason in order to ensure that:

Ensuring Safety and Accessibility
One of the primary purposes of building lines is to ensure the safety and accessibility of properties. Setbacks provide space for emergency services, pedestrian walkways, and vehicular access, contributing to the overall safety and functionality of the built environment.

Preserving Aesthetic Appeal and Privacy
Building lines also play a role in preserving the aesthetic appeal of neighbourhoods and ensuring privacy between properties. By establishing uniform setbacks, building lines help create a cohesive and visually pleasing streetscape while providing adequate space between structures for light, ventilation, and privacy.

DETERMINATION OF AN ADMINISTRATIVE PENALTY

The nature, duration, gravity and extent of the contravention:

The extent of the transgression as proposed by the applicant relates to 28,95m² over the title deed building line of 3m.

The conduct of the person involved in the contravention

The owner was not involved in the construction of the transgression.

Whether the unlawful conduct was stopped

The unlawful conduct was not stopped.

A report by a quantity surveyor in matters of unauthorised building/construction

The actual construction cost of R120187,69 was submitted by the applicant. See Annexure H.

Whether a person involved in the contravention has previously contravened this By-law or previous planning law

No.

ADMINISTRATIVE PENALTY

The administrative penalty is calculated as follows:

The actual cost as provided by the Quantity Surveyor: R120 187,69
Transgression: 28,95m²
Penalty: 5% of R120 187,69 = R6 009,39

Total administrative penalty: R6 009,39

IN CONCLUSION

The determination of 5% of the total value was used since the owner when informed by the Draughtsman, immediately submit an application to rectify the situation.

The removal of restrictive condition is recommended for approval since the land use scheme has a stricter lateral building line and the difference of 0,915m between the title deed condition and the land use scheme will have little impact on the existing situation.

13. RECOMMENDATION

1. that the objections be noted.

2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3097 Betty's Bay for the removal of restrictive title deed conditions B.7.(i) and B.7.(ii) as contained in Title Deed T24576/2024 applicable to Erf 3970, Betty's Bay to accommodate the unlawful change of use of the approved covered veranda / balcony to a bedroom and lounge and to accommodate an existing water tank that encroach the 3m title deed lateral building line (all structures As Built and positioned on the 2,085m eastern lateral building line), **be approved**, in terms of the provisions of Section 61 of the By-Law;

   (a) that this approval is only for the development as indicated on plan numbers BB3970/2023 (1-2) dated 3 September 2023, as submitted with the application;

   (b) that this approval is only for the removal of restrictions and not an approval in terms of any other legislation;

(c) that building plans be submitted to the Building Department reflecting the approval for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage;

(d) that the amended title deed be submitted for record purposes to the Municipality;

(e) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;

(f) that this approval does not absolve the applicant from compliance with any other relevant legislation, and

(g) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with.

3. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 3970, Betty's Bay for the unlawful change of use of the covered veranda / balcony (positioned on the 2,085m eastern lateral building line) to bedroom and lounge on first floor level and for the water tank positioned on the 2m eastern lateral building line, **be imposed**, and that an administrative penalty fee of **R6009,39** be payable within sixty (60) days of this decision.

4. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- The title deed condition building line restrictions are more lenient in terms of the lateral building lines regarding structures on the boundaries.
- The difference between the building lines of the title deed conditions and the land use scheme are approximately 1m in total and thus would have very little impact on the overall allowable development of the erf.
- Thus, to enable developments of residential erven to be more uniform in terms of development parameters, the discrepancies between the title deed restrictions and the land use scheme are even out with the removal of the conditions that deals with the building lines. All the other conditions remain in place.
- The balcony was approved on the 1,5m lateral building line with neighbour's consent, but was actually built on 2,085m which is compliant with the Land Use Scheme.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan & Survey plan indicating transgressions
Annexure D:	Title Deed T24576/2024
Annexure E:	Objections received
Annexure F:	Applicant's response to the objections received
Annexure G:	Conveyancer Certificate

Annexure H: Quantity Surveyor report dated 27 July 2024

SIGNATURE

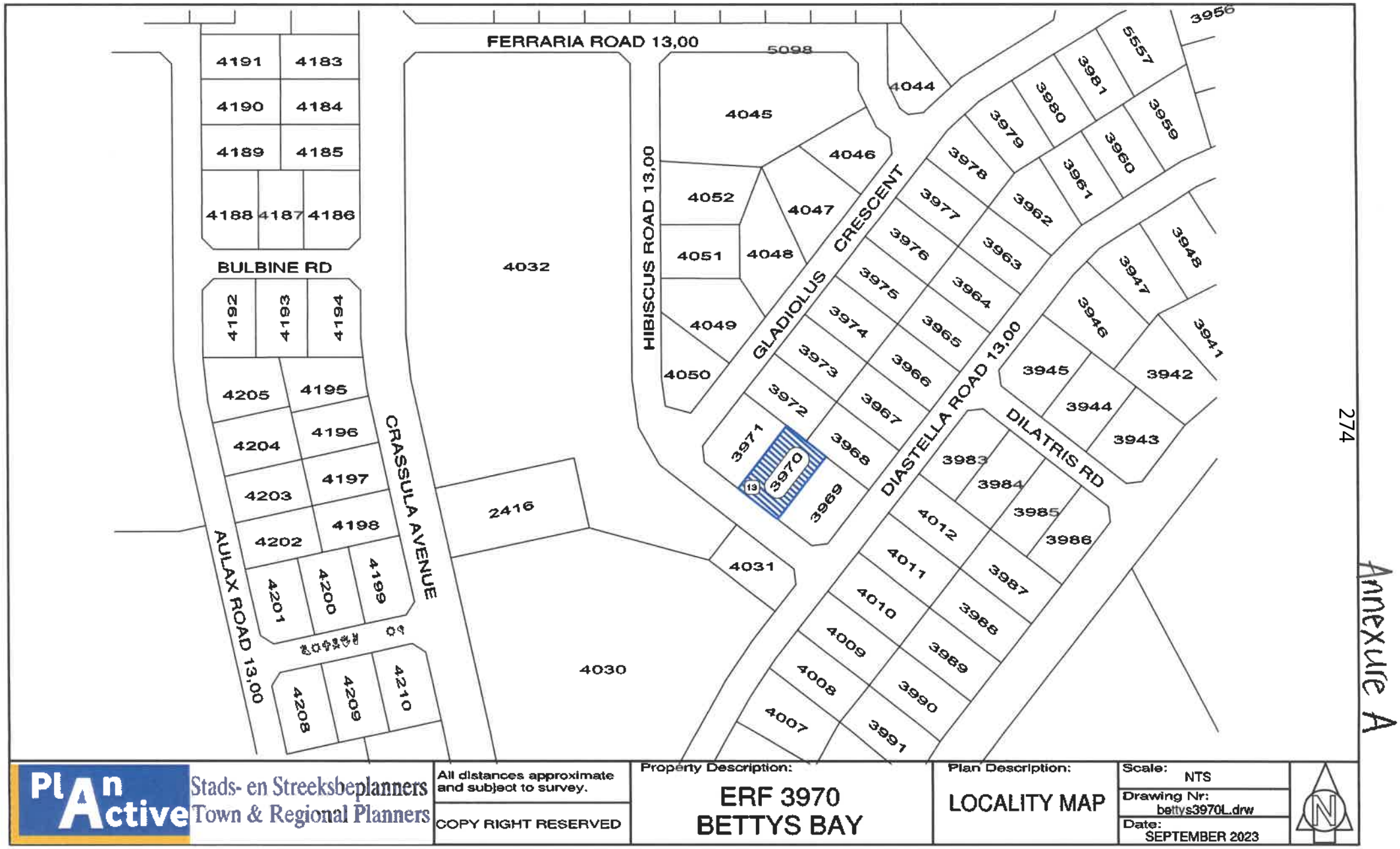
REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature: _____

Date: _____


FERRARIA ROAD 13,00
BULBINE RD
HIBISCUS ROAD 13,00
GLADIOLUS CRESCENT
DIASTELLA ROAD 13,00
DILATRIS RD
CRASSULA AVENUE
AULAX ROAD 13,00
4191
4183
4190
4184
4189
4185
4188
4187
4186
4192
4193
4194
4205
4195
4204
4196
4203
4197
4202
4198
4201
4200
4199
4208
4209
4210
4032
4030
2416
4031
5098
4044
4045
4046
4052
4047
4051
4048
4049
4050
3956
5557
3981
3980
3979
3959
3960
3961
3978
3977
3962
3976
3963
3975
3964
3974
3965
3973
3966
3972
3967
3971
3970
3968
3969
3948
3947
3946
3941
3945
3942
3944
3943
3983
3984
3985
3986
4012
4011
3987
4010
3988
4009
3989
4008
3990
4007
3991
274
Annexure A
PlAn Active
Stads- en Streeksbeplanners
Town & Regional Planners
All distances approximate and subject to survey.
COPY RIGHT RESERVED
Property Description:
ERF 3970
BETTYS BAY
Plan Description:
LOCALITY MAP
Scale: NTS
Drawing Nr: bettys3970L.drw
Date: SEPTEMBER 2023
N

DETERMINATION OF AN ADMINISTRATIVE PENALTY & PROPOSED REMOVAL OF A RESTRICTIVE TITLE DEED ERF 3970 BETTY'S BAY OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by Mrs. S.C. Marcovecchio, the owner of erf 3970 Betty's Bay, to apply for the determination of an administrative penalty and relaxation of a title deed condition of the subject property.

The architectural draughtsperson, Ms. Ronika Chamier, submitted building plans for approval to Overstrand Municipality. The plans were previously approved with the covered veranda over the 3m eastern lateral building line. The covered veranda was however unlawfully changed to be part of the lounge and bedroom on first floor level. Since the use of the approved structure changed (the structure encroaches the applicable 3m title deed lateral building line), a title deed condition removal application must be submitted to Overstrand Municipality before the building plan can be approved. In addition, one of the water tanks is also positioned within the 3m eastern lateral title deed building line. Refer to a copy of the letter from Building Control Management dated 8 September 2023.

This application proposes to address the unlawful As Built addition / change of use of an approved structure. No new additions or alterations are proposed.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an **administrative penalty** of erf 3970 Betty's Bay;
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **removal of a restrictive title deed condition** of erf 3970 Betty's Bay.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 3970 Betty's Bay is situated at 13 Hibiscus Road, Betty's Bay. Refer to the locality plan attached. The subject property is 770m² in extent and is held by title deed no. T24576/2024.

The subject property is level sloped and is characterized by a residential structure: double storey dwelling with double garage and a garden area. The existing structure has a footprint of 278,32m² in extent.

3.2 ZONING

Erf 3970 Betty's Bay has the following land use rights:

ERF NUMBER	ZONING
Erf 3970 Betty's Bay	Residential Zone 1: Single Residential

Surrounding properties are zoned for single residential, local business, authority and public road purposes.

3.3 LAND USE

There is an existing double storey (ground and first floor) dwelling inclusive of a double garage situated on the subject property. The subject property is therefore used for single residential living purposes.

Land uses that surround the subject property are single residential dwellings, public open spaces, vacant properties and public roads.

3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** for erf 3970 Betty's Bay for the unlawful change of use of the covered veranda / balcony (positioned on the 2,085m eastern lateral building line) to bedroom and lounge on first floor level and for the water tank positioned on the 2m eastern lateral building line in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;

2. The **removal of a restrictive title deed condition** of erf 3970 Betty's Bay in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to remove the lateral building line condition on Page 3, paragraph B.7 of title deed no. T24576/2024 to accommodate the unlawful change of use of the approved covered veranda / balcony to a bedroom and lounge and one of the water tanks that encroach the 3m title deed lateral building line (all structures As Built and positioned on the 2,085m eastern lateral building line).

The potential of the subject property is discussed in detail in *Section 3.5 Potential of the property.*

3

The previous owner of the property, Mr.A.J. Marcovecchio passed away and his wife has inherited the property, they were married out of community of property. She

would like to obtain approved building plans for the subject property. The architectural draughtsperson, Ms. Ronika Chamier, submitted building plans for approval to the Overstrand Municipality. *The plans were previously approved with the covered veranda over the 3m eastern lateral building line*. The covered veranda was however unlawfully changed to be part of the lounge and bedroom on first floor level. Since the use of the approved structure changed (the structure encroaches the applicable 3m title deed lateral building line), a title deed condition removal application must be submitted to Overstrand Municipality before the building plans can be approved.

This application proposes to address the unlawful As Built addition / change of use and one of the water tanks. No new additions or alterations are proposed.

Detail of the proposed application for consideration:

3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

As the application is for the rectification of a contravention of the By-Law (As Built approved covered veranda's / balcony's change of use to a bedroom and lounge use and water tank), an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

4

- **The nature, duration, gravity and extent of the contravention**

Mr A.J. Marcovecchio bought the subject property in 1993. He made additions to the subject property in 2004. These additions included a building line deviation to allow Mr Marcovecchio to construct up to the 1,5m eastern lateral building line. The neighbour (erf 3969 Bettys Bay) gave consent for the proposed additions to the existing structure at the time. The letter from Building Control Development dated 22 January 2004 and the neighbour's consent are attached. The addition at the time included the construction of the covered veranda / balcony of 28,95m² on the eastern erf boundary side. The covered veranda / balcony was not constructed up to the 1,5m eastern lateral building line, but only up to the 2,085m eastern lateral building line (therefore, meets the 2m land use scheme lateral building line requirement). However, a 3m title deed lateral building line applies to the subject property. The previous building plan approval gave no regard to the title deed building line and the approved structure encroaches the 3m title deed lateral building line.

Mr Marcovecchio however went on to include the balcony area (approved structure) in the bedroom and lounge area on the first floor. The approved structure therefore changed use without the necessary building plan and land use approvals.

The new owner since April 2024, Mrs. S.C. Marcovecchio was unaware that the permission (building plan approval) already obtained from the municipality, did not include the change of use from balcony to bedroom and lounge area. Mr Marcovecchio passed away in August 2023 and as part of his will the property transferred to Mrs.S.C. Marcovecchio and she would like to obtain approved building plans for the subject property.

The architectural draughtsperson, Ms. Ronika Chamier, submitted building plans for approval to Overstrand Municipality. The building plans were refused due to the change of use over the title deed lateral building line and since one of the water tanks with its raised base / foundation also encroach the same building line.

The covered veranda / balcony included in the bedroom and lounge area is 28,95m² in extent. As indicated on the site plan only 12,35m² of the As Built structure encroach the 3m eastern lateral title deed building line. That is 4,44% of the total footprint of the structure or 42,66% of the As Built (approved) balcony. A removal of

5

a restrictive title deed condition application is submitted simultaneously to address the building line encroachment.

The As Built bedroom and lounge form part of the first storey of the dwelling unit. It is therefore of utmost importance to our client that the structures be retained. No new additions and alterations are proposed. The water tank that encroaches the title deed building line has no impact on neighbouring properties due to its position next to the house (as an extension of the approved building).

The unlawful change of use from balcony to bedroom and lounge area is considered a habitable area but was constructed inside of the land use scheme building lines.

The position and nature of the As Built first storey bedroom and lounge area are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received up to date.

- **The conduct of the person involved in the contravention**

The As Built structure was constructed by the previous owner (the late Mr Marcovecchio) as set out above. The current owner has never contravened the land use planning By-law in the past. She addressed the matter related to the unlawful structure as soon as she was made aware of the fact and appointed the relevant consultants (architect and town planner) to assist her to obtain the necessary approvals.

- **Whether the unlawful conduct was stopped**

The previous owner (Mr. Marcovecchio) was unaware that the change of use of the approved structure required permission at the local authority. Our client was also only made aware of the unlawful structure when the building plans were submitted and rejected in 2023. The portion of the unlawful structure cannot be demolished since it is now an integral part of the dwelling. The owner now attempts to rectify the contravention by submitting the administration penalty application and subsequent

6

removal of restrictive title deed condition application to legalise the As Built structure on the subject property.

- **A report by a quantity surveyor in matters of unauthorised building / construction**

The owner is not familiar with construction costs, as this was handled by her late husband. In addition, these alterations were made during the building project and not after its completion. Therefore, the plans were adjusted as the construction progressed, after the latest approved building plans. Any expenses related to this matter were considered part of the construction costs at the time. No further changes have been made since then.

A report from QS+ Quantity Surveyors dated 27 July 2024 is attached showing the costs for the unauthorised building work at the current building rates. The QS made allowances for the finishes, looking at the actual finishes used. The cost for the additions to convert the balcony to living room and bedroom area was R 120 187.69 (refer to the QS report).

The costing is a bit obscured, as the changes were made during construction. Thus, there were no alterations done, but omission of work substituted for the new enclosed balcony. The QS has calculated the cost of the omission and indicated it as such.

- **Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law**

To the best knowledge of the applicant and as confirmed by the landowner, Mrs Marcovecchio has ever previously contravened this By-Law or any other previous planning law.

- **Summary**

We appeal to the Overstrand Municipality to take into consideration the history of the change of use of the approved balcony structure. Also consider the low impact of the As Built structure on the surrounding area. The As Built structure has a minimal impact on the neighbouring properties since the footprint of the structure will remain unchanged and since all land use scheme regulations are met (the encroachment only applies to the title deed building line condition).

It should also be taken into consideration that the building plans were previously approved with the covered veranda over the 3m eastern lateral building line.

The current owner never hesitated to immediately give instruction to the consultants to assist in the matter to rectify the contravention by submitting a complete (and fully motivated) removal of a restrictive title deed condition application and submitting a determination of an administrative penalty application. We therefore respectfully request that no penalty fee be imposed on the current property owner for the reasons given above.

3.4.2 Removal of restrictive title deed conditions

It is proposed to remove the following restrictive title deed condition registered by the Administrator (now the Overstrand Municipality) to allow the owner to retain the As Built extended lounge and bedroom on first storey level. The approved covered veranda / balcony on first floor changed use and was altered to form part of the habitable space of the dwelling. A section thereof was included in the bedroom and the other section was included in the lounge area. The approved structure was altered, and the use changed without the necessary building plan approval. *Take note that the unlawful change of use of the covered veranda to a bedroom and lounge use within the approved structure does not encroach the Overstrand Municipality Land Use Scheme Regulations' (2020) lateral building line of 2m*. The bedroom and lounge structure are positioned 2,085m from the eastern lateral erf boundary. In addition, one of the existing water tanks are also positioned within the 3m eastern lateral title deed building line (also positioned 2,085m from the eastern erf boundary). The title deed has stricter 3m lateral building line and as a result the

8

change of use of the veranda to a bedroom and lounge use triggers a title deed building line removal.

No new additions / alterations are proposed – it is proposed to accommodate the As Built structure and water tank in its current position only.

Image 1: As Built lounge and bedroom on first storey level and water tank positioned on the 2,085m eastern lateral building line.

To accommodate the As Built lounge and bedroom on the first storey (approved covered veranda / balcony), it is proposed to remove the lateral building line condition on Page 3, paragraph B.7 i. & ii. of title deed no. T24576/2024 that reads as follow:

"B. SUBJECT FURTHER to the conditions contained in Deed of Transfer No. T45069/1980 and imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of BETTYS BAY TOWNSHIP EXTENSION NO 3 which conditions read:
7. No building or structure or any portion thereof except boundary walls and fences shall, except with the consent of the Administrator, be erected nearer than 5 metres

9

to the street line which forms a boundary of this erf, nor within 3 metres of the rear or 3 metres of the lateral boundary, common to any adjoining erf, provided that with the consent of the local authority:-…

i. An outbuilding used solely for the housing of motor vehicles and not exceeding 3 metres in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces and any other outbuilding of the same height may be erected within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf, provided that in the case of a corner erf, the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf;

ii. An outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such a boundary;"

The reason for the removal of the conditions specified above is as follows:

- The common boundary (lateral) building line condition is more restrictive (3m) than the land use restrictions prescribed in the Overstrand Municipality Land Use Scheme Regulations, 2020, which is 2m. The As Built extended bedroom and lounge (approved as covered veranda / balcony and changed use) and water tank were constructed on the 2,085m eastern lateral building line and therefore the 3m common boundary building line condition is more restrictive for the As Built dwelling and position of the water tank. It is proposed to remove the building line condition since the Overstrand Land Use Scheme Regulations (2020) now govern land use planning in Betty's Bay and therefore the more restrictive building line condition is considered superfluous.
- There are approved garages on the subject property that does not meet the *"within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf"* title deed condition.

Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the "removal, suspension or amendment of a restrictive condition":

10

- ***The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement***

The removal of the restrictive condition intends to increase the use rights of the property to permit the As Built dwelling house and water tank as described above. The value of the rights is vested in the owners of the Betty's Bay Township Extension No. 3 where erf 3970 Betty's Bay is situated.

Property owners not seeking that the title deed building line restriction should be in line with the zoning scheme regulations' restrictions will favour the restrictive title deed condition since the condition impedes the development of a residential property in line with the zoning scheme. The As Built dwelling house with double garage and water tanks meet the 2m and 4m Municipal land use scheme building lines requirement.

The As Built development (and its title deed encroachment) is not an unusually large-scale form of development that encroaches the lateral title deed building line. No municipal land use scheme building lines are encroached.

- ***The personal benefits which accrue to the holder of rights in terms of the restrictive conditions***

The condition was imposed by the Administrator for the benefit of a specific township extension of Betty's Bay. The personal benefit to each holder is that the property is more restricted in terms of developing the subject property. It should however be noted that no new development is proposed. The Administrator is now the Overstrand Municipality, who governs land use applications in line with the existing Land Use Scheme Regulations and relevant spatial planning policies. To keep the title deed building line condition will neither have any personal benefit to the Administrator / Overstrand Municipality nor the properties in whose favour the condition was registered. As previously explained the encroachment is on the eastern common erf boundary only, with no direct neighbour's views or privacy being threatened.

11

- ***The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if they are removed***

The removal of the restrictive title deed condition will bring about personal benefits to the landowner since it will allow her to retain the As Built dwelling on the subject property. The 5m and 3m street and common boundary building lines as stipulated in the title deed make the developable area of the property smaller. With this application proposal the 3m common boundary title deed building line prohibits approval of the As Built bedroom and lounge area on first storey level. The aforementioned structure meets the 2m lateral building line requirement in terms of the land use scheme regulations.

The property owner will be able to enjoy the personal benefits of the As Built structures without repositioning the water tanks on site or demolishing sections of the dwelling and / or reverting to the approved balcony use. To remove the title deed restriction will allow the property owner to retain the As Built dwelling and water tank that was developed in line with the land use scheme regulations.

- ***The social benefit of the restrictive conditions remaining in place in its existing form***

The social benefit if the title deed condition was to remain unchanged and enforced will be minimal. If the condition remains unchanged, the owner must adhere to the title deed's stricter building lines, and she will not be able to retain the As Built bedroom and lounge on first storey level and the water tank on ground storey level and subsequently obtain the required building plan approval. The impact on the neighbouring properties with regards to privacy, views, noise, etc. will be marginally lower since the title deed's building lines are more restrictive than the land use scheme regulations' building lines.

12

To keep the title deed building line will have no benefit to neither the property owner nor the adjacent properties since the position of the structure still adheres to the land use scheme's building lines and since the structure is already built. In addition, the

adjacent property on the eastern side where the encroachment of the title deed building line applies, is a vacant portion of land. The As Built bedroom and lounge area on first storey level and water tank on ground storey level will have a low impact on the adjacent properties. The garage was already approved at its current position.

- ***The social benefit of the removal or amendment of the restrictive conditions***

The removal of the restrictive title deed condition will allow the scheme regulations' building lines to set the rules for future development on the subject property. Any new development will have to adhere to the scheme regulations or alternatively a new land use application must be submitted to address any proposed encroachments. The social benefit will therefore only be to the property owner of erf 3970 Betty's Bay since it will allow her to retain the As Built dwelling and water tanks that already meet the land use scheme regulations' building lines requirement.

- ***Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights***

The removal of the restrictive condition will not remove all rights enjoyed by the beneficiaries, but only some rights and will instead expand the value of these rights to accommodate the As Built structures. All other title deed conditions not mentioned in this report will be retained.

From the above as well as the motivation in Sections 3.4 and 3.5 of this report it is evident that the removal of the restrictive title deed condition can be favourably considered.

The following should be noted when considering the As Built structure:

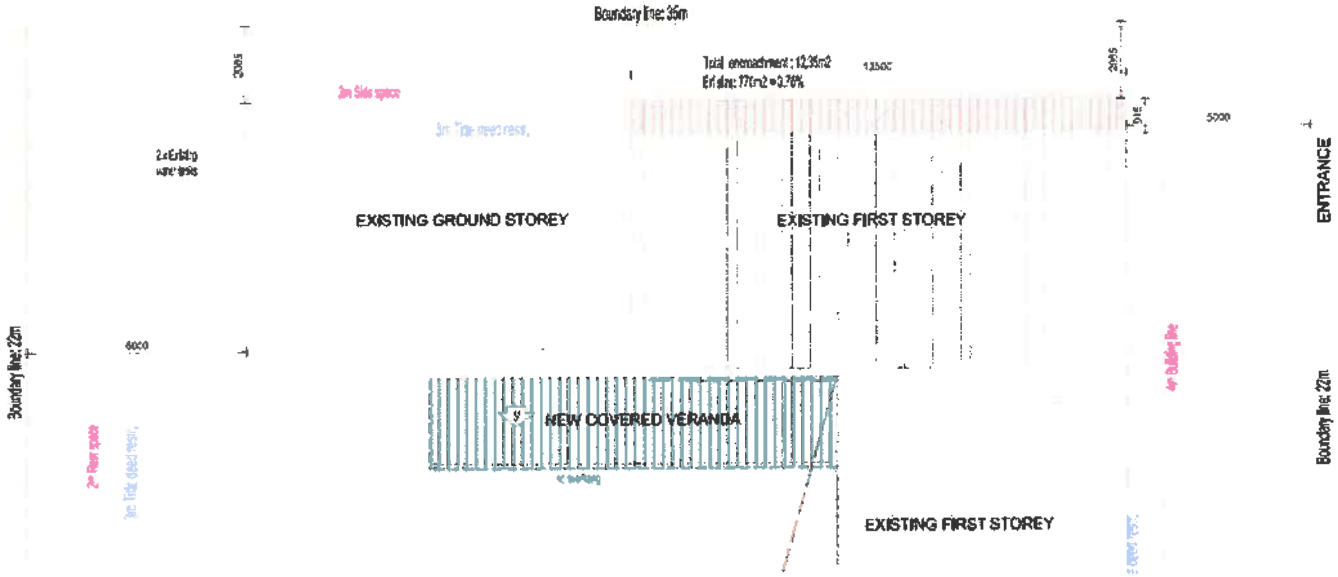
- The unlawful addition to the dwelling was not undertaken by our client, but by her late husband (they were married out of community of property).
- No new additions or alterations to the As Built structure are proposed with this application.
- The visual impact is considered minimal since the encroachment is only on

13

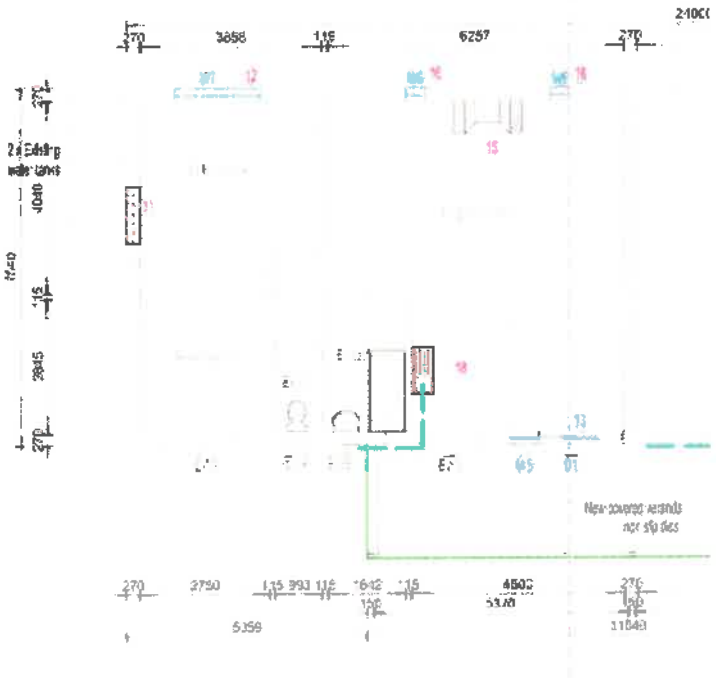
one erf boundary (eastern erf boundary; vacant neighbouring property) and still meets the land use scheme building line requirements.

- The materials used are aesthetically pleasing.
- The As Built lounge and bedroom on first storey level are an integral part of the dwelling on the subject property thus to demolish the structure to make it compliant to the title deed eastern lateral building line, will diminish the aesthetic value and property value.

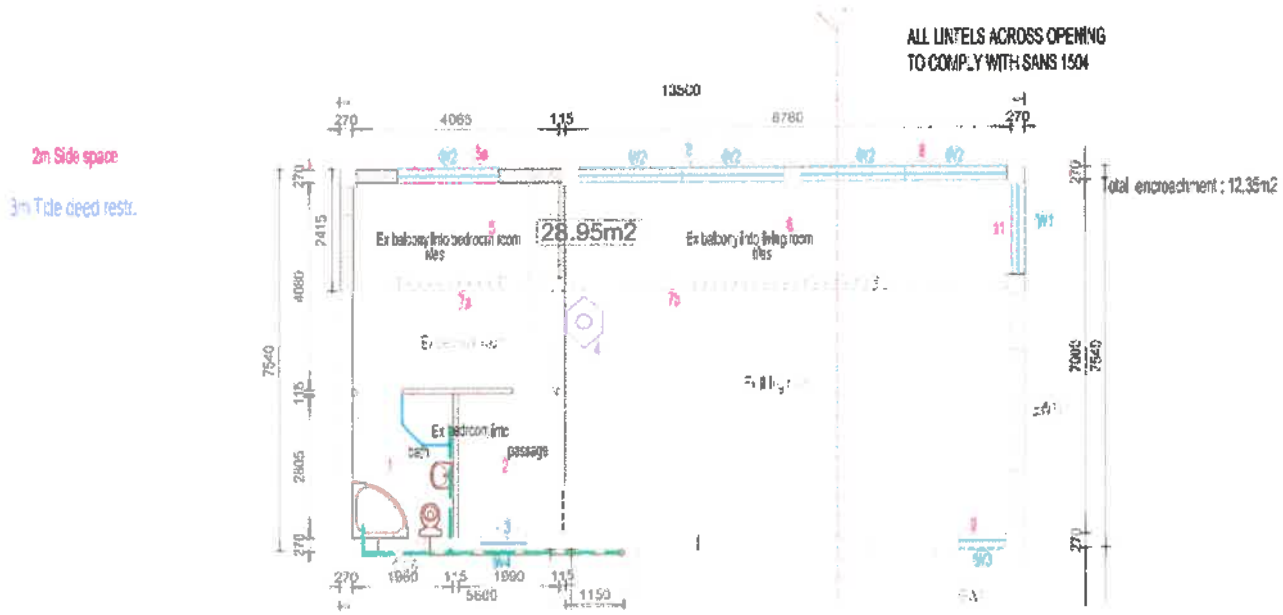
Refer to the attached site development plan, floor layout and elevations attached and included below:



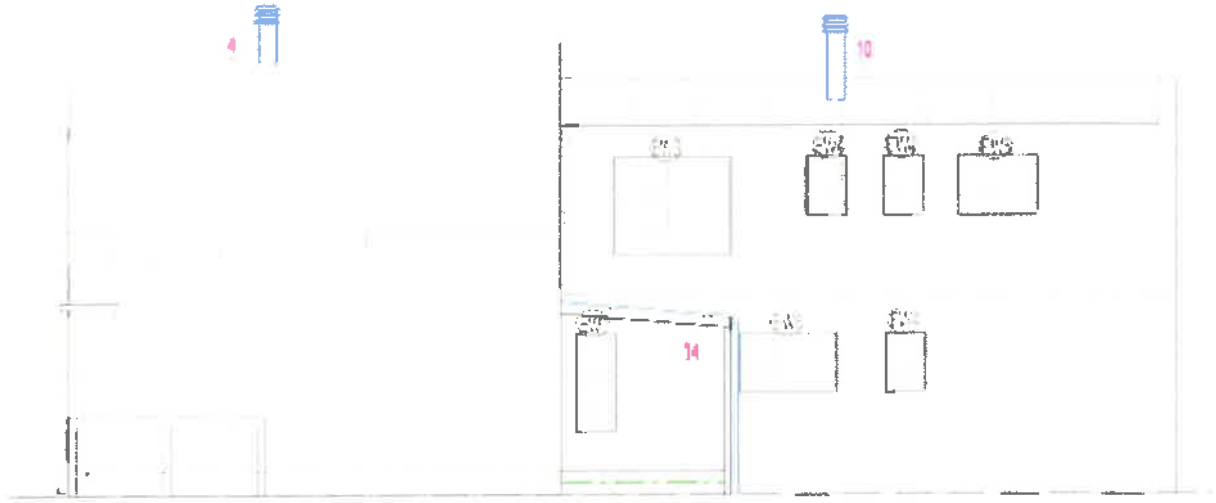
Map 1: Site plan



Map 2: Ground floor layout – position of water tanks base / foundation)

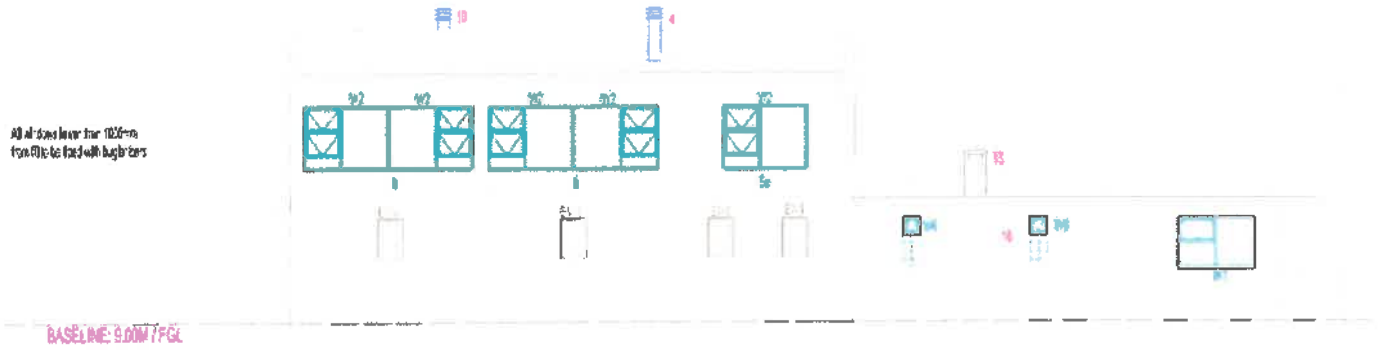


Map 3: First floor layout (As Built bedroom and lounge)



NORTH EAST ELEVATION
SCALE 1:100

Map 4: North-east elevation (water tanks)



SOUTH EAST ELEVATION
SCALE 1:100

Map 5: South-east elevation (As Built bedroom and lounge on first floor level)

The proposed application does not have any impact on the character or property values of the surrounding properties. The existing structures on the subject property do not create an infringement to any passing traffic or public activity due the position of the As Built structures on site in relation to the existing structures on the neighbouring properties and the compliance with the land use scheme regulations.

It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The zoning of erf 3970 Betty's Bay will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes). The height of all the structures on the subject property complies with the permissible height requirements for SR1 zoned properties. The building and uses thereof that encroach the lateral title deed building line, as indicated on the site development plan, already exist and the application addresses existing structures that encroach the title deed lateral building line. Consequently, the proposed removal of the restrictive title deed condition will not have a greater visual impact on the surrounding properties. The impact on the adjacent property owners and the passers-by will therefore be marginally higher than if these structures did not exist.

The area schedule and coverage for the subject property are as follows:

SINGLE RESIDENTIAL
OCCUPATION CLASSIFICATION : H 4

TOWN PLANNING REQUIREMENTS

	NEW	EXISTING	COVERAGE
GROUND STOREY		240.95m2	240.95m2
COVERED VERANDA		10.7m2	10.7m2
NEW COVERED VERANDA	25.58m2		26.58m2
FIRST STOREY		132.84m2	
EXISTING BALCONY INTO BEDROOM : LIVING AREA		28.95m2	
BALCONY		10.7m2	
TOTAL	25.58m2	424.14m2	278.23m2
ERF SIZE : 770M2			36%

The total coverage of 36% does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.

It is submitted that the existing structures are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application. When considering the proposed removal of the restrictive title deed condition, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relates to more responsible resource use or sustainable development.

17

The proposed removal of the restrictive title deed condition is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 THE POTENTIAL OF THE PROPERTY

The zoning and primary land use of the subject property will remain unchanged. The location of the subject property within a single residential area allows the property to be developed for low impact land uses only (such as bed-and-breakfast establishments, day care, second dwelling, guest house and home occupation uses). The proposed removal of the restrictive building line title deed condition will not hinder any possible future land use applications on erf 3970 Betty's Bay.

The subject property has the potential and allows for the deviations being applied for since the As Built structures have been on the subject property for a considerable period without any complaints to the municipality from neighbours. All existing structures meet the maximum of 8m height requirement for SR1 zoned properties as depicted on the site development plan.

The following should be noted when considering the potential of the site:

- The visual impact will be kept to a minimum since the structures have been on the property for a few years now and no new additions / alterations are proposed.
- The massing and scale of the As Built structures are compatible with the area.
- Except for the title deed lateral building line encroachment, all other land use parameters are met.
- The As Built bedroom and lounge on first storey level are an integral part of the dwelling on the subject property, thus to demolish the structure to make it compliant to the title deed building line, will diminish the aesthetic value and property value.

18

The scale of the surrounding built environment and the low impact on the streetscape are also factors that must be considered when contemplating the potential of the property to accommodate the removal of the building line title deed condition. The following factors confirm the potential of the property to accommodate the proposed application:

- good quality materials were used when the existing structures were built;
- the height of the As Built and approved structures will remain unchanged;
- The As Built unlawful structures have been in existence for a few years, with no complaints from neighbours. No alterations or additions to these structures are proposed;
- The As Built structures add value to the subject property.

3.6 ECONOMIC IMPACT

The proposed removal of a restrictive title deed condition is to accommodate existing structures and uses thereof. The proposed application will allow the legalisation of the existing structures on the subject property.

The approval of the existing structures will save our client the cost of demolishing these structures. The proposed removal of the restrictive title deed building line condition will have a low but positive impact on the local economy.

3.7 SOCIAL IMPACT

The proposed application will have no impact on the social status quo of the area. The removal of the restrictive title deed building line condition will however allow the owner to keep the existing As Built structures and water tanks in its current position on the subject property.

No negative impact on the social wellbeing of the surrounding community is anticipated. It is submitted that the existing developed property is compatible with the character of the area and does not impact negatively on the rights of anyone else.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The subject property is situated in an existing low-density residential area. The application does not propose to change the zoning or land use of the subject property and therefore the proposal is compatible with the surrounding land uses.

The surrounding properties are developed with dwellings and the use of the developed surrounding properties is for permanent residences and holiday houses. There is a vacant property situated adjacent to erf 3970 Betty's Bay and there are also other vacant erven in the surrounding area. The scale of the structures on erf 3970 Bettys Bay (and the respective uses thereof) merges well with the scale of the surrounding dwellings in the immediate area.

In addition, to accommodate (legalise) the existing As Built structure and water tank that encroach the eastern lateral title deed building line will contribute towards the value of the subject property and consequently have a positive impact on the area. The As Built addition, that complies with existing zoning regulations, will not disrupt the social fabric of the neighbourhood. The existing developed property seamlessly integrate into the existing community without causing any significant social upheaval.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. The As Built structures will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed removal of a restrictive title deed condition will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that a maximum of one family (primary dwelling) will continue to occupy the subject property.

Since the proposed removal of a restrictive title deed condition is not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

3.11 IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed application for the removal of a restrictive title deed condition does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 3970 Betty's Bay is not situated within the Heritage Protection Overlay Zone as determined by the Overstrand Municipality's Zoning Scheme (2020). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010).

The dwelling on the subject property is not older than 60 years. The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed application will not have a negative impact on the heritage value of the Betty's Bay area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed removal of a restrictive title deed condition does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Management Overlay Zone (2020).

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to erf 3970 Betty's Bay will remain unchanged and will be from Hibiscus Road. Refer to the site development plan. No new access points are proposed.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house (main dwelling). There is an approved double garage on ground floor level on erf 3970 Betty's Bay that provides parking for the main dwelling. Considering the above the main dwelling on erf 3970 Betty's Bay therefore complies with the minimum parking requirements for SR1 zoned properties.

The subject property will still be used primarily for single residential purposes and therefore the impact on the traffic flow in the area will remain unchanged.

3.14 TITLE DEED

Title Deed No. T24576/2024 has a restriction that needs to be removed to accommodate the As Built change of use of the approved covered veranda / balcony to bedroom and lounge and to accommodate one of the water tanks in its current position on erf 3970 Betty's Bay. A conveyancer's certificate that was compiled by

22

Mr H.L. van Zyl at Van Zyl Kruger Attorneys is attached. The removal of the restrictive title deed condition application is described in detail in Section 3.5 of the report.

There is no bond registered against the subject property.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The ***Overstrand Spatial Development Framework (2020)*** earmarks the area where erf 3970 Betty's Bay is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed removal of the restrictive title deed building line condition on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The ***Overstrand Municipal Growth Management Strategy (OMGMS, 2010)*** specifies that erf 3970 Betty's Bay forms part of Planning Unit no. 3. This planning unit stipulates that the status quo of the area (i.e. single residential) must be maintained.

With this application no new development is proposed. The erf size will be retained and no densification in the form of a second dwelling unit or subdivision is proposed. The proposal will therefore have no impact on the density of the area while still retaining the status quo. The proposal will promote land development in a location that is sustainable. The proposed removal of a restrictive title deed condition is to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

From the above it is evident that the proposed development **adheres and complies** with the relevant municipal spatial planning policies.

3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1971. The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Betty's Bay Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed removal of a restrictive title deed condition will have no impact on the visual elements of the subject property and surroundings since the structures that encroach the eastern lateral building line already exist. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the building line has no impact on the massing of the building and the impact on the streetscape or passers-by. The As-Built unlawful structures merge well with the approved structures. The impact on the biophysical environment will also be kept to a minimum since the structures already exist.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the compliance with the land use scheme building lines, etc. allow for the consideration and approval of the proposed removal of a title deed condition application without having an adverse impact on the spatial sustainability of the area. To accommodate the As Built structures is to an improved erf within an established residential area will not impact on urban sprawl, or upon a sensitive environment.

24

The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The property is compatible with the character of the area and do not impact negatively on the rights of any adjacent property owners.

Efficiency: The subject property is easily accessible and conveniently located in close proximity to major routes. The massing, height and building lines are in line with the relevant land use scheme regulations. It proofs to be resourceful to approve the As Built structures with the respective uses thereof on the subject property since it is compatible with the existing built environment and the way the change of use of the approved structure was done is aesthetically pleasing.

It proofs to be efficient to accommodate the existing structures and its current uses by approving the proposed removal of restrictive title deed condition of erf 3970 Betty's Bay instead of demolishing the structures and as a result negatively impact on the whole look and feel of the subject property.

The proposed application proofs to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

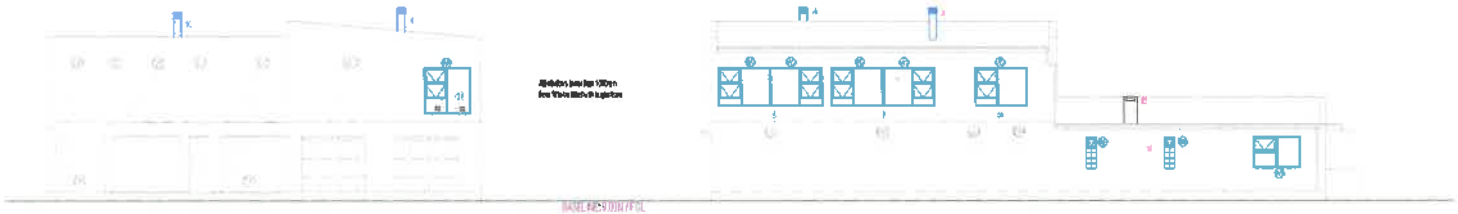
Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

4. RECOMMENDATION

When this application is evaluated, it is important to take note of the following:

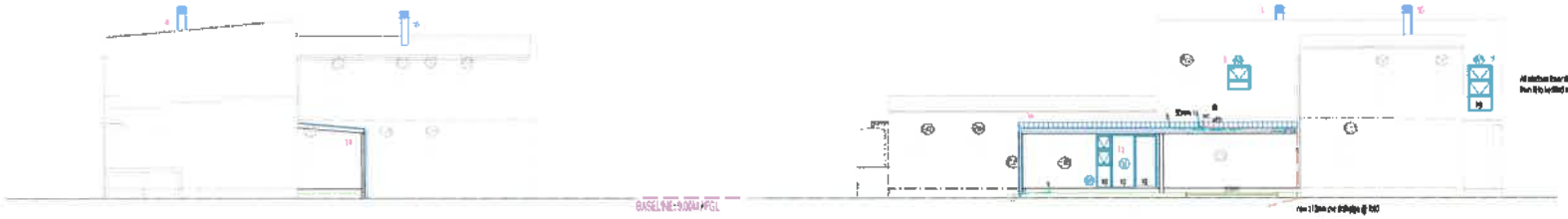
- All services on the subject property already exist and no additional loading of the existing infrastructure is anticipated;
- The zoning and primary land use of the subject property will remain unchanged;
- The As Built structures meet the 2m eastern lateral land use scheme regulations' building line requirement;
- The proposal is to accommodate As Built structures only. No new development is proposed;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic will be kept to a minimum;
- There are no heritage aspects that will negatively impact the application;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);
- We request that a penalty fee not be imposed.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



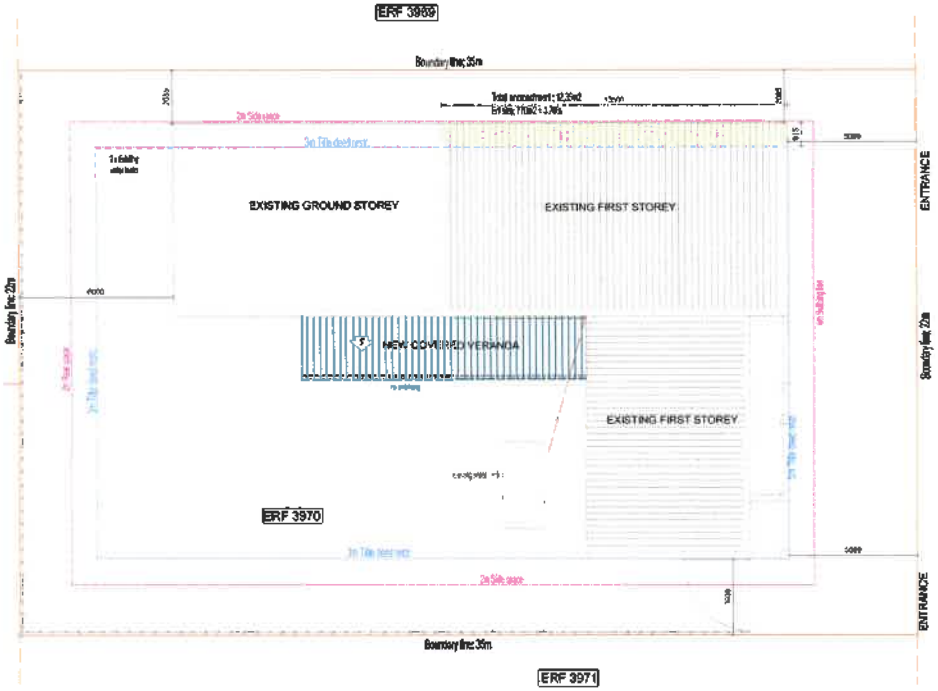
SOUTH WEST ELEVATION
SCALE 1:100

SOUTH EAST ELEVATION
SCALE 1:100



NORTH EAST ELEVATION
SCALE 1:100

NORTH WEST ELEVATION
SCALE 1:100



SITE OPERATIONS

This plan reflect "as built" deviations from approved plan. No new work is to be done. No site operations required

PROPERTY IS BASICALLY FLAT

SITE PLAN & ROOF LAY-OUT
SCALE 1:100

GENERAL NOTES

THIS PLAN REFLECTS "AS BUILT" DEVIATIONS FROM APPROVED PLAN DD 15/05/2001.
NO NEW CONSTRUCTION TO BE DONE
BOUNDARY BEACONS TO BE EXPOSED & DEMARKED

301

INDEMNITY NOTICE:

This plan reflect "as built" deviations from approved plan dd 15/05/2001. The author of this drawing is not the designer of the additions & alterations and and therefore indemnify itself from the compliance with SANS 10400 and any other applicable regulations and cannot be held responsible for any non-compliance that might result in any damages or injury in the structure.

SINGLE RESIDENTIAL
OCCUPATION CLASSIFICATION : H 4

TOWN PLANNING REQUIREMENTS

	NEW	EXISTING	COVERAGE
GROUND STOREY		240.25m2	240.96m2
COVERED VERANDA		10.7m2	10.7m2
NEW COVERED VERANDA	28.58m2		28.58m2
FIRST STOREY		132.94m2	
EXISTING BALCONY/TO BEBOOM LIVING AREA		28.95m2	
BALCONY		10.7m2	
TOTAL	28.58m2	424.14m2	278.22m2
ERF SIZE : 771M2			36%

PROJECT

"AS BUILT" DEVIATIONS FROM APPROVED PLAN DD 15/05/2001 ON ERF 3970, 13 HIBISCUS ROAD, BETTYS BAY

CLIENT

AJ MARCOVECCHIO

DRAWING :

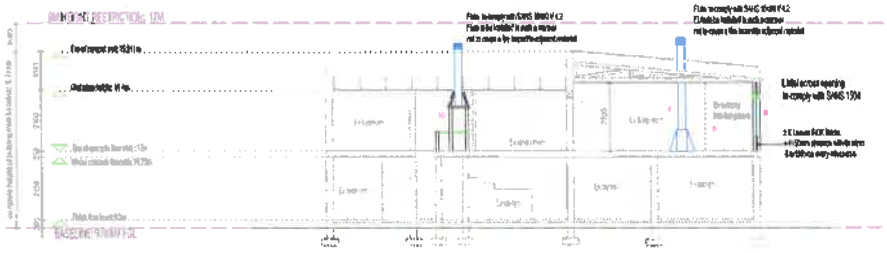
ELEVATIONS
SITE PLAN & ROOF LAY-OUT

DATE	03/09/2023	PLAN NO:	1963970/2023
REVISED		SHEET NO	1 OF 2

RONIKA CHAMBER

DRAWN

Annexure C 1/2


BOUNDARY RESTRICTION: 12M
Existing retaining wall
Existing Garage
Existing Dwelling
Existing Verandah
Existing Pool
Existing Deck
Existing Lapa
Existing Shed
Existing Carport
Existing Entrance
Existing Steps
Existing Paving
Existing Boundary Wall
Existing Fence
Existing Gate
Existing Trees
Existing Shrubs
Existing Lawn
Existing Flower Beds
Existing Driveway
Existing Pathway
Existing Retaining Wall
Existing Boundary Fence
Existing Boundary Gate
Existing Boundary Trees
Existing Boundary Shrubs
Existing Boundary Lawn
Existing Boundary Flower Beds
Existing Boundary Driveway
Existing Boundary Pathway
Existing Boundary

Annexure D 1|5

1165

Chausse Inc t/a RVC Inc
Sable corner, 4th Floor
Century City
Cape Town
7446

Prepared by me

CONVEYANCER
JO-ANNE STEPHANUS (LPCM 95092)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R 2970 000 00	R 2140 00
Reason for exemption	Category Exemption.....	Exemption / I.o. Sec/Reg..... Act/Proc.....

DATA / VERIFY
03 -05- 2024
LINDA NCAPAI

DATA / CAPTURE
0 -05- 2024
ELIZABETH VAN TONDER

T 000024576 / 2024

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT
TARIQ FAEEZ FIGLAND
LPCM No. 95428
appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

The Executrix in the Estate Late
AMBROGIO JOHN MARCOVECCHIO
Estate Number 17974/2023

which said Power of Attorney was signed at Century City on 27 March 2024

And the said appearer declared that:

WHEREAS AMBROGIO JOHN MARCOVECCHIO who died testate on the 23 August 2023 is a registered owner of the hereinafter mentioned property;

AND WHEREAS the said late AMBROGIO JOHN MARCOVECCHIO bequeathed the hereinafter mentioned property to SUZANNA CRISTINA MARCOVECCHIO in terms of Clause 3 of the Joint Last Will and Testament of the deceased and surviving spouse dated at GRABOUW on 11 June 2012.

NOW THEREFORE he/she, the said appearer, in his/her capacity aforesaid, did, by virtue these presents, cede and transfer to and on behalf of:

SUZANNA CRISTINA MARCOVECCHIO
Identity Number 500531 0035 08 8
Unmarried

her Heirs, Executors, Administrators or Assigns,

ERF 3970 BETTY'S BAY
SITUATED IN OVERSTRAND MUNICIPALITY
DIVISION CALEDON
PROVINCE OF WESTERN CAPE

IN EXTENT 770 (SEVEN HUNDRED AND SEVENTY) Square metres

FIRST TRANSFERRED by Deed of Transfer No T45069/1980 with General Plan T.P. 8267 relating thereto and HELD by Deed of Transfer No T01137/93.

A. **SUBJECT** to conditions referred to in Deed of Transfer No T26686/1970.

B. **SUBJECT FURTHER** to the conditions contained in Deed of Transfer No T45069/1980 and imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of BETTY'S BAY TOWNSHIP EXTENSION NO 3 which conditions read:

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 623 dated 14th August 1970.

2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of Section 146 of Ordinance No. 15 of 1952, as amended.

3. The owner of this erf shall without compensation be obliged to allow electricity cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority, and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.

4. The owner of this erf shall be obliged without compensation to receive such material or permit such excavation on the erf as may be required to allow the use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

5. No building on this erf shall be used or converted to use for any purpose other than that permitted in terms of these conditions.

6. This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the Local Authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the Scheme subject to the conditions and restrictions stipulated by the Scheme.

7. No building or structure or any portion thereof except boundary walls and fences shall, except with the consent of the Administrator, be erected nearer than 5 metres to the street line which forms a boundary of this erf, nor within 3 metres of the rear or 3 metres of the lateral boundary, common to any adjoining erf, provided that with the consent of the local authority:-

   (i) An outbuilding used solely for the housing of motor vehicles and not exceeding 3 metres in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces and any other outbuilding of the same height may be erected within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf, provided that in the case of a corner erf, the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf;

   (ii) an outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such boundary;

8. On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth, these conditions shall apply to the consolidated holding as if it was one erf.

9. In the event of this erf being subdivided, each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf."

C. **SUBJECT FURTHER** to the following condition therein contained in Clause 9 of the Joint Last Will and Testament, which condition reads as follows:

"We direct that the inheritance devolving upon any beneficiary under this will or a later codicil, as well as the proceeds, the reinvestment of such proceeds and the income thereon shall be free from the legal effects, including any accrual system, of any present or future marriage of such beneficiary and shall also be protected against the creditors of their spouses".

Registrar's Copy

WHEREFORE the said Appearer, renouncing all rights and title which the said

Estate Late AMBROGIO JOHN MARCOVECCHIO

heretofore had to the premises, did in consequence also acknowledge him to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

SUZANNA CRISTINA MARCOVECCHIO, Unmarried

her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the value of the property to be R 2 970 000,00 (TWO MILLION NINE HUNDRED AND SEVENTY THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 29 APRIL 2024

a.q.

In my presence

REGISTRAR OF DEEDS

Lexis® Convey 18.2.18.1

Loretta Gillion

Annexure E 1/2

From: terrycarol <' -->
Sent: Wednesday, 18 September 2024 08:37
To: Loretta Gillion
Subject: Erf 3970

Please note that we are not in favour of the propsed relaxation of the building conditions. .The relaxation can lead to many others being changed

Lavery 3983 Diasella erf 77

Yours faithfully.

Terrence Lavery

Sent from my Galaxy

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
23 SEP 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP- D. Theart
(Ludstroop)

FILE NO. Erf 3970
Kelly's Bay
SCAN NO.
COLLABORATOR NO.
2125629

23 SEP 2024

2/2

Loretta Gillion

From:
Sent: Monday, 28 October 2024 19:33
To: Loretta Gillion
Subject: Erf 3970 , 13 Hibiscus Road , Betty's Bay : Application for removal of restrictive title deed condition

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
29 OCT 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart
(H vld Stoep)

Good day Loretta

Michele Anne Bryant

3968 Diastella Road
Betty's Bay
(

David John Chapman

968 Diastella Road
Betty's Bay
(

Interest in: we are joint owners of 3968 Diastella Road Betty's Bay (ERF 3968) an adjoining property to the application .

We OBJECT to the removal of the restrictive title deed condition on page 3 , paragraph B.7 i & ii of title deed no T24576/2024 9 (ERF 3970) for the following reasons

The title deed wording incorporates the "Rear boundary " (our adjoining boundary with erf 3968), there is no reason to change this as no existing building encroaches on this boundary . If this restriction were to be removed it would allow a future owner, the option of building to the 2m boundary line . This 3m title deed restriction is in place to uphold the rural ambiance of the area and wherever possible should be maintained .

We however have no objection to changing the title deed wording for the eastern lateral boundary line , side boundary (adjacent to vacant erf 3969). As this is the effected boundary .

The title deed restriction should be maintained for the rear boundary and only changed for the eastern lateral /side boundary line .

There is no mention of paragraph B7 ii in the application . Is this also to be removed ? There are existing windows on the south east elevation . We have no objection to the existing windows ; however, this needs to be clarified .

We do not feel any administrative penalty should be applied

Kind regards
Michele Bryant
(and on behalf of David Chapman)

FILE NO. Erf 3970 - KBB ✓
SCAN NO. KBB 3970
COLLABORATOR NO. 2147066

TP 29 OCT 2024

Annexure F 1/2

PLAN ACTIVE
TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email:
planactive@hermanus.co.za
Website:
www.planactive.co.za

Our reference: PA23056/ML

Your file: 3970KBB \ APP.ID 4743/2024

11 November 2024

THE MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
P.O. BOX 20
HERMANUS
7200

FOR ATTENTION: MRS HANNEEN VAN DER STOEP

Sir

DETERMINATION OF AN ADMINISTRATIVE PENALTY & PROPOSED REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION: ERF 3970 BETTYS BAY

- **S.C. MARCOVECCHIO**

Our application dated 7 August 2024, and your email dated 4 November 2024 refer.

We acknowledge receipt of the objection submitted by Terrence Lavery. However, we note that no substantive reasons have been provided to support the objection, aside from the statement that "*the objection can lead to many others being changed.*" This statement lacks clarity and does not present a valid or substantial basis for objection.

The application pertains solely to the removal of the restrictive title deed condition applicable to erf 3970 Bettys Bay. It will not set a precedent, as each land use application is considered on its own merits. Any future developments will also be required to preserve the character of the village and comply with the applicable regulations.

The proposed application will fully comply with the land use scheme parameters for erf 3970 Bettys Bay. Additionally, the "As Built" dwelling, including the double garage and water tanks, meet the 2m and 4m municipal land use scheme building line requirements.

Therefore, we submit that the objection should be dismissed.

The objection from Michele Bryant refers. The **objection** raises the following points:

- ***Rear boundary (adjoining erf 3968): The current title deed restriction on the rear boundary (set at 3m) should remain in place, as there are no buildings encroaching on this boundary. Removing the restriction could allow future owners to build up to the 2m boundary, which would negatively affect the rural ambiance of the area. Therefore, the 3m restriction should be maintained for the rear boundary.***

- ***Paragraph B7 ii: The application does not mention paragraph B7 ii, and clarification is requested regarding whether this clause will be removed. The objector points out that there are existing windows on the southeast elevation and seeks confirmation that these are not affected.***

The application proposes to remove the whole of condition B7, which includes B7 ii. It is proposed to remove the building line condition since the Overstrand Land Use Scheme Regulations (2020) now govern land use planning in Betty's Bay and therefore the more restrictive building line condition is considered superfluous.

In addition, there are approved garages on the subject property that do not meet the "*within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf*" title deed condition. As a result, it is proposed to remove this condition to accommodate the As Built structures.

The following are considered **comments** from Michele Bryant on the application and not objections:

- ***The objector has no issue with changing the title deed restriction for the eastern lateral boundary (adjoining erf 3969), as this is the affected boundary.***
- ***The objector believes that no administrative penalty should be applied in this case.***

The comments are noted. The application seeks to remove the existing title deed restrictions in order to regularize the unlawful change of use of the approved covered veranda / balcony, which has been converted into a bedroom and lounge, as well as one of the water tanks that encroaches on the 3m lateral building line. All structures are currently built and positioned on the 2,085m eastern lateral building line. No new structures are proposed.

The administrative penalty, if applicable, will be determined by the Overstrand Municipality.

We trust that you find the above in order.

Yours faithfully

M. LERM Pr. Pln. (A/158/2009)
PLAN ACTIVE

Annexure G 1/2

QS+
Quantity Surveyors

Petra Theron
Cell: 084 702 1053
Email: petra@plusqs.co.za

Dear Ms Anna Marcovecchio

27 July 2024

COSTING FOR CONSTRUCTION WORK FOR THE APPLICATION OF ERF 3970 BETTYS BAY: RELAXATION OF TITLE DEED CONDITIONS

Attached please find the costing for the changes made to the balcony, at the current building rates. Please note we made allowances for the finishes, looking at the actual finishes used.

The costing is actually a bit obscured, as the "changes" were made during construction. Thus there was not alteration done, but omissions of work substituted for the new enclosed balcony.

We have calculated the cost of the omissions and indicated it as such.

I trust this costing will be of assistance for your application.

Kind regards

Petra Theron

VARIATION ORDER

PROJECT / PROJEK:	**House Marcovecchio**
VARIATION:	**Incorporating balcony with bedroom and living area**

VO NO	SI	DESCRIPTION OF WORK	Unit	Qty	Rate	OMISSIONS	ADDITIONS
		NOTE: We have opted to do an add an omit of the building cost, as the changes were not done as alterions to the build, but during the original build					
1	1.1	Omit: Sliding door 3.6 x 2.1 to balcony	m2	7.56	3 600.00	R 27 216.00	
		Omit : Sliding door 1.815 x 2.1 to balcony	m2	3.81	3 600.00	R 13 721.40	
		Omit Closing of cavity	m	13.82	53.67	R 741.45	
		Omit Brick lintels over 3.6mm sliding door (190mm high) & 4x rebar	m	3.60	97.24	R 350.05	
		Omit Brick lintels over 1.8mm sliding door (190mm high)&2 rebar	m	3.60	59.94	R 215.78	
		Omit: Header course over sliding doors	m	5.42	206.94	R 1 120.58	
		Omit further 270mm brickwork between rooms and balcony	m2	22.00	801.82	R 17 640.44	
		Omit finishes to brickwork (fairface and bagging outside and paint)	m2	22.00	170.60	R 3 753.29	
		Omit finishes to brickwork (plaster and paint internally)	m2	22.00	210.00	R 4 620.11	
		Omit waterproofing to balcony floor	m2	27.80	385.00	R 10 702.69	
		Omit tiles to balcony floor (PC R250/m2)	m2	27.80	405.00	R 11 258.68	
		Omit balustrade to balcony	m	15.88	1 100.00	R 17 468.00	
		Omit Nutec ceiling to balcony	m2	27.80	295.00	R 8 200.76	
		Omit paint to Nutec ceiling	m2	27.80	96.00	R 2 668.72	
		Add: Window to side of living room W1 x 1	m2	3.24	2 600.00		R 8 424.00
		Add: Windows to living room & bedroom W2 x 5	m2	15.00	2 600.00		R 39 000.00
		Add: Lintels over windows	m	15.40	262.50		R 4 042.50
		Add: Narrow widths to reveals of windows, and paint	m2	9.28	366.00		R 3 397.94
		Add: Waterproofing to window reveals	m2	9.28	37.50		R 348.15
		Add: 270mm Brickwork to sides and front of balcony (above 300mm)	m2	19.87	801.82		R 15 933.77
		Add: 110mm Brickwork to devide bedroom and living	m2	4.67	170.60		R 796.87
		Add: Finish to internal walls of balcony changes living/bedroom	m2	29.21	210.00		R 6 134.94
		Add: Finish to external walls (plaster and paint)	m2	19.87	210.00		R 4 173.12
		Add: Knotty pine ceiling to balcony area	m2	27.80	395.00		R 10 980.68
		Add: Tiles to floor of living space (PC of R300 for tile)	m2	18.83	460.00		R 8 663.23
		Add: Carpet to floor of bedroom area (PC of R300 supply and fit)	m2	8.72	300.00		R 2 615.83
		SUB-TOTAL				R 119 677.95	R 104 511.03
		VALUE ADDED TAX (15%)				R 17 951.69	R 15 676.65
		TOTAL / TOTAAL:				R 137 629.64	R 120 187.69

Annexure H

TEMPLATE CONVEYANCING CERTIFICATE

I / we, Hendrik Loubser van Zyl (Conveyancer's name) hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town regarding the following properties (including both current and earlier title deeds / deed of transfer):

ERF 3470 BETTY'S BAY IN EXTENT 770 m² HELD BY DEED OF TRANSFER NO T. 1137/1993 WITH PIVOT DEED T. 26686/1970

In respect of the aforementioned title deed it was found that there are / ~~are no~~ restrictive conditions registered against such property or properties prohibiting it from being utilized or developed for the following purpose (as elaborated on in more detail in the accompanying application):

TO ACCOMMODATE AN EXISTING COVERED VERANDA AND A WATER TANK WITHIN THE (Proposed use / development / zoning property) RESTRICTIVE 3m EASTERN LATERAL BUILDING LINE.

Please list the relevant restrictive title deed conditions, including both the deed number, clause, and description.

TITLE DEED	CLAUSE	DESCRIPTION
T 1137 /1993	B7	BUILDING LINE RESTRICTION

Please indicate the correct process by which the relevant conditions will be addressed:

CONSENT OF THE ADMINISTRATOR OR REMOVE IN TOTO ITO ACT 84 / 1967. (REMOVAL OF RESTRICTIONS).

Compiled by

H. L. van Zyl

Date 18 JUN 2024

Sign and Stamp

VAN ZYL KRUGER ATTORNEYS
SUITE 520, TYGER LAKE
2 NIAGARA ROAD
TYGER WATERFRONT
PO BOX 4019
TYGER VALLEY 7536

4.6
ERF 6862, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAME AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY *[INFILL HOUSING DEVELOPMENT]*

6862 KU6 (4875/2024)
H van der Stoep **(028) 313 8900** **Hermanus Administration**
11 August 2025

1. EXECUTIVE SUMMARY

An application has been received on 27 November 2024 from Urban Dynamics Cape (Pty) Ltd on behalf of Overstrand Municipality to enable the **infill housing development** on Erf 6862, Kleinmond in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 as follows:

- **Rezoning** in terms of Section 16(2)(a) of the By-Law to rezone Erf 6862, Kleinmond from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), and subsequent **Subdivision** thereof in terms of Section 16(2)(d) of the By-Law for the establishment of the infill development to create the following:

  - 16 Single Residential Zone erven;
  - 1 Transportation Zone 2: Road and parking (TR B) erf, public road purposes and
  - 1 Open Space Zone 2 erf, for public open space purposes (Play Park).

- **Allocation of Street Name and Numbers** in terms of Section 96 of the By-Law to allocate a street name (*Butterfly Crescent*) and numbers.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B. The proposed layout plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

This proposal is centred on development within the human settlement development sector, with a particular emphasis on infill development. An overview on South Africa's current housing backlog highlights the need for urgent relief and the subsequent deployment of more affordable human settlement strategies across the country.

As part of its Integrated Development Plan, the Overstrand Municipality has outlined key weaknesses that need to be addressed, in order to achieve its medium-term goals. Among these, a critical issue highlighted is the shortage of affordable residential accommodation within the Municipality's urban fabric. This need is further heightened with the growing volume of informal settlements and backyard dwellers. This has, consequently, resulted in a significant increase in densely populated areas with limited to no access to essential services. In order to efficiently address this spatial challenge, the Overstrand Municipality have identified suitable land for integrated infill development, including land within the urban area of Kleinmond.

Erf 6862 has accordingly been identified for development in accordance with the Municipality's integrated, affordable human settlement strategy.

4. SUMMARY OF APPLICANT'S MOTIVATION

Development Proposal

INFILL HUMAN SETTLEMENT DEVELOPMENT

The Overstrand Municipality is actively undertaking planning and processes to continuously meet its mandate of service delivery and human settlement development within its jurisdictional area. As the Overstrand area is generally extremely rich in environmental resources, biodiversity, ecological systems and faunal habitats, available land for urban development becomes increasingly scarce. Notwithstanding the scarcity of land, the population within the town is increasingly growing, thereby creating demand for additional residential, social and business development within each town.

Within the above-mentioned context, to avoid and minimise environmental impacts associated within urban development, the most appropriate and sustainable development approach should be to better utilised underutilised land within existing disturbed urban areas. Infill development is therefore a logical and organic manner of redeveloping properties within existing towns, be it commercial redevelopment by private developers, or municipal initiated human settlement development.

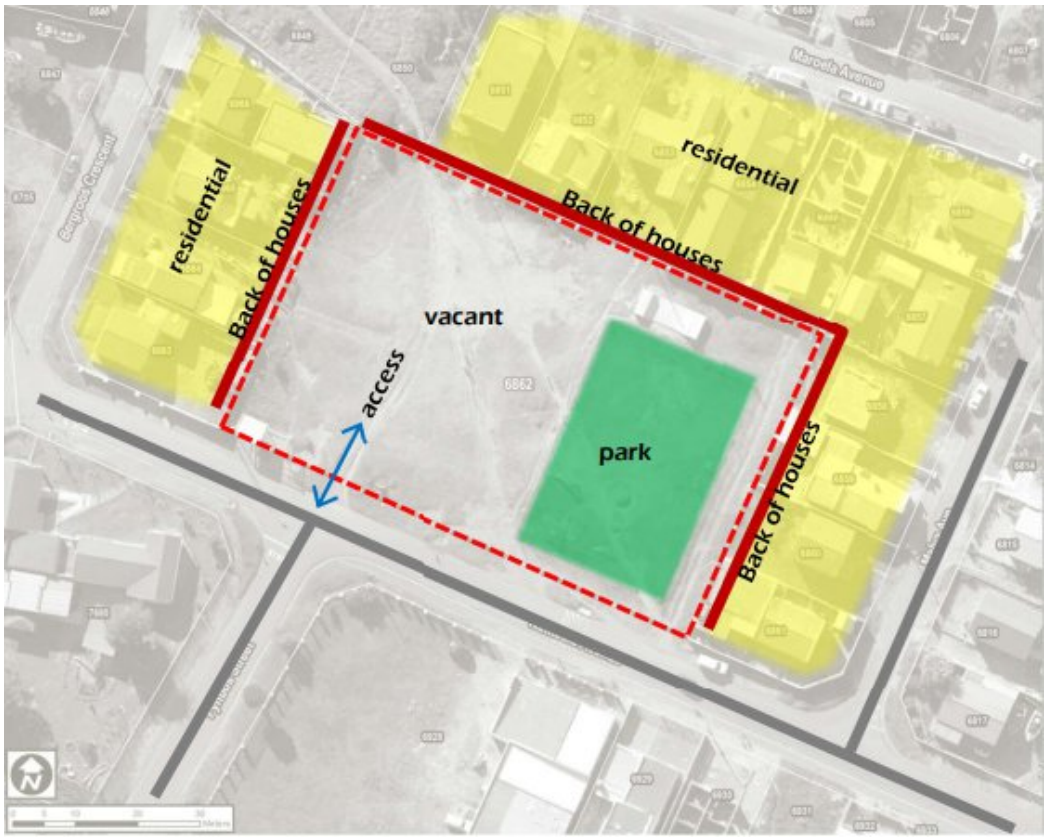
The images below illustrate the principle of infill development, being the infill and redevelopment of underutilised / blank space with function and uses, retrofitted into an existing built environment, while responding to the character of the receiving environs.

Existing Built Environment Infill Development (conceptual)

DESIGN INFORMANTS

In preparing a layout plan for the proposed development of Erf 6862 Kleinmond, the following contextual and site informants were taken into account to shape and steer the design proposal for the site, namely:

- Street access onto Nemesia Street
- Existing play park on the site
- Surrounding residential character, of which the houses turn its backs towards the site



Figures 7: Contextual & Site Informants

Further to the above informants, the layout had to be designed to accommodate certain requirements from a human settlement development perspective, namely:

- Freestanding erven as the preferred typology, compared to walk-up apartment development (social housing).
- Erf sizes of ±80m² were proposed, to optimise the development yield. However, following consultation with key stakeholders, it was agreed to increase the erf sizes to 120m², which is more suitable within the context of surrounding conventional low density residential erven.

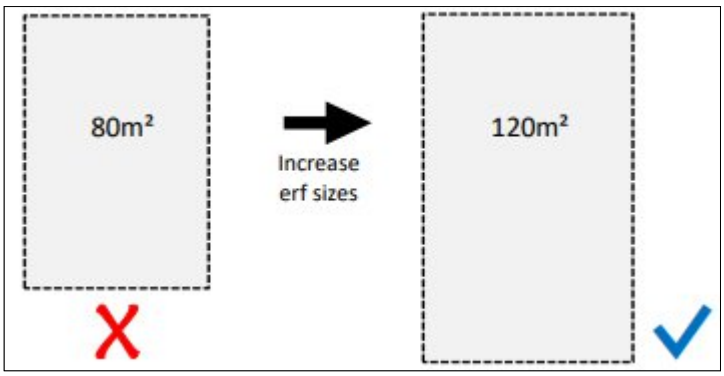


Figure 8: Erf Sizes

SUBDIVISION LAYOUT PLAN

Taking into consideration the above-mentioned informants, the layout plan for the proposed redevelopment of Erf 6862 Kleinmond was compiled. The layout incorporates the following aspects:

- Central open space to re-establish the existing play park;
- Public access road in the form of a crescent;
- Engineering services to be provide within road reserve, including sewer, water, electricity, stormwater and streetlights;
- Back-to-back residential erven onto existing, to improve services efficiencies;
- Single residential erven, to accommodate residential dwellings.

The above-mentioned aspects were firstly applied conceptually to the site to illustrate the development concept, which were then refined and formalised as presented in the proposed subdivision layout, including 16 x single residential erven, 1 x open space erf and 1 x public road.

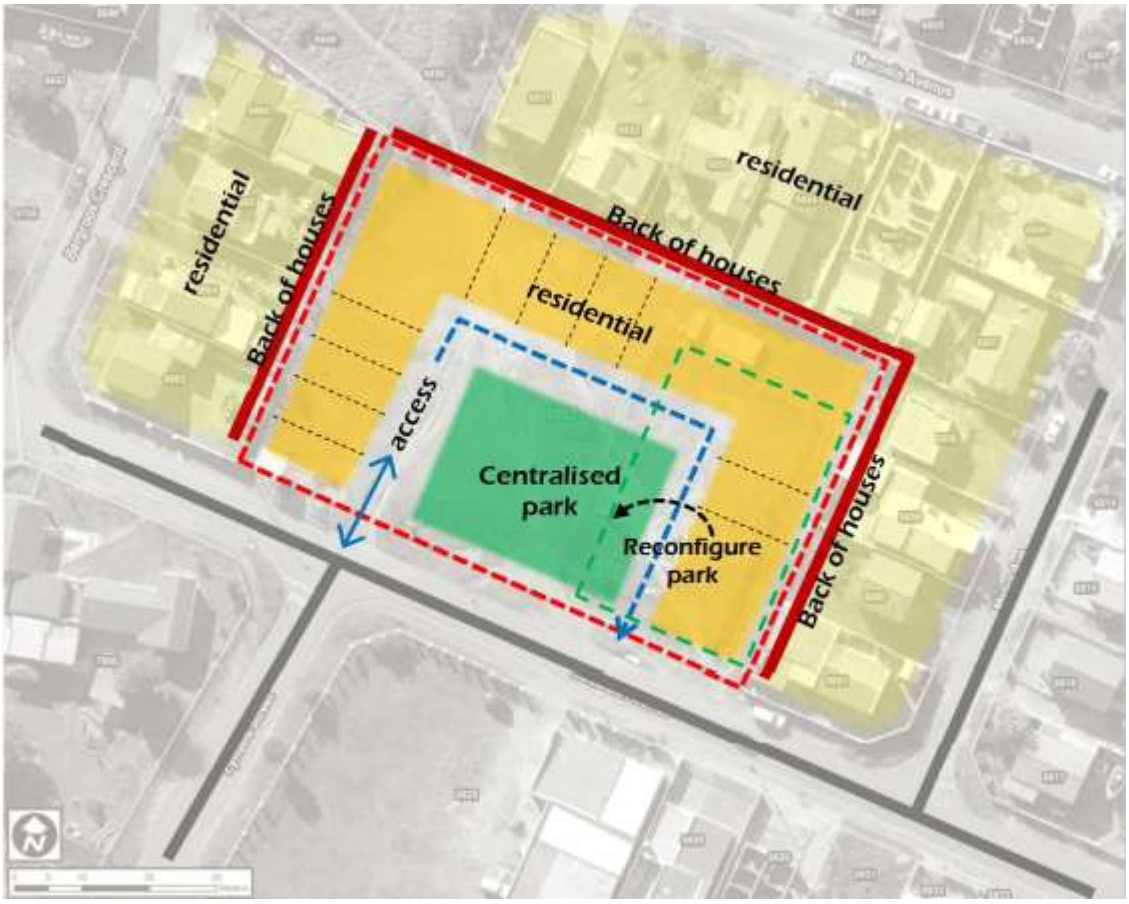


Figure 9: Contextual & Site Informants

The key informant to the development concept being the retention of a play area within the development, by reconfiguring the park that exists on the site now. The reconfigured centralised play park will form the identity of the development, allowing for kids to play in front of their houses in a secured play park environment.

The subdivisional layout includes 16 x single residential erven of 120m² each, to ensure that the erven can accommodate a house of up to ±100m² (80% coverage). The erf dimensions were dictated by the site configuration, access positions and the size of the park area, which resulted in the erf size dimensions being street frontages of ±9m wide, while the depth of the erven is ±13m. The proposed play park is approximately 1000m² in extent, which is sufficient to accommodate play equipment and play area for kids.

The layout plan includes a street name for the crescent in the development, namely: Butterfly Crescent. The street name is compliant with the requirements of the Overstrand Street Naming Policy, as it is neutral, not attached to any person, nor linked to any political or religious connotation. The allocated street name is compatible with other street names in the area, which reflects plant and animal species / names as themes for street names.

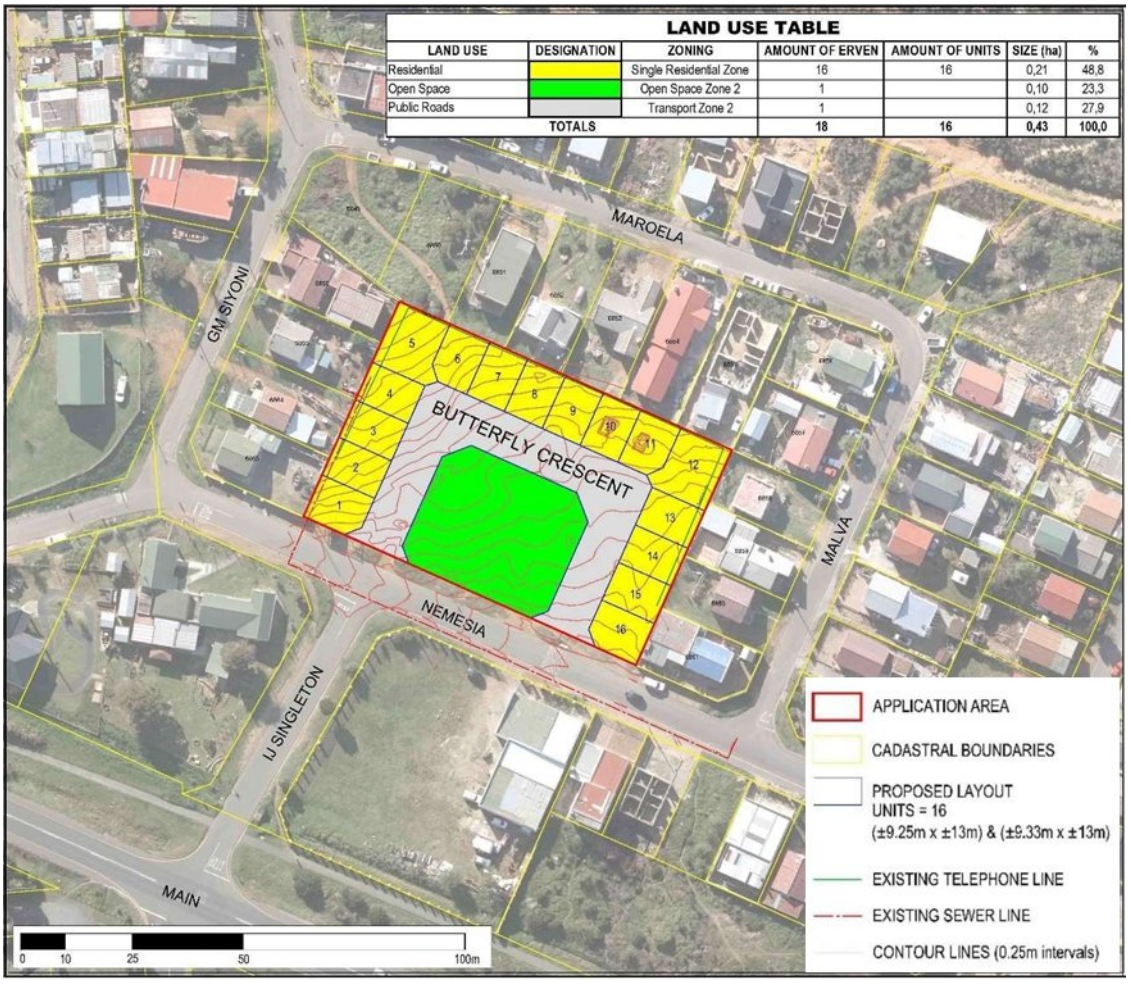


Figure 10: Subdivisional Layout Plan

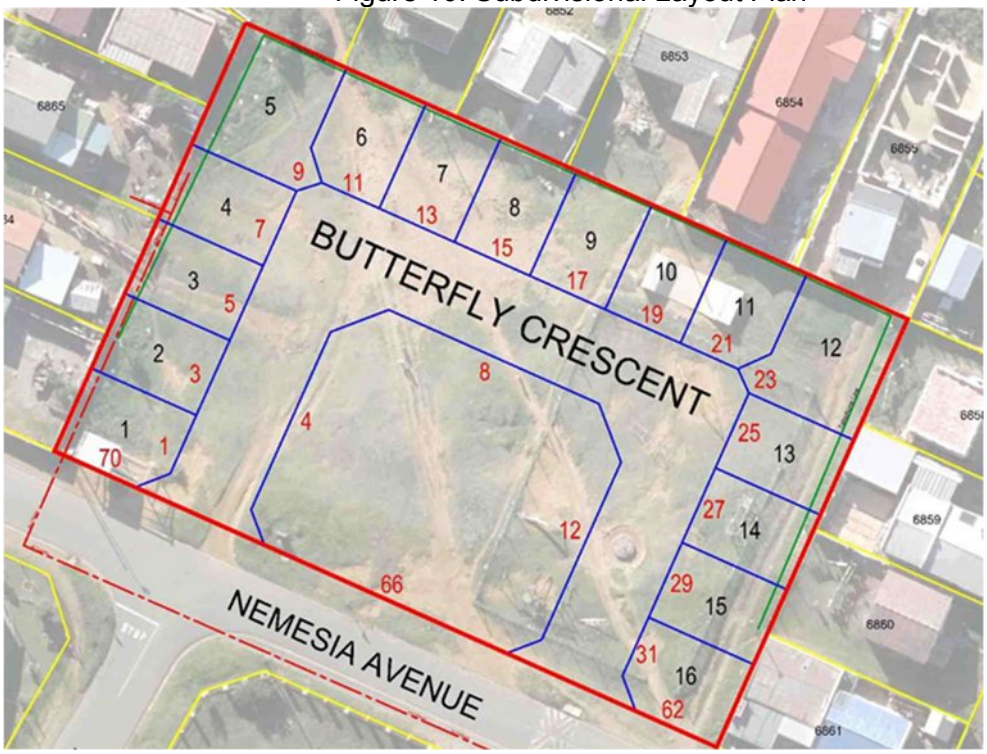


Figure 11: Street Name & Number Plan

IMPACT ON MUNICIPAL ENGINEERING SERVICES

The subject property is situated within the established urban edge of Kleinmond, and as a result, in an area serviced by the Overstrand Local Municipality. To further facilitate the proposed development, an engineering services investigation was undertaken by Neil Lyners and Associates (Pty) Ltd, confirming the availability of engineering services. Please refer to Annexure H.

The engineering findings by Lyners are summarised, as follow:

Electricity:
Existing low voltage networks are situated proximal to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed belowground where required.

Water:
An existing municipal water supply network is situated immediate to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed below-ground where required. Additionally, fire hydrants will be installed in accordance with the relevant guidelines of the Overstrand Local Municipality.

Sewerage and Wastewater:
The subject property will drain towards the Kleinmond Wastewater Treatment Works (WWTW). The Overstrand Local Municipality has confirmed the availability and capacity of infrastructure to accommodate the proposed development in this regard. All new connections, additional and internal engineering works will be installed below-ground where required.

Stormwater:
The low density of the proposed development will have a minimal effect on drainage patterns in the area. No new stormwater detention facilities will consequently be required on account of this development proposal. It is, however, proposed that a 'manhole' be constructed on the existing 375mm stormwater pipe, situated along Nemesia Avenue to facilitate run-off from the property.

Road Network:
The layout has been designed with a loop road (proposed Butterfly Cresent) providing public access to each individual property, which in turn feeds into Nemesia Avenue. To facilitate the proposed development and relevant infrastructure requirements, a detailed Traffic Impact Assessment was compiled by Mr. Douw Louwrens. The proposed loop road is not expected to negatively impact on existing traffic/ vehicular movement. The TIA recommends that dedicated sidewalks be considered along the western portion of Nemesia Avenue and Fynbos Street. See Annexure G.

ENVIRONMENTAL / HERITAGE

The application site is a disturbed site with no biodiversity or heritage resources present on the site. The appointed environmental impact assessors investigated the site, concluding that there are no resources on the site that require assessment in terms of the National Environmental Management Act (NEMA), nor in terms of the National Heritage Resources Act (NHRAct.).

MOTIVATION

Socio-Economic Implications
This development initiative, as part of the Overstrand Municipality's broader infill development strategy, aims to generate significant socio-economic benefits to communities residing in and around Kleinmond. The Municipality's infill development strategy further aims to create jobs, promote social development, drive economic growth, and empower local communities, fostering an integrated residential, urban fabric. It is envisaged that the impact of the proposed infill development will be positive, as it will address the demand for residential opportunities in Kleinmond, while also providing a play park for the local community needs.

Compatibility with the Character of the Area
The surrounding area comprises of the Kleinmond urban development area, including a mix of residential typologies. The developments most pertinent to the subject property comprise of low-density residential accommodation, community facilities and residential amenities such as local small businesses, parks, schools and clinics. The development proposal is not anticipated to have an adverse impact on the surrounding area, but rather fit into the residential character of the area.

CONSISTENCY WITH SPLUMA AND LUPA PRINCIPLES

Spatial Justice

The proposed development aligns with the principle of spatial justice by ensuring that it does not unnecessarily reduce access to land or the use thereof. It aims to redress past imbalances in so far as providing adequate, affordable housing options. While the broader aspects of spatial justice, such as the inclusion of previously excluded areas, informal settlements, and disadvantaged communities, remain the responsibility of public entities like municipalities and government departments, this project supports the overarching goals of spatial justice.

Spatial Sustainability

The proposed development aligns with the principle of spatial sustainability by promoting land development within the fiscal, institutional, and administrative capacities of the Republic. It supports the concept of sustainability through the incorporation of integrated, affordable residential solutions within the urban fabric of the Overstrand Local Municipality.

Efficiency

No adverse impacts on existing resources or services are anticipated on account of this proposal.

Spatial Resilience

This component is applicable to public entities such as municipalities and government departments; it is therefore not the responsibility of an applicant to adhere thereto.

Good Administration

The application is submitted in terms of the relevant legislative frameworks and will be processed accordingly.

POLICY DOCUMENTS

OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (SDF), 2020

The Overstrand Municipality Spatial Development Framework (2020) is a policy document that seeks to influence the overall spatial distribution of current and future land uses within the Municipality, to give effect to the vision, goals and objectives encumbered within the municipal IDP, and related business plans of government. The subject property is located within the established urban edge of Kleinmond and subsequent urban fabric of the Overstrand Municipality. Within the SDF itself, the subject property is earmarked for development in accordance with integrated, urban development strategies, including densification. This development proposal further embodies the incentives incorporated to the approved Integrated Development Plan of the Overstrand Local Municipality (2024/2025), including: "Kleinmond: Delivering affordable housing opportunities for the low-income residents is a priority. Availability of suitable developable land poses a huge challenge. No land available outside the Urban Edge due to environmental constraints.
An investigation to identify suitable land for integrated development was undertaken during 2017/2018 and completed during 2021. The final report served before Council at the end of October 2021 and was approved. Potential projects have been included in the housing programme. Pre-planning funding approval was received for the Kleinmond IRDP and Overhills UISP Projects during June 2023. Planning of these two projects is in progress (Overstrand Municipality Integrated Development Plan, 2024/2025, Pages 131-132)."

The proposed residential development of the application site is considered to be fully consistent with the incentives and principles outlined in the Overstrand Municipal Spatial Development Framework and Integrated Development Plan.

DESIRABILITY CRITERIA IN TERMS OF THE OVERSTRAND MUNICIPALITY BY-LAW (2020)

The proposed residential development was assessed in terms of the terms of the Overstrand Planning By-Law (2020), to determine the desirability of the development in terms of the criteria set out in the Overstrand Land Use Planning By-Law (2020), as follows:

- Positive response to local and site-specific conditions, and compatibility with the character of surrounding area, taking into consideration site sensitivities;
- Compliance and alignment with current spatial planning policies;
- Connects with existing infrastructure and adheres to acceptable standards in terms of erf sizes and infrastructure provision standards;
- Infill development of underutilised property is the most appropriate and sustainable mechanism to create new development opportunities within the town, compared to expanding the urban footprint of the town into surrounding sensitive environmental areas;
- Contributes positively to economic growth, social upliftment, investment and employment opportunities in an established residential urban environment within proximity of surrounding amenities and employment opportunities;

- The development was planned and designed to adhere to good practice principles of urban efficiencies, infrastructure standards and accessibility, thereby ensuring safety and welfare of the community within the development and in its immediate surroundings;
- No adverse impact on biodiversity or natural resources, as the site is a disturbed site with any environmental related constraints.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	**Yes**	13 February 2025	20 March 2025
Internal departments	**Yes**	13 February 2025	20 March 2025
E-mails & site notice	**Yes**	13 February 2025	20 March 2025
Ward Councillor	**Yes**	13 February 2025	20 March 2025
Total comments	**SEVEN (7)**		
Total letters of support	**NONE**		

Was public participation undertaken in accordance with Section 47 - 50 of the By-Law on Municipal Land Use Planning?	**Yes**
Was the application processed correctly (if no, elaborate below):	**Yes**
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	**Yes**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	13/02/2025	No objection. Building plan applications comply with all applicable law.
Property Administration	11/03/2025	Support the reconfiguration of the play park as to not take away the play area. No objection to the application.
Fire Department	16/04/2025	No objection subject to compliance with the provisions of SANS 10400-A, 10400-T:2024 and the By-law relating to fire safety.
Engineering Services	05/05/2025	See Annexure F.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

The application was duly advertised in the local newspaper and E-mail notifications were sent out to surrounding neighbours and the Kleinmond Ratepayers Association. A notice board was also placed on-site by the applicant's consultant.

Seven (7) letters of objection were received forthcoming the public participation process from the following parties:

- ***Proteadorp Indigenous Committee (E October) – PETITION***
- ***F & S Oncker***
- ***JD & JL Floris***
- ***Z Bavuma***
- ***M Bosman***
- ***EV & RA Gillions***
- ***Nydia Carelse*** *(submitted via Ward Committee)*

The applicant was provided with an opportunity to respond to the objections. See Annexures D and E respectively.

The objections, the applicant's reply and the Municipal Town Planners response thereon are summarized below.

PUBLIC OBJECTIONS

REF	OBJECTOR	STATUS
A1	Mr. & Mrs. EV & RA Gillons	**Property owners:** Erf 6859, Kleinmond
A2	Mr. & Mrs. JD & JL Floris	**Property owners:** Erf 6928, Kleinmond
A3	Mrs. Zandile Bavuma	**Property owner:** Erf 6852, Kleinmond
A4	Mrs. Mercia Bosman	**Resident: Kleinmond**
A5	Mr. & Mrs. F & S Oncker	**Property owners:** Erf 6855, Kleinmond
A6	Mrs. Nydia Carelse	**Resident: Kleinmond**
A7	Proteadorp Indigenous Committee	**Community Forum**

The objections and concerns raised have been thoroughly assessed and are summarized below, along with responses addressing each matter.

It is important to clarify that the concerns raised by Objector A6 fall outside the scope and substance of the current application. Accordingly, the representation does not constitute a formal objection, but rather a general commentary on alternative development preferences. While suggestions for commercial or mixed-use development have been noted, such considerations fall beyond the ambit of the current application, which has been submitted in accordance with the approved spatial planning framework and relevant statutory provisions

Further to the above, it is important to clarify that this application does not constitute free state-funded low-income housing development. The objective of the application is to establish residential erven that can be sold to individuals via the Finance Linked Individual Subsidy Programme (FLISP).

The layout plan and erf sizes have therefore been adapted to suit the requirements for FLISP housing, which typically allow for larger erven than those associated with fully subsidised, state-funded, free housing. Future development of the individual erven, including the submission of building plans, will be the responsibility of the respective landowners. It is therefore a misinterpretation by the objectors that the development is low- income state housing.

REF		COMMENTS	APPLICANT'S RESPONSE
1.	**A1, A2 & A3**	***Representations on noise pollutants, privacy and health impacts* –** *The objectors express concern regarding the anticipated increase in ambient noise levels, particularly during the night, which they believe will disrupt the 'quiet character' of the area and affect their well-being.* *The 'proximity' of the proposed development is perceived to undermine the privacy of existing residents and diminish their quality of life due to increased human activity and behavioural disturbances. It is further stated that the development may introduce adverse health impacts arising from increased traffic volumes, environmental degradation, and persistent noise pollution.*	The concerns raised by the objectors are noted. However, these assertions are speculative and lack support. The application is informed by specialist inputs and professional assessments, none of which identify any material risk to public health or residential amenity. The proposed development will be implemented in accordance with established planning parameters and environmental controls, ensuring compatibility with surrounding land uses and adherence to acceptable living standards.

TOWN PLANNER'S RESPONSE

The concerns are noted. The development will be in accordance with Planning Legislation and National Building regulations. However, the behaviour of owners or inhabitants cannot be the deciding factor in any development.

In terms of privacy, some of the surrounding erven does display more than one dwelling unit, which also relates to noise, privacy issues and increase in human activity and noise pollution.

REF		COMMENTS	APPLICANT'S RESPONSE
2.	**A1, A2, A3, A4, & A7**	***Representations on property value and scenic implications*** **-** *Objectors state that the proposed introduction of high- density, lower-income residential units will have a detrimental effect on surrounding property values. Their concern is based on several anticipated outcomes, including the loss of scenic or distant views, increased residential density, overcrowding, and a perceived rise in criminal activity, all of which are viewed as undermining the safety, character, and long-term stability of the area.*	While it is acknowledged that any new development may alter the existing visual and land use character, this proposal is consistent with the prevailing development pattern and strategic planning directives of the municipality. Assertions regarding devaluation of property and crime association are unfounded.

TOWN PLANNER'S RESPONSE

A portion of the directly affected erven does have more than one dwelling on the property. It is unclear if it is a legal structure, thus implying that there is already environmental degradation, health concerns etc. due to non-compliance in terms of planning and building regulations.

It should be noted that the majority of houses surrounding the property view lines is outwards to the surrounding street and not the application property.

REF		COMMENTS	APPLICANT'S RESPONSE
		Objector A7 further referenced a previously submitted petition, during the land identification process, expressing dissatisfaction that prior community input was disregarded. It was further argued that consistent with procedures applied to neighbouring properties, the disposal of the subject property should be conducted via public auction. *The objector (A7) further argues that the proposal conflicts with the Overstrand Municipality's housing policy, which requires the removal of illegal structures in parallel with the provision of new formal housing, an obligation they assert has not been met in this instance.*	It is further important to point out that the proposed residential erven are not considered high-density development, but rather an extension of existing residential patterns in the area. The objectors' assumption that the development constitutes "low-cost housing" is incorrect and does not reflect the intent or scope of the application. The development conforms to the applicable zoning provisions and general development parameters of the Overstrand Local Municipality. Disposal of the land is at this stage not relevant, as the application is merely to subdivide and zone the erven. Furthermore, the development represents a contextually appropriate infill initiative that supports spatial integration. The concern raised by Objector A7 regarding a prior petition is not material to the current application and carries no legal weight. Similarly, the interpretation of housing policy related to the removal of informal structures is misapplied and falls outside the scope of this application.

TOWN PLANNER'S RESPONSE

The petition submitted with the initial land investigation study is noted but was dealt with in terms of the study conducted and has no bearing on the present application. The concerns about having low-cost housing adjacent existing developments have been addressed in the document in that the project will be a FLISP development in terms of the housing program.

This was a direct result addressing the concerns of low-cost housing that may have a detrimental impact on the community. This aspect was also addressed in the development proposal to limit the proposed 22 erven as per the Investigation into developable land to 16 erven to bring the size of the erven more in line with the surrounding properties. The development parameters in terms of the Land Use Scheme restrict the height to 8m, a normal single residential parameter and does not allow for high rise residential units. The same parameters are applicable on the surrounding erven in terms of height.

The play park will be retained and formalized as per the proposed layout and addresses the concern for play area for children.

REF		COMMENTS	APPLICANT'S RESPONSE
3.	**A1, A2, A3 & A7**	***Representations on crime and safety*** **–** *The objectors express their concern in relation to the proximity of the proposed development to the town's business district, including the harbour area, which may lead to an increase in criminal activity.* *This is regarded as a potential threat to public safety and the town's appeal as a tourist destination. Furthermore, it is argued that existing infrastructure and policing capacity are insufficient to accommodate the additional demand and social risks associated with an 'increased residential density'.*	The objectors' concerns are noted. The objectors' fears of increased criminal activity are based on generalised assumptions. The proposed development does not represent a scale or typology that would place undue pressure on local safety infrastructure. On the contrary, residential developments of this nature can contribute positively to neighbourhood security through increased surveillance and community presence. Assertions that the development will compromise the town's appeal to tourists are similarly speculative.

TOWN PLANNER'S RESPONSE

The application erf is located within a residential neighbourhood and not adjacent to a business district. A structured and formalized development will be to the benefit of the town vis a vie land grab and uncontrolled development.

It is unclear on how the proposed 16 erven will contribute to crime and safety on the business districts. Criminal activity remains a problem in South Africa and not only Kleinmond. This aspect needs to be dealt with the community neighbourhood watch and SAPS.

REF		COMMENTS	APPLICANT'S RESPONSE
4.	**A1, A2, A3, & A7**	***Representations on traffic and safety*** **-** *The objectors state that the proposed development will lead to increased traffic volumes along key routes, including the R44, Kleinmond Main Road. They express concern that this may elevate the risk of vehicular accidents and pedestrian safety incidents, and may further compromise public safety, particularly during periods of social unrest or protest action.*	The concerns of the objectors are noted. However, these views are not substantiated by any transport impact assessment or professional traffic engineering review. As part of the application process, infrastructure capacity, including road and pedestrian safety, has been reviewed by qualified consultants. Their input confirms that the proposed development can be accommodated without adverse impacts on the existing network. The objections lodged pose no material opposition to this application.

TOWN PLANNER'S RESPONSE

The aspect of traffic has been dealt in the report and found that the proposed 16 erven will not negatively the present road infrastructure. Driver behaviour cannot be catered for in any application.

REF		COMMENTS	APPLICANT'S RESPONSE
5.	**A5 & A7**	***Representations on impact to character*** **-** *Objectors believe the proposed development is not in keeping with the area's established character. Concerns include overdevelopment, the loss of open space, and increased social pressures that could lead to higher crime rates.*	It is recognised that development of Erf 6862, Kleinmond will change the status quo of the subject property, however, within the context of residential development, which aligns with surrounding development trends. The perception that the proposal constitutes overdevelopment or threatens local character is not supported by zoning rights or policy directives, which were addressed and confirmed by this application. The association made between social pressure, crime, and higher residential density is, therefore, speculative and lacks substantive base.

TOWN PLANNER'S RESPONSE

The concerns about having low-cost housing adjacent existing developments have been addressed in the document in that the project will be a FLISP development in terms of the housing program. This was a direct result addressing the concerns of low-cost housing that may have a detrimental impact on the community. This aspect was also addressed in the development proposal to limit the proposed 22 erven as per the Investigation into developable land to 16 erven to bring the size of the erven more in line with the surrounding properties. The development parameters in terms of the Land Use Scheme restrict the height to 8m, a normal single residential parameter and does not allow for high rise residential units. The same parameters are applicable on the surrounding erven in terms of height.

In terms of densification, the existing character of Proteadorp is a residential neighbourhood and character, with various buildings excluding the main dwelling, in most. Thus the neighbourhood has densify with the construction of buildings over building lines, creating the present character. The proposed development will be in line with this densified character created by the inhabitants of Proteadorp.

REF		COMMENTS	APPLICANT'S RESPONSE
6.	**A1, A2, A3 & A7**	***Representations on environmental impacts* -** *The objectors express their concern regarding the potential destruction of indigenous fynbos and surrounding vegetation.* *The objectors argue that the proposal poses a significant threat to biodiversity and natural ecosystems, citing a loss of habitat and heightened pollution that would leave residents exposed to environmental and health risks.*	The environmental concerns raised are noted. However, these objections do not present a material basis for opposition. The subject property is located on a site that has already been disturbed and forms part of the established urban edge. The application site is a vacant disturbed site with no indigenous vegetation or biodiversity present on the site. The concern is therefore misguided.

TOWN PLANNER'S RESPONSE

Agree with consultants.

REF		COMMENTS	APPLICANT'S RESPONSE
7.	**A1, A2, & A3,**	***Representations on social infrastructure needs*** **-** *Objectors advocate for the land to be utilised for social infrastructure rather than residential development. Proposed alternatives include the establishment of a school, youth centre, or community food gardens, facilities which are considered, by the objectors, to be better suited in meeting local needs.*	The need for social facilities/infrastructure is recognised. The request for alternative land use, including schools, youth centres, or food gardens, is acknowledged. However, the application responds to a demonstrable need for formal residential opportunities within the established urban fabric of Kleinmond. The application furthermore proposes a cohesive integration between residential and community components, in so relocating and essentially retaining the play park within the urban area, as opposed to the total removal thereof.

TOWN PLANNER'S RESPONSE

The request for more social structures within the community is noted. However, these social structures need funding for construction, maintenance and employers. Some of the functions are not the mandate of the Municipality such as schools, social workers etc. In the same breath, housing also is a social construct, and the need thereof has also been identified by the people of Kleinmond.

The existing social infrastructure should rather be investigated and established if the facility is used to its optimum, before embarking on additional buildings that is not used to its full extent or not sustainable.

REF		COMMENTS	APPLICANT'S RESPONSE
8.	**A6**	***Representation on business needs*** **-** *This submission does not constitute a formal objection but serves as a representation requesting that alternative development options for the site be explored. The 'objector' states that the current proposal's exclusive focus on residential use overlooks the potential for commercial or mixed-use development.* *It is further stated that existing and future business needs within the area have not been adequately assessed.*	The representation advocating for commercial or mixed-use development is noted. However, the application has been submitted in accordance with the spatial planning policies and development vision of the Overstrand Municipality. The site has been earmarked for residential development in line with strategic objectives. While commercial development is important, it must be appropriately located in areas specifically designated for such use and where such use has an informed (existing) imprint, relative to the existing character of the area.

TOWN PLANNER'S RESPONSE

Various commercial nodes have been identified in Proteadorp. The erven are located on the corner of Maroela Avenue and Bergroos Crescent and Skool Street and Alusie Crescent. Although these erven are in private ownership, it does create business opportunities within the area.

There is no indication of the type of commercia development required by the community in terms of leases, funding (who is responsible), and construction etc. of such a proposed retail node.

REF		COMMENTS	APPLICANT'S RESPONSE
9.	**A5 & A7**	***Representation on infrastructure capacities*** **–** *The objectors raise concern regarding the strain on existing infrastructure.* *Specific references were made to stormwater management constraints, congested road networks/ systems, and limited capacity of public amenities and services to support an increase in population.*	The objections are noted. This comment is speculative and lacks any substantiated basis. The views of the objectors have not been informed or supported by any findings or recommendations contained within the application. The application is supported by professional engineering input, which confirms that the development can be accommodated without overburdening municipal systems. These assessments were conducted by registered professionals and reviewed by municipal engineering departments, whose support has been recorded. No evidence has been presented by objectors to suggest otherwise.

TOWN PLANNER'S RESPONSE

Agree with the Consultant.

REF		COMMENTS	APPLICANT'S RESPONSE
10.	**A1, A2, A3, A4, A5 & A7**	***Representation on socio-economic disparities, digital exclusion and public participation and procedural fairness-*** *The objectors have emphasised a digital divide within the community, noting that the absence of equitable access to internet and communication technologies has resulted in unequal opportunity to participate in the planning process or raise concerns. Several objectors argue that the public participation process has been procedurally inadequate.* *Comments received include the lack of in-person engagements, insufficient notice to surrounding property owners, and the over-reliance on digital communications, which may have excluded technologically or economically disadvantaged community members.*	Comments regarding exclusion from the participation process are noted but not supported by any procedural irregularity. The public participation process was conducted in accordance with statutory requirements, and reasonable steps were taken to ensure accessibility of information. The use of digital communication is standard practice and was facilitated through both formal notices (email/ mail) and on-site notices. The local authority's / applicants' obligations in this regard were met, and objectors had sufficient opportunity to comment. These claims do not present a material basis for opposition. It is furthermore unreasonable to assume that future residents of the proposed development would not have access to the same technological resources as that currently available to the broader community. The development is expected to benefit from the same infrastructure and service provision, including access to digital communication platforms, thereby ensuring equitable participation and integration.

TOWN PLANNER'S RESPONSE

The application was advertised; notices were sent to adjacent owners, Ward 9 and Kleinmond Ratepayers Association. The application is also on the Overstrand Municipality website and in the Kleinmond library. Any person can contact the Municipality for access to information. The application site was dealt with extensively in the Integration and Desirable land in 2020. Thus, the community had full knowledge of the proposed development.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Point 7 above

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

CIVIL ENGINEERING SERVICES

The following comment was received:

Development supported. Proposed that the play park be retained in its current position.

APPLICANT'S RESPONSE

The department's support is noted.

Retaining the play park in its current position was considered, which would undermine the intended spatial integration and functionality of the overall development layout. It should be emphasized that the application does not entail the loss of public open space. Instead, it proposes the relocation and reconfiguration of the existing play park within the development in a manner that better aligns with the proposed layout and enhances accessibility for future and existing residents.

The centralised play park allows for a crescent street to be accommodated, which is not possible if the park is retained in its current form.

TOWN PLANNER'S RESPONSE

This aspect needs to be addressed by the Engineering Services Department during the development of the erf.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The application addresses the housing shortage of Kleinmond, especially inhabitants that are on the waiting list and compliance with the national, provincial and Municipality's drive to secure ownership of people in the disadvantaged groups of society.

Spatial Sustainability

The proposed housing project is located within the urban edge and will not have any detrimental effect on the natural environment.

Efficiency

The property is a derelict portion of land on which only a portion is used for a playpark. The remainder of the erf is being used for parking and pedestrian walkways. It is not utilised efficiently in terms of land use and optimising infrastructure. The proposed development will ensure that the land will be utilised for hosing purposes of which there is a need.

Spatial Resilience

The application is in line with housing policies and compliant with forward documentation of the Municipality. The development will ensure resilience of future owners due to compliance with the National Building Regulations and infrastructure provided.

Good Administration

The application complies with the administrative procedure regarding public participation.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The application is in line with the SDF 2020 and Investigation into available land developable land in Kleinmond and Overhills Upgrades, 2021.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

Existing services will be used and upgraded in need be.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The present zoning is Public Open Space in terms of the Overstrand Land Use Scheme; however, it is not the property is not registered as an "open space" in the Surveyors General's Office. This application is thus not subject to a closure of a public space in terms of the Land Use Scheme.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The application is the consequence of the Overstrand Municipality Document *"Investigation into available land and developable land in Kleinmond and Overhills Upgrades, 2021"*. This document has gone through a thorough public participation process that commenced in 2019 and was finalised in 2021 with approval by Council.

The public participation process entailed two public open days held on 24-25 February 2021 in the Proteadorp Community Hall and Kleinmond Hall, respectively. The process was advertised on the Overstrand Web Portal, and the document was available at the Kleinmond Library. Various comments were received from the public and Ward 9. During the process, the Ward 9 representatives proposed a middle-income housing option (FLISP) and Social Housing relating to Erf 6862 (Site 3). This application is a result of the aforementioned public participation process.

Various aspects have been taken into consideration in finalising the layout plan to be as sensitive as possible to the community comments. The applicant did confirm that the development will be a FLISP project in terms of the Housing Progamme.

Secondly the layout has been amended from the proposed 22 single erven in the Investigation into Available and Developable Land in Kleinmond to 16 residential erven, bringing the erf size more into line with the existing erf sizes in Proteadorp.

The aspect that too many open space properties is taken up by housing in general is correct, however the project makes provision for an open space area and the present play park will be accommodated on the erf. Thus, the concern of losing an open space e.g. play park is catered for.

The remainder of the erf is in a derelict condition, which needs to be addressed. The most viable option is the proposed housing project to ensure that the erf is not used by land uses which is not in line with the residential character of Proteadorp. A further consideration is the housing need evident in the area, whilst the requested social amenities are catered for in the surrounding area.

13. RECOMMENDATION

1. that the objections be noted.

2. that the application in terms of Section 16(2)(a) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 6862, Kleinmond to rezone the said property from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), and subsequent **subdivision** thereof in terms of Section 16(2)(d) of the By-Law for the establishment of the infill housing development to create the following:

   - 16 Single Residential Zone erven,
   - 1 Transportation Zone 2: Road and parking (TR B) erf, for public road purposes and
   - 1 Open Space Zone 2 erf, for public open space purposes (play park);

   be approved, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

   (a) that approval is for the development as indicated on Plan numbers 1 & 3 dated 20 and 21 November 2024;

   (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control – and the Fire Department be complied with at that stage;

   (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;

   (d) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;

   (e) that all conditions in the Services Report (attached as Annexure F), be complied with, and

   (f) that all conditions in the Traffic Impact Assessment dated July 2024 (attached as Annexure G), be complied with.

3. that the application in terms of Section 96 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 for the allocation of a street name (*Butterfly Crescent*) and numbers to the new street in the development, **be approved** in terms of the provisions of Section 61 of the By-Law, and

4. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- The application erf has been identified as a housing project during the Investigation into available developable land in Kleinmond and Overhills upgrade as adopted by Council in 2021.
- The project has been identified in the IDP document.
- Funding was secured for the development.
- Infill development of a portion of derelict land.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plans
Annexure D:	Objections received
Annexure E:	Applicant's response to the objections received
Annexure F:	Services Report
Annexure G:	Traffic Impact Assessment dated July 2024
Annexure H:	Civil and Electrical Engineering Services report (5 November 2024)

SIGNATURE

REGISTERED PLANNER

Name:	**H VAN DER STOEP**
SACPLAN registration number:	**A/1708/2013**
Signature:	_____
Date:	_____

KLEINMOND

ERF 6862

LOCAL CONTEXT

Application Area

Cadastral Boundaries

343

Annexure A 1/2

PLEASE NOTE:
All boundary line positions, distances and
to be verified by a Professional Land Surv

REF:

COMPILED BY: F. Smit

INDEMNITY

DATE: May 2024

CLIENT

SCALE: See Linescale

PLAN NO: 2a

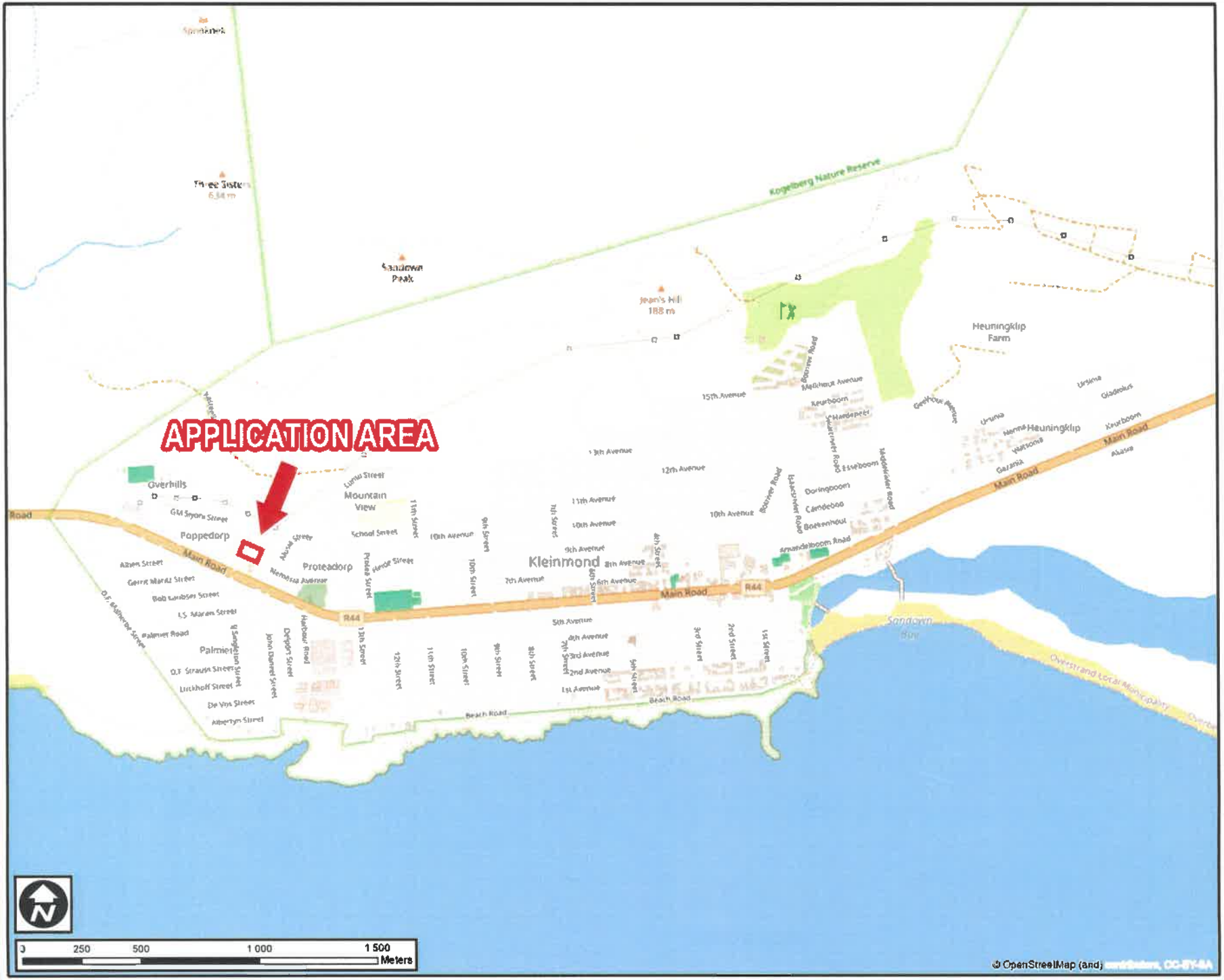
FILE NAME:

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2,
CARL CRONJE DRIVE, BELLVILLE, 7530

TEL: (021) 948 1545

Website: www.udsc.co.za
Urban Dynamics South Cape (PTY) LTD Reg. No: 1997/006197/07



KLEINMOND

ERF 6862

REGIONAL CONTEXT

Application Area

344

PLEASE NOTE:
All boundary line positions, distances and
to be verified by a Professional Land Surve

REF:

COMPILED BY: F. Botha

INDEMNITY

DATE: November 2024

CLIENT

SCALE: Site Linescale

PLAN NO: 1

FILE NAME

2 | 2

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS
SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2,
CARL CRONJE DRIVE, BELLVILLE, 7530
TEL: (021) 948 1545
Website: www.udsc.co.za
Urban Dynamics South Cape (PTY) LTD Reg. No: 1997/006197/07

SECTION 1 INTRODUCTION

1.1. Brief

Urban Dynamics Cape (Pty) Ltd, have been appointed by the Overstrand Local Municipality to compile, submit and facilitate the statutory application process to rezone Erf 6862 Kleinmond from 'Public Open Space Zone 2' to 'Subdivisional Area Zone'. The objective is to enable the infill development of 16 residential units within the urban fabric of Kleinmond. This application is subsequently submitted in terms of Sections 16(2)(a), 16(2)(d) and 96 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, for approval.

1.2. Background on Desirability

This proposal is centred on development within the human settlement development sector, with a particular emphasis on infill development. An overview on South Africa's current housing backlog, highlights the need for urgent relief and the subsequent deployment of more affordable human settlement strategies across the country.

Municipal Focus: Overstrand Local Municipality

As part of its Integrated Development Plan, the Overstrand Municipality has outlined key weaknesses that need to be addressed, in order to achieve its medium-term goals. Among these, a critical issue highlighted is the shortage of affordable residential accommodation within the Municipality's urban fabric. This need is further heightened with the growing volume of informal settlements and backyard dwellers. This has, consequently, resulted in a significant increase in densely populated areas with limited to no access to essential services.

In order to efficiently address this spatial challenge, the Overstrand Municipality have identified suitable land for integrated infill development, including land within the urban area of Kleinmond.

Erf 6862 has accordingly been identified for development in accordance with the Municipality's integrated, affordable human settlement strategy.

1.3. Application Objective and Details

The objective of this application is to secure the statutory approval of the Overstrand Local Municipality for the development of integrated, more affordable residential units. Approval is, accordingly, sought for the following, pursuant to Sections 16(2)(a), 16(2)(d) and 96 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

i. The **rezoning** of Erf 6862, Kleinmond from 'Public Open Space Zone 2' to 'Subdivisional Area Zone' for the establishment of:

- 16 'Single Residential Zone' erven,
- 1 'Transportation Zone 2' erf, for public road purposes
- 1 'Open Space Zone 2' erf, for public open space purposes.

ii. The **subdivision** of Erf 6862, Kleinmond to establish:

- 16 Single Residential Zone erven,
- 1 Public Road,
- 1 Public Open Space erf, and

iii. The **naming and numbering of streets**, including the proposed new '***Butterfly Cresent***' .

SECTION 2 CONTEXTUAL INFORMANTS

2.1 Property Details

This application is focussed on Erf 6862, Kleinmond. The details relevant to this property are as follow:

Subject Property	Size	Title Deed	Ownership	Zoning
Erf 6862, Kleinmond	± 4346.00m²	T8303/1988	Overstrand Local Municipality	Open Space Zone 2: Public Open Space *

Table 1: Detail of subject property

Figure 1: Local Context

* **Note**: Although the zoning of the property is Open Space, **the SG status of the land is not 'open space' or 'public place'**. On this basis, there are no requirements for closure of open space to affect the proposed rezoning application.

2.2 Zoning and Land Use Context

As shown in **Table 1** and preceding sections above, the subject property is currently zoned as 'Public Open Space Zone 2' under the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. While it is designated as public open space on municipal records, there is no evidence of the property being captured or registered as an 'open space' in the Surveyor General's office. On this basis, there is no statutory requirement for the closure of open space.

Figure 2 reflects the zoning of the site relative to the surrounding zoning context.

Figure 2: Zoning Context

The site is partly used as a play park, while the majority of the land is unutilised and vacant. The intention is that the play park will be reconfigured within the layout plan for the development, thereby not taking away the play area. The layout was specifically designed to accommodate the play area as a central open space in the development.

Figure 3 reflects the existing play area on the site.

Figure 3: Existing Play Park

The surrounding environs include community facilities and conventional residential properties, as reflected in Figures 4 & 5 below.

Figure 4: Existing Place of Worship

Figure 5: Surrounding Residential

2.3 Environment & Heritage

The application site is a disturbed site with no biodiversity or heritage resources present on the site. The appointed environmental impact assessors investigated the site, concluding that there are no resources on the site that require assessment in terms of the National Environmental Management Act (NEMA), nor in terms of the National Heritage Resources Act (NHRAct.).

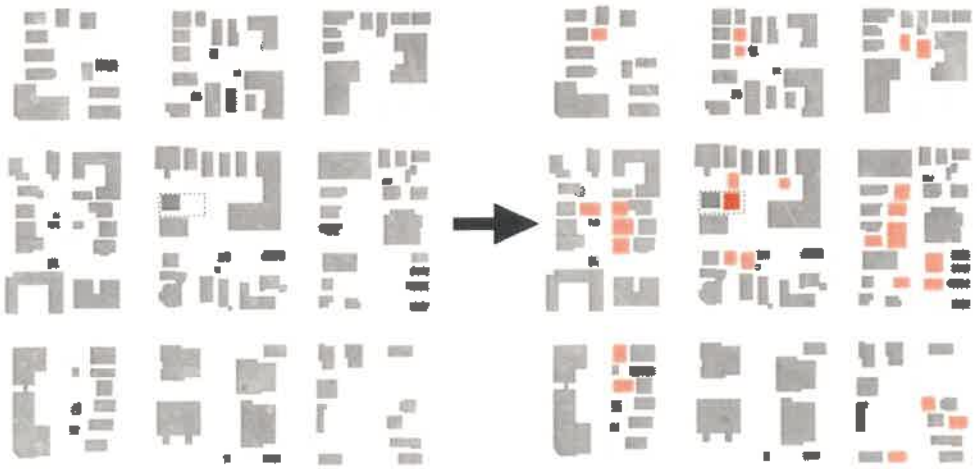
SECTION 3 DEVELOPMENT PROPOSAL

3.1 Infill Human Settlement Development

The Overstrand Municipality is actively undertaking planning and processes to continuously meet its mandate of service delivery and human settlement development within its jurisdictional area. As the Overstrand area is generally extremely rich in environmental resources, biodiversity, ecological systems and faunal habitats, available land for urban development becomes increasingly scarce. Notwithstanding the scarcity of land, the population within the towns is increasingly growing, thereby creating demand for additional residential, social and business development within each town.

Within the above-mentioned context, to avoid and minimise environmental impacts associated within urban development, the most appropriate and sustainable development approach should be to better utilised underutilised land within existing disturbed urban areas. Infill development is therefore a logical and organic manner of redeveloping properties within existing towns, be it commercial redevelopment by private developers, or municipal initiated human settlement development.

The images below illustrate the principle of infill development, being the infill and redevelopment of underutilised / blank space with function and uses, retrofitted into an existing built environment, while responding to the character of the receiving environs.



Existing Built Environment

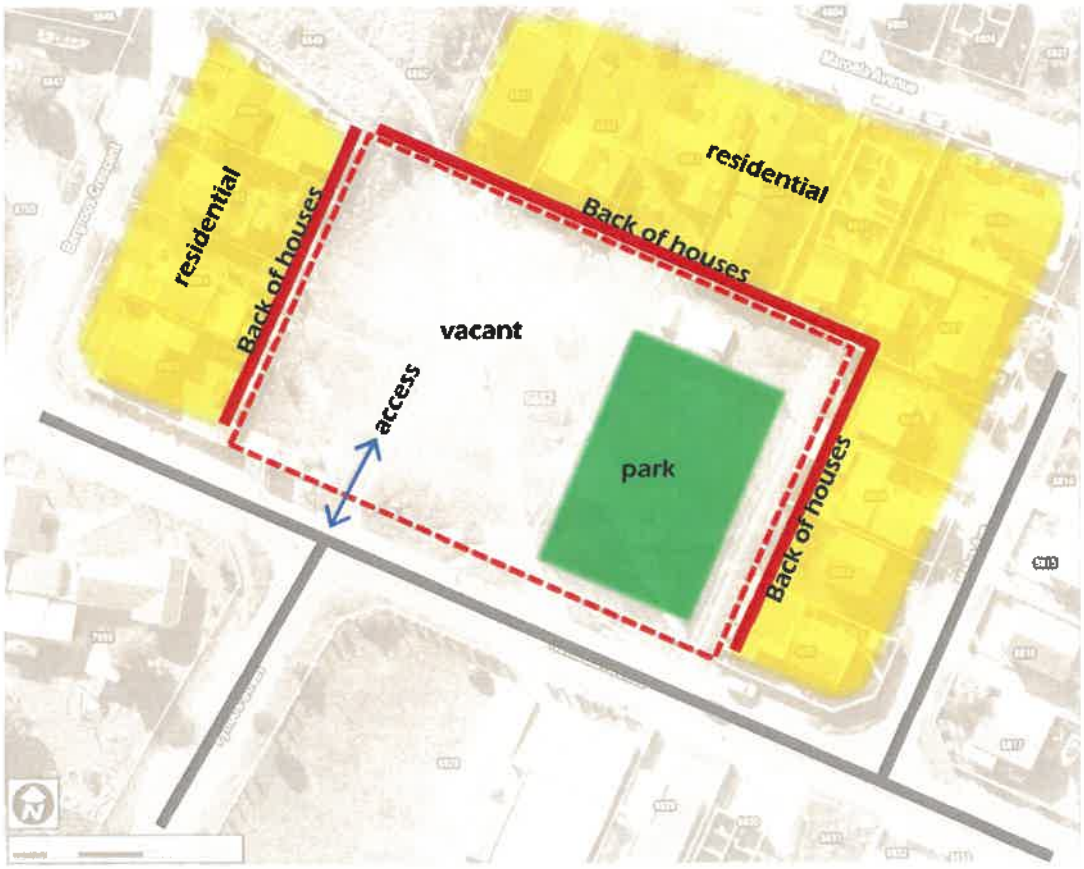
Infill Development (conceptual)

Figures 6: Infill Development
(Conceptual Illustration)

3.2 Design Informants

In preparing a layout plan for the proposed development of Erf 6862 Kleinmond, the following contextual and site informants (refer Figure 7) were taken into account to shape and steer the design proposal for the site, namely:

- Street access onto Nemesia Street
- Existing play park on the site
- Surrounding residential character, of which the houses turn its backs towards the site



Figures 7: Contextual & Site Informants

Further to the above informants, the layout had to be designed to accommodate certain requirements from a human settlement development perspective, namely:

- Freestanding erven as the preferred typology, compared to walk-up apartment development (social housing).

- Erf sizes of ±80m² were proposed, to optimise the development yield. However, following consultation with key stakeholders, it was agreed to increase the erf sizes to 120m², which is more suitable within the context of surrounding conventional low density residential erven.

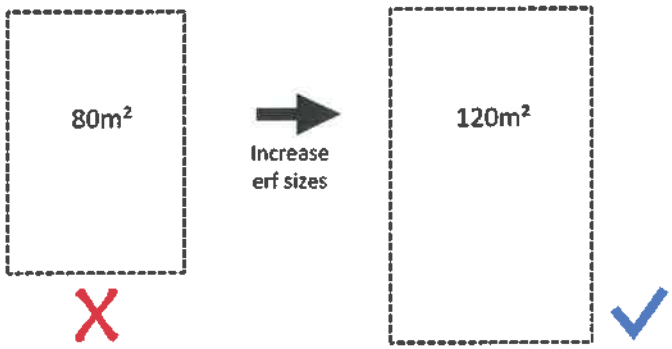


Figure 8: Erf Sizes

3.3 Subdivision Layout Plan

Taking into consideration the above-mentioned informants, the layout plan for the proposed redevelopment of Erf 6862 Kleinmond was compiled. The layout incorporates the following aspects:

- Central open space to re-establish the existing play park;
- Public access road in the form of a crescent;
- Engineering services to be provide within road reserve, including sewer, water, electricity, stormwater and streetlights;
- Back-to-back residential erven onto existing, to improve services efficiencies;
- Single residential erven, to accommodate residential dwellings.

The above-mentioned aspects were firstly applied conceptually to the site to illustrate the **development concept** (refer Figure 9), which were then refined and formalised as presented in the **proposed subdivision layout** (Figure 10), including 16 x single residential erven, 1 x open space erf and 1 x public road.

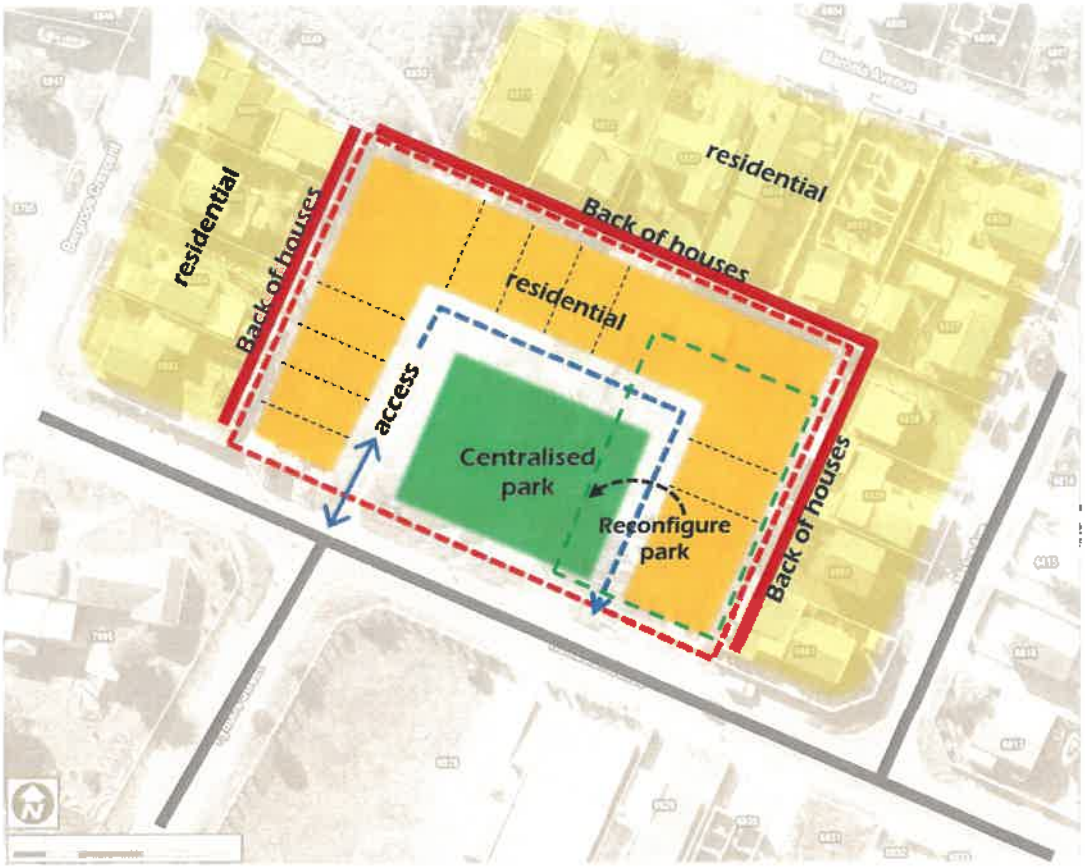


Figure 9: Contextual & Site Informants

The key informant to the development concept being the **retention of a play area within the development**, by reconfiguring the park that exist on the site now. The reconfigured centralised play park will form the identity of the development, allowing for kids to play in front of their houses in a secured play park environment.

The subdivisional layout includes 16 x single residential erven of 120m² each, to ensure that the erven can accommodate a house of up to ±100m² (80% coverage). The erf dimensions were dictated by the site configuration, access positions and the size of the park area, which resulted in the erf size dimensions being: street frontages of ± 9m wide, while the depth of the erven is ± 13m. The proposed play park is approximately 1000m² in extent, which is sufficient to accommodate play equipment and play area for kids.

The layout plan includes a **street name** for the crescent in the development, namely: ***Butterfly Crescent***. The street name is compliant with the requirements of the Overstrand Street Naming Policy, as it is neutral, not attached to any person, nor linked to any political or religious connotation. The allocated street name is compatible with other street names in the area, which reflects plant and animal species / names as themes for street names.

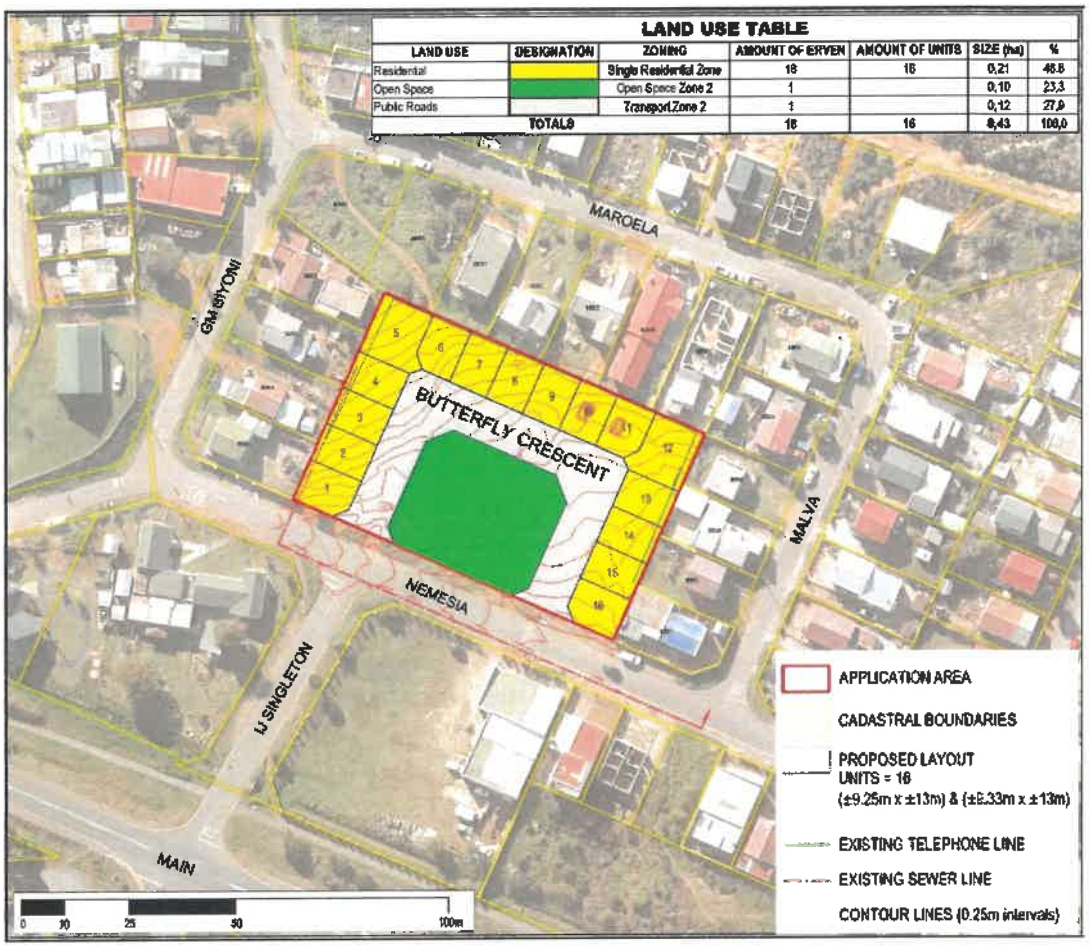


Figure 10: Subdivisional Layout Plan

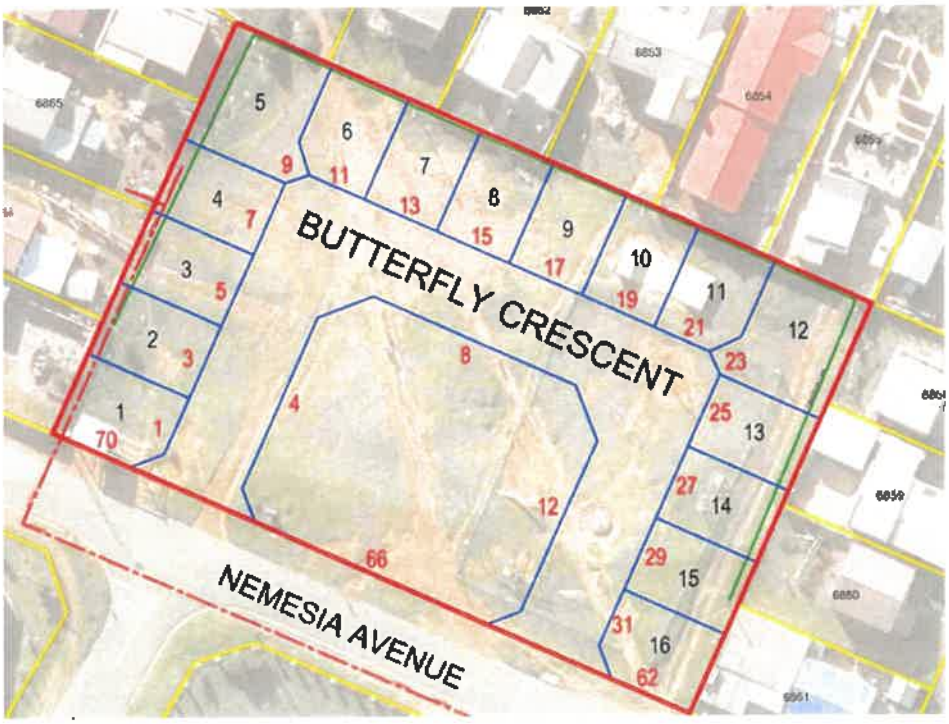


Figure 11: Street Name & Number Plan

3.4 Zoning / Development Parameters (Rules)

The zoning / development parameters applicable to Single Residential SR1 erven, in terms of the Overstrand Zoning & Land Use Scheme (2020), included the following:

Erf size	Coverage	Street building line	Side & rear building line	Height
Less than 150m²	80 %	1,0 m	At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.	8m

Table 2: Zoning / Development Parameters (Rules)

The application does **not** include any departures from the above-mentioned zoning parameters for SR1 erven, as the Zoning Scheme parameters for erven smaller than 150m² are deemed appropriate.

SECTION 4 MOTIVATION

The proposed development on Erf 6862 Kleinmond has been assessed in terms of relevant policy and statutory requirements. The development proposal, and application as set out herein, can be motivated on the following basis:

4.1 Socio-Economic Implications

This development initiative, as part of the Overstrand Municipality's broader infill development strategy, aims to generate significant socio-economic benefits to communities residing in and around Kleinmond. The Municipality's infill development strategy further aims to create jobs, promote social development, drive economic growth, and empower local communities, fostering an integrated residential, urban fabric. It is envisaged that the impact of the proposed infill development will be positive, as it will address the demand for residential opportunities in Kleinmond, while also providing a play park for the local community needs.

4.2 Impact on Municipal Engineering Services

The subject property is situated within the established urban edge of Kleinmond, and as a result, in an area serviced by the Overstrand Local Municipality. To further facilitate the proposed development, an engineering services investigation was undertaken by Neil Lyners and Associates (Pty) Ltd, confirming the availability of engineering services. Please refer to **Annexure J** for the full detail in this regard.

The engineering findings by Lyners are summarised, as follow:

Electricity:
Existing low voltage networks are situated proximal to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed below-ground where required.

Water:
An existing municipal water supply network is situated immediate to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed below-ground where required. Additionally, fire hydrants will be installed in accordance with the relevant guidelines of the Overstrand Local Municipality.

Sewerage and Wastewater:
The subject property will drain towards the Kleinmond Wastewater Treatment Works (WWTW). The Overstrand Local Municipality has confirmed the availability and capacity of infrastructure to accommodate the proposed development in this regard. All new connections, additional and internal engineering works will be installed below-ground where required.

Stormwater:
The low density of the proposed development will have a minimal effect on drainage patterns in the area. No new stormwater detention facilities will consequently be required on account of this development proposal. It is, however, proposed that a 'manhole' be constructed on the existing 375mm stormwater pipe, situated along Nemesia Avenue to facilitate run-off from the property.

Road Network
The layout has been designed with a loop road (proposed Butterfly Cresent) providing public access to each individual property, which in turn feeds into Nemesia Avenue. To facilitate the proposed development and relevant infrastructure requirements, a detailed **Traffic Impact Assessment** was compiled by Mr. Douw Louwrens. Please refer to **Annexure K** for full detail in this regard. The proposed loop road is not expected to negatively impact on existing traffic/ vehicular movement. The TIA recommends that dedicated sidewalks be considered along the western portion of Nemesia Avenue and Fynbos Street.

4.3 Implications on Site Physiography

The geographical features of the subject property are briefly outlined below:

Topography:
The subject property illustrates no mentionable, natural slope that would negatively impact on the proposed development or vice versa. No further features relative to the subject property were identified that would require mitigation from a development or environmental point of view.

Soil and Geological Conditions:
The subject property is situated within the established urban edge of Kleinmond, of which the surrounding area has already been disturbed through extensive development and human activity. The developed nature of the area confirms the suitability of the soil to support development. No adverse impact on the proposed development or vice versa are anticipated in this regard.

Fauna and Flora:
The application site was assessed by an environmental assessment practitioner, who confirmed that there are no indigenous vegetation or natural faunal habitats on the site.

4.4 Compatibility with the Character of the Area

The surrounding area comprises of the Kleinmond urban development area, including a mix of residential typologies. The developments most pertinent to the subject property comprise of low-density residential accommodation, community facilities and residential amenities such as local small businesses, parks, schools and clinics. The development proposal is not anticipated to have an adverse impact on the surrounding area, but rather fit into the residential character of the area.

4.5 Compliance with the Planning Principles of LUPA

The Land Use Planning Act (LUPA, 2014) includes a series of land use principles that should guide development in the Western Province.

The planning principles were reviewed, and the proposed development concept assessed. It is concluded that the proposed development concept is fully compliant with the planning principles prescribed in LUPA (2014), as summarised in the table below:

LUPA PRINCIPLES	COMPLIANCE / RESPONSE
Spatial Sustainability ✓	**COMPLIANT** The proposed development aligns with the principle of spatial sustainability by promoting land development within the fiscal, institutional, and administrative capacities of the Republic. It supports the concept of sustainability through the incorporation of integrated, affordable residential solutions within the urban fabric of the Overstrand Local Municipality.
Spatial Justice ✓	**COMPLIANT** The proposed development aligns with the principle of spatial justice by ensuring that it does not unnecessarily reduce access to land or the use thereof. It aims to redress past imbalances in so far as providing adequate, affordable housing options.

LUPA PRINCIPLES	COMPLIANCE / RESPONSE
	While the broader aspects of spatial justice, such as the inclusion of previously excluded areas, informal settlements, and disadvantaged communities, remain the responsibility of public entities like municipalities and government departments, this project supports the overarching goals of spatial justice.
Efficiency ✓	**COMPLIANT** No adverse impacts on existing resources or services are anticipated on account of this proposal.
Good Administration ✓	**COMPLIANT** The application is submitted in terms of the relevant legislative frameworks and will be processed accordingly.
Spatial Resilience ✓	**COMPLIANT** This component is applicable to public entities such as municipalities and government departments, it is therefore not the responsibility of an applicant to adhere thereto.

Table 3: Compliance to Principles

4.6 Integrated Spatial and Land Use Planning

The Land Use Planning Act (LUPA) of 2014 mandates that each municipality prepare a Spatial Development Framework (SDF) that interpret and represent the spatial development vision for the total municipal area. All proposed developments, particularly those involving land use changes, must be evaluated against the approved SDF, which serves as the spatial expression of the Integrated Development Plan (IDP).

According to LUPA, no land development decision can be made if the proposed development is inconsistent with the municipal SDF. However, as

outlined in Section 19(3) of the Act, the Planning Tribunal OR Designated Municipal Official may allow a departure from the provisions of the SDF, only if site-specific circumstances warrant such a deviation.

The Overstrand Municipality Spatial Development Framework (2020) is a policy document that seeks to influence the overall spatial distribution of current and future land uses within the Municipality, to give effect to the vision, goals and objectives encumbered within the municipal IDP, and related business plans of government.

The subject property is **located within the established urban edge of Kleinmond** and subsequent urban fabric of the Overstrand Municipality. Within the SDF itself, the subject property is earmarked for development in accordance with integrated, urban development strategies, including densification. This development proposal further embodies the incentives incorporated to the approved Integrated Development Plan of the Overstrand Local Municipality (2024/2025), including:

"Kleinmond: Delivering affordable housing opportunities for the low-income residents is a priority. Availability of suitable developable land poses a huge challenge. No land available outside the Urban Edge due to environmental constraints. An investigation to identify suitable land for integrated development was undertaken during 2017/2018 and completed during 2021. The final report served before Council at the end of October 2021 and was approved. Potential projects have been included in the housing programme. Pre-planning funding approval was received for the Kleinmond IRDP and Overhills UISP Projects during June 2023. Planning of these two projects is in progress ***(Overstrand Municipality Integrated Development Plan, 2024/2025, Pages 131-132).***"

Figure 12 represents an extract from the Overstrand SDF, indicating the locality of the application site within the built urban environment.

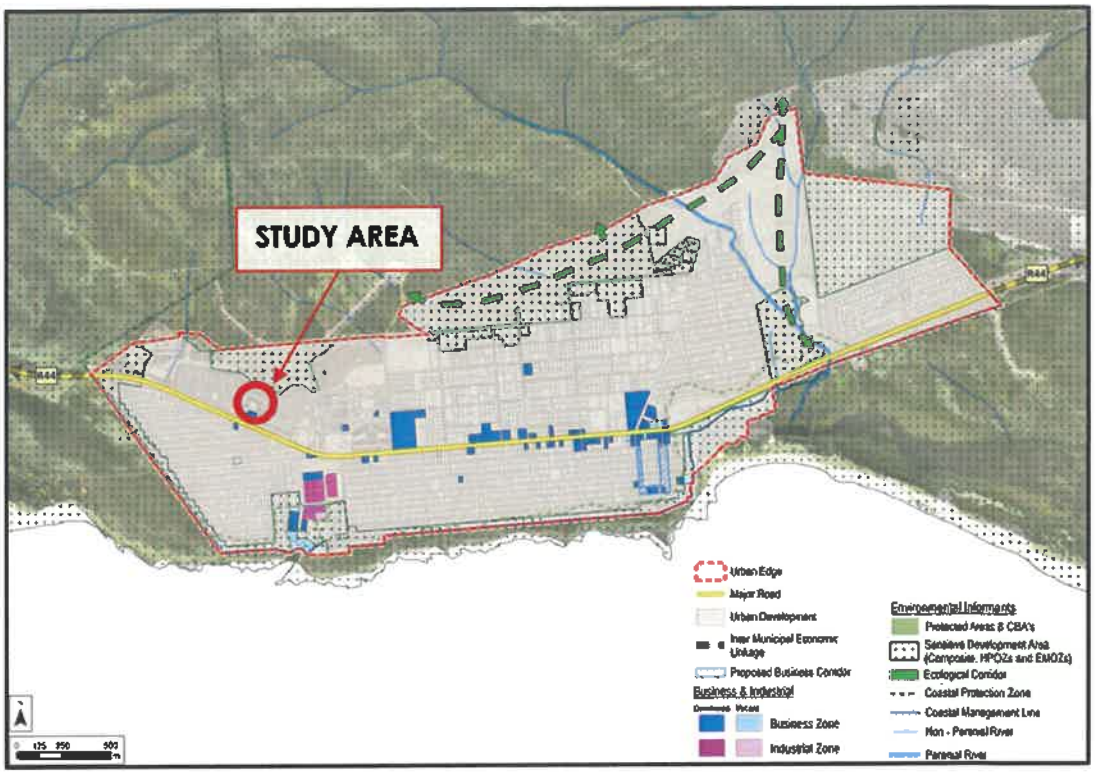


Figure 12: SDF Extract Plan

The proposed residential development of the application site is considered to be **fully consistent with the incentives and principles outlined in the Overstrand Municipal Spatial Development Framework** and Integrated Development Plan.

4.7 DESIRABILITY CRITERIA I.T.O. THE OVERSTRAND MUNICIPALITY BY-LAW (2020)

The proposed residential development was assessed in terms of the terms of the Overstrand Planning By-Law (2020), to determine the desirability of the development in terms of the criteria set out in the Overstrand Land Use Planning By-Law (2020), as follows:

- **Positive response** to local and site-specific conditions, and **compatibility with the character of surrounding area**, taking into consideration site sensitivities;
- **Compliance** and alignment with current spatial planning policies;
- **Connects with existing infrastructure** and adheres to acceptable standards in terms of erf sizes and infrastructure provision standards;

- **Infill development** of underutilised property is the most **appropriate and sustainable mechanism** to create new development opportunities within the town, compared to expanding the urban footprint of the town into surrounding sensitive environmental areas;

- Contributes positively to **economic growth**, social upliftment, investment and **employment opportunities** in an established residential urban environment within proximity of surrounding amenities and employment opportunities;

- The development was planned and designed to adhere to good practice principles of urban efficiencies, infrastructure standards and accessibility, thereby ensuring **safety and welfare** of the community within the development and in its immediate surroundings;

- **No adverse impact** on biodiversity or natural resources, as the site is a disturbed site with no environmental related constraints.

Following the above assessment, it is clear that the proposed residential development of Erf 6862 Kleinmond are aligned with decision making criteria of the Overstrand By-Law on Municipal Planning (2020) and should be supported for approval accordingly.

SECTION 5 CONCLUSION & RECOMMENDATIONS

5.1. Conclusion

Following the above-mentioned assessment and motivation of the proposed human settlement development on Erf 6862 Kleinmond, it can be concluded as follow:

- The proposed development is fully consistent with relevant spatial and economic development policies of the Overstrand Municipality and overarching Provincial policies;
- Infill development, as proposed here, is the most efficient and sustainable mechanism to promote growth in towns without expanding the urban footprint into sensitive environmental areas;
- The proposed layout plan meets the standards for human settlement development;
- The residential development is consistent and compatible with the surrounding residential character of the area;
- By reconfiguring the play park into a centralised play park area, the community will have access to a secured facility for kids to play in a safe environment visible from surrounding streets and houses;
- No adverse impacts are foreseen as result of this development proposal.

The proposed development can therefore be recommended for support and approval in terms of the Overstrand Land Use Planning By-Law (2020).

5.2. Recommendation

Forthcoming from the above, it is hereby our considered recommendation that the application be approved, including:

a. The **rezoning** and concurrent **subdivision** of Erf 6862, Kleinmond from 'Public Open Space Zone 2' to 'Subdivisional Area Zone' to enable the infill development of 16 residential erven, a public street and public open space park area, in terms of Sections 16(2)(a) and 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and

b. The **naming and numbering of streets** (proposed ***Butterfly Cresent***) in terms Section 96 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

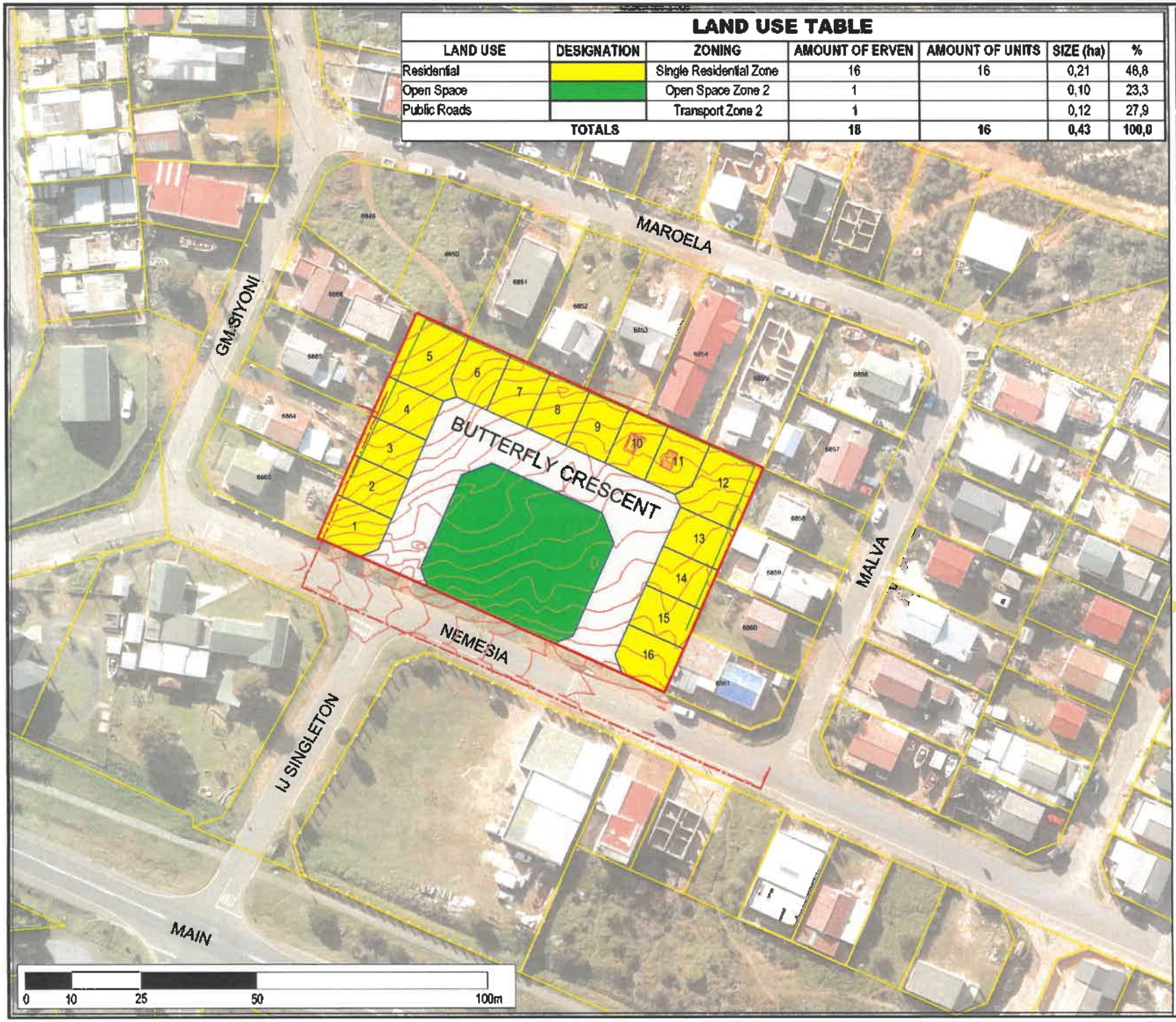
OVERSTRAND

ERF 6862 KLEINMOND

PROPOSED LAYOUT PLAN

LAND USE TABLE

LAND USE	DESIGNATION	ZONING	AMOUNT OF ERVEN	AMOUNT OF UNITS	SIZE (ha)	%
Residential		Single Residential Zone	16	16	0,21	48,8
Open Space		Open Space Zone 2	1		0,10	23,3
Public Roads		Transport Zone 2	1		0,12	27,9
TOTALS			18	16	0,43	100,0



- APPLICATION AREA
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT
  UNITS = 16
  (±9.25m x ±13m) & (±9.33m x ±13m)
- EXISTING TELEPHONE LINE
- EXISTING SEWER LINE
- CONTOUR LINES (0.25m intervals)

364

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be confirmed by a Professional Land Surveyor.

INDEMNITY

URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE HELD LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS DATA. THIS DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT

DATE 21 Nov 2024
SCALE See linescale
PLAN NO. 1
FILE NAME:
COPYRIGHT RESERVED
CLIENT

URBAN DYNAMICS South Cape
TOWN & REGIONAL PLANNERS

Annexure C 1/2

OVERSTRAND

ERF 6862 KLEINMOND

PROPOSED STREETNAME & NUMBERS PLAN

- APPLICATION AREA
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT
  UNITS = 16
  (±9.25m x ±13m) & (±9.33m x ±13m)
- PROPOSED STREET NUMBERS
- EXISTING TELEPHONE LINE
- EXISTING SEWER LINE

365

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be confirmed by a Professional Land Surveyor.

INDEMNITY

URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE HELD LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS MAP. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT

DATE 20 Nov 2024
SCALE See linescale
PLAN NO. 3
CLIENT
COPYRIGHT RESERVED
FILE NAME:

URBAN DYNAMICS South Cape
TOWN & REGIONAL PLANNERS

2|2

Annexure D 1/74

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
26 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart
(H v/d Stoep)

Proteadorp Indigenous Commitee
FOR THE PEOPLE BY THE PEOPLE

20 / 03 / 2025

Aan Senior Stadsbeplanner, Me. H. van der Stoep

In sake advertensie soos geplaas deur Overstrand Munisipaliteit: Erf 6862, Nemesialaan, Kleinmond: Aansoek om onderverdeling, hersonering en die toekenning van straatnaam en nommers: Urban Dynamics Cape (PTY) LTD Namens Overstrand Munisipaliteit

Hiermee maak Proteadorp Inheemse Komitee kapsie en spreek ons ons misnoë uit teen die beoogde onderverdeling en hersonering van Erf 6862.

Ons as organisasie het tydens die onafhanklike ondersoek na grond vir behuising dit reeds duidelik gemaak dat ons nie ten gunste is van behuising in ons reeds oordigte woonbuurt, wat 'n klein gedeelte uitmaak van die groter Hangklip-Kleinmond gebied. (Sien asb aangeheg ons kapsie/ petisie in handtekeninge wat ons ingedien het tydens julle ondersoek na grond.

Daar is heelwat kwelpunte wat vir ons na vore kom met betrekking tot julle versuim om ag te slaan op ons gemeenskap se mandaat van 700 handtekeninge wat daaropgevolg het na julle dringende grond ondersoek. Ons verstaan nie hoekom julle nie op ons gemeenskap se petisie en handtekeninge agslaan nie? Ons besef opnuut, dat julle as organisasie en plaaslike owerheid die Uitbreiding 6 gemeenskap faal deurdat julle die inwoners en huiseienaars van die onmiddelikke omgewing se waardasies / huiswaarde, lewensstandaard en lewensomstandighede nie in ag neem nie. Enige ontwikkeling daar gaan die bestaande waarde van ons huise laat daal en daarmee ook ons manier van leef aangesien meer voete en huise in daardie gebied vele ander uitdagings vir ons bied. Ons weet want ons leef hier.

Ons weier dat Uitbreiding 6 se inwoners onderwerp moet word aan huise wat nie volgens daardie Woongebeid se standaard erf grootte en huis grootte is nie. Enige Uitbreiding 6 behuising ontwikkeling moet ten minste wees volgens die tipe huise wat tans hier is. Ons kan nie sien en gaan ongelukkig nie staan en toekyk dat julle ons gemeenskap se huiswaarde en manier van leef ontwrig met hierdie ondeurdagte plan nie.

Ons verwag dus dat julle jul visier op ander gebiede moet plaas maar Proteadorp is alreeds oorbevolk. Daar is grond wat julle ge-identifiseer het met julle grondondersoek op ander gebiede buite Kleinmond. Daar moet beslis na ander alternatiewe gekyk word, maar ons reeds digbevolkte gebied kan nie nog laekoste behuising akkomodeer nie.

Sien ook aangeheg petisie en handtekeninge van ons inwoners van Uitbreiding 6

Die Uwe

Ellsworth October
Voorsitter P.I.C.

Handtekening: _____

26 MAR 2025

FILE NO. Erf 6862 - KM
SCAN NO.
COLLABORATOR NO.
26326777

2/74

COMMENT SHEET

PROJECT: THE INVESTIGATION INTO AVAILABLE AND DEVELOPABLE LAND IN KLEINMOND AND OVERHILLS UPGRADE

Date:	24th February 2021
Location:	Proteadorp Community Hall
Time:	from 16:00 to 19:00

We value your comments, please take the time to formally record your comments here.

Alternatively, written comments may be submitted to the Overstrand Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) hvdstoep@overstrand.gov.za) on or before 19 March 2021 - stating your name, address and contact details, interest in the application and reasons for your comments.

Your name:	Roché Rudolf
Your phone number:	[redacted]
Your address:	Kleinmond CINTU 8224

Your comments:

1. GEBIED NO. 2 IS NIE 'n OPSIE NIE WANT DIT IS 'n Bufferzone NATURE AREA EN DIT GAAN NIE WAARDE AAN DIE AREA VOEG NIE.
2. Die Rugbyveld is tans die enigste plek waar die gemeenskap en skool sport beoefen so dit kan die ontwikkel word nie, voordat volledige sportsveld beskikbaar is nie.
3. Ons ondersteun nie die behuising skema nie maar wel self bou skema.
4. Hoekom word Bettiesbaai nie ondersoek nie maar alle oop spasie in Kleimond wil bebou word, die gemeenskap sal meer en meer bevolk word ondersoek BettiesBaai.

3/74

COMMENT SHEET

PROJECT: THE INVESTIGATION INTO AVAILABLE AND DEVELOPABLE LAND IN KLEINMOND AND OVERHILLS UPGRADE

Date:	24th February 2021
Location:	Proteadorp Community Hall
Time:	from 16:00 to 19:00

We value your comments, please take the time to formally record your comments here.

Alternatively, written comments may be submitted to the Overstrand Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) hvdstoep@overstrand.gov.za) on or before 19 March 2021 - stating your name, address and contact details, interest in the application and reasons for your comments.

Your name:	Delicia Appel
Your phone number:	
Your address:	12 Manila Ave Kleinmond.

Your comments:

① Die gebied Area 2 waar ek tans bly is in buffer Zone Nature en om in lae koste behuising te bou Sal onmiddelik Ons waarde laat val.

② De Area 3 is ons kinders se speelplek Wa moet kinders speel. Behuising is ook nie geskik wat daar is tans in tresh en verkeer is al klaar bedrywig ons moet kinders se veiligheid in ag kan.

③ Geen behuising op Spout velde dit is Grokheidenis van ons voor ons et Sett vet groot gewond op daardie grond

④ Geen Hoerskool in Kleinmond wat ons wel soek is in Tegniese Skool in Bedrag

⑤ Hoekom word daar nie in Palmiet en lee gedeelte van Kleinmond, Betty's Bay area grond geidentifiseer nie.

4/74

COMMENT SHEET

PROJECT: THE INVESTIGATION INTO AVAILABLE AND DEVELOPABLE LAND IN KLEINMOND AND OVERHILLS UPGRADE

Date:	24th February 2021
Location:	Proteadorp Community Hall
Time:	from 16:00 to 19:00

We value your comments, please take the time to formally record your comments here.

Alternatively, written comments may be submitted to the Overstrand Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) hvdstoep@overstrand.gov.za) on or before 19 March 2021 - stating your name, address and contact details, interest in the application and reasons for your comments.

Your name:	Maxwell Smith.
Your phone number:	
Your address:	[illegible] Kleinmond 7195.

Your comments: To whom it may Concern

I am a resident of Kleinmond for the past 45 years. With very Semicurse worry I am very disappointed on the sewey idea Overstrand want to build houses around Kleinmond. For me is not acceptable to use grounds that are safe to great fun for our young kids. It's a big No with a good reason wich your all know. Kleinmond residents are Sport lovers pls dont take that away look at other opportunity like Bettres Bay / Kooi-Els / Pringle Bay and Houwing Kloof. The areas wich I mention I think these days the opportunities to build houses and will give people the opportunity to reach for work in Kleinmond there are now work and people have to travel and pay taxi. Pls look deeper into that area. Pls.

5|74

COMMENT SHEET

PROJECT: THE INVESTIGATION INTO AVAILABLE AND DEVELOPABLE LAND IN KLEINMOND AND OVERHILLS UPGRADE

Date:	24th February 2021
Location:	Proteadorp Community Hall
Time:	from 16:00 to 19:00

We value your comments, please take the time to formally record your comments here.

Alternatively, written comments may be submitted to the Overstrand Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) hvdstoep@overstrand.gov.za) on or before 19 March 2021 - stating your name, address and contact details, interest in the application and reasons for your comments.

Your name:	Wheelan Basson
Your phone number:	
Your address:	Heide Str 16

Your comments:

1. Die Sugbeld is baie die enigste plek waar die gemeenskap en skool geset beseer so dit kan die ontwikkel word sien daarom volledige sportveld beskikbaar is nie.

2. Gebied Noord is nie 'n opsie nie want dit is 'n Fynbos Nature Area en dit gaan die waarde van die area daag sien.

3. Ons ondersteun die low cost behuising skema nie, maar wel self bou skema.

Ou Kleinmond word Bettiesbaai nie onderdak nie? Maar alle oop spasie in Kleinmond wil beset word die gemeenskap sal meer en meer bebou word onderdak Bettiesbaai.

6/74

COMMENT SHEET

PROJECT: THE INVESTIGATION INTO AVAILABLE AND DEVELOPABLE LAND IN KLEINMOND AND OVERHILLS UPGRADE

Date:	24th February 2021
Location:	Proteadorp Community Hall
Time:	from 16:00 to 19:00

We value your comments, please take the time to formally record your comments here.

Alternatively, written comments may be submitted to the Overstrand Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) hvdstoep@overstrand.gov.za) on or before 19 March 2021 - stating your name, address and contact details, interest in the application and reasons for your comments.

Your name:	CATHLEEN FLORIS
Your phone number:	
Your address:	149 ERICA STREET KLEINMOND.

Your comments:

(1) Die Bou Van Tegniese Hoënskool in 18 de Laan Kleinmond sal meer van toepassing word.

(2) Die Rugby veld is die enigste plek waar die gemeenskap en skole hul sport kan beoefen. Ontwikkel eers 'n nuwe Sportveld voor daar besluite geneem word om die te identifiseer as moontlike plek om huise te bou.

(3) Wat van Bettysbaai! Is daar al nie moontlike grond wat beskikbaar is na gelyk? Palmiet en ander oop areas?

(4) Gebied No 2 Ons bly in 'n Bluisteer area dit is 'n Buffferzone en lae koste Behuising gaan geen waarde aan bestaande area voeg nie.

(5) Ons ondersteun 'n Selfbou skema en nie lae koste behuising skema nie.

7/74

COMMENT SHEET

PROJECT: THE INVESTIGATION INTO AVAILABLE AND DEVELOPABLE LAND IN KLEINMOND AND OVERHILLS UPGRADE

Date:	24th February 2021
Location:	Proteadorp Community Hall
Time:	from 16:00 to 19:00

We value your comments, please take the time to formally record your comments here.

Alternatively, written comments may be submitted to the Overstrand Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) hvdstoep@overstrand.gov.za) on or before 19 March 2021 - stating your name, address and contact details, interest in the application and reasons for your comments.

Your name:	Berenice Cardus
Your phone number:	
Your address:	31 Alusia Cresent, Kleinmond.

Your comments:

- Not in favour of low-cost housing on the mountain side above my property, as this would will devalue my investment.

- The area above my property is a greenbelt and is part of the buffer-zone of the Kogelberg Biosphere Reserve.

-Definately not in favour of the areas ear-marked for the low-cost housing as all the play-grounds for the so-called coloured community will be taken away, thereby rendering our kids to play in the streets which are unsafe. By building these houses in the ear-marked areas, you are subjecting our kids to more criminal elements.

8/14

- The traffic into and out of Protea dorp is already a problem and by increasing the housing in this area, you are going exacerbate the problem.

- Crime in an already overcrowded area in going to increase with these new developments.

- What is wrong with finding space in the so-called white area and using the open grounds on that side of Clarance drive for housing. Palmviet specifically.

- The sewage infrastructure in our area is old and cannot handle the increase in sewage.

- Mountain View was supposed to ease "backyard dwellers" however this never happened. Why is this so. People who have lived their whole lives here and who were born here are still living in backyards.

- By building the low-cost housing in an area already known for the so-called coloureds, you are exacerbating an "US and Them", the have and have nots. By forcing this issue issue, you are still only protecting the property value of the white community in Kleinmond.

Commentary of Land Identification

Ons as die inheemse gemeenskap wil graag ons ontevredenheid oor die grond ondersoek uitspreek en dat ons geensins te vinde is met sekere van die voorstelle

No.2 Die ontkoste wat aangegaan moet word om huise in hierdie berg gebied te ontwikkel is belaglik, asook lae koste behuising in n selfbou- area te oorweeg is onaanvaarbaar want die bestaande inworners het hulle eie fondse gebruik om huise te bou die ontwikkeling voeg geen waarde by bestaande eiedom nie (maar sal die markverwante waarde laat daal) , met die koop van die plotte was dit belegging om die natuur agter ons te geniet, so hierdie ondersoek word **NIE** geondersteun nie.

No.3 Weerens dit voeg geen waarde by die bestaande inwoners se private eiedomme nie (word nie ondersteun nie asook oopspasie word ontneem waar kinders saamspeel weten dat hulle veilig is.

No.4 Dit voeg weerens geen waarde aan bestaande eiendomme , en die uitsig word geheel en al ontneem vanaf inwoners wat fondse belê het vir beter lewe nou word dit weer ontneem.

No.09 : Rugbyveld ontwikkeling word nie ondersteun nie , dit is histories asook die gemeenskap en skole gebruik dit vir sport , so waar moet ons kinder sport beoefen , so **NEE** dit word nie ondersteun nie

So, neem asb kennis dat **"sites no 2, no 03, no 04, no 05, no 09"** word geensins ondersteun word vir hierdie voorgestelde ontwikkeling nie.

No.12. Ondersteun ons `n Tegniese Hoërskool

NO.19 Moet omskryf word as Market Related housing

No. 06 Munisipale Werksplaas

Ons ondersteun nie dat, ons Kragstasie, Oorlaaistasie en munisipale werkplaas verskuif word nie , dit is dubbie ontkostes wat ons as belasting betalers moet betaal en dit gaan die dienste wat ons tans ontvang belemmer

No.14 Frail Care sentrum word ondersteun wat bekostigbaar is vir almal.

Ons as gemeenskap wil nie Lae Bekosting behuising skema in Kleinmond hê nie want ons is eerste hands bewus watter negatiewe inpak dit het , want op die oomblik woon ons reeds beknop en die feit dat alle oopspasie in Kleinmond ontwikkel wil word maak ons bekommerd want die ontneem die oorpronklike natuurlike mooiheid weg en dit is bewys dat sodra dinge verniet gedoen word veroorsaak dit net meer en meer sosiale probleme.

Ons as gemeenskap versoek en dit is logies, en meer beskostigbaar dat Bettys Baai , Pringle Baai ook ondersoek moet word waar daar vele onbenutte grond beskikbaar is en dat dit nie so duursaam sal wees om daar te ontwikkel nie nie , tot en met daardie ondersoek voltooi is kan ons gesels oor die verskillende opsies, maar vir nou word geen ontwikkeling wat ons inheemse inworners benadeel

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is 'n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	Handtekening
Patrick Gideon	27 11de Straat	
Shelly Ann Bruyn	Vygie str Rylands Estate	
Bevanita Kantoor	144 Nivinia straat	
Wessel Swartz	38 KALKOENTJIE	
Althea Gillions	5 Malva str.	
J. THEMAN	63 SIYONI STR	
Adrian Arendse	Kuyasa str 8379	
Lillie Karaan	19 Alwin Singel	
KAREL KARAAN	8505 HEVENDAL	
Neville Pote	19 Heide str	
EDGAR GILLIONS	MALVA STR 5	
Nastassja Willemse	Erika Straat 151	
Senchia Arendse	Kuyasa str 8379	
Velda Arendse	Erika Str 183	
Eleanor Windvogel	Viola straat 8491	
EVELYNE HOPLEY	Kuntu str 8217	
CHARLTON HENDRICKS	ERICA STR 153	
Velia Swartz	Kuyasa Str 8309	
Godfrey Swartz	Mfuleni 7645	
MEGAN MITCHELL	NIVINIA 101	

DATE: 20/03/2025
As Community still have the same view.

Commentary of Land Identification

Ons as die inheemse gemeenskap wil graag ons ontevredenheid oor die grond ondersoek uitspreek en dat ons geensins te vinde is met sekere van die voorstelle

No.2 Die ontkoste wat aangegaan moet word om huise in hierdie berg gebied te ontwikkel is belaglik, asook lae koste behuising in n selfbou- area te oorweeg is onaanvaarbaar want die bestaande inwoners het hulle eie fondse gebruik om huise te bou die ontwikkeling voeg geen waarde by bestaande eiedom nie (maar sal die markverwante waarde laat daal) , met die koop van die plotte was dit belegging om die natuur agter ons te geniet, so hierdie ondersoek word **NIE** geondersteun nie.

No.3 Weerens dit voeg geen waarde by die bestaande inwoners se private eiedomme nie (word nie ondersteun nie asook oopspasie word ontneem waar kinders saamspeel weten dat hulle veilig is.

No.4 Dit voeg weerens geen waarde aan bestaande eiendomme , en die uitsig word geheel en al ontneem vanaf inwoners wat fondse belê het vir beter lewe nou word dit weer ontneem.

No.09 : Rugbyveld ontwikkeling word nie ondersteun nie , dit is histories asook die gemeenskap en skole gebruik dit vir sport , so waar moet ons kinder sport beoefen , so **NEE** dit word nie ondersteun nie

So, neem asb kennis dat "**sites no 2, no 03, no 04, no 05, no 09**" word geensins ondersteun word vir hierdie voorgestelde ontwikkeling nie.

No.12. Ondersteun ons `n Tegniese Hoërskool

NO.19 Moet omskryf word as Market Related housing

No. 06 Munisipale Werksplaas

Ons ondersteun nie dat, ons Kragstasie, Oorlaaistasie en munisipale werkplaas verskuif word nie , dit is dubble ontkostes wat ons as belasting betalers moet betaal en dit gaan die dienste wat ons tans ontvang belemmer

No.14 Frail Care sentrum word ondersteun wat bekostigbaar is vir almal.

Ons as gemeenskap wil nie Lae Bekosting behuising skema in Kleinmond hê nie want ons is eerste hands bewus watter negatiewe inpak dit het , want op die oomblik woon ons reeds beknop en die feit dat alle oopspasie in Kleinmond ontwikkel wil word maak ons bekommerd want die ontneem die oorpronklike natuurlike mooiheid weg en dit is bewys dat sodra dinge verniet gedoen word veroorsaak dit net meer en meer sosiale probleme.

Ons as gemeenskap versoek en dit is logies, en meer beskostigbaar dat Bettys Baai , Pringle Baai ook ondersoek moet word waar daar vele onbenutte grond beskikbaar is en dat dit nie so duursaam sal wees om daar te ontwikkel nie nie , tot en met daardie ondersoek voltooi is kan ons gesels oor die verskillende opsies, maar vir nou word geen ontwikkeling wat ons inheemse inworners benadeel

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is 'n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	HandteKening
Patrick Gideon	27 11de Straat	
Shelly Ise Brown	Vygie str Rylby Wild	
Bevanita Kanlee	1144 Nivinia straat	
Wessel Swartz	38 KALKOENTJIE	
Althea Gillions	5 Malva str.	
J. THEIAIC	63 Siyoni STR	
Adrian Arends	Kuyasa str 8379	
Lillie Karaalee	19 Alwina Singel	
KAREL KARAISE	8505 LEVENDAL	
Neville Pate	19 Heide straat	
EDGAR GILLIONS	MALVA STR 5	
Nastassja Willemse	Erika Straat 151	
Senchia Arendse	Kuyasa str 8379	
Velda Arendse	Erika Str 133	
Eleanor Winchgel.	Viola straat 8491	
Evelyne Hopley	Kuntu str 8217	
CHARLTON HENDRICKS	ERICA STR 153	
Velia Swartz	Kuyasa Str 8309	
Godfrey Swartz	Mdledlefie 2655	
Meghan Mitchell	Nivinia 101	

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	Handtekening
SUSANNA ANTONIE	ALOESIASINGEL 24 KLEINMOND	

Naam en Van	Adres	Handtekening
Adam Jackoles	117 10TH AVE klemmad	
Edwin CARELSE	11	
KEEGAN CARELSE	11	
Aneesa Carelse	11	
~~Edga~~ Cathy Alexander	11	
Macin Carelse	11	
Henrich Mars	11	H.M
Jolandi Hartnick	8540 Schooler klemmad	
Willem Hartnick	11	W.H
Marie Plaatjies	11	M.P
Peter Plaatjies	11	
Elzaan Faroa	11	

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

20

Naam en Van	Adres	Handtekening
MATTHIUS PETERSEN	KUYSHA 8134	
Steve Tarentaal	Vygie Straat 9	
Christopher Sedeut	10 Siyoni Str	
Jeffannes Lawson	8209 LUNTU STR.	
Jeffrey Gouws	Kalkoentje Straat	
B.J. Coert	Nerenio Straat	
SISA MAJO	[illegible] EK STREET	
M. M GODA	OVER HILLS	
G. JACOBS.	LUNTUSTR. 8207	
S. Simon	147 Siyoni	
A Tyulu	EHP 90	
S. MWAMBO	8401 LAVENDER ST	
E. MAY	NJUWENA STRAAT-127	
P. H	Alwin Singh 24	
PHILIP WYNAND	KALKOENTJIE. STR. 5	
E OERSON	Kalkoentjie 41	
Kuisngie	NIVINIA Straat 1146	
EBRAIME Hull	8456 MADELIEFIE STR.	
Natasha Megano	8458 Madeliefie Str	
Tolani August	8385 Lavender St	T. A. August

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	Handtekening
Greanne Rousseau	Lunteistr. 8209	Rousseau
Clive Van Wyk	Lunteo STR 8202	Clive
Wendy Van Wyk	Luntustr 8209	
Hazel Van Wyk	Lunteistr 8212	H. Van Wyk
She-carl Vaaltyn	Kuyasa 8349	S. Vaaltyn
Elvinia Rass.	Kuyasa 8349	E.RASS
Charlton Benton	Kuyasa 8338	C. Benton
Hanna-Nadeje	Kuyasa 8371	Mnadeje
Junayd Smith	76 protea weg	J. Smith
Phill Smith	76protea weg	Smith
Duran Smith	76 protea weg	Smith
Dinico Cronje	112 proteaweg	D Cronje
Tiffany Wentzel	175 iyoni	
Elizebeth hartogh	8542 School straat	E Hartogh
CJ september	8542 school straat	
Reyano Ruiters	8542 School straat	
Magda September	8542 Skool straat	September
Isaac Phillips	8542 Skool Straat	
Sonja April	8346 Skoolstraat	S. April
Gert April	8344 Skoolstraat	G. April

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	Handtekening
Devon MAKUM	13 NEMESIA AVE	
Andrew Theunissen	Skoolstraat 166.	
Rud. Theunissen	Skool Straat 166	
Bridgat Afrika	Skoolstr 8537	B. Afrika
Sophia Hartogh	Skoolstr 8539	S Hartogh
Malie Plaatjies	Skoolstr 8540	M. Plaatjies
GEORGE HEYNS	skoolstr 8545	
ANNELINE HEYNS	skoolstr 8545	A. Heyns
Magrieta Steenkamp	Skoolstr 8546	M Steenkamp
Enrico Steenkamp	Skoolstr 8546	E. Steenkamp
Susarah. Rex	skoolstr 8547	S. Rex.
Poulina A	Skoolstr 8547	P A
Johanna Rains	Skool str. 8548	Rex.
Christene Gabriel	skool str 17	
Josphine Wessels	skoolstr 9	
Lady-Bianne Idaan	Skool Straat 9	J Wessels.
Frances Watson	Skool Straat 9	F. Watson
Petrus Bouton	Skool Straat 9	P. Bouton.
Reuel Katz	skool straat 9	
Ayrecha Maritz	Skoolstraat 25	Maritz.

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

20

Naam en Van	Adres	Handtekening
Myra Olivel	Malvastr 3	M. Olivel
Karel Jonkers	Malva STR 4	K Jonkers
Charoldene Maus	Malva Str 4	C Maus
Raghinald Jonkers	Malva Str. 4	
Katy Jonkers	Malva. Str. 4	K. Jonkers
EGHAR SWARTS	Malva St. 14	
N.V. COERT	MALVA STR NO6	
J. Coert	Malva St NO6	
L. Coert	MALVA. St NO 6	
Elona. Cedras	Malva Str NO6	
Williams	Malva ST 5	
EDGAR GILLIONS	MALVASTR 5	
DEDRE	NEMESIA LAAN S4	D. uitgegaan
WARREN	NEMESIA LAAN S4	D uitgegaan
Clement Makka	Alusia Singel 3	
Dylan Plaatjies	Alusia Singel 3	
Ruby Orcter	Alusia Singel 3	
Renay Makka	Alucia. Singel 3	R. Makka
Desmond Makka	Alusia Singel 3	
Sinaé Orcter	Alushia Singel 3	

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	Handtekening
ARRED D AUGUST	102 NIVINIA STR	
Massimo Makka	7 Malva str	
Drew-Ann August	119 Nivinia sti.	
Jayden Archer	104 Nivinia STR	
Hazel Swartz	Bergroos Singel 5.	H. Swartz
Petrus Karelse	Bergroos Singel 5.	P. KARELSE
MONICA JACOBS	BERGROOS SINGEL 4.	M JACOBS
LIONEL REX	BERGROOSSINGEL 4	L REX
ABBIGAIL OLIVIER	BERGROOSINGEL 4	Olivier
MARIUS OLIVIER	Bergroosingel 4	
PETER OLIVIER	Bergroosingel 4	
ABRAHAM samboer	Bergroosingel 4	ABRAMboer
Collin Hull	BERGROOSSINGEL 6	Hull
Marianka Hull	Bergroossingel 6	MHull
PETER OLIVIER	NEMESIN 12	
	HERDE STR. 24	
LORENZO FULLER	SIYONI STR. 26	
Joshline Ruiters	SIYONI STR. 26	
Rachel Arendse	Nemesia Str 22	RArendse
Shanine Smith	Nemesia Str 46	

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	Handtekening
FANIE Saayman	7 Marula laan	
K.M. Saayman	7 Marulaan	K.M. Saayman
LLEWYLLEN. ARTHUR	18 MAGELA LAAN	
FRANK PHILANDER	81 NEVENA	
Darryl Emile smith	4 LETHOLI	
MELVIN CLONJE	24 SITHONHI	
GORDON OCTOBER	4 NERINA	
Ian September	13 Heidestraat	I. Septe
David Zoom	Bergrooing 1 ou	
Abraham Arendse	Siyoni 35	
chantel Hendricks	5 Marulalaan	
Audin Hendricks	5 Marulalaan	
Leroy Jacobs	66 Nemisia	
FRANCOIS EHLERS	8253 ALOE STRAAT	
Mercia Saaiman	11 Malvastr.	
M. de Koker	118 9de Laan	M. de Koker
G. de Koker	118 9de Laan	
Donne Slade	118 9de Laan	de Koker Slade
Tanswill Slade	118 9de Laan	T Slade
Elgirvin AUGUST	Stadstr 21	

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

Naam en Van	Adres	Handtekening
Leacke October	Aloe straat 8304	October
Kately October	Aloe str 8303	~~Kachober~~
Netayo Michaelis	Aloe Str 8303	N. Michaelis
Chrisielda Pretorius	aloe str 8248	C. Pretorius
Sofia Slingers	Aloë str. 8248	S Slingers
Jemaro Pretorius	aloe str 8248	J. Pretorius
Geraldine Miggels	aloe street 8253	G Miggels
Jenilee Gibson	aloe str: 8252	J Gibson
Gary kriggg	aloe str: 8252	G: Kriggg
Christina MAY	aloe str . 8252	C.J. MAY
Sophia Miggels	aloe str 8255	S Miggels
CHARLES SCHULTZ	8256 Aloe Str	
MYLLEXUS ROSS	Nuvinia Str 393	M. Ross
Denicke Brown	Aloe str 8260	D. Brown
Michael Olivier	IIDE STRAAT 49	
Kay-lee Fortuin	Nemisia Str 70	
Prescoline Erasmus	Aloe Str 8279	
Abigail April	8337 KUMASA STR.	
Jerlie Hopley	ALOE STR 8276	Hopley
Carlo Matthee	Aloe Str. 8278	

Naam en Van	Adres	Handtekening
THEO KIEM	ALOE STR. 8265	
Desiree Pieterse	Aloe Str. 8265	D. Pieterse
Veronica	Janeke	Aloe 8284
Rosaline Prins	Aloe Str 8267	R Prins
JACOBA HICKLEY	ALOE STR 8284	
Thurston Martin	Aloe 8285	
Waynesha Martin	Aloe Str 8285	
Jessica Brown	Aloe str 8260	
Denicke Brown	Aloe Str 8260	
San-Marie Faut	ALOE STR 8292	
Ismael Maatjie	Aloe 8260	I. M
Chemise Faut	Aloe 8292	
Sophia Hopley	Nemla 63	S. Hopley
Jerome May	ALOE 8252	
Christialle Phillips	Aloe 8295	
Patrel Barnick	Aloe 8295	
Ashley Jansen	Aloe 8255	
FRANCOIS EHLERS	ALOE 8250	
John Small	Aloe 8253	
Jenett Adams	Aloe. Str 8250	J. Adams
Jakobus Adams	Aloe Str 8250	Jacobus
Peter April	Luntu Str 8082	
Christoffer Hendricks	Luntu Str 8260	
Angelo Olivier	11de Straat 49	Olivier
Dollies Olivier	Skool straat 50	Dollies
Shannon Johannes	Luntu Straat 8210	Johannes
Sarel Afrika	Luntu Straat 8210	S. Afrika

23/74

26

Naam en Van	Adres	Handtekening
A.M. en LE Octeb	Malvastr 9	Octobe
M.E. Swarts	Malvastr. 11	M Swarts
G. Jacobs	Malvastr 4	
M. Mennes	Nivinia 108	M Mennes.
A Oliver	Nivinia 107	A.
M Jacobs	Nivinastr 106	
M.N. Jacobs	Nivinastr 106	
L Martz	Nivinia str 79	
S Appel	Nivinia str 80	S Appel
L August	Nivinia Street	102 M August.
L. Arendse	Nivinia St 83	
Z. Onverwacht	Nivinia St 100	Z. Onverwacht
N Fuller	Nivinia 142	N. Fuller
J. OCTOBER	Nivinia 85	
W. Tonta	Nivinia 94A	W. Tonta
T. Adams	Nivinia 94C	
Elizabeth Pins	Nivinia Straat	E Pins
E.A.Y. YN OCTOBER	Nivinia Str. 94D	E.O.C.
A. Taylor	Nivinia Str 93D	A. L Taylor
A Rennie	Nivinia Str 97A	A Rennie
Dorothea Nagtegaal	Nivinia 93	D NOVEMBER
M. Botes	Nivinia St 95	M Botes
C. November	Nivinia Str 90	C. Nov.
S. Arendse	Nivinia St 84	S. Arendse.
Jane Hill	Nivinia Str. 96	
E.J. COERT	97 NIVENIA	J Coert

Naam en Van	Adres	Handtekening
DANIELLE STEWART	PROTEADORP 18	
EVERT GERT	NEMESIA LAAN 60	
A. JACOBS	117-TOLAAN	
Aremie Katzé	45 Kalkoentjie Straat	
R. Hendricks	45 Kalkoentjie Straat	
Bryan Pintatjies	45 Kalkoentjie Str	
Walter Hendrik	45 Kalkoentjie Str	
CJ. Hendricks	45 Kalkoentjie Str	
RW. Hendricks	45 Kalkoentjie Str	
Leandra Mackenzie	11de Straat 48	
Tyrel Mackenzie	11de Straat 48	
Mercia Harper	11de str 48	
B. Olivier	Vygie Str No 5	
Oliver	Vygiestraat 5	
PHILLIP OLIVER	Vygiestraat 6	
Erna Oliver	Vygiestraat 6.	
Marche-Lee Jooste	Vygiestraat 7	
Deluaine Marinus	Vygie Straat 7	
Frank Karlse	Vygie Straat 7	
S Van Staden	Vygie STR. 7	
H. ADONIS	VYGIE STR 8.B	
K. Adonis	Vygie ST, 15 no 8	
L Smith	Vygie Str. 08	
B. Jonkerick	Vygie Str. 09	
L. Gibson	Vygie Str. No 08.	
Alfred. Oliver	Vygie Str. No 5	

Naam en Van	Adres	Handtekening
A. Paul.	42 Kalkoentjie	
B. Paul	" " "	
L. Paul	" " "	
F. Paul	" " "	
F. OERSON	41 Kalkoentjie.	Oerson
S. ARENDSE	41 kalkoentjie.	sam Arendse.
E. Hendricks	40 Kalkoentjie	E Hendricks
K. Olivier	38 Kalkoentjie	K Olivier
W. W. Swartz	38 Kalkoentjie	W Swartz
Y. ARENDSE	34 Kalkoentjie	Y ARENDSE
N. Baartman	40 Kalkoentjie	N Baartman
E. Hopley	34 Kalkoentjie	E Hopley
Tim Ruiters	5 Kolwytjie St	Tim Ruiters
T. Coert	Erickaf Ress 163	T. Coert.
Werner Brand	Brink Avenue 34	W Brand
Wilhemina Kosman	Protea laan 8	W Kosman.
Jakobus Kosman	PROTEA LAAN 8	J Kosman
MATTHEWS de Wet	PROTEA LAAN	M de Wet
MATTHEW Hendricks	Kalkoentjiesbaai	M Hendricks
Priscilla Louw	21 Heide straat	Louw
Theo Louw	21 Heide Street	Louw.
Preston Saayman	21 Heide street	
Wesley Peterselie	109 Minivia Straat	
Annelie hendricks	43 Kalkoentjiestraat	A Hendricks
Bernalie Dick	43 Kalkoentjiestraat	Dick
Shantel Dick	43 Kalkoentjiestraat	Dick

Naam en Van	Adres	Handtekening
Sandra September	Meidestraat 13	
James Thomas	Kalkoentjies Str 37	J Thomas
Silvia September	Meidestraat 13	
Miriame Smith	Nemesia str 66	
Abraham Abrahamse	Nemesia str 66	A. Abrahams
Marlene Smith	Nemesia str 68	M Smith
Kavan Cedric Smith	Nemesia str 68	R. Smith
Myrick Smith	Nemesia str. 68	M. Smith
Darryll Smith	Nemesia str 60	D. Smith
William September	Heide Str 13	
Peter September	Meidestraat 13	
Patricia September	Heide str 13	
RAHM GLORIEX	11 DE STR 11	
Clayton Abrahams	Heide str 13	
Derrick Arends	Heide str 13	D. Arendse
James September	Heide str 13	J Arendse
Raymond Arendse	23 Heide Street	Arendse
Isaac Solomons	24 Heide str	
Gilletta Solomons		
Shannon Arendse	23 Heide St	Arendse
Margie Samuels	Heide str 27	M Samuels
Reginald Samuels	Heidi str 27	R Samuels
Miguel Samuels	11 de Straat 26	M Samuels
Ackleigh Samuels	11 de str 26	Samuels
Reenaldo Samuels	11 de Straat 26	R Samuels
Cameron Plaatjies	11 de Straat 26	CPlaatjies

2

Naam en Van	Adres	Handtekening
GERT PETERSEN	KALKOENTJIE 30	GERT
GAVIN PETERSEN	KALKOENTJIE 30	GAVIN
PAULINA PETERSEN	KALKOENTJIE 30	PAULINA
Loretta Floors	" " 31	L Floors
Belinda Davids	Alusia singel 13	Davids
Joshua Floors	Kalkoentjiestr 31	J.M. Floors
D'wayne Floors	" " 31	D. Floors
Valerie Oncker	Kalkoentjie 29	V. Oncker
Bruce Oncker	Kalkoentjestr 29	B. Oncker
Nicole Oncker	kalkoentjiestr 29	N Oncker
HERALD October	Heidestraat 22	HOctober
Roseline October	Heidestraat 22	RBOctober
Clarissa October	Heidestraat 22	C October
Brian October	Heidestraat 22	BOctober
Sampie Pretorius	10de laan 105	S. Pretorius
Marie Pretorius	10de laan 105	M. Pretorius
Bronwin Arendse	Heidestr 23	B Arendse
Raymond Arendse	Heidestr 23	R Arendse
Brichnel Hull	Heidestr 23	B Hull
Johnno Bruintjies	Heide Str. 24	
A. SOLOMONS	HEIDESTR 24	
I SOLOMONS	HEIDESTR 24	I Solomons
R FISHER	HEIDESTR 24	R. FISHER
M. FISHER	HEIDESTR 24	M. FISHER
M.A. Fisher.	Heide Str 24	
L. SWARTZ	SKOOLSTR 52	

Naam en Van	Adres	Handtekening
Rachel Bosman	Heide Str No. 16	Bosman
MACCO Cedras	Heide Str No. 16	MCedras
Abram Sias	Heide Str No. 16	ASias
Matthew Sias	Heide str no 16	MSias
W Laelan Bosman	Heide str no 16	WBosman
Pieter Pretorius	Heide Str No 20	
Jaques Sias	Nivinia str.	Sias
Brahm Peterson	Erica STREET	BPeterson
Straffeline Pieterse	Heide 20	S. Peterse
Gavin Pieterse	Heide 20	G. Pieterse
John Marias	Heide 20	J. Marias
Maria Arendse	Nevinia 70	M. Arendse
R.I.P - Matka	Heide 20	R. Matka.
David - Matka	Heide 20	D. Matka.
Joan Gadener	Heid Str no 19	Gadener
Vernon Abrams	Heide str no 19	VAbrams
Jarland Metinka	Heide str no 19	Metinka
Marianna Arendse	Nevina str 84	
Esta Megan	Heidestr. 15	E. Megan.
Jay - D - Megan	11 15	J. de Megan
C. October	15 Heide Straat	
Gift Arendse	Nivena str 93 D	G.A
Zainia September	Protea weg 113	2.5
Chantelle Hendricks	Kalkoentjiestr. 40	
Eollynn Arendse	Nivinia str 140	
DANIAMLD, mitchell	Heide STR	

Naam en Van	Adres	Handtekening
CLAUDIA STOPSTOEF	Proteaweg No 18	C. Swart
Sarah Swartz	Proteaweg No. 18.	S. Swartz
COURTNEY Swartz	Proteaweg No. 18.	C Swartz
CHRIZIM Swartz	Proteaweg No. 18.	C. Swartz
GILDEROY Swartz	Proteweg No 18.	G. Swartz.
CHRING Swartz.	Proteweg No. 18.	C. Swartz
Andrise.	Plaaijek.	A. P...
HELECEN SWARTS	PROTEA WEG 18/B	H Swarts
ELNE Swarts.	PROTEAWEG 18/B	E Swarts
DEVAN MAKKA	PROTEA WEG 18/B	D Makka
HELENA SWARTS	PROTEAWEG 18/B	H Swarts
QUINTON SEBASTIAAN	PROTEAWEG 18/B	Q SEBASTIAAN
Monica Fyfer	Vygiestr 2	M Fyfer
Aaron Buys	Vygiestr 2.	A Buys
Deacan fyfer	Vygie str 2.	D Fyfer
Charne Fyfer	Vygie str 2	C. Fyfer.
Maureen Fyfer	Vygie str 2"	M. Fyfer
DANIEL FYFER	Vygie str 2"	
Werner Buys	vygie str 2"	W Buys
Jason Fyfer	vygie str 2"	J. Fyfer.
Rachel Rheyneke	Vygie Straat 4	Rheyneke
JonClyde Rheyneke	Vygie Straat 4	J Rheyneke
Barnard Rheyneke	Vygiestraat 4	B Rheyneke
John Koopman	Vygiestraat 4	J. Koopman
Eleanor Barry	Vygie str 3	E Barry
Sylvester Barry	Vygie str 3	

Naam en Van	Adres	Handtekening
Lesley-Dianne Hewa	Skoolstraat 9	L Wecon.
Francis Watson	Skoolstraat 9	F. Watson.
Frans Bantom	Skoolstraat 9	F. Bantom.
Priscilla Bantom	Skoolstraat 9	P. Bantom
Trevor Carter	Skoolstraat 9	
Jacky Apollis	Skoolstraat 5	Apollis
Denzel Apollis	Skoolstraat. 5, Koload	
Gregory Jonas	44 Nemisia K.M.D	
Jannie Cromje	11 Skoolstraat	J. Cromje
Danuer Cromje	11 Skoolstraat	
Danuer Daniels	11 Skoolstraat	
Brandon Daniels	11 Skoolstraat	
Gresham Jonas	44 Namisia.st	J. Jonas
Burnadett Gertse	120 Nivinea Straat	
M. Cedras.	16 Litho Street	
D Andries	Siyoni 35 Straat	D Andries
J. Boezak	Skool str. 8446	Boezak
K. Arendorf	Lintho 21.	
A. Koti	Siyoni street 91	
R. Sklartz	Siyoni Street 28	
D. Barendes	145 Siyoni Straat	D. Barendes
R. Jacobs	Nemesia 16	
J. Megan	Heide Ser 15	
A. Arendse	84 Nivinia Str	
J. Petersen	9 Vygie Str	Petersen
N. Carelse	60 Klemas Avenue	

Valdene Demas	Nevinia street 94 T	Demas.
J. Johannes	kuyasatra 98352	Johannes
M. DANIELS	Lavender street 8400	M Daniels
T. Solomons	KUYASA STR. 8340	
E. Solomons	Kuyasa Sts. 8340	

Jennet April	Nemesia street 116	J. April
A. Mitchell	101 Nivinia Str.	
Rozelle Rachel Visser	124 Nivinia Str	
Alicia Leonard	SKOOL 19	Leonard
Beatrice Vissek	Nivinia str 124	Bvisser
DOREEN VISSER	KUYASA 8356	DVisser
Jody Visser	Kuyasha 8356	J. Visser
Kim Mitchell	Nivinia 101	K. Mitchell
Theresa Arends	kuyasha 8330	T. Arends
Peter Davids	Kuyasha 8327	Davids
Rugeb. Davidtyn	Kuyasa st 8358	R. Davidtyn
C Jacobs	Kuyasa 8360	C Jacobs
Johnny Kaelse	Kuyasa 8367	JKaelse
IAN BANTOM	LUNTU 8219	I Bantom
DIMITRI APRIL	LUNTU 8220	D April
Harriet. VISSER	Luntu 8214	H. Visser
Licquel Crome	LUNTU 8209	Crome
Paulina Slabbert	LAVENDER 8385	Slabbert
Elmus Peterson	LUNTU 8208	
Jamielee van Coller	Lavender 8386	
BARBARA PETERSEN	LAVENDER 8466	

26

Naam en Van	Adres	Handtekening
Juanita Baffa	Aloe Street 8273	Juanita Baffa
J. Williams	8274 Aloe Street	
E. Oncken	8287 Aloe	E. Oncken
EVERT COETZ	50 NEMESIA Laan	
JOEY Kinnears	8404 LAVERDE	
S. SMITH	8486 VIOLA STR	
A. Sias	Heraestr. 20	
Meredith Coetzee	2 Protea weg	
Eugene Sebastiaan	8475 Persia Street Mooiuitsig BB	
Marelani Arthur	18 Marael a Laan	
Rinaldo Arthur	18 Maroela Laan	R. Arthur
Constance Arends	16 Alusie Singel	C. Arendse.
EP. OCTOBER	VYGIE STRAAT 9	
THEMBISWE MPETSHENI	KZ17 Blakkies KP	T.M
Chrisna Lewis	Nuanvigstr 78	C. Lewis
Yubaida Lewis	11	Y. Lewis
Raynard Lewis	11	R. Lewis
Natasha Hunt	8539 Skoolstr.	
Kyla Hunt	11	
Magda Stephens	8544 Skoolstr	
Anton Heyns	8539 Skoolstr.	
Carlos Pitti	8197 Kunta STR	
Anelitha Pitti	8197 Kunta STR	
WINSTON MALITZ	25 Skoolstr	
STEPHEN WILLIAMS	10 MARULA AVENUE	
Morgie Williams	10 Marula laan	

Kurt Rheynicke	Vygiestraat 4	
Kay Oliver	99 Nivinia Str.	
Wessel sWartz	39 Kalkoentjie	
ANDRIES OLIVIER	72 NEMESIA STR	
RICHARD BREYER	LENTUSTR 9266	
FRANKLIN SWARTS	PROTEA WEG 18	
GABRIËL KRENITZ	92 NIVINIASTR	

ERWIN SWARTZ	Syferi 161	
David muller	KWOHAISA 8366	
B Fredericks.	Vygieste 8.	
Kay-lee Fortuin	Nemisia Str. 70	
Lucion Matinka	Skool str. 13	
Jean-Pierre Fincel	JP Fincel Skl str 3	JP Fincel
OOMBCB FUNNY KK	Heide STR 2/K	
JUNAIDE KAREISE	KALKOENTJIE STR. 30	J. Karelse
Marzanne Oliver	Vygie str 5	M Oliver
SELVIN TAUTE	NEMISIA STR. 63	S. TAUTE
MELVIN ONCKER	SKOOLSTR 53	
Daniel Barry	Sioyni str 41	D. Barry
Juaklin Cronje	Nivinia str 77	J. Cronje.
Letitisha Aploon	Nivinia Str. 83	
JUNAE LORAY FAITH JACOBS	HANSTEIN MAIN ROAD STR.	J Jacobs
CONRE Swarts	Protea Weg 18	
ASHLEY PIETERSEN	NIRINA 12	
25 Will Solemins	Heide STR 24	

Egon Swarts	[illegible]	
Phernol Niemies	Nivinia straat 108	
Gracié Hoffman	Nemesia Straat 73	
Ruan Hoffman	Nemesia Straat 73	R. H
Herman Philander	Nivinia straat 87	H. Philander
Waldo Bantom	Heide Straat 11	Bantom

Cyprin Swarts	School Str 17	
Marchelino Mitchell	Nivinia straat 90	M.M
Dillan October	Nivinia str 98	D. October
Leonard Cloete	Nivinia str 77	L. Cloete
Gavin Petersen	Kalkoentjie STR 30	
Erno Adams	Vygee straat 09	
Waylon Rheynicke	Vygie str 4	W. Rheynicke
Gilderoy Swartz	Protea weg 18	G. Swartz
Ethan May	Nivinia str 87	
Wilfred Swartz	PS Little S	
Anthony Snell	33 Nemesia Cayan	
Genvieve August	21 School Street	
Roger Fisher	Heide STR. 24	
Ethan Hoffman	73 Nemesia	Hoffman
Chrism Swartz	18 Protea weg	Swartz
Zadian Onverwacht	100 Nivinia Straat	Z. O
O.A.	Protea weg	O. A.
W. Septoneus	HEIDE STR 13	
25 I B Cooper	Vygie STR 4	

Naam en Van	Adres	Handtekening
PEARL Cocot	11de straat 8513	
Lynn Anthony	Kuyasa Straat 8331	
Eileen Rudolph	14 Heide str.	
Michelene Carese	Nemisia. 73	M. carese
DOROTHEA DE BRUYN	Kleinmond	
Stephani Saayman	Marcela laan 1	
Adri Pretorius	12 Litholi	
Shahieda Rains	Skoolstraat 8458	Rains
Geneve Nyl	95 Letholi St. 8	Gyl.
Ariel Kasper	241 Main Road	Kasper
Eldine le Roux	139 Siyani str	Eleroux
JAY-DEAN FLORIS	Niviniastraat 110	
Drew-Ann August	119 Nivinia Str.	
Charmantha Bruintjies	8358 Kuyasa str	C. bruintjies
Tiffany Rudolph	Kalkoentjie str	
FRASKIN MARTIN	21 LITHOLI STR	F. MARTIN
Maryana Stallenberg	11de str. 8514	
Kaios Groesen	3 Heide Street	
Curtley Winnegel		Winnegel
Ceola G Coolmans	51 16th STREET	
Wanka Mathias	33 11th Avenue	Mathias
Kilhylene Miggel	8316 Kuyasa Str.	Miggel
Courtney Oliver	3 Matua str.	Oliver
Demi Jantjers	14 Heide street	
25 Courtney Jacobs	10 Marcela laan	

Naam en Van	Adres	Handtekening
E T Alers	Vygie Straat 6	E T Alers
R D Alers	1 " "	R D Alers
Rolanda Flooes	18 Alusia Singel	R Flooes
ANTHONY SNELL	33 NEMESIA LAAN	
Cherybline Jonas	44 Nemesia Straat	C Jonas
PERCIVAL PHEIFFER	65 NEMESIA STR	P.A. PHEIFFER
Adromeda fortuin	70 Nemia Str	A fortuin
Jackie Jakobs	61 Nemesia Avenue	
Caydey Jacobs	16 Nemesia Avenue	C Jacobs
Julie Korelse	61 Nemesia Avenue	J Korelse
Jacoba Jakobs	61 Nemesia Avenue	JM Jakobs
MARCHELLINO Dexter	92 Nivinia Str	M. Dexter
Angelo Arthur	61 Nemesia Avenue	
Julia Arthur	61 Nemesia Avenue	Arthur
KEEGAN CARELSE	10DE LAAN 117	
MARCHE-LEE JOEMAT	7 Vygie Street	
JUNADE KARELSE	KALKENTTE STREET 30	J. Karelse
[illegible]	CYL KUYASA 8437	
Rolando Barron	NEMESIA STRAAT 83	Rolando
Fernando Swartz	NIVINIA STR. 99	
John Swanepoel	14 Nerinastraat	Swanepoel
Phillip Swanepoel	14 Nerinastraat	Swanepoel.
Ebise Jonas	54 Nemesiastraat	
24 James Jonas	" "	

Michael Abrahams	NERENIA	
JAN KAPTEIN	NIVENIA STR 93	
ANDRE OHLSON	NERINA STR.5	
GOLIATH-LAWRENCE	134 NIVENIA STR	
MOWINE-LAWRENCE	134 NIVENIA STR	
Rashied Pedro	8205 ALOE STR	
Charles Taute	23 Nemesia STR	
GREGORY HANTER	159 4TH AVENUE STANGER	

	Nolene Plaatjies	Nivinia Straat 96C	
	Hannelie Stols	nivinia straat 98	H Stols
	ALWIN MARTINKA	NIVENIA STR. 67	A Martinka
	Madeleine Abrahams	Nemesia STR 66	M. Abrahams.
	Llewellyn van Wyk	Bergroossingel 7	L. van Wyk
	Zandre van Wyk	Gatjoen STR. 13	
	Mario Pillay	Aloe Street	
16	Marius Van Loggerenberg	Skoolstraat 17	

Rochele Plaatjies	Alusia Singel 8	
Storm Onckel.	Alusia Singel 3	
Wilhelmina Plaatjies	Alusia singel 8	
Chadley Plaatjies	Alusia singel 8	—
Loretta	Alusia singel 10	— L. Cedras
Elaine April	Alusia singel 10	— E. April
Madeleine Onckel	Alusia singel 7	M Onckel
CHARLES. PLAATJIES.	ALUSIA SINGEL 9	C. Plaatjies.

	Leniza H-Jamesson	Nivinia STR 986	
	Jackquin Rex	Nivinia R 143	
	Ryan Sandos	Aloe Street 8303	
	David McC	Nivinia str 8	
	Charlton Ahrends	Galjoen Street 3	C Ahrends.
	Marquan April	school street 8491	
15	Shaquile cedras	Nerina Straat 15	

ondesteun nie want ons wil geensins massa mense in klein gebiede woon nie want die veroorsaak vele sosiale probleme

Hierdie dokement is `n gesamentlike poging om ons stemme te laat hoor en dat u dit asb so moet handteer.

	Naam en Van	Adres	Handtekening
1	Andre Theunissen	166 Skool straat Kraaibosch	
2	A. Theunissen	166 Skool straat Kraaibosch	
3	MARCO THEUNISSEN	166 SKOOLSTRAAT	
4	ELDENE THEUNISSEN	166 SKOOLSTRAAT	
5	JEREMIAS DANIELS	ERICA STR 152	
6	MATILDA DANIELS	ERICA STR 152	M. Daniels
7	SOPHIE DANIELS	ERICA STR 152	
8	Willene Arendse	Nevenia Str 89	W. Arendse
9	WINSTON MARITZ	SKOOLSTRAAT 25	
10	Claudine Maritz	Skoolstraat 25	C Maritz
11	Sara Arendse	Nevinia str. 89	S Arendse
12	Lorie Visser	Skoolstraat 21	L Visser.
13	Adem Kennel	Neviniastr 93F	A. Kennel

Naam en Van	Adres	Handtekening
ANN. GOLIATH	42 Kalkoentjie	A.G
Bonnely Golath	8282 Aloestr	B. Golath
J. P Marais	42 Kalkoentjiestraat	J.P
AMBROSE ONCKER	VYGIESTRAAT 2	A. ONCKER.
FLORENCIA SWARTZ	10DE LAAN 5	F. SWARTZ
Micaella Swartz	52 Skool Str	Swartz
SCHALK NEUDRICKS	11 STRAAT & 17	
BRENTON BARNES	32 KALKOENTJIE STR	
Marianne Oliver	Vygie Str. 5	Oliver
MARIUS OLIVER	VYGIESTR 5	
CHARLES SWARTZ	52 SKOOL STR	

41/74

NAAM + VAN	ADRES	HANDTEKENING
ENRICO AUGUST	8385 Lavender St	E. C. AUGUST
DAVID OLIVIER	11 DE STRAAT 49	
JAMES Schmucks	37 PRoteawag	
Gerald doty	Heide Straat 13	
Mathew Bosman	Heide Straat 16	

	WC January	GM 4 Sijoni Straat	
	M Taylor	NEVINIA STRAT 93 B	
	MS John	Nevina Straat 4	
	K.S. Plaatjies	Alaska Single 9	
10	K. Coet	Nevinia Straat 97	

Charmaine Rekeur	Lavender Straat 8446	C. Rekeur
Maylene Stewart	Madeliefie Straat 8459	M Stewart
Ruche Nunegeld	Kuyasa Str 8656	R. Nunegeld.
Cheslene Miggel	Kuyasa Str 8376	C. Miggel
F. Klaas	Laverder 8411	Fklaas

TREVOR OLIVER	8470 LAVENDER ST.	T.C. OLIVER
shauna Stewart	Madeliefie Straat 8549	S. Stewart
Yagan Karelse	Lavender Street 8546	
9 Nuzleigh Hercules	Lavender Str. 8406	

	Naam en Van	Adres	Handtekening
1	ROSY CARELSE	PROTEA weg 36	
2	Sharief Danab	Protea weg 36	
3	Damian Suttz	Protea weg 36	
4	Lionel makka	Protea weg 115	
5	ROBERT MIENIES	PROTEA Weg 115	
6	Lizwe Arendse	Lavender street	
7	Vlaan Ehlers	Nivinia st street 127	N. Ehlers

G. ANTONIC	24 Alusia sing K/M	
Luchia Antonie	24 Alusia singel	
Lucille Antonie	24 Alusia singel	
40 Karisha Karelse	20 Alusia singel	

45|74

1	MAPONIS	150 NIKENA	
2	Chumani		
3	Leon Olivier	Aloe street 2247	Leon

46/74

Signatures:

	Name	Address	Contact Information	Signature
1	NANCY CARELSE	NEMESIA AVE 13 KLEINMOND		
2	DEON MEGGA	NEMESIA AVE 17 KLEINMOND		
3	ANNA Miggel	Nemesia Ave 17 Klein		A Miggel
4	LEROY JACOBS	NEMESISTR 15		
5	Caydrey Jacobs	Nemesia Str 15		
6	Audrey JacoBS	NEMESTR 15		A JacoBS
7	DENCIL ARENDSE	NEMESIA AVE 21 KLEINMOND		
8	RACHEL Arendse	Nemesia Ave 21	//	R Arendse
9	Natalie Felix	Galjoen str 4		
10	christenMalmo	Malmostraat 7		Malmo
11	Bradley Plaatjies	Nemesia Ave 25		
12	Valerie Plaatjies	Nemesialaan 25		V. Plaatjies
13	Nadine May	Nemesia laan 25		N. May
14	TAMRYN PLAATJIES	NEMESIA LAAN 26		
15	JUSTINE van.WYK	NEMESIA LAAN 25		J. van. Wyk
16	Eloise Jonas	Nemesia 54		
17	James Jonas	"		
18	Margaret Arries	Litolni str. 4		
19	Emily Abrahams	Alusiasingel 15		

20	JOAN SWANEPOEL	14 NERINASTRAAT		J Swanepoel.
21	Phillip Swanepoel.	14 Nerinastraat		P Swanepoel
22	Shantall Oacker	9 SIYONI STRAAT		Oacker.
23	Nicolene Swart	4 Alusiasingel		Swart
24	MATHEW BOSMAN	Alusia Singel 1		
25	Andre Blaauwtjie	Nirinia straat 4		
26	Alicia Arendse	31 Nemesia Straat		Arendse
27	Tersius Arendse	31 Nemesia straat		
28	Louisa Hiddley	33 Nemesia str		Hiddley
29	E. Carels	Nemesia straat 39		E Carels
30	R. Olivier	72 Nemesia Ave		
31	P. Olivier	72 Nemesia Ave		
32	R. Olivier	72 Nemesia Ave		
33	Maria Ascher	Gabon 13		M Ascher
34	DEVON MARKUS	3389 2 BOB LAUBSER STR.		
35				
36				
37				
38				
39				
40				

48|74

Objection towards Proposed Development .

Ref: 6862 Nemesia Avenue , Kleinmond: Application of Subdivision :

I PETER CHARLES OLIVIER IDnr :

Living at address NEMESIA 72

(cellnr:) hereby object to the proposed Subdivision at 6862 Nemesia Avenue, Kleinmond. I reject any proposed development mentioned in advertisement not supported by us residents. It does not add any value to our property, and it is taking away the open spaces that we as a community desperately need. For where do our children have to play? We feel that we already based on past experiments, like segregation law in Apartheid era are once again being force into high density areas. Therefore, we have made these investments into our property in this area not to relive the past yet, and this proposed development will actually take us back to high density living. So please take note that we are not in support of any development that want to fill our "limited" open space with buildings.
We are aware of the land investigation and kindly suggest that the bigger open spaces like in Heuningkloof , and 13 th Avenue be explored as the alternatives areas for these suggested developments.

Signed

18/03/2025

49/74

Objection towards Proposed Development .

Ref: 6862 Nemesia Avenue , Kleinmond: Application of Subdivision :

I ...Fanie Saayman..... IDnr :.....

Living at address ..Morgela No 7 Kleinmond.....

(cellnr: ..... hereby object to the proposed Subdivision at 6862 Nemesia Avenue, Kleinmond. I reject any proposed development mentioned in advertisement not supported by us residents. It does not add any value to our property, and it is taking away the open spaces that we as a community desperately need. For where do our children have to play? We feel that we already based on past experiments, like segregation law in Apartheid era are once again being force into high density areas. Therefore, we have made these investments into our property in this area not to relive the past yet, and this proposed development will actually take us back to high density living. So please take note that we are not in support of any development that want to fill our "limited" open space with buildings.
We are aware of the land investigation and kindly suggest that the bigger open spaces like in Heuningkloof , and 13 th Avenue be explored as the alternatives areas for these suggested developments.

Signed

.....

18/03/2025

50/74

Objection towards Proposed Development

Ref: 6862 Nemesia Avenue , Kleinmond: Application of Subdivision :

I ....Mercia Smarts.....IDnr :.....

Living at address .....MALVA STRAAT 11.....

(cellnr:..... hereby object to the proposed Subdivision at 6862 Nemesia Avenue, Kleinmond. I reject any proposed development mentioned in advertisement not supported by us residents. It does not add any value to our property, and it is taking away the open spaces that we as a community desperately need. For where do our children have to play? We feel that we already based on past experiments, like segregation law in Apartheid era are once again being force into high density areas. Therefore, we have made these investments into our property in this area not to relive the past yet, and this proposed development will actually take us back to high density living. So please take note that we are not in support of any development that want to fill our "limited" open space with buildings. We are aware of the land investigation and kindly suggest that the bigger open spaces like in Heuningkloof , and 13 th Avenue be explored as the alternatives areas for these suggested developments.

Signed

.....

18/03/2025

51/74

Objection towards Proposed Development .

Ref: 6862 Nemesia Avenue , Kleinmond: Application of Subdivision :

I Maria Rex IDnr :

Living at address Bergroosangle 04

(cellnr:... ..... hereby object to the proposed Subdivision at 6862 Nemesia Avenue, Kleinmond. I reject any proposed development mentioned in advertisement not supported by us residents. It does not add any value to our property, and it is taking away the open spaces that we as a community desperately need. For where do our children have to play? We feel that we already based on past experiments, like segregation law in Apartheid era are once again being force into high density areas. Therefore, we have made these investments into our property in this area not to relive the past yet, and this proposed development will actually take us back to high density living. So please take note that we are not in support of any development that want to fill our "limited" open space with buildings.
We are aware of the land investigation and kindly suggest that the bigger open spaces like in Heuningkloof , and 13 th Avenue be explored as the alternatives areas for these suggested developments.

Signed

M. Rex

18/03/2025

52/74

TO OVERSTRAND MUNICIPALITY AGAINST NEW HOME DEVELOPMENT IN MAIN ROAD

...ion: Loretta Gillion

...o: Overstrand Municipality

Address: Overstrand Civic Center
Magnolia Street
Hermanus
7200

Date: 12 March 2025

Subject: Objection to the Proposed Residential Development on Kleinmond Main Road

We, the undersigned residents, property owners, and concerned citizens of Kleinmond, strongly oppose the proposed new home development on Kleinmond Main Road. Our objections are based on the following concerns:

1. **Environmental Impact:** The development poses a threat to the natural ecosystem, including local flora and fauna, and could lead to increased pollution and habitat destruction.
2. **Infrastructure Strain:** The current infrastructure, including roads, water supply, and sewage systems, may not adequately support an influx of new residents.
3. **Traffic Congestion and Safety:** The development will increase traffic on Kleinmond Main Road, leading to congestion and posing safety risks to pedestrians and existing road users.
    - The main road (R44) is the only route to and from Kleinmond. The proposed development on Erf 6936 poses a threat to the safety of all road users, including international travelers, as this is a scenic route and tourist destination, especially when concurrent riots flare up again.
4. **Community Character:** Kleinmond has a unique charm and character that will be negatively affected by overdevelopment. The proposed project is not in harmony with the existing architectural and cultural identity of our town.
5. **Property Devaluation:** Increased housing developments may lead to lower property values in the surrounding areas, negatively impacting current homeowners.
6. **Lack of Proper Public Consultation:** Many community members feel that the public consultation process has been inadequate, and residents' voices have not been sufficiently considered.
7. **Fair Property Acquisition and Development Principles:**
    - All properties in Beverley Hills (Extension 6) were acquired by ratepayers through a process of selling and buying from the municipality. The same principles must apply for Erf 6936—plots on Erf 6936 should be sold at auction and not considered for low-cost housing.
8. **Disappointment in Governance:**
    - We, as ratepayers, are greatly disappointed in the DA-led municipality we voted for in the previous elections.
9. **Housing Policy Violation:**
    - The Overhills area should have been the first proposed location for low-cost housing as per housing policy. The policy states that for each new housing unit, an existing illegal structure should be removed. Instead, illegal structures are not being removed when occupants receive new homes.

We urge the Overstrand Municipality to reconsider and reject this proposed development in the best interest of the community and the environment. We request a formal public meeting where all concerned parties can express their views and explore alternative solutions that align with sustainable and responsible urban planning.

53|74

Loretta Gillion

From: Stephen Williams
Sent: Wednesday, 26 March 2025 09:44
To: Loretta Gillion
Subject: Objection
Attachments: 4. Petisie.pdf

Goeiemore Loretta hoop dit gaan goed ek gaan n heel paar file vir jou forward vanaf gemeenskap t.o.v objection want bleikbaar kon julle nie die file oopmaak nie , so ek is gevra om dit aan tre stuur .
Baie Dankie
Groete

From: Frazer Barry <fgbarry@gmail.com>
Sent: Wednesday, 26 March 2025 08:15
To: Stephen Williams <swilliams@overstrand.gov.za>
Subject: DOC4

Goeie dag Mnr Williams

Jammer vir al die eposse. Ellsworth het gevra om dit vir jou aan te stuur aangesien Me Gillions probleme met die download het. Kan jy asb dit vir die betrokke persoon aanstuur?

Jammer weereens vir die ongerief.

Groetnis

Frazer Barry
Director: OEPS! Ons Eie Produksies (Pty) Ltd
Presenter/ Performing Artist / Producer
Theatre Practitioner / Tribal Echo Management
tribech@gmail.com
0824970433 /0722060415

54/74

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP- A Theart
(Hvld Stoep)

Fredderico en Shaundre Oncker

3 Maroela Avenue Erf 6855

Protea Dorp

Ext 6

Kleinmond

E mail :

14 March 2025

Overstrand Municipality

PO Box 20

Hermanus

7200

Western Cape

FILE NO. Erf 6862 - KM
SCAN NO.
COLLABORATOR NO.
2629277

Erf 6862, Nemesia Avenue ,Kleinmond :Public Participation-You are regarded as a potentially affected property owner

Dear Sir/Madam

We are writing to express our strong opposition to the proposed housing development in our neighbourhood by Urban Dynamics Cape (PTY) LTD on behalf of Overstrand Municipality, While we understand the need for development in our town, but we as property owners of erf 6855 believe that this project would have a detrimental impact on our neighbourhood.

Our objection is as follows

1. First and foremost, we are already bearing great difficulties with the current upgrade of storm water pipes in the area., The proposed development is simply too large for the specific area. The increase in population density would put a strain on our already overburdened infrastructure, leading to increased traffic congestion, noise pollution, and strain on our public services.
2. Furthermore, the type of housing being proposed is simply not in keeping with the character of our neighbourhood. This development would bring in a large number of low-income residents, which could lead to increased crime rates and other negative social effects. It would also drastically alter the aesthetic of our area, replacing the existing open spaces with a monolithic, high-density housing complex. With this being said our neighbourhood from the Main road will display a low cost area.

19 MAR 2025

3. The digital divide refers to the widening gap between individuals and communities, that have access to modern digital technologies and those who do not. This disparity goes far beyond simply being connected to the internet; it encompasses how access—or lack of access—to technology shapes one's opportunities in regard to the said Development.
4. Finally, I am deeply concerned about the impact this development would have on property values in the surrounding area. The influx of low-income residents could result in a decline in property values, making it difficult for current residents to sell their homes and move elsewhere.

In conclusion, we strongly urge you to reconsider this proposed housing development. While we recognize the need for affordable housing, We believe that this project is simply not the right fit for our neighbourhood. Thank you for your attention to this matter.

Sincerely,

56|74

Loretta Gillion

From:	Shaundre Oncker
Sent:	Tuesday, 18 March 2025 08:48
To:	Loretta Gillion
Subject:	Erf 6862, Nemesia Avenue, Kleinmond: Public Participation - You are regarded as a potentially affected property owner
Attachments:	LETTER OF OBJECTION.docx

Dear Loretta

Find here with my letter as affected property owner.

Regards

57/74

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP- A Theart (Hvld Stoep)

Property Owner/s details: -

Mr and Mrs JD and JL Floris

23 Nemesia Avenue ERF 6939

43 Nemesia Avenue ERF 6928

Protea dorp

EXT 6

Kleinmond

7195

Email –

06 March 2025

Cell: -

Objected property details: -

ERF 6862, Nemesia Avenue

Kleinmond

7195

FILE NO. Erf 6862 - KM
SCAN NO.
COLLABORATOR NO.
2628899

Overstrand municipality, 33 5th Avenue, Kleinmond Private bag X3, Kleinmond, 7195.

Dear Mrs. Loretta Gillion

I am writing to formally oppose and object to the application for rezoning, subdivision, and the assignment of street names and numbers by Urban Dynamics Cape (PTY) LTD on behalf Overtsrand municipality, particularly regarding the proposed low-cost housing of Overstrand development. As a direct affected resident owner of erf 6939 & 6928 and a recipient of this development I cannot but object to this adjacent new proposed land use project.

As property owners on ERF 6939 & 6928, we believe this development will have significant negative impacts on our properties and the community. Our objections are as follows:

Objections

1. **Noise Pollution:** The increased noise levels will disturb our peace and lead to sleep deprivation, which can have serious health implications, including physiological illnesses.
2. **Property Value:** The development will negatively affect property values, limiting our ability to sell or move to different areas. The loss of our distant views will further reduce the desirability of our properties.
3. **Crime Rate:** Proximity to the main business area increases the risk of crime, which can deter tourists from visiting the harbour area. This poses a threat to our safety and quality of life, making us hesitant to leave valuables unattended.
4. **Traffic and Safety:** The main road will become vulnerable to increased traffic, potential smash-and-grab incidents, and protests that could easily disrupt access and safety.

19 MAR 2025

5. **Digital Divide:** Not all residents have access to email and the internet, leading to skewed responses and a lack of representation for those without digital access.

Environmental Concerns

- **Destruction of Fynbos:** The council's past actions have led to the destruction of Fynbos in the area, with tractors flattening the land multiple time. We urge the preservation of this natural heritage by creating a Fynbos garden, as the immediate vicinity risks losing its unique flora.
- **Environmental justice:** The housing project can disproportionately affect our community, exposing them to environmental hazards like pollution and lack of green spaces.

Alternative Proposals

1. **Educational Facility:** Consider building a youth training and development centre to empower youth individuals and equip them with the necessary tools and knowledge to thrive on their own, thus decreasing the ever rising unemployment rate.
2. **Community Gardens:** The municipality could lease portions of the land adjacent to individual households for start-up food gardens. This would promote self-reliance and neighbourly support with fresh vegetable produce.

Additional Concerns

1. **Privacy Impact:** Human encroachment in close proximity to other adjacent properties, will severely impact our privacy and quality of life, as experienced in the nearby Overhills and Mountain View area. At night over weekends there is so much noise and unruliness that the police has to be called to assist with calming the noise down.
2. **Lack of Public Consultation:** There has been a lack of face to face consultation with residents, which is crucial for transparent decision-making. There has been insufficient public consultation regarding this application. The voices and concerns of local residents must be heard and considered before any decisions are made.
3. **Health Risks:** The development poses health risks due to increased traffic, noise and potential environmental degradation.

Conclusion:

The proposed development will have material impacts on security, property value, and the overall use of our properties. The influx of traffic and people will create significant challenges, and health risks cannot be ignored. We urge the municipality to reconsider this application until a suitable or large enough land space is made available and take into account the severe implications for our community. We do understand there is a high need for housing in our community and we sympathise with this ongoing issue. We also urge the municipality to further investigate use of alternative Land, which will better suite this purpose.

Thank you for your attention to this matter. We look forward to your response and actions to address our concerns.

59/74

Sincerely,

Mr Jacobus Daniel Floris

JD FLORIS

Mrs Janine Lindsay Floris

JL FLORIS

60|74

Loretta Gillion

From: Marisha Floris <
Sent: Tuesday, 18 March 2025 13:50
To: Loretta Gillion
Cc: Jdfloris98
Subject: Objection letter ERF 6862 Nemesia Avenue, Kleinmond, 7195
Attachments: Mr and Mrs JD and JL Floris Objection ERF 6928 Nem_250318_134244 (1).pdf

Good Day Madam

Please find attached our letter of objection for your attention regarding application for subdivision, rezoning and the allocation of street name and numbers.

Kindly advise should you require any further information.

Thank you.

Kind regards

Ms. Floris

61|74

Property Owner/s details: -

Mr and Mrs JD and JL Florls

23 Nemesia Avenue ERF 6939

43 Nemesia Avenue ERF 6928

Protea dorp

EXT 6

Kleinmond

7195

Email –

06 March 2025

Cell: -

Objected property details: -

ERF 6862, Nemesia Avenue

Kleinmond

7195

Overstrand municipality, 33 5th Avenue, Kleinmond Private bag X3, Kleinmond, 7195.

Dear Mrs. Loretta Gillion

I am writing to formally oppose and object to the application for rezoning, subdivision, and the assignment of street names and numbers by Urban Dynamics Cape (PTY) LTD on behalf Overtsrand municipality, particularly regarding the proposed low-cost housing of Overstrand development. As a direct affected resident owner of erf 6939 & 6928 and a recipient of this development I cannot but object to this adjacent new proposed land use project.

As property owners on ERF 6939 & 6928, we believe this development will have significant negative impacts on our properties and the community. Our objections are as follows:

Objections

1. **Noise Pollution:** The increased noise levels will disturb our peace and lead to sleep deprivation, which can have serious health implications, including physiological illnesses.
2. **Property Value:** The development will negatively affect property values, limiting our ability to sell or move to different areas. The loss of our distant views will further reduce the desirability of our properties.
3. **Crime Rate:** Proximity to the main business area increases the risk of crime, which can deter tourists from visiting the harbour area. This poses a threat to our safety and quality of life, making us hesitant to leave valuables unattended.
4. **Traffic and Safety:** The main road will become vulnerable to increased traffic, potential smash-and-grab incidents, and protests that could easily disrupt access and safety.

19 MAR 2025

5. **Digital Divide:** Not all residents have access to email and the internet, leading to skewed responses and a lack of representation for those without digital access.

Environmental Concerns

- **Destruction of Fynbos:** The council's past actions have led to the destruction of Fynbos in the area, with tractors flattening the land multiple time. We urge the preservation of this natural heritage by creating a Fynbos garden, as the immediate vicinity risks losing its unique flora.
- **Environmental justice:** The housing project can disproportionately affect our community, exposing them to environmental hazards like pollution and lack of green spaces.

Alternative Proposals

1. **Educational Facility:** Consider building a youth training and development centre to empower youth individuals and equip them with the necessary tools and knowledge to thrive on their own, thus decreasing the ever rising unemployment rate.
2. **Community Gardens:** The municipality could lease portions of the land adjacent to individual households for start-up food gardens. This would promote self-reliance and neighbourly support with fresh vegetable produce.

Additional Concerns

1. **Privacy Impact:** Human encroachment in close proximity to other adjacent properties, will severely impact our privacy and quality of life, as experienced in the nearby Overhills and Mountain View area. At night over weekends there is so much noise and unruliness that the police has to be called to assist with calming the noise down.
2. **Lack of Public Consultation:** There has been a lack of face to face consultation with residents, which is crucial for transparent decision-making. There has been insufficient public consultation regarding this application. The voices and concerns of local residents must be heard and considered before any decisions are made.
3. **Health Risks:** The development poses health risks due to increased traffic, noise and potential environmental degradation.

Conclusion:

The proposed development will have material impacts on security, property value, and the overall use of our properties. The influx of traffic and people will create significant challenges, and health risks cannot be ignored. We urge the municipality to reconsider this application until a suitable or large enough land space is made available and take into account the severe implications for our community. We do understand there is a high need for housing in our community and we sympathise with this ongoing issue. We also urge the municipality to further investigate use of alternative Land, which will better suite this purpose.

Thank you for your attention to this matter. We look forward to your response and actions to address our concerns.

Sincerely,

Mr Jacobus Daniel Floris

JD FLORIS

Mrs Janine Lindsay Floris

JL FLORIS

64|74

Loretta Gillion

From: Marisha Floris <
Sent: Tuesday, 18 March 2025 13:47
To: Loretta Gillion
Cc: Jdfloris98
Subject: Objection Letter re: - Erf 6936, Nemesia Avenue, Kleinmond, 7195
Attachments: Mr and Mrs JD and JL Floris Objection ERF 6928 Nem_250318_134244.pdf

Good Day Madam

Please find attached our letter of objection for your attention regarding application for subdivision, rezoning and the allocation of street name and numbers.

Kindly advise should you require any further information.

Thank you.

Kind regards

Ms. Floris

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart
(Hvld Stoep)

65|74

Ms Z Bavuma
9 Marula Avenue Erf 6852
Ext 6
Kleinmond
7195
e-mail: .
13 March 2025
Tel:

Overstrand Municipality
1 Magnolia Street
P.O Box 20
Hermanus
7200

Dear Sir/Madam,

I am writing to formally oppose and object to the application for rezoning, subdivision, and the assignment of street names and numbers by Urban Dynamics Cape (PTY) LTD on behalf of Overstrand Municipality, particularly regarding the proposed low-cost housing development. As a direct affected resident owner of erf 6852 and a recipient of this development I can- not but object to this adjacent new propose land use project.

As a property owner on Erf 6852, I believe this development will have significant negative impacts on my property and the community. My objections are as follows:

Objections:

1. **Noise Pollution**: The increased noise levels will disturb our peace and lead to sleep deprivation, which can have serious health implications, including physiological illnesses.
2. **Property Value**: The development will negatively affect property values, limiting my ability to sell or move to different areas. The loss of our distant views will further reduce the desirability of our properties.
3. **Crime Rate**: Proximity to the main business area increases the risk of crime, which can deter tourists from visiting the harbour area. This poses a threat to our safety and quality of life, making us hesitant to leave valuables unattended.
4. **Traffic and Safety**: The main road will become vulnerable to increased traffic, potential smash-and-grab incidents, and protests that could easily disrupt access and safety.
5. **Digital Divide**: Not all residents have access to email and the internet, leading to skewed responses and a lack of representation for those without digital access.

Environmental Concerns

1. **Destruction of Fynbos**: The council's past actions have led to the destruction of Fynbos in the area, with tractors flattening the land multiple times. We urge the preservation of this natural heritage by creating a Fynbos garden, as the immediate vicinity risks losing its unique flora.

FILE NO. Erf 6862-Km
SCAN NO.
COLLABORATOR NO.
2628576

19 MAR 2025

Alternative Proposals

1. **Educational Facility:** Consider building a high school on this plot to serve the growing number of children who need better educational opportunities.
2. **Community Gardens:** The municipality could lease portions of the land adjacent to individual households for startup food gardens. This would promote self-reliance and neighbourly support with fresh vegetables.

Additional Concerns

1. **Privacy Impact:** Human encroachment in close proximity to other adjacent properties, will severely impact our privacy and quality of life, as experience in the nearby Overhills area At night over weekends there is so much noise and unruliness that the police has to be called in to assist with calming the noise down. .
2. . **Lack of Public Consultation** : There has been a lack of face-to-face consultation with residents, which is crucial for transparent decision-making: There has been insufficient public consultation regarding this application. The voices and concerns of local residents must be heard and considered before any decisions are made.
3. **Health Risks:** The development poses health risks due to increased traffic, noise, and potential environmental degradation.

Conclusion

The proposed development will have material impacts on security, property value, and the overall use of our properties. The influx of traffic and people will create significant challenges, and the health risks cannot be ignored. We urge the municipality to reconsider this application and take into account the severe implications for our community. We also urge the municipality to further investigate use of alternative land, that will better suited the use for this purpose.

Thank you for your attention to this matter. We look forward to your prompt response and actions to address our concerns.

Sincerely,

Z Bavuma

67|74

Loretta Gillion

From: Zandile Bavuma <
Sent: Thursday, 13 March 2025 11:36
To: Loriaan Isaacs
Cc: Loretta Gillion
Subject: Letter of objection to Overstrand municipality
Attachments: Z BAVUMA-ERF6852.pdf

Dear Loriaan/Loretta

Please find attached my letter of objection for erf 6862 Nemesia avenue. Thanks

Kind regards,
Z Bavuma

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
20 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

68 | 74

Loretta Gillion

From: Mercia Bosman <l
Sent: Thursday, 20 February 2025 10:06
To: Loriaan Isaacs
Cc: Loretta Gillion
Subject: FW: [EXTERNAL] Fwd: Erf 6862, Nemesia Avenue, Kleinmond: Public Participation - You are regarded as a potentially affected property owner
Attachments: ADVERTISEMENT_Erf 6862, Nemesia Avenue, Kleinmond (Rez Subd etc).pdf; Notification to potentially affected property owner.pdf

Good morning, Ms Isaacs

Subject: Objection to the Rezoning and Subdivision of Erf 6862, Kleinmond

Dear Sir/Madam,

I trust that you are doing well.

I, Mercia Bosman, am writing to formally object to the proposed rezoning and subdivision of **Erf 6862, Kleinmond**, as outlined in the application for the development of 16 residential units. I have several serious concerns regarding this development, particularly in relation to **crime**, **property value**, and the **fairness** of the process, which I feel have not been adequately addressed.

1. **Concerns about Crime**
   One of my primary concerns is the potential increase in **crime** in our neighborhood. The development of affordable housing near my property may lead to a rise in criminal activity. It is my belief that the area is not currently equipped with the necessary safety infrastructure to support such a high-density development, which could result in an unsafe environment for existing residents. I urge the municipality to consider the impact on community security before proceeding with this project.
2. **Impact on Property Value**
   I have invested a significant amount of money in purchasing my property in Kleinmond, and the value of my house was one of my most important considerations at the time of purchase. The introduction of affordable housing units in such close proximity could drastically **decrease the value of my property**. The market value of homes in our area could be negatively impacted by the change in the neighborhood's character and the potential for increased crime and overcrowding. This concern is particularly important as I have made this investment based on the current status of the area, and any substantial change to this could lead to financial loss.
3. **Unfair Process**
   Finally, I believe that the process behind this development is unfair to existing homeowners. The decision to rezone and subdivide Erf 6862, without proper consultation and consideration for the residents who will be directly affected, seems to bypass the interests of those who have invested in the area. The potential negative impacts on the local community, including reduced property values and safety concerns, are not being adequately weighed against the benefits of this project.

In conclusion, I respectfully request that the municipality carefully reconsider the rezoning and subdivision of Erf 6862. I believe that the decision, if allowed to proceed, will have lasting negative consequences for both the residents of Kleinmond and the broader community.

Thank you for considering my objections. I would appreciate the opportunity to be involved in further discussions on this matter and hope that the municipality will take the concerns of current homeowners into account before making a final decision.

Sincerely,
Ms Bosman

FILE NO. Erf 6862-KM
SCAN NO. 2611308
COLLABORATOR NO.

20 FEB 2025

From: Mercia Bosman <
Sent: Friday, February 14, 2025 8:12 AM
To: Mercia Bosman <
Subject: [EXTERNAL] Fwd: Erf 6862, Nemesia Avenue, Kleinmond: Public Participation - You are regarded as a potentially affected property owner

This message originated from outside your organization

---------- Forwarded message ---------
From: **Loriaan Isaacs** <loriaanisaacs@overstrand.gov.za>
Date: Thu, 13 Feb 2025, 11:56
Subject: Erf 6862, Nemesia Avenue, Kleinmond: Public Participation - You are regarded as a potentially affected property owner
To: Loretta Gillion <loretta@overstrand.gov.za>

To whom it may concern

ERF 6862, NEMESIA AVENUE, KLEINMOND: APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAME AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY

You are regarded as a potentially affected property owner.

Attached please find a self-explanatory notice for your attention.

Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) requires that notice must be given, and Section 49 allows for a period of not less than 30 days from the date on which notice was given to affected persons to submit comments, objections or representations in respect of a land use planning applications. Council, during a meeting held on 30 November 2023, resolved that such notice be given via e-mail in accordance with the provisions of the Electronic Communications and Transactions Act, 25 of 2002. Due to ongoing difficulties in service delivery experienced by the South African Post Office, and as per the aforesaid Council resolution, **NO** registered mail/letters will be forwarded in the interim period.

Kindly regard this email as your formal notification of such land use application. Kindly provide your comment, objection or representations, if any, directly to Loretta Gillion (loretta@overstrand.gov.za) on or before **20 March 2025**.

Also note that the notice will be available at the Town & Spatial Planning Department, and on the municipal webpage at the following link: https://www.overstrand.gov.za/en/documents/town-planning/land-use-planning-applications

70 74

REKORDBEHEER
17 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loriaan Isaacs

From: Karla Gerber-du Toit
Sent: Monday, 17 February 2025 11:10
To: Loriaan Isaacs
Cc: Grant Cohen
Subject: FW: WARD 9 FW: Wyk 9: Erf 6936, Kleinmond | Erf 6862, Kleinmond / Request for Comments on Zoning for Erf 6936 & 6862
Attachments: ADVERTISEMENT_Erf 6936, Nemesia Avenue, Kleinmond (Rez Subd etc).pdf; ADVERTISEMENT_Erf 6862, Nemesia Avenue, Kleinmond (Rez Subd etc).pdf

Importance: High

Good morning Lolly

The Mayor has requested that I send these comments on from Ward Committee member Nydia Carelse - WARD 9.

Regards / Groete,

FILE NO. Erven 6936 & 6862-KM
SCAN NO.
COLLABORATOR NO. 2609370

Karla Gerber Du Toit
Administrator: Public Liaison- Kleinmond
Directorate: Office of the Municipal Manager
Overstrand Municipality

T: 028 271 8415 | **E:** kgerberdutoit@overstrand.gov.za

From: nydia@africangypsy.tours <nydia@africangypsy.tours>
Sent: Friday, 14 February 2025 09:33
To: Karla Gerber-du Toit <kgerberdutoit@overstrand.gov.za>
Cc: Grant Cohen <gcohen@overstrand.gov.za>
Subject: WARD 9 FW: Wyk 9: Erf 6936, Kleinmond | Erf 6862, Kleinmond / Request for Comments on Zoning for Erf 6936 & 6862
Importance: High

Hi Karla and Cllr Cohen,

Thank you for your communication. I would like to clarify whether the residential zoning for erf 6936 and erf 6862 has been finalized or if there is still an opportunity for additional input regarding land use beyond just residential.

While addressing the housing needs in the area is commendable, I believe there is also a significant need for affordable, low-cost, or shared business premises among the small businesses in the proposed development areas. Unfortunately, **there has been no provision made for this need over decades.**

Looking at the current business zones in Kleinmond, it is clear that the focus has not been on inclusivity, equality, or affordability **for all businesses**, regardless of their size. It is unfair that we have only one business landscape that caters predominantly to those with higher budgets. It is tough to say but we have to call a spade a spade.

17 FEB 2025

I believe the Overstrand Municipality has a valuable opportunity to reconsider this zoning and create a more inclusive environment.

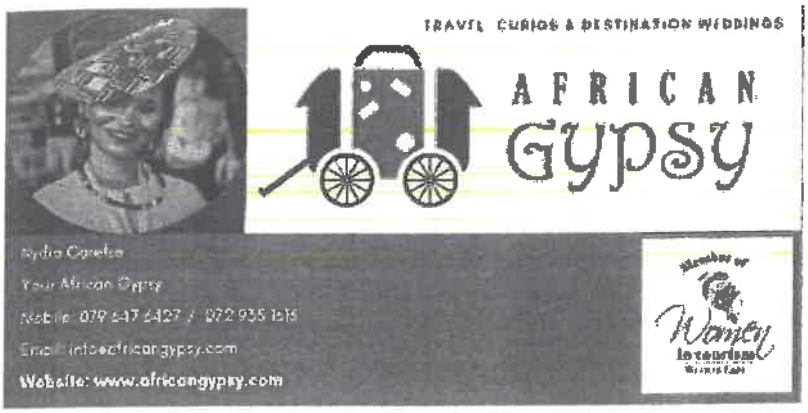
I would like to request a revision of the current zoning and propose a meeting to discuss suggestions in further detail.

Looking at the ever-increasing unemployment rate in our area, it is important that we set up solutions for this growing problem (especially amongst our young people) to enhance entrepreneurship in our communities **but only if we can build sustainable systems that do not set them up for failure.**

I have been a small business owner/entrepreneur since 2016 and running your own business is no walk in the park and the reason so many do not attempt to even try. However, if the supported landscape exists, their dream can exist.

Thank you for considering my request.

Regards,



http://www.africangypsy.com

From: Karla Gerber-du Toit <kgerberdutoit@overstrand.gov.za>
Sent: Thursday, 13 February 2025 13:37
To: Burger Malherbe <malherbelaw@vodamail.co.za>; peddledavid7@gmail.com; Hannelize Upsher <doandlearn@gmail.com>; Hendrik Botha Maree <bothamaree@gmail.com>; Ingrid Scanlen <scanlen1975@gmail.com>; Marcelin Barry <marcelinbarry@gmail.com>; Maria de Beer <toesiemari@gmail.com>; Nydia Carelse <nydia.carelse@gmail.com>; Nydia Carelse <nydia@africangypsy.tours>; Tommy Snibbe

72|74

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
20 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP- A Theart (Hvld Stoep)

EV & RA Gillions
5 Malva Street Erf 6859
Ext 6
Kleinmond
e-mail:
19 March 2025
Tel:

Overstrand Municipality 5 th avenue Kleinmond 7195

Dear Sir/Madam,

I am writing to formally oppose and object to the application for rezoning, subdivision, and the assignment of street names and numbers by Urban Dynamics Cape (PTY) LTD on behalf of Overstrand Municipality, particularly regarding the proposed low-cost housing development. As a direct affected resident owner of erf 6859 and a recipient of this development I can- not but object to this adjacent new proposed land use project.

As property owners on Erf 6859, we believe this development will have significant negative impacts on our properties and the community. Our objections are as follows:

Objections

1. **Noise Pollution**: The increased noise levels will disturb our peace and lead to sleep deprivation, which can have serious health implications, including physiological illnesses.
2. **Property Value**: The development will negatively affect property values, limiting our ability to sell or move to different areas. The loss of our distant views will further reduce the desirability of our properties.
3. **Crime Rate**: Proximity to the main business area increases the risk of crime, which can deter tourists from visiting the harbour area. This poses a threat to our safety and quality of life, making us hesitant to leave valuables unattended.
4. **Traffic and Safety**: The main road will become vulnerable to increased traffic, potential smash-and-grab incidents, and protests that could easily disrupt access and safety.
5. **Digital Divide**: Not all residents have access to email and the internet, leading to skewed responses and a lack of representation for those without digital access.

Environmental Concerns

1. **Destruction of Fynbos**: The council's past actions have led to the destruction of Fynbos in the area, with tractors flattening the land multiple times. We urge the preservation of this natural heritage by creating a Fynbos garden, as the immediate vicinity risks losing its unique flora.

Alternative Proposals

1. **Educational Facility**: Consider building a high school on this plot to serve the growing number of children who need better educational opportunities.

6862
FILE NO. Erf 6987 - KM
SCAN NO.
COLLABORATOR NO.
2629514

20 MAR 2025

2. **Community Gardens**: The municipality could lease portions of the land adjacent to individual households for startup food gardens. This would promote self-reliance and neighbourly support with fresh vegetables.

Additional Concerns

1. **Privacy Impact**: Human encroachment in close proximity to other adjacent properties, will severely impact our privacy and quality of life, as experience in the nearby Overhills area At night over weekends there is so much noise and unruliness that the police has to be called in to assist with calming the noise down. .
2. . **Lack of Public Consultation:** There has been a lack of face-to-face consultation with residents, which is crucial for transparent decision-making: There has been insufficient public consultation regarding this application. The voices and concerns of local residents must be heard and considered before any decisions are made.
3. **Health Risks**: The development poses health risks due to increased traffic, noise, and potential environmental degradation.

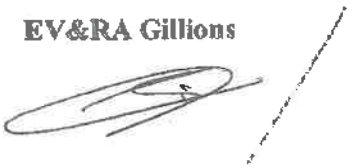
Conclusion

The proposed development will have material impacts on security, property value, and the overall use of our properties. The influx of traffic and people will create significant challenges, and the health risks cannot be ignored. We urge the municipality to reconsider this application and take into account the severe implications for our community. We also urge the municipality to further investigate use of alternative land, that will better suit the use for this purpose.

Thank you for your attention to this matter. We look forward to your prompt response and actions to address our concerns.

Sincerely,

EV&RA Gillions



Gillions.

Feel free to customize this letter with your specific details and any additional points you'd like to include. Let me know if there's anything else I can assist with!

74|74

Loretta Gillion

From: jasmine dreyer <[redacted]>
Sent: Thursday, 20 March 2025 09:07
To: Loretta Gillion
Subject: objection letter
Attachments: signed objection letter EV & RA Gillions.pdf

thank you
EV& RA Gillions

RESPONSE TO COMMENTS REPORT

1. Introduction

Application was made for the simultaneous rezoning and subdivision of Erf 6862, Kleinmond. The objective being to enable the infill development of 16 residential erven within the urban fabric of Kleinmond. The application was circulated to all internal municipal departments, external stakeholders and neighbouring landowners. A notice, as prescribed in terms of the Overstrand Municipality Municipal Planning By-Law, was also placed on site to reach the broader public.

The departmental comments received are addressed in ***Section 2*** below, whilst the public objections received against the application are addressed in Section 3.

2. Department comments

The departmental comments received are summarised in ***Table 1*** below, including the respective responses in addressing any issues forthcoming.

Table 1: Department Comments & Response

Ref	Department	Comment	Response
1.	**Civil Engineering Services**	Development Supported. Proposed that play park be retained in its current position.	The department's support is noted. Retaining the play park in its current position was considered, which would undermine the intended spatial integration and functionality of the overall development layout. It should be emphasized that the application does not entail the loss of public open space. Instead, it proposes the relocation and reconfiguration of the existing play park within the development in a manner that better aligns with the proposed layout and enhances accessibility for residents. The centralised play park allows for a crescent street to be accommodated, which is not possible if the park is retained in its current form.

3. Public Objections

The following objections were received:

Table 2: List of Objectors

Ref	Objector	Status
A1	Mr. & Mrs. EV & RA Gillons	Property owners: **Erf 6859, Kleinmond**
A2	Mr. & Mrs. JD & JL Floris	Property owners: **Erf 6928, Kleinmond**
A3	Mrs. Zandile Bavuma	Property owner: **Erf 6852, Kleinmond**
A4	Mrs. Mercia Bosman	Resident: **Kleinmond**
A5	Mr. & Mrs. F & S Oncker	Property owners: **Erf 6855, Kleinmond**
A6	Mrs. Nydia Carelse	Resident: **Kleinmond**
A7	Proteasdorp Indigenous Committee	**Community Forum**

The objections and concerns raised have been thoroughly assessed and are summarized in Table 3 below, along with responses addressing each matter.

It is important to clarify that the concerns raised by Objector A6 fall outside the scope and substance of the current application. Accordingly, the representation does not constitute a formal objection, but rather a general commentary on alternative development preferences. While suggestions for commercial or mixed-use development have been noted, such considerations fall beyond the ambit of the current application, which has been submitted in accordance with the approved spatial planning framework and relevant statutory provisions.

Further to the above, it is important to clarify that this application does not constitute free state-funded low-income housing development. The objective of the application is to establish residential erven that can be sold to individuals via the Finance Linked Individual Subsidy Programme (FLISP). The layout plan and erf sizes have therefore been adapted to suit the requirements for FLISP housing, which typically allow for larger erven than those associated with fully subsidised, state-funded, free housing. Future development of the individual erven, including the submission of building plans, will be the responsibility of the respective landowners.

It is therefore a misinterpretation by the objectors that the development is low-income state housing.

Table 3: Public Objections & Responses

REF		COMMENTS	APPLICANT'S RESPONSE
1.	A1, A2 & A3	**Representations on noise pollutants, privacy and health impacts -** The objectors express concern regarding the anticipated increase in ambient noise levels, particularly during the night, which they believe will disrupt the 'quiet character' of the area and affect their well-being. The 'proximity' of the proposed development is perceived to undermine the privacy of existing residents and diminish their quality of life due to increased human activity and behavioural disturbances. It is further stated that the development may introduce adverse health impacts arising from increased traffic volumes, environmental degradation, and persistent noise pollution.	The concerns raised by the objectors are noted. However, these assertions are speculative and lack support. The application is informed by specialist inputs and professional assessments, none of which identify any material risk to public health or residential amenity. The proposed development will be implemented in accordance with established planning parameters and environmental controls, ensuring compatibility with surrounding land uses and adherence to acceptable living standards.
2.	A1, A2, A3, A4 & A7	**Representations on property value and scenic implications -** Objectors state that the proposed introduction of high-density, lower-income residential units will have a detrimental effect on surrounding property values. Their concern is based on several anticipated outcomes, including the loss of scenic or distant views, increased residential density, overcrowding, and a perceived rise in criminal activity, all of which are viewed as undermining the safety, character, and long-term stability of the area.	While it is acknowledged that any new development may alter the existing visual and land use character, this proposal is consistent with the prevailing development pattern and strategic planning directives of the municipality. Assertions regarding devaluation of property and crime association are unfounded.

		Objector A7 further referenced a previously submitted petition, during the land identification process, expressing dissatisfaction that prior community input was disregarded. It was further argued that consistent with procedures applied to neighbouring properties, the disposal of the subject property should be conducted via public auction. The objector (A7) further argues that the proposal conflicts with the Overstrand Municipality's housing policy, which requires the removal of illegal structures in parallel with the provision of new formal housing, an obligation they assert has not been met in this instance.	It is further important to point out that the proposed residential erven are not considered high-density development, but rather an extension of existing residential patterns in the area. The objectors' assumption that the development constitutes "low-cost housing" is incorrect and does not reflect the intent or scope of the application. The development conforms to the applicable zoning provisions and general development parameters of the Overstrand Local Municipality. Disposal of the land is at this stage not relevant, as the application is merely to subdivide and zone the erven. Furthermore, the development represents a contextually appropriate infill initiative that supports spatial integration. The concern raised by Objector A7 regarding a prior petition is not material to the current application and carries no legal weight. Similarly, the interpretation of housing policy related to the removal of informal structures is misapplied and falls outside the scope of this application.
3.	**A1, A2, A3 & A7**	**<u>Representations on crime and safety</u> –** The objectors express their concern in relation to the proximity of the proposed development to the town's business district, including the harbour area, which may lead to an increase in criminal activity.	The objectors' concerns are noted. The objectors' fears of increased criminal activity are based on generalised assumptions. The proposed development does not represent a scale or typology that would place undue pressure on local safety infrastructure.

		This is regarded as a potential threat to public safety and the town's appeal as a tourist destination. Furthermore, it is argued that existing infrastructure and policing capacity are insufficient to accommodate the additional demand and social risks associated with an 'increased residential density'.	On the contrary, residential developments of this nature can contribute positively to neighbourhood security through increased surveillance and community presence. Assertions that the development will compromise the town's appeal to tourists are similarly speculative.
4.	**A1, A2, A3 & A7**	**Representations on traffic and safety** - The objectors state that the proposed development will lead to increased traffic volumes along key routes, including the R44, Kleinmond Main Road. They express concern that this may elevate the risk of vehicular accidents and pedestrian safety incidents, and may further compromise public safety, particularly during periods of social unrest or protest action.	The concerns of the objectors are noted. However, these views are not substantiated by any transport impact assessment or professional traffic engineering review. As part of the application process, infrastructure capacity, including road and pedestrian safety, has been reviewed by qualified consultants. Their input confirms that the proposed development can be accommodated without adverse impacts on the existing network. The objections lodged pose no material opposition to this application.
5.	**A5 & A7**	**Representations on impact to character** - Objectors believe the proposed development is not in keeping with the area's established character. Concerns include overdevelopment, the loss of open space, and increased social pressures that could lead to higher crime rates.	It is recognised that the development of Erf 6862, Kleinmond will change the status quo of the subject property, however, within the context of residential development, which aligns with surrounding/ prevailing development trends.

			The perception that the proposal constitutes overdevelopment or threatens local character is not substantiated when assessed against the applicable/ prevailing zoning rights and policy directives within and for the area, all of which have been addressed and confirmed through this application The association made between social pressure, crime, and higher residential density is, therefore, speculative and lacks substantive base.
6.	**A1, A2, A3 & A7**	**<u>Representations on environmental impacts</u> -** The objectors express their concern regarding the potential destruction of indigenous fynbos and surrounding vegetation. The objectors argue that the proposal poses a significant threat to biodiversity and natural ecosystems, citing a loss of habitat and heightened pollution, that would leave residents exposed to environmental and health risks.	The environmental concerns raised are noted. However, these objections do not present a material basis for opposition. The subject property is located on a site that has already been disturbed and forms part of the established urban edge. The application site is a vacant disturbed site with no indigenous vegetation or biodiversity present on the site. The concern is therefore misguided.
7.	**A1, A2, & A3**	**<u>Representations on social infrastructure needs</u> -** Objectors advocate for the land to be utilised for social infrastructure rather than residential development.	The need for social facilities/ infrastructure is recognised. The request for alternative land use, including schools, youth centres, or food gardens, is acknowledged.

		Proposed alternatives include the establishment of a school, youth centre, or community food gardens, facilities which are considered, by the objectors, to be better suited in meeting local needs.	However, the application responds to a demonstrable need for formal residential opportunities within the established urban fabric of Kleinmond. The application furthermore proposes a cohesive integration between residential and community components, in so relocating and essentially retaining the play park within the urban area, as opposed to the total removal thereof.
8.	**A6**	**<u>Representation on business needs</u> -** This submission does not constitute a formal objection but serves as a representation requesting that alternative development options for the site be explored. The 'objector' states that the current proposal's exclusive focus on residential use overlooks the potential for commercial or mixed-use development. It is further stated that existing and future business needs within the area have not been adequately assessed.	The representation advocating for commercial or mixed-use development is noted. However, the application has been submitted in accordance with the spatial planning policies and development vision of the Overstrand Municipality. The site has been earmarked for residential development in line with strategic objectives. While commercial development is important, it must be appropriately located in areas specifically designated for such use and where such use has an informed (existing) imprint, relative to the existing character of the area.

9.	**A5 & A7**	**Representation on infrastructure capacities –** The objectors raise concern regarding the strain on existing infrastructure. Specific references were made to stormwater management constraints, congested road networks/ systems, and limited capacity of public amenities and services to support an increase in population.	The objections are noted. This comment is speculative and lacks any substantiated basis. The views of the objectors have not been informed or supported by any findings or recommendations contained within the application. The application is supported by professional engineering input, which confirms that the development can be accommodated without overburdening municipal systems. These assessments were conducted by registered professionals and reviewed by municipal engineering departments, whose support has been recorded. No evidence has been presented by objectors to suggest otherwise.
10.	**A1, A2, A3, A4, A5 & A7**	**Representation on socio-economic disparities, digital exclusion and public participation and procedural fairness –** The objectors have emphasised a digital divide within the community, noting that the absence of equitable access to internet and communication technologies has resulted in unequal opportunity to participate in the planning process or raise concerns. Several objectors argue that the public participation process has been procedurally inadequate. Comments received include the lack of in-person engagements, insufficient notice to surrounding property owners, and the over-reliance on digital communications, which may have excluded technologically or economically disadvantaged community members	Comments regarding exclusion from the participation process are noted but not supported by any procedural irregularity. The public participation process was conducted in accordance with statutory requirements, and reasonable steps were taken to ensure accessibility of information. The use of digital communication is standard practice and was facilitated through both formal notices (email/ mail) and on-site notices.

			The local authority's / applicants' obligations in this regard were met, and objectors had sufficient opportunity to comment. These claims do not present a material basis for opposition. It is furthermore unreasonable to assume that future residents of the proposed development would not have access to the same technological resources as those currently available to the broader community. The development is expected to benefit from the same infrastructure and service provision, including access to digital communication platforms, thereby ensuring equitable participation and integration.

4. Conclusion

Having considered the objections received, it is argued that none present a credible, evidence-based, or policy-aligned basis for the refusal of this application. The issues raised are largely speculative, unsubstantiated by supporting technical analysis, and do not engage meaningfully with the statutory planning principles that govern land use management within the Overstrand Municipality.

In particular, the objections fail to demonstrate how the proposed development would be undesirable. There has been no substantive evidence provided to indicate that the proposal will result in harm to public health, safety, the environment, or the rights of adjoining landowners.

Conversely, the applicant has clearly demonstrated the desirability and appropriateness of the proposal, supported by a comprehensive set of professional reports, specialist inputs, and policy alignment. Specifically, the development offers the following planning merits:

1. A negligible impact on the character of the surrounding area;
2. No material impact on engineering services, as verified by supporting technical reports and professional recommendations;
3. Positive socio-economic outcomes, including a cohesive, integrated residential development;
4. No adverse impacts on public health, safety, or wellbeing;
5. A negligible environmental impact, given the site's location within a disturbed and modified urban environment;
6. Provision of residential erven within the FLISP housing market, being an income bracket with a high demand for residential opportunities.

In light of the above it is requested that the application be approved without further delay.

Annexure F
1/2

COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR: APPLICATION FOR REZONING, SUBDIVISION & THE ALLOCATION OF STREET NAME & NUMBERS: ERF 6862, KLEINMOND (4875/2024)

Water	:	In order
Sewer	:	In order
Roads and traffic	:	In order
Stormwater (SW)	:	In order
Electricity	:	In order

Conditions:

1. that the developer (Overstrand Municipality) at his cost constructs the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be provided;

2. that servitudes for municipal services be registered in respect of all main services to be taken over by the developer and all existing municipal services concerned, crossing private property;

3. that plans of all the internal municipal civil and electrical (high and low voltage supply) services and such link services as required by the Director: Infrastructure and Planning, prepared by an ECSA registered professional engineer/technologist, be submitted to the Director: Infrastructure and Planning for his prior approval;

4. the "Guidelines for the Provision of Engineering Services in Residential Townships" (Blue Book), SABS 1200 specifications and the Design and Construction Standards for civil and electrical services of the Council to be used as the standard design and construction criteria with which such plans must comply;

5. the successful completion of such works to be supervised and certified by an independent professional civil engineer/technologist i.e. a professional civil engineer/technologist who has no direct financial interest in the development, other than payment as standard professional fees for the work concerned; and

6. that the connection to the stormwater reticulation system if any, be provided according to the stormwater management plan;

7. that a Certificate of Completion together with as-built services plans be provided by the independent professional engineer/technologist to the Overstrand Municipality. As-built plans to be on quality paper, together with a DXF file thereof;

8. that the Implementing Agent apply for a temporary water connection on the prescribed application form, at Overstrand Municipality's Finance Department, before commencement of construction;

9. that the connection to the main water line only be done by the Operational Department, after payment of the connection fee, by the developer;

10. that damage to the existing roads, used as routes for access to the development, for the provision of services, be repaired by the developer;

11. that the conditions set by the W/Cape Department of Infrastructure be adhered to.

R Andrew

RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL

05/05/2025

DATE

Annexure G 1/26

KLEINMOND HOUSING PROJECTS: OVERHILLS INFORMAL SETTLEMENT, ERF RE 5462, ERF 6862 & ERF 6936

TRANSPORT IMPACT ASSESSMENT

JULY 2024

Douw Louwrens *B.Eng (Civil)*

083 541 3489

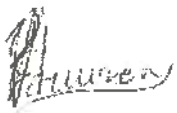
douw@dlconsulteng.co.za

2|26

COVER PAGE

Certification

It is herewith certified that this Transport Impact Assessment has been prepared according to the requirements of the South African Traffic Impact and Site Traffic Assessment Manual.



D. Louwrens
B. Eng (Civil)
Tel: 083 541 3489
E-mail: douw@dlconsulteng.com

Checked by:

L. Stodart
M.Eng Pr.Eng

Application details:

a) Municipality name: Overstrand Municipality

b) Type of assessment: Transport Impact Assessment

c) Erf numbers and farm names: Overhills Informal Settlement, Erf RE 5462, Erf 6862 and Erf 6936 Kleinmond

d) Client details: Neil Lyners and Associates (Pty) Ltd

e) Date of report: July 2024

f) Name and address of the Author: Douw Louwrens, 16 Jacobus Geldenhuys St, Onrus, 7201

3/26

INDEX

1. BACKGROUND 1
2. DEVELOPMENT PROPOSAL 1
3. STUDY AREA 1
4. EXISTING TRANSPORT INFRASTRUCTURE 2
5. EXISTING TRAFFIC 2
6. BACKGROUND TRAFFIC DEMAND ESTIMATION 5
7. DEVELOPMENT TRIPS 5
8. TRAFFIC IMPACT 6
9. ACCESS, INTERNAL ROADS AND PARKING 8
10. PUBLIC AND NON-MOTORISED TRANSPORT 9
11. CONCLUSIONS 9
12. RECOMMENDATIONS 10

ANNEXURE A: Photographic record of existing transport facilities
ANNEXURE B: Drawings

1. BACKGROUND

Douw Louwrens was appointed by Neil Lyners and Associates (Pty) Ltd to assess the transport impact of proposed housing developments on four portions of land in Kleinmond, namely the Overhills informal settlement, Erf RE 5462, Erf 6862 and Erf 6936.

2. DEVELOPMENT PROPOSAL

The Overhills informal settlement is situated on the north-western side of Kleinmond and gains vehicular access through the Kleinmond transfer station access road. The development entails the provision of engineering services for an area where approximately 695 structures are situated. Additionally, 77 single residential erven are proposed southwest of the transfer station. The location is shown in the attached ***Figure 1*** and marked "A". The proposed layout plan is attached as ***Figure 2*** (*Kleinmond Overhills Housing - Proposed Layout Plan, Urban Dynamics Cape Town & Regional Planners, dated: 14 May 2024*).

Erf 6862 is situated southeast of the Overhills informal settlement between GM Siyoni Street and Malva Street and to the north of Nemesia Avenue and the intersection thereof with Fynbos Street. The development entails 22 single residential erven. The location is shown in the attached ***Figure 1*** and marked "B". The proposed layout plan is attached as ***Figure 3*** (*Overstrand Erf 6862 Kleinmond - Proposed Layout Plan – Option 1, Urban Dynamics Cape Town & Regional Planners, dated: 06 May 2024*).

Erf 6936 is situated between Main Road and Nemesia Avenue northwest of the Kleinmond cemetrey. The development entails 30 single residential erven. The location is shown in the attached ***Figure 1*** and marked "C". The proposed layout plan is attached as ***Figure 4*** (*Overstrand Erf 6936 Kleinmond - Proposed Layout Plan, Urban Dynamics Cape Town & Regional Planners, dated: 23 April 2024*).

Erf RE/5462 is situated further southeast between Main Road and Nemesia Avenue on the eastern side of the Kleinmond cemetrey. The development entails 15 single residential erven. The location is shown in the attached ***Figure 1*** and marked "D". The proposed layout plan is attached as ***Figure 5*** (*Overstrand Erven RE/5462 & 6090 Kleinmond - Proposed Layout Plan – Option 1, Urban Dynamics Cape Town & Regional Planners, dated: 06 Mayl 2024*).

3. STUDY AREA

The primary study area was determined as the access roads and high-order roads in the vicinity of the development. The following elements were included in the study area:

- Main Road (R44, Trunk Road 27)
- Harbour Road
- Kleinmond transfer station access road
- Fynbos Street
- Protea Road
- Nemesia Avenue
- Intersections between these roads

4. EXISTING TRANSPORT INFRASTRUCTURE

Information on the existing transport infrastructure in the vicinity of the site was obtained through site visits conducted in May and July 2024. The roads discussed below are shown in the Locality Plan (***Figure 1***), Annexure B. Please also refer to the photo pages attached as Annexure A.

Main Road (R44, Trunk Road 27) is a Class 3 Minor Arterial running through Kleinmond. East of 13th Street, Main Road is a single-carriageway road with an urban cross-section including kerbs and channels and on-street parking present in places. Where on-street parking is not present, surfaced shoulders exist. West of 13th Street, Main Road is a single carriageway two-way road with a rural cross-section and surfaced shoulders. Surfaced sidewalks are situated along both sides of the road east of 13th Street. West of 13th Street a surfaced footpath is situated on the northern side of Main Road from Protea Road up to Abalone Street. Minibus taxi services operate along this road. Intersections with lower-order roads are priority (stop) controlled.

Harbour Road is a Class 4 Collector. The road provides access to the Kleinmond industrial node to the south of Main Road, the Kleinmond harbour and numerous restaurants and tourist attractions. The road is a single-carriageway two-way road with surfaced sidewalks, on-street parking and an urban cross-section present to the south of Luckoff Street.

Kleinmond transfer station access road is a Class 5 Local Street and provides access to the Kleinmond transfer station, sports field and the Overhills informal settlement. The road is surfaced from Main Road up to the transfer station access, approximately 75 metres from Main Road. A gravel road continues further northward providing access to the Overhills informal settlement and sports field. Minibus taxis operate along this road.

Fynbos Street, Protea Road and Nemesia Avenue are Class 5 Local Streets and provide access to properties situated in the northwestern Kleinmond area. These roads are all surfaced single-carriageway two-way roads. A surfaced sidewalk is situated along the southern side of Nemesia Avenue between Protea Road and Fynbos Street. Surfaced sidewalks are situated along both sides of Protea Road between Main Road and Nemesia Avenue.

Public transport: Minibus taxis, and to a lesser extent buses, operate along all the roads in the study area. Formal embayments and shelters are situated along the transfer station access road as well as Protea Road.

5. EXISTING TRAFFIC

Traffic counts were done at the Main Road / Kleinmond transfer station access road, Main Road / Fynbos Street / IJ Singleton Street, Main Road / Harbour Road, Main Road / Protea Road, Protea Road / Nemesia Avenue and Fynbos Street / Nemesia Avenue intersections on Tuesday, 11 June 2024. Details of the traffic counts are given in ***Table 1***.

Table 1: Traffic count details

Intersection	Morning peak hour	Afternoon peak hour	% Minibus taxis	% Buses	% Heavy vehicles
Main / Transfer station access	07:45 – 08:45	16:00 – 17:00	5,4%	0,2%	3,2%
Main / IJ Singleton / Fynbos	07:30 – 08:30	16:15 – 17:15	1,9%	0,3%	2,8%
Main / Harbour	07:30 – 08:30	16:00 – 17:00	1,7%	0,3%	2,8%
Main / Protea	07:15 – 08:15	16:00 – 17:00	2,1%	0,4%	2,1%
Protea / Nemesia	07:15 – 08:15	16:30 – 17:30	4,6%	1,3%	1,8%
Fynbos / Nemesia	07:00 – 08:00	16:45 – 17:45	7,0%	0,2%	1,8%

The affected intersections were analysed using SIDRA software. SIDRA calculates movement and intersection delays and assigns a service level based on the duration of the delay. A level of service A denotes an excellent service level with very little delay, whereas a level of service F represents very long delays and a breakdown in service. A level of service D is generally taken as the lowest acceptable standard.

The results of the SIDRA analysis are summarised in ***Table 2.*** Existing traffic volumes and service levels are shown in ***Figure 6.*** All intersections currently operate at good service levels during the morning and afternoon peak hours.

Table 2: Levels of service with existing (2024) traffic volumes

Intersection	Control measure	Morning peak hour			Afternoon peak hour		
		Inter-section LOS	Avg int delay (s)	Worst movement LOS	Inter-section LOS	Avg int delay (s)	Worst movement LOS
Main / Transfer station access	Stop	-	1,9	A	-	2,0	A
Main / IJ Singleton / Fynbos	Stop	-	3,3	B	-	2,8	B
Main / Harbour	Stop	-	1,6	A	-	1,7	B
Main / Protea	Stop	-	2,3	B	-	1,9	A
Protea / Nemesia	Stop	-	3,8	A	-	2,9	A
Fynbos / Nemesia	Stop	-	4,1	A	-	4,1	A

The 2020 Western Cape Access Management Guidelines prescribe warrants for right-turn lanes at intersections. The volume of advancing traffic with the percentage of vehicles turning right, as well as the volume of opposing traffic, are measured against curves for different operating speeds. Although not a capacity concern, a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Fynbos Street / IJ Singleton Street intersection is currently warranted during the PM peak hour for safety reasons as shown in ***Diagram 1.*** Road users however currently utilise the surfaced shoulder to pass stationary right-turning vehicles on Main Road at the intersection.

A right-turn lane on the northwestern approach to the intersection is not currently warranted but can be incorporated together with the required turning lane on the southeastern approach without much additional widening of the road. The proposed upgrades to the intersection are shown in ***Diagram 2.***

Diagram 1: Right-turn lane warrant at the Main Rd / Fynbos Street / IJ Singleton Street intersection

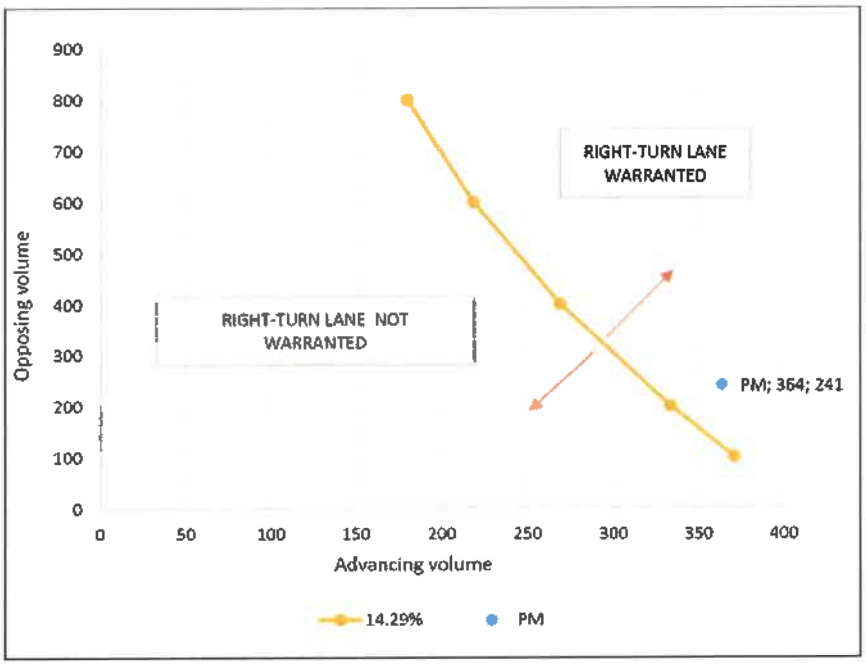
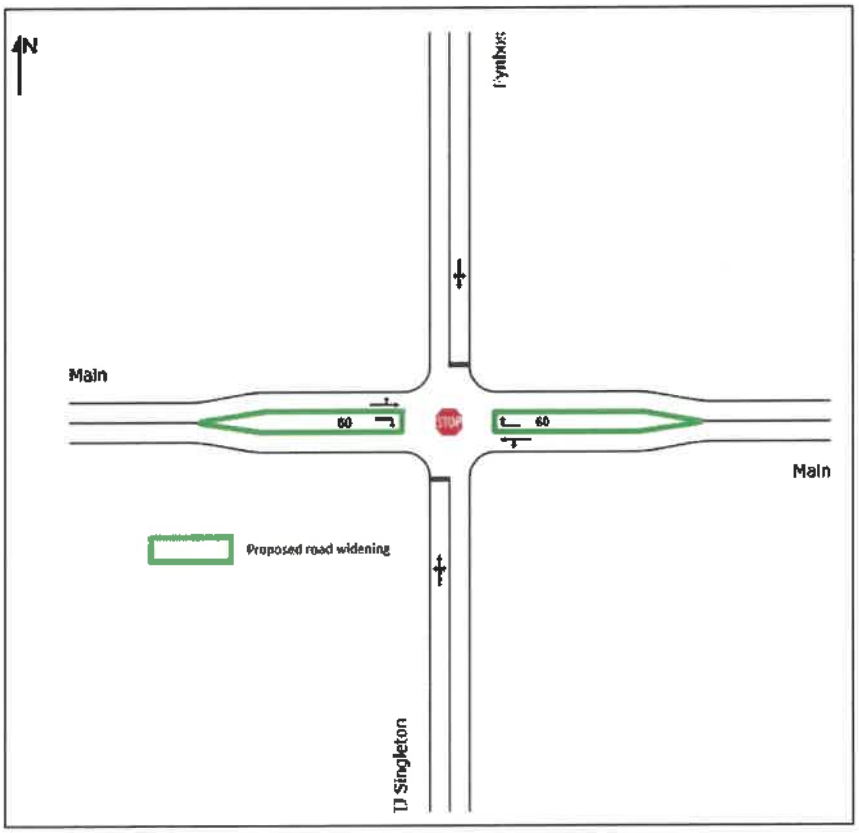


Diagram 2: Proposed Main Rd / Fynbos Street / IJ Singleton Street intersection layout



6. BACKGROUND TRAFFIC DEMAND ESTIMATION

The TMH16 Traffic Impact Assessment Manual suggests that background traffic demand should be estimated for the design horizon and the planning horizon. The design horizon is the year when the development will be completed and the planning horizon is the year when the entire area in which the development is located, will be developed.

It is anticipated that the housing projects and surrounding area will be fully completed in five years which makes the design- and planning horizon 2029. Background traffic demand is constituted of two components: percentage growth and traffic build-up from other developments. An annual traffic growth rate of 3,0% was applied to calculate the increase in traffic on Main Road in the study area. No other developments are planned in the vicinity in the foreseeable future and therefore no additional growth was applied.

The affected intersections were again analysed with the SIDRA computer program. The results are summarised in ***Table 3***. Background 2029 traffic volumes and service levels are shown in ***Figure 7***. All intersections in the study area will continue to operate at good service levels during the morning and afternoon peak hours.

Table 3: Levels of service with Background 2029 traffic volumes

Intersection	Control measure	Morning peak hour			Afternoon peak hour		
		Inter-section LOS	Avg int delay (s)	Worst movement LOS	Inter-section LOS	Avg int delay (s)	Worst movement LOS
Main / Transfer station access	Stop	-	1,7	A	-	1,8	A
Main / IJ Singleton / Fynbos	Stop	-	3,1	B	-	2,6	B
Main / Harbour	Stop	-	1,6	A	-	1,8	B
Main / Protea	Stop	-	2,4	B	-	2,0	A
Protea / Nemesia	Stop	-	3,6	A	-	2,8	A
Fynbos / Nemesia	Stop	-	4,1	A	-	4,1	A

7. DEVELOPMENT TRIPS

Trip generation rates were obtained from the COTO TMH17 Trip Data Manual. The document indicates a rate of 1,0 trips per unit for the AM peak hour with a 25:75 in:out split and 1,0 trips per unit for the PM peak hour with a 70:30 in:out split for single residential land uses. A trip generation reduction of 40% was applied as indicated in the TMH17 document for developments situated in areas with low vehicle ownership. These rates and reductions were applied to the proposed developments. The trip generation potential of each portion is summarised in ***Table 4***.

Table 4: Trip generation potential of Kleinmond housing projects

Portion	Land Use	Units	Peak hour	Rate	Reduction	Total	%In	%Out	In	Out
A: Overhills	Single Residential	77	AM	1	40%	46	25%	75%	12	35
			PM	1	40%	46	70%	30%	32	14
B: Erf 6862	Single Residential	22	AM	1	40%	13	25%	75%	3	10
			PM	1	40%	13	70%	30%	9	4
C: Erf 6936	Single Residential	30	AM	1	40%	18	25%	75%	5	14
			PM	1	40%	18	70%	30%	13	5
D: RE/5462	Single Residential	15	AM	1	40%	9	25%	75%	2	7
			PM	1	40%	9	70%	30%	6	3
Total	**Single Residential**	**144**	**AM**	**1**	**40%**	**86**	**25%**	**75%**	**22**	**64**
			PM	**1**	**40%**	**86**	**70%**	**30%**	**60**	**26**

It is not expected that additional trips will be generated as a result of the servicing of the informal settlement area to the north of the Kleinmond transfer station. Trips generated by this portion are already included in the traffic counts conducted. Newly generated trips were distributed onto Main Road via the transfer station access road, Fynbos Street and Protea Road utilising existing directional splits. The trip distribution is shown in ***Figure 8*** attached.

8. TRAFFIC IMPACT

Trips generated by the proposed developments were added to background 2029 traffic volumes to obtain total traffic volumes. The affected intersections were analysed with the increased traffic volumes to determine the traffic impact of the development.

A summary of the analysis results is given in ***Table 5***. Total traffic volumes and service levels are shown in ***Figure 9***.

Table 5: Levels of service with Total 2029 traffic volumes

Intersection	Control measure	Morning peak hour			Afternoon peak hour		
		Inter-section LOS	Avg int delay (s)	Worst movement LOS	Inter-section LOS	Avg int delay (s)	Worst movement LOS
Main / Transfer station access	Stop	-	2,3	A	-	2,2	A
Main / IJ Singleton / Fynbos	Stop	-	3,3	B	-	2,8	B
Main / Harbour	Stop	-	1,6	B	-	1,7	B
Main / Protea	Stop	-	2,4	B	-	2,0	B
Protea / Nemesia	Stop	-	3,8	A	-	2,9	A
Fynbos / Nemesia	Stop	-	4,6	A	-	4,7	A

Average delays at the affected intersections in the study area will increase slightly as a result of the developments by 2029, but service levels will remain good with the existing road network and intersection configurations in place.

Based on the Access Management Guidelines right-turn lane warrants, a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Transfer station access road intersection will become warranted during the PM peak hour. It should be stressed that this will be a safety improvement and not due to capacity constraints resulting from the increase in right-turning vehicles (22,2% of the advancing volume) as shown in ***Diagram 3.***

The proposed upgrades to the intersection are shown in ***Diagram 4***.

Diagram 3: Right-turn lane warrant reached at the Main Rd / Transfer station access road intersection

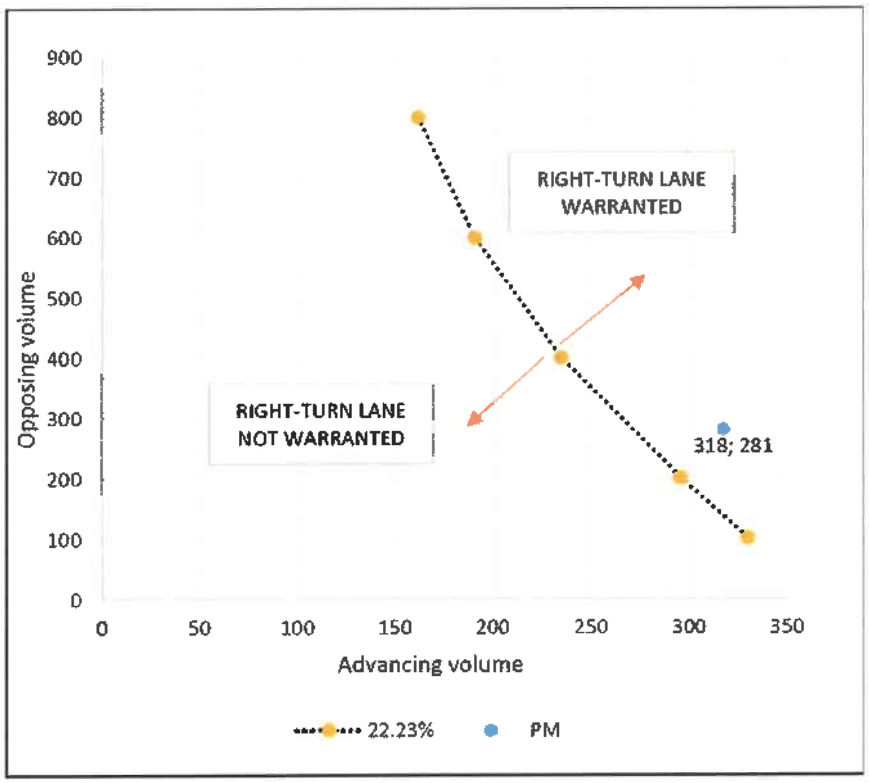
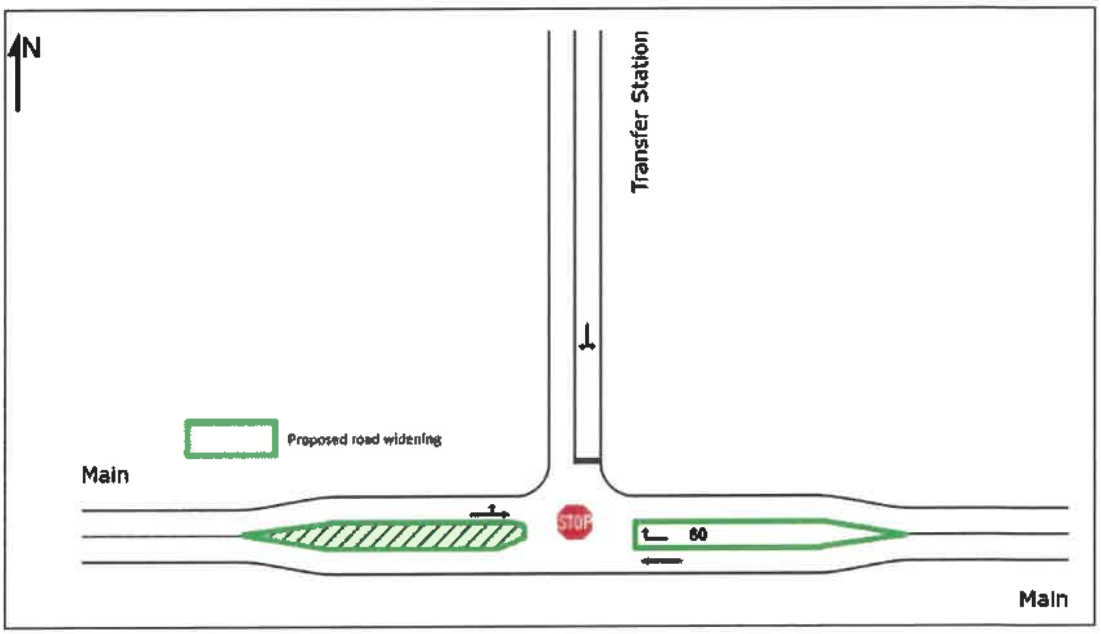


Diagram 4: Proposed Main Road / Transfer station access road intersection layout



It can be concluded that the combined traffic impact of the four proposed housing developments will be moderate.

9. ACCESS, INTERNAL ROADS AND PARKING

The Overhills development, Portion A, will obtain access via the Kleinmond transfer station access road. A 16-metre-wide road reserve for the Kleinmond transfer station access road is proposed. The access point to the proposed 77 new erven will be situated approximately 50 metres from Main Road. The Western Cape Access Management Guidelines recommend that the first driveway on a Class 5 road downstream of a Class 3 road (Main Road) should be located at least 75 metres from the Class 3 road. Driveways on all other sections of Class 5 roads should be spaced at least 25 metres apart. In the case of Portion A, the position of the access is restricted by the location of the transfer station to the north. The access is proposed at the furthest possible position from Main Road and given the anticipated low traffic volumes, the position is deemed acceptable. ***Figure 2*** attached indicates a proposed 13-metre-wide road reserve serving the new erven which narrows to a 10-metre-wide road reserve west of the taxi rank. The taxi rank, if possible, should obtain access from the internal road to maximise the distance from its access to Main Road. All other internal roads will have 10-metre-wide road reserves, which will be adequate.

The Erf 6862 Kleinmond development, Portion B, will obtain access off Nemesia Avenue at two points with the internal road forming a loop through the development. The western point will form the fourth and northern leg of the Nemesia Avenue / Fynbos Street intersection and the eastern point will be located approximately 40 metres from Fynbos Street and 40 metres from Malva Street located further east. The access roads can be classified as low-volume driveways and the spacing thereof on Nemesia Avenue is deemed adequate. The loop road will have a 10-metre-wide reserve. See ***Figure 3*** attached.

The Erf 6936 development, Portion C, will obtain access off Nemesia Avenue opposite Alusia Street. The access position is deemed ideal. The access road will form a T-junction with a cul-de-sac on either side. The culs-de-sac will each be approximately 100 metres in length, with a turning head at each end. All three internal roads will have 10-metre-wide reserves. See ***Figure 4*** attached.

The Erf RE/5462 development, Portion D, will obtain access off Nemesia Avenue via a 10-metre-wide road reserve approximately 130 metres from Protea Road. The access road will form a cul-de-sac, approximately 80 metres in length with a turning head on the southern end, as indicated in ***Figure 5*** attached.

Parking should be provided according to the Overstrand Municipality Land Use Scheme 2020 document which indicates a requirement of two on-site parking bays per dwelling unit and one on-site parking bay for erven less than 400 m².

10. PUBLIC AND NON-MOTORISED TRANSPORT

Minibus taxis, and to a lesser extent buses, operate along all the roads in the study area. Formal embayments and shelters are situated along the transfer station access road as well as Protea Road. A formal taxi rank is proposed on the western side of the Kleinmond transfer station access road as shown in the attached ***Figure 10***. No additional public transport improvements are proposed.

The proposed housing developments are expected to generate a considerable number of pedestrian trips. Surfaced sidewalks are located along Protea Road and Nemesia Avenue as mentioned. A surfaced footpath is also located along Main Road between Protea Road and Abalone Street.

It is proposed that the surfaced footpath along Main Road should be extended from Abalone Street up to the Kleinmond transfer station access road to provide a link to the proposed taxi rank. It is further proposed that a surfaced sidewalk should be provided along at least one side of the southern internal road through the Overhills settlement to link up with the proposed pedestrian route on the eastern side at GM Siyoni Street.

Pedestrians currently utilise informal paths over Erf 6862 Kleinmond, Portion B, which will become impassable with the development. It is therefore proposed that a surfaced sidewalk be provided along GM Siyoni Street, the western portion of Nemesia Avenue and Fynbos Street to link and provide continuous north-south and east-west routes for pedestrians through the study area.

11. CONCLUSIONS

From the Transport Impact Assessment, it can be concluded that the combined traffic impact of the four proposed housing developments will be moderate. Other conclusions are summarised below.

- The development entails housing developments on four portions of land in Kleinmond, namely the Overhills informal settlement, Erf RE 5462, Erf 6862 and Erf 6936;
- The four developments will provide 144 single residential opportunities as well as serviced sites to accommodate the existing informal settlement;
- All intersections in the study area currently operate at good service levels during the morning and afternoon peak hours;
- A dedicated right-turn lane is warranted on the southeastern approach of Main Road to the Main Road / Fynbos Street / IJ Singleton Street intersection based on existing PM peak hour traffic volumes. The lane is required for safety reasons and not due to capacity constraints;
- It is anticipated that the housing projects and surrounding area will be fully developed within the next five years, which makes 2029 the design- and planning horizon 2029;
- All intersections in the study area will continue to operate at good service levels with background 2029 traffic volumes during the morning and afternoon peak hours;

- The developments will have the potential to generate a total of 86 additional trips (22 in; 64 out) during the morning peak hour and 86 trips (60 in; 26 out) during the afternoon peak hour;
- Average delays at intersections in the study area will increase slightly with the addition of development trips, but service levels will remain good with the existing road network and intersection configurations in place;
- A dedicated right-turn lane will become warranted on the southeastern approach of Main Road to the Main Road / Transfer station access road intersection based on total 2029 PM peak hour traffic volumes. The turning lane will be required for safety reasons;
- All proposed access positions on Municipal roads and road reserve widths as indicated in ***Figures 2 – 5*** are deemed adequate;
- Minibus taxis, and to a lesser extent buses, operate along all the roads in the study area. Formal embayments and shelters are situated along the transfer station access road as well as Protea Road. A formal taxi rank is proposed on the western side of the Kleinmond transfer station access road as shown in the attached ***Figure 10***. No other public transport improvements are proposed;
- The proposed housing developments are expected to generate a considerable number of pedestrian trips and several surfaced sidewalks and pathways are proposed to link and provide continuous north-south and east-west routes for pedestrians through the study area.

12. RECOMMENDATIONS

The recommendations made in the Transport Impact Assessment are summarised below.

- Overstrand Municipality should consider the provision of a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Fynbos Street / IJ Singleton Street intersection should be provided for safety reasons;
- Overstrand Municipality should consider the provision of a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Transfer station access road intersection should be provided for safety reasons;
- Parking should be provided according to the Overstrand Municipality Land Use Scheme 2020 document which indicates a requirement of two on-site parking bays per dwelling unit and one on-site parking bay for erven less than 400 m²;
- The surfaced footpath along Main Road should be extended from Abalone Street up to the Kleinmond transfer station access road to provide a link to the proposed taxi rank;
- A surfaced sidewalk should be provided along at least one side of the southern internal road through the Overhills settlement to link up with the proposed pedestrian route on the eastern side at GM Siyoni Street;
- A surfaced sidewalk be provided along GM Siyoni Street, the western portion of Nemesia Avenue and Fynbos Street to link and provide a continuous north-south and east-west route for pedestrians through the development area.

ANNEXURE A: PHOTOGRAPHIC RECORD OF EXISTING TRANSPORT FACILITIES

1. Main Road (R44, Trunk Road 27)

Photo 1a: Looking west along Main Rd from Transfer Station Access Rd

Photo 1b: Looking southeast along Main Rd from the Fynbos St / IJ Singleton St intersection

Photo 1c: Looking east along Main Rd from the Protea St intersection

2. Transfer Station Access Road

Photo 2a: Looking south along the access road towards Main Rd

Photo 2b: Looking west from the access road towards proposed taxi rank

Photo 2c: Looking northwest along access road towards transfer station

3. Nemesia Avenue

Photo 3a: Looking east along Nemesia Ave from Fynbos St

Photo 3b: Looking west along Nemesia Ave from Alusia Cres

Photo 3c: Looking west along Nemesia Ave from Protea Rd

4. Protea Road

Photo 4a: Looking south along Protea Rd from embayment

Photo 4b: Looking south along Protea Rd towards Main Rd

Photo 4c: Looking south along Protea Rd from Nemesia Avenue

ANNEXURE B: DRAWINGS

Figure 1: Locality Plan
Figure 2: Layout Plan – Overhills Housing (Portion A)
Figure 3: Layout Plan – Erf 6862 Kleinmond (Portion B)
Figure 4: Layout Plan – Erf 6936 Kleinmond (Portion C)
Figure 5: Layout Plan – Erf RE/5462 Kleinmond (Portion D)
Figure 6: Existing 2024 traffic volumes and service levels
Figure 7: Background 2029 traffic volumes and service levels
Figure 8: Trip distribution of proposed development
Figure 9: Total 2029 traffic volumes and service levels
Figure 10: Non-motorised transport facilities

Douw Louwrens

B.Eng (Civil)

Tel: 083 541 3489

E-mail: douw@douwlaw.co.za

KLEINMOND HOUSING PROJECTS
LOCALITY PLAN

SCALE
1:20 000 (A4)

FIGURE 1

17/26

DRAFT

KLEINMOND
OVERHILLS HOUSING

PROPOSED LAYOUT PLAN

LAND USE TABLE

LAND USE	DESIGNATION	ZONING	AMOUNT OF ERVEN	AMOUNT OF UNITS	SIZE (ha)	%
Residential		Single Residential Zone	77	77	0,61	5,25
Residential & Ablution		Less Formal Development Zone	7		4,48	38,52
Public Open Space		Open Space Zone 2	1		0,30	2,59
Electrical Powerline		Open Space Zone 2	1		0,44	3,78
Sports Field		Open Space Zone 2	1		2,19	18,83
Detention Pond		Open Space Zone 2	1		0,38	3,27
Electrical Substation		Utility Services	1		0,53	4,56
TRA		Less Formal Development Zone	1		0,83	7,14
Taxi Rank		Transport Zone 2	1		0,09	0,77
Public Roads		Transport Zone 2	1		1,78	15,31
TOTALS			92	77	11,63	100,00

- SUBJECT AREA (±11.63ha)
- CADASTRAL BOUNDARIES
- URBAN EDGE
- CAPTURED INFORMAL ROADS
- PROPOSED SUPER BLOCKS (±4.48ha)
- INFORMAL HOUSING AFFECTED = ±147
- EXISTING TOILETS / ABLUTION
- 32m NEMA BUFFER

469

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY

URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE HELD LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

DATE 14 May 2024
SCALE See linescale
PLAN NO. 1
FILE NAME:
COPYRIGHT RESERVED
CLIENT

URBAN DYNAMICS CAPE
TOWN & REGIONAL PLANNERS

FIGURE 2

OVERSTRAND

ERF 6862 KLEINMOND

PROPOSED LAYOUT PLAN OPTION 1

- APPLICATION AREA
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT
  UNITS = 22 (6.5m x 13m & 7m x 13m)
- EXISTING TELEPHONE LINE
- EXISTING SEWER LINE
- CONTOUR LINES (0.25m intervals)

470

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY

DATE 06 May 2024
SCALE See linescale
PLAN NO. 1A
FILE NAME
COPYRIGHT RESERVED
CLIENT

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

FIGURE 3

19/26

OVERSTRAND

ERF 6936 KLEINMOND

PROPOSED LAYOUT PLAN

- APPLICATION AREA
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT UNITS = 30 (8.7m x 13m)
- EXISTING TELEPHONE LINE
- EXISTING SEWER LINE
- EXISTING STORM WATER PIPE
- CONTOUR LINES (0.25m intervals)

471

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY

DATE 23 April 2024
SCALE See linescale
PLAN NO. 2
FILE NAME

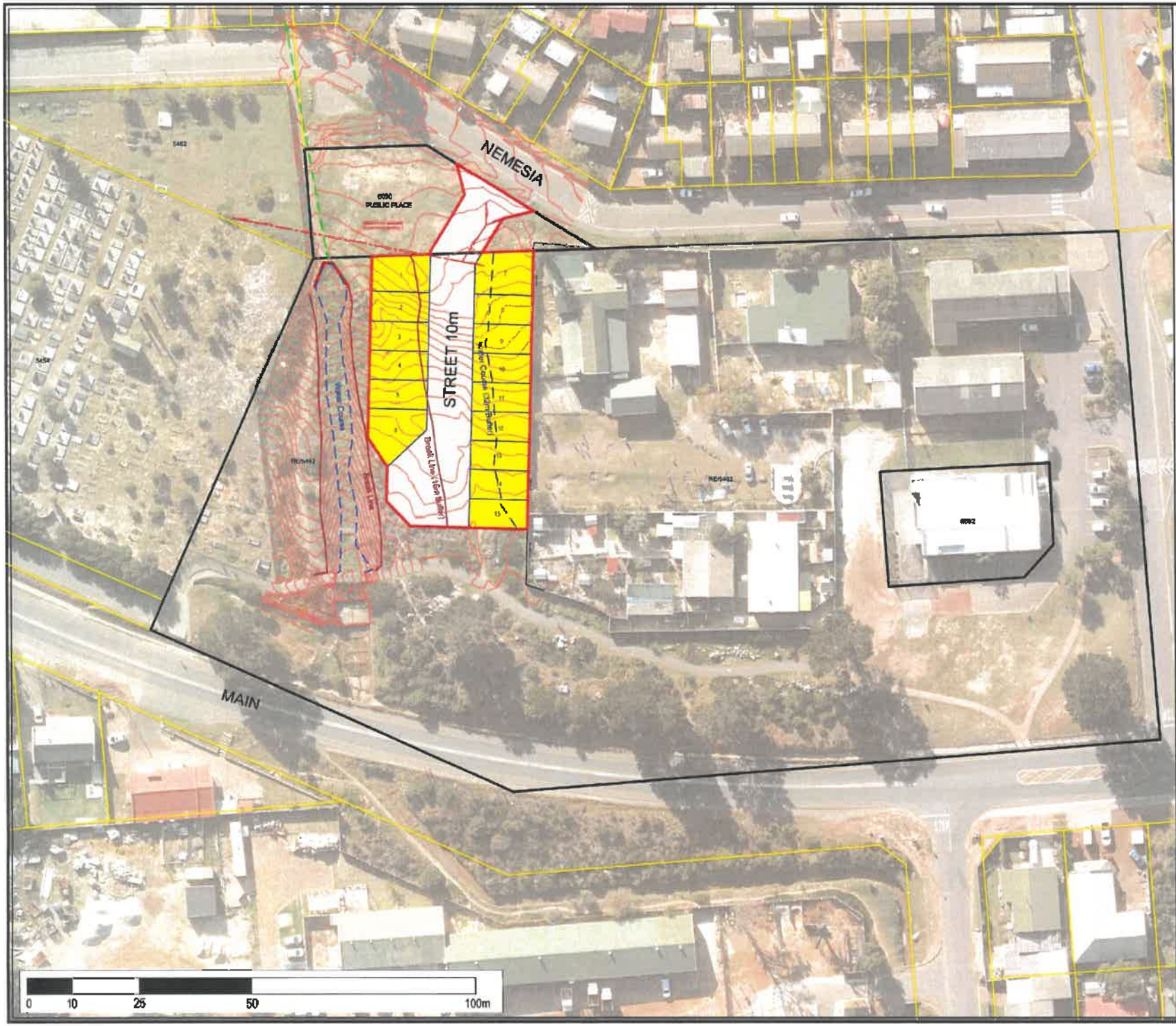
COPYRIGHT RESERVED

CLIENT

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

FIGURE 4

20/26



OVERSTRAND

ERVEN RE/5462 & 6090 KLEINMOND

PROPOSED LAYOUT PLAN OPTION 1

- APPLICATION AREA
- SUBJECT PROPERTIES
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT UNITS = 15 (6.5m x 13m)
- EXISTING SEWER LINE
- BREAK LINES
- WATER COURSE
- CONTOUR LINES (0.25m intervals)

472

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY

URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND WORK WE PRESENT HERE. IN NO EVENT SHALL WE BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

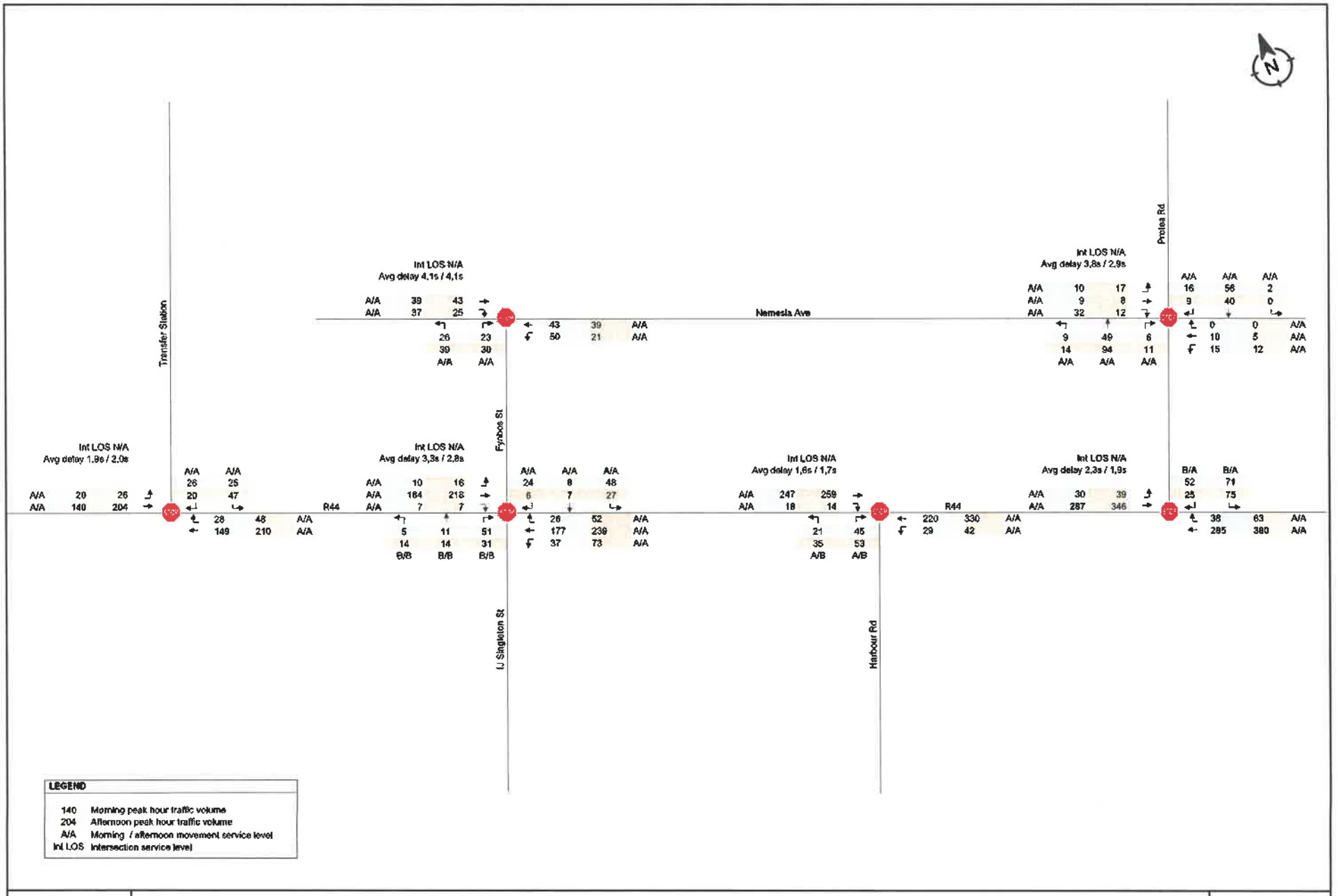
DATE 06 May 2024
SCALE See linescale
PLAN NO. 3A
FILE NAME:
COPYRIGHT RESERVED
CLIENT

URBAN DYNAMICS South Cape
TOWN & REGIONAL PLANNERS

SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2, CAPE PRIVET DRIVE
SOUTH GATE, MOSSEL BAY, 6506
TEL: (021) 668 1545
Website: www.urbandynamics.co.za
e-Mail: DYNAMICS@WETHEART.CAPE.NET.ZA

FIGURE 5

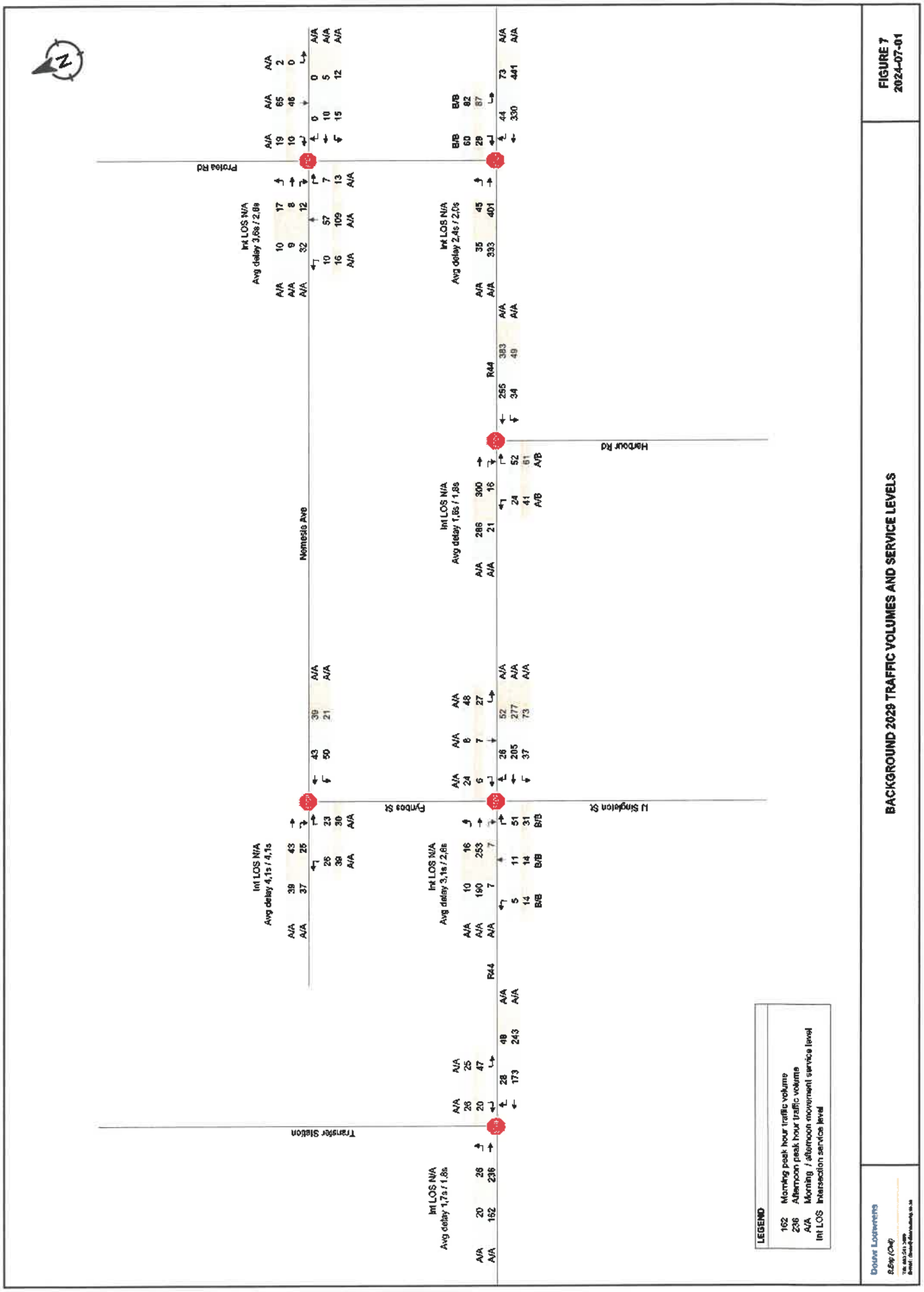
21/26

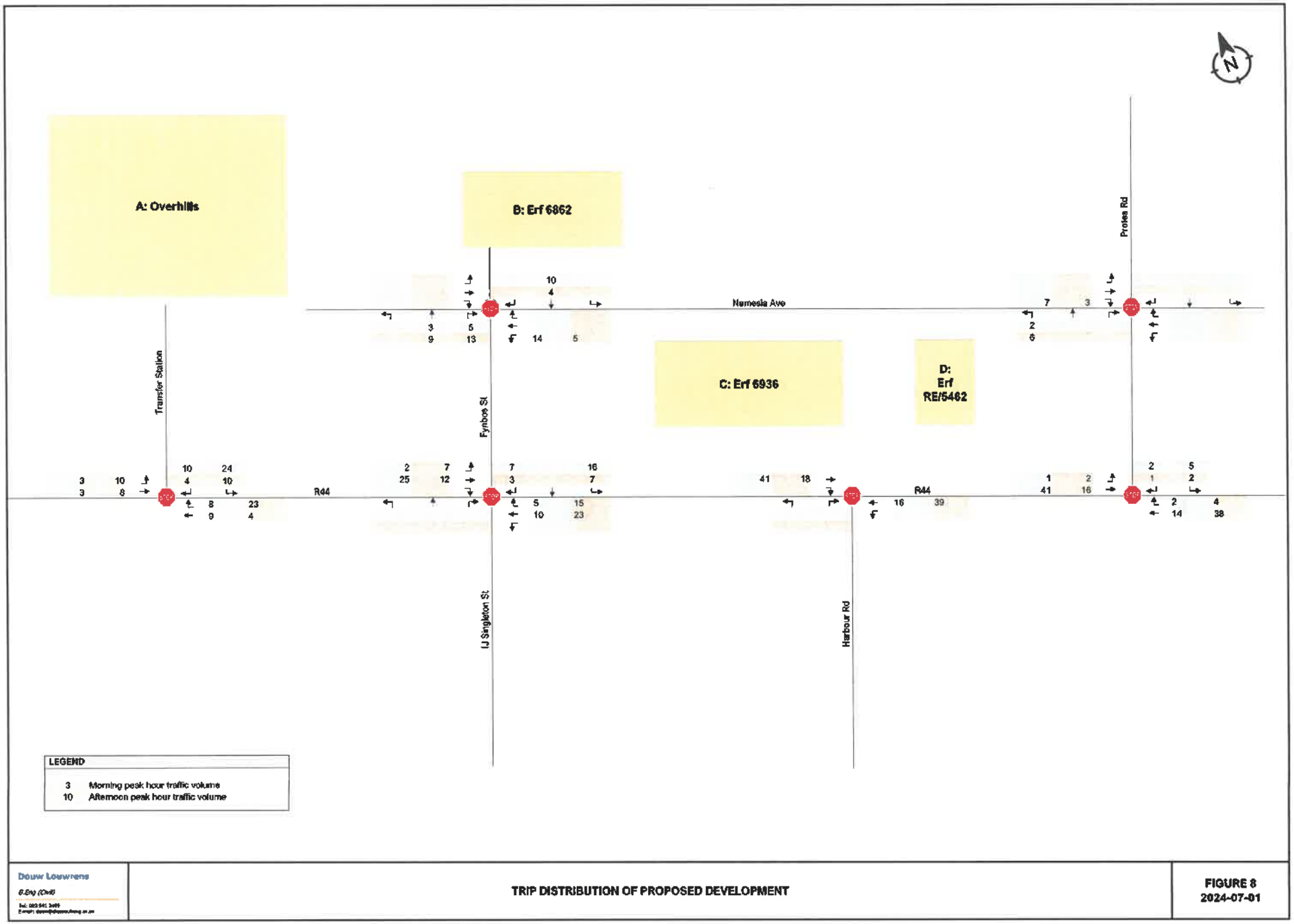


Dauw Louwrens

EXISTING 2024 TRAFFIC VOLUMES AND SERVICE LEVELS

FIGURE 6
2024-07-01

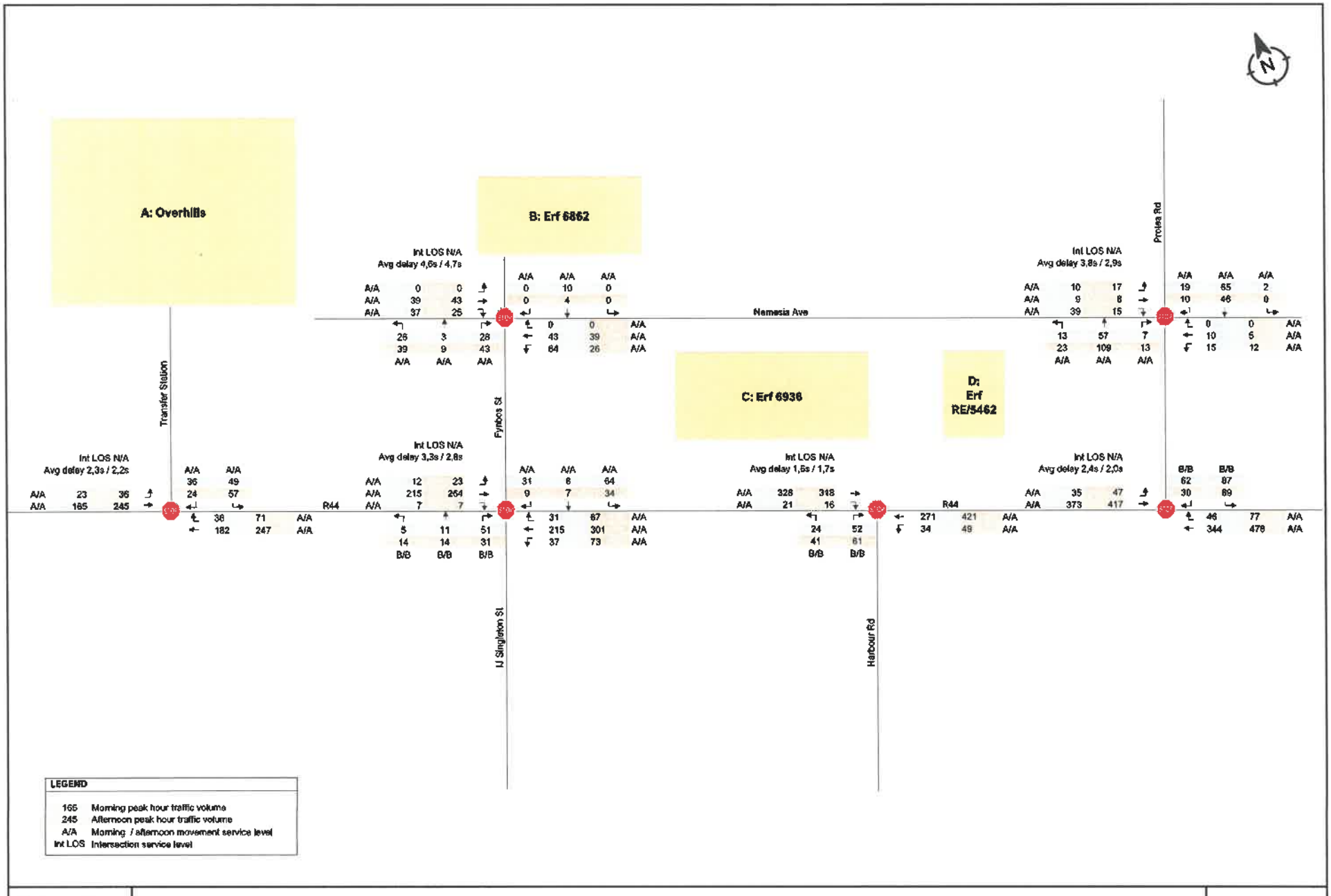

Protea Rd
Nemesis Ave
Pyrrhos St
Transfer Station
R44
Harbour Rd
J Singleton St
Int LOS N/A
Avg delay 3,6s / 2,8s
Int LOS N/A
Avg delay 2,4s / 2,0s
Int LOS N/A
Avg delay 4,1s / 4,1s
Int LOS N/A
Avg delay 1,6s / 1,8s
Int LOS N/A
Avg delay 3,1s / 2,6s
Int LOS N/A
Avg delay 1,7s / 1,8s
LEGEND
162 Morning peak hour traffic volume
236 Afternoon peak hour traffic volume
A/A Morning / afternoon movement service level
Int LOS Intersection service level
BACKGROUND 2029 TRAFFIC VOLUMES AND SERVICE LEVELS
FIGURE 7
2024-07-01



Douw Louwrens
B.Eng (Civil)

TRIP DISTRIBUTION OF PROPOSED DEVELOPMENT

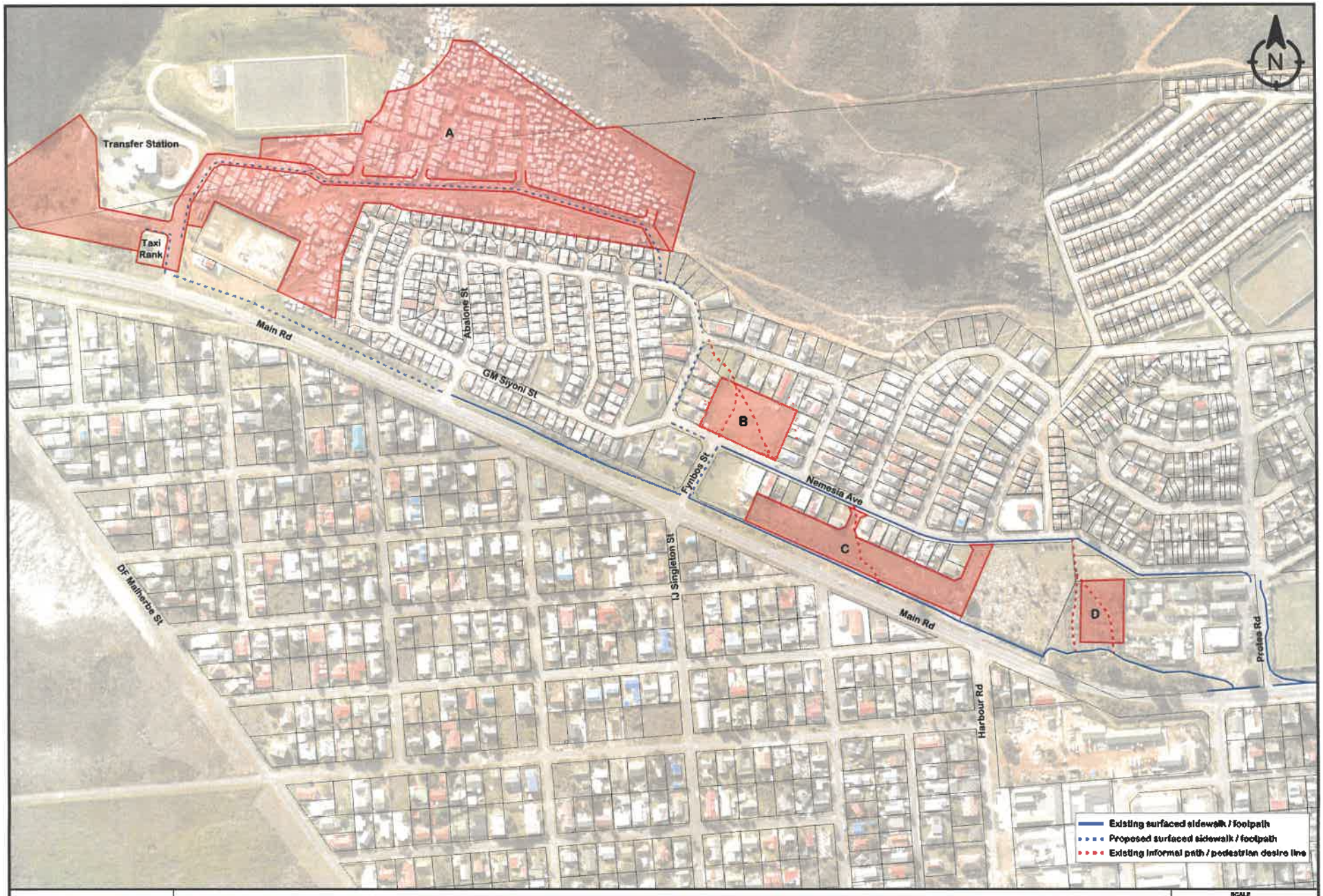
FIGURE 8
2024-07-01



Douw Louwrens
B.Eng (Civil)

TOTAL 2029 TRAFFIC VOLUMES AND SERVICE LEVELS

FIGURE 9
2024-07-01



Douw Louwrens
B.Eng (Civil)
Tel: 021 941 3489
E-mail: douw@dlconsulting.co.za

KLEINMOND HOUSING PROJECTS
NON MOTORISED TRANSPORT

SCALE
1:5 000 (A4)

FIGURE 10

Annexure H 1/11

Caring
Innovative
Focussed

Neil
LYNERS
and Associates (Pty) Ltd

Consulting Engineers & Project Managers

Postal Address : P O Box 4901 TYGERVALLEY 7536
Street Address : South Gate Building, Ground Floor
South Gate Entrance, Carl Cronjé Drive
Tyger Valley Waterfront BELLVILLE 7530

Tel: +27 (0) 21 914 0300
E-mail: bellville@lyners.co.za
Website: www.lyners.co.za

Our reference : C23080/COR/RS/mv/04 (rev 1)

Your reference :

05 November 2024

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Attention: Mr Dennis Hendriks

Sir

C23080: KLEINMOND HOUSING IRDP SITES – CIVIL AND ELECTRICAL ENGINEERING SERVICES

Neil Lyners and Associates (Pty) Ltd was appointed by Overstrand Municipality for civil and electrical engineering input on the proposed development of three sites in the Kleinmond area using IRDP funding. The erven under discussion are Erf 6862, Erf 6936, and Erf 5462. As part of this appointment, a report is required to address the availability of existing civil and electrical engineering services as well as requirements for new services to accommodate the proposed developments.

1. DESIGN APPROACH

The purpose of this report is to determine the impact the development proposal will have on existing civil and electrical infrastructure as well as to determine the required services for the new developments. The proposed developments consist of three (3) areas, as indicated on the locality layout plan in Annexure A, and will be developed to serve subsidized housing. The areas can be summarised as follows:

AREA	*ERF NUMBER; NO. OF ERVEN*
Area 1	*Erf 6862; 16 erven*
Area 2	*Erf 6936, 21 erven*
Area 3	*Erf 5462, 16 erven*

2. EXISTING SERVICES INFORMATION

The required existing services information was obtained from the following sources:

- GIS information.
- Bulk Services availability letter from Overstrand Municipality.
- Survey information.
- Layout proposals prepared by Urban Dynamics Western Cape.
- Geotechnical Report.

3. SITE TOPOGRAPHY AND GEOLOGY

The areas are all located within developed areas. In general, all the sites have relatively flat gradients. The gradient on Erf is approximately 1.5%, while the gradients on Erf 6862 and Erf 5462 vary between 5% and 6%.

A Phase 1 Geotechnical Investigation was completed by Geotechnics Africa. The in-situ material generally consists of quartzitic sand. There are however quartzitic sandstone outcrops on Erf 5462, which will have a cost implication in terms of trench excavations and foundations for houses. There is also evidence of possible spoil heaps and buried rubble on Erf 6936 and Erf 5462, and must be verified using trial pitting. No geotechnical problems are foreseen on Erf 6862.

4. SEWER INFRASTRUCTURE

4.1 Existing Sewer Infrastructure

In the Bulk Services Availability letter (dated 24 May 2024) from Overstrand Municipality, it is stated that the existing Kleinmond Wastewater Treatment Works (WWTW) has enough capacity to accommodate the sewer runoff from the proposed developments. There is also capacity available in the sewer infrastructure at each site.

Please refer to the table below for a summary of the existing sewer information for each of the areas:

ERF No.	EXISTING SEWER
Erf 6862	There is an existing 150mm diameter sewer line located on the western boundary of the site, as well as an existing 150 mm diameter sewer line on the opposite sidewalk in Nemesia Street to which the development can connect
Erf 6936	There is an existing 150mm diameter sewer line on the northern boundary of the development which is deep enough for a sewer connection for this erf.
Erf 5462	There is an existing 150mm diameter sewer line located in Harbour Road to which the development can connect. This sewer is however to the southwest of the development opposite the Main Road through the town. Trenchless technology will be required to install this sewer as open excavations will not be allowed.

4.2 New Sewer Infrastructure

The proposed sewer networks for the development of each of the areas will be designed per the Overstrand Municipality Draft Minimum Standards as well as the Guideline for Human Settlement Planning and Design (Red Book). The gradients must consider the minimum and maximum flow velocity, namely 0,9m/s and 3,5m/s. All new erven will have erf connections from the main pipe up to 1m inside the erven.

For the proposed internal sewer networks for each of the areas, new 160mm diameter underground pipelines will be installed within the proposed roads, ensuring adequate depth to enable individual erven to connect to these pipes.

The following sewer flows were calculated per area (including 15% for infiltration):

ERF No	NUMBER OF UNITS	CALCULATED DEMAND (l/s)
Erf 6862	16	0.20
Erf 6936	21	0.25
Erf 5462	16	0.20

The conceptual layouts of the sewer reticulation networks for the three erven are attached to Annexure B of this.

5. POTABLE WATER INFRASTRUCTURE

5.1 Existing Potable Water Infrastructure

In the Bulk Services Availability letter (dated 24 May 2024) from Overstrand Municipality, it is stated that the existing municipal potable water resources can supply the proposed developments.

Please refer to the table below for existing water services information for each of the areas:

ERF No	EXISTING WATER
Erf 6862	There is an existing water pipeline in the northern road reserve of Nemesia Street to which the development can connect. (Pipe diameter unknown)
Erf 6936	There is an existing water pipeline in the northern road reserve of Nemesia Street to which the development can connect. (Pipe diameter unknown)
Erf 5462	There is an existing water pipeline in the northern road reserve of Nemesia Street to which the development can connect. (Pipe diameter unknown)

5.2 New Potable Water Infrastructure

No upgrading of external water networks will be required to accommodate the developments. Water connections for Erf 6936 and Erf 5462 will however require the crossing of an existing street.

The proposed internal water networks for each of the erven will be a new 110mm diameter underground pipeline with valves and fire hydrants as per the guidelines of Overstrand Municipality.

The following water demands were calculated per area:

ERF No.	NUMBER OF UNITS	CALCULATED DEMAND (l/s)
Erf 6862	16	0.76
Erf 6936	21	0.95
Erf 5462	16	0.76

A fire flow (Moderate Risk) of 100 l/s must also be available in the network.

The conceptual layouts of the water reticulation networks for the three erven are attached to Annexure B of this report.

6. STORMWATER INFRASTRUCTURE

6.1 Existing Stormwater Infrastructure

All the areas are undeveloped with a natural slope of between 1.5 and 6%. Most of the areas are covered with grass, trees, and bushes. There is a play park on Erf 6862 that needs to be relocated to the open space on this erf.

In the Bulk Services Availability letter (dated 24 May 2024) from Overstrand Municipality, it is stated that stormwater from the development must be accommodated according to the applicable regulations and laws. Due to the low density of the developments, it is not foreseen that stormwater detention facilities will be required.

Please refer to the table below for existing stormwater information for each of the areas:

ERF No.	EXISTING STORMWATER
Erf 6862	There is an existing 375mm diameter stormwater pipe in Nemesia Street to which the development can connect.
Erf 6936	There is an existing open earth channel along the southern boundary of the erf into which the stormwater run-off from this development can discharge.
Erf 5462	There is an existing 7.2m x 1.3m box culvert crossing a watercourse on the southwestern boundary of the development. It is recommended that the stormwater pipe from this development connect to the wing wall of this culvert.

6.2 New Stormwater Infrastructure

The internal stormwater networks of all the areas will be designed to safely accommodate and convey the 1:2 to 1:5-year storm events towards existing stormwater networks, while allowance must be made for larger storm events to safely discharge stormwater above ground within the roads.

Please refer to the table below for the proposed stormwater connections to the existing stormwater networks for each of the areas:

ERF No.	PROPOSED STORMWATER
Erf 6862	It is proposed to construct a new manhole on the existing 375 mm diameter stormwater pipe in Nemesia Street.
Erf 6936	It is proposed that a wing wall be constructed on the 375 mm stormwater pipe in the development to discharge the run-off into the existing channel.
Erf 5462	It is proposed that the end of the 375 mm diameter stormwater pipe in the development be tied into the headwall of the existing box culvert to serve as an outlet.

The conceptual layouts of the stormwater networks for the three erven are attached to Annexure B of this report.

7. ELECTRICITY INFRASTRUCTURE

7.1 Electrical Services

7.1.1 Supply Area

The supply authority for these areas is Overstrand Municipality, and bulk electricity supply will therefore be fed from the municipal networks in Kleinmond.

7.1.2 Maximum Demand

The maximum electricity demand for the three areas is estimated as follows :

ERF No	NUMBER OF UNITS	MAXIMUM DEMAND (kVA)
Erf 6862	16	38
Erf 6936	21	50
Erf 5462	16	38

7.1.3 Supply Points

The three areas will be fed from the existing low voltage networks in the vicinity of the developments.

Adequate capacity is currently available on these low voltage networks.

7.1.4 Scope of Work

The scope of work will include new bulk low voltage cables from the nearest existing low voltage distribution kiosk, new low voltage distribution kiosks, streetlights and house connection cables.

All services will be installed underground.

7.2 Bulk Electricity Infrastructure Contribution

Development Contributions (DCs) are not payable for the development.

8. ROAD INFRASTRUCTURE

8.1 Existing Road Infrastructure

All the erven have access from Nemesia Street, which is a surfaced road with kerbs on both sides. Due to the small extent of the developments, it is not foreseen that any upgrading to the existing road infrastructure will be required. A traffic study will be undertaken shortly to confirm the above.

8.2 New Road Infrastructure

The access to the erven in Erf 6862 is from a "loop" road onto Nemesia Street resulting in two intersections.

Access to Erf 6936 is from an intersection onto Nemesia Street opposite Alusia Street. This access forms a T-intersection leading to two cul-de-sacs from where access to erven is given.

Access to Erf 5462 is from Nemesia Street and ends in a cul-de-sac with a turning circle.

The new access roads, with kerbs, will be designed per the Overstrand Municipality Draft Minimum Standards as well as the Guideline for Human Settlement Planning and Design (Red Book). Street widths of 5m are proposed.

9. CONCLUSION

From the above report and services availability letter from Overstrand Municipality, it can be concluded that existing services capacities are available for the proposed development areas.

We trust you will find the above in order. Please feel free to contact us should you require additional Information.

Yours faithfully

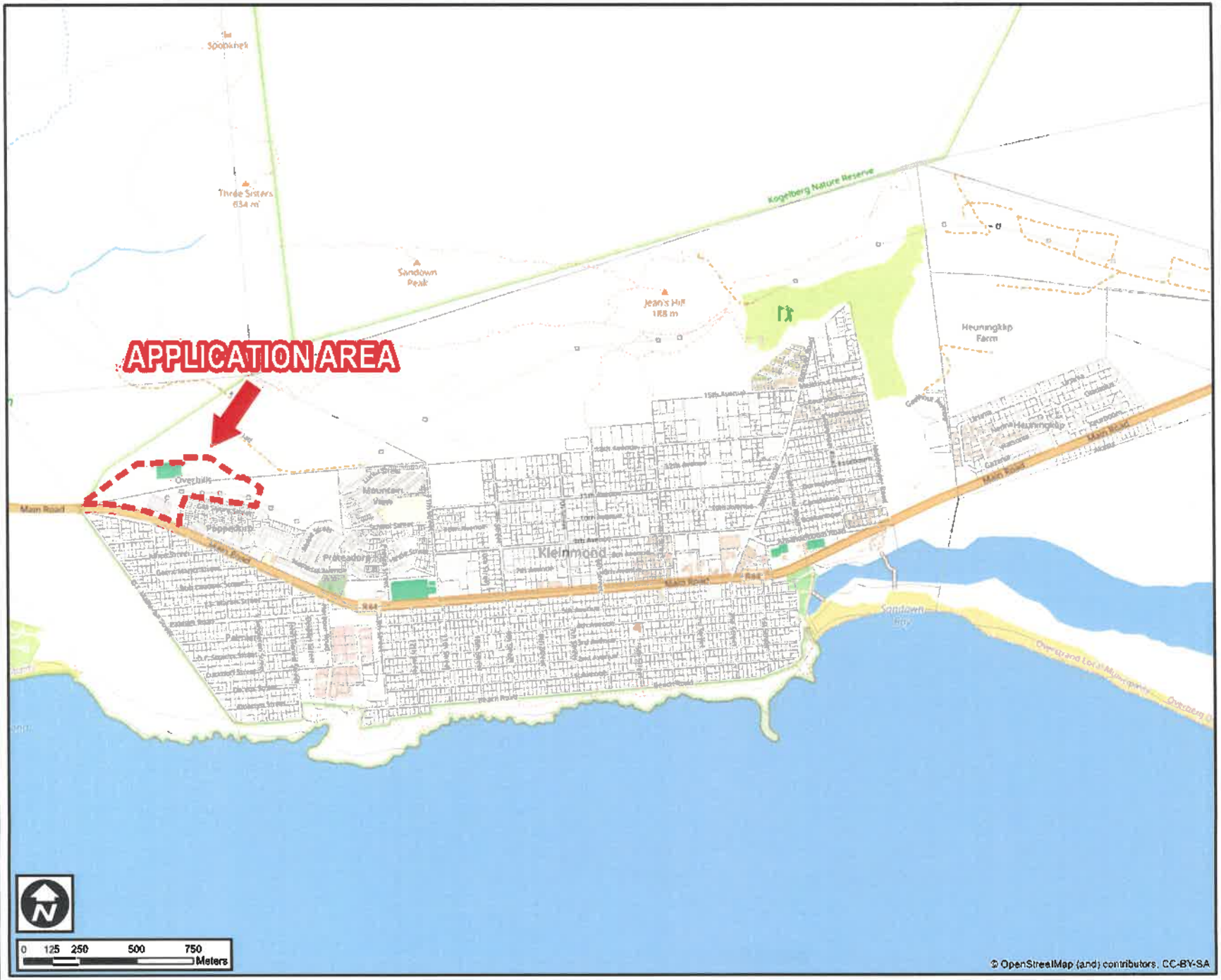
Rudolph Schoonwinkel Pr Eng
for Lyners

ANNEXURES

Annexure A: Locality Plan
Annexure B: Preliminary Services Layouts

ANNEXURE A

LOCALITY PLAN



KLEINMOND

ERVEN 5453, RE/5462, 6752 & 6758

LOCALITY PLAN

Application Area

Cadastral Boundaries

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

REF:

COMPILED BY: F Dale

INDEMNITY

WHERE THIRD PARTY MATERIAL IS INCLUDED IN THIS REPORT, WE DRAW THE CLIENT'S ATTENTION TO THE FACT THAT IN TERMS OF THE COPYRIGHT ACT, NO 98 OF 1978 AS AMENDED, IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN THE NECESSARY PERMISSION FROM THE COPYRIGHT OWNER BEFORE REPRODUCING, PUBLISHING OR DISTRIBUTING THIS REPORT. WE ACCEPT NO RESPONSIBILITY FOR ANY UNLAWFUL USE OF THIRD PARTY MATERIAL BY THE CLIENT. THE CLIENT INDEMNIFIES URBAN DYNAMICS SOUTH CAPE AGAINST ANY CLAIMS, DAMAGES, COSTS AND EXPENSES ARISING FROM ANY INFRINGEMENT OF THE COPYRIGHT OF THIRD PARTY MATERIAL INCLUDED IN THIS REPORT. THIS REPORT MAY NOT BE USED FOR THE PURPOSES OF A PROJECT OTHER THAN THAT WHICH IT WAS PREPARED FOR, OR BY ANY PERSON OTHER THAN THE CLIENT.

DATE: May 2024	CLIENT
SCALE: See Linescale	
PLAN NO: 4e	
FILE NAME:	

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

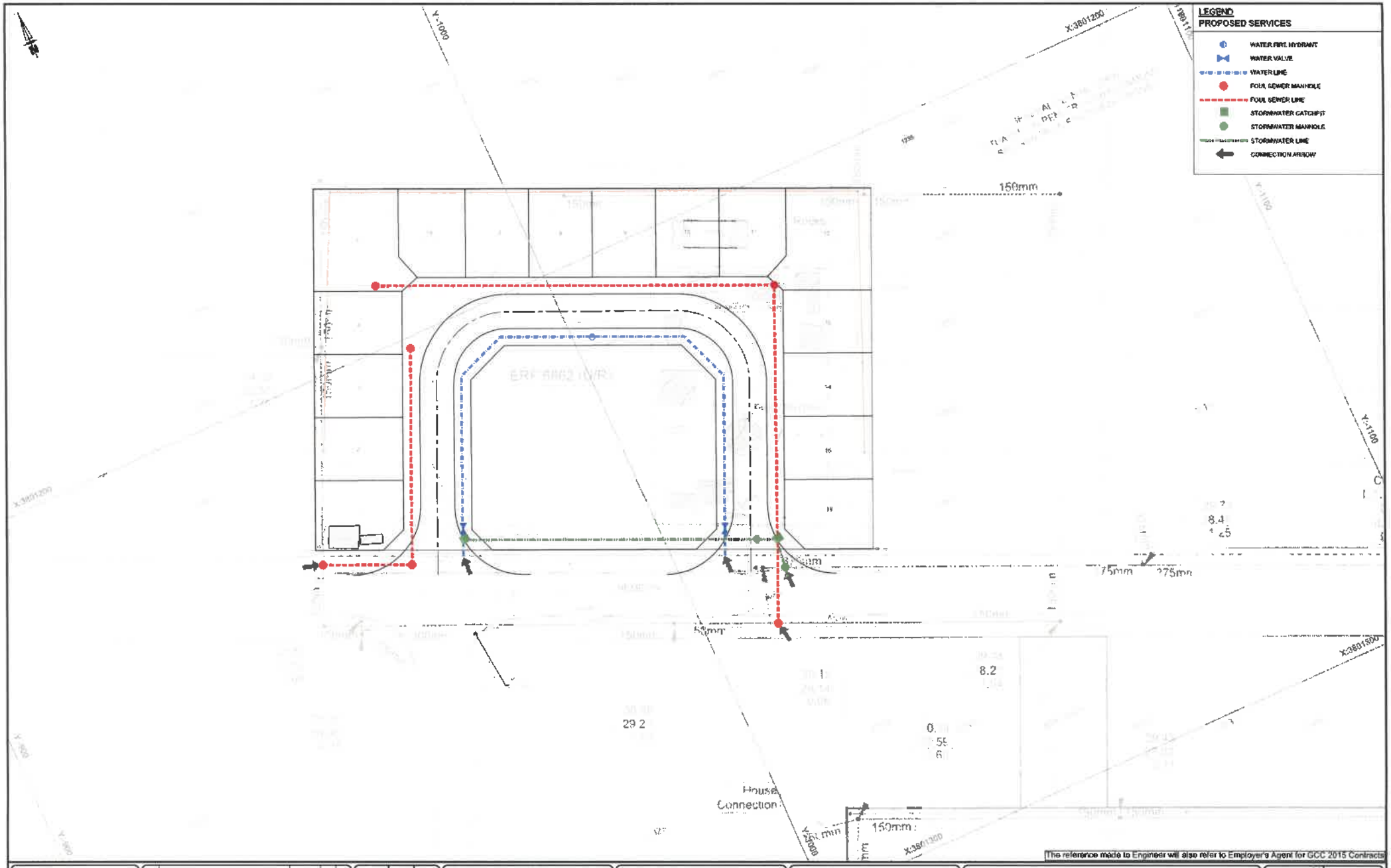
SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2,
CARL CRONJE DRIVE, BELLVILLE, 7530

TEL: (021) 946 1548

Website: www.udsc.co.za
Urban Dynamics South Cape (PTY) LTD Reg. No: 1997/005187/07

ANNEXURE B

PRELIMINARY SERVICES LAYOUTS



SCALEBAR
0 7,5 15
Meters 1:250

REV	DESCRIPTION	DATE	REVBY	CHKD
B	PROPOSED IRDP AMENDED	'24-11-04	ES	RS
A	ISSUED FOR INFORMATION	'24-05-28	ES	RS

REVISIONS

DESIGNED RS
DRAWN ES
CHECKED RS

CONSULTING ENGINEERS
LYNERS
PO Box 4301
TYGERVALLEY
7530
Tel: 021 914 0300 Fax: 021 914 0437
email: bellville@lyners.co.za

APPROVED
ENGINEERS:
DATE: 2024-11-04

APPROVED
CLIENT:
DATE:

CLIENT
OVERSTRAND
OVERSTRAND MUNICIPALITY
PO Box 20
HERMANUS
7200

PROJECT
OVERHILLS INFORMAL SETTLEMENT
KLEINMOND

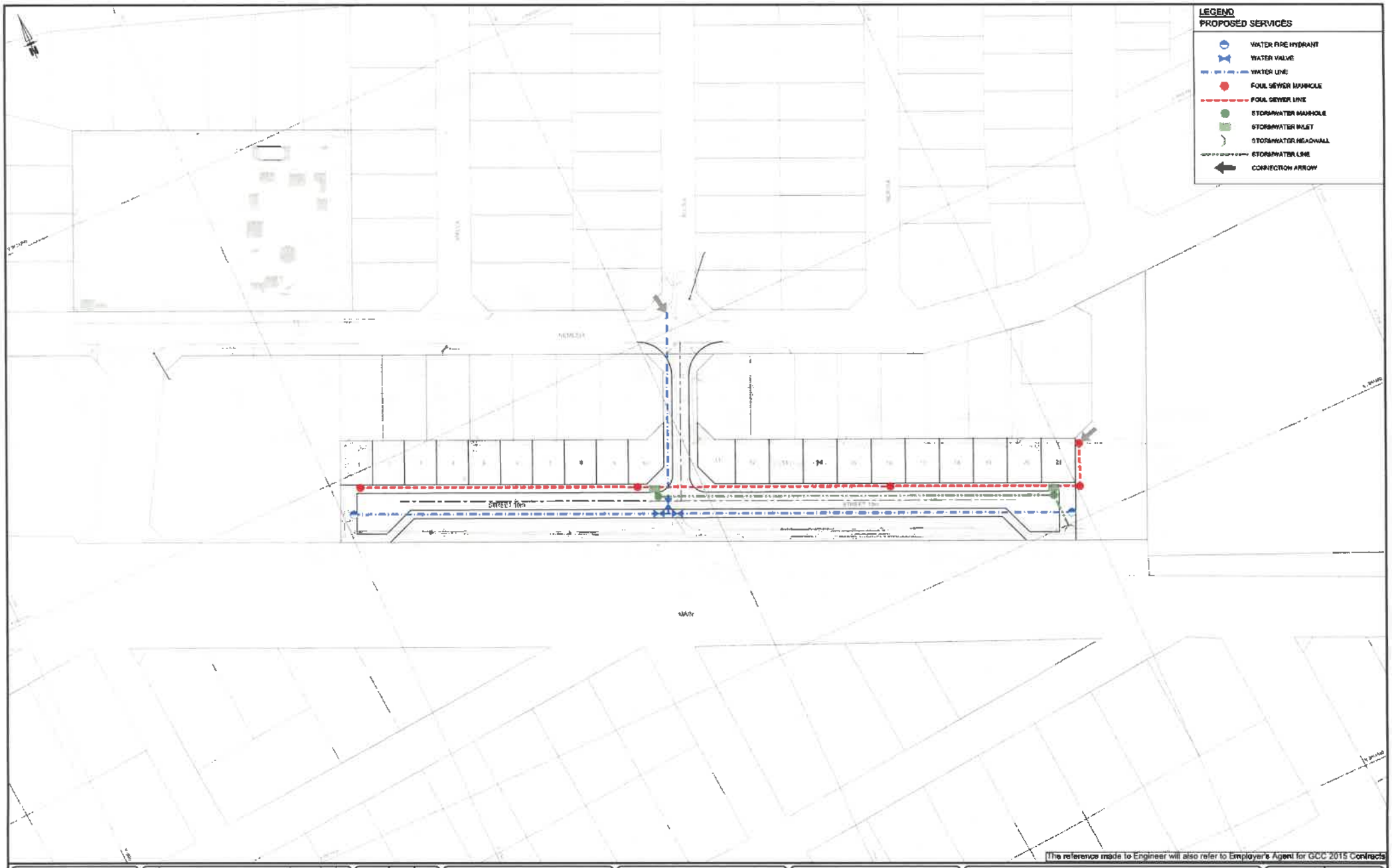
TITLE
ERF 6862
PROPOSED CIVIL SERVICES

SCALE on A1: 1:250
SHEET: 1 OF 1
CONTRACT No.:
PROJECT No.: 23080
DRAWING No: 23080-C-010-02
REV: A
COORDINATE SYSTEM: WGS84 / Lo19°

The reference made to Engineer will also refer to Employer's Agent for GCC 2015 Contracts

Copyright of this document and/or drawing vests with Lyners, unless otherwise agreed to in writing and no part of this document and/or drawing may be reproduced, copied or transmitted in any form or by any means whatsoever to any person without written permission by the copyright holder.

All dimensions must be verified on site before the work commences. Refer any discrepancies to the Engineer.



The reference made to Engineer will also refer to Employer's Agent for GCC 2015 Contracts

SCALEBAR
0 15 30
Metres 1:500

Copyright of this document and/or drawing rests with Lyners, unless otherwise agreed to in writing and no part of this document and/or drawing may be reproduced, stored or transmitted in any form or by any means whatsoever to any person without written permission by the copyright holder.

All dimensions must be verified on site before the work commences. Refer any discrepancies to the Engineer.

REV	DESCRIPTION	DATE	DES	CHKD
B	PROPOSED RDP AMENDED	24-11-04	ES	RS
A	ISSUED FOR INFORMATION	24-05-28	ES	RS

REVISIONS

DESIGNED	RS	
DRAWN	ES	
CHECKED	RS	

CONSULTING ENGINEERS
LYNERS
PO Box 4901
TYGERVALLEY
7536
Tel: (021 914 0300/Fax: (021 914 0437
email: bellville@lyners.co.za

APPROVED
ENGINEERS: _____
DATE: 2024-11-06

APPROVED
CLIENT: _____
DATE: _____

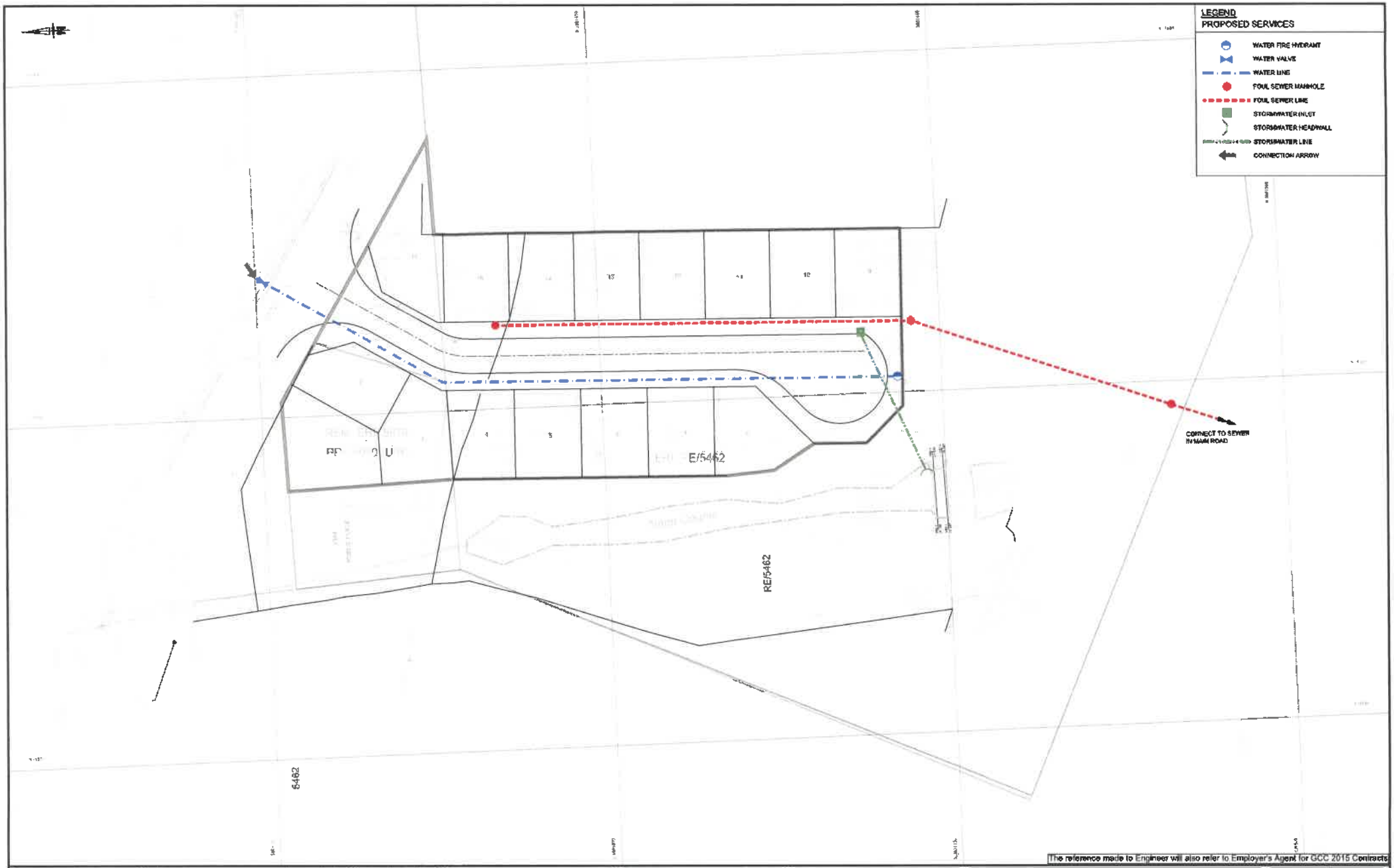
CLIENT
OVERSTRAND
OVERSTRAND MUNICIPALITY
PO Box 20
HERMANUS
7200

PROJECT
OVERHILLS INFORMAL SETTLEMENT
KLEINMOND

TITLE
ERF 6936
PROPOSED CIVIL SERVICES

SCALE on A1	SHEET
1:500	1 OF 1
CONTRACT No.	PROJECT No. 23080
DRAWING No. 23080-C-010-03	REV B

COORDINATE SYSTEM: WGS84 / Lo19°



The reference made to Engineer will also refer to Employer's Agent for GCC 2015 Contracts

SCALEBAR
0 7,5 15
Metre 1:250

Copyright of this document and/or drawing rests with Lyners. Unless otherwise agreed in writing any re-use of this document and/or drawing may be reproduced copied or transmitted in any form or by any means whatsoever to any person without written permission by the copyright holder.
All dimensions must be verified on site before any work commences. Refer any discrepancies to the Engineer.

REV	DESCRIPTION	DATE	BY	CHKD
B	PROPOSED IRDP AMENDED	24-11-04	ES	RS
A	ISSUED FOR INFORMATION	24-08-26	ES	RS

REVISIONS

DESIGNED RS
DRAWN ES
CHECKED RS

CONSULTING ENGINEERS
LYNERS
PO Box 4801
TYGERVALLEY
7536
Tel: 021 914 0309 Fax: 021 914 0437
email: bellville@lyners.co.za

APPROVED
ENGINEERS:
DATE: 2024-11-04

APPROVED
CLIENT:
DATE:

CLIENT
OVERSTRAND
OVERSTRAND MUNICIPALITY
PO Box 20
HERMANUS
7200

PROJECT
OVERHILLS INFORMAL SETTLEMENT
KLEINMOND

TITLE
ERF 5462
PROPOSED CIVIL SERVICES

SCALE on A1: 1:250
SHEET: 1 OF 1
CONTRACT No.:
PROJECT No.: 23080
DRAWING No.: 23080-C-010-04
REV: A
COORDINATE SYSTEM: WGS84/Lo16°

488

4.7
ERF 6936, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAMES AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY

6936 KU6 (4876/2024)
H van der Stoep **(028) 313 8900** **Hermanus Administration**
12 August 2025

1. EXECUTIVE SUMMARY

An application has been received on 27 November 2024 from Urban Dynamics Cape (Pty) Ltd on behalf of Overstrand Municipality to enable the **infill housing development** on Erf 6936, Kleinmond in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 as follows:

- **Subdivision** in terms of Section 16(2)(d) of the By-Law to subdivide Erf 6936, Kleinmond into 2 portions namely Portion A (±0,68ha) and a Remainder (±0,14ha).

- **Rezoning** in terms of Section 16(2)(a) of the By-Law to rezone Erf 6936, Kleinmond from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), for the establishment of:

  - 21 Single Residential Zone erven,
  - 1 Transportation Zone 2: Road and parking (TR B) erf, for public road purposes and
  - 1 Open Space Zone 2 erf, for public open space purposes to accommodate the existing graves.

- **Allocation of Street Names and Numbers in** terms of Section 96 of the By-Law to allocate street names (*Ixia Street and Beetle Street*) and numbers.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B. The proposed lay-out plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

As part of its Integrated Development Plan, the Overstrand Municipality has outlined key weaknesses that need to be addressed, in order to achieve its medium-term goals. Among these, a critical issue highlighted is the shortage of affordable residential accommodation within the Municipality's urban fabric. This need is further heightened with the growing volume of informal settlements and backyard dwellers. This has, consequently, resulted in a significant increase in densely populated areas with limited to no access to essential services. In order to efficiently address this spatial challenge, the Overstrand Municipality have identified suitable land for integrated infill development, including land within the urban area of Kleinmond. Erf 6936 has accordingly been identified for development in accordance with the Municipality's integrated, affordable human settlement strategy.

4. SUMMARY OF APPLICANT'S MOTIVATION

Development Proposal

INFILL HUMAN SETTLEMENT DEVELOPMENT

The Overstrand Municipality is actively undertaking planning and processes to continuously meet its mandate of service delivery and human settlement development within its jurisdictional area. As the Overstrand area is generally extremely rich in environmental resources, biodiversity, ecological systems and faunal habitats, available land for urban development becomes increasingly scarce. Notwithstanding the scarcity of land, the population within the towns is increasingly growing, thereby creating demand for additional residential, social and business development within each town.

Within the above-mentioned context, to avoid and minimise environmental impacts associated within urban development, the most appropriate and sustainable development approach should be to better utilised underutilised land within existing disturbed urban areas. Infill development is therefore a logical and organic manner of redeveloping properties within existing towns, be it commercial redevelopment by private developers, or municipal initiated human settlement development.

The images below illustrate the principle of infill development, being the infill and redevelopment of underutilised / blank space with function and uses, retrofitted into an existing built environment, while responding to the character of the receiving environs.

Existing Built Environment (conceptual) Infill Development

DESIGN INFORMANTS

In preparing a layout plan for the proposed development of Erf 6963 Kleinmond, the following contextual and site informants were taken into account to shape and steer the design proposal for the site, namely:

- Street access onto Nemesia Street.
- Existing pedestrian walkway to the south.
- Surrounding residential character, of which the houses turn its backs towards the site - R44 road interface.
- Existing cemetery encroachment on the south-eastern portion of the site.

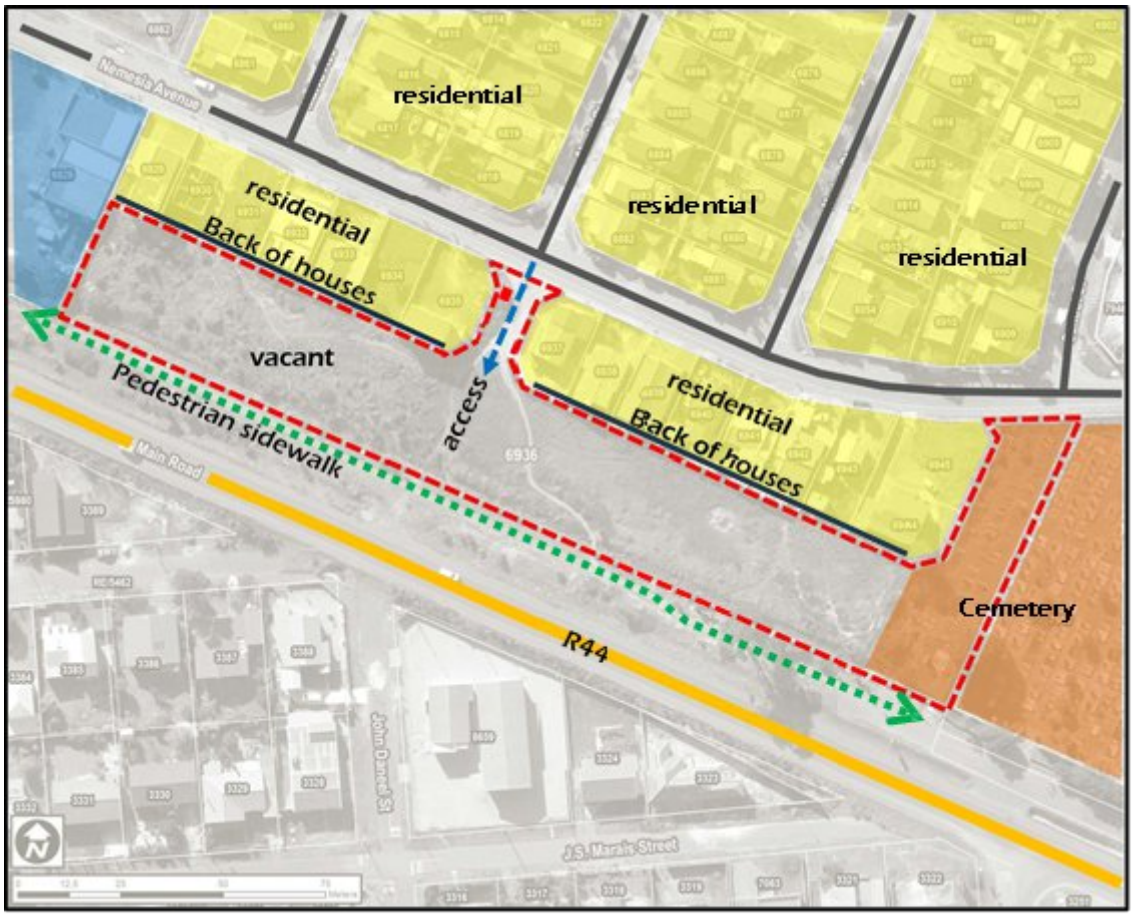


Figure 6: Contextual & Site Informants

Further to the above informants, the layout had to be designed to accommodate certain requirements from a human settlement development perspective, namely:

- Freestanding erven as the preferred typology, compared to walk-up apartment development (social housing).
- Erf sizes of ±80m² were proposed, to optimise the development yield. However, following consultation with key stakeholders, it was agreed to increase the erf sizes to 120m², which is more suitable within the context of surrounding conventional low density residential erven.

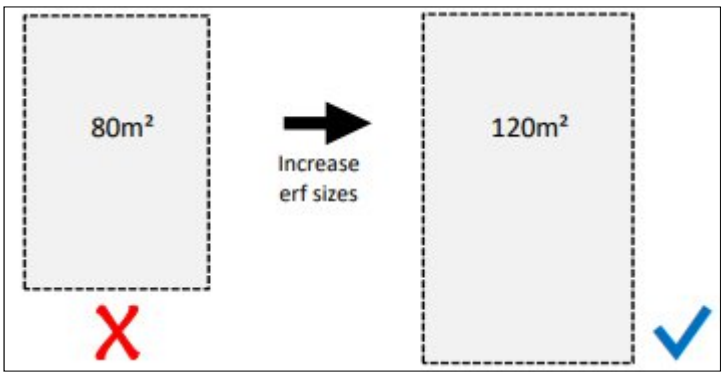


Figure 7: Erf Sizes

SUBDIVISION LAYOUT PLAN

Taking into consideration the above-mentioned informants, the layout plan for the proposed redevelopment of Erf 6936 Kleinmond was compiled. The layout incorporates the following aspects:

- Vehicular access off Nemesia Road;
- No vehicular access of the R44 road;
- Subdivide / separate the existing cemetery encroachment on the site off from the development area;
- Engineering services to be provided within road reserve, including sewer, water, electricity, stormwater and streetlights;
- Back-to-back residential erven onto existing, to improve services efficiencies;
- Single residential erven, to accommodate residential dwellings.

The above-mentioned aspects were firstly applied conceptually to the site to illustrate the development concept, which were then refined and formalised as presented in the proposed subdivision layout, including 21 x single residential erven, 1 x open space erf and 1 x public road.

The first step, however, was to subdivide the site to separate the existing cemetery area from the development site, as per Figure 8 below:

Figure 8: Subdivision Plan

The resultant application area for the human settlement development being Portion A, as per Figure 8 above.

The key informants to the development concept were the existing road access off Nemesia Road, the narrow configuration of the site and the interface onto the R44 road. The positioning of the erven with its backs onto the existing residential erven, creates the opportunity to position the access road in front of the houses and thereby position the fronts of houses towards the R43 as a positive interface condition, compared to backs of properties.

The subdivisional layout includes 21 x single residential erven of 120m² each, to ensure that the erven can accommodate a house of up to ±100m² (80% coverage). The erf dimensions were dictated by the site configuration, access positions and topography of the site, which resulted in the erf size dimensions being street frontages of ±9m wide, while the depth of the erven is ± 13m.

The layout plan includes two street names for the cul-de-sac streets in the development, namely: Ixia Street and Beetle Street respectively. The street names are compliant with the requirements of the Overstrand Street Naming Policy, as it is neutral, not attached to any person, nor linked to any political or religious connotation. The allocated street names are compatible with other street names in the area, which reflects plant and animal species / names as themes for street names.

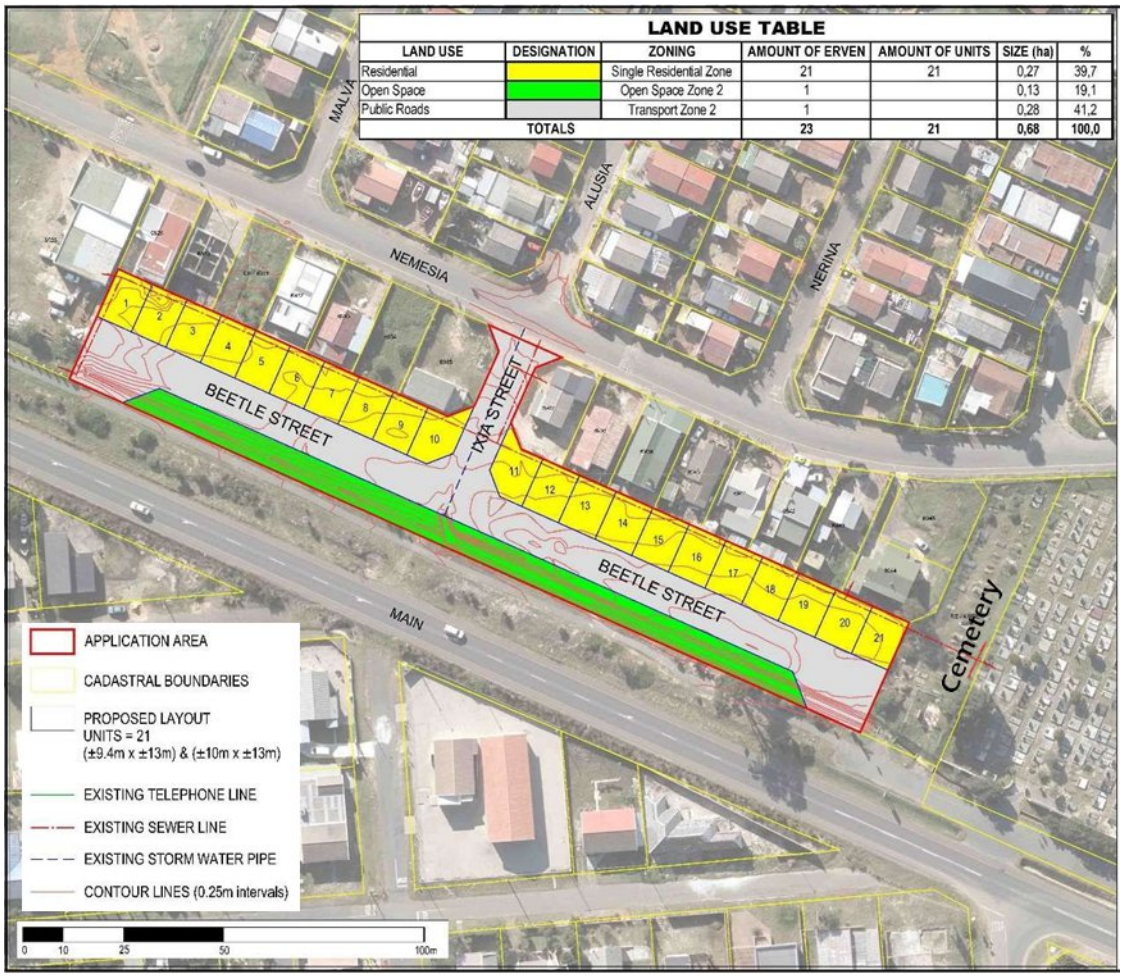


Figure 10: Subdivision Layout Plan

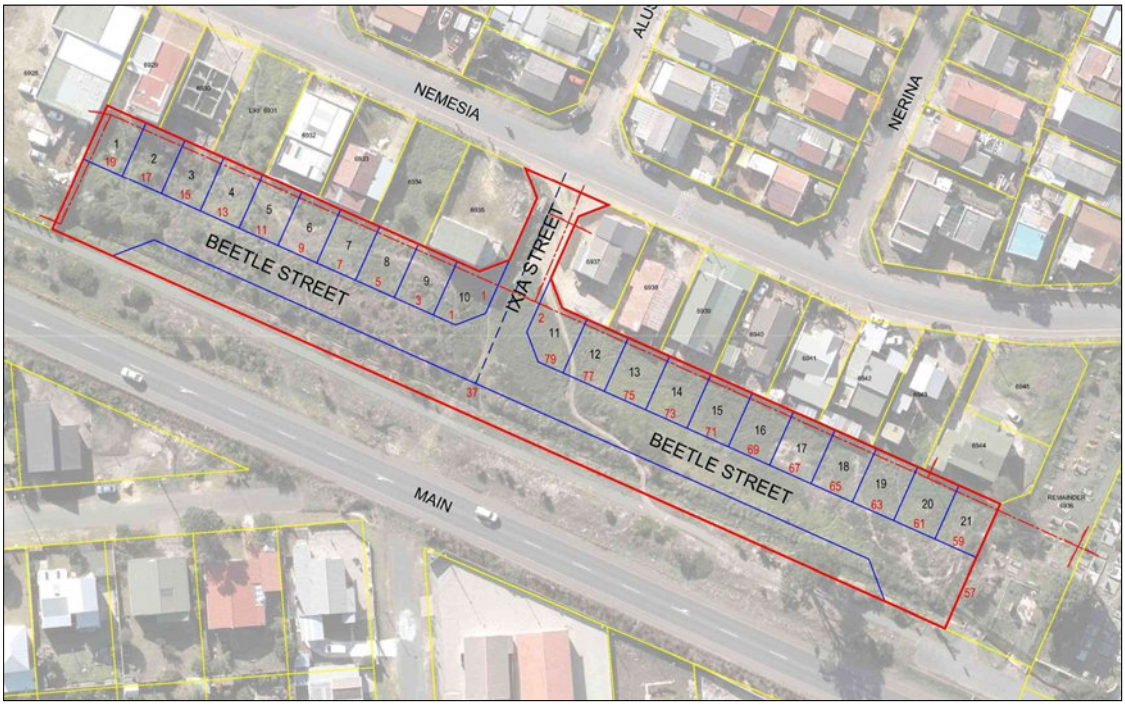


Figure 11: Street Name & Number Plan

MOTIVATION

The proposed development on Erf 6936 Kleinmond has been assessed in terms of relevant policy and statutory requirements. The development proposal and application as set out herein, can be motivated on the following basis:

Socio-Economic Implications

This development initiative, as part of the Overstrand Municipality's broader infill development strategy, aims to generate significant socio-economic benefits to communities residing in and around Kleinmond. The Municipality's infill development strategy further aims to create jobs, promote social development, drive economic growth, and empower local communities, fostering an integrated residential, urban fabric. It is envisaged that the impact of the proposed infill development will be positive, as it will address the demand for residential opportunities in Kleinmond, while responding positively to the site and contextual informants.

Impact on Municipal Engineering Services

The subject property is situated within the established urban edge of Kleinmond, and as a result, in an area serviced by the Overstrand Local Municipality. To further facilitate the proposed development, an engineering services investigation was undertaken by Neil Lyners and Associates (Pty) Ltd, confirming the availability of engineering services.

The engineering findings by Lyners are summarised, as follows:

Electricity:

Existing low voltage networks are situated proximal to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed belowground where required. There is an existing mini substation at the entrance off Nemesia Road, which may have to be re-located, depending on detailed engineering design of the proposed access road to the development.

Water:

An existing municipal water supply network is situated immediate to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed below-ground where required. Additionally, fire hydrants will be installed in accordance with the relevant guidelines of the Overstrand Local Municipality. The proposed development will require connections to cross underneath Nemesia Avenue.

Sewerage and Wastewater:

The subject property will drain towards the Kleinmond Wastewater Treatment Works (WWTW). The Overstrand Local Municipality has confirmed the availability and capacity of infrastructure to accommodate the proposed development in this regard. All new connections, additional and internal engineering works will be installed below-ground where required.

Stormwater:

The low density of the proposed development will have a minimal effect on drainage patterns in the area. No new stormwater detention facilities will consequently be required on account of this development proposal. It is, however, proposed that a 'wing-wall' be constructed on the existing 375mm stormwater pipe, situated along Nemesia Avenue to facilitate run-off from the property.

Road Network:

The layout has been designed with a T-junction intersection (proposed Ixia and Beetle Streets), leading to two cul-de-sacs with appropriate turning circles, providing public access to each individual property, which in turn feeds into Nemesia Avenue. To facilitate the proposed development and relevant infrastructure requirements, a detailed Traffic Impact Assessment was compiled by Mr. Douw Louwrens. The proposed intersection and *cul-de-suc* design are deemed ideal and not expected to negatively impact on existing traffic/ vehicular movement.

COMPATIBILITY WITH THE CHARACTER OF THE AREA

The surrounding area comprises of the Kleinmond urban development area, including a mix of residential typologies. The developments most pertinent to the subject property comprise of low-density residential accommodation, community facilities and residential amenities such as local small businesses, parks, schools and clinics. The development proposal is not anticipated to have an adverse impact on the surrounding area, but rather fit into the residential character of the area.

CONSISTENCY WITH SPLUMA AND LUPA PRINCIPLES

Compliance with the Planning Principles of LUPA the Land Use Planning Act (LUPA, 2014) includes a series of land use principles that should guide development in the Western Province. The planning principles were reviewed, and the proposed development concept assessed. It is concluded that the proposed development concept is fully compliant with the planning principles prescribed in LUPA (2014).

Spatial Justice

The proposed development aligns with the principle of spatial justice by ensuring that it does not unnecessarily reduce access to land or the use thereof. It aims to redress past imbalances in so far as providing adequate, affordable housing options. While the broader aspects of spatial justice, such as the inclusion of previously excluded areas, informal settlements, and disadvantaged communities, remain the responsibility of public entities like municipalities and government departments, this project supports the overarching goals of spatial justice.

Spatial Sustainability

The proposed development aligns with the principle of spatial sustainability by promoting land development within the fiscal, institutional, and administrative capacities of the Republic. It supports the concept of sustainability through the incorporation of integrated, affordable residential solutions within the urban fabric of the Overstrand Local Municipality.

Efficiency

No adverse impacts on existing resources or services are anticipated on account of this proposal.

Spatial Resilience

This component is applicable to public entities such as municipalities and government departments; it is therefore not the responsibility of an applicant to adhere thereto.

Good Administration

The application is submitted in terms of the relevant legislative frameworks and will be processed accordingly.

POLICY DOCUMENTS

OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (SDF), 2020

The Overstrand Municipality Spatial Development Framework (2020) is a policy document that seeks to influence the overall spatial distribution of current and future land uses within the Municipality, to give effect to the vision, goals and objectives encumbered within the municipal IDP, and related business plans of government. The subject property is located within the established urban edge of Kleinmond and subsequent urban fabric of the Overstrand Municipality. Within the SDF itself, the subject property is earmarked for development in accordance with integrated, urban development strategies, including densification. This development proposal further embodies the incentives incorporated to the approved Integrated Development Plan of the Overstrand Local Municipality (2024/2025), including: "Kleinmond: Delivering affordable housing opportunities for the low-income residents is a priority. Availability of suitable developable land poses a huge challenge. No land available outside the Urban Edge due to environmental constraints. An investigation to identify suitable land for integrated development was undertaken during 2017/2018 and completed during 2021. The final report served before Council at the end of October 2021 and was approved. Potential projects have been included in the housing programme. Pre-planning funding approval was received for the Kleinmond IRDP and Overhills UISP Projects during June 2023. Planning of these two projects is in progress (Overstrand Municipality Integrated Development Plan, 2024/2025, Pages 131-132)."

The proposed residential development of the application site is considered to be fully consistent with the incentives and principles outlined in the Overstrand Municipal Spatial Development Framework and Integrated Development Plan.

OVERSTRAND MUNICIPALITY AMENDMENT BY-LAW ON MUNICIPAL LAND USE PLANNING (2020)

The proposed residential development was assessed in terms of the terms of the Overstrand Planning By-Law (2020), to determine the desirability of the development in terms of the criteria set out in the Overstrand Land Use Planning By-Law (2020), as follows:

- Positive response to local and site-specific conditions, and compatibility with the character of surrounding area, taking into consideration site sensitivities;
- Compliance and alignment with current spatial planning policies;
- Connects with existing infrastructure and adheres to acceptable standards in terms of erf sizes and infrastructure provision standards;
- Infill development of underutilised property is the most appropriate and sustainable mechanism to create new development opportunities within the town, compared to expanding the urban footprint of the town into surrounding sensitive environmental areas;
- Contributes positively to economic growth, social upliftment, investment and employment opportunities in an established residential urban environment within proximity of surrounding amenities and employment opportunities;
- The development was planned and designed to adhere to good practice principles of urban efficiencies, infrastructure standards and accessibility, thereby ensuring safety and welfare of the community within the development and in its immediate surroundings;

- No adverse impact on biodiversity or natural resources, as the site is a disturbed site with any environmental related constraints.

CONCLUSION

Following the above-mentioned assessment and motivation of the proposed human settlement development on Erf 6936 Kleinmond, it can be concluded as follows:

- The proposed development is fully consistent with relevant spatial and economic development policies of the Overstrand Municipality and overarching Provincial policies;
- Infill development, as proposed here, is the most efficient and sustainable mechanism to promote growth in towns without expanding the urban footprint into sensitive environmental areas;
- The proposed layout plan meets the standards for human settlement development;
- The residential development is consistent and compatible with the surrounding residential character of the area;
- No adverse impacts are foreseen as result of this development proposal.

The proposed development can therefore be recommended for support and approval in terms of the Overstrand Land Use Planning By-Law (2020).

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	**Yes**	13 February 2025	20 March 2025
Internal departments	**Yes**	13 February 2025	20 March 2025
E-mails & site notice	**Yes**	13 February 2025	20 March 2025
Ward Councillor	**Yes**	13 February 2025	20 March 2025
Total comments	**FIVE (5)**		
Total letters of support	**NONE**		

Was public participation undertaken in accordance with Section 47 - 50 of the By-Law on Municipal Land Use Planning?	**Yes**
Was the application processed correctly (if no, elaborate below):	**Yes**
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	**Yes**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	13/02/2025	No objection.

Property Administration	10/03/2025	No objection to the application.
Fire Department	28/02/2025	No objection subject to compliance with the provisions of SANS 10400-A, 10400-T:2024 and the By-law relating to fire safety.
Environmental Management	19/03/2025	No objection. Historically the vegetation type found on the site is classified as Hangklip Sand Fynbos and its removal would be an EIA trigger. The site has been significantly transformed, and no natural areas remain, thus the EIA trigger no longer applies allowing the development to go ahead.
Engineering Services	05/05/2025	See Annexure F.
Western Cape Government: Infrastructure (Road Planning)	24/04/2025	See Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

The application was duly advertised in the local newspaper and E-mail notifications were sent out to surrounding neighbours and the Kleinmond Ratepayers Association. A notice board was also placed on-site by the applicant's consultant.

Four (4) letters of objection were received forthcoming the public participation process from the following parties:

- ***A Blignaut***
- ***JD & FL Floris***
- ***Nancy Carelse***
- ***Nydia Carelse*** *(submitted via Ward Committee)*

One (1) late objection was also received after the closing date of the public participation period.

- ***PETITION from the residents of Beverley Hills community - LATE***

The applicant was provided with an opportunity to respond to the objections. See Annexures D and E respectively.

The objections, the applicant's reply and the Municipal Town Planners response thereon are summarized below.

PUBLIC OBJECTIONS

REF	OBJECTOR	STATUS
A1	Mr. & Mrs. JD & JL Floris	**Property owners:** Erf 6928, Kleinmond
A2	Mrs. Nydia Carelse	**Resident: Kleinmond**
A3	Mrs. Nancy Carelse	**Property owner:** Erf 6944, Kleinmond
A4	Beverly Hills Community	**Community Members:** Beverly Hills
A5	Mr. A Blignaut	**Property owners:** Erf 6935, Kleinmond

The objections and concerns raised have been thoroughly assessed and are summarized below, along with responses addressing each matter.

It is important to clarify that the concerns raised by Objector A2 fall outside the scope and substance of the current application.

Accordingly, the representation does not constitute a formal objection, but rather a general commentary on alternative development preferences. While suggestions for commercial or mixed-use development have been noted, such considerations fall beyond the ambit of the current application, which has been submitted in accordance with the approved Spatial Planning Framework and relevant statutory provisions.

Further to the above, it is important to clarify that this application does not constitute free state-funded low-income housing development. The objective of the application is to establish residential erven that can be sold to individuals via the Finance Linked Individual Subsidy Programme (FLISP). The layout plan and erf sizes have therefore been adapted to suit the requirements for FLISP housing, which typically allow for larger erven than those associated with fully subsidised, state-funded, free housing. Future development of the individual erven, including the submission of building plans, will be the responsibility of the respective landowners.

It is therefore a misinterpretation by the objectors that the development is low-income state housing.

REF		COMMENTS	APPLICANT'S RESPONSE
1.	**A1 & A5**	***Representations on noise pollutants, privacy and health impacts*** **-** *The objector expresses concern regarding the anticipated increase in ambient noise levels, particularly during the night, which they believe will disrupt the 'quiet character' of the area and affect their well-being.* *The 'proximity' of the proposed development is perceived to undermine the privacy of existing residents and diminish their quality of life due to increased human activity and behavioural disturbances. It is further stated that the development may introduce adverse health impacts arising from increased traffic volumes, environmental degradation, and persistent noise pollution.*	The concerns raised by the objector are noted. However, these assertions are speculative and lack support. The application is informed by specialist inputs and professional assessments, none of which identify any material risk to public health or residential amenity. The proposed development will be implemented in accordance with established planning parameters and environmental controls, ensuring compatibility with surrounding land uses and adherence to acceptable living standards.

TOWN PLANNER'S RESPONSE

The aspect of privacy is unclear since many of the adjacent erven have structures on their erf boundaries. Should the building lines be adhered to, privacy will be safeguarded by the Land Use Planning Scheme development parameters. The implication is 2m between buildings at the rear of each property.

The proposed development will serve as a buffer to the existing erven and the R44 and ambient noise should be less.

REF		COMMENTS	APPLICANT'S RESPONSE
2.	**A1, A3, A4 & A5**	***Representations on property value and scenic implications*** **–** *Objectors state that the proposed introduction of high- density, lower-income residential units will have a detrimental effect on surrounding property values.* *Their concern is based on several*	While it is acknowledged that any new development may alter the existing visual and land use character, this proposal is consistent with the prevailing development pattern and strategic planning directives of the municipality. Assertions regarding devaluation of property and crime association

		anticipated outcomes, including the loss of scenic or distant views, incidence of backyard dwellers, fire threats, increased residential density, overcrowding, and a perceived rise in criminal activity, all of which are viewed as undermining the safety, character, and long-term stability of the area.	are unfounded. It is further important to point out that the proposed residential erven are not considered high-density development, but rather an extension of existing residential patterns in the area. The objectors' assumption that the development constitutes "low-cost housing" is incorrect and does not reflect the intent or scope of the application. The development conforms to the applicable zoning provisions and general development parameters of the Overstrand Local Municipality. Furthermore, the development represents a contextually appropriate infill initiative that supports spatial integration.

TOWN PLANNER'S RESPONSE

The proposed development is subject to the Heritage Overlay Zone, which will assist in ensuring compliance with the Building Regulations and Land Use Scheme. The applicant confirmed that the erven will be sold to individuals via the Financial Linked Subsidy Programme. Owners will obtain subsidy and will have to submit building plans for approval. It will be formally built structures – and thus should not devaluate property values in the area.

REF		COMMENTS	APPLICANT'S RESPONSE
3.	**A1 & A5**	***Representations on crime and safety*** **–** *The objectors express their concern in relation to the proximity of the proposed development to the town's business district, including the harbour area, which may lead to an increase in criminal activity.* *This is regarded as a potential threat to public safety and the town's appeal as a tourist destination. Furthermore, it is argued that existing*	The objectors' concerns are noted. The objectors' fears of increased criminal activity are based on generalised assumptions. The proposed development does not represent a scale or typology that would place undue pressure on local safety infrastructure. On the contrary, residential developments of this nature can contribute positively to

		infrastructure and policing capacity are insufficient to accommodate the additional demand and social risks associated with an 'increased residential density'.	neighbourhood security through increased surveillance and community presence. Assertions that the development will compromise the town's appeal to tourists are similarly speculative.

TOWN PLANNER'S RESPONSE

Agree with consultant.

REF		COMMENTS	APPLICANT'S RESPONSE
4.	**A1, A3, A4 & A5**	***Representations on traffic and safety*** **-** *The objectors state that the proposed development will lead to increased traffic volumes along key routes, including the R44, Kleinmond Main Road- scenic route. They express concern that this may elevate the risk of vehicular accidents (local and international travellers) and pedestrian safety incidents, and may further compromise public safety, particularly during periods of social unrest or protest action.*	The concerns of the objectors are noted. However, these views are not substantiated by any transport impact assessment or professional traffic engineering review. As part of the application process, infrastructure capacity, including road and pedestrian safety, has been reviewed by qualified consultants. Their input confirms that the proposed development can be accommodated without adverse impacts on the existing network. The objections lodged pose no material opposition to this application.

TOWN PLANNER'S RESPONSE

A Traffic Impact Assessment was done by Mr D Louwrens and found that the present intersections are operating at a good service level.

REF		COMMENTS	APPLICANT'S RESPONSE
5.	**A1, A3, & A4**	***Representations on impact to character*** **-** *Objectors believe the proposed development is not in keeping with the area's established character. Concerns include overdevelopment, overpopulation, diminishment of the existing architectural and cultural identity of the town and increased social pressures that could lead to higher crime rates.*	It is recognised that development of Erf 6936, Kleinmond will change the status quo of the subject property, however, within the context of residential development, which aligns with surrounding development trends. The perception that the proposal constitutes overdevelopment or threatens local character is not supported by zoning rights or policy directives, which were addressed and confirmed by this application. The association made between social pressure, crime, and higher residential density is, therefore, speculative and lacks substantive base.

TOWN PLANNER'S RESPONSE

The proposed application will have little impact on the character since there are no Architectural guidelines for Proteadorp, secondly most erven has more than a dwelling and garage on the erf. The aspect of overpopulation cannot be deemed a factor, since the proposed development will be restricted to Single Residential similar to the development parameters in Proteadorp.

REF		COMMENTS	APPLICANT'S RESPONSE
6.	**A1, A3, A4 & A5**	***Representations on environmental impacts*** **-** *The objectors express their concern regarding the potential destruction of indigenous fynbos and surrounding vegetation.* *The objectors argue that the proposal poses a significant threat to biodiversity and natural ecosystems, citing a loss of habitat and heightened pollution that would leave residents exposed to environmental*	The environmental concerns raised are noted. However, these objections do not present a material basis for opposition. The subject property is located on a site that has already been disturbed and forms part of the established urban environs, therefore not being part of an ecological corridor or biodiversity area.

		and health risks. The objectors further argue that the development will bring an increased incidence of backyard dwellers, and an increased threat of fire to adjacent properties due to their proximity.	The application site is a vacant disturbed site with no indigenous vegetation or biodiversity present on the site. The concern is therefore misguided.

TOWN PLANNER'S RESPONSE

Concerns are noted. In agreement with the consultant.

REF		COMMENTS	APPLICANT'S RESPONSE
7.	**A3**	***Representation on alternative solutions* -** *The objector is of the view that development should be considered elsewhere, citing that the development will compromise the wellbeing of their area. Proposed alternatives include the outskirts of Kleinmond and the Overhills Area.*	The representation advocating for site alternatives is noted. However, the application has been submitted in accordance with the spatial planning policy and development vision of the Overstrand Municipality. The site has been earmarked for residential development in line with strategic directives. A key consideration to infill development is the scarce availability of land elsewhere, which in this case is underpinned by the Overstand Municipality Spatial Development Framework: ***Availability of suitable developable land poses a huge challenge. No land available outside the Urban Edge due to environmental constraints. An investigation to identify suitable land for integrated development was undertaken during 2017/2018 and completed during 2021.***

TOWN PLANNER'S RESPONSE

The application site is located within the urban edge and infill of derelict land in the area is functional and financially sustainable.

REF		COMMENTS	APPLICANT'S RESPONSE
8.	**A2**	***Representation on business needs*** **-** *This submission does not constitute a formal objection but serves as a representation requesting that alternative development options for the site be explored. The 'objector' states that the current proposal's exclusive focus on residential use overlooks the potential for commercial or mixed-use development.* *It is further stated that existing and future business needs within the area have not been adequately assessed.*	The representation advocating for commercial or mixed-use development is noted. However, the application has been submitted in accordance with the spatial planning policies and development vision of the Overstrand Municipality. The site has been earmarked for residential development in line with strategic objectives. While commercial development is important, it must be appropriately located in areas specifically designated for such use and where such use has an informed (existing) imprint, relative to the existing character of the area.

TOWN PLANNER'S RESPONSE

The area has identified commercial nodes, which can be taken up. The proposed development is in close proximity of existing amenities. The Land Use Scheme also makes provision for certain land uses on residential erven subject to development parameters.

REF		COMMENTS	APPLICANT'S RESPONSE
9.	**A1, A3, & A4**	***Representation on infrastructure capacities*** **–** *The objectors raise concern regarding the strain on existing infrastructure. Specific references were made to stormwater management constraints, congested road networks/ systems, and limited capacity of public amenities and services to support an increase in population.*	The objections are noted. This comment is speculative and lacks any substantiated basis. The views of the objectors have not been informed or supported by any findings or recommendations contained within the application. The application is supported by professional engineering input, which confirms that the development can be accommodated without overburdening municipal systems. These assessments were

			conducted by registered professionals and reviewed by municipal engineering departments, whose support has been recorded. No evidence has been presented by objectors to suggest otherwise.

TOWN PLANNER'S RESPONSE

An Engineering Service Report, compiled by Lyners, Consulting Engineers and Project Managers was submitted with the application and deemed existing service provision adequate and or can be upgraded.

REF		COMMENTS	APPLICANT'S RESPONSE
10.	**A1, A3, & A4**	***Representation on socio-economic disparities, digital exclusion and public participation and procedural fairness*** **–** *The objectors have emphasised a digital divide within the community, noting that the absence of equitable access to internet and communication technologies has resulted in unequal opportunity to participate in the planning process or raise concerns. Several objectors argue that the public participation process has been procedurally inadequate. Comments received include the lack of in-person engagements, insufficient notice to surrounding property owners, and the over-reliance on digital communications, which may have excluded technologically or economically disadvantaged community members* *It was further argued that consistent with procedures applied to neighbouring properties, the disposal of the subject property should be conducted via public auction.*	Comments regarding exclusion from the participation process are noted but not supported by any procedural irregularity. The public participation process was conducted in accordance with statutory requirements, and reasonable steps were taken to ensure accessibility of information. The use of digital communication is standard practice and was facilitated through both formal notices (email/ mail) and on-site notices. The planning authority's obligations in this regard were met, and objectors had sufficient opportunity to comment. These claims do not present a material basis for opposition. Disposal of the land is at this stage not relevant as the application is merely to subdivide and zone the erven. It is furthermore unreasonable to assume that future residents of the proposed development would not have access to the same technological resources as that

		The objector (A4) further argues that the proposal conflicts with the Overstrand Municipality's housing policy, which requires the removal of illegal structures in parallel with the provision of new formal housing, an obligation they assert has not been met in this instance.	currently available to the broader community. The development is expected to benefit from the same infrastructure and service provision, including access to digital communication platforms, thereby ensuring equitable participation and integration.

TOWN PLANNER'S RESPONSE

The application was advertised, notices were sent to adjacent owners, the Ward representative was notified as well as the Kleinmond Rate Payers. The application was also on the Overstrand Website as well as in public library for scrutiny. The notices also mentioned that any member of the public can contact the Planning Department to view or request information on the file.

Public land will only be put on tender if cannot be used for the benefit of the Municipality. The land was identified to address the need for housing during 2020 and is now implemented.

APPLICANT'S CONCLUSION ON OBJECTIONS

Having considered the objections received, it is argued that none present a credible, evidence-based, or policy-aligned basis for the refusal of this application. The issues raised are largely speculative, unsubstantiated by supporting technical analysis, and do not engage meaningfully with the statutory planning principles that govern land use management within the Overstrand Municipality.

In particular, the objections fail to demonstrate how the proposed development would be undesirable. There has been no substantive evidence provided to indicate that the proposal will result in harm to public health, safety, the environment, or the rights of adjoining landowners.

Conversely, the applicant has clearly demonstrated the desirability and appropriateness of the proposal, supported by a comprehensive set of professional reports, specialist inputs, and policy alignment. Specifically, the development offers the following planning merits:

1. A negligible impact on the character of the surrounding area;
2. No material impact on engineering services, as verified by supporting technical reports and professional recommendations;
3. Positive socio-economic outcomes, including a cohesive, integrated residential development;
4. No adverse impacts on public health, safety, or wellbeing;
5. A negligible environmental impact, given the site's location within a disturbed and modified urban environment;
6. Provision of residential erven within the FLISP housing market, being an income bracket with a high demand for residential opportunities.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Point 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

CIVIL ENGINEERING SERVICES

The following comment was received:

Development supported.

The department highlighted challenges in terms of frequent blockages to the existing line, further citing that should the line become a midblock line as proposed, and maintenance will become difficult.

APPLICANT'S RESPONSE

The department's support is noted.

The design and arrangement of internal and external linkages will remain within the purview of the relevant municipal departments.

Midblock services are common in sloped residential areas. However, should the department require relocation of the existing line towards the proposed new street, such an option can be considered.

TOWN PLANNER'S RESPONSE

This aspect must be dealt with by the Engineering Services Department once development commence.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

The application is in line with the approved Council document "Investigation into available and developable land in Kleinmond and Overhills upgrades, 2021".

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The application is classified as infill development in Proteadorp to address the need for housing for previously disadvantaged sector of the population.

Spatial Sustainability

The application erf is not classified environmental sensitive. This aspect is confirmed by the Environmental Overlay Zone. At present the erf is vacant and the proposed development will ensure the sustainability of the erf and infrastructure available to be utilised to its full potential.

Efficiency

The proposed development will ensure the efficient use of available infrastructure and land use possibilities.

Spatial Resilience

The proposed development will be a FLISP subsidy scheme which will require formal structures and infrastructure in compliance with the relevant legislation thus ensuring the protection of inhabitants against environmental shocks.

Good Administration

The applicant followed the required procedure as determined by the Municipality.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The application is in line with the SDF 2020 and Investigation into available land developable land in Kleinmond and Overhills Upgrades, 2021.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

Existing services will be used and upgraded in need be.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The present zoning is Public Open Space in terms of the Overstrand Land Use Scheme; however, it is not the property is not registered as an "open space" in the Surveyors General's Office. This application is thus not subject to a closure of a public space in terms of the Land Use Scheme.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The application is a housing development of 21 residential erven as part of the Overstrand Housing Program. The development is classified as an infill development linked to the Financial Linked Subsidy Program, known as FLISP.

The development proposal consists of residential erven with an average size of 120m² to coincide with the subsidy scheme requirements. The beneficiaries will be able to build their own house with approved building plans and municipal services. The development is a result of the Investigation into available and developable land and upgrading of Overhills Document, 2021. Each site was rated against a weighted set of criteria by members of a professional team. The application site has been identified is a quick win site with minimal processes required.

The application erf is a vacant portion of land, with no specific utilization of land within the urban edge. Municipal services are available, and the erf does not trigger any NEMA processes. The need expressed for serviced sites to be made available for self-built houses in Proteadorp was emphasized and is in line with the proposed application.

The applicant will assist to alleviate the need for housing in the area, which will be Single Residential development and thus in line with the character of the area and the SDF.

The one aspect that will need attention is the recommendations of the Transport Impact Assessment. The Engineering Services Department will have to communicate with the Western Cape Government: Infrastructure (Road Planning) with regard to the recommendation pertaining a dedicated right turn to the Development.

13. RECOMMENDATION

1. that the objections be noted.

2. that the application in terms of Section 16(2)(d) of the By-Law to subdivide Erf 6936, Kleinmond into two (2) portions namely Portion A (±0,68ha) and a Remainder (±0,14ha), **be approved**, in terms of the provisions of Section 61 of the By-Law;

3. that the application in terms of Section 16(2)(a) of the By-Law to rezone Erf 6936, Kleinmond from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), for the establishment of the infill housing development to create the following:

   - 21 Single Residential Zone erven,
   - 1 Transportation Zone 2: Road and parking (TR B) erf, for public road purposes and
   - 1 Open Space Zone 2 erf, for public open space purposes to accommodate the existing graves;

   be approved, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

4. that the approvals in points 2 - 3 above be subject to the following conditions:

   (a) that approval is for the development as indicated on Plan numbers 2 - 4 dated November 2024 and 2025;

   (b) that a 5m street building line along R44 be applicable;

   (c) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control – and the Fire Department be complied with at that stage;

   (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;

   (e) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;

   (f) that all conditions in the Services Report (attached as Annexure F), be complied with;

   (g) that all conditions imposed by the Western Cape Government: Infrastructure (Road Planning) (attached as Annexure G), be complied with, and

   (h) that all conditions in the Traffic Impact Assessment dated July 2024 (attached as Annexure H), be complied with.

5. that the application in terms of Section 96 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 for the allocation of street names (*Ixia Street and Beetle Street*) and numbers to the new streets in the development, **be approved** in terms of the provisions of Section 61 of the By-Law, and

6. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- The application erf has been identified as a housing project during the Investigation into available developable land in Kleinmond and Overhills upgrade as adopted by Council in 2021.
- The project has been identified in the IDP document.
- Funding was secured for the development.
- Infill development of a portion of vacant land.
- Address housing need.
- Optimal use of land and infrastructure.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plans
Annexure D:	Objections received
Annexure E:	Applicant's response to the objections received
Annexure F:	Services Report
Annexure G:	Traffic Impact Assessment dated July 2024
Annexure H:	Civil and Electrical Engineering Services report (5 November 2024)

SIGNATURE

REGISTERED PLANNER

Name:	**H VAN DER STOEP**
SACPLAN registration number:	**A/1708/2013**
Signature:	_____
Date:	_____

KLEINMOND

ERF 6936

LOCAL CONTEXT

Application Area

Cadastral Boundaries

516

Annexure A 1/2

PLEASE NOTE:
All boundary line positions, distances and g
to be verified by a Professional Land Surve

REF:

COMPILED BY: P. Britz

INDEMNITY

DATE: May 2024

CLIENT

SCALE: See Linescale

PLAN NO: 3a

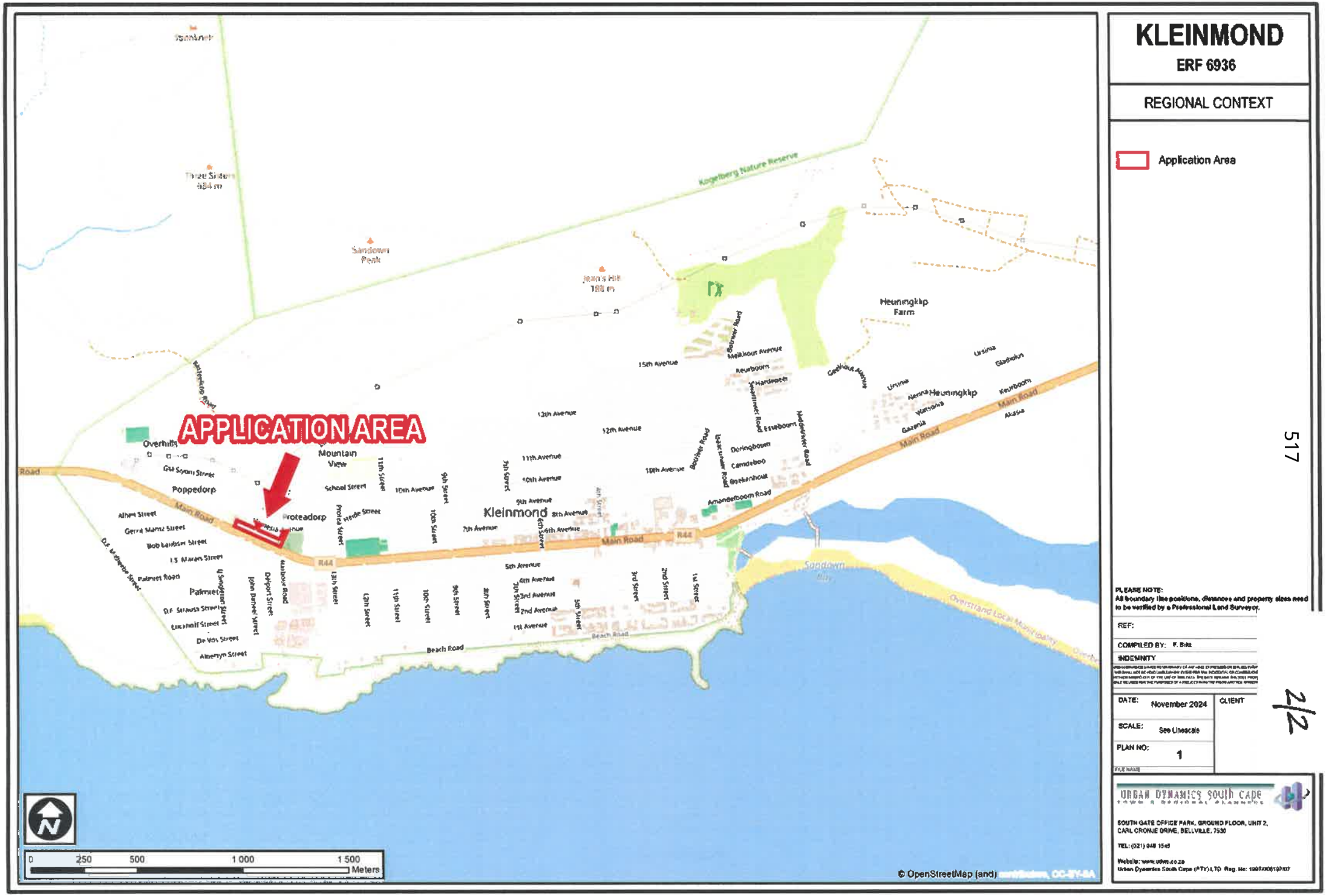
FILE NAME

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2,
CARL CRONJE DRIVE, BELLVILLE, 7530

TEL: (021) 948 1545

Website: www.udsc.co.za
Urban Dynamics South Cape (PTY) LTD Reg. No: 1997/009197/07



KLEINMOND

ERF 6936

REGIONAL CONTEXT

Application Area

517

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

REF:

COMPILED BY: F. Britz

INDEMNITY

DATE: November 2024

CLIENT

SCALE: See Linescale

PLAN NO: 1

FILE NAME

2/2

URBAN DYNAMICS SOUTH CAPE
SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2,
CARL CRONJE DRIVE, BELLVILLE, 7530
TEL: (021) 948 1545
Website: www.udsc.co.za
Urban Dynamics South Cape (PTY) LTD Reg. No: 1997/008190/07

SECTION 1 INTRODUCTION

1.1. Brief

Urban Dynamics Cape (Pty) Ltd, have been appointed by the Overstrand Local Municipality to compile, submit and facilitate the statutory application process to rezone Erf 6936 Kleinmond from 'Public Open Space Zone 2' to 'Subdivisional Area Zone'. The objective is to enable the infill development of 21 residential units within the urban fabric of Kleinmond. This application is subsequently submitted in terms of Sections 16(2)(a), 16(2)(d), 16(2)(o) and 96 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, for approval.

1.2. Background on Desirability

This proposal is centred on development within the human settlement development sector, with a particular emphasis on infill development. An overview on South Africa's current housing backlog, highlights the need for urgent relief and the subsequent deployment of more affordable human settlement strategies across the country.

Municipal Focus: Overstrand Local Municipality

As part of its Integrated Development Plan, the Overstrand Municipality has outlined key weaknesses that need to be addressed, in order to achieve its medium-term goals. Among these, a critical issue highlighted is the shortage of affordable residential accommodation within the Municipality's urban fabric. This need is further heightened with the growing volume of informal settlements and backyard dwellers. This has, consequently, resulted in a significant increase in densely populated areas with limited to no access to essential services.

In order to efficiently address this spatial challenge, the Overstrand Municipality have identified suitable land for integrated infill development, including land within the urban area of Kleinmond.

Erf 6936 has accordingly been identified for development in accordance with the Municipality's integrated, affordable human settlement strategy.

1.3. Application Objective and Details

The objective of this application is to secure the statutory approval of the Overstrand Local Municipality for the development of integrated, more affordable residential units. Approval is, accordingly, sought for the following, pursuant to Sections 16(2)(a), 16(2)(d) and 96 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

i. **Subdivision** of Erf 6936 Kleinmond, to create Portion A and the Remainder Erf 6936.

ii. The **rezoning** of Portion A of Erf 6936, Kleinmond from 'Public Open Space Zone 2' to 'Subdivisional Area Zone' for the establishment of:

- 21 'Single Residential Zone' erven,
- 1 'Transportation Zone 2' erf, for public road purposes
- 1 'Open Space Zone 2' erf, for public open space purposes.

iii. The **subdivision** of Erf 6936, Kleinmond to establish:

- 21 Single Residential Zone erven,
- 1 Public Road,
- 1 Public Open Space erf,

iv. The **naming and numbering of streets**, including the proposed new ***'Ixia Street' and 'Beetle Street'***.

SECTION 2 CONTEXTUAL INFORMANTS

2.1 Property Details

This application is focussed on Erf 6936, Kleinmond. The details relevant to this property are as follow:

Subject Property	Size	Title Deed	Ownership	Zoning
Erf 6936, Kleinmond	± 2158.00m²	T8303/1988	Overstrand Local Municipality	Open Space Zone 2: Public Open Space *

Table 1: Detail of subject property

Figure 1: Local Context

* **Note**: Although the zoning of the property is Open Space, **the SG status of the land is not 'open space' or 'public place'**. On this basis, there are no requirements for closure of open space to affect the proposed rezoning application.

2.2 Zoning and Land Use Context

As shown in **Table 1** and preceding sections above, the subject property is currently zoned as 'Public Open Space Zone 2' under the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. While it is designated as public open space on municipal records, there is no evidence of the property being captured or registered as an 'open space' in the Surveyor General's office. On this basis, there is no statutory requirement for the closure of open space.

Figure 2 reflects the zoning of the site relative to the surrounding zoning context.

Figure 2: Zoning Context

The site is vacant and unutilised, which presents the opportunity to affect more optimal use of the site, being a disturbed site within the urban area of Kleinmond.

Figure 3 reflects the existing vacant nature of the site. The application site is seen in the foreground with existing abutting residential properties immediately behind. **Figure 4** shows the existing cemetery located immediately to the south-east of the application site.

Figure 3: Erf 6936

Figure 4: Existing Cemetery adjacent to application site

2.3 Environment & Heritage

The application site is a disturbed site with no biodiversity or heritage resources present on the site. The appointed environmental impact assessors investigated the site, concluding that there are no resources on the site that require assessment in terms of the National Environmental Management Act (NEMA), nor in terms of the National Heritage Resources Act (NHRAct.). It should be noted that the existing cemetery on a portion of the application site is not the subject of this application, as this application merely seeks to subdivide it off from the proposed human settlement development area. Hence the subdivision to create Portion A (the development site), and the Remainder Erf 6936 being the cemetery portion.

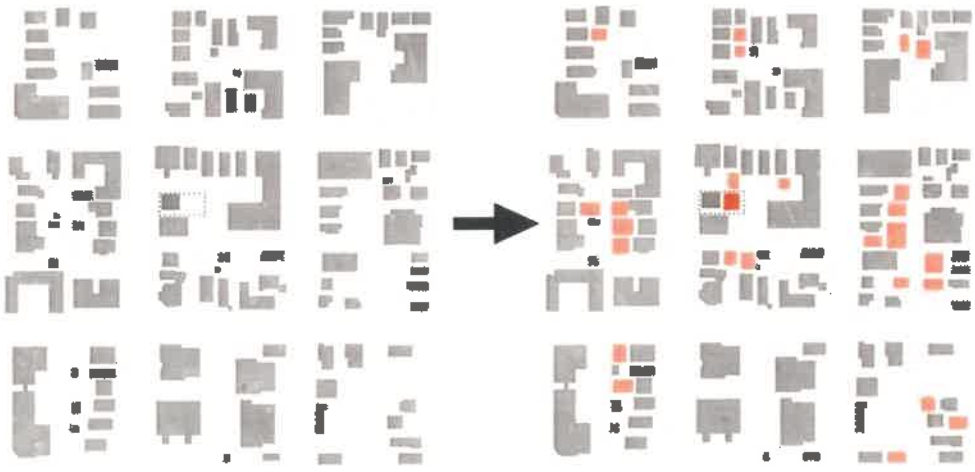
SECTION 3 DEVELOPMENT PROPOSAL

3.1 Infill Human Settlement Development

The Overstrand Municipality is actively undertaking planning and processes to continuously meet its mandate of service delivery and human settlement development within its jurisdictional area. As the Overstrand area is generally extremely rich in environmental resources, biodiversity, ecological systems and faunal habitats, available land for urban development becomes increasingly scarce. Notwithstanding the scarcity of land, the population within the towns is increasingly growing, thereby creating demand for additional residential, social and business development within each town.

Within the above-mentioned context, to avoid and minimise environmental impacts associated within urban development, the most appropriate and sustainable development approach should be to better utilised underutilised land within existing disturbed urban areas. Infill development is therefore a logical and organic manner of redeveloping properties within existing towns, be it commercial redevelopment by private developers, or municipal initiated human settlement development.

The images below illustrate the principle of infill development, being the infill and redevelopment of underutilised / blank space with function and uses, retrofitted into an existing built environment, while responding to the character of the receiving environs.



Existing Built Environment

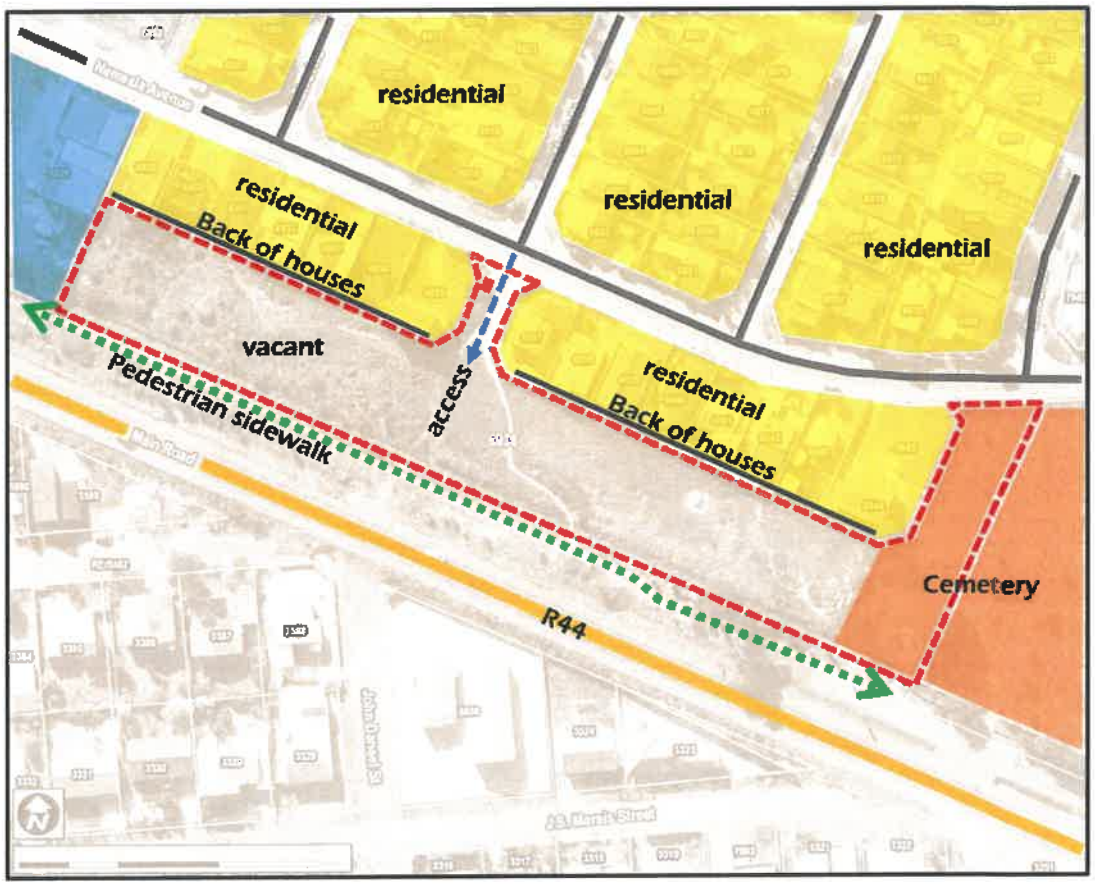
Infill Development (conceptual)

Figures 5: Infill Development
(Conceptual Illustration)

3.2 Design Informants

In preparing a layout plan for the proposed development of Erf 6936 Kleinmond, the following contextual and site informants (refer **Figure 6**) were taken into account to shape and steer the design proposal for the site, namely:

- Street access onto Nemesia Street
- Existing pedestrian walkway to the south
- Surrounding residential character, of which the houses turn its backs towards the site
- R44 road interface
- Existing cemetery encroachment on the south-eastern portion of the site



Figures 6: Contextual & Site Informants

Further to the above informants, the layout had to be designed to accommodate certain requirements from a human settlement development perspective, namely:

- Freestanding erven as the preferred typology, compared to walk-up apartment development (social housing).

- Erf sizes of ±80m² were proposed, to optimise the development yield. However, following consultation with key stakeholders, it was agreed to increase the erf sizes to 120m², which is more suitable within the context of surrounding conventional low density residential erven.

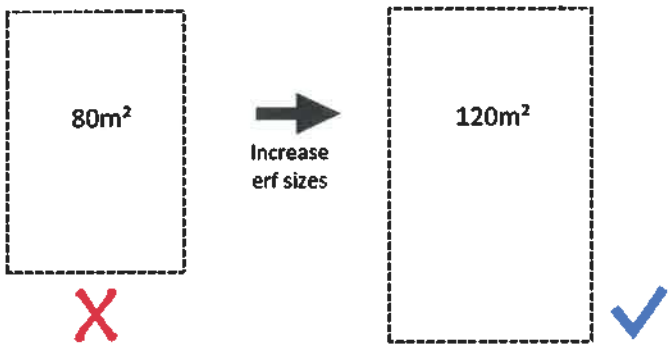


Figure 7: Erf Sizes

3.3 Subdivision Layout Plan

Taking into consideration the above-mentioned informants, the layout plan for the proposed redevelopment of Erf 6936 Kleinmond was compiled. The layout incorporates the following aspects:

- Vehicular access off Nemesia Road;
- No vehicular access of the R44 road;
- Subdivide / separate the existing cemetery encroachment on the site off from the development area;
- Engineering services to be provided within road reserve, including sewer, water, electricity, stormwater and streetlights;
- Back-to-back residential erven onto existing, to improve services efficiencies;
- Single residential erven, to accommodate residential dwellings.

The above-mentioned aspects were firstly applied conceptually to the site to illustrate the **development concept** (refer Figure 9), which were then refined and formalised as presented in the **proposed subdivision layout** (Figure 10), including 21 x single residential erven, 1 x open space erf and 1 x public road.

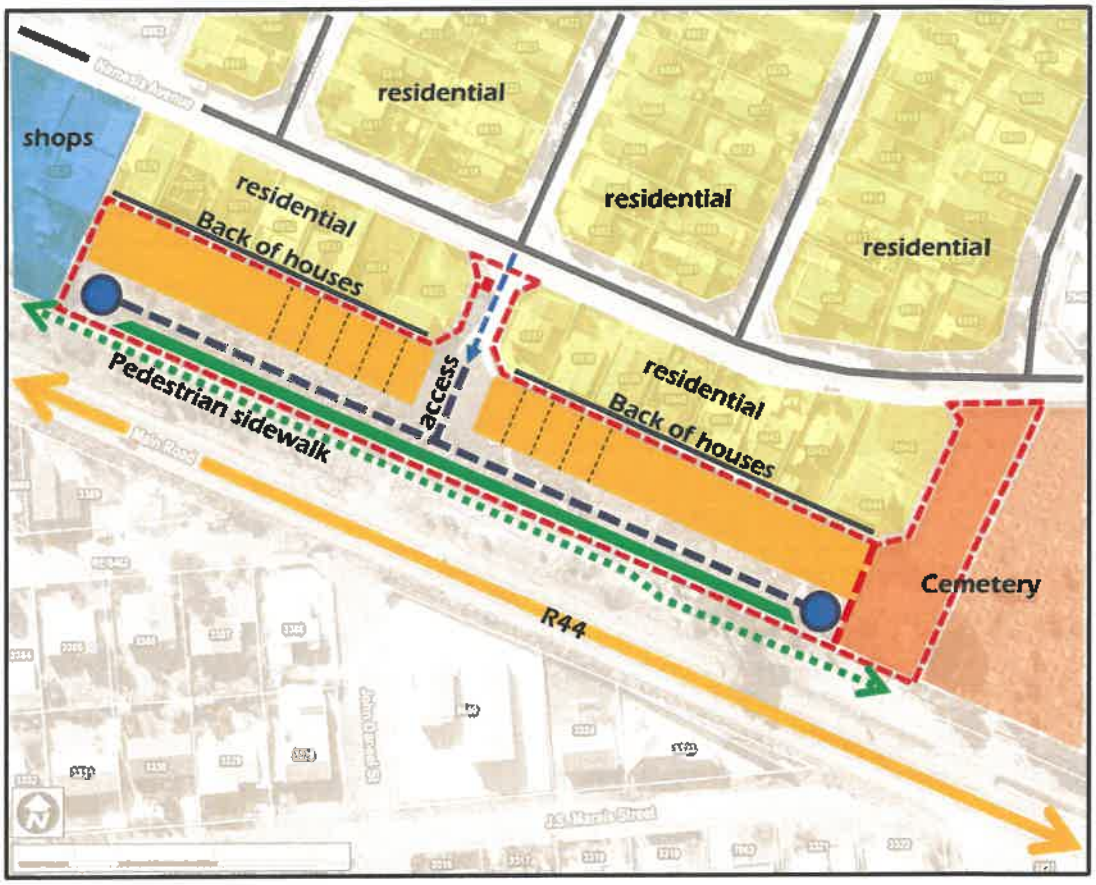
The first step, however, was to subdivide the site to separate the existing cemetery area from the development site, as per Figure 8 below.

Figure 8: Subdivision Plan

The resultant application area for the human settlement development being Portion A, as per Figure 8 above.

The key informants to the development concept were the existing road access off Nemesia Road, the narrow configuration of the site and the interface onto the R44 road. The positioning of the erven with its backs onto the existing residential erven, creates the opportunity to position the access road in front of the houses and thereby position the fronts of houses towards the R43 as a positive interface condition, compared to backs of properties.

The subdivisional layout includes 21 x single residential erven of 120m² each, to ensure that the erven can accommodate a house of up to ±100m² (80% coverage). The erf dimensions were dictated by the site configuration, access positions and topography of the site, which resulted in the erf size dimensions being: street frontages of ± 9m wide, while the depth of the erven is ± 13m.



Figures 9: Development Concept

The layout plan includes two **street names** for the cul-de-sac streets in the development, namely: **Ixia Street** and **Beetle Street** respectively. The street names are compliant with the requirements of the Overstrand Street Naming Policy, as it is neutral, not attached to any person, nor linked to any political or religious connotation. The allocated street names are compatible with other street names in the area, which reflects plant and animal species / names as themes for street names.

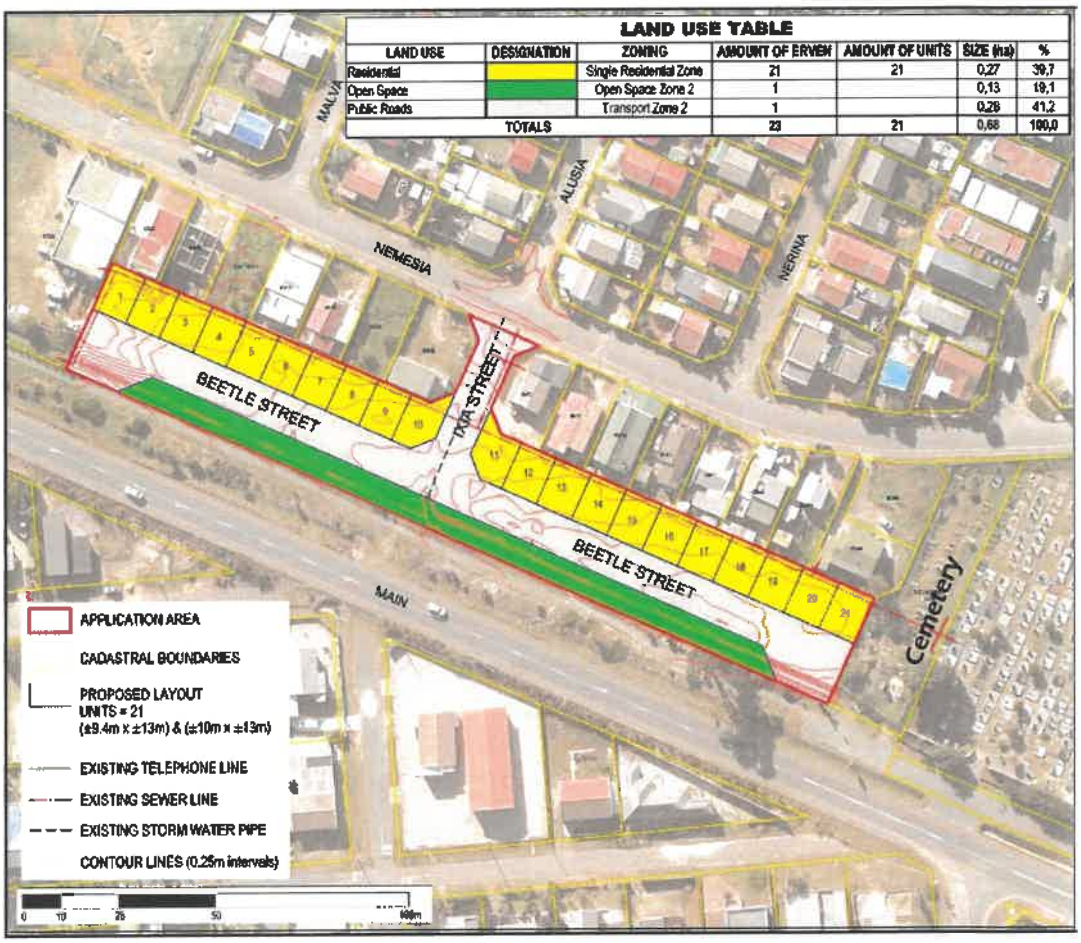


Figure 10: Subdivisional Layout Plan

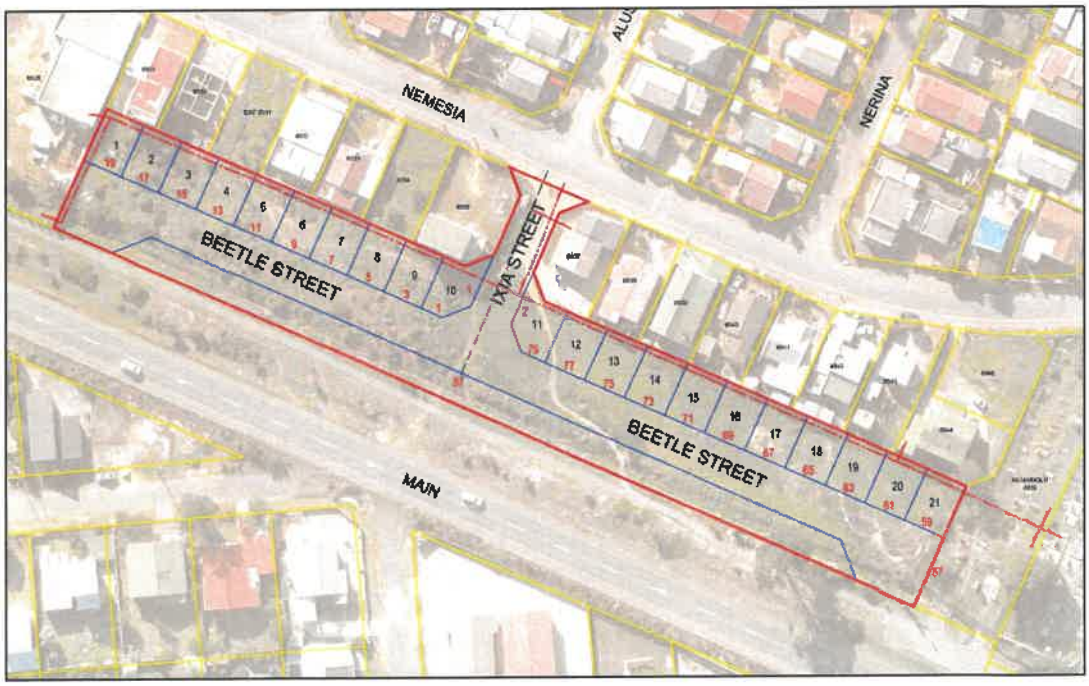


Figure 11: Street Name & Number Plan

3.4 Zoning / Development Parameters (Rules)

The zoning / development parameters applicable to Single Residential SR1 erven, in terms of the Overstrand Zoning & Land Use Scheme (2020), included the following:

Erf size	Coverage	Street building line	Side & rear building line	Height
Less than 150m²	80 %	1,0 m	At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.	8m

Table 2: Zoning / Development Parameters (Rules)

The application does **not** include any departures from the above-mentioned zoning parameters for SR1 erven, as the Zoning Scheme parameters for erven smaller than 150m² are deemed appropriate.

SECTION 4 MOTIVATION

The proposed development on Erf 6936 Kleinmond has been assessed in terms of relevant policy and statutory requirements. The development proposal, and application as set out herein, can be motivated on the following basis:

4.1 Socio-Economic Implications

This development initiative, as part of the Overstrand Municipality's broader infill development strategy, aims to generate significant socio-economic benefits to communities residing in and around Kleinmond. The Municipality's infill development strategy further aims to create jobs, promote social development, drive economic growth, and empower local communities, fostering an integrated residential, urban fabric. It is envisaged that the impact of the proposed infill development will be positive, as it will address the demand for residential opportunities in Kleinmond, while responding positively to the site and contextual informants.

4.2 Impact on Municipal Engineering Services

The subject property is situated within the established urban edge of Kleinmond, and as a result, in an area serviced by the Overstrand Local Municipality. To further facilitate the proposed development, an engineering services investigation was undertaken by Neil Lyners and Associates (Pty) Ltd, confirming the availability of engineering services. Please refer to **Annexure J** for the full detail in this regard.

The engineering findings by Lyners are summarised, as follow:

Electricity:
Existing low voltage networks are situated proximal to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed below-ground where required. There is an existing mini substation at the entrance off Nemesia Road, which may have to be re-located, depending on detailed engineering design of the proposed access road to the development.

Water:
An existing municipal water supply network is situated immediate to the subject property. Sufficient capacities are available to supply the proposed development. All new connections, additional and internal engineering works will be installed below-ground where required. Additionally, fire hydrants will be installed in accordance with the relevant guidelines of the Overstrand Local Municipality. The proposed development will require connections to cross underneath Nemesia Avenue.

Sewerage and Wastewater:
The subject property will drain towards the Kleinmond Wastewater Treatment Works (WWTW). The Overstrand Local Municipality has confirmed the availability and capacity of infrastructure to accommodate the proposed development in this regard. All new connections, additional and internal engineering works will be installed below-ground where required.

Stormwater:
The low density of the proposed development will have a minimal effect on drainage patterns in the area. No new stormwater detention facilities will consequently be required on account of this development proposal. It is, however, proposed that a 'wing-wall' be constructed on the existing 375mm stormwater pipe, situated along Nemesia Avenue to facilitate run-off from the property.

Road Network
The layout has been designed with a T-junction intersection (proposed Ixia and Beetle Streets), leading to two cul-de-sacs with appropriate turning circles, providing public access to each individual property, which in turn feeds into Nemesia Avenue. To facilitate the proposed development and relevant infrastructure requirements, a detailed Traffic Impact Assessment was compiled by Mr. Douw Louwrens. Please refer to **Annexure K** for full detail in this regard. The proposed intersection and cul-de-suc design are deemed ideal and not expected to negatively impact on existing traffic/ vehicular movement.

4.3 Implications on Site Physiography

The geographical features of the subject property are briefly outlined below:

Topography:
The subject property illustrates no mentionable, natural slope that would negatively impact on the proposed development or vice versa. No further features relative to the subject property were identified that would require mitigation from a development or environmental point of view.

Soil and Geological Conditions:
The subject property is situated within the established urban edge of Kleinmond, of which the surrounding area has already been disturbed through extensive development and human activity. The developed nature of the area confirms the suitability of the soil to support development. No adverse impact on the proposed development or vice versa are anticipated in this regard.

Fauna and Flora:
The application site was assessed by an environmental assessment practitioner, who confirmed that there are no indigenous vegetation or natural faunal habitats on the site.

4.4 Compatibility with the Character of the Area

The surrounding area comprises of the Kleinmond urban development area, including a mix of residential typologies. The developments most pertinent to the subject property comprise of low-density residential accommodation, community facilities and residential amenities such as local small businesses, parks, schools and clinics. The development proposal is not anticipated to have an adverse impact on the surrounding area, but rather fit into the residential character of the area.

4.5 Compliance with the Planning Principles of LUPA

The Land Use Planning Act (LUPA, 2014) includes a series of land use principles that should guide development in the Western Province.

The planning principles were reviewed, and the proposed development concept assessed. It is concluded that the proposed development concept is fully compliant with the planning principles prescribed in LUPA (2014), as summarised in the table below:

LUPA PRINCIPLES	COMPLIANCE / RESPONSE
Spatial Sustainability ✓	**COMPLIANT** The proposed development aligns with the principle of spatial sustainability by promoting land development within the fiscal, institutional, and administrative capacities of the Republic. It supports the concept of sustainability through the incorporation of integrated, affordable residential solutions within the urban fabric of the Overstrand Local Municipality.
Spatial Justice ✓	**COMPLIANT** The proposed development aligns with the principle of spatial justice by ensuring that it does not unnecessarily reduce access to land or the use thereof. It aims to redress past imbalances in so far as providing adequate, affordable housing options.

LUPA PRINCIPLES	COMPLIANCE / RESPONSE
	While the broader aspects of spatial justice, such as the inclusion of previously excluded areas, informal settlements, and disadvantaged communities, remain the responsibility of public entities like municipalities and government departments, this project supports the overarching goals of spatial justice.
Efficiency ✓	**COMPLIANT** No adverse impacts on existing resources or services are anticipated on account of this proposal.
Good Administration ✓	**COMPLIANT** The application is submitted in terms of the relevant legislative frameworks and will be processed accordingly.
Spatial Resilience ✓	**COMPLIANT** This component is applicable to public entities such as municipalities and government departments, it is therefore not the responsibility of an applicant to adhere thereto.

Table 3: Compliance to Principles

4.6 Integrated Spatial and Land Use Planning

The Land Use Planning Act (LUPA) of 2014 mandates that each municipality prepare a Spatial Development Framework (SDF) that interpret and represent the spatial development vision for the total municipal area. All proposed developments, particularly those involving land use changes, must be evaluated against the approved SDF, which serves as the spatial expression of the Integrated Development Plan (IDP).

According to LUPA, no land development decision can be made if the proposed development is inconsistent with the municipal SDF. However, as

outlined in Section 19(3) of the Act, the Planning Tribunal OR Designated Municipal Official may allow a departure from the provisions of the SDF, only if site-specific circumstances warrant such a deviation.

The Overstrand Municipality Spatial Development Framework (2020) is a policy document that seeks to influence the overall spatial distribution of current and future land uses within the Municipality, to give effect to the vision, goals and objectives encumbered within the municipal IDP, and related business plans of government.

The subject property is **located within the established urban edge of Kleinmond** and subsequent urban fabric of the Overstrand Municipality. Within the SDF itself, the subject property is earmarked for development in accordance with integrated, urban development strategies, including densification. This development proposal further embodies the incentives incorporated to the approved Integrated Development Plan of the Overstrand Local Municipality (2024/2025), including:

"Kleinmond: Delivering affordable housing opportunities for the low-income residents is a priority. Availability of suitable developable land poses a huge challenge. No land available outside the Urban Edge due to environmental constraints. An investigation to identify suitable land for integrated development was undertaken during 2017/2018 and completed during 2021. The final report served before Council at the end of October 2021 and was approved. Potential projects have been included in the housing programme. Pre-planning funding approval was received for the Kleinmond IRDP and Overhills UISP Projects during June 2023. Planning of these two projects is in progress ***(Overstrand Municipality Integrated Development Plan, 2024/2025, Pages 131-132).***"

Figure 12 represents an extract from the Overstrand SDF, indicating the locality of the application site within the built urban environment.

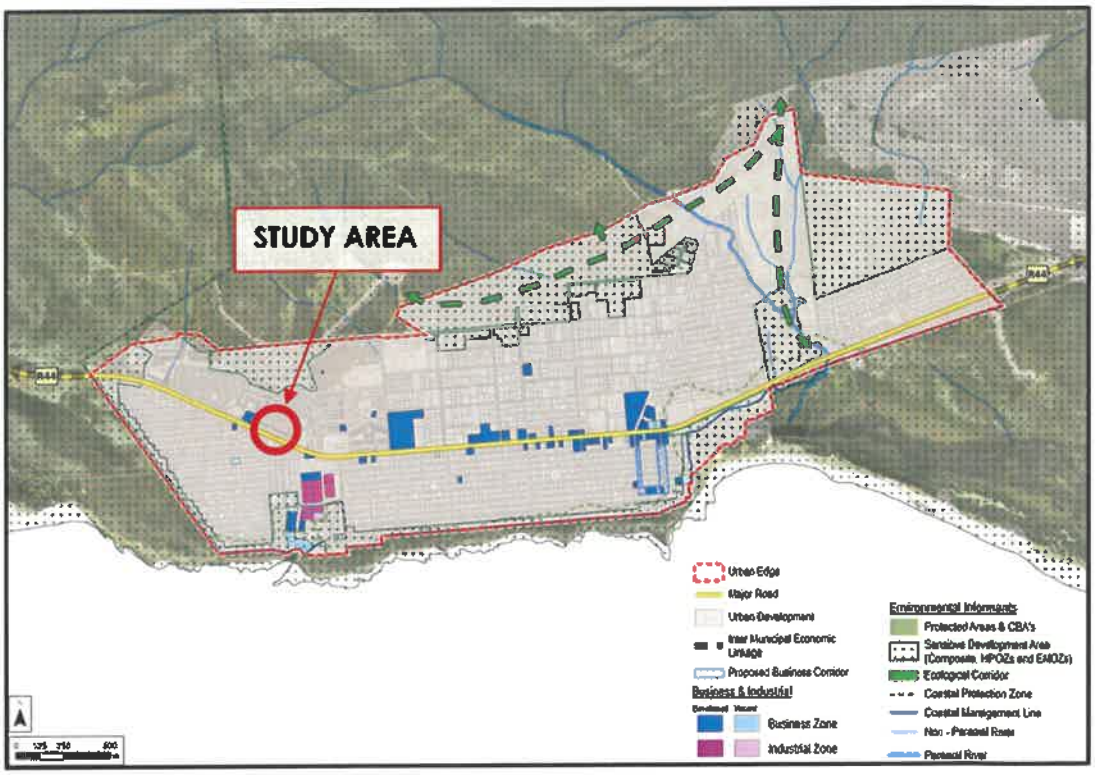


Figure 12: SDF Extract Plan

The proposed residential development of the application site is considered to be **fully consistent with the incentives and principles outlined in the Overstrand Municipal Spatial Development Framework** and Integrated Development Plan.

4.7 DESIRABILITY CRITERIA I.T.O. THE OVERSTRAND MUNICIPALITY BY-LAW (2020)

The proposed residential development was assessed in terms of the terms of the Overstrand Planning By-Law (2020), to determine the desirability of the development in terms of the criteria set out in the Overstrand Land Use Planning By-Law (2020), as follows:

- **Positive response** to local and site-specific conditions, and **compatibility with the character of surrounding area**, taking into consideration site sensitivities;
- **Compliance** and alignment with current spatial planning policies;
- **Connects with existing infrastructure** and adheres to acceptable standards in terms of erf sizes and infrastructure provision standards;

- **Infill development** of underutilised property is the most **appropriate and sustainable mechanism** to create new development opportunities within the town, compared to expanding the urban footprint of the town into surrounding sensitive environmental areas;

- Contributes positively to **economic growth**, social upliftment, investment and **employment opportunities** in an established residential urban environment within proximity of surrounding amenities and employment opportunities;

- The development was planned and designed to adhere to good practice principles of urban efficiencies, infrastructure standards and accessibility, thereby ensuring **safety and welfare** of the community within the development and in its immediate surroundings;

- **No adverse impact** on biodiversity or natural resources, as the site is a disturbed site with no environmental related constraints.

Following the above assessment, it is clear that the proposed residential development of Erf 6936 Kleinmond are aligned with decision making criteria of the Overstrand By-Law on Municipal Planning (2020) and should be supported for approval accordingly.

SECTION 5 CONCLUSION & RECOMMENDATIONS

5.1. Conclusion

Following the above-mentioned assessment and motivation of the proposed human settlement development on Erf 6936 Kleinmond, it can be concluded as follow:

- The proposed development is fully consistent with relevant spatial and economic development policies of the Overstrand Municipality and overarching Provincial policies;
- Infill development, as proposed here, is the most efficient and sustainable mechanism to promote growth in towns without expanding the urban footprint into sensitive environmental areas;
- The proposed layout plan meets the standards for human settlement development;
- The residential development is consistent and compatible with the surrounding residential character of the area;
- No adverse impacts are foreseen as result of this development proposal.

The proposed development can therefore be recommended for support and approval in terms of the Overstrand Land Use Planning By-Law (2020).

5.2. Recommendation

Forthcoming from the above, it is hereby our considered recommendation that the application be approved, including:

a. **Subdivision** of Erf 6936 Kleinmond, to create Portion A and the Remainder Erf 6936, in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

b. The **rezoning** and concurrent **subdivision** of Portion A of Erf 6936, Kleinmond from 'Public Open Space Zone 2' to 'Subdivisional Area Zone' to enable the infill development of 21 residential erven, a public street and 1 public open space erf, in terms of Sections 16(2)(a) and 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

c. The **naming and numbering of streets** (proposed ***Beetle Street*** *and* ***Ixia Street***) in terms Section 96 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

OVERSTRAND

ERF 6936 KLEINMOND

PROPOSED STREETNAME & NUMBERS PLAN

- SUBJECT AREA (PORTION A)
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT UNITS = 21 (±9.4m x ±13m) & (±10m x ±13m)
- PROPOSED STREET NUMBERS
- EXISTING TELEPHONE LINE
- EXISTING SEWER LINE
- EXISTING STORM WATER PIPE

538

Annexure C 13

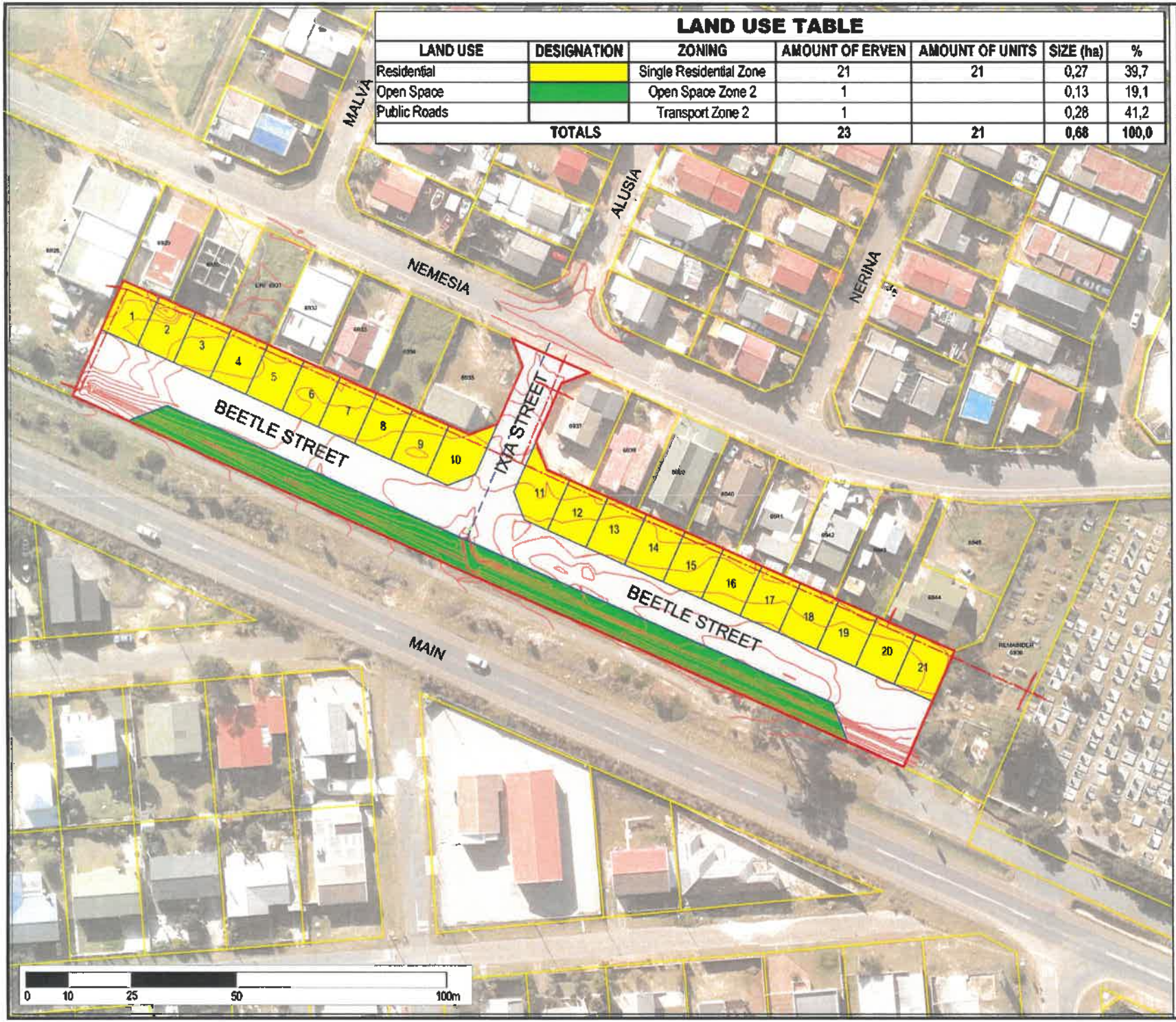
PLEASE NOTE:
All boundary line positions, distances and property sizes need by a Professional Land Surveyor.

INDEMNITY

URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE HELD LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT

DATE 25 Nov 2024
SCALE See linescale
PLAN NO. 3
FILE NAME:
CLIENT
COPYRIGHT RESERVED

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS
SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 3, CARL CRONJE DRIVE
SOUTH GATE TYGER WATERFRONT
BELLVILLE
7530
TEL: (021) 914 1949
Website: www.udsc.co.za
URBAN DYNAMICS WESTERN CAPE INC REG No - 2005/035031



LAND USE TABLE

LAND USE	DESIGNATION	ZONING	AMOUNT OF ERVEN	AMOUNT OF UNITS	SIZE (ha)	%
Residential		Single Residential Zone	21	21	0,27	39,7
Open Space		Open Space Zone 2	1		0,13	19,1
Public Roads		Transport Zone 2	1		0,28	41,2
TOTALS			23	21	0,68	100,0

OVERSTRAND

ERF 6936 KLEINMOND

PROPOSED LAYOUT PLAN

- SUBJECT AREA (PORTION A)
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT
  UNITS = 21
  (±9.4m x ±13m) & (±10m x ±13m)
- EXISTING TELEPHONE LINE
- EXISTING SEWER LINE
- EXISTING STORM WATER PIPE
- CONTOUR LINES (0.25m intervals)

539

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be ve
by a Professional Land Surveyor.

INDEMNITY

URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE HELD LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

DATE 25 Nov 2024
SCALE See linescale
PLAN NO. 2
FILE NAME:

COPYRIGHT RESERVED

CLIENT

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS
SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2, CARL CRONJE DRIVE
SOUTH GATE TYGER WATERFRONT
BELLVILLE
7530
TEL: (021) 949 1309
Website: www.udsc.co.za
URBAN DYNAMICS WESTERN CAPE INC REG No: 2015/482211

213

KLEINMOND

ERF 6936

SUBDIVISION PLAN

- Application Area (0.82ha)
- Cadastral Boundaries
- Proposed Subdivision
- Portion A
  a portion of Erf 3936 Kleinmond
  = ±0.68ha
- Remainder Erf 6936 Kleinmond
  = ±0.14ha

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

REF:	
COMPILED BY:	F. Brits
INDEMNITY	
DATE:	November 2024
SCALE:	See Linescale
PLAN NO:	4
FILENAME	
CLIENT	

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2.
CARL CRONJE DRIVE, BELLVILLE. 7530

TEL: (021) 948 1545

Website: www.udsc.co.za
Urban Dynamics South Cape (PTY) LTD Reg. No: 1997/006197/07

Annexure D 1/15

Property Owner/s details: -

Mr and Mrs JD and JL Floris

23 Nemesia Avenue ERF 6939

Protea dorp

EXT 6

Kleinmond

7195

Email –

06 March 2025

Cell: -

Objected property details: -

ERF 6936, Nemesia Avenue

Kleinmond

7195

Overstrand municipality, 33 5th Avenue, Kleinmond Private bag X3, Kleinmond, 7195.

Dear Mrs. Loretta Gillion

I am writing to formally oppose and object to the application for rezoning, subdivision, and the assignment of street names and numbers by Urban Dynamics Cape (PTY) LTD on behalf Overtsrand municipality, particularly regarding the proposed low-cost housing of Overstrand development. As a direct affected resident owner of erf 6939 and a recipient of this development I cannot but object to this adjacent new proposed land use project.

As property owners on ERF 6939, we believe this development will have significant negative impacts on our properties and the community. Our objections are as follows:

Objections

1. **Noise Pollution:** The increased noise levels will disturb our peace and lead to sleep deprivation, which can have serious health implications, including physiological illnesses.
2. **Property Value:** The development will negatively affect property values, limiting our ability to sell or move to different areas. The loss of our distant views will further reduce the desirability of our properties.
3. **Crime Rate:** Proximity to the main business area increases the risk of crime, which can deter tourists from visiting the harbour area. This poses a threat to our safety and quality of life, making us hesitant to leave valuables unattended.
4. **Traffic and Safety:** The main road will become vulnerable to increased traffic, potential smash-and-grab incidents, and protests that could easily disrupt access and safety.
5. **Digital Divide:** Not all residents have access to email and the internet, leading to skewed responses and a lack of representation for those without digital access.

19 MAR 2025

Environmental Concerns

- **Destruction of Fynbos:** The council's past actions have led to the destruction of Fynbos in the area, with tractors flattening the land multiple time. We urge the preservation of this natural heritage by creating a Fynbos garden, as the immediate vicinity risks losing its unique flora.

Alternative Proposals

1. **Educational Facility:** Consider building a youth training and development centre to empower youth individuals and equip them with the necessary tools and knowledge to thrive on their own, thus decreasing the ever rising unemployment rate.
2. **Community Gardens:** The municipality could lease portions of the land adjacent to individual households for start-up food gardens. This would promote self-reliance and neighbourly support with fresh vegetable produce.

Additional Concerns

1. **Privacy Impact:** Human encroachment in close proximity to other adjacent properties, will severely impact our privacy and quality of life, as experienced in the nearby Overhills and Mountain View area. At night over weekends there is so much noise and unruliness that the police has to be called to assist with calming the noise down.
2. **Lack of Public Consultation:** There has been a lack of face to face consultation with residents, which is crucial for transparent decision-making. There has been insufficient public consultation regarding this application. The voices and concerns of local residents must be heard and considered before any decisions are made.
3. **Health Risks:** The development poses health risks due to increased traffic, noise and potential environmental degradation.

Conclusion:

The proposed development will have material impacts on security, property value, and the overall use of our properties. The influx of traffic and people will create significant challenges, and health risks cannot be ignored. We urge the municipality to reconsider this application until a suitable or large enough land space is made available and take into account the severe implications for our community. We do understand there is a high need for housing in our community and we sympathise with this ongoing issue. We also urge the municipality to further investigate use of alternative Land, which will better suite this purpose.

Thank you for your attention to this matter. We look forward to your response and actions to address our concerns.

Sincerely,

Mr Jacobus Daniel Floris

JD FLORIS

Mrs Janine Lindsay Floris

JL FLORIS

3|15

Loretta Gillion

From: Marisha Floris <[redacted]>
Sent: Tuesday, 18 March 2025 13:52
To: Loretta Gillion
Cc: Jdfloris98
Subject: Objection letter ERF 6936 Nemesia Avenue Kleinmond 7195
Attachments: Mr and Mrs JD and JL Floris Objection ERF 6936 Nem_250318_135005.pdf

Good Day Madam

Please ignore the previous mail with subject line :- **Objection letter ERF 6936 Nemesia Avenue Kleinmond 7195**

Please find attached our letter of objection for your attention regarding application for subdivision, rezoning and the allocation of street name and numbers.

Kindly advise should you require any further information.

Thank you.

Kind regards

Ms. Floris

4|15

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
20 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP- A Theart
(Hvld stoep)

Attention to: Loretta Gillion

13 Nemesia Avenue
KLEINMOND
7195

14 March 2025

OVERSTRAND MUNICIPALITY
Magnolia Street
HERMANUS
7200

Subject: Objection to New Housing Development : Re- Erf 6936 KM6

Dear Mr./Mrs.

As a concerned ratepaying resident of Erf 6944, KLEINMOND, Beverly Hills (Extension 6), I wish to formally object to the new proposed low-cost housing development project aimed at Erf 6936. This document serves as my official objection. I do understand the need for growth and development. Hence, there are several critical concerns and potential negative impacts that this project may have on my property that was legally purchased from the Municipality. I strongly feel that the strip of Erf 6936 should be made available to potential buyers or the GAP market, that will harmonize with Beverly Hills (Extension 6). Hence, each property in the Beverly Hills neighborhood was purchased by the current occupants with their hard-earned money. It would be totally unfair to even consider free low-cost housing to those not contributing to the services and welfare of the Municipality. These issues need thorough consideration before any further steps are taken.

Environmental Impact

One of the most pressing concerns is the potential environmental impact of the proposed development. Moreover, the increased population density will inevitably lead to higher levels of pollution right next to the R44 (that will be a poor sight, whilst tourists use the route). Also, when future protests erupt... The proposed development loacation will, again, sustain countless illegal shacks and backyard dwellers, that pose a great fire threat to my property and the adjacent properties.

FILE NO. Erf 6936-KM
SCAN NO.
COLLABORATOR NO.
2629481

TP 20 MAR 2025

Infrastructure Strain

The existing infrastructure in our neighborhood is not equipped to handle the influx of new residents that this development would bring. Our roads are already congested, and adding more vehicles to the mix will only exacerbate traffic problems. Thus, we regularly experience numerous sewerage blockages, normally twice a week on Erf6936. The existing sewer network cannot handle the existing pressure of human waste to the Pumpstation (Graveyard). Resulting in regular sewerage blockages and spillage that pose a great health risk.

Economic Implications

Whilst proponents of the development argue that it will bring economic housing relief, it is essential to consider the broader economic implications. Property values in our area may be adversely affected by aiming for any form of low-cost housing on Erf 6936, potentially leading to decreased home equity for current residents.

Community Engagement and Transparency

It is paramount that any significant development project includes comprehensive community engagement and transparent decision-making processes. Many residents feel that they have not been adequately informed or properly consulted about the proposed development. This lack of transparency fosters mistrust and opposition.

Alternative Solutions

I suggest exploring alternative solutions without compromising the well-being of our neighborhood. Please consider development on the outskirts of KLEINMOND, such as the strip of land next to Transfer Station. Also, the Overhills area, throughout the years low-cost houses was given to those on the database, but the illegal shacks was never taken down, instead the illegal structure is being rented out by owners that receive housing.

Thank you for your attention to this matter. I look forward to your response and to participating in any future discussions regarding this important issue.

Sincerely,

Nancy Carelse

6|15

Loretta Gillion

From: Nancy Ernstina Carelse <
Sent: Wednesday, 19 March 2025 22:24
To: Loretta Gillion
Subject: Objection - Proposed Development on Erf 6936
Attachments: Housing Objection.docx

Good Day

I trust you are well. Please see attached my Objection Letter for your consideration.

Kind Regards,

Nancy Carelse

TP- A Theart (Hvld Stoep)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
17 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

7/15

Loriaan Isaacs

From: Karla Gerber-du Toit
Sent: Monday, 17 February 2025 11:10
To: Loriaan Isaacs
Cc: Grant Cohen
Subject: FW: WARD 9 FW: Wyk 9: Erf 6936, Kleinmond | Erf 6862, Kleinmond / Request for Comments on Zoning for Erf 6936 & 6862
Attachments: ADVERTISEMENT_Erf 6936, Nemesia Avenue, Kleinmond (Rez Subd etc).pdf; ADVERTISEMENT_Erf 6862, Nemesia Avenue, Kleinmond (Rez Subd etc).pdf

Importance: High

Good morning Lolly

The Mayor has requested that I send these comments on from Ward Committee member Nydia Carelse - WARD 9.

Regards / Groete,

FILE NO. Erven 6936 & 6862-KM
SCAN NO.
COLLABORATOR NO. 2609370

Karla Gerber Du Toit
Administrator: Public Liaison- Kleinmond
Directorate: Office of the Municipal Manager
Overstrand Municipality

T: 028 271 8415 | **E:** kgerberdutoit@overstrand.gov.za

From: nydia@africangypsy.tours <nydia@africangypsy.tours>
Sent: Friday, 14 February 2025 09:33
To: Karla Gerber-du Toit <kgerberdutoit@overstrand.gov.za>
Cc: Grant Cohen <gcohen@overstrand.gov.za>
Subject: WARD 9 FW: Wyk 9: Erf 6936, Kleinmond | Erf 6862, Kleinmond / Request for Comments on Zoning for Erf 6936 & 6862
Importance: High

Hi Karla and Cllr Cohen,

Thank you for your communication. I would like to clarify whether the residential zoning for erf 6936 and erf 6862 has been finalized or if there is still an opportunity for additional input regarding land use beyond just residential.

While addressing the housing needs in the area is commendable, I believe there is also a significant need for affordable, low-cost, or shared business premises among the small businesses in the proposed development areas. Unfortunately, **there has been no provision made for this need over decades**.

Looking at the current business zones in Kleinmond, it is clear that the focus has not been on inclusivity, equality, or affordability **for all businesses**, regardless of their size. It is unfair that we have only one business landscape that caters predominantly to those with higher budgets. It is tough to say but we have to call a spade a spade.

TP 17 FEB 2025

I believe the Overstrand Municipality has a valuable opportunity to reconsider this zoning and create a more inclusive environment. 8|15

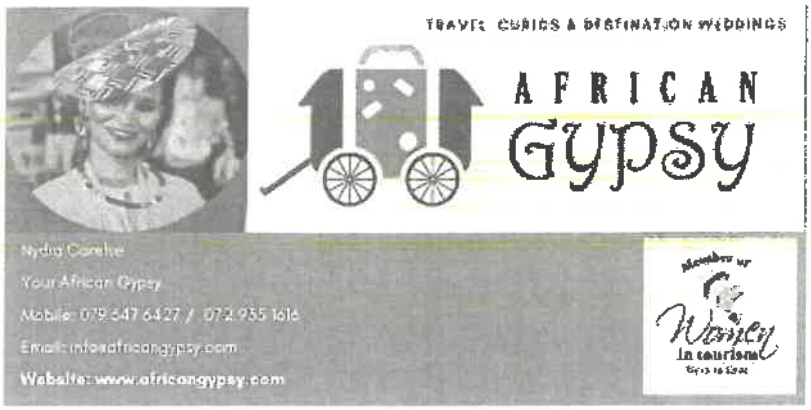
I would like to request a revision of the current zoning and propose a meeting to discuss suggestions in further detail.

Looking at the ever-increasing unemployment rate in our area, it is important that we set up solutions for this growing problem (especially amongst our young people) to enhance entrepreneurship in our communities **but only if we can build sustainable systems that do not set them up for failure.**

I have been a small business owner/entrepreneur since 2016 and running your own business is no walk in the park and the reason so many do not attempt to even try. However, if the supported landscape exists, their dream can exist.

Thank you for considering my request.

Regards,



http://www.africangypsy.com

From: Karla Gerber-du Toit <kgerberdutoit@overstrand.gov.za>
Sent: Thursday, 13 February 2025 13:37
To: Burger Malherbe <malherbelaw@vodamail.co.za>; peddledavid7@gmail.com; Hannelize Upsher <doandlearn@gmail.com>; Hendrik Botha Maree <bothamaree@gmail.com>; Ingrid Scanlen <scanlen1975@gmail.com>; Marcelin Barry <marcelinbarry@gmail.com>; Maria de Beer <toesiemari@gmail.com>; Nydia Carelse <nydia.carelse@gmail.com>; Nydia Carelse <nydia@africangypsy.tours>; Tommy Snibbe

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

9/15

TP - A Theart
(Hvld Stoep)

Mr and Mrs A Blignaut
29 Nemesia Avenue Erf 6935
Protea dorp
Ext 6
Kleinmond
e-mail:
17 March 2025

Overstrand Municipality

Dear [Loretta Gillion (loretta@overstrand.gov.za,

I am writing to formally oppose and object to the application for rezoning, subdivision, and the assignment of street names and numbers by Urban Dynamics Cape (PTY) LTD on behalf of Overstrand Municipality, particularly regarding the proposed low-cost housing development. As a direct affected resident owner of erf 6935 and a recipient of this development I can- not, but object to this adjacent new propose land use project.

As property owners of Erf [6935], we believe this development will have significant negative impacts on our properties and the community. Our objections are as follows:

Objections

1. **Noise Pollution**: The increased noise levels will disturb our peace and lead to sleep deprivation, which can have serious health implications, including physiological illnesses.
2. **Property Value**: The development will negatively affect property values, limiting our ability to sell or move to different areas. The loss of our distant views will further reduce the desirability of our properties.
3. **Crime Rate**: Proximity to the main business area increases the risk of crime, which can deter tourists from visiting the harbour area. This poses a threat to our safety and quality of life, making us hesitant to leave valuables unattended.
4. **Traffic and Safety**: The main road will become vulnerable to increased traffic, potential smash-and-grab incidents, and protests that could easily disrupt access and safety.
5. **Digital Divide**: Not all residents have access to email and the internet, leading to skewed responses and a lack of representation for those without digital access.

Environmental Concerns

1. **Destruction of Fynbos**: The council's past actions have led to the destruction of Fynbos in the area, with tractors flattening the land multiple times. We urge the preservation of this natural heritage by creating a Fynbos garden, as the immediate vicinity risks losing its unique flora.

Alternative Proposals

1. **Educational Facility**: Consider building a high school on this plot to serve the growing number of children who need better educational opportunities. 6936

FILE NO. Erf 6862 - KM.
SCAN NO.
COLLABORATOR NO.
2629603

19 MAR 2025

10|15.

2. **Community Gardens**: The municipality could lease portions of the land adjacent to individual households for startup food gardens. This would promote self-reliance and neighbourly support with fresh vegetables.

Additional Concerns

1. **Privacy Impact**: Human encroachment in close proximity to other adjacent properties, will severely impact our privacy and quality of life, as experience in the nearby Overhills area At night over weekends there is so much noise and unruliness that the police has to be called in to assist with calming the noise down. .
2. . **Lack of Public Consultation**: There has been a lack of face-to-face consultation with residents, which is crucial for transparent decision-making: There has been insufficient public consultation regarding this application. The voices and concerns of local residents must be heard and considered before any decisions are made.
3. **Health Risks**: The development poses health risks due to increase of closeness of people, traffic, noise, and potential environmental degradation.

Conclusion

The proposed development will have material impacts on security, property value, and the overall use of our properties. The influx of traffic and people will create significant challenges, and the health risks cannot be ignored. We urge the municipality to reconsider this application and take into account the severe implications for our community. We also urge the municipality to further investigate use of alternative land, that will better suited the use for this purpose.

Thank you for your attention to this matter. We look forward to your prompt response and actions to address our concerns.

Sincerely,

André Blignaut

11|15

Loretta Gillion

From: andre Blignaut <
Sent: Monday, 17 March 2025 15:17
To: Loretta Gillion
Cc: Sonja Blignaut
Subject: APPLICATION FOR REZONING, SUBDIVISION AND STREET NAMES AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON BEHALF OF OVERSTRAND MUNICIPALITY Public Participation
Attachments: Mr A Blignaut Letter of objection to the Overstrand Municipality.pdf

Dear loretta
I have attached a letter of objection to the rezoning, subdivision and street names next to my erf on 29 Nemesia Avenue Protea Dorp Kleinmond.

Can I please have a notice of receipt of e-mail for my records

Thank you

Regards

Andre Blignaut

Contact Cell.
e-mail:

12/15

PETITION TO OVERSTRAND MUNICIPALITY AGAINST NEW HOME DEVELOPMENT IN KLEINMOND MAIN ROAD

Re: Erf 6936 Kleinmond

For attention: Loretta Gillion

To: Overstrand Municipality

Address: Overstrand Civic Center
Magnolia Street
Hermanus
7200

FILE NO. Erf 6936 - KM
SCAN NO.
COLLABORATOR NO. 2630529

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
Late OBJ
24 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart (Hvld Steep)

Date: 12 March 2025

Subject: Objection to the Proposed Residential Development on Kleinmond Main Road

We, the undersigned residents, property owners, and concerned citizens of Kleinmond, strongly oppose the proposed new home development on Kleinmond Main Road. Our objections are based on the following concerns:

1. **Environmental Impact:** The development poses a threat to the natural ecosystem, including local flora and fauna, and could lead to increased pollution and habitat destruction.
2. **Infrastructure Strain:** The current infrastructure, including roads, water supply, and sewage systems, may not adequately support an influx of new residents.
3. **Traffic Congestion and Safety:** The development will increase traffic on Kleinmond Main Road, leading to congestion and posing safety risks to pedestrians and existing road users.
    - The main road (R44) is the only route to and from Kleinmond. The proposed development on Erf 6936 poses a threat to the safety of all road users, including international travelers, as this is a scenic route and tourist destination, especially when concurrent riots flare up again.
4. **Community Character:** Kleinmond has a unique charm and character that will be negatively affected by overdevelopment. The proposed project is not in harmony with the existing architectural and cultural identity of our town.
5. **Property Devaluation:** Increased housing developments may lead to lower property values in the surrounding areas, negatively impacting current homeowners.
6. **Lack of Proper Public Consultation:** Many community members feel that the public consultation process has been inadequate, and residents' voices have not been sufficiently considered.
7. **Fair Property Acquisition and Development Principles:**
    - All properties in Beverley Hills (Extension 6) were acquired by ratepayers through a process of selling and buying from the municipality. The same principles must apply for Erf 6936—plots on Erf 6936 should be sold at auction and not considered for low-cost housing.
8. **Disappointment in Governance:**
    - We, as ratepayers, are greatly disappointed in the DA-led municipality we voted for in the previous elections.
9. **Housing Policy Violation:**
    - The Overhills area should have been the first proposed location for low-cost housing as per housing policy. The policy states that for each new housing unit, an existing illegal structure should be removed. Instead, illegal structures are not being removed when occupants receive new homes.

We urge the Overstrand Municipality to reconsider and reject this proposed development in the best interest of the community and the environment. We request a formal public meeting where all concerned parties can express their views and explore alternative solutions that align with sustainable and responsible urban planning.

24 MAR 2025

Signatures:

	Name	Address	Contact Information	Signature
1	NANCY CAREISE	NEMESIA AVE 13 KLEINMOND		
2	DEON MCGEE	NEMESIA AVE 17 KLEINMOND		
3	ANNA Mcgee	Nemesia Ave 17 Klein		A Mcgee
4	LEROY JACOBS	NEMESISTR 15		
5	Caydrey Jacobs	Nemesia str 15		
6	Aubrey JacoBS	NEMESTR 15		A JacoBS
7	DENCIL ARENDSE	NEMESIA AVE 21 KLEINMOND		
8	RACHEL. Arendse	Nemesia Ave 21		R. Arendse
9	Natalie Felix	Gaaljoen str 4		
10	christenMalmood	Malmostraat 7		Malmood
11	Bradley Plaatjies	Nemesia Ave 25		
12	Valerie Plaatjies	Nemisialaan 25		V. Plaatjies
13	Nadine May	Nemesia laan 25		N. May
14	TAMRYN PLAATJIES	NEMESIA LAAN 26		
15	JUSTINE van. WYK	NEMESIA LAAN 25		J. van. Wyk
16	Eloise Jonas	Nemesia 54		E Jonas
17	James Jonas	"		
18	Margaret Arries	Litolni str. 4		M Arries
19	Emily Abrahams	Alusiasingel 15		

20	JOAN SWANEPOEL	14 NERINASTRAAT		J Swanepoel.
21	Phillip Swanepoel.	14 Nerinastraat		P. Swanepoel.
22	Shantall Oncker	9 SIYONI STRAAT		Oncker.
23	Nicolene Swart	4 Alusiasingel		Swart
24	MATHEW BOSMAN	Alusia Singel 1		
25	Andre Plagitjie	Nirinia straat 4		
26	Alicia Arendse	31 Nemesia Straat		Arendse
27	Tersius Arendse	31 Nemesia straat		
28	Louisa Hickley	33 Nemesia str		Hickley
29	E. Carels	Nemesia straat 39		E. Carels
30	R. Olivier	72 Nemesia Ave		
31	P. Olivier	72 Nemesia Ave		
32	R. Olivier	72 Nemesia Ave		
33	Mario Fischer	Galjoen 13		M. Fischer
34	Devon Makua	3389 2 Bob Lauber Str.		
35				
36				
37				
38				
39				
40				

41				
42				
43				
44				
45				
46				
47				
48				
49				
50				

We appreciate your attention to this critical matter and look forward to your prompt response.

Sincerely, the residents of Beverly Hills community

RESPONSE TO COMMENTS REPORT

1. Introduction

Application was made for the simultaneous rezoning and subdivision of Erf 6936, Kleinmond. The objective being to enable the infill development of 21 residential erven within the urban fabric of Kleinmond. The application was circulated to all internal municipal departments, external stakeholders and neighbouring landowners. A notice, as prescribed in terms of the Overstrand Municipality Municipal Planning By-Law, was also placed on site to reach the broader public.

The departmental comments received are addressed in ***Section 2*** below, whilst the public objections received against the application are addressed in Section 3.

2. Department comments

The departmental comments received are summarised in ***Table 1*** below, including the respective responses in addressing any issues forthcoming.

Table 1: Department Comments & Response

Ref	Department	Comment	Response
1.	**Civil Engineering Services**	Development Supported. The department highlighted challenges in terms of frequent blockages to the existing line, further citing that should the line become a midblock line as proposed, maintenance will become difficult.	The department's support is noted. The design and arrangement of internal and external linkages will remain within the purview of the relevant municipal departments. Midblock services are common in sloped residential areas. However, should the department require relocation of the existing line towards the proposed new street, such an option can be considered.

3. Public Objections

The following objections were received:

Table 2: List of Objectors

Ref	Objector	Status
A1	Mr. & Mrs. JD & JL Floris	Property owners: **Erf 6928, Kleinmond**
A2	Mrs. Nydia Carelse	Resident: **Kleinmond**
A3	Mrs. Nancy Carelse	Property owner: **Erf 6944, Kleinmond**
A4	Beverely Hills Community	Community Members: **Beverly Hills**
A5	Mr. Andre Blignaut	Property owner: **Erf 6935, Kleinmond**

The objections and concerns raised have been thoroughly assessed and are summarized in Table 3 below, along with responses addressing each matter.

It is important to clarify that the concerns raised by Objector A2 fall outside the scope and substance of the current application.

Accordingly, the representation does not constitute a formal objection, but rather a general commentary on alternative development preferences. While suggestions for commercial or mixed-use development have been noted, such considerations fall beyond the ambit of the current application, which has been submitted in accordance with the approved Spatial Planning Framework and relevant statutory provisions.

Further to the above, it is important to clarify that this application does not constitute free state-funded low-income housing development. The objective of the application is to establish residential erven that can be sold to individuals via the Finance Linked Individual Subsidy Programme (FLISP). The layout plan and erf sizes have therefore been adapted to suit the requirements for FLISP housing, which typically allow for larger erven than those associated with fully subsidised, state-funded, free housing. Future development of the individual erven, including the submission of building plans, will be the responsibility of the respective landowners.

It is therefore a misinterpretation by the objectors that the development is low-income state housing.

Table 3: Public Objections & Responses

REF		COMMENTS	APPLICANT'S RESPONSE
1.	A1 & A5	**Representations on noise pollutants, privacy and health impacts** - The objector expresses concern regarding the anticipated increase in ambient noise levels, particularly during the night, which they believe will disrupt the 'quiet character' of the area and affect their well-being. The 'proximity' of the proposed development is perceived to undermine the privacy of existing residents and diminish their quality of life due to increased human activity and behavioural disturbances. It is further stated that the development may introduce adverse health impacts arising from increased traffic volumes, environmental degradation, and persistent noise pollution.	The concerns raised by the objector are noted. However, these assertions are speculative and lack support. The application is informed by specialist inputs and professional assessments, none of which identify any material risk to public health or residential amenity. The proposed development will be implemented in accordance with established planning parameters and environmental controls, ensuring compatibility with surrounding land uses and adherence to acceptable living standards.
2.	A1, A3, A4 & A5	**Representations on property value and scenic implications** - Objectors state that the proposed introduction of high-density, lower-income residential units will have a detrimental effect on surrounding property values.	While it is acknowledged that any new development may alter the existing visual and land use character, this proposal is consistent with the prevailing development pattern and strategic planning directives of the municipality. Assertions regarding devaluation of property and crime association are unfounded.

		Their concern is based on several anticipated outcomes, including the loss of scenic or distant views, incidence of backyard dwellers, fire threats, increased residential density, overcrowding, and a perceived rise in criminal activity, all of which are viewed as undermining the safety, character, and long-term stability of the area.	It is further important to point out that the proposed residential erven are not considered high-density development, but rather an extension of existing residential patterns in the area. The objectors' assumption that the development constitutes "low-cost housing" is incorrect and does not reflect the intent or scope of the application. The development conforms to the applicable zoning provisions and general development parameters of the Overstrand Local Municipality. Furthermore, the development represents a contextually appropriate infill initiative that supports spatial integration.
3.	**A1 & A5**	**<u>Representations on crime and safety</u> –** The objectors express their concern in relation to the proximity of the proposed development to the town's business district, including the harbour area, which may lead to an increase in criminal activity. This is regarded as a potential threat to public safety and the town's appeal as a tourist destination. Furthermore, it is argued that existing infrastructure and policing capacity are insufficient to accommodate the additional demand and social risks associated with an 'increased residential density'.	The objectors' concerns are noted. The objectors' fears of increased criminal activity are based on generalised assumptions. The proposed development does not represent a scale or typology that would place undue pressure on local safety infrastructure. On the contrary, residential developments of this nature can contribute positively to neighbourhood security through increased surveillance and community presence. Assertions that the development will compromise the town's appeal to tourists are similarly speculative.

4.	**A1, A3, A4 & A5**	**Representations on traffic and safety -** The objectors state that the proposed development will lead to increased traffic volumes along key routes, including the R44, Kleinmond Main Road- scenic route. They express concern that this may elevate the risk of vehicular accidents (local and international travellers) and pedestrian safety incidents, and may further compromise public safety, particularly during periods of social unrest or protest action.	The concerns of the objectors are noted. However, these views are not substantiated by any transport impact assessment or professional traffic engineering review. As part of the application process, infrastructure capacity, including road and pedestrian safety, has been reviewed by qualified consultants. Their input confirms that the proposed development can be accommodated without adverse impacts on the existing network. The objections lodged pose no material opposition to this application.
5.	**A1, A3, & A4**	**Representations on impact to character -** Objectors believe the proposed development is not in keeping with the area's established character. Concerns include overdevelopment, overpopulation, diminishment of the existing architectural and cultural identify of the town, and increased social pressures that could lead to higher crime rates.	It is recognised that development of Erf 6936, Kleinmond will change the status quo of the subject property, however, within the context of residential development, which aligns with surrounding development trends. The perception that the proposal constitutes overdevelopment or threatens local character is not supported by zoning rights or policy directives, which were addressed and confirmed by this application. The association made between social pressure, crime, and higher residential density is, therefore, speculative and lacks substantive base.
6.	**A1, A3, A4 & A5**	**Representations on environmental impacts -** The objectors express their concern regarding the potential destruction of indigenous fynbos and surrounding vegetation.	The environmental concerns raised are noted. However, these objections do not present a material basis for opposition.

		The objectors argue that the proposal poses a significant threat to biodiversity and natural ecosystems, citing a loss of habitat and heightened pollution, that would leave residents exposed to environmental and health risks. The objectors further argue that the development will bring an increased incidence of backyard dwellers, and an increased threat of fire to adjacent properties due to their proximity.	The subject property is located on a site that has already been disturbed and forms part of the established urban environs, therefore not being part of an ecological corridor or biodiversity area. The application site is a vacant disturbed site with no indigenous vegetation or biodiversity present on the site. The concern is therefore misguided.
7.	**A3**	**<u>Representation on alternative solutions</u> -** The objector is of the view that development should be considered elsewhere, citing that the development will compromise the wellbeing of their area. Proposed alternatives include the outskirts of Kleinmond and the Overhills Area.	The representation advocating for site alternatives is noted. However, the application has been submitted in accordance with the spatial planning policy and development vision of the Overstrand Municipality. The site has been earmarked for residential development in line with strategic directives. A key consideration to infill development is the scarce availability of land elsewhere, which in this case is underpinned by the Overstand Municipality Spatial Development Framework: ***Availability of suitable developable land poses a huge challenge. No land available outside the Urban Edge due to environmental constraints. An investigation to identify suitable land for integrated development was undertaken during 2017/2018 and completed during 2021.***

8.	A2	**Representation on business needs** - This submission does not constitute a formal objection but serves as a representation requesting that alternative development options for the site be explored. The 'objector' states that the current proposal's exclusive focus on residential use overlooks the potential for commercial or mixed-use development. It is further stated that existing and future business needs within the area have not been adequately assessed.	The representation advocating for commercial or mixed-use development is noted. However, the application has been submitted in accordance with the spatial planning policies and development vision of the Overstrand Municipality. The site has been earmarked for residential development in line with strategic objectives. While commercial development is important, it must be appropriately located in areas specifically designated for such use and where such use has an informed (existing) imprint, relative to the existing character of the area.
9.	A1, A3, & A4	**Representation on infrastructure capacities** – The objectors raise concern regarding the strain on existing infrastructure. Specific references were made to stormwater management constraints, congested road networks/ systems, and limited capacity of public amenities and services to support an increase in population.	The objections are noted. This comment is speculative and lacks any substantiated basis. The views of the objectors have not been informed or supported by any findings or recommendations contained within the application. The application is supported by professional engineering input, which confirms that the development can be accommodated without overburdening municipal systems. These assessments were conducted by registered professionals and reviewed by municipal engineering departments, whose support has been recorded. No evidence has been presented by objectors to suggest otherwise.

10.	A1, A3, & A4	**Representation on socio-economic disparities, digital exclusion and public participation and procedural fairness –** The objectors have emphasised a digital divide within the community, noting that the absence of equitable access to internet and communication technologies has resulted in unequal opportunity to participate in the planning process or raise concerns. Several objectors argue that the public participation process has been procedurally inadequate. Comments received include the lack of in-person engagements, insufficient notice to surrounding property owners, and the over-reliance on digital communications, which may have excluded technologically or economically disadvantaged community members It was further argued that consistent with procedures applied to neighbouring properties, the disposal of the subject property should be conducted via public auction. The objector (A4) further argues that the proposal conflicts with the Overstrand Municipality's housing policy, which requires the removal of illegal structures in parallel with the provision of new formal housing, an obligation they assert has not been met in this instance.	Comments regarding exclusion from the participation process are noted but not supported by any procedural irregularity. The public participation process was conducted in accordance with statutory requirements, and reasonable steps were taken to ensure accessibility of information. The use of digital communication is standard practice and was facilitated through both formal notices (email/ mail) and on-site notices. The planning authority's obligations in this regard were met, and objectors had sufficient opportunity to comment. These claims do not present a material basis for opposition. Disposal of the land is at this stage not relevant as the application is merely to subdivide and zone the erven. It is furthermore unreasonable to assume that future residents of the proposed development would not have access to the same technological resources as those currently available to the broader community. The development is expected to benefit from the same infrastructure and service provision, including access to digital communication platforms, thereby ensuring equitable participation and integration.

4. CONCLUSION

Having considered the objections received, it is argued that none present a credible, evidence-based, or policy-aligned basis for the refusal of this application. The issues raised are largely speculative, unsubstantiated by supporting technical analysis, and do not engage meaningfully with the statutory planning principles that govern land use management within the Overstrand Municipality.

In particular, the objections fail to demonstrate how the proposed development would be undesirable. There has been no substantive evidence provided to indicate that the proposal will result in harm to public health, safety, the environment, or the rights of adjoining landowners.

Conversely, the applicant has clearly demonstrated the desirability and appropriateness of the proposal, supported by a comprehensive set of professional reports, specialist inputs, and policy alignment. Specifically, the development offers the following planning merits:

1. A negligible impact on the character of the surrounding area;
2. No material impact on engineering services, as verified by supporting technical reports and professional recommendations;
3. Positive socio-economic outcomes, including a cohesive, integrated residential development;
4. No adverse impacts on public health, safety, or wellbeing;
5. A negligible environmental impact, given the site's location within a disturbed and modified urban environment;
6. Provision of residential erven within the FLISP housing market, being an income bracket with a high demand for residential opportunities.

In light of the above it is requested that the application be approved without further delay.

Annexure F 1|2

COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR: APPLICATION FOR REZONING, SUBDIVISION & THE ALLOCATION OF STREET NAME & NUMBERS: ERF 6936, KLEINMOND (4876/2024)

Water	:	In order
Sewer	:	In order
Roads and traffic	:	In order
Stormwater (SW)	:	In order
Electricity	:	In order

Conditions:

1. that the developer (Overstrand Municipality) at his cost constructs the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be provided;

2. that servitudes for municipal services be registered in respect of all main services to be taken over by the developer and all existing municipal services concerned, crossing private property;

3. that plans of all the internal municipal civil and electrical (high and low voltage supply) services and such link services as required by the Director: Infrastructure and Planning, prepared by an ECSA registered professional engineer/technologist, be submitted to the Director: Infrastructure and Planning for his prior approval;

4. the "Guidelines for the Provision of Engineering Services in Residential Townships" (Blue Book), SABS 1200 specifications and the Design and Construction Standards for civil and electrical services of the Council to be used as the standard design and construction criteria with which such plans must comply;

5. the successful completion of such works to be supervised and certified by an independent professional civil engineer/technologist i.e. a professional civil engineer/technologist who has no direct financial interest in the development, other than payment as standard professional fees for the work concerned; and

6. that the connection to the stormwater reticulation system if any, be provided according to the stormwater management plan;

7. that a Certificate of Completion together with as-built services plans be provided by the independent professional engineer/technologist to the Overstrand Municipality. As-built plans to be on quality paper, together with a DXF file thereof;

8. that the Implementing Agent apply for a temporary water connection on the prescribed application form, at Overstrand Municipality's Finance Department, before commencement of construction;

9. that the connection to the main water line only be done by the Operational Department, after payment of the connection fee, by the developer;

10. that damage to the existing roads, used as routes for access to the development, for the provision of services, be repaired by the developer;

11. that the conditions set by the W/Cape Department of Infrastructure be adhered to.

R Andrew

RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL

05/05/2025

DATE

Annexure G

Western Cape Government

Department of Infrastructure
Vanessa Stoffels
Chief Directorate: Road Planning
Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

Ref: DOI/CFS/RN/LU/REZ/SUB-21/305 (Application No: 2025-02-0060)

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

TP-A Theart (Hyld Steep)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
15 MAY 2025
Reeds deur die stelsel
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Attention: L Isaacs

Dear Madam

ERF 6936, KLEINMOND: PROPOSED SUBDIVISION, REZONING AND THE ALLOCATION OF STREET NAMES AND NUMBERS

1. The following refers:

1.1. Letter 4876/2024 to this Branch dated 13 February 2025.

1.2. E-mail from this Branch to you dated 25 February 2025.

2. The subject property is in Kleinmond and is undeveloped.

3. The proposal is for the following:

3.1. Subdivision of Erf 6936 into Portions A (±0.68 ha) and the Remainder (±0.14 ha).

3.2. Rezoning of Portion A from Public Open Space Zone 2 to Subdivisional Area for the establishment of 21 Single Residential Zone erven, 1 Transportation Zone 2 and 1 Open Space Zone 2.

3.3. Allocation of Street Names and Numbers.

4. The 5m building line applies along Trunk Road 27 Section 1 (R44), and the subdivision of Erf 6936 should provide for the 5m building line to be retained.

5. This Branch offers no objection to the proposal in terms of the Land Use Planning Act 3 of 2014 on condition that:

5.1. The 5m building line along Trunk Road 27 Section 1 is maintained.

Yours Sincerely

DD FORTUIN
For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE BRANCH
DATE: 24 APRIL 2025

FILE NO Erf 6936-KM
SCAN NO.
COLLABORATOR NO.
2650381

Annexure H 1/26

KLEINMOND HOUSING PROJECTS: OVERHILLS INFORMAL SETTLEMENT, ERF RE 5462, ERF 6862 & ERF 6936

TRANSPORT IMPACT ASSESSMENT

JULY 2024

Douw Louwrens *B.Eng (Civil)*

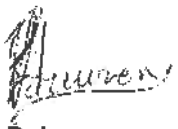
083 541 3489

douw@dlconsulteng.co.za

COVER PAGE

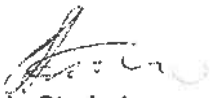
Certification

It is herewith certified that this Transport Impact Assessment has been prepared according to the requirements of the South African Traffic Impact and Site Traffic Assessment Manual.



D. Louwrens
B. Eng (Civil)
Tel: 083 541 3489
E-mail: douw@dlconsulteng.com

Checked by:



L. Stodart
M.Eng Pr.Eng

Application details:

a) Municipality name: Overstrand Municipality

b) Type of assessment: Transport Impact Assessment

c) Erf numbers and farm names: Overhills Informal Settlement, Erf RE 5462, Erf 6862 and Erf 6936 Kleinmond

d) Client details: Neil Lyners and Associates (Pty) Ltd

e) Date of report: July 2024

f) Name and address of the Author: Douw Louwrens, 16 Jacobus Geldenhuys St, Onrus, 7201

3/26

INDEX

1. BACKGROUND 1
2. DEVELOPMENT PROPOSAL 1
3. STUDY AREA 1
4. EXISTING TRANSPORT INFRASTRUCTURE 2
5. EXISTING TRAFFIC 2
6. BACKGROUND TRAFFIC DEMAND ESTIMATION 5
7. DEVELOPMENT TRIPS 5
8. TRAFFIC IMPACT 6
9. ACCESS, INTERNAL ROADS AND PARKING 8
10. PUBLIC AND NON-MOTORISED TRANSPORT 9
11. CONCLUSIONS 9
12. RECOMMENDATIONS 10

ANNEXURE A: Photographic record of existing transport facilities
ANNEXURE B: Drawings

1. BACKGROUND

Douw Louwrens was appointed by Neil Lyners and Associates (Pty) Ltd to assess the transport impact of proposed housing developments on four portions of land in Kleinmond, namely the Overhills informal settlement, Erf RE 5462, Erf 6862 and Erf 6936.

2. DEVELOPMENT PROPOSAL

The Overhills informal settlement is situated on the north-western side of Kleinmond and gains vehicular access through the Kleinmond transfer station access road. The development entails the provision of engineering services for an area where approximately 695 structures are situated. Additionally, 77 single residential erven are proposed southwest of the transfer station. The location is shown in the attached ***Figure 1*** and marked "A". The proposed layout plan is attached as ***Figure 2*** (*Kleinmond Overhills Housing - Proposed Layout Plan, Urban Dynamics Cape Town & Regional Planners, dated: 14 May 2024*).

Erf 6862 is situated southeast of the Overhills informal settlement between GM Siyoni Street and Malva Street and to the north of Nemesia Avenue and the intersection thereof with Fynbos Street. The development entails 22 single residential erven. The location is shown in the attached ***Figure 1*** and marked "B". The proposed layout plan is attached as ***Figure 3*** (*Overstrand Erf 6862 Kleinmond - Proposed Layout Plan – Option 1, Urban Dynamics Cape Town & Regional Planners, dated: 06 May 2024*).

Erf 6936 is situated between Main Road and Nemesia Avenue northwest of the Kleinmond cemetrey. The development entails 30 single residential erven. The location is shown in the attached ***Figure 1*** and marked "C". The proposed layout plan is attached as ***Figure 4*** (*Overstrand Erf 6936 Kleinmond - Proposed Layout Plan, Urban Dynamics Cape Town & Regional Planners, dated: 23 April 2024*).

Erf RE/5462 is situated further southeast between Main Road and Nemesia Avenue on the eastern side of the Kleinmond cemetrey. The development entails 15 single residential erven. The location is shown in the attached ***Figure 1*** and marked "D". The proposed layout plan is attached as ***Figure 5*** (*Overstrand Erven RE/5462 & 6090 Kleinmond - Proposed Layout Plan – Option 1, Urban Dynamics Cape Town & Regional Planners, dated: 06 Mayl 2024*).

3. STUDY AREA

The primary study area was determined as the access roads and high-order roads in the vicinity of the development. The following elements were included in the study area:

- Main Road (R44, Trunk Road 27)
- Harbour Road
- Kleinmond transfer station access road
- Fynbos Street
- Protea Road
- Nemesia Avenue
- Intersections between these roads

4. EXISTING TRANSPORT INFRASTRUCTURE

Information on the existing transport infrastructure in the vicinity of the site was obtained through site visits conducted in May and July 2024. The roads discussed below are shown in the Locality Plan (***Figure 1***), Annexure B. Please also refer to the photo pages attached as Annexure A.

Main Road (R44, Trunk Road 27) is a Class 3 Minor Arterial running through Kleinmond. East of 13th Street, Main Road is a single-carriageway road with an urban cross-section including kerbs and channels and on-street parking present in places. Where on-street parking is not present, surfaced shoulders exist. West of 13th Street, Main Road is a single carriageway two-way road with a rural cross-section and surfaced shoulders. Surfaced sidewalks are situated along both sides of the road east of 13th Street. West of 13th Street a surfaced footpath is situated on the northern side of Main Road from Protea Road up to Abalone Street. Minibus taxi services operate along this road. Intersections with lower-order roads are priority (stop) controlled.

Harbour Road is a Class 4 Collector. The road provides access to the Kleinmond industrial node to the south of Main Road, the Kleinmond harbour and numerous restaurants and tourist attractions. The road is a single-carriageway two-way road with surfaced sidewalks, on-street parking and an urban cross-section present to the south of Luckoff Street.

Kleinmond transfer station access road is a Class 5 Local Street and provides access to the Kleinmond transfer station, sports field and the Overhills informal settlement. The road is surfaced from Main Road up to the transfer station access, approximately 75 metres from Main Road. A gravel road continues further northward providing access to the Overhills informal settlement and sports field. Minibus taxis operate along this road.

Fynbos Street, Protea Road and Nemesia Avenue are Class 5 Local Streets and provide access to properties situated in the northwestern Kleinmond area. These roads are all surfaced single-carriageway two-way roads. A surfaced sidewalk is situated along the southern side of Nemesia Avenue between Protea Road and Fynbos Street. Surfaced sidewalks are situated along both sides of Protea Road between Main Road and Nemesia Avenue.

Public transport: Minibus taxis, and to a lesser extent buses, operate along all the roads in the study area. Formal embayments and shelters are situated along the transfer station access road as well as Protea Road.

5. EXISTING TRAFFIC

Traffic counts were done at the Main Road / Kleinmond transfer station access road, Main Road / Fynbos Street / IJ Singleton Street, Main Road / Harbour Road, Main Road / Protea Road, Protea Road / Nemesia Avenue and Fynbos Street / Nemesia Avenue intersections on Tuesday, 11 June 2024. Details of the traffic counts are given in ***Table 1***.

Table 1: Traffic count details

Intersection	Morning peak hour	Afternoon peak hour	% Minibus taxis	% Buses	% Heavy vehicles
Main / Transfer station access	07:45 – 08:45	16:00 – 17:00	5,4%	0,2%	3,2%
Main / IJ Singleton / Fynbos	07:30 – 08:30	16:15 – 17:15	1,9%	0,3%	2,8%
Main / Harbour	07:30 – 08:30	16:00 – 17:00	1,7%	0,3%	2,8%
Main / Protea	07:15 – 08:15	16:00 – 17:00	2,1%	0,4%	2,1%
Protea / Nemesia	07:15 – 08:15	16:30 – 17:30	4,6%	1,3%	1,8%
Fynbos / Nemesia	07:00 – 08:00	16:45 – 17:45	7,0%	0,2%	1,8%

The affected intersections were analysed using SIDRA software. SIDRA calculates movement and intersection delays and assigns a service level based on the duration of the delay. A level of service A denotes an excellent service level with very little delay, whereas a level of service F represents very long delays and a breakdown in service. A level of service D is generally taken as the lowest acceptable standard.

The results of the SIDRA analysis are summarised in ***Table 2***. Existing traffic volumes and service levels are shown in ***Figure 6***. All intersections currently operate at good service levels during the morning and afternoon peak hours.

Table 2: Levels of service with existing (2024) traffic volumes

Intersection	Control measure	Morning peak hour			Afternoon peak hour		
		Inter-section LOS	Avg int delay (s)	Worst movement LOS	Inter-section LOS	Avg int delay (s)	Worst movement LOS
Main / Transfer station access	Stop	-	1,9	A	-	2,0	A
Main / IJ Singleton / Fynbos	Stop	-	3,3	B	-	2,8	B
Main / Harbour	Stop	-	1,6	A	-	1,7	B
Main / Protea	Stop	-	2,3	B	-	1,9	A
Protea / Nemesia	Stop	-	3,8	A	-	2,9	A
Fynbos / Nemesia	Stop	-	4,1	A	-	4,1	A

The 2020 Western Cape Access Management Guidelines prescribe warrants for right-turn lanes at intersections. The volume of advancing traffic with the percentage of vehicles turning right, as well as the volume of opposing traffic, are measured against curves for different operating speeds. Although not a capacity concern, a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Fynbos Street / IJ Singleton Street intersection is currently warranted during the PM peak hour for safety reasons as shown in ***Diagram 1***. Road users however currently utilise the surfaced shoulder to pass stationary right-turning vehicles on Main Road at the intersection.

A right-turn lane on the northwestern approach to the intersection is not currently warranted but can be incorporated together with the required turning lane on the southeastern approach without much additional widening of the road. The proposed upgrades to the intersection are shown in ***Diagram 2***.

Diagram 1: Right-turn lane warrant at the Main Rd / Fynbos Street / IJ Singleton Street intersection

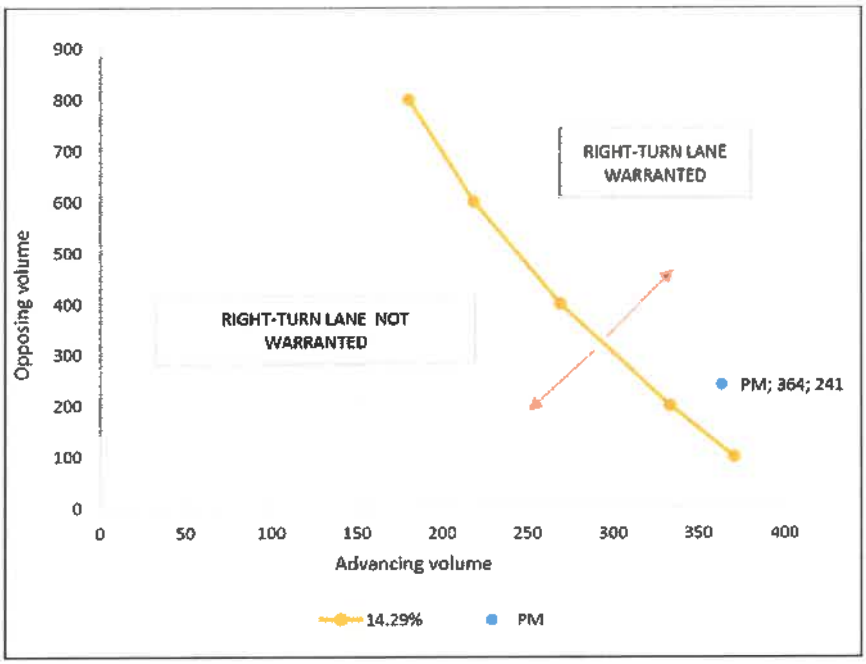
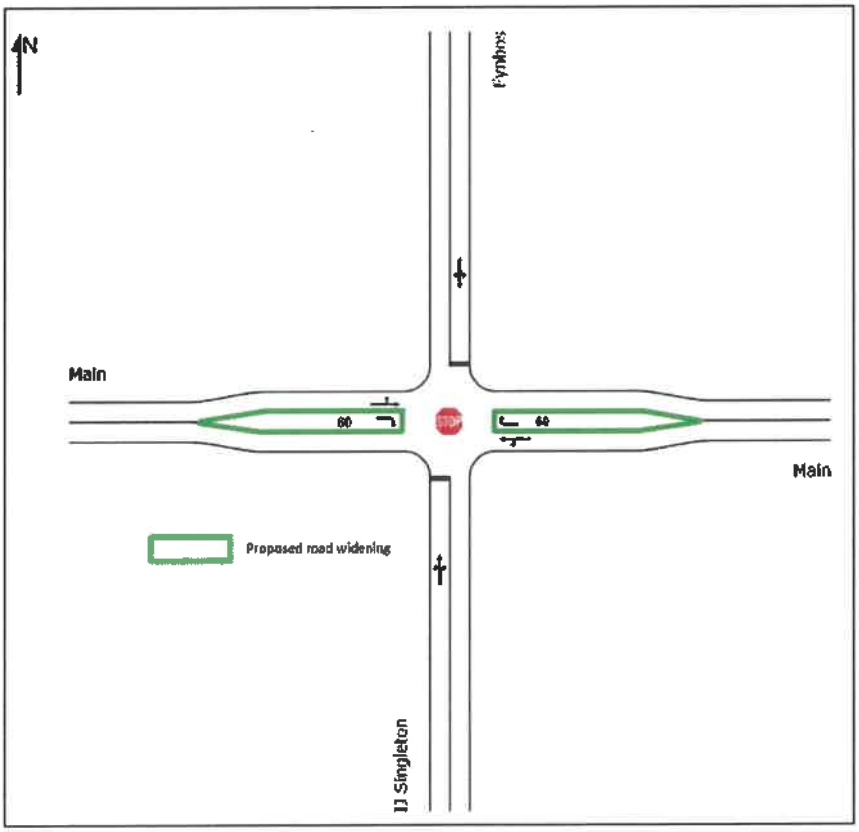


Diagram 2: Proposed Main Rd / Fynbos Street / IJ Singleton Street intersection layout



6. BACKGROUND TRAFFIC DEMAND ESTIMATION

The TMH16 Traffic Impact Assessment Manual suggests that background traffic demand should be estimated for the design horizon and the planning horizon. The design horizon is the year when the development will be completed and the planning horizon is the year when the entire area in which the development is located, will be developed.

It is anticipated that the housing projects and surrounding area will be fully completed in five years which makes the design- and planning horizon 2029. Background traffic demand is constituted of two components: percentage growth and traffic build-up from other developments. An annual traffic growth rate of 3,0% was applied to calculate the increase in traffic on Main Road in the study area. No other developments are planned in the vicinity in the foreseeable future and therefore no additional growth was applied.

The affected intersections were again analysed with the SIDRA computer program. The results are summarised in ***Table 3***. Background 2029 traffic volumes and service levels are shown in ***Figure 7***. All intersections in the study area will continue to operate at good service levels during the morning and afternoon peak hours.

Table 3: Levels of service with Background 2029 traffic volumes

Intersection	Control measure	Morning peak hour			Afternoon peak hour		
		Inter-section LOS	Avg int delay (s)	Worst movement LOS	Inter-section LOS	Avg int delay (s)	Worst movement LOS
Main / Transfer station access	Stop	-	1,7	A	-	1,8	A
Main / IJ Singleton / Fynbos	Stop	-	3,1	B	-	2,6	B
Main / Harbour	Stop	-	1,6	A	-	1,8	B
Main / Protea	Stop	-	2,4	B	-	2,0	A
Protea / Nemesia	Stop	-	3,6	A	-	2,8	A
Fynbos / Nemesia	Stop	-	4,1	A	-	4,1	A

7. DEVELOPMENT TRIPS

Trip generation rates were obtained from the COTO TMH17 Trip Data Manual. The document indicates a rate of 1,0 trips per unit for the AM peak hour with a 25:75 in:out split and 1,0 trips per unit for the PM peak hour with a 70:30 in:out split for single residential land uses. A trip generation reduction of 40% was applied as indicated in the TMH17 document for developments situated in areas with low vehicle ownership. These rates and reductions were applied to the proposed developments. The trip generation potential of each portion is summarised in ***Table 4***.

Table 4: Trip generation potential of Kleinmond housing projects

Portion	Land Use	Units	Peak hour	Rate	Reduction	Total	%In	%Out	In	Out
A: Overhills	Single Residential	77	AM	1	40%	46	25%	75%	12	35
			PM	1	40%	46	70%	30%	32	14
B: Erf 6862	Single Residential	22	AM	1	40%	13	25%	75%	3	10
			PM	1	40%	13	70%	30%	9	4
C: Erf 6936	Single Residential	30	AM	1	40%	18	25%	75%	5	14
			PM	1	40%	18	70%	30%	13	5
D: RE/5462	Single Residential	15	AM	1	40%	9	25%	75%	2	7
			PM	1	40%	9	70%	30%	6	3
Total	**Single Residential**	**144**	**AM**	**1**	**40%**	**86**	**25%**	**75%**	**22**	**64**
			PM	**1**	**40%**	**86**	**70%**	**30%**	**60**	**26**

It is not expected that additional trips will be generated as a result of the servicing of the informal settlement area to the north of the Kleinmond transfer station. Trips generated by this portion are already included in the traffic counts conducted. Newly generated trips were distributed onto Main Road via the transfer station access road, Fynbos Street and Protea Road utilising existing directional splits. The trip distribution is shown in ***Figure 8*** attached.

8. TRAFFIC IMPACT

Trips generated by the proposed developments were added to background 2029 traffic volumes to obtain total traffic volumes. The affected intersections were analysed with the increased traffic volumes to determine the traffic impact of the development.

A summary of the analysis results is given in ***Table 5***. Total traffic volumes and service levels are shown in ***Figure 9***.

Table 5: Levels of service with Total 2029 traffic volumes

Intersection	Control measure	Morning peak hour			Afternoon peak hour		
		Inter-section LOS	Avg int delay (s)	Worst movement LOS	Inter-section LOS	Avg int delay (s)	Worst movement LOS
Main / Transfer station access	Stop	-	2,3	A	-	2,2	A
Main / IJ Singleton / Fynbos	Stop	-	3,3	B	-	2,8	B
Main / Harbour	Stop	-	1,6	B	-	1,7	B
Main / Protea	Stop	-	2,4	B	-	2,0	B
Protea / Nemesia	Stop	-	3,8	A	-	2,9	A
Fynbos / Nemesia	Stop	-	4,6	A	-	4,7	A

Average delays at the affected intersections in the study area will increase slightly as a result of the developments by 2029, but service levels will remain good with the existing road network and intersection configurations in place.

Based on the Access Management Guidelines right-turn lane warrants, a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Transfer station access road intersection will become warranted during the PM peak hour. It should be stressed that this will be a safety improvement and not due to capacity constraints resulting from the increase in right-turning vehicles (22,2% of the advancing volume) as shown in ***Diagram 3.***

The proposed upgrades to the intersection are shown in ***Diagram 4***.

Diagram 3: Right-turn lane warrant reached at the Main Rd / Transfer station access road intersection

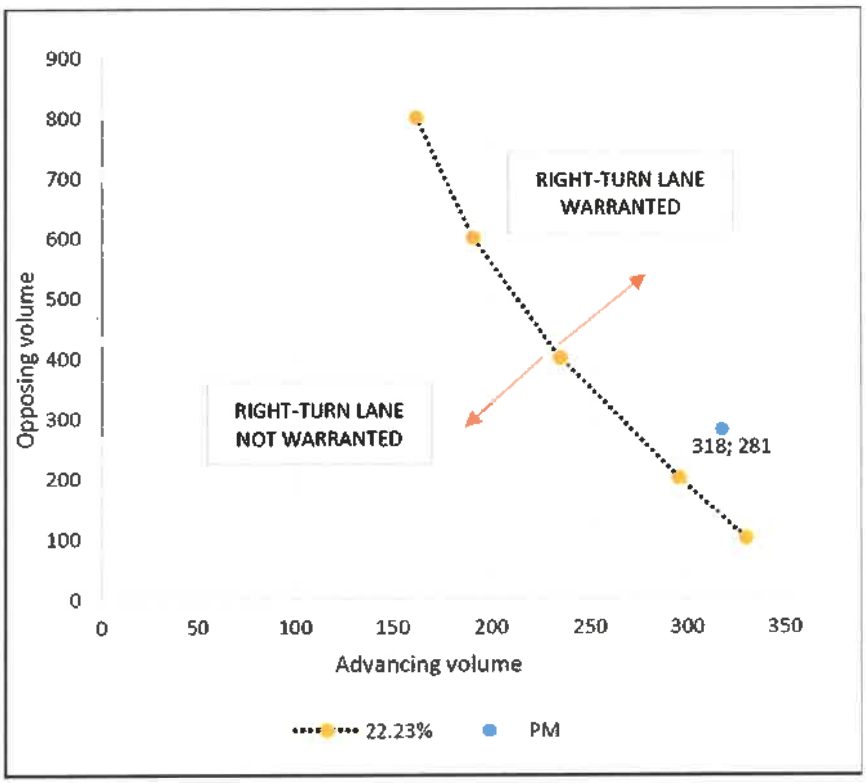
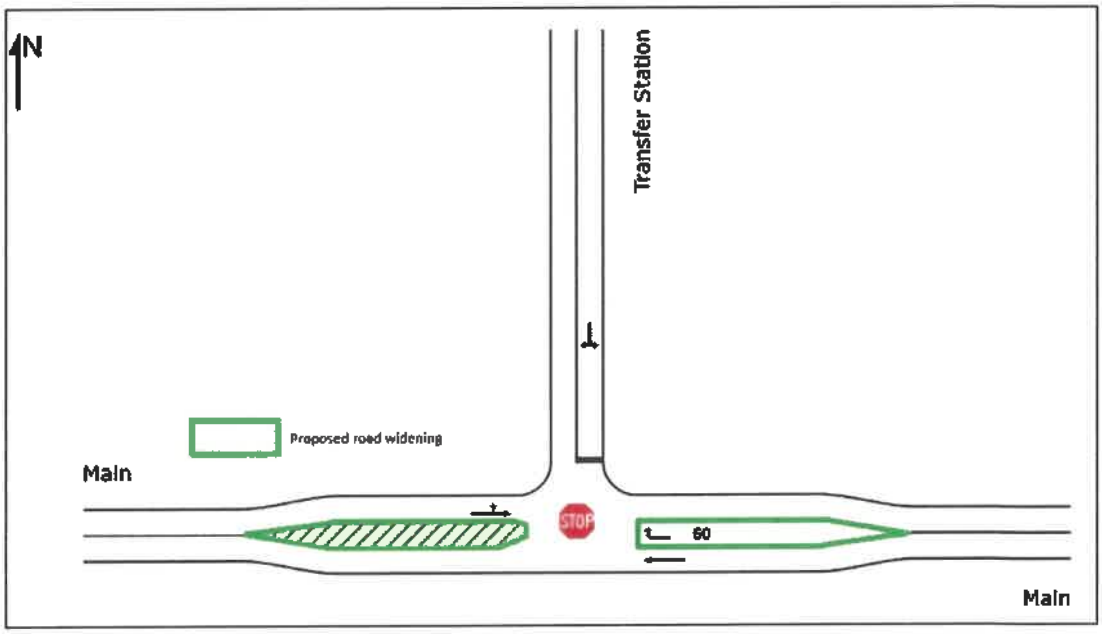


Diagram 4: Proposed Main Road / Transfer station access road intersection layout



It can be concluded that the combined traffic impact of the four proposed housing developments will be moderate.

9. ACCESS, INTERNAL ROADS AND PARKING

The Overhills development, Portion A, will obtain access via the Kleinmond transfer station access road. A 16-metre-wide road reserve for the Kleinmond transfer station access road is proposed. The access point to the proposed 77 new erven will be situated approximately 50 metres from Main Road. The Western Cape Access Management Guidelines recommend that the first driveway on a Class 5 road downstream of a Class 3 road (Main Road) should be located at least 75 metres from the Class 3 road. Driveways on all other sections of Class 5 roads should be spaced at least 25 metres apart. In the case of Portion A, the position of the access is restricted by the location of the transfer station to the north. The access is proposed at the furthest possible position from Main Road and given the anticipated low traffic volumes, the position is deemed acceptable. ***Figure 2*** attached indicates a proposed 13-metre-wide road reserve serving the new erven which narrows to a 10-metre-wide road reserve west of the taxi rank. The taxi rank, if possible, should obtain access from the internal road to maximise the distance from its access to Main Road. All other internal roads will have 10-metre-wide road reserves, which will be adequate.

The Erf 6862 Kleinmond development, Portion B, will obtain access off Nemesia Avenue at two points with the internal road forming a loop through the development. The western point will form the fourth and northern leg of the Nemesia Avenue / Fynbos Street intersection and the eastern point will be located approximately 40 metres from Fynbos Street and 40 metres from Malva Street located further east. The access roads can be classified as low-volume driveways and the spacing thereof on Nemesia Avenue is deemed adequate. The loop road will have a 10-metre-wide reserve. See ***Figure 3*** attached.

The Erf 6936 development, Portion C, will obtain access off Nemesia Avenue opposite Alusia Street. The access position is deemed ideal. The access road will form a T-junction with a cul-de-sac on either side. The culs-de-sac will each be approximately 100 metres in length, with a turning head at each end. All three internal roads will have 10-metre-wide reserves. See ***Figure 4*** attached.

The Erf RE/5462 development, Portion D, will obtain access off Nemesia Avenue via a 10-metre-wide road reserve approximately 130 metres from Protea Road. The access road will form a cul-de-sac, approximately 80 metres in length with a turning head on the southern end, as indicated in ***Figure 5*** attached.

Parking should be provided according to the Overstrand Municipality Land Use Scheme 2020 document which indicates a requirement of two on-site parking bays per dwelling unit and one on-site parking bay for erven less than 400 m².

10. PUBLIC AND NON-MOTORISED TRANSPORT

Minibus taxis, and to a lesser extent buses, operate along all the roads in the study area. Formal embayments and shelters are situated along the transfer station access road as well as Protea Road. A formal taxi rank is proposed on the western side of the Kleinmond transfer station access road as shown in the attached ***Figure 10***. No additional public transport improvements are proposed.

The proposed housing developments are expected to generate a considerable number of pedestrian trips. Surfaced sidewalks are located along Protea Road and Nemesia Avenue as mentioned. A surfaced footpath is also located along Main Road between Protea Road and Abalone Street.

It is proposed that the surfaced footpath along Main Road should be extended from Abalone Street up to the Kleinmond transfer station access road to provide a link to the proposed taxi rank. It is further proposed that a surfaced sidewalk should be provided along at least one side of the southern internal road through the Overhills settlement to link up with the proposed pedestrian route on the eastern side at GM Siyoni Street.

Pedestrians currently utilise informal paths over Erf 6862 Kleinmond, Portion B, which will become impassable with the development. It is therefore proposed that a surfaced sidewalk be provided along GM Siyoni Street, the western portion of Nemesia Avenue and Fynbos Street to link and provide continuous north-south and east-west routes for pedestrians through the study area.

11. CONCLUSIONS

From the Transport Impact Assessment, it can be concluded that the combined traffic impact of the four proposed housing developments will be moderate. Other conclusions are summarised below.

- The development entails housing developments on four portions of land in Kleinmond, namely the Overhills informal settlement, Erf RE 5462, Erf 6862 and Erf 6936;
- The four developments will provide 144 single residential opportunities as well as serviced sites to accommodate the existing informal settlement;
- All intersections in the study area currently operate at good service levels during the morning and afternoon peak hours;
- A dedicated right-turn lane is warranted on the southeastern approach of Main Road to the Main Road / Fynbos Street / IJ Singleton Street intersection based on existing PM peak hour traffic volumes. The lane is required for safety reasons and not due to capacity constraints;
- It is anticipated that the housing projects and surrounding area will be fully developed within the next five years, which makes 2029 the design- and planning horizon 2029;
- All intersections in the study area will continue to operate at good service levels with background 2029 traffic volumes during the morning and afternoon peak hours;

- The developments will have the potential to generate a total of 86 additional trips (22 in; 64 out) during the morning peak hour and 86 trips (60 in; 26 out) during the afternoon peak hour;
- Average delays at intersections in the study area will increase slightly with the addition of development trips, but service levels will remain good with the existing road network and intersection configurations in place;
- A dedicated right-turn lane will become warranted on the southeastern approach of Main Road to the Main Road / Transfer station access road intersection based on total 2029 PM peak hour traffic volumes. The turning lane will be required for safety reasons;
- All proposed access positions on Municipal roads and road reserve widths as indicated in ***Figures 2 – 5*** are deemed adequate;
- Minibus taxis, and to a lesser extent buses, operate along all the roads in the study area. Formal embayments and shelters are situated along the transfer station access road as well as Protea Road. A formal taxi rank is proposed on the western side of the Kleinmond transfer station access road as shown in the attached ***Figure 10***. No other public transport improvements are proposed;
- The proposed housing developments are expected to generate a considerable number of pedestrian trips and several surfaced sidewalks and pathways are proposed to link and provide continuous north-south and east-west routes for pedestrians through the study area.

12. RECOMMENDATIONS

The recommendations made in the Transport Impact Assessment are summarised below.

- Overstrand Municipality should consider the provision of a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Fynbos Street / IJ Singleton Street intersection should be provided for safety reasons;
- Overstrand Municipality should consider the provision of a dedicated right-turn lane on the southeastern approach of Main Road to the Main Road / Transfer station access road intersection should be provided for safety reasons;
- Parking should be provided according to the Overstrand Municipality Land Use Scheme 2020 document which indicates a requirement of two on-site parking bays per dwelling unit and one on-site parking bay for erven less than 400 m²;
- The surfaced footpath along Main Road should be extended from Abalone Street up to the Kleinmond transfer station access road to provide a link to the proposed taxi rank;
- A surfaced sidewalk should be provided along at least one side of the southern internal road through the Overhills settlement to link up with the proposed pedestrian route on the eastern side at GM Siyoni Street;
- A surfaced sidewalk be provided along GM Siyoni Street, the western portion of Nemesia Avenue and Fynbos Street to link and provide a continuous north-south and east-west route for pedestrians through the development area.

ANNEXURE A: PHOTOGRAPHIC RECORD OF EXISTING TRANSPORT FACILITIES

1. Main Road (R44, Trunk Road 27)

Photo 1a: Looking west along Main Rd from Transfer Station Access Rd

Photo 1b: Looking southeast along Main Rd from the Fynbos St / IJ Singleton St intersection

Photo 1c: Looking east along Main Rd from the Protea St intersection

2. Transfer Station Access Road

Photo 2a: Looking south along the access road towards Main Rd

Photo 2b: Looking west from the access road towards proposed taxi rank

Photo 2c: Looking northwest along access road towards transfer station

581

14/26

3. Nemesia Avenue

Photo 3a: Looking east along Nemesia Ave from Fynbos St

Photo 3b: Looking west along Nemesia Ave from Alusia Cres

Photo 3c: Looking west along Nemesia Ave from Protea Rd

4. Protea Road

Photo 4a: Looking south along Protea Rd from embayment

Photo 4b: Looking south along Protea Rd towards Main Rd

Photo 4c: Looking south along Protea Rd from Nemesia Avenue

582

15/26

ANNEXURE B: DRAWINGS

Figure 1: Locality Plan
Figure 2: Layout Plan – Overhills Housing (Portion A)
Figure 3: Layout Plan – Erf 6862 Kleinmond (Portion B)
Figure 4: Layout Plan – Erf 6936 Kleinmond (Portion C)
Figure 5: Layout Plan – Erf RE/5462 Kleinmond (Portion D)
Figure 6: Existing 2024 traffic volumes and service levels
Figure 7: Background 2029 traffic volumes and service levels
Figure 8: Trip distribution of proposed development
Figure 9: Total 2029 traffic volumes and service levels
Figure 10: Non-motorised transport facilities

17|26

N
Class 3: Minor Arterial
Class 4: Collector Street
KLEINMOND HOUSING PROJECTS
LOCALITY PLAN
SCALE
1:20 000 (A4)
FIGURE 1
Douw Louwrens
B.Eng (Civil)
To Hermanus / R43
To Betty's Bay
Kleinmond Beach
Kleinmond Harbour
Main Rd (R44 / Trunk Road 27/1)
Beach Rd
Harbour Rd
Protea Rd
Transfer Station
Bot River
Sandown Rd
Albert St
Bob Latiser St
Palmiet St
Singleton St
Ribbon
Beach Rd
1st Ave
3rd Ave
5th Ave
11th St
13th St

DRAFT

KLEINMOND

OVERHILLS HOUSING

PROPOSED LAYOUT PLAN

LAND USE TABLE

LAND USE	DESIGNATION	ZONING	AMOUNT OF ERVEN	AMOUNT OF UNITS	SIZE (ha)	%
Residential		Single Residential Zone	77	77	0,61	5,25
Residential & Ablution		Less Formal Development Zone	7		4,48	38,52
Public Open Space		Open Space Zone 2	1		0,30	2,58
Electrical Powerline		Open Space Zone 2	1		0,44	3,78
Sports Field		Open Space Zone 2	1		2,19	18,83
Detention Pond		Open Space Zone 2	1		0,38	3,27
Electrical Substation		Utility Services	1		0,53	4,56
TRA		Less Formal Development Zone	1		0,83	7,14
Taxi Rank		Transport Zone 2	1		0,09	0,77
Public Roads		Transport Zone 2	1		1,78	15,31
TOTALS			92	77	11,63	100,00

URBAN EDGE

URBAN EDGE

URBAN EDGE

TRANSFER STATION

0 25 50 100 250m

- SUBJECT AREA (±11.63ha)
- CADASTRAL BOUNDARIES
- URBAN EDGE
- CAPTURED INFORMAL ROADS
- PROPOSED SUPER BLOCKS (±4.48ha)
  INFORMAL HOUSING AFFECTED = ±147
- EXISTING TOILETS / ABLUTION
- 32m NEMA BUFFER

585

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY
URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE HELD LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

DATE 14 May 2024
SCALE See linescale
PLAN NO. 1
FILE NAME:
COPYRIGHT RESERVED
CLIENT

URBAN DYNAMICS CAPE
TOWN & REGIONAL PLANNERS

FIGURE 2

18/26

OVERSTRAND

ERF 6862 KLEINMOND

PROPOSED LAYOUT PLAN OPTION 1

- APPLICATION AREA
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT UNITS = 22 (6.5m x 13m & 7m x 13m)
- EXISTING TELEPHONE LINE
- EXISTING SEWER LINE
- CONTOUR LINES (0.25m intervals)

586

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY

DATE 06 May 2024
SCALE See linescale
PLAN NO. 1A
FILE NAME

COPYRIGHT RESERVED

CLIENT

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

FIGURE 3

19/26

OVERSTRAND

ERF 6936 KLEINMOND

PROPOSED LAYOUT PLAN

APPLICATION AREA

CADASTRAL BOUNDARIES

PROPOSED LAYOUT
UNITS = 30 (6.7m x 13m)

EXISTING TELEPHONE LINE

EXISTING SEWER LINE

EXISTING STORM WATER PIPE

CONTOUR LINES (0.25m intervals)

587

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY

DATE 23 April 2024

SCALE See linescale

PLAN NO. 2

COPYRIGHT RESERVED

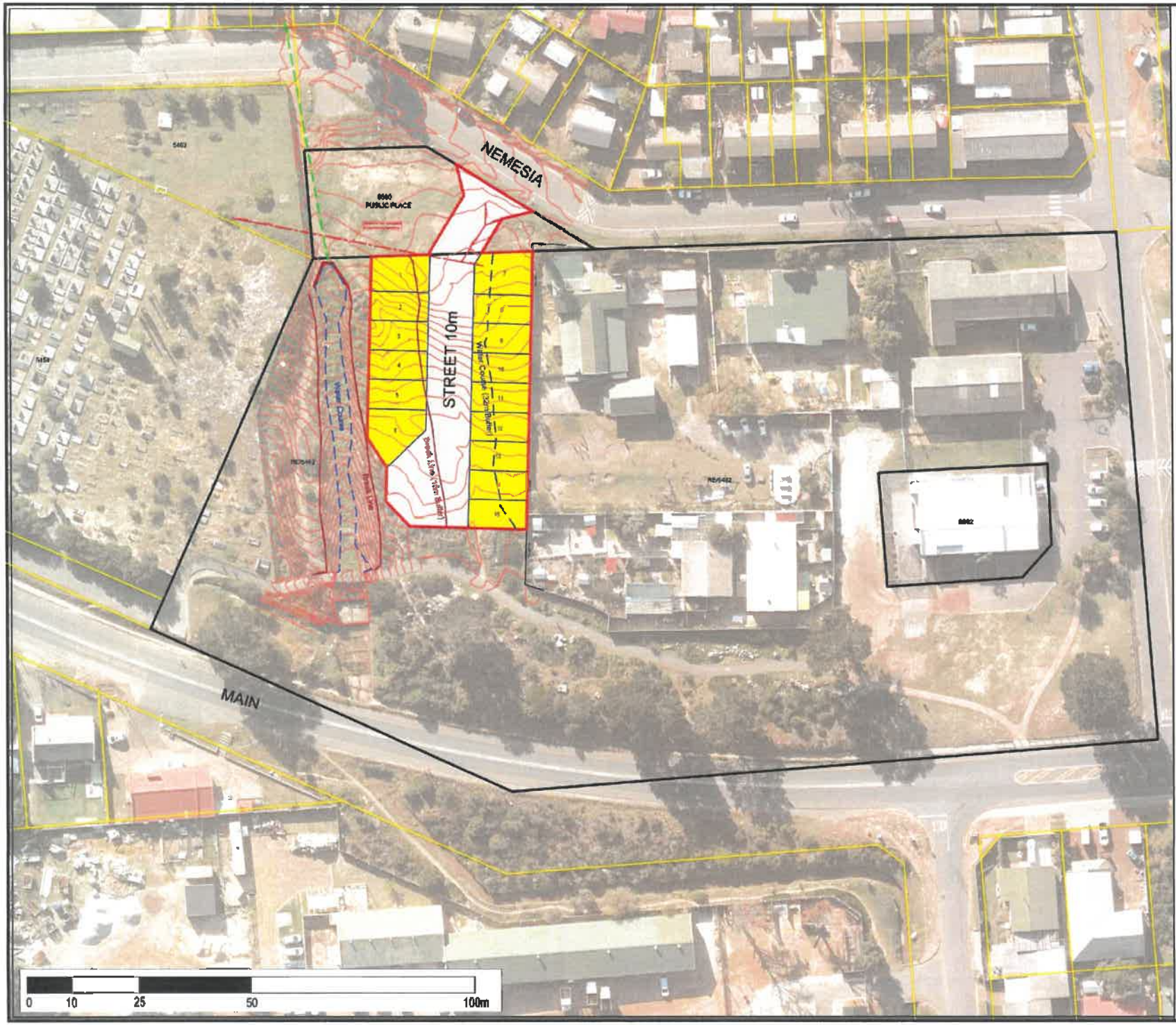
CLIENT

FILE NAME

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

FIGURE 4

20/26



OVERSTRAND

ERVEN RE/5462 & 6090 KLEINMOND

PROPOSED LAYOUT PLAN OPTION 1

- APPLICATION AREA
- SUBJECT PROPERTIES
- CADASTRAL BOUNDARIES
- PROPOSED LAYOUT UNITS = 15 (6.5m x 13m)
- EXISTING SEWER LINE
- BREAK LINES
- WATER COURSE
- CONTOUR LINES (0.25m intervals)

588

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

INDEMNITY

URBAN DYNAMICS MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE HELD LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THIS DATA. THE DATA IS PROVIDED FOR THE CLAIM AND WORK FOR USE WITHIN THE PURPOSES OF A PROJECT AS THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

DATE 06 May 2024

SCALE See linescale

PLAN NO. 3A

FILE NAME:

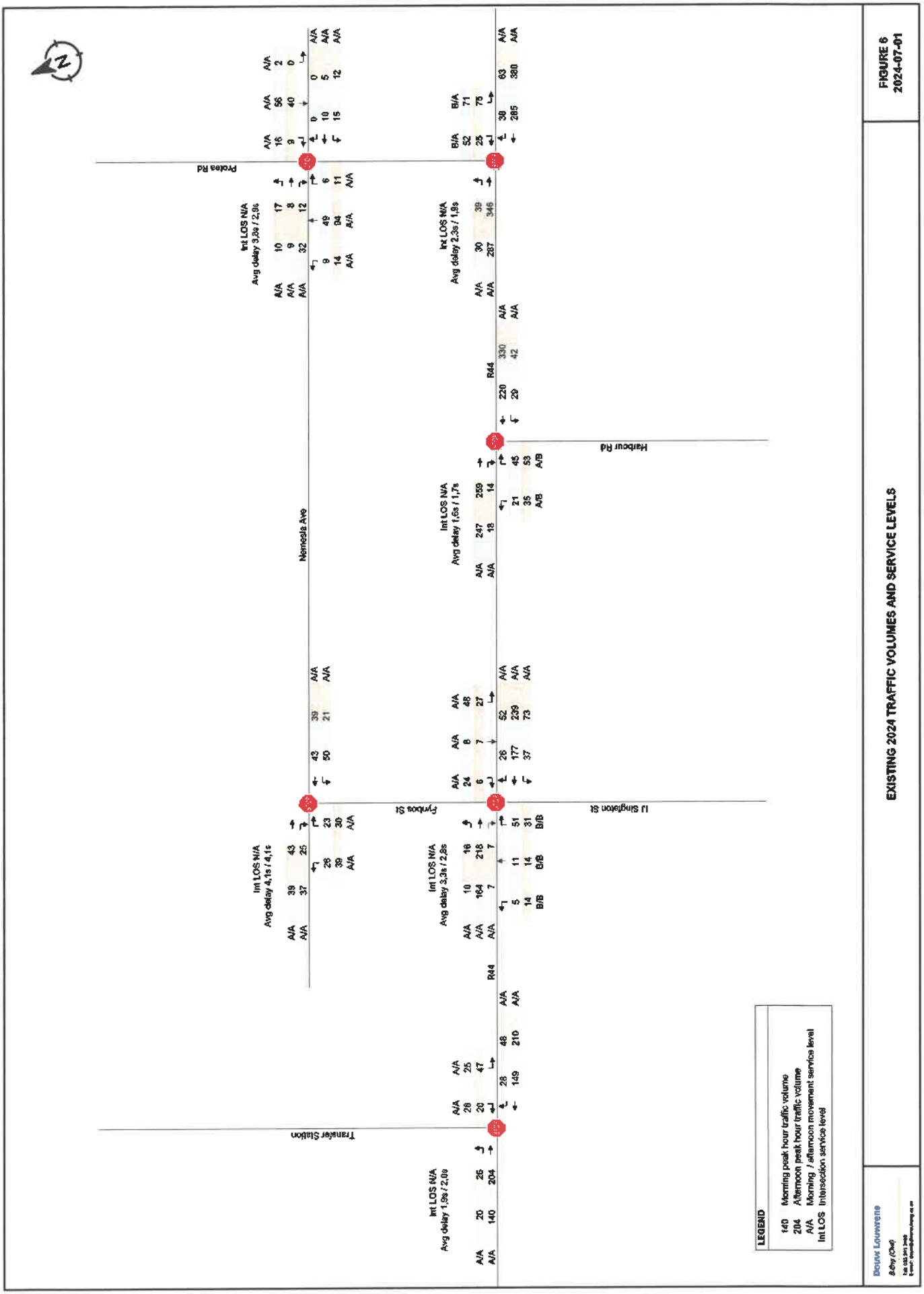
CLIENT

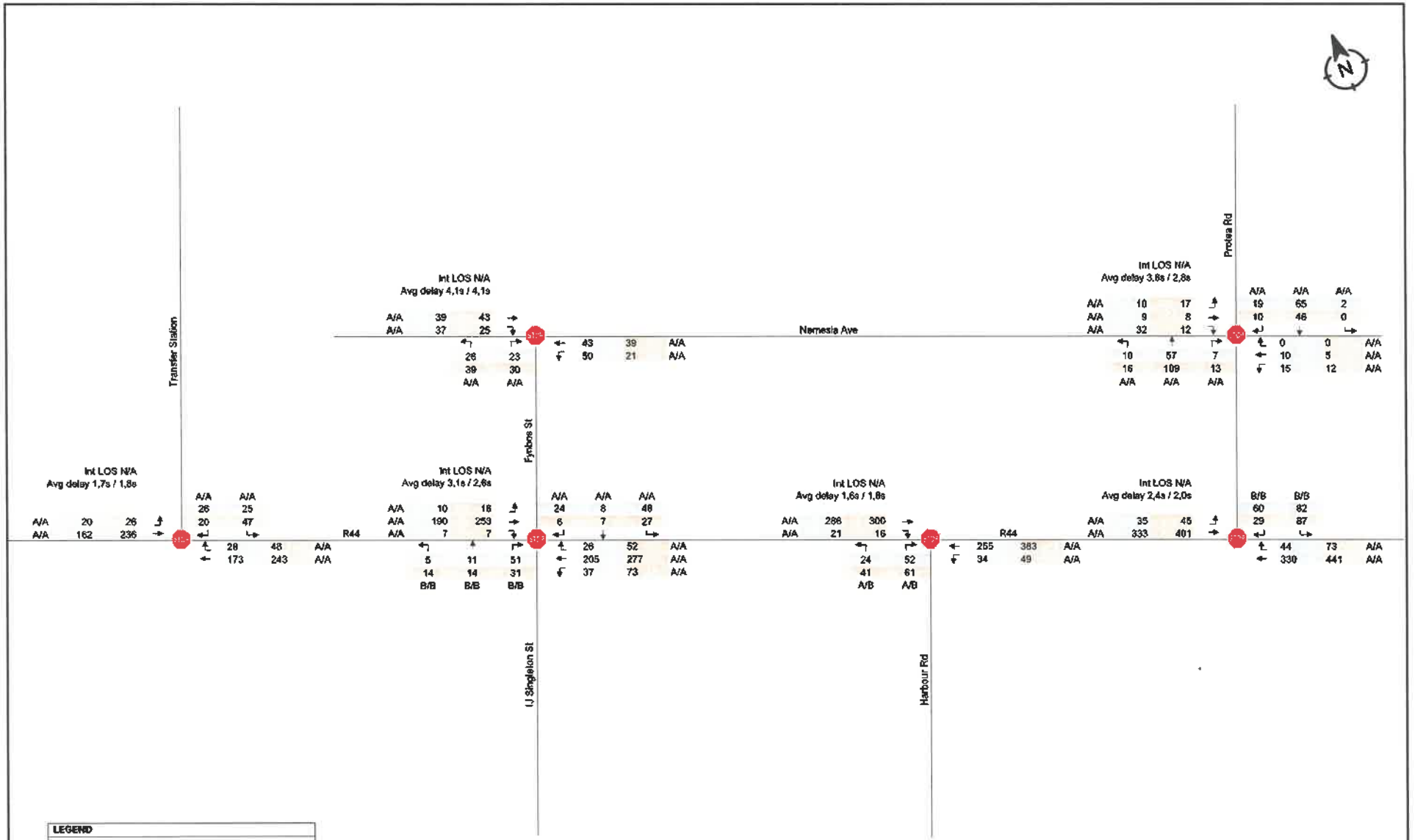
COPYRIGHT RESERVED

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS
SOUTH GATE OFFICE PARK, GROUND FLOOR UNIT 2 CAPE DRIVE DRIVE
SOUTH GATE TYGER WATERFRONT
BELLVILLE
7530
TEL (021) 948 9541

FIGURE 5

22/26

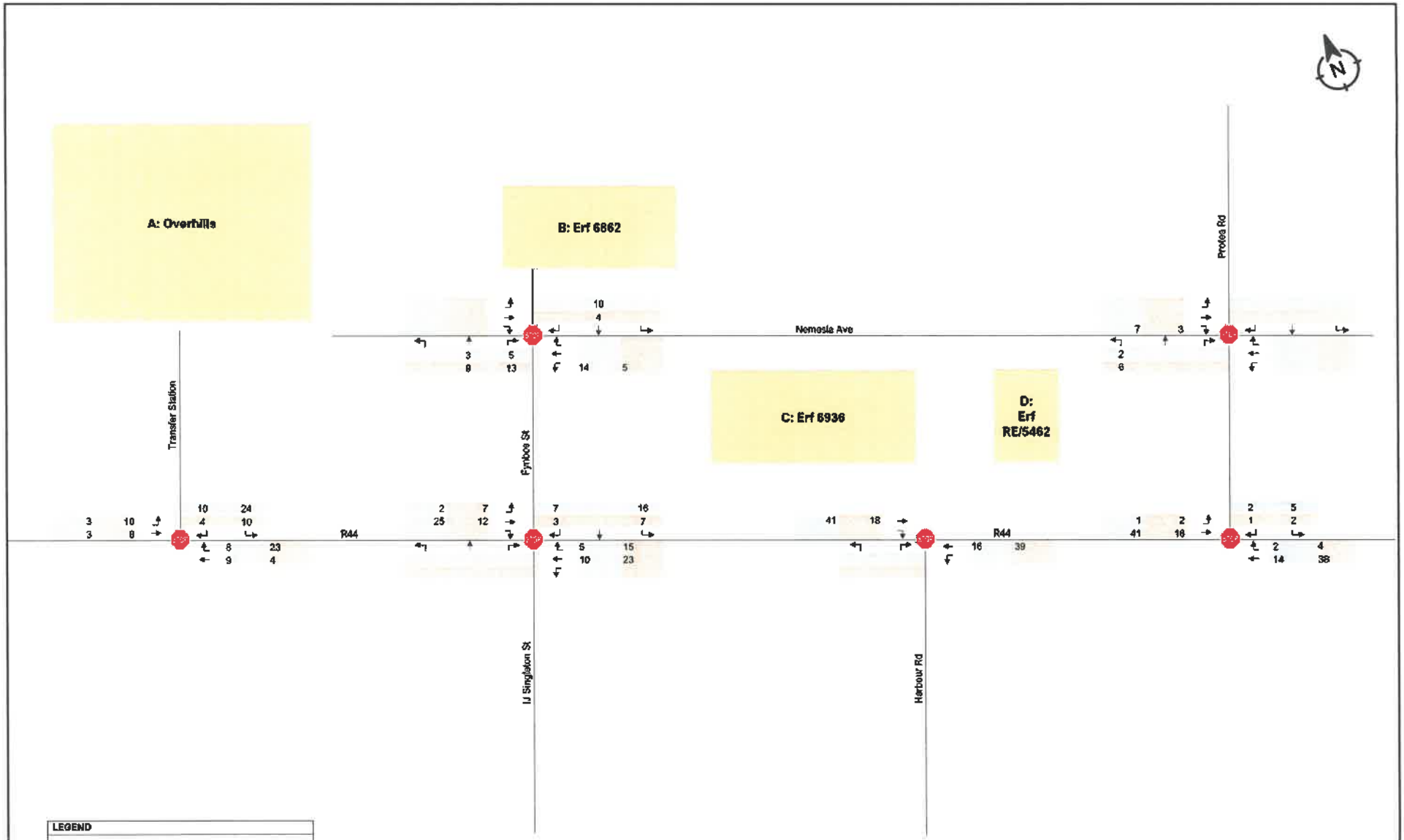

Protea Rd
Nemesia Ave
Pyrobos St
Harbour Rd
J.J Singleton St
Transfer Station
R44
Int LOS N/A
Avg delay 3,3s / 2,9s
Int LOS N/A
Avg delay 2,3s / 1,9s
Int LOS N/A
Avg delay 1,6s / 1,7s
Int LOS N/A
Avg delay 4,1s / 4,1s
Int LOS N/A
Avg delay 3,3s / 2,8s
Int LOS N/A
Avg delay 1,9s / 2,0s
LEGEND
149 Morning peak hour traffic volume
204 Afternoon peak hour traffic volume
A/A Morning / afternoon movement service level
Int LOS Intersection service level
EXISTING 2024 TRAFFIC VOLUMES AND SERVICE LEVELS
FIGURE 6
2024-07-01



Douw Louwrens
B.Eng (Civil)

BACKGROUND 2029 TRAFFIC VOLUMES AND SERVICE LEVELS

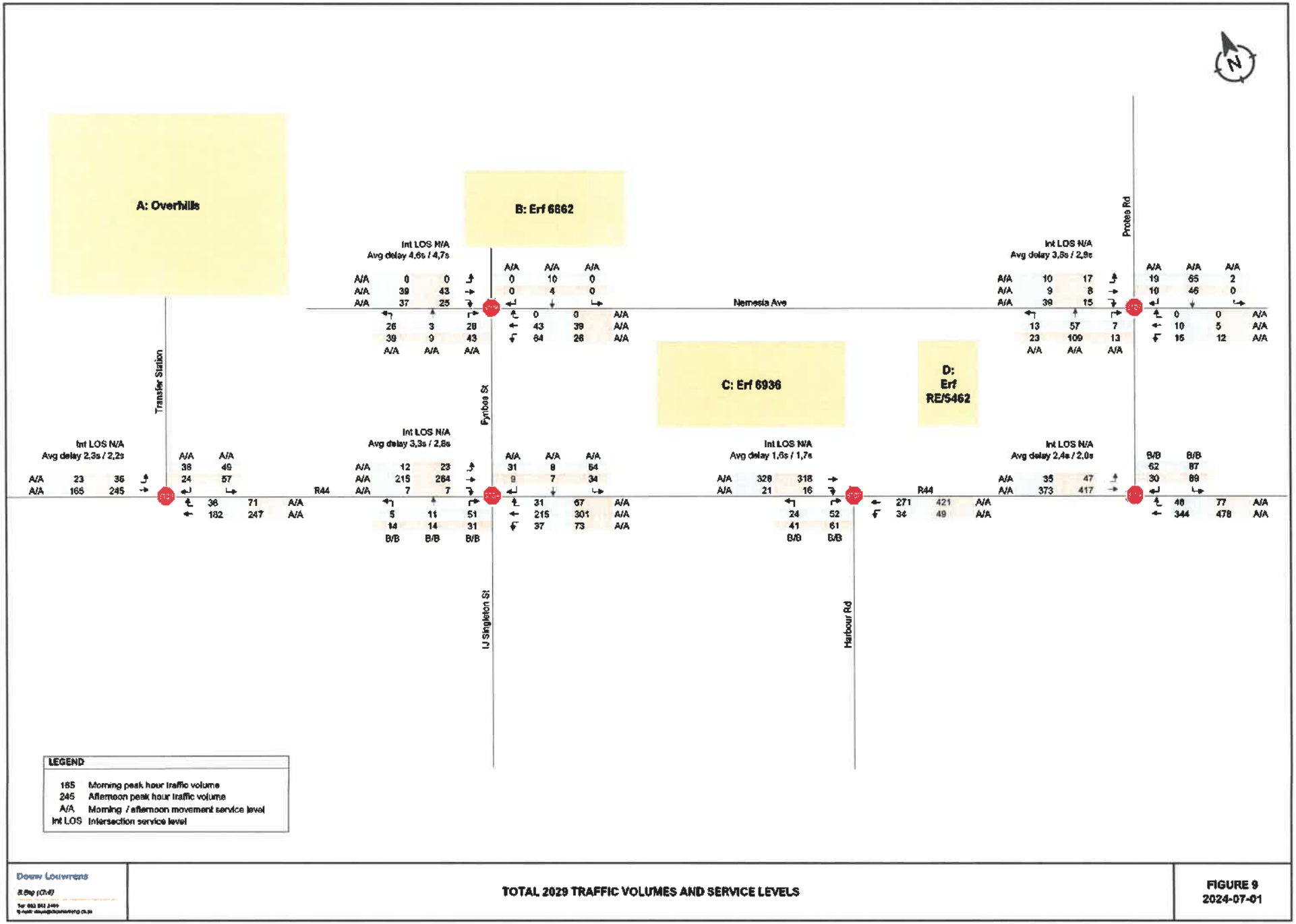
FIGURE 7
2024-07-01



Douw Louwrens
B.Eng (Civil)

TRIP DISTRIBUTION OF PROPOSED DEVELOPMENT

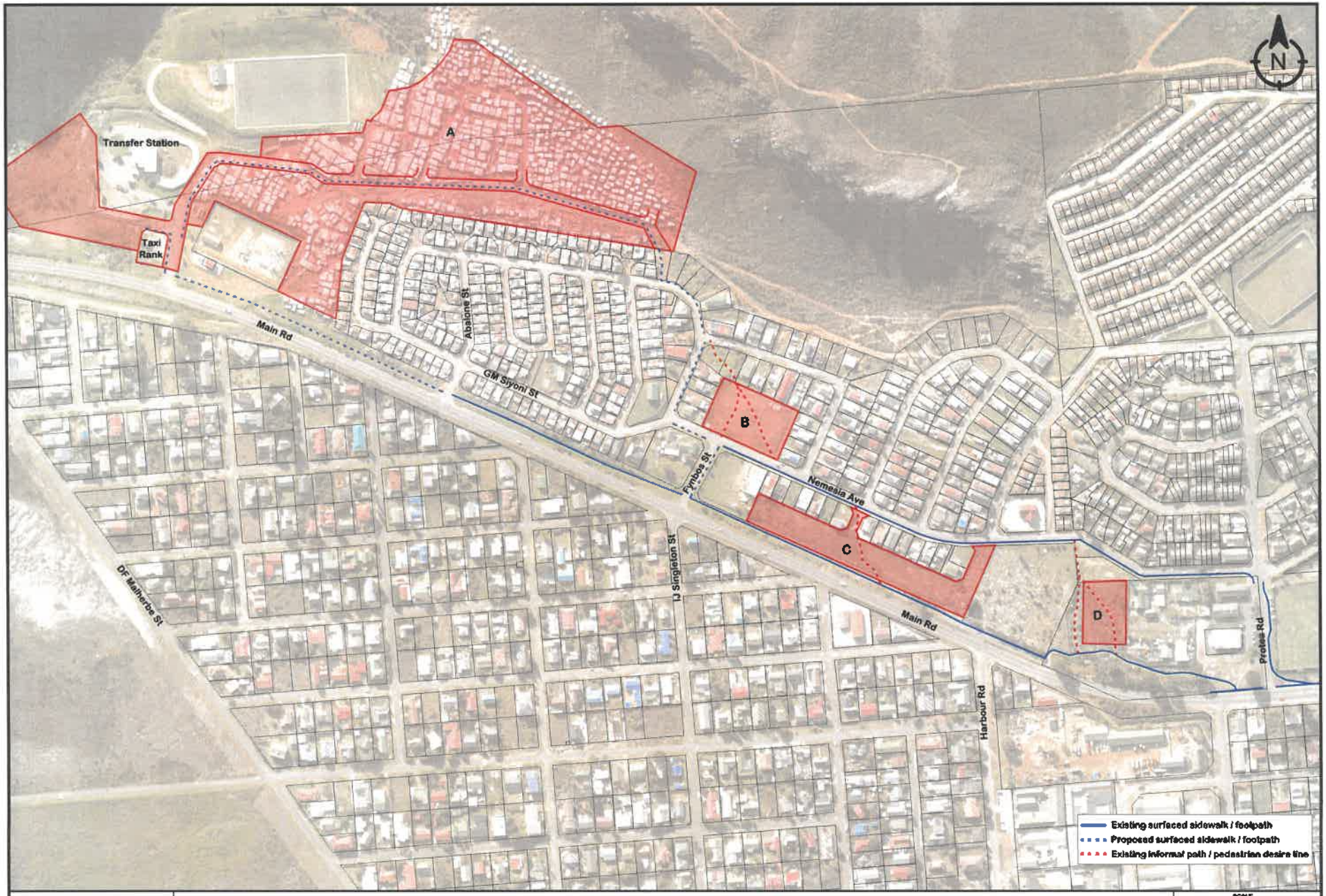
FIGURE 8
2024-07-01



Dawn Louwrens

TOTAL 2029 TRAFFIC VOLUMES AND SERVICE LEVELS

FIGURE 9
2024-07-01



Douw Louwrens B.Eng (CM) Tel: 083 941 3480 E-mail: douw@donnelroup.co.za	KLEINMOND HOUSING PROJECTS NON MOTORISED TRANSPORT	SCALE 1:5 000 (A4) FIGURE 10

Annexure I 1/11

Caring
Innovative
Focussed

Neil
LYNERS
and Associates (Pty) Ltd

Consulting Engineers & Project Managers

Postal Address : P O Box 4901 TYGERVALLEY 7536
Street Address : South Gate Building, Ground Floor
South Gate Entrance, Carl Cronjé Drive
Tyger Valley Waterfront BELLVILLE 7530

Tel: +27 (0) 21 914 0300
E-mail: bellville@lyners.co.za
Website: www.lyners.co.za

Our reference : C23080/COR/RS/mv/04 (rev 1)

Your reference :

05 November 2024

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Attention: Mr Dennis Hendriks

Sir

C23080: KLEINMOND HOUSING IRDP SITES – CIVIL AND ELECTRICAL ENGINEERING SERVICES

Neil Lyners and Associates (Pty) Ltd was appointed by Overstrand Municipality for civil and electrical engineering input on the proposed development of three sites in the Kleinmond area using IRDP funding. The erven under discussion are Erf 6862, Erf 6936, and Erf 5462. As part of this appointment, a report is required to address the availability of existing civil and electrical engineering services as well as requirements for new services to accommodate the proposed developments.

1. DESIGN APPROACH

The purpose of this report is to determine the impact the development proposal will have on existing civil and electrical infrastructure as well as to determine the required services for the new developments. The proposed developments consist of three (3) areas, as indicated on the locality layout plan in Annexure A, and will be developed to serve subsidized housing. The areas can be summarised as follows:

AREA	*ERF NUMBER; NO. OF ERVEN*
Area 1	*Erf 6862; 16 erven*
Area 2	*Erf 6936, 21 erven*
Area 3	*Erf 5462, 16 erven*

2. EXISTING SERVICES INFORMATION

The required existing services information was obtained from the following sources:

- GIS information.
- Bulk Services availability letter from Overstrand Municipality.
- Survey information.
- Layout proposals prepared by Urban Dynamics Western Cape.
- Geotechnical Report.

3. SITE TOPOGRAPHY AND GEOLOGY

The areas are all located within developed areas. In general, all the sites have relatively flat gradients. The gradient on Erf is approximately 1.5%, while the gradients on Erf 6862 and Erf 5462 vary between 5% and 6%.

A Phase 1 Geotechnical Investigation was completed by Geotechnics Africa. The in-situ material generally consists of quartzitic sand. There are however quartzitic sandstone outcrops on Erf 5462, which will have a cost implication in terms of trench excavations and foundations for houses. There is also evidence of possible spoil heaps and buried rubble on Erf 6936 and Erf 5462, and must be verified using trial pitting. No geotechnical problems are foreseen on Erf 6862.

4. SEWER INFRASTRUCTURE

4.1 Existing Sewer Infrastructure

In the Bulk Services Availability letter (dated 24 May 2024) from Overstrand Municipality, it is stated that the existing Kleinmond Wastewater Treatment Works (WWTW) has enough capacity to accommodate the sewer runoff from the proposed developments. There is also capacity available in the sewer infrastructure at each site.

Please refer to the table below for a summary of the existing sewer information for each of the areas:

ERF No.	EXISTING SEWER
Erf 6862	There is an existing 150mm diameter sewer line located on the western boundary of the site, as well as an existing 150 mm diameter sewer line on the opposite sidewalk in Nemesia Street to which the development can connect
Erf 6936	There is an existing 150mm diameter sewer line on the northern boundary of the development which is deep enough for a sewer connection for this erf.
Erf 5462	There is an existing 150mm diameter sewer line located in Harbour Road to which the development can connect. This sewer is however to the southwest of the development opposite the Main Road through the town. Trenchless technology will be required to install this sewer as open excavations will not be allowed.

4.2 New Sewer Infrastructure

The proposed sewer networks for the development of each of the areas will be designed per the Overstrand Municipality Draft Minimum Standards as well as the Guideline for Human Settlement Planning and Design (Red Book). The gradients must consider the minimum and maximum flow velocity, namely 0,9m/s and 3,5m/s. All new erven will have erf connections from the main pipe up to 1m inside the erven.

For the proposed internal sewer networks for each of the areas, new 160mm diameter underground pipelines will be installed within the proposed roads, ensuring adequate depth to enable individual erven to connect to these pipes.

The following sewer flows were calculated per area (including 15% for infiltration):

ERF No	NUMBER OF UNITS	CALCULATED DEMAND (l/s)
Erf 6862	16	0.20
Erf 6936	21	0.25
Erf 5462	16	0.20

The conceptual layouts of the sewer reticulation networks for the three erven are attached to Annexure B of this.

5. POTABLE WATER INFRASTRUCTURE

5.1 Existing Potable Water Infrastructure

In the Bulk Services Availability letter (dated 24 May 2024) from Overstrand Municipality, it is stated that the existing municipal potable water resources can supply the proposed developments.

Please refer to the table below for existing water services information for each of the areas:

ERF No	EXISTING WATER
Erf 6862	There is an existing water pipeline in the northern road reserve of Nemesia Street to which the development can connect. (Pipe diameter unknown)
Erf 6936	There is an existing water pipeline in the northern road reserve of Nemesia Street to which the development can connect. (Pipe diameter unknown)
Erf 5462	There is an existing water pipeline in the northern road reserve of Nemesia Street to which the development can connect. (Pipe diameter unknown)

5.2 New Potable Water Infrastructure

No upgrading of external water networks will be required to accommodate the developments. Water connections for Erf 6936 and Erf 5462 will however require the crossing of an existing street.

The proposed internal water networks for each of the erven will be a new 110mm diameter underground pipeline with valves and fire hydrants as per the guidelines of Overstrand Municipality.

The following water demands were calculated per area:

ERF No.	NUMBER OF UNITS	CALCULATED DEMAND (l/s)
Erf 6862	16	0.76
Erf 6936	21	0.95
Erf 5462	16	0.76

A fire flow (Moderate Risk) of 100 l/s must also be available in the network.

The conceptual layouts of the water reticulation networks for the three erven are attached to Annexure B of this report.

6. STORMWATER INFRASTRUCTURE

6.1 Existing Stormwater Infrastructure

All the areas are undeveloped with a natural slope of between 1.5 and 6%. Most of the areas are covered with grass, trees, and bushes. There is a play park on Erf 6862 that needs to be relocated to the open space on this erf.

In the Bulk Services Availability letter (dated 24 May 2024) from Overstrand Municipality, it is stated that stormwater from the development must be accommodated according to the applicable regulations and laws. Due to the low density of the developments, it is not foreseen that stormwater detention facilities will be required.

Please refer to the table below for existing stormwater information for each of the areas:

ERF No.	EXISTING STORMWATER
Erf 6862	There is an existing 375mm diameter stormwater pipe in Nemesia Street to which the development can connect.
Erf 6936	There is an existing open earth channel along the southern boundary of the erf into which the stormwater run-off from this development can discharge.
Erf 5462	There is an existing 7.2m x 1.3m box culvert crossing a watercourse on the southwestern boundary of the development. It is recommended that the stormwater pipe from this development connect to the wing wall of this culvert.

6.2 New Stormwater Infrastructure

The internal stormwater networks of all the areas will be designed to safely accommodate and convey the 1:2 to 1:5-year storm events towards existing stormwater networks, while allowance must be made for larger storm events to safely discharge stormwater above ground within the roads.

Please refer to the table below for the proposed stormwater connections to the existing stormwater networks for each of the areas:

ERF No.	PROPOSED STORMWATER
Erf 6862	It is proposed to construct a new manhole on the existing 375 mm diameter stormwater pipe in Nemesia Street.
Erf 6936	It is proposed that a wing wall be constructed on the 375 mm stormwater pipe in the development to discharge the run-off into the existing channel.
Erf 5462	It is proposed that the end of the 375 mm diameter stormwater pipe in the development be tied into the headwall of the existing box culvert to serve as an outlet.

The conceptual layouts of the stormwater networks for the three erven are attached to Annexure B of this report.

7. ELECTRICITY INFRASTRUCTURE

7.1 Electrical Services

7.1.1 Supply Area

The supply authority for these areas is Overstrand Municipality, and bulk electricity supply will therefore be fed from the municipal networks in Kleinmond.

7.1.2 Maximum Demand

The maximum electricity demand for the three areas is estimated as follows :

ERF No	NUMBER OF UNITS	MAXIMUM DEMAND (kVA)
Erf 6862	16	38
Erf 6936	21	50
Erf 5462	16	38

7.1.3 Supply Points

The three areas will be fed from the existing low voltage networks in the vicinity of the developments.

Adequate capacity is currently available on these low voltage networks.

7.1.4 Scope of Work

The scope of work will include new bulk low voltage cables from the nearest existing low voltage distribution kiosk, new low voltage distribution kiosks, streetlights and house connection cables.

All services will be installed underground.

7.2 Bulk Electricity Infrastructure Contribution

Development Contributions (DCs) are not payable for the development.

8. ROAD INFRASTRUCTURE

8.1 Existing Road Infrastructure

All the erven have access from Nemesia Street, which is a surfaced road with kerbs on both sides. Due to the small extent of the developments, it is not foreseen that any upgrading to the existing road infrastructure will be required. A traffic study will be undertaken shortly to confirm the above.

8.2 New Road Infrastructure

The access to the erven in Erf 6862 is from a "loop" road onto Nemesia Street resulting in two intersections.

Access to Erf 6936 is from an intersection onto Nemesia Street opposite Alusia Street. This access forms a T-intersection leading to two cul-de-sacs from where access to erven is given.

Access to Erf 5462 is from Nemesia Street and ends in a cul-de-sac with a turning circle.

The new access roads, with kerbs, will be designed per the Overstrand Municipality Draft Minimum Standards as well as the Guideline for Human Settlement Planning and Design (Red Book). Street widths of 5m are proposed.

9. CONCLUSION

From the above report and services availability letter from Overstrand Municipality, it can be concluded that existing services capacities are available for the proposed development areas.

We trust you will find the above in order. Please feel free to contact us should you require additional information.

Yours faithfully

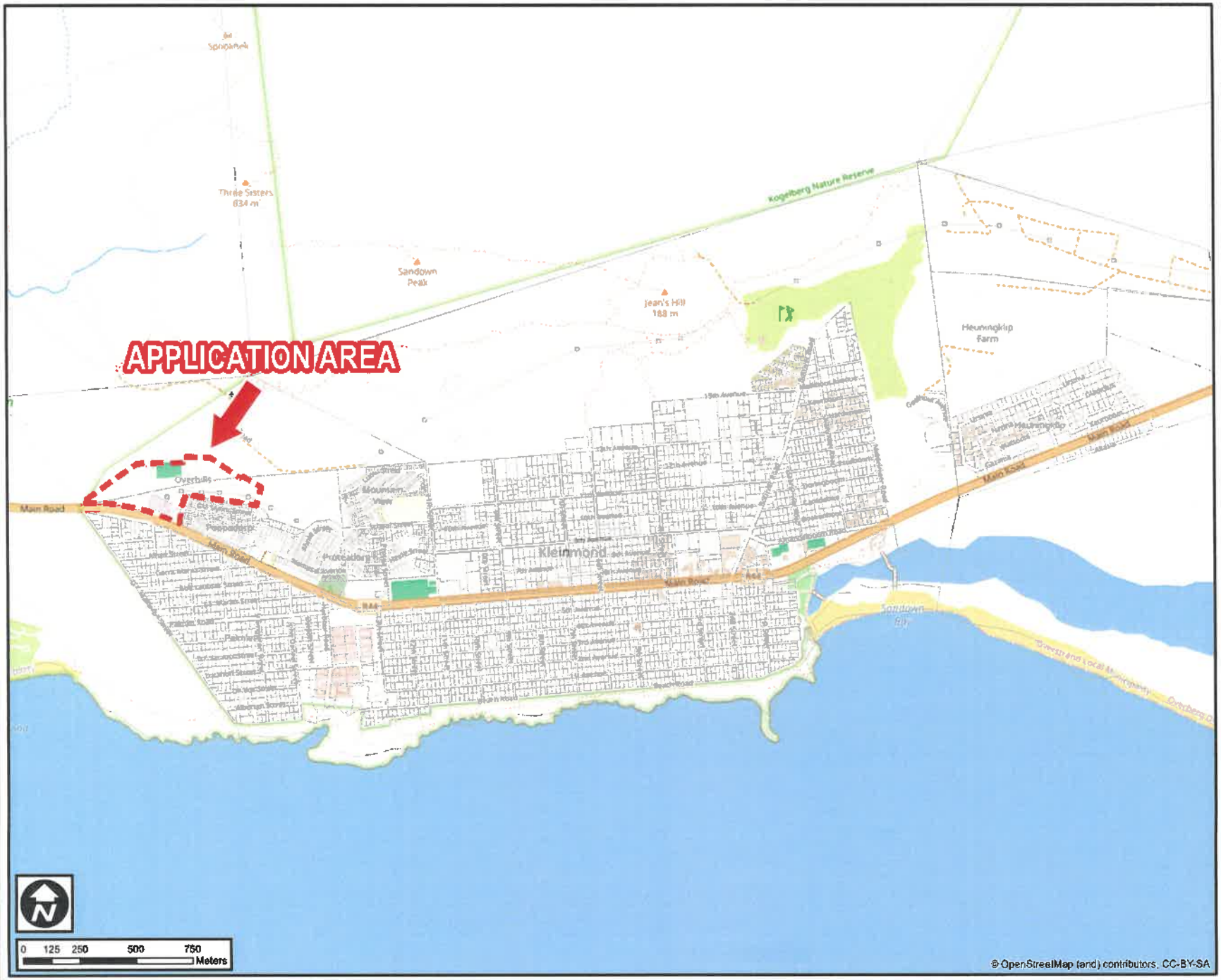
Rudolph Schoonwinkel Pr Eng
for Lyners

ANNEXURES

Annexure A: Locality Plan
Annexure B: Preliminary Services Layouts

ANNEXURE A

LOCALITY PLAN



KLEINMOND

ERVEN 5453, RE/5462, 6752 & 6758

LOCALITY PLAN

Application Area

Cadastral Boundaries

PLEASE NOTE:
All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

REF:

COMPILED BY: F. Britz

INDEMNITY

URBAN DYNAMICS SOUTH CAPE (PTY) LTD AND ITS EMPLOYEES MAKE NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA CONTAINED HEREIN AND ASSUMES NO RESPONSIBILITY FOR ANY MISUSE, ERROR OR OMISSIONS CONTAINED THEREIN. THIS DATA IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE USER ASSUMES THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE DATA. SHOULD THE DATA PROVE DEFECTIVE, THE USER (AND NOT URBAN DYNAMICS SOUTH CAPE (PTY) LTD OR ANY OF ITS EMPLOYEES) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. IN NO EVENT WILL URBAN DYNAMICS SOUTH CAPE (PTY) LTD BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE DATA EVEN IF URBAN DYNAMICS SOUTH CAPE (PTY) LTD OR AN AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. BY USING THE DATA, YOU AGREE TO THE TERMS OF THIS DISCLAIMER.

DATE: May 2024	CLIENT
SCALE: See Linescale	
PLAN NO: 4e	
FILE NAME:	

URBAN DYNAMICS SOUTH CAPE
TOWN & REGIONAL PLANNERS

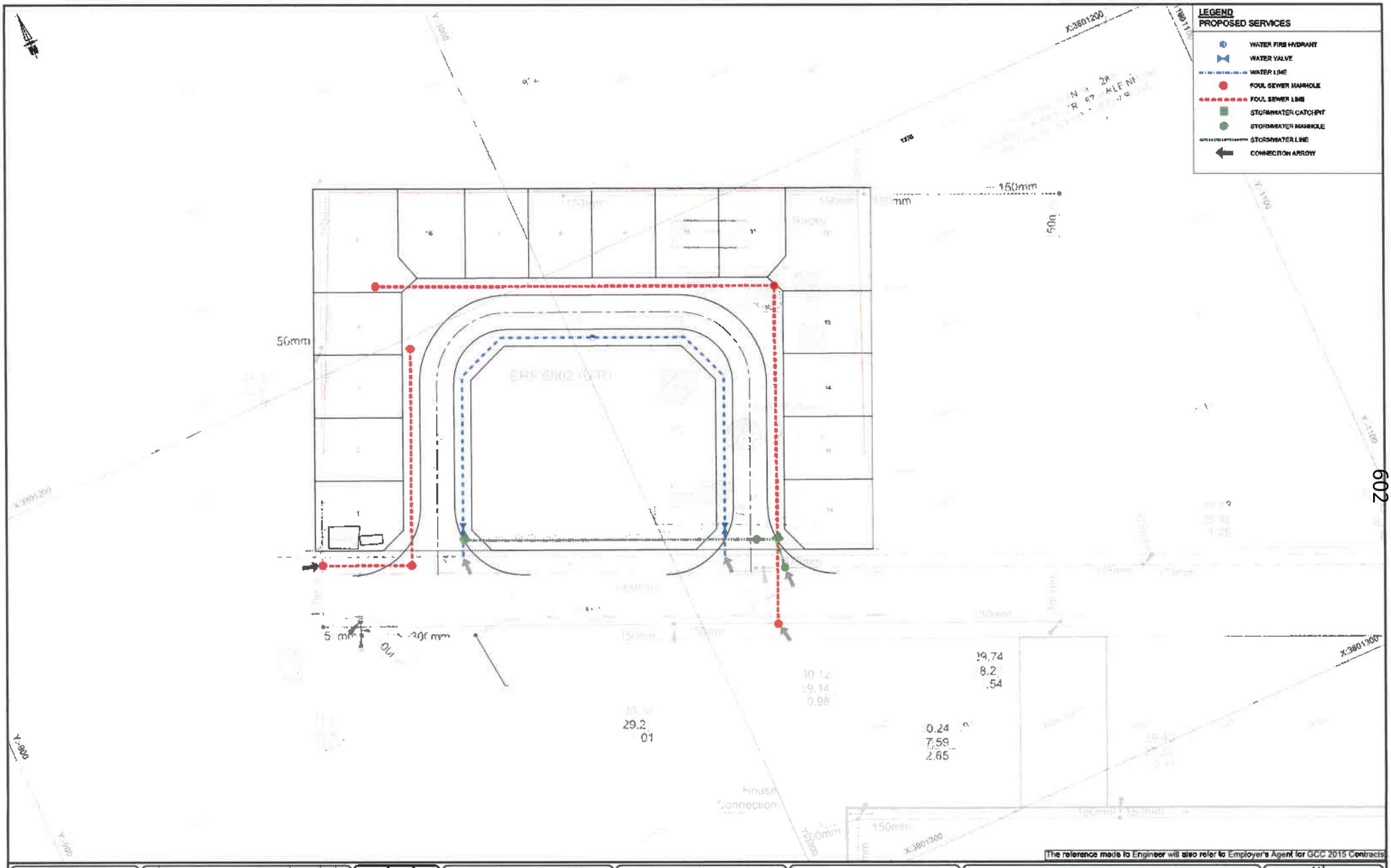
SOUTH GATE OFFICE PARK, GROUND FLOOR, UNIT 2,
CARL CRONJE DRIVE, BELLVILLE, 7530

TEL: (021) 948 1545

Website: www.udsc.co.za
Urban Dynamics South Cape (PTY) LTD Reg. No: 1997/009197/07

ANNEXURE B

PRELIMINARY SERVICES LAYOUTS



The reference made to Engineer will also refer to Employer's Agent for GCC 2015 Contracts

SCALEBAR
0 7.5 15
Metres 1:250

Copyright of this document and/or drawing made with Lyners, unless otherwise agreed in writing and no part of this document and/or drawing may be reproduced copied or transmitted in any form or by any means whatsoever to any person without written permission by the copyright holder.
All dimensions must be verified on site before the work commences. Report any discrepancies to the Engineer.

REV	DESCRIPTION	DATE	INIT	CHKD
B	PROPOSED IRDP AMENDED	24-11-04	ES	RS
A	ISSUED FOR INFORMATION	24-08-28	ES	RS

REVISIONS

DESIGNED	RS	
DRAWN	ES	
CHECKED	RS	

CONSULTING ENGINEERS
LYNERS
PO Box 4301
TYGERVALLEY
7530
Tel: 021 914 0300 Fax: 021 914 0437
email: admin@lyners.co.za

APPROVED
ENGINEERS:
DATE: 2024-11-04

APPROVED
CLIENT:
DATE:

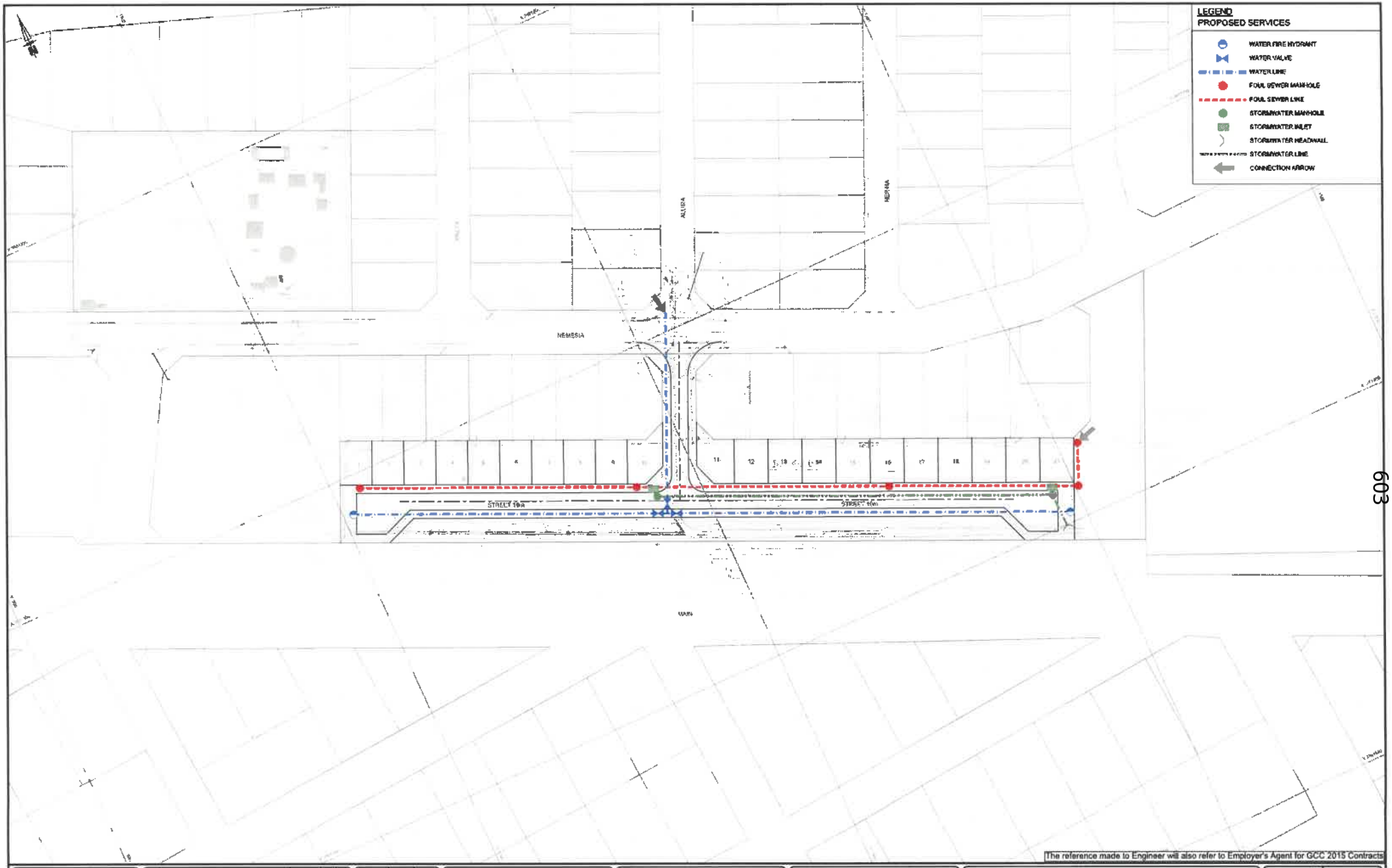
CLIENT
OVERSTRAND
OVERSTRAND MUNICIPALITY
PO Box 20
HERMANUS
7200

PROJECT
OVERHILLS INFORMAL SETTLEMENT
KLEINMOND

TITLE
ERF 6862
PROPOSED CIVIL SERVICES

SCALE on A1: 1:250
SHEET: 1 OF 1
CONTRACT No.:
PROJECT No.: 23080
DRAWING No.: 23080-C-010-02
REV: A
COORDINATE SYSTEM: WGS84 / Lo19°

602



603

The reference made to Engineer will also refer to Employer's Agent for GCC 2015 Contracts

SCALEBAR
0 15 30
Meters 1:800

Copyright of this document and/or drawing rests with Lyners, unless otherwise agreed to in writing and no part of this document and/or drawing may be reproduced, copied or transmitted in any form or by any means whatsoever or to any person without written permission by the copyright holder.

All dimensions must be verified on site before the work commences. Refer any discrepancies to the Engineer.

REV	DESCRIPTION	DATE	REVN	CHKD
B	PROPOSED WDF AMENDED	'24-11-04	ES	RS
A	ISSUED FOR INFORMATION	'24-05-28	ES	RS

REVISIONS

DESIGNED	RS
DRAWN	ES
CHECKED	RS

CONSULTING ENGINEERS
LYNERS
PO Box 4061
TYGERVALLEY
7530
Tel: 021 914 0300 Fax: 021 914 0427
email: tygervalley@lyners.co.za

APPROVED
ENGINEERS:
DATE: 2024-11-04

APPROVED
CLIENT:
DATE:

CLIENT
OVERSTRAND
OVERSTRAND MUNICIPALITY
PO Box 20
HERMANUS
7200

PROJECT
OVERHILLS INFORMAL SETTLEMENT
KLEINMOND

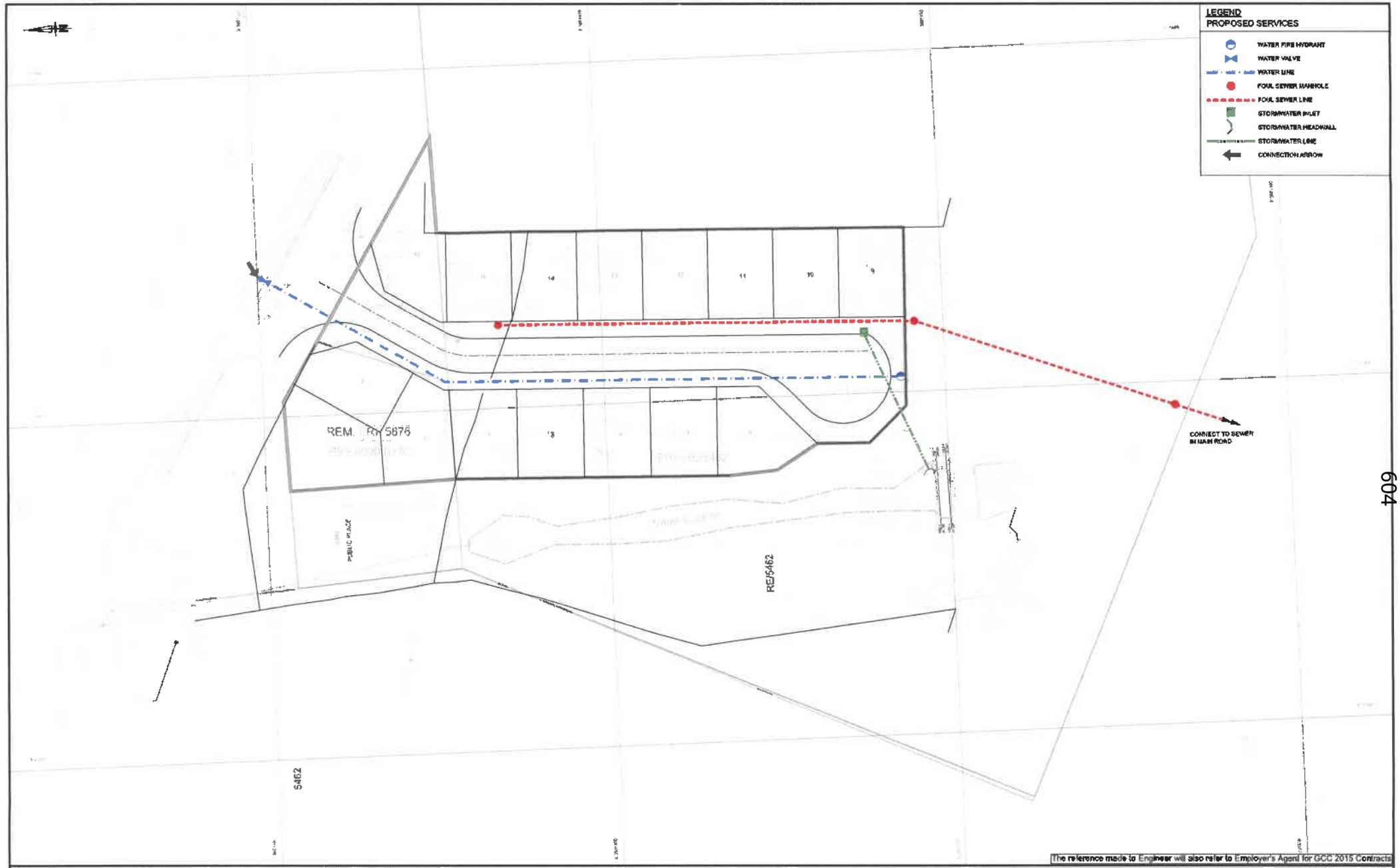
TITLE
ERF 6936
PROPOSED CIVIL SERVICES

SCALE ON A1	SHEET
1:500	1 OF 1
CONTRACT No.	PROJECT No.
	23080

DRAWING No. 23080-C-010-03 REV B

COORDINATE SYSTEM: WGS84 / Lo19

101
111



The reference made to Engineer will also refer to Employer's Agent for GCC 2015 Contracts

SCALEBAR 0 7.5 15 Meters 1:250

Copyright of this document and/or drawing vests with Lyners, unless otherwise agreed in writing and no part of this document and/or drawing may be stored, reproduced or transmitted in any form or by any means, whatsoever to any person without written permission by the copyright holder.

All dimensions must be verified on site before the work commences. Refer any discrepancies to the Engineer.

REV	DESCRIPTION	DATE	BY	CHKD
B	PROPOSED IRDP AMENDED	'24-11-04	ES	RS
A	ISSUED FOR INFORMATION	'24-06-26	ES	RS

REVISIONS

DESIGNED RS
DRAWN ES
CHECKED RS

CONSULTING ENGINEERS
LYNERS
PO Box 4081
TYGERVALLEY
7536
Tel: 021 914 0000/Fax: 021 914 0427
email: bellville@lyners.co.za

APPROVED
ENGINEERS: _____
DATE: 2024-11-04

APPROVED
CLIENT: _____
DATE: _____

CLIENT
OVERSTRAND
OVERSTRAND MUNICIPALITY
PO Box 20
HERMANUS
7200

PROJECT
OVERHILLS INFORMAL SETTLEMENT
KLEINMOND

TITLE
ERF 5462
PROPOSED CIVIL SERVICES

SCALE on A1: 1:250
SHEET: 1 OF 1
CONTRACT No.:
PROJECT No.: 23080
DRAWING No.: 23080-C-010-04
REV: A
COORDINATE SYSTEM: WGS84 / Lo19°

4.8

PORTION 94 OF THE FARM HEMEL EN AARDE NO. 587, DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

RCAL 94/587 (4456/2024)
H Olivier **(028) 313 8900** **Hermanus Administration**
30 July 2025

1. EXECUTIVE SUMMARY

An application has been received on 16 August 2023 from WRAP Project Office on behalf of Haygrove Heaven (Pty) Ltd on Portion 94 of Farm 587, Hemel-en-Aarde Valley is in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- **Departure** in terms of Section 16(2)(b) of the By-Law to relax the eastern 30m building line to 12,04m to accommodate the proposed expansion of the existing pack shed; and to relax the same building line to 6,44m to accommodate the existing covered pergola.

- **Departure** in terms of Section 16(2)(b) of the By-Law to relax the northern 30m building line to 9m, the Western 30m building line to 9m, the southern 30m building line to 5m and the eastern 30m building line to 3m to accommodate the existing intensive horticulture tunnels.

- **Departure** in terms of Section 16(2)(b) of the By-Law to relax the northern 30m building line to 11m, 12m and 20m respectively, the western 30m building line to 10m, 12m, 13,5m, 14m, 14,5m and 15,5m respectively, the southern 30m building line to 7,3m, 8m, 23,7m and 23,8m respectively, the south-eastern 30m building line to 19m and 24,5m respectively and the eastern 30m building line to 3m, 3,3m and 5,5m respectively to accommodate proposed new intensive horticulture tunnels.

- **Departure** in terms of Section 16(2)(b) of the By-Law to exceed the maximum allowable floor space from 6,1707ha to 22,2431ha to accommodate proposed new intensive horticulture tunnels and other extension.

- **Amendment of the existing approved site development plan** in terms of Section 16(2)(l) of the By-Law to accommodate the proposed expansion of the tunnels, the existing enclosed berry fields on the property and the larger agricultural industry footprint.

- **Amendment of conditions of approval** in terms of Section 16(2)(h) of the By-Law for the amendment of condition 1(c) in approval letter dated 13 July 2012 to accommodate the expansion of the footprint of the existing agricultural industry, and condition 3. (a) in approval letter dated 9 February 2016 to accommodate the proposed expansion of the tunnels on the property.

- **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised construction of intensive horticulture tunnels on the property and covered pergola.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C.

The application was considered by the MPT on 27 March 2025, and the application was referred back to the applicant to submit a Quantity Surveyor Report to determine an Administrative Penalty. A Quantity Surveyor report was submitted, and objectors were also provided an opportunity to comment on the report. The objectors' comments were provided to the applicant, who submitted their comments thereon and a revised Quantity Surveyor Report.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The farm measures 71,5045ha in extent and is zoned Agriculture Zone I.

The farm is a productive farm that is already being farmed with intensive horticulture berry farming (Haygrove Heaven). The Municipality approved a rezoning to Agricultural Industry on a portion of the farm to accommodate a farm pack store in 2012, and then also approved a consent use in early 2016 for intensive horticulture on other portions of the farm with intensive horticulture tunnels.

This application is then to amend some of the conditions in such approvals, amend the site development plan for the farm, allows for some departures of building lines and to relax the allowable floor space to accommodate existing tunnels and some new tunnels and extension to the farm packing facilities (agricultural industry) footprint.

Application is also made for an administrative penalty fee for the unauthorized construction of intensive horticulture tunnels on the property.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

- The farm is being utilized growing raspberries, blackberries and blueberries.
- Haygrove Hermanus employs 400 people permanently and up to an additional 1800 seasonal and fixed term workers in peak season.
- The expansion of the horticulture tunnels will create an additional 6 permanent jobs and 100 seasonal jobs (for a minimum 18-week period).
- The application is to cover uncovered intensive horticulture fields, this due the increasing erratic rainfall creating significant crop losses.
- The tunnels are an integral part of the agricultural nature of the valley and are not expected to detract from the overall visitor experience.

- The tunnels are designated and positioned in a manner that ensures they blend harmoniously with the surrounding landscape, although there will always be a visual impact. The visual impact has been taken into consideration during the planning and design process.
- The application is for the approval of existing and proposed horticulture tunnels.
- The consent use approval in 2016 stipulated a condition that horticulture tunnels area approved in terms of an existing plan proposal "and application will have to be made for any possible future tunnels". The tunnels approved in 2016 were 5,8727ha in extend. New proposed intensive horticulture tunnels applied for is approximately 7,746ha and existing horticulture tunnels that was constructed but not approved is approximately 8,337ha in extent. This makes for a total of 21,9557ha horticulture tunnels in extent. The total area of the farm covered with berry fields is 33ha.
- Intensive horticulture tunnels generate higher yields, optimal use of resources and increased financial returns. It is also more efficient requiring lower water use, less pesticide and fewer losses to adverse weather.
- Application is also made for departures of building lines to accommodate some existing and new intensive horticulture tunnels over building lines. Since 35% of the farm is sensitive mountain wetland or biodiversity rich areas, such areas cannot be utilized for farming, and tunnels must be constructed closer to boundary lines. The encroachments will not create disturbances to adjacent property owners.
- Worker's time spend in the tunnels is minimal, reducing the likely wood of noise impact on neighbours. The rights enjoyed by adjacent property owners will not be infringed on.
- The rezoning approval in 2012 also limited a condition that the farm pack shed (agricultural Industry) be limited to 809m^2. The owner now intends to increase the footprint of the existing pack shed to 1018m^2 and utilize the existing farm store of 617m^2 for agricultural industry purposes. The agricultural industry footprint will be 1635m^2 in total.
- The pack shed is used for the processing of two farms produce, and the farm store will be used to store packing materials for the pack shed.
- A pergola was also constructed next to the pack shed to create some shade over the crates. It encroaches the building line and is being applied for. The extensions to the pack shed will also be over the 30m building line, and application is made for a departure.
- Application is made to relax the allowable floor space from the existing 5,8727ha to 22,2431ha to accommodate extensions to the pack shed and additional intensive horticulture tunnels. It is not predicted to have any negative impact on any surrounding property owners as the property is zoned for agricultural purposes.
- The application also includes the amendment of the existing Site Development Plan to accommodate all above-mentioned extensions.

DETERMINATION OF ADMINISTRATIVE PENALTY

(a) nature, duration, gravity and extent of the contravention

A consent use was approved on the property for intensive horticulture; the contravention is only for the encroachment over building lines of the intensive horticulture tunnels and pergola, which was illegally constructed over building lines. The illegal tunnels that were constructed are 8,337ha in extent. The tunnels encroach the various building lines as indicated in the report and approximately 9000m^2 of the tunnels encroach building lines.

Approximately 50m^2 of the covered pergola encroach the building line.

(b) the conduct of the person (allegedly) involved in the contravention

Haygrove constructed the tunnels to increase the viability of the agricultural enterprise. The tunnels were never driven by any malicious intent.

(c) whether the unlawful conduct was stopped

The structure has already been constructed.

(d) a report by a quantity surveyor in matters of unauthorised building/construction

A quotation was obtained from the sister company of Haygrove who supplies the tunnels to the property owner. The total cost of tunnels is approximately R479 000-00 per ha.

(e) whether the person allegedly involved in the contravention has previously contravened this by-law or a previous planning law

To the knowledge of the office, the property owners have not previously contravened the By-law on the subject property.

It is requested that due to the fact that no complaints have been lodged regarding these specific tunnels and their usage is consistent with the prevailing practices in the area, that a more lenient administrative penalty be imposed.

SERVICES

- Water
  There are sufficient water rights on the subject property and the additional tunnels will not require the extraction of additional water, it would rather help conserve water. Irrigation methods and drip irrigation ensures good water use.

- Sewerage
  There is sufficient sewerage capacity on the property. The number of toilettes is increased in season to cater for increased worker numbers.

- Solid waste
  Solid waste is taken to the waste transfer site in Hermanus.

- Electricity
  Electricity is provided by Eskom, and a solar installation is planned to reduce reliance on Eskom.

- Access / egress
  Existing access road is off Minor Road number OP04012, and it will not be altered. The road is tarred. The egress is over portion 11 over a servitude road that leads to the R320. Due to complaints about dust the owner of Haygrove scrape this road at his expense. Current traffic includes 2 pack house trucks, 9 busses for staff transport and 18 cars and bakkies for management. Only the busses will be increased to 11 for seasonal workers, and the pack house trucks will make more frequent trips.

NEED AND DESIRABILITY OF THE APPLICATION

- Socio-economic impact
  It will create additional 6 permanent jobs and 100 seasonal jobs (for a minimum 18-week period). It will stimulate economic growth in the local area as goods and services will be sourced from local businesses and service providers. The farmers and farm workers will generate more income. A wider range of crops will lead to market expansion and trade opportunities. It helps with community development and increase living standards. Increased food production will contribute to food security.

- Compatibility with surrounding land uses
  Intensive horticulture tunnels align with the existing agricultural landscape and practices in the area, it optimizes land utilization and increase agricultural productivity within a limited space, ensures higher yields which means more employment opportunities are generated, it has environmental benefits by minimizing water use and reducing the need for chemicals, and it helps with food security.

- Impact on safety, health and wellbeing of the surrounding community
  Reduction in use of chemicals minimizes health risks, help improve air quality with less dust and pollen in air, noise mitigation as intensive horticulture tunnels farming produce low noise level, help improve quality controls to enhance food safety and the neat, organized appearance contribute to aesthetic appeal with a positive influence on the wellbeing of residents I the vicinity.

- Impact on Heritage
  No impact.

- Impact on Biophysical environment
  Intensive horticulture tunnels have a positive impact in that it helps with land conservation as less land is required for farming, the farming method is water efficient, it promotes soil health, helps with energy savings and it helps with waste management in the form of composting.

- Traffic impacts, parking, access and other transport related considerations
  It may have some implications, but it is not predicted to influence the surrounding area. Any potential traffic impact can be mitigated with good management.

- Impact on views, sunlight and character of the area
  Most surrounding properties in the area are utilized for agricultural purposes, with only some properties in the area zoned for resort purposes. Intensive horticulture tunnels align with uses allowed in terms of the land sue scheme.

The visual impact of the tunnels can be mitigated through appropriate design and landscaping measures. The coastal beefwood trees strategically incorporated by Haygrove as windbreaks also functions as visual barriers. The netting layer over the tunnels reduces production, but it reduces visual impact and any potential glare. A visual impact assessment was done by a landscape architect.

It found that from a visual perspective, the proposal should be endorsed as it will result in a moderate to moderate-low visual impact, on condition that the visual impact follows the mitigation measures and recommendations. The owner will comply with such measures.

POLICIES AND REGULATIONS

- The prosed tunnels are not situated in an Environmental Protection Overlay Zone (EMOZ) or Heritage Protection Overlay Zone (HPOZ).
- In line with PSDF by prioritizing rural development and investment in agriculture, expansion and diversifying agriculture, etc.
- In line with the Overstrand Municipality's SDF in that it will develop and maintain a strong local economic base in the rural area, protect agricultural resource, etc.

PLANNING PRINCIPLES

Spatial Justice
Will provide opportunity to the disadvantaged communities and individuals to participate in agricultural activities.

Spatial Sustainability & Efficiency
The application will maximize the land productivity within a very small footprint.

Spatial Resilience
It is in line with spatial planning policies as it would optimize existing resources and infrastructure.

Good Administration
The Municipality follow a good public participation process.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
E-mail notices & on-site notice	**Yes**	11 March 2024	19 April 2024
Internal departments	**Yes**	11 March 2024	19 April 2024
Ward councillor	**Yes**	11 March 2024	19 April 2024
Total comments	**FIVE (5)**		
Total letters of support	**NONE**		
Was public participation undertaken in accordance with Section 46 - 50 of the By-law on Municipal Land Use Planning?			**Yes**

Was the application processed correctly (if no, elaborate below):	**Yes**
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	**Yes**

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments.
Environmental Department	02/05/2024	No objection.
Building Control	11/03/2024	No objection.
Fire Department	27/05/2024	No objection.
Heritage Western Cape	*No comments received.*	
Eskom	*No comments received.*	
Western Cape Government: EADP(Environmental)	24/06/2024 & 04/11/2024	Annexure F.
Western Cape Government: EADP (Planning)	17/04/2024	Annexure G.
Western Cape Government: Agriculture	23/04/2024	Annexure H.
Western Cape Government: Department of Infrastructure (Road Planning)	10/05/2024	Annexure I.
Telkom	20/04/2024	Annexure J.
BGCMA	21/08/2024	Annexure K.
Engineering Services	13/03/2024	Annexure L.
Cape Nature	12/05/2024	Annexure M.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Notices were sent out to surrounding property owners in March 2024 and a notice board was placed on the site.

Five (5) letters of objection were received, but one (1) was withdrawn. The applicant was provided with the opportunity to respond to the objection. (See Annexure D and E attached to this report).

- M Farr
- Nicholas Smith Attorneys Environmental Law Specialists

- Hemel en Aarde Conservancy
- Hemel-en-Aarde Winegrowers Association (HAWA)
- Hemel en Aarde Rural Safety Association (Farm Watch) - ***withdrawn***

The objections, the applicant's reply and the Municipal Town Planners response thereon can be summarized as follows:

OBJECTION 1 – IMPACT ON AREA (CHARACTER)

- ***Hard to believe the 22ha tunnels will not impact tourism and the overall visitor experience.***
- ***Lack of adequate research and assessment to measure impact on rural character.***
- ***The tunnels are not in harmony with the valleys natural surroundings, and they fundamentally detract from the overall character of the region.***
- ***This industrial horticulture impacts the natural environment and other established businesses.***
- ***The motivation to proof compatibility is speculative.***
- ***Development on the farm should be within the existing development parameters and building lines to limit impact on a surrounding area, and approval of such departures would be to the detriment of many others.***

APPLICANT'S RESPONSE

"The objections and comments are noted. The statements made throughout the submitted application, asserting that the tunnels and their existence are not expected to detract from the tourism character of the valley, are based on the findings of the independent Visual Impact Assessment (VIA) and the recent success of wine farms in the valley. To ensure that the motivation behind the statements (suggesting that the tunnels are not expected to have a negative impact on the surrounding area), is backed by an independent expert opinion.

Some objectors continue to state that the intensive horticulture tunnels are only covered by white plastic. This is however untrue, as Haygrove continues to strive and comply with the previous approval obtained to cover the tunnels with non-reflective shade cloth.

It is important to note that the tunnels constitute only a few components, of which the two key ones are, (1) steel tubes and hoops, and (2) white plastic ("skins"). The skins are not erected permanently and removed for large parts of the year when the fields are not populated with plants. This entails removing the white plastic, and sometimes the shade cloth as well. Maintenance on tunnels and/or shade cloth does also require some movement and opening up, depending on the nature of such maintenance.

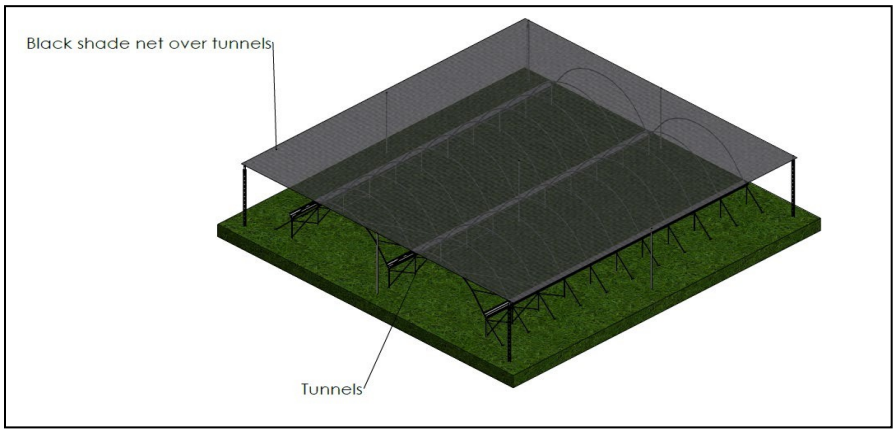


Figure1

The objectors make incorrect assertions that the proposed intensive horticulture and agricultural industry is not in line with the surrounding area. However, this is factually incorrect as every wine cellar should have consent for agricultural industry use, as required by the local municipality.

Nowhere did the motivation indicate that the tunnels are considered a tourist attraction.

The opinion remains that the intensive horticulture tunnels are aligned with the agricultural nature of the surrounding area."

TOWN PLANNER'S RESPONSE

More than one objector indicated that the illegal land use is still continuous. The comments are duly noted.

The greatest concern to the objectors is the horticulture tunnels and the perceived negative visual impact it has on the character of the area. The tunnels are not considered "industrial", only the pack shed is considered an agricultural industry. The applicant is correct to say that all wine cellars in the region are also agricultural industries, and had to apply for consent uses for such land uses.

The comment by the applicant is noted that the plastic covering and netting is removed at times for maintenance, and therefore during such maintenance period white plastic will be visible for short periods. This is however only over shorter periods.

The ultimate question is, is intensive horticulture tunnels out of line with the character of this area? It has mountain areas with high environmental sensitivity and a valley where different forms and intensity of farming take place, resort developments and tourist facilities and accommodation. Considering afore said a berry farm is not out of line with the character of an agricultural area. The only real concern is then the visual impact of the horticulture tunnels, which will be discussed in more detail later in this report.

OBJECTION 2 – VISUAL IMPACT

- ***The existing has and the new ones will be a significant eyesore and will destroy the beauty of the valley.***

- ***No winery in proximity of plastic tunnels would be considered for Worlds best vineyards award.***
- ***Smutches of white polytunnels, glaring on the slopes of the iconic Babilonstoring has a visual impact.***
- ***Research show that the property owner has also been in controversy in the UK putting up tunnels in areas of outstanding beauty.***

APPLICANT'S RESPONSE

"The property owners appointed a landscape architect firm to conduct a VIA, and their findings were open for scrutiny by the public. See extract from the VIA *"The visual impact significance rating is assessed as moderate and moderate-low if all mitigation measures are implemented."*

The mitigation measures require additional tree planting between tunnels to reduce visual impacts of large farming blocks. Darker colours should be used for the tunnels. This is being achieved by the addition of shade cloth above the tunnels. The last proposed mitigation measure is that there should be no lights in or around the tunnels, which is already being adhered to.

It is also important to note that there is no inherent right to a view under South African law. The protection of views from properties is not considered an inherent entitlement arising from land ownership. Rather, views are categorised as a "source of delight" and are not inherently protected as part of an owner's right of ownership.

Furthermore, South African courts have consistently held that purely aesthetic considerations, including views, are not relevant in the context of neighbours and nuisance. The case law cited indicates that courts should not venture into the area of aesthetics, as they are subjective and personal in nature.

Therefore, the argument that the view of the tunnels would have a negative impact on the entire valley is not supported by South African law. As there is no inherent right to a view, and aesthetic considerations are not relevant in legal disputes regarding neighbours and nuisance. That said the property owner is open to constructively engage with neighbours to ensure a harmonious neighbourly environment, without compromising its operational requirements and financial sustainability."

TOWN PLANNER'S RESPONSE

A visual impact assessment (VIA) was done by a visual impact specialist ARLA Consulting Landscape Architects.

The specialist found that "the ability of the receiving environment to visually absorb this development is assessed as high, as it is well screened with existing vegetation, windbreaks and established trees resulting in limited mitigation strategies."

It is also stated that the intensity or the degree to which the proposed development will impact views, and scenic or cultural resources will be **medium- low**; visual and scenic resources will be affected to a limited extent". In the description of measuring intensity low means, "where visual and scenic resources are not affected", and medium means "where visual and scenic resources are affected to a limited extent".

It is further indicated that "the significance rating is assessed as moderate**-low significance**." In terms of the measuring criteria of significance low means "where it will not have an influence on the decision" and medium means "where it should have an influence on the decision unless it is mitigated". This means the visual impact can be mitigated with minimal mitigation measures.

The VIA was prepared by a professional in the field, and therefore the findings in the assessment is considered as the best opinion the Municipality can use to evaluate the visual impact of the development.

OBJECTION 3 – SEASONAL JOBS

Where will the seasonal workers stay and work after the season is over.

APPLICANT'S RESPONSE

"The owners open the applications to any person residing in the Overberg region. No people are brought into the area to work. Haygrove appoints seasonal workers based on seasonal requirements. This is often variable, and the duration of seasonal roles are typically three to six months. Agriculture is an inherently seasonal sector.

Haygrove does however attempt to alleviate the seasonality of employee income by annually sending South African staff (combined, from all Haygrove South Africa farms), to their other group farm(s) in the UK. The number of employees that will be sent this year is 312, of which the vast majority are seasonal workers. This provides for ongoing income through longer periods of employment, international experience gained and allows workers to earn foreign currency and prosper."

TOWN PLANNER'S RESPONSE

The seasonal workers do not stay on the farm and is transported to the farm every day. This is clearly indicated in the applicant's motivation report

The Hemel-en-Aarde Valley is a wine region, and the wine farms also make use of seasonal workers during harvesting.

It should be noted that there is no restriction on the number of workers on a farm on a seasonal, temporary or permanent basis. The arrangement and workers contract are between the employer and the employee and is confidential.

OBJECTION 4 – COMPLIANCE WITH THE BY-LAW

APPLICANT'S RESPONSE

"Concerns were raised regarding the owners' compliance with local by-laws and regulations, encompassing building codes, safety standards, and environmental regulations. These comments are noted, and the application was submitted to address these concerns and ensure full compliance with all relevant regulations."

TOWN PLANNER'S RESPONSE

The applicant's professional team were in consultation with the Municipality in an attempt to address any non-compliance with by-laws, regulations etc., and the submission of this application is part of the attempt to regularize activities and structures on the property.

OBJECTION 5 – TRAFFIC

- ***Will create increase in traffic.***
- ***The moving of 1800 seasonal workers and 400 permanent staff in a small farming area, raises legitimate concerns about road safety issues.***

APPLICANT'S RESPONSE

"Section 10 of the application outlines the approach to access and egress. It's noted that only two additional buses are required during peak harvesting periods, with no anticipation of any additional traffic.

It's important to emphasise that the proposal solely pertains to covering existing berry fields with tunnels, without any plans for expansion into new fields. This ensures that there will be no increase in the overall cultivated area, thereby mitigating potential strain on local roads and infrastructure.

Additionally, the farm includes separate access and egress points, which helps to distribute traffic flow and alleviate congestion on any single road. This strategic design element further addresses concern related to traffic management."

TOWN PLANNER'S RESPONSE

In the motivation it is indicated that current traffic includes 2 pack house trucks, 9 busses for staff transport and 18 cars and bakkies for management. Only the busses will be increased to 11 for seasonal workers (in peak harvesting periods), and the pack house trucks will make more frequent trips. There will therefore be a slight increase in traffic.

It is also motivated by the applicant that the access egress is a one-way route to ensure minimal impact on surrounding property owners.

The application was sent to Municipal Engineering Services, who indicated that the Provincial Engineer should comment on the application.

The application was sent to Western Cape Government: Department of Infrastructure (Road Planning), who indicated that they have no objection against the application.

This is also a farming area and traffic associated with farming activities is therefore expected. Any possible traffic impact on non-agricultural land uses in a farming area should have been expected and should not be allowed to limit farming activities.

Considering the above, the additional traffic impact is considered acceptable.

OBJECTION 6 – CONCERNS REGARDING WATER MANAGEMENT

APPLICANT'S RESPONSE

"Section 10 of the application outlines the methods how water is being managed on the farm and the sources of the water. It is also important to note that the application was circulated to the water management agency in the area, Breede-Olifants Catchment Management Agency (BOCMA). Any water related issues will be directly addressed by the agency as the relevant regulatory authority.

It is also important to note that the fruit tonnage output for water consumed ratio is improved by 21% when the fruit are grown in an intensive horticulture tunnel."

TOWN PLANNER'S RESPONSE

In the circulation proses Breede-Olifants Catchment Management Agency (BOCMA) did request additional information from the applicant with regards to water use and management. The applicant did provide it to BOCMA, and they indicated that they have no objection against the application.

BOCMA is the relevant regulatory authority on any water related matters. That Department indicated that they have no objection against the application.

OBJECTION 7 – ENVIRONMENTAL IMPACT

- ***A comprehensive EIA must be done to address the potential impact on biodiversity in the Valley.***
- ***Research to be done on impact of water quality, soil health and ecosystem balance.***
- ***Risk of erosion, chemical contamination and fertilizer residues must be considered.***
- ***This 22ha is an addition to the 60ha on farm 587/11 and the 40ha next to Karwyderskraal, and the impact on water quality, soil health and biodiversity have not been assessed.***
- ***No EIA was done; a scientific based study would be expected.***
- ***The windbreaks are alien trees, and further expansion will negatively impact biodiversity.***

APPLICANT'S RESPONSE

"The objectors express concerns about the perceived intensification and expansion of operations. However, it is important to clarify that the application aims solely to cover existing berry fields with tunnels, with no plans for expanding into new fields. This ensures that there will be no increase in the overall cultivated area, thereby mitigating potential environmental impact. By maintaining the current footprint of farming activities, the environmental impact is minimised.

Haygrove is allowed to have their fields within the building line as there are no structures involved in the process. However, if they were to propose covering them with tunnels, the requirement of a departure from the building line is triggered.

Furthermore, one objector incorrectly stated that Haygrove has over 80 hectares of intensive horticulture tunnels in the Hemel-en-Aarde Valley. The actual total is approximately 32 hectares, comprising roughly 14 hectares on Portion 94 of the Farm Hemel-En-Aarde Valley 587 and 18.5 hectares on the neighbouring Portion 11 of the Farm Hemel-En-Aarde Valley 587. The proposed addition of 7.7 hectares on Portion 94 of the Farm Hemel-En-Aarde Valley 587 accounts for the incremental increase.

Tunnels serve as an effective mechanical and structural solution for managing key progressive plant diseases such as botrytis and mould, as they provide protection to crops from exposure to rain. This directly reduces the need for spraying and minimises the quantity of sprays required. Consequently, a reduction in spray requirements facilitates a more biological approach to pest and disease control, which is not only safer for bees and natural predators but also promotes overall environmental sustainability.

In essence, the implementation of tunnels enables Haygrove to produce more fruit with fewer inputs and minimal adverse interventions. This approach leads to more sustainable outcomes, both economically and environmentally, aligning with Haygrove's commitment to responsible and increasingly eco-friendly agricultural practices.

In addition to reduced sprays, Haygrove hasn't used any herbicides on the farm in 2 years as they focus on a more biological approach and indigenous plants.

Soil Health

Haygrove farms utilise substrate methods (pots above ground, devoid of soil), enabling precision fertigation, monitoring of run-offs, and optimised water consumption. These systems are meticulously controlled and managed to ensure optimal soil health below the pots. In addition to run-off monitoring, cover crops play a vital role in maintaining and enhancing soil health and the surrounding ecosystem.

Furthermore, Haygrove undergoes regular independent audits conducted by leading retailers such as Woolworths (Farming For the Future), M&S (M&S Select) and Tesco. These audits include soil sample evaluations through frequent lab testing to track soil health trends, water sample assessments to monitor for contamination, as well as evaluations of various health and safety protocols, staff welfare, social responsibility initiatives, and food safety standards. Notably, Haygrove holds gold status for Farming for the Future and is GlobalGAP certified.

Water use and erosion

Water quality on the farm is excellent and as such, no additional treatments that may cause contamination or adverse build-ups are required.

Erosion is controlled through cover crops, cut-off trenches and contours, continuous fynbos rehabilitation and beautification with indigenous plants. Haygrove actively propagates indigenous plants, including, for rehabilitation of areas, soil health management and beautification."

TOWN PLANNER'S RESPONSE

The applicant did address the concerns regarding methods ensuring soil health and water use and erosion.

The concerns regarding the environmental impact and the opinions that an Environmental Impact Assessment has to be done for the development is noted. The application was circulated to the Municipal Environmental Division and Department of Environmental Affairs and Development Planning Western Cape (DEAPD). DEADP is the authority on determining if developments trigger Environmental Impact Assessments (EIA). DEADP indicated that no EIA is triggered by the application.

The concerns regarding the impact on biodiversity are noted. The applicant indicated that no additional land will be cleared, and only existing berry fields will be covered with horticulture tunnels.

It is to be noted that the application was also circulated to Cape Nature for comments. Cape Nature evaluates the impact of applications in terms of biodiversity. Cape Nature has no objection against the application.

OBJECTION 8 – ECONOMIC IMPACT

- ***There must be more detail about social and economic implications of the development, including increased crime and impacts on local communities and informal settlements.***
- ***Request Haygrove's financial data to substantiate claims about economic benefits and employment.***
- ***The beauty of the valley is the natural area and wine farms, not polytunnels which will kill tourism.***

APPLICANT'S RESPONSE

"The application clearly outlines several aspects of how Haygrove has a positive socio-economic impact, as detailed in Section 11 of the motivation. Currently, the Haygrove group in South Africa employs 700 workers permanently and up to an additional 3000 seasonal and fixed-term workers during peak season. Specifically, in the Hermanus area, Haygrove employs 400 people permanently and up to 1,800 in peak season, arguably making it the largest private employer in the greater Hermanus area. Furthermore, Haygrove invests in the communities where it farms, supporting health and education initiatives, providing schooling bursaries, and making donations (in kind and financial) to various organisations in the surrounding community.

If the application is approved to allow the erection of the tunnels, up to 100 additional seasonal jobs will be created (with seasonal jobs entailing a minimum of 3 – 6 months of employment). Additionally, 6 additional permanent workers will be employed to assist with tunnel maintenance.

The key point made in the application is that despite the existence of Haygrove and its tunnels, the perception of HAWA and its wines, have flourished. There is no objective support to disprove this, although there is much objective support to corroborate this statement.

There has also been continued investment and expansion of vineyards in the valley despite Haygrove's existence, further supporting the positive sentiment of the valley and its characteristics.

Both entities have achieved significant milestones, as mentioned in HAWA's objection. Similarly, Haygrove has become the largest private employer in the Overstrand region. Therefore, it seems feasible for both parties to continue their operations harmoniously, contributing to the economic prosperity of the region."

TOWN PLANNER'S RESPONSE

The applicant did indicate that 100 new seasonal jobs will be created and 6 additional permanent jobs. It can therefore not be debated that the development will have a positive economic impact.

The perceived negative economic impact Haygrove has on the wine industry and tourism is also not backed up with a documented survey. The applicant's viewpoint, that tourist facilities and the development of more wineries and wine farms is however clear to see in the Hemel & Aarde Valley, can however not be debated. The perceived negative impact of Haygrove on existing wine farms is therefore speculative.

Hemel & Aarde Valley does not have the distinction of only being earmarked for wine farms and vineyards. The area is zoned Agriculture and residential living; tourism etc. is subservient to agricultural practices.

OBJECTION 9 – STAKEHOLDER ENGAGEMENT

- ***Meaningful engagement with stakeholders must take place to ensure their concerns and perspective is considered in decision making.***
- ***Request an extension of the deadline to respond to engage more with our members.***

APPLICANT'S RESPONSE

"The application has followed the normal public participation process and the objectors' submitted comments indicate that there was adequate engagement. Every individual or entity identified as an interested or affected party received notification of the submitted application. There is no obligation to hold additional engagement meetings or extend the comment period, as the public participation process allows sufficient time for scrutiny of the application. Haygrove however is open to any engagement and any of the objectors are welcome to request a meeting."

TOWN PLANNER'S RESPONSE

The applicant's comments are supported. The Municipality followed the public participation process as stipulated in the Planning By-law, in the same format as all applications on properties in the Hemel & Aarde Valley.

The public participation process has been finalized, and no extension of the public participation period can be allowed.

OBJECTION 10* – *GENERAL ASSUMPTION

- ***The applicant make the assumption Creation wines won an international title even though horticulture tunnels are existing in the H&A Valley, and it does not impact tourism. This is a blatant mistruth as the character of the area and environment is extremely important. Creation is not close to the tunnels, and thereby not impacted that much.***
- ***The owner also owns a company that supply the tunnel systems and is therefore pro polytunnels. This shows the owners lack of maintaining the scenic beauty of the area.***
- ***Berries are a luxury food and only the effluent that can afford or it is exported overseas, it does not contribute to regional or national food security.***

APPLICANT'S RESPONSE

"Regarding the issue of food security and the market for Haygrove berries, the objector's perspective is appreciated. However, this extremely narrow perspective is limited to the berries produced by Haygrove.

Firstly, there are highly valuable skills developed at and taught by Haygrove to its staff, and particularly its growers, through on the job experience and its successful graduate grower programme. The skills required to grow berries are of an exceptionally high standard given that it is a complex crop. Many of our former growers and graduates now work in and contribute to other crops or parts of the food supply chain, and in many parts of the world. These highly sought after skills contribute significantly to overall local and global food security.

Secondly, the focus on growing raspberries, blueberries, and blackberries under tunnels in the Hemel-en-Aarde Valley contributes to both local and international markets. While a portion of the berries is indeed exported, Haygrove also supply a significant portion to customers within South Africa, including retailers like Woolworths. Haygrove's fresh fruit will also indirectly find its way to the shelves of Checkers, Food Lovers, Spar and others. Lastly (and while by no means an exhaustive list), Haygrove's fruit is also used in food industry (hotels, guest houses, restaurants nationally and internationally), in yoghurts and drinks produced by major dairy and other businesses, smoothies, ice creams, juices and multiple other highly nutritious products.

While it's an opinion that berries may be considered a luxury food item for some, it's important to recognise that access to a diverse range of nutritious foods, including berries, as well as the development of skills to cultivate various foods, is essential for overall food security.

Additionally, Haygrove's operations provide employment opportunities and support economic growth within the local community, contributing to broader social and economic stability. Haygrove remains committed to exploring ways to enhance food security and promote equitable access to nutritious foods within South Africa."

TOWN PLANNER'S RESPONSE

The applicant sufficiently addressed the objection regarding food security.

It must also be acknowledged that the berry farms had a major impact on families in terms of employment opportunities and the associated social upliftment of families and communities in Overstrand.

The comments regarding the fact that the property owner owns a poly tunnel business and therefore not concerned about maintaining the scenic beauty of the valley, is the objector's opinion but speculative.

The objector's comments regarding Creation Wines are noted. The impact of Haygrove on the wine industry and tourism has been discussed under objection 8. It is not clear what kind of criteria international wine awards use to evaluate wine farms, and therefore difficult to determine if the objector's opinion is valid.

OBJECTION 11 – VISUAL IMPACT ASSESSMENT

- ***A more accurate and unbiased visual impact assessment must be done.***
- ***Disagree with the conclusion, as it cannot be viewed as independent.***
- ***Not in line with pattern of land uses in the area of opens air growing.***
- ***None of the surrounding property owners or businesses, etc. were consulted in preparation of the Visual Impact Assessment (VIA).***
- ***The findings in the VIA are baseless and unfairly in favour of the applicant.***
- ***Mitigation measures are supported but not planting of more alien trees.***
- ***A new VIA addressing all issues should be submitted.***
- ***There are 27 residential homes, 20 houses and 2 residential development zoned resort etc. in the area, which need to live in the area with the visual impact.***
- ***The accuracy and supporting images are questioned.***

APPLICANT'S RESPONSE

"**Independence of the Report:**

While acknowledging the objector's concerns about the independence of the report, it's important to clarify that the report was commissioned by the applicant at the request of the Municipality to assess the visual impact of the proposed development. However, the findings and conclusions of the report were based on objective assessments conducted by qualified professional in accordance with industry standards. The report was not influenced by the applicant to skew the results in their favour. If the objector feels a secondary report is required, they are allowed to appoint a professional to do so.

Accuracy of Supporting Images:

The images included in the report were intended to accurately depict the proposed visual impact of the project. It will be remiss of Haygrove to speculate on its accuracy as it will undermine the integrity of the VIA professional. However, if the objector believes that certain images are misleading or fail to accurately represent the visual impact, they are allowed to commission an additional report.

Growing Practices and Land Use Patterns:

The perspective of the objector is noted; however, while it's true that the growing practices may differ, it is believed that there is room for diverse agricultural practices within the region. There has been significant evolution of farming practices over the centuries. A modern evolution is precision farming, which includes the utilization of polytunnels for its various, well documented benefits. The only negative impact of tunnels is the subjective point around visual impact. The proposed development aims to contribute to the agricultural diversity of the area while ensuring compliance with relevant regulations and minimizing negative impacts on surrounding properties.

Consultation Process:

A VIA is not open for consultation and is not influenced by subjective statements; factual evidence needs to be taken to prepare the VIA.

Recommendations and Concerns:

The recommendations of the VIA will be taken into account. Haygrove is open to discussing alternative, constructive mitigation measures that align with conservation and biodiversity goals.

Resubmission of VIA:

The comment requesting that the VIA should be resubmitted is noted; however, it is believed that the VIA sufficiently addresses the concern raised."

TOWN PLANNER'S RESPONSE

The Visual Impact Assessment VIA was prepared by an independent professional. The objection that the findings were baseless and in favour of the applicant is speculative, as the objector is a specialist in visual impact assessments. No new VIA will thus be requested from the applicant.

The visual makeup of the surrounding area was considered and its impact rated as moderate-low significance. Mitigation measures were inserted in the conclusion to help minimize any impact on the surrounding area. The comments that no alien trees must be used as wind breaks are noted, but it was not made a requirement from the Municipal Environmental Branch, Cape Nature or DEADP: Western Cape.

The concerns that no stakeholder participation took place in the preparation of the VIA is noted. As indicated by the applicant, a VIA is not open for consultation and the consultant only considered factual evidence.

The applicant responded separately to the objections submitted by Nicholas Smith Attorneys, who represents a group of surrounding property owners. For ease of reference, it will be discussed under the headings as prepared by the applicant.

OBJECTION 12 – DEFECTIVE COMPANY RESOLUTION
(PARAGRAPH 5-13 IN OBJECTION LETTER)

- ***The company resolution never included the administrative penalty application.***
- ***The power of attorney is defective for purpose of progressing with the administrative penalty application.***
- ***The application for administrative penalty must be submitted afresh and finalized prior to any other applications can be submitted.***
- ***It would be irregular for the Municipality to consider the administrative penalty and other land use applications simultaneously.***
- ***It is premature for Haygrove to submit applications for future uses.***

APPLICANT'S RESPONSE

"The company resolution and power of attorney have been duly amended to include the determination of an administrative penalty. This oversight has been rectified to ensure compliance with all necessary legal requirements.

It's important to emphasise that this omission does not have any affect the application or its contents. The focus of the application remains on the proposed land use changes and associated considerations. The addition of the administrative penalty aspect aligns with the broader objective of ensuring regulatory compliance and accountability.

Furthermore, the amendment to include the administrative penalty demonstrates Haygrove's commitment to addressing any past transgressions transparently and responsibly. Haygrove acknowledges the importance of regulatory compliance and is fully committed to co-operating with the Municipality to resolve any outstanding matters.

This clarification underscores Haygrove's dedication to upholding the integrity of the application process and working constructively with relevant authorities to achieve mutually beneficial outcomes."

TOWN PLANNER'S RESPONSE

WRAP did provide an amended company resolution and power of attorney. The applicant's opinion that omission does not affect the application, or its contents, is supported.

The objections relating to the processing of the application for administrative penalty and the application for additional land use rights at the same time, is addressed under objections 13 and 14.

OBJECTION 13 – POINT IN LIMINE: HAYGROVE'S APPLICATIONS FOR ENHANCED LAND USE RIGHTS (PERMANENT DEPARTURES AND AMENDMENTS TO HAYGROVE'S SITE DEVELOPMENT PLAN (SDP) AND VARIOUS CURRENTLY APPLICABLE CONDITIONS MUNICIPAL APPROVAL) ARE PREMATURE INSOFAR AS THEY ARE INCLUDED TOGETHER WITH HAYGROVE'S APPLICATION FOR AN ADMINISTRATIVE PENALTY (WHICH SHOULD BE DETERMINED AND FINALIZED FIRST, AND SEPARATELY FROM THE LAND USE APPLICATION).
(PARAGRAPHS 14-32 IN OBJECTION LETTER)

- ***It is premature for Haygrove to submit applications for future uses.***
- ***The illegal construction of 8,337ha of horticulture tunnels must firstly be dealt with.***
- ***The municipality should also have regard to the offences and penalties set out in section 84 of the Planning By-Law.***
- ***The approved tunnels are 5,8ha and 8,3ha of tunnels were constructed in contravention of the Planning By-Law and Haygrove's conditions of approval, and now they want to construct an additional 7,746ha. The illegal land uses must therefore firstly be regularized and administrative penalty paid, prior to application for additional tunnels.***

APPLICANT'S RESPONSE

"The structure of the motivation was crafted to ensure full compliance with the requirements outlined in the Overstrand Municipality (OM) By-law (Overstrand Municipality Amendment By- Law on Municipal Land Use Planning Act, 2020). It's crucial to clarify that the procedural approach taken in the application aligns with the regulatory framework set forth by the municipality.

The objection raised implies a contention with the procedural aspects of the application. However, it's important to emphasize that the OM By-law necessitates that the application addresses both current non-compliance issues and proposed future developments.

Therefore, the inclusion of the administrative penalty application alongside the land use proposals is in accordance with the prescribed procedure outlined by the municipality.

Furthermore, it's imperative to emphasise that there is no requirement to finalise the administrative penalty determination before considering the proposed land use applications. Both aspects are intended to be dealt with simultaneously by the decision-making authority, ensuring a comprehensive and holistic review of all relevant factors.

Addressing the specific concerns raised by the objector, it's evident that the motivation prioritises compliance with regulatory requirements and seeks to rectify any past transgressions transparently and responsibly. The inclusion of the administrative penalty application underscores Haygrove's commitment to addressing historical non-compliance issues and ensuring regulatory adherence moving forward."

TOWN PLANNER'S RESPONSE

The objections raised by Nicholas Smith Attorney on behalf of the objectors, and specifically their voluminous criticism of the fact that the Applicant was permitted by the Overstrand Municipality (OM) to apply for an administrative penalty simultaneously with an application for additional rights instead of first applying for said penalty and after having paid it or a determination having been made, to then bring another separate or new application for additional rights.

In support of their argument the objectors contend that because the City of Cape Town (COCT) requires of an Applicant to first pay the administrative penalty and to then bring another application for whatever it wants to apply for, that the Overstrand municipality must do the same.

In this regard the position of the OM is as follows:

(1) the Constitution of South Africa

(a) section 151(2) determines that the executive and legislative authority of a municipality is vested in its Municipal Council.

(b) section 154 enables municipalities "…to manage their own affairs, to exercise their powers and to perform their functions."

(c) section 156(1) – "a municipality has executive authority…and the right to administer –
(a) local government matters listed in Part B of Schedule 4: "Municipal Planning".

(d) section 156(2) determines that "A municipality may make and administer by-laws for the effective administration of the matters which it has a right to administer".

(e) section 156(3) in effect determines that a municipal by-law that conflicts with national or provincial legislation is invalid.

What the above extracts from the Constitution means is that every municipality is constitutionally permitted to make and administer its own By-Laws, provided said By-Laws are not in conflict with National or Provincial legislation, with no mention of other Municipality's legislation. In other words, municipality A's By-Laws may validly be in conflict with Municipality B's By-Laws with no consequences flowing from such a conflict.

In the matter at hand OM's By-Law *per* Section 16 and specifically Section 16(q), read with Section 90, makes provision for bringing an application for additional rights and an application for an administrative penalty [Section 16(q)) in one land use application, and will the application be perfectly valid and legal and will remain so, until having been declared invalid by the High Court or the Supreme Court of Appeal or the Constitutional Court or having been amended by the OM and approved by its Council. The fact that the OM's By-Law might be in conflict with COCT's By-Law is therefore irrelevant, as the OM is not subservient to and/or bound by the COCT Municipality, its processes, and By-Laws.

The objectors contend that it will be premature to apply for future uses if the illegality is not first dealt with and finalised, in other words, they contend that the application for an administrative penalty must be a "stand-alone" application and must be dealt with first and completed. They seem to contend that the Applicant regard the determination of an administrative penalty by the OM as a *"fait accompli"* in the sense that consideration of the application for additional rights will follow automatically irrespective of whether a penalty is or has been imposed or not, and if imposed, has been paid or not.

They even contend that the OM will make itself guilty of an irregularity, but this contention is incorrect because in terms of the OM's By-Law, an Applicant for additional rights will only be able to exercise his/her additional rights applied for and granted when the administrative penalty has been paid within 30 days of the effective date of the decision or within such further period as may be decided by the Authorised Official, the MPT or the Appeal Authority. In other words, the final approval letter to act on the rights granted will not be furnished to the Applicant until the penalty has been paid. Please refer to section 90(7) of the OM by-law.

OBJECTION 14 – AN ADMINISTRATIVE PENALTY MUST BE FINALIZED BEFORE THE APPLICANT CAN APPLY FOR ADDITIONAL AND ENHANCED LAND USE RIGHTS
(PARAGRAPHS 33-48 IN OBJECTION LETTER)

- ***An administrative penalty application must be considered independently and as a matter of law, as a stand-alone application.***
- ***It is a matter of logic that contraventions should be remedied before application for additional rights.***
- ***It appears that the applicant regards the determination of the administrative penalty and municipality's decision as a "fait accompli", but the applicant and/or objectors can still appeal against the decision to the Executive Mayor as appeal authority.***
- ***We will address the necessary legal submissions on this aspect if the MPT inclines to grant our request for an audience, and the right to deliver oral submissions, when the application is tabled before the MPT.***
- ***The present format of the application is a fundamental error and would be fatal before the MPT as decision maker, the Executive Mayor as appeal authority or the Western Cape High Court in review under the Promotion of Administrative Justice Act.***

APPLICANT'S RESPONSE

"The objector's repetitious emphasis on finalising the administrative application before considering any other applications is noted. However, it's essential to highlight Section 61 of the by-law, which states:

"The Authorised Official or the Municipal Planning Tribunal may in respect of any application contemplated in Section 16(2)—

(a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
(b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;"

Section 61(a) grants the decision-making authority the discretion to decide either in whole or in part, signifying that each application can be individually considered, and recommendations made accordingly. It's crucial to recognise that this provision applies equally to the handling of submitted applications."

Furthermore, Section 61(b) stipulates that the decision-making authority is empowered to impose reasonable conditions, including the determination of the amount payable to the municipality upon the conclusion of the administrative penalty.

It's essential to note that no further consideration of building plans or other applications will occur until this condition is fulfilled. Therefore, settling the administrative penalty is a prerequisite for adhering to the conditions of land use approvals.

Additionally, it is unclear why the objector is of the opinion that Section 90(1) of the by-law requires a "stand alone application"?

"90. Application for administrative penalty

(1) A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned."

Haygrove is complying with the requirements of Section 90(1) as the application, as submitted, addresses and attempts to rectify the contraventions that occurred.

Haygrove respects the regulatory framework and is committed to abiding by the decision- making process outlined by the Municipality. The inclusion of the administrative penalty application alongside other land use applications does not diminish the importance or independence of each component. Instead, it reflects a comprehensive approach to addressing past contraventions while simultaneously seeking approvals for future land use.

If an appeal is submitted in terms of Section 78, the entire decision will be suspended pending the outcome thereof. No decision favourable or unfavourable will be able to commence if an appeal is in process.

It's also essential to note that Municipal Planning Tribunal hearings only permit observers to attend, and representatives are not allowed to make oral representations on behalf of the parties involved. If the objector is afforded the opportunity to represent their parties, it is requested that WRAP Project Office also be afforded the opportunity to attend the meeting. This however remains the decision of the municipality and the decision-making authority."

TOWN PLANNER'S RESPONSE

The objector's opinion that the administrative penalty must be considered prior to considering additional land use right was addressed in the Town Planners response under objection 13 above.

The request for a hearing is noted. The Municipal Planning Tribunal (MPT) provide objectors and applicants the opportunity to attend (or virtually) the MPT meetings. The rules do not make provision for oral representation. The objector and applicant were however informed to consult directly with the Chairman of the MPT on such matter.

OBJECTION 15 – THE REQUIREMENTS OF SECTION 90 OF THE PLANNING BY-LAW PERTAINING TO APPLICATIONS FOR THE DETERMINATION OF AN ADMINISTRATIVE PENALTY

(PARAGRAPHS 39-49 IN OBJECTION LETTER)

- ***The current motivation for the application for administrative penalty fee is insufficient.***
- ***No indication is provided as to the duration of the contraventions or its gravity.***
- ***There is no clear explanation of Haygrove's conduct.***
- ***Cannot claim the construction of 8,337ha of horticulture tunnels "was never by any malicious intent", as in previous historic approvals stipulated restrictions.***
- ***A new administrative penalty application should be submitted addressing all breaches of various conditions in Haygrove's previous approvals.***
- ***City of Cape Town obliges the completion of the administrative penalty fee process as a stand-alone application. It must be completed before any applications for additional rights can be considered.***

APPLICANT'S RESPONSE

The objector's arguments that the motivation does not contain all relevant information are unfounded.

(a) The nature, gravity, and extent of the contravention;

The nature, gravity, and extent were adequately addressed in both Sections 5.4 and 5.19. The duration is clearly indicated as occurring between the last approval in 2016 and the submission date of the application.

(b) The conduct of the person (allegedly) involved in the contravention;

Haygrove's conduct was explained in detail, as referenced in Sections 5.4 and 5.19.

(c) A report by a quantity surveyor in matters of unauthorised building/construction;

The OM's budget allows the municipality to request the average of two formal quotes for non- habitable structures. The tunnels were installed by Haygrove's sister company, Haygrove Tunnels South Africa. The value represents the actual cost of the tunnels used, which is more accurate than averaging two quotes or based on calculations made on assumptions by a quantity surveyor.

(d) Whether the unlawful conduct was stopped; and

The tunnels have been erected and are in use. Their use was historically approved, as explained in Section 5.19 of the motivation.

(e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

Refer to Section 5.19. To the knowledge of this office, the property owners have not previously contravened the By-Law on the subject property.

It is important to note that while the Spatial Planning and Land Use Management Act (SPLUMA) provides guidelines on how municipal by-laws should be executed, each municipality is allowed to operate under its own procedures and methods. Simply comparing two municipalities because they use the similar wording cannot be considered sufficient motivation to follow their procedures. If this were the case, objectors in the City of Cape Town could also claim that administrative penalties need to be submitted in one application with other land use proposals because the OM allows it.

Haygrove's proactive approach to addressing the matter demonstrates a commitment to rectifying the situation and complying with regulatory requirements. Any suggestion that their actions are driven solely by the expectation of future approvals oversimplifies the situation. Instead, Haygrove's actions should be viewed as part of a broader strategy to ensure compliance and uphold the integrity of their operations.

TOWN PLANNER'S RESPONSE

The objector's opinion is that the application was not sufficiently motivated in terms of the criteria of section 90(3), is noted. The objector again provided the information as was submitted with the original motivation, showing compliance. Some of the detail will be elaborated on under objection 16.

The comments regarding compliance with previous approvals are noted and will be discussed in more detail under objection 16.

The objector motivates that the City of Cape Town deals with their administrative penalty applications in a stand-alone format, prior to considering additional rights. This matter has already been addressed under objection 13.

OBJECTION 16 – INSUFFICIENT AND/OR INADEQUATE INFORMATION INCLUDED IN THE PRESENT ADMINISTRATIVE PENALTY APPLICATION
(PARAGRAPHS 50-64 IN OBJECTION LETTER)

- ***No quantity Surveyors report for the cost of the illegal structures were submitted, which is a requirement in terms of the By-Law, this is a material omission.***
- ***The illegal use has not stopped as the tunnels are being used.***
- ***The comment that the property owners have not previously contravened the Planning By-law is questioned considering that is not clear if the conditions of approval in the 13 July 2012 municipal approval have been complied with the requirements of condition 1(f). Condition 3(a) in the 2016 municipal approval breached.***
- ***Not clear if building plans were submitted for approval as required in condition 3(b) of the 2016 municipal approval.***
- ***In many cases condition 3(i) in the 2016 Municipal Approval in also not complied with, as the tunnels must be covered with non-reflective netting.***
- ***The information provided by WRAP is inaccurate, false and misleading.***

APPLICANT'S RESPONSE

"The objector raised several points that warrant clarification and response:

- **Quantity Surveyor's Report:** The absence of a quantity surveyor's report is noted, and the municipality accepted the information Haygrove's sister company submitted as indicated above. It's important to highlight that the cost of the tunnels, provided in the application, reflects the replacement cost of the tunnels. This figure is based on the cost of the tunnels if it to be installed by Haygrove's sister company, which inherently provides an accurate and detailed breakdown of the construction expenses.

- **Compliance with Section 90(3) of the Planning By-law:** WRAP's assertion that the information provided meets the requirements of Section 90(3) is grounded in the comprehensive details included in the application. The total cost of the tunnels, although not specifically broken down in a quantity surveyor's report, is accurately represented and substantiated by a major supplier of these specialized structures in Southern Africa.

- **Duration of Unlawful Conduct**: It is and was acknowledged that the tunnels are currently in use, which implies that the unlawful conduct has not ceased which is a matter of fact and was disclosed in the motivation. However, the application aims to rectify this by addressing the administrative penalty and committing to compliance with regulatory requirements going forward.

- **Previous Contraventions:** While it's claimed that Haygrove breached certain conditions of previous approvals, it's important to recognise that the application serves as method to ensure that the previous approval's condition is amended accordingly.

- **Submission of Detailed Building Plans:** The building plans have been approved and condition 3(b) is being complied with.

- **Non-reflective netting:** As mentioned above, Haygrove continues to strive and comply with the previous approval obtained to cover the tunnels with a non-reflective shade cloth. It is important to note that the tunnel plastic is not erected permanently and are taken down in for large parts of the year when berries do not grow. This entails removing the white plastic, and sometimes the shade cloth as well. Maintenance on tunnels and/or shade cloth does also require some movement and opening up, depending on the nature of the maintenance. Therefore, there are certain periods when only the plastic is visible. However, significant efforts are made to limit this at great expense to Haygrove. Furthermore, a practical reality is that the plastic often needs to be erected before the shade cloth cover can be erected; and the shade cloth retracted to remove or clean the plastic.

- It is important to emphasise that the shade cloth is also detrimental to berry growth when erected over tunnels, and Haygrove estimates production loss at 15% owing to lower levels of light (lower photosynthetic potential) and higher levels of dust build-up on the plastic. However, the shade cloth is erected at significant cost to Haygrove solely to reduce the visual impact for the surrounding farms. The cost of keeping surrounding farms' visual impact limited is many millions to Haygrove annually in opportunity loss and the direct cost of maintenance and replacement of shade cloth.

- **Separate Application for Administrative Penalty:** While the objector's preference for a separate application for the administrative penalty is noted, it's essential to ensure that all relevant information is considered comprehensively. The integration of the administrative penalty determination within the broader land use application process allows for a holistic assessment of the situation and facilitates efficient resolution and complies with the procedures of the OM."

TOWN PLANNER'S RESPONSE

Another point of criticism raised by the objectors concerns the non-appointment by the Applicant of a Quantity Surveyor (QS) to determine the cost of the unauthorised structures and to file a report as required by section 90(3)(c) of the by-law, and the Applicant acknowledges this, but motivates its decision by stating that it obtained a quote from Haygrove's sister company, apparently a major supplier of horticultural tunnels, which provides an accurate and comprehensively detailed breakdown of the actual construction costs of said tunnels.

In terms of the approved municipal budget the penalty that may be charged for "habitable buildings" is R20 253/m^2 and for "non-habitable buildings" the average of 2 (two) quotations. The tunnels in question are "non-habitable" and are considered "minor structures". In this regard it is the OM's contention that the most accurate way of determining a suitable penalty will be the obtaining of the actual construction costs from a company that installs such structures instead of averaging at least 2 (two) quotes which might amount to less than the actual costs.

That said the suggested administrative penalty for a "minor construction" will still be substantial.

Be that as it may section 90(6) of the by-law determines that the MPT may request additional information should it be of the opinion that the information furnished is insufficient for it to determine an appropriate administrative penalty. The Applicant seems to acknowledge this where it states that:

"…the application aims to rectify this (the duration of the unlawful conduct) by addressing the administrative penalty and committing to compliance with regulatory requirements going forward".

The objector questions if the conditions of approval in the 2012 and 2016 land use approvals have been complied with.

The objector refers to a condition (f) in the 2012 approval, which refers to the submission of an environmental management plan. The old municipal records were scrutinized, and it was found that an environmental management plan was submitted.

Regarding the 2016 approval, the applicant did respond and indicated that condition 3(b) in the 2016 application has been complied with, and the necessary building plans submitted and approved.

The objector showed concern that condition 3(i) in the 2016 Municipal Approval was also not complied with, as the tunnels is not all covered with non-reflective netting. The applicant did explain that during periods of maintenance the covering netting,

and sometimes the netting and the plastic tunnels are removed to do maintenance. It is however replaced after maintenance has been done. This is a practical requirement of farming with polytunnels and considered a reasonable explanation on the point of concern.

OBJECTION 17 – OUTSTANDING/INCOMPLETE INFORMATION PERTAINING TO HAYGROVE'S COMPLIANCE WITH HISTORIC APPROVALS
(PARAGRAPHS 65-68 IN OBJECTION LETTER)

See amendment of a condition 3(a) in the municipal approval in 2016, but no confirmation was provided if building plans was submitted to comply with condition 3(b) in the 2016 municipal approval.

APPLICANT'S RESPONSE

"The objections raised several points that require clarification and response:

- **Intention to Seek Amendment of Conditions:** The intention to seek an amendment to condition 3(a) of the approval granted on February 9, 2016, is acknowledged. It's crucial to emphasise that this application is not premature but rather a part of the broader process of seeking compliance and rectifying any outstanding issues. Each aspect of the application is being addressed in due course, ensuring a comprehensive and systematic approach to regulatory compliance.

- **Confirmation of Compliance with Conditions:** While the application does not explicitly confirm compliance with condition 3(b), it's essential to recognise that the application would not have been processed if Haygrove had not complied with the previous conditions. The Municipality has the authority to investigate this matter further and request any necessary documentation to confirm compliance as part of the application process for new land use rights."

TOWN PLANNER'S RESPONSE

The relevant building plans have been submitted and the condition 3(b) in the 2016 municipal approval complied with.

OBJECTION 18 – HAYGROVE'S CONTINUED AND WILFUL NON-COMPLIANCE WITH CONDITION 3(I) OF THE 2016 APPROVAL
(PARAGRAPHS 69-71 IN OBJECTION LETTER)

- ***Non-compliance with condition 3(i) in the 2016 approval, many of the tunnels is not covered with non-reflective material.***
- ***The breaches must be rectified before a new planning application can be submitted.***

APPLICANT'S RESPONSE

"The objection regarding Haygrove's alleged non-compliance with condition 3(i) of the 2016 approval is unfounded and based on erroneous assumptions.

1. **Existence of Approved Building Plans:** Contrary to the objection's claim, there are indeed approved building plans for the tunnels erected by Haygrove. These plans adhere to the specifications outlined in the 2016 approval, including the requirement for non-reflective material or non-reflective netting.

2. **Efforts to Comply:** Haygrove remains committed to complying with the conditions of the 2016 approval. Efforts have been consistently made to ensure that the tunnels are covered with a non-reflective shade cloth, as mandated by condition 3(i). It's crucial to understand the seasonal nature of horticulture operations. During the growing season, the shade cloth and plastic are in place to provide the necessary protection for the crops. However, during the off-season when berries are not growing, the tunnels' plastic is removed. This may include the removal of the shade cloth. This temporary absence of shade cloth may give the appearance of non-compliance, but the sequencing of events is a practical reality of the regular operational cycle of the farm.

In light of these clarifications, it's evident that Haygrove is diligently working to adhere to the conditions set forth in the 2016 approval at a significant cost to itself, as previously explained. Any perceived discrepancies are largely attributable to the practicalities of agricultural operations and seasonal variations rather than wilful non-compliance. Therefore, the objection's insistence on rectifying alleged breaches before considering further applications is unwarranted. Haygrove remains committed to fulfilling its obligations and ensuring compliance with all relevant regulations."

TOWN PLANNER'S RESPONSE

The applicant sufficiently addressed the points of objection.

OBJECTION 19 – SUBSTANTIVE OBJECTIONS REGARDING THE (LACK OF) MERIT IN THE LAND USE APPLICATIONS
(PARAGRAPHS 72-74 IN OBJECTION LETTER)

- ***The application for further land use rights has a lack any substantive merit.***
- ***Additional comments will be provided when they apply afresh for enhanced land use rights.***

APPLICANT'S RESPONSE

"It's important to address the objections regarding the substantive merit of the land use applications for future and enhanced land use rights, as outlined in Chapter VI of the Planning By-law.

1. **Evaluation of Land Use Applications**: The objector seems to challenge the substantive merit of the proposed land use applications described in detail in the applicant's motivation. No detail is however provided on the reason the merit is being challenged. It is however crucial to note that these applications have been meticulously prepared in accordance with the relevant provisions of the Planning By-law. Each application has been tailored to meet the requirements and guidelines stipulated by the municipal regulations.

2. **Compliance with Planning By-law Criteria**: The objector raises concerns regarding the adherence to the general criteria outlined in section 66 of the Planning By-law, particularly emphasising the desirability of the proposed land utilisation. The desirability was categorised and addressed in Section 11 of the motivation. It's important to reiterate that all proposed land uses have been carefully evaluated against these criteria to ensure alignment with the By-law's provisions.

   Additionally, any guidelines issued by the Provincial Minister regarding proposed land uses have been duly considered and integrated into the applications where applicable.

3. **Future Considerations:** While the objector express reservations about the substantive merit of the land use applications, we are of opinion that the applications have been prepared with due diligence and consideration of all relevant factors.

4. In conclusion, Haygrove affirms their commitment to compliance with all regulatory requirements and guidelines governing land use applications. The application submitted on behalf of Haygrove adheres to the highest standards of planning and development principles."

TOWN PLANNER'S RESPONSE

The comments are noted. The objector did not provide any detail as to the opinion that the application has no substantive merit. The comments of non-compliance with the general criteria outlined in section 66 of the Planning By-law, is noted. The concerns have however been addressed in this report and there is sufficient information to make an informed recommendation on the application.

The objectors' comments that he will comment on a new land use planning application, is noted. The application will however be dealt with at the same time as the administrative penalty application in terms of the procedure followed in terms of the Planning By-Law, as previously explained.

OBJECTION 20 – SUBMISSIONS AS TO WHY THE LAND USE APPLICATIONS ARE, OBJECTIVELY VIEWED, UNDESIRABLE AND MUST THEREFORE BE REFUSED BY THE MUNICIPALITY ON THEIR LACK OF OBJECTIVE MERIT.
(PARAGRAPHS 75-80 IN OBJECTION LETTER)

- ***The land use applications have been summarised somewhat superficially, and there is also no specific indication that the applicant seeks permanent departures.***
- ***The scale of the unauthorized activities is plain to see, and the fact that administrative penalty procedure will not resolve the matter satisfactorily.***
- ***The applicant in his motivation highlights the importance to prioritise compliance, the applicant is obliged by law to regularise its unauthorised unlawful land use before additional land use approvals.***
- ***The applicant's consideration of the criteria to consider an administrative penalty fee process is superficial and insufficient.***

- ***The applicant submits the tunnels enhance the viability of the agricultural enterprise, but Haygrove cannot be permitted to do so by the municipality in a manner adversely impacting the rights of surrounding landowners.***

APPLICANT'S RESPONSE

"The majority of these concerns have been addressed throughout the responses above.

1. **Summarisation of Applications**: The objector suggests that the summary of the land use planning approvals in the Municipality's notice lacks specificity regarding the permanent departures sought by the applicant. This however important to clarify that the applications explicitly outline the nature of the departures sought, as detailed in paragraphs 5.1 to 5.19 of the motivation. Any ambiguity should be clarified through the contents of the motivation.

2. **Priority of Administrative Penalty Determination**: The objector emphasises the scale of the contravening land use that was detailed in the motivation and argues that determining the administrative penalty should precede any consideration of additional land use approvals. As mentioned previously, the application was submitted as required in alignment with the procedures of the OM. However, it's essential to ensure due process and consider each application on its merits, with the administrative penalty being only one aspect in the overall process.

3. **Obligation to Regularise Unlawful Land Uses**: The objector contends that the applicant is legally obligated to regularise its unauthorised land uses before seeking additional approvals. While the applicant acknowledges the need for compliance, it's crucial to address all aspects of the application comprehensively, including rectifying any non- compliance issues alongside seeking additional approvals.

4. **Superficiality of Applicant's Submissions**: The objection criticises the applicant's submissions regarding the nature and extent of the contravention as superficial and insufficient. The applicant's submissions however aim to provide a comprehensive overview of the situation, including efforts to rectify non-compliance issues and ensure adherence to applicable regulations.

5. **Impact on Surrounding Landowners**: Lastly, the objector raises concerns about the impact of the tunnels on surrounding landowners' rights. A professional person was appointed to conduct a VIA as discussed throughout the responses above and the mitigation measures were also highlighted and Haygrove is committed to adhere thereto."

TOWN PLANNER'S RESPONSE

The objectors and applicant's responses are noted.

The objector's opinion that it is not clearly indicated in the notice that application is made for Permanent Departures, are noted. The detail is however in the motivation, and by inserting the wording departure or permanent departure can both be accepted, as long as the relevant section of the By-Law is stipulated. A permanent departure is made in terms of section 16(2)(b) of the Planning By-law, whilst a temporary departure is applied for in terms of section 16(2)(c). It is clearly indicated in the notice what section is being applied for.

The objectors' comments regarding compliance and regularizing unauthorized land uses, and the superficial and insufficient administrative penalty application is noted. These points have previously been addressed in this report.

The opinion of the objector that the municipality may not positively consider an application that adversely impact the rights of surrounding property owners, are noted.

The applicant indicated a VIA was prepared by a professional person to consider the impact on surrounding property owners, and mitigations measures.

The question that must be asked is what reasonable expectations of the various types of property owners in the Hemel & Aarde Valley are. The residents in the resort developments possibly want a surrounding area with minimal impact on their views, limited noise and limited activity in the area. The property owners with wine estates and tourist facilities probably want views over other properties and do want more visitors to the area to support their wine cellars, tourist facilities and accommodation. The farmer wants to farm the land to its maximum potential with minimum influence on him utilizing his/her property to its maximum potential.

Considering the above, there will always be challenges to group all these land uses together in one area and keep all property owners satisfied. All the criteria to determine desirability will be duly considered in this application, and the visual impact will also be considered in such evaluation.

Ultimately it must be considered what developments in agricultural areas can be considered as reasonable expected land uses, and what are additional uses in agricultural areas. This will provide a better indication of what rights surrounding property owners could reasonably expect.

OBJECTION 21 – SUBSTANTIVE OBJECTION TO THE PROPOSED PERMANENT DEPARTURES, THE APPLICATION TO AMEND THE SDP, AND THE APPLICATION TO AMEND AN EXISTING CONDITION OF APPROVAL.
(PARAGRAPHS 81-82 IN OBJECTION LETTER)

- ***The motivation is self-serving, superficial and in certain instance, simply wrong on the facts presented.***
- ***The applicant motivates that the growing of raspberries, blackberries and blueberries under intensive horticulture tunnels are congruent with other agricultural activities in the Hemel & Aarde Valley. Permanent departures to construct tunnels over 3 building lines are excessive in the circumstances.***

APPLICANT'S RESPONSE

1. "**Critique of WRAP's Motivation**: It's crucial to recognise that WRAP's motivation seeks to provide a comprehensive rationale for the proposed land use applications. While there may be disagreements regarding specific points, WRAP's motivation aims to present a balanced and well-reasoned motivation.

2. **Congruence with Agricultural Activities**: The objector questions the merit-worthiness of the land use applications based on WRAP's assertion that the proposed activities align with other agricultural practices in the Hemel-en-Aarde valley. The objection contends that the permanent departures sought from various building lines are excessive. It's important to note some of these departures are located next to the other property owned by Haygrove meaning they are their own neighbour.

   It's important to consider the broader context of agricultural activities in the area and evaluate the proposed departures based on their individual merits and potential impacts. Additionally, discussions with relevant experts were made that provided valuable insights into the appropriateness of the proposed departures, these include VIA specialists."

TOWN PLANNER'S RESPONSE

The objector's opinion is that the motivation for the land use application is superficial and self-serving. No detailed facts were provided in support of the opinion. The objectors' comment to accommodate so many departures over building lines does sound excessive. The applicant did indicate that some of these departures is over building line of Hargrove's other property. This matter will be evaluated in more detail in the Evaluation section of this application.

OBJECTION 22 – CRITIQUE OF AND OBJECTIONS TO WRAP'S ASSERTIONS REGARDING COMPATIBILITY WITH SURROUNDING LAND USES
(PARAGRAPHS 83-89 IN OBJECTION LETTER)

- ***The suggestion that 22ha of horticulture tunnels contributes in any way to the preservation of (the valley) rich farming traditions is not supported, the development of horticulture tunnels on that scale in fact offends against those traditions.***
- ***The permanent departure must be assessed objectively with reference to the rights to use and enjoy their properties undisturbed.***
- ***The permanent departure and amendment of conditions of approval and the site development plan do not pass muster with reference to Section 66(1)(c) of the Planning By-Law and is not desirable.***
- ***The sheer scale and intrusive character of the intensive horticulture tunnels is an undesirable proposed and actual use of land.***
- ***The purpose of the 30m building line is to prevent unreasonable intrusion of physical infrastructure, and to protect the surrounding property owner's right to reasonable enjoyment.***

APPLICANT'S RESPONSE

"WRAP's assertion regarding the compatibility of the proposed land use with surrounding activities is based on a careful consideration of the broader agricultural context of the Hemel- en-Aarde valley. The integration of horticulture tunnels is seen as an extension of the area's agricultural identity, contributing to its rich farming traditions. While the objector may contest this viewpoint, it's essential to recognise the diverse perspectives regarding modern farming practices, particularly as polytunnels constitute a relatively modern tool for improving and mitigating many agricultural challenges.

The objector argues that the proposed development of horticulture tunnels contradicts the valley's farming traditions. However, it's worth noting that farming practices evolve over time, and modern methods, including the use of tunnels, can be compatible with traditional agricultural activities. Moreover, the proposed tunnels aim to enhance agricultural productivity while minimising environmental impact, aligning with broader sustainability goals.

Regarding the applications for permanent departures, it's important to assess them objectively, weighing the potential benefits against any impacts on neighbouring properties, one of which is owned by Haygrove themselves. While the objector emphasises the potential infringement on surrounding landowners' rights, it's essential to consider the broader community's interests, including economic development and agricultural sustainability.

Ultimately, the decision on these applications should be guided by a comprehensive evaluation of their merits, considering both the immediate concerns of neighbouring landowners and the long-term benefits for the community as a whole."

TOWN PLANNER'S RESPONSE

When considering the compatibility of an application with an area it must firstly be considered what the original purpose of the land in the area was. It is clear in this case, agricultural land. The planting of vines for wine making only started in the valley in the 1970's, as the one objector indicated. At that stage the new wineries and later the tourist facilities were also established is the H & A Valley, this all being new to the landscape in the Hemel & Aarde Valley, also with its own impacts.

The applicant is correct in that polytunnels is a modern farming method that helps increase yield and thereby farming can be done on smaller portions of land. It is also a fact that large scale polytunnel farming cannot be accommodated in any other areas, other than agricultural areas.

The concern of the direct impact of the horticulture tunnels on directly surrounding property owners are noted, but is the impact any more than a visual impact? A farmer can farm his property right up to the farm fence, meaning livestock can move their, berry fields can be planted, and farming vehicles and equipment can traverse this area. Would this not already impact the perceived rights of surrounding property owners and their reasonable enjoyment of their properties? Once again, it is difficult to grasp how the tunnels would impact the surrounding area other than with its visual presence. The berry fields are already being farmed, and any increase in the yield would not create a much bigger impact on surrounding property owners.

The scale of the tunnels over building lines will be discussed in detail under the evaluation part of this application.

OBJECTION 23 – CRITIQUE OF AND OBJECTIONS TO WRAP'S ASSERTIONS REGARDING POSITIVE SOCIO-ECONOMIC IMPACT
(PARAGRAPHS 90-91 IN OBJECTION LETTER)

- ***This was only motivated from the applicant's perspective.***
- ***The argument that there will be a positive economic impact must be proofed with provision of specific and detailed information in support of the assertion.***

APPLICANT'S RESPONSE

"While it's understandable that the objector seeks detailed information regarding the asserted positive socio-economic impacts of the proposed land use, it's important to recognise that predicting exact figures at this stage may be speculative. WRAP's motivation highlights the potential for increased employment opportunities and poverty reduction as a result of the proposed development. In fact, specific figures regarding employment opportunities were provided in Section 11, page 22 of the motivation. It states that 100 additional seasonal jobs will be added for 3 – 6 months, along with 6 permanent jobs, which numbers may have been missed by the objector.

While specific numbers and wage details are indeed valuable, they may not be readily available until the project progresses further. It's worth noting that the socio-economic benefits of agricultural development often extend beyond direct employment figures. Projects like this can stimulate local economies, create upstream and downstream job opportunities in related industries, and enhance community infrastructure and services. While these broader impacts may be challenging to quantify at this early stage, they should not be discounted.

As the project advances, more detailed assessments of its economic impacts can be conducted, incorporating input from relevant stakeholders and experts. In the meantime, it's essential to recognise the potential positive contributions that projects like this can make to local communities, even if precise figures are not yet available. Haygrove has many decades worth of proven experience from which to draw to justify the investment.

In terms of the seasonal workers, Haygrove does attempt to alleviate some of the seasonality of the agricultural activities on the farm by sending upwards of 250 seasonal staff (combined, from all Haygrove South Africa farms), which would otherwise be unemployed in South Africa, to the UK on an annual basis to have longer periods of employment, earn foreign currency and prosper. Haygrove is also audited by SIZA for all aspects of employment compliance and labour practices and currently holds gold status with SIZA.

On another note, Haygrove operates and funds an accredited and certified on-site clinic on each of its larger farms, staffed by a full-time clinical nurse. The clinic oversees all aspects of primary healthcare on the farm, including family planning, dispensing chronic medication, first aid, and many other healthcare services. This initiative significantly alleviates pressure on governmental clinics in the Overstrand region and ensures that staff can access their medication and advice in a safe and professional environment while maintaining productivity throughout the day without loss of income to the employee."

TOWN PLANNER'S RESPONSE

The comments are noted.

The applicant did indicate that 100 new seasonal jobs will be created and 6 additional permanent jobs. It can therefore not be debated that the development will have some form of positive economic impact.

The applicant also did provide some examples of the positive social impact Haygrove has, especially with regards to their staff.

Considering the above, it cannot be debated that the development will not have a positive socio-economic impact.

OBJECTION 24 – CRITIQUE OF AND OBJECTIONS TO WRAP'S SUBMISSIONS REGARDING NO OR LIMITED IMPACT ON NEIGHBOURS AND THE SURROUNDING COMMUNITY
(PARAGRAPHS 92-95 IN OBJECTION LETTER)

- ***No information was provided to the municipality about the likely significant increase in noise emissions, including machinery-generated noise and transport generated noise.***
- ***No information was provided on odours omitted from crop spraying, vehicle use and toilets for seasonal workers.***
- ***Seasonal workers trespass the properties and there have been the presence of snares catching domestic animals.***
- ***The visual impact of 22ha of plastic-covered tunnels is not described in sufficient particularity to place the Municipality in a position to make a properly informed and objective decision.***
- ***It is incorrect to make the assumption that the tunnels are considered in harmony with the character of the valley and will not detract from the overall visitor experience (tourists).***
- ***It is unreasonable to expect directly adjacent neighbours to suffer the imposition and intrusion of the horticulture tunnels over the 30m building lines.***

APPLICANT'S RESPONSE

"These objections raise concerns about the potential impacts of the proposal on the surrounding neighbouring properties. Several of which have been addressed in the motivation, but it appears that further detail is needed to fully understand and address these concerns.

Regarding noise emissions, it's crucial to reiterate the fact that only one, perhaps two additional busses are required to transport the additional workers an exact number is yet to be confirmed. It is a fact that less spraying activity is required when using intensive horticulture tunnels as discussed previously, which reduces the overall noise levels. Open fields are often blow-dried when fruit is rained on, and this is done mechanically with tractors and large fans connected to its PTO. This happens at any time, including over weekends. Where polytunnels are used, this requirement is eliminated, as well as the overall noise levels. This may not be appreciated by, although is of particular interest to, those close the boundaries of the surrounding properties.

The fields already exist; therefore, the absolute overall noise can and will only reduce if tunnels are erected. In addition, Haygrove implemented a one-way route through their two farms to mitigate any adverse impact traffic may have on the surrounding area. There is only a single access road into the property, with the access road leading through Portion 94 of the Farm Hemel-En-Aarde Valley 587 and across the neighbouring property, Portion 11 of the Farm Hemel-En-Aarde Valley 587, to allow egress via a proclaimed provincial road. This was implemented at a cost to Haygrove at the request of neighbours to accommodate their needs.

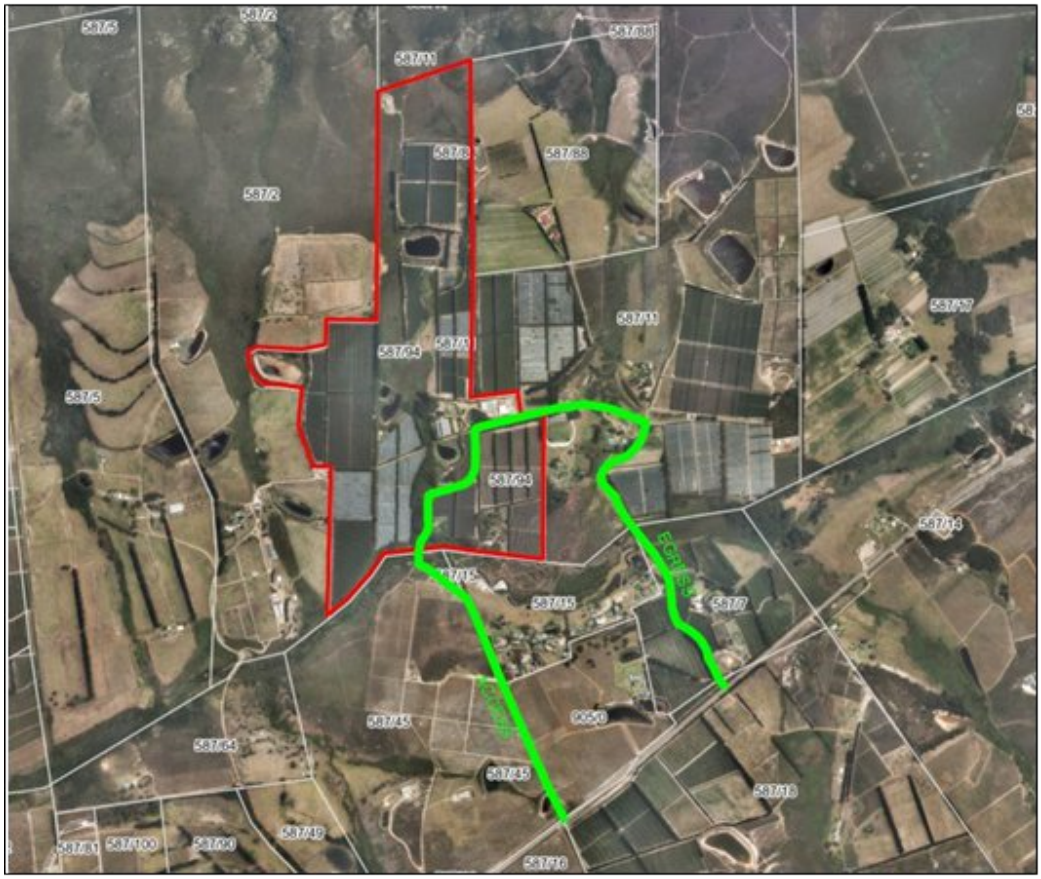


Figure 2: Access and Egress

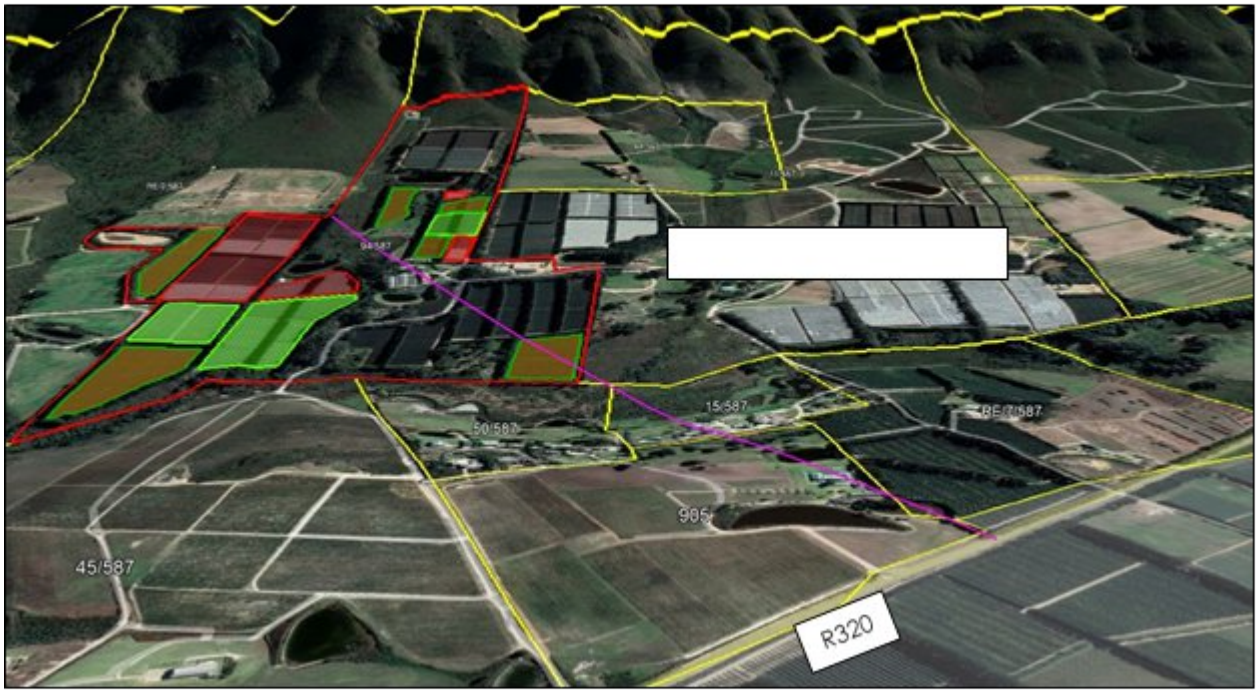
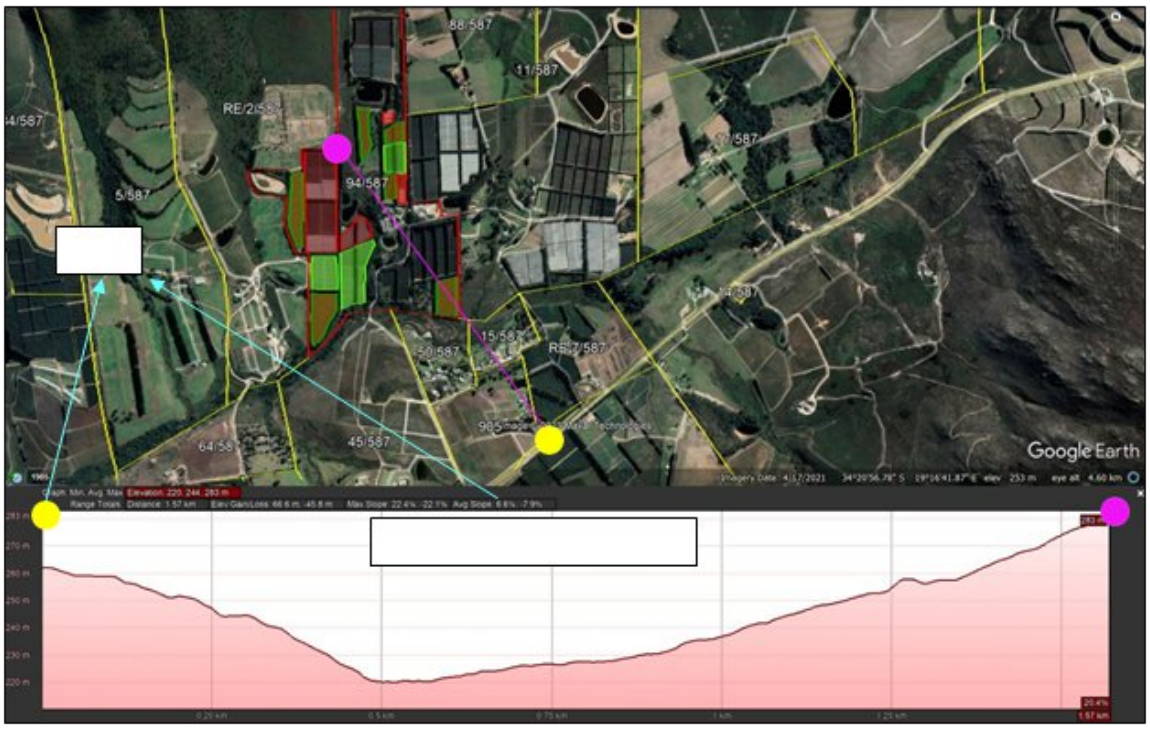


Figure 3: Surrounding Area Terrain



Elevation Profile of Pink Line

Figure 4: Elevation Profile from the R320 to edge of the subject property (PINK LINE)

Portion 15 & 50 of Farm 587, Caledon, contains 8 of the 12 objectors represented by Nicholas Smith Attorneys. These objectors are located at the lowest point along the Onrustrivier, meaning their impact is reduced. This reduction is due to several mitigation measures used by Haygrove, including screening trees, which significantly reduces the impact.

It's also essential to address concerns about trespassing and other negative behaviours associated with seasonal contract workers. As mentioned in the application, Haygrove employs Boland Toilet Services to attend to the sewage disposal on the property which will avert seasonal workers relieving themselves in surrounding properties.

The concern regarding allegations of trespassing can be resolved through discussions between the objectors and Haygrove. These trespassers will be dealt with appropriately, but if Haygrove is not made aware of the situation, they cannot address it accordingly. Nicholas Smith Attorneys continually asserts that WRAP's statements are mere bald statements. The same can be said in this instance, as no proof of any kind is provided, and neither context nor timeframes are provided. It should also be noted that the same objection was made some 4 years ago, and no new complaints are being presented, indicating that the problems have been addressed and is no longer occurring."

TOWN PLANNER'S RESPONSE

The objections and applicants' response are noted.

As indicated by the applicant, not a lot of additional traffic will be generated, and the one-way route helps mitigate any additional traffic and noise from vehicles.

The tunnels will also ensure less spraying of crops and requiring less machinery (tractors with fans) to blow dry open berry fields impacted by rainstorms. This will lead to a reduction in noise and odours.

A company has also been contracted to place mobile toilettes on-site to cater for staff. The company also maintain these toilettes, which should limit odours.

The matters regarding trespassing were addressed by the applicant.

The visual impact was already discussed under objection 11. In the visual impact it is indicated that the visual impact from surrounding properties is considered moderate to low prior to applying mitigating factors. This is due to the structures being low in height, and the windbreaks limiting the visual impact.

The applicant did not comment on the impact of the horticulture tunnels over the 30m building lines. This will be discussed in more detail under the evaluation heading.

OBJECTION 25 – CRITIQUE OF AND OBJECTIONS TO WRAP'S SUBMISSIONS REGARDING IMPACT ON VIEWS, SUNLIGHT AND CHARACTER OF THE AREA
(PARAGRAPHS 96-98 IN OBJECTION LETTER)

- ***Wrap's assertion that the tunnels will not have a significant visual impact is fallacious. The height of the tunnels is also not clearly indicated; therefore, it is assumed it will be to the maximum height.***
- ***It is a wholesale fallacy that the visual diversity the tunnels create is a drawcard for tourists. It is not an objectively motivated criterion.***

- ***A proper visual impact assessment must be done by an appropriately qualified visual impact specialist before any decision is made on the application. The visual impact statement submitted is incomplete, selective on true facts, misleading and insufficient. The new visual impact assessment should be circulated to all parties with an interest and objectors.***

APPLICANT'S RESPONSE

"The objector has clearly not evaluated the application properly. Refer to figure 3 that provide clear dimensions of the tunnels:

Figure 5: Extract of page 10 from the motivation.

Farm workers work in the tunnels for short periods, rotating between tunnels and spending time throughout the day, while caring and working in these berry fields contained within the intensive horticulture tunnels. Their presence is minimal, reducing the likelihood of noise impact on neighbouring property owners. As a result, the approval of expanding the intensive horticulture tunnels beyond the building lines will not infringe upon the rights enjoyed by adjacent property owners in the occupation of their properties. See the following figures of the proposed and existing tunnels:

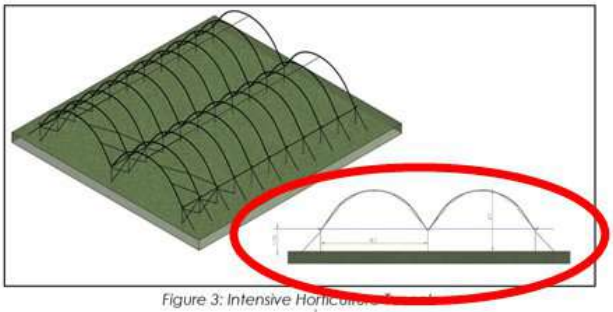


Figure 3: Intensive Horticulture [illegible]

5.17 **Permanent Departure** from the maximum allowable floor space in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The objector makes false statements that the maximum height will be exceeded, which is not the case. It is clear that the maximum height of these tunnels will be lower than the allowable height of an agricultural building on an agriculturally zoned property. The proposal is to allow the tunnels to be either 4m or 4.7m, which aligns with the approved building plans. It is, however, important to note that tunnel height can vary as a result of the natural slope and elevation of the property.

While concerns about visual impact are valid, it's also plausible that the tunnels could contribute positively to the landscape, such as by providing unique features or enhancing agricultural diversity. It was never stated that the tunnels will actively attract tourists, it was only stated that the tunnels, will increase colour diversity that will not harm the existing tourism aspects of the Hemel-en-Aarde Valley.

Finally, the objector suggests that a detailed visual impact assessment, conducted by a qualified specialist should precede the land use application process. It is unclear why the objector would make this statement, as a visual impact assessment was indeed conducted by a qualified specialist. The assessment was attached to the application and made available for public comment at the municipal offices. The objector claims it is incomplete, selective in presenting the true facts, misleading, and insufficient. However, the objector fails to provide any specific examples to support these assertions. This lack of evidence suggests that the objection is based on false and frivolous claims. It is also not clear if the objector is qualified in this field?"

TOWN PLANNER'S RESPONSE

The polytunnel heights was indicated in the motivation, and its impact was dealt with in the VIA.

The applicant's opinion is supported regarding the status of the VIA. The document was prepared by an independent professional, and the objectors' negative comments regarding the VIA is not supported with any substantial proof that the findings are wrong.

The applicant indicated that "it was never stated that the tunnels will actively attract tourists, it was only stated that the tunnels will increase colour diversity that will not harm the existing tourism aspects". Any comments regarding the visual impact on tourism will always be speculative, until proven with a specific documented survey.

OBJECTION 26 – ANOTHER PRINCIPAL REASON FOR THE LAND USE APPLICATION'S WHOLESALE LACK OF DESIRABILITY: IT IS PER SE UNDESIRABLE UNTIL AND UNLESS PREVIOUS LAND USE CONTRAVENTIONS HAVE FIRST BEEN SATISFACTORILY RECTIFIED BY HAYGROVE.
(PARAGRAPHS 99-101 IN OBJECTION LETTER)

- ***The desirability for new land use rights cannot be considered by the Municipality, until the existing illegal land uses have been dealt with in the form of a separate application for administrative penalty.***
- ***It is undesirable for Haygrove and WRAP to expect the Municipality to deal with Haygrove's wilful and largely unexplained contraventions.***

APPLICANT'S RESPONSE

"It's essential to clarify that Haygrove has actively engaged in rectifying any non-compliance issues. The application for future land use rights, including the proposed permanent departures and amendments to existing approvals, is part of this effort. It's important to note that while there have been past breaches, Haygrove is committed to addressing these issues proactively. Also, the clear desirability of the proposal was indicated throughout the motivation.

The objection suggests that the administrative penalty must be resolved before considering further land use applications. Haygrove's intention is however to address both the administrative penalty and the application for future land use rights concurrently demonstrates a commitment to compliance and responsible land management. Moreover, any penalties incurred would not impede Haygrove's ability to contribute positively to the community through its proposed agricultural activities. Haygrove is also committed to pay the penalty for the contravention.

Furthermore, the objector emphasises the importance of adhering to planning legislation and existing approvals. While acknowledging past breaches, it's crucial to recognise Haygrove's efforts to rectify these issues and ensure compliance moving forward. By engaging in constructive dialogue with the Municipality and relevant stakeholders, Haygrove aims to address concerns, rectify past non-compliance, and contribute positively to the community while pursuing its proposed agricultural activities."

TOWN PLANNER'S RESPONSE

The objector's opinion that the administrative penalty should not be considered with the application for additional land use rights was already discussed under objection 13.

OBJECTION 27 – REQUEST FOR A SITE VISIT BY MUNICIPALITY (IN TERMS OF SECTION 60 OF THE PLANNING BY-LAW) BEFORE DECIDING THE APPLICATION FOR THE DETERMINATION OF AN ADMINISTRATIVE PENALTY ON ITS MERITS
(PARAGRAPHS 102-105 IN OBJECTION LETTER)

- ***It is requested that the Municipal officials and the chairperson and members of the Municipal Planning Tribunal should undertake a site visit to appraise themselves with the current intensive agriculture operations, and the nature and extent of the unlawful activities, also the significant impact on neighbours and other proximate landowners in the Hemel & Aarde Valley.***
- ***The applicant already has enough horticulture tunnels, and most of them were constructed in contravention of the Planning By-Law.***
- ***The illegal land use should be dealt with prior to applying for any new land use rights.***
- ***At such site visit the Municipality must also satisfy itself that the conditions in the 2016 approval, conditions3(b) regarding the submission of building plans, and condition 3(i) requiring non-reflective netting over the tunnels, has been complied with.***
- ***The Haygrove personnel can reasonably be expected to produce the relevant documentary information pertaining to water rights, including storage and abstraction rights.***

APPLICANT'S RESPONSE

"To address the concerns raised regarding the need for a site visit, Haygrove welcomes the opportunity for the Municipality's officials and members of the Municipal Planning Tribunal to visit the subject-property and its surroundings. Such a visit would provide a comprehensive understanding of the existing agricultural operations, a comprehensive business overview, the nature of the proposal, and any supposed impacts on neighbouring properties. Haygrove is committed to transparency and ensuring that decision-makers have all relevant information to make informed judgments for the benefit of the greater Overstrand community.

Regarding the assertion that Haygrove already has enough horticulture tunnels on the subject- property, it's important to clarify that Haygrove acknowledges past non-compliance and is actively working to rectify any unlawful activities. The proposed development is part of this effort to bring existing operations into compliance and enhance land use rights responsibly.

During the site visit, the municipal decision-makers can verify Haygrove's compliance with the conditions of previous approvals, including the submission of detailed building plans and adherence to material specifications for the tunnels. Haygrove is committed to fulfilling all regulatory requirements and will provide the necessary documentation to support its compliance efforts.

Additionally, concerns about water use rights and the impact on water resources will be addressed transparently during the site visit. Haygrove will provide relevant information on water usage, storage, and abstraction rights to ensure that decision-makers have a complete understanding of the proposed development's implications.

Overall, Haygrove values constructive dialogue and welcomes the opportunity for thorough site inspections to address any concerns and ensure that the proposed development aligns with regulatory requirements and community interests."

TOWN PLANNER'S RESPONSE

The Town Planner did visit the site and will recommend to the MPT members to visit the site prior to making a decision.

It was previously indicated in this report that building plans was approved for the horticulture tunnels approved in 2016. The applicant also did indicate some horticulture tunnels are not covered at times for maintenance reasons.

The Town Planner did visit the site and during his site visit the tunnels as approved in 2016 was covered with non-reflective netting.

It was also previously indicated in this report that BOCMA is the authorized authority on water use and management.

OBJECTION 28 – REQUEST FOR A HEARING BEFORE A DECISION IS MADE ON THE MERITS OF THE APPLICATION
(PARAGRAPHS 106-107 IN OBJECTION LETTER)

- ***The objectors or their nominated professional representatives are entitled to attend on that meeting and to deliver whatsoever oral representations may be necessary and relevant in the circumstances.***
- ***The municipality must grant an audience to the objectors and the applicant when it comes to their decision of first instance in order to ensure that the party's rights to administrative action that is lawful, reasonable and procedurally fair is fully given effect to.***

APPLICANT'S RESPONSE

"This is a comment that needs to be addressed by the Municipality and decision-making authority."

TOWN PLANNER'S RESPONSE

The request for a hearing is noted. The Municipal Planning Tribunal (MPT) provide objectors and applicants the opportunity to attend (or virtually) the MPT meetings. The rules do not make provision for oral representation; the objector and applicant were however informed to consult directly with the chairperson of the MPT on such matter.

OBJECTION 29* – *CONCLUDING SUBMISSIONS, RELIEF SOUGHT BY THE OBJECTORS
(PARAGRAPHS 108-109 IN OBJECTION LETTER)

- ***The application is fundamentally undesirable in terms of requirements of section 66 of the Planning By-Law.***
- ***The administrative penalty application and application for additional land use rights is substantially deficient and cannot be approved.***
- ***Application for additional land use rights can only be considered once a suitably supplemented administrative penalty application has been finalized.***

APPLICANT'S RESPONSE

"The objections were noted. The conclusion is however respectfully disagreed with that the application is fundamentally undesirable and does not meet the applicable jurisdictional requirements. It is believed that the application complies with the relevant provisions outlined in section 66 of the Planning By-law and the general criteria for the Municipality's consideration of applications.

Regarding the objector's assertion that Haygrove's application to determine an administrative penalty is substantively deficient, we are of opinion that the application is based on accurate and comprehensive information. These applications have been submitted in accordance with the appropriate procedures and guidelines. It is recommended that each application be assessed on its own merits."

TOWN PLANNER'S RESPONSE

The objector and applicants' comments are noted. The objectors' comments were addressed, and it is now for the deciding authority to decide if the application is in line with Section 66 of the Planning By-law.

ADDITIONAL PROCESS – QUANTITY SURVEYOR REPORT

The application was considered by the MPT on 25 March 2025, and it was referred back to the applicant requesting that a Quantity Surveyors report be submitted to determine the Administrative Penalty Fee.

A Quantity Surveyor Report was submitted on 19 May 2025. It was forwarded to all objectors for comments, and one (1) comment was received from Nicolas Smith Attorneys. The applicant was provided an opportunity to respond to the objector's comment and submitted a revised Quantity Surveyor Report.

The additional comments received, the applicant's response and the Municipal Town Planners response can be summarized as follows:

COMMENT – NICHOLAS SMITH ATTORNEYS

The Quantity Surveyor report entirely omits any calculation of cost of the provision of the black shade net cover over the structures. The report is useless without full quantification of the total estimated cost pertaining to the construction cost of 8.35ha of tunnels erected on the subject property between 2007 and 2019.

The installation of the black shade cloth over the tunnel's structural frame and with the poly tunnels covering is a significant expense and has not been quantified.

APPLICANT'S RESPONSE

A revised Quantity Surveyors Report has been submitted and includes the previously omitted costs associated with the installation of black shade net coverings.

The black shade netting was added in response to specific conditions by the Municipality mitigate specific conditions by the Municipality to mitigate visual impact. The black shade net has no agricultural benefit. The black shade net lower production with approximately 15%, and it is only fitted in the interest of visual mitigation and neighbourly co-existence. The black shade netting is also an ongoing maintenance and financial burden.

TOWN PLANNER'S RESPONSE

The comments are noted. The final Quantity Surveyors report address the tunnels being applied for, including the black shade netting over the illegal intensive horticulture tunnels, as requested by the objector.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

All Municipal Branches and other institutions support the application.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The development does provide work for seasonal and permanent workers, and therefore definitely provide opportunity to the different working classes in the area.

Spatial sustainability

The land is already utilized for agriculture, and this will only ensure farmland is farmed more productively. The horticulture tunnels are also not proposed on environmentally sensitive land.

Efficiency

Putting up horticulture tunnels will produce more yield and is therefore a more efficient way to farm.

Spatial Resilience

The larger the productions, the more variety berries, the more markets can be targeted to ensure that during economic downturn a wider clientele base have been created.

Good administration

Good procedure was followed and with a good public participation process.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The SDF, 2020 indicates the area for agricultural purposes. The property falls within an agricultural resource area and is also situated close to a scenic corridor. In the SDF it is further recommended development be informed by EA&DP's development guidelines.

The proposed expansion of the horticulture tunnels is considered in line with the policy. The property is situated close to a scenic corridor, but horticulture tunnels are part of the agricultural fabric, and the EA&DP: planning branch had no objection to the application. It is interpreted that the application is in line with the aims of the policy.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

It is the opinion that the proposal is in line with the Provincial Rural Guidelines, as the application was circulated to DEA&DP: Planning branch, who is the relevant department dealing with the Guidelines. They indicated they have no objection against the application.

10.6 Impact on Municipal engineering services

No impact.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The property is zoned Agriculture Zone I. A small portion was rezoned to Agriculture Zone 2 purposes in 2012 to be utilized for the farm pack stores. With the approval of the new Overstrand Municipality zoning scheme and regulations in 2013, the Agriculture Zone 2 zone was removed from the regulations and agricultural Industry allowed in terms of a Consent Use under the Agriculture Zone I zone.

There are other farms in the Hemel & Aarde Valley where additional uses such as tourist facilities, wineries (agricultural Industry), etc. were approved, also horticulture tunnels.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

Portion 94 of farm Hemel-en-Aarde 587 is zoned Agriculture Zone I. Haygrove Heaven (Pty) Ltd owns the farm on Portion 94 of Farm 587 and established a berry farm with farm pack stores on the property.

Portion 94, of Farm 587, measures 71,5045ha. The farm is mostly utilized for berry farming, but there is also a pack shed, offices and other agricultural buildings on the property. At this stage there are 5,8727ha of berry fields legally covered by horticulture tunnels, 8,337ha berry fields illegally covered by berry fields and being applied for, and application is also made for an additional 7,746ha of horticulture tunnels. This will provide for a total sum of 21,9557ha horticulture tunnels on the farm with approximately 33ha of berry fields. There is still also some vegetation areas open on the land.

The approved horticulture tunnels are situated on the southern and south-western part of the property.

The application includes the relaxation of the 30m building lines, to relax the maximum 5000m² footprint for buildings allowed on a farm, the amendment of the Site Development Plan and some conditions of approval limiting the horticulture tunnel footprint area and the footprint of the agricultural industry (pack shed).

Application is also made for Determination of an Administration Penalty to legalize some horticulture tunnels illegally constructed and a covered pergola and some tunnels that were constructed over building lines.

The application has been circulated to all relevant municipal and state departments and institutions, and no objections were received from such departments/institutions.

In the public participation process (5) letters of objection were received. One (1) objection letter was withdrawn. One letter was from a representative of owners of De Werf, Coch-y-Bundu and surrounding farms and another from the Hemel-en-Aarde Winegrowers Association (HAWA).

The objections were very substantial, and the applicant was also provided with an opportunity to respond to the objections. The objections were also discussed in detail by the municipal planner in this report.

Discussion of objections

Although the points of objection were already discussed in this report, to apply our minds, the most significant objections will again be discussed, to enable the determination of desirability of the application.

One of the major concerns of the objectors is the impact of the development on the area and the compatibility with the surrounding area.

It is to be noted that this farm and Portion 11 of Farm 587 is already farmed with berry fields, and that it is the property owners' right to utilize this agricultural land for farming. The property owner has the right to develop intensive horticulture. Due to a restrictive condition in the previous approval and floor space restriction in the land use scheme, the applicant does have to apply to construct additional horticulture tunnels. These restrictions were never imposed to stop polytunnel farming, but to consider its impact and control the impact with mitigation measures.

Farming activities will not increase drastically, and should the horticulture tunnels increase yield and require additional staff at times so would the maintenance of the berry fields (including spraying), as less pesticides will be required and less removal of rotten fruits and plants due to heavy rains.

The concerns of the impact on the character of the area and compatibility with surrounding properties are noted, and the concerns about impact on the tourism industry in the area. As discussed previously in this report, the impact will not be more than farming with open berry fields. Most of the concerns relate more to the visual impact the horticulture tunnels have, and additional horticulture tunnels will have on the surrounding properties and the Hemel & Aarde Valley.

It is also to be noted that it is not a unique situation that complaints are received in agricultural areas about farming methods and practises. More and more people are creating tourist facilities or additional dwelling units in farm areas, and their expectations of what can happen in such areas differ from farmers that must work the land. An example in this area is the De Werf and Coch-Y-Bundu resort developments that were approved on former agricultural land, just to the south of Portion 94 of Farm 587.

It must however be noted, the area is firstly an agricultural area, and therefore berry farming is in line with the uses allowed in agricultural areas. The existing and new horticulture tunnels will be covered with netting to reduce any glare. The fact is the property owner, and objectors will both have their opinion about what is "objectively viewed" in terms of this application. As indicated in this report, Western Cape Government: Environmental Affairs and Development Planning, Cape Nature and the Municipal Environmental Management Division support this application, and not one of these departments had any concerns about the visual impact.

The municipality did however request that Haygrove submit a Visual Impact Assessment (VIA), to address this major concern. The VIA was prepared by an independent professional specialist, and the finding was that "the significance rating is assessed as a **moderate-low significance**." In terms of the measuring criteria of significance low means "where it will not have an influence on the decision" and medium means "where it should have an influence on the decision, unless it is mitigated". This means the visual impact can be mitigated with minimal mitigation measures.

Objectors also criticised the VIA and indicated surrounding property owners or stakeholders in the Hemel & Aarde Valley were not consulted in the process of preparing the VIA. No public participation process is required in the preparation of a VIA, and it is a report by a professional specialist.

The objections are noted, but the VIA was prepared by an independent professional in the field, and therefore the findings in the assessment is considered as the best opinion the Municipality can use to evaluate the visual impact of the development. Considering the findings of the VIA, the impact is limited, but mitigation measures such as additional tree planting between the tunnels, muted matt finished materials with dark colours must be used on the infrastructure, and no lights should be installed with the proposed infrastructure.

The visual impact of the development is therefore acceptable, subject to the mitigation measures being complied with.

The concerns about impact on water resources and water management was discussed in this report. As indicated, BOCMA did request additional information from the applicant, which was provided to BOCMA. BOCMA, who is the water authority in the region, indicated that they have no objection against the application, and also the municipal engineering division, and therefore water resources and management are considered acceptable.

The concerns regarding traffic impact are noted. The application will not lead to a drastic increase in traffic. Existing roads will be used. The Municipal Engineering Division and Western Cape: Department of Infrastructure: Road Planning, indicated that they have no objection against the application.

The objections regarding socio-economic impact, or rather the lack of any positive socio-economic impact is noted. It can however not be debated that certain facilities (clinic) are provided on-site for staff, which helps improving their social needs. It is also not debatable that additional jobs will be created, with some positive economic impact.

The objections regarding the possible impact on the wine farms and tourism are noted. There is however no formal survey provided to proof the statements, and it is therefore only speculation.

Objections were received about the possible environmental impact and impact on biodiversity.

The application was circulated to the Municipal Environmental Division and Department of Environmental Affairs and Development Planning Western Cape (DEAPD). DEADP is the authority on determining if developments trigger applications for Environmental Impact Assessments (EIA). DEADP indicated that no EIA is triggered by the application.

No additional land will be cleared, and only existing berry fields will be covered with horticulture tunnels. Cape Nature evaluates the impact of applications in terms of biodiversity. Cape Nature indicated they have no objections against the application.

Objections were received regarding compliance with some conditions in planning approval in 2012 and 2016. The conditions have been addressed in this report.

The concern about compliance with the 2016 conditions that the horticulture tunnels must be covered with netting can again be highlighted. The reason why the netting over the horticulture tunnels and even the horticulture tunnels are removed at times, is for maintenance purposes. This is part of normal farming with horticulture infrastructure.

The one objector also is of the opinion that the application is defective. The one reason being, that the company resolution and power of attorney that were submitted did not include the administrative penalty application. The second reason that the administrative penalty application had to be considered and finalized before an application for additional land uses can be considered.

As indicated by the applicant, an error was made in the company resolution and power of attorney, but it was rectified, and the amended documents were since provided to the municipality.

A detailed response was provided under Objection point 13 in response to the objector's opinion that the administrative penalty application had to be considered and finalized before an application for additional land uses can be considered.

In the matter at hand OM's by-law *per* section 16 and specifically section 16(q) read with section 90 make provision for bringing an application for additional rights and an application for an administrative penalty [section 16(q)) in one land use application and will the application be perfectly valid and legal and will remain so until having been declared invalid by the High Court or the Supreme Court of Appeal or the Constitutional Court or having been amended by the OM and approved by its Council. The fact that the OM's by-law might be in conflict with City of Cape Town (COCT's) by-law is therefore irrelevant as the OM is not subservient to and/or bound by the COCT municipality, its processes, and by-laws.

The objectors contend that it will be premature to apply for future uses if the illegality is not first dealt with and finalised, in other words, they contend that the application for an administrative penalty must be a "stand-alone" application and must be dealt with first and completed. They seem to contend that the Applicant regards the determination of an administrative penalty by the OM as a *"fait accompli"* in the sense that consideration of the application for additional rights will follow automatically irrespective of whether a penalty is or has been imposed or not and if imposed, has been paid or not. They even contend that the OM will make itself guilty of an irregularity. This contention is incorrect because in terms of the OM's by-law, an Applicant for additional rights will only be able to exercise his/her additional rights applied for and granted when the administrative penalty has been paid within 30 days of the effective date of the decision or within such further period as may be decided by the Authorised Official, the MPT or the Appeal Authority, in other words, the final approval letter to act on the rights granted will not be furnished to the Applicant until the penalty has been paid. Please refer to section 90(7) of the OM By-Law.

The one objector requests that the MPT members visit the site prior to making the decision on the application and requested the opportunity to attend the MPT meeting and provide additional oral representation at such meeting.

As indicated in the report, the Town Planner recommends that the MPT committee visit the site before making a decision.

The Municipal Planning Tribunal (MPT) provide objectors and applicants the opportunity to attend (or virtually) the MPT meetings. The rules do not make provision for oral representation; the objector and applicant were however informed to consult directly with the chairperson of the MPT on such matter.

The one objection is that the application for administrative penalty does not comply with the requirements of Section 90 of the By-Law, and that the information is insufficient to consider the application.

ADMINISTRATIVE PENALTY

The application for administrative penalty will now be considered in terms of the stipulated criteria, to determine if sufficient information was submitted.

a) Nature, duration, gravity, and extent of the contravention

8,337ha of horticulture tunnels were constructed illegally and in conflict with a condition of approval and above the maximum floor space of 5000m^2 allowed for all buildings on farms. Various portions of horticulture tunnels were constructed over the 30m building lines 9m from the western boundary, 9m from the northern boundary, 5m from the southern boundary and 3m from the eastern boundary, with a total area of encroachment of 9000m^2.

The applicant indicated the construction of the horticulture tunnels took place between 2016 and the date of submission of this application.

A covered pergola of 50m^2 in extend was constructed over the 30m eastern building line up to 6,44m from the property boundary with Hargrove's second farm.

(b) The conduct of the person (allegedly) involved in the contravention

Haygrove constructed the structures.

c) Report by a quantity surveyor in matters of unauthorised building/construction

No report was provided from a quantity surveyor.

A quotation was provided from Haygrove's sister company who supply the tunnels. The average cost of the tunnels is R490 663-00 per hectare.

No quotation was provided for the covered pergola.

On request from the MPT a Quantity Surveyor Report was submitted on 19 May 2025. The report was later amended to include the black netting over the intensive horticulture tunnels. The total cost of the horticulture tunnels is R5 295 721,34 (for 8.337ha) and the cost of the 50m^2 covered pergola is R17 967,17.

d) Whether the unlawful conduct was stopped

The tunnels have been erected and are in use.

e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law

The applicant indicated to their knowledge; the property owners have not previously contravened the By-Law on the subject property.

It can be confirmed that one conditions in the 2016 land use approval on the property, requiring that building plans be submitted to the Building Branch was not originally complied with prior to construction, but building plans were since submitted and approved.

A point of criticism raised by the objectors is the concern about the non-appointment by the Applicant of a Quantity Surveyor (QS) to determine the cost of the unauthorised structures and to file a report as required by Section 90.(3)(c) of the By-Law. The Applicant acknowledged this but motivated its decision by stating that it obtained a quote from Haygrove's sister company, apparently a major supplier of horticultural tunnels, which provides an accurate and comprehensively detailed breakdown of the actual construction costs of said tunnels.

Be that as it may Section 90.(6) of the By-Law determines that the MPT may request additional information should it believe the information furnished is insufficient for it to determine an appropriates administrative penalty.

The MPT has the authority in terms of Section 90.(6) of the By-Law to request that a Quantity Surveyor report be submitted to comply with the requirements of Section 90.(3)(c) in the By-Law.

The MPT at the meeting held on 27 March 2025 resolved to refer the application back to the applicant to submit a Quantity Surveyor Report. The QS report was subsequently submitted.

It is clear from the above-mentioned information that the existing property owners are responsible for the illegal construction work, and it is recommended that a penalty fee be imposed.

The illegal horticulture tunnels were constructed from approximately 2016, but the property owners already applied to legalize some horticulture tunnels in 2019, but the planning application was unsuccessful.

This is illegal structures and not an illegal land use, as the property already has intensive horticulture land use rights. The duration of the activity is therefore not relevant in the determination of the administrative penalty.

The intensive horticulture tunnels of 8,337ha was erected and partially erected over building lines. It is recommended that a 5% administrative penalty fee be imposed.

THE ADMINISTRATIVE PENALTY CALCULATION IS THUS AS FOLLOWS:

Polytunnels

- R5 295 721, 34 (cost of polytunnels of 8,337ha)
- R5 295 721, 34 divided by 100 multiplied by 5 = **R 264 786,00** (5%)

Covered pergola

- R17 967,07 (cost of covered pergola)
- R17 967,07 divided by 100 multiplied with 5 = **R898,00**

TOTAL ADMINISTRATIVE PENALTY FEE TO BE IMPOSED IS R265 684,00.

DEPARTURE OF BUILDING LINES

Application is made for relaxation of various building lines. Some building lines relates to existing illegal horticulture tunnels, some to proposed new horticulture tunnels, one to the illegal covered pergola that has been constructed and one for the proposed extension to the farm pack store.

The covered pergola is situated 6,44m from the eastern boundary. The property to the east Portion 11 of Farm 587 is the second berry farm of Haygrove. The structure has no negative impact on the adjacent property.

The proposal also includes the proposed extension of the farm pack store over the 30m eastern building line up to 12m. This would be in line with the existing farm pack building and would be an extension of approximately 10m long. The property to the east Portion 11 of Farm 587 is the second berry farm of Haygrove. The structure will have no negative impact on the adjacent property and is situated too far away from any other properties to have a further impact.

Application is also made to legalize the existing horticulture tunnels that were constructed over building lines.

THE ENCROACHMENTS ARE AS FOLLOWS:

Northern building line from 30m to 9m
The area adjacent to this area is a neighbour's farm and paddock. There are no buildings in this area that is impacted. The tunnels are also blocked off with wind break trees. This encroachment would have a low impact on the adjacent property owner.

Western 30m building line to 9m
The area adjacent to this area is a neighbour's farm and paddock. There are no buildings in this area that is impacted. The tunnels are also blocked off with wind break trees. This encroachment would have a low impact on the adjacent property owner.

Southern 30m building line to 5m
The adjacent property is a neighbour's farm and what appears to be an area where the farm owner store building materials. The tunnels are also blocked off with wind break trees. This encroachment has a low impact on the adjacent property.

Eastern 30m building line to 3m
This area is adjacent to Haygrove's second berry farm. It has no impact on the adjacent property.

Considering the encroachments of the existing illegal horticulture tunnels, these encroachments can be supported.

The applicant then also proposes additional horticulture tunnels, and the proposal is that it be constructed over various building lines. Four (4) berry fields will be covered, each with various encroachments.

The four (4) berry fields will be discussed separately for ease of reference, as follows:

Berry field on the north-western side of the property.

It is proposed that the northern 30m building line be relaxed to 11m, the western building line to 15,5m and 12m and the southern building line to 5m. The adjacent property is used as paddocks and an area where the owner store building materials. There is wind break trees on the whole common boundary of this berry field, and therefore any impact on the adjacent property will be minimal.

Berry field in the southwestern corner of the property.

It is proposed that the 30m western building line be relaxed to 10m and the south-eastern building line to 19m. On the western side the adjacent farm has existing paddocks, and there is a river on the south-eastern side. Wind Break trees align the full extent of these boundaries. The proposed encroachment would have a low impact on surrounding properties.

Berry fields in the south-eastern corner of the property.

It is proposed that the 30m southern building line be relaxed up to 7.3m and 8m and the eastern building line up to 5,5m and 3,3m. The Coch-Y-Bundhu and the de Werf resort development are situated to the south and southwest of the area proposed to be covered, and Haygrove's second farm to its west. The proposed tunnels will be situated 100m from the river to the south, and more than 200m from any of the units in the two resort developments to the south. The area is also blocked from direct view by wind break trees. The direct impact of farming activity or visual impact should therefore be limited.

Berry field on the northern portion of the property.

It is proposed that the 30m building line be relaxed to 3m for new proposed horticulture tunnels. The encroachment will be next to the second farm of Haygrove and will not impact such farm. There are also existing wind break trees that would block the visual impact. This encroachment can be supported.

The objectors are of the opinion that the information provided to evaluate the building line departures is not sufficient. The motivation report includes a detailed plan showing all existing and new structures, and the proposed encroachments. Inset plans were even provided for the new proposed horticulture tunnel encroachments, which clearly show the proposed encroachments.

The objectors are of the opinion that the encroachments being applied for are excessive and will impact surrounding property owners. Considering the above the direct impact is mitigated with wind break trees and long distances between the horticulture tunnels and other surrounding farm buildings or units used for accommodation purposes.

The structures are also relatively low, and between 4m to 5m in height, which includes the non-reflective netting. The applicant indicated some tunnels may be slightly higher, but this would only be due to the lay of the land. It is still not foreseen that such tunnels would protrude above the tree line.

Considering the above, the departures for relaxation of buildings is desirable.

The building line relaxations were scrutinized in terms of the Haygrove Fire Management Plan. The plan requires set back lines around the full area of Portion 94 and Portions 11 of the Farm 587.

The following was established:

BOUNDARY LINES	REQUESTED	FIRE PLAN / FIRE BREAKS
North-western	9m	5m
Western	Minimum 5m	3m
Southern	Minimum 7,3m	3m and 1,5m

It must be noted that the above information was in report format and is indicated as interpreted from the Fire Management Plan.

DEPARTURE FROM THE FLOOR SPACE

Application is made to depart from the (5000m²) allowable floor space on farms, which was to limit formal buildings on farms. It is the interpretation it was never included into the Land Use Scheme to limit intensive horticulture tunnels, which are minor structures used for farming purposes.

However, to ensure that there are no interpretation problems, application was made to relax the floor space from the existing 6,1707ha to 22,2431ha. It is to be noted that the total footprint of all buildings without the horticulture tunnels will only be 2874m^2, which is still under the 5000m^2 floor space.

Considering the above evaluation, the application for additional rights is considered desirable, and therefore this part of the application can be supported.

AMENDMENT OF CONDITIONS OF APPROVAL

A condition of approval was inserted in the 13 July 2012 rezoning approval for Agricultural Industry, that only the farm pack shed of 809m^2 in extend be utilized for such purposes.

The application is to extend the farm pack shed to 1018m^2, and use the farm shed of 617m^2 for Agricultural Industry purposes. The farm pack shed is used to cooling, sorting and packing both Haygrove properties produce, and thus the reason that the expansion to the farm pack shed is required. The proposal is to then also open some space in the farm pack shed by storing the packing materials used in the farm pack shed in the farm shed. This means an increase of 826m^2 Agricultural Industry space, with a total of 1635m^2.

The application will only require the expansion of the footprint of the existing farm pack shed building with 209m^2. It would have no real impact on surrounding properties as it is visually blocked by trees and vegetation and situated a fair distance from farmsteads and accommodation units.

In the report the expected increase in labour and traffic was discussed in detail. The application was also circulated to BOCMA, who indicated that they had no objections against the additional rights. No further information was requested from BOCMA, and it is therefore the opinion that water resources are sufficient for the expansion of the Agricultural Industrial footprint.

It not foreseen that this slight increase in footprint would negatively affect the surrounding area. This part of the application would rather allow for a more productive operation of mostly existing infrastructure.

A condition was also inserted in the 9 February 2016 approval for Consent Use to establish intensive horticulture tunnels, stipulating that horticulture tunnels be limited to a footprint of 5,8727ha. This was inserted to mitigate the visual impact of horticulture tunnels on the surrounding area. The proposal is to extend the horticulture tunnels to 21,9557ha. The possible visual impact of the horticulture tunnels was discussed in detail in this report, and a VIA was also prepared which indicate the impact would be moderate/low. The amendment of this condition is recommended for approval.

AMENDMENT OF SITE DEVELOPMENT PLAN

Application is for the Amendment of the approved Site Development Plan to accommodate the proposed expansion of the horticulture tunnels and some existing berry fields covered with horticulture tunnels on the property, and the proposed larger agricultural industry footprint.

This can be supported.

Considering the above, the application can be supported, subject to conditions mitigating the visual impact of the development.

13. RECOMMENDATION

1. that the objections be noted.

2. that the application in terms of Section 16(2)(h) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley to amend condition 1.(c) of the approval in the letter dated 13 July 2012 to allow for the expansion of the agricultural Industry, **be approved** in terms of the provisions of Section 61 of the By-Law and that the condition now reads as follows:

   "1. *(c) that the approval only has reference to the agricultural industry of 1635m^2".*

3. that the application in terms of Section 16(2)(h) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley to amend conditions of approval in the letter dated 9 February 2016 to allow for the expansion of the horticulture tunnels from 5,8727ha to 21,9557ha, **be approved** in terms of the provisions of Section 61 of the By-Law and that the condition now reads as follows:

   "*3. (a) that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan, submitted with the application, and an application will have to be made for any possible future tunnels".*

4. that the application in terms of Section 16(2)(l) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley for the Amendment of the approved Site Development Plan to accommodate the proposed expansion of the horticulture tunnels and some existing berry fields covered with horticulture tunnels on the property, and a proposed larger agricultural industry footprint, **be approved,** in terms of the provisions of Section 61 of the By-Law.

5. that the applications in terms of Section 16(2)(b) in terms of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley for the following departures:

   - eastern building line from 30m to 12,04 to accommodate the proposed expansion of the existing pack shed, and to relax the same building line to 6,44m to accommodate the existing covered pergola.
   - northern building line from 30m to 9m, the western 30m building line to 9m, the southern building line to 5m and the eastern 30m building line to 3m to accommodate the existing intensive horticulture tunnels;
   - northern building line from 30m to 11m, 12m and 20m respectively, the western 30m building line to 10m, 12m, 13,5m, 14m, 14,5m and 15,5m respectively, the southern 30m building line to 7,3m, 8m, 23,7m and 23,8m respectively, the south-eastern 30m building line to 19m and 24,5m respectively and the eastern 30m building line to 3m, 3,3m and 5,5m respectively, to accommodate proposed new intensive horticulture tunnels, and
   - departure from the maximum 5000m² allowable floor space for all buildings on the land unit to allow floor space of 22,2431ha to accommodate additional intensive horticulture tunnels and the expansion of the agricultural industry;

   be approved in terms of the provisions of Section 61 of the By-Law.

6. that the approvals in 2-5 above be subject to the following conditions in terms of Section 61 of the By-Law:

   (a) that all development be in line with the new Site Development Plan for the property (attached as Annexure B);

   (b) that detailed building plans be submitted to the Building Control Division for approval for all existing structures to be legalized or proposed structures for approval;

   (c) that this approval does not absolve the applicant/owner from compliance with any relevant legislation;

   (d) that all the conditions in the Services Report (attached as Annexure L), be complied with; and

   (e) that the mitigation measures as stipulated in the Visual Impact Assessment (attached as Annexure O), be complied with, and that the Visual Impact Practitioner provide confirmation in writing that latter has been implemented.

7. that the following comments be noted:

   - DEADP: Environmental (attached as Annexure F);
   - Western Cape Government: Agriculture (attached as Annexure (H);
   - Department of Infrastructure: Road Planning (attached as Annexure I);
   - Telkom (attached as Annexure J);
   - BOCMA (attached as Annexure K), and
   - Cape Nature (attached as Annexure M).

8. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley, to accommodate the illegally constructed horticulture tunnels and a covered pergola on the property, was considered and that an administrative penalty of **R265684-00**, **be imposed** which penalty must be paid within ninety (90) days from the final date of the decision of the application.

9. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

POINTS 2 - 5

- The proposed horticulture tunnels and extension of the agricultural Industry area form part of the fabric of agricultural areas, and the objections regarding visual impact, impact on the character of the area is not supported, as a Visual Impact Assessment found the significance of the impact as moderate to low(with mitigation measures), and all relevant state and municipal departments, including EA&DP: Planning Directorate, EA&DP: Environmental Branch, Cape Nature and the Municipal Environmental Branch supports the application.
- The existing mitigation measures and proposed measures including covering of the polytunnels with netting to reduce glare, planting of more wind break trees to function as a visual block and no fitting of lighting at the new horticulture tunnels, will help limit impact on the surrounding area and property owners.
- The application is supported by DEADP: Environmental Branch, Cape Nature and Overstrand Municipal Environmental Division, and it is nor foreseen that it will have a negative impact on the natural environment.
- The new proposed horticulture tunnels will help improve yield and would help reduce crop spraying.
- The expansion of the agricultural industry would help improve the productivity of the farm pack store.
- The concerns regarding additional water use and increase in traffic impact does not proof the application to be undesirable, as the relevant municipal and state departments who specialise in these fields, being BOCMA and the municipal Engineering Division support the application and consider the foreseen impact to be acceptable.

- ❖ The Hemel-en-Aarde Valley is an agricultural area with environmentally sensitive areas on the mountain side. Although this area is a tourist area, the main use is still agricultural; and therefore, application to improve agricultural productivity should receive priority. The comments that the development is not compatible with surrounding properties and would lead to a loss of right of enjoyment of surrounding property owners, is not supported, as the proposed activity fits in with the main function of the valley, being agricultural.
- ❖ The horticulture tunnels will increase food security.
- ❖ The application went through a good public participation process and sufficient information was provided to consider the application.
- ❖ The building line relaxations are supported due to the fact that it complies with the Fire Management Plan, it is not situated close to farmsteads or accommodation units and the polytunnels is relatively low structures over the covered berry fields and will visually be blocked by wind break trees from the directly adjacent neighbours.

POINT 8

- ❖ The existing property owner constructed horticulture tunnels in conflict with a previous condition of approval and over building lines, and a covered pergola over building lines. The applicant acknowledged that the property owner was responsible for the illegal structures. An administrative penalty fee is therefore imposed.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Objections received
Annexure E:	Applicant's response on objections received
Annexure F:	Comment: Western Cape Government: DEA&DP: Environmental
Annexure G:	Comment: Western Cape Government: DEA&DP: Planning
Annexure H:	Comment: Western Cape Government: Department of Agriculture
Annexure I:	Comment: Western Cape Government: Department of Road Planning (Road Planning)
Annexure J:	Comment: Telkom
Annexure K:	Comment: BOCMA
Annexure L:	Services Report
Annexure M:	Comment: Cape Nature
Annexure N:	Revised Power of Attorney and Company Resolution
Annexure O:	Visual Impact Assessment dated October 2023
Annexure P:	Quotation for horticulture tunnels dated 31 October 2023
Annexure Q:	Quantity Surveyor Report received 19 May 2025
Annexure R:	Objector's comment on Quantity Surveyor report
Annexure S:	Applicant's response on comments received from objector on Quantity Surveyor Report
Annexure T:	Revised Quantity Surveyor Report (Issue date 9 July 2025) - *final*

SIGNATURES

AUTHOR:

Name:	**HENK OLIVIER**
SACPLAN Reg No:	**B/8128/2004**
Signature:	_____
Date:	_____

REGISTERED PLANNER

Name:	**H VAN DER STOEP**
SACPLAN Reg No:	**A/1708/2013**
Signature:	_____
Date:	_____

Annexure A 1/2

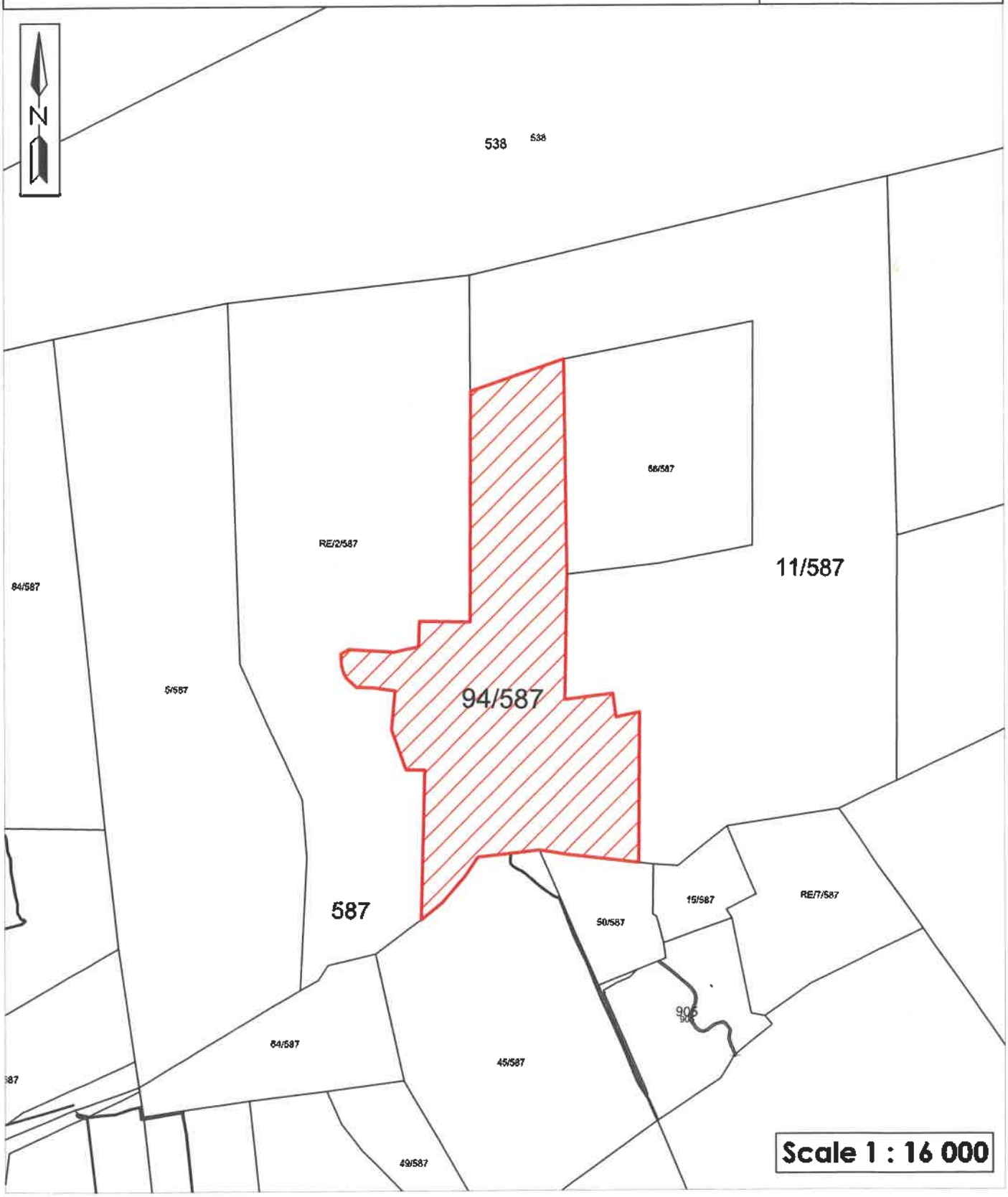
1. Locality Plan

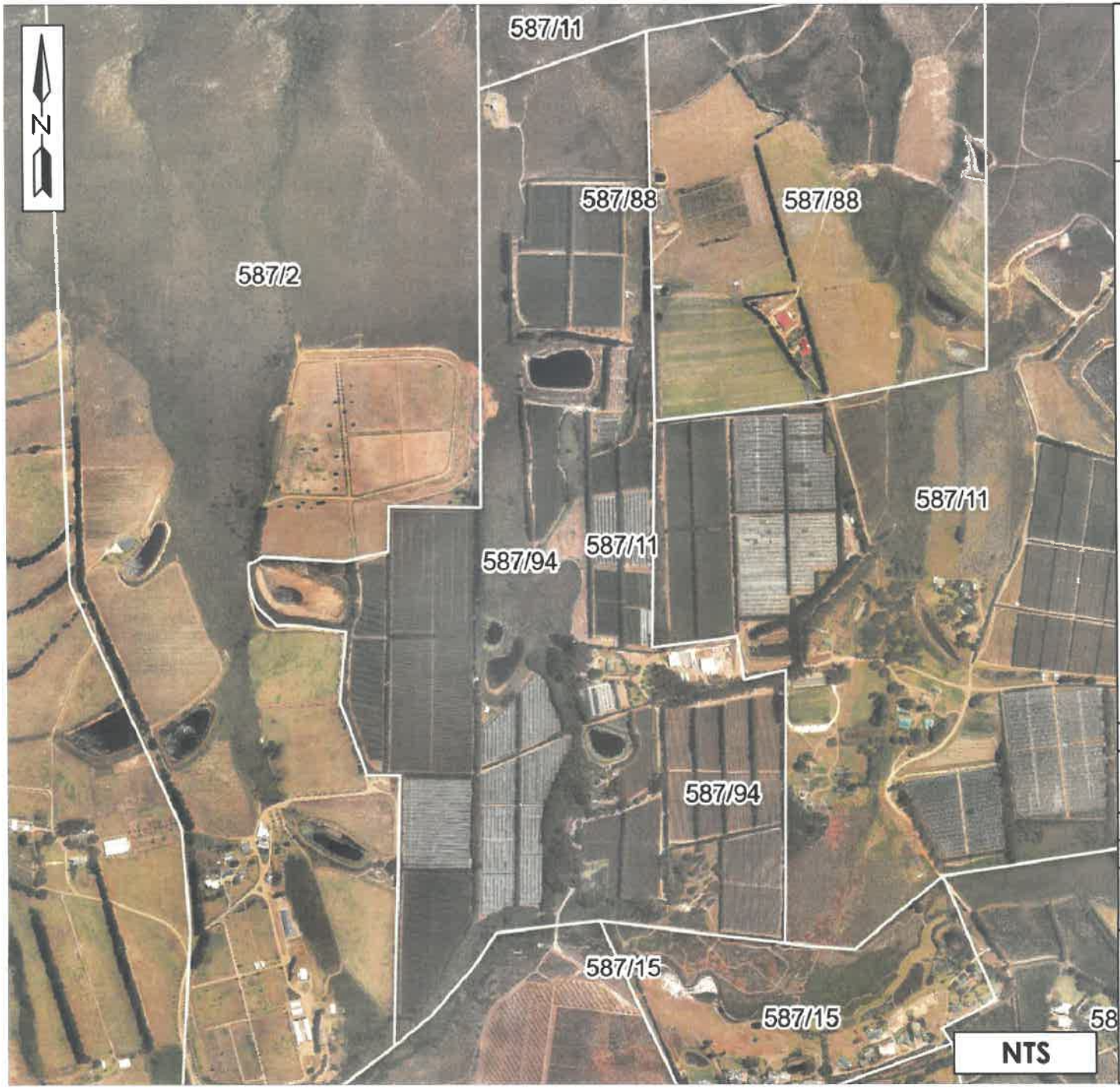
Portion 94 of the Farm Hemel-en-Aarde 587, Caledon

Subject property

Plan prepared by: Thian Jansen
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200

WRAP Project Office





3. Aerial Plan
Portion 94 of the Farm Hemel-en-Aarde 587, Caledon

Plan prepared by: Thian Jansen

All distances are approximate and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200

WRAP Project Office
Town Planning & Project Management

4.1 Proposed Site Development Plan

Portion 94 of the Farm Hemel-en-Aarde 587, Caledon

- Portion 94 of the Farm Hemel en Aarde 587 Caledon (155,0487 ha)
- 30m Building lines
- Existing Berry Fields
- Dams
- Roads
- Existing and approved tunnels (5,8727ha)
- Existing and not approved tunnels (±8,337ha)
- Proposed tunnels (±7,746ha)
- Agricultural Buildings (±275m²)
- Labourers Cottages (±377m²)
- Pack Shed (±1018m²)
- Offices (±587m²)
- Farm Store (±617m²)

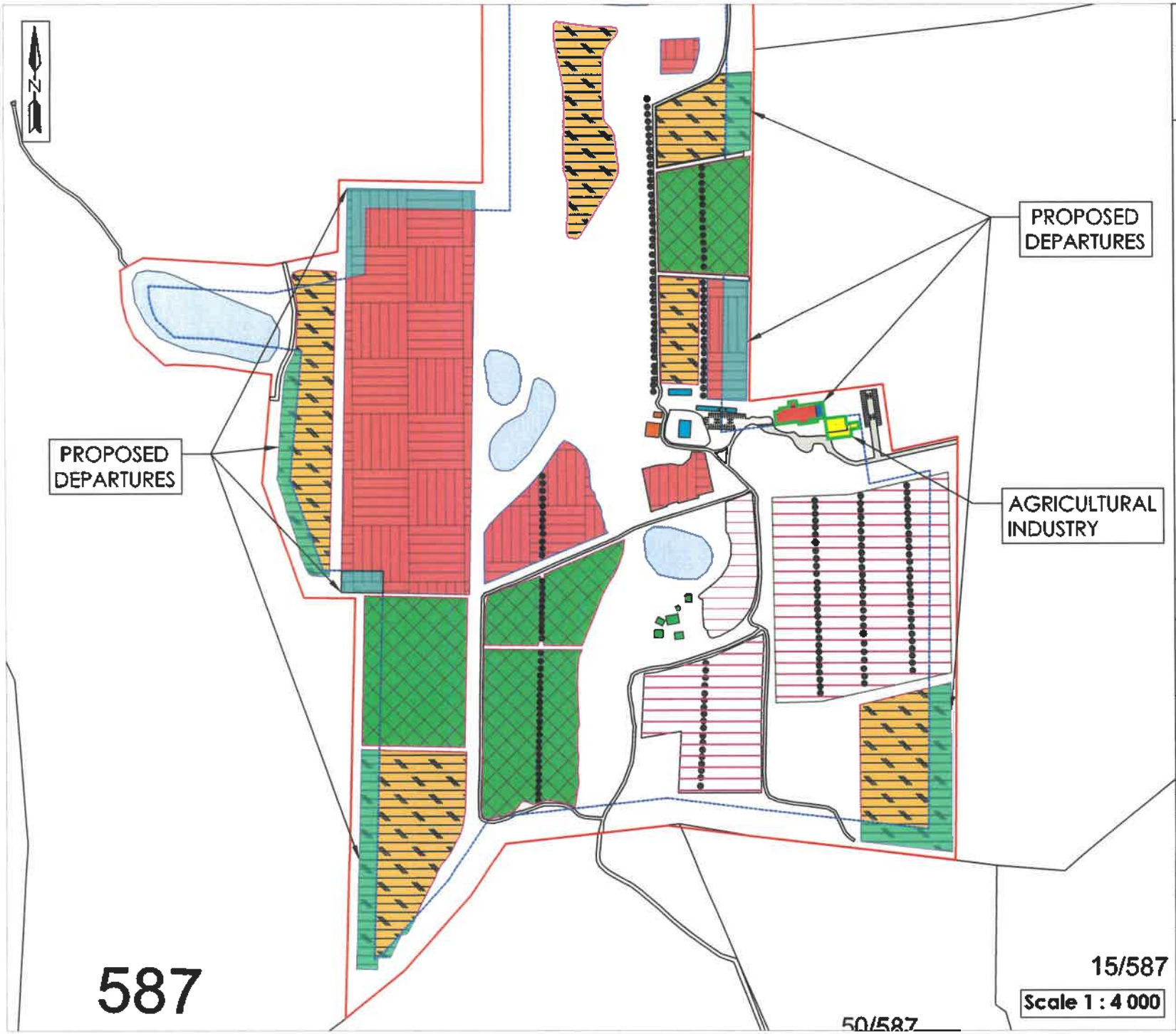
Proposed Total Floor Space - ±22,2431 ha

Agricultural Industry

Plan prepared by: Ihlan Jansen
Plan 23.81(002) - 02/11/2023
All distances are approximate and subject to a survey
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit B, Standard House, Corner of Royal and Dirkie Uys Street Hermanus, 7200
WRAP Project Office Town Planning & Project Management

669

Annexure B1 5



4.2 Inset Plan - Proposed Site Development Plan

Portion 94 of the Farm Hemel-en-Aarde 587, Caledon

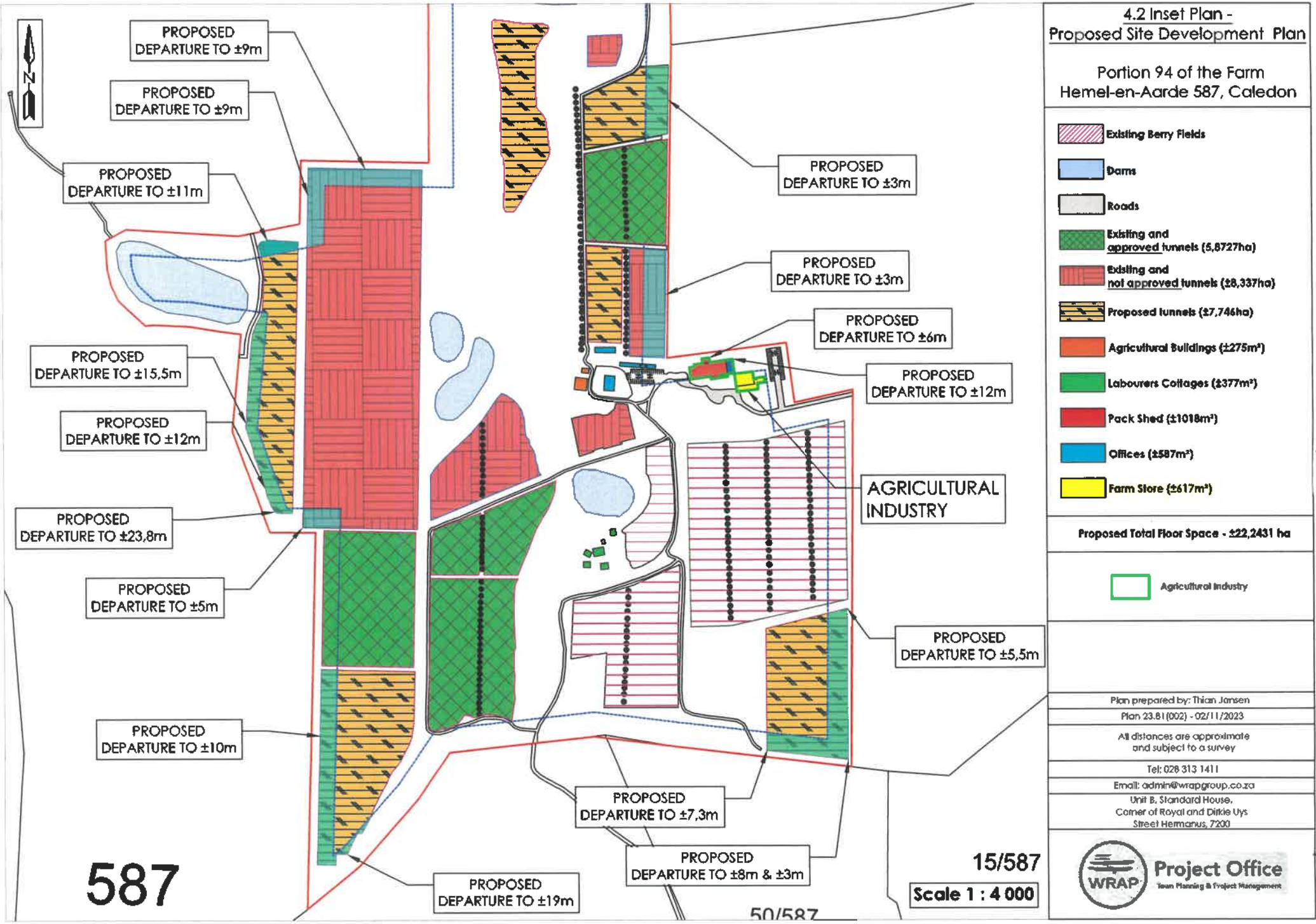
- Existing Berry Fields
- Dams
- Roads
- Existing and approved tunnels (5,8727ha)
- Existing and not approved tunnels (±8,337ha)
- Proposed tunnels (±7,746ha)
- Agricultural Buildings (±275m²)
- Labourers Cottages (±377m²)
- Pack Shed (±1018m²)
- Offices (±587m²)
- Farm Store (±617m²)

Proposed Total Floor Space - ±22,2431 ha

Agricultural Industry

Scale 1 : 4 000

Plan prepared by: Thian Jansen
Plan 23.81(002) - 02/11/2023
All distances are approximate and subject to a survey
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit B, Standard House, Corner of Royal and Dirkie Uys Street Hermanus, 7200
WRAP Project Office Town Planning & Project Management



4.2 Inset Plan - Proposed Site Development Plan

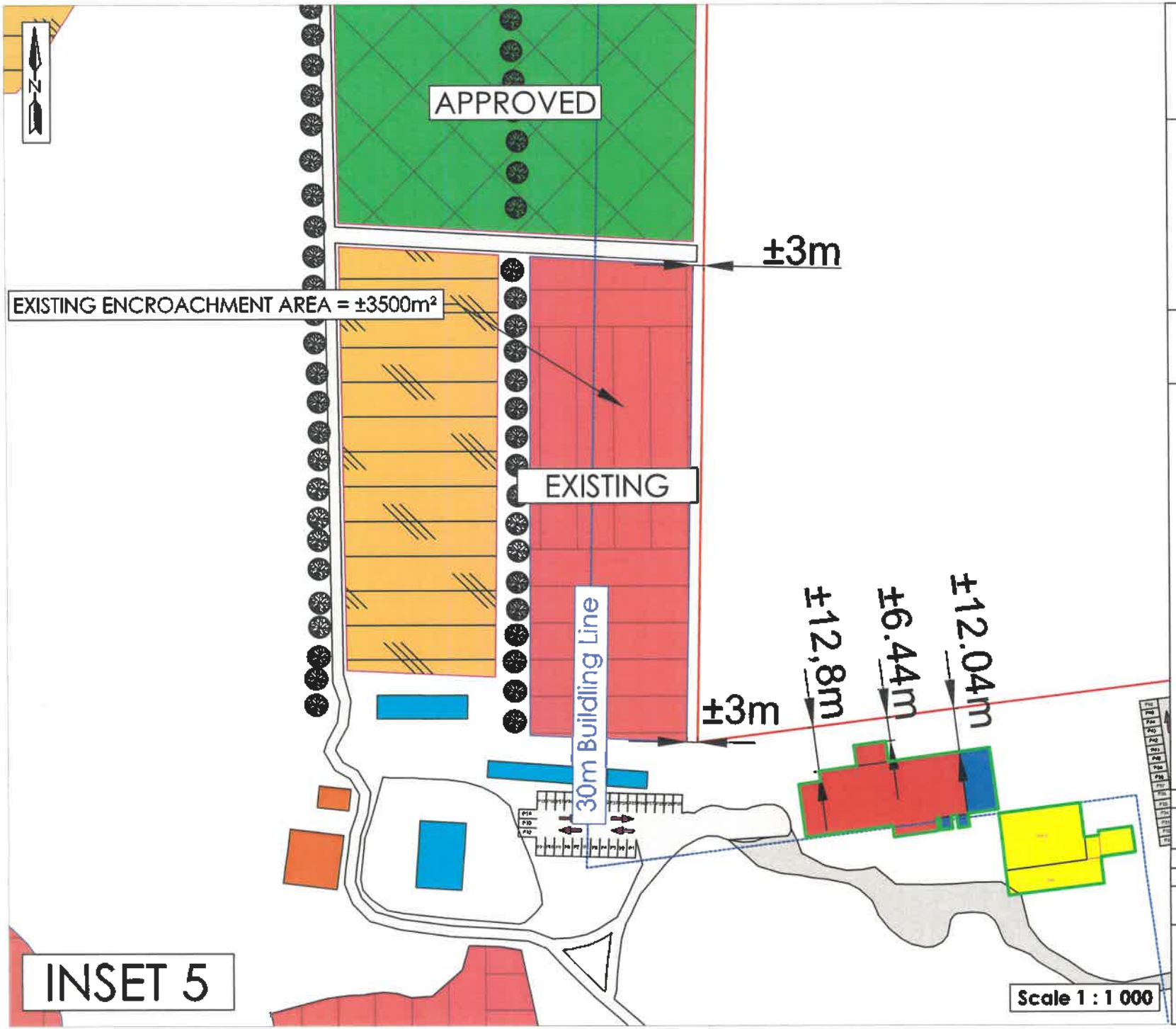
Portion 94 of the Farm Hemel-en-Aarde 587, Caledon

- Existing Berry Fields
- Dams
- Roads
- Existing and approved tunnels (5,8727ha)
- Existing and not approved tunnels (±8,337ha)
- Proposed tunnels (±7,746ha)
- Agricultural Buildings (±275m²)
- Labourers Cottages (±377m²)
- Pack Shed (±1018m²)
- Offices (±587m²)
- Farm Store (±617m²)

Proposed Total Floor Space - ±22,2431 ha

- Agricultural Industry

Plan prepared by: Thian Jansen
Plan 23.81(002) - 02/11/2023
All distances are approximate and subject to a survey
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit B, Standard House, Corner of Royal and Dirkie Uys Street Hermanus, 7200
WRAP Project Office Town Planning & Project Management



5. Proposed Departure Plan
INSET5

Portion 94 of the Farm
Hemel-en-Aarde 587, Caledon

Proposed Departures

- Existing Tunnels from the Eastern 30m Building Line to ±3m;
- Existing Pergola from the Northern 30m Building Line to 6.44m; and
- Proposed Addition to the packshed from the Northern 30m Building Line to 12.04m.

Agricultural Industry

Plan prepared by: Thian Jansen

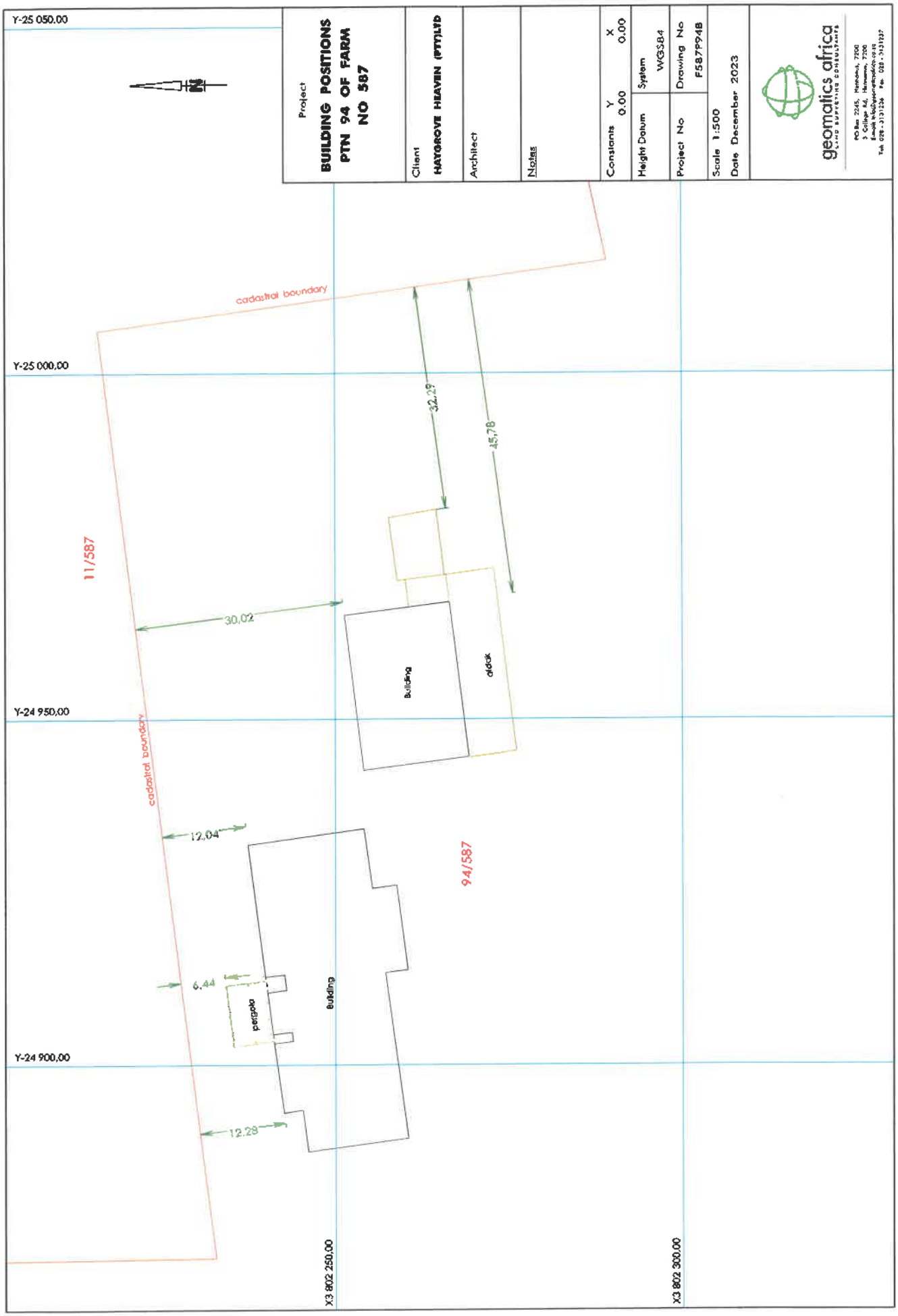
All distances are approximate and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200

WRAP Project Office
Town Planning & Project Management


Project
BUILDING POSITIONS
PTN 94 OF FARM
NO 587
Client
HAYGROVE HEAVEN (PTY)LTD
Architect
Notes
Constants Y 0.00 X 0.00
Height Datum
System WGS84
Project No
Drawing No F58.7P94B
Scale 1:500
Date December 2023
geomatics africa
Y-25 050.00
Y-25 000.00
Y-24 950.00
Y-24 900.00
X3 802 250.00
X3 802 300.00
cadastral boundary
cadastral boundary
11/587
94/587
32.29
45.78
30.02
12.04
6.44
12.28
Building
deck
pergola
Building

Annexure C 1/38

MOTIVATION

1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
MSDF	Overstrand Spatial Development Framework, 2020

2. PROPERTY DETAILS

Subject Property	Portion 94 of the Farm Hemel en Aarde Valley 587, Caledon
Extent	71,5045 ha
Zoning	Agricultural Zone 1: Agriculture

3. BACKGROUND AND INTENT

Situated in the Hemel en Aarde Valley, the subject property is Portion 94 of Farm Hemel en Aarde Valley 587, Caledon, as indicated in **Plan 1 - Locality**. Haygrove Heaven (Pty) Ltd owned the farm since 2007 but have operated on the farm since 2002. Haygrove Heaven (Haygrove) appointed WRAP Project Office to prepare this land use application on their behalf (refer **Annexure A – Power of Attorney** and **Company Resolution**).

Haygrove is a specialist horticulture business, producing the full berry basket. This includes strawberries, raspberries, blackberries and blueberries. On the farm in the Hemel-en-Aarde Valley, Haygrove produces raspberries, blackberries and blueberries.

Haygrove identified the Hemel-en-Aarde Valley as a perfect match with the appropriate climate to produce berries in the Southern Hemisphere for the Northern Hemisphere's berry demand. Haygrove set up its domestic head office within the Hemel-en-Aarde Valley in 2002. Haygrove was the first international producer of raspberries for the United Kingdom's winter.

Fast forward a few years, Haygrove now produces berries across its farms in South Africa for domestic sale (40%) and export (60%). The Hemel en Aarde's microclimate, as well as its proximity to distribution centres and Cape Town Airport is ideal for satisfying customer demand domestically and internationally and in the process creating economic prosperity for the surrounding community, upstream and downstream service providers and suppliers, and the country at large.

Haygrove employs 800 people permanently and up to an additional 2,500 seasonal and fixed term workers in peak season. In the Hermanus area specifically, Haygrove employs 400 people permanently and up to 1,800 in peak season making it arguably that largest private employer in the greater Hermanus area. Haygrove also invests in the communities it farms, through health and education initiatives, to schooling bursaries and donations to various organisations in the surrounding community. Should the proposal be approved to allow the expansion of the intensive horticulture tunnels an additional 100 seasonal

jobs will be created (Seasonal jobs are a minimum of 18 weeks of employment). In addition, 6 additional permanent workers will be employed to assist with the maintenance of the tunnels.

The company measures its success and impact through a triple bottom line approach: Planet, People and Profit. Investments in carbon footprint reduction, biodiversity enhancement and ensuring thriving areas in which it farms are key to Haygrove. Investing in people, their health and education are critically important for the prosperity of the communities where we operate, and both of these bottom lines are dependent on the third – the business' ability to be profitable.

In terms of this application, Haygrove simply seeks to further cover its existing uncovered intensive horticulture raspberry fields with tunnels. The tunnels are an international norm for the economical farming of raspberries, which are highly susceptible to weather variation. The tunnels also allow for increased yield (or production per hectare of land), as well as stability in volumes and fulfilment of sales programmes, creating and sustaining employment. As demonstrated in the below graph of 6 years' rain data from the subject property, weather patterns have become increasingly erratic and excessive rainfall has led to significant crop losses. This, together with continued cost inflation pressures have rendered uncovered raspberry production uneconomical and unprofitable.

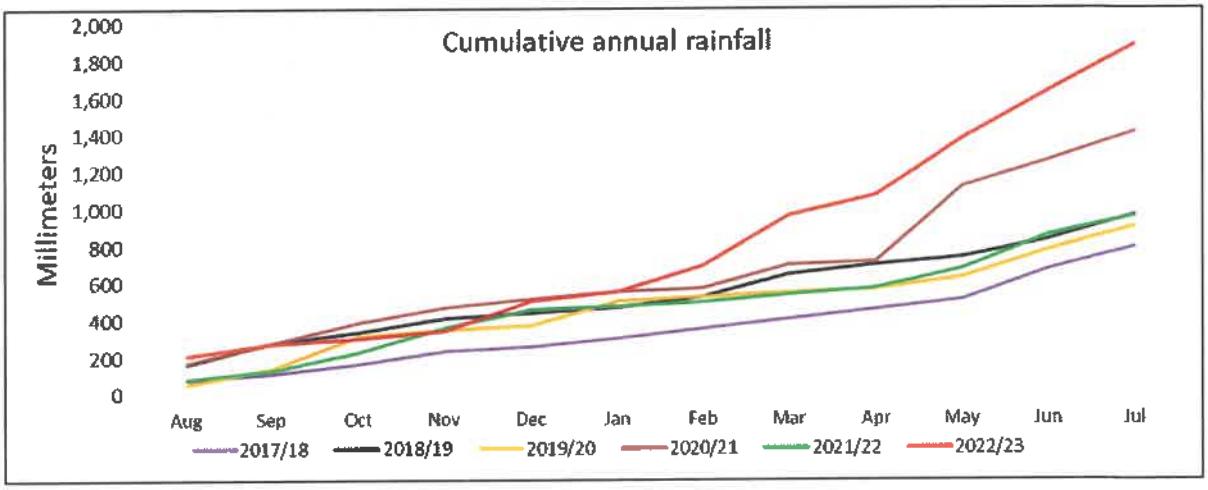


Figure 1

Haygrove understands the importance of ecotourism in the Hemel en Aarde Valley, which is globally renowned for its wine production, agricultural heritage and picturesque landscapes. The presence of farms, vineyards, and agricultural activities adds to the unique appeal of the area. The surrounding area and specific farms for example Creation has been awarded with one of the best wine farms in the world, which was awarded in July 2023, all with the existence of the tunnels on the subject property. Meaning with the existence of the tunnels the surrounding area is still considered as a tourist attraction. The tunnels are an integral part of the agricultural nature of the valley and are not expected to detract from the overall visitor experience. On the contrary, they can provide an opportunity for tourists to witness and learn about modern farming practices and the cultivation of crops in a controlled environment.

Moreover, the Hemel en Aarde Valley is renowned for its wine production and agricultural heritage. Many visitors are attracted to the valley to explore its vineyards, taste local wines, and immerse themselves in the agricultural lifestyle. The addition of tunnels aligns with the valley's identity as an agricultural destination and contributes to the preservation of its rich farming traditions.

It is important to note that the tunnels are designed and positioned in a manner that ensures they blend harmoniously with the surrounding landscape although there will always be a visual impact. The visual impact has been taken into consideration during the planning and design process to minimize any potential disruption to the aesthetic appeal of the valley. Haygrove is committed to maintaining the scenic beauty of the area while simultaneously enhancing the agricultural productivity of the property. More motivation is provided throughout the report below.

To be able to obtain municipal approval for both the existing and proposed horticulture tunnels the following applications need to be submitted and approved in terms of the OMLUS:

- Departure from the 30m building lines;
- Departure from the maximum allowable floor space;
- Amendment of conditions of approval; and
- Amendment of an approved site development plan.

4. HISTORIC APPLICATIONS AND APPROVALS

Since 2012, WRAP Project Office has been a land use consultant to Haygrove, facilitating the necessary land use approvals for their agricultural operations. The initial approval granted in 2012 permitted the establishment of a pack shed on the property, enabling Haygrove to efficiently pack their produce for both domestic and international markets. Subsequently, in 2016, a second land use application was successfully approved by the OM.

This consent use approval allowed Haygrove to utilise the farm for intensive horticulture and allowing encroachment on certain building lines to build tunnels that assist with the growing of the soft fruits as identified above. For further details, please refer to **Annexure C**, which includes the historic letter of approval outlining the relevant conditions associated with this application. The collaboration between WRAP Project Office and Haygrove has been instrumental in navigating the necessary regulatory processes, ensuring compliance with land use regulations, and facilitating the growth and expansion of Haygrove's agricultural operations. The mentioned approval includes:

> *"1. that in terms of Clause 2.2 of the Overstrand Municipality Zoning Scheme Regulations the application for a consent use on Remainder Portion 94 of Farm Hemel en Aarde No.587 to accommodate intensive horticulture (tunnels) on the property be approved;*
> *2. that in terms of Section 15 of LUPO the application for departure to relax the western lateral building line from 30m to 10m and the 30m eastern building line to 3m to accommodate portions of the tunnels, be approved;*
> *3. That 1 and 2 above be approved subject to the following conditions:*
> *(a) That the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 14/073/01 submitted with the application* ***and application will have to be made for any possible future tunnels;***
> *(b) That detailed building plans be submitted to the Building Department for approval;*
> *(c) That this approval does not absolve the applicant/owner from compliance with any other relevant legislation;*
> *(d) That all the other development parameters as prescribed in the Zoning Scheme Regulations be retained; ..."*

The tunnels measuring 5,8727ha approved in 2016 have been built on the subject property. The property owner wants to increase the number of tunnels. This would require condition of approval 3. (a) to be amended to increase the number of tunnels allowed on the subject property.

The OMLUS defines intensive horticulture as follow: ***"intensive horticulture"*** *means the cultivation of plants and indigenous flora on an intensive scale, where plants are cultivated under a roof or on open land or in greenhouse(s) and includes the sale of self-produced plants from the land;"*

Details of the extension being proposed will be shared throughout Section 5 of this motivational report.

5. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT

5.1 Amendment of condition of approval 1(c) dated 13 July 2012 to allow the proposed expansions of the agricultural industry in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020.

As aforementioned, Haygrove obtained approval in 2012 to allow them to establish a pack shed which is considered as an agricultural industry. The agricultural industry was limited to the specific size of the pack shed. The intention is to convert and renovate several areas of the pack shed to be more efficient and be able to accommodate the future growth of the business. While also allowing an existing farm shed to be used for agricultural industry purposes. In essence expanding the agricultural industry and the allowable extent. The condition stated that the agricultural industry be limited to only 809m², with the proposed increases in the business and proposed future expansions the proposal is required to amend this condition and allow them to extend the area of the agricultural industry as per the table below:

Agricultural industry extent on Portion 94 of the Farm Hemel en Aarde Valley 587	
Approved agricultural industry extent (2012)	Approved extent of pack shed (2012) – 809m²
Proposed agricultural industry extent (2023)	Proposed extent of pack shed (2023) – ±1018m² Existing farm shed – ±617m² Total Extent of agricultural industry – ±1635m²
Refer to Plan 5.5 that illustrates the proposed pack shed extension.	

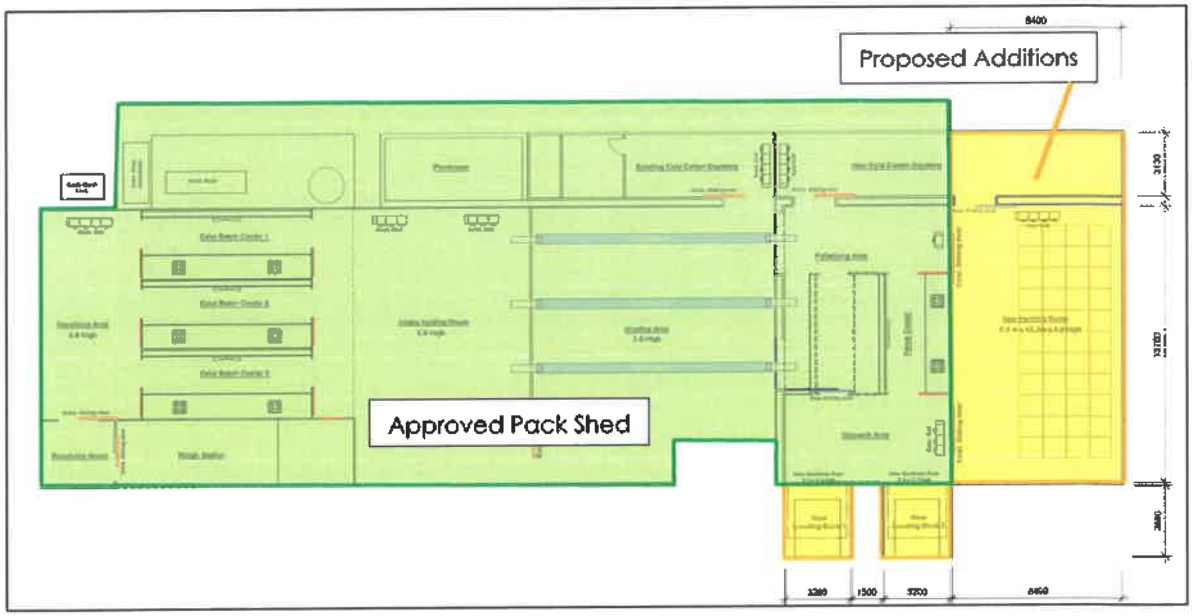


Figure 2: Proposed additions to the pack shed

It should be noted that the pack shed currently accommodates both the produce of the subject property and that of the neighbouring property, which is also owned and operated by Haygrove. The pack shed is used for cooling, sorting, and packing the fresh produce destined for end-users who purchase the product.

On the other hand, the existing farm shed's use is proposed to be altered, the proposal to use areas in the structure for storing the packing materials utilised in the pack shed. This means that no actual produce is handled in the existing farm shed; however, to free up space in the pack shed this associated use is proposed to be relocated to the farm shed, as this use falls within the scope of the agricultural industry it is required to include.

The pack shed was historically allowed to depart from the 30m building line between two properties owned by Haygrove, because of the extension consent of the municipality needs to be obtained as the extension will also encroach on the 30m building line.

In addition to the proposed extension of the pack shed, the owners have erected a pergola at the back of the shed which covers a yard which is used for temporary storage of the crates which the produce is received from the farm. As a result of it encroaching the building line it is required to be included into the application to obtain consent for its position.

The following application will be required to allow the extension of the pack shed:

5.2 **Permanent Departure** from the eastern 30m building line to 12,04m to allow the proposed extension of the pack shed in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

5.3 **Permanent Departure** from the eastern 30m building line to 6,44m to allow the existing pergola in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

5.4 Amendment of condition of approval 3(a) dated 9 February 2016 to allow the proposed expansions of the tunnels in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020.

As mentioned above Haygrove has the intention to obtain approval to increase and expand on their approved intensive horticulture tunnels. The approval of 2016 allowed for the erection of 5,8727ha of tunnels, which have subsequently been expanded upon and the proposal is to apply for both the contravening tunnels as well as new tunnels.

Intensive Horticulture Tunnels on Portion 94 of the Farm Hemel en Aarde Valley 587	
Existing approved intensive horticulture tunnels (2016)	5,8727 ha
New proposed intensive horticulture tunnels	±7,746 ha
Existing and not approved intensive horticulture tunnels	±8,337 ha
Total intensive horticulture tunnels	**21,9557 ha**
Refer to Plan 4.1 and 4.2 that illustrates the proposed intensive horticulture tunnels.	

The farm currently encompasses approximately 33 hectares of intensive horticulture berry fields, catering to both local and international markets. Out of this total area, approximately 14.2097 hectares are currently enclosed within tunnels. The proposed expansion aims to increase the tunnel-enclosed area to 21.9557 hectares by adding an additional 7.746 hectares to the existing farm.

Intensive horticulture tunnels offer several advantages over traditional berry farming, making it a more efficient. Firstly, intensive horticulture tunnels generate higher yields per square meter of cultivated land compared to traditional farming methods. The focused cultivation techniques, optimized resource utilization, and higher crop yields contribute to increased financial returns for Haygrove which is used to fund both expansion projects that in turn allows Haygrove to employ more workers and have a positive impact on the surrounding area.

In addition to profitability, intensive horticulture tunnels also boast higher crop output per square meter. By utilizing advanced cultivation practices, such as controlled environments, precision irrigation, and tailored nutrition, Haygrove can achieve greater productivity from limited land resources. This increased output helps meet growing market demands and ensures a steady supply of fresh produce.

Furthermore, intensive horticulture tunnels require less resources compared to traditional agriculture, making the overall process more efficient. These tunnels provide a controlled environment that minimizes water usage, reduces pesticide application, and protects crops from adverse weather conditions. By optimizing resource allocation, farmers can achieve higher yields with reduced environmental impact.

Another advantage of intensive horticulture tunnels is the ability to cultivate a wider variety of crops. Unlike traditional farming, where soil and weather conditions can limit crop choices, tunnels enable farmers to grow diverse plant species throughout the year. This flexibility allows them to cater to market preferences, meet specific consumer demands, and take advantage of niche markets.

By approving this proposal, the owner of the subject property will be able to harness the benefits offered by intensive agriculture tunnels. The exponential growth of the agricultural enterprise on the property has exceeded initial projections, resulting in demand surpassing supply. This application seeks to obtain appropriate land use rights for the planned expansions of intensive horticulture tunnels. It is indicative of a larger trend among farmers in the surrounding area, where an increasing number are embracing tunnels meet market demands. This trend is beneficial as it maximizes agricultural output, enhances regional and national food security, and contributes to South Africa's position as an exporter of agricultural produce.

The approval and implementation of this proposal will not only enable the subject farm to generate higher income but also address the escalating demand for agricultural products. By embracing intensive horticulture tunnels, the farm can meet market demands more efficiently and contribute to the overall growth and sustainability of the agricultural sector.

It is important to emphasize that the proposed increase in intensive horticulture tunnels does not signify a change in the operational nature of the farm. While the number of tunnels is set to expand, the farm will continue to operate as an agricultural enterprise. The addition of more tunnels is intended to enhance and optimize the existing agricultural activities rather than introduce a different operational framework. The focus remains on the cultivation and production of crops within the farm's established agricultural framework.

To allow the establishment of the additional intensive horticulture tunnels, the following application will also be required:

Refer to Plan 5.1 – Inset 1 of Departure Plan - Plan 5:

5.5 **Permanent Departure** from the northern 30m building line to 9m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

5.6 **Permanent Departure** from the western 30m building line to 9m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

5.7 **Permanent Departure** from the northern 30m building line to 11m, 12m & 20m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Refer to Plan 5.2 – Inset 2 of Departure Plan - Plan 5:

5.8 **Permanent Departure** from the western 30m building line to 12m, 13,5m, 14m, 14,5m & 15,5m to allow the proposed intensive horticulture tunnels in terms of Section

16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

5.9 **Permanent Departure** from the southern 30m building line to 23,7m & 23,8m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

5.10 **Permanent Departure** from the southern 30m building line to 5m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Refer to Plan 5.3 – Inset 3 of Departure Plan - Plan 5:

5.11 **Permanent Departure** from the western 30m building line to 10m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

5.12 **Permanent Departure** from the southeastern 30m building line to 19m & 24,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Refer to Plan 5.4 – Inset 4 of Departure Plan - Plan 5:

5.13 **Permanent Departure** from the southern 30m building line to 7,3m & 8m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

5.14 **Permanent Departure** from the eastern 30m building line to 3,3m & 5,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Refer to Plan 5.5 – Inset 5 of Departure Plan - Plan 5:

5.15 **Permanent Departure** from the eastern 30m building line to 3m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Refer to Plan 5.6 – Inset 6 of Departure Plan - Plan 5:

5.16 **Permanent Departure** from the eastern 30m building line to 3m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The subject farm encompasses various natural features, including a mountain, wetland, and critical biodiversity areas, which collectively make up approximately 35% of the total land area. These areas are considered environmentally sensitive and limit the available land for the expansion of intensive horticulture tunnels. It is important to note that the proposed expansions are not planned on any environmentally sensitive land.

The crops cultivated on the subject property does not emit offensive smells or fumes that could negatively impact the neighbouring properties. The proposal to locate the intensive horticulture tunnels encroaching on the building lines, are not predicted to cause any disturbances to adjacent property owners.

Farm workers work in the tunnels for short periods, rotating between tunnels and spending time throughout the day, while caring and working in these berry fields contained within the intensive horticulture tunnels. Their presence is minimal, reducing the likelihood of noise impact on neighbouring property owners. As a result, the approval of expanding the intensive horticulture tunnels beyond the building lines will not infringe upon the rights enjoyed by adjacent property owners in the occupation of their properties. See the following figures of the proposed and existing tunnels:

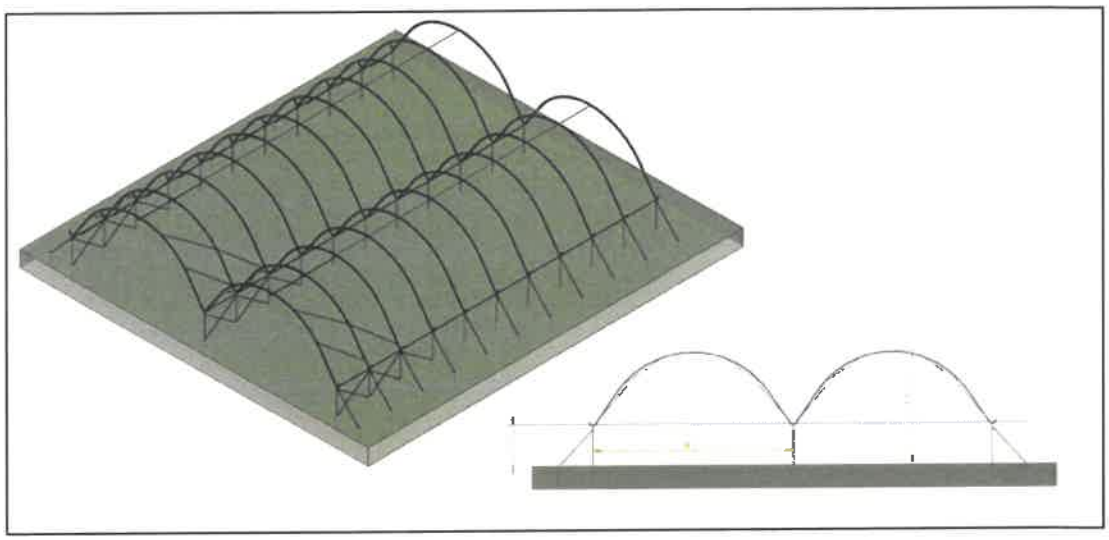


Figure 3: Intensive Horticulture Tunnels

5.17 **Permanent Departure** from the maximum allowable floor space in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

As mentioned previously throughout the history of Haygrove owning the subject property there have been historical land use applications and specific reference is being made to the 2016 land use approval Annexed as **Annexure C – Historic Approval**.

The approval allowed the accommodation of intensive horticulture tunnels and departure from building lines. A condition of the approval (Condition 3(a)) linked the Site Development Plan 14/073/01/P11 to the approval. The approval allowed for 5,8727 ha of intensive horticulture tunnels with the remaining extent divided between the existing agricultural buildings, offices, pack shed, and labourer's cottages for a total allowable floor space of 6,1707 ha (2016).

The proposal to allow all of the existing intensive horticulture tunnels including the existing tunnels within floor space requires the consent of the OM is required as the current floor space is exceeding the allowable 5000m² as determined by the OMLUS. After internal discussions, the OM's town planning department indicated that intensive horticulture tunnels must be considered as part of a farm's floor space. As a result, a departure from the allowable floor space is being applied for as the proposal is to increase the floor space by approximately 16,083ha which will be the footprint of the intensive horticulture tunnels as illustrated and depicted in the site development plan.

Proposed Floor Space Departure		
Existing and approved intensive horticulture tunnels	5,8727 ha	
Proposed intensive horticulture tunnels	±7,746 ha	±16,083 ha
Existing and not approved intensive horticulture tunnels	±8,337 ha	
Other structures extent (2023) •Agricultural Buildings (±275m²) •Labourers Cottages (±377m²) •Pack Shed (±1018m²) •Offices (±587m²) •Farm Store (±617m²)	±0.2874 ha	
Proposed Floor Space (2023)	**22,2431 ha** **(5,8727 ha + 16,083 ha + 0.2874 ha)**	

The departure is required to allow the proposed horticulture tunnels to be established. As motivated in Section 5.1, the tunnels are not predicted to have any negative impact on any surrounding property owners as the property is zoned for agricultural purposes and the property owners are attempting to increase and secure future demands.

5.18 **Amendment of an approved site development plan** in terms of Section 16(2)(L) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The current SDP was approved in 2016 (14/073/01), which SDP is attached together with the historical approval Annexed as **Annexure C**. With the proposal to add more intensive horticulture tunnels to the subject property, the SDP requires amendment. Refer **Plan 4.1 and 4.2** which is proposed to replace the existing approved site development. The alterations required include the proposal to enclose existing berry fields as has been motivated in Section 5.4 & 5.17 of this report. As well as the expansion of the agricultural industry which will add a small section as has been motivated in Section 5.1 of this report.

5.19 **Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Over the past few years, Haygrove has made additions to the property by implementing intensive horticulture tunnels. While some of these tunnels have not yet received formal approval from the municipality, it is essential to prioritize compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. In line with this objective, it is crucial to include the determination of an administrative penalty within this application. By addressing this matter proactively, Haygrove aims to rectify any potential non-compliance issues and ensure adherence to the applicable regulations and by-laws governing land use planning. Haygrove has identified the areas where approvals have not yet been obtained (Refer to **Plan 4.1** and **Plan 4.2**).

Section 90(3) of the By-law requires the following information:

The nature, duration, gravity and extent of the contravention

The tunnels are clearly illustrated on the SDP provided in Plan 4.1 and Plan 4.2. It should be noted that in terms of land use, the approval for intensive horticulture has been received. Meaning only the encroachment of building lines and increasing the maximum allowable floor space are being contravened from a land use perspective. The tunnels however have also been erected without prior municipal consent. This application serves as a testament to the proactive measures taken by the property owners to rectify any contravention of the By-law. Considering that no complaints have been lodged regarding these specific tunnels depicted in the aforementioned plans and their usage is consistent with the prevailing practices in the area, it is requested that a more lenient administrative penalty be imposed. This acknowledgment underscores the property owners' commitment to compliance and the absence of any unusual circumstances warranting severe penalties.

Contravening tunnels built without prior approval	
Existing and not approved intensive horticulture tunnels	±8,337 ha

Of the ±8,337ha tunnels built without prior approval approximately 9000m² was built across the building lines, refer to the table below:

Contravening tunnels encroaching on the building lines	
Plan 5.1 – Inset 1 of Departure Plan - Plan 5	4400m² of tunnels encroaching on the side building line (refer section 5.2, 5.3 & 5.4)
Plan 5.2 – Inset 2 of Departure Plan - Plan 5	1100m² of tunnels encroaching on the side building line (refer section 5.7)
Plan 5.5 – Inset 5 of Departure Plan - Plan 5	3500m² of tunnels encroaching on the side building line (refer section 5.12)

In addition to the above, the pergola at the rear of the pack shed was also constructed without prior municipal approval, although the building line being encroached upon is connected to boundary being shared by the second farm owned by Haygrove, approval was still required to erect the structures.

Contravening pergola	
Pergola Extent	50m²

The conduct of the person (allegedly) involved in the contravention.

Haygrove's intention was always to operate in accordance with the By-Law and not to contravene any regulations. The introduction of tunnels on the property was motivated by the need to enhance the viability of the agricultural enterprise and provide protection for crops against adverse climate conditions, among other benefits previously discussed. It is important to note that Haygrove's decision to add the tunnels was never driven by any malicious intent.

A report by a quantity surveyor in matters of unauthorised building/construction

Due to the nature of the structures and the structures being non-habitable the company which supplies the tunnels to the property owner is its sister company a quote was provided for the ±8,337ha of contravening tunnels. The total cost of tunnels is proximately R479 000 per hectare. The pergola is such a small encroachment, it was not included in the calculation.

Whether the unlawful conduct was stopped

The tunnels have been erected and are in use. They have been unskinned meaning the plastic covering has been removed to prevent damage from adverse weather conditions.

Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

To the knowledge of this office, the property owners have not previously contravened the By-Law on the subject property.

6. APPLICATION

Considering the above, application is made for the following:

6.1 **Amendment of condition of approval** 1(c) dated 13 July 2012 to allow the proposed expansions of the agricultural industry in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020.

6.2 **Permanent Departure** from the eastern 30m building line to 12,04m to allow the proposed extension of the pack shed in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

6.3 **Permanent Departure** from the eastern 30m building line to 6,44m to allow the existing pergola in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

6.4 **Amendment of condition of approval** 3(a) contained in letter of approval dated 9 February 2016 to allow the proposed expansions of the tunnels in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020;

6.5 **Permanent Departure** from the northern 30m building line to 9m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.6 **Permanent Departure** from the western 30m building line to 9m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.7 **Permanent Departure** from the northern 30m building line to 11m, 12m & 20m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.8 **Permanent Departure** from the western 30m building line to 12m, 13,5m, 14m, 14,5m & 15,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.9 **Permanent Departure** from the southern 30m building line to 23,7m & 23,8m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.10 **Permanent Departure** from the southern 30m building line to 5m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.11 **Permanent Departure** from the western 30m building line to 10m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.12 **Permanent Departure** from the southeastern 30m building line to 19m & 24,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.13 **Permanent Departure** from the southern 30m building line to 7,3m & 8m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.14 **Permanent Departure** from the eastern 30m building line to 3,3m & 5,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.15 **Permanent Departure** from the eastern 30m building line to 3m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.16 **Permanent Departure** from the eastern 30m building line to 3m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.17 **Permanent Departure** from the allowable floor space in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

6.18 **Amendment of an approved site development plan** in terms of Section 16(2)(L) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and

6.19 **Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

7. LAND USE ENVIRONMENT

The subject property is situated in the Hemel en Aarde Valley, located between a mixture of agricultural and resort properties. The surrounding properties are used for agricultural, residential, and tourism-related purposes. This makes the intensive horticulture tunnels part of the agricultural experience and not considered out of the ordinary. The surrounding properties have different land uses, and their zonings are depicted in **Plan 2**, which illustrates the zoning in the area.

The proposed expansion of intensive horticulture tunnels on the property is unlikely to offend the tourists who visit the Hemel en Aarde Valley. The visual impact of the tunnels is considered to be in harmony with the valley's agricultural character and natural surroundings. As an agricultural area, the presence of horticulture tunnels is expected and contributes to the overall character of the region.

Tourists who visit the Hemel en Aarde Valley are often drawn to its rural and picturesque landscape. The presence of farms, vineyards, and agricultural activities adds to the unique appeal of the area. The proposed tunnels, being an integral part of the

agricultural nature of the valley, are not expected to detract from the overall visitor experience. On the contrary, they can provide an opportunity for tourists to witness and learn about modern farming practices and the cultivation of crops in a controlled environment.

As previously mentioned, the Hemel en Aarde Valley is renowned for its wine production and agricultural heritage. Many visitors are attracted to the valley to explore its vineyards, taste local wines, and immerse themselves in the agricultural lifestyle. The expansion of horticulture tunnels aligns with the valley's identity as an agricultural destination and contributes to the preservation of its rich farming traditions.

It is important to note that the proposed tunnels are designed and positioned in a manner that ensures they blend harmoniously with the surrounding landscape although there will always be a visual impact. The visual impact has been taken into consideration during the planning and design process to minimize any potential disruption to the aesthetic appeal of the valley. The farm owner is committed to maintaining the scenic beauty of the area while simultaneously enhancing the agricultural productivity of the property.

8. TITLE DEED

Title deed T97282/2007 (refer **Annexure B – Title Deed**) was perused and there are no restrictive conditions that prohibits the proposed development on the subject property.

9. ZONING

The following zoning parameters were assessed in conjunction with the OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:

AGRICULTURE ZONE 1: AGRICULTURE (AGR1)			
Land Use Restrictions			
	Parameters	**Proposal**	**Comply/ deviate**
Primary use	**Agriculture**, Crèche, Dwelling House, Guest Rooms and Home Occupation.	Agriculture	Comply
Consent uses that may be applied for	Additional Dwelling Units, Agricultural Industry, Animal Care Centre, Aquaculture, Day Care Centre, Farm Shop/Stall, Fertiliser Plant, Guest House, Hotel, Institution, Intensive Animal Farming, **Intensive Horticulture**, Lodge, Mining, Place of Assembly, Place of Entertainment, Place of Instruction, Plant Nursery, Riding Stables, Service Trade, Tourist Accommodation, Tourist Facilities, Transmission Apparatus, Utility Services, Wellness Centre And 4x4 Trail.	Intensive horticulture (tunnels) expansion	**Applied for and motivated.**
Floor Space	The total floor space of all buildings on the land unit may not exceed 5000m², provided that the Municipality may relax this requirement if it is satisfied that such buildings are required for bona fide farming activities on the land unit.	Proposal Floor Space Departure Approved horticulture tunnels (2016) – 5,8727 ha Proposed horticulture tunnels – ±16,083 ha Other Structures - ±0.2874 ha **Proposed Floor Space (2023) – ±22,2537 ha**	**Applied for and motivated.**
Building Lines	The street and common boundary building lines are determined in accordance with the area of the land unit as specified in the table below. Greater than 10 ha: Street boundary building lines = 30m Common boundary building lines = 30m	The 2016 approval allowed: Departure of the: • Western lateral building line from 30m to 10m; • Eastern lateral building line from 30m to 3m. Current Proposal: • **Departure** from the eastern 30m building line to 12,04m to allow the proposed extension of the pack shed in terms;	**Applied for and motivated.**

690
17/38

		• **Departure** from the eastern 30m building line to 6,44m to allow the existing pergola; • **Departure** from the northern 30m building line to 9m to allow the existing intensive horticulture tunnels; • **Departure** from the western 30m building line to 9m to allow the existing intensive horticulture tunnels; • **Departure** from the northern 30m building line to 11m, 12m & 20m to allow the proposed intensive horticulture tunnels; • **Departure** from the western 30m building line to 12m, 13,5m, 14m, 14,5m & 15,5m to allow the proposed intensive horticulture tunnels; • **Departure** from the southern 30m building line to 23,7m & 23,8m to allow the proposed intensive horticulture tunnels; • **Departure** from the southern 30m building line to 5m to allow the existing intensive horticulture tunnels; • **Departure** from the western 30m building line to 10m to allow the proposed intensive horticulture tunnels; • **Departure** from the southeastern 30m building line to 19m & 24,5m to allow the proposed intensive horticulture tunnels; • **Departure** from the southern 30m building line to 7,3m & 8m to allow the proposed intensive horticulture tunnels;	

691

		• **Departure** from the eastern 30m building line to 3,3m & 5,5m to allow the proposed intensive horticulture tunnels; • **Departure** from the eastern 30m building line to 3m to allow the proposed intensive horticulture tunnels; and • **Departure** from the eastern 30m building line to 3m to allow the proposed intensive horticulture tunnels.	
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m, provided that agricultural buildings other than dwelling units shall not exceed a height of 12,0 m, measured from the base level to the top of the structure, and where the Municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height.	Buildings which are not related to agriculture are not higher than 8m. The existing and proposed intensive horticulture building do not and will not exceed the 12m height restriction	Comply
Parking	Parking and access shall be provided on the land unit in accordance with 17.1. **Office** 6 bays per 100m² GLA **Storage** 2 bays per 100m² GLA **Loading bays** 1 bay per 500m² for the first 1 000 m² of GLA, thereafter 1 bay per 1 000 m². There are no parking requirements for intensive horticulture tunnels.	The office is 587m² and require 35,36 parking bays; Storage/pack shed is 1018m² and requires 20,36 parking bays. **There are 57 parking bays required and 62 parking bays are provided.** The GLA is 1701 m² and there are 4 loading bays required which are provided.	Comply

692

10. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Water

There are historic water rights which exist on the subject property. The proposed tunnel expansion in aligned with the existing water rights capacity. The existing intensive horticulture fields is being proposed to be covered by the tunnels there will be no expansion of the number of extents of agricultural fields on the farm. This will ensure that the extraction of water does not exceed existing capacities.

Additionally, it is expected that with the inclusion of more tunnels, the water requirements are lower. Intensive horticulture tunnels play a significant role in water conservation within agricultural practices. Through controlled irrigation systems, water usage is optimized as water is delivered precisely to the plant's root zone, minimizing evaporation and runoff. The enclosed environment of the tunnels further reduces water loss by limiting exposure to external elements such as wind and excessive heat, thus minimizing evapotranspiration.

In addition to precise irrigation, water recycling and conservation methods are often implemented in intensive horticulture tunnel systems. Runoff water and condensation can be collected and reused for irrigation purposes, reducing the reliance on fresh water sources. This proactive approach to water management helps maximize water efficiency and minimize wastage.

Furthermore, the use of efficient water distribution systems, such as drip irrigation or micro-sprinklers, ensures that water is evenly and directly applied to the plants. This targeted approach reduces water loss due to overspray or inefficient distribution, allowing for more effective water usage and conservation.

Within intensive horticulture tunnels, farmers also have greater control over crop-specific water requirements. By tailoring irrigation schedules and amounts based on the specific needs of each crop, water can be allocated in the most efficient manner. This precise water management approach prevents overwatering and ensures that plants receive the necessary amount of water for optimal growth, minimizing water wastage.

Overall, intensive horticulture tunnels offer an innovative and sustainable solution for water-saving in agriculture. By optimizing irrigation, recycling water, improving distribution, and tailoring water management to specific crops, these tunnels significantly reduce water consumption compared to traditional open-field farming methods. This not only benefits the environment by conserving a precious resource but also contributes to the long-term viability and sustainability of agricultural practices.

Sewage

"Boland Toilets" provides toilets and pumping services for the agricultural fields and tunnels. The sewage services have been installed in accordance with the prescripts of audits which have been done on the property and the capacity thereof can be regarded as sufficient.

As the season workers increase so do the number of toilets that are being provided on the farm. Boland Toilers are a registered company that are required to adhere to all regulation and standards.

The packhouse and offices have conservancy tanks which are emptied by the Overstrand Municipality.

Solid Waste

Solid waste is collected and kept on-site and taken to the waste transfer station in Hermanus. The area where the waste is kept complies with the regulations set out by the OMLUS.

Electricity

Electricity is provided by Eskom and there is a separate proposal submitted to reduce the reliance on the electricity producer and become more sustainable by Haygrove to construct a solar installation that will be able to adequately run the daily operation of both farms during loadshedding.

Access and egress

Access to the subject property is currently gained from Minor Road number OP04012 from km marker 0,991. The approval and implementation of this proposal will not alter this.

Egress is obtained through an internal road running from the subject property to Portion 11 (adjacent farm) also in ownership of Haygrove. The internal road connects to a servitude road that leads toward the R320. There have been past concerns with reference to dust and the property owner took it upon themselves to maintain the egress road and keep dust low by scraping the road at their own expense. The access road is tarred.

The table below shows the amount of traffic being generated currently and how the proposal will impact the traffic:

Vehicle type	Current	Expected with tunnels	Increase
Packhouse cold truck (fruit transport)	2	2	No additional trucks will be required; however, the frequency of the trips may increase depending on volume profile.
Buses (staff transport)	9	11	The increase will a result of the additional seasonal workers.
Cars and bakkies (management)	18	18	No change

11. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

Need and desirability

Socio-economic impact	The introduction of new intensive horticulture tunnels brings about several positive socio-economic impacts: • Job Creation: The expansion of intensive horticulture tunnels requires additional labour for tasks such as planting, monitoring, and harvesting crops. This leads to the creation of new employment opportunities, both temporary and permanent, within the local community. The availability of jobs contributes to reducing unemployment rates and improving the socio-economic well-being of individuals and families. Haygrove currently employs 800 workers permanently and up to an additional 2,500 seasonal and fixed term workers in peak season. In the Hermanus area specifically, Haygrove employs 400 people permanently and up to 1,800 in peak season making it arguably that largest private employer in the greater Hermanus area. Haygrove also invests in the communities it farms, through health and education initiatives, to schooling bursaries and donations to various organisations in the surrounding community. Should the application be approved to allow the expansion of the tunnels an additional 100 seasonal jobs will be created (Seasonal jobs are a minimum of 18 weeks of employment). In addition, 6 additional permanent workers will be employed to assist with the maintenance of the tunnels. • Local Economic Growth: The establishment of intensive horticulture tunnels stimulates economic growth at the local level. As the agricultural enterprise becomes more viable, there is an increased demand for various goods and services, such as equipment, supplies, transportation, packaging, and marketing.

	Local businesses and service providers benefit from this increased demand, leading to increased revenue, tax contributions, and overall economic activity in the area. • Income Generation: Intensive horticulture tunnels enhance the income potential for farmers and farm workers. With increased productivity and higher yields per square meter, Haygrove can generate more income from their agricultural operations. This improved financial standing not only benefits Haygrove themselves but also contributes to the stability and prosperity of the local economy. • Market Expansion and Trade Opportunities: The availability of a wider range of crops from intensive horticulture tunnels allows farmers to meet diverse market demands. By supplying both local and international markets with fresh and high-quality produce, Haygrove can continue into new market segments and potentially increase export opportunities. This expansion of market reach contributes to the growth of the agricultural sector and strengthens the region's position as a reliable supplier of agricultural products. • Community Development: The establishment of intensive horticulture tunnels encourages community development in various ways. The increased economic activity and job creation lead to improved living standards and enhanced access to services and infrastructure within the community. Additionally, Haygrove invests into community initiatives, sponsor local events, or participate in cooperative efforts, fostering a sense of community engagement and cohesion. • Food Security and Sustainability: Intensive horticulture tunnels contribute to food security by increasing local food production. With higher crop yields, farmers can meet the growing demand for fresh and nutritious food within the community. This reduces reliance on imported produce and enhances the region's self-sufficiency in food production. Moreover, the adoption of sustainable farming practices within

	the tunnels promotes environmental stewardship and ensures the long-term viability of agricultural activities. Overall, the new intensive horticulture tunnels positively impact the socio-economic landscape by creating employment opportunities, driving local economic growth, generating income, expanding markets, fostering community development, and contributing to food security and sustainability. These socio-economic benefits contribute to the overall well-being and prosperity of the local community.
Compatibility with surrounding uses	Intensive horticulture tunnels are not considered out of the ordinary in an area primarily characterized by agricultural properties and residential properties, even though the area is predominantly zoned for agriculture. There are several compelling reasons to support this perspective: • Compatibility with the Surrounding Environment: Intensive horticulture tunnels align with the existing agricultural landscape and practices within the area. As neighbouring properties predominantly engage in agricultural activities, the expansion of intensive horticulture tunnels maintains consistency with the agricultural zoning and reinforces the agricultural character of the region. • Efficient Land Utilisation: Intensive horticulture tunnels enable farmers to optimize land utilisation and increase agricultural productivity within limited spaces. Given the zoning primarily focused on agriculture, it is essential to encourage efficient and sustainable farming practices that maximize yield per hectare. Intensive horticulture tunnels facilitate such practices, allowing farmers to cultivate a diverse range of crops and meet market demands without encroaching on larger land areas. • Economic Benefits: By supporting the expansion of intensive horticulture tunnels, the local economy stands to gain significant advantages. The increased agricultural output resulting from these tunnels translates into higher yields, which in turn generate employment opportunities and stimulate economic growth. Moreover, the production of quality agricultural produce can

	boost local trade, attract buyers, and contribute to the area's reputation as a reliable supplier of fresh, high-value products. • Environmental Considerations: Intensive horticulture tunnels offer potential environmental benefits. They promote efficient resource utilization by minimizing water consumption and reducing the need for chemical inputs. The controlled environment provided by the tunnels also helps protect crops from adverse weather conditions, decreasing the reliance on pesticides and fostering more sustainable farming practices. • Support for Food Security: Encouraging intensive horticulture in an agriculturally zoned area contributes to regional and national food security. The increased production capacity enabled by the tunnels helps meet the growing demand for fresh and nutritious food, both locally and beyond. This aligns with the agricultural zoning's primary goal of supporting food production and self-sufficiency. In summary, considering the predominant agricultural zoning, the expansion of intensive horticulture tunnels in an area of agricultural and residential properties is justified by their compatibility with the existing landscape, efficient land utilization, economic benefits, environmental considerations, and support for food security. Embracing innovative and sustainable farming practices, such as intensive horticulture, can enhance the agricultural sector, promote local economies, and foster a thriving farming community.
Impact on the external engineering services	Refer Section 9.
Impact on safety, health and wellbeing of the surrounding community	The presence of intensive horticulture tunnels can have positive impacts on the safety, health, and overall well-being of the surrounding community in several ways: • Reduced Use of Chemicals: Intensive horticulture often utilizes integrated pest management (IPM) practices, which minimize the use of chemical pesticides. This approach prioritizes the use of natural pest control methods, such as beneficial insects or organic

	sprays, resulting in reduced chemical exposure for both the workers on the subject property and the surrounding community. This promotes a healthier environment and minimizes any potential health risks. • Improved Air Quality: Intensive horticulture tunnels provide a controlled environment for crop cultivation, reducing the dispersion of dust, pollen, and other airborne particles. This improves air quality in the vicinity of the tunnels. Reduced air pollution can alleviate allergies and create a safer and more pleasant living environment. • Noise Mitigation: Unlike some agricultural practices involving livestock or machinery, intensive horticulture tunnels produce minimal noise. The absence of loud machinery or animal noises minimizes noise pollution, allowing for a quieter and more peaceful community environment. This can positively impact the well-being and quality of life for nearby residents. • Enhanced Food Safety: Intensive horticulture tunnels enable farmers to implement strict quality control measures and hygienic practices during the cultivation and handling of crops. This ensures that the produce meets high food safety standards, reducing the risk of contamination and related health hazards. The availability of safe and fresh produce from the tunnels contributes to the well-being and peace of mind of the surrounding community. • Intensive horticulture tunnels often present a neat and organized appearance, contributing to the aesthetic appeal of the surrounding area. Well-maintained and visually pleasing agricultural landscapes can enhance community pride and create a positive ambiance. This can positively influence the overall well-being and satisfaction of residents in the vicinity.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	The establishment of intensive horticulture tunnels has several positive impacts on the biophysical environment:

	• Land Conservation: Intensive horticulture tunnels allow for higher crop yields per square meter, reducing the need for land conversion. This helps preserve natural habitats, ecosystems, and valuable agricultural land. • Water Efficiency: The use of efficient irrigation systems, such as drip irrigation, in intensive horticulture tunnels minimizes water wastage. Precise water delivery directly to the plant roots conserves water resources and reduces water runoff. • Soil Health: Proper soil management practices in intensive horticulture tunnels, such as the use of organic fertilizers and crop rotation, promote soil fertility and structure. This helps maintain soil health and reduces the risk of erosion. • Energy Savings: Intensive horticulture tunnels provide a controlled environment, reducing the need for excessive heating or cooling. The enclosed space can help save energy, especially when combined with energy-efficient technologies or the use of renewable energy sources. • Waste Management: Implementing effective waste management practices, such as composting, within intensive horticulture tunnels reduces organic waste and reliance on synthetic fertilizers. This promotes sustainable nutrient cycling and minimizes pollution risks. Overall, intensive horticulture tunnels contribute to land conservation, water efficiency, soil health, energy savings, and effective waste management practices. These positive impacts help promote environmental sustainability within the agricultural sector.
Traffic impacts, parking, access and other transport related considerations	While the establishment of intensive horticulture tunnels may have some implications for traffic, it is not predicted to have an effect on the surrounding area. The property is being utilised for agricultural and farming purposes, and the promotion of sustainable transport practices can help manage and mitigate any potential impacts of the traffic. Haygrove has a communal bus system that transports the workers to and from Hermanus. By

	considering these factors, the overall transport-related impacts can be minimized, contributing to the smooth functioning and sustainability of the agricultural operations.

The property owners have tasked WRAP Project Office with submitting this application to ensure the proposed development aligns with policies, legislation, and title deed conditions, in pursuit of their vision.

Impact on views, sunlight and character of the area

The visual impact of the intensive horticulture tunnels on the surrounding area is an acknowledged consideration. It is important to note that the area surrounding the Hemel and Aarde Valley, where the subject property is located, is characterized by a mix of natural vegetation and various agricultural activities, particularly vineyards. The presence of agricultural enterprises, including intensive horticulture tunnels, is not uncommon in this region, and they are widely utilized throughout the Western Cape. Given that the entire area is predominantly zoned for agricultural purposes, the establishment of intensive horticulture tunnels aligns with the existing land use regulations. The zoning regulations allow for a range of agricultural activities aimed at maximizing agricultural productivity and economic viability in the region. It is worth noting that the only exception to the agricultural zoning is a property that is specifically zoned as a resort, highlighting the predominantly agricultural nature of the area.

Considering the agricultural character of the region and the prevalence of similar farming practices, the introduction of intensive horticulture tunnels on the subject property is in line with the existing land use patterns. The visual impact of the tunnels can be mitigated through appropriate design and landscaping measures, ensuring they harmonize with the surrounding natural environment and agricultural landscape.

Furthermore, the use of intensive horticulture tunnels in the region has been proven to be a successful and efficient method of crop production. They provide opportunities for increased yield, better crop protection, and improved resource utilization. These factors contribute to the overall sustainability and economic viability of agricultural operations in the area.

In its efforts to address potential visual impacts, Haygrove strategically incorporates coastal beefwoods as windbreaks, serving the dual purpose of mitigating wind effects and providing visual barriers. These well-placed trees help to blend in the horticulture tunnels harmoniously into the natural surroundings. Additionally, Haygrove incorporates an additional layer of shade netting above the tunnels, this layer reduces the effectiveness of the tunnels, however, it reduces the visual impact of the tunnels and any potential glare. Haygrove would ideally want to remove this layer however as they are being reasonable neighbours, they added this layer after comments were received during previous applications.

Furthermore, Haygrove demonstrates its commitment to environmental stewardship by investing in alien clearing initiatives. By actively clearing invasive species, particularly in the areas of natural fynbos, Haygrove ensures the preservation of the native ecosystem and promotes the ecological integrity of the region. Through these practices, Haygrove

exemplifies its dedication to maintaining a balance between agricultural productivity and environmental conservation.

Figure 2 and 3 illustrates the terrain and elevation of the surrounding area from the R320:

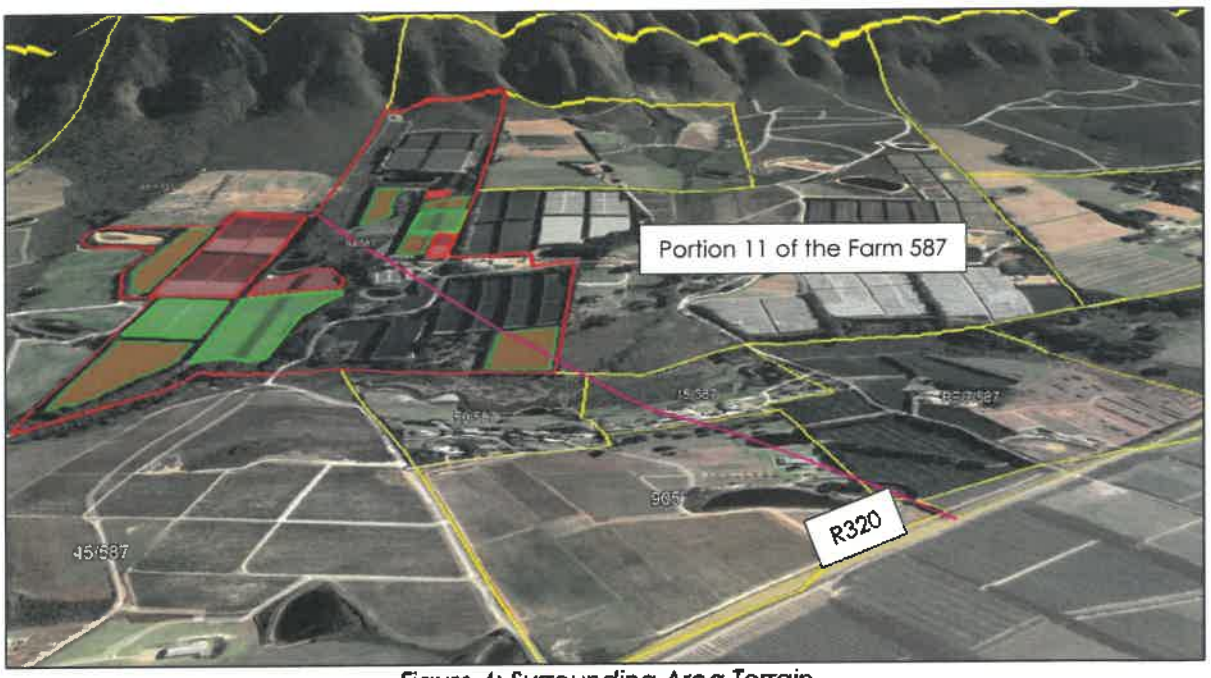


Figure 4: Surrounding Area Terrain

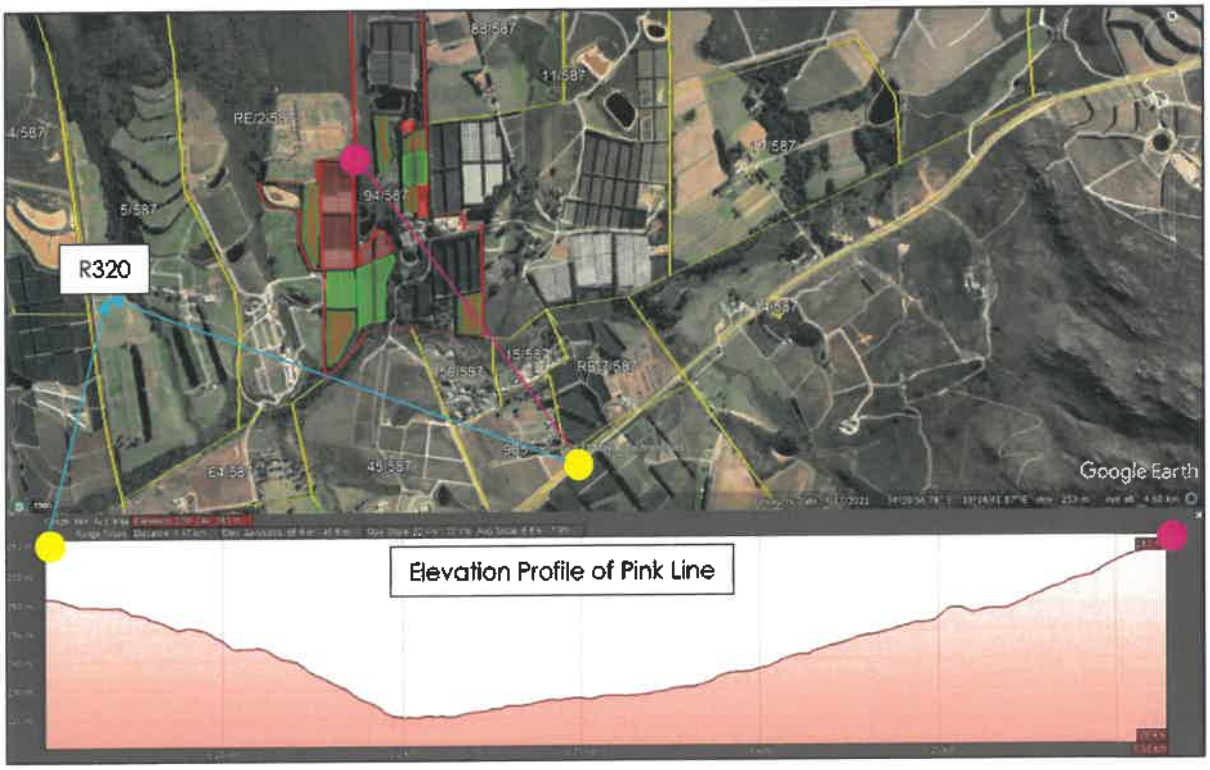


Figure 5: Elevation Profile from the R320 to edge of the subject property (PINK LINE)

To indicate the property owners are committed they appointed a professional landscape architect to conduct a visual impact assessment (VIA) refer **Annexure D**. The VIA indicated that from a visual perspective, the proposal should be endorsed as it will result in a moderate to moderate-low visual impact on the condition that the visual impact follows the mitigation measures and recommendations set out in **Annexure D.** The property owners intend to follow the mitigation measure as required within the VIA.

Economic impact

1. Increased Agricultural Output: The expansion of intensive horticulture tunnels allows for greater crop production on the subject property. This leads to increased agricultural output, resulting in higher yields and a greater supply of fresh produce. The availability of a larger quantity of crops can meet the growing demand from local and international markets, potentially leading to increased revenue for the farm.

2. Job Creation and Employment Opportunities: The expansion of intensive horticulture tunnels requires additional labour for tasks such as planting, harvesting, and maintenance. This creates employment opportunities, particularly for the surrounding community. The hiring of local workers can contribute to reducing unemployment rates, improving livelihoods, and enhancing socio-economic well-being in the area.

   As mentioned previously Haygrove employs 800 people permanently and up to an additional 2,500 seasonal and fixed term workers in peak season. In the Hermanus area specifically, Haygrove employs 400 people permanently and up to 1,800 in peak season making it arguably that largest private employer in the greater Hermanus area. Haygrove Heaven also invests in the communities it farms, through health and education initiatives, to schooling bursaries and donations to various organisations in the surrounding community. The company's commitment to its workforce is evident through the substantial wages it has paid, amounting to more than R100 million in the past financial year alone. These salaries and wages have a direct and positive impact on the local economy, as they circulate within the surrounding area, supporting local businesses and contributing to the overall prosperity of the community. By generating employment opportunities and injecting substantial funds into the region, Haygrove plays a crucial role in promoting economic growth and stability in the area.

3. Revenue Generation and Export Potential: With a larger production capacity enabled by the expanded tunnels, the farm can generate increased revenue through the sale of fresh produce. The surplus crops can be exported to international markets, further contributing to the farm's profitability. Exporting agricultural products can enhance foreign exchange earnings for the region and contribute to the overall economic growth and development.

4. Value Addition and Market Competitiveness: Intensive horticulture tunnels allows for the cultivation of a wide variety of crops, including high value produce such as berries, which are in high demand both domestically and internationally. By diversifying the farm's product range, the proposal enhances its market competitiveness and potential for value addition. This can lead to higher profit margins and economic sustainability.

5. Economic Resilience and Diversification: Intensive horticulture tunnels offer a means of diversifying agricultural activities and income sources. By expanding the intensive horticulture tunnels, the farm can reduce its reliance on a single crop or farming method, thereby enhancing its resilience to market fluctuations and environmental challenges. This diversification contributes to the long-term sustainability of the agricultural sector in the region.

12. POLICIES AND REGULATIONS

12.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

A portion of subject property is located in the "Mountain Catchment EMOZ" and "Protected Area Buffer EMOZ".

The purpose of the "Mountain Catchment EMOZ" is to protect and conserve the ecology and water provision functions of priority unprotected mountain catchments, to ensure optimal water security for the Overstrand communities and to preserve the significant eco-cultural tourism value of the Overstrand's natural mountain landscape character. The purpose of the "Protected Area Buffer EMOZ" is to protect the integrity of National, Provincial and Municipal Nature Reserves from negative external pressures/impacts while reducing pressure on core areas and to assist in preserving their value to the eco-cultural tourism economy of the Overstrand through alignment of appropriate land use and regulation.

These proposed tunnels are not located in the EMOZ, and it is not predicted to have an effect on the EMOZ.

12.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The top portion of the subject property is located in the "Landscapes HPOZ" and its purpose is to protect and enhance landscapes identified as having high natural, scenic and heritage significance and which contribute to the character and sense of place in the Overstrand and its economic base.

These proposed tunnels are not located in this HPOZ, and it is not predicted to have an effect on the HPOZ.

12.3 Spatial Planning Policies

WCLPGRA

The policy promotes appropriate growth of the rural economy in appropriate locations. Policy proposals in the WCLPGRA pertinent to this proposal are recorded as below:
Enhancing the Economic Viability of Farms through Intensification: The aim of intensification on farms is to boost economic viability by increasing capital investment and labour to achieve higher yields and output. In line with the WCLPGRA, this application seeks to grant the property owner the appropriate land use rights to implement agricultural intensification, thereby enhancing the farm's economic sustainability.

Preserving Agricultural Landscapes and Minimizing Fragmentation: Agricultural fragmentation occurs when farms are subdivided into smaller units, compromising their

agricultural viability. This proposal is not synonymous with fragmentation. On the contrary, it enables the property owner to increase agricultural output, aligning with the objectives outlined in the WCLPGRA to discourage fragmentation and promote the consolidation of agricultural land.

Maintaining Consistency and Scale within the Farm Precinct: The proposed tunnels conform to the prescribed height restriction of 12 meters, ensuring that they remain consistent with the scale and structures found on neighbouring farms. By reflecting similar characteristics and adhering to the appropriate scale, the proposal aligns with the desired farm precinct environment as outlined by the WCLPGRA.

PSDF

The PSDF is a product of a provincial inter-departmental and inter-governmental collaboration under the guidance of the inter-departmental steering committee in collaboration with the private sector, academia, and non-governmental organisations. This broad participatory process has created a shared spatial vision that is intended to inform spatial development patterns in urban and rural areas in the province.

Consistency with the PSDF

Promoting Rural Development and Agricultural Investment: The primary objective of this proposal is to prioritize rural development by increasing investment in agricultural activities on the subject property, aligning with the goals set forth by the PSDF. By directing resources and efforts towards agricultural development in the Hemel en Aarde rural area, this proposal aims to stimulate inclusive economic growth, create employment opportunities, and uplift the local community.

Enhancing Agricultural Expansion and Diversification: The implementation of this proposal will lead to increased agricultural output, enabling the farm owner to expand and diversify their crop production. By introducing intensive horticulture tunnels, a wider range of fruits and crops can be cultivated, thereby promoting the diversification of agricultural activities in the region. This diversification not only strengthens the resilience of the agricultural sector but also opens up new markets and revenue streams for the farm.

Leveraging Comparative Strengths of the Western Cape: The Hemel en Aarde area has been recognized for its comparative strengths in terms of high agricultural output and performance. This proposal seeks to capitalize on these strengths by further enhancing the agricultural sector's productivity and economic contribution. By maximizing the potential of the rural area's agricultural resources and expertise, the proposal aims to bolster the Western Cape's position as a leading agricultural region, attracting investment, and fostering sustainable growth.

Promoting Regional Cooperation and Collaboration: The proposed expansion of intensive horticulture tunnels encourages collaboration and knowledge-sharing among farmers and agricultural stakeholders in the Hemel en Aarde Valley. Through cooperative efforts, such as sharing best practices, accessing resources, and jointly marketing agricultural products, the proposal fosters a supportive and interconnected agricultural community. This cooperation not only enhances the overall productivity and

competitiveness of the region but also strengthens social and economic ties within the local farming network.

Strengthening Food Security and Sustainable Agriculture: The expansion of agricultural activities through intensive horticulture tunnels contributes to strengthening food security in the region. By increasing crop yields and diversifying the range of produce, the proposal enhances the availability and accessibility of fresh, locally grown food. Moreover, the sustainable practices employed in intensive horticulture tunnels, such as efficient water usage and reduced chemical inputs, promote environmentally friendly and resource-efficient farming methods, ensuring the long-term sustainability of agricultural production in the Hemel en Aarde Valley.

MSDF

The MSDF plays a crucial role in identifying areas for growth and implementing policies that benefit the residents of the OM. The SDF contains various policy proposals, and the ones relevant to this proposal are outlined below:

Development of Strong Local Economy in Rural Areas: The Hemel en Aarde region already possesses a relatively robust economic base. The approval and implementation of this proposal will further strengthen the economic foundation in the rural area. By promoting agricultural activities and investment, the proposal aligns with the SDF's objective of supporting and enhancing the local economy.

Protection of Agricultural Resources: This proposal not only safeguards the existing agricultural resource base but also aims to increase the agricultural output on the subject farm, in line with the goals set by the SDF. The expansion of intensive horticulture tunnels will contribute to the preservation and sustainable use of agricultural resources, ensuring their long-term viability and productivity.

Spatial Proposal Plan: The subject property is designated as a core agricultural area within the SDF's spatial proposal plan. The proposed implementation of intensive horticulture tunnels aligns harmoniously with this land use designation. It supports the strategic vision of utilizing the area for agricultural purposes and emphasizes the importance of agricultural activities within the designated core agricultural zone.

13. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

Spatial justice

The proposal contributes to spatial justice by promoting improved access to and use of land. By implementing additional horticulture tunnels, Haygrove aims to redress past spatial imbalances and provide opportunities for disadvantaged communities and individuals to participate in agricultural activities. The tunnels enable the cultivation of high-value crops, creating employment and economic opportunities for local residents, including those in informal settlements and areas affected by poverty.

Spatial sustainability and efficiency

The proposal prioritizes spatial sustainability by optimizing land use and resource efficiency. The horticulture tunnels allow for the intensive cultivation of crops within a relatively small footprint, maximizing land productivity. This approach minimizes the need for large expanses of land while ensuring a high agricultural output. Additionally, Haygrove considers the protection of prime agricultural land and strive to minimize negative environmental impacts through sustainable farming practices.

Spatial resilience

The proposal embraces efficiency by optimizing existing resources and infrastructure. The horticulture tunnels utilize advanced irrigation systems, precision farming techniques, and climate control technologies to maximize crop yields while minimizing water and energy consumption.

Good administration

The Overstrand Municipality has demonstrated a solid history of effectively incorporating public participation into its administrative processes. Public participation is a crucial aspect of the land use planning process.

This process allows individuals who may be impacted by the proposal to provide feedback and raise any concerns or make suggestions that may lead to a more favourable outcome for all parties involved. All comments received will be carefully reviewed and taken into consideration before being addressed appropriately.

14. EVALUATION

The proposal for the expansion of intensive horticulture tunnels on the property holds significant benefits and justifications for its approval. It should be reiterated, no additional agricultural fields are being proposed, only the existing field are proposed to be enclosed by the intensive horticulture tunnels. The application aligns with various planning principles, including promoting rural development, economic growth, and the protection of agricultural resources. Moreover, it adheres to the guidelines set forth by the Spatial Planning and Land Use Management Act and the Overstrand Municipality's By-Laws. By considering the positive socio-economic impacts, environmental sustainability, and the compatibility of the proposal with the existing agricultural landscape, it becomes evident that allowing the additional horticulture tunnels is a prudent decision.

Firstly, approving the expansion of intensive horticulture tunnels will enhance the economic viability of the farm and contribute to rural development. The increased investment in agricultural activities will lead to improved productivity, income generation, and employment opportunities within the Hemel en Aarde Valley and Hermanus area. This aligns with the overarching goal of promoting inclusive economic growth and ensuring a strong local economic base. Furthermore, the expansion of horticulture tunnels on the property capitalizes on the comparative strengths of the Western Cape, particularly the high agricultural output of the Hemel en Aarde Valley. By maximizing the agricultural potential of the region, this proposal reinforces the significance of the area as a valuable agricultural hub, contributing to the overall prosperity and food security of the region.

From an environmental standpoint, the proposal demonstrates a commitment to sustainable practices. Intensive horticulture tunnels are known for their water-saving capabilities, efficient resource utilisation, and reduced pesticide application. These factors contribute to the conservation of water resources, minimized environmental impact, and overall ecological sustainability.

Lastly, the proposal aligns with the principles of spatial planning and land use management, as outlined in SPLUMA. It adheres to the principle of spatial justice by addressing past imbalances, promoting inclusion, and redressing access to land. The application also adheres to the principle of spatial sustainability, ensuring that land development is within fiscal means, protects prime agricultural land, and considers environmental and social costs.

In conclusion, the expansion of intensive horticulture tunnels on the property offers numerous benefits and aligns with various planning principles. By promoting rural development, economic growth, and environmental sustainability, this proposal will strengthen the agricultural enterprise, contribute to food security, and enhance the overall well-being of the community. Granting approval for the expansion of horticulture tunnels on the property is a decision that will yield positive outcomes for both the farm owners and the surrounding region.

15. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

15.1 Amendment of condition of approval 1(c) dated 13 July 2012 to allow the proposed expansions of the agricultural industry in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020.

15.2 Permanent Departure from the eastern 30m building line to 12,04m to allow the proposed extension of the pack shed in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

15.3 Permanent Departure from the eastern 30m building line to 6,44m to allow the existing pergola in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

15.4 Amendment of condition of approval 3(a) contained in letter of approval dated 9 February 2016 to allow the proposed expansions of the tunnels in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020;

15.5 Permanent Departure from the northern 30m building line to 9m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.6 Permanent Departure from the western 30m building line to 9m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.7 Permanent Departure from the northern 30m building line to 11m, 12m & 20m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.8 Permanent Departure from the western 30m building line to 12m, 13,5m, 14m, 14,5m & 15,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.9 Permanent Departure from the southern 30m building line to 23,7m & 23,8m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of

the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.10 Permanent Departure from the southern 30m building line to 5m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.11 Permanent Departure from the western 30m building line to 10m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.12 Permanent Departure from the southeastern 30m building line to 19m & 24,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.13 Permanent Departure from the southern 30m building line to 7,3m & 8m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.14 Permanent Departure from the eastern 30m building line to 3,3m & 5,5m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.15 Permanent Departure from the eastern 30m building line to 3m to allow the existing intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.16 Permanent Departure from the eastern 30m building line to 3m to allow the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.17 Permanent Departure from the allowable floor space in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;

15.18 Amendment of an approved site development plan in terms of Section 16(2)(L) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and

15.19 Determination of an administrative penalty in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

RCAL 94/587 Annexure D 1/69

Loretta Gillion

From: michael farr <; >
Sent: Wednesday, 10 April 2024 16:21
To: Loretta Gillion
Subject: Haygrove Farm TP- n Aneal (Olivia)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
11 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Dear Loretta

I am writing to express my unhappiness about what appears to be unfettered developments from Haygrove farm to the detriment of the Hemel-en-Aarde valley. I have noted that several contraventions have been listed:
1. The encroachment of building lines and increasing the maximum allowable floor space are being contravened from a land use perspective.
2. The tunnels have been erected without prior approval and municipal consent.
3. The contravening tunnels are encroaching on the building lines.
4. Of the 8.337 ha tunnels built without prior approval, approximately 9000m2 was built across the building lines.
5. The tunnels are/will be a significant eyesore and will destroy the beauty of the valley.

I am also astounded by the seasonal jobs of only temporary employment. My concern is that after this period, where will the seasonal workers return to, if they are without employment. Would Haygrove simply terminate them without any further obligation?

Further, I note that Haygrove claims that with the existence of the expanded tunnels, "the surrounding area is still considered a tourist attraction and will not detract from the overall visitor experience." This is hard to believe with some 22,000 hectares of tunnels!

I would hope that Haygrove farm would be amenable to addressing the issues that I have highlighted. I have no objections to the berry farms and I acknowledge that Haygrove has made a significant success of its business operations. I am sure that a solution in the general interests of the affected community in this particular area can be found.

Yours sincerely
Michael Farr

FILE NO. PIN 94/587
Hemel & Aarde
SCAN NO.
COLLABORATOR NO.
2029369

TP-N Theart (H.Olivier)

2/69

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
22 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

NICHOLAS SMITH ATTORNEYS
ENVIRONMENTAL LAW SPECIALISTS

FILE NO. PTN94/587
Hemel & Aarde
SCAN NO.
PTN 94
COLLABORATOR NO.
2034911

Overstrand Municipality
16 Paterson Street
Hermanus
7200
Attention: Ms. Loretta Gillion // Mr. Henk Olivier
By email: loretta@overstrand.gov.za; holivier@overstrand.gov.za

Our ref: NDS/sg/R39-001
Your ref: Loretta Gillion

19 April 2024

Dear Ms. Gillion and Mr. Olivier

***RE*: OBJECTIONS TO LAND USE APPLICATIONS DELIVERED IN TERMS OF THE *OVERSTRAND MUNICIPALITY AMENDMENT BY-LAW ON LAND USE PLANNING, 2020*: *IN RE: PORTION 94 OF THE FARM HEMEL-EN-AARDE NO. 587, DIVISION OF CALEDON*: APPLICATION FOR FIFTEEN (15) PERMANENT DEPARTURES; AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL, AND DETERMINATION OF AN ADMINISTRATIVE PENALTY**

Introduction and procedural aspects

1. We act for the objectors described in annexure "A" hereto.

2. Our clients' properties are proximate to *Portion 94 of Farm Hemel-en-Aarde No. 587 Caledon* (referred to herein as "the subject-property"). As such, our clients are directly and adversely affected by the land use applications at issue in this matter.

3. The stipulated closing date for objections to the present application is referred to in the municipal public notification of the application and in the municipal "*Notification to potentially affected property owner*" dated 11 March 2024. They both refer to the deadline for the delivery of objections by 19 April 2024.

4. These objections on behalf of our clients have been delivered in compliance with the Municipality's procedural stipulations.

Defective company resolution

5. There is no reference to an application for the determination of an administrative penalty in the company resolution signed by the directors of Haygrove Heaven (Pty) Ltd ("Haygrove") on 1 June 2023 authorising Mr. S. Tager "*... in his capacity as a*

19 APR 2024

Nicholas Smith - BA (Hons) LLB ADL LLM (Marine & Environmental Law)

T:+27 (0) 21 424 5826 | C: +27 (0) 82 375 0905 | nicks@nsmithlaw.co.za
www.nsmithlaw.co.za | 3rd Floor, 114 Bree Street, Cape Town, 8001

director to act on behalf of the company regarding the applications for the following applications: ***DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN AND AMENDMENT OF CONDITIONS OF APPROVAL***".[1] (Bold text and capitals as in the original.)

6. It is indisputable that Haygrove's company resolution does not presently include any directors' resolution authorising the present application to include the application for an administrative penalty.

7. The power of attorney signed the same day by Haygrove's Mr. Tager and authorising WRAP Project Office (Pty) Ltd ("WRAP") to make application for "*departure, amendment of an approved site development plan, and amendment of conditions of approval*" is also defective for purposes of progressing the administrative penalty application in the present proceedings.

8. If Haygrove is minded to pursue its application for an administrative penalty, as it must be in the circumstances, then a suitably worded company resolution must be effected afresh by Haygrove's directors. The same applies to the required power of attorney.

9. We submit that the process of Haygrove applying for the penalty must commence afresh, and must be finalised before there can be any consideration of Haygrove's applications for additional, and enhanced land use rights. We make the submission that the former application must precede the latter applications for the patently obvious principal reason that Haygrove cannot reasonably expect the Municipality to decide the land use applications for *future* land uses on their merits in the absence of the municipal determination of an appropriate administrative penalty for Haygrove's significant past and *prima facie* willful transgressions.

10. WRAP acknowledges in terms the nature, extent and duration of Haygrove's breaches of the *Overstrand Municipality Amendment By-law on Municipal Land Use Planning, 2020* (the "Planning By-law"), the municipal land use scheme, and some of the conditions of approval set out in the municipal approvals granted to Haygrove in July 2012 and February 2016 (both of which form part of annexure "C" to WRAP's motivation report, which is titled "*Historic Approval*").

11. For the reasons we advance below, and in our preliminary point in these objections, we submit that it is not legally defensible for Haygrove to deliver a composite application, as it has purported to do in this instance.

12. It would be irregular for the Municipality to purport to decide the applicant's present application for the determination of an administrative penalty simultaneously with or after deciding the other land use applications at issue.[2]

13. We deal with the administrative penalty aspect of the present application in more detail under the next four headings below. We set out our submissions regarding the prematurity of Haygrove's applications for future land uses in a situation where Haygrove must first get its house in order regarding significant past contraventions of

---

[1] Annexure "A" to WRAP's motivation report. Haygrove's resolution that accompanies the land use application is dated 1 June 2023.

[2] The administrative penalty application is currently framed as the 19th and final application in the sequence set out in WRAP's motivation report (see paragraphs 5.1 to 5.19; paragraphs 6.1 to 6.19; and 15.1 to 15.19 of that report, where the various applications are described).

the Planning By-law, the land use scheme and various conditions in the approvals granted by the Municipality to Haygrove in the past.

Point *in limine*: Haygrove's applications for enhanced land use rights (permanent departures, and amendments to Haygrove's site development plan ("SDP") and various currently applicable conditions of municipal approval) are premature insofar as they are included together with Haygrove's application for an administrative penalty (which should be determined and finalised first, and separately from the land use applications)

14. In these objections we distinguish between the prospective land use applications on the one hand, and the application for the determination of an administrative penalty on the other. The latter application is for historic contraventions by Haygrove of the municipal land use scheme and the Planning By-law. Specifically, the historic contraventions pertain to Haygrove unlawfully erecting some 8,337 hectares' of horticulture tunnels on the subject-property.

15. We submit that Haygrove's 18 applications for future land uses (including fifteen permanent departures; an amendment to SDP; and amendment to previous conditions of approval) are all premature in the particular circumstances of Haygrove's admitted unlawful conduct to date.

16. We submit furthermore that the application for the determination of the appropriate administrative penalty in this instance, for Haygrove's unauthorised construction of over eight hectares of intensive horticulture tunnels must be determined, and finalised, first.

17. It is only once Haygrove can approach the Municipality with clean hands, having first regularised its admitted unlawful conduct and paid the administrative penalty determined for those contraventions that it can reasonably expect to approach the Municipality to determine the merits of its land use applications, which entail applications for additional or enhanced future land uses.

18. In any event and as already pointed out and as matters stand, the administrative penalty application is not presently authorised by any company resolution by Haygrove or a suitably worded power of attorney and is thus fatally deficient. To the extent that Haygrove intends resolving to apply for the determination of an appropriate administrative penalty, it should commence that (stand-alone) application afresh. The submissions in support of this principal proposition are set out below.

19. The present application includes, almost as an afterthought (insofar as it is the last of the 19 discrete applications[3] described in WRAP's motivation), an application for "*the determination of an administrative penalty in terms of section 16(2)(q) of the By-law for the **unauthorised construction** of **intensive horticulture tunnels** on the property.*"[4] (My underlining and bold text.) WRAP will no doubt submit that in including the administrative penalty application as the last in the sequence of applications it is merely following the statutory framework.[5] The reason that an application for the determination of an administrative penalty is included last among the applications described in

[3] See paragraphs 6.1 to 6.19 of the motivation report prepared by WRAP dated August 2023 (and amended in February 2024).

[4] See the municipal notification of the present application.

[5] With particular reference to section 16(2)(a)-(q) which lists an application to determine an administrative penalty as the last category of application that can be sought under that provision.

section 16(2)(a)-(q) of the Planning By-law is because that category of application was added to section 16(2) when the relevant amendments to the Planning By-law took effect.

20. WRAP's description of Haygrove's unauthorised construction of structures on over eight hectares of the subject-property amounts to an indication of *prima facie* unlawful conduct in terms of the Planning By-law. As part of its determination of Haygrove's future application for an administrative penalty the Municipality should also have regard to the offences and penalties set out in section 84 of the Planning By-Law.

21. The Planning By-law also regulates the consequences of such conduct, and its rectification. Section 16(2)(q) of the Planning By-law provides as follows:

> "*The owner or a person authorised by the owner may apply in terms of Chapters IV and V to the Municipality for the following in relation to development of the land concerned:*
> ...
> *(q) determination of an administrative penalty.*"

22. The term "*administrative penalty*" in the Planning By-law[6] stipulates that it "*is implemented when a person transgresses the land use scheme and provisions including a failure to comply with a duty or requirement in terms of the provisions of Section 84 of the By-Law;*".

23. In this instance WRAP's motivation admits Haygrove's unauthorised conduct. WRAP does so in a manner directed at downplaying or minimising the extent of Haygrove's historical transgressions: "*Over the past few years, Haygrove has made additions to the property by implementing intensive horticulture tunnels. While some of these tunnels have not yet received formal approval from the municipality, it is essential to prioritise compliance with the By-Law.*" This is very bland language when used to describe significant and long-extant breaches of the Planning By-law, the land use scheme, and various conditions of Haygrove's 2012 and 2016 municipal approvals.

24. Whilst we agree with WRAP that prioritising compliance is the immediate imperative, it is not correct for WRAP to state so glibly that "*some of these tunnels*" are not approved, as if they feature as a minority. The incontestable fact is that the majority of the existing horticulture tunnels on the subject-property are not approved. This is shown with reference to the extracts from WRAP's report cited directly below.

25. WRAP states the following in this context: "*As mentioned above Haygrove has the intention to obtain approval to increase and expand on their approved intensive horticulture tunnels. The approval of 2016 allowed for the erection of 5,8727ha of tunnels, which have subsequently been expanded upon* [without any requisite approval i.e. unlawfully]."[7]

26. Under the *verbatim* extract above and in the table that follows in WRAP's motivation report, WRAP confirms that Haygrove obtained approval, in February 2016, to erect tunnels covering a surface area of some 5,8727 hectares on the subject-property.

---

[6] See the definitions section of the Planning By-law (section 1).

[7] Second unnumbered paragraph under paragraph 5.4 on page 7 of WRAP's motivation report.

27. In the same table WRAP acknowledges that Haygrove also erected what WRAP refers to as "*existing and not approved intensive horticulture tunnels*" occupying a further 8,337 hectares of the subject-property. (My underlining.)

28. In terms of future proposed operations, Haygrove intends erecting further tunnels, if its land use applications succeed in the fullness of time, comprising an additional 7,746 hectares. Those are proposed in addition to the already approved tunnels occupying some 5,8 hectares and the 8,3 hectares of tunnels constructed in contravention of the Planning By-law and Haygrove's conditions of approval.

29. In our submission, Haygrove's "*proposal ... to apply for both the contravening tunnels as well as the new tunnels*" simultaneously in the present application is untenable on the facts and circumstances of the matter. That is with particular reference to Haygrove's previous unlawful conduct, which must be rectified before Haygrove can reasonably expect the Municipality to consider the grant of enhanced land use rights.

30. We reiterate that Haygrove's conduct in contravention of the By-law must be regularised by the municipal determination of the administrative penalty and by Haygrove's payment of that penalty, before any land use application for additional tunnels' construction can be considered on its merits by the Municipality.

31. The fact of the matter is that the applicant previously obtained land use planning approval for 5,872 hectares' surface area for tunnels. In addition to developing those it unlawfully built significantly more tunnels. The tunnels built in contravention of the Planning By-Law occupy some 8,337 hectares (i.e. a larger total surface area than that occupied by the tunnels authorised by the Municipality in 2016).

32. We submit it is only because Haygrove now seeks municipal approval to permit more tunnels (occupying a further 7,746 hectares), all within the existing building lines, that it belatedly seeks now to regularise the unlawful historic expansion that occurred after the 2016 municipal approval.

An administrative penalty must be finalised *before* the applicant can apply for additional and enhanced land use rights

33. Section 90 of the Planning By-law makes clear the "*stand-alone*" nature of an application for an administrative penalty. The particular substantive requirements relevant to the information that the applicant for such a penalty must furnish to the Municipality illustrate this submission.

34. Section 90(1) of the Planning By-law makes plain that a person in contravention of the By-law must submit "***an application*** *to rectify the contravention ...*".

35. On a proper contextual, textual and purposive interpretation of section 90(1) it is clear that an application for an administrative penalty which relates to a person being "*... in contravention of this By-law...*" must be determined independently and as a matter of law, as a stand-alone application.

36. It is also as a matter of logic that any such historic and long-running contravention must be remedied before an application for additional or enhanced land uses can be sensibly entertained by the Municipality. The rectification of Haygrove's substantial historically unlawful land uses must, in accordance with the requirements of the rule of law, be regularised before a new application can be embarked upon for additional land

uses. Put at its simplest, Haygrove cannot apply for further enhanced land use rights until it has atoned for its previous contraventions, by properly initiating, and having the Municipality finalise, an application for the determination of the administrative penalty appropriate in this instance.

37. The practical reason why the application for the determination of the administrative penalty must be decided first, and entirely separately from the other land use applications is this: By the applicant purporting to deliver and have determined a composite application, the applicant's representatives appear to regard the determination of the administrative penalty, and the conclusion of that process by the date of the Municipality's decision, as a *fait accompli*. In other words, the applicant clearly anticipates the decision to determine the administrative penalty as a foregone conclusion. As such, the applicant does not appear to anticipate that the determination of the administrative penalty might be challenged in subsequent administrative appeal proceedings or in judicial review proceedings that might follow. (I submit in this regard that it is indisputable that a decision of first instance pertaining to the determination of an administrative penalty can be the subject of an appeal. This is manifestly clear from the provisions of section 78 of the Planning By-law which makes provision for the identification of the Executive Mayor as appeal authority in respect of decisions contemplated *inter alia* in section 61 of the Planning By-law. Section 61 pertains to decisions regarding "*any application contemplated in section 16(2) of which an application for the determination of an administrative penalty is one category*".[8] The determination of the amount of the administrative penalty might be challenged by the applicant if its representatives deem the penalty amount, as calculated by the Municipality in terms of section 90(5) of the Planning By-law, to be excessively punitive. On the other hand the Municipality's decision determining the penalty amount might be appealed by the objectors if they deem the *quantum* of that penalty insufficient in the circumstances.)

38. The point to be underscored is that the final determination of the administrative penalty that the applicant has acknowledged must be paid by virtue of Haygrove's representatives' unauthorised construction of horticulture tunnels on a surface area of some 8,337 hectares of the subject-property, must be effected fully and finally before the new land use applications can be determined on their merits. We will address the necessary legal submissions on this aspect in the event that the MPT inclines to grant our request for an audience, and the right to deliver oral submissions, when the present application is tabled before the MPT. We make the latter submission on the assumption that Haygrove persists with the application in its present form, which as we have shown would be a fundamental error. We submit that error would be fatal to the present application's ultimate prospects of success, whether before the MPT as decision-maker of first instance; the executive mayor in any subsequent administrative appeal; or the Western Cape High Court in judicial review proceedings under the Promotion of Administrative Justice Act. Our clients' rights are and remain reserved in this regard.

The requirements of section 90 of the Planning By-Law pertaining to applications for the determination of an administrative penalty

39. As part of rectifying its construction of tunnels across some 8,7 hectares of the subject-property in contravention of the Planning By-law, Haygrove must apply for the

[8] This is with particular reference to the provisions of section 16(2)(q) pertaining to applications for the determination of an administrative penalty.

determination of administrative penalty. The Municipality must then decide that application on its merits.

40. The requirements for applications for administrative penalties are set out in section 90 of the Planning By-law.

41. As required by section 90(1) of the Planning By-law, the applicant, who is a person in contravention of the By-law and who has submitted an application to rectify the contravention, must make formal application for the determination of the administrative penalty.

42. The procedural requirements and administrative aspects as well as the substantive requirements are set out in section 90(2). They include paying the prescribed fee and providing the information contemplated in section 90(3).

43. The applicant bears the onus of providing the information set out under section 90(3) of the Planning By-law.

44. The report regarding the administrative penalty must then be considered, in this instance, by the Municipal Planning Tribunal or "MPT".

45. We submit, with particular reference to the detailed procedural and substantive requirements in section 90 of the Planning By-law that it forms a particular category of application insofar as it pertains to the *ex post facto* regularisation of unlawful conduct, including by the determination and payment of an administrative penalty. As such, this comprises the retrospective aspect of any land use historically and unlawfully undertaken. As such, there is a dichotomy between that type of land use and prospective land uses, such as those that comprise the balance of the present application.

46. We suggest that for present purposes and in the context of the applicant providing all relevant information in support of Haygrove's application for the determination of administrative penalty, that the present purported motivation by WRAP is insufficient. WRAP pays lip service to the substantive requirements of section 90(3). While it is clear from the information provided by WRAP that the contraventions extend over 8,337 hectares, WRAP provides no information as to the duration of the contravention, nor its gravity. The same deficiency permeates the second jurisdictional requirement in section 90(3) which pertains to the conduct of the person allegedly involved in the contravention. Other than a reference to its profit motive, there is no explanation of Haygrove's conduct. What is clear from the superficial explanation provided is that it gives the lie to Haygrove's lofty statements under the heading "*Background and intent*" and with particular reference to how Haygrove "*measures its success and impact through a triple bottom line approach: Planet, People and Profit*".

47. It is untenable for WRAP to assert that Haygrove's contravention of the Planning By-law "*... was never driven by any malicious intent*".[9] Any suggestion that unauthorised construction of intensive horticulture tunnels totalling some 8,337 hectares on the subject-property not being done willfully, given the explicit and unequivocal proscription in paragraph 3(a) of the historic approval must be regarded as an aggravating factor in the Municipality's determination of the administrative penalty. WRAP's suggestion that

[9] Page 12 of WRAP's motivation under the heading "*The conduct of the person (allegedly) involved in the contravention*".

Haygrove did so with no intention of breaching the municipal requirements is not sustainable on the facts. In this context, the applicant is not so much "*addressing this matter proactively*" as the applicant would have it[10] but is doing so with the expectation that the prospective applications will be approved by the Municipality. That assumption is fundamentally incorrect. This aspect also goes to the reasons why the determination of the administrative penalty should be fully and finally completed by the Municipality before its officials can give any substantive attention to the prospective applications.

48. It follows, in conclusion on this preliminary point that the Municipality should direct that the applicant should proceed first and exclusively with the application for the determination of the appropriate administrative penalty for Haygrove's various infractions, which process should be fully and finally concluded before the other applications can be formally instituted. Those infractions are not limited to the erection of structures in contravention of the applicable land use scheme and the Planning By-law, but included breaches of various conditions of Haygrove's previous municipal approvals.

49. We point out for the sake of completeness that as a matter of administrative procedure, and in respect of administrative penalty provisions that in many instances are worded exactly the same as in the Planning By-law, the City of Cape Town obliges the completion of the administrative penalty process as a stand-alone application. The latter application must be duly completed before any application for enhanced rights can be pursued. In this regard we also point out that the provisions of s129(8)(a) to (d) of the City of Cape Town's Municipal By-law (most recently amended in 2019) are echoed almost word-for-word in four of the substantive requirements set out in the Municipality's Planning By-law as amended in 2020.[11]

Insufficient and/or inadequate information included in the present administrative penalty application

50. Section 90(3) of the Planning By-law obliges an applicant for an administrative penalty (in peremptory terms, and to the satisfaction of the Municipality) to provide certain information. The obliged information includes "*... a report by a quantity surveyor in matters of unauthorised building/construction;...*".[12]

51. No such quantity surveyor's report accompanies the application delivered by WRAP on behalf of Haygrove. In the circumstances, and with particular reference to the information in the quantity surveyor's report informing the determination of the amount of the penalty payable, this is a material omission.

52. I submit in the circumstances that when Haygrove delivers its stand-alone administrative penalty application in terms of section 16(2)(q) read with section 90 of the Planning By-law, it must ensure the inclusion of the obliged quantity surveyor's report.

53. We submit that it is insufficient for WRAP to suggest that the information contained on paragraph 13 of its motivation is sufficient for purposes of compliance with the

---

[10] Page 11 of the motivation report.

[11] That is with particular reference to sections 90(3)(a), (b), (d) and (e) of the Planning By-law under which the present application for the determination of an administrative penalty was delivered.

[12] Section 90(3)(c) of the Planning By-law.

substantive stipulation in section 90(3) of the Planning By-law. No objectively verifiable information is provided in respect of the asserted "*total cost of tunnels*" that comprise the "*+/- 8,337ha of contravening tunnels*".

54. It is also noteworthy that Haygrove concedes that the tunnels "*... are in use*" and as such, that the unlawful conduct has not stopped.

55. WRAP's assertion that the property owners have not previously contravened the Planning By-law on the subject-property does not stand objective scrutiny on a consideration of the facts of the present application. Haygrove has breached certain of the conditions of the rezoning approval granted to it on 13 July 2012. For example, condition 1(b) to the effect that the rezoning was approved "*... subject to the following conditions: ... (b) that all other development parameters, as prescribed in the relevant Zoning Scheme, be complied with.*" Furthermore, there is no indication that Haygrove has complied with the requirements of condition 1(f).

56. It is also incontrovertible that Haygrove is currently in breach of the condition set out in paragraph 3(a) of the Municipality's record of decision dated 9 February 2016. Haygrove did not comply with the requirement to place the tunnels as indicated on the site development plan at issue. Nor did Haygrove apply for possible future tunnels. It simply constructed them without approval.

57. On an objective interpretation, it is clear that condition 3(a) in the 2016 municipal approval envisages discrete obligations. The first of those obligations is that the tunnels approved in 2016 were limited to those indicated on the approved site development plan[13] submitted with the application. It is common cause that Haygrove has breached this obligation. In WRAP's motivation report it is made clear that Haygrove has erected and developed significantly more unapproved tunnels since 2016 than those that were approved then. That amounts to a flagrant and inexplicable breach of the first obligation articulated in condition 3(a) of the 2016 municipal approval.

58. The second obligation in condition 3(a) is that Haygrove was obliged to apply "*for <u>any</u> possible future tunnels*" when the 2016 approval was granted. On the facts, it is indisputable that Haygrove breached that obligation in condition 3(a) too.

59. The consequence is that these breaches also constitute contraventions of the land use scheme read with the Planning By-law.

60. It follows in our respectful submission that when the stand-alone application for an administrative penalty is delivered by WRAP in the future, together with the appropriate company resolution by Haygrove and a suitably worded directors resolution, that all relevant contraventions should form the subject-matter of the stand-alone application for the determination of an administrative penalty.

61. It is also not clear whether detailed building plans were ever submitted to the Municipality's building department for approval, as required by condition 3(b). Haygrove is also, on WRAP's version in breach of the condition at paragraph 3(d) to the effect "*... that all the other development parameters as prescribed in the Zoning Scheme Regulations be retained.*" The tunnels' covering is in many instances also

[13] 14/0731/01.

non-compliant with the requirements of condition 3(i), to the effect that "*... the tunnels either be of a non-reflective material or covered by non-reflective netting*".

62. In the circumstances, and for WRAP to assert that "*to the knowledge of* [WRAP's] *office, the property owners have not previously contravened the By-law on the subject-property*"[14] is at best superficial and at worst misleading.

63. The duties of the applicant include that it must ensure that all information furnished to the Municipality is accurate; and that no misrepresentations are made. The provision of inaccurate, false or misleading information is a statutory offence.[15] We suggest that WRAP has not complied with its statutory obligations in the context of the information placed before the Municipality, purportedly in support of the application for the determination of administrative penalty.

64. As already pointed out, the application for the determination of an administrative penalty must in our submission be determined before the other land use applications can be considered on their merits. As such, the latter applications should form a discrete (i.e. separate) application to the application for the determination of the administrative penalty. This submission is based on a contextual, textual and purposive interpretation of the relevant provisions of the Planning By-law as well as the Municipality's records of decision of the land use approvals that already regulate the approved land uses at the subject-property.

Outstanding/incomplete information pertaining to Haygrove's compliance with historic approvals

65. The present application makes plain the applicant's intention to seek the amendment of condition 3(a) of the approval granted to it by the Municipality on 9 February 2016 (which forms part of annexure "C" to WRAP's motivation report).

66. As we have already explained, that application, like the applications for permanent departure is premature in light of the applicant's obligation to apply for an administrative penalty and to ensure the completion of that process before an application for new land use rights can be obtained from the Municipality.

67. The present application makes no reference to the condition recorded at paragraph 3(b) to the effect "*... that detailed building plans be submitted to the Building Department for approval; ...*".

68. This is a matter of fact: either the applicant has complied with the requirement to submit building plans in order to put the Municipality in a position to authorise such plans in terms of the National Building Regulations and Building Standards Act; or the applicant has not done so. Needless to say, the applicant includes no confirmation of its compliance with the requirement in condition 3(b). This aspect can be suitably investigated by the Municipality and reported upon by the applicant as and when it delivers its application for land use rights pertaining to permanent departures, amendment of condition 3(a) and the like, and after the final conclusion of the process pertaining to the administrative penalty application, which must be made first and stand-alone.

---

[14] Page 15 of the motivation report.

[15] As contemplated in section 84(1)(e).

Haygrove's continued and willful non-compliance with condition 3(i) of the 2016 approval

69. In addition to the applicant's obligation to submit detailed building plans to the municipal building department for approval (which appears not to have been done to date) the 2016 approval included a condition to the effect "*... that the tunnels either be of non-reflective material or covered by non-reflective netting*".

70. Our instructions are that in many instances, this condition has been observed only in the breach: in other words, there are significant portions of the horticulture tunnels which are clad only in white plastic and are not covered by any form of non-reflective material.

71. We submit that to the extent that the applicant is or might be in breach of conditions 3(a) and/or 3(i) that those breaches must be rectified before the application can proceed afresh with its proposed applications for permanent departures, amendment of conditions of approval and the like. Again, we underscore that the latter applications can be made only once the administrative penalty application has been finally determined on its merits as a preceding and stand-alone application.

Substantive objections regarding the (lack of) merit in the land use applications

72. Chapter VI of the Planning By-law sets out the substantive general criteria for decision making.

73. In an abundance of caution, and in addition to the preliminary point set out above, this objection deals, to the extent strictly necessary at this juncture, and in the particular facts and circumstances of the present matter, with the wholesale lack of any substantive merit in the land use applications for future and enhanced land use rights. The aforesaid land use applications are described in paragraphs 6.1 to 6.18 of the applicant's motivation against the general criteria set out in section 66 of the Planning By-law. We specifically reserve our clients' rights to supplement their substantive objections in due course, and if/when Haygrove sees fit to apply afresh for enhanced land use rights after the Municipality's determination of the administrative penalty application first, and as a stand-alone application.

74. Of principal relevance in this instance is the requirement in section 66(1)(c) of the Planning By-law which obliges the municipal decision-maker, when considering an application, to have regard to "*the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses; ...*".

Submissions as to why the land use applications are, objectively viewed, undesirable and must therefore be refused by the Municipality on their lack of objective merit

Introduction

75. By way of introduction, we submit that the applications for land use planning approvals have been summarised somewhat superficially in the Municipality's notice of the application. Although there is a reference to the various departures, there is no specific indication that what the applicant seeks is permanent departures. One has to have regard to the provisions of the Planning By-law in order to establish that permanent departures are sought. When the various categories of land use planning activities (including, as the last application, the determination of the administrative penalty) is

considered against the detail set out under paragraphs 5.1 to 5.19 of the applicant's planner's report.[16]

76. The first point to be made here is that the applicant, on its own version has developed some 8,337 hectares of the subject-property with what it describes as "*existing and not approved intensive horticulture tunnels*". The scale of the unauthorised land use is thus plain to see. What is also plain is that the determination of an appropriate administrative penalty will neither be a mechanistic procedure, nor one that necessarily resolves satisfactorily at the level of the decision of first instance. This is yet further evidence in support of the proposition that the applicant's administrative penalty should be determined first, and entirely separate from the other land use applications envisaged and described in paragraphs 5.1 to 5.18. The latter applications should follow only upon the final determination of the administrative penalty.

77. The submission directly above is directly supported by representations made on behalf of the applicant. At paragraph 5.19 of the motivation[17] the applicant states as follows: "*While some of these tunnels have not yet received formal approval from the municipality, it is essential to **prioritise compliance** with the Overstrand Municipality Amendment By-law on Municipal Land Use Planning, 2020. In line with this objective it is crucial to include the determination of an administrative penalty within this application. By addressing this matter proactively, Haygrove aims to rectify any potential non-compliance issues and ensure adherence to the applicable regulations and by-laws governing land use planning.*" (My bold text and underlining.)

78. We submit on behalf of the objectors that the applicant is obliged by law to regularise its unauthorised and thus unlawful land uses (i.e. get its house in order before it can seek additional land use approvals).

79. We submit furthermore that on a proper consideration of the applicant's submissions pertaining to the nature, duration, gravity and extent of the contravention; as well as the description of the conduct of the "*person (allegedly) involved in the contravention*" that the applicant's submissions are superficial and insufficient in the circumstances. For example, the issue of whether complaints have been lodged regarding the encroaching tunnels is irrelevant to the fact of the applicant's willful breach of the applicable legislation by erecting tunnels covering some 8,337 hectares of the subject-property without land use planning approval.

80. To the extent that the applicant submits that the introduction of the tunnels on the property was motivated by the need to enhance the viability of the agricultural enterprise, we submit that Haygrove cannot be permitted to do so by the Municipality in a manner that adversely impacts on the rights of surrounding landowners.

Substantive objection to the proposed permanent departures, the application to amend the SDP, and the application to amend an existing condition of approval

81. As a general proposition, WRAP's purported motivation is self-serving, superficial and in certain instances, simply wrong on the facts presented.

---

[16] With particular reference to paragraphs 5.1 to 5.19 on pages 6-13 (as summarised at paragraphs 6.1 to 6.19 on pages 14-15 of the motivation), the staggering scale of the proposed additions to the hardened infrastructure on the subject-property and the significant, adverse and entirely undesirable impact that that will have on neighbouring landowners becomes immediately apparent.

[17] On page 11.

82. WRAP states as a general motivating factor that the land use applications are merit-worthy because the proposed activities of growing raspberries, blackberries and blueberries under the cover of intensive horticulture tunnels are congruent with other agricultural activities in the Hemel-en-Aarde valley. We submit that the permanent departures sought respectively from the eastern 30m building line; the northern 30m building line; the southern 30m building line; and the western 30m building line[18] are excessive in the circumstances.

Critique of and objections to WRAP's assertions regarding compatibility with surrounding land uses

83. The first motivating factor described by WRAP and regarding the alleged desirability of the land use application is the application's asserted compatibility with surrounding land uses. In this regard WRAP states the following: *"The tunnels are an integral part of the agricultural nature of the valley and are not expected to detract from the overall visitor experience. On the contrary, they can provide an opportunity for tourists to witness and learn about modern farming practices and the cultivation of crops in a controlled environment."*[19]

84. On page 3 of WRAP's motivation the following is stated regarding compatibility of land uses: *"The addition of tunnels aligns with the valley's identity as an agricultural destination and contributes to the preservation of its rich farming traditions."* We submit that the latter statement would be laughable but for the seriousness of the situation. It beggars belief that WRAP can suggest that almost 22 hectares of horticulture tunnels contributes in any way to "*the preservation of* [the valley's] *rich farming traditions*". In fact, we submit on behalf of our clients that the proposed development of horticulture tunnels on that scale in fact offends against those traditions.

85. Even though the achievement of the proposed permanent departures would present the easiest solution for Haygrove, that fact must be assessed objectively against the significant adverse impacts that will be foisted upon Haygrove's neighbours with particular reference to the rights to use and enjoy their properties undisturbed.

86. So viewed, it is indisputable that the applications for 15 proposed permanent departures; the proposed amendment of the existing approved site development plan; and the proposed amendment of condition 1(c) of the municipal approval dated 31 July 2012 and 3(a) of the municipal approval dated 9 February 2016 should be refused by the Municipality. We submit that they do not pass muster with reference to the principal general substantive criterion, in section 66(1)(c) of the Planning By-law. Section 66(1)(c) pertains to the desirability of the proposed utilisation of the land identified (in this instance within the 30-metre building lines, by way of permanent departures from those stipulations). For the reasons set out in these submissions, the proposed land use is not desirable.

87. In the circumstances we respectfully suggest that it would be commercially prudent of Haygrove to initiate an application for amendment penalty, duly authorised in order to

[18] Summarised by WRAP respectively at paragraphs 6.2, 6.3; and 6.5 to 6.17.

[19] At the bottom of page 2 of WRAP's motivation report.

give effect to its planning consultancy's stated assertions regarding Haygrove's *bona fides*.[20]

88. We submit that in any event the applicant has not established any objectively defensible basis, when considered against the criteria set out in section 66 of the Planning By-law, for the Municipality's favourable consideration of its applications for permanent departure. With reference to the sheer scale and intrusive character of the intensive horticulture tunnels we submit that they are, objectively viewed an undesirable proposed and actual use of land.

89. In addition, the application for the 15 permanent departures sought, on each of the subject-property's building lines constitute an unreasonable infringement on the surrounding property owners' right to reasonably enjoy their properties. The very purpose of the 30m building line in relation to agricultural properties such as the subject-property is to prevent unreasonable intrusion of physical infrastructure.

Critique of and objections to WRAP's assertions regarding positive socio-economic impact

90. As regards asserted positive socio-economic impacts described by WRAP in purported motivation of the application[21] we point out on behalf of our clients that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective only.

91. In order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bald statement to the effect that the approval and implementation of the application will substantially increase the number of people employed on the subject-farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding (at the very least) the number of likely future employees; an indication of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained. There is no evidence to support it.

---

[20] See for example what WRAP states regarding Haygrove's intentions, at paragraph 5.19 on page 11 of WRAP's motivation: "*It is essential to prioritise compliance with the* [Planning By-law]. *In line with this objective, it is crucial to include the determination of an administrative penalty within this application. By addressing this matter proactively, Haygrove aims to rectify any potential non-compliance issues and ensure adherence to the applicable regulations and by-laws governing land use planning.*" (We point out that we beg to differ with WRAP as to "*potential non-compliance issues*" when those have actually occurred and are admitted, on the facts and circumstances set out in the motivation report. See also the unnumbered first paragraph under the heading at the top of page 12 of WRAP's motivation report where WRAP records the following: "*The tunnels however have also been erected without prior municipal consent. This application serves as a testament to the proactive measures taken by the property owners to rectify any contravention of the By-law…*.". We also point out for the sake of completeness that it is not correct that there have been no complaints regarding the specific tunnels – the objections to Haygrove's previous application for permanent departures and related land use approvals on the subject-property was refused on appeal by the Municipality's appeal authority. The same fate befell Haygrove's application for permanent departures on its neighbouring property (*Portion 11 of Farm 587, Hemel-en-Aarde Valley*). The Mayor's records of decision refusing the previous land use applications, both dated 26 August 2022 are appended to this objection marked "**B1**" and "**B2**". For the sake of good order and administration, we respectfully submit that the municipal files pertaining to each of the abovementioned records of decision and including all information that served before the Municipality, the MPT and the Executive Mayor, should be made available to the MPT in the context of the present application. WRAP goes on to say that Haygrove's "*acknowledgment underscores the property owner's commitment to compliance and the absence of any unusual circumstances warranting severe penalties.*")

[21] Pages 22 to 24 of WRAP's motivation report.

Critique of and objections to WRAP's submissions regarding no or limited impact on neighbours and the surrounding community

92. WRAP has not placed a full and proper picture before the Municipality of the fundamental incompatibility (and therefore, inherent lack of desirability) of the development proposal when considered against existing surrounding land uses. In support of this submission, we point out that WRAP has provided no information to the Municipality regarding the likely significant increase in noise emissions on the subject-property, including machinery-generated noise; and noise generated by the transport used by Haygrove's representatives in order to transport seasonal contract workers to the subject-property. There will also be a likely increase in the odours emitted from the subject-property including emissions from crop spraying, vehicle use, and toilets for seasonal contract workers. We point out that those in the past have proved to be entirely insufficient, and one of our clients' concerns relates to seasonal workers relieving themselves on surrounding properties with no regard to the accompanying health hazard. It must also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including the presence of snares that have caught clients' domestic animals, and human waste as well as litter that is deposited on their properties.

93. The visual impact of permitting a total of nearly 22 hectares of plastic-covered tunnels is not described in sufficient particularity to place the Municipality in a position to make a properly informed and objective decision to approve the land use applications. It is clear that the land use applications and the existing visual impact statement will have to be substantially supplemented and delivered *de novo* by Haygrove's representatives, after the finalisation of the application to determine the appropriate administrative penalty for Haygrove's significant and willful transgressions to date.

94. It is incorrect and disingenuous for WRAP to suggest that the "*visual impact of the tunnels is considered to be in harmony with the valley's agricultural character and natural surroundings ...*".[22] To the extent that the applicant acknowledges that tourists who visit the Hemel-en-Aarde valley are often drawn to its rural and picturesque landscape, the suggestion that the existing and proposed tunnels "*... are not expected to detract from the overall visitor experience*" only has to be stated to be rejected. Swathes of blinding white covered tunnels that do not comply with the existing approvals that oblige non-reflective material do not enhance the tourist experience.

95. On an immovable property measuring over 71,5 hectares as the subject-property does, it is unreasonable for Haygrove to expect its directly adjacent neighbours to suffer the imposition and intrusion of horticulture tunnels within the areas that are presently the subject of permanent departures which oblige a 30-metre setback line (but for those approved in 2016).

Critique of and objections to WRAP's submissions regarding impact on views, sunlight and character of the area

96. The applicant's assertion that the proposal to develop intensive horticultural tunnels on a total surface area of some 21,9557ha on the subject-property will not have a significant visual impact is fallacious. WRAP is somewhat coy in describing the likely maximum height of the proposed tunnels. In the absence of a proper description of the

[22] Page 15 of the applicant's motivation report.

specific height of the proposed tunnels, we must assume that they will be close to the maximum permissible height (if not at that height).

97. The further suggestion by the applicant that the "*visual colour diversity which the approval and implementation of this proposal will bring about in the Hemel-en-Aarde is desirable and is one of the drawcards which attract tourist*[s] *to the area*" is also a wholesale fallacy. It only has to be stated to be rejected. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this "*diversity*" will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion. It is, quite simply, preposterous.

98. To the extent that Haygrove elects to pursue the land use application after the administrative penalty application has been decided first, we submit that the Municipality must oblige the applicant first to produce an appropriately detailed visual impact assessment by an appropriately qualified visual impact specialist before the properly supplemented application can proceed to the decision-making stage. The visual impact assessment should also be circulated with all parties with an interest in the matter (including the objectors we represent) so that they are afforded a proper opportunity to review that assessment and to provide their comments in that regard. The visual impact statement provided to date is incomplete, selective on the true facts, misleading, and insufficient.

Another principal reason for the land use application's wholesale lack of desirability: it is *per se* undesirable until and unless previous land use contraventions have first been satisfactorily rectified by Haygrove

99. Objectively viewed, Haygrove's application for additional land use rights is undesirable for a separate, but nonetheless principal, reason. That reason is that the land use application for an additional fifteen permanent departures, and amendments to an approved SDP and conditions of approval (both of which approvals Haygrove has willfully breached over many years) is made against the backdrop of manifest breaches of the Municipality's land use planning laws.

100. There cannot be any suggestion that the desirability of an application for future and enhanced land uses can be meaningfully adjudicated by the Municipality until and unless Haygrove has first wiped the slate clean by paying the administrative penalty levied upon it in due course by the Municipality, when Haygrove delivers its stand-alone application for the determination of that penalty.

101. It is manifestly undesirable for Haygrove and WRAP to expect the Municipality to deal with Haygrove's willful and largely unexplained contraventions of the applicable planning legislation, land use scheme, and extant approvals, in any other way.

Request for a site visit by the Municipality (in terms of section 60 of the Planning By-law) before deciding the application for the determination of an administrative penalty on its merits

102. On the facts and circumstances of the application, we submit that the Municipality's officials[23] and the chairperson and members of the Municipal Planning Tribunal should

[23] The Municipal officials' powers to enter land or a building for purposes of assessing an application made in terms of the Planning By-law, and in order to prepare the written assessment of the application contemplated by section 57 of the By-law, are set out in section 60.

undertake a site visit of the subject-property and its surrounds in order fully to apprise themselves of the current intensive agricultural operations on the subject-property, the nature and extent of the unlawful activities that are the subject of the application for an administrative penalty, and the significant and objectionable impacts that would be caused to the subject-property's neighbours and other proximate landowners in this part of the Hemel-en-Aarde valley if the development proposal envisaged in the application is authorised to proceed by the Municipality.

103. Put simply, the applicant already has enough horticulture tunnels on the subject-property. The applicant concedes that the majority of the tunnels, on the applicant's own admission, were constructed in contravention of the Planning By-law and thus unlawfully. In such circumstances Haygrove is legally obliged to get its house in order by remedying its prior and acknowledged unlawful conduct before it can reasonably seek to achieve any enhanced land use rights.

104. An important aspect of a properly constituted site visit will pertain to the municipal decision-maker satisfying itself as to the applicant's compliance with the stipulations set out in the Municipality's approval granted on 9 February 2016 and pertaining to Haygrove's first application for consent use and departures to accommodate the infrastructure required for "*intensive horticulture (tunnels)*". The same applies to the relevant conditions in the 2016 municipal approval and to the documents referred to in those conditions, as already traversed in these objections and with particular reference to conditions 3(b) (pertaining to Haygrove's obligation to submit "*detailed building plans*" to the Municipality); and 3(i) (regarding Haygrove's obligation to ensure that the tunnels approved in 2016 "*... be of a non-reflective material or covered by non-reflective netting.*"[24]

105. Particularly in light of WRAP's entirely superficial analysis of water use rights and the likely impact of the proposed expansion of Haygrove's agricultural activities on water resources without a proper analysis of those rights, we submit that it is incumbent upon the municipal decision-maker to establish the relevant facts. That is best done on-site, where Haygrove's personnel can reasonably be expected to produce the relevant documentary information pertaining to water use rights, including storage and abstraction rights.

Request for a hearing before a decision is made on the merits of the application

106. To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal in order to table the present application we submit that the objectors or their nominated professional representative/s are entitled to attend on that meeting and to deliver whatsoever oral representations may be necessary and relevant in the circumstances and in support of their representations.

107. We submit that it behoves the Municipality to grant an audience to the objectors and the applicant when it considers its decision of first instance in order to ensure that the parties' rights to administrative action that is lawful, reasonable and procedurally fair is

[24] By way of other conditions on which the Municipality must satisfy itself regarding Haygrove's compliance with municipal approvals granted to date and still operative, are, for example, condition 3(g) of the February 2016 municipal approval. It states the following: "*... (g) that all conditions in the Services Report (attached as Annexure I) be complied with; ...*". The Services Report included the following condition: "*... 2. That no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval* (sic), *licence and permits from the applicable authorities (water affairs, health etc.) for the use of any water resources and the extraction thereof.*'

fully given effect to, given the facts and circumstances of the application. We look forward to hearing from the Municipality in this regard.

Concluding submissions; relief sought by the objectors

108. For the reasons set out in this objection we submit that the application, objectively viewed, is fundamentally undesirable and as such, does not meet the applicable jurisdictional requirements in section 66 of the Planning By-law, and pertaining to the general criteria for the Municipality's consideration of applications. We make that submission both in respect of Haygrove's application to determine an administrative penalty (as we have pointed out, that application is substantively deficient and cannot be approved on the facts as presented by WRAP); and in respect of the applications for enhanced land use rights, which are prematurely delivered by WRAP and which cannot be determined on their merits until and unless Haygrove's suitably supplemented administrative penalty application has been finalised.

109. It follows in our respectful submission that the present application must be refused on its merits by the Municipality.

Yours faithfully,
NICHOLAS SMITH ATTORNEYS
Per:

NICHOLAS SMITH

Annexure "A"

LIST OF OBJECTORS (*IN RE* APPLICATION FOR DEPARTURE, AMENDMENT OF APPROVED SDP, AMENDMENT OF CONDITIONS OF APPROVAL, AND DETERMINATION OF AN ADMINISTRATIVE PENALTY (FARM HEMEL-EN-AARDE NO.587, DIVISION OF CALEDON))

No.	Objector's name	Objector's immovable property
1.	Bevan Johnson (Newton Johnson Wines)	Portion 2 of Farm 587 Hemel-en-Aarde Valley
2.	Peter Sham (Peter Sham Vineyards)	Portion 45 of Farm 587 Hemel-en-Aarde Valley
3.	Giancarlo Lanfranchi (De Werf Estate)	Portion 15 of Farm 587 Hemel-en-Aarde Valley
4.	Josh Kumpers (De Werf Estate)	Portion 15 of Farm 587 Hemel-en-Aarde Valley
5.	Angela Field (De Werf Estate)	Portion 15 of Farm 587 Hemel-en-Aarde Valley
6.	Chris Thompson (Coch y Bondhu Estate)	Portion 50 of Farm 587 Hemel-en-Aarde Valley
7.	Ian Tingle (Coch y Bondhu Estate)	Portion 50 of Farm 587 Hemel-en-Aarde Valley
8.	James Smith (Coch y Bondhu Estate)	Portion 50 of Farm 587 Hemel-en-Aarde Valley
9.	Derek Wilson (Coch y Bondhu Estate)	Portion 50 of Farm 587 Hemel-en-Aarde Valley
10.	Diane Foster (Coch y Bondhu Estate)	Portion 50 of Farm 587 Hemel-en-Aarde Valley
11.	Craig Wessels (Restless River Vineyards)	Farm 905, Hemel-en-Aarde Valley
12.	Sybrand Smit (Clouds End Farm)	Portion 7 of Farm 587 Hemel-en-Aarde Valley

21|69

OFFICE OF THE DIRECTOR: INFRASTRUCTURE & PLANNING
TOWN & SPATIAL PLANNING

Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

ENQUIRIES | NAVRAE: Mr. H Olivier (Town Planner)
FILE REF | LêÊRVERW: RCAL 94/587
APP ID | AANSOEK ID: 3297/2019
DATE | DATUM: 26 August 2022

REGISTERED MAIL

"B1"

Nicholas Smith Attorneys
Mr. N Smith
2nd Street
114 Bree Street
CAPE TOWN
8000

nicks@nsmithlaw.co.za

Dear Sir

APPEAL DECISION LETTER

PORTION 94 OF FARM 587, HEMEL-EN-AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURES AND AMENDMENT OF CONDITIONS OF APPROVAL: MESSRS WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

This Municipality's letter dated 28 January 2022 refers.

The Appeal Authority on 11 August 2022 **upheld** the appeal and **dismissed** the decision of the Municipal Planning Tribunal dated 7 December 2021.

Reasons for the above decision are as follows:

"The appeal was received within the 21-day period and the required fee lodged by the applicant. Thus, the appeal is regarded as valid.

In an appeal against a decision of the Municipal Planning Tribunal (MPT), the onus is on the appellant to show that the members of the MPT erred in reaching their decision and to set out reasons why there is a belief that the MPT erred.

The appeal documentation was scrutinized and after due consideration of the reasons provided by the MPT and the arguments of the appellant, the view is held that the appeal is valid.

The decision is thus that the decision of the MPT dated 7 December 2021, be dismissed."

Tel: 028 313 8900 | Fax: 028 313 2093 | E-mail: loretta@overstrand.gov.za
PO Box 20 | **HERMANUS** 7200
www.overstrand.gov.za

22/69

The matter is now regarded as finalized.

Yours faithfully

S MÜLLER
DIRECTOR: INFRASTRUCTURE & PLANNING

Tel: 028 313 8900 | Fax: 028 313 2093 | E-mail: loretta@overstrand.gov.za
PO Box 20 | **HERMANUS** 7200
www.overstrand.gov.za

23/69

OFFICE OF THE DIRECTOR: INFRASTRUCTURE & PLANNING
TOWN & SPATIAL PLANNING

Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

ENQUIRIES | NAVRAE: Mr. H Olivier (Town Planner)
FILE REF | LêERVERW: RCAL 11/587
APP ID | AANSOEK ID: 3274/2019
DATE | DATUM: 26 August 2022

REGISTERED MAIL

Nicholas Smith Attorneys
Mr. N Smith
2nd Street
114 Bree Street
CAPE TOWN
8000

"B2"

nicks@nsmithlaw.co.za

Dear Sir

APPEAL DECISION LETTER

PORTION 11 OF FARM 587, HEMEL-EN-AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL: MESSRS WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

This Municipality's letter dated 28 January 2022 refers.

The Appeal Authority on 11 August 2022 **upheld** the appeal and **dismissed** the decision of the Municipal Planning Tribunal dated 7 December 2021.

Reasons for the above decision are as follows:

"The appeal was received within the 21-day period and the required fee lodged by the applicant. Thus, the appeal is regarded as valid.

In an appeal against a decision of the Municipal Planning Tribunal (MPT), the onus is on the appellant to show that the members of the MPT erred in reaching their decision and to set out reasons why there is a belief that the MPT erred.

The appeal documentation was scrutinized and after due consideration of the reasons provided by the MPT and the arguments of the appellant, the view is held that the appeal is valid.

The decision is thus that the decision of the MPT dated 7 December 2021, be dismissed."

Tel: 028 313 8900 | Fax: 028 313 2093 | E-mail: loretta@overstrand.gov.za
PO Box 20 | **HERMANUS** 7200
www.overstrand.gov.za

24/69

The matter is now regarded as finalized.

Yours faithfully

PPS MÜLLER
DIRECTOR: INFRASTRUCTURE & PLANNING

Tel: 028 313 8900 | Fax: 028 313 2093 | E-mail: loretta@overstrand.gov.za
PO Box 20 | **HERMANUS** 7200
www.overstrand.gov.za

25/69

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
19 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Hemel-en-Aarde Valley Winegrowers Association (HAWA)

18 April 2024

TP. M. Theart
(H. Olivier).

Overstrand Municipality
16 Paterson Street
Hermanus
7200
Attention: Ms. Loretta Gillion // Mr. Henk Olivier
By email: loretta@overstrand.gov.za; holivier@overstrand.gov.za

Re Objection to:

PORTION 94 OF THE FARM, HEMEL-EN-AARDE VALLEY 587, CALEDON. APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN AND AMENDMENT OF CONDITIONS OF APPROVAL.

The Hemel-en-Aarde Valley Winegrowers Association (HAWA) was founded in 2010 and currently represents the interests of the wineries and winegrower in the area.

HAWA VISION
To be recognised as a unique wine destination and premium winegrowing area in South Africa, offering the most superlative product, service and wine experience in the country.

Please see the HAWA Overview document, **Annexture 2**.

Full Members:
1. Southern Right Wines
2. Hamilton Russell Vineyards
3. Bouchard Finlayson
4. La Vierge Wines
5. Bosman Hermanus / De Bos (Bosman Family Vineyards)
6. Hasher Family Estate
7. Cap Maritime
8. Newton Johnson Vineyards
9. Restless River
17. Storm Wines
10. Spookfontein
11. Whalehaven
12. Ataraxia
13. Tesselaarsdal
14. Creation
15. Mount Babylon

FILE NO. PNU 94/587
Hemel & Aarde
SCAN NO.
COLLABORATOR NO.
2034318

The use of "HEA" in this document means Hemel-en-Aarde.

19 APR 2024

Collectively, members of HAWA have invested more than R2billion into the Hemel-en-Aarde, in the form of land purchases, planning, relevant licenses and approvals, planting of vineyards, construction of wineries, winery equipment, restaurants and tasting facilities, infrastructure and services.

HAWA members are collectively the largest employer of permanent staff in the greater Hermanus area, at over 450 permanent employees working in wineries, restaurants, tasting rooms, vineyards , warehouses, etc.

HAWA members contribute significantly to the local economy via salaries (that get spent in Hermanus), suppliers (that service our 15 wineries); some key examples include construction companies, maintenance, vehicles and implements, food and beverage, security, legal services, medical, transport, planning services.

HAWA members pay excise duties per bottle of wine, supply product nationally and are significant exporters and tax-payers, all contributing to the national output of the agricultural sector.

South African Wine Industry Information & Systems (SAWIS) reported that in 2022, the wine industries contribution was as follow:

Western Cape Economy - Generated R50.9 bn in value-added to GDP
Supported 245,128 jobs

HAWA members actively support the local community through endeavors such as financial commitments to the pre-school on Hamilton Russell on an annual basis, the Pebbles school, and ad hoc support such as supplying land for a rugby field, with posts and rugby clothing, club house and generator to the Black Birds rugby club. Members often donate wine to local charity auction events held by the NSRI, Rotary and various local schools and organisations.

HAWA members have, without any assistance or support from government, self-financed and created what is renowned to be the top performing wine route in South Africa and ranks in the top 20 worldwide. Members are highly invested in and highly committed to the Hemel-en-Aarde.

The survival of the town of Hermanus is driven by tourism. The success of the wine industry in the Hemel-en-Aarde is an important draw card to Hermanus as it funnels tourism and income to the town. The quality of the tourist is also a factor, and the wineries attract higher income tourists that spend money in Hermanus. Traditionally, tourism in Hermanus has been seasonal, the wine route now plays a large role in attracting visitors to the area outside of the seasonal periods. The HEA wine route is a major asset to Hermanus, the Overberg and the Western Cape, and is well documented as such.

The single most important factor that our wineries can compete on, is the beautiful HEA Valley itself. Wine is defined by its place of origin. Consumers make purchasing decisions based on where the wine comes from; how and where the grapes are grown, and the wineries approach to sustainability, biodiversity, culture and heritage are all important factors in success or failure. On the contrary, the consumer

in a supermarket does not base a purchase decision on where an apple or berry was grown. The point is that the **environment** in which wine is made is of critical importance to the modern wine consumer. The HEA ticks many of these boxes and the attractions of the HEA in this regard are so obvious that it needs no further explanation.

The application and subsequent motivation goes to great lengths to mention the wine route and wineries, and the reliance on tourism, and attempt to align itself with this. It uses Creation as an example of a winery that won a large international award. The application glanced over the description of the award when it stated, ***"Creation has been awarded with one of the best wine farms in the world,…"***

In fact, The World's Best Vineyards is an annual listing that highlights the best winery destinations and experiences in the world. The prestigious list spans five continents and is created after the nominations of some 500 wine, travel and wine tourism experts have been counted and collated. Voters are asked to nominate the overall experiences they consider to be the best in the world and that they personally would recommend.

Creation Wines has, **for the fourth year**, been placed among the world's top 50 vineyards and joins a prestigious line-up **of the top five**: Catena Wines, Argentina; Bodegas de los Herederos del Marqués de Riscal, Spain; VIK, Chile; Creation Wines, South Africa and Château Smith Haut Lafitte, France. This is the **fourth** time that Creation has been listed **as the number one estate in South Africa and on the African continent.**

Due to the significance of this on the HEA and South Africa, and how little attention it was given by the applicant, elaboration is required as it pertains to all wineries in the HEA in our quest for excellence and the sustainability of the area and people.

Tim Atkin, leading influencer/champion for SA wine, and UK based wine writer and critique: *"The positive impact this listing has on the estate and our fine wine industry, cannot be underestimated. Creation's commitment to a sustainable wine and tourism industry has been well documented, and being given a world stage such as this provides further impetus and inspiration."*

Creation is quoted when responding to the award, *"So many elements need to be brought into harmony to create and enhance our visitor experience. We want to* ***preserve our natural heritage*** *for generations to come and this must be at the very core of not only the fine wines we produce, but the fine people we must grow."*

"We actively encourage every member of our team to be goal oriented and offer them opportunities to advance their skills on many levels. Our training is as diverse as leadership and communication courses to lectures on mental health." The result is an extremely high retention rate, a supportive and cohesive team and most importantly, a community eager to develop its potential to the highest possible level.

The award further mentions, *"Creation's people are acutely aware of the responsibility that lies with a farm that borders the Cape Floral Kingdom. All of them*

*have become **champions of biodiversity** and preserving the surrounding natural world of fauna and flora."*

The applicant seeks to motivate that Creation has won these awards ***"all with the existence of the tunnels on the subject property. Meaning with the existence of the tunnels the surrounding area is still considered as a tourist attraction. The tunnels are an integral part of the agricultural nature of the valley and are not expected to detract from the overall visitor experience."***

Statements like the above are deeply concerning to our members and extremely misaligned with the reality of this award. It seeks to hijack the hard work and vision of not only Creation Wines, but all that our wineries do, to benefit the perception of its own presence. In this context it is not only a blatant mistruth but insulting to all the hard working people in our local wine industry who champion the character and the environment within the HEA for the benefit of all.

The applicant's statement also indicates a complete lack of or concern for the local wine industry. The following point is of extreme importance in the understanding of the situation created by the continuous expansion of Haygrove in the HEA:

Creation wines are located some 7km from the subject property, separated by a high ridge (geographical watershed). Once the visitor arrives at Creation, there is not a polytunnel, shade cloth or alien windbreak in site. The area has been kept natural, open and pristine – as was the applicant's property prior to their arrival.

Despite the wineries in the proximity of Haygrove Heaven working to the same standards as Creation, these wineries and any future wineries in that area, experience the expanding polytunnels on the subject property in sight, permanently. All visitors arriving at these wineries ask the same general question, *"What is going on with the white plastic all over the mountain?"*

This is the point: No winery in the proximity of white plastic tunnels would be considered for the World's Best Vineyards award, not just in the HEA, but anywhere in the world. There is not one famous wine route anywhere in the world that exists within sight of white polytunnels. The consumer and visitor dictates this and the two are in no way compatible as the applicant would have the reader believe.

With this said, we hope the OM will understand to what extent the intensive horticultural operations in the HEA change the narrative of the area and undermine the years of hard work and success of the local wineries and the people.

In 2020 HAWA did invite the then new Municipal Manager and municipal roleplayers to visit some of our wineries to introduce them to our key players and give an overview of our local wine industry within the valley. Unfortunately the Municipality canceled this visit and we have not yet had to opportunity to engage.

We understand that Haygrove has however had this opportunity, and we hope to one day be afforded same.

29/69

We need clarity on the how the OM envisages the future of the HEA. It is large areas of intensive horticultural tunnels or wine and tourism. It really is this simple: The former is enhanced by the efforts and investments of the wineries, the latter is hamstrung by the presence and impact of intensive horticultural tunnels.

It is our wish that HAWA and the OM could engage and determine a collective, aligned vision for the future direction of the HEA so that further investment in the HEA by the wine industry is not at risk and we are able to compete on an international level.

The Applicant's Motivations

We understand that objections are being submitted by certain parties that relate to the serial noncompliance with procedural and legal irregularities by the applicant, as admitted in the application, such as the illegal construction of 8,7ha of tunnels and the breach in conditions of current and previous approvals. As other objectors are addressing this, we will therefore focus our objection on the issues that are a threat to the future growth and success of our member wineries and the HEA wine route.

We categorically reject the following statements made in the application, in fact the statements are so misguided they would be laughable were they not so serious:

That the ***"visual impact of the tunnels is considered to be in harmony with the valley's agricultural character and natural surroundings ...".***

Swathes of white polytunnels, glaring on the slopes of the iconic Babilonstoring ***"... are not expected to detract from the overall visitor experience"***

"The expansion of horticulture tunnels aligns with the valley's identity."

The ***"visual colour diversity which the approval and implementation of this proposal will bring about in the Hemel-en-Aarde is desirable and is one of the drawcards which attract tourist[s] to the area"***

"The surrounding properties are used for agricultural, residential, and tourism-related purposes. This makes the intensive horticulture tunnels part of the agricultural experience and not considered out of the ordinary."

"The proposed expansion of intensive horticulture tunnels on the property is unlikely to offend the tourists who visit the Hemel en Aarde Valley."

"The visual impact of the tunnels is considered to be in harmony with the valley's agricultural character and natural surroundings."

"The tunnels are an integral part of the agricultural nature of the valley and are not expected to detract from the overall visitor experience. On the contrary, they can provide an opportunity for tourists to witness and learn about modern farming practices and the cultivation of crops in a controlled environment."

"The addition of tunnels aligns with the valley's identity..."

"...tunnels are designed and positioned in a manner that ensures they blend harmoniously with the surrounding landscape."

"It is indicative of a larger trend among farmers in the surrounding area, where an increasing number are embracing tunnels meet market demands."

"As an agricultural area, the presence of horticulture tunnels is expected and contributes to the overall character of the region."

"The farm owner is committed to maintaining the scenic beauty of the area."

In our view, this last quote is such a contradiction with his actions, it cannot go unchallenged.

Research online shows that the owner has a history of controversy with regard to the development and support of polytunnel farms in the UK, particularly in Herefordshire and the Wye Valley, within areas of outstanding natural beauty. Such actions have divided communities between those who profit from his tunnels and those who suffer as a result of them. The owner's company is also a major supplier of the tunnel systems. The owner is therefore understandably pro polytunnels and has the means and resources to lobby decision makers. All this indicates the owner's lack of commitment for maintaining the scenic beauty of the areas in which he operates and profits, the HEA included.

"Encouraging intensive horticulture in an agriculturally zoned area contributes to regional and national food security."

Haygrove grows raspberries and blueberries/blackberries under tunnels in the HEA. According to the application, 60% of the berries are exported to the UK and therefore do not in any way contribute to food security in South Africa.

Further, of the 40% that is sold to customers in South Africa, the bulk, according to the Haygrove website, is sold to Woolworths. Their berries then retail for R58.99 for a small tub of 200g (**R294.95 per kg** – see https://www.woolworths.co.za/cat/Berries-Cherries/_/N-0Z1camz8w). Berries are a luxury food that only the affluent in South Africa can afford. It is not even remotely fathomable that these berries are purchased in Woolworths by the poor and contribute to food security in South Africa. The reality is that the only time the poor eat these berries is when picking them inside the polytunnels of, in this instance, extremely wealthy businessmen.

It must be noted that although the quotes we have highlighted above purport to speak on behalf of those farming or working in the HEA, not one member of HAWA was interviewed by the applicant for input or comment. In fact, we know of no entity that was interviewed for comment or opinion on these matters.

All feedback from our members indicate the opposite to what is claimed in these statements, i.e. that white polytunnels in the Hemel-en-Aarde Valley are a recent (in the last 20 years) and unwanted part of the agricultural experience. We are not aware of a entity in the area that believes that white polytunnels and thousands planted alien

trees on the slopes of the pristine Babylonstorin Mountains are in "harmony" with the valley's "natural surroundings".

The merits of the HEA area are unique, one of a handful of agricultural areas in South Africa possessing the combination of our high levels of biodiversity, sensitive ecology, natural beauty **and** a reliance on tourism. On the fact that not all agricultural areas are the same, it is therefore false to state that, "As an agricultural area, the presence of horticulture tunnels is expected and contributes to the overall character of the region." **The truth is that white polytunnels are not expected in an area like this, and they fundamentally detract from the overall character of the region.**

These claims do not hold up to any scrutiny and can only be dismissed as speculative, possibly with the intent even to mislead the less informed reader.

Basis for Objection

1. Compatibility

1.1. Erecting vast swathes of reflective white plastic tunnels in areas of significant environmental, scenic and tourist importance is not compatible.
1.2. This form of industrial horticulture has its place in agriculture but not at the expense of the environment and other established businesses in the area.
1.3. The motivations in the application are to convince the reader that all the associated and potential negative impacts are negligible. No detailed reports or statistics are given in this regard and the motivations are all speculative.
1.4. The motivation makes claims of economic benefit to the local community, and in particular, employment. No supporting evidence, either from company accountants, a payroll or local employment statistics is submitted in this regard.
1.5. The fact is that all businesses in the HEA contribute to employment and the local economy, not just Haygrove.
1.6. Our experience is such that the transportation by a single entity of up to 1800 seasonal workers and 400 permanent staff (quoted in the application) in a small farming area, raises legitimate concerns about regular road safety issues that are continuously reported on the Valley's Whatsapp groups, specifically relating to the busses and taxi's transporting Haygroves workers.

2. History, Character and Appeal

2.1. No one will deny that the valley has a uniquely natural feel and an old world charm. The very name of the area itself speaks volumes.
2.2. Farmers and residents alike possess a strong sense of custodianship for nature, biodiversity, sustainability, culture and heritage and this sense is strongly observed by tourists and plays a key role in their attraction to the area.
2.3. The valley is now world renowned for its wine and associated tourism.
2.4. Vines were 1st planted commercially in 1976 to huge success, 30 years before Haygrove. Mountains, vineyards, apple orchids and fynbos set the tone, and always have. There are no tourists rushing into the area to marvel at and take

photo's of Haygrove Heaven and their polytunnels. This is a fallacy. Kill the character of the valley, and you will kill tourism.

2.5. The application acknowledges the area and aims to convince the reader that the covering of 22ha of their property, in some instances to within two meters of an entire boundary, in white plastic tunnels, and the planting of thousands of alien trees, are aligned and in harmony with the general look and feel of the valley.

3. Application for Departures:

3.1. The application seeks 14 boundary line departures, in order to fill those spaces with additional polytunnels.
3.2. The Historic Approvals in Annexure C of the application indicate that boundary departures on this property have already been granted in the past.
3.3. The property is only 71.5ha, closely surrounded by over 25 homes on directly neighbouring properties, some as close as 150m from the boundary.
3.4. A motivation given for these fourteen departures is that the company needs to maximize profitability (no financial data supplied) on that portion.
3.5. The applicant is a leader in its field of business and as such, is already highly profitable. Profitability in agriculture, and in this particular case within the Hemel-en-Aarde, ought to be possible, within reason of the available resources.
3.6. This means that an entity should make ones business plans are viable within the basic land use parameters.
3.7. These are parameters that are clearly set out by the relevant governing, bodies (such as Dept. of Agriculture) precisely to protect the land and the community from land use exploitation and the impact thereof.
3.8. The approval of these further departures would amount to an exploitation of that portion of land and the natural recourses available, to the detriment of many others.
3.9. An alternative solution: Would everyone, including the land itself, not be better served were the applicant to expand development by purchasing/leasing new and appropriate land and work within the footprint of that new property?

4. Environmental Impact

4.1. The impact of 22ha of tunnels on the environment, including the visual impact, is a great concern. It must be noted that this expansion to 22ha is **in addition to** the 60ha of polytunnels and shade cloth already erected on their neighboring property (11/587) as well as their 40ha of polytunnels on both sides of the Karwyderskraal road).
4.2. It is widely documented that polytunnels, despite claims made by manufacturers and growers, do not adequately assess the net result on water quality, soil heath and biodiversity, three subjects key to the sustainability of the Hemel-en-Aarde.
4.3. No environmental study is presented in the application. Given the sensitively of the area, the controversy surrounding polytunnels and the Onrus River bordering the property, directly below the tunnels, **a scientific based study would be expected.**

4.4. Conversely, much of the application is generalised, speculative and vague e.g. *"not predicted to have an effect", "it is not expected that..."*

4.5. The applicant plants 1000's of alien trees as windbreaks. Further expansion exacerbates this and the negative impact on biodiversity, water use and seed dispersal into the wetlands and river system. It detracts negatively on the natural beauty of the area. No other farming activities plant windbreaks to this density and in fact, many wine and apple growers are removing existing windbreaks.

4.6. An independent environmental impact assessment has not been conducted. This should take all three of the applicants operations in the Hemel-en-Aarde into account as they do not operate individually but as one entity, for example, all three operations make use of the pack shed facilities on portion 94/587, so the impact of these additional operations is greater that the impact of 22ha of tunnels on this property alone would be.

5. Applicants Visual Impact Assessment (VIA), Annexure D

5.1. We fundamentally disagree with the conclusions in the report, and argue that the impact is substantially higher in all areas stated.

5.1.1. The report was commissioned and paid for by the applicant.
5.1.2. The report therefore cannot be viewed as independent.
5.1.3. Many of the supporting images fail to accurately depict the real visual impact and are misleading, see **Annexure 1**.

5.2. The image of the growing tunnels on the cover page of the applicant's VIA, Annexure D, indicates the following:

5.2.1. The berries are in plastic bags, not planted in the soil.
5.2.2. The soil is completely covered by a plastic 'roof'.
5.2.3. The soil is bare and appears heavily compacted.
5.2.4. The impact on soil health without aeration, rainfall or sunlight is high.
5.2.5. The soil contains no plant life and appears sterile.
5.2.6. There is no biodiversity under the tunnels, of which 22ha is proposed on this property alone, and this is also practiced on the applicant's two neighbouring farms.

The VIA claims, ***"the introduction of intensive horticulture tunnels on the subject property is in line with the existing land use patterns."***

This practice of growing under tunnels is not aligned with the wineries (or apple farms) within the HEA. Wine growers practice an entirely different pattern of land use; open air growing, a dedication to soil health and biodiversity (plants and insects) and farm as close to organic principles as the area allows. The growers are world renowned for this, as awards substantiate, and the wineries do not in any way want to be associated with the land use patterns of the applicant, we are completely opposed to their land use practices.

34|69

5.3. To the best of our knowledge, not one the following active entities were consulted/interviewed in the VIA process:

5.3.1. 25 home owners/residents on directly neighbouring properties (homes that are 150m to 1.2km away from the closest tunnels).
5.3.2. 22 nearby guesthouses.
5.3.3. 20 wine farms
5.3.4. Five neighbouring wineries, two with popular restaurants.
5.3.5. Hemel-en-Aarde Winegrowers Association
5.3.6. Hermanus Tourism
5.3.7. Hermanus Business Chamber
5.3.8. Hemel-en-Aarde Valley Conservancy
5.3.9. Farmers Association
5.3.10. The Hemel-en-Aarde Rural Safety Association

5.4. **Annexure 1** contains images and descriptions that contradict the VIA findings, and therefore the resulting conclusions in the VIA are found to be baseless and unfairly in favour of the applicant.
5.5. We do agree on recommendations to enforce conditions that mitigate the visual impact, but remain concerned that part of the recommendations are to plant more alien trees.
5.6. The VIA should be address the above issues and be resubmitted.

Conclusion

The application does not represent the view of key stakeholders and residents in the area, but rather purports to make assumptions on their behalf and present these assumptions as mitigating motivations. We reject these statements used as motivating factors in the application.

Members of HAWA have, for a number of years, been operating under prejudiced conditions due to the applicant's willful construction/erection of 8.337ha of illegal polytunnels.

We call for this application in its current form to be rejected, and request that prior to any further application for expansion being submitted, the applicant rectifies all current gross breaches/illegalities.

Regarding any future approvals, we request that the OM impose severe and **proven** conditions that mitigate the visual impact of the applicant's intensive horticultural tunnels.

Sincerely,

Frederik Herten
Chairperson
On behalf of the Hemel-en-Aarde Winegrowers Association

Annexure 1

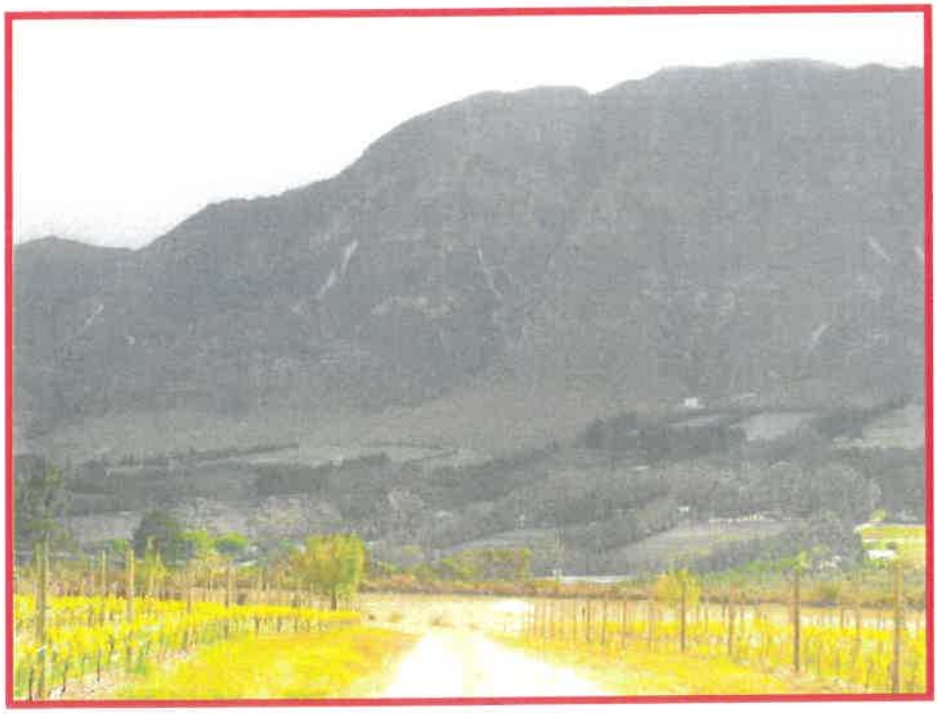
Critique of the Applicant's VIA, submitted as Annexure D.

This document serves to highlight where the VIA is not accurate and why we reject the findings and conclusions contained therein, and therefore object to the application in its entirety. This document will indicate that further expansion of polytunnels will:

- Result in harm and loss to the wine and tourism industries in the HEA
- Make it difficult to compete with other wine routes.
- Discourage future investment in these sectors
- Disadvantage the HEA wine industry from reaching its full potential.

Note:

1. The first part of this document shows images that were supplied in the VIA. For each image supplied, we supply an alternative image of the same location to indicate the inaccuracy in the applicant's assessment with regard to the impact.
2. The images and figures from the VIA are numbered numerically as per the VIA and for clarity, the images and figures from the VIA have been given red borders.
3. The images and figures we supply are numbered alphabetically.
4. *Comments, as written by the author of the VIA, that to each relevant image/figure in the VIA, appear verbatim and are in italic type below the image/figure.*
5. Comments pertaining to images we supply in this document are in **regular** type.



VIA Image 1: A view of the site from the Hemel-en-Aarde Road that shows the extent of existing windbreaks on site. These provide an edge to the farming blocks, to

provide protection from the dominant winds and act as visual barriers to visually sensitive receptors. Source: Leila Bruce

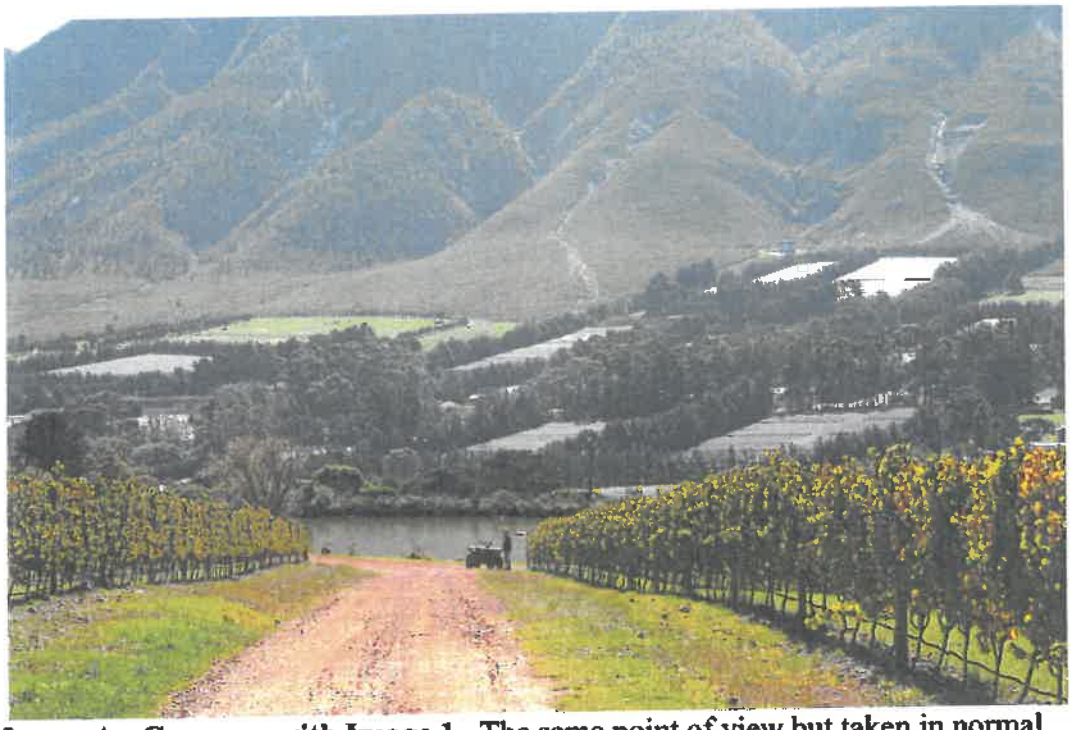


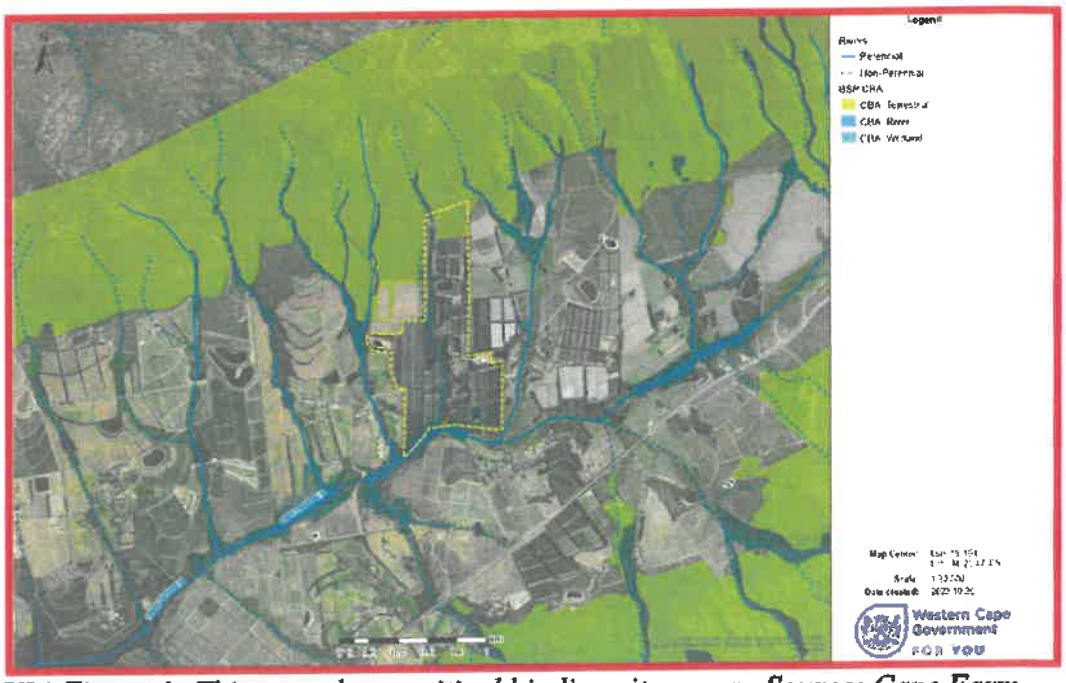
Image A: **Compare with Image 1.** The same point of view but taken in normal conditions where subject property is not under cloud cover and the image is clear. The image indicates the white glare extending high up the mountain slopes, and the density of the alien trees.

VIA Image 3: Street view of the Hemel-en-Aarde Road with rows of mature trees lining the edge of the road. Source: Leila Bruce

Image 3 indicates the R320 lined by trees that supposedly screen the tunnels. The point of view is looking in the Hermanus direction, not where the tunnels are located.

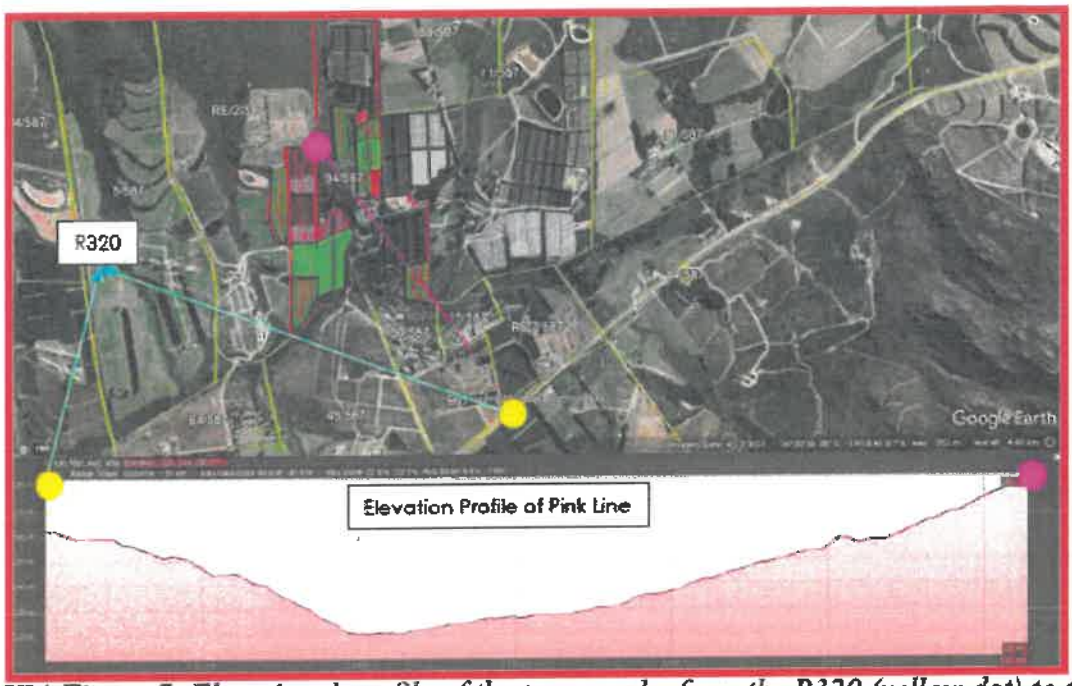
On inspection, this is one of only two short section on the R320 in that area that has trees lining the road, and this line of trees is only 600m long. Even if trees lined the entire road, the departures for tunnels are permanent, what happens when/if these trees are cut down as per the recent trends.

Image B: **Compare with Image 3**. The same row of trees as per Image 3, but looking towards Haygrove. Image 3 will have one believe that the entire R320 is tree lined and that the trees screen the tunnels from view when driving though the Hemel-en-Aarde, which is not the reality.



VIA Figure 3: This map shows critical biodiversity areas. Source: Cape Farm Mapper

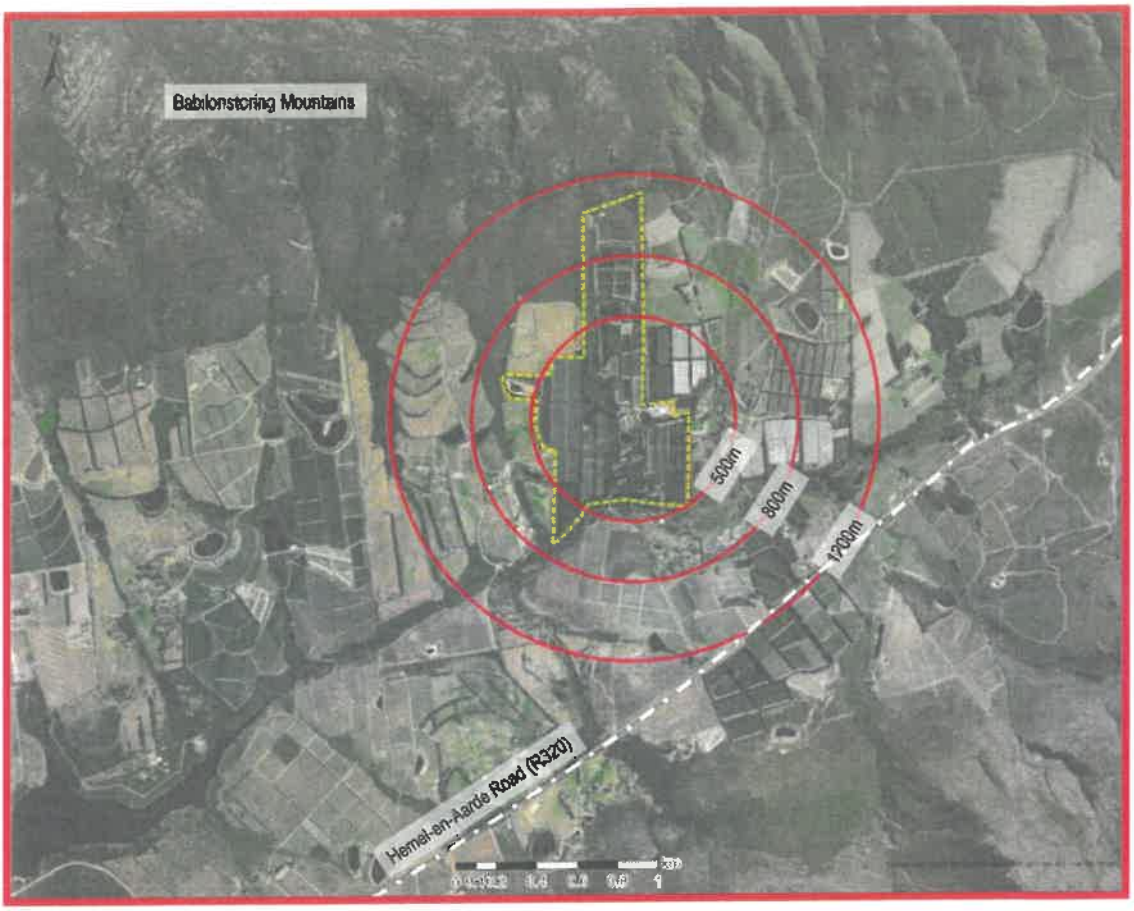
Figure 3 indicates that the applicant's property, indicated within the dotted yellow line, is surrounded by what is deemed by the authorities to be "Critical Biodiversity Areas". Haygrove's adjacent property with its polytunnels and shade cloth can also been seen. To the north are green areas of critical mountain land, and bordering the property to the south is the Onrus River and critical wetlands. With the property sandwiched between such critical systems, the area is not compatible with plastic tunnels covering 22ha, and reducing the boundary corridors for biodiversity and fire breaks to as little as 2-3m in some areas. The proposed expansion is excessive.



VIA Figure 7: Elevational profile of the topography from the R320 (yellow dot) to the edge of the site (pink dot): Illustrating the landscape character of the surrounding terrain of the site. Source: WRAP Project Office

The elevation profile along the purple line, from the yellow circle to the purple circle is significant yet not quantified in the report. The pink circle is at an elevation of 290m, and the top of the tunnels extent up to 360m. At his altitude, almost all tunnels are visible from all but the most low lying properties opposite. At this altitude, tunnels are highly visible from as far as 5km away in many directions.

39/69



VIA Figure 8: This map illustrates the extent of visual impact from the site to ±500m, ±800m and ±1200m (1.2km). These intervals meet points of importance, namely, the boundary of the site, the housing estate opposite and the R320 road. Source: Cape Farm Mapper

This is misleading as the distance is measured from the centre of the subject property whereas the tunnels extend beyond the center. So when measuring the proximity to the points of interest, it should be measured from the tunnels on the property located closest to the points of interest as this is the distance that is relevant.

40/69

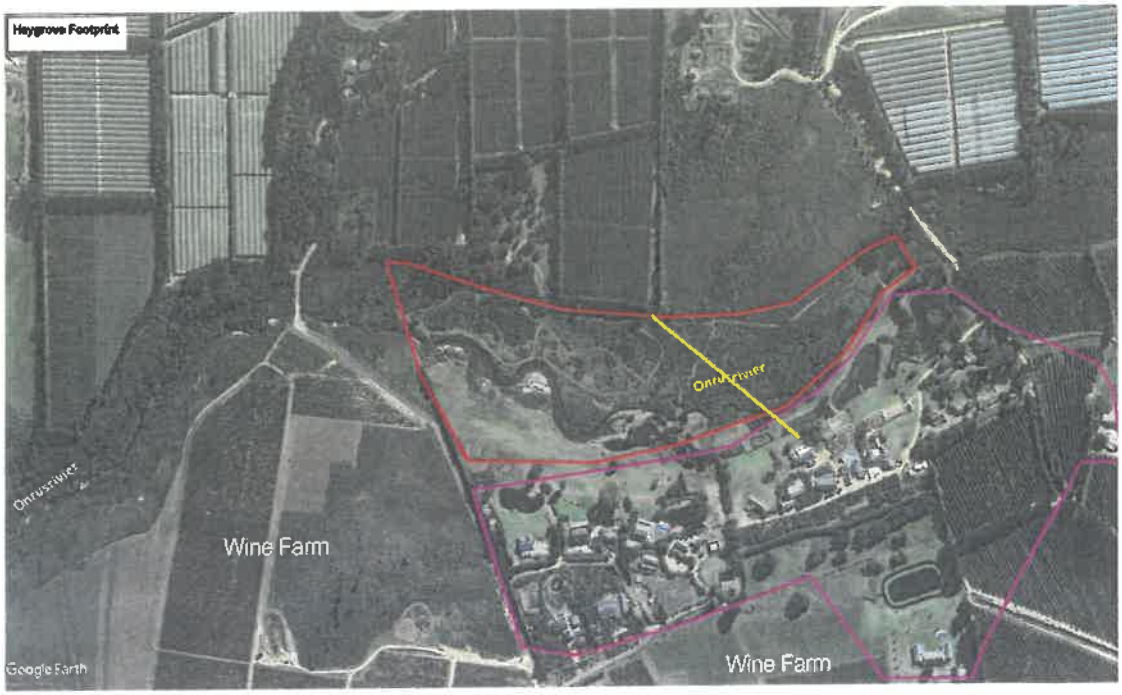


Figure A: Compare to Figure 8. Figure A indicates that the yellow line, i.e. the distance between residential homes and the closest tunnels will be 200m, not ***"±800m distance from the holiday accommodation."*** as the VIA document indicates.

Note that the area within the purple contains 27 residential homes; 20 houses on two residential developments zoned resort (30 years ago), and two houses on two farms, both zoned agri, the one house having been built 150 years ago. It is not only ***"holiday accommodation"*** as the VIA states, many are permanent residents who live with the impact of Haygrove on a daily basis.

The area within the red line is common property on the residential developments, is sensitive and indigenous fynbos and wetlands on the northern side of the Onrus River, and contains nature trails. The white tunnels will abut this. The impact will be severe.

Both wine farms in Figure A look directly into the white polytunnels and are even more severely impacted due to their higher altitude. The glare from these tunnels and shade cloth is untenable as will be seen in later images.

41|69

VIA Image 6: This image shows the holiday accommodation units seen from a road on site. In the foreground are existing tunnels that are largely screened by vegetation. Source: Leila Bruce

This is a view from Haygrove looking back towards the neighbouring development (which is not a relevant point of view to assess the impact). It does not indicate the scale of the housing development or the proximity of the houses to the tunnels. It refers to *"holiday accommodation"* when in fact there are a number of permanent residents. Most relevant however is that this image is taken from the neighbouring property (11/587) and not the subject portion 94/587, so any reference here is irrelevant, see Image C below.

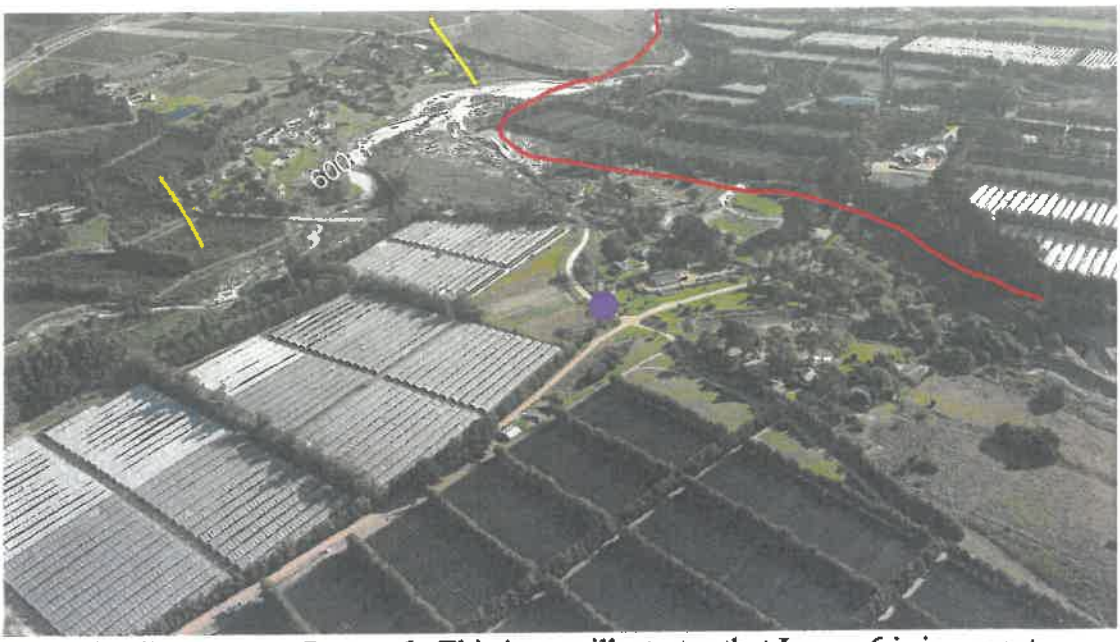
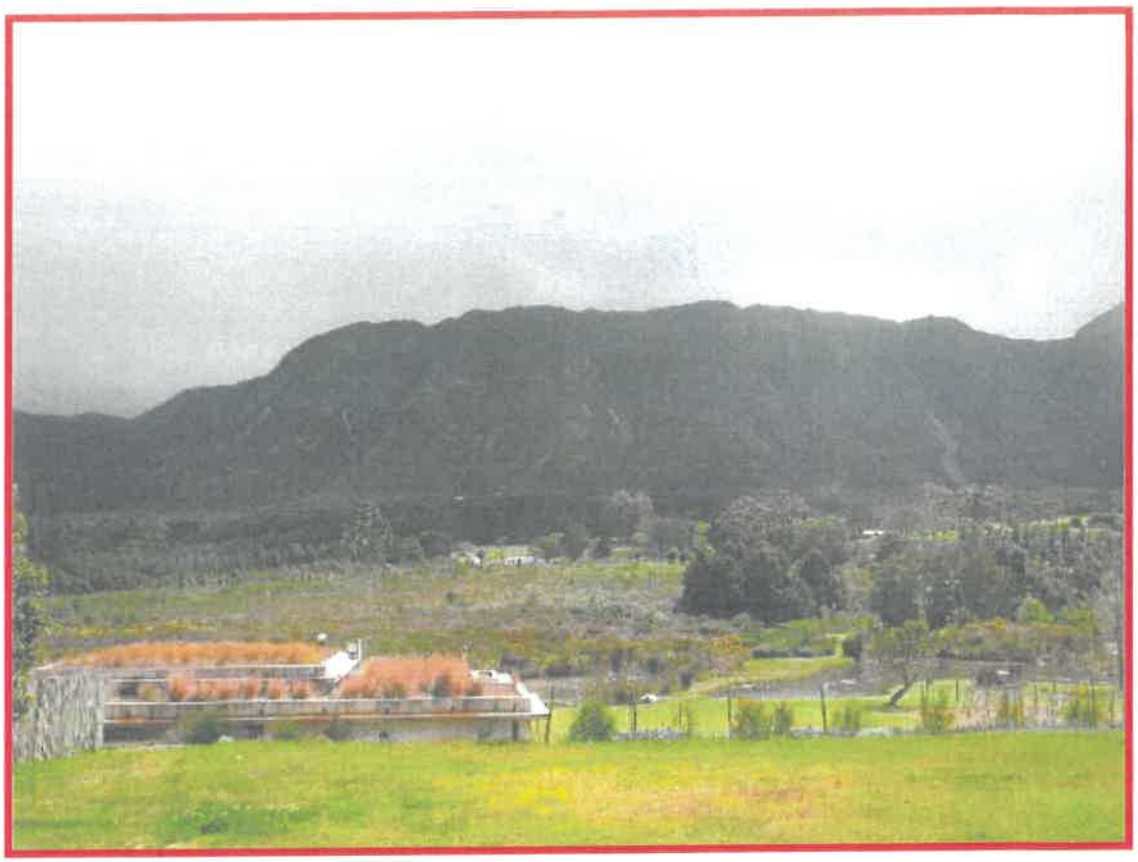


Image C: **Compare to Image 6**. This image illustrates that Image 6 is incorrect. Firstly, Image 6, is taken from the area in proximity of the purple dot. This dot is on farm 11/587, not the property in this application, which is 94/587 to the right of the red line. This photograph also enables the viewer to see that the housing development is not as small as Image 6 would have one belive. In fact there are 25 houses stretching some 600m, as indicated between the yellow lines. It is also possible to see the scale of the polytunnels that Haygrove also farm on their property left of the red line. The impact on the surrounding area is far greater seeing it in context, i.e. both operations.



VIA Image 5: This image shows the site with limited visual impacts of existing tunnels including the large extent of natural windbreaks and established trees seen from the site of the holiday accommodation units opposite. Source: Leila Bruce

This particular home is the lowest lying home on the site and this photographs paints a benign and picturesque image of the applicant's operation. This is far from reality, see Image D below.

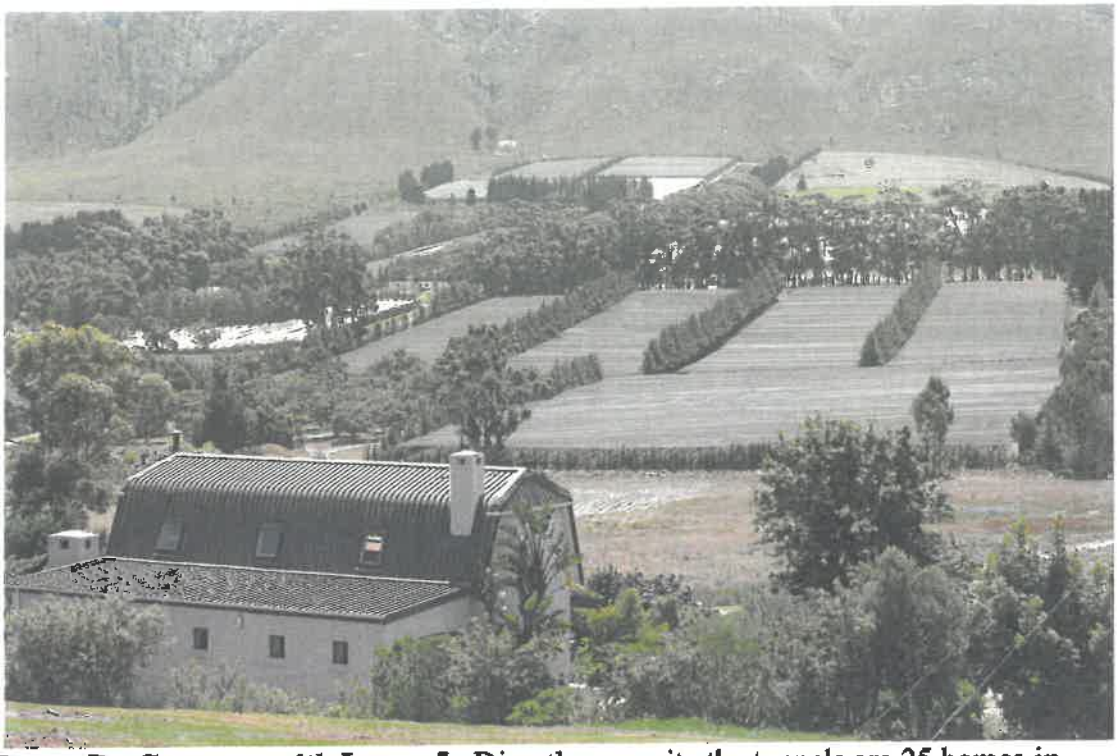


Image D: **Compare with Image 5**. Directly opposite the tunnels are 25 homes in two developments, with homes as close as 200m from the proposed tunnels. The tunnels appear further away in the photograph, however the impact is instant when sanding on site. Much of this shade cloth is now 8.337ha of illegally erected white polytunnels. This house is only 50m from the house pictured in the VIA's Image 5 above, indicating how misleading to the overall reality of Image 5 actually is.

Image E: Direct view from a neighbouring wine farm into applicant's polytunnels. A condition for approval was that the white plastic is to be covered with shade cloth to

camouflage the tunnels and to minimize glare. The covering is totally inadequate and the visual impact is high.

Image F: View from wine farm opposite the applicant's polytunnels, looking into alien trees and tunnels. Note that tunnels are clearly visible through the trees.

46/69

Image 4: This image shows the undulating topography of the terrain from the R320 road that illustrates natural visual barriers to the site at various points. Source: Leila Bruce

This photograph is taken from a location on the R320 where the road is at its lowest point and a hill conveniently obscures the visual impact of the subject property from the road.

At this point in the document and after presenting the above diagrams and photographs, the VIA states:

"5.2 Visual Exposure

The site is visually enclosed by rows of trees and moderately exposed from higher elevations due to the undulating landform. It is rated as moderately exposed (their underlining) for receptors, namely the holiday accommodation units, neighbouring farms and the Hemel-en-Aarde Road (R320). The site has a high visual absorption capacity (there underlining) as it is effectively screened by vegetation and topography. Particularly along the R320 as there are rows of trees on the road edge and on lower elevations in close proximity to trees on site."

This is not an accurate assessment as *Image 4* above and Image G below illustrate.

47/69

Image G: **Compare with Image 5**. This photograph is taken on the R320, only150m east of the location of Image 5. This not only illustrates the visual impact of the tunnels and shade cloth, but also the white glare. The glare is so severe in this image that it is indistinguishable as to which surfaces are white plastic tunnels and which are shade cloth. The density of the planted alien trees can also be seen. One will also note that the white plastic tunnels and alien tree windbreaks are in stark contrast to the view of the wide-open space the vineyards in the foreground afford.

VIA

Image 7: This image shows the main entrance from the R320 to the site. Source: Antoinette de Beer

Image 7 is an image taken for the VIA at the turnoff to the road to access the applicant's property. The camera is on a wide lens pushing the tunnels into the distance. The property is also photographed in the shade, minimizing the impact of the white glare and tunnels.

Image H: **Compare with Image 7**. This is the same viewpoint as Image 7, only it is taken 10m away on the opposite side of the R320, and uses a 50mm lens that is the same view as the human eye, i.e. not zoomed in or out. The visual impact from the road is far greater than Image 7 indicates.

The VIA makes the following assessment and uses the images that we have highlighted in this document to support their claims:

"5.4 Compatibility of the Development

*The compatibility of the proposed development and land use with the existing landscape character is assessed as **moderately** compatible; the development of additional horticulture tunnels would fit into the landscape and be partially concealed through established vegetation. It would be partially concealed based on viewpoints from different topographical elevations.*

5.5 Intensity or Magnitude of Visual Impact

*The intensity or the degree to which the proposed development will impact views and scenic or cultural resources will be **medium-low**: visual and scenic resources will be affected to a limited extent.*

HAWA reject these assessments. The VIA has failed to accurately document the visual impact on neighbouring farms. The following sets of images and brief descriptions indicate the severity of the visual impact, on many properties, not indicated in the applicant's VIA.

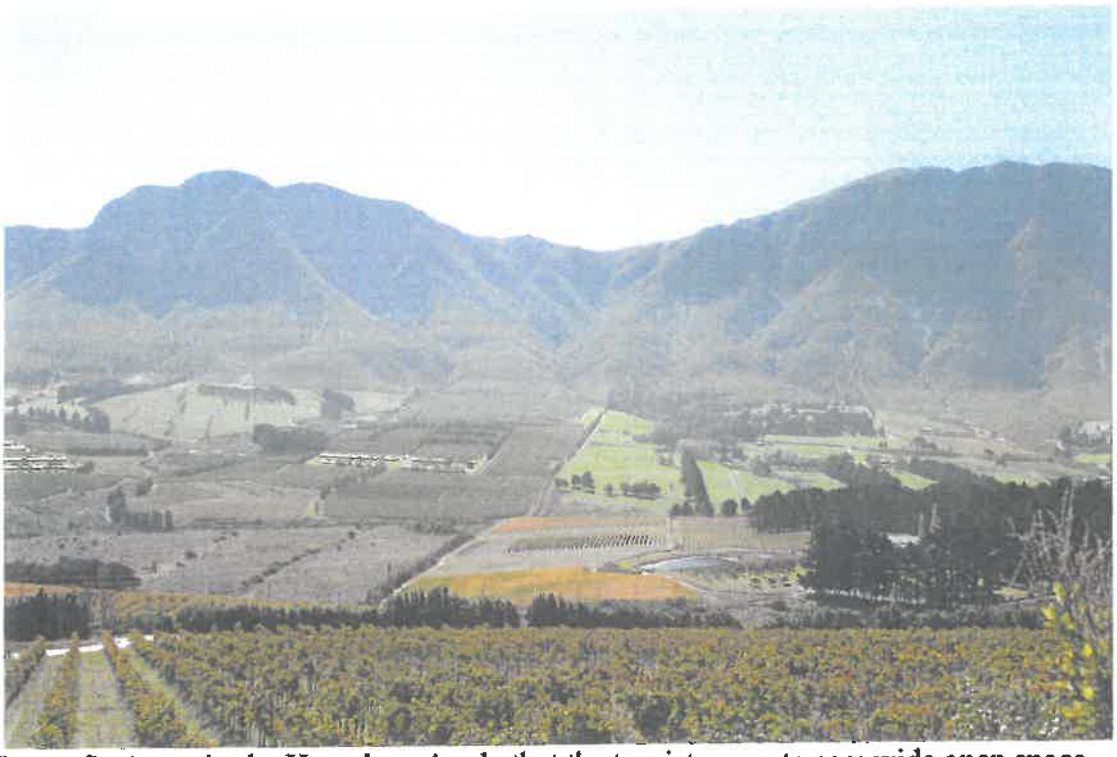


Image I: Areas in the Hemel-en-Aarde that the tourist come to see; wide open space, mountains, natural vegetation, vineyard and orchards.

Image J: Open space and water in the foreground and the backdrop of alien trees and plastic tunnels that tourists and visitors do not come to the HEA to see.

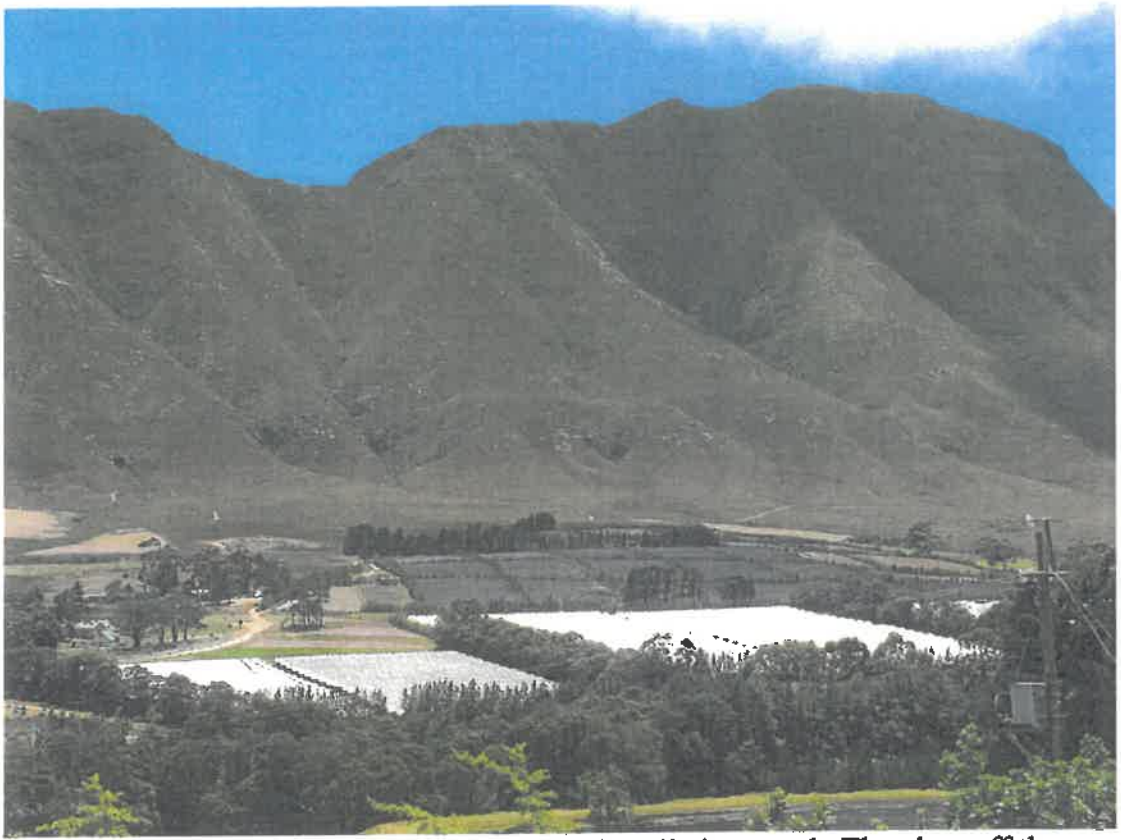


Image K: Properties 1km from the tunnels are heavily impacted. The glare off the tunnels is severe and Haygrove do not fulfill the current Conditions of Approval that require adequate cover these tunnels.

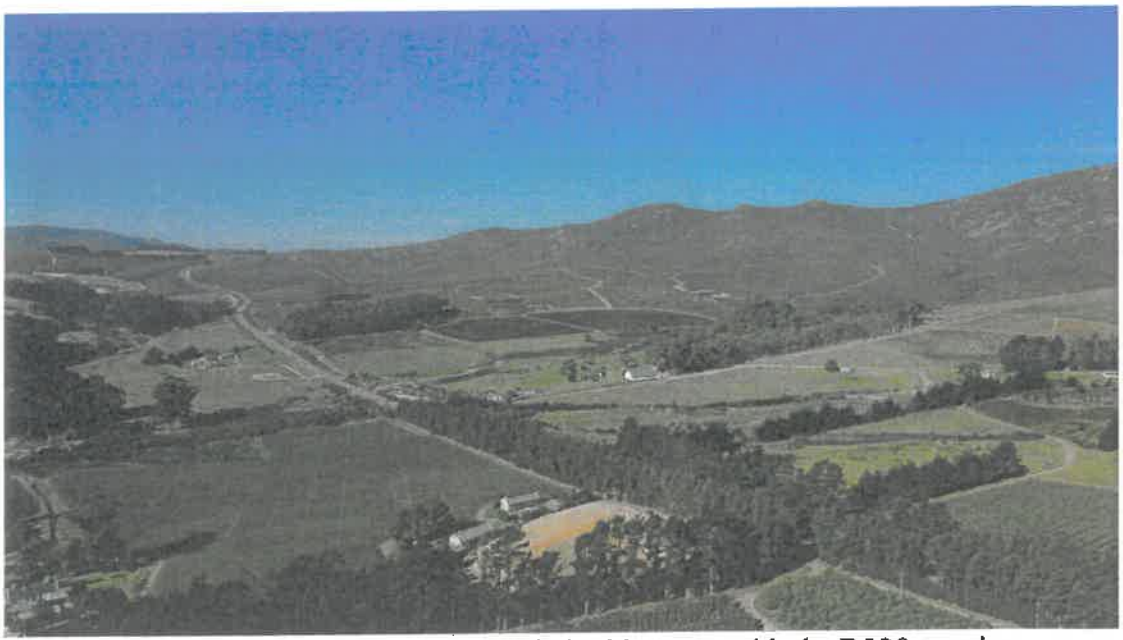


Image L: The picturesque Hemel-en-Aarde looking east with the R320 running through.

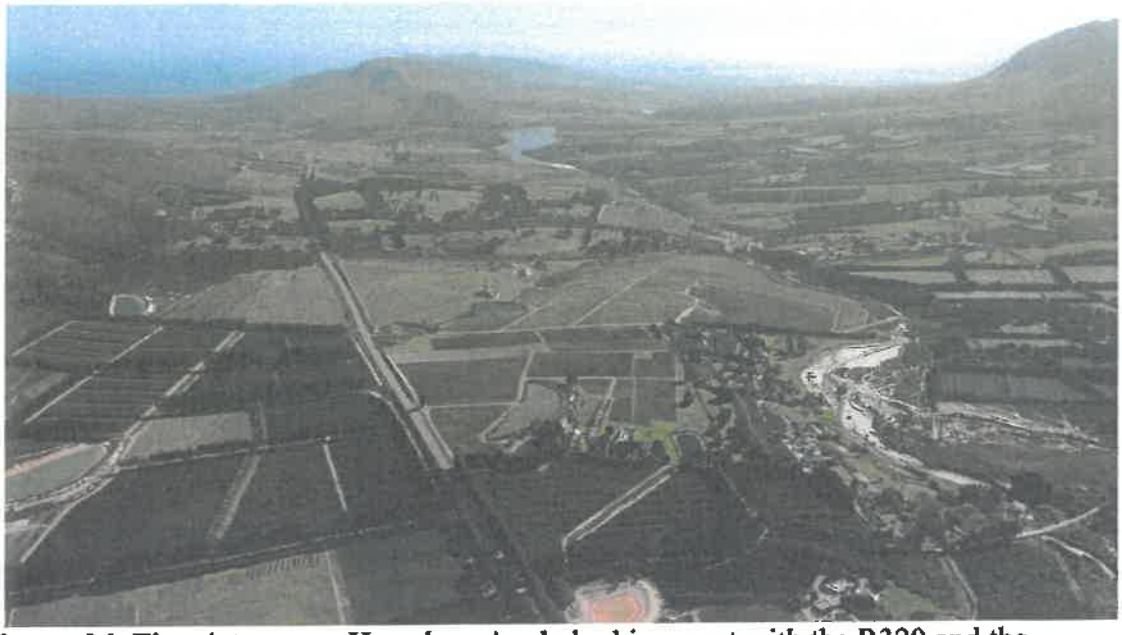


Image M: The picturesque Hemel-en-Aarde looking west with the R320 and the Onrus River running through. The lower portion of the applicants property can be seen on the right, vineyards and the two housing developments can be seen on the left of the Onrus River.

Image N: The extent of the applicants tunnels on the mountain slopes. The application, if successful, will see the black shade cloth sections converted to white polytunnels.

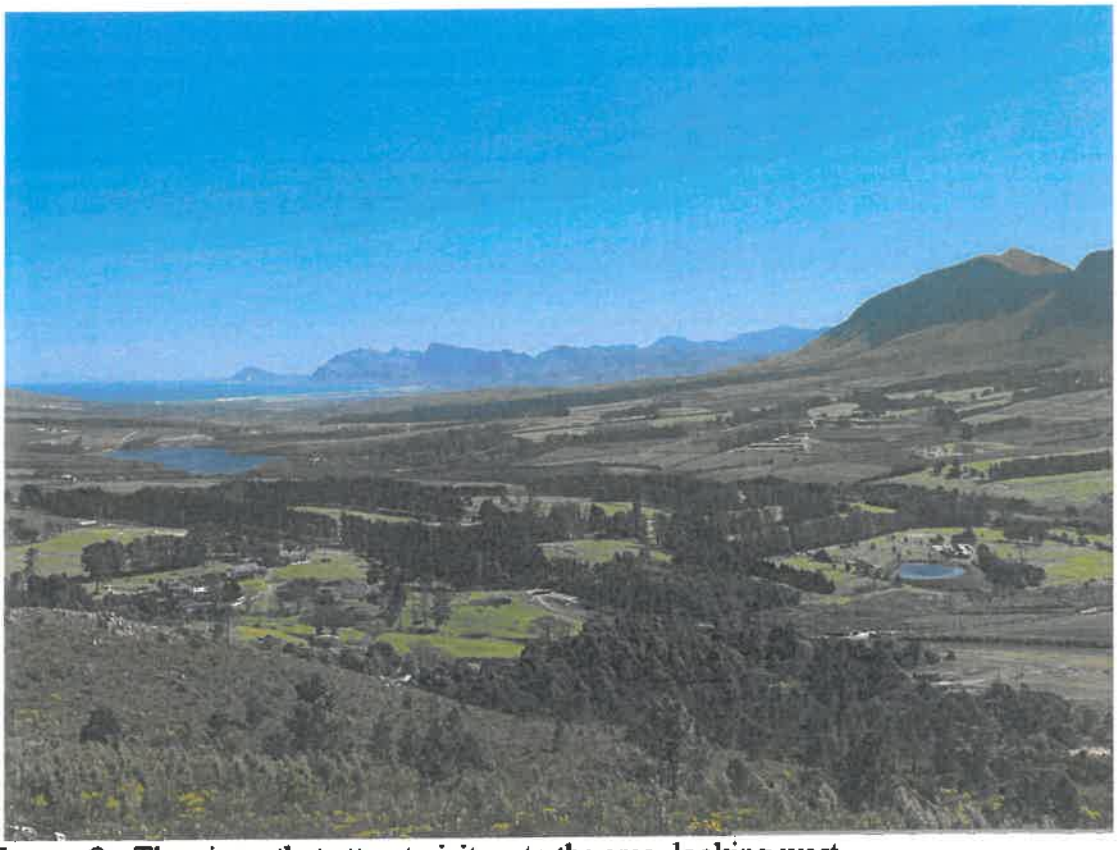


Image O: The views that attract visitors to the area, looking west.

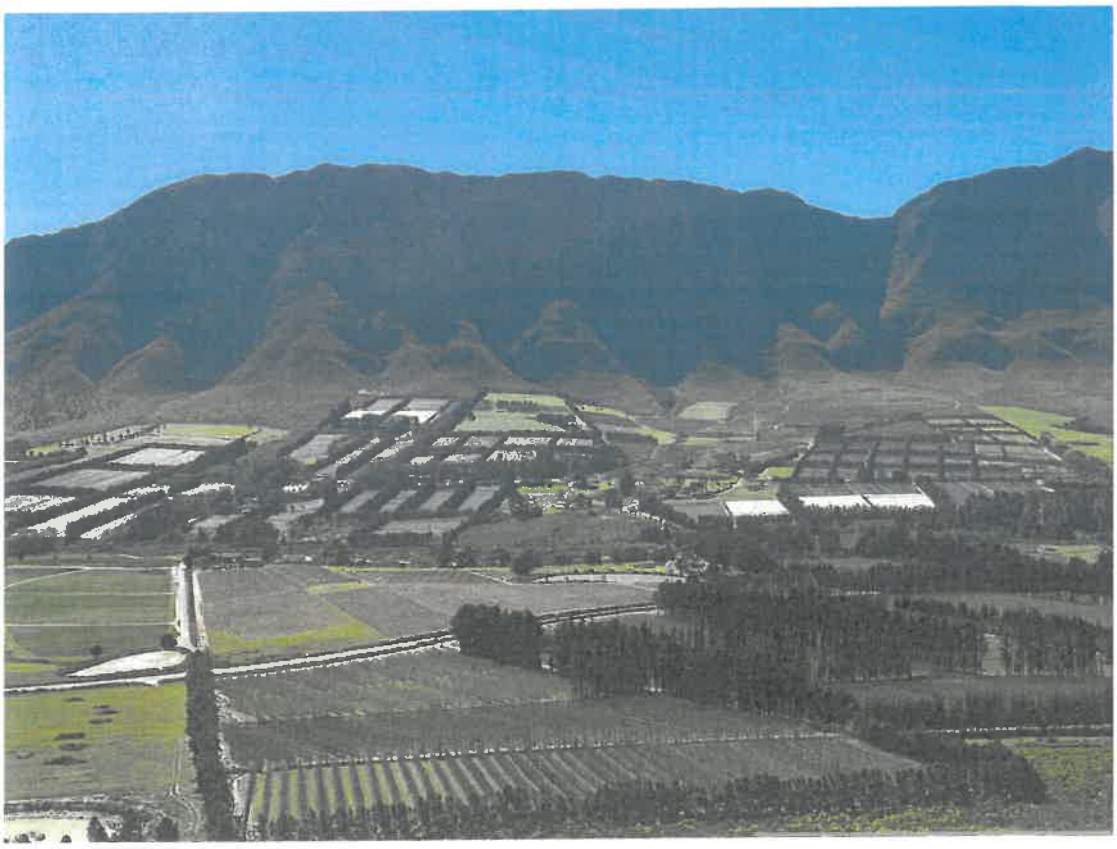


Image P: Taken from the same location as Image H, looking north on Haygrove. The sprawl of these tunnels can been seen stretching 1.5km. In left foreground are vineyards, orchards and natural fynbos. Many windbreaks have been removed from

the orchards in the foreground in line with recent trends to remove alien trees and open up the landscape and views.

The visual impact on the wineries in this area of the Hemel-en-Aarde Valley is far greater than indicated in the VIA. Views are affected and the agricultural and historic character of the area is significantly altered. Images below walk the reader through a 5km stretch of the area, from Hasher Family Vineyards (formerly Sumaridge), to Spookfontein on the eastern ridge.

Image Q. Hasher Family Estate, winery on the right, expansive open space with vineyards and natural open corridors in the foreground. Although 5km from Haygrove, the alien tree windbreaks darken the mountain slope, directly under the iconic, historic Babilonstoring mountains. Reflective white plastic can be seen high up on the mountain slopes on the left. Image taken from the R320 so this view is clearly visible by all road users.

Image R: The tunnels can easily be seen from Newton Johnson Family Vineyards.

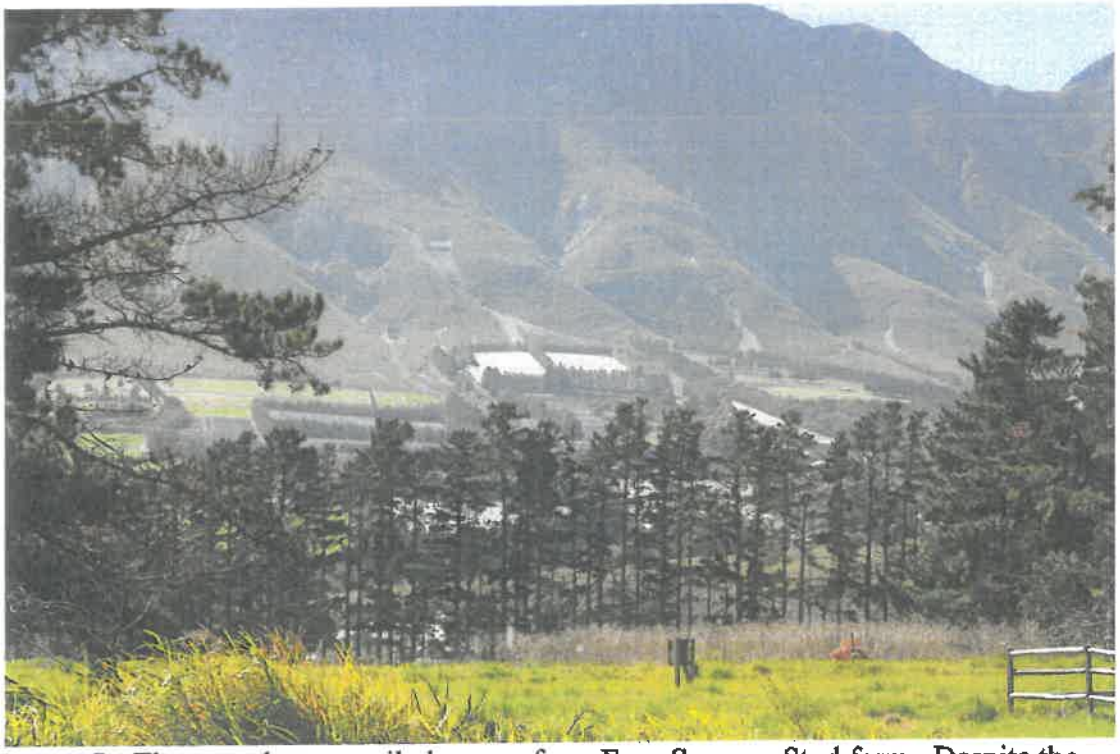


Image S: The tunnels can easily be seen from Four Seasons Stud farm. Despite the row of trees screening the tunnels, they are still highly visible though the trees.

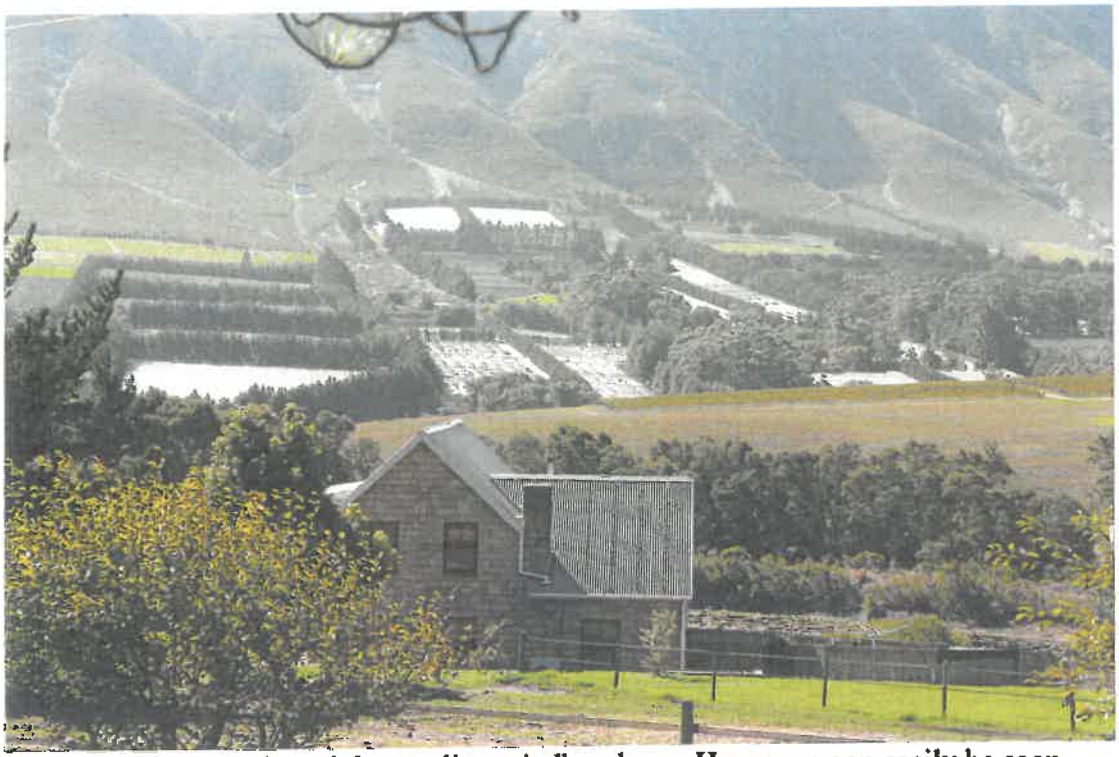


Image T: The tunnels and dense alien windbreaks on Haygrove can easily be seen from Ross Stud Farm. The house looks directly onto the polytunnels.

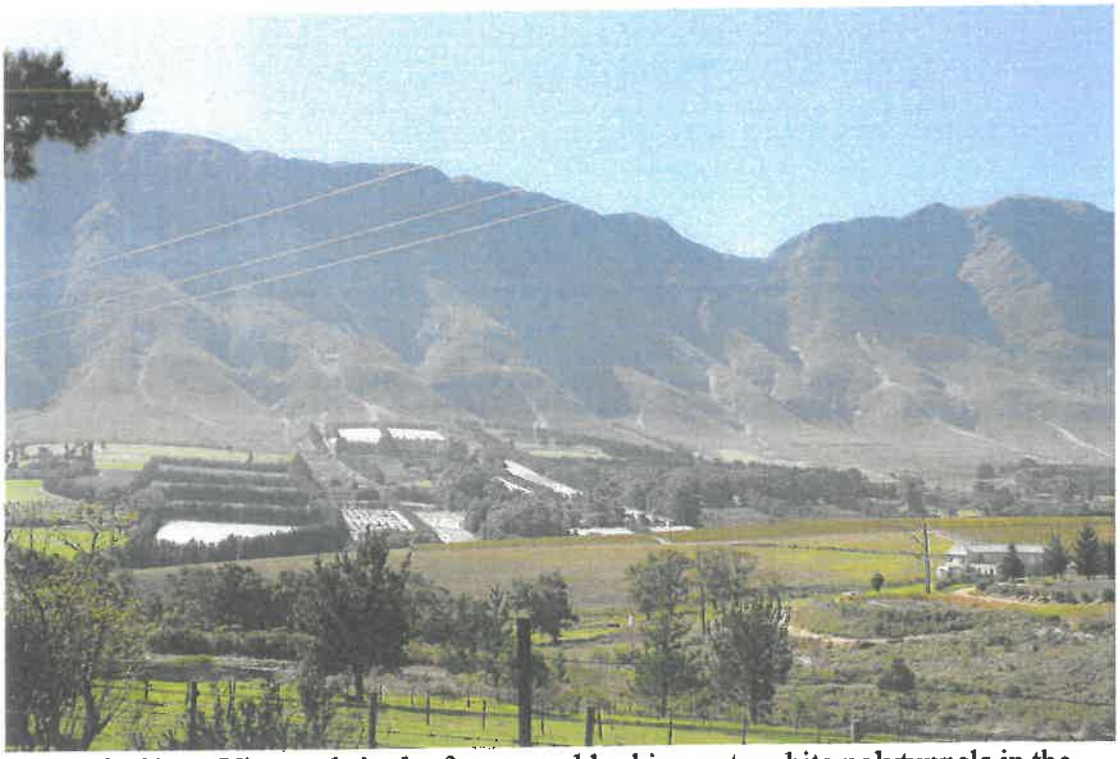


Image U: Sham Vineyards in the foreground looking onto white polytunnels in the background.

Image V: Sham Vineyards fynbos in the foreground looking onto white polytunnels and alien windbreaks on the mountain. In the distant open space on the left are vineyards farmed by Newton Johnson.

Image W: Restless River Vineyards in the foreground looking onto the Babilonstoring mountains covered in white polytunnels and shade cloth, densely surrounded by alien windbreaks.

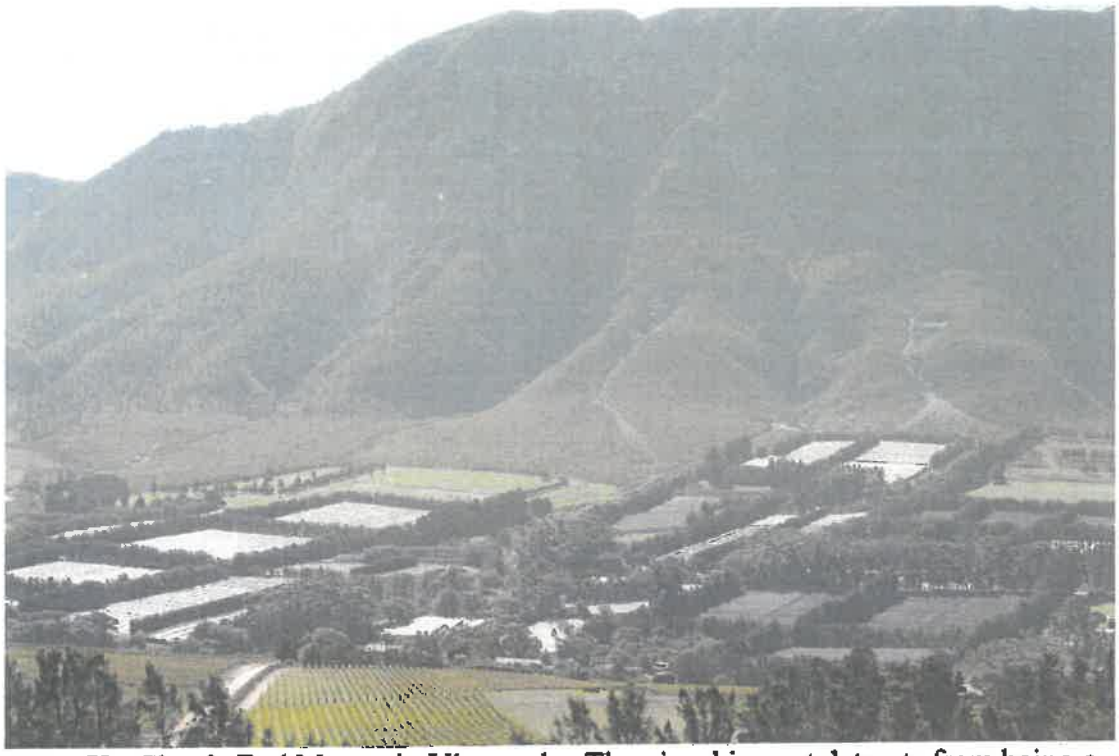


Image X: Clouds End Mountain Vineyards. The visual impact detracts from being a viable location for tasting facilities.

Image Y: Tunnels impact the views from Spookfontein, the view from this location also looks into the Haygrove where the mountain slopes are heavily covered in alien trees that act as windbreaks for the tunnels. The vineyards and fynbos in the foreground create wide-open spaces in character with the area, including the guest cottages. The background tunnels and alien trees are in contrast to this.

58|69

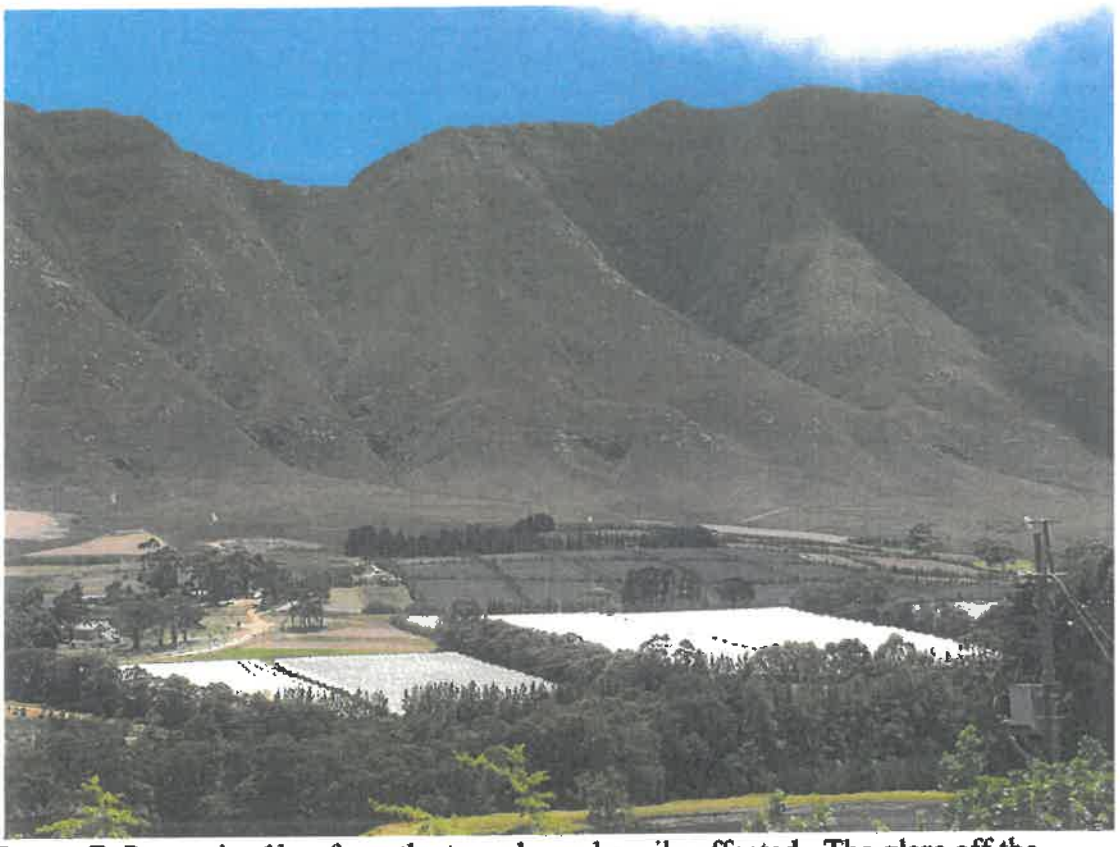


Image Z: Properties 1km from the tunnels are heavily affected. The glare off the tunnels is severe and the applicant has not fulfilled the current Conditions of Approval and adequately cover these tunnels.

End.

HEMEL-*en*-AARDE
WINES • HERMANUS

HEMEL-EN-AARDE WINEGROWERS ASSOCIATION
Overview

1. NAME

The name of the association initially was the "The Hermanus Winegrowers' Association". Given clarity received from the Wine and Spirits Board on the naming of Ward 3 the name has now been changed to Hemel-en-Aarde Winegrowers' Association ("**HAWA**"). Under the auspices of the Hemel-en-Aarde Winegrowers' Association the Hermanus Wine Route has been established as per **Annexure "A"** hereto.

2. MISSION

To set new standards of wine quality and integrity of origin in South Africa, in terms of the product, the associated service and experience for consumers and visitors, by developing and promoting the people involved in the wine industry of the Hemel-en-Aarde area.

3. VISION

To be recognised as a unique wine destination and premium winegrowing area in South Africa offering the most superlative product, service and wine experience in the country.

4. OBJECTIVES

1. To identify and promote a sustainable identity which is reflective of the group as a whole, which is differentiated from Botriver, Elgin and Stanford area in the context of Walker Bay, and which is aimed at enhancing the competitiveness and brand value of the group and the individual businesses that make up the group.

2. To develop a 'wine culture' and 'regional loyalty' amongst the people involved in the wine industry of the area, that reflects the identity of the group through the language, behaviour, attitude and service levels utilised by the individuals that make up the group.

3. To develop a Wine Route, targeted at attracting the aspiring wine buyer, the discerning wine

buyer and the connoisseur; made up of members who undertake to uphold and reflect the standard and identity of the area as a whole.

4. To develop an effective external communications programme for the Wine Route, that will provide information about the area in terms of products, services, achievements, developments, the people involved etc., in keeping with the identity of the area within the budget constraints and guidelines set by the board from time to time. Included in this programme will be media releases to appropriate lifestyle journalists, the development and distribution of brochures and maps, the development of a website with links to the various member wineries and a training and information programme for local restaurants, hotels and B&B establishments.

5. To create opportunities targeted at international and local wine writers; discerning wine drinkers, the connoisseurs and the loyal supporters, aimed at promoting the regional identity of the wines grown in the area. Linked to this will be a specific projects management function and media release.

6. To encourage all members to be both progressive in their business practices and compliant with the legislation of the day.

7. To provide a platform for wine businesses of the area to collectively and jointly co-operate and co-ordinate arrangements (through opportunities that arise - activities, events, functions, wine shows) to promote the area.

8. To develop a 'voice' which is representative of the wine businesses of the area and is recognised, credible and acknowledged at municipal, Wine Route Forum, Wines of South Africa, and SAWIS level.

9. To promote collaboration; co-operation and information sharing between members through networking opportunities and hosted tastings, with the view of improving relationships and finding opportunities/synergies/joint projects that will promote cost effectiveness.

5. DEFINED AREA

The HAWA recognises wards 1 (Hemel-en-Aarde Valley), 2 (Upper Hemel-en-Aarde Valley) and 3 (Hemel-en-Aarde Ridge) as demarcated by the Wine and Spirit Board, to be the automatic area of inclusion. Winegrowers outside this core area may, in extraordinary circumstances, be considered on a case-by-case basis according to the outlined procedure. The intention is, however, to rather include people outside the core area as part of the Hermanus Wine Route as set out in **Annexure "A"**.

6. MEMBERSHIP

In terms of this constitution, "Winegrower" is defined as an agricultural business, primarily focussed on producing and selling wine and/or growing and selling grapes for wine making purposes.

A membership structure, together with a classification key has been introduced to categorise members and will be used as the basis for defining rights of membership and the funding of HAWA.

CURRENT MEMBERS FOR 2024 INCLUDE:

Full Members:

1. Southern Right Wines
2. Hamilton Russell Vineyards
3. Bouchard Finlayson
4. La Vierge Wines
5. Bosman Hermanus / De Bos (Bosman Family Vineyards)
6. Hasher Family Estate
7. Cap Maritime
8. Newton Johnson Vineyards
9. Restless River
17. Storm Wines
10. Spookfontein
11. Whalehaven
12. Ataraxia
13. Tesselaarsdal
14. Creation
15. Mount Babylon

62|69

Loretta Gillion

From: WeTransfer <noreply@wetransfer.com>
Sent: Friday, 19 April 2024 13:37
To: Loretta Gillion
Subject: frederik@hasherfamilyestate.co.za sent you Portion 94 of Farm Hemel en Aarde 587 - Objection via WeTransfer

frederik@hasherfamilyestate.co.za
sent you Portion 94 of Farm Hemel en Aarde 587 – Objection

3 items, 158 MB in total • Expires on 26 April, 2024

Portion 94 of Farm Hemel en Aarde 587 - Objection Dear Ms Gillion,
Dear Mr. Olivier,

In my capacity as chairman of the Executive Committee of the Hemel & Aarde Winegrowers' Association, I am contacting you to inform you of our organizations' objection to the application for departure, amendment of an approved site development plan and amendment of conditions for approval in respect of Portion 94 of Farm Hemel en Aarde 587.

In this respect, I send you the following documents via WeTransfer:

HAWA objection 2024
Annexure 1 : Critique of the applicant's VIA, submitted as annexure D
Annexure 2 : HAWA overview

May I kindly ask you to confirm in reply of this email, that these documents were well received?

If possible, I would suggest we set-up a meeting in the next weeks where I would like to discuss the reasons for HAWA to object to this

application.

Please don't hesitate to contact me should you have any questions.

Kind regards,

Get your files

Download link

https://wetransfer.com/downloads/75e97910157a6e07beaa665447fb514f20240419113003/9d3485c9ee47424ab0cb2c97bb42d04a20240419113022/6fd375

3 items

Annexure 1.pdf
158 MB

Annexure 2. HAWA Overview.pdf
518 KB

HAWA Objection 2024.pdf
157 KB

To make sure our emails arrive, please add noreply@wetransfer.com to your contacts.

About WeTransfer · Help · Legal · Report this transfer

64|69

Loretta Gillion

From: Frederik || Hasher Family Estate <frederik@hasherfamilyestate.co.za>
Sent: Friday, 19 April 2024 13:32
To: Loretta Gillion; Henk Olivier
Cc: JC Martin; Hannes Storm; Emul Ross | Hamilton Russell Vineyards
Subject: Portion 94 of Farm Hemel en Aarde 587 - Objection

Dear Ms Gillion,
Dear Mr. Olivier,

In my capacity as chairman of the Executive Committee of the Hemel & Aarde Winegrowers' Association, I am contacting you to inform you of our organizations' objection to the application for departure, amendment of an approved site development plan and amendment of conditions for approval in respect of Portion 94 of Farm Hemel en Aarde 587.

In this respect, I have sent you the following documents via WeTransfer:

- HAWA objection 2024
- Annexure 1 : Critique of the applicant's VIA, submitted as annexure D
- Annexure 2 : HAWA overview

May I kindly ask you to confirm in reply of this email, that these documents were well received?

If possible, I would suggest we set-up a meeting in the next weeks where I would like to discuss the reasons for HAWA to object to this application.

Please don't hesitate to contact me should you have any questions.

Kind regards,

Frederik Herten
Owner

Hasher Family Estate

R320 Hemel & Aarde Valley,
7200 Hermanus, P.O. Box 224

GPS: -34.36688190949651, 19.25553238169907

frederik@hasherfamilyestate.co.za
www.hasherfamilyestate.co.za
+27 (79) 832 3737

Reg. N° 2021/495288/07
VAT n°4760298374

65/69

FILE NO. P/N94/587
Hemel & Aarde
SCAN NO.
COLLABORATOR NO.
2035042

~~Loretta Gillion~~
~~OVERSTRAND MUNICIPALITEIT~~

REKORDBEHEER
22 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

From: Di Marais <hemelenaardeconservancy@gmail.com>
Sent: Friday, 19 April 2024 10:24
To: Loretta Gillion
Subject: Request for Extension and Concerns Regarding Proposed Development on Portion 94 of Farm 587, Hemel-en-Aarde Valley

Dear Overberg Municipality,

I am writing to you on behalf of the Hemel en Aarde Conservancy, representing 6000 hectares of conserved area in the Hemel-en-Aarde Valley.
Our conservancy plays a vital role in stewarding the natural environment and cultural heritage of the valley, and it is with great concern that we address the proposed development on Portion 94 of Farm 587.

Having reviewed the attached application by Haygrove for departure, amendment of an approved site development plan, and amendment of conditions of approval, we have identified several significant issues that raise serious concerns from a conservancy perspective. This letter is to address the following points and raise objections to it:

Environmental Impact:

Biodiversity Preservation:
Emphasize the need for a more comprehensive environmental impact assessment to address the potential impact on the biodiversity of the Hemel-en-Aarde Valley.

Water Quality and Soil Health:
Highlight the necessity for thorough research on the risks to water quality, soil health, and ecosystem balance posed by the proposed development.

Erosion and Contamination:
Stress the importance of addressing the risks of erosion, chemical contamination, and fertilizer residues to ensure the valley's environmental sustainability.

Sustainability and Community Well-being:

Preservation of Rural Character:
Clearly state the objection to the application in its current form due to the lack of adequate research and assessment, and request more comprehensive and convincing research in sensitive areas.

Social and Economic Impact:
Address concerns about the adverse social and economic implications of the development, including increased traffic, crime, and impacts on local communities and informal settlements.

Stakeholder Engagement:
Emphasize the need for meaningful engagement with all stakeholders to ensure their concerns and perspectives are considered in the decision-making process.

Request for Further Assessment:

Independent Environmental Impact Assessment:
Clearly state the objection to the current assessment and request a more accurate and unbiased visual impact assessment that aligns with the conservancy's concerns.

Transparency and Accountability:

19 APR 2024

Request transparency from Haygrove regarding their operations and financial data to substantiate claims about economic benefits and employment.

In conclusion, we respectfully request an extension of the response deadline to allow for more time to inform and engage with Conservancy members, other stakeholders, and the broader community.
Our goal is to ensure that all concerns are addressed, and decisions are made in the best interest of the Hemel-en-Aarde Valley and its community.
Thank you for your attention to this matter.

We look forward to your favourable consideration of our request and to further collaboration on this important issue.

Sincerely,

--

Hemel-en-Aarde Conservancy Team
Hemel-en-Aarde
P.O. Box 158
Hermanus
7200
South Africa
Di Marais: +27 82 462 3624
Geon Ludick: +27 72 749 8520

E-Mail: hemelenaardeconservancy@gmail.com

67/69

Loretta Gillion

From: harsa chairman <harsachairman@gmail.com>
Sent: Monday, 06 May 2024 15:05
To: Loretta Gillion
Cc: Danie van Zyl; Petrus Bothma; harsafarmwatch@gmail.com; Craig Johnson
Subject: Retraction of Previous Correspondence Regarding Land Use Application for Portion 94 of Farm 587 Hemel & Aarde Valley

Dear Mrs Loretta,

I hope this email finds you well. I am writing to formally retract the letter sent on [Date] regarding the land use application for Portion 94 of Farm 587 Hemel & Aarde Valley.

Upon further reflection and consultation with relevant stakeholders, I have determined that it is in the best interest of all parties involved to withdraw the concerns outlined in the previous communication. I apologise for any inconvenience or confusion that this may have caused.

Please consider this email as an official notification of the retraction of the letter. I kindly request that any records of the previous correspondence be updated accordingly.

Thank you for your attention to this matter. Should you require any further clarification or information, please do not hesitate to contact me.

Warm regards,

--

HARSA FARM WATCH

Geon Ludick
HARSA Chairman
Cell: +27 72 749 8520
E-Mail: harsachairman@gmail.com

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
06 MAY 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - D. Theart
(H. Olivier)

FILE NO. PAN 94/587
Hemel & Aarde
SCAN NO.
COLLABORATOR NO.
2042608

6 MAY 2024

68/69

FILE NO. PN 94/587 Hemel & Aarde
SCAN NO
COLLABORATOR NO. 2030687

Loretta Gillion

OVERSTRAND MUNICIPALITY
REKORDBEHEER
15 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

From: harsa chairman <harsachairman@gmail.com>
Sent: Sunday, 14 April 2024 13:48
To: Loretta Gillion
Subject: Concerns Regarding Land Use Application for Portion 94 of Farm 587 Hemel & Aarde Valley

TP-N Meagle
CH. Olivier

Dear Overberg Municipality,

I am writing to express some concerns regarding the land use application for Portion 94 of Farm 587 Hemel & Aarde Valley, which I recently reviewed.

As the Chairman of the Hemel en Aarde Rural Safety Association (Farm Watch), I believe it is essential to ensure that all proposed developments comply with local bylaws and regulations and do not pose any safety or environmental risks.

Based on my review of the application, I have identified several areas of concern that I would like to bring to your attention.

These include:

1. Compliance with Regulations:
The document mentions that the applicant admits to having constructed new tunnels without obtaining the necessary approvals. However, this does not absolve them from complying with local bylaws and regulations. It is essential to ensure that all developments comply with the law and that penalties are imposed for non-compliance.

2. Sound Testing:
It is unclear whether a sound testing has been conducted to assess the potential impact of the 24/7 operation on the surrounding neighbors.

3. Transportation:
The document mentions a limited number of buses, but the number of buses may not be sufficient given the number of people the facility is expected to accommodate.

. Water Management:
The document does not provide information on how the facility plans to manage water for the plants, given that they are in pots and not directly in the ground.

5. Environmental Impact:
The document does not address the potential environmental impact of the proposed facility, including the use of plastic covers and the clearing of alien vegetation.

6. Zoning Issues:
It is unclear whether the proposed facility complies with the zoning regulations and whether the applicant has sought any zoning variances or rezoning.

7. Water Supply:
The document does not provide information on the water supply for the proposed facility.

8. Waste Management:
The document does not mention waste management plans for the proposed facility.

9. Fire Safety: Given the rural location of the property, it is important to ensure that the proposed facility complies with fire safety regulations and has adequate fire prevention measures in place.

15 APR 2024

10. Access and Emergency Services: The document does not provide details on access to the property and proximity to emergency services.

11. Compliance with Local Bylaws and Regulations:
It is essential to ensure that the proposed facility complies with all local bylaws and regulations, including building codes, safety standards, and environmental regulations.

I would appreciate it if you could provide further information on these concerns and address how the applicant plans to address them. I believe that it is essential to ensure that all proposed developments comply with local bylaws and regulations and do not pose any safety or environmental risks to the surrounding community.
Thank you for your attention to this matter.
Sincerely,

--

HARSA FARM WATCH

Geon Ludick

HARSA Chairman

Cell: +27 72 749 8520
E-Mail: harsachairman@gmail.com

Annexure E 1/22

Project Office

Town Planning & Project Management

Our Reference: 23/81
Your Reference: Ptn 94 of Farm 587, RCAL

27 May 2024

The Municipal Manager Overstrand Municipality P O Box 20
HERMANUS
7200

Attention: Mr Henk Olivier

PORTION 94 OF THE FARM HEMEL-EN-AARDE VALLEY 587, CALEDON: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN AND AMENDMENT OF CONDITIONS OF APPROVAL: COMMENT ON OBJECTIONS

Your letter dated 2 May 2024 refers.

The comments and objections received are addressed herein.

Unit B, Standard House,
Cnr Royal and Dirkie Uys Street
Hermanus

PostNet Hermanus Suite 170
Private Bag X16, Hermanus,
7200

Tel: +27 (0)28 313 1411
Email: admin@wrapgroup.co.za
Web: www.wrapgroup.co.za

2/22

Methodology followed for addressing the comments and objections received:

The three objectors, Michael Farr, Hemel-en-Aarde Conservancy Team and Hemel-en-Aarde Valley Winegrowers Association (HAWA)'s objections were categorised and addressed simultaneously.

Lastly, the objection received from Nicholas Smith Attorneys will be addressed separately.

IMPACT ON THE AREA

Michael Farr
Hemel-en-Aarde Conservancy Team
Hemel-en-Aarde Valley Winegrowers Association (HAWA)

Response:

The objections and comments are noted. The statements made throughout the submitted application, asserting that the tunnels and their existence are not expected to detract from the tourism character of the valley, are based on the findings of the independent Visual Impact Assessment (VIA) and the recent success of wine farms in the valley. To ensure that the motivation behind the statements, suggesting that the tunnels are not expected to have a negative impact on the surrounding area, is backed by an independent expert opinion.

Some objectors continue to state that the intensive horticulture tunnels are only covered by white plastic. This is however untrue, as Haygrove continues to strive and comply with the previous approval obtained to cover the tunnels with non-reflective shade cloth.

It is important to note that the tunnels constitute only a few components, of which the two key ones are, (1) steel tubes and hoops, and (2) white plastic ("skins"). The skins are not erected permanently and removed for large parts of the year when the fields are not populated with plants. This entails removing the white plastic, and sometimes the shade cloth as well. Maintenance on tunnels and/or shade cloth does also require some movement and opening up, depending on the nature of such maintenance.

Refer to the figure below:

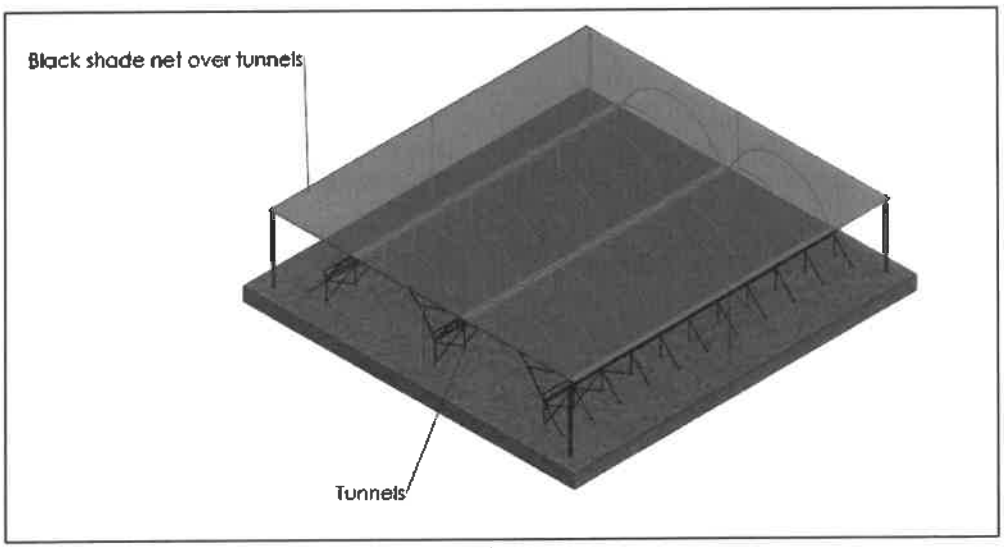


Figure 1

The objectors make incorrect assertions that the proposed intensive horticulture and agricultural industry is not in line with the surrounding area. However, this is factually incorrect as every wine cellar should have consent for agricultural industry use, as required by the local municipality.

Nowhere did the motivation indicate that the tunnels are considered a tourist attraction.

The opinion remains that the intensive horticulture tunnels are aligned with the agricultural nature of the surrounding area.

VISUAL IMPACT

Michael Farr
Hemel-en-Aarde Valley Winegrowers Association (HAWA)

Response:

The property owners appointed a landscape architect firm to conduct a VIA, and their findings were open for scrutiny by the public. See extract from the VIA *"The visual impact significance rating is assessed as moderate and moderate-low if all mitigation measures are implemented."* The mitigation measures require additional tree planting between tunnels to reduce visual impacts of large farming blocks. Darker colours should be used for the tunnels. This is being achieved by the addition of shade cloth above the tunnels. The last proposed mitigation measure is that there should be no lights in or around the tunnels, which is already being adhered to.

It is also important to note that there is no inherent right to a view under South African law. The protection of views from properties is not considered an inherent entitlement arising from land ownership. Rather, views are categorised as a "source of delight" and are not inherently protected as part of an owner's right of ownership.

Furthermore, South African courts have consistently held that purely aesthetic considerations, including views, are not relevant in the context of neighbours and nuisance. The case law cited indicates that courts should not venture into the area of aesthetics, as they are subjective and personal in nature.

Therefore, the argument that the view of the tunnels would have a negative impact on the entire valley is not supported by South African law. As there is no inherent right to a view, and aesthetic considerations are not relevant in legal disputes regarding neighbours and nuisance. That said, the property owner is open to constructively engage with neighbours to ensure a harmonious neighbourly environment, without compromising its operational requirements and financial sustainability.

SEASONAL JOBS

Michael Farr

Response:

The owners open the applications to any person residing in the Overberg region. No people are brought into the area to work. Haygrove appoints seasonal workers based on seasonal requirements. This is often variable, and the duration of seasonal roles are typically three to six months. Agriculture is an inherently seasonal sector.

Haygrove does however attempt to alleviate the seasonality of employee income by annually sending South African staff (combined, from all Haygrove South Africa farms), to their other group farm(s) in the UK. The number of employees that will be sent this year is 312, of which the vast majority are seasonal workers. This provides for ongoing income through longer periods of employment, international experience gained and allows workers to earn foreign currency and prosper.

COMPLIANCE WITH BY-LAW
Hemel-en-Aarde Valley Winegrowers Association (HAWA) **Response:** Concerns were raised regarding the owners' compliance with local by-laws and regulations, encompassing building codes, safety standards, and environmental regulations. These comments are noted, and the application was submitted to address these concerns and ensure full compliance with all relevant regulations.
TRAFFIC
Hemel-en-Aarde Valley Winegrowers Association (HAWA) **Response:** Section 10 of the application outlines the approach to access and egress. It's noted that only two additional buses are required during peak harvesting periods, with no anticipation of any additional traffic. It's important to emphasise that the proposal solely pertains to covering existing berry fields with tunnels, without any plans for expansion into new fields. This ensures that there will be no increase in the overall cultivated area, thereby mitigating potential strain on local roads and infrastructure. Additionally, the farm includes separate access and egress points, which helps to distribute traffic flow and alleviate congestion on any single road. This strategic design element further addresses concerns related to traffic management.
WATER MANAGEMENT
Hemel-en-Aarde Conservancy Team **Response:** Section 10 of the application outlines the methods how water is being managed on the farm and the sources of the water. It is also important to note that the application was circulated to the water management agency in the area, Breede-Olifants Catchment Management Agency (BOCMA). Any water related issues will be directly addressed by the agency as the relevant regulatory authority. It is also important to note that the fruit tonnage output for water consumed ratio is improved by 21% when the fruit are grown in an intensive horticulture tunnel.

5/22

ENVIRONMENTAL IMPACT

Hemel-en-Aarde Conservancy Team
Hemel-en-Aarde Valley Winegrowers Association (HAWA)

Response:

The objectors express concerns about the perceived intensification and expansion of operations. However, it is important to clarify that the application aims solely to cover existing berry fields with tunnels, with no plans for expanding into new fields. This ensures that there will be no increase in the overall cultivated area, thereby mitigating potential environmental impact. By maintaining the current footprint of farming activities, the environmental impact is minimised.

Haygrove is allowed to have their fields within the building line as there are no structures involved in the process. However, if they were to propose covering them with tunnels, the requirement of a departure from the building line is triggered.

Furthermore, one objector incorrectly stated that Haygrove has over 80 hectares of intensive horticulture tunnels in the Hemel-en-Aarde Valley. The actual total is approximately 32 hectares, comprising roughly 14 hectares on Portion 94 of the Farm Hemel-En-Aarde Valley 587 and 18.5 hectares on the neighbouring Portion 11 of the Farm Hemel-En-Aarde Valley 587. The proposed addition of 7.7 hectares on Portion 94 of the Farm Hemel-En-Aarde Valley 587 accounts for the incremental increase.

Tunnels serve as an effective mechanical and structural solution for managing key progressive plant diseases such as botrytis and mould, as they provide protection to crops from exposure to rain. This directly reduces the need for spraying and minimises the quantity of sprays required. Consequently, a reduction in spray requirements facilitates a more biological approach to pest and disease control, which is not only safer for bees and natural predators but also promotes overall environmental sustainability.

In essence, the implementation of tunnels enables Haygrove to produce more fruit with fewer inputs and minimal adverse interventions. This approach leads to more sustainable outcomes, both economically and environmentally, aligning with Haygrove's commitment to responsible and increasingly eco-friendly agricultural practices.

In addition to reduced sprays, Haygrove hasn't used any herbicides on the farm in 2 years as they focus on a more biological approach and indigenous plants.

<u>Soil Health</u>
Haygrove farms utilise substrate methods (pots above ground, devoid of soil), enabling precision fertigation, monitoring of run-offs, and optimised water consumption. These systems are meticulously controlled and managed to ensure optimal soil health below the pots. In addition to run-off monitoring, cover crops play a vital role in maintaining and enhancing soil health and the surrounding ecosystem.

Furthermore, Haygrove undergoes regular independent audits conducted by leading retailers such as Woolworths (Farming For the Future), M&S (M&S Select) and Tesco. These audits include soil sample evaluations through frequent lab testing to track soil health trends, water sample assessments to monitor for contamination, as well as evaluations of various health and safety protocols, staff welfare, social responsibility initiatives, and food safety standards. Notably, Haygrove holds gold status for Farming for the Future and is GlobalGAP certified.

Water use and erosion
Water quality on the farm is excellent and as such, no additional treatments that may cause contamination or adverse buildups are required.

Erosion is controlled through cover crops, cut-off trenches and contours, continuous fynbos rehabilitation and beautification with indigenous plants. Haygrove actively propagates indigenous plants, including, for rehabilitation of areas, soil health management and beautification.

ECONOMIC IMPACT

Hemel-en-Aarde Conservancy Team
Hemel-en-Aarde Valley Winegrowers Association (HAWA)

Response:

The application clearly outlines several aspects of how Haygrove has a positive socio-economic impact, as detailed in Section 11 of the motivation. Currently, the Haygrove group in South Africa employs 700 workers permanently and up to an additional 3000 seasonal and fixed-term workers during peak season. Specifically, in the Hermanus area, Haygrove employs 400 people permanently and up to 1,800 in peak season, arguably making it the largest private employer in the greater Hermanus area. Furthermore, Haygrove invests in the communities where it farms, supporting health and education initiatives, providing schooling bursaries, and making donations (in kind and financial) to various organisations in the surrounding community.

If the application is approved to allow the erection of the tunnels, up to 100 additional seasonal jobs will be created (with seasonal jobs entailing a minimum of 3 – 6 months of employment). Additionally, 6 additional permanent workers will be employed to assist with tunnel maintenance.

The key point made in the application is that despite the existence of Haygrove and its tunnels, the perception of HAWA and its wines, have flourished. There is no objective support to disprove this, although there is much objective support to corroborate this statement.
There has also been continued investment and expansion of vineyards in the valley despite Haygrove's existence, further supporting the positive sentiment of the valley and its characteristics.

Both entities have achieved significant milestones, as mentioned in HAWA's objection. Similarly, Haygrove has become the largest private employer in the Overstrand region. Therefore, it seems feasible for both parties to continue their operations harmoniously, contributing to the economic prosperity of the region.

STAKEHOLDER ENGANGEMENT

Hemel-en-Aarde Conservancy Team
Hemel-en-Aarde Valley Winegrowers Association (HAWA)

Response:

The application has followed the normal public participation process and the objectors' submitted comments indicates that there was adequate engagement. Every individual or entity identified as an interested or affected party received notification of the submitted application. There is no obligation to hold additional engagement meetings or extend the comment period, as the public participation process allows sufficient time for scrutiny of the application. Haygrove however is open to any engagement and any of the objectors are welcome to request a meeting.

GENERAL ASSUMPTION

Hemel-en-Aarde Valley Winegrowers Association (HAWA)

Response:

Regarding the issue of food security and the market for Haygrove berries, the objector's perspective is appreciated. However, this extremely narrow perspective is limited to the berries produced by Haygrove.

Firstly, there are highly valuable skills developed at and taught by Haygrove to its staff, and particularly its growers, through on the job experience and its successful graduate grower programme. The skills required to grow berries are of an exceptionally high standard given that it is a complex crop. Many of our former growers and graduates now work in and contribute to other crops or parts of the food supply chain, and in many parts of the world. These highly sought after skills contribute significantly to overall local and global food security.

Secondly, the focus on growing raspberries, blueberries, and blackberries under tunnels in the Hemel-en-Aarde Valley contributes to both local and international markets. While a portion of the berries is indeed exported, Haygrove also supply a significant portion to customers within South Africa, including retailers like Woolworths. Haygrove's fresh fruit will also indirectly find its way to the shelves of Checkers, Food Lovers, Spar and others. Lastly (and while by no means an exhaustive list), Haygrove's fruit is also used in food industry (hotels, guest houses, restaurants nationally and internationally), in yoghurts and drinks produced by major dairy and other businesses, smoothies, ice creams, juices and multiple other highly nutritious products.

While it's an opinion that berries may be considered a luxury food item for some, it's important to recognise that access to a diverse range of nutritious foods, including berries, as well as the development of skills to cultivate various foods, is essential for overall food security. Additionally, Haygrove's operations provide employment opportunities and support economic growth within the local community, contributing to broader social and economic stability. Haygrove remains committed to exploring ways to enhance food security and promote equitable access to nutritious foods within South Africa.

Visual Impact assessment

Hemel-en-Aarde Valley Winegrowers Association (HAWA)

Response:

1. **Independence of the Report:** While acknowledging the objector's concerns about the independence of the report, it's important to clarify that the report was commissioned by the applicant at the request of the Municipality to assess the visual impact of the proposed development. However, the findings and conclusions of the report were based on objective assessments conducted by qualified professional in accordance with industry standards. The report was not influenced by the applicant to skew the results in their favour. If the objector feels a secondary report is required, they are allowed to appoint a professional to do so.

2. **Accuracy of Supporting Images:** The images included in the report were intended to accurately depict the proposed visual impact of the project. It will be remiss of Haygrove to speculate on its accuracy as it will undermine the integrity of the VIA professional. However, if the objector believes that certain images are misleading or fail to accurately represent the visual impact, they are allowed to commission an additional report.

3. **Growing Practices and Land Use Patterns:** The perspective of the objector is noted; however, while it's true that the growing practices may differ, it is believed that there is room for diverse

agricultural practices within the region. There has been significant evolution of farming practices over the centuries. A modern evolution is precision farming, which includes the utilization of polytunnels for its various, well documented benefits. The only negative impact of tunnels is the subjective point around visual impact. The proposed development aims to contribute to the agricultural diversity of the area while ensuring compliance with relevant regulations and minimizing negative impacts on surrounding properties.

4. **Consultation Process:** A VIA is not open for consultation and is not influenced by subjective statements; factual evidence needs to be taken to prepare the VIA.

5. **Recommendations and Concerns:** The recommendations of the VIA will be taken into account. Haygrove is open to discussing alternative, constructive mitigation measures that align with conservation and biodiversity goals.

6. **Resubmission of VIA:** The comment requesting that the VIA should be resubmitted is noted; however, it is believed that the VIA sufficiently addresses the concern raised.

NICHOLAS SMITH ATTORNEYS

OBJECTION

Defective company resolution
Paragraphs 5 – 13

RESPONSE

The company resolution and power of attorney have been duly amended to include the determination of an administrative penalty. This oversight has been rectified to ensure compliance with all necessary legal requirements.

It's important to emphasise that this omission does not have any affect the application or its contents. The focus of the application remains on the proposed land use changes and associated considerations. The addition of the administrative penalty aspect aligns with the broader objective of ensuring regulatory compliance and accountability.

Furthermore, the amendment to include the administrative penalty demonstrates Haygrove's commitment to addressing any past transgressions transparently and responsibly. Haygrove acknowledges the importance of regulatory compliance and is fully committed to co-operating with the Municipality to resolve any outstanding matters.

This clarification underscores Haygrove's dedication to upholding the integrity of the application process and working constructively with relevant authorities to achieve mutually beneficial outcomes.

OBJECTION

Point in limine: Haygrove's applications for enhanced land use rights (permanent departures, and amendments to Haygrove's site development plan ("SDP") and various currently applicable conditions of municipal approval) are premature insofar as they are included together with Haygrove's application for an administrative penalty (which should be determined and finalised first, and separately from the land use applications).
Paragraphs 14 – 32

RESPONSE

The structure of the motivation was crafted to ensure full compliance with the requirements outlined in the Overstrand Municipality (OM) By-law (Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020). It's crucial to clarify that the procedural approach taken in the application aligns with the regulatory framework set forth by the municipality.

The objection raised implies a contention with the procedural aspects of the application. However, it's important to emphasize that the OM By-law necessitates that the application addresses both current non-compliance issues and proposed future developments.

Therefore, the inclusion of the administrative penalty application alongside the land use proposals is in accordance with the prescribed procedure outlined by the municipality.

Furthermore, it's imperative to emphasise that there is no requirement to finalise the administrative penalty determination before considering the proposed land use applications. Both aspects are intended to be dealt with simultaneously by the decision-making authority, ensuring a comprehensive and holistic review of all relevant factors.

Addressing the specific concerns raised by the objector, it's evident that the motivation prioritises compliance with regulatory requirements and seeks to rectify any past transgressions transparently and responsibly. The inclusion of the administrative penalty application underscores Haygrove's commitment to addressing historical non-compliance issues and ensuring regulatory adherence moving forward.

OBJECTION

An administrative penalty must be finalised before the applicant can apply for additional and enhanced land use rights

Paragraphs 33 - 48

RESPONSE

The objector's repetitious emphasis on finalising the administrative application before considering any other applications is noted. However, it's essential to highlight Section 61 of the by-law, which states:

"The Authorised Official or the Municipal Planning Tribunal may in respect of any application contemplated in Section 16(2)—
(a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
(b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;"
(c)

Section 61(a) grants the decision-making authority the discretion to decide either in whole or in part, signifying that each application can be individually considered, and recommendations made accordingly. It's crucial to recognise that this provision applies equally to the handling of submitted applications.

Furthermore, Section 61(b) stipulates that the decision-making authority is empowered to impose reasonable conditions, including the determination of the amount payable to the municipality upon the conclusion of the administrative penalty. It's essential to note that no further consideration of building plans or other applications will occur until this condition is fulfilled. Therefore, settling the administrative penalty is a prerequisite for adhering to the conditions of land use approvals.

Additionally, it is unclear why the objector is of the opinion that Section 90(1) of the by-law requires a "stand alone application"?
"90. Application for administrative penalty

(1) A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned."

Haygrove is complying with the requirements of Section 90(1) as the application, as submitted, addresses and attempts to rectify the contraventions that occurred.

Haygrove respects the regulatory framework and is committed to abiding by the decision-making process outlined by the Municipality. The inclusion of the administrative penalty application alongside other land use applications does not diminish the importance or independence of each component. Instead, it reflects a comprehensive approach to addressing past contraventions while simultaneously seeking approvals for future land use.
If an appeal is submitted in terms of Section 78, the entire decision will be suspended pending the outcome thereof. No decision favourable or unfavourable will be able to commence if an appeal is in process.

It's also essential to note that Municipal Planning Tribunal hearings only permit observers to attend, and representatives are not allowed to make oral representations on behalf of the parties involved. If the objector is afforded the opportunity to represent their parties, it is requested that WRAP Project Office also be afforded the opportunity to attend the meeting. This however remains the decision of the municipality and the decision-making authority.

OBJECTION

The requirements of section 90 of the Planning By-Law pertaining to applications for the determination of an administrative penalty

Paragraphs 39 – 49

RESPONSE

The objector's arguments that the motivation does not contain all relevant information are unfounded.

(a) The nature, gravity, and extent of the contravention;

The nature, gravity, and extent were adequately addressed in both Sections 5.4 and 5.19. The duration is clearly indicated as occurring between the last approval in 2016 and the submission date of the application.

(b) The conduct of the person (allegedly) involved in the contravention;

Haygrove's conduct was explained in detail, as referenced in Sections 5.4 and 5.19.

(c) A report by a quantity surveyor in matters of unauthorised building/construction;

The OM's budget allows the municipality to request the average of two formal quotes for non-habitable structures. The tunnels were installed by Haygrove's sister company, Haygrove Tunnels South Africa. The value represents the actual cost of the tunnels used, which is more accurate than averaging two quotes or based on calculations made on assumptions by a quantity surveyor.

(d) Whether the unlawful conduct was stopped; and

The tunnels have been erected and are in use. Their use was historically approved, as explained in Section 5.19 of the motivation.

(e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

Refer to Section 5.19. To the knowledge of this office, the property owners have not previously contravened the By-Law on the subject property.

It is important to note that while the Spatial Planning and Land Use Management Act (SPLUMA) provides guidelines on how municipal by-laws should be executed, each municipality is allowed to operate under its own procedures and methods. Simply comparing two municipalities because they use the similar wording cannot be considered sufficient motivation to follow their procedures. If this were the case, objectors in the City of Cape Town could also claim that administrative penalties need to be submitted in one application with other land use proposals because the OM allows it.

Haygrove's proactive approach to addressing the matter demonstrates a commitment to rectifying the situation and complying with regulatory requirements. Any suggestion that their actions are driven solely by the expectation of future approvals oversimplifies the situation. Instead, Haygrove's actions should be viewed as part of a broader strategy to ensure compliance and uphold the integrity of their operations.

OBJECTION

Insufficient and/or inadequate information included in the present administrative penalty application.

Paragraphs 50 - 64

RESPONSE

The objector raised several points that warrant clarification and response:

- Quantity Surveyor's Report: The absence of a quantity surveyor's report is noted and the municipality accepted the information Haygrove's sister company submitted as indicated above. It's important to highlight that the cost of the tunnels, provided in the application, reflects the replacement cost of the tunnels. This figure is based on the cost of the tunnels if it to be installed by Haygrove's sister company, which inherently provides an accurate and detailed breakdown of the construction expenses.

- Compliance with Section 90(3) of the Planning By-law: WRAP's assertion that the information provided meets the requirements of Section 90(3) is grounded in the comprehensive details included in the application. The total cost of the tunnels, although not specifically broken down in a quantity surveyor's report, is accurately represented and substantiated by a major supplier of these specialized structures in Southern Africa.

- Duration of Unlawful Conduct: It is and was acknowledged that the tunnels are currently in use, which implies that the unlawful conduct has not ceased, which is a matter of fact and was disclosed in the motivation. However, the application aims to rectify this by addressing the administrative penalty and committing to compliance with regulatory requirements going forward.

- Previous Contraventions: While it's claimed that Haygrove breached certain conditions of previous approvals, it's important to recognise that the application serves as method to ensure that the previous approval's condition is amended accordingly.

- Submission of Detailed Building Plans: The building plans have been approved and condition 3(b) is being complied with.

- Non-reflective netting: As mentioned above, Haygrove continues to strive and comply with the previous approval obtained to cover the tunnels with a non-reflective shade cloth. It is important to note that the tunnel plastic is not erected permanently and are taken down in for large parts of the year when berries do not grow. This entails removing the white plastic, and sometimes the shade cloth as well. Maintenance on tunnels and/or shade cloth does also require some movement and opening up, depending on the nature of the maintenance. Therefore, there are certain periods when only the plastic is visible. However, significant efforts are made to limit this at great expense to Haygrove. Furthermore, a practical reality is that the plastic often needs to be erected before the shade cloth cover

can be erected; and the shade cloth retracted to remove or clean the plastic.

- It is important to emphasise that the shade cloth is also detrimental to berry growth when erected over tunnels, and Haygrove estimates production loss at 15% owing to lower levels of light (lower photosynthetic potential) and higher levels of dust build-up on the plastic. However, the shade cloth is erected at significant cost to Haygrove solely to reduce the visual impact for the surrounding farms. The cost of keeping surrounding farms' visual impact limited is many millions to Haygrove annually in opportunity loss and the direct cost of maintenance and replacement of shade cloth.
  Refer to the figure 1.

- Separate Application for Administrative Penalty: While the objector's preference for a separate application for the administrative penalty is noted, it's essential to ensure that all relevant information is considered comprehensively. The integration of the administrative penalty determination within the broader land use application process allows for a holistic assessment of the situation and facilitates efficient resolution and complies with the procedures of the OM.

OBJECTION

Outstanding/incomplete information pertaining to Haygrove's compliance with historic approvals

Paragraphs 65 – 68

RESPONSE

The objections raised several points that require clarification and response:

- Intention to Seek Amendment of Conditions: The intention to seek an amendment to condition 3(a) of the approval granted on February 9, 2016, is acknowledged. It's crucial to emphasise that this application is not premature but rather a part of the broader process of seeking compliance and rectifying any outstanding issues. Each aspect of the application is being addressed in due course, ensuring a comprehensive and systematic approach to regulatory compliance.

- Confirmation of Compliance with Conditions: While the application does not explicitly confirm compliance with condition 3(b), it's essential to recognise that the application would not have been processed if Haygrove had not complied with the previous conditions. The Municipality has the authority to investigate this matter further and request any necessary documentation to confirm compliance as part of the application process for new land use rights.

OBJECTION

Haygrove's continued and willful non-compliance with condition 3(i) of the 2016 approval

Paragraphs 69 – 71

RESPONSE

The objection regarding Haygrove's alleged non-compliance with condition 3(i) of the 2016 approval is unfounded and based on erroneous assumptions.

1. Existence of Approved Building Plans: Contrary to the objection's claim, there are indeed approved building plans for the tunnels erected by Haygrove. These plans adhere to the specifications outlined in the 2016 approval, including the requirement for non-reflective material or non-reflective netting.

2. Efforts to Comply: Haygrove remains committed to complying with the conditions of the 2016 approval. Efforts have been consistently made to ensure that the tunnels are covered with a non-reflective shade cloth, as mandated by condition 3(i). It's crucial to understand the seasonal nature of horticulture operations. During the growing season, the shade cloth and plastic are in place to provide the necessary protection for the crops. However, during the off-season when berries are not growing, the tunnels' plastic is removed. This may include the removal of the shade cloth. This temporary absence of shade cloth may give the appearance of non-compliance, but the sequencing of events is a practical reality of the regular operational cycle of the farm.

In light of these clarifications, it's evident that Haygrove is diligently working to adhere to the conditions set forth in the 2016 approval at a significant cost to itself, as previously explained. Any perceived discrepancies are largely attributable to the practicalities of agricultural operations and seasonal variations rather than wilful non-compliance. Therefore, the objection's insistence on rectifying alleged breaches before considering further applications is unwarranted. Haygrove remains committed to fulfilling its obligations and ensuring compliance with all relevant regulations.

OBJECTION

Substantive objections regarding the (lack of) merit in the land use applications
Paragraphs 72 – 74

RESPONSE

It's important to address the objections regarding the substantive merit of the land use applications for future and enhanced land use rights, as outlined in Chapter VI of the Planning By-law.

1. Evaluation of Land Use Applications: The objector seems to challenge the substantive merit of the proposed land use applications described in detail in the applicant's motivation. No detail is however provided on the reason the merit is being challenged. It is however crucial to note that these applications have been meticulously prepared in accordance with the relevant provisions of the Planning By-law. Each application has been tailored to meet the requirements and guidelines stipulated by the municipal regulations.

2. Compliance with Planning By-law Criteria: The objector raises concerns regarding the adherence to the general criteria outlined in section 66 of the Planning By-law, particularly emphasising the desirability of the proposed land utilisation. The desirability was categorised and addressed in Section 11 of the motivation. It's important to reiterate that all proposed land uses have been carefully evaluated against these criteria to ensure alignment with the By-law's provisions. Additionally, any guidelines issued by the Provincial Minister regarding proposed land uses have been duly considered and integrated into the applications where applicable.

3. Future Considerations: While the objector express reservations about the substantive merit of the land use applications, we are of opinion that the applications have been prepared with due diligence and consideration of all relevant factors.

4. In conclusion, Haygrove affirms their commitment to compliance with all regulatory requirements and guidelines governing land use applications. The application submitted on

behalf of Haygrove adhere to the highest standards of planning and development principles.

OBJECTION

Submissions as to why the land use applications are, objectively viewed, undesirable and must therefore be refused by the Municipality on their lack of objective merit.

Paragraphs 75 – 80

RESPONSE

The majority of these concerns have been addressed throughout the responses above.

1. **Summarisation of Applications**: The objector suggests that the summary of the land use planning approvals in the Municipality's notice lacks specificity regarding the permanent departures sought by the applicant. This however important to clarify that the applications explicitly outline the nature of the departures sought, as detailed in paragraphs 5.1 to 5.19 of the motivation. Any ambiguity should be clarified through the contents of the motivation.

2. **Priority of Administrative Penalty Determination**: The objector emphasises the scale of the contravening land use that was detailed in the motivation and argues that determining the administrative penalty should precede any consideration of additional land use approvals. As mentioned previously, the application was submitted as required in alignment with the procedures of the OM. However, it's essential to ensure due process and consider each application on its merits, with the administrative penalty being only one aspect in the overall process.

3. **Obligation to Regularise Unlawful Land Uses**: The objector contends that the applicant is legally obligated to regularise its unauthorised land uses before seeking additional approvals. While the applicant acknowledges the need for compliance, it's crucial to address all aspects of the application comprehensively, including rectifying any non-compliance issues alongside seeking additional approvals.

4. **Superficiality of Applicant's Submissions**: The objection criticises the applicant's submissions regarding the nature and extent of the contravention as superficial and insufficient. The applicant's submissions however aim to provide a comprehensive overview of the situation, including efforts to rectify non-compliance issues and ensure adherence to applicable regulations.

5. **Impact on Surrounding Landowners**: Lastly, the objector raises concerns about the impact of the tunnels on surrounding landowners' rights. A professional person was appointed to conduct a VIA as discussed throughout the responses above and the mitigation measures were also highlighted and Haygrove is committed to adhere thereto.

OBJECTION

Substantive objection to the proposed permanent departures, the application to amend the SDP, and the application to amend an existing condition of approval.

Paragraphs 81 – 82

RESPONSE

1. **Critique of WRAP's Motivation**: It's crucial to recognise that WRAP's motivation seeks to provide a comprehensive rationale for the proposed land use applications. While there may be disagreements regarding specific points, WRAP's motivation aims to present a balanced and well-reasoned motivation.

2. **Congruence with Agricultural Activities**: The objector questions the merit-worthiness of the land use applications based on WRAP's assertion that the proposed activities align with other agricultural practices in the Hemel-en-Aarde valley. The objection contends that the permanent departures sought from various building lines are excessive. It's important to note some of these departures are located next to the other property owned by Haygrove meaning they are their own neighbour. It's important to consider the broader context of agricultural activities in the area and evaluate the proposed departures based on their individual merits and potential impacts. Additionally, discussions with relevant experts were made that provided valuable insights into the appropriateness of the proposed departures, these include VIA specialists.

OBJECTION

Critique of and objections to WRAP's assertions regarding compatibility with surrounding land uses.

Paragraphs 83 - 89

RESPONSE

WRAP's assertion regarding the compatibility of the proposed land use with surrounding activities is based on a careful consideration of the broader agricultural context of the Hemel-en-Aarde valley. The integration of horticulture tunnels is seen as an extension of the area's agricultural identity, contributing to its rich farming traditions. While the objector may contest this viewpoint, it's essential to recognise the diverse perspectives regarding modern farming practices, particularly as polytunnels constitute a relatively modern tool for improving and mitigating many agricultural challenges.

The objector argues that the proposed development of horticulture tunnels contradicts the valley's farming traditions. However, it's worth noting that farming practices evolve over time, and modern methods, including the use of tunnels, can be compatible with traditional agricultural activities. Moreover, the proposed tunnels aim to enhance agricultural productivity while minimising environmental impact, aligning with broader sustainability goals.

Regarding the applications for permanent departures, it's important to assess them objectively, weighing the potential benefits against any impacts on neighbouring properties, one of which is owned by Haygrove themselves. While the objector emphasises the potential infringement on surrounding landowners' rights, it's essential to consider the broader community's interests, including economic development and agricultural sustainability.

Ultimately, the decision on these applications should be guided by a comprehensive evaluation of their merits, considering both the immediate concerns of neighbouring landowners and the long-term benefits for the community as a whole.

OBJECTION

Critique of and objections to WRAP's assertions regarding positive socio-economic impact.

Paragraphs 90 – 91

RESPONSE

While it's understandable that the objector seeks detailed information regarding the asserted positive socio-economic impacts of the proposed land use, it's important to recognise that predicting exact figures at this stage may be speculative. WRAP's motivation highlights the potential for increased employment opportunities and poverty reduction as a result of the proposed development. In fact, specific figures regarding employment opportunities were provided in Section 11, page 22 of the motivation. It states that 100 additional seasonal jobs will be added for 3 – 6 months, along with 6 permanent jobs, which numbers may have been missed by the objector.

While specific numbers and wage details are indeed valuable, they may not be readily available until the project progresses further. It's worth noting that the socio-economic benefits of agricultural development often extend beyond direct employment figures. Projects like this can stimulate local economies, create upstream and downstream job opportunities in related industries, and enhance community infrastructure and services. While these broader impacts may be challenging to quantify at this early stage, they should not be discounted.

As the project advances, more detailed assessments of its economic impacts can be conducted, incorporating input from relevant stakeholders and experts. In the meantime, it's essential to recognise the potential positive contributions that projects like this can make to local communities, even if precise figures are not yet available. Haygrove has many decades worth of proven experience from which to draw to justify the investment.

In terms of the seasonal workers, Haygrove does attempt to alleviate some of the seasonality of the agricultural activities on the farm by sending upwards of 250 seasonal staff (combined, from all Haygrove South Africa farms), which would otherwise be unemployed in South Africa, to the UK on an annual basis to have longer periods of employment, earn foreign currency and prosper. Haygrove is also audited by SIZA for all aspects of employment compliance and labour practices, and currently holds gold status with SIZA.
On another note, Haygrove operates and funds an accredited and certified on-site clinic on each of its larger farms, staffed by a full-time clinical nurse. The clinic oversees all aspects of primary healthcare on the farm, including family planning, dispensing chronic medication, first aid, and many other healthcare services. This initiative significantly alleviates pressure on governmental clinics in the Overstrand region and ensures that staff can access their medication and advice in a safe and professional environment while maintaining productivity throughout the day without loss of income to the employee.

OBJECTION

Critique of and objections to WRAP's submissions regarding no or limited impact on neighbours and the surrounding community.
Paragraphs 92 - 95

RESPONSE

These objections raise concerns about the potential impacts of the proposal on the surrounding neighbouring properties. Several of which have been addressed in the motivation, but it appears that further detail is needed to fully understand and address these concerns.

Regarding noise emissions, it's crucial to reiterate the fact that only one, perhaps two additional busses are required to transport the additional workers an exact number is yet to be confirmed. It is a fact that less spraying activity is required when using intensive horticulture tunnels as discussed previously, which reduces the overall noise levels. Open fields are often blow-dried when fruit is rained on, and this is done mechanically with tractors and large fans connected to its PTO. This happens at any time, including over weekends. Where polytunnels are used, this requirement is eliminated, as well as the overall noise levels. This may not be appreciated by, although is of particular interest to, those close the boundaries of the surrounding properties.

The fields already exist, therefore the absolute overall noise can and will only reduce if tunnels are erected. In addition, Haygrove implemented a one-way route through their two farms to mitigate any adverse impact traffic may have on the surrounding area. There is only a single access road into the property, with the access road leading through Portion 94 of the Farm Hemel-En-Aarde Valley 587 and across the neighbouring property, Portion 11 of the Farm Hemel-En-Aarde Valley 587, to allow egress via a proclaimed provincial road. This was implemented at a cost to Haygrove at the request of neighbours to accommodate their needs.

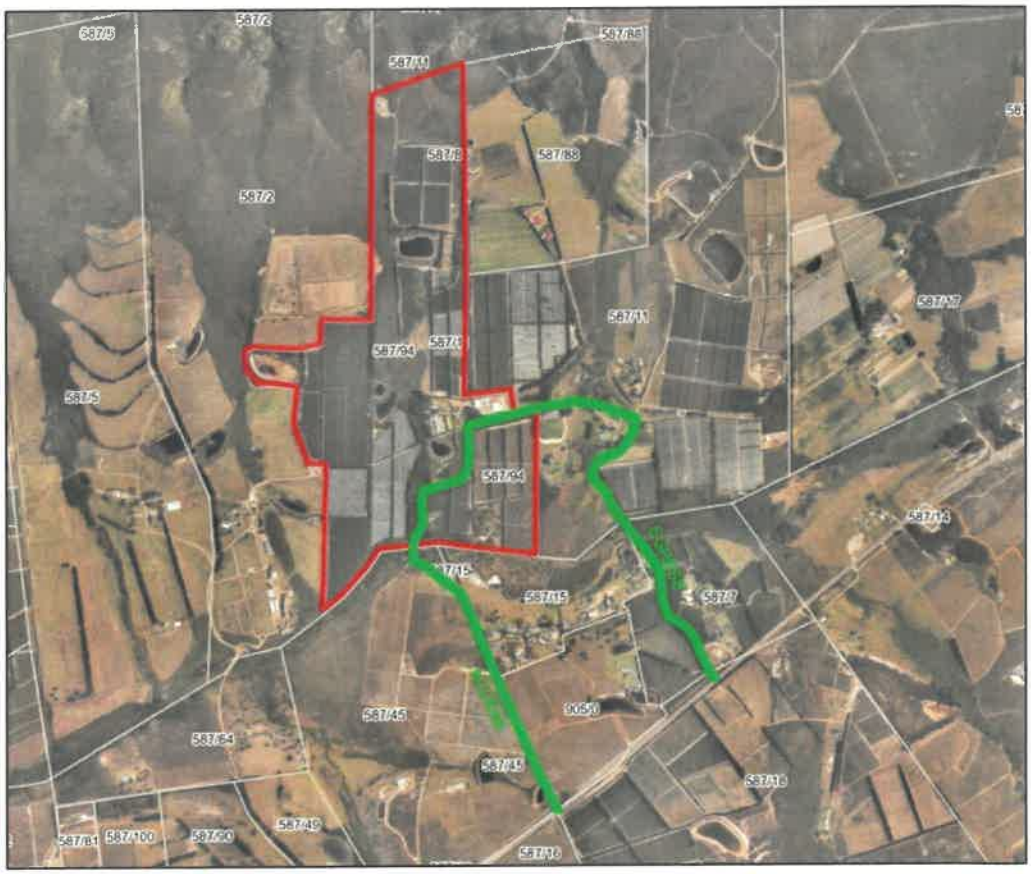


Figure 2: Access and Egress

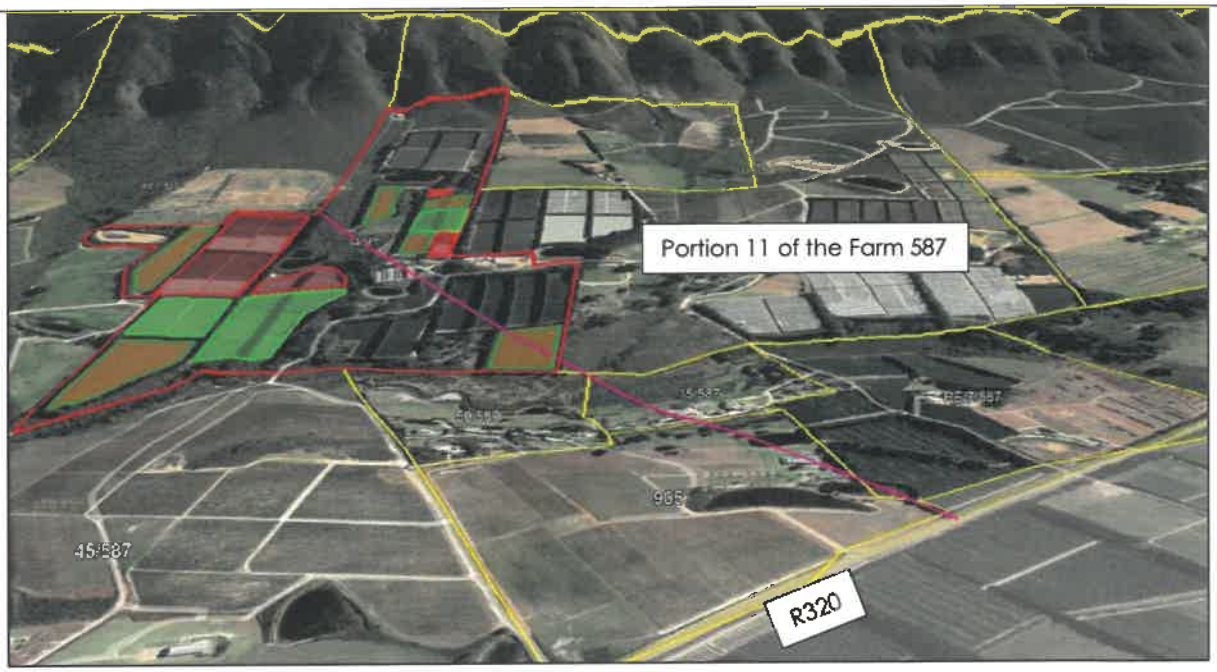


Figure 3: Surrounding Area Terrain

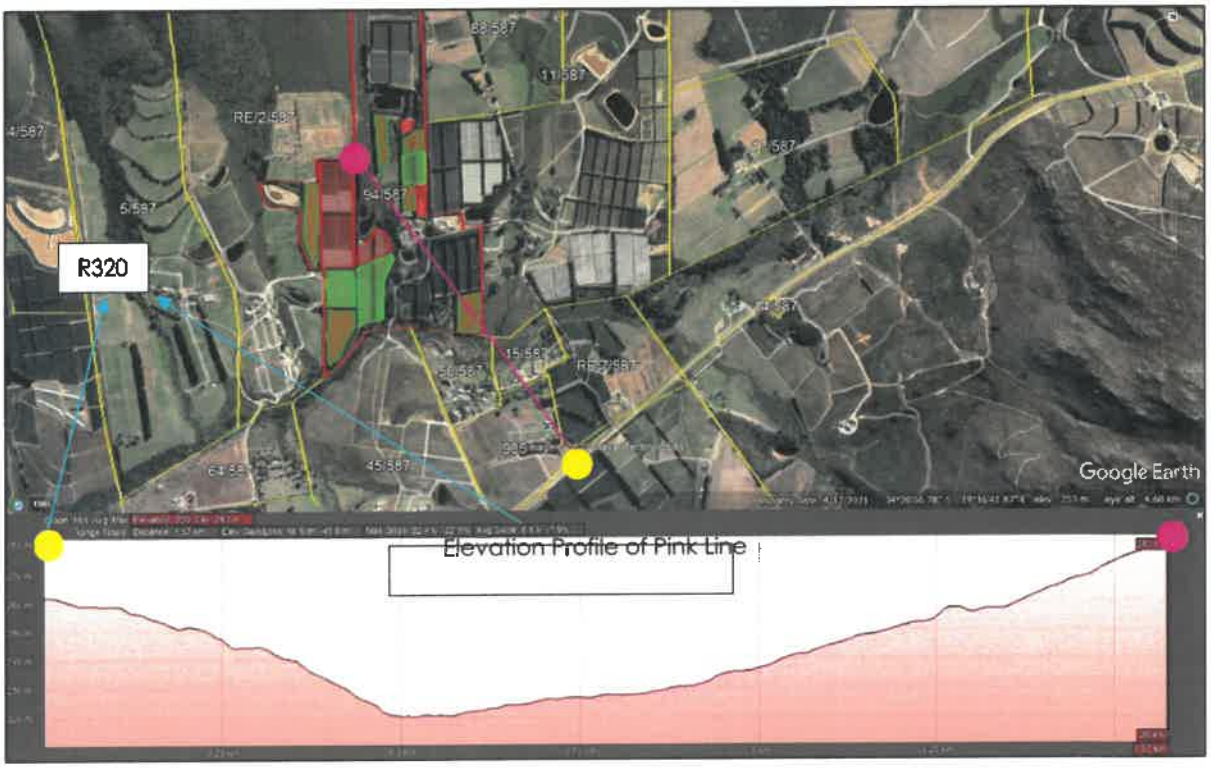


Figure 4: Elevation Profile from the R320 to edge of the subject property (PINK LINE)

Portion 15 & 50 of Farm 587, Caledon, contain 8 of the 12 objectors represented by Nicholas Smith Attorneys. These objectors are located at the lowest point along the Onrustrivier, meaning their impact is reduced. This reduction is due to several mitigation measures used by Haygrove, including screening trees, which significantly reduces the impact.

It's also essential to address concerns about trespassing and other negative behaviours associated with seasonal contract workers. As mentioned in the application, Haygrove employs Boland Toilet Services to attend to the sewage disposal on the property which will avert seasonal workers relieving themselves in surrounding properties.

The concern regarding allegations of trespassing can be resolved through discussions between the objectors and Haygrove. These trespassers will be dealt with appropriately, but if Haygrove is not made aware of the situation, they cannot address it accordingly. Nicholas Smith Attorneys continually asserts that WRAP's statements are mere bald statements. The same can be said in this instance, as no proof of any kind is provided, and neither context nor timeframes are provided. It should also be noted that the same objection was made some 4 years ago, and no new complaints are being presented, indicating that the problems have been addressed and is no longer occurring.

OBJECTION

Critique of and objections to WRAP's submissions regarding impact on views, sunlight and character of the area.

Paragraphs 96 – 98

RESPONSE

The objector has clearly not evaluated the application properly. Refer to figure 3, that provides clear dimensions of the tunnels:

Farm workers work in the tunnels for short periods, rotating between tunnels and spending time throughout the day, while caring and working in these berry fields contained within the intensive horticulture tunnels. Their presence is minimal, reducing the likelihood of noise impact on neighbouring property owners. As a result, the approval of expanding the intensive horticulture tunnels beyond the building lines will not infringe upon the rights enjoyed by adjacent property owners in the occupation of their properties. See the following figures of the proposed and existing tunnels:

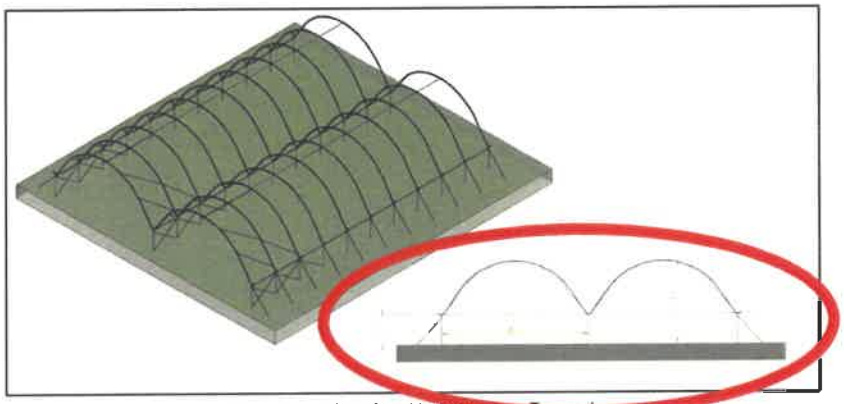


Figure 3: Intensive Horticultural [illegible]

5.17 **Permanent Departure** from the maximum allowable floor space in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Figure 5: Extract of page 10 from the motivation.

The objector makes false statements that the maximum height will be exceeded, which is not the case. It is clear that the maximum height of these tunnels will be lower than the allowable height of an agricultural buildings on an agriculturally zoned property. The proposal is to allow the tunnels to be either 4m or 4.7m, which aligns with the approved building plans. It is, however, important to note that tunnel height can vary as a result of the natural slope and elevation of the property.

Refer to the building plans attached, refer to **Annexure A**.

While concerns about visual impact are valid, it's also plausible that the tunnels could contribute positively to the landscape, such as by providing unique features or enhancing agricultural diversity. It was never stated that the tunnels will actively attract tourists, it was only stated that the tunnels, will increase colour diversity that will not harm the existing tourism aspects of the Hemel-en-Aarde Valley.

Finally, the objector suggests that a detailed visual impact assessment, conducted by a qualified specialist should precede the land use application process. It is unclear why the objector would make this statement, as a visual impact assessment was indeed conducted by a qualified specialist. The assessment was attached to the application and made available for public comment at the municipal offices. The objector claims it is incomplete, selective in presenting the true facts, misleading, and insufficient. However, the objector fails to provide any specific examples to support these assertions. This lack of evidence suggests that the objection is based on false and frivolous claims. It is also not clear if the objector is qualified in this field?

OBJECTION

Another principal reason for the land use application's wholesale lack of desirability: it is per se undesirable until and unless previous land use contraventions have first been satisfactorily rectified by Haygrove.

Paragraphs 99 - 101

RESPONSE

It's essential to clarify that Haygrove has actively engaged in rectifying any non-compliance issues. The application for future land use rights, including the proposed permanent departures and amendments to existing approvals, is part of this effort. It's important to note that while there have been past breaches, Haygrove is committed to addressing these issues proactively. Also, the clear desirability of the proposal was indicated throughout the motivation.

The objection suggests that the administrative penalty must be resolved before considering further land use applications. Haygrove's intention is however to address both the administrative penalty and the application for future land use rights concurrently demonstrates a commitment to compliance and responsible land management. Moreover, any penalties incurred would not impede Haygrove's ability to contribute positively to the community through its proposed agricultural activities. Haygrove is also committed to pay the penalty for the contravention.

Furthermore, the objector emphasises the importance of adhering to planning legislation and existing approvals. While acknowledging past breaches, it's crucial to recognise Haygrove's efforts to rectify these issues and ensure compliance moving forward. By engaging in constructive dialogue with the Municipality and relevant stakeholders, Haygrove aims to address concerns, rectify past non-compliance, and contribute positively to the community while pursuing its proposed agricultural activities.

OBJECTION

Request for a site visit by the Municipality (in terms of section 60 of the Planning By- law) before deciding the application for the determination of an administrative penalty on its merits.

Paragraphs 102 - 105

RESPONSE

To address the concerns raised regarding the need for a site visit, Haygrove welcomes the opportunity for the Municipality's officials and members of the Municipal Planning Tribunal to visit the subject-property and its surroundings. Such a visit would provide a comprehensive understanding of the existing agricultural operations, a comprehensive business overview, the nature of the proposal, and any supposed impacts on neighbouring properties. Haygrove is committed to transparency and ensuring that decision-makers have all relevant information to make informed judgments for the benefit of the greater Overstrand community.

Regarding the assertion that Haygrove already has enough horticulture tunnels on the subject-property, it's important to clarify that Haygrove acknowledges past non-compliance and is

actively working to rectify any unlawful activities. The proposed development is part of this effort to bring existing operations into compliance and enhance land use rights responsibly.

During the site visit, the municipal decision-makers can verify Haygrove's compliance with the conditions of previous approvals, including the submission of detailed building plans and adherence to material specifications for the tunnels. Haygrove is committed to fulfilling all regulatory requirements and will provide the necessary documentation to support its compliance efforts.

Additionally, concerns about water use rights and the impact on water resources will be addressed transparently during the site visit. Haygrove will provide relevant information on water usage, storage, and abstraction rights to ensure that decision-makers have a complete understanding of the proposed development's implications.

Overall, Haygrove values constructive dialogue and welcomes the opportunity for thorough site inspections to address any concerns and ensure that the proposed development aligns with regulatory requirements and community interests.

OBJECTION
Request for a hearing before a decision is made on the merits of the application. Paragraphs 106 - 107
RESPONSE
This is a comment that needs to be addressed by the Municipality and decision-making authority.
OBJECTION
Concluding submissions; relief sought by the objectors. Paragraphs 108 – 109
RESPONSE
The objections were noted. The conclusion is however respectfully disagreed with that the application is fundamentally undesirable and does not meet the applicable jurisdictional requirements. It is believed that the application complies with the relevant provisions outlined in section 66 of the Planning By-law and the general criteria for the Municipality's consideration of applications. Regarding the objector's assertion that Haygrove's application to determine an administrative penalty is substantively deficient, we are of opinion that the application is based on accurate and comprehensive information. These applications have been submitted in accordance with the appropriate procedures and guidelines. It is recommended that each application be assessed on its own merits.

Conclusion

In conclusion, the objections have been carefully reviewed and addressed throughout the response, including the concerns regarding the application. The application, as submitted, aligns with the relevant requirements outlined in the By-law, as well as the general criteria for the Municipality's consideration of applications.

Furthermore, transparency and cooperation remain paramount throughout this process. With the objections duly considered and addressed, the Municipality is respectfully urged to proceed with the evaluation of the application on its merits.

Considering the response, it is recommended that the planning application be approved as submitted.

Yours faithfully

T JANSEN
PROFESSIONAL TOWN PLANNER (A/2858/2019)

Annexure F 1/4

Western Cape Government

Department of Environmental Affairs and Development Planning
Ntanganedzeni Mabasa
Directorate: Development Management, Region 1
Ntanganedzeni.Mabasa@westerncape.gov.za | Tel: 021 483 2803

FILE NO. Ptn 94/587 Hemel & Aarde
SCAN NO.
COLLABORATOR NO. 2151564
TP - A Theart (H Olivier)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
0 4 NOV 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

REFERENCE: 16/3/3/6/E4/5/1515/24
DATE: **4 November 2024**

The Board of Directors
Wrap Project Office
Private Bag X16
HERMANUS
7200

Tel.: (028) 313 1411
Email: admin@wrapgroup.co.za

Attention: Ms. Salome Kotze

Dear Madam

THE APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) TO THE PROPOSED DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL ON PORTION 94 OF FARM HEMEL AND AARDE NO. 587, CALEDON.

1. The correspondence issued by the Directorate: Development Management (Region 1) ("this Directorate") to the WRAP Project Office on 24 June 2024, and the electronic copy of the additional information received from the WRAP Project Office by this Directorate on 3 October 2024, refer.

2. This Directorate's aforementioned correspondence highlighted that horticulture tunnels are regarded as infrastructure since it does not have a foundation. In line with the Department of Forestry, Fisheries and the Environment's interpretation, the determining factor for triggering Activity 12 of Listing Notice 1 is the physical footprint of the proposed development, i.e. where it touches the ground. Hence, the physical footprint of the horticulture tunnels would comprise the sum of the area of each individual pole that is anchored into the ground.

3. Based on additional information received, the following is noted:
   3.1 The horticulture tunnels only have poles (footings) that are "screwed" up to 1m into the ground, and the diameter of the poles is 50mm.
   3.2 The total development footprint of the poles that will physically touch the ground is approximately 4.9m², which does not exceed the applicable 100m² threshold.

4. Based on the additional information provided, Activity 12 of Listing Notice 1 will not be triggered by the proposal. Environmental authorisation is therefore not required from the competent authority prior to the proposed departure and amendment of conditions of approval on Portion 94 of Farm Hemel and Aarde No. 587, Caledon.

5. This determination is solely based on the additional information received and should any revision of the proposed development trigger any listed activity(ies) as defined terms of Listing Notice 1, 2 & 3, an application must be submitted and environmental authorisation obtained before such activity(ies) may commence.

4 NOV 2024

6. The applicant is reminded of his/her general duty of care and the remediation of environmental damage, Section 28(1) of NEMA specifically states that – "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."

7. Please note that the applicant must comply with any other statutory requirements that may be applicable to the undertaking of the activity.

8. This Directorate reserves the right to revise or withdraw its comments and request further information from you based on any new or revised information received.

Yours faithfully
Andrea Thomas
Digitally signed by Andrea Thomas
Date: 2024.11.04 08:53:20 +02'00'

pp**HEAD OF COMPONENT**
DIRECTORATE: DEVELOPMENT PLANNING (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
CC: (1) Ms. Loretta Gillion (Overstrand Municipality) Email: loretta@overstrand.gov.za

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
24 JUN 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Western Cape Government

Department of Environmental Affairs and Development Planning
Ntanganedzeni Mabasa
Directorate: Development Management, Region 1
Ntanganedzeni.Mabasa@westerncape.gov.za | Tel: 021 483 2803

FILE NO. PTN 94/587
Hemel & Aarde
SCAN NO.
PTN 94
COLLABORATOR NO.
2067196

REFERENCE: 16/3/3/6/E4/5/1287/24
DATE: **24 June 2024**

Tp. D. Theart
(1.) Olivia)

The Board of Directors
Wrap Project Office
Private Bag X16
HERMANUS
7200

Tel.: (028) 313 1411
Email: admin@wrapgroup.co.za

Attention: Ms. Salome Kotze

Dear Madam

THE APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) TO THE PROPOSED DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL ON PORTION 94 OF FARM HEMEL AND AARDE NO. 587, CALEDON.

1. The correspondence issued by the Directorate: Development Management (Region 1) ("this Directorate") to the Overstrand Municipality on 8 May 2024, and the electronic copy of the additional information received from WRAP Project Office by this Directorate on 16 May 2024, refer.

2. This Directorate's aforementioned correspondence highlighted that too little information was provided to definitively confirm whether the expanded development footprint will trigger a listed activity. It was highlighted that the development may trigger one or more listed activity(ies) as defined in terms of the EIA Regulations, 2014 (as amended), if the development will be located within 32m of the watercourses traversing the site, and/or will result in the clearance of indigenous vegetation.

3. Based on additional information received, the following is noted:
   - 3.1 No additional infrastructure is being proposed other than the addition of intensive horticulture tunnels. The tunnels are proposed to be placed over the existing berry fields.
   - 3.2 The total covered area of the tunnels that are located within 32m from the edge of the watercourse is approximately 29 700m². The tunnels do not have any foundations and only have poles (footings) that are "screwed" up to 1m into the ground. The diameter of the poles is 50 mm. The total volume of the poles screwed into the ground is approximately 4.9m³.
   - 3.3 No extraction or removal of soil is being proposed.
   - 3.4 No clearing of any area is being proposed, as the areas proposed to be enclosed in the intensive horticulture tunnels are existing berry fields.

4. From the information provided it is clear that less than 10m³ of materials will be deposited into a watercourse and that no indigenous vegetation will be cleared.

5. Horticulture tunnels are regarded as infrastructure since it does not have a foundation. In line with the Department of Forestry, Fisheries and the Environment's interpretation, the determining factor for

triggering Activity 12 of Listing Notice 1 is the physical footprint of the proposed development, i.e. *where it touches the ground*. Hence, the physical footprint of the horticulture tunnels would comprise the sum of the area of each individual pole that is anchored into the ground. It is not pertinently clear from the information provided whether 100m² or more of the cumulative area of the anchor poles of the proposed horticulture tunnels will be located within 32m of the watercourses present on the site. If applicable, environmental authorisation will be required from the competent authority prior to commencement.

6. This Directorate reserves the right to revise or withdraw its comments and request further information from you based on any new or revised information received.

Yours faithfully

Andrea Thomas

Digitally signed by Andrea Thomas
Date: 2024.06.24 10:29:13 +02'00'

ppHEAD OF COMPONENT
DIRECTORATE: DEVELOPMENT PLANNING (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
CC: (1) Ms. Loretta Gillion (Overstrand Municipality) Email: loretta@overstrand.gov.za

Annexure G

Loretta Gillion

From: Helene Janser <Helene.Janser@westerncape.gov.za>
Sent: Wednesday, 17 April 2024 09:05
To: Loriaan Isaacs
Cc: Loretta Gillion
Subject: RE: Request for comment: Portion 94 of Farm 587 Hemel & Aarde Valley

Dear Loriaan

Your email requesting comment on the application, dated 11 March 2024, has reference.

From a provincial perspective, the Directorate Land Development Management - Region 2 has no objection to the proposed building line departures and SDP amendment on Portion 94 of the Farm Hemel en Aarde No. 587, Caledon Division, to allow for the expansion of intensive horticultural tunnels and the existing pack shed.

TP. n. Theal (H. Olivier)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
17 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Kind Regards

Helene Janser
Chief Town & Regional Planner: Development Management Region 2
Department of Environmental Affairs and Development Planning
Western Cape Government

4th Floor, Utilitas Building, 1 Dorp Street, Cape Town, 8000

Tel: +27 (0)21 483 3544
Cell: +27 (0)84 585 2000
Email: Helene.Janser@westerncape.gov.za
Website: www.westerncape.gov.za/eadp

FILE NO. PLN 94/587
Hemel & Aarde
SCAN NO.
COLLABORATOR NO.
2032263

Western Cape Government
FOR YOU

Be 110% Green. Read from the screen.

Should you not be able to contact the numbers above, please call +27 (0)21 483 4091 between 7:30 -16:00.

From: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Sent: Monday, March 11, 2024 12:13 PM
To: Helene Janser <Helene.Janser@westerncape.gov.za>
Cc: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Request for comment: Portion 94 of Farm 587 Hemel & Aarde Valley

TP. 17 APR 2024

Annexure H 1/2

Western Cape Government

Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

TP. D. Ahearl (H. Olivia)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
26 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

OUR REFERENCE : **20/9/2/4/2/750**
YOUR REFERENCE : **Ptn 94 of Farm 587, RCAL**
ENQUIRIES : **Cor van der Walt**

FILE NO. Ptn 94/587 Hemel & Aarde
SCAN NO.
COLLABORATOR NO. 2037638

Overstrand Municipality
PO Box 20
HERMANUS
7200

Att: Mr. H Olivier

APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: DIVISION CALEDON
PORTION 94 OF THE FARM HEMEL EN AARDE NO 587

Your application of 11 March 2024 has reference.

The Western Cape Department of Agriculture: Land Use Management has no objection to the proposed application.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.

25 APR 2024

- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely

Mr. CJ van der Walt
LANDUSE MANAGER: LANDUSE MANAGEMENT
2024-04-23

Copy:
WRAP
Private Bag X16
HERMANUS
7200

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
1 3 MAY 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Annexure I 1/3

Western Cape Government

Department of Infrastructure
Vanessa Stoffels
Chief Directorate: Road Planning
Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

TP-A Theart (H Olivier)

Ref: TPW/CFS/RP/LUD/REZ/SUB-21/238 (Job 28999-2)

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

FILE NO. Ptn 94 1587
Hemel & Aarde.
SCAN NO.
02
COLLABORATOR NO.
2045775

Attention: Ms L Isaacs

Dear Madam

PORTION 94 OF FARM HEMEL EN AARDE VALLEY NO. 587, CALEDON: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL, DETERMINATION OF AN ADMINISTRATIVE PENALTY.

1. Your e-mail to Mrs V Stoffels of this Branch dated 11 March 2024 refers.

2. The subject property is located approximately 14km north-east of Hermanus and takes access off Minor Road 4012.

3. This application is for the following:

3.1. Departure to relax the eastern building line from 30m to 12,04m to accommodate the proposed expansion of the existing pack shed; and to relax from 30m to 6,44 to accommodate the existing pergola.

3.2. Departure to relax the northern building line from 30m to 9m, western building line from 30 to 9m, southern building line from 30m to 5m and eastern building line from 30m to 3m to accommodate the existing intensive horticulture tunnels.

3.3. Departure to relax the northern building line from 30m to 11m, 12m and 20m respectively, the western building line from 30m to 10m, 12m, 13,5m, 14m, 14,5m and 15,5m respectively, the southern building line from 30m to 7,3m, 8m, 23,7m and 23,8m respectively, the south-eastern building line from 30m to 19m and 24,5m respectively and the eastern building line from 30m to 3m, 3,3 and 5,5 respectively to accommodate new intensive horticulture tunnels.

3.4. Amendment of the approved Site Development Plan to accommodate proposed expansion of the tunnels.

3.5. Amendment of conditions of approval to accommodate proposed development.

3.6. Determination of an administrative penalty.

4. This Branch offers no objection to the proposal in terms of the Land Use Planning Act 3 of 2014.

Yours Sincerely

SW CARSTENS
For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE BRANCH
DATE: 10 MAY 2024

ENDORSEMENTS

1. Overstrand Municipality

   Attention: L Isaacs (e-mail: loriaanisaacs@overstrand.go.za)

2. WRAP Project Office

   Attention: Mr T Jansen (e-mail: admin@wrapgroup.co.za)

3. District Roads Engineer

   Paarl

4. Mr S Bain (e-mail)

5. Ms PZ Govu (e-mail)

6. Mr S Carstens (e-mail)

Annexure J 1/3

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
22 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

3 Park Lane, North End, East London
East London
5201
Working from Home

Our reference: **WWIP_WONR_1377_24**
Your reference: Portion 94 of Farm 587 Hemel & Aarde Valley
Enquiries: N Mali
Tel : +27 81 436 6290
Email : Ndilekam@Openserve.co.za

TP-N Theart
(H. Olivier)

FILE NO. PTN 94/587 Hemel & Aarde
SCAN NO.
COLLABORATOR NO. 2035065

20 April 2024

Overstrand Municipaliity
P O Box 20
HERMANUS
7200

NOT AFFECTED

WAY LEAVE APPLICATION: PORTION 94 OF THE FARM HEMEL EN AARDE NO 587, DIVISION OF CALEDON: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD.

Dear Ms Loriaan Isaacs

With reference to your letter received **12 April 2024.**

As important cables are affected, please contact our representative MELT van AS at telephone number 021 852 1717 / 081 363 7873 / MeltVA@openserve.co.za at least 48 hours prior of commencement on construction work.

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for **six (06) months** only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

As per supplied sketches it would appear as if Open Serve infrastructure ***would not be affected***.

However, care should still be taken should it become evident that there is in fact Open Serve network present at the actual sites. Such lines should be treated in accordance with, and clearances stipulated in the Occupational Health and Safety Act no 85 of 1993, Electrical Machinery Regulations 20 - Crossings, and

Openserve Proprietary Limited: Reg no 2019/387229/07. **Directors:** S Taukobong (Chairperson), AC Beukes (CEO), C Roets (CFO), DJ Reyneke
Company Secretary: AC Ceba

Internal Use

22 APR 2024

Electrical Machinery Regulations 15 – Clearances of Power Lines. If the specifications could not be met, all deviation costs will be for the applicant's account. We also refer to Section 25 of the Electronic Communication Act 36 of 2005.

Please notify this office immediately if you locate any Telkom plant not indicated.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

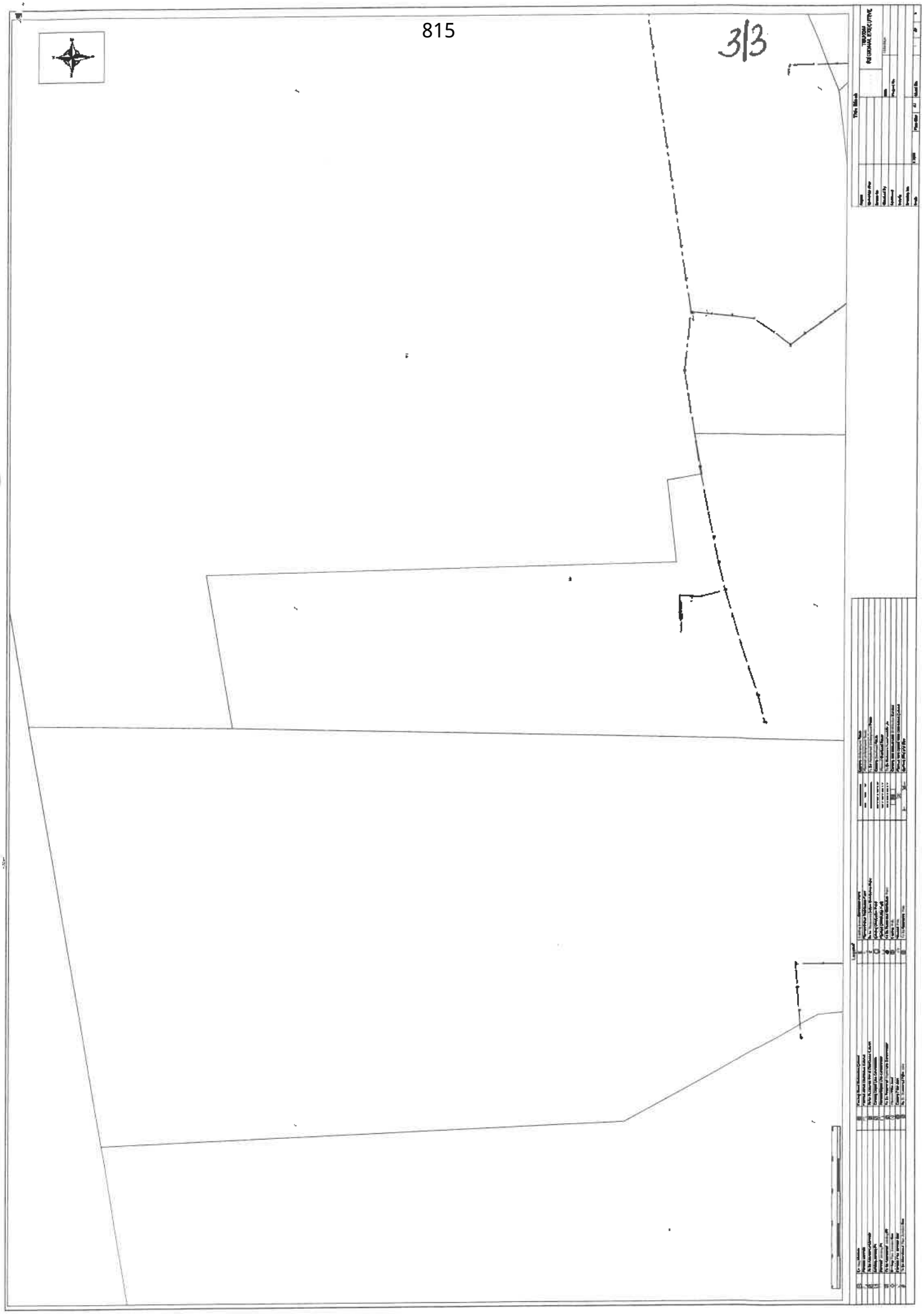
Yours faithfully

N Mak

_____

For Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

3/3



Annexure K
1/3

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
21 AUG 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart (Holivier)

BREEDE-OLIFANTS
CATCHMENT MANAGEMENT AGENCY

Cnr Mountain Mill & East Lake Road, Worcester 6850, Private Bag X3055 Worcester 6849
Enquiries: Rafeeq Le Roux Tel: +27 23 346 8000 Fax: +27 23 347 2012 E-mail: rleroux@bocma.co.za

Reference No: 4/10/1/G40H/ HEMEL & AARDE 587/94, HERMANUS
Date: 21st August 2024

Overstrand Municipality
P.O. Box 20
Hermanus
7200
loretta@overstrand.gov.za

Attention: Ms Loretta Gillion

RE: COMMENT ON THE APPLICATION AND REQUEST FOR COMMENT: DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY – PORTION 94 OF THE FARM HEMEL & AARDE NO 587, CALEDON. HAYGROVE HEAVEN (PTY) LTD.

With reference to the above application received on **16/04/2024**, comment dated **31/05/2024** and information received on **18/06/2024**, this office, in principle, has no objection to the application, subject to the following conditions:

1. The Water User must submit an annual water balance which shows actual water use for the 12 month period based on actual metered water use. The water balance must be supported by aerial imagery indicating where water is used, what crops are irrigated and the extent of the irrigated area as well as the crop factor.

2. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.

FILE NO. Ptn 94/587
Hemel & Aarde
SCAN NO.
COLLABORATOR NO.
2105975

21 AUG 2024 TP

3. No use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a license in terms of Section 41 of the National Water Act (Act 36 of 1998) and/or formal authorisation in terms of General Authorisations issued under Section 39 (Government Notice 538 of 2016), and/or if it is authorised under Schedule 1 of the National Water Act, 1998 (Act 36 of 1998) and/or if it is an Existing Lawful Water Use in terms of the National Water Act,1998 (Act 36 of 1998).

4. No permanent structures maybe constructed within the regulated area of any watercourse (seasonal or permanent river, stream etc.), without firstly obtaining authorization in terms of Section 21 (c) and (i) of the National Water Act, 1998 (Act 36 of 1998).

5. It is the duty of the applicant(s) to ensure that all servitudes of aqueduct, access and storage to give effect to the apportionment of water uses has been agreed upon prior amongst the property owners and formally registered with the Deeds of Office to give affect thereto upon approval of the application.

6. The registration of all water uses as defined in Section 21 of the National Water Act 36 of 1998 that need to be registered. The relevant registration forms may be accessed on the www.breedegouritzcma.co.za website or alternatively this office may be approached for assistance.

7. Where the applicant has an existing lawful registered water use, used for agricultural purposes thus far, application should be made to the Responsible Authority to amend such use proportionally per annual volume for domestic, commercial, industrial and/or agricultural, if this is applicable.

8. No pollution of surface water or ground water resources may occur due to any activity.

9. No stormwater runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. Polluted storm water must be contained.

10. All relevant sections and regulations of the National Environmental Management: Waste Act 2008 (Act 59 of 2008) regarding the disposal of solid waste must be adhered to. Solid waste may only be disposed of onto an authorized solid waste facility in terms of abovementioned legislation.

11. The water provided for domestic use must comply with the SANS 241: 2015 guidelines for drinking water (edition 1). Regular monitoring must be done to ensure compliance. If the quality of the water is of such a nature that it is a threat to human health, then this office and the Provincial Department of Health must be informed of the procedures to rectify the problem.

Please be advised that all relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to. The use of water without the required authorization in terms of the National Water Act, 1998 (Act 36 of 1998) may be regarded as unlawful and a criminal offence.

The onus remains on the registered property owner to confirm adherence to any relevant legislation with regards to the activities which might trigger and/or need authorization for

Please do not hesitate to contact this office if you have any further queries.

Please ensure to quote the above reference in doing so.

Yours Faithfully

MR. JAN VAN STADEN

CHIEF EXECUTIVE OFFICER (ACTING)

Annexure L 1/2

COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL & DETERMINATION OF AN ADMINISTRATIVE PENALTY: PORTION 94 OF THE FARM HEMEL EN AARDE NO. 587, CALEDON DIVISION (4456/2023)

Electricity	:	Eskom Area
Stormwater	:	No services available
Water	:	No services available
Sewer	:	No services available
Roads and traffic	:	No services available

Conditions:

1. that the developer arrange with ESKOM for the provision of electricity and that he complies with all conditions as may be set by ESKOM;

2. that no water from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (Water and Sanitation, Health, Bocma etc.) for the use of any other water resources and the extraction thereof;

3. that the developer is responsible to provide potable water to the development that complies with SANS0241 standards and that relevant proof be submitted to the Manager: Water Infrastructure & Quality Control, Overstrand Municipality (Tel: 028 313 5046) ;

4. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and DWA for approval;

5. that the developer complies to all the conditions set by Department Of Water Affairs & Bocma;

6. that, as no municipal sewerage removal services are rendered in the area, the owner is responsible for removal of all sewerage generated on the property, and disposal thereof at a licenced municipal sewerage treatment facility;

7. that alternatively, sewer treatment facilities that are approved by the Department of Water Affairs may be provided for disposal of sewer from the developments. Written proof of such approval is to be submitted to the Municipality;

8. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to minimum requirements of SANS 140400 – P: 2010: Drainage;

9. that access can be obtain from the entrance located on the eastern side of the property, situated on the Hemel and Aarde Road. The Provincial Engineer must however provide comment in this regard.

p.p.
DENNIS HENDRIKS
SENIOR MANAGER:
ENIGINEERING SERVICES

13/03/2024
DATE

Annexure M 1/2

CapeNature

CONSERVATION INTELLIGENCE

postal	16 17th Avenue, Voëlklip, Hermanus, 7200
physical	16 17th Avenue, Voëlklip, Hermanus, 7200
website	www.capenature.co.za
enquiries	Rhett Smart
telephone	087 087 8017
email	rsmart@capenature.co.za
reference	LS14/2/6/1/7/2/587-94_departure_Hemel-en-Aarde
date	12 May 2024

Overstrand Municipality
P.O. Box 20
Hermanus
7200

TP-A Theart (H Olivier)

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
13 MAY 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Attention: Henk Olivier
By email: holivier@overstrand.gov.za

Dear Mr Olivier

Application for Departure, Amendment of Spatial Development Plan and Amendment to Conditions of Approval for Portion 94 of Farm Hemel-en-Aarde 587, Haygrove Heaven, Hemel-en-Aarde Valley, Hermanus
(Overstrand Municipality ref. no.: Ptn 94 of Farm 587 RCAL, 4456/2023)

CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.

The application is for both existing and proposed agricultural tunnels and expansion of a pack shed. The existing and proposed tunnels and packshed were/are all located within an existing footprint of cultivation and agricultural industry. The application did/will therefore not result in the loss of any natural habitat.

The application will also not result in impacts on surface or groundwater features, provided the run-off is managed appropriately. The report states that there are existing water rights and no additional rights are required for the proposal. It is noted that run-off from the tunnels and condensation will be used to supplement irrigation requirements. CapeNature supports this proposal and abstraction requirements from the existing source should be reduced accordingly to alleviate the pressure on the water-stressed Onrus River catchment.

In conclusion, CapeNature does not object to the application. We recommend that the design of the agricultural tunnels should attempt to reduce the risk of crop damage from baboons.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

FILE NO. Ptn 94/587 Hemel & Aarde
SCAN NO. 04
COLLABORATOR NO. 2045803

The Western Cape Nature Conservation Board trading as **CapeNature**
Board Members: Associate Prof Denver Hendricks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Loubser, Mr Mervyn Burton, Dr Colin Johnson, Prof Aubrey Redlinghuis, Mr Paul Slack

Yours sincerely

Rhett Smart
For: Manager (Landscape Conservation Intelligence)

Annexure N 1/2

POWER OF ATTORNEY

I the undersigned

NAME : Sean Tager

ID/PASSPORT NUMBER: 740321 5117 085

In my capacity as the authorized representative of **HAYGROVE HEAVEN (PTY) LTD (REG. NO. 1997/001058/07)**, the owner of **PORTION 94 OF THE FARM HEMEL EN AARDE VALLEY 587, CALEDON**, hereby nominate, constitute and appoint WRAP Project Office (Pty) Ltd (Reg No 2022/349604/07), with power of substitution, to be the duly authorised attorney and agent in name, place and stead, which may be necessary in order to sign documents and to perform all such acts which may be necessary in connection with the following applications:

APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY

and generally for effecting the purposes aforesaid, to do or cause to be done whatever shall be requisite, as fully and effectual, for all intents and purposes as I might or could do if personally present and acting herein – hereby ratifying, allowing, confirming, promising and agreeing to ratify, allow and confirm all and whatsoever my said Agent shall lawfully do, or cause to be done, by virtue of these presents.

SIGNED AT Hermanus **ON THIS** 1 **DAY OF** June **2023**

WITNESS

WITNESS

COMPANY RESOLUTION

The Directors of **HAYGROVE HEAVEN (PTY) LTD (REG. NO. 1997/001058/07)**, the owner of **PORTION 94 OF THE FARM HEMEL EN AARDE VALLEY 587, CALEDON** authorizes

NAME AND SURNAME: Sean Tager

PASSPORT NUMBER: 740321 5117 085

In his capacity as Director to act on behalf of the company regarding the applications for the following applications:

APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY

SIGNED AT Hermanus **ON THIS** 1 **DAY OF** June **2023**

DIRECTOR
AJ Davison

DIRECTOR
S Tager

WITNESS

VISUAL IMPACT STATEMENT

for the Proposed Expansion of Intensive Horticulture Tunnels

PORTION 94 OF FARM NO. 587, HEMEL-EN-AARDE VALLEY

Overstrand Local Municipality

Client: Haygrove Heaven (Pty) Ltd
Portion 94 of Farm 587, Ertjieslvlei, Hemel & Aarde Valley
Hermanus

Prepared by:

ARLA Consulting
Landscape Architects

Antoinette de Beer
PrLarch (UCT) 20218

(t) +27 +21 981 6104
(m) +27 +83 232 6555

antoinette@arlaconsulting.co.za
@ arla_consulting_la
Postnet Suite #24 Private Bag X1
Brackenfell 7561

Contents

LIST OF FIGURES 4

LIST OF IMAGES 4

ADDENDA 5

1.0 INTRODUCTION 6

1.1 General 6

1.2 Level of Assessment 6

1.3 Personnel 6

1.4 Declaration of Interest 7

2.0 SPECIALIST REPORT CONTENT AND METHODOLOGY 8

2.1 General 8

2.2 Methodology 8

2.2.1 The sequence of work employed in this Study 8

2.2.2 Written and Drawn Material was made available: 8

2.2.3 Receiving Environment 8

2.3 Assumptions and Limitations 8

3.0 SITE AND SETTING 9

3.1 Site Description 9

3.2 Land Use and Landform in the wider landscape 11

3.3 Protected Landscapes and the Bio Region 12

3.4 Landscape Character 12

3.5 Sense of Place 13

4.0 PROJECT DESCRIPTION 14

4.1 Project Description 14

5.0 VISUAL ANALYSIS 17

5.1 Extent of the Impact 17

5.2 Visual Exposure 18

5.3 Zones of Visibility 18

5.3.1 Holiday Accommodation Units 19

5.3.2 Neighbouring farms 20

5.3.3 Hemel-en-Aarde Road (R320) 20

5.4 Compatibility of the Development 22

5.5 Intensity or Magnitude of Visual Impact 22

5.6 Duration of Visual Impact 22

5.7 Significance of the Visual Impact 22

5.8 Mitigation of the Impacts 22

5.8.1 View Corridors / Scenic Routes 22

5.8.2 Residential Receptors 22

5.8.3 Protected Areas 23

5.8.4 Lighting 23

6.0 CONCLUSIONS and RECOMMENDATIONS 24

REFERENCES 25

Addendum A 26

Addendum B 29

LIST OF FIGURES

Figure 1: Location of the proposed expansion of horticulture tunnels on Portion 94 of Farm no. 587 within the Hemel-en-Aarde Valley.
Source: Cape Farm Mapper

Figure 2: This figure illustrates the layout and position of the new proposed, existing and not approved and existing and approved tunnels on site.
Source: Cape Farm Mapper

Figure 3: This map shows critical biodiversity areas.
Source: Cape Farm Mapper

Figure 4: Proposed Site Development Plan: Illustrating the parameters and extent of new and existing horticulture tunnels and required set back lines.
Source: WRAP Project Office

Figure 5: Proposed Site Development Plan: Highlighting the area and extent specifically for new tunnels.
Source: WRAP Project Office

Figure 6: The surrounding terrain of the site that illustrates the undulating landscape.
Source: WRAP Project Office

Figure 7: Elevational profile of the topography from the R320 (yellow dot) to the edge of the site (pink dot): Illustrating the landscape character of the surrounding terrain of the site.
Source: WRAP Project Office

Figure 8: This map illustrates the extent of visual impact from the site to ±500m, ±800m and ±1200m (1.2km). These intervals meet points of importance, namely, the boundary of the site, the housing estate opposite and the R320 road.
Source: Cape Farm Mapper

Figure 9: This image shows the primary entrance and secondary entrance from the R320 road for reference.
Source: Cape Farm Mapper

LIST OF IMAGES

Image 1: A view of the site from the Hemel-en-Aarde Road that shows the extent of existing windbreaks on site. These provide an edge to the farming blocks, to provide protection from the dominant winds and act as visual barriers to visually sensitive receptors.
Source: Leila Bruce

Image 2: Image illustrating the existing windbreaks on site.
Source: Antoinette de Beer

Image 3: Street view of the Hemel-en-Aarde Road with rows of mature trees lining the edge of the road.
Source: Leila Bruce

Image 4: This image shows the undulating topography of the terrain from the R320 road that illustrates natural visual barriers to the site at various points.
Source: Leila Bruce

Image 5: This image shows the site with limited visual impacts of existing tunnels including the large extent of natural windbreaks and established trees seen from the site of the holiday accommodation units opposite.
Source: Leila Bruce

Image 6: This image shows the holiday accommodation units seen from a road on site. In the foreground are existing tunnels that are largely screened by vegetation.
Source: Leila Bruce

Image 7: This image shows the main entrance from the R320 to the site.
Source: Antoinette de Beer

ADDENDA

Addendum A: Curriculum Vitae A de Beer
Addendum B: Criteria used for the Assessment of Impacts

1.0 INTRODUCTION

1.1 General

This Visual Impact Assessment (VIA) concerns the development of proposed Intensive Horticulture Tunnels on Farm No. 94 of 587. The site is located at the foot of the Babilonstoring mountain range in the Hemel-en-Aarde Valley and accessed from the Hemel-en-Aarde Road. Portion 94 of Farm No. 587 is surrounded by land zoned for agricultural use as well as one portion south of the farm zoned for resort (De Werf Estate).

1.2 Level of Assessment

The DEA+DP '*Guideline for Involving Visual and Aesthetic Specialists in EIA Processes*' notes that '*low-key recreation / resort / residential type development, small-scale agriculture / nurseries, narrow roads and small-scale infrastructure*' would be considered a category 2 development. A moderate visual impact could be expected within areas of high scenic, cultural, or historical significance.

We recommend a Level 3 assessment, necessitating the following:

- A site visit and fieldwork, a concise description of the receiving environment and the proposed project.
- Establishment of the view catchment area and identification of sensitive receptors.
- Indication of potential visual impacts, and proposed mitigation measures.

1.3 Personnel

The visual statement was compiled by Antoinette de Beer, Landscape Architect, and an independent Visual Impact Assessment practitioner whose detailed CV and Experience is set out in Addendum A. Antoinette was assisted by Candidate Landscape Architect Leila Bruce.

1.4 Declaration of Interest

A de Beer has expertise in conducting the specialist report including knowledge of regulations and any guidelines that have relevance to the proposed activity. A de Beer acts as the independent specialist and will perform the work in an objective manner, even if this results in views and findings that are not favourable to the client.

A de Beer will comply with the Act, regulations and all other applicable legislation and undertakes to disclose to the client and the competent authority all material information in her possession that reasonably has or may have the potential of influencing any decision to be taken with respect to the property by the competent authority; and the objectivity of any report, plan or document to be prepared by her for submission to the competent authority.

A deBeer

30 October 2023

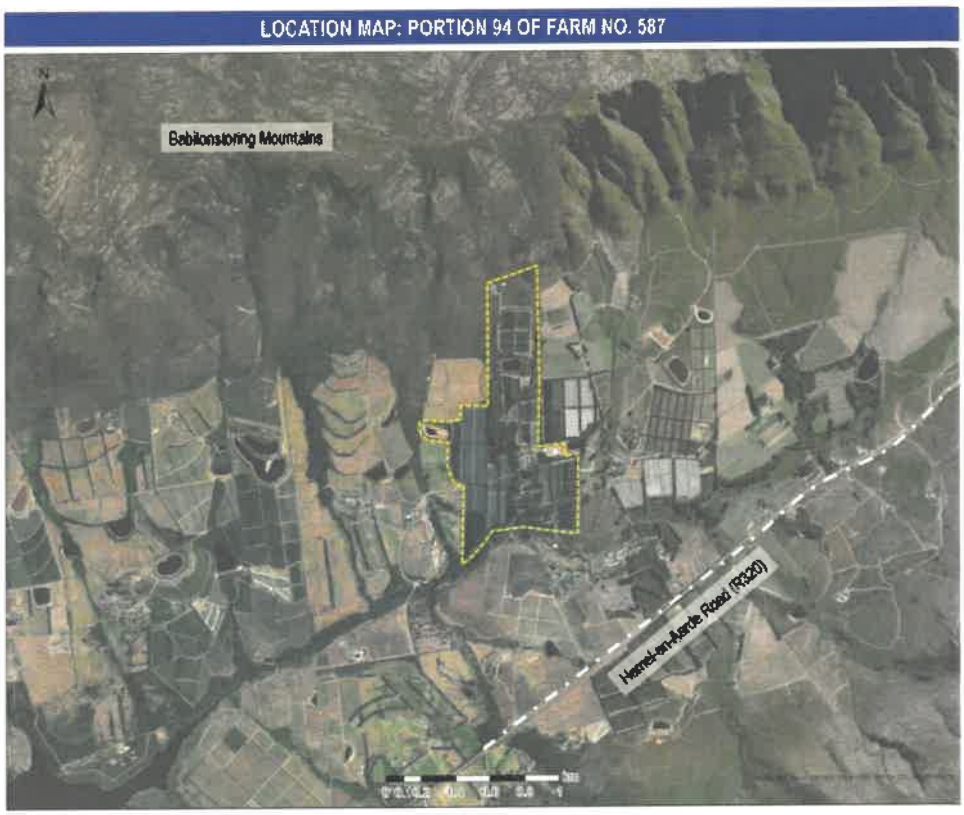


Figure 1: Location of Farm No. 587 Portion 94 within the Hemel-en-Aarde Valley.
Source: Cape Farm Mapper

2.0 SPECIALIST REPORT CONTENT AND METHODOLOGY

2.1 General

This Level 3 Visual Impact Assessment provides an overview of the landscape character of the locality and assess the degree to which the horticulture tunnels would be visually appropriate.

2.2 Methodology

2.2.1 The sequence of work employed in this Study

A desktop survey using 1:50,000 topographical survey maps, Google Earth, and CapeFarmMapper was undertaken. Subsequently the probable extent of the potential visual impact of the intensive horticulture tunnels on this site was established. Adding to the desktop information gathering process, a site visit was undertaken to test the conclusions of the terrain analysis, to identify receptors and appraise the local landscape.

2.2.2 Written and Drawn Material was made available:

- Application for departure, amendment of an approved site development plan and amendment of conditions of approval. Application prepared by WRAP Project Office.
- Proposed site development plan. Prepared by WRAP Project Office.
- Inset Plan – Proposed site development plan. Prepared by WRAP Project Office.

And other drawn and written information received in emails and on site.

2.2.3 Receiving Environment

The receiving site was assessed and areas of the locality from where the horticulture tunnels appeared to be visible including adjacent lands and local roads. The site visit was conducted during 21 September 2023. The weather on the day of the site visit was overcast and open. A photographic survey of the site and surrounding areas was carried out by Antoinette de Beer.

The visual assessment was undertaken using standard quantitative criteria such as geographic view shed and viewing distances as well as qualitative criteria such as compatibility with the existing landscape character and settlement pattern; refer to: *Guideline for involving Visual and Aesthetic Specialists in EIA Processes*, Provincial Government of the Western Cape, DEA+DP, Edition 1, June 2005.

2.3 Assumptions and Limitations

The information and deductions in this report are based on information received from the client, town planning specialist, research, and fieldwork by the landscape architectural specialist.

3.0 SITE AND SETTING

3.1 Site Description

The site: Portion 94 on Farm No. 587, is a farm that utilises intensive horticulture tunnels for protection from wind and heavy rainfall for sensitive farming operations. Increased demand requires improved operating processes resulting in tunnels as a preferred method. Currently, there are existing tunnels, dams, agricultural buildings, labourer cottages and access roads on this site. As mentioned, Portion 94 of Farm No. 587 sits at the foot of the Babilonstoring mountain range, with rows of large, tall established trees that line the edges of the cultivated land. The trees provide protective windbreaks and a visual barrier to adjacent neighbours.

The profile of the land crossing the site from the mountain to the Hemel-en-Aarde Road is undulating with the Onrusrivier at the lowest portion of this profile and the De Werf Estate holiday accommodation units adjacent and opposite the site. The holiday accommodation units would be a visual receptor of the site.

The setting is cultivated land that has been transformed by the cultivation of orchards and vineyards. The settlement pattern relates to farm homesteads and associated buildings within the dominant agricultural landscape.

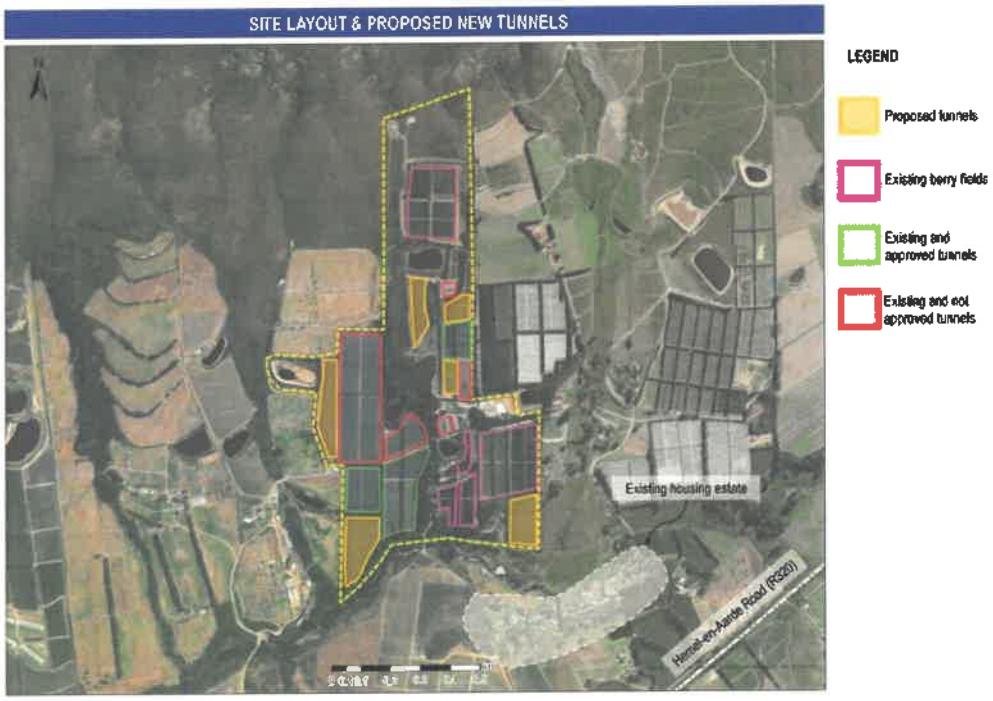


Figure 2: This figure illustrates the layout and position of the new proposed, existing and not approved and existing and approved tunnels on site.
Source: Cape Farm Mapper

Image 1: A view of the site from the Hemel-en-Aarde Road that shows the extent of existing windbreaks on site. These provide an edge to the farming blocks, to provide protection from the dominant winds and act as visual barriers to visually sensitive receptors.
Source: Leila Bruce

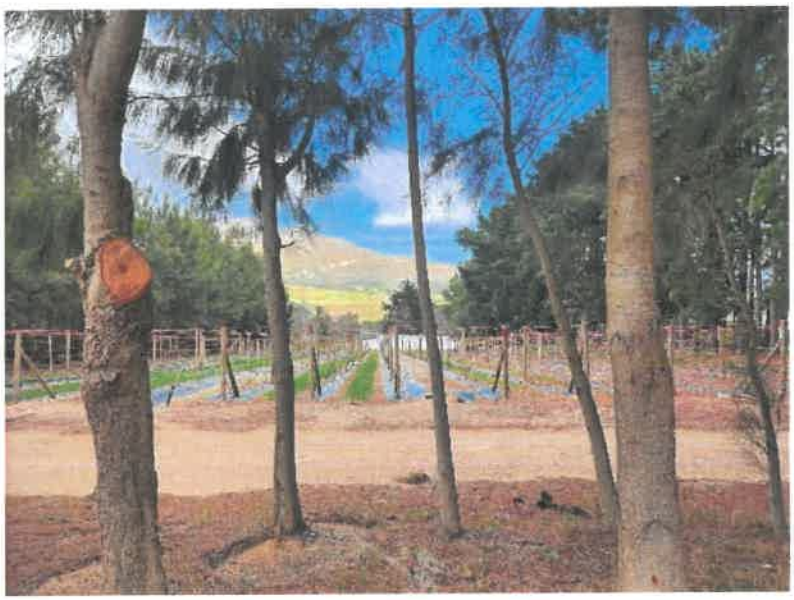


Image 2: Image illustrating the existing windbreaks on site.
Source: Antoinette de Beer

3.2 Land Use and Landform in the wider landscape

The linear arrangement of agricultural land that stretches perpendicularly to the mountain range is seen intermittently along the Hemel-en-Aarde Road (R320) that is often lined on both sides with mature trees. The land use of the wider landscape is predominantly agricultural with an undulating landform between the R320 and the steep mountain scree slopes above the farm. The Onrus River, which forms the southern boundary of the farm runs along the bottom of the valley. Although the wider landscape has been transformed for agricultural purposes there is a natural aesthetic maintained by organised rows of trees, orchards, vineyards, and patches of indigenous vegetation. The areas south of the mountain range is exposed to the south-easterly wind that has resulted in the planting of windbreaks for wind protection.

Image 3: Street view of the Hemel-en-Aarde Road with rows of mature trees lining the edge of the road.
Source: Leila Bruce

3.3 Protected Landscapes and the Bio Region

The site is located within the Fynbos Biome of the Western Cape with Elim Ferricrete Fynbos as the endemic vegetation type. This vegetation type generally consists of low height shrubs and is considered endangered. Surrounding this is Overberg Sandstone Fynbos and is considered least threatened. There are terrestrial Critical Biodiversity Areas including the Babilonstoring mountain range with a nature reserve adjacent to and on the farm as well as aquatic Critical Biodiversity Areas along the Onrus River and drainage lines down the mountain. Critical Biodiversity Areas contributes to the scenic value of an area and this in combination with the dominantly agricultural landscape supports agri-tourism in the valley. In addition, the protection of Critical Biodiversity Areas aims to support the continued functioning of the environment and its associated ecosystems, habitat preservation as well as preservation for cultural needs.

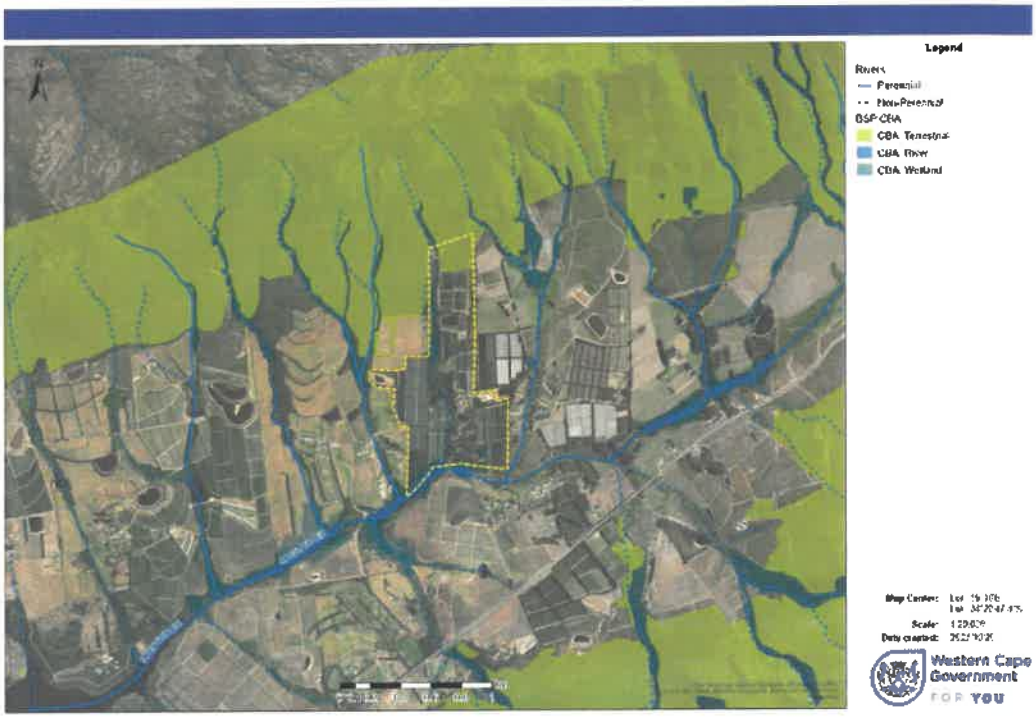


Figure 3: This map shows critical biodiversity areas.
Source: Cape Farm Mapper

3.4 Landscape Character

The rows of trees within the landscape and along the R320 Hemel-en-Aarde Road allows for wind protection but also visually demarcates agricultural blocks and / or property boundaries creating pockets of enclosure within the landscape. This character is seen throughout the valley in addition to the undulating topography from foothills to the valley to the majestic mountain range above.

3.5 Sense of Place

This landscape in the Hemel-en-Aarde Valley is predominantly agricultural used for commercial purposes. Some holiday accommodations have been incorporated on various farms and on the property south of the farm, on the opposite side of Onrus River. This results in an active functioning landscape that serves both commercial production and tourism including the backdrop of a protected mountainous landscape. The sense of place is defined by Agri-tourism providing an attachment to the landscape that is a characterised by agriculture and natural features while accessed privately and by the public.

4.0 PROJECT DESCRIPTION

4.1 Project Description

As per the project motivation prepared by WRAP Project Office:
Amendment of condition of approval *3(a) contained in letter of approval dated 9 February 2016 to allow the proposed expansions of the tunnels in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning Act, 2020*

The total area of the new proposed tunnels will be ±7.746ha.

Figure 4: Proposed Site Development Plan: Illustrating the parameters and extent of new and existing horticulture tunnels and required set back lines.
Source: WRAP Project Office

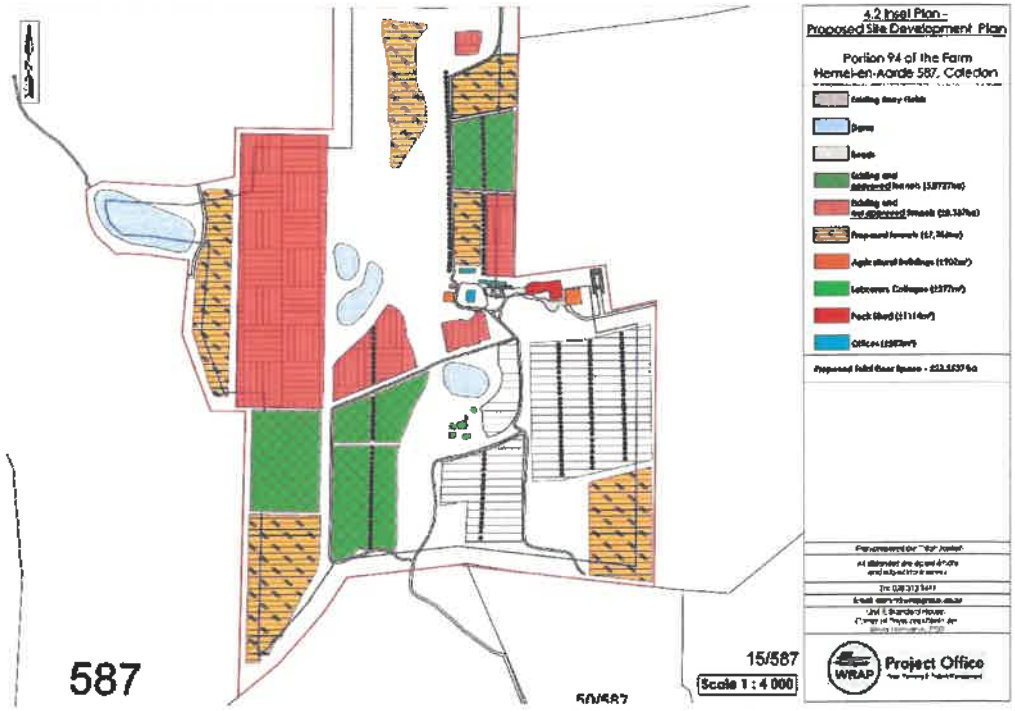


Figure 5: Proposed Site Development Plan: Highlighting the area and extent specifically for new tunnels.
Source: WRAP Project Office

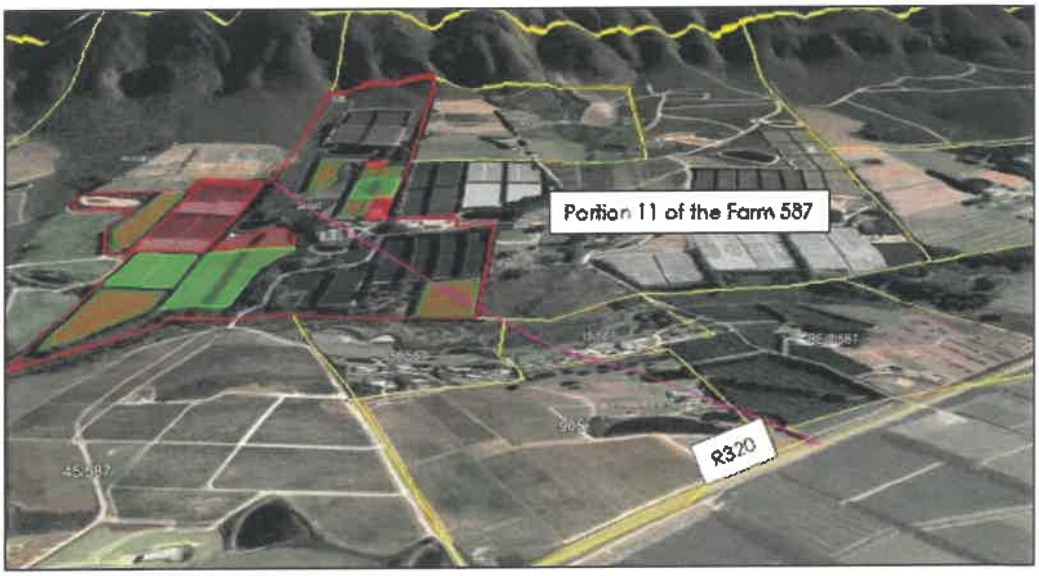


Figure 6: The surrounding terrain of the site that illustrates the undulating landscape.
Source: WRAP Project Office

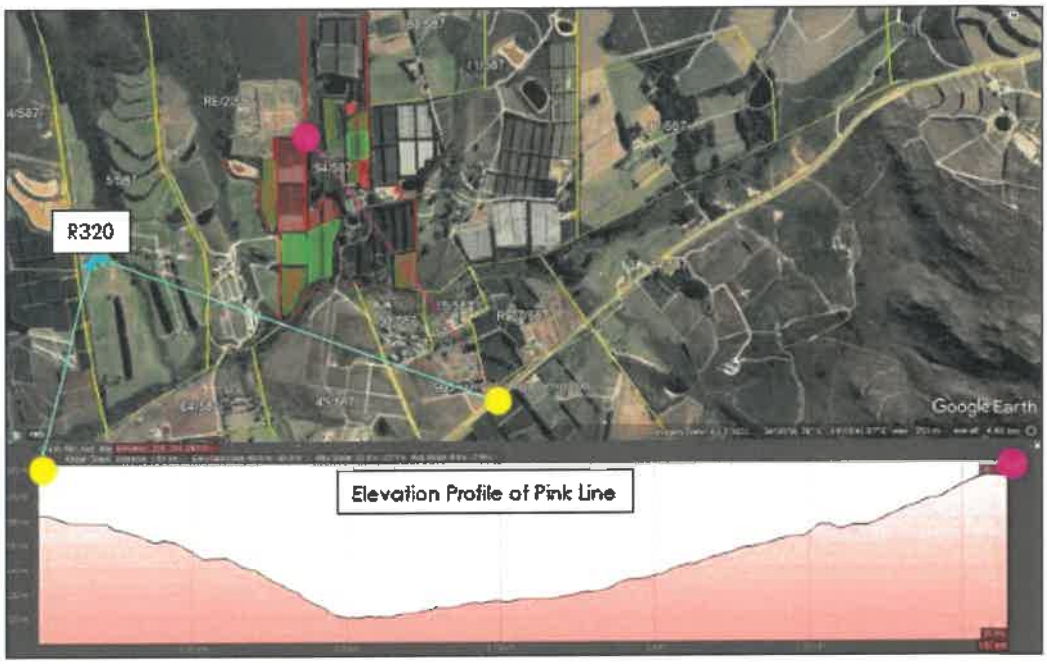


Figure 7: Elevational profile of the topography from the R320 (yellow dot) to the edge of the site (pink dot): Illustrating the landscape character of the surrounding terrain of the site.
Source: WRAP Project Office

5.0 VISUAL ANALYSIS

5.1 Extent of the Impact

The extent of the Visual Impact was assessed and rated as noticeable to the viewer from ±1.2km at the Hemel-en-Aarde road (R320). Including at a ±800m distance from the holoday accommodation units opposite the site. West of the site, the undulating topography is a visual barrier to the site. The horticultural tunnels are approximately 4m high – the height of a small dwelling on sloping topography. However, surrounded by tall established trees these tunnels are not intrusive in close proximity to the site. There is additional shade cloth to prevent glare allowing for improved integration and a sensitivity to surrounding neighbours. The extent of visual impact was based on the nature of the proposed development, (its height and bulk), the receiving environment, and the experience of the specialist.

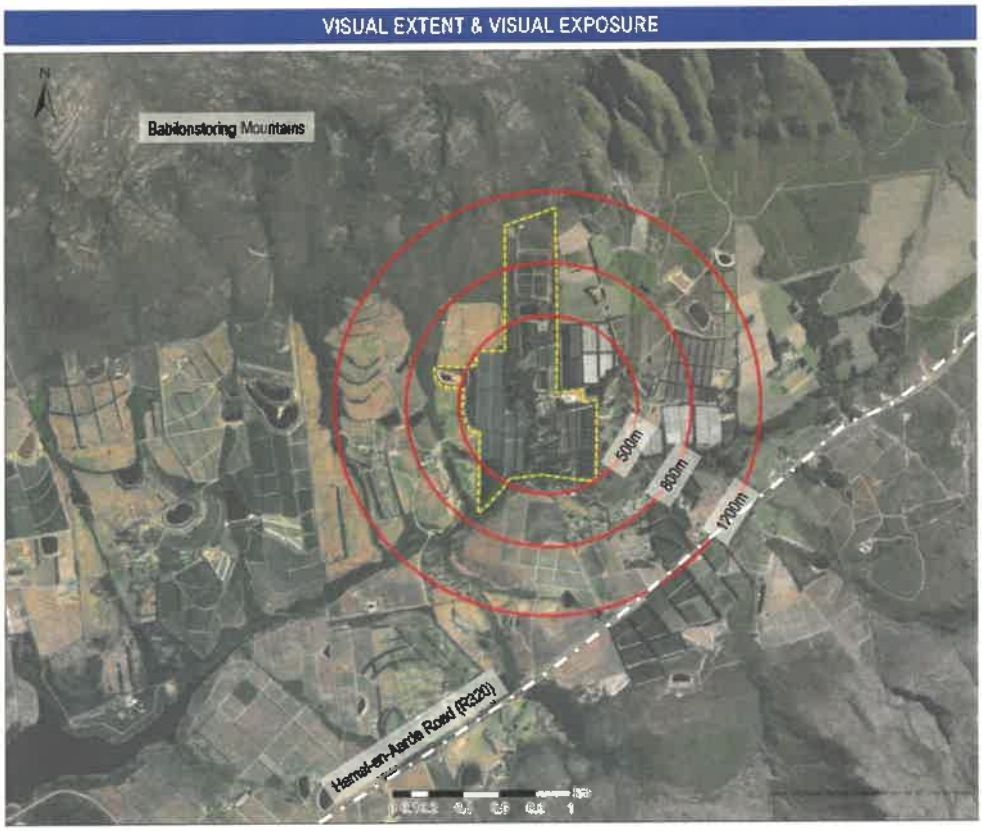


Figure 8: This map illustrates the extent of visual impact from the site to ±500m, ±800m and ±1200m (1.2km). These intervals meet points of importance, namely, the boundary of the site, the housing estate opposite and the R320 road.
Source: Cape Farm Mapper

Image 4: This image shows the undulating topography of the terrain from the R320 road that illustrates natural visual barriers to the site at various points.
Source: Leila Bruce

5.2 Visual Exposure

The site is visually enclosed by rows of trees and moderately exposed from higher elevations due to the undulating landform. It is rated as moderately exposed for receptors, namely the holiday accommodation units, neighbouring farms and the Hemel-en-Aarde Road (R320). The site has a high visual absorption capacity as it is effectively screened by vegetation and topography. Particularly along the R320 as there are rows of trees on the road edge and on lower elevations in close proximity to trees on site.

5.3 Zones of Visibility

The zones of visibility are contained primarily by topography and rows of trees and windbreaks. Due to the enclosed nature of the site on undulating topography, the development would be mostly visible to the south on the higher elevations at a distance from the site, namely from the R320 at a ±1.2km distance.

Sensitive areas and receptors include:

- Holiday accommodation units
- Neighbouring farms
- Hemel-en-Aarde Road (R320)

5.3.1 Holiday Accommodation Units

Due to the nature of the topography, windbreaks and rows of established trees, the expansion of intensive horticulture tunnels would be of low visibility to the holiday accommodation opposite the site. The required tunnels act as sustainable farming measures to improve the supply of produce. Overall, there is sufficient screening of tunnels from the housing estate. The tunnels are a low height of ±4m and do not affect the skyline or mountain backdrop.

The visual impact prior to mitigation would be **moderate**.

Image 5: This image shows the site with limited visual impacts of existing tunnels including the large extent of natural windbreaks and established trees seen from the site of the holiday accommodation units opposite.
Source: Leila Bruce

Image 6: This image shows the holiday accommodation units seen from a road on site. In the foreground are existing tunnels that are largely screened by vegetation.
Source: Leila Bruce

5.3.2 Neighbouring farms

Neighbouring farms have a cultivated character of neat rows of orchard and vineyard farming practices. The intended expansion of intensive horticulture tunnels would blend into this environment with its windbreaks around each farming block.

The visual impact prior to mitigation would be **moderate**.

5.3.3 Hemel-en-Aarde Road (R320)

A large portion of the site is visible from the R320 road. The site, in conjunction with the neighbouring farms along the Babilonstoring mountains, is visually consistent with rows of planted vegetation in this cultivated valley. The site is visible from the R320 as it is at a higher elevation. This road is a scenic route, however, the impact on the scenic route will be limited due to the distance between the road and the proposed development as well as the site's location in relation to the mountain: the often-shaded southern slopes.

It is therefore anticipated that the visual impact prior to mitigation would be **moderate**.

Image 7: This image shows the main entrance from the R320 to the site.
Source: Antoinette de Beer

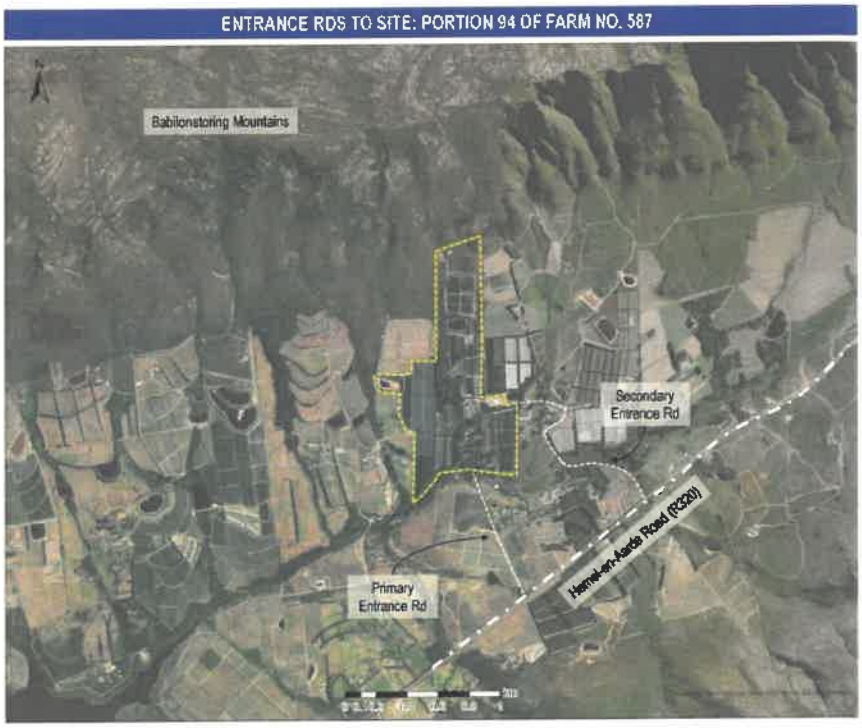


Figure 9: This image shows the primary entrance and secondary entrance from the R320 road for reference.
Source: Cape Farm Mapper

5.4 Compatibility of the Development

The compatibility of the proposed development and land use with the existing landscape character is assessed as **moderately compatible**; the development of additional horticulture tunnels would fit into the landscape and be partially concealed through established vegetation. It would be partially concealed based on viewpoints from different topographical elevations.

5.5 Intensity or Magnitude of Visual Impact

The intensity or the degree to which the proposed development will impact views and scenic or cultural resources will be **medium-low**: visual and scenic resources will be affected to a limited extent. There is a moderate-low degree of change as there are existing horticulture tunnels on site, windbreaks and tall trees that reduces the magnitude of visual impact on surrounding neighbours and scenic resources such as the mountain-scape.

5.6 Duration of Visual Impact

The duration of the impact upon its surroundings of the development is assessed as **permanent**.

5.7 Significance of the Visual Impact

The significance of the visual impact is assessed with a medium-low significance rating. As per the motivation by the town planners, the proposed tunnels are not located within the Overstrand Municipality Environmental Protection Overlay Zone and the Overstrand Municipality Heritage Protection Overlay Zone. In conjunction with factors such as being compatible with height restrictions, the use of shade netting to prevent glare, rows of established trees surrounding agricultural plots, additional windbreaks and existing natural vegetation, the development would be partially screened from most directions. In combination with the above factors, the development would have a local impact with medium-low intensity over the permanent term.

5.8 Mitigation of the Impacts

The most significant aspect of the visual impact results from the addition of intensive horticulture tunnels that are 4m in height and cover 7,746ha of land. The needs of the sensitive receptors outlined particularly in paragraph 5.3 must be addressed. The tunnels can blend in using existing measures with additional mitigation measures. The negative visual impacts need to be managed by the implementation of mitigation measures as follows:

5.8.1 View Corridors / Scenic Routes

On the higher elevation of the R320 road, the tunnels with shade netting are visible from the 1.2km distance. Additional tree planting, wherever possible, parallel to the mountain between the rows of horticulture tunnels in addition to the existing trees on the edge of farming blocks would reduce exposure of the covered tunnels from the Hemel-en-Aarde road (R320) and should be considered.

5.8.2 Residential Receptors

The introduction of additional windbreaks and trees on the erf with holiday accommodation units opposite the site of the proposed tunnels would be beneficial to reduce the immediate visual impact for visitors / tourists. This mitigation measure in addition to 5.8.1 would be beneficial as both the proposed tunnel development and holiday accommodation units sit on opposite slopes within a valley.

5.8.3 Protected Areas

Infrastructure that utilises muted, matt finishes for all parts of the proposed development would assist in it becoming visually recessive. Therefore, colours such as dark grey, charcoal, anthrasite, black or navy blue should be considered wherever possible. This mitigation measure is visually sensitive to the natural surrounds and is currently employed.

5.8.4 Lighting

Preferably no additional lights should be installed with the proposed infrastructure to preserve the wilderness quality and reduce exposure to the rest of the valley. Lights that are absolutely necessary should be:

- Aimed down. Full cut-off shielded fixtures that keep light from going up or sideways. Full cut-off fixtures produce minimum direct light. They increase safety because it illuminates people, cars, and terrain.
- Install fixtures with energy-efficient specifications carefully to maximize their effectiveness on the targeted area and minimise their impact elsewhere. Proper aiming of fixtures is crucial. Use a less bright low wattage bulbs or solar charged lights rather than a brighter high-wattage bulb to reduce visual impact from glare.
- If the colour of the lighting is not important, choose energy-efficient fixtures utilising yellowish high-pressure sodium (HPS) bulbs. If "white" light is needed, fixtures using compact fluorescent or metal halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury vapour bulbs.
- Neon or unshielded bright security lights may not be used.

6.0 CONCLUSIONS and RECOMMENDATIONS

This Visual Impact Assessment (VIA) concerns the development of proposed Intensive Horticulture Tunnels on Farm No. 94 of 587. The site is located at the foot of the Babilonstoring mountain range in the Hemel-en-Aarde Valley and accessed from the Hemel-en-Aarde Road. The farm is surrounded by cultivated land with various waterbodies. Access is currently obtained via two entrances including an asphalt and gravel road off the R320.

The potential ability of the receiving environment to visually absorb this development is assessed as **high** as it is well screened with existing vegetation, windbreaks and established trees resulting in limited mitigation strategies.

The visual impact of the proposed development would primarily affect the local area, which would include the users of the R320, holiday accommodation units and neighbouring farms.

The proposed development / infrastructure is seen as **moderately compatible** with the receiving environment. The intensity or the degree to which the proposed development will impact views and scenic or cultural resources will be **medium-low**: visual and scenic resources will be affected to a limited extent. The duration of the impact upon its surroundings of the development is assessed as **permanent**. The significance rating is assessed as a **moderate-low significance**.

Proposed mitigation measures include:

- Additional tree planting between tunnels to reduce visual impacts of large farming blocks.
- The use of muted and matt finish for all parts of the proposed development / infrastructure to be used whenever possible. Darker colours are visually recessive and therefore colours such as dark grey, etc. should be considered.
- Preferably no lights should be installed with the proposed infrastructure to preserve the wilderness quality and reduce visual impacts for neighbouring properties.

Development of this nature could appear insensitive to the surrounding sensitive receptors, in particular the visitors / tourists opposite to the site and the R320 road users however the visual impact significance rating is assessed as moderate and moderate-low if all mitigation measures are implemented.

From a visual perspective, the development should be endorsed as it will result in a moderate to moderate-low visual impact on the condition that the visual impact follows the mitigation measures and recommendations set out in this document.

REFERENCES

Mucina, L. and Rutherford, M.C. (Eds) 2006. *The vegetation of South Africa, Lesotho and Swaziland.* Pretoria: Strelitzia 19, South African National Biodiversity Institute.

Oberholzer, B. 2005. *Guideline for involving Visual & Aesthetic Specialists in EIA processes.* 1st Ed1. CSIR Report No ENV-S-C 2005 053 F. Republic of South Africa, Provincial Government of the Western Cape, Department of Environmental Affairs & Development Planning, Cape Town.

Oberholzer, B. 2011. *Reading the Landscape.* 2nd Ed. Landscape Notebooks.

Addendum A

CURRICULUM VITAE: ANTOINETTE DE BEER

Antoinette de Beer graduated as a landscape architect from UCT in 2010 and started her own business, ARLA Consulting, in 2012. She aims to design integrated, multi-functional, resilient yet stimulating SPACES for PEOPLE that capture the expression of culture within a community and that celebrate its CONTEXT. To this end she regularly collaborates with, and is inspired by, other professionals, specialists and NPO's. She often teaches on a part-time basis at the Cape Peninsula University of Technology and enjoys mentoring students.

She is a registered professional landscape architect with the South African Council for the Landscape Architectural Profession (SACLAP) and has fifteen (15) years of landscape architectural experience (of which 10-years post-registration experience). She has been a member of the Institute for Landscape Architecture in South Africa (ILASA) from 2010 and elected the president of the institute from 2013 – 2015. During her term as president she represented the institute at the 2nd International Federation of Landscape Architects (IFLA) Africa Symposium in Abuja, Nigeria. She has been a member of the Society for Architects, Planners, Engineers and Surveyors+ (APES+) since 2012 and enjoys the collaborative nature of the association.

PROFESSIONAL QUALIFICATIONS

Certificate Fundamentals of Project Management (UCT), 2011
Master of Landscape Architecture (UCT), 2010
Certificate Architectural & Urban Conservation (UCT), 2010
BL(Hons) Landscape Architecture (UP), 2004
BTech Environmental Management (CPUT), 2003

REGISTRATION

(SACLAP) South African Council for the Landscape Architectural Profession
Professional Landscape Architect: No. 20218 (Registration Year: 2012)

EXPERIENCE

2012 – PRESENT Director:
ARLA Consulting Pty (Ltd): private landscape architectural and environmental planning practice
2011 -2012
Candidate Landscape Architect: EPLA Consulting CC: sub-consultant to a landscape architectural and environmental planning practice
2007 – 2010
Senior Landscape Architectural Technologist at OvP Associates CC: Architects, Landscape Architects & Environmental Planners
2005 Junior Landscape Architectural Technologist at De Villiers Turner CC: Landscape Architects

MEMBERSHIP

- Immediate Past President of the ILASA (2015 - 2016)
- President of the ILASA (2013 - 2015) – NEC Chair
- ILASA 2014 Conference LOC Chair – Organising the Bi-annual National Conference (2013 – 2014)
- ILASA President Designate (2012-2013) – NEC Vice-chair
- ILASA Treasurer (2011-2013) - ILASA Financial Management

Antoinette Raimond Landscape Architectural Consulting
October 2023

- International Federation of Landscape Architects 2012 World Congress LOC member (2009-2012) – International Liaison
- Member of APES (Architects, Planners, Engineers & Surveyors Society; 2012 - current)
- Member of ILASA (2010 – current)

TEACHING & EXTERNAL EXAMINATION:

Part-time Lecturing at Cape Peninsula University of Technology (CPUT):

External Examiner:	various subjects (1st year to 4th year) from 2014- current.
Second Semester 2018:	Draughting Software and Construction Detailing 2nd year
Second Semester 2017:	Integrated Design Studio 1st year
First Semester 2016:	Landscape Technology & Plant Material Studies 3rd year
Second Semester 2015:	Applied Mathematics & Introduction to Design Foundation Year AutoCAD and Construction Detailing 2nd year

Mentorship of several 4th year students during the design development stages of their mini-thesis.

Part-time Lecturing at University of Cape Town (UCT):

Second Semester 2013: Teaching Landscape Design to Landscape Architecture Conversion year students.

Guest Landscape Architect for MLA Presentations at University of Cape Town (UCT):

Second Semester 2019: Guest landscape architect for review of MLA work prior to final hand-in.

OTHER:

Assurance Reviews: Part of panel that reviews tender documents prepared by the City of Cape Town to ascertain if they are compliant with all legal aspects and professional standards (2020- current)

Regional Judge for the 2020, 2021 & 2022 SALI Awards of Excellence

Evaluate and adjudicate entries for the annual SALI Awards of Excellence (November 2019, 2020 & 2021).

Adjudicator for the 2017 ILASA Awards of Excellence

Adjudicate entries and select winners for the bi-annual ILASA Awards of Excellence (June 2017).

Adjudicator for the 2016 Concrete Manufacturers Association Awards of Excellence

Adjudicate entries and select winners for the bi-annual Concrete Manufacturers Association's Awards of Excellence (November 2015).

Adjudicator at CPUT: CPUT Landscape Technology Vertical Garden Challenge February 2014

CPUT Landscape Technology Recycled Bench Challenge February 2013

CPUT-Corobrik Landscape Technology Construction Week July 2013

Cape Town World Design Capital: Co-design Workshops:

7 November 2014:	Participated in workshop as lead designer for the Dunoon cul-de-sacs (Developing a Tree Planting and Infiltration Strategy for the Dunoon cul-de-sacs). Presentation available on request.
14 May 2014:	Participated in workshop at Rylands Civic Centre as designer. Re-visioning the Gatesville CBD.
23 April 2014:	Participated in workshop as designer for the Bonteheuwel Civic Precinct Upgrade (as part of the Mayoral Urban Regeneration Programme (MURP).
13 November 2013:	Participated in workshop as designer for the Upgrade of Public Open Space at Doordekraal Dam in Welgemoed.

Recent Visual Impact Assessments

VIA's for Mixed-use Developments:

- VIA for Proposed Mixed Use Development on Remainder of Cape Farms No. 1529 (Imhoff's Gift), Kommetjie
- Confidential VIA for Proposed Mixed Use Development, Durbanville
- VIA for the Proposed Mixed Use Sence de Lieu Development on a portion of Farm No. 845/3, Paarl
- VIA for Proposed De Fortuijn Housing Development and Associated Infrastructure, Somerset West

VIA's for Waste Services:

- VIA for Proposed Amendment of the Worcester WDF Waste Management Permit, Worcester
- VIA for Proposed Amendment to Waste Management License, Vissershok WMF
- VIA for Proposed Amendment to Waste Management License, Tulbagh WDF
- VIA for Proposed Caledon Waste Transfer Station, Caledon
- VIA for Proposed Waste Recovery, Beneficiation and Energy Project, Wellington
- VIA for the Proposed Residential Development on Waterval Farm, Franschhoek

VIA's for Residential Developments:

- VIA for the Proposed Die Eike Residential Development on Erf 3476, Franschhoek
- VIA for the Proposed Medium Density Drakenzicht Residential Development, Paarl South
- VIA for Proposed Kanonberg Residential Development, Oude Westhof

VIA's for Renewable Energy Projects:

- VIA for Proposed Klipfontein Solar Farm & Energy Storage Facility, Hopefield
- VIA for Proposed Zoutekloof Solar Farm, Hopefield

Other:

- VIA for Proposed Petroport, Wolseley
- VIA for Proposed Van Wyks River Business Park, Paarl

Addendum B

Criteria used for the Assessment of Impacts

The assessment of impacts is based on a synthesis of the following assessment criteria (2005:28):

Nature of the impact –
An appraisal of the visual effect the activity would have on the receiving environment. This description should include visual and scenic resources that are affected, and the manner in which they are affected, (both positive and negative effects).

Extent – the spatial or geographic area of influence of the visual impact, i.e.:

- *site-related:* extending only as far as the activity;
- *local:* limited to the immediate surroundings;
- *regional:* affecting a larger metropolitan or regional area;
- *national:* affecting large parts of the country;
- *international:* affecting areas across international boundaries.

Duration - the predicted life-span of the visual impact:

- *short term,* (e.g. duration of the construction phase);
- *medium term,* (e.g. duration for screening vegetation to mature);
- *long term,* (e.g. lifespan of the project);
- *permanent,* where time will not mitigate the visual impact.

Intensity – the magnitude of the impact on views, scenic or cultural resources.

- *low,* where visual and scenic resources are not affected;
- *medium,* where visual and scenic resources are affected to a limited extent;
- *high,* where scenic and cultural resources are significantly affected.

Probability – the degree of possibility of the visual impact occurring:

- *improbable,* where the possibility of the impact occurring is very low;
- *probable,* where there is a distinct possibility that the impact will occur;
- *highly probable,* where it is most likely that the impact will occur; or
- *definite,* where the impact will occur regardless of any prevention measures.

Significance – The significance of impacts can be determined through a synthesis of the aspects produced in terms of their nature, duration, intensity, extent and probability, and be described as:

- *low,* where it will not have an influence on the decision;
- *medium,* where it should have an influence on the decision unless it is mitigated; or
- *high,* where it would influence the decision regardless of any possible mitigation.

Annexure P

Haygrove

31 October 2023
Overstrand Municipality
Henk Olivier

Dear Sir

RE: Value of tunnels constructed at certain fields of Haygrove Heaven

We are a commercial poly tunnel manufacturing and distribution company within the global Haygrove Group, and we regularly supply Haygrove Heaven (Pty) Ltd with commercial poly tunnels at market related prices.

We have been requested to submit an indicative value of the +- 8.33 Ha of tunnels situated at certain areas on portion 94 of farm 587 belonging to Haygrove Heaven (Pty) Ltd, as depicted in Annexure A.

The indicative values of these tunnels are as follows:

- 0.38 Ha of small nursery tunnels R 114,000
- 7.76 Ha of commercial tunnels R 3,880,000
- **Total** **R 3,994,000**

Should you have any questions about these values, please contact me at 021 859 1026.

Sincerely,

Mark Pritchett
Managing Director
Haygrove Tunnels South Africa

Email: info@haygrove.co.za
Tel: +27 (0) 21 859 1026
Fax: +27 (0) 86 646 3686
Web: www.haygrove.co.za

Registration No:1997/001037/07
Panorama Farm,
Appletiser Road, Grabouw
PO Box 498, Grabouw, 7160

Annexure Q 1/21

HAYGROVE

for

PORTION 94 OF FARM HEMEL-EN-AARDE 587

CALEDON

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

Issue Date: 19 May 2025

POS AFRICA

2/21

HAYGROVE
PORTION 94 OF FARM HEMEL-EN-AARDE 587
SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

T: +27 83 399 3943
E: melissa@pqsafrica.co.za
20 Hope Street
Cegela House
Hermanus
7200

19 May 2025

To whom it may concern,

PQS Africa (Pty) Ltd has been appointed to determine the construction cost for 8.35 hectares of tunnels erected on the above-mentioned farm between 2007 and 2019 including the cost of the lean-to roof.

The following supporting annexures are attached:

Annexure A:	Detailed construction cost breakdown of Tunnels
Annexure B:	Detailed construction cost breakdown of Lean-to-roof
Annexure C:	Quote received from Haygrove Tunnels dated 31 October 2023
Annexure D:	WRAP plan 23.81(002) dated 2 November 2023
Annexure E:	Haygrove Tunnels typical details of a tunnel
Annexure F:	Lean-to-Roof photo's

Construction Cost Summary of the Tunnels:

The total estimated cost, as per PQS Africa's Cost Plan (Annexure A), is **R4,588,670.34**. This is approximately **R595,000.00** (or **13%**) higher than the actual quote received from Haygrove Tunnels on 31 October 2023. The cost savings in the quote can be attributed to the Global Haygrove Group's practice of purchasing steel in bulk for all projects annually, enabling them to secure substantial discounts compared to prevailing market rates.

The rates used in the estimate are based on market-related rates applicable in 2023 (at the time of the application). These rates are inclusive of all materials, fabrication, delivery, labour, installation, cutting, duties, taxes (excluding VAT), and profit.

The quote received from Haygrove Tunnels in 2023 represents an accurate estimation of the construction cost to erect the tunnels and can be used to determine the penalty applicable.

Construction Cost Summary of the Lean-to roof:

The total estimated cost, as per PQS Africa's Cost Plan (Annexure B), is **R17,967.07**. The rates used are current market related rates and based on utilising employed labour from Haygrove farm to install the roof.

Please feel free to contact me should you have any queries.

Kind Regards

vNiekerk

Melissa van Niekerk
Director
[PrQS 6063, MAQS, MRICS]

Annexure A:

Detailed construction cost breakdown of Tunnels

HAYGROVE

PORTION 94 OF FARM HEMEL-EN-AARDE 587

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

19 May 2025

ANNEXURE A | DETAILED CONSTRUCTION COST BREAKDOWN

No	Description / Item	QUANTITY	TOTAL UNITS	TOTAL	UNIT	RATE	RATE / HA	TOTAL COST
	SUMMARY OF AREAS							
				Size (ha)				
1.00	CFK			0,85				
2.00	Kosie A			3,10				
3.00	Kosie B			3,10				
4.00	Fugi A			1,00				
5.00	Bottom Nursery			0,17				
6.00	Top Nursery			0,13				
				8,35	ha			
	ELEMENTAL COST BUILD UP							
B.1	SUBSTRUCTURE							
1,00	**FOUNDATIONS**							
	Sub Total Foundations			8,35	ha		0,00	-
2,00	**GROUND FLOOR CONSTRUCTION**							
	Sub Total Ground Floor Construction			8,35	ha		0,00	-
B.2	SUPERSTRUCTURE							
3,00	**STRUCTURAL FRAME**							
3.01	Structural Steel Hoops			96 167	kg	R 31.09	R 358 089.95	R 2 990 051
	Number of Hoops	7 121	No					
	Weight per Hoop	14	kg					
3.02	Structural Steel Legs			25 347	kg	R 31.09	R 94 383.57	R 788 103
	Number of Legs	7 462	No					
	Weight per Leg	3	kg					
	Sub Total Structural Frame			8,35	ha		R 452 473.53	R 3 778 154
4,00	**ROOF COVERINGS**							
4.01	Poly covering over steel structure			115 910	m²	R 6.99	R 97 067.83	R 810 516
	Sub Total Roof Coverings			8,35	ha		R 97 067.83	R 810 516
C.	SUNDRY PROVISIONS							
5,00	**PRINCIPAL CONTRACTORS PRELIMINARIES & GENERAL**							
5.01	Provision for Principal Contractors Preliminaries & General			0%			R 4 588 670.34	R -
	Not Applicable - Haygrove uses employed staff to install the tunnels, no additional overheads							
	Sub Total Principal Contractor's Preliminaries & General			8,35	ha		R -	R -
	TOTAL (EXCL VAT)			8,35	ha		R 549 541,36	R 4 588 670

Annexure B:

Detailed construction cost breakdown of Lean-to-roof

6/21

HAYGROVE

PORTION 94 OF FARM HEMEL-EN-AARDE 587

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

19 May 2025

ANNEXURE B | DETAILED CONSTRUCTION COST BREAKDOWN OF LEAN-TO-ROOF

No	Description / Item	QUANTITY	TOTAL UNITS	TOTAL	UNIT	RATE	RATE / HA	TOTAL COST
	SUMMARY OF AREAS							
				Size (ha)				
1.00	Lean-to roof			40.00				
				40.00	m2			
	ELEMENTAL COST BUILD UP							
B.1	**SUBSTRUCTURE**							
1.00	**FOUNDATIONS**							
1.01	Concrete base including excavation, carting away, concrete etc		Main	5	No	296.09	37.01	1 480
	BASE SIZE	0.40	0.40	0.35				
	400 x 400MM CONCRETE BASE FOR TIMBER COLUMNS							
	Depth of excavation	0.35	m					
	Excavation			0.3	m^3	150.00	1.05	42
	Risk of collapse			3	m^2	15.00	1.05	42
	15MPa blinding	0.05	m	0.0	m^3	1 950.00	1.95	78
	25MPa concrete in bases			0	m^3	2 350.00	16.45	658
	Reinforcement (footing)	85	kg/m3	24	kg	25.86	15.39	616
	Cart away excavated material			0	m^3	160.27	1.12	45
	Sub Total Foundations			40.00	m2	R	37.01	R 1 480
B.2	**SUPERSTRUCTURE**							
2.00	**STRUCTURAL FRAME**							
	Sub Total Structural Frame			40.00	m2	R	-	R -
3.00	**ROOF COVERINGS**							
3.01	Corrugated roof sheeting on lean-to timber roof construction including fitting etc		PS	40	m^2	409.09	412.17	16 487
	Roof Area -	40	m^2					
	Cos(7)	0.993						
	LEAN-TO TIMBER ROOF CONSTRUCTION							
	Corrugated Sheeting			40	m^2	225.00	226.69	9 068
	Labour to install			40	m^2	0.00	0.00	0
	Timber roof Construction			40	m^2	105.00	105.79	4 232
	Seamless Gutters			15	m	185.00	69.38	2 775
	Downpipes			3	m	165.00	10.31	413
	Sub Total Roof Coverings			40.00	m2	R	412.17	R 16 487
C.	**SUNDRY PROVISIONS**							
4.00	**PRINCIPAL CONTRACTORS PRELIMINARIES & GENERAL**							
4.01	Provision for Principal Contractors Preliminaries & General			0%		R	16 486.63	R -
	Not Applicable - Haygrove uses employed staff to install the roof, no additional overheads							

7/21

HAYGROVE

PORTION 94 OF FARM HEMEL-EN-AARDE 587

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

19 May 2025

ANNEXURE B | DETAILED CONSTRUCTION COST BREAKDOWN OF LEAN-TO-ROOF

No	Description / Item	QUANTITY	TOTAL UNITS	TOTAL	UNIT	RATE	RATE / HA	TOTAL COST
	Sub Total Principal Contractor's Preliminaries & General			40,00	m2	R	-	R -
	TOTAL (EXCL VAT)			40,00	m2	R	449,18	R 17 967

Annexure C:

Quote received from Haygrove Tunnels dated 31 October 2023

POS AFRICA

9|21

Haygrove

31 October 2023
Overstrand Municipality
Henk Olivier

Dear Sir

RE: Value of tunnels constructed at certain fields of Haygrove Heaven

We are a commercial poly tunnel manufacturing and distribution company within the global Haygrove Group, and we regularly supply Haygrove Heaven (Pty) Ltd with commercial poly tunnels at market related prices.

We have been requested to submit an indicative value of the +- 8.33 Ha of tunnels situated at certain areas on portion 94 of farm 587 belonging to Haygrove Heaven (Pty) Ltd, as depicted in Annexure A.

The indicative values of these tunnels are as follows:

- 0.38 Ha of small nursery tunnels R 114,000
- 7.76 Ha of commercial tunnels R 3,880,000
- **Total** **R 3,994,000**

Should you have any questions about these values, please contact me at 021 859 1026.

Sincerely,

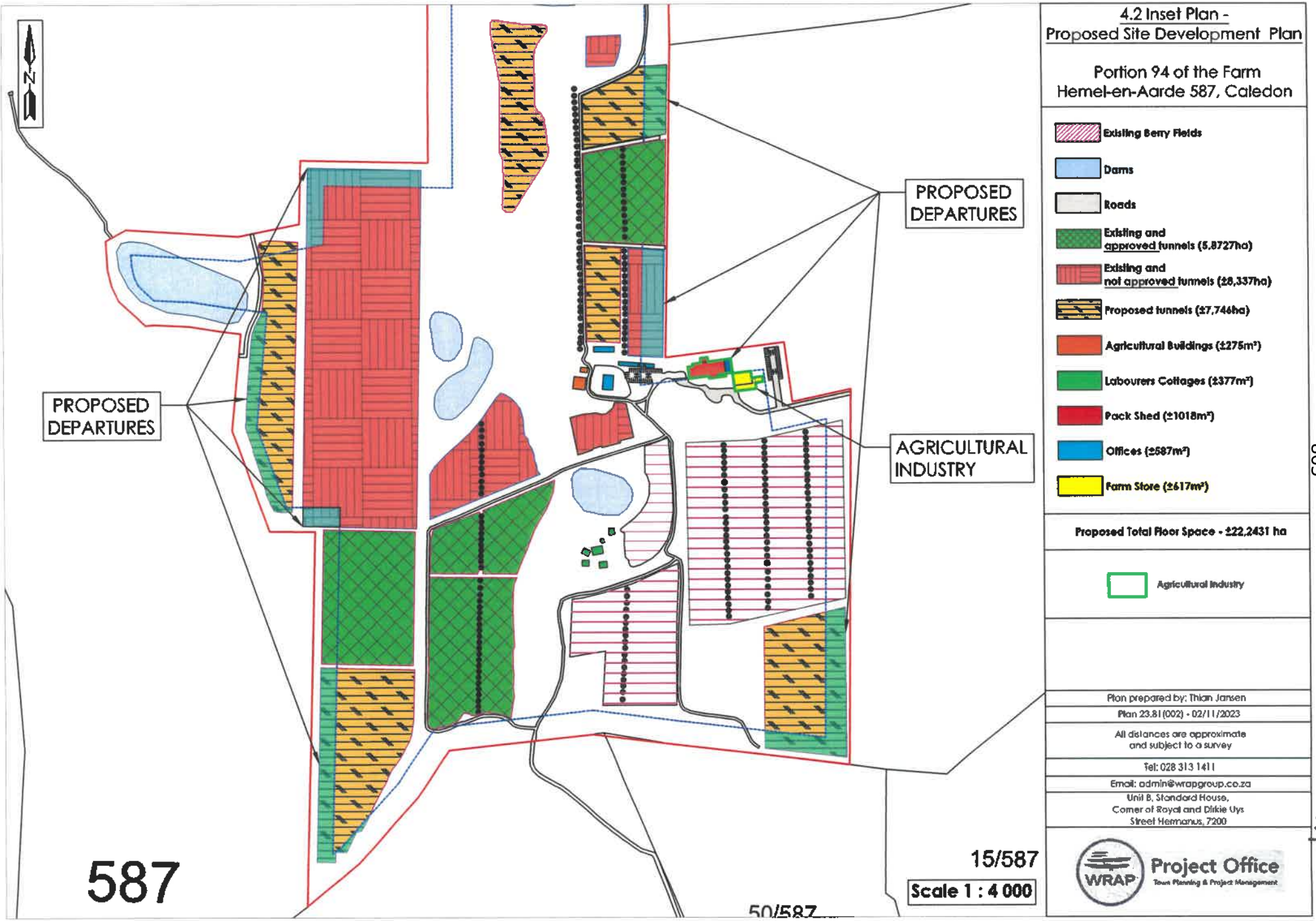
Mark Pritchett
Managing Director
Haygrove Tunnels South Africa

Email: info@haygrove.co.za
Tel: +27 (0) 21 859 1026
Fax: +27 (0) 86 646 3686
Web: www.haygrove.co.za

Registration No:1997/001037/07
Panorama Farm,
Appletiser Road, Grabouw
PO Box 498, Grabouw, 7160

Annexure D:
WRAP plan 23,81(002) dated 2 November 2023

POS AFRICA



4.2 Inset Plan - Proposed Site Development Plan

Portion 94 of the Farm Hemel-en-Aarde 587, Caledon

- Existing Berry Fields
- Dams
- Roads
- Existing and approved tunnels (5,8727ha)
- Existing and not approved tunnels (±8,337ha)
- Proposed tunnels (±7,746ha)
- Agricultural Buildings (±275m²)
- Labourers Cottages (±377m²)
- Pack Shed (±1018m²)
- Offices (±587m²)
- Farm Store (±617m²)

Proposed Total Floor Space - ±22,2431 ha

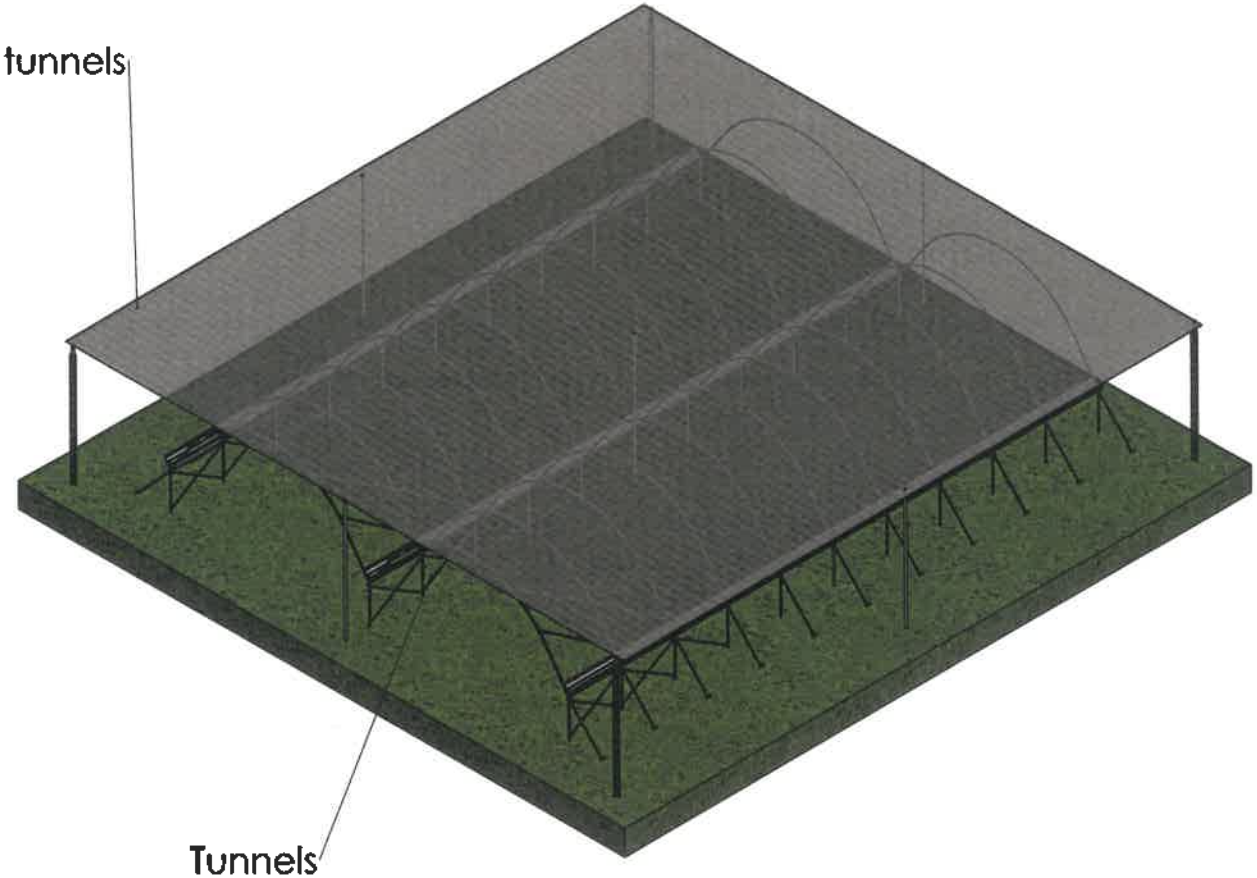
- Agricultural Industry

Plan prepared by: Thian Jansen
Plan 23.81(002) - 02/11/2023
All distances are approximate and subject to a survey
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit B, Standard House, Corner of Royal and Dirkie Uys Street Hermanus, 7200
WRAP Project Office Town Planning & Project Management

Annexure E:
Haygrove Tunnels typical details of a tunnel

POS AFRICA

Black shade net over tunnels



Tunnels

867

DEBUR AND BREAK SHARP EDGES TO 0.5mm UNLESS STATED OTHERWISE

This document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. The document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

MATERIAL:

FINISH:

WEIGHT: kg

1:150
SCALE

ISO 2768 m
mm deg°
UNSPECIFIED TOL

THIRD ANGLE

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Panorama Farm
Appleton Road
Gribaan, 7160
South Africa

Tel: 27 (0)21 859 1016

DRAWING NUMBER:

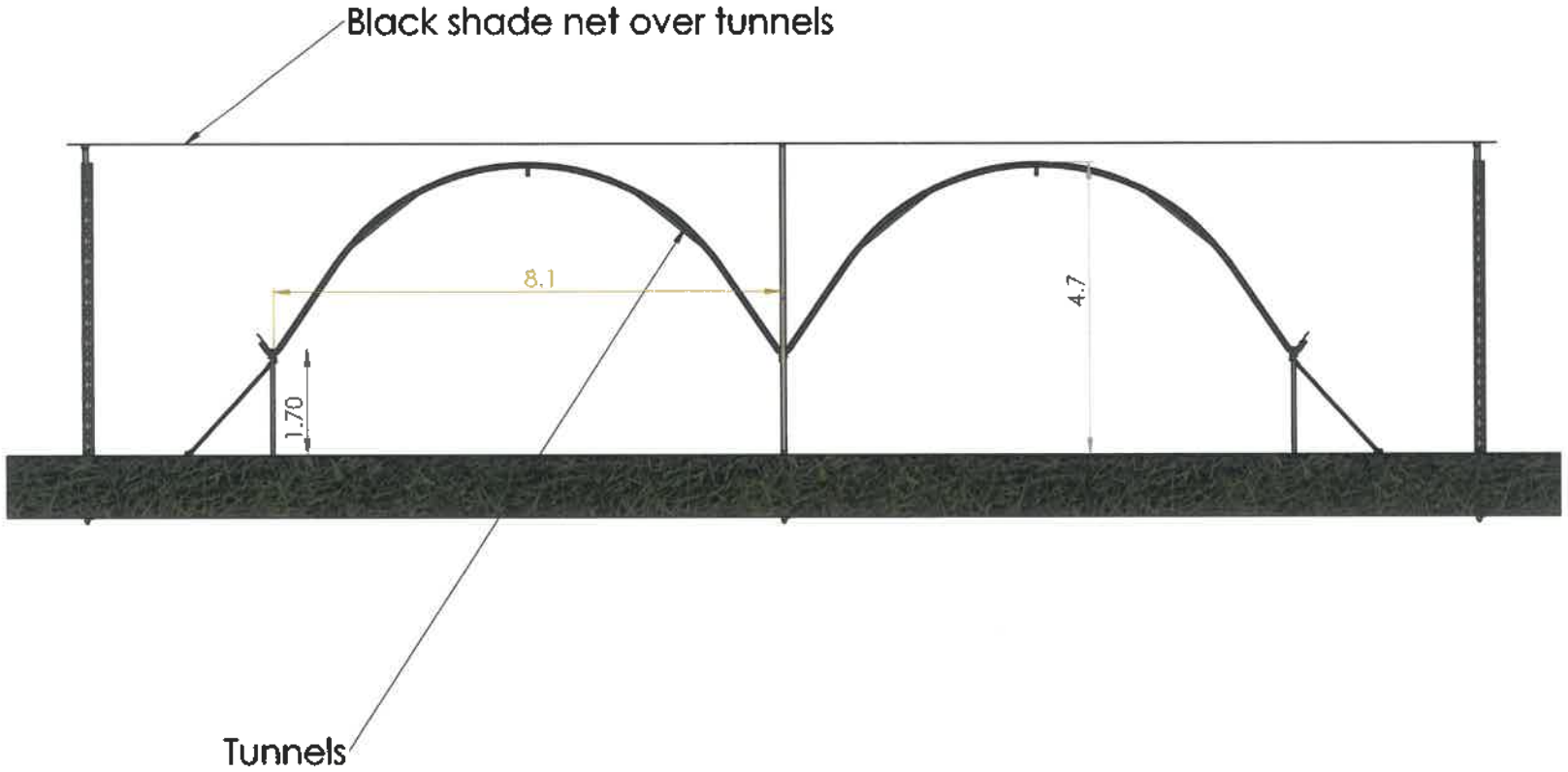
8.1m Bay with 1.7m Gutter hight - Pioneer

PART NO:

SHEET: 1 of 4

A3

13/21



868

DEBUR AND BREAK SHARP EDGES TO 0.5mm UNLESS STATED OTHERWISE

This document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. The document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

MATERIAL:

FINISH:

WEIGHT: kg.

1:80 SCALE

ISO 2768 m

mm deg°

UNSPECIFIED TOL

THIRD ANGLE

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Paterssons Farm
Appleshaw Road
Grahamstown, 7155
South Africa

Tel: 27 (0)31 889 1826

DRAWING NUMBER:

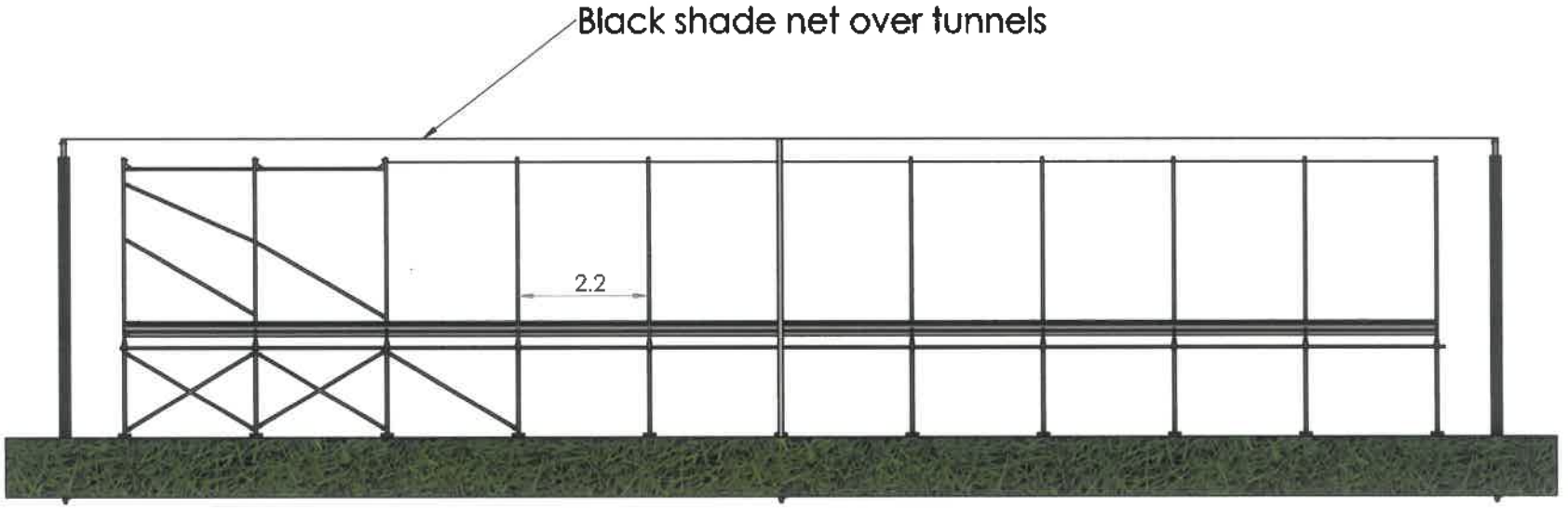
8.1m Bay with 1.7m Gutter hight - Pioneer

PART NO:

SHEET: 2 of 4

A3

14/21



869

DEBUR AND BREAK SHARP EDGES TO 0.6mm UNLESS STATED OTHERWISE

This document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. The document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

MATERIAL:

FINISH:

WEIGHT: kg

1:80 SCALE

ISO 2768 m mm deg°

UNSPECIFIED TOL

THIRD ANGLE

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Panorama Farm
Appledour Road
Grabouw, 7160
South Africa

Tel: 27 (0)21 859 1826

DRAWING NUMBER:

8.1m Bay with 1.7m Gutter hight - Pioneer

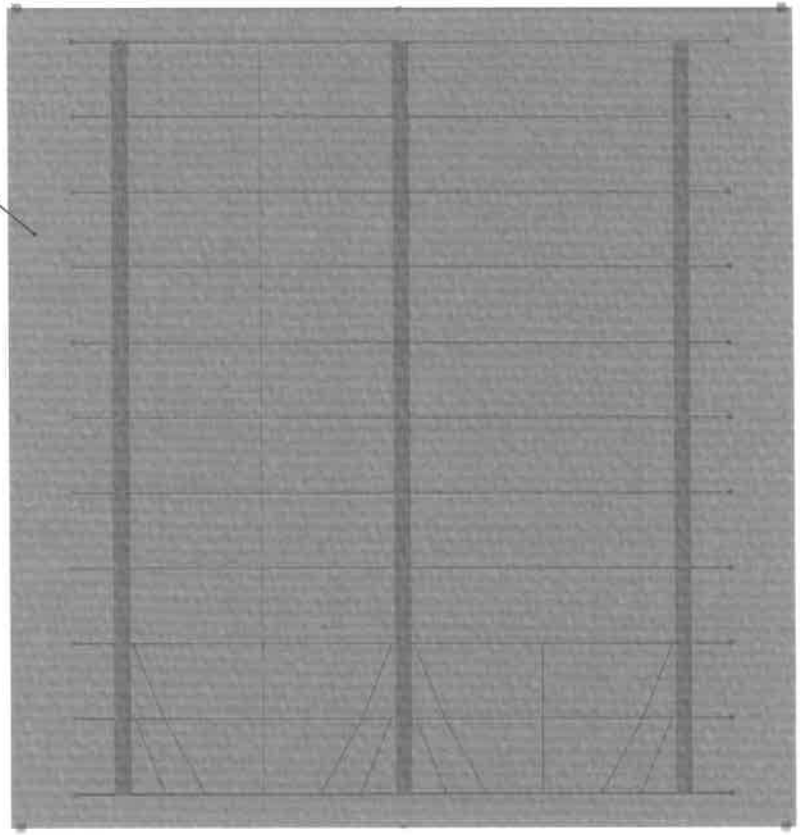
PART NO:

SHEET: 3 of 4

A3

5/21

Black shade net over tunnels



870

DEBUR AND BREAK SHARP EDGES TO 0.5mm UNLESS STATED OTHERWISE

This document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. The document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

MATERIAL:

FINISH:

WEIGHT: kg.

1:150 SCALE

ISO 2768 m

mm deg°

UNSPECIFIED TOL

THIRD ANGLE

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Panorama Farm
Appletiser Road
Brackenfell, 7560
South Africa

Tel: 27 (0)21 869 1000

DRAWING NUMBER:

8.1m Bay with 1.7m Gutter hight - Pioneer

PART NO:

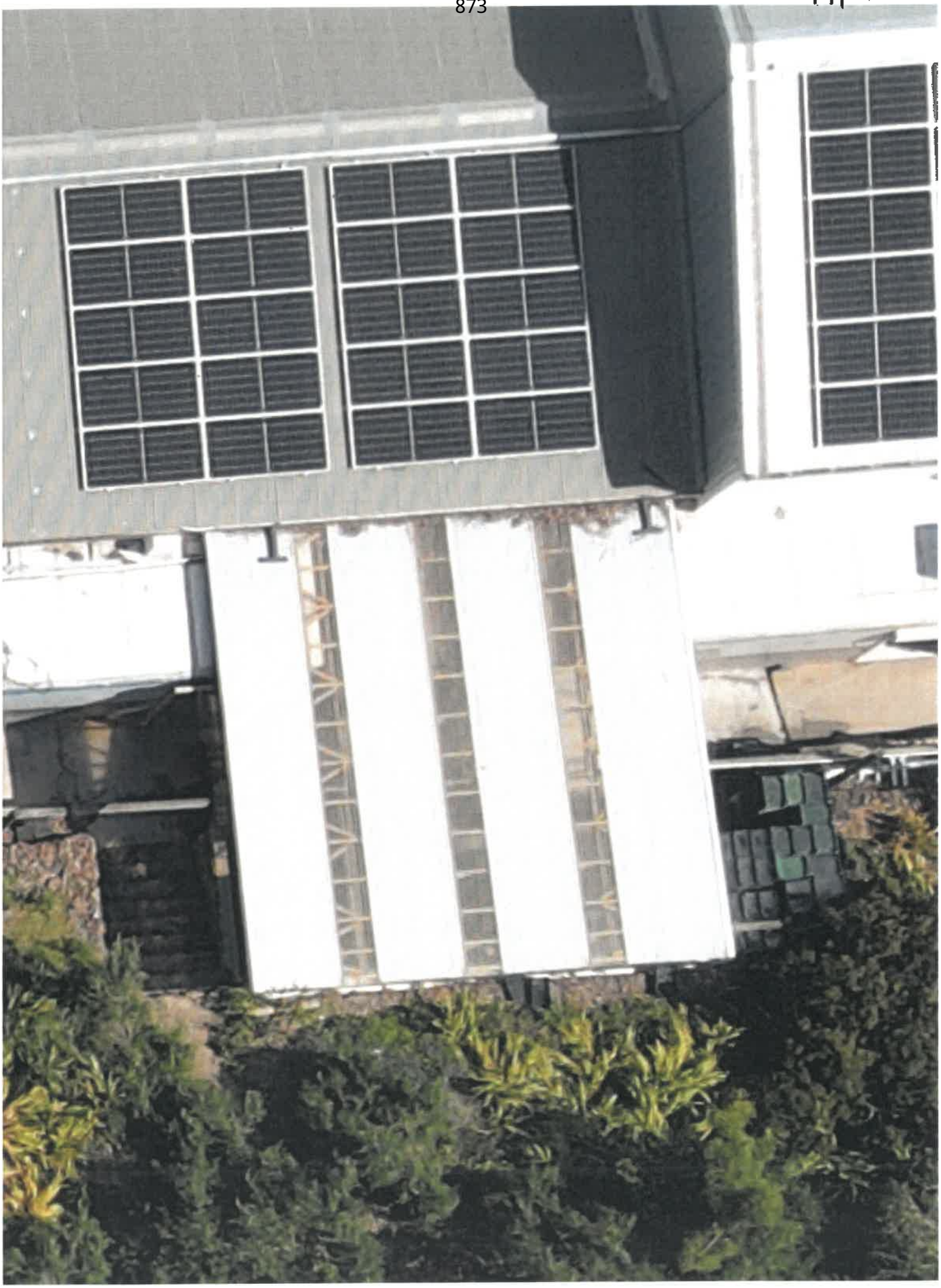
SHEET: 4 of 4

A3

16/21

Annexure F:
Lean-to-Roof photo's

POS AFRICA



20/21

SUBMITTED BY:

Melissa van Niekerk
Executive Director
PQS Africa (Pty) Ltd

20 Hope Street
Cegela House
Hermanus
7200
South Africa

T: +27 (0) 83 399 3943
E: melissa@pqsafrica.co.za

PQS AFRICA

Annexure R 1/2

NICHOLAS SMITH ATTORNEYS
ENVIRONMENTAL LAW SPECIALISTS

Overstrand Municipality
Attention: Mr. H. Olivier (Town Planner)
By email: holivier@overstrand.gov.za

Our ref: NDS/sg/H34-001
Your ref: RCAL94/587

23 June 2025

Dear Sirs

RE*: QUANTITY SURVEYOR'S REPORT PROVIDED TO OVERSTRAND MUNICIPALITY IN THE CONTEXT OF INFORMING THE MUNICIPAL QUANTIFICATION OF THE *QUANTUM* OF THE ADMINISTRATIVE PENALTY PERTAINING TO ILLEGALLY CONSTRUCTED STRUCTURES ON *PORTION 94 OF THE FARM HEMEL-EN-AARDE, DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA

1. We refer to the above, and to the Municipality's letter dated 23 May 2025 which makes provision for the delivery of our client's comments on the "*Quantity Surveyor (sic) Report*" appended thereto. The Municipality confirmed in its letter that those comments are due before the end of today, 23 June 2025.

2. First and foremost, we note that the Quantity Surveyor's Report entirely omits any calculation of the cost to the applicant of the provision of black shade net to cover the structures and without which the structures would effectively be rendered useless. The omission of any costing for the provision of black shade net is notwithstanding the inclusion and description of that material in annexure E to the Quantity Surveyor's Report.

3. It follows that the Quantity Surveyor's Report should be duly supplemented and then re-circulated for public comment once the necessary further calculation has been undertaken. The Quantity Surveyor's Report is effectively rendered useless without a full quantification of the <u>total</u> estimated cost pertaining to the construction cost of 8,35 hectares of tunnels erected on the subject-property between 2007 and 2019, unless that total includes the costs of the black shade net that the landowner is obliged to install above the poly covering described under paragraph 4.00 (titled "*Roof coverings*") on page 4 of the Quantity Surveyor's Report.

4. Our instructions are that the installation of the black shade cloth over the tunnels' structural frames and with the poly covering above those frames but beneath the shade cloth entails a significant expense which has not been quantified at all at this stage. As such it must be properly and accurately calculated in order to inform the Municipality's calculation of the administrative penalty payable by the registered owner of *Portion 94 of the Farm Hemel-en-Aarde*.

Nicholas Smith - BA (Hons) LLB ADL LLM (Marine & Environmental Law)

T:+27 (0) 21 424 5826 I C: +27 (0) 82 375 0905 I nicks@nsmithlaw.co.za
www.nsmithlaw.co.za I 3rd Floor, 114 Bree Street, Cape Town, 8001

5. We look forward to hearing from the Municipality in this regard, and once the Quantity Surveyor's Report has been appropriately supplemented.

Yours faithfully,
NICHOLAS SMITH ATTORNEYS
Per:

NICHOLAS SMITH

Annexure S 1|3

Project Office

Town Planning & Project Management

Our Reference: 23/81
Your Reference: Ptn 94 of Farm 587, RCAL

10 July 2025

The Municipal Manager Overstrand Municipality P O Box 20
HERMANUS
7200

Attention: Mr Henk Olivier

PORTION 94 OF THE FARM HEMEL-EN-AARDE VALLEY 587, CALEDON: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN AND AMENDMENT OF CONDITIONS OF APPROVAL: COMMENT ON OBJECTIONS

The comments were received regarding the quantity surveyor report that was requested. The comments are addressed herein.

Unit B, Standard House,
Cnr Royal and Dirkie Uys Street
Hermanus

PostNet Hermanus Suite 170
Private Bag X16, Hermanus,
7200

Tel: +27 (0)28 313 1411
Email: admin@wrapgroup.co.za
Web: www.wrapgroup.co.za

2/3

QUANTITY SURVEYOR REPORT	
1. We refer to the above, and to the Municipality's letter dated 23 May 2025 which makes provision for the delivery of our client's comments on the "Quantity Surveyor (sic) Report" appended thereto. The Municipality confirmed in its letter that those comments are due before the end of today, 23 June 2025.	The comments raised in the objection are noted. An amended Quantity Surveyor's Report is attached as **Annexure A**, which now includes the previously omitted costs associated with the installation of black shade net coverings.
2. First and foremost, we note that the Quantity Surveyor's Report entirely omits any calculation of the cost to the applicant of the provision of black shade net to cover the structures and without which the structures would effectively be rendered useless. The omission of any costing for the provision of black shade net is notwithstanding the inclusion and description of that material in annexure E to the Quantity Surveyor's Report.	These shade net coverings were added in response to specific conditions of prior municipal approval, which required the installation of such coverings due to their perceived benefit in mitigating the visual impact of the tunnel structures on the surrounding landscape. The installation of the black shade net was not initiated by Haygrove for agricultural benefit, but rather as a concession to neighbouring property owners and in line with municipal requirements.
3. It follows that the Quantity Surveyor's Report should be duly supplemented and then re-circulated for public comment once the necessary further calculation has been undertaken. The Quantity Surveyor's Report is effectively rendered useless without a full quantification of the total estimated cost pertaining to the construction cost of 8,35 hectares of tunnels erected on the subject-property between 2007 and 2019, unless that total includes the costs of the black shade net that the landowner is obliged to install above the poly covering described under paragraph 4.00 (titled "*Roof coverings*") on page 4 of the Quantity Surveyor's Report.	It is important to clarify that the objector fails to acknowledge a key aspect of these coverings: the black shade net reduces the efficiency and yield of the intensive horticultural production beneath it, by approximately 15%. This production loss represents a substantial operational and financial compromise to Haygrove and should be understood as an indirect, yet ongoing, penalty borne by the landowner in the interest of visual mitigation and neighbourly co-existence. In addition to reduced productivity, the capital cost of the net structure and its ongoing maintenance further compound the financial burden, reinforcing the extent of this sustained indirect penalty.
4. Our instructions are that the installation of the black shade cloth over the tunnels' structural frames and with the poly covering above those frames but beneath the shade cloth entails a significant expense which has not been quantified at all at this stage. As such it must be properly and accurately calculated in order to inform the Municipality's calculation of the administrative penalty payable by the registered owner of *Portion 94 of the Farm Hemel-en-Aarde*.	As confirmed in the application documentation, Haygrove would ideally remove this layer to optimise horticultural output, but it remains in place purely to address concerns raised by adjacent landowners and in adherence to previous conditions imposed by the Municipality. Haygrove is of the view that this indirect, ongoing penalty should be considered when determining an administrative penalty. The amended Quantity Surveyor's Report now provides a full quantification of the construction-related costs, inclusive of the shade net, and should therefore serve as a sufficient basis for the Municipality's determination of the applicable administrative penalty in terms of Section 129 of the Municipal

	Planning By-law. No other aspect of the Quantity Surveyor's Report was objected to, and the remainder of the document is therefore considered acceptable.

Conclusion

In conclusion, the comments have been carefully reviewed and addressed throughout the response. The application, as submitted, aligns with the relevant requirements outlined in the By-law, as well as the general criteria for the Municipality's consideration of applications.

Considering the response, it is recommended that the planning application be approved as submitted.

Yours faithfully
T JANSEN
PROFESSIONAL TOWN PLANNER (A/2858/2019)

Annexure T 1|21

HAYGROVE

for

PORTION 94 OF FARM HEMEL-EN-AARDE 587

CALEDON

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

Issue Date: 9 July 2025

POS AFRICA

2/21

HAYGROVE
PORTION 94 OF FARM HEMEL-EN-AARDE 587
SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

T: +27 83 399 3943
E: melissa@pqsafrica.co.za
20 Hope Street
Cegela House
Hermanus
7200

09 July 2025

To whom it may concern,

PQS Africa (Pty) Ltd has been appointed to determine the construction cost for 8.35 hectares of tunnels erected on the above-mentioned farm between 2007 and 2019 including the cost of the lean-to roof.

The following supporting annexures are attached:

Annexure A:	Detailed construction cost breakdown of Tunnels
Annexure B:	Detailed construction cost breakdown of Lean-to-roof
Annexure C:	Quote received from Haygrove Tunnels dated 31 October 2023
Annexure D:	WRAP plan 23.81(002) dated 2 November 2023
Annexure E:	Haygrove Tunnels typical details of a tunnel
Annexure F:	Lean-to-Roof photo's

Construction Cost Summary of the Tunnels:

The total estimated cost, as per PQS Africa's Cost Plan (Annexure A), is **R5,295,721.34**. This is approximately **R1,301,721.34** (or 33%) higher than the actual quote received from Haygrove Tunnels on 31 October 2023. The quote received from Haygrove didn't include for the shadenet cloth and should be added to their costing.
The cost savings in the quote can be attributed to the Global Haygrove Group's practice of purchasing steel in bulk for all projects annually, enabling them to secure substantial discounts compared to prevailing market rates.

The rates used in the estimate are based on market-related rates applicable in 2023 (at the time of the application). These rates are inclusive of all materials, fabrication, delivery, labour, installation, cutting, duties, taxes (excluding VAT), and profit.

The quote received from Haygrove Tunnels in 2023 represents an accurate estimation of the construction cost to erect the tunnels (excluding the shadenet cloth) and can be used to determine the penalty applicable. We would advise that the shadenet cloth total of R700,000 be added to calculate the penalty.

Construction Cost Summary of the Lean-to roof:

The total estimated cost, as per PQS Africa's Cost Plan (Annexure B), is **R17,967.07**. The rates used are current market related rates and based on utilising employed labour from Haygrove farm to install the roof.

Please feel free to contact me should you have any queries.

Kind Regards

vNiekerk

Melissa van Niekerk
Director
[PrQS 6063, MAQS, MRICS]

Annexure A:

Detailed construction cost breakdown of Tunnels

4/21

HAYGROVE

PORTION 94 OF FARM HEMEL-EN-AARDE 587

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

09 July 2025

ANNEXURE A | DETAILED CONSTRUCTION COST BREAKDOWN

No	Description / Item	QUANTITY	TOTAL UNITS	TOTAL	UNIT	RATE	RATE / HA	TOTAL COST

SUMMARY OF AREAS

		Size (ha)
1.00	CFK	0.85
2.00	Kosie A	3.10
3.00	Kosie B	3.10
4.00	Fugi A	1.00
5.00	Bottom Nursery	0.17
6.00	Top Nursery	0.13
		8.35 ha

ELEMENTAL COST BUILD UP

B.1 SUBSTRUCTURE

1.00 FOUNDATIONS

	Sub Total Foundations			8,35	ha			0,00		-

2.00 GROUND FLOOR CONSTRUCTION

	Sub Total Ground Floor Construction			8,35	ha			0,00		-

B.2 SUPERSTRUCTURE

3.00 STRUCTURAL FRAME

3.01	Structural Steel Hoops			96 167	kg	R	31.09	R 358 089.95	R	2 990 051
	Number of Hoops	7 121	No							
	Weight per Hoop	14	kg							
3.02	Structural Steel Legs			25 347	kg	R	31.09	R 94 383.57	R	788 103
	Number of Legs	7 462	No							
	Weight per Leg	3	kg							
	Sub Total Structural Frame			8,35	ha			R 452 473.53	R	3 778 154

4.00 ROOF COVERINGS

4.01	Poly covering over steel structure			115 910	m²	R	6,99	R 97 057.83	R	810 516
4.02	Shadenet cloth covering			115 910	m²	R	6,10	R 84 676.77	R	707 051
	Sub Total Roof Coverings			8,35	ha			R 181 744.60	R	1 517 567

C. SUNDRY PROVISIONS

5.00 PRINCIPAL CONTRACTORS PRELIMINARIES & GENERAL

5.01	Provision for Principal Contractors Preliminaries & General			0%				R 5 295 721.34	R	-
	Not Applicable - Haygrove uses employed staff to install the tunnels, no additional overheads									
	Sub Total Principal Contractor's Preliminaries & General			8,35	ha			R -	R	-
	TOTAL (EXCL VAT)			8,35	ha			R 634 218,12	R	5 295 721

Annexure B:
Detailed construction cost breakdown of Lean-to-roof

6/21

HAYGROVE

PORTION 94 OF FARM HEMEL-EN-AARDE 587

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

09 July 2025

ANNEXURE B | DETAILED CONSTRUCTION COST BREAKDOWN OF LEAN-TO-ROOF

No	Description / Item	QUANTITY	TOTAL UNITS	TOTAL	UNIT	RATE	RATE / HA	TOTAL COST
	SUMMARY OF AREAS							
				Size (ha)				
1.00	Lean-to roof			40,00				
				40,00	m2			
	ELEMENTAL COST BUILD UP							
B.1	**SUBSTRUCTURE**							
1,00	**FOUNDATIONS**							
1.01	Concrete base including excavation, carting away, concrete etc	Main		5	No	296,09	37.01	1 480
	BASE SIZE	0.40	0.40	0.35				
	400 x 400MM CONCRETE BASE FOR TIMBER COLUMNS							
	Depth of excavation	0.35	m					
	Excavation			0,3	m^3	150.00	*1.05*	42
	Risk of collapse			3	m^2	15.00	*1.05*	42
	15MPa blinding	0.05	m	0,0	m^3	1 950.00	*1.95*	78
	25MPa concrete in bases			0	m^3	2 350.00	*16.45*	658
	Reinforcement (footing)	85	kg/m3	24	kg	25.86	*15.39*	616
	Cart away excavated material			0	m^3	160.27	*1.12*	45
	Sub Total Foundations			40,00	m2	R	37,01	R 1 480
B.2	**SUPERSTRUCTURE**							
2,00	**STRUCTURAL FRAME**							
	Sub Total Structural Frame			40,00	m2	R	-	R -
3,00	**ROOF COVERINGS**							
3.01	Corrugated roof sheeting on lean-to timber roof construction including fitting etc	PS		40	m^2	409.09	412,17	16 487
	Roof Area -	40	m^2					
	Cos(7)	0 993						
	LEAN-TO TIMBER ROOF CONSTRUCTION							
	Corrugated Sheeting			40	m^2	225.00	*226,69*	9 068
	Labour to install			40	m^2	0,00	*0,00*	0
	Timber roof Construction			40	m^2	105.00	*105,79*	4 232
	Seamless Gutters			15	m	185,00	*69,38*	2 775
	Downpipes			3	m	165,00	*10,31*	413
	Sub Total Roof Coverings			40,00	m2	R	412.17	R 16 487
C.	**SUNDRY PROVISIONS**							
4,00	**PRINCIPAL CONTRACTORS PRELIMINARIES & GENERAL**							
4.01	Provision for Principal Contractors Preliminaries & General			0%		R	16 486,63	R -
	Not Applicable - Haygrove uses employed staff to install the roof, no additional overheads							

7/21

HAYGROVE

PORTION 94 OF FARM HEMEL-EN-AARDE 587

SUMMARY OF ESTIMATED COSTS FOR NEW TUNNELS

09 July 2025

ANNEXURE B | DETAILED CONSTRUCTION COST BREAKDOWN OF LEAN-TO-ROOF

No	Description / Item	QUANTITY	TOTAL UNITS	TOTAL	UNIT	RATE	RATE / HA	TOTAL COST
	Sub Total Principal Contractor's Preliminaries & General			40,00	m2	R	-	R -
	TOTAL (EXCL VAT)			40,00	m2	R	449,18	R 17 967

8/21

Annexure C:
Quote received from Haygrove Tunnels dated 31 October 2023

9|21

Haygrove

31 October 2023
Overstrand Municipality
Henk Olivier

Dear Sir

RE: Value of tunnels constructed at certain fields of Haygrove Heaven

We are a commercial poly tunnel manufacturing and distribution company within the global Haygrove Group, and we regularly supply Haygrove Heaven (Pty) Ltd with commercial poly tunnels at market related prices.

We have been requested to submit an indicative value of the +- 8.33 Ha of tunnels situated at certain areas on portion 94 of farm 587 belonging to Haygrove Heaven (Pty) Ltd, as depicted in Annexure A.

The indicative values of these tunnels are as follows:

- 0.38 Ha of small nursery tunnels	R 114,000
- 7.76 Ha of commercial tunnels	R 3,880,000
- **Total**	**R 3,994,000**

Should you have any questions about these values, please contact me at 021 859 1026.

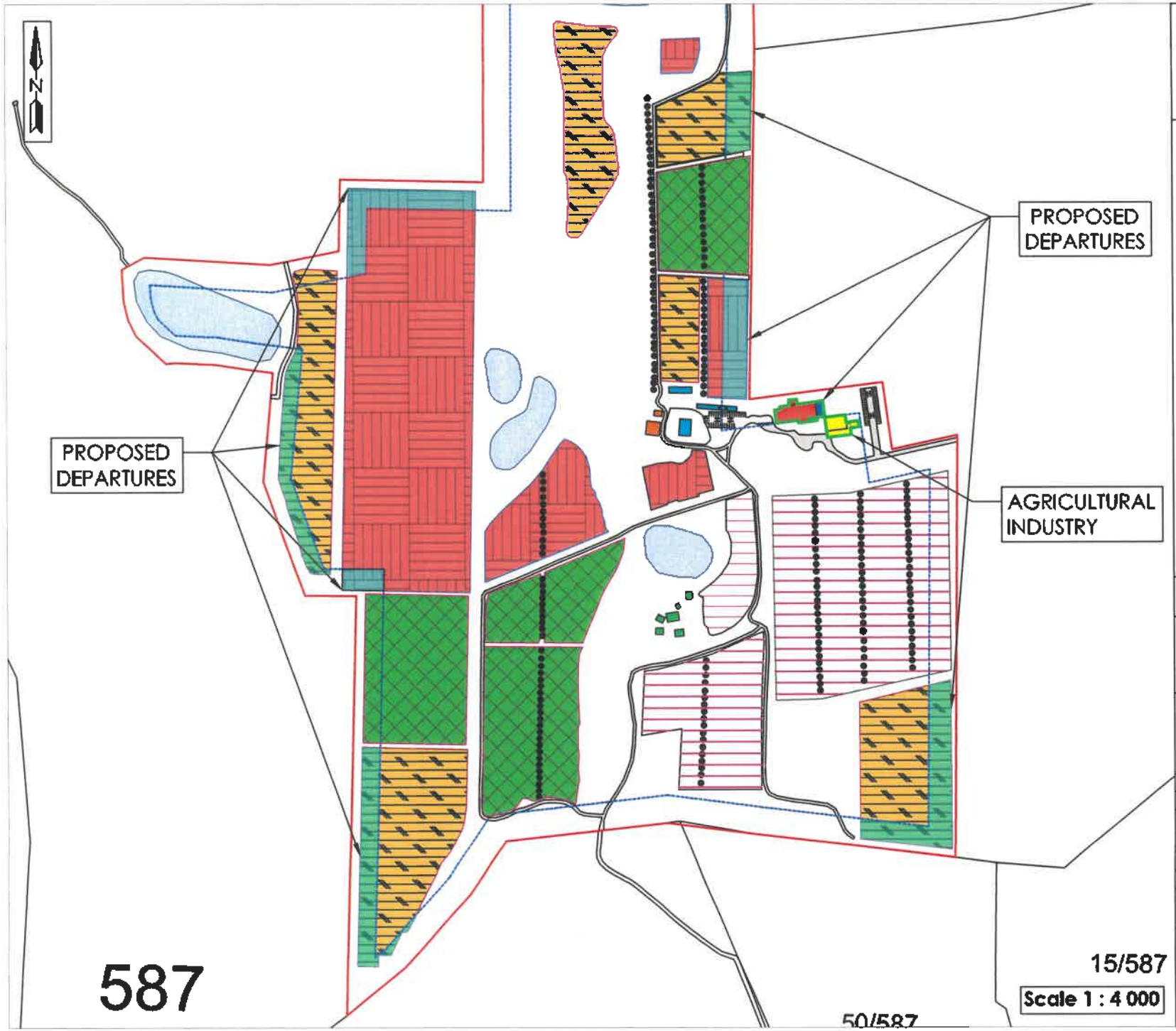
Sincerely,

Mark Pritchett
Managing Director
Haygrove Tunnels South Africa

Email: info@haygrove.co.za
Tel: +27 (0) 21 859 1026
Fax: +27 (0) 86 646 3686
Web: www.haygrove.co.za

Registration No:1997/001037/07
Panorama Farm,
Appletiser Road, Grabouw
PO Box 498, Grabouw, 7160

Annexure C:
WRAP plan 23.81(002) dated 2 November 2023



4.2 Inset Plan - Proposed Site Development Plan

Portion 94 of the Farm Hemel-en-Aarde 587, Caledon

- Existing Berry Fields
- Dams
- Roads
- Existing and approved tunnels (5,8727ha)
- Existing and not approved tunnels (±8,337ha)
- Proposed tunnels (±7,746ha)
- Agricultural Buildings (±275m²)
- Labourers Cottages (±377m²)
- Pack Shed (±1018m²)
- Offices (±587m²)
- Farm Store (±617m²)

Proposed Total Floor Space - ±22,2431 ha

Agricultural Industry

Plan prepared by: Thian Jansen
Plan 23.61(002) - 02/11/2023

All distances are approximate and subject to a survey

Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit 8, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200

WRAP Project Office
Town Planning & Project Management

15/587

Scale 1 : 4 000

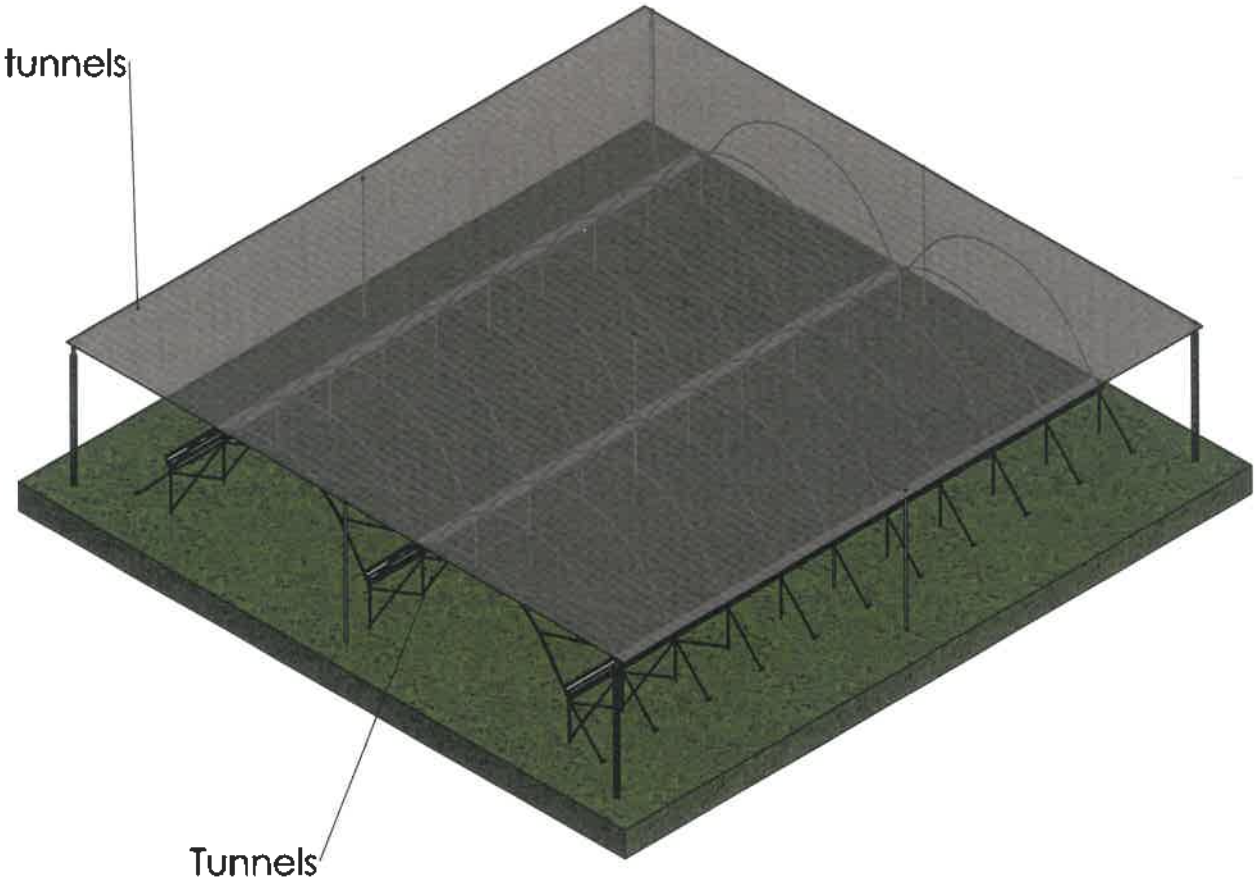
891

11/21

12/21

Annexure E:
Haygrove Tunnels typical details of a tunnel

POS AFRICA



DEBUR AND BREAK SHARP EDGES TO 0.4mm UNLESS STATED OTHERWISE

This document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. The document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

MATERIAL:

FINISH:

WEIGHT: kg

1:150 SCALE

ISO 2768 m

mm deg°

UNSPECIFIED TOL

THIRD ANGLE

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Paterdale Farm
Appledore Road
Grabeam, 7160
South Africa

Tel: 27 (0)21 999 9029

DRAWING NUMBER:

8.1m Bay with 1.7m Gutter hight - Pioneer

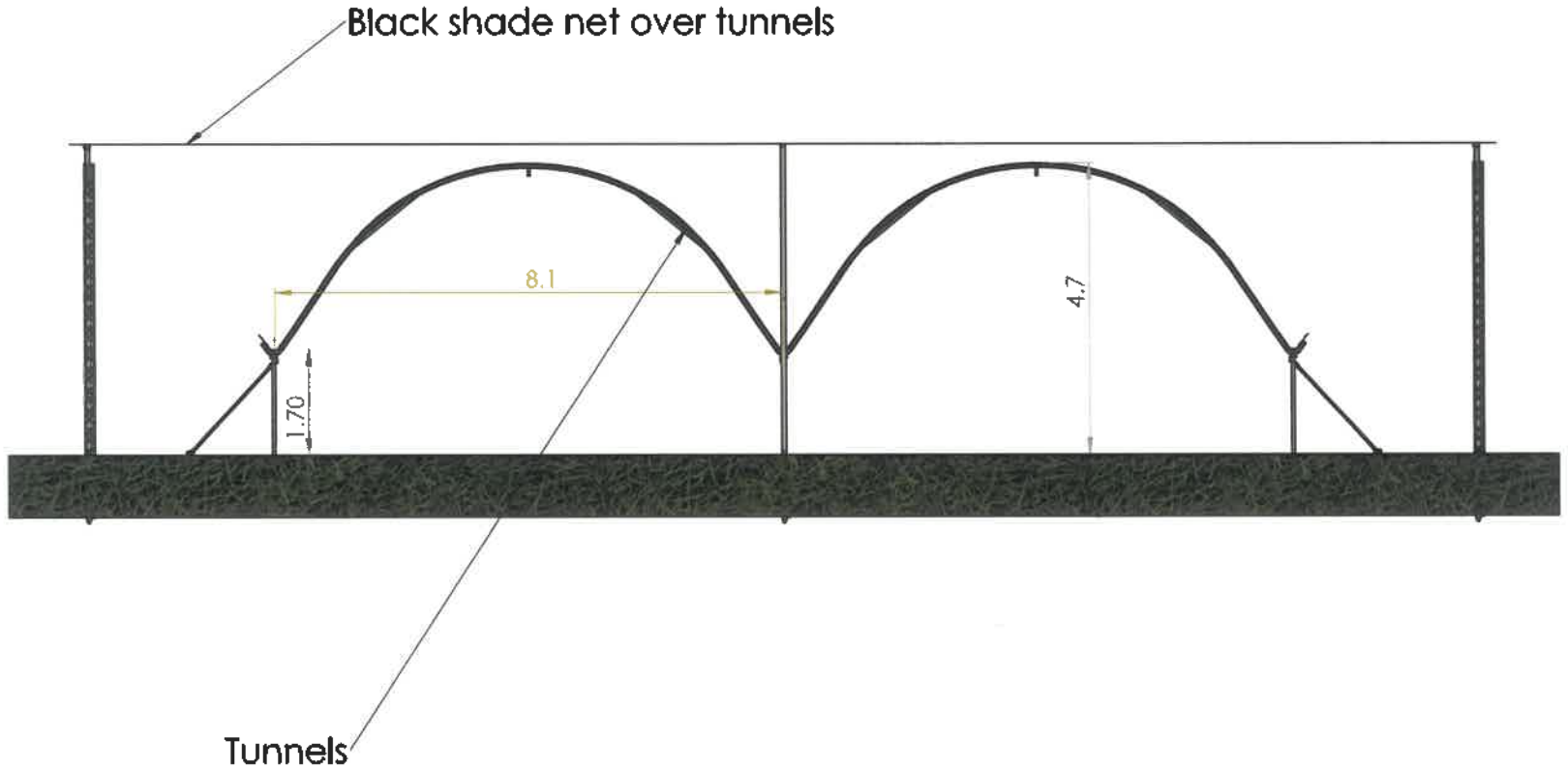
PART NO:

SHEET: 1 of 4

A3

893

13/21



894

DEBUR AND BREAK SHARP EDGES TO 0.5mm UNLESS STATED OTHERWISE

This document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. The document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

MATERIAL:

FINISH:

WEIGHT:

1:80

SCALE

ISO 2768 m

mm deg°

UNSPECIFIED TOL

THIRD ANGLE

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Paterson's Farm
Appledoor Road
Grabouw, 7160
South Africa
Tel: 27 (0)21 000 1626

DRAWING NUMBER:

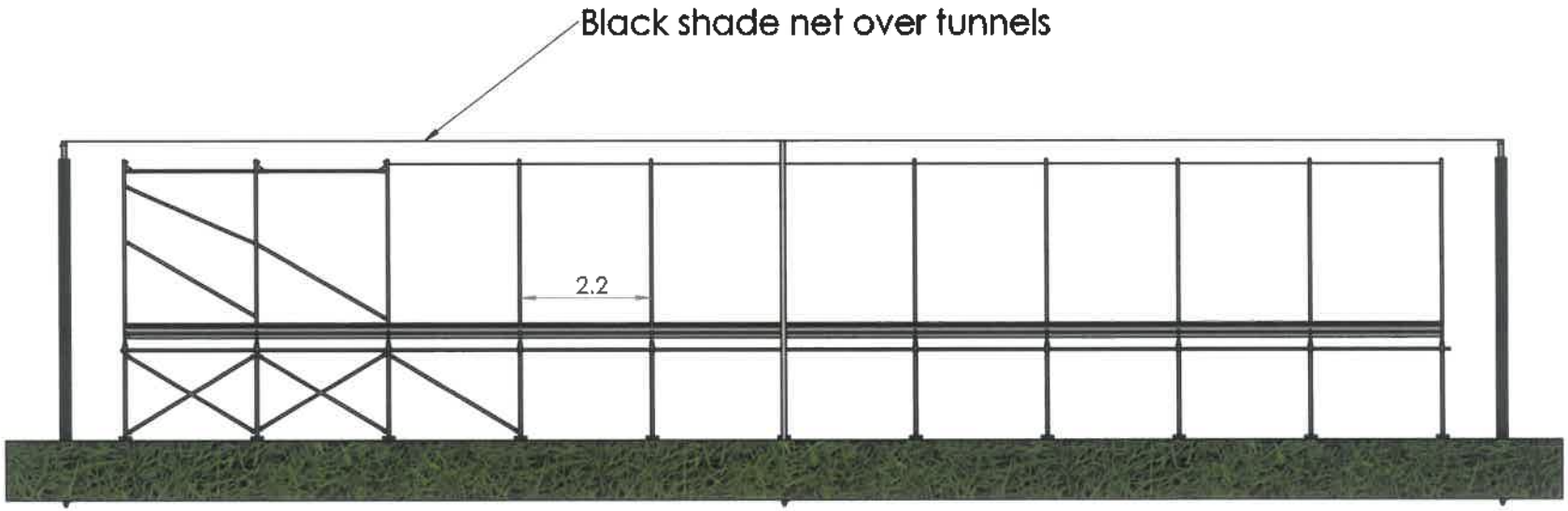
8.1m Bay with 1.7m Gutter hight - Pioneer

PART NO:

SHEET: 2 of 4

A3

14/21



895

DEBUR AND BREAK SHARP EDGES TO 0.5mm UNLESS STATED OTHERWISE

This document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. This document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

MATERIAL:

FINISH:

WEIGHT: kg

1:80 SCALE

ISO 2768 m

mm deg°

UNSPECIFIED TOL

THIRD ANGLE

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Pennerleith Farm
Appleshaw Road
Grabouw, 7160
South Africa

Tel: 27 (0)21 889 1026

DRAWING NUMBER:

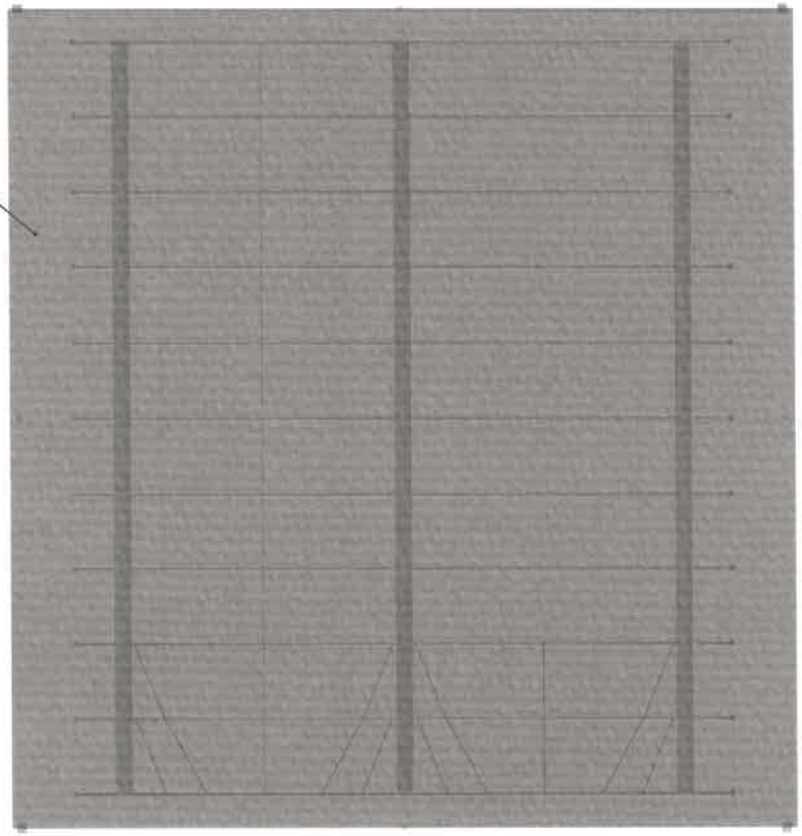
8.1m Bay with 1.7m Gutter hight - Pioneer

PART NO:

SHEET: 3 of 4

A3

15/21



DEBUR AND BREAK SHARP EDGES TO 0.5mm UNLESS STATED OTHERWISE

The document is confidential and the document and the copyright therein are the property of Haygrove Tunnels. The document and any information therein may not be used, copied or disclosed to any third party without the prior written authorisation of Haygrove Tunnels.

ALL DIMENSIONS IN mm UNLESS STATED OTHERWISE.

DO NOT SCALE DRAWING.

Report all changes to the drawing office.

MATERIAL:

FINISH:

WEIGHT: kg

1:150 SCALE

ISO 2768 m mm deg°

UNSPECIFIED TOL

THIRD ANGLE

REVISION	01
DATE	
DRAWN	
CHECKED	
APPROVED	
REASON FOR CHANGE	

DESCRIPTION:

8.1m bay width 1.7m Gutter hight Pioneer Tunnel.

Haygrove

Haygrove Tunnels
Panorama Farm
Appletree Road
Grabouw, 7160
South Africa

Tel: 27 (0)21 859 1026

DRAWING NUMBER:

8.1m Bay with 1.7m Gutter hight - Pioneer

PART NO:

SHEET: 4 of 4

A3

968

16/21

17/21

Annexure F:
Lean-to-Roof photo's

POS AFRICA

20/21

SUBMITTED BY:

Melissa van Niekerk
Executive Director
PQS Africa (Pty) Ltd

20 Hope Street
Cegela House
Hermanus
7200
South Africa

T: +27 (0) 83 399 3943
E: melissa@pqsafrica.co.za

PQS AFRICA