

4.2

PORTION 156 OF FARM HANGKLIP NO. 559, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USES AND DEPARTURE: WRAP PROJECT OFFICE ON BEHALF OF B TOPHAM

KHANG 156/559 (4174/2022)

H van der Stoep
5 April 2024

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 8 June 2022 from WRAP Project Office on behalf of B Topham on Portion 156 of the Farm Hangklip No. 559 for the following:

- ❖ **Consent Use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate a second dwelling unit, tourist accommodation, agriculture to permit beekeeping, harvesting of natural resources to permit small-scale flora harvesting, intensive horticulture to permit the cultivation of flora, aquaculture to permit cultivation and breeding of water flora and fauna, and a plant nursery to permit the sale of plants and gardening products.
- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to exceed the maximum permissible size of a second dwelling unit from 120m² to 250m².

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 north of the R44 at the main entrance to Pringle Bay. The property measure 74,1783ha in extent and is zoned Rural Zone 2: Conservation Use and is at present vacant. The surrounding properties are mainly zoned for Agriculture and Rural Zone 2: Conservation Usage. The town of Pringle Bay is located south of the R44 (Trunk Road 27).

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation can be summarized as follows:

SECOND DWELLING/ TOURISM ACCOMMODATION

The proposal is to build a dwelling as a primary right, but also have a second dwelling on the property. The applicant also requests to depart from the 120m² footprint of a second dwelling. The latter is an understandable limitation in an urban setting, but the subject property has sufficient area to allow for a larger second

dwelling unit with a footprint of 250m², which align with the extent allowed for Agricultural additional dwelling units in the Overstrand area.

The owner has a vision to utilise the second dwelling for transient guest that will utilise the second dwelling for self-catering purposes. Other times the unit will be utilised by family members to stay over and utilise during off season.

AGRICULTURE

In terms of the definition of Agriculture, bee keeping is a consent use. The applicant envisaged to utilise his property for bee keeping. The latter will aid in pollination of the surrounding vegetation and will allow the owner to harvest honey for personal use and possibly sell at farmers markets or to residents in the area.

The owner intends to cultivate water plants and ingenious fauna and flora. This will be utilised for own personal use and to be sold at a proposed plant nursery on the property. In order to achieve this, various consent uses are applicable, such as the consent for the harvesting of natural fauna and flora, the consent use for intensive horticulture, the consent for aquaculture and a plant nursery.

The harvesting of natural fauna and flora is defined as the harvesting of natural fauna and flora by an individual other than an environmental agency and needs to comply with the following criteria: it must be sustainable, may not cause the resource to be utilised below acceptable levels and may not be detrimental to the eco-systems.

Intensive horticulture is the cultivation of plants on an intensive scale under roof or in the open and includes the sale of self-produced plants from the land.

The aquaculture means the cultivation of fauna and flora and harvesting thereof for commercial purposes under controlled circumstances. And in this case, it relates to flora.

The Plant Nursery is the propagation of and sale of plants for gardening products, which will enable the applicant to sell indigenous plants and water plants. The proposed nursery will be 50m² in extent.

The applicant did a Basic Environmental Report, and the assessment restricted the development footprint to 4000m² in extent.

SERVICES

Electrical

Eskom is the supplier.

Water

Rainwater will harvest and stored in rain tanks and bore hole water to supplement the rainwater. A filter system will be installed to ensure it is fit for human consumption.

Sewage

A conservancy tank will be installed and be serviced by the Municipality.

Solid waste

Solid waste will be composted and re use, whilst recyclables and non-recyclables will be separated and moved to the Municipal transfer station.

Access

Access to the property is from an unnamed gravel road along the southern boundary.

NEED AND DESIRABILITY

The need for the application is to address the applicant's vision for the property and it is not expected that there will be any negative effect on the area.

The proposal will not have a large impact on the economy, but some employment opportunity and income for the owner.

FORWARD PLANNING

The proposal is not in conflict of any forward policies.

HERITAGE OVERLAY ZONE

The property is subject to two HPOZ namely Hangklip Smallholdings Area and Landscapes HPOZ. The statement of significance is that the property will only be marginally developed (0,09%) for uses related to agriculture and residential.

ENVIRONMENTAL OVERLAY ZONE

The property is located in an environmentally sensitive area. A portion of the property is not located within the Protected Area Buffer EMOZ. The purpose is to protect the integrity of nature reserves from negative external pressures and impacts and assisting in preserving their value to the eco cultural tourism economy of the Overstrand.

SCHEDULE A		
PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES		
Prohibited Activity	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	The property owner will use the property for various agricultural related activities, as mentioned earlier within the application. It is however not predicted that water logging and siltation will occur.
Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	N/A
Development or agriculture on slopes steeper than 1:4.	X	N/A
Establishment of Informal settlements or Temporary Relocation Areas.	X	N/A

No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.	X	N/A
Placement of religious symbols or memorabilia.	X	N/A
Harvesting /collection of kelp / seaweed in municipal designated “no-take” zones.	X	N/A
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X	N/A
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X	N/A
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X	N/A
Feeding, disturbing / pursuit of fauna.	X	N/A
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.	X	N/A
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	N/A
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.		N/A
Staying overnight.	X	The entire subject property is located within the zone.
The discharging of domestic effluent / grey water into all natural systems.	X	N/A
Tampering with security / surveillance infrastructure.	X	N/A
Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	N/A
Graffiti, vandalism or damaging of municipal infrastructure.	X	N/A
Littering	X	N/A
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	N/A
Dog walking / exercising of dogs in non-designated zones.	X	N/A

SCHEDULE B ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES		
A) Activities Only Permitted With Council Consent	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.		N/A
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	N/A
Dune maintenance on private land as per approved dune maintenance management plans.		N/A
Excavation and destruction or removal of substrate (soil, substrate, rock, shell grit, dune sediment, mineral deposits).	X	N/A
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	This is noted and will not occur on the subject property.
B) Permit Upon Approval By Delegated Authority and / Receipt of Tariff	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Installation of conservancy tanks or biological treatment plants within 50 meters from the edge of a watercourse / wetland.	X	N/A
Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.	X	N/A
Commercial filming.	X	N/A
Construction or placement of any temporary object, building, shelter, path or structure.	X	N/A
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas.	X	N/A
Launching of vessels at registered launch sites.		N/A
C) Council Authorisation Pending Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course	X	N/A

characteristics, outflow structures or discharge pipes.		
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X	N/A
Encroachment of private buildings, structures, infrastructure, access routes.	X	The entire proposed development is within the zone.
Commercial Harvesting/collection and removal of any natural resource.	X	N/A
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	The entire proposed development is within the zone.

PLANNING PRINCIPLES

Spatial Justice

The development of the property will not contribute to past injustices.

Spatial Sustainability

This proposal is utilising the property to its maximum potential and will ensure sustainable agricultural related activities.

Efficiency

The proposal is to maximise the property's usage.

Spatial Resilience

The proposal adheres to all the major policies and the efficient use of land contributes to resilience.

Good Administration

The administrative process will be followed.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Registered notices	Yes	5 July 2022	12 August 2022
Internal departments	Yes	5 July 2022	12 August 2022
Ward Councillor	Yes	5 July 2022	12 August 2022
Total comments	THREE (3)		
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	06/07/2022	No objection. Building plans must comply with all applicable law.
Environmental	12/07/2022	No objection. The applicant must familiarize themselves with Protected Area Buffer Zone, Schedule A and B and that none of the possible activities may be executed without the consent of National and Provincial and or regional authorities have given permission for the activities.
Fire Department	05/07/2022	No objection. Subject to compliance with the provisions of SANS 10400-A:2016, 10400-T2020 and the By-Law relating to community fire safety.
DEA&DP (Planning)	21/07/2022	See Annexure F.
DEA&DP (Environmental)	13/04/2023	See Annexure G.
Department of Transport and Public Works	10/08/2022	See Annexure H.
Department of Agriculture	05/09/2022	See Annexure I.
BGCMA	22/08/2022	See Annexure J.
Telkom	01/08/2022	See Annexure K.
Cape Nature	10/05/2023	See Annexure L.
Engineering Services	15/09/2022	See Annexure M.
National Department of Water and Sanitation	30/09/2023	See Annexure N.

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

Three (3) letters of objection were received during the public participation process and the applicant was provided with an opportunity to respond to the objections. See Annexures D and E respectively.

Objections were received from the following parties:

- Pringle Bay Ratepayers Association
- Rooiels Ratepayers Association
- Friends of Rooiels

COMMENTS	APPLICANT'S RESPONSE
<p style="text-align: center;"><u>BASIC ASSESSMENT REPORT (BAR) & NEMA</u></p> <ul style="list-style-type: none"> PRINGLE BAY RATEPAYERS' ASSOCIATION (PBRA) stated the following: <p><i>"3.1.2. The PBRA wishes to confirm that we have submitted comments related to the "preapplication Draft basic assessment report: proposed clearance of Vegetation for a development footprint for landowner dwellings and Associated infrastructure on portion 156 of farm 559 Hanglip (near Pringle Bay)". We have carefully considered the draft pre-application basic Assessment report (BAR) and submitted comments and suggestions to Duncan Heard Environmental consulting (dated 29 April 2022 with reference. DEA&DP preapplication Reference number 16/3/3/6/7 /1/e2/31/1028/22)."</i></p> <p><i>"3.1.4. Apart from an incidental reference to the BAR (refer 3.1.1 above), no discussion or reference to the findings of the BAR is included in the application. We submit that the application in this regard is incomplete. We are of the opinion that the public has a right to know what the findings and recommendation of the BAR are."</i></p>	<ul style="list-style-type: none"> Response to '3.1.2' from the PBRA – This is noted. Response to '3.1.4 & 3.1.5' from the PBRA & '1.2.6 & 3.3' from the RRA – The findings of the BAR have not been concluded and no reference to the BAR could have been made at the time of submission of the land use application. The final outcome of the BAR will be considered together with this application by the Municipal Planning Tribunal as stated in Section 10 of the motivational report 'Environmental impact'. The BAR also addresses any environmentally related concerns. The expertise of an environmental consultant was used by the property owner to ensure the environmental aspects of the proposal is effectively addressed. Response to '3.1.5(a)' from the PBRA – This is a comment that is required to be directed to Duncan Heard Environmental Consulting. We are not in a position to provide a response.

“3.1.5. Having knowledge of the DRAFT BAR and comparing same with the essence of this application, we further submit that there are significant differences that we believe are aspects that should have been addressed in the BAR as well. These activities could potentially have a significant impact on the fauna and flora in the Buffer Zone to the Kogelberg Biosphere Reserve. For instance:

a) In the subject matter application, the applicant applies for several farming activities including from fauna related to flora related, none of which are taken into consideration in the BAR.

b) Commercial activities, ranging from potentially accommodating several guests overnight' on the property to attracting an unknown number of potential day visitors wishing to conduct business activities related to the farming activities, implied by (a) above.”

“3.1.6. We submit that these impacts have not been taken into consideration when conducting the BAR which either renders the BAR incomplete and/or renders this application flawed.”

• **Response to ‘3.1.5(b)’ from the PBRA & comment from the FOR–**

There are no commercial activities planned on the property. No reference to day visitors is made as it is not proposed for the property and that is the reason why it was not mentioned or motivated as it was not required. The property owner will be residing on the property permanently once approval is received. He will be building a main dwelling house as is a primary right in terms of the current zoning.

The property owner is allowed to have tourist accommodation with consent from the Overstrand Municipality (OM) which is being applied for as part of the application. Tourist accommodation cannot be seen as a commercial activity.

• **Response to ‘3.1.6’ from the PBRA –**

Although the land use application and BAR are submitted in terms of different legislation, the applications run a parallel course, based on the same information, and take guidance from each other. The outcome of the BAR will have an impact on the land use application, which can only be finally considered by the MPT, once an environmental Authorisation was issued.

“3.1.7. We submit that evidently neither the Overstrand Municipality (OM) Planning Department nor the Public is provided with the required information to properly assess the application in terms of the requirements of NEMA.”

“3.1.8. Except if the OM in actual fact did receive the final BAR, we submit that the OM is thus in no position to diligently evaluate the application in terms of their fiduciary duty and therefore we request that the application be referred back to the applicant with the request to prepare and submit a complete and comprehensive application in accordance with statutory requirements. OTHERWISE, the OM had neglected during the advertising process (albeit flawed as motivated in 3.2 below) to make available crucial information to the public allowing them to properly and comprehensively evaluate the application.”

• ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following:

“1.2.6 As also set out below, certain consent uses are applied for, for which are required environmental impact assessments in terms in terms of the NEMA Listing Notices.

NEMA Listing Notice 1 will apply i.r.o. an aquaculture consent use application and NEMA Listing

Notice 3 will apply i.r.o the clearing of land in excess of 300 sq. m.

• Response to ‘3.1.7 & 3.1.8’ from the PBRA –

The OM is aware of the BAR and will be provided with the Environmental Authorisation (EA), once it is available as stated in Section 10 of the motivational report. PBRA and the Public have been notified of the BAR and were involved in the public participation process as indicated by 3.1.2 of their comment. Stating that the PBRA has already submitted their comments indicating that they have been fully informed and aware of the contents of the BAR.

Also refer to the response to the comment on ‘incomplete application’.

• Response to comment from the FOR –

The property owner appointed a professional team, which includes and independent environmental consultant. The importance of the Biodiversity Area is not being disregarded; however, the development footprint (4000m²) and existing road (1000m²) is located in the area where the least impact is anticipated.

The property owner has a right to build structures on his property and the studies (BAR) assisted him in identifying the areas where the construction will have the least impact.

This application is being advertised without the proper public participation process having been followed and apparently without an assessment report having been obtained. Nor is it presented with the advertised documentation”

“3.3 The property is classified as a Critical Biodiversity Area, and it is situated in the critical "Zone of Influence” of the Kogelberg Biosphere Reserve.

We see no evidence that the applicant has considered these aspects.”

- **Friends of Rooiels (FOR) stated the following:**

“A zoning of Conservation Use is appropriate for Portion 156 as it shares a boundary with the core zone of the Kogelberg Biosphere reserve and falls in an area of critical biodiversity importance. The ENTIRE property is environmentally sensitive as it contains threatened ecosystems and terrestrial and aquatic critical biodiversity areas. In this area of critical biodiversity importance, the square meterage applied for totals around 5000 square meters, (i.e. 4000sqm plus 1000sqm in respect of roads) and is glaringly excessive.”

<p><i>“The myriad consent uses applied for is certainly an indication of the owners' intention of full commercial exploitation of the property. Full commercial exploitation is simply not possible nor desirable on any property as environmentally sensitive as Portion 156.”</i></p>	
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TOWN PLANNER'S RESPONSE

First and foremost, the Overstrand Municipality has no mandate in terms of the NEMA legislation, which has its own process that needs to be followed. The objectors thus have the chance to address concerns in terms of the prescribed process as determined by NEMA.

In terms of objection 3.1.5 (b), the applicant did apply for a consent for tourism accommodation. This activity and land use is seen as a business activity, clearly stipulated in the Title Deed as a restrictive condition and thus do not agree with applicant in this regard.

In terms of objection 1.2.6, the total floor space of all buildings is restricted to 800m² in terms of the Overstrand Land Use Scheme and should not be confused with NEMA footprint of 300m². The total floor space of all buildings on the application site is less than the prescribed 800m².

It should be noted that the applicant did request various consent uses, which is his given right to apply for the land uses as stipulated in the Conservations Use Zone.

In terms of objections 3.1.6 to 3.1.8, relates to the applicability of the BAR. In terms of Section 66(1)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, the Municipal Tribunal must have regard to procedures and outcomes of applications in terms of other legislation. Thus, the Municipal Tribunal can take a decision if all the relevant information is available to enable the Tribunal to make a decision. In this case the Environmental Legislation, NEMA. An ROD has been issued and can the Tribunal take an informed decision. It is not necessary to wait for the ROD, if the environmental studies have been concluded that may impact on an application. The application submitted is in line with the Overstrand Land Use Scheme's primary and consent uses and the applicant was informed that the application will only serve before the Tribunal once a ROD has been issued.

COMMENTS	APPLICANT'S RESPONSE
<p style="text-align: center;"><u>INCOMPLETE APPLICATION</u></p> <ul style="list-style-type: none"> PRINGLE BAY RATEPAYERS' ASSOCIATION (PBRA) stated the following: <p><i>"3.2.1. We wish to bring to the attention of the OM Planning Department that the subject application has, as far as our information and records show, not yet officially been advertised. We have been informed about the application ONLY via email received from Ms Loriaan Isaacs on 5 July 2022. The email states, among others, the following:</i></p> <p><i>"Also note that notice will be available on the municipal webpage at the following link: https://www.overstrand.gov.za/en/documents!town-planning/land-use-planningq-applications"</i></p> <p><i>Contrary to the above, we have been unable to access the application as stated above. We submit that the general public is not aware of or able to access the application for scrutiny.</i></p> <p><i>Based upon the above, we request that the OM request the applicant to re-submit and re-advertise the application, such that the public is made aware of same."</i></p>	<ul style="list-style-type: none"> General response to "Incomplete Application" comments <p>The application was circulated to interested and affected parties including the three objectors and based on the comments received, it is accepted that a copy of the submitted application was viewed.</p> <p>Section 47, 48, 49 and 50 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 is clear on when and how interested and affected parties are notified. It is not a formal requirement of the By-Law to advertise any application on the municipal website and is seen as mere courtesy.</p> <p>WRAP Project Office was also never contacted for any additional information.</p> <p>It should also be noted that the application was available for inspection during weekdays between 08:00 and 16:30 at the Department of Town Planning at 16 Paterson Street, Hermanus.</p>

“3.2.2. Further, in the subject application several documents are referenced including drawings, plans and annexures. Apart from an unnumbered locality plan and unnumbered Site Development Plan, none of the other referenced plans and annexures were attached to the email nor are they available online as stated in 3.2.1. above.”

“3.2.3. We submit that the application is incomplete and as such must be referred back to applicant for resubmission. The consequent application must please conform to statutory requirements especially in terms of being transparent and making available all relevant documentations allowing diligent appraisal of the application by us and the general public.”

• ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following:

“1.2.1. No title deed was submitted with the advertised documentation which will enable the ratepayers to assess the application (In fact, as on 5 August 2022, a week before due date for objections, the application does not even appear on the OM website).”

• Response to '1.2.1' from the RRA –

The title deed is generally not distributed to the public due to the nature of sensitive personal information as per Section 18 of the Protection of Personal Information Act (POPIA).

It is also unclear why the comment is made as the objector clearly had access to the content of the title deed as reference is made to the contents and provisions of the title deed in Section 1.2.2.

"1.2.4 The application cannot be assessed without the required environmental assessments, and the OM Planning Department should not have further processed the application for advertisement. In the present application for consent uses, the clearing of areas of land for roads and buildings apparently in excess of 300 sq. m is planned.

The OM Planning Department in our opinion has the powers to refer a non-compliant application back. It is under no obligation to advertise a non-compliant application. Sec 39(1)(i) of the OM Municipal Land Use Planning by-law gives the Planning Department the power: "any other plans, diagrams, documents or information that the Municipality may require:"

"1.2.5 Only a vague reference to the assessment is made. The Planning Department should not have accepted this vague statement.

The previous public participation process was for purposes of a "residential complex" of a scale of 4000 sq. m floor coverage and 1000 sq. m roads. The process was severely criticised by three ratepayer bodies, including ourselves.

The present application requires different kinds of assessments as set out below. The previous assessment will not be sufficient for ratepayers and the MPT to assess the present application."

• **Response to '1.2.4' from the RRA –**

The application was found to be complete in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. This meant the application was allowed to be advertised as part of the public participation process.

The application was also circulated to the relevant external departments including the Department of Environmental Affairs and Development Planning, who will provide comment.

These processes run concurrently as mentioned in "Response to '3.1.6' from the PBRA".

- **Friends of Rooiels (FOR) stated the following:**

“This application has not properly been advertised. There has accordingly been no public participation. The application has NOT been made available on Overstrand Municipality's webpage at the link provided by Ms L Isaacs. There is no Municipal Notice Number.”

TOWN PLANNER’S RESPONSE

In terms of 3.2.1, it is acknowledged that the application was erroneously omitted from the Overstrand Municipality website. However, the application was sent to the Pringle Bay and Rooi Els Ratepayers Associations and surrounding owners. It was also distributed to the Ward Councillors. The application was available for scrutiny at the Municipal Offices and Library. The concern citizens and or members of the Ratepayers did not visit the Municipal Offices for closer scrutiny of the application or request information. The Ratepayers and interested and affected parties were notified during the NEMA process and were fully aware of this application and their objections in terms of the NEMA process must be dealt with in the relevant legislation.

The Municipality determines which documents are distributed to the public, which consists of plans, motivation and any other reports to support the application. Should any other documents be required, it can be made available on request or visiting the Municipality to obtain such information that is required.

The application was also distributed to the Ward Councillor, chosen by the owners to represent them.

In terms of point 1.2.5, this aspect has been dealt with. The objectors do confuse the term “Residential Complex”, a term used by the Architects with the allowable floor space as per the Land Use Scheme. The “complex” is the area of human movement and activities in a certain area. The footprint of 300sq is a stipulation in terms of the NEMA Regulations and not the Land Use Scheme and the applicant had to lodge an application with the Department of Environmental Affairs and Development to address this aspect. There is no restriction on any applicant that it has to obtain the ROD before a land use application is lodged. However, in areas where property is in sensitive Environmental areas, the ROD must be submitted before the item will be referred to the Authorised Official or the Municipal Planning Tribunal. It is reiterated that the NEMA process does make provision for public participation and that the objectors against the Basic Assessment needed to follow the procedure as determined by NEMA.

COMMENTS	APPLICANT'S RESPONSE
<p style="text-align: center;"><u>ZONING</u></p> <ul style="list-style-type: none"> • PRINGLE BAY RATEPAYERS' ASSOCIATION stated the following: <p><i>"3.3.2. The zoning of Portion 156 of the Farm Hangklip 559, Division Caledon is shown on the GIS system of the OM Webpage as UZ (Undetermined Zone)."</i></p> <p><i>"3.3.3. The OM Zoning Scheme in Paragraph 14.3 states the following:</i></p> <p><i>"14.3 UNDETERMINED ZONE (U)</i></p> <p><i>Use of the property</i></p> <p><i>14.3.1. The following use restrictions apply to property in this zone:</i></p> <p><i>a) Primary uses are limited to only lawful uses existing at the operative date of this land use scheme.</i></p> <p><i>b) Consent uses: none.</i></p> <p><i>Development parameters</i></p> <p><i>14.3.2. No change of an existing use or expansion of an existing building or structure is permitted.</i></p> <p><i>No rezoning to this zone permitted</i></p>	<ul style="list-style-type: none"> • Response to '3.3.2' from the PBRA and Comment from the FOR – <p>A zoning certificate for the property was obtained from the Overstrand Municipality. (refer Annexure B). It was clearly indicated in the motivational report that the current zoning of the property is "Rural Zone 2: Conservation Usage".</p> <p>The reason for the discrepancy between the OM GIS system is unknown.</p> <ul style="list-style-type: none"> • Response to '3.3.3' from the PBRA – <p>This is an extract from the OM Land Use Management Scheme (OMLUS) and has no relevance to the application that was submitted.</p> <ul style="list-style-type: none"> • Response to '3.3.4' from the PBRA – <p>The BAR was submitted before the final zoning certificate was received from the Overstrand Municipality. Duncan Heard Environmental Consulting will amend their report as required to ensure compliance and alignment with existing zoning and the land use application as submitted.</p> <ul style="list-style-type: none"> • Response to '3.3.5' from the PBRA and Comment from the FOR – <p>No rezoning is required as the property's zoning is "Rural Zone 2: Conservation Usage" (April of 2022).</p>

14.3.3. No rezoning of any property to this zone is permitted after the operative date of this land use scheme.

14.3.4. If additional uses or development rights are required, a rezoning application to another, more appropriate zone in terms of this land use scheme must be processed.

Reconstruction of destroyed property

14.3.5. Property that has been partially or completely destroyed by accidental causes may be reconstructed in accordance with the development rights that existed at the operative date of this land use scheme, provided that building plans for such reconstruction are approved within 12 months from the date of the accidental destruction."

Our emphasis is paragraphs 14.3.2, 14.3.3 and 14.3.4. of the OMLUS as stated above."

"3.3.4. The BAR clearly stated the "current" zone to be "Undetermined" and even goes as far as to state that an application will be lodged for rezoning to "Rural 2: Conservation Use" as follows:

"The preferred alternative development footprint and additional sections of access road will cover -4 933m² or 0.67% of the extent of the property. The applicant is in the process of applying to the Overstrand Municipality to rezone the property from 'Undetermined Zone' to 'Rural Zone 2: Conservation Use', with departure applications to accommodate more residential dwellings."

"3.3.5. The PBRA is unaware of an application for rezoning as suggested above. It seems as though the subject application is based on a zoning which has not yet been advertised for public comment.

We thus request that the OM please refer the application back to the applicant until such time as proper and due process has been followed to effect the rezoning of the subject property."

• Friends of Rooiels (FOR) stated the following:

"The applicant apparently wishes to apply for a rezoning to RURAL ZONE 2: CONSERVATION USAGE {R2}.

To our knowledge this rezoning is still outstanding, and the motivation document (see page 1) accordingly places false information before the Tribunal.

The seven consent uses applied for by the owner are NOT permissible in terms of the current zoning.

Please refer to the Overstrand Municipality Land Use Scheme, 2020 which is binding on both the applicant and on Overstrand Municipality."

TOWN PLANNER'S RESPONSE

The application for rezoning is not required for the holdings in and around the Rooi Els and Pringle Bay area. During the public participation process to establish an Integrated Zoning Scheme 2008, one of the comments on Draft 2 of the proposed integrated scheme, the Ratepayers of Rooi Els and Betty's Bay comments as follows:

"Small Holdings: Primary Use: One residential unit and conservation. Consent Uses: Agriculture and processing, indigenous plant nursery, riding school, tourist accommodation, tourist facilities, recreational facilities, utility services and place of instruction".

This comment was the reason for the creation of Rural Zone 2: Conservation Use and the consent uses as per comment. This has been incorporated in the development of the Integrated Scheme over the years. In 2012, before the finalization of the Scheme, a meeting was held between various owners of holdings in the Rooi Els area, many elderly and a decision was reached that the Undetermined zoned holdings did not need to go through a rezoning process if the owners agree to the Rural Zone 2 zoning and its development parameters. This was accepted by participants in public meetings and has been implemented as such. The reason was that many of the elderly owners were not in a financial situation to be able to afford a rezoning process.

COMMENTS	APPLICANT'S RESPONSE
<p><u>Exploratory Application / Misuse of the application process</u></p> <ul style="list-style-type: none"> ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following: <p><i>"1.2 Despite a number of complaints having been to date lodged with the OM on this Issue, the present application is in our opinion another such non-compliant example, where an exploratory application is lodged to test the reaction, and apparently allowed to be advertised as such by the OM Planning Department:"</i></p>	<ul style="list-style-type: none"> Response to '1.2, 4.2 & 4.3' from the RRA and Comments from the FOR- <p>The submitted application is definitely not an "Exploratory application" or "Misuse of the application process" as claimed by the objectors. The property owner has identified his needs for the property and wishes to be able to utilise the property accordingly. As the property owner has no intention to illegally use or build on the property, the owner appointed a professional team to advise him on the correct route to obtain the land use rights required.</p>

4. MISUSE OF THE APPLICATION PROCESS

4.1. A pre-application Draft Base Assessment for a "residential complex" on nearly 4 000 sq. m of floor space with nearly 1000 sq. m of roads was severely criticised by RERA for misuse of the application process in its comments to the applicant on 22 April 2022.

This was while the motivation was ostensibly for a family residence plus one more dwelling.

4.2 We severely criticized on 23 April 2022 a PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT:

PUBLIC PARTICIPATION PROCESS for the present property, inter alia as follows:

"It is not appropriate to use the application process in a way that appears to be seeing what it might be possible to achieve without ever clarifying the actual purpose of the application. This is time-consuming and involves a significant time investment for all those now having to assess this application".

4.3 This application would appear to be a repetition of the applicant misusing the application process.

- Friends of Rooiels (FOR) stated the following:

The processes as stated above in **Response to '3.1.6' from the PBRA.**

- **Response to '4.1' from the RRA –**

The reference to a "residential complex" is a mere name used for the development footprint identified through the BAR and other expert studies.

The proposal is solely for a "residential complex / homestead" for the property owner. Please take note that "homestead" in this case is used in the context that we development consultants has for the development footprint which is 4000m² in extent.

This means that only 4000m² of the ENTIRE PROPERTY will only be used for development. The 4000m² is not extent of the proposed buildings, but the size of the development footprint (area) where the property owner will be able to build his three structures (Main dwelling, Second Dwelling and Green House).

In terms of the provisions of the OMLUS, the property owner is allowed a maximum of 800m² of floor space.

It is of importance to differentiate between "FLOOR SPACE" and "DEVELOPMENT FOOTPRINT":

“As a civil society organisation and ratepayers, it is of concern that Overstrand's Town Planning Department has allowed this application to proceed up to this point. This practice is unlawful (as Overstrand's Town Planning Department needs to act within the law in fulfilling their duties) and accordingly amounts to misuse of private and public money. We reserve the right to refer this matter to the auditor general of fruitless and wasteful expenditure.”

“Floor space” is defined by the Overstrand Municipality Land Use Scheme, 2020 (OMLUS) as the following: *in relation to any building means the area of the floor which is covered by a slab, roof or projections, provided that: ...”*

From the definition it is clear that floor space includes any building that has a roof over it with some provisions as per the OMLUS page 18. The buildings on the property are not allowed to have a floor space of more than 800m².

“Floor space” differs “development footprint” as the development footprint (4000m²) is an area identified through several specialist studies as being the most suitable with the least impact to accommodate the “residential complex / homestead”.

The “residential complex / homestead” consists of the following buildings:

- Main dwelling (Primary Right as per OMLUS),
- Second dwelling unit (Consent Use as per OMLUS), and
- a Small Greenhouse (Consent Use as per OMLUS).

An application has been submitted to the Overstrand Municipality's Town Planning Department to apply for the proposed consent uses that is being sought by the property owner.

	<p>It should be noted that the BAR informed the land use application, and a small discrepancy was indicated.</p> <p>The floor space being proposed for the residential complex is the following:</p> <ul style="list-style-type: none"> • Proposed Main Dwelling Unit – 497m² • Proposed Second Dwelling Unit – 250m² • Proposed Green House – 50m² <p>Total Floor Space – 797m²</p> <p>Remaining or “spare” Floor space is therefore 3m².</p> <p>The calculation above indicates that the proposed buildings are within the allowable floor space for the RURAL ZONE 2: CONSERVATION USAGE (R2) zoning.</p> <p>The submitted land use application only indicated a floor space of 690m² which was calculation is unfortunately incorrect. The actual floor space is 797m² which still does not require a departure from the development parameters of the R2 zoning.</p>
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TOWN PLANNER’S RESPONSE

Agree with applicant.

The total floor space does comply with the development parameters of the zoning category.

COMMENTS	APPLICANT'S RESPONSE
<p style="text-align: center;"><u>TITLE DEED CONTENTS</u></p> <p>• ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following:</p> <p>"1.2.2 The applicant town planner has apparently perused the title deed and found that there were no title deed conditions that prevented the OM from approving the consent uses and departure.</p> <p>We draw the attention to title deed condition D.5 which reads:</p> <p>"No shops, public garages or filling stations, business premises, canteens, bioscopes, factory or Industrial buildings shall be erected on the land nor shall any such business or public entertainment be conducted on the land."</p> <p>We submit that a consent use "Tourist Accommodation" business and "Plant Nursery" business may possibly not be compliant with the title deed conditions."</p> <p><i>"1.2.3 A Conveyor's Certificate, setting out whether some of the present applied for consent uses such as "Tourist Accommodation" and "Plant Nursery" do not constitute "business premises" and "such business" should have been required and advertised by the Planning Department.</i></p>	<p>• Response to '1.2.2' from the RRA –</p> <p>There are no "shops, public garages or filling stations, business premises, canteens, bioscopes, factory or Industrial buildings" proposed for the subject property.</p> <p>It is clear what the property owner wants on his property, and it is not being restricted by the contents of the title deed that was perused to prepare the application.</p> <p>• Response to '1.2.3' from the RRA –</p> <p>Although not trained in law, the restricted uses and their definitions are not being applied for in terms of the subject property. No shops, no public garages or filling stations, no business premises, no canteens, no bioscopes, no factories and no industrial buildings are being proposed and the application is clear what is being applied for.</p> <p>A business premises is clearly defined by the OMLUS as:</p> <p>"business premises" means a property from which business or services are conducted and includes a shop, a supermarket, a restaurant, the sale of alcoholic beverages, a plant nursery, offices, service trade, a financial institution and building for similar uses and the sale of any small and big items but excludes a place of assembly, a place of</p>

<p><i>It cannot merely depend on a statement by the applicant, who may not be skilled in law."</i></p>	<p>entertainment, an institution, a service station, a motor repair garage, an industry, an industrial hive, a noxious trade, a risk activity, an adult entertainment business or a bottle store;</p> <p>Although a "plant nursery" is included in the definition of a business premises, "plant nursery" is defined in the OMLUS as follows: "plant nursery" means a property or part thereof which is utilised primarily for the propagation <u>and sale of plants and sale of gardening products.</u></p> <p>The property owner will not be utilising the property as a typical "plant nursery" found in other parts of the Overstrand. <u>He will not sell the plants or gardening products to the public</u> from the subject property, and he will only be propagating plants for own use.</p>
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TOWN PLANNER'S RESPONSE

The objector is correct in its interpretation of business pertaining to the self-catering unit (second dwelling) / tourist accommodation. The municipality has the same interpretation in this regard and thus can the application for a self-catering / tourism accommodation not be evaluated in a positive light, due to non-compliance. The second dwelling can be for own use, thus the title deed restriction pertaining to a business is not applicable.

The nursery will not be deemed a business if it is to be used only by the owner. Only if it is open to the public, it will be considered as a business and the restrictive title deed conditions needs to be addresses by means of an application.

COMMENTS	APPLICANT'S RESPONSE
<p style="text-align: center;"><u>DIFFERENT CONSIDERATIONS APPLY, DEPENDING ON DIFFERENT CONSENT USE APPLICATIONS.</u></p> <p>• ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following:</p> <p><i>"2. DIFFERENT CONSIDERATIONS APPLY, DEPENDING ON DIFFERENT CONSENT USE APPLICATIONS.</i></p> <p><i>As set out below, different considerations apply, depending on different consent use applications.</i></p> <p><i>Each consent use will require an individual motivation. We name but two of the present uses that are applied for:</i></p> <p><i>2.1 Aquaculture - This is a special subject, requiring an environmental assessment in terms of NEMA Listing Notice 1, together with detailed motivation as to desirability,</i></p> <p><i>2.2 Tourist Accommodation - The considerations for this consent use are quite different from aquaculture. Full details of the planned activity need to submit to enable that MPT to assess the application.</i></p> <p><i>In October 2020, in terms of the OM Scheme Regulations as they then read, the MPT approved a "tourist accommodation" consent use for a dwelling In Pringle Bay,</i></p>	<ul style="list-style-type: none"> • Response to '2' from the RRA – Each town planning application is considered site specific and what may be found to be desirable on one site may not be desirable on another site. • Response to '2.1' from the RRA – This is agreed with, and the property owner will not be operating a commercial activity and will be for personal use only. A BAR was submitted that addresses the environmental aspect of the application. • Response to '2.2 & 5.9.3' from the RRA – Refer to Section 4.1 of the motivational report, page 1 at the bottom and the top of page 2. The MPT has the discretion to impose a condition such as stated by the objector. As mentioned, each application is unique and is considered "site specific". • Response to '5.1, 5.2, 5.3' from the RRA – The property owner's intention is clear - he wishes to retire on the property and keep himself busy. <p>The RRA is speculating that there is an ulterior motive behind the application and that the property owner does not care for the environment or his community, which is certainly not the case.</p>

but subject to special conditions, that the approval be limited to the existing dwelling and limited to six (6) guests with a maximum of two (2) vehicles.

The applicant gives no details with the present application.”

“5. APPROVAL OF CONSENT USES SHOULD BE CONSIDERED INDIVIDUALLY

“5.1 The applicant should be able to apply successfully for a specific motivated consent use.”

“5.2 Instead he is applying for a blanket consent use for all possible future uses for which he has a "vision" (sic).”

“5.3 In view of the previous application, where the objection was that the applicant was apparently not disclosing his true intentions, this application should be viewed with circumspection.”

“5.4 A number of consent uses are applied for, under a single or blanket motivation. “

“5.5 When a municipality assesses land use applications, they must, in terms of the provincial Land Use Planning Act, have regard to at least the considerations in para 5.6 hereunder.”

“5.6 The act reads:

• **Response to ‘5.4 & 5.8’ from the RRA –**

The application indicated each consent use, refer to Section 4 of the motivational report.

• **Response to ‘5.5 & 5.6’ from the RRA –**

This is noted.

• **Response to ‘5.7’ from the RRA –**

Refer to Section 10 - Need and Desirability.

• **Response to ‘5.9’ from the RRA and comments from the FOR is addressed below:**

• **Response to ‘5.9.1’ from the RRA –**

The aquaculture component will be for personal use only and it is not anticipated that the operation thereof will impact on any person or the environment. The BAR will address the requirements in terms of the NEMA regulations.

• **Response to ‘5.9.2’ from the RRA –**

Refer to Section 4.1 of the motivational report, page 1 at the bottom and the top of page 2.

• **Response to ‘5.9.4’ from the RRA –**

No reference is made that the plant nursery would be open to the public and it is incomprehensible why would it be implied?

<p><i>"Basis of assessment of land use applications</i></p> <p><i>49. When a municipality considers and decides on a land use application, the municipality must have regard to at least-</i></p> <p><i>(a) the applicable spatial development frameworks;</i></p> <p><i>(b) the applicable structure plans;</i></p> <p><i>(c) the principles referred to in Chapter VI;</i></p> <p><i>(d) the desirability of the proposed land use; and</i></p> <p><i>(e) guidelines that may be Issued by the Provincial Minister regarding the desirability of proposed land use"</i></p> <p><i>"5.7 We draw the attention to the consideration of desirability in (d) and submit that the consideration of desirability is affected by the nature of the consent use applied for."</i></p> <p><i>"5.8 A proper motivation of the planned use should be submitted, and each use should be separately assessed. This cannot be done with the sweeping, broad submissions by the applicant."</i></p> <p><i>"5.9 Without being comprehensive, the following list of considerations, which differ according to the nature of the uses, should have been addressed in separate motivations by the applicant:"</i></p>	<p>The property owner will use a 50m² green house for the aquaculture, intensive horticulture and plant nursery cultivating and growing products for own use.</p> <ul style="list-style-type: none"> • Response to '5.9.5' from the RRA – Assumptions are made by the RRA. The property owner is an avid green enthusiast, and the scale is being greatly exaggerated by the RRA. <p>The green house of 50m² will be the total extent of the activities proposed on the site. This was mentioned numerous times in the motivational report.</p> <ul style="list-style-type: none"> • Response to Comments from the FOR – The property is not proposed to be used for any commercial activities. It is and never will be the intention of the property owner as stated several times already in this response.
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"5.9.1 Aquaculture- There are various considerations in assessing the desirability of Aquaculture, so much so that an environmental assessment in terms of NEMA listing Notice 1 is required.

This may also require separate conditions to be set by the MPT, to ensure that the use is nevertheless in compliance with the Conservation Zoning of the present property.

All this is lacking in the present application."

"5.9.2 Second Dwelling - What is it to be used for? Will It be for the tourist accommodation?"

"5.9.3 Tourist Accommodation - In October 2020, in terms of the OM Scheme Regulations as they then read, the MPT approved a "tourist accommodation" consent use for a dwelling in Pringle Bay, but subject to special conditions, that the approval be limited to the existing dwelling and limited to six (6) guests with a maximum of two (2) vehicles.

The applicant gives no details with the present application which the MPT can consider."

"5.9.4 Plant Nursery- What will be the source of the nursery stock? Will the plants be grown on the property, or will it be bought in?

Will the nursery be open to the general public? Is a coffee shop and other attractions for the public envisaged?

This is part of a critical biodiversity wetland hotspot- it is important that the plants produced are not alien invasives, extra limital relatives, or hybrids that can all have negative Impacts on the gene pool and status of surrounding fynbos.

Without the details the MPT is not put in a position to assess desirability and to set conditions that would ensure that the use is in accordance with the Conservation Usage zoning."

"5.9.5 Agriculture, Harvesting of Natural Resources, Intensive Horticulture -All these uses appear to be labour intensive, and a number of farm workers may have to be accommodated on the property.

How many dwellings are required and planned, and how will they fit in with the 850 sq. m floor area limitation per the Scheme Regulations, given that the two dwellings will already cover 640sq.m?"

• Friends of Rooiels (FOR) stated the following:

"The applicant is applying for a myriad of consent uses, namely:

- Agriculture*
- Harvesting of natural resources*

- *Intensive Horticulture*
- *Aquaculture*
- *Plant Nursery*
- *Second Dwelling Unit and a departure to allow it to be larger than 120 square meters*
- *Tourist Accommodation*

In the motivation document (p 2) it is stated "the property owner wants to utilise his property to its maximum potential". The myriad consent uses applied for is certainly an indication of the owners' intention of full commercial exploitation of the property. Full commercial exploitation is simply not possible nor desirable on any property as environmentally sensitive as Portion 156. From the application for bulk electricity and bulk water and the specifics regarding meterage of indigenous vegetation to be cleared, the reasonable inference can be made that this is a full commercial development of the property.

Despite our earlier comments and warnings in our letter of 22 April 2022, this application is STILL lacking in vital information regarding the full scope and potential impacts of the various proposed activities. It also is alarming that no thought has been given to the cumulative impact of all seven broad categories of consent use which is applied for. It is simply NOT true that "these land uses are interlinked and interdependent of one another" as stated on page 3 of the motivation document. The applicant is simply seeking a blank cheque for full economic exploitation of the property.

This lack of full disclosure of ALL relevant information renders the whole process flawed."

TOWN PLANNER'S RESPONSE

The applicant has a right to apply for the consent uses as per the Overstrand Land Use Scheme. The uses were specifically put into the category of consent uses to establish the impact on the environment. In this case, the applicant went through the NEMA process to establish the impact, mitigation and did obtain a ROD from the Western Cape Government: Department of Environmental Affairs and Development Planning.

The applicant had to apply for various consent uses to enable him or her to cultivate plants or have a koi nursery, have bees for own use due to its zoning. The zoning has primarily a Main Dwelling and Conservation as land uses and the percentage of the activities proposed is approximately 1% of the total area. It is however unclear why a private individual must fully disclose what his intention is on his own property to the detail requested by the objectors. As long as the applicant complies with all relevant legislation, the activities on an individual property, is of no concern to the objectors.

COMMENTS	APPLICANT'S RESPONSE
<p style="text-align: center;"><u>CONDITIONS OF APPROVAL</u></p> <ul style="list-style-type: none"> • ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following: <p><u>3. SUFFICIENT AND REASONABLE RESTRICTIONS MUST BE ADDED TO THE CONDITIONS OF APPROVAL</u></p> <p><i>3.1 A consent use to enable the development of certain activities on the property should not have a detrimental impact on the existing properties and should not constitute an unreasonable addition to the area in terms of privacy</i></p>	<ul style="list-style-type: none"> • Response to '3.1' from the RRA – This is an opinion of the RRA and not based on any factual evidence that these consent uses would have a negative impact on the surrounding area. It is not regarded as sufficient to only make such a broad statement. • Response to '3.2' from the RRA – The town planner of the OM and the decision-making authority will use their discretion should any conditions be required.

<p><i>and protection of the existing character and visual quality of the area.</i></p> <p><i>3.2 Sufficient and reasonable restrictions must be added to the conditions of approval for such application.</i></p> <p><i>3.4 Furthermore as set out below, because of the paucity of information presented, ratepayers are not enabled to propose such reasonable restrictions.</i></p>	<ul style="list-style-type: none"> • Response to ‘3.4’ from the RRA – The RRA may propose “reasonable restrictions”, but the decision-making authority will determine if it is required.
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TOWN PLANNER’S RESPONSE

Consent uses will be restricted to the ROD.

COMMENTS	APPLICANT’S RESPONSE
<p style="text-align: center;"><u>HIDDEN INTENTIONS</u></p> <ul style="list-style-type: none"> • ROOIELS RATEPAYERS’ ASSOCIATION (RRA) stated the following: “4.4 We are sceptical as to whether the applicant is not using this process to engineer his previously declared intention (to develop a "residential complex") In a roundabout way by first obtaining multiple consent uses and then having building plans for dwelling units approved afterwards.” 	<ul style="list-style-type: none"> • General response to “Hidden Intentions” comments The property owner’s intention is very clear that he wants to reside on the property and retire there. He made his intentions clear on how he wants to use the property and followed due process by submitting land use applications to obtain the land use approvals required. Only three structures are proposed.

<p><i>"4.5 The numerous, apparently labour-intensive consent uses that are applied for, will, whether they are actually put into operation or not, pave the way for an application to have building plans approved for a quantity of farm workers' cottages.</i></p> <p><i>These farm workers' cottages could then be converted to additional dwelling units, contrary to the title deed conditions and OM Zoning Scheme Regulations."</i></p> <p><i>"6. IS FULL DISCLOSURE OF INTENTIONS MADE IN THE APPLICATION?"</i></p> <p><i>6.1 We are of the opinion that the present application is tainted by the lack of disclosure of the applicant's true intentions in the previous, connected application for an environmental assessment."</i></p> <p><i>"6.2 In that application the intention was to clear 4 000 sq. m for floor coverage for a "residential complex" together with 1 000 sq. m for roads.</i></p> <p><i>Ostensibly this was just to house two dwellings. Objectors simply did not believe this."</i></p>	<p>The RRA is making unfounded statements that the property owner is attempting to implement illegal structures and these comments should be disregarded as it is not supported by any concrete evidence and may be considered as slander.</p> <ul style="list-style-type: none"> • Response to '6.2' from the RRA – <p>It is not clear where in the submitted application it is mentioned that 4000m² will be cleared or that the total "floor coverage" will be 4000m².</p> <p>This was never stated in the application and there is no 'hidden agenda'</p> <p>Refer to "Response to '4.1' from the RRA" for a clear understanding of floor space and the development area that is being applied for.</p> <p>The 1000m² of road referred to is EXISTING and there is a small new section of road being proposed by the property owner of approximately 100m while approximately 2km of existing road will be rehabilitated.</p>
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“6.3 We are sceptical that the applicant may be trying to achieve multiple dwellings in a roundabout way through farm workers' cottages. It is apparently a ploy, after multiple consent uses have been obtained to motivate multiple farm workers, to hand in building plans for multiple farm workers' cottages, that are then subsequently upgraded for a different market.”

- Friends of Rooiels (FOR) stated the following:

“Development by stealth through incremental means is NOT what is intended by the concept of integrated planning, which is the basis of all planning and environmental legislation.”

TOWN PLANNER’S RESPONSE

The owner is not seeking a blank cheque for full economic development and the assumption is uncalled for by the Rooi Els Ratepayers. If the holdings are so valuable to the Ratepayers, they should buy it when it is on the open market and rezone it to Nature Reserve.

Development on the holdings is inevitable and in line with the Kogelberg Biosphere Framework, Category Buffer Zone. In terms of the UNESCO Technical Guidelines for Biosphere Reserves, point 68 (b), clearly indicates that the main focus of the Buffer zones is to allow management techniques to be developed, explored and learned about, in order to maintain semi-natural ecosystems, including biodiversity. This aspect is further deliberated in Points 89 & 90 of the document. The application does comply with these guidelines as published by UNESCO in 2022.

Thus, the residential complex, a term used by the Architect and Environmental Practitioner is only an indication of normal residential activities, such as access to the dwelling, movement in and around the buildings etc. It has nothing to do with a gated residential development as per the Overstrand Land Use Scheme. It seems if the objectors are getting confused between the Land Use Scheme and the NEMA application and definitions.

COMMENTS	RESPONSE
<p>The application is for consent use and departure for a second dwelling and other ancillary uses. The development proposal is currently undergoing a Basic Assessment process in order to obtain environmental authorisation. No detailed plans were presented in the first draft of the Pre- Application Basic Assessment Report (BAR) with two alternative development blocks of 4000m² proposed which were to contain a primary and secondary residential dwelling, two guest cottages and supporting infrastructure.</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"Detailed site layout plans have now been finalised and will be detailed (as per the Town Planning Application) in the Post-Application draft BAR"</i></p>

TOWN PLANNER'S RESPONSE

The information submitted for the Basic Assessment is not a Municipal concern. The Municipality deals with the information submitted with the land use application and will evaluate and determine whether it coincide with the ROD issued.

COMMENTS	RESPONSE
<p>The recommendation from CapeNature upon review of the Pre-Application BAR was that alternative locations must be investigated due to the high conservation value and sensitivity of the property and the high fire risk for the infrastructure, as the proposed location is up the mountain slope surrounded by fynbos. The recommendation was to investigate locations adjacent to existing development and the public road which would reduce the fire risk and fragmentation of natural habitat. Further detail on the development proposal was also requested. Due to the high conservation value and sensitivity CapeNature recommended the site for formal conservation protection (e.g., stewardship).</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"These comments are appropriate to the BAR Application for Environmental Authorisation and are detailed and responded to fully to in the post-Application draft BAR, the landowner intends to manage the 74ha property as a conservation area."</i></p>

TOWN PLANNER’S RESPONSE

Comment is noted from both the objector and applicant during the Environmental process.

COMMENTS	RESPONSE
<p>More detailed plans are provided in the subject planning application indicating the main dwelling and second dwelling within the development block. The consent uses are for tourism accommodation, agriculture (beekeeping), plant nursery, aquaculture, intensive agriculture and harvesting of natural resources. As the built structures are located within the development block, the associated biodiversity constraints are taken into account within the Basic Assessment process. We wish to query the application for tourism accommodation, as this is not discussed further in the application, and the two proposed dwellings are the only buildings indicated on the layout plan.</p>	<p>The tourist accommodation will occur in the second dwelling unit.</p> <p>No additional structures will be required. Refer to Section 4.1 of the land use application, the following is stated:</p> <p><i>“The property owner has a vision to utilise the second dwelling unit for renting to transient guest that will utilise the second dwelling unit for self-catering purposes. Other times the property owner would utilise the second dwelling unit as a place for family to stay over and utilise during off seasons.”</i></p> <p>No additional buildings other than what is being proposed on the SDP will be allowed.</p> <p>Response from the environmental consultant, Duncan Heard:</p> <p><i>“The 2nd dwelling will not be built immediately, but at an appropriate future time. The intention with the envisaged four-bedroom 2nd dwelling is that it would be used for visiting family and friends.</i></p> <p><i>It will be used as tourist accommodation (up to eight people), when not in use for the aforementioned purpose. No other separate tourist accommodation facilities are envisaged.”</i></p>

TOWN PLANNER’S RESPONSE

The objector is correct, the second dwelling should it be used for tourist accommodation, has not been applied for. Thus, it may only be used for own use and not a commercial venture.

COMMENTS	RESPONSE
<p>Of relevance to the application is the location of the property within the Protected Area Buffer Overlay Zone which is one of the Environmental Management Overlay Zones (EMOZs) for the Overstrand Municipality. The property is adjacent to the Kogelberg Nature Reserve which is also part of the Cape Floristic Region Protected Areas World Heritage Site (CFRPA WHS). Regulations have been promulgated which need to be adhered to for properties located within an EMOZ.</p>	<p>This is noted. The internal Environmental Department of the Overstrand supported the application and stated that the EMOZ's regulations need to be adhered to.</p>

TOWN PLANNER’S RESPONSE

Noted.

COMMENTS	RESPONSE
<p><u>Agriculture (Beekeeping):</u></p> <p>CapeNature has a Policy on Honey Bee Colonies on Protected Areas, however this does not apply to properties outside of nature reserves. We however recommend the following minimum requirements to permit beekeeping on the property:</p> <p>A minimum of a 500m buffer from the nature reserve boundary must be adhered to for bee hives, although the ideal buffer would be 1 km.</p> <p>The landowner must be a registered bee- keeper in terms of the relevant legislation which will ensure that minimum industry standards are adhered to, and annual inspections are undertaken. Bio sanitary concerns will also be addressed with regards to diseases.</p> <p>No beehives should be located near to any firebreaks, roads, footpaths or buildings to minimize the health and safety risk.</p>	<p>This is noted, the Beekeeping will be a hobby for the property owner.</p> <p>The land use application is still in process and still need to be considered. If approved, the required permits and the regulations set out by the "Honey Bee Colonies on Protected Area" Policy will be adhered to.</p> <p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"The landowner will note these recommendations. He intends only keeping bees to have honey for own use initially. If this expands into a commercial venture, he will ensure that all applicable regulations are complied with.</i></p> <p><i>(Bees are already being kept by landowners in the buffer area of the Kogelberg Nature Reserve)."</i></p>

TOWN PLANNER'S RESPONSE

It is indicated that the bee keeping will be by the owner and for own use. Should this activity expand to a commercial venture the necessary permits and approvals need to be obtained.

COMMENTS	RESPONSE
<p><u>Harvesting of Natural Resources:</u></p> <p>The applicant proposes small scale harvesting of flora on the property. Picking of flora is controlled by the provincial Nature Conservation Ordinance.</p> <p>In this regard, a permit is required from CapeNature for picking of flora, however there is an exclusion if this is undertaken by the owner of the property upon which picking takes place or by a family member or full-time employee. However, any sale of the flora requires a permit from CapeNature.</p> <p>This activity is therefore subject to obtaining the necessary permits from CapeNature within which process the desirability of this activity will be assessed.</p> <p>It should however be noted from the outset that according to the EMOZ Regulations, vegetation within wetlands may not be utilized, which then excludes species such as Berzelia lanuginosa, Erica perspicua etc. It is further noted that commercial harvesting of any natural resource also requires a permit from the Overstrand Municipality in terms of the EMOZ Regulations.</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>“The landowner will endeavour to grow selected plants for planting within the 4 000m2 development footprint or possibly even to aid the rehabilitation of eroded areas on the rest of the property. For this, it may be necessary to harvest very small amounts of seed or plant material (possibly < 30kg/annum) from the rest of his property. This harvesting is expected to have no negative impact on the natural fynbos vegetation.”</i></p> <p>The proposal is not to sell any flora, however, should it be required the property owner will obtain the necessary permits from Cape Nature.</p> <p>The EMOZ is noted, and the regulations will be adhered to.</p>

TOWN PLANNER’S RESPONSE

Noted, however should this result into a commercial venture the Title Deed needs to be addressed.

COMMENTS	RESPONSE
<p><u>Intensive Horticulture, Plant Nursery and Aquaculture:</u></p> <p>These consent uses are for the purposes of producing aquatic fauna and flora within a greenhouse.</p> <p>Confirmation must be provided if this will be restricted to freshwater fauna and flora. We do not support the production of marine fauna and flora at this location, as the saltwater will have negative impact on the surroundings, with the sensitive, endemic-rich freshwater biota from the Table Mountain Sandstone freshwater systems adapted to very low salinities.</p> <p>More detail is required regarding the aquaculture facility, in particular the management of waste and effluent as this could have a significant impact. In this regard no effluent may be discharged within the EMOZ according to the Regulations.</p> <p>Confirmation must be provided that the production will be below the thresholds of NEMA Listing Notice 1 Activity 6. 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</p> <p>The source of water for the aquaculture must be described and will require approval from the Overstrand Municipality in terms of the EMOZ Regulations and may also require approval in terms of the National Water Act, depending on the volumes.</p>	<p>Comments from the environmental consultant, Duncan Heard:</p> <p><i>"The purposes would encompass the keeping of fauna and flora initially as a hobby.</i></p> <p><i>The intention is to keep Koi fish in a pond in the greenhouse. No keeping of marine flora or fauna is envisaged.</i></p> <p><i>The water in koi pond will be in a closed self- cleaning system. Very small amounts of waste or wastewater will be removed from time to time and used in the garden area within the homestead complex.</i></p> <p><i>In the envisaged koi pond, 'production' would amount to the sale of small numbers of live fish per annum. This is well under the threshold of 20 000kg per annum.</i></p> <p><i>For the record, the other relevant threshold, NEMA Listing Notice 3 Activity 13, will also not be triggered as the aquaculture facility will not be in an estuarine functional zone, protected area or an aquatic critical biodiversity area.</i></p> <p><i>The water for the koi pond will be a blend of roof harvested rainwater and borehole water.</i></p> <p><i>The koi pond will not be larger than an average residential swimming pool. The water will be in a closed self-cleaning system. Very low volumes of water will be required for 'topping up' the system from time to time.</i></p>

<p>Permits may also be required from CapeNature in terms of the Nature Conservation Ordinance.</p>	<p><i>It is expected that the 'water use' associated with the whole homestead complex (including koi pond) from the borehole will be well within the allowable domestic volume allowed by the NWA.</i></p> <p><i>Noted."</i></p> <p>The EMOZ is noted, and the regulations will be adhered to.</p> <p>The land use application is still in process and still need to be considered. If approved, the required permits and the Regulations set out by the "Nature Conservation Ordinance" will be adhered to.</p>
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TOWN PLANNER'S RESPONSE

The Aquaculture relates to a Koi Pond, however, should this expand to a commercial venture the necessary approvals need to be obtained and the Title Deed needs to be addressed. This aspect was dealt with during the Environmental process and a ROD was issued. Positive comments were received from Cape Nature, Breede Gouritz Catchment Management Agency and the National Department of Water and Sanitation on the application which included aquaculture.

COMMENTS	RESPONSE
<p>An alien invasive species management plan is required to comply with the NEM:BA Alien and Invasive Species Regulations and a fire management plan is required. These were also two requirements from CapeNature for the Pre-Application BAR. The impact of fire and aliens is listed as a primary reason for the need for the Protected Area Buffer EMOZ.</p>	<p>Comments from the environmental consultant, Duncan Heard:</p> <p><i>"An alien invasive species management plan ito of NEMBA and a fire management plan will be conditions coupled to the granting of an Environmental Authorisation for the development applied for."</i></p>

TOWN PLANNER'S RESPONSE

Noted.

COMMENTS	RESPONSE
<p>The zoning of the property is Rural Zone 2: Conservation Use which is deemed an appropriate zoning in accordance with the EMOZ. The consent uses are applied for in terms of this zonation. We note that the municipal zonation map indicates the property as zoned Undetermined therefore it is assumed the property was rezoned.</p>	<p>A zoning certificate was obtained and was attached as Annexure B within the land use application.</p> <p>Zoning maps may not be always up to date and a zoning certificate revealed the zoning.</p>

TOWN PLANNER'S RESPONSE

There is no need to rezone the Undetermined properties as per discussions during the 2013 amalgamated zoning scheme process. This aspect was addressed during the public participation process and with the Western Cape Government Department of Environmental Affairs and Planning.

COMMENTS	RESPONSE
<p>The proposed development is located at approximately 60m above sea level which is below the maximum 120 m in the EMOZ.</p>	<p>Noted and agreed with.</p>
<p>No feeding, pursuit or disturbing of fauna is permitted and, in this regard, mitigation measures to minimize the potential for baboons to utilize food sources must be included in the EMP for the BAR.</p>	<p>Noted and agreed with.</p> <p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"Noted. Mitigations regarding the baboons are included in the EMPr for the BAR."</i></p>

<p>Sewage provision is through a conservancy tank which will be serviced and therefore there will not be any effluent from sewage if it is adequately maintained. Further confirmation is however required regarding access by a honeysucker truck.</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"The Post-Application Draft BAR will be distributed shortly to the commenting authorities and registered I&APs. It will indicate that the existing access road will be widened by 1m and stabilized with grass blocks. Three passing lay-bys will also be provided to facilitate vehicle passing each other.</i></p> <p><i>This has been done inter alia to safely accommodate the sewage pump tanker truck."</i></p>
<p>The existing roads and tracks leading north from the proposed development footprint are proposed to be closed and rehabilitated which is supported. Vehicle use should then be restricted to the single access road. The impacts associated with the access road are assessed in the BAR.</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"Correct. However, the existing vehicle track that leads off in a north westerly direction from the access road (just below the farm dam) will be maintained, as it is essential for general and fire management as well as emergency purposes. This track meets up with the municipal servitude road in the north-west corner of the property."</i></p>
<p>Detailed designs for the buildings on site are required in order to assess the impact on the sense of place. This also includes the WHS as a sensitive receptor.</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"The main dwelling will be partly obscured by the earthen dam wall from the R44 provincial road as well as the lower areas of Pringle Bay, Other visual mitigatory measures are included in the EMPr."</i></p>

<p>In conclusion, CapeNature does not support the application as currently presented. As indicated in the NEMA process, alternative locations must be investigated for the buildings on site which will minimize the impact. Further information is required regarding the ancillary consent uses as indicated above and other legislative requirements must be obtained, including permits from CapeNature.</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>“Alternative locations have been investigated as described in the Post- Application Draft BAR that will be distributed shortly. A third alternative site has been selected after a winter aquatic assessment determined that the previous preferred site had a seasonal wetland seep on it. The preferred site now has no wetland features on it.</i></p> <p><i>CapeNature's recommendation that the development site be placed next to the public gravel road was assessed. This site is not a desirable location ito the gravel dust and traffic noise from the gravel road and the R44. The ecological impact of this site would also be higher as it would be much closer to the NFEPA wetland and would also reduce the small area of Hangklip Sand Fynbos on the property here, significantly as well as the ecotone area between the Hangklip Sand Fynbos and the NFEPA wetland.”</i></p>
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TOWN PLANNER’S RESPONSE

Cape Nature does support the application as indicated in their letter dated 10 May 2023.

INTERNAL DEPARTMENT	
DEPARTMENT	RESPONSE
EMS	No objection was received, the comments that required permits/authorisations needs to be obtained from the relevant authorities prior to the commencement of any activities that require permits/authorisation. That the EMOZ requirements must be considered and adhered to, is acknowledged.
EXTERNAL DEPARTMENTS	
DEPARTMENT	RESPONSE

WESTERN CAPE GOVERNMENT	<p>I. Environmental comments to be referred to the environmental consultant, Duncan Heard's response:</p> <ul style="list-style-type: none"> - <i>"The 50m² greenhouse is located within the proposed development footprint of 4 000m² for which an Environmental Authorisation is in process of being applied for to the NEMA EIA Regulations.</i> - <i>The landowner wishes to use the greenhouse initially to practise intensive horticulture and aquaculture (Koi) on a very small scale, as a hobby and on a non-commercial basis. Should it however prove to be viable as a commercial enterprise in future, the applicable approvals/licenses will be sought at that time, before proceeding to do so.</i> - <i>The landowner will endeavour to grow selected plants for planting within the 4 000m² development footprint or possibly even to aid the rehabilitation of eroded areas on the rest of the property. For this, it may be necessary to harvest very small amounts of seed or plant material (possibly < 30kg/annum) from the rest of his property. This harvesting is expected to have no negative impact on the natural fynbos vegetation.</i> - <i>In the light of the above, the described activity will have no impact on the objectives of the Rural Zone 2: Conservation Use zoning, in fact, if the plants are used for the rehabilitation of eroded areas, it would benefit the conservation management of the property."</i> <p>II. This comment is noted. The Overstrand Municipality allows a second dwelling unit up to 250m² and the proposal is aligned with their land use scheme.</p>
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BREED-GOURITS CATCHMENT MANAGEMENT AGENCY	These comments were noted.No objection was received.
DEPARTMENT OF TRANSPORT AND PUBLIC WORKS	No objection was received.
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (ENVIROMENTAL)	<p>These comments were noted.</p> <ul style="list-style-type: none"> • Comment Nr 5: <p>Environmental comments to be referred to the environmental consultant, Duncan Heard's response:</p> <p><i>"- DEA&DP at this stage only commented on the Notice of Intent (NOI) that they had received which lacked final details as the project design and planning phase was still ongoing. Subsequently, they have received a Pre-Application draft Basic Assessment Report (BAR) and an Application. Soon a Post-Application draft BAR will also be sent to them for comment. The subsequent documentation (sent after the NOI) has and will contain additional details and activities associated with the development footprint Application. The assumption is made that "all these activities that are referred to in the land use planning application" in DEA&DP's comment, refer to the harvesting of natural resources (e.g., honey and plant seeds/cuttings) as well as intensive horticulture and aquaculture as mentioned in the land use application. None of the latter activities, especially at their small scale, trigger any further listed activities to the NEMA EIA Regulations."</i></p>
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (PLANNING)	These comments are noted. The Overstrand Municipality allows a second dwelling unit up to 250m ² and the proposal is aligned with their land use scheme.
TELKOM	These comments are noted.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

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

See Paragraph 7 above.

Internal and External Departments

The application was supported by all internal municipal and external departments.

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

N/A

Spatial Sustainability

The proposed land use has little impact on the environment and high potential agricultural land (0,09%). It adheres to the triple bottom line of equal importance of the social, economic and environmental aspects within the environmental legislation. It will create work opportunities, contribute to the local economy.

Efficiency

The building will be optimally used thus contribute to the efficient use of a structure. No municipal services are required and are self-sufficient.

Spatial Resilience

Spatial resilience refers to the built environment. The building complies with the National Building Regulations and thus comply with the SANS requirements with due cognisance of energy efficient requirements.

The EIA has considered the impact on the environment and found that the activities proposed can be successfully mitigated to the benefit of both the owner and the environment.

Good Administration

Administrative procedure was followed 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 consistent with the principles of the SDF of low key non-intrusive land uses in the rural domain.

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

The Western Cape Government has developed guidelines to ensure the preservation of high potential agricultural land and the environment. This application complies with the guidelines.

10.6 Impact on Municipal Engineering Services

No services will be used.

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

In terms of the Environmental Legislation, the applicant obtained a Record of Decision. In terms of the National Water Act, the applicant obtained a water use license for the proposed activities.

10.8 Existing and proposed zoning comparisons and considerations

The Overstrand Municipality By-Law on Municipal Land Use Planning and Zoning Scheme Regulations is applicable to this area.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

It should be noted that most of the aspects have been dealt with under Point 7. There is however issues that needs further elaboration and will be dealt with.

The Environmental Impact Assessment: Environmental Impact Assessments in terms of the National Environmental Act, 1998 read with the Environmental Impact Assessment Regulations, 2014, is not a mandate of the Municipality. This legislation is dealt with on a Provincial level with its own procedure. Thus, the objectors have a public participation process and an appeal process in terms of the aforementioned legislation. A Record of Decision was issued by the Provincial

Department, and should any objector not agree with the ROD, it is a matter that needs to be dealt with by the Provincial Department. The Municipality has no legal standing with regard to the National Environment Act, 1998, except as a comment entity.

During land use applications, the Municipality may require that the environmental process be concluded due to the locality in an area, or the land uses proposed or at the very least submit the Basic Assessment Report that has been submitted with the application to the Provincial Department. The Municipality is under no obligation to wait for an ROD, since the legislation functions in parallel. The Municipality may require additional information and have the necessary information available before it can make a decision. That is the reason why the Municipality requests comments from the various provincial departments to give input to ensure that should other legislation or information is required to give comments, this be conveyed to the applicant.

The objectors cannot hold the Municipality accountable for the environmental process and decisions of which it is not the custodian of the environmental legislation. The objectors must follow due process as stipulated by the environmental legislation to address their environmental grievances. The objectors did not appeal the ROD.

REZONING

The applicant indicated in the environmental process that the property will be rezoned, which the Municipality indicated that it is not necessary. The history of Undetermined holdings was discussed and resolved with the establishment of an Integrated Zoning Scheme, first adopted in 2013.

During a meeting held at 10:00 in the Betty's Bay Library Hall, dated 29 August 2012 to discuss with various landowners on how to deal with the Undetermined holdings, the landowner's present were as follows:

- Mr KC Marzo,
- Ms Y Ruster,
- Mr AT James,
- Mrs LJ Lindsay,
- Mr R Rijke,
- Mr JH Dreyer,
- Mr M Schaefer,
- Mr A Loewy and
- Mr E Erasmus.

It was resolved that the category: Rural Zone 2: Conservation Use be incorporated to deal with the Undetermined zoned holdings. This was also conveyed during public meetings during the process of the drafting of an Integrated Zoning Scheme. During this process and subsequent amendments, this category has remained part of the Land Use Scheme to cater for the Undetermined zoned holdings within the area.

WEBSITE ADVERTISEMENT

Unfortunately, the requested advertisement did not appear on the website. The application was distributed to the Ratepayers Association, Ward Councillor and surrounding owners. The application was advertised and distributed in terms of the environmental legislation.

WASTEFUL EXPENDITURE

The applicant has paid its fees and submitted the required documentation for an application. It is for the Municipality to decide whether an application has sufficient information to be distributed. It is the prerogative of the objectors not to agree with the decision and can in the public participation process voice their opinion, but the underlying threat of wasteful expenditure because they do not agree with the first of all the application, the motivation and procedure is uncalled for. The Rural Zone 2: Conservation Use has been part of the Land Use Scheme since 2013, a process that started in 2009, thus many present landowners have bought their properties after 2009 or were swallows and at that stage had no interest in what is happening in the Overstrand.

The consent uses applied for on a commercial basis have subsequently been amended to own use as per the Record of Decision, issued on 13 April 2023. The land use application will thus restrict the recommendation to align with the Record of Decision.

The “Residential Complex” as per the EIA has nothing to do with a group housing development as per the Overstrand Land Use Scheme, but rather a description of the activities related to the residential component of the development. In terms of the Land Use Scheme, the applicant complies with the restriction of 800m² floor space. Floor space is defined in relation to any building means “*the area of the floor which is covered by a slab, roof or projections...*”, which the building footprint of the proposed development complies with.

SECOND DWELLING OF 250m²

The applicant is not restricted by the Title Deed with regard to a second dwelling, but the Land Use Scheme requires an application for a second dwelling. There is no restriction on the extent of the second dwelling in the Rural Zone 2 category. The request for a departure on the 120m² is not correct and is only applicable to Single Residential erven.

The land use category agriculture makes reference of additional dwellings of 250m² per unit. The latter will be applicable in this case due to the extent of the property namely 74,1783ha and will have little to no impact on the character on the area. The Provincial Department in terms of its Rural Policy recommends a structure of 175m² and is duly noted. The 250m² dwelling unit on agricultural land, relates to a dwelling unit for a family which can also be used as tourism accommodation.

The applicant did not apply for the removal of restrictive condition pertaining to business and thus will not be able to utilize the second dwelling as a self-catering unit. In terms of the Overstrand Land Use Scheme, a self-catering unit is deemed as a business activity and thus not allowable in terms of the Title Deed.

AGRICULTURE

Properties that allow beekeeping is urgently required in the Overstrand area. People are starting to keep bees on residential properties which is not allowed. The Municipality do allow for beekeeping on its agricultural land due to the extent of agricultural land and limit possible injuries by the bees if disturbed. At a stage a beekeeper did request to put beehives on open space land or within nature reserves, but this possibility is limited due to liability issues should a member of the public be attacked by bees from beehives allowed by the Municipality on public land. Thus, the application will provide an important service to ensure pollination of fynbos and safeguarding beehives.

The plant nursery was motivated to have a business component, but in terms of the ROD, it will only be for own use, similarly the harvesting of natural resources from the land and intensive horticulture and aquaculture activities. The plant nursery and aquaculture activities will only be 50m² in extent and will have little impact on the character of the area or the environment.

The Department of Agriculture supports a second dwelling of 175m² and had various questions with regard to the harvesting of natural flora; however this aspect has been addressed in the comments received from Cape Nature, the parastatal mandated with Biodiversity. The Department of Environmental Affairs and Development Planning: Directorate Planning also made reference of 175m² for a second dwelling as per the Rural Guidelines of the Western Cape. The Municipality take due cognisance of this guideline and comment, but it remains the prerogative of the Municipality in terms of land use applications to determine the development parameters.

ENVIRONMENTAL OVERLAY ZONE: BUFFER ZONE:

The property is located within the Buffer zone, which makes provision for activities with Council's consent. The application is for consent uses with the limitation of the uses and extent as per the Record of Decision.

CONCLUSION

The objection relates predominantly to the environmental impact of the proposed land use application. The applicant went through the required NEMA process, and a Record of Decision was issued. The objectors did not appeal the decision. The application in terms of the Overstrand Land Use Scheme are in line with the zoning, however the development parameters and land uses are restricted to the Record of Decision.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 156 of the Farm Hangklip No. 559 for a consent use to allow tourist accommodation, **not be approved**, in terms of the provisions of Section 61;

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 Portion 156 of the Farm Hangklip No. 559 for a consent use to accommodate a second dwelling unit, agriculture to permit beekeeping, harvesting of natural resources to permit small-scale flora harvesting, intensive horticulture to permit the cultivation of flora, aquaculture to permit cultivation and breeding of water flora and fauna, and a plant nursery for own use, **be approved** in terms of the provisions of Section 61;
3. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 156 of the Farm Hangklip No. 559 for a departure to exceed the maximum permissible size of a second dwelling unit from 120m² to 250m², **be approved** in terms of the provisions of Section 61;
4. that the approvals in Points 2 and 3 above be subject to the following conditions:
 - (a) that the consent use be limited as follows:
 - second dwelling - 241m²;
 - plant nursery and Khoi nursery - 50m²;
 - harvesting of natural resources limited for own use;
 - intensive horticulture of indigenous fauna and flora for own use;
 - aquaculture for water plants and koi fish for own use, and
 - agriculture for beekeeping only.
 - (b) that the development footprint be restricted as per ROD approval dated 13 April 2023;
 - (c) that building plans be submitted to the Building Department for approval, and that any conditions by the Fire- and Building Departments be complied with at that stage;
 - (d) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (e) that the EMP be submitted to the Municipality as approved by the Western Cape Government: Department of Environmental Affairs and Planning;
 - (f) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (g) that the owner is responsible for all sewerage generated on the property, and disposal therefore at a licensed municipal sewerage treatment facility;
 - (h) that the conditions in the Western Cape Government: EADP (Environmental) - EIA ROD (attached as Annexure G) be complied with;
 - (i) that the conditions imposed by BGCMA (attached as Annexure J) be complied with;

- (j) that all the conditions imposed by Cape Nature (attached as Annexure L), be complied with, and
 - (k) that all the conditions in the Services Report (attached as Annexure M), be complied with.
 - (l) that all the conditions imposed by the National Department of Water and Sanitation (attached as Annexure N) be complied with.
5. that the applicant and objectors be notified of his/her 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 decisions.

14. REASONS FOR RECOMMENDATION

POINT 1

The title deed restricts any business activities on the property and the application did not address this aspect.

POINT 2 & 3

- The application for the consent uses is in line with the planning documents.
- The applicant was issued with an ROD.
- Cape Nature, the parastatal dealing with Biodiversity, supports the application.
- The activities and footprint are negligible in terms of the extent of the property.
- The activities proposed is for own use and not commercial purposes.
- The Water License was obtained by the applicant for the proposed activities.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Objections received
Annexure E:	Applicant's response to the objections received
Annexure F:	Western Cape Government: EADP (Planning)
Annexure G:	Western Cape Government: EADP (Environmental)
Annexure H:	Western Cape Government: Transport and Public Works
Annexure I:	Western Cape Government: Agriculture
Annexure J:	BGCMA
Annexure K:	Telkom
Annexure L:	Cape Nature
Annexure M:	Services Report
Annexure N:	National Department of Water and Sanitation
Annexure O:	Confirmation no Appeal was lodged against the ROD

SIGNATURE

REGISTERED PLANNER

Name: **H VAN DER STOEP**

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

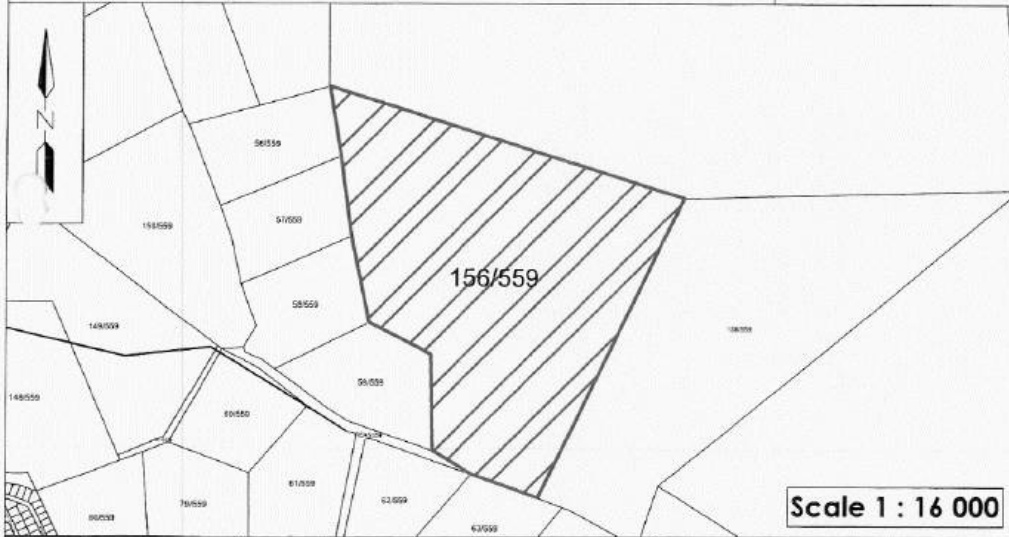
Signature: _____

Date: _____

Annexure A

Locality Plan
Portion 156 of the Farm 559, Caledon

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





MOTIVATION

1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
By-Law	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
WCLUPGRA	Western Cape Land Use Planning Guidelines Rural Areas, 2019
MSDF	Overstrand Spatial Development Framework, 2020

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Owner	Mr Brandon Topham
Property	Portion 156 of the Farm Hangklip 559, Caledon
Extent	74,1783ha
Zoning	Rural Zone 2: Conservation Usage

3. BACKGROUND AND INTENT

Portion 156 of the Farm Hangklip 559, Caledon, hereafter referred to as the subject property, is located in a rural area of Pringle Bay (refer **Plan 1**). The property owner appointed the consultant to submit this land use application on his behalf (refer **Annexure A – Power of Attorney**).

The property owner bought the property in 2021 and it was registered in 2022. The property owner has a vision to create a unique property and utilise the space available, identified suitable for development. The property is proposed to be utilised for various land uses that are aligned with the current zoning of the subject property, which include Agriculture, Harvesting of natural resources, Plant Nursery, Intensive Horticulture, Aquaculture, Tourist Accommodation, and a Second Dwelling Unit.

To ensure compliance with the OMLUS, approval for the following applications will be required:

- Consent Use to allow Agriculture, Harvesting of natural resources, Plant Nursery, Intensive Horticulture, Aquaculture, Tourist Accommodation, and a Second Dwelling Unit; and
- Departure to allow a second dwelling unit larger than 120m².



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4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT

4.1 Consent Use to allow a Second Dwelling Unit on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

Departure from the provisions of the OMLUS to only allow a 250m² second dwelling unit on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and

Consent Use for tourist accommodation on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The subject property has a primary right to build a main dwelling house on the subject property and the property owner's vision is to have more than the single residential unit on the subject property. The OMLUS allows for a second dwelling unit to be applied for, but it is proposed to apply for a departure of the maximum allowable floor area (footprint) to increase the limit from 120m² to 250m².

The 120m² is an understandable limitation in an urban setting, but the subject property has sufficient area to allow for a larger second dwelling unit with a maximum footprint of 250m², which is aligned with the extent allowed for Agricultural additional dwelling units in the Overstrand area.

According to the OMLUS a 'second dwelling unit' is defined as the following:

"Second Dwelling Unit" means a dwelling unit which may, in terms of this land use scheme, be erected on a land unit where a dwelling house is permitted, and such second dwelling unit may be a separate structure or may be contained in the same structure as the dwelling house..."

Section 16.10 of the OMLUS states the following:

The following additional development parameters apply to a second dwelling unit:

- a) The total floor area (footprint) of the second dwelling unit shall not exceed **120 m²**;
- b) A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor;
- c) A second dwelling unit may not be separately alienated in terms of the Sectional Title Act;
- d) Parking must be provided on the property as per Chapter 17, Section 17.1.3, to the satisfaction of the Municipality, and
- e) A second dwelling must be located within the applicable building lines.

It is proposed to increase the allowable floor area (footprint) of the proposed second dwelling unit from 120m² to 250m².

The property owner has a vision to utilise the second dwelling unit for renting to transient guest that will utilise the second dwelling unit for self-catering purposes. Other times the



MOTIVATION

property owner would utilise the second dwelling unit as a place for family to stay over and utilise during off seasons.

Currently there is no building on the subject property.

4.2 Consent Use to allow Agriculture on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

Consent Use to allow Harvesting of Natural Resources on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

Consent Use to allow Intensive Horticulture on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

Consent Use to allow Aquaculture on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and

Consent Use to allow Plant Nursery on Portion 156 of the Farm Hangklip 559, Caledon in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

In addition to the consent use for a second dwelling unit, the property owner wants to utilise his property to its maximum potential. The property owner is an avid outdoor person and bought the property to retire while being able to have access to various outdoor activities and land uses.

To ensure the property owner is able to utilise his property as envisioned, consent uses are required to be applied for. The following consent uses are proposed:

- The first being 'Agriculture':

*"Agriculture" means the cultivation of land for crops and plants, including plantations, the keeping and breeding of animals, **beekeeping**, bird farming or the operation of a game farm, may comprise natural veld and includes only such activities and buildings as are reasonably connected to the main farming activities such as residential accommodation for the farmer, farm manager and farm labourers and the packing of agricultural produce grown on the property but excludes intensive horticulture, intensive animal farming, agricultural industry, and a farm shop.*

The applicant envisions utilising several small portions of his property for beekeeping in the future. The bees will aid in pollination of the surrounding vegetation and will allow the owner to harvest the honey for personal use and possibly sell at farmers markets or to residents in the area.



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- The applicant has a vision to utilise his property for small scale harvesting of flora, requiring the following consent uses:

"Harvesting of Natural Resources" means the gathering of flora and/or fauna for sale to or use by a person or agency other than a recognised environmental agency, provided that such harvesting:

- (i) is sustainable;
- (ii) does not cause the resources to be utilised below acceptable levels; and
- (iii) is not detrimental to the eco-system.

The property owner wants to utilise Intensive Horticulture and Aquaculture to produce water fauna and flora. These will be utilised personally and sold at the proposed Plant Nursery, the definition of the following is:

"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;

"Aquaculture" means the cultivation and breeding of water flora and fauna and the harvesting thereof for commercial purposes under the following controlled circumstances:

- (i) in artificially built dams or holding tanks; or
- (ii) suspended from floating supports; and

"Plant Nursery" means a property or part thereof which is utilised primarily for the propagation and sale of plants and sale of gardening products.

All these land uses are interlinked and interdependent of one another and the property owner is not attempting to establish a large-scale agricultural development, but only to keep himself busy while being able to make a difference in the surrounding area by supplying fresh produce.

The scale being proposed is a 50m² small green house that will be used by the property owner for Intensive Horticulture, Aquaculture and Plant Nursery. The green house will be located within the development footprint discussed below.

The reason a large-scale agricultural development is not proposed and not desired is as a result of the Basic Assessment Report that was submitted by an environmental consultant and a development footprint of approximately 4000m² was identified through professional studies and inputs, refer to **Plan 4 – Site Plan**.



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5. APPLICATION

Considering the above, application is made, on Portion 156 of Farm Hangklip 559, Caledon, for the following:

- 5.1 In terms of Section 16(2)(c) of the Overstrand Municipality My-Law on Municipal Land Use Planning, 2015 as amended:
 - 5.1.1 Consent Use to allow a **Second Dwelling Unit**;
 - 5.1.2 Consent Use for **Tourist Accommodation**;
 - 5.1.3 Consent Use to allow **Agriculture**;
 - 5.1.4 Consent Use to allow **Harvesting of Natural Resources**;
 - 5.1.5 Consent Use to allow **Intensive Horticulture**;
 - 5.1.6 Consent Use to allow **Aquaculture**; and
 - 5.1.7 Consent Use to allow **Plant Nursery**;
- 5.2 In terms of Section 16(2)(b) of the Overstrand Municipality My-Law on Municipal Land Use Planning, 2015 as amended:
 - 5.2.1 **Departure from the provisions of the OMLUS** to allow a 250m² second dwelling unit.

6. LAND USE ENVIRONMENT

The properties surrounding the subject property is a mixed-use rural area with various zonings which include Rural Zone 2: Conservation Usage, Community Zone 1: Community Facilities, Agricultural Zone 1: Agriculture and several Undetermined zoned properties. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan). The proposed consent uses, and departure are not out of the ordinary and is allowed in terms of the OMLUS. Refer **Annexure B – Zoning Certificate**.

7. TITLE DEED

Title deed T1513/2022 (refer **Annexure C – Title Deed**) was perused and there were no restrictive title deed conditions that would prohibit the Municipality to allow these consent uses and departures.

8. ZONING

The following zoning parameters were assessed in conjunction with the R2 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:



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RURAL ZONE 2: CONSERVATION USAGE (R2) Land Use Restrictions		
Primary use	Parameters	Proposal
Consent use that may be applied for	<p>Conservation Use, Dwelling House, Guest Rooms and Home Occupation</p> <p>Agriculture, Aquaculture, Day Care Centre, Harvesting of Natural Resources, Intensive Animal Farming, Intensive Horticulture, Place of Assembly, Place of Entertainment, Place of Instruction, Plant Nursery, Recreational Facilities, Second Dwelling Unit, Tourist Accommodation, Tourist Facilities, Transmission Apparatus, And Utility Services.</p>	<ul style="list-style-type: none"> Conservation Use; Dwelling House; and Home Occupation. Agriculture; Harvesting of natural resources; Plant Nursery; Intensive Horticulture; Aquaculture; Tourist Accommodation; and Second Dwelling Unit.
Floor space	<p>Development parameters</p> <p>The total floor space of all buildings on the land unit may not exceed 800 m², provided that the Municipality may relax this requirement if it is satisfied that such accommodation is required for bona fide conservation and/or farming activities on the land unit.</p>	<p>Proposed Main Dwelling Unit – 399m² Proposed Second Dwelling Unit – 241m² Proposed Green House – 50m² Total Floor Space – 645m²</p>
Coverage	<p>The maximum coverage for all buildings on the land unit is 25%.</p>	<p>Remaining Floor space – 155m² Extent - 74,1783ha</p>
Building lines	<p>(i) The building lines shall be 10,0 m. (ii) Where the configuration of the land unit is of such a nature that alternative building lines need to be considered, the Municipality may</p>	<p>Proposed Floor Space – 645m² Proposed Coverage – 0,087% 10m building line is being adhered to.</p>
		<p>Comply</p> <p>Applied and motivated for</p> <p>Comply</p> <p>Deviation required: Applied for and motivated</p> <p>Comply</p> <p>Comply</p>



MOTIVATION

	<p>approve such alternative building lines to permit the use of the property as defined in this zone, provided that where Rural Zone 2 abuts an urban area, the building lines of the adjacent property shall apply along the shared boundary.</p> <p>(iii) The general building line exemptions in 16.1 shall apply.</p>		
<p>Height</p>	<p>(i) The maximum height of a building, measured from the base level to the top of the structure, is 8.0 m.</p> <p>(ii) Where the Municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height.</p>	<p>Structure will comply with the maximum height requirement, building plans will be submitted and allowed to be scrutinized by the OM Building Control Department.</p>	<p>Comply</p>



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9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Electricity

ESKOM has confirmed that there is sufficient capacity to connect to their network.

Water

The subject property is not able to be connected to the OM's network and the proposal is to utilise harvested rainwater, stored in water tanks and utilising boreholes (still to be drilled) to supplement if rainwater is found not to be sufficient.

A filtration system will be installed to ensure all water collected or pumped is fit for human consumption.

Sewage

Sewage will be stored on site in a conservancy tank that will be serviced by the OM and the property owner will pay for the emptying thereof.

Solid Waste

Solid waste will be collected, compostable waste will be reused on the subject property, while recyclable and non-recyclables will be separated on site and moved to a municipal transfer station by the property owner.

Access and Egress

Access and egress to the subject property is gained from an unnamed gravel road running along the southern boundary of the subject property and the proposal will not affect this.

10. 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

The need for the land use application was a result to address all the land use requirements and ensuring the property meets all the needs of the property owner. The desirability is more often a personal feeling of the property owner. The property owner's vision and the applications required are indicated in Section 4 of this report. It is not expected that the proposal will benefit or have a negative effect on any other users or person.

To achieve his vision, the property owners have appointed WRAP Project Office to submit this application to ensure the proposed development is not in contradiction to any policies, legislation, or title deed conditions.



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Impact on views, sunlight and character of the area

The subject property is located in a rural/agricultural setting and the proposed buildings will comply with the OMLUS's development parameters ensuring no views, sunlight, or the character of the area is affected.

The envisaged structures are not proposed to be out of the ordinary for the area and will fit into the character of the Hangklip area.

Economic impact

The proposal is not predicted to have a large impact on the economy, but the construction will create temporary employment opportunities and the sale of produced and harvested produce will create an income for the owner.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties and having another occupied property in the area is predicted to have a positive impact on the general security of the area.

Impact on heritage

The subject property is not listed in the OM Heritage Register.

Environmental impact

The subject property is located within an environmentally important area. A Basic Assessment is being conducted by the appointed environmental consultant, Mr Duncan Heard of Duncan Heard Environmental Consulting. The report will be submitted to DEADP and their response will be submitted to the OM once it is available.



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11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

A portion of the subject property is not located within the Protected Area Buffer EMOZ. The purpose of this 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.

To ensure compliance with the guidelines set out in the EMOZ the application was evaluated in terms of the provisions of Schedule A & B of the Environmental Management Overlay Zone 2020:

SCHEDULE A PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES		
Prohibited Activity	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	The property owner will use the property for various agricultural related activities, as mentioned earlier within the application. It is however not predicted that water logging and siltation will occur.
Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	N/A
Development or agriculture on slopes steeper than 1:4.	X	N/A
Establishment of Informal settlements or Temporary Relocation Areas.	X	N/A
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.	X	N/A
Placement of religious symbols or memorabilia.	X	N/A
Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.	X	N/A
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X	N/A



MOTIVATION

Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X	N/A
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X	N/A
Feeding, disturbing / pursuit of fauna.	X	N/A
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.	X	N/A
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	N/A
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.		N/A
Staying overnight.	X	The entire subject property is located within the zone.
The discharging of domestic effluent / grey water into all natural systems.	X	N/A
Tampering with security / surveillance infrastructure.	X	N/A
Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	N/A
Graffiti, vandalism or damaging of municipal infrastructure.	X	N/A
Littering	X	N/A
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	N/A
Dog walking / exercising of dogs in non-designated zones.	X	N/A

SCHEDULE B ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES		
A) Activities Only Permitted With Council Consent	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.		N/A



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Removal or destruction of vegetation which is protected and/or of conservation concern.	X	N/A
Dune maintenance on private land as per approved dune maintenance management plans.		N/A
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	N/A
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	This is noted and will not occur on the subject property.
B) Permit Upon Approval By Delegated Authority and / Receipt of Tariff	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	N/A
Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.	X	N/A
Commercial filming.	X	N/A
Construction or placement of any temporary object, building, shelter, path or structure.	X	N/A
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas.	X	N/A
Launching of vessels at registered launch sites.		N/A
C) Council Authorisation Pending Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Protected Area Buffer	
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	N/A
Application for the designation of industrial sites and activities associated with the seaweed harvesting.	X	N/A



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collection, drying, transport and processing fishery.		
Encroachment of private buildings, structures, infrastructure, access routes.	X	The entire proposed development is within the zone.
Commercial Harvesting/collection and removal of any natural resource.	X	N/A
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	The entire proposed development is within the zone.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is located within two HPOZ's, Hangklip Smallholding Area HPOZ and Landscapes HPOZ. The entire subject property is located within the landscape HPOZ, and it is predicted the subject property will not have a further impact on the HPOZ.

The purpose of the Landscapes HPOZ is to ensure that any land use application resulting in additional rights complies with the existing character and contextual significance.

To ensure the application may be considered, compliance with the HPOZ it is of importance and certain aspects need to be provided and addressed in terms of Overstrand Municipality Heritage Protection Overlay Zone Regulations, 2020:

Section 20 – 22 states the following -

"20

The Overstrand Municipality By-Law on Municipal Planning, 2020, will apply in respect of all applications, processes and decisions contemplated in these regulations.

21

In considering an application for written consent in order to undertake an activity in terms of the Heritage Protection Overlay Zone, the Municipality may require from an applicant whatever information it deems necessary in order for an informed decision to be made regarding the application.

22 This could include, *inter alia*:

- 22.1 statements of significance;
- 22.2 heritage research;
- 22.3 photographs, including contextual photographs;
- 22.4 results of public consultation;
- 22.5 impact assessments; and
- 22.6 comment from affected and interested bodies."

Statements of Significance

The heritage significance of the subject property is not large. The area is proposed to be marginally developed (0,09%) and will be used for mainly residential and agricultural related activities.



MOTIVATION

Heritage Research

No specific heritage research has been done.

Photographs, Including Contextual Photograph

Aerial maps were included into the application, refer to Plan 3 – Aerial Plan.

Results of Public Consultation

Regarding this application, an extensive public participation process will be held. If any comments are received with regard to the heritage aspect it will be addressed accordingly.

Impact Assessments

None has been submitted in terms of heritage.

Comment From Affected and Interested Bodies

The application will be circulated to interested and affected bodies for comment.

The Hangklip Smallholding Area HPOZ's purpose is to ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

To protect and enhance the high visual and natural environmental quality of the smallholdings area at the strategic interface with the Kogelberg Biosphere Reserve.

The proposal is not predicted to have a significant impact on the Hangklip Smallholding Area HPOZ, the proposal will take into account the requirements set out by the Overstrand Municipality Heritage Protection Overlay Zone Regulations 2020.

11.3 Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

The Western Cape Land Use Planning Guidelines Rural Areas, 2019 (WCLUPGRA) is also an important policy that is required to be aligned with. The property owner will ensure alignment with the requirements set out throughout the guidelines, which include sustainable farming, agriculture and other guidelines applicable to the proposed development.



MOTIVATION

12. 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

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to develop a historically undeveloped property will not contribute to past spatial injustices.

Spatial sustainability

Spatial sustainability refers to planning proposals that result in communities that are viable. This proposal is utilising the property to its maximum potential for the first time as the property has not been developed yet. The proposal will also ensure sustainable agricultural related activities.

Efficiency

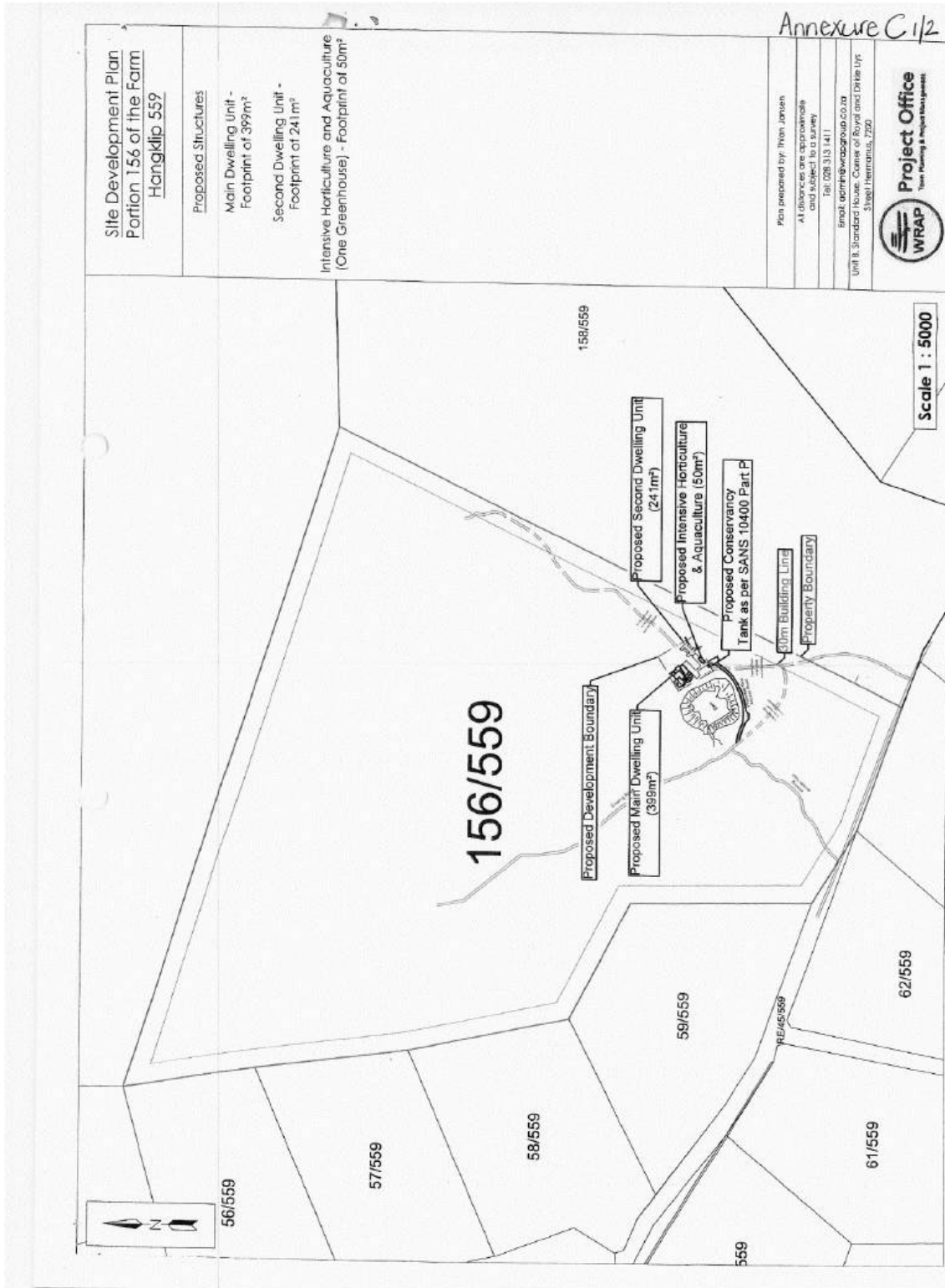
This proposal is intended to maximise the usage of the subject property and to ensure the landowners' requirements are met.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

Good administration

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process. The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



Site Development Plan
 Portion 156 of the Farm
 Hangklip 559

Proposed Structures

- Main Dwelling Unit -
Footprint of 399m²
- Second Dwelling Unit -
Footprint of 241m²

Intensive Horticulture and Aquaculture
 (One Greenhouse) - Footprint of 50m²

Plan prepared by: Iren Jansen
 All distances are approximate
 and subject to a survey
 Tel: 028 3131411
 Email: admin@wrap.co.za
 Unit B, Standard House, Corner of Royal and Drake Lys
 Street, Hermanus, 7200

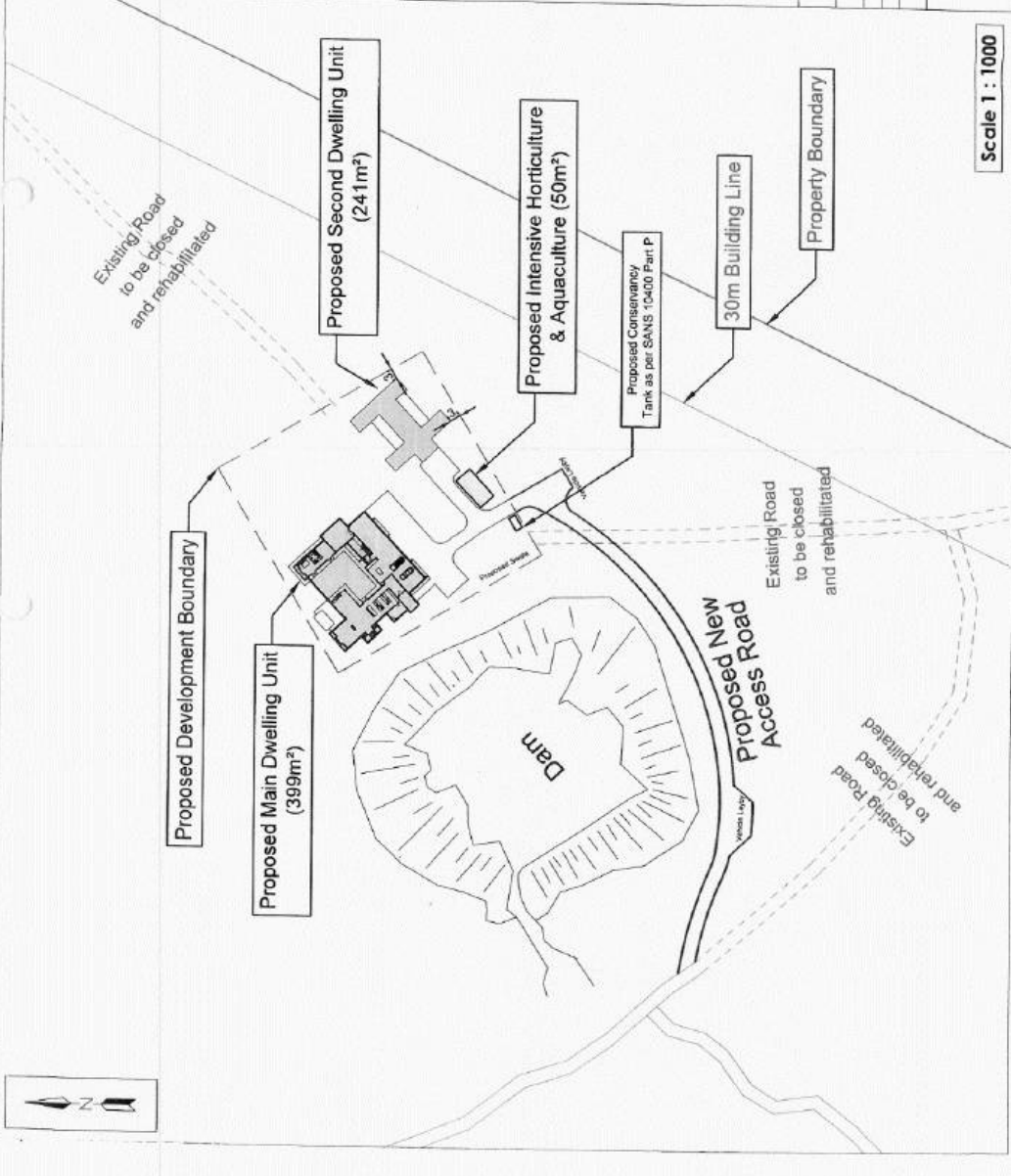


Project Office
 Town Planning & Project Management

Scale 1 : 5000

Annexure C 1/2

<p>Inset of Site Development Plan Portion 156 of the Farm Hangklip 559</p>	
<p>Proposed Structures</p> <p>Main Dwelling Unit - Footprint of 399m²</p> <p>Second Dwelling Unit - Footprint of 241m²</p> <p>Intensive Horticulture and Aquaculture (One Greenhouse) - Footprint of 50m²</p>	<p>Prepared development footprint (400m²)</p>
<p>Plan prepared by: Jihen Jansen Based on plans from Schoonwaalstorch Version 1 - May 2022 All distances are approximate and subject to a survey Tel: 082 313 1411 Email: admin@wrapgroup.co.za Unit 8, Monroed House, Corner of Royal and Dree-Uv Street, Hermanus, 7200</p>	
<p>Project Office WRAP Water Planning & Project Management</p>	



Scale 1 : 1000

Annexure D 1/16



L Gillion

From: rera.chair <rera.chair@rooiels.org.za>
Sent: Thursday, 11 August 2022 09:04
To: L Gillion
Cc: Eldie Brink
Subject: Objection to Application for Portion 156 of Farm Hangklip 559
Attachments: RERA Portion 156 Objections dated 10 Aug 2022.docx

PORTION 156 OF THE FARM HANGKLIP 559: APPLICATION FOR CONSENT USES AND DEPARTURE

The Rooiels Ratepayers' Association objects to the application as set out below.

We request that the application be referred back to the applicant as being a non-compliant application.

Please see our rationale in the attached letter.

Yours sincerely,

Kay Leresche

RERA Chairperson

FILE NO.	PAW 156	559
Hangklip		
SCAN NO.	02	
COLLABORATOR NO.	1729052	

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11 AUG 2022



Rooiels Ratepayers' Association / Rooiels Belastingbetalersvereniging.

The Municipal Manager
Overstrand Municipality
loretta@overstrand.gov.za

PO Box 89
Pringle Bay
7196
ra.chair@rooiels.org.za

10 August 2022

PORTION 156 OF THE FARM HANGKLIP 559: APPLICATION FOR CONSENT USES AND DEPARTURE

The Rooiels Ratepayers' Association objects to the application as set out below.

We request that the application be referred back to the applicant as being a non-compliant application.

1. APPARENT NON-COMPLIANT TOWN PLANNING APPLICATION

1.1. It remains a matter of great concern to us, that land use applications, that apparently do not comply with the title deed conditions and OM Zoning Scheme Regulations, are nevertheless accepted and advertised for objections by your town planning department.

Your town planning department should have known that those applications in question were non-compliant.

The procedure is as follows: After objections to the first non-compliant application are made, the application is then withdrawn and a second application is resubmitted after undergoing cosmetic changes, but being substantially the same as the first.

In the process objectors waste substantial time and funds with repeat non-compliant applications.

1.2 Despite a number of complaints having been to date lodged with the OM on this issue, the present application is in our opinion another such non-compliant example, where an exploratory application is lodged to test the reaction, and apparently allowed to be advertised as such by the OM Planning Department:

1.2.1. No title deed was submitted with the advertised documentation which will enable the ratepayers to assess the application (in fact, as on 5 August 2022, a week before due date for objections, the application does not even appear on the OM website).

1.2.2 The applicant town planner has apparently perused the title deed and found that there were no title deed conditions that prevented the OM from approving the consent uses and departure.

We draw the attention to title deed condition D.5 which reads:

11 AUG 2022

"No shops, public garages or filling stations, business premises, canteens, bioscopes, factory or industrial buildings shall be erected on the land nor shall any such business or public entertainment be conducted on the land."

We submit that a consent use "Tourist Accommodation" business and "Plant Nursery" business may possibly not be compliant with the title deed conditions.

1.2.3 A Conveyor's Certificate, setting out whether some of the present applied for consent uses such as "Tourist Accommodation" and "Plant Nursery" do not constitute "business premises" and "such business" should have been required and advertised by the Planning Department.

It cannot merely depend on a statement by the applicant, who may not be skilled in law.

1.2.4 The application cannot be assessed without the required environmental assessments, and the OM Planning Department should not have further processed the application for advertisement.

In the present application for consent uses, the clearing of areas of land for roads and buildings apparently in excess of 300 sq. m is planned.

The OM Planning Department in our opinion has the powers to refer a non-compliant application back. It is under no obligation to advertise a non-compliant application.

Sec 39(1) (i) of the OM Municipal Land Use Planning by-law gives the Planning Department the power: "any other plans, diagrams, documents or information that the Municipality may require;"

1.2.5 Only a vague reference to the assessment is made. The Planning Department should not have accepted this vague statement.

The previous public participation process was for purposes of a "residential complex" of a scale of 4000 sq. m floor coverage and 1000 sq. m roads. The process was severely criticised by three ratepayer bodies, including ourselves.

The present application requires different kinds of assessments as set out below. The previous assessment will not be sufficient for ratepayers and the MPT to assess the present application.

1.2.6 As also set out below, certain consent uses are applied for, for which are required environmental impact assessments in terms in terms of the NEMA Listing Notices.

NEMA Listing Notice 1 will apply i.ro. an aquaculture consent use application and NEMA Listing Notice 3 will apply i.r.o the clearing of land in excess of 300 sq. m.

This application is being advertised without the proper public participation process having been followed and apparently without an assessment report having been obtained.

Nor is it presented with the advertised documentation

1.3 We request that the application be referred back to the applicant.

2. DIFFERENT CONSIDERATIONS APPLY, DEPENDING ON DIFFERENT CONSENT USE APPLICATIONS.

As set out below, different considerations apply, depending on different consent use applications.

Each consent use will require an individual motivation. We name but two of the present uses that are applied for:

2.1 Aquaculture - This is a special subject, requiring an environmental assessment in terms of NEMA Listing Notice 1, together with detailed motivation as to desirability,

2.2 Tourist Accommodation – The considerations for this consent use are quite different from aquaculture. Full details of the planned activity need to be submitted to enable that MPT to assess the application.

In October 2020, in terms of the OM Scheme Regulations as they then read, the MPT approved a “tourist accommodation” consent use for a dwelling in Pringle Bay, but subject to special conditions, that the approval be limited to the existing dwelling and limited to six (6) guests with a maximum of two (2) vehicles.

The applicant gives no details with the present application.

3. SUFFICIENT AND REASONABLE RESTRICTIONS MUST BE ADDED TO THE CONDITIONS OF APPROVAL

3.1 A consent use to enable the development of certain activities on the property should not have a detrimental impact on the existing properties, and should not constitute an unreasonable addition to the area in terms of privacy and protection of the existing character and visual quality of the area.

3.2 Sufficient and reasonable restrictions must be added to the conditions of approval for such application.

3.3 The property is classified as a Critical Biodiversity Area, and it is situated in the critical “Zone of Influence” of the Kogelberg Biosphere Reserve.

We see no evidence that the applicant has considered these aspects.

3.4 Furthermore as set out below, because of the paucity of information presented, ratepayers are not enabled to propose such reasonable restrictions.

4. MISUSE OF THE APPLICATION PROCESS

4.1 A pre-application Draft Base Assessment for a “residential complex” on nearly 4 000 sq. m of floor space with nearly 1000 sq. m of roads was severely criticised by RERA for misuse of the application process in its comments to the applicant on 22 April 2022.

This was while the motivation was ostensibly for a family residence plus one more dwelling.

4.2 We severely criticized on 23 April 2022 a PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT: PUBLIC PARTICIPATION PROCESS for the present property, inter alia as follows:

“It is not appropriate to use the application process in a way that appears to be seeing what it might be possible to achieve without ever clarifying the actual purpose of the application. This is time-consuming and involves a significant time investment for all those now having to assess this application”.

4.3 This application would appear to be a repetition of the applicant misusing the application process.

4.4 We are sceptical as to whether the applicant is not using this process to engineer his previously declared intention (to develop a “residential complex”) in a roundabout way by first obtaining multiple consent uses and then having building plans for dwelling units approved afterwards.

4.5 The numerous, apparently labour-intensive consent uses that are applied for, will, whether they are actually put into operation or not, pave the way for an application to have building plans approved for a quantity of farm workers’ cottages.

These farm workers' cottages could then be converted to additional dwelling units, contrary to the title deed conditions and OM Zoning Scheme Regulations.

5. APPROVAL OF CONSENT USES SHOULD BE CONSIDERED INDIVIDUALLY

5.1 The applicant should be able to apply successfully for a specific motivated consent use.

5.2 Instead he is applying for a blanket consent use for all possible future uses for which he has a "vision" (sic).

5.3 In view of the previous application, where the objection was that the applicant was apparently not disclosing his true intentions, this application should be viewed with circumspection.

5.4 A number of consent uses are applied for, under a single or blanket motivation.

5.5 When a municipality assesses land use applications, they must, in terms of the provincial Land Use Planning Act, have regard to at least the considerations in para 5.6 hereunder.

5.6 The act reads:

"Basis of assessment of land use applications

49. When a municipality considers and decides on a land use application, the municipality must have regard to at least—

- (a) the applicable spatial development frameworks;
- (b) the applicable structure plans;
- (c) the principles referred to in Chapter VI;
- (d) the desirability of the proposed land use; and
- (e) guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use"

5.7 We draw the attention to the consideration of desirability in (d) and submit that the consideration of desirability is affected by the nature of the consent use applied for.

5.8 A proper motivation of the planned use should be submitted and each use should be separately assessed.

This cannot be done with the sweeping, broad submissions by the applicant.

5.9 Without being comprehensive, the following list of considerations, which differ according to the nature of the uses, should have been addressed in separate motivations by the applicant:

5.9.1 Aquaculture- There are various considerations in assessing the desirability of Aquaculture, so much so that an environmental assessment in terms of NEMA Listing Notice 1 is required.

This may also require separate conditions to be set by the MPT, to ensure that the use is nevertheless in compliance with the Conservation Zoning of the present property.

All this is lacking in the present application.

5.9.2 Second Dwelling – What is it to be used for? Will it be for the tourist accommodation?

5.9.3 Tourist Accommodation - In October 2020, in terms of the OM Scheme Regulations as they then read, the MPT approved a "tourist accommodation" consent use for a dwelling in Pringle Bay, but subject to special conditions, that the approval be limited to the existing dwelling and limited to six (6) guests with a maximum of two (2) vehicles.

The applicant gives no details with the present application which the MPT can consider.

5.9.4 Plant Nursery – What will be the source of the nursery stock? Will the plants be grown on the property, or will it be bought in? Will the nursery be open to the general public? Is a coffee shop and other attractions for the public envisaged? This is part of a critical biodiversity wetland hotspot – it is important that the plants produced are not alien invasives, extra limital relatives, or hybrids that can all have negative impacts on the gene pool and status of surrounding fynbos.

Without the details the MPT is not put in a position to assess desirability and to set conditions that would ensure that the use is in accordance with the Conservation Usage zoning.

5.9.5 Agriculture, Harvesting of Natural Resources, Intensive Horticulture – All these uses appear to be labour intensive, and a number of farm workers may have to be accommodated on the property.

How many dwellings are required and planned, and how will they fit in with the 850 sq. m floor area limitation per the Scheme Regulations, given that the two dwellings will already cover 640sq. m?

6. IS FULL DISCLOSURE OF INTENTIONS MADE IN THE APPLICATION?

6.1 We are of the opinion that the present application is tainted by the lack of disclosure of the applicant's true intentions in the previous, connected application for an environmental assessment.

6.2 In that application the intention was to clear 4 000 sq. m for floor coverage for a "residential complex" together with 1 000 sq. m for roads.

Ostensibly this was just to house two dwellings. Objectors simply did not believe this.

6.3 We are sceptical that the applicant may be trying to achieve multiple dwellings in a roundabout way through farm workers' cottages. It is apparently a ploy, after multiple consent uses have been obtained to motivate multiple farm workers, to hand in building plans for multiple farm workers' cottages, that are then subsequently upgraded for a different market.

7. ONUS OF MOTIVATION

We would please draw the attention to the following:

7.1 The onus is on the applicant to motivate compliance with the above whilst fully disclosing the extent of the planned use.

7.2 The onus is not on objectors to motivate non-compliance. Objectors have merely to draw the attention to the requirements, in order to trigger a requirement from the applicant to motivate.

7.3 In view of the paucity of information presented, our objection may not address all possible considerations.

Yours faithfully,

Kay Leresche, Chairperson Rooiels Ratepayers' Association

L Gillion

From: Bertie Vorster <bvossie04@gmail.com>
Sent: Thursday, 11 August 2022 20:08
To: L Gillion
Cc: chairman@pringlebayratepayers.co.za; Heather Morkel
Subject: Portion 156 of Hangklip 559 (Consent Uses & Departure): Request for comment
Attachments: PBRA Comments - Portion 156 - Consent Use and Departure - 12 Aug 2022 - FINAL.pdf

Dear Ms Gillion

Please refer to your unnumbered Notice received via email on 5 July 2022 from your Ms Loriaan Isaacs related to Portion 156 of the Farm Hangklip 559, Division Caledon (refer to trailing email).

As per the subject notice, we, the Pringle Bay Ratepayers' Association (PBRA), Po Box 409, Pringle Bay, 7196 hereby submits our comments in accordance with the stipulation in the subject Notice.

The attached document titled "**PBRA Comments - Portion 156 - Consent Use and Departure - 12 Aug 2022 - FINAL.pdf**" addresses our interest in the application, and our comments on the subject application.

Through this submission we consider ourselves as a registered party wishing to receive all future relevant communication in this regard. We kindly request that communications via email to chairman@pringlebayratepayers.co.za and CC vicechair@pringlebayratepayers.co.za , and secretary@pringlebayratepayers.co.za

We sincerely request that you acknowledge by return email that you have received this email as well as the mentioned attachment.

Yours Sincerely

AW Vorster
 PBRA Vice Chairman
 MOB: +27 (0)82 593 1575

FILE NO. PIN 156 559
Hangklip ✓
SCAN NO.
Vorster
COLLABORATOR NO.
1729687

On 05 Jul 2022, at 09:32, Loriaan Isaacs <loriaanisaacs@overstrand.gov.za> wrote:

Dear Sir / Madam

Attached please find a copy of the application for your attention. Kindly provide the Ratepayer Association's comments directly to Loretta Gillion (loretta@overstrand.gov.za) on or before **12 August 2022**.

NB: Kindly provide all comments in English. Your comments, as received, are copied straight into the Land Use Planning Reports.

Also note that notice will be available on the municipal webpage at the following link:<https://www.overstrand.gov.za/en/documents/town-planning/land-use-planning-applications>

12 AUG 2022



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: 083 556 3345

12 August 2022

THE MUNICIPAL MANAGER
 OVERSTRAND MUNICIPALITY
 HERMANUS
 7200

PER EMAIL: loretta@overstrand.gov.za

**PORTION 156 OF FARM HANGKLIP 559, DIVISION CALEDON: APPLICATION FOR CONSENT
 USES AND DEPARTURES: WRAP (obo B TOPHAM): COMMENTS**

1. ORGANISATION

The Pringle Bay Ratepayers' Association (PBRA) was started in the late 1960s by the first residents of Pringle Bay to represent the interests of ratepayers and residents. Today it is a registered Non-profit, Public Benefit Organisation.

The PBRA represents the ratepayers within the declared Urban Edge. This currently constitutes approximately 1,800 properties (erfs) of which approximately 1,000 are developed (thus having a habitable structure erected on it either for residential or business purposes).

Our Vision states:

"Motivated by the unspoiled beauty of our village and surrounds, the warm embracing spirit of its people, our aim is to grow and nurture a life-enriching community who live, work and play in Pringle Bay".

To fulfil our vision, we believe our primary goals are, among others:

- To preserve our community's distinctive cultural & natural heritage and unique lifestyle.
- To promote a sustainable local economy that supports the unique lifestyle of the village.
- To influence orderly and sustainable growth and development supporting the uniqueness of the village.
- To establish and maintain a mutually beneficial partnership with the municipality and politicians to positively influence the provision of reliable and efficient services, to the benefit of the community.
- To secure Pringle Bay Village by developing and implementing a holistic safety and security solution using best practices.

12 AUG 2022



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We believe that the above mentioned can only successfully be achieved by firstly upholding our values through focusing our efforts on implementing appropriate plans to achieve these goals and secondly by having organs of state in place which will support these values and plans. Our overarching Strategic Plan must always be aligned with relevant statutory and legal requirements including but not necessarily limited to those included in the Spatial Development Framework, Land Use Scheme(s) and the Bylaws in support of these.

HENCE, this communication to register the PBRA as an interested party in accordance with the stipulations of your Notice we received via email. We herewith submit our comments for due consideration.

2. PBRA AS INTERESTED PARTY

We submit that our interest in the subject matter is motivated by our historical comments and objections submitted to the authorities on similar applications related to land surrounding or in close proximity to the subject portion (Portion 156 of the farm 559 Hangklip). We believe that the outcome of the eventual application, whichever way, could potentially result in precedence in law and could have a significant impact on current and future applications of similar nature in the area.

We place a high premium on our roles as custodian, among many others, of the Kogelberg Biosphere Reserve (KBR), particularly in protecting the Buffer Zone (in which the subject property is located) lying between us (the Transition Zone) and the KBR Core zone. Decisions impacting on the core principles, purpose and activities within the Buffer Zone could have a drastic impact on the wellbeing, in different ways, of our members, affecting not only our Urban Edge, but even more so the aspects we value to fulfil our vision for the village.

We submit that the ultimate outcome of the envisaged application can affect the outcome of current and future applications for whatever reason in the area which ultimately could have a lasting impact affecting the way we need to proceed and continue with achieving our goals in support of our Strategic Plan.

3. OUR COMMENTS

Our comments relate to three aspects, namely:

- a) NEMA requirements (National Environmental Management Act and its 2014 Environmental Impact Assessment Regulations (as amended));
- b) Incomplete application documentation; and
- c) Zoning certificate.

3.1. NEMA REQUIREMENTS

3.1.1. On page 8 of the Application under heading : "Environmental impact", the applicant states:

"The Subject Property is located within an environmental important area. A Basic Assessment Report is being conducted by the appointed environmental consultant Mr.



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Duncan Heard of Duncan Heard Environmental Consulting. The Report will be submitted to DEADP and their response will be submitted to the OM once it is available."

3.1.2. The PBRA wishes to confirm that we have submitted comments related to the "PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT: PROPOSED CLEARANCE OF VEGETATION FOR A DEVELOPMENT FOOTPRINT FOR LANDOWNER DWELLINGS AND ASSOCIATED INFRASTRUCTURE ON PORTION 156 OF FARM 559 HANGKLIP (NEAR PRINGLE BAY)". We have carefully considered the DRAFT Pre-Application Basic Assessment Report (BAR) and submitted comments and suggestions to Duncan Heard Environmental Consulting (Dated 29 April 2022 with reference : DEA&DP Pre-Application Reference Number 16/3/3/6/7/1/E2/31/1028/22).

3.1.3. The importance of the subject Portion 156 is emphasised in the DRAFT BAR as follows:

"In line with the Western Cape Biodiversity Spatial Plan, the future use of this property will significantly contribute to the following sustainable conservation of the following environmental attributes of the area:

- *Compatible land use within the buffer area of the Kogelberg Nature Reserve;*
- *Effective land use management for water production of the declared Mountain Catchment Area that covers Ptn. 156 of 559;*
- *Securing an interrupted and significant ecological corridor from the mountains in the Kogelberg Nature*
- *Reserve down to the wetlands in the lowlands of the area.*
- *Conserving the critically endangered and endangered vegetation ecosystems as well as the NFEPA wetlands on the property which classifies it as a Critical Biodiversity Vegetative and Aquatic Area.*
- *The natural aesthetic value of the property will also be largely protected."*

3.1.4. Apart from an incidental reference to the BAR (refer 3.1.1 above), no discussion or reference to the findings of the BAR is included in the application. We submit that the application in this regard is incomplete. We are of the opinion that the public has a right to know what the findings and recommendation of the BAR are.

3.1.5. Having knowledge of the DRAFT BAR and comparing same with the essence of this application, we further submit that there are significant differences that we believe are aspects that should have been addressed in the BAR as well. These activities could potentially have a significant impact on the fauna and flora in the Buffer Zone to the Kogelberg Biosphere Reserve. For instance:

- a) In the subject matter application, the applicant applies for several farming activities including from fauna related to flora related, none of which are taken into consideration in the BAR.



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- b) Commercial activities, ranging from potentially accommodating several guests overnight on the property to attracting an unknown number of potential day visitors wishing to conduct business activities related to the farming activities, implied by (a) above.

3.1.6. We submit that these impacts have not been taken into consideration when conducting the BAR which either renders the BAR incomplete and/or renders this application flawed.

3.1.7. We submit that evidently neither the Overstrand Municipality (OM) Planning Department nor the Public is provided with the required information to properly assess the application in terms of the requirements of NEMA..

3.1.8. Except if the OM in actual fact did receive the final BAR, we submit that the OM is thus in no position to diligently evaluate the application in terms of their fiduciary duty and therefore we request that the application be referred back to the applicant with the request to prepare and submit a complete and comprehensive application in accordance with statutory requirements. OTHERWISE, the OM had neglected during the advertising process (albeit flawed as motivated in 3.2 below) to make available crucial information to the public allowing them to properly and comprehensively evaluate the application.

3.2. INCOMPLETE APPLICATION DOCUMENTATION

3.2.1. We wish to bring to the attention of the OM Planning Department that the subject application has, as far as our information and records show, not yet officially been advertised. We have been informed about the application ONLY via email received from Ms Loriaan Isaacs on 5 July 2022. The email states, among others, the following:

"Also note that notice will be available on the municipal webpage at the following link: <https://www.overstrand.gov.za/en/documents/town-planning/land-use-planning-applications>"

Contrary to the above, we have been unable to access the application as stated above. We submit that the general public is not aware of or able to access the application for scrutiny.

Based upon the above, we request that the OM request the applicant to re-submit and re-advertise the application, such that the public is made aware of same.

3.2.2. Further, in the subject application several documents are referenced including drawings, plans and annexures. Apart from an unnumbered locality plan and unnumbered Site Development Plan, none of the other referenced plans and annexures were attached to the email nor are they available online as stated in 3.2.1. above.

3.2.3. We submit that the application is incomplete and as such must be referred back to applicant for resubmission. The consequent application must please conform to statutory requirements especially in terms of being transparent and making available



all relevant documentations allowing diligent appraisal of the application by us and the general public.

3.3. ZONING CERTIFICATE

3.3.1. Overstrand Municipal Spatial Development Framework (OMSDF) is on a regular update cycle. The public has given comment in 2014 and 2019. The process of updating is briefly discussed in the May 2020 version of the SDF as follows:

- *“To review, align and update the 2006 MSDF to ensure compliance with the new National, Provincial and District Legislation, Policies, Principles and Frameworks.*
- *To update and merge the MSDF (2006) with the Overstrand Integrated Development Framework (IDF: 2014) and the Overstrand Strategic Environmental Management Framework (EMF: 2014) which informed the aforementioned IDF.*
- *To strategically, as a separate and consistent exercise, update the Overstrand Growth Management Strategy (OGMS) to include the following:*
 - * *Commercial and industrial components.*
 - * *Any other relevant growth management strategies / spatial amendments”*

This culminated in the May 2020 SDF, which, according to our records, is the current official SDF. With the exception of approved applications for rezonings of which there is proper record of, the zoning plan(s) included in the active SDF are the only official zonings of land parcels.

3.3.2. The zoning of Portion 156 of the Farm Hangklip 559, Division Caledon is shown on the GIS system of the OM Webpage as UZ (Undetermined Zone).

3.3.3. The OM Zoning Scheme in Paragraph 14.3 states the following:

14.3 UNDETERMINED ZONE (U)

Use of the property

14.3.1. *The following use restrictions apply to property in this zone:*

- a) *Primary uses are limited to only lawful uses existing at the operative date of this land use scheme.*
- b) *Consent uses: none.*

Development parameters

14.3.2. *No change of an existing use or expansion of an existing building or structure is permitted.*

No rezoning to this zone permitted

14.3.3. *No rezoning of any property to this zone is permitted after the operative date of this land use scheme.*



14.3.4. *If additional uses or development rights are required, a rezoning application to another, more appropriate zone in terms of this land use scheme must be processed.*

Reconstruction of destroyed property

14.3.5. *Property that has been partially or completely destroyed by accidental causes may be reconstructed in accordance with the development rights that existed at the operative date of this land use scheme, provided that building plans for such reconstruction are approved within 12 months from the date of the accidental destruction."*

Our emphasis is paragraphs 14.3.2, 14.3.3 and 14.3.4. of the OMLUS as stated above.

3.3.4. The BAR clearly stated the "current" zone to be "Undetermined" and even goes as far as to state that an application will be lodged for rezoning to "Rural 2: Conservation Use" as follows:

"The preferred alternative development footprint and additional sections of access road will cover ~4 933m² or 0.67% % of the extent of the property. The applicant is in the process of applying to the Overstrand Municipality to rezone the property from 'Undetermined Zone' to 'Rural Zone 2: Conservation Use', with departure applications to accommodate more residential dwellings."

3.3.5. The PBRA is unaware of an application for rezoning as suggested above. It seems as though the subject application is based on a zoning which has not yet been advertised for public comment.

We thus request that the OM please refer the application back to the applicant until such time as proper and due process has been followed to effect the rezoning of the subject property.

4. REQUEST PLEASE

We sincerely request that the application please be withdrawn for the reasons set out above.

We are looking forward to your understanding and cooperation in this regard.

Best Wishes

AW Vorster

Vice Chairman: PRINGLE BAY RATEPAYERS' ASSOCIATION.

14/16

L Gillion

From: Friends of Rooiels <friendsofrooiels@gmail.com>
Sent: Thursday, 11 August 2022 20:39
To: L Gillion
Cc: PJ Jansen VAN Rensburg; Friends of Rooiels
Subject: Objection: Portion 156 of the Farm Hangklip No 559 Application for consent uses and departure
Attachments: FOR Por 156.pdf



TP-17/Heart
(Hollia)

Dear Ms Gillion

Please find our objection letter to the above application hereto annexed.

Kindly acknowledge receipt.

Thank you

On behalf of Friends of Rooiels

FILE NO. PTN 156/559
Hangklip ✓
SCAN NO.
PTN 156
COLLABORATOR NO.
1729676

TP 12 AUG 2022

15/16

• FRIENDS OF ROOIELS

FriendsofRooiels@gmail.com

PO BOX 420

Pringle Bay

7196

11 August 2022

The Municipal Manager

Overstrand Municipality

HERMANUS

EMAIL TO: loretta@overstrand.gov.za

Dear Sir/Madam,

PORTION 156 OF FARM 559 HANGKLIP (near Pringle Bay): APPLICATION FOR CONSENT USE AND DEPARTURE (NO MUNICIPAL NOTICE NUMBER GIVEN)

1. LOCUS STANDI

Friends of Rooiels is a non-profit community based organisation which was established during March 2018. We are especially concerned about land use matters and practices which lead to the subversion of the zoning scheme provisions and/or incremental erosion of title deed conditions. We submitted extensive comment on 22 April 2022 regarding this development to the applicant's environmental consultant, Mr Duncan Heard.

2. LACK OF FULL DISCLOSURE AND INCOMPLETE APPLICATION

A zoning of Conservation Use is appropriate for Portion 156 as it shares a boundary with the core zone of the Kogelberg Biosphere reserve and falls in an area of critical biodiversity importance. The ENTIRE property is environmentally sensitive as it contains threatened ecosystems and terrestrial and aquatic critical biodiversity areas. In this area of critical biodiversity importance, the square meterage applied for totals around 5000 square meters, (i.e. 4000 sq m plus 1000 sq m in respect of roads) and is glaringly excessive. The applicant is applying for a myriad of consent uses, namely:

- Agriculture
- Harvesting of natural resources
- Intensive Horticulture
- Aquaculture
- Plant Nursery
- Second Dwelling Unit and a departure to allow it to be larger than 120 square meters
- Tourist Accommodation

12 AUG 2022

1

In the motivation document (p 2) it is stated *"the property owner wants to utilise his property to its maximum potential"*. The myriad consent uses applied for is certainly an indication of the owners' intention of full commercial exploitation of the property. Full commercial exploitation is simply not possible nor desirable on any property as environmentally sensitive as Portion 156. From the application for bulk electricity and bulk water and the specifics regarding meterage of indigenous vegetation to be cleared, the reasonable inference can be made that this is a full commercial development of the property.

Despite our earlier comments and warnings in our letter of 22 April 2022, this application is STILL lacking in vital information regarding the full scope and potential impacts of the various proposed activities. It also is alarming that no thought has been given to the cumulative impact of all seven broad categories of consent use which is applied for. It is simply NOT true that *"these land uses are interlinked and interdependent of one another"* as stated on page 3 of the motivation document. The applicant is simply seeking a blank cheque for full economic exploitation of the property.

This lack of full disclosure of ALL relevant information renders the whole process flawed.

Development by stealth through incremental means is NOT what is intended by the concept of integrated planning which is the basis of all planning and environmental legislation.

3. LACK OF PROPER LEGAL ADVERTISEMENT

This application has not properly been advertised. There has accordingly been no public participation. The application has NOT been made available on Overstrand Municipality's webpage at the link provided by Ms L Isaacs. There is no Municipal Notice Number.

4. ZONING AND UNLAWFUL / WASTEFUL EXPENDITURE BY OVERSTRAND MUNICIPALITY

The applicant apparently wishes to apply for a rezoning to RURAL ZONE 2: CONSERVATION USAGE (R2). To our knowledge this rezoning is still outstanding and the motivation document (see page 1) accordingly places false information before the tribunal.

The seven consent uses applied for by the owner are NOT permissible in terms of the current zoning. Please refer to the Overstrand Municipality Land Use Scheme, 2020 which is binding on both the applicant and on Overstrand Municipality.

As a civil society organisation and ratepayers, it is of concern that Overstrand's Town Planning Department has allowed this application to proceed up to this point. This practice is unlawful (as Overstrand's Town Planning Department needs to act within the law in fulfilling their duties) and accordingly amounts to misuse of private and public money. We reserve the right to refer this matter to the auditor general of fruitless and wasteful expenditure.

Yours faithfully

Piet van Rensburg

CHAIRMAN



Project Office

Town Planning & Project Management

TP. n. / theort
(M. vd Stoep)

Our Reference: 21/102
Your reference: Ptn 156 of 559, KHANG

24 August 2022

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO. Ptn 156/559
Hangklip
SCAN NO.
PTN 156
COLLABORATOR NO.
1743904

Attention: Ms H van der Stoep

APPLICATION FOR CONSENT USE AND DEPARTURE ON PORTION 156 OF THE FARM HANGKLIP 559, CALEDON

Your email dated 16 August 2022, refers.

Three external comments were received:

- Pringle Bay Rate Payers Association (PBRA);
- Rooiels Ratepayers Association (RRA); and
- Friends of Rooiels (FOR).

These comments will herewith be addressed.

- 6 SEP 2022

TP

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

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Hermanus

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Web: www.wrapgroup.co.za

20 YEARS
1999-2019

WRAP Group Established 2002

Response to objections to the Consent Use and Departure.

Comments	Response to comment
<p>BASIC ASSESSMENT REPORT (BAR) & NEMA</p> <ul style="list-style-type: none"> PRINGLE BAY RATEPAYERS' ASSOCIATION (PBRA) stated the following: <p>"3.1.2. The PBRA wishes to confirm that we have submitted comments related to the 'preapplication Draft basic assessment report: proposed clearance of Vegetation for a development footprint for landowner dwellings and Associated infrastructure on portion 156 of farm 539 hangklip (near Pringle bay)". We have carefully considered the draft pre-application basic Assessment report (BAR) and submitted comments and suggestions to Duncan Heard Environmental consulting (dated 29 April 2022 with reference. DEA&DP preapplication Reference number 16/3/3/6/7 11/e2/31/1028/22)."</p> <p>"3.1.4. Apart from an incidental reference to the BAR (refer 3.1.1 above), no discussion or reference to the findings of the BAR is included in the application. We submit that the application in this regard is incomplete. We are of the opinion that the public has a right to know what the findings and recommendation of the BAR are."</p> <p>"3.1.5. Having knowledge of the DRAFT BAR and comparing same with the essence of this application, we further submit that there are significant differences that we believe are aspects that should have been addressed in the BAR as well. These activities could potentially have a significant impact on the fauna and flora in the Buffer Zone to the Kogelberg Biosphere Reserve. For instance:</p> <p>a) In the subject matter application, the applicant applies for several farming activities including from fauna related to flora related, none of which are taken into consideration in the BAR.</p> <p>b) Commercial activities, ranging from potentially accommodating several guests overnight" on the property to attracting an unknown</p>	<ul style="list-style-type: none"> Response to '3.1.2' from the PBRA – This is noted. Response to '3.1.4 & 3.1.5' from the PBRA & '1.2.6 & 3.3' from the RRA – The findings of the BAR have not been concluded and no reference to the BAR could have been made at the time of submission of the land use application. The final outcome of the BAR will be considered together with this application by the Municipal Planning Tribunal as stated in Section 10 of the motivational report 'Environmental Impact'. The BAR also addresses any environmentally related concerns. The expertise of an environmental consultant was used by the property owner to ensure the environmental aspects of the proposal is effectively addressed. Response to '3.1.5(a)' from the PBRA – This is a comment that is required to be directed to Duncan Heard Environmental Consulting. We are not in a position to provide a response. Response to '3.1.5(b)' from the PBRA & comment from the FOR – There are no commercial activities planned on the property. No reference to day visitors is made as it is not proposed for the property and that is the reason why it was not mentioned or motivated as it was not required. The property owner will be residing on the property permanently once approval is received. He will be building a main dwelling house as is a primary right in terms of the current zoning. The property owner is allowed to have tourist accommodation with consent from the Overstrand Municipality (OM) which is being applied



<p>number of potential day visitors wishing to conduct business activities related to the farming activities, implied by (a) above."</p> <p>"3.1.6. We submit that these impacts have not been taken into consideration when conducting the BAR which either renders the BAR incomplete and/or renders this application flawed."</p> <p>"3.1.7. We submit that evidently neither the Overstrand Municipality (OM) Planning Department nor the Public is provided with the required information to properly assess the application in terms of the requirements of NEMA."</p> <p>"3.1.8. Except if the OM in actual fact did receive the final BAR, we submit that the OM is thus in no position to diligently evaluate the application in terms of their fiduciary duty and therefore we request that the application be referred back to the applicant with the request to prepare and submit a complete and comprehensive application in accordance with statutory requirements. OTHERWISE, the OM had neglected during the advertising process (albeit flawed as motivated in 3.2 below) to make available crucial information to the public allowing them to properly and comprehensively evaluate the application."</p> <ul style="list-style-type: none"> • ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following: <p>"1.2.6 As also set out below, certain consent uses are applied for, for which are required environmental impact assessments in terms of terms of the NEMA Listing Notices.</p> <p>NEMA Listing Notice 1 will apply i.r.o. an aquaculture consent use application and NEMA Listing</p> <p>Notice 3 will apply i.r.o. the clearing of land in excess of 300 sq. m.</p>	<p>for as part of the application. Tourist accommodation cannot be seen as a commercial activity.</p> <ul style="list-style-type: none"> • Response to '3.1.6' from the PBRA – Although the land use application and BAR are submitted in terms of different legislation, the applications run a parallel course, based on the same information, and take guidance from each other. The outcome of the BAR will have an impact on the land use application, which can only be finally considered by the MPT, once an environmental Authorisation was issued. • Response to '3.1.7 & 3.1.8' from the PBRA – The OM is aware of the BAR and will be provided with the Environmental Authorisation (EA), once it is available as stated in Section 10 of the motivational report. PBRA and the Public have been notified of the BAR and were involved in the public participation process as indicated by 3.1.2 of their comment. Stating that the PBRA has already submitted their comments indicating that they have been fully informed and aware of the contents of the BAR. <p>Also refer to the response to the comment on 'incomplete application'.</p> <ul style="list-style-type: none"> • Response to comment from the FOR – The property owner appointed a professional team, which includes and independent environmental consultant. The importance of the Biodiversity Area is not being disregarded; however, the development footprint (4000m²) and existing road (1000m²) is located in the area where the least impact is anticipated.
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<p>This application is being advertised without the proper public participation process having been followed and apparently without an assessment report having been obtained. Nor is it presented with the advertised documentation"</p> <p>"3.3 The property is classified as a Critical Biodiversity Area, and it is situated in the critical "Zone of influence" of the Kogelberg Biosphere Reserve. We see no evidence that the applicant has considered these aspects."</p> <ul style="list-style-type: none"> • Friends of Rooiels (FOR) stated the following: <p>"A zoning of Conservation Use is appropriate for Portion 156 as it shares a boundary with the core zone of the Kogelberg Biosphere reserve and falls in an area of critical biodiversity importance. The ENTIRE property is environmentally sensitive as it contains threatened ecosystems and terrestrial and aquatic critical biodiversity areas. In this area of critical biodiversity importance, the square meterage applied for totals around 5000 square meters, (i.e. 4000 sq m plus 1000 sq m in respect of roads) and is glaringly excessive."</p> <p>"The myriad consent uses applied for is certainly an indication of the owners' intention of full commercial exploitation of the property. Full commercial exploitation is simply not possible nor desirable on any property as environmentally sensitive as Portion 156."</p>	<p>The property owner has a right to build structures on his property and the studies (BAR) assisted him in identifying the areas where the construction will have the least impact.</p>
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INCOMPLETE APPLICATION

- **PRINGLE BAY RATEPAYERS' ASSOCIATION (PBRA) stated the following:**

"3.2.1. We wish to bring to the attention of the OM Planning Department that the subject application has, as far as our information and records show, not yet officially been advertised. We have been informed about the application ONLY via email received from Ms Loriaan Isaacs on 5 July 2022. The email states, among others, the following:

"Also note that notice will be available on the municipal webpage at the following link:

<https://www.overstrand.qpw.za/en/documents/town-planning/land-use-planning-applications>"

Contrary to the above, we have been unable to access the application as stated above.

We submit that the general public is not aware of or able to access the application for scrutiny.

Based upon the above, we request that the OM request the applicant to re-submit and re-advertise the application, such that the public is made aware of same."

"3.2.2. Further, in the subject application several documents are referenced including drawings, plans and annexures. Apart from an unnumbered locality plan and unnumbered Site Development Plan, none of the other referenced plans and annexures were attached to the email nor are they available online as stated in 3.2.1. above."

"3.2.3. We submit that the application is incomplete and as such must be referred back to applicant for resubmission. The consequent application must please conform to statutory requirements especially in

- **General response to "Incomplete Application" comments**

The application was circulated to interested and affected parties including the three objectors and based on the comments received, it is accepted that a copy of the submitted application was viewed.

Section 47, 48, 49 and 50 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 is clear on when and how interested and affected parties are notified. It is not a formal requirement of the By-Law to advertise any application on the municipal website and is seen as mere courtesy.

WRAP Project Office was also never contacted for any additional information.

It should also be noted that the application was available for inspection during weekdays between 08:00 and 16:30 at the Department of Town Planning at 16 Paterson Street, Hermanus.

- **Response to '1.2.1' from the RRA -**

The title deed is generally not distributed to the public due to the nature of sensitive personal information as per Section 18 of the Protection of Personal Information Act (POPIA).

It is also unclear why the comment is made as the objector clearly had access to the content of the title deed as reference is made to the contents and provisions of the title deed in Section 1.2.2.



terms of being transparent and making available all relevant documentations allowing diligent appraisal of the application by us and the general public."

• **ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following:**

"1.2.1. No title deed was submitted with the advertised documentation which will enable the ratepayers to assess the application (in fact, as on 5 August 2022, a week before due date for objections, the application does not even appear on the OM website)."

"1.2.4 The application cannot be assessed without the required environmental assessments, and the OM Planning Department should not have further processed the application for advertisement. In the present application for consent uses, the clearing of areas of land for roads and buildings apparently in excess of 300 sq. m is planned.

The OM Planning Department in our opinion has the powers to refer a non-compliant application back. It is under no obligation to advertise a non-compliant application. Sec 39(1)(f) of the OM Municipal Land Use Planning by-law gives the Planning Department the power: "any other plans, diagrams, documents or information that the Municipality may require."

"1.2.5 Only a vague reference to the assessment is made. The Planning Department should not have accepted this vague statement.

The previous public participation process was for purposes of a "residential complex" of a scale of 4000 sq. m floor coverage and 1000 sq. m roads. The process was severely criticised by three ratepayer bodies, including ourselves.

• **Response to '1.2.4' from the RRA -**

The application was found to be complete in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. This meant the application was allowed to be advertised as part of the public participation process.

The application was also circulated to the relevant external departments including the Department of Environmental Affairs and Development Planning, who will provide comment.

These processes run concurrently as mentioned in "Response to '3.1.6' from the PBRA".



The present application requires different kinds of assessments as set out below. The previous assessment will not be sufficient for ratepayers and the MPT to assess the present application."

• **Friends of Rooiels (FOR) stated the following:**

"This application has not properly been advertised. There has accordingly been no public participation. The application has NOT been made available on Overstrand Municipality's webpage at the link provided by Ms L Isaacs. There is no Municipal Notice Number."

ZONING

• **PRINGLE BAY RATEPAYERS' ASSOCIATION stated the following:**

"3.3.2. The zoning of Portion 156 of the Farm Hangklip 559, Division Caledon is shown on the GIS system of the OM Webpage as UZ (Undetermined Zone)."

"3.3.3. The OM Zoning Scheme in Paragraph 14.3 states the following:

"14.3 UNDETERMINED ZONE (U)

Use of the property

14.3.1. The following use restrictions apply to property in this zone:

- a) Primary uses are limited to only lawful uses existing at the operative date of this land use scheme.
- b) Consent uses: none.

Development parameters

- **Response to '3.3.2' from the PBRA and Comment from the FOR –**
A zoning certificate for the property was obtained from the Overstrand Municipality. (refer Annexure B). It was clearly indicated in the motivational report that the current zoning of the property is "Rural Zone 2: Conservation Usage".

The reason for the discrepancy between the OM GIS system is unknown.

- **Response to '3.3.3' from the PBRA –**
This is an extract from the OM Land Use Management Scheme (OMLUS) and has no relevance to the application that was submitted.

- **Response to '3.3.4' from the PBRA –**
The BAR was submitted before the final zoning certificate was received from the Overstrand Municipality. Duncan Heard Environmental Consulting will amend their report as required to ensure compliance and alignment with existing zoning and the land use application as submitted.



<p>14.3.2. No change of an existing use or expansion of an existing building or structure is permitted.</p> <p>No rezoning to this zone permitted</p> <p>14.3.3. No rezoning of any property to this zone is permitted after the operative date of this land use scheme.</p> <p>14.3.4. If additional uses or development rights are required, a rezoning application to another, more appropriate zone in terms of this land use scheme must be processed.</p> <p>Reconstruction of destroyed property</p> <p>14.3.5. Property that has been partially or completely destroyed by accidental causes may be reconstructed in accordance with the development rights that existed at the operative date of this land use scheme, provided that building plans for such reconstruction are approved within 12 months from the date of the accidental destruction."</p> <p>Our emphasis is paragraphs 14.3.2, 14.3.3 and 14.3.4. of the OMLUS as stated above."</p> <p>"3.3.4. The BAR clearly stated the "current" zone to be "Undetermined" and even goes as far as to state that an application will be lodged for rezoning to "Rural 2: Conservation Use" as follows:</p> <p>"The preferred alternative development footprint and additional sections of access road will cover ~4 933m² or 0.67% of the extent of the property. The applicant is in the process of applying to the Overstrand Municipality to rezone the property from 'Undetermined Zone' to 'Rural Zone 2: Conservation Use', with departure applications to accommodate more residential dwellings."</p>	<ul style="list-style-type: none"> • Response to '3.3.5' from the PBRA and Comment from the FOR - No rezoning is required as the property's zoning is "Rural Zone 2: Conservation Usage" (April of 2022).
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<p>"3.3.5. The PBRA is unaware of an application for rezoning as suggested above. It seems as though the subject application is based on a zoning which has not yet been advertised for public comment.</p> <p>We thus request that the OM please refer the application back to the applicant until such time as proper and due process has been followed to effect the rezoning of the subject property."</p> <ul style="list-style-type: none"> • Friends of Rooleis (FOR) stated the following: <p>"The applicant apparently wishes to apply for a rezoning to RURAL ZONE 2: CONSERVATION USAGE (R2).</p> <p>To our knowledge this rezoning is still outstanding, and the motivation document (see page 1) accordingly places false information before the Tribunal.</p> <p>The seven consent uses applied for by the owner are NOT permissible in terms of the current zoning.</p> <p>Please refer to the Overstrand Municipality Land Use Scheme, 2020 which is binding on both the applicant and on Overstrand Municipality."</p>	
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<p>Exploratory Application / Misuse of the application process</p> <ul style="list-style-type: none"> • ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following: <p>"1.2 Despite a number of complaints having been to date lodged with the OM on this issue, the present application is in our opinion another such non-compliant example, where an exploratory application is lodged to test the reaction, and apparently allowed to be advertised as such by the OM Planning Department:"</p> <p>4. MISUSE OF THE APPLICATION PROCESS</p> <p>4.1. A pre-application Draft Base Assessment for a 'residential complex' on nearly 4 000 sq. m of floor space with nearly 1000 sq. m of roads was severely criticised by RERA for misuse of the application process in its comments to the applicant on 22 April 2022.</p> <p>This was while the motivation was ostensibly for a family residence plus one more dwelling.</p> <p>4.2 We severely criticized on 23 April 2022 a PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT:</p> <p>PUBLIC PARTICIPATION PROCESS for the present property, <i>inter alia</i> as follows:</p> <p>"It is not appropriate to use the application process in a way that appears to be seeing what it might be possible to achieve without ever clarifying the actual purpose of the application. This is time-consuming and involves a significant time investment for all those now having to assess this application".</p>	<ul style="list-style-type: none"> • Response to '1.2, 4.2 & 4.3' from the RRA and Comments from the FOR- <p>The submitted application is definitely not an "Exploratory application" or "Misuse of the application process" as claimed by the objectors. The property owner has identified his needs for the property and wishes to be able to utilise the property accordingly. As the property owner has no intention to illegally use or build on the property, the owner appointed a professional team to advise him on the correct route to obtain the land use rights required.</p> <p>The processes as stated above in Response to '3.1.6' from the PBRA.</p> <ul style="list-style-type: none"> • Response to '4.1' from the RRA – <p>The reference to a "residential complex" is a mere name used for the development footprint identified through the BAR and other expert studies.</p> <p>The proposal is solely for a "residential complex / homestead" for the property owner. Please take note that "homestead" in this case is used in the context that we development consultants has for the development footprint which is 4000m² in extent.</p> <p>This means that only 4000m² of the ENTIRE PROPERTY will only be used for development. The 4000m² is not extent of the proposed buildings, but the size of the development footprint (area) where the property owner will be able to build his three structures (Main dwelling, Second Dwelling and Green House).</p>
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<p>4.3 This application would appear to be a repetition of the applicant misusing the application process.</p> <ul style="list-style-type: none"> • Friends of Rociels (FOR) stated the following: <p>"As a civil society organisation and ratepayers, it is of concern that Overstrand's Town Planning Department has allowed this application to proceed up to this point. This practice is unlawful (as Overstrand's Town Planning Department needs to act within the law in fulfilling their duties) and accordingly amounts to misuse of private and public money. We reserve the right to refer this matter to the auditor general of fruitless and wasteful expenditure."</p>	<p>In terms of the provisions of the OMLUS, the property owner is allowed a maximum of 800m² of floor space.</p> <p>It is of importance to differentiate between "FLOOR SPACE" and "DEVELOPMENT FOOTPRINT";</p> <p>"Floor space" is defined by the Overstrand Municipality Land Use Scheme, 2020 (OMLUS) as the following: <i>in relation to any building means the area of the floor which is covered by a slab, roof or projections, provided that: ..."</i></p> <p>From the definition it is clear that floor space includes any building that has a roof over it with some provisions as per the OMLUS page 18. The buildings on the property are not allowed to have a floor space of more than 800m².</p> <p>"Floor space" differs "development footprint" as the development footprint (4000m²) is an area identified through several specialist studies as being the most suitable with the least impact to accommodate the "residential complex / homestead".</p> <p>The "residential complex / homestead" consists of the following buildings:</p> <ul style="list-style-type: none"> • Main dwelling (Primary Right as per OMLUS), • Second dwelling unit (Consent Use as per OMLUS), and • a Small Greenhouse (Consent Use as per OMLUS). <p>An application has been submitted to the Overstrand Municipality's Town Planning Department to apply for the proposed consent uses that is being sought by the property owner.</p> <p>It should be noted that the BAR informed the land use application, and a small discrepancy was indicated.</p>
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The floor space being proposed for the residential complex is the following:

- Proposed Main Dwelling Unit – 497m²
- Proposed Second Dwelling Unit – 250m²
- Proposed Green House – 50m²

Total Floor Space – 797m²

Remaining or "spare" Floor space is therefore 3m².

The calculation above indicates that the proposed buildings are within the allowable floor space for the RURAL ZONE 2: CONSERVATION USAGE (R2) zoning.

The submitted land use application only indicated a floor space of 690m² which was calculation is unfortunately incorrect. The actual floor space is 797m² which still does not require a departure from the development parameters of the R2 zoning.

TITLE DEED CONTENTS

- ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following:**

"1.2.2 The applicant town planner has apparently perused the title deed and found that there were no title deed conditions that prevented the OM from approving the consent uses and departure.

We draw the attention to title deed condition D.5 which reads:

- Response to '1.2.2' from the RRA –**

There are no "shops, public garages or filling stations, business premises, canteens, bioscopes, factory or industrial buildings" proposed for the subject property.

It is clear what the property owner wants on his property, and it is not being restricted by the contents of the title deed that was perused to prepare the application.



"No shops, public garages or filling stations, business premises, canteens, bioscopes, factory or industrial buildings shall be erected on the land nor shall any such business or public entertainment be conducted on the land."

We submit that a consent use "Tourist Accommodation" business and "Plant Nursery" business may possibly not be compliant with the title deed conditions."

"1.2.3 A Conveyer's Certificate, setting out whether some of the present applied for consent uses such as "Tourist Accommodation" and "Plant Nursery" do not constitute "business premises" and "such business" should have been required and advertised by the Planning Department.

If cannot merely depend on a statement by the applicant, who may not be skilled in law."

• **Response to '1.2.3' from the RRA -**

Although not trained in law, the restricted uses and their definitions are not being applied for in terms of the subject property. No shops, no public garages or filling stations, no business premises, no canteens, no bioscopes, no factories and no industrial buildings are being proposed and the application is clear what is being applied for.

A business premises is clearly defined by the OMLUS as:

"business premises" means a property from which business or services are conducted and includes a shop, a supermarket, a restaurant, the sale of alcoholic beverages, a plant nursery, offices, service trade, a financial institution and building for similar uses and the sale of any small and big items but excludes a place of assembly, a place of entertainment, an institution, a service station, a motor repair garage, an industry, an industrial hive, a noxious trade, a risk activity, an adult entertainment business or a bottle store;

Although a "plant nursery" is included in the definition of a business premises, "plant nursery" is defined in the OMLUS as follows:

"plant nursery" means a property or part thereof which is utilised primarily for the propagation **and sale of plants and sale of gardening products.**

The property owner will not be utilising the property as a typical "plant nursery" found in other parts of the Overstrand. **He will not sell the plants or gardening products to the public** from the subject property, and he will only be propagating plants for own use.



DIFFERENT CONSIDERATIONS APPLY, DEPENDING ON DIFFERENT CONSENT USE APPLICATIONS.

• **ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following:**

"2. DIFFERENT CONSIDERATIONS APPLY, DEPENDING ON DIFFERENT CONSENT USE APPLICATIONS.

As set out below, different considerations apply, depending on different consent use applications.

Each consent use will require an individual motivation. We name but two of the present uses that are applied for:

2.1 Aquaculture - This is a special subject, requiring an environmental assessment in terms of NEMA Listing Notice 1, together with detailed motivation as to desirability.

2.2 Tourist Accommodation - The considerations for this consent use are quite different from aquaculture. Full details of the planned activity need to be submitted to enable that MPT to assess the application.

In October 2020, in terms of the OM Scheme Regulations as they then read, the MPT approved a "tourist accommodation" consent use for a dwelling in Pringle Bay, but subject to special conditions, that the approval be limited to the existing dwelling and limited to six (6) guests with a maximum of two (2) vehicles.

The applicant gives no details with the present application."

"5. APPROVAL OF CONSENT USES SHOULD BE CONSIDERED INDIVIDUALLY

- **Response to '2' from the RRA –**
Each town planning application is considered site specific and what may be found to be desirable on one site may not be desirable on another site.
- **Response to '2.1' from the RRA –**
This is agreed with, and the property owner will not be operating a commercial activity and will be for personal use only. A BAR was submitted that addresses the environmental aspect of the application.
- **Response to '2.2 & 5.9.3' from the RRA –**
Refer to Section 4.1 of the motivational report, page 1 at the bottom and the top of page 2. The MPT has the discretion to impose a condition such as stated by the objector. As mentioned, each application is unique and is considered "site specific".
- **Response to '5.1, 5.2, 5.3' from the RRA –**
The property owner's intention is clear - he wishes to retire on the property and keep himself busy.

The RRA is speculating that there is an ulterior motive behind the application and that the property owner does not care for the environment or his community, which is certainly not the case.
- **Response to '5.4 & 5.8' from the RRA –**
The application indicated each consent use, refer to Section 4 of the motivational report.
- **Response to '5.5 & 5.6' from the RRA –**
This is noted.



<p>"5.1 The applicant should be able to apply successfully for a specific motivated consent use."</p> <p>"5.2 Instead he is applying for a blanket consent use for all possible future uses for which he has a "vision" (sic)."</p> <p>"5.3 In view of the previous application, where the objection was that the applicant was apparently not disclosing his true intentions, this application should be viewed with circumspection."</p> <p>"5.4 A number of consent uses are applied for, under a single or blanket motivation."</p> <p>"5.5 When a municipality assesses land use applications, they must, in terms of the provincial Land Use Planning Act, have regard to at least the considerations in para 5.6 hereunder."</p> <p>"5.6 The act reads:</p> <p>"Basis of assessment of land use applications 49. When a municipality considers and decides on a land use application, the municipality must have regard to at least-</p> <p>(a) the applicable spatial development frameworks; (b) the applicable structure plans; (c) the principles referred to in Chapter VI; (d) the desirability of the proposed land use; and (e) guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use"</p> <p>"5.7 We draw the attention to the consideration of desirability in (d) and submit that the consideration of desirability is affected by the nature of the consent use applied for."</p>	<ul style="list-style-type: none"> • Response to '5.7' from the RRA – Refer to Section 10 -Need and Desirability. • Response to '5.9' from the RRA and comments from the FOR is addressed below: • Response to '5.9.1' from the RRA – The aquaculture component will be for personal use only and it is not anticipated that the operation thereof will impact on any person or the environment. The BAR will address the requirements in terms of the NEMA regulations. • Response to '5.9.2' from the RRA – Refer to Section 4.1 of the motivational report, page 1 at the bottom and the top of page 2. • Response to '5.9.4' from the RRA – No reference is made that the plant nursery would be open to the public and it is incomprehensible why would it be implied? The property owner will use a 50m² green house for the aquaculture, intensive horticulture and plant nursery cultivating and growing products for own use. • Response to '5.9.5' from the RRA – Assumptions are made by the RRA. The property owner is an avid green enthusiast, and the scale is being greatly exaggerated by the RRA. The green house of 50m² will be the total extent of the activities proposed on the site. This was mentioned numerous times in the motivational report.
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<p>"5.8 A proper motivation of the planned use should be submitted, and each use should be separately assessed. This cannot be done with the sweeping, broad submissions by the applicant."</p> <p>"5.9 Without being comprehensive, the following list of considerations, which differ according to the nature of the uses, should have been addressed in separate motivations by the applicant:"</p> <p>"5.9.1 Aquaculture- There are various considerations in assessing the desirability of Aquaculture, so much so that an environmental assessment in terms of NEMA listing Notice 1 is required.</p> <p>This may also require separate conditions to be set by the MPT, to ensure that the use is nevertheless in compliance with the Conservation Zoning of the present property.</p> <p>All this is lacking in the present application."</p> <p>"5.9.2 Second Dwelling - What is it to be used for? Will it be for the tourist accommodation?"</p> <p>"5.9.3 Tourist Accommodation - In October 2020, in terms of the OM Scheme Regulations as they then read, the MPT approved a "tourist accommodation" consent use for a dwelling in Pringle Bay, but subject to special conditions, that the approval be limited to the existing dwelling and limited to six (6) guests with a maximum of two (2) vehicles.</p> <p>The applicant gives no details with the present application which the MPT can consider."</p>	<ul style="list-style-type: none"> • Response to Comments from the FOR - The property is not proposed to be used for any commercial activities. It is and never will be the intention of the property owner as stated several times already in this response.
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"5.9.4 Plant Nursery- What will be the source of the nursery stock? Will the plants be grown on the property, or will it be bought in?"

Will the nursery be open to the general public? Is a coffee shop and other attractions for the public envisaged?

This is part of a critical biodiversity wetland hotspot- it is important that the plants produced are not alien invasives, extra limital relatives, or hybrids that can all have negative impacts on the gene pool and status of surrounding fynbos.

Without the details the MPT is not put in a position to assess desirability and to set conditions that would ensure that the use is in accordance with the Conservation Usage zoning."

"5.9.5 Agriculture, Harvesting of Natural Resources, Intensive Horticulture - All these uses appear to be labour intensive, and a number of farm workers may have to be accommodated on the property.

How many dwellings are required and planned, and how will they fit in with the 850 sq. m floor area limitation per the Scheme Regulations, given that the two dwellings will already cover 640sq.m?"

• **Friends of Rooiels (FOR) stated the following:**

"The applicant is applying for a myriad of consent uses, namely:

- Agriculture
- Harvesting of natural resources
- Intensive Horticulture
- Aquaculture



- Plant Nursery
- Second Dwelling Unit and a departure to allow it to be larger than 120 square meters
- Tourist Accommodation

In the motivation document (p 2) it is stated "the property owner wants to utilise his property to its maximum potential". The myriad consent uses applied for is certainly an indication of the owners' intention of full commercial exploitation of the property. Full commercial exploitation is simply not possible nor desirable on any property as environmentally sensitive as Parion 156. From the application for bulk electricity and bulk water and the specifics regarding meterage of indigenous vegetation to be cleared, the reasonable inference can be made that this is a full commercial development of the property.

Despite our earlier comments and warnings in our letter of 22 April 2022, this application is STILL lacking in vital information regarding the full scope and potential impacts of the various proposed activities. It also is alarming that no thought has been given to the cumulative impact of all seven broad categories of consent use which is applied for, it is simply NOT true that "these land uses are interlinked and interdependent of one another" as stated on page 3 of the motivation document. The applicant is simply seeking a blank cheque for full economic exploitation of the property.

This lack of full disclosure of ALL relevant information renders the whole process flawed."



<p style="text-align: center;"><u>CONDITIONS OF APPROVAL</u></p> <ul style="list-style-type: none"> • ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following: <p><u>3. SUFFICIENT AND REASONABLE RESTRICTIONS MUST BE ADDED TO THE CONDITIONS OF APPROVAL</u></p> <p>3.1 A consent use to enable the development of certain activities on the property should not have a detrimental impact on the existing properties and should not constitute an unreasonable addition to the area in terms of privacy and protection of the existing character and visual quality of the area.</p> <p>3.2 Sufficient and reasonable restrictions must be added to the conditions of approval for such application.</p> <p>3.4 Furthermore as set out below, because of the paucity of information presented, ratepayers are not enabled to propose such reasonable restrictions.</p>	<ul style="list-style-type: none"> • Response to '3.1' from the RRA - This is an opinion of the RRA and not based on any factual evidence that these consent uses would have a negative impact on the surrounding area. <p>It is not regarded as sufficient to only make such a broad statement.</p> <ul style="list-style-type: none"> • Response to '3.2' from the RRA - The town planner of the OM and the decision-making authority will use their discretion should any conditions be required. • Response to '3.4' from the RRA - The RRA may propose "reasonable restrictions", but the decision-making authority will determine if it is required.
<p style="text-align: center;"><u>HIDDEN INTENTIONS</u></p> <ul style="list-style-type: none"> • ROOIELS RATEPAYERS' ASSOCIATION (RRA) stated the following: <p>"4.4 We are sceptical as to whether the applicant is not using this process to engineer his previously declared intention (to develop a "residential complex") in a roundabout way by first obtaining multiple consent uses and then having building plans for dwelling units approved afterwards."</p> <p>"4.5 The numerous, apparently labour-intensive consent uses that are applied for, will, whether they are actually put into operation or not, pave</p>	<ul style="list-style-type: none"> • General response to "Hidden Intentions" comments <p>The property owner's intention is very clear that he wants to reside on the property and retire there.</p> <p>He made his intentions clear on how he wants to use the property and followed due process by submitting land use applications to obtain the land use approvals required. Only three structures are proposed.</p> <p>The RRA is making unfounded statements that the property owner is attempting to implement illegal structures and these comments should</p>



<p>the way for an application to have building plans approved for a quantity of farm workers' cottages.</p> <p>These farm workers' cottages could then be converted to additional dwelling units, contrary to the title deed conditions and OM Zoning Scheme Regulations."</p> <p>"6. IS FULL DISCLOSURE OF INTENTIONS MADE IN THE APPLICATION?</p> <p>6.1 We are of the opinion that the present application is tainted by the lack of disclosure of the applicant's true intentions in the previous, connected application for an environmental assessment."</p> <p>"6.2 In that application the intention was to clear 4 000 sq. m for floor coverage for a 'residential complex' together with 1 000 sq. m for roads. Ostensibly this was just to house two dwellings. Objectors simply did not believe this."</p> <p>"6.3 We are sceptical that the applicant may be trying to achieve multiple dwellings in a roundabout way through farm workers' cottages. It is apparently a ploy, after multiple consent uses have been obtained to motivate multiple farm workers, to hand in building plans for multiple farm workers' cottages, that are then subsequently upgraded for a different market."</p> <ul style="list-style-type: none"> • Friends of Rooiels (FOR) stated the following: <p>"Development by stealth through incremental means is NOT what is intended by the concept of integrated planning, which is the basis of all planning and environmental legislation."</p>	<p>be disregarded as it is not supported by any concrete evidence and may be considered as slander.</p> <ul style="list-style-type: none"> • Response to '6.2' from the RRA – it is not clear where in the submitted application it is mentioned that 4000m² will be cleared or that the total "floor coverage" will be 4000m². <p>This was never stated in the application and there is no 'hidden agenda'</p> <p>Refer to "Response to '4.1' from the RRA" for a clear understanding of floor space and the development area that is being applied for.</p> <p>The 1000m² of road referred to is EXISTING and there is a small new section of road being proposed by the property owner of approximately 100m while approximately 2km of existing road will be rehabilitated.</p>
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Conclusion

The comments submitted by three objectors were categorized and addressed. It is of importance to reiterate that the property owner wants to retire on the property and be able to utilise the property for what is being applied.

The development proposal has evolved over a period through an input process of professionals in the environmental field that identified the development footprint and aided in designing the positioning thereof. No departures of the development parameters apart from the need to have a larger second dwelling unit, is being applied.

Considering that this response has adequately addressed all the comments made by the objectors, it is recommended that the planning application be approved as submitted.

Yours faithfully

A handwritten signature in black ink, appearing to read "T. Jansen", is written over the typed name.

T JANSEN
PROFESSIONAL TOWN PLANNER (A/2858/2019)



Project Office

Town Planning & Project Management



TP: n. Smeets
(M. van der Stoep)

Our Reference: 21/102
Your reference: Ptn 156 of 559, KHANG

14 September 2022

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Attention: Ms H van der Stoep

FILE NO. PAU 156/659
1/hangklip
SCAN NO. 02
COLLABORATOR NO. 1747734

APPLICATION FOR CONSENT USE AND DEPARTURE ON PORTION 156 OF THE FARM HANGKLIP 559, CALEDON

Your email dated 8 September 2022, refers.

A single internal department comment was received:

- EMS.

Several external departments' comments were received:

- Agri: Provincial;
- BGCMA;
- Dept of Transport;
- EADP – Environmental;
- EADP – Provincial; and
- Telkom.

These comments will herewith be addressed.

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

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20
YEARS
1999-2019

15 SEP 2022

WRAP Group Established 2002



INTERNAL DEPARTMENT	
DEPARTMENT	RESPONSE
EMS	<p>No objection was received, the comments that required permits/authorisations needs to be obtained from the relevant authorities prior to the commencement of any activities that require permits/authorisation.</p> <p>That the EMOZ requirements must be considered and adhered to, is acknowledged.</p>
EXTERNAL DEPARTMENTS	
DEPARTMENT	RESPONSE
WESTERN CAPE GOVERNMENT	<p>1. Environmental comments to be referred to the environmental consultant, Duncan Heard's response:</p> <ul style="list-style-type: none"> - "The 50m2 greenhouse is located within the proposed development footprint of 4 000m2 for which an Environmental Authorisation is in process of being applied for to the NEMA EIA Regulations. - The landowner wishes to use the greenhouse initially to practise intensive horticulture and aquaculture (Koi) on a very small scale, as a hobby and on a non-commercial basis. Should it however prove to be viable as a commercial enterprise in future, the applicable approvals/licenses will be sought at that time, before proceeding to do so. - The landowner will endeavour to grow selected plants for planting within the 4 000m2 development footprint or possibly even to aid the rehabilitation of eroded areas on the rest of the property. For this, it maybe necessary to harvest very small amounts of seed or plant material (possibly < 30kg/annum) from the rest of his property. This harvesting is expected to have no negative impact on the natural fynbos vegetation. - In the light of the above, the described activity will have no impact on the objectives of the Rural Zone 2: Conservation Use zoning. In fact, if the plants are used for the rehabilitation of eroded areas, it would benefit the conservation management of the property."



	<p>ii. This comment is noted. The Overstrand Municipality allows a second dwelling unit up to 250m² and the proposal is aligned with their land use scheme.</p>
BREED-GOURITS CATCHMENT MANAGEMENT AGENCY	<p>These comments were noted. No objection was received.</p>
DEPARTMENT OF TRANSPORT AND PUBLIC WORKS	<p>No objection was received.</p>
DAPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (ENVIROMENTAL)	<p>These comments were noted.</p> <ul style="list-style-type: none"> • Comment Nr 5: <p>Environmental comments to be referred to the environmental consultant, Duncan Heard's response:</p> <p>"- DEA&DP at this stage only commented on the Notice of Intent (NOI) that they had received which lacked final details as the project design and planning phase was still ongoing. Subsequently, they have received a Pre-Application draft Basic Assessment Report (BAR) and an Application. Soon a Post-Application draft BAR will also be sent to them for comment. The subsequent documentation (sent after the NOI) has and will contain additional details and activities associated with the development footprint Application. The assumption is made that "all these activities that are referred to in the land use planning application" in DEA&DP's comment, refers to the harvesting of natural resources (e.g., honey and plant seeds/cuttings) as well as intensive horticulture and aquaculture as mentioned in the land use application. None of the latter activities, especially at their small scale, trigger any further listed activities ito the NEMA EIA Regulations."</p>
DAPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (PLANNING)	<p>These comments are noted. The Overstrand Municipality allows a second dwelling unit up to 250m² and the proposal is aligned with their land use scheme.</p>
TELKOM	<p>These comments are noted.</p>

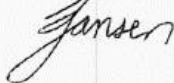
Conclusion

No comments that were required to be addressed by WRAP were included in the request. The property owner appointed an environmental consultant that has been advised to provide his response to the comments received.

It should also be noted that a second dwelling of 250m² is being applied for as it is aligned with the Overstrand Municipality's Land Use Scheme and not considered out of the ordinary for the area.

Considering that this response has adequately addressed all the comments made, it is recommended that the planning application be approved as submitted.

Yours faithfully



T JANSEN
PROFESSIONAL TOWN PLANNER (A/2858/2019)

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

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20 YEARS
1999-2019

WRAP Group Established 2002

TP: A Theart
(H. v.d. Steep)



Project Office

Town Planning & Project Management

FILE NO. PTN 156 of Farms
559 - Hangklip ✓
SCAN NO.
Farm 559
COLLABORATOR NO.
1752103

Our Reference: 21/102
Your reference: LS14/2/6/1/7/2/559-156_consent&dep_Pringle Bay

26 September 2022

Attention: Mr Rhett Smart

APPLICATION FOR CONSENT USE AND DEPARTURE ON PORTION 156 OF THE FARM HANGKLIP 559, CALEDON

Your comments dated 13 September 2022, refers.

COMMENTS	RESPONSE
The application is for consent use and departure for a second dwelling and other ancillary uses. The development proposal is currently undergoing a Basic Assessment process in order to obtain environmental authorisation. No detailed plans were presented in the first draft of the Pre-Application Basic Assessment Report (BAR) with two alternative development blocks of 4 000 m ² proposed which were to contain a primary and secondary residential dwelling, two guest cottages and supporting infrastructure.	Response from the environmental consultant, Duncan Heard: "Detailed site layout plans have now been finalised and will be detailed (as per the Town Planning Application) in the Post-Application draft BAR"
The recommendation from CapeNature upon review of the Pre-Application BAR was that alternative locations must be investigated due to the high conservation value and sensitivity of the property and the high fire risk for the infrastructure, as the proposed location is up the mountain slope surrounded by fynbos. The recommendation was to investigate locations adjacent to existing development and the public road which would reduce the fire risk and fragmentation of natural habitat. Further detail on the development proposal was also requested. Due to the high conservation value and sensitivity CapeNature recommended the site for	Response from the environmental consultant, Duncan Heard: "These comments are appropriate to the BAR Application for Environmental Authorisation and are detailed and responded to fully to in the post-Application draft BAR. The landowner intends to manage the 74ha property as a conservation area."

26 SEP 2022



<p>formal conservation protection (e.g., stewardship).</p>	
<p>More detailed plans are provided in the subject planning application indicating the main dwelling and second dwelling within the development block. The consent uses are for tourism accommodation, agriculture (beekeeping), plant nursery, aquaculture, intensive agriculture and harvesting of natural resources. As the built structures are located within the development block, the associated biodiversity constraints are taken into account within the Basic Assessment process. We wish to query the application for tourism accommodation, as this is not discussed further in the application, and the two proposed dwellings are the only buildings indicated on the layout plan.</p>	<p>The tourist accommodation will occur in the second dwelling unit.</p> <p>No additional structures will be required. Refer to Section 4.1 of the land use application, the following is stated:</p> <p><i>"The property owner has a vision to utilise the second dwelling unit for renting to transient guest that will utilise the second dwelling unit for self-catering purposes. Other times the property owner would utilise the second dwelling unit as a place for family to stay over and utilise during off seasons."</i></p> <p>No additional buildings other than what is being proposed on the SDP will be allowed.</p> <p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"The 2nd dwelling will not be built immediately, but at an appropriate future time. The intention with the envisaged four-bedroom 2nd dwelling is that it would be used for visiting family and friends."</i></p> <p><i>It will be used as tourist accommodation (up to eight people), when not in use for the aforementioned purpose.</i></p> <p><i>No other separate tourist accommodation facilities are envisaged."</i></p>
<p>Of relevance to the application is the location of the property within the Protected Area Buffer Overlay Zone which is one of the Environmental Management Overlay Zones (EMOZs) for the Overstrand Municipality. The property is adjacent to the Kogelberg Nature Reserve which is also part of the Cape Floristic Region Protected Areas World Heritage Site (CFRPA WHS). Regulations have been promulgated which need to be adhered to for properties located within an EMOZ.</p>	<p>This is noted. The internal Environmental Department of the Overstrand supported the application and stated that the EMOZ's regulations need to be adhered to.</p>
<p>Agriculture (Bee-keeping):</p> <p>CapeNature has a Policy on Honey Bee Colonies on Protected Areas, however this does not apply to properties outside of</p>	<p>This is noted, the Beekeeping will be a hobby for the property owner.</p>



<p>nature reserves. We however recommend the following minimum requirements to permit beekeeping on the property:</p> <p>A minimum of a 500 m buffer from the nature reserve boundary must be adhered to for bee hives, although the ideal buffer would be 1 km.</p> <p>The landowner must be a registered beekeeper in terms of the relevant legislation which will ensure that minimum industry standards are adhered to and annual inspections are undertaken. Biosanitary concerns will also be addressed with regards to diseases.</p> <p>No beehives should be located near to any firebreaks, roads, footpaths or buildings to minimize the health and safety risk.</p>	<p>The land use application is still in process and still need to be considered. If approved, the required permits and the regulations set out by the "Honey Bee Colonies on Protected Area" Policy will be adhered to.</p> <p>Response from the environmental consultant, Duncan Heard:</p> <p><i>"The landowner will note these recommendations. He intends only keeping bees to have honey for own use initially. If this expands into a commercial venture, he will ensure that all applicable regulations are complied with.</i></p> <p><i>(Bees are already being kept by landowners in the buffer area of the Kogelberg Nature Reserve)."</i></p>
<p>Harvesting of Natural Resources:</p> <p>The applicant proposes small scale harvesting of flora on the property. Picking of flora is controlled by the provincial Nature Conservation Ordinance.</p> <p>In this regard, a permit is required from CapeNature for picking of flora, however there is an exclusion if this is undertaken by the owner of the property upon which picking takes place or by a family member or full-time employee. However, any sale of the flora requires a permit from CapeNature.</p> <p>This activity is therefore subject to obtaining the necessary permits from CapeNature within which process the desirability of this activity will be assessed.</p> <p>It should however be noted from the outset that according to the EMOZ Regulations, vegetation within wetlands may not be utilized, which then excludes species such as <i>Berzelia lanuginosa</i>, <i>Erica perspicua</i> etc. It is further noted that commercial harvesting of any natural resource also requires a permit from the Overstrand Municipality in terms of the EMOZ Regulations.</p>	<p>Response from the environmental consultant, Duncan Heard:</p> <p><i>" The landowner will endeavour to grow selected plants for planting within the 4 000m2 development footprint or possibly even to aid the rehabilitation of eroded areas on the rest of the property. For this, it may be necessary to harvest very small amounts of seed or plant material (possibly < 30kg/annum) from the rest of his property. This harvesting is expected to have no negative impact on the natural fynbos vegetation."</i></p> <p>The proposal is not to sell any flora, however, should it be required the property owner will obtain the necessary permits from Cape Nature.</p> <p>The EMOZ is noted, and the regulations will be adhered to.</p>



<p>Intensive Horticulture, Plant Nursery and Aquaculture:</p> <p>These consent uses are for the purposes of producing aquatic fauna and flora within a greenhouse.</p> <p>Confirmation must be provided if this will be restricted to freshwater fauna and flora. We do not support the production of marine fauna and flora at this location, as the saltwater will have negative impact on the surroundings, with the sensitive, endemic-rich freshwater biota from the Table Mountain Sandstone freshwater systems adapted to very low salinities.</p> <p>More detail is required regarding the aquaculture facility, in particular the management of waste and effluent as this could have a significant impact. In this regard no effluent may be discharged within the EMOZ according to the Regulations.</p> <p>Confirmation must be provided that the production will be below the thresholds of NEMA Listing Notice 1 Activity 6. 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</p> <p>The source of water for the aquaculture must be described and will required approval from the Overstrand Municipality in terms of the EMOZ Regulations and may also require approval in terms of the National Water Act, depending on the volumes.</p> <p>Permits may also be required from CapeNature in terms of the Nature Conservation Ordinance.</p>	<p>Comments from the environmental consultant, Duncan Heard:</p> <p><i>"The purposes would encompass the keeping of fauna and flora initially as a hobby.</i></p> <p><i>The intention is to keep Koi fish in a pond in the greenhouse. No keeping of marine flora or fauna is envisaged.</i></p> <p><i>The water in koi pond will be in a closed self-cleaning system. Very small amounts of waste or wastewater will be removed from time to time and used in the garden area within the homestead complex.</i></p> <p><i>In the envisaged koi pond, 'production' would amount to the sale of small numbers of live fish per annum. This is well under the threshold of 20 000kg per annum.</i></p> <p><i>For the record, the other relevant threshold, NEMA Listing Notice 3 Activity 13, will also not be triggered as the aquaculture facility will not be in an estuarine functional zone, protected area or an aquatic critical biodiversity area.</i></p> <p><i>The water for the koi pond will be a blend of roof harvested rainwater and borehole water.</i></p> <p><i>The koi pond will not be larger than an average residential swimming pool. The water will be in a closed self-cleaning system. Very low volumes of water will be required for 'topping up' the system from time to time.</i></p> <p><i>It is expected that the 'water use' associated with the whole homestead complex (including koi pond) from the borehole will be well within the allowable domestic volume allowed by the NWA.</i></p> <p><i>Noted."</i></p> <p>The EMOZ is noted, and the regulations will be adhered to. The land use application is still in process and still need to be considered. If approved, the required permits and the</p>
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	regulations set out by the "Nature Conservation Ordinance" will be adhered to.
An alien invasive species management plan is required to comply with the NEM:BA Alien and Invasive Species Regulations and a fire management plan is required. These were also two requirements from CapeNature for the Pre-Application BAR. The impact of fire and aliens is listed as a primary reason for the need for the Protected Area Buffer EMOZ.	Comments from the environmental consultant, Duncan Heard: <i>"An alien invasive species management plan ito of NEMBA and a fire management plan will be conditions coupled to the granting of an Environmental Authorisation for the development applied for."</i>
The zoning of the property is Rural Zone 2: Conservation Use which is deemed an appropriate zoning in accordance with the EMOZ. The consent uses are applied for in terms of this zonation. We note that the municipal zonation map indicates the property as zoned Undetermined therefore it is assumed the property was rezoned.	A zoning certificate was obtained and was attached as Annexure B within the land use application. Zoning maps may not be always up to date and a zoning certificate revealed the zoning.
The proposed development is located at approximately 60 m above sea level which is below the maximum 120 m in the EMOZ.	Noted and agreed with.
No feeding, pursuit or disturbing of fauna is permitted and, in this regard, mitigation measures to minimize the potential for baboons to utilize food sources must be included in the EMP for the BAR.	Noted and agreed with. Response from the environmental consultant, Duncan Heard: <i>"Noted. Mitigations regarding the baboons are included in the EMP for the BAR."</i>
Sewage provision is through a conservancy tank which will be serviced and therefore there will not be any effluent from sewage if it is adequately maintained. Further confirmation is however required regarding access by a honeysucker truck.	Response from the environmental consultant, Duncan Heard: <i>"The Post-Application Draft BAR will be distributed shortly to the commenting authorities and registered I&APs. It will indicate that the existing access road will be widened by 1m and stabilized with grass blocks. Three passing lay-bys will also be provided to facilitate vehicle passing each other."</i> <i>This has been done inter alia to safely accommodate the sewage pump tanker truck."</i>
The existing roads and tracks leading north from the proposed development footprint are proposed to be closed and rehabilitated which is supported. Vehicle use should then be restricted to the single access road. The impacts associated with the access road are assessed in the BAR.	Response from the environmental consultant, Duncan Heard: <i>"Correct. However, the existing vehicle track that leads off in a north westerly direction from the access road (just below the farm dam) will be maintained, as it is</i>



	essential for general and fire management as well as emergency purposes. This track meets up with the municipal servitude road in the north-west corner of the property."
Detailed designs for the buildings on site are required in order to assess the impact on the sense of place. This also includes the WHS as a sensitive receptor.	Response from the environmental consultant, Duncan Heard: "The main dwelling will be partly obscured by the earthen dam wall from the R44 provincial road as well as the lower areas of Pringle Bay. Other visual mitigatory measures are included in the EMPr."
In conclusion, CapeNature does not support the application as currently presented. As indicated in the NEMA process, alternative locations must be investigated for the buildings on site which will minimize the impact. Further information is required regarding the ancillary consent uses as indicated above and other legislative requirements must be obtained, including permits from CapeNature.	Response from the environmental consultant, Duncan Heard: "Alternative locations have been investigated as described in the Post-Application Draft BAR that will be distributed shortly. A third alternative site has been selected after a winter aquatic assessment determined that the previous preferred site had a seasonal wetland seep on it. The preferred site now has no wetland features on it. CapeNature's recommendation that the development site be placed next to the public gravel road was assessed. This site is not a desirable location ito the gravel dust and traffic noise from the gravel road and the R44. The ecological impact of this site would also be higher as it would be much closer to the NFEPA wetland and would also reduce the small area of Hangklip Sand Fynbos on the property here, significantly as well as the ecotone area between the Hangklip Sand Fynbos and the NFEPA wetland."

Conclusion

We trust that response has adequately addressed your comments.

Yours faithfully

T. JANSEN
PROFESSIONAL TOWN PLANNER (A/2858/2019)

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

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WRAP Group Established 2002



Western Cape
Government



Department of Environmental Affairs and Development Planning
Dalene Carstens
Directorate: Development Management (Region 2)
dalene.carstens@westerncape.gov.za | Tel: 061 404 8133

Annexure F
1/2

Reference: 15/3/2/12/BO3

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

FILE NO. PAN 156/2021
Hangklip
SCAN NO. 13
COLLABORATOR NO. 1720351

REQUEST FOR COMMENT: APPLICATION FOR CONSENT USES AND DEPARTURE: PORTION 156 OF FARM HANGKLIP NO.559, CALEDON

1. Your request for comment, dated 05 July 2022, has reference.
2. The application property is zoned "Rural Zone 2: Conservation Usage" and measures 74,1783 ha in extent.
3. The development as proposed is for the following:
 - 3.1 **Consent use** to allow a second dwelling unit.
 - 3.2 **Consent use** for tourist accommodation (to utilise the second dwelling unit for tourist accommodation).
 - 3.3 **Consent use** to allow agriculture (beekeeping).
 - 3.4 **Consent use** to allow the harvesting of natural resources (small-scale flora harvesting).
 - 3.5 **Consent use** to allow intensive horticulture.
 - 3.6 **Consent use** to allow aquaculture (to produce water fauna and flora).
 - 3.7 **Consent use** to allow a plant nursery (a greenhouse of $\pm 50\text{m}^2$ will accommodate the intensive agriculture, aquaculture and nursery).
 - 3.8 **Permanent departure** to allow a second dwelling with a total floor area of 250m^2 in lieu of 120m^2 .
4. All the proposed structures (main dwelling of 399m^2 , second dwelling and the greenhouse) will be accommodated within a total development footprint of 4000m^2 .

TP 22 JUL 2022

5. From a provincial land use planning perspective there is no objection to the proposed development, however it is recommended that the maximum floor area of the second dwelling unit not exceed 175m² as per the recommendations of the Western Cape Land Use Planning Guidelines for Rural Areas, 2019.

Kobus Munro Digitally signed by Kobus Munro
Date: 2022.07.21 16:15:47
+02'00'
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

Annexure G 1/17



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

REFERENCE: 16/3/3/1/E2/31/1057/22
NEAS REFERENCE: WCP/EIA/0001159/2022
DATE OF ISSUE: 13 April 2023

TP - A Theart
(Huld Steep)



P.O Box 8378
EDEN GLEN
1613

Attention: Mr Brandon Topham

Cell.: 082 452 7640

Email: Brandon.Topham@turckbanner.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: THE DEVELOPMENT OF A MAIN AND SECONDARY DWELLING AND ASSOCIATED INFRASTRUCTURE ON PORTION 156 OF FARM NO. 559 HANGKLIP, PRINGLE BAY.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** the environmental authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, (as amended), you are instructed to ensure, within 14 days of the date of the environmental authorisation, that all registered Interested and Affected Parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached environmental authorisation.

Yours faithfully

Zaahir
Toefy

Digitally signed by
Zaahir Toefy
Date: 2023.04.13
15:07:14 +02'00'

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Duncan Heard (Duncan Heard Environmental Consultant)
(2) Liezl De Villiers (Overstrand Municipality)
(3) Rheit Smart (CapeNature)
(4) Rafeeq Le Roux (BGCMA)

Email: duncanheard@telkomsa.net
Email: ldvilliers@overstrand.gov.za
Email: rsmart@capenature.co.za
Email: rleroux@bgcma.co.za

18 APR 2023

TP

www.westerncape.gov.za

Department of Environmental Affairs and Development Planning

FILE NO. Pbn 156/559
Hang Klip
SCAN NO.
PTN 156
COLLABORATOR NO.
1847001



**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

REFERENCE: 16/3/3/1/E2/31/1057/22
NEAS REFERENCE: WCP/EIA/0001131/2022
DATE OF ISSUE: 13 April 2023

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE DEVELOPMENT OF A MAIN AND SECONDARY DWELLING AND ASSOCIATED INFRASTRUCTURE ON PORTION 156 OF FARM NO. 559 HANGKLIP, PRINGLE BAY.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the Alternative 1 as described in the Basic Assessment Report ("BAR"), dated December 2022.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Mr Brandon Topham
 P.O Box 8378
EDEN GLEN
 1613

Cell.: 082 452 7640
 Email: Brandon.Topham@turckbanner.co.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as **"the holder"**.

B. LIST OF ACTIVITIES AUTHORISED

Listed Activity	Project Description
<p>Listing Notice 1 – Activity Number: 12</p> <p>The development of—</p> <ul style="list-style-type: none"> (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; <p>where such development occurs—</p> <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; — <p>excluding—</p> <ul style="list-style-type: none"> (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such development occurs within an urban area; (ee) where such development occurs within existing roads, road reserves or railway line reserves; or (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared. 	<p>The proposed development is located within 32m of the watercourses that are present on the site. The upgrades to the existing access road will also cross the watercourse and the route alignment will be within 32m of the in-stream dam.</p>
<p>Listing Notice 1 – Activity Number: 19</p> <p>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,</p>	<p>The proposed upgrades to the existing access road across the watercourse will result in the infilling or moving of more than 10 cubic metres of material within the watercourse. The in-stream dam also requires</p>

<p>pebbles or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(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.</p>	<p>maintenance to close the partial breach of the dam wall.</p>
<p>Listing Notice 3 – Activity Number: 12</p> <p>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.</p> <p>i. Western Cape</p> <p>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;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>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 or even in urban areas;</p> <p>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</p> <p>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the</p>	<p>The proposed development will require the clearance of more than 300m² of critically endangered indigenous vegetation.</p>

prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.	
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The abovementioned list is hereinafter referred to as "**the listed activities**".

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development:

The proposal entails the development of two dwellings and associated infrastructure on a 0.5ha area consisting of:

- A main dwelling and a secondary dwelling;
- A nursery area for intensive horticulture and aquaculture for own use;
- A garden area and an outdoor entertainment area;
- A reservoir, sewage conservancy tank, and a planted detention pond to collect and purify water-run-off;
- The widening of the existing access road to 4m wide and adding three access road lay-bys of approximately 45m² (each approximately 3m x 5m) where vehicles can pass each other;
- Extension of the existing access road by approximately 160m to provide direct access to the proposed development; and
- Repairs to the breached wall of the in-stream dam.

C. SITE DESCRIPTION AND LOCATION

The site where the authorised listed activities will be undertaken is on Portion 156 of Farm No. 559, Hangklip, Pringle Bay, and has the following co-ordinates:

	Latitude (S)	Longitude (E)
Coordinates	34° 20' 15.20" South	18° 51' 5.39" East

The SG digit code is: C0130000000055900156

Refer to Annexure A: Locality Map and Annexure B: Site Plan.

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Duncan Heard Environmental Consulting
 c/o Duncan H.W. Heard
 12 Sepia Avenue,
 Vermont,
ONRUSRIVIER
 7201

Tel: (028) 316 3386
 Email: duncanheard@telkomsa.net

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the Alternative 1 as described in the Basic Assessment Report ("BAR"), dated December 2022 on the site as described in Section C above.
2. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority

This Environmental Authorisation is granted for-

- (a) A period of **five years** from the date of issue, during which period the holder must commence with the authorised listed activities.
 - (b) A period of **ten (10) years**, from the date the holder commenced with the authorised listed activity, during which period the authorised listed activities must be concluded.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee, or any person rendering a service to the holder.
 4. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

5. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 5.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 5.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 6, 7, 8 and 10

Notification and administration of appeal

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision-

- 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.
- 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 detailed in Section G below;
- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation,
 - 6.4.2 name of the responsible person for this Environmental Authorisation,
 - 6.4.3 postal address of the holder,
 - 6.4.4 telephonic and fax details of the holder,
 - 6.4.5 e-mail address, if any, of the holder,
 - 6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.
7. The listed activities, including site preparation, may not commence within 20 (twenty) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

Management of activity

8. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
9. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

10. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the provisions of the EMPr and the conditions contained herein.
11. The ECO must report on compliance in writing to this Department and the relevant authorities monthly during the construction phase.
12. A copy of the Environmental Authorisation, EMPr, audit reports, and compliance monitoring reports must be kept at the site of the authorised activity and must be made available to anyone on request, including a publicly accessible website.

13. Access to the site referred to in Section C above must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMP. The Environmental Audit Report must be prepared by an independent person (other than the appointed Environmental Assessment Practitioner or Environmental Control Officer) and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.

The holder must undertake an environmental audit and submit an Environmental Audit Report to the Competent Authority once a year during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after the development is completed.

The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

15. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
17. An iterative 5-year Environmental Conservation Management Plan ("CMP") that addresses conservation management of the property, including an integrated fire and alien management, must be compiled within 6 months of the date of issue of this EA by a suitably qualified and experienced specialist. The CMP must be submitted to CapeNature and the Environmental Management Section of the Overstrand Municipality for their endorsement. Copies of the endorsements and CMP must be submitted to this Department for record purposes together with the first environmental audit in terms of Regulation 34 of the NEMA EIA Regulations, 2014, as required in terms of Condition 14.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr are as follows:
Amendments to the EMPr, must be done in accordance with Regulations 35 to 37 of the EIA Regulations 2014 or any relevant legislation that may be applicable at the time.

G. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter, and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter, and the decision-maker i.e. the Competent Authority that issued the decision.

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3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
 4. The appeal and the responding statement must be submitted to the address listed below:
By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001
- Note:** For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

The Western Cape Government, the Local Authority, committees, or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer, or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

11/17

Your interest in the future of our environment is appreciated.

Yours faithfully

Zaahir
Toefy

Digitally signed by
Zaahir Toefy
Date: 2023.04.13
15:07:38 +02'00'

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 13 APRIL 2023

CC: (1) Duncan Heard (Duncan Heard Environmental Consultant)
(2) Liezl De Villiers (Overstrand Municipality)
(3) Rhett Smart (CapeNature)
(4) Rafeeq Le Roux (BGCMA)

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Email: rsmart@capenature.co.za
Email: rleroux@bgcma.co.za



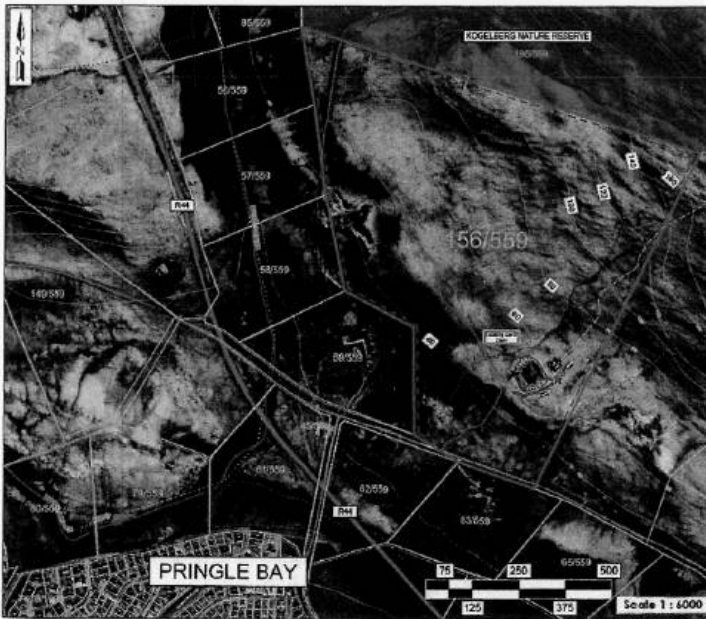
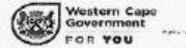
ANNEXURE 1: LOCALITY MAP



**Area Context Locality
-156/559**

- Legend**
- Farm Portions
 - BSP Protected Areas
 - CapeNature Reserves

Map Centres: Lon: 18°51'10.4"E
Lat: 34°27'4.6"S
Scale: 1:18 056
Date created: March 22, 2022



Portion 156 of 559, Caledon

- Subject Farm
 - Portion 156 of 559, Caledon
 - Surrounding Farms and Town
- Roads**
- 1st - Regional Road
 - 2nd - Regional Road
 - Existing Farm Roads
 - Proposed New Access Roads
 - Existing Farm Roads to be closed and rehabilitated
- Other Features**
- 20m Contours
 - 10m Building Lines
- Proposed Development Footprint (Approx)**
- 1: 54°57'18.5" E 1:21°15.87" S (Centrepoint)

**Appendix B1
Development Alternative 1
Preferred Option**

Scale:
Issue: 16/06/2022, 301 - 4 and 5 Property
Drawn: 16/06/2022, 301/559
Entered: 16/06/2022, 301/559
Prepared: 16/06/2022, 301/559
All dimensions are approximate
and subject to survey

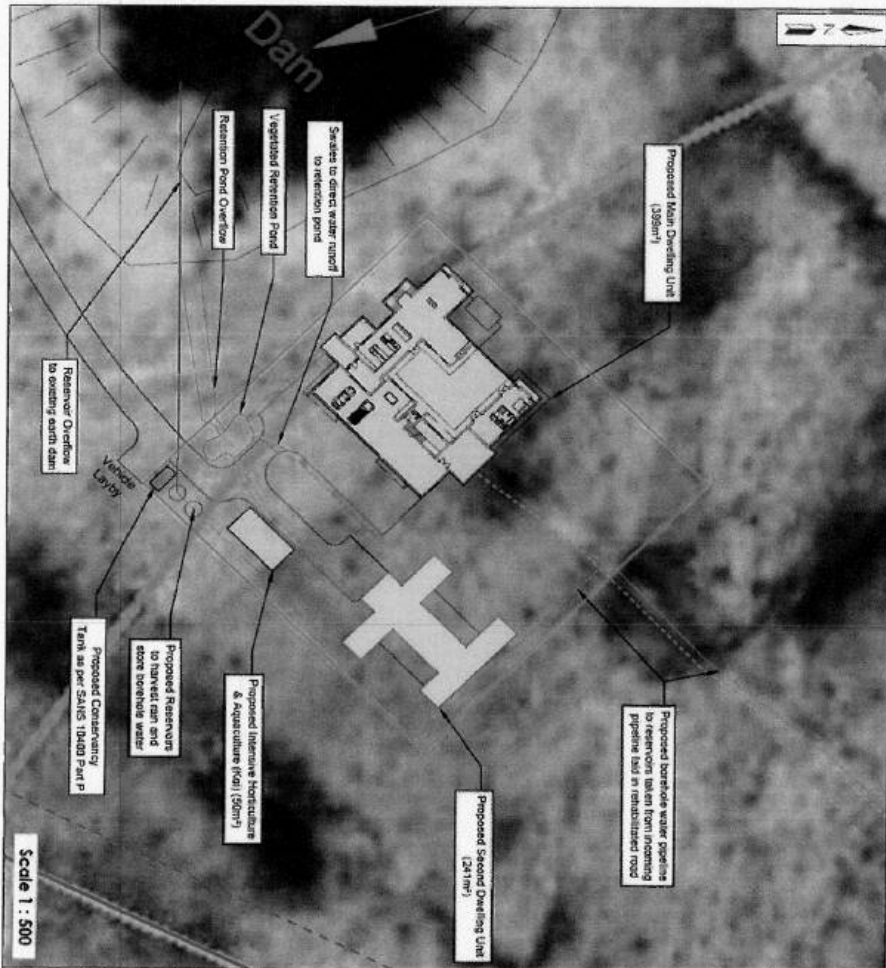
Scale: 1:6000

Email: info@wrapsouthafrica.co.za
Tel: 021 531 1111

get it, standard road, Centre of Road and Drive on
these markers, 1:50

Project Office
WRAP

ANNEXURE 2: SITE PLAN



Scale 1 : 500

Portion 156 of 559, Caledon	
<input type="checkbox"/>	Subject Farm
<input type="checkbox"/>	Portion 156 of 559, Caledon
<input type="checkbox"/>	Surrounding Farms and Environs
Rivers	
<input type="checkbox"/>	Non-Perennial Rivers
<input type="checkbox"/>	Perennial Rivers
Zones	
<input type="checkbox"/>	Proposed New Access Roads
<input type="checkbox"/>	Open Countryside
<input type="checkbox"/>	10m Building Lines
<input type="checkbox"/>	Existing Farm Road to be closed and rehabilitated
<input type="checkbox"/>	Proposed Development Footprint (4000m²)
<input type="checkbox"/>	1: 34°20'15.207" S, 18°51'5.37E (Centerpoint)

Appendix B1
Development Alternative 1
Preferred Option

Tranche
Municipal Project No. 2231 - Area 18/19
City of Cape Town - Environmental Services
Department of Environmental Services
P.O. Box 1200, Newlands, 7715, Cape Town
All activities are subject to the approval of the relevant authority.
Tel: 021 311 1011
Email: development@capetown.gov.za
VAT # 4530297238
Incorporated in RSA
Registration No. 2020



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, inter alia, the following:

- a) The information contained in the Application Form received on 7 September 2022, and the EMPr submitted together with the final Basic Assessment Report received on 7 December 2022;
- b) Relevant information contained in the Departmental Information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the final Basic Assessment Report dated and received on 7 December 2022;
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The Public Participation Process ("PPP") included:

- identification of and engagement with I&APs;
- placing notice boards at the site where the listed activities are to be undertaken on 18 March 2022;
- placing of a newspaper advertisement in the 'Overstrand Herald' on 24 March 2022;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 28 March 2022; and
- circulating the pre-application draft BAR from 28 March 2022 and the in-process draft BAR to I&APs from 12 October 2022.

The Department is satisfied that the PPP that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report.

Specific alternatives, management, and mitigation measures have been considered in this Environmental Authorisation and EMPr to adequately address the concerns raised.

2. Alternatives

The position for the proposed development on the farm was selected by the landowner since it was located far enough away from the traffic noise of the R44 regional road that borders the site, the development would be partially screened by the earthen dam wall from the R44 and the lower-lying areas

of Pringle Bay, access was available from an existing farm vehicle track from the southern boundary of the property to the targeted development footprint and it was in close proximity to the Eskom power line that traverses the site. In addition, the area adjacent to the earthen dam was already transformed to some extent.

Within this area, two alternative development footprints (a western and eastern site alternative) were initially selected for specialist assessment. Based on the findings of the aquatic and botanical impact assessments, the western site alternative was preferred since a non-perennial drainage line traversed the eastern site alternative. The western site alternative appeared to be optimally placed between two drainage lines. Since the timing of the initial aquatic impact assessment was not optimal, the aquatic specialist undertook a winter assessment of the western site alternative and the surrounding area, which revealed a significant seasonal wetland seep on the western side of the western site alternative. This gave rise to the below third and now preferred development footprint. The preferred site straddles parts of the initial two development footprint alternatives to avoid all the freshwater features present on the site.

Alternative 1 (Preferred alternative herewith authorised):

This preferred alternative entails the development of two dwellings and associated infrastructure on a 0,5ha area that is located in the most southern portion of the site and includes the following components:

- A main dwelling and a secondary dwelling;
- A nursery area for intensive horticulture and aquaculture for own use;
- A garden area and an outdoor entertainment area;
- A reservoir, sewage conservancy tank, and a planted detention pond to collect and purify water-run-off;
- The widening of the existing access road to 4m wide and adding three access road lay-bys of approximately 45m² (each approximately 3m x 5m) where vehicles can pass each other;
- Extension of the existing access road by approximately 160m to provide access to the proposed development; and
- Repairs to the breached wall of the in-stream dam.

No-go Option

The No-Go Option is not preferred since the opportunity to develop and improve the landowner's property and conserve and protect the remainder of the site will be not achieved. In addition, no job opportunities will be created during the construction phase.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The site is located within the buffer area of the Kogelberg Nature Reserve and biosphere and is zoned for conservation use. The proposed development will be restricted to a 0,5ha footprint and aims to protect and conserve the important terrestrial and aquatic features present on the remainder of Portion 156 of Farm No. 559 Hangklip, Pringle Bay. The preferred layout was informed by specialist input and comments received during the public participation period and represents the best practicable environmental option. The proposed development will also provide temporary job opportunities during the construction phase.

3.2 Biophysical Impacts

The site mainly contains Kogelberg Sandstone Fynbos, with the access road also protruding into Hangklip Sand Fynbos vegetation. Both vegetation types are classified as critically endangered. Apart from the earth dam, a few tracks, and minor alien vegetation infestation, the site and surrounding area

are undisturbed. The botanical impact associated with the proposed development is of a low to medium significance despite its conservation status. This is based on the fact that Kogelberg Sandstone Fynbos is well represented in the larger surrounding area. A significant impact on the biodiversity network is not anticipated, due to the small size of the proposed development in comparison with the remaining extent of the undeveloped property that will be conserved and protected. This will also ensure that connectivity around the site remains largely unaffected. With the implementation of the specialist recommendations, the proposed development is considered acceptable from a botanical perspective.

Based on the findings of the Aquatic Biodiversity Risk and Impact Assessment dated October 2022, compiled by Delta Consulting, four wetlands were classified and delineated within the site during a summer and winter site assessments undertaken on 23 February 2022 and 27 June 2022, respectively. This includes one unchanneled valley-bottom wetland ("UVBW"), two hillslope seep wetlands, and an additional hillslope seep wetland area within the footprint of the western site alternative which was delineated during the wet-season follow-up assessment undertaken during winter. All four of the delineated wetlands were found to be in a natural to near-natural ecological condition with minimal disturbance, such as a dirt road traversing one of the seep wetlands and erosion downslope of UVBW. All four delineated wetlands supply a very high amount of biodiversity maintenance in a catchment area where the demand for this ecosystem service is very high. The preferred development footprint was amended to avoid the freshwater resources and with the implementation of the recommended mitigation measures, the identified freshwater impacts are rated to be of low to very low significance, which is deemed acceptable. The mitigation measures have been included in the EMPr approved as part of this environmental authorisation and will be implemented during the construction and operational phase of the development.

A Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act 38 of 1998) was also submitted to the BGCMA that will further consider the watercourse-related impacts.

CapeNature confirmed in their comment dated 11 November 2022 that they do not object to the proposed development subject to the applicant joining the Greater Overberg Fire Protection Association, implementation of the EMPr, and recommended amendments. In addition, it is required that a conservation management plan be compiled and implemented to manage the conservation of the remainder of the property. These requirements were accepted and addressed.

The development will result in both negative and positive impacts.

Negative Impacts:

- The proposed development will result in the clearance of approximately 0.5ha of indigenous vegetation and will have an impact on the freshwater features present on the site. This impact significance has been reduced to an acceptable level with the implementation of the recommended mitigation measures, the preferred alternative, and adherence to the EMPr.
- Construction phase impacts associated with the development are likely to be present, including elevated noise, dust levels, and increased visual impacts. These nuisances will be of temporary duration and mitigation measures have been incorporated into the EMPr for implementation during the construction phase.

Positive impacts:

- The proposed development will ensure that the remainder of the undeveloped site is protected and conserved, and job opportunities will be created during the construction phase.

4. National Environmental Management Act Principles

The National Environmental Management Principles (set out in section 2 of the NEMA, which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration, and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment, and evaluation of the social, economic, and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation, and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

-----END-----



Western Cape
Government



Annexure H

Transport and Public Works
Vanessa Stoffels

Chief Directorate: Road Planning
roads@westerncape.gov.za | Tel: 021 483 4669

Ref: TPW/CFS/RP/LUD/REZ/SUB-21/257 (Job 29692)

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

TR n/hoort
(H. van der Stoep)

FILE NO. P11156/559
Hangklip
SCAN NO.
COLLABORATOR NO.
1733612

Attention: Ms H van der Stoep

Dear Madam

PORTION 156 OF FARM HANGKLIP NO. 559, PRINGLE BAY: PROPOSED CONSENT USES AND DEPARTURE

1. Letter 4174/2022 to this Branch dated 05 July 2022.
2. The subject property is in Pringle Bay and takes access from an unnamed gravel road.
3. The proposal is for the following:
 - 3.1. Consent use to accommodate a second dwelling unit, tourist accommodation, agriculture to permit beekeeping, harvesting of natural resources to permit small-scale flora harvesting, intensive horticulture, aquaculture, and plant nursery.
 - 3.2. Departure to exceed the maximum permissible size of a second dwelling unit from 120m² to 250m².
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: ROADS
DATE: 10 AUGUST 2022



Western Cape
Government



Annexure I 1/2

Cor Van Der Walt
Land Use Management

Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/382
YOUR REFERENCE : P1n 156 of 559, KHANG
ENQUIRIES : Cor van der Wall/David Lakey

Overstrand Municipality
PO Box 20
Hermanus
7200

Att: S Muller

TP. n./inert
(H. ud Sloep)

FILE NO.	PA/156/559
SCAN NO.	Hangklip
COLLABORATOR NO.	Farm 559
	1743943

**APPLICATION FOR CONSENT USES AND DEPARTURE: DIVISION CALEDON
PORTION 156 OF THE FARM HANGKLIP NO 559**

Your application of 05 July 2022 has reference.

A consent use application has been submitted to allow agriculture (bee harvest), the harvesting of natural resources, a plant nursery (greenhouse 50m²), intensive horticulture, aquaculture and a second dwelling unit (250m²) to be used as tourist accommodation. Additionally, an application for a departure to allow the second dwelling unit to be larger than 120m² has been submitted for the abovementioned farm portion of 74.18ha in extent. The applicant wishes to utilize the property under its current Rural Zone 2: Conservation Usage zone scheme.

The proposed land uses are interlinked and interdependent on one another. A 50m² greenhouse will comprise of the intensive horticulture, aquaculture and plant nursery after the harvesting of natural resources. The total development footprint is 4000m² as presented in the site development plan and the Hottentots Holland Mountain Catchment area forms part of the farm portion, however, the proposed development is situated outside of the registered catchment area.

The Western Cape Department of Agriculture: Land Use Management provides the following comments:

- I. The subject portion is zoned as Rural Zone 2: Conservation usage. How will the proposed harvesting of plants/seeds impact on the objectives of Rural Zone 2? How many plants/seeds will be harvested and what is the capacity of the greenhouse?

6 SEP 2022

- ii. The proposed 250m² second dwelling is more than double the 120m² maximum allowed under the Overstrand Municipal Zoning Scheme By-Law 2020. The WCDoA will accept a 2nd dwelling with a maximum footprint of 175m² for rental accommodation.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- 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

2022-09-05



BREED-GOURITZ
CATCHMENT MANAGEMENT AGENCY

Cnr Mountain Mill & East Lake Road, Worcester 6850, Private Bag X3055 Worcester 6849

Enquiries: Vhengani Ligudu

Tel: +27 23 346 8000

Fax: +27 23 347 2012

E-mail: vligudu@bgcma.co.za

REFERENCE NO: 4/10/1/G40B/HANGKLIP 559/156, CALEDON
Date: 22 August 2022

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

Attention: Loriaan Isaacs

FILE NO. PIN 156/1559
1/hangklip ✓
SCAN NO.
PIN 156
COLLABORATOR NO.
1734933

RE: APPLICATION FOR CONSENT USES AND DEPARTURE: PORTION 156 OF THE FARM 559, A DIVISION OF CALEDON.

With reference to the above-mentioned document received by this office on the 19/07/2022 requesting comments.

This office has reviewed the 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. It is noted from the report (services) that the development will be serviced with water from borehole (still to be drilled). Please note that no additional use of surface/groundwater 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 authorization in terms of General Authorizations issued under Section 39 (Government Notice 538 dated 02 September 2016), and/or if it is authorized under Schedule 1 of the National Water Act, 1998 (Act 36 of 1998). And/or if it is defined and declared as an existing lawful water use in terms of Section 32 & 33 of the National Water Act, 1998 (Act 36 of 1998).
3. Based on the available NFEPA (National Freshwater Ecosystem Priority Area) maps, there are watercourses present on the property. Please note that any activity within the 1:100 year floodline or within 100 metres of a watercourse (river, spring, natural channel, a lake or dam) or within a 500 m radius from the delineated boundary (extent) of any wetland or pan triggers a water use activity in terms of Section 21 (c) & (i) of the National Water Act, 1998 (Act 36 of 1998).

TP 22 AUG 2022

Annexure J 1/2



TP n. Isaac
(U. ud Graep)

4. No pollution of surface water or groundwater resources may occur due to any activity on the property.
5. No storm water runoff from any premises containing waste, or water containing waste emanating from premises may be discharged into a water resource.

Water for domestic use

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

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).
- When a conservancy tank is used for the disposal of sewerage, this office must be furnished with a signed copy of the contract between the contractor or the municipality which is appointed to pump the conservancy tank.
- The volume of sewage needs to be metered on a monthly basis and removal programme needs to be scheduled to ensure that the conservancy tank is pumped well within time before overflowing. Alternatively, floating devices should be installed within the tanks that initiate an alarm of 75% full capacity for collection and disposal.
- The size of the conservancy tank must be determined by both the frequency of removal of its contents to the local Wastewater Treatment Works and by the quantity of sewage anticipated from the above-mentioned project.

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

Liqueduw

MR JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)



TP - A Theart
(H vld stoep)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

I Peters (Mrs)
Tel: 021 414 5614
Fax: 086 480 0617
Email: ihlaamp@openseve.co.za

Our Ref.: WWIP_WCN+2872_22
Your Ref.: Ptn 156 of 559, KHANG

01 August 2022

Attention: Loriaan Isaacs
Town & Spatial Planning
Overstrand Municipality
Hermanus

OPTIC FIBRE CABLE SERVICES AFFECTED

APPLICATION FOR WAYLEAVE: PTN 156 OF HANGKLIP 559

With reference to your application dated June 2022.

As important OPTIC FIBRE cables are affected, please contact our representatives MELT VAN AS at telephone number 0813637873/MeltVA@openseve.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 6 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.

Approval is granted, subject to the following conditions.

As per sketch attached, Open Serve infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

TP - 1 AUG 2022

FILE NO. Ptn 156/559
Hangklip ✓
SCAN NO.
PTN 156
COLLABORATOR NO.
1724463

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

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



Iblaam Peters
for
Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

Annexure L1/2



Overstrand Municipality
P.O. Box 20
Hermanus
7200

TP. N. /hoort
(H. ud Stoep)

Attention: Hanneen van der Stoep
By email: loretta@overstrand.gov.za

Dear Ms van der Stoep

Additional Information for the Application for Consent Use and Departure for a Second Dwelling and Ancillary Activities on Portion 156 of Farm Hangklip 559, Pringle Bay
(Overstrand Municipality ref: Ptn 156 of 559 KHANG; 4174/2022)

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.

CapeNature was not in support of the consent use and departure application as we recommended that an alternative location must be investigated. Ecological concerns related to the location of the dwelling were addressed within the Basic Assessment process and an environmental authorisation (EA) was issued.

A Conservation Management Plan (CMP) will be compiled to address the management of the property for the purposes of conservation. It is not proposed that the property will have a conservation area status (unless negotiated at a later stage), however the CMP will be binding on the landowner in terms of the EA and will be revised every 5 years. We wish to note that there is a proposal to establish a conservancy between Rooi-els and Betty's Bay and we encourage the landowner to join.

The landowner will implement several measures to protect the property from damage from natural vegetation fires, including installation of a sprinkler system. The landowner will assume primary responsibility for protection of the property in the event of a fire. The sprinkler system may only be used in the event of a fire.

In addition to the concerns addressed in the Basic Assessment process there were several additional concerns raised regarding the consent use and departure application (some of which relate to other conservation legislation), which were responded to by the applicant:

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 Reddinghuis, Mr Paul Stack

10 MAY 2023

CONSERVATION INTELLIGENCE

postal 16 17th Avenue, Voëklip, Hermanus, 7200
physical 16 17th Avenue, Voëklip, Hermanus, 7200
website www.capenature.co.za
enquiries Rhett Smart
telephone 087 087 866 8017
email rsmart@capenature.co.za
reference LS14/2/6/1772/559-156_consent&dep_Pringle Bay
date 10 May 2023

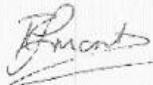
FILE NO.	Ptn 156 / 559
	Vam Hangklip
SCAN NO.	
COLLABORATOR NO.	
	1855629

- Confirmation is provided that the tourism accommodation will be located within the second dwelling and therefore there are no further concerns in this regard provided this is implemented in accordance with the response provided.
- The landowner has indicated that the recommendations provided for keeping honey bees will be adhered to.
- Confirmation is provided that the landowner only intends to harvest fynbos for the purposes of cultivation on the property for rehabilitation purposes and will not sell the plants or plant parts. No permits are therefore required, and we have no further concerns.
- The aquaculture referred to will entail a koi pond within a greenhouse, primarily as a hobby. Water will be sourced from the borehole and roof harvested rainwater and will only be used as a top up, as a closed system is proposed. Waste will be used within the garden area. It was however recommended that the garden should be minimized as far as possible, in particular planting of non-locally indigenous species. We therefore don't object to the aquaculture facility and the details can be addressed in the CMP.
- The alien invasive species management plan and fire management plan is not specifically referred to in the EA, however this should be included in the CMP.
- We did not note any mention of baboons in the Environmental Management Programme (EMPr), however this should be included in the CMP.
- Confirmation is provided that the road design will ensure that the conservancy tanks can be accessed by trucks for servicing.
- The municipality must ensure that the impact on sense of place is minimized when evaluating the building plans for the proposed development, taking into account the location adjacent to a World Heritage Site managed by CapeNature. It is noted that the maximum height for the zoning of 8 m will be adhered to and should preferably be a single story building.

In conclusion, CapeNature is satisfied that our concerns have been addressed and we do not object to the consent use and departure application.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely



Rhett Smart
For: Manager (Landscape Conservation Intelligence)

cc. Steve Gildenhuys, CapeNature
Salome Kotze, WRAP Town Planning and Project Management

Annexure M

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE & DEPARTURE: PORTION 156 OF FARM
HANGKLIP NO. 559, DIVISION CALEDON (41472022)**

Water	:	No Service Available
Electricity	:	ESKOM to provide conditions
Sewer	:	No Service Available
Roads and Traffic	:	No Service Available
Stormwater	:	No Service Available

Conditions:

1. that no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permit from the applicable authorities (water affairs, health, etc.) for the use of any water and the distraction thereof;
2. 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, Overstrand Municipality (Tel 021 313 8972);
3. that the developer complies to all the conditions set by Department Of Water Affairs;
4. that the developer arrange with ESKOM for the provision of electricity and that he complies with all conditions as may be set by ESKOM;
5. 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 prior to the land being put to the proposed use;
6. that no Municipal services will be available.

p.p. R. Hendriks
DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

15/09/2022
DATE



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

Annexure N 1/30

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
05 OCT 2023
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Private Bag X3055, WORCESTER, 6850, Street Adress Corner Mountain Mill Drive & East Lake Way,
WORCESTER, 6850, www.dws.gov.za

**LICENCE IN TERMS OF CHAPTER 4 OF THE
NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998) (THE ACT)**

I, **Mrs NM Bila-Mupariwa** in my capacity as Provincial Head: Western Cape in the Department of Water and Sanitation and acting under the powers delegated to me by the Minister of Water and Sanitation, hereby authorises the following water use in respect of this licence.

Serial Number : 5504646768323922724
Provincial Head: Western Cape
Date: Sep 30 2023 3:20PM



LICENCE NO: 02/G40B/ABCGI/13514
FILE NO: 27/2/2/G240/60/1
REF. NO: WU26610

Licensee: Brandon Topham

FILE NO. P1N 156 889
1 longclip
SCAN NO.
PTN 156
COLLABORATOR NO.
1926155

Postal Address: 19 Milner Avenue,
St Andrews,
Bedfordview
2007

Physical Address: 19 Milner Avenue,
St Andrews,
Bedfordview
2007

Provincial Head

TP - 5 OCT 2023

Licence No: 02/G40B/ABCGI/13514
File No: 27/2/2/G240/60/1

1. Water Uses authorised by this licence

Table 1: Summary of water uses authorised

1	Section 21(a) of the Act	Taking water from a water resource, subject to the conditions set out in Appendices I and II.
2	Section 21(b) of the Act	Storing water, subject to the conditions set out in Appendices I and III.
3	Section 21(c) of the Act	Impeding or diverting the flow of water in a water course; subject to the conditions set out in Appendices I and IV.
6	Section 21(g) of the Act:	Disposing of waste in a manner which may detrimentally impact on a water resource, subject to the conditions as set out in Appendices I and V.
7	Section 21(i) of the Act:	Altering the bed, banks, course or characteristics of a watercourse; subject to the conditions set out in Appendices I and IV.

2. Property (ies) in respect of which the water use licence is issued

Table 2: Property details where the water use(s) will take place

Activity	Farm Name	Farm Portion	Owner's Name	Title Deed Number
Section 21(a) Water Use				
Abstraction of groundwater	Hangklip No 559, Pringle Bay, Caledon RD.	156	Brandon Topham	T1513/2022
Section 21(b) Water Use				
Storing Water in earth dam	Hangklip No 559, Pringle Bay, Caledon RD.	156	Brandon Topham	T1513/2022
Section 21(c) and (i) Water Use				
Development of permanent infrastructure within the regulated area	Hangklip No 559, Pringle Bay, Caledon RD.	156	Brandon Topham	T1513/2022
Section 21(g) Water Use				
Disposal / storage of waste water/ water containing waste within the regulated area / Use of a conservancy tank within the regulated area	Hangklip No 559, Pringle Bay, Caledon RD.	156	Brandon Topham	T1513/2022

3. Licence and Review Period

- 3.1 This licence is valid for a period of **20 (twenty)** year(s) from the date of issuance and it may be reviewed at intervals of not more than five (5) years.



Provincial Head

Licence No: 02/G40B/ABCGI/13514
File No: 27/2/G240/60/1

- 3.2 On review of the licence, a Responsible Authority may amend any condition of the licence, other than the period of validity thereof.

4. Definitions

Any terms, words and expressions as defined in the National Water Act, 1998 (Act 36 of 1998) shall bear the same meaning when used in this licence."

4.1 The following definitions are of relevance, but not exclusive, to this licence

Act	National Water Act, 1998 (Act 36 of 1998)
Buffer zone	Buffer zone: a strip of land surrounding a wetland or riparian area in which activities are controlled or restricted, in order to reduce the impact of adjacent land uses on the wetland or riparian area. The buffer zone is measured from the edge of the delineated watercourse determined according to the Departmental guideline - "A practical field procedure for identification and delineation of wetlands and riparian areas."
CEO	The Chief Executive Officer of the Breede – Olifants Catchment Management Agency
CMA	Catchment Management Agency.
Commencement date	The date on which water use starts.
Days	Calendar days.
Delegated Authority	The person that has been delegated certain functions of the Act.
Department	The Department of Water and Sanitation.
Minister	The Minister of the Department of Water and Sanitation.
Provincial Head	Head of Provincial Operations: Western Cape, Private Bag X16, Sanlamhof, 7532, 52 Voortrekker Road, Bellville
Extent of the watercourse	(a) the outer edge of the 1:100 year floodline or the delineated riparian habitat, whichever is the greatest, measured from the middle of the watercourse of a river, spring, natural channel, lake or dam; and (b) Wetlands and pans: the delineated boundary (outer temporary zone) of any wetland or pan.
Regulated area of a watercourse	(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



Provincial Head

	any wetland or pan.
Sensitive riffle habitats	A pool riffle rapid sequences that occur where a mixture of flows and depth provide a variety of habitats to support fish and invertebrate life. Pools are deep with slow water. Riffles are shallow with fast, turbulent water running over rocks. Runs are deep with fast water and little or no turbulence.

5 Description of activity and affected water resource(s)

The water use activity includes on site development of a main house, secondary house and associated buildings and areas, (garages, gardens, landscaping etc.), the abstraction of groundwater, drilling of a borehole and associated pipeline, the storage of water for aesthetic and firefighting purposes in an existing earth dam which is to be repaired, a retention pond for the purification and control of stormwater, the use of a conservancy tank for the purpose of storing sewage to be disposed of at an WWTW, a nursery, two reservoirs, two roads and Koi pond. The activities occur within the regulated area of mapped wetland, the nearest watercourse is the *Buffelsriver*.



Provincial Head

APPENDIX I**GENERAL PROVISIONS AND CONDITIONS OF THE LICENCE****1. GENERAL PROVISIONS****Legal Framework**

- 1.1 This licence is subject to all applicable provisions of the National Water Act, 1998 (Act 36 of 1998) as amended from time to time.
- 1.2 The licence shall not be construed as exempting the Licensee from compliance with the provisions of any other applicable Act, Ordinance, Regulation or By-law.

Administrative duties/obligations/responsibilities of the licensee

- 1.3 The responsibility for complying with the provisions of the licence is vested in the licensee and not any other person or body.
- 1.4 The licensee will be responsible for any water use charges or levies imposed by a Responsible Authority according to the pricing strategy. The levies/charges will be charged from the date of the issuance of this licence.
- 1.5 No water taken may be pumped, stored, diverted, or alienated for any other purpose other than as intended in this licence without the written approval of the Delegated Authority.
- 1.6 It is the responsibility of the licensee to request an amendment of this licence to reflect the registered volume should the requirements change. All requests must be made to the Provincial Head/CEO.
- 1.7 If the water use licence is not exercised or fully exercised within the 5 (five) year period and the extended 2 (two) year period, as referred to in condition 2.4 and condition 2.5 in appendix I, the licence may be amended to reflect the extent of the water use that is being exercised, or the licence may be withdrawn.

Change of property details

- 1.8 Amendment of the licence to reflect the name of the new owner will not be approved if there are any outstanding charges or levies imposed by the Responsible Authority to the previous owner.



Provincial Head

Issue of licence no guarantee of supply

- 1.9 This licence does not imply any guarantee that the said quantities and qualities of water will be available at present or at any time in the future.

Monitoring

- 1.10 The quantity of water authorised to be taken in this licence may not be exceeded.
- 1.11 The quality of water authorised to be disposed and discharged in this licence may not be exceeded.
- 1.12 The licensee must adhere to the monitoring programmes submitted with the application.
- 1.13 Any changes to the monitoring programmes should be approved by the Provincial Head/CEO.

Reviewal of licences

- 1.14 The volume authorised in this licence may be reduced when the licence is reviewed.
- 1.15 No water taken may be pumped, stored, diverted, or alienated for any other purpose other than as intended in this licence without the written approval of the Delegated Authority.

Effecting of the Reserve

- 1.16 While effect must be given to the Reserve as determined in terms of the Act, where a desktop determination of the Reserve has been used in issuance of a licence, when a comprehensive determination of the Reserve has finally been made, it shall be given effect to.

Liabilities and Rights

- 1.17 The Department accepts no liability for any damage, loss or inconvenience, of whatever nature, suffered as a result of, shortage of water; inundations or flood; siltation of the resource; and required Reserve releases.
- 1.18 The Minister reserves the right to construct water storage works at any time in any watercourse and to store all surplus water reaching the storage works, as well as to control the allocation of such water.



Provincial Head

Dam Safety Requirements

- 1.19 The licensee is not indemnified from any detrimental effect that the dam(s) may have on other properties.
- 1.20 The Department does not accept any responsibility or liability for any damages or losses that may be suffered by any other party because of the construction and utilisation of the dams.
- 1.21 The licensee is not exempted from compliance with the provisions of the Dam Safety Regulations published under Government Gazette Notice R.139 of 24 February 2012 or any amendment thereof read with Chapter 12 of the Act, which are applicable to all dams with a safety risk.

Restrictions

- 1.22 The licensee must adhere to any restrictions that are gazetted and imposed on the respective water resource.

Water measurement and reporting

- 1.23 The Provincial Head/CEO may at any time direct a licensee, at the licensee's expense, to have the accuracy of the licensee's water measuring device/s verified, in addition to the requirements of their inspection and calibration schedule by a person or an institution accredited to verify the accuracy.

Stormwater Management

- 1.24 Stormwater leaving the licensee's premises shall in no way be contaminated by any substance, whether such substance is a solid, liquid, vapour or gas or a combination thereof which is produced, used, stored, dumped, spilled on the premises.

Amendments

- 1.25 The licensee may apply for amendment of this licence in terms of the Act at any time during the period of validity of this licence. Applications must be submitted to the Provincial Head/CEO.

Appeals

Licence No: 02/G40B/ABCGI/13514
File No: 27/2/2/G240/60/1

- 1.26 If this licence is appealed, it is automatically suspended and the water use activities must cease upon receipt of a notification of the appeal from the Department, alternatively the licensee may request the Minister to lift the suspension pending conclusion of the appeal via the Chief Director Legal Services at the address below:

Private Bag X313,
Pretoria,
0001



A handwritten signature in black ink, consisting of a stylized, cursive name.

Provincial Head

2. GENERAL CONDITIONS**Administrative duties/obligations/responsibilities of the Licensee**

- 2.1 The licensee must avail an original copy of the water use licence and the supporting reports upon request by the Department.
- 2.2 The conditions of the authorisation must be brought to the attention of all persons (employees, sub-consultants, contractors etc.) associated with the undertaking of these activities and the licensee must take such measures that are necessary to bind such persons to the conditions of this licence.

Commencement of a water use licence.

- 2.3 The licensee must inform the Provincial Head/CEO in writing within seven (07) days after the licensee commences with water use licence and again within thirty (30) days upon completion of the activity/ies.
- 2.4 The water uses authorised in this licence must be fully exercised within five (5) years from the date of issuance of this licence.
- 2.5 If the licensee cannot exercise or fully exercise the water use licence within 5 (five) years, the licensee may request from the Provincial Head/CEO, with reasons, an extension of time to fully utilise the said water use licence, at least three months, before the expiry of the 5 (five) years. Only one request for extension of time, with maximum of 2 (two) years for commencement or of fully exercising of water use licence will be considered.

Change of details of licensee or property

- 2.6 The licensee must inform the Provincial Head/CEO of any change of ownership, name, address, premises and/or legal status within sixty (60) days of such change taking place.
- 2.7 If the properties in respect of this licence is/are subdivided or consolidated, the licensee must provide full details of any change(s) in respect of the properties to the Provincial Head/CEO within sixty (60) days after the registration of title deed(s).
- 2.8 If the licensee is not the end user/beneficiary of the water user related infrastructure and will not be responsible for long term maintenance and management of the infrastructure, the licensee must provide a hand over report to the successor in title including a brief management/maintenance plan and the agreement for infrastructure along with allocation of responsibilities, within sixty (60) days after the date of change of end user or beneficiary.



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Early renewal for the Licence

- 2.9 The licensee must, if needed, apply for early renewal of this licence in terms of the Act within one (1) year before the expiry date of a licence. The application must be submitted to the Provincial Head/CEO.

Malfunctions, incidences, contingencies and pollution prevention

- 2.10 The licensee must service all vehicles and other machinery outside the extent of the watercourse/s.
- 2.11 Oils and other potential pollutants must be disposed of at a licensed site, with the necessary agreement from the owner of such a site.
- 2.12 The licensee must handle, transport, store and use any hazardous substances according to the relevant legislation or South African National Standards (SANS).
- 2.13 Accurate and up-to-date records must be kept of all system malfunctions resulting in non-compliance with the requirements of this licence. The records must be available for inspection by the Provincial Head/CEO upon request. Such malfunctions must be tabulated under the following headings with a full explanation of all the contributory circumstances:
- 2.13.1 operating errors;
 - 2.13.2 mechanical failures (including design, installation or maintenance);
 - 2.13.3 environmental factors (e.g. flood);
 - 2.13.4 loss of supply services (e.g. power failure); and
 - 2.13.5 other causes.
- 2.14 The licensee must, within 24 hours, notify the Regional Head/CEO of the occurrence or potential occurrence of any incident which has the potential to cause, or has caused water pollution, pollution of the environment, health risks or which is a contravention of the licence conditions.
- 2.15 The licensee must, within 14 days, or a shorter period of time, as specified by the Provincial Head/CEO, from the occurrence or detection of any incident referred above, submit an action plan which must include a detailed time schedule to the satisfaction of the Provincial Head/CEO of measures to be taken to:
- 2.15.1 correct the impacts resulting from the incident;



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- 2.15.2 prevent the incident from causing any further impacts; and
- 2.15.3 prevent a recurrence of a similar incident
- 2.16 The licensee must adhere to the Wastewater Incident Management Protocol.
- 2.17 The licensee must compile/develop an environmental call and reporting centre protocol, which must ensure the investigation of every complaint within 24 hours.
- 2.18 The licensee must implement and promote an environmental call and reporting centre.
- 2.19 The licensee must rectify all valid issues reported within seven (7) days of the issue being reported to the licensee. All valid complaints must be recorded in complaints register which will include reasons for non-rectification of issues raised.

Water Conservation and Water Demand Management (WCWDM)

- 2.20 The licensee must establish and implement a continual process of raising awareness among itself, its workers and stakeholders with respect to water conservation and water Demand Management initiatives.
- 2.21 The licensee shall use water efficiently to minimise total water intake, avoid usage of water where possible, implement best management and operating practices, and maximise the reuse /recycle of contaminated water.
- 2.22 The licensee must continually investigate new and emerging technologies and put into practice water efficient devices and /or apply technique for the efficient use of water, in an endeavour to conserve water at all times.
- 2.23 The licensee must report annually on the implementation of WC/WDM plan including retrofitting with water efficient technologies and devices, reduction of total water demand, improvement in water use efficiency benchmarks and target.
- 2.24 The licensee must update the WC/WDM plan every five (5) years and submit to the Provincial Head/CEO for approval.

Water measurement and reporting

- 2.25 The licensee shall install appropriate water measuring devices to measure the amount of water abstracted prior use of water.
- 2.26 The licensee shall ensure that all measuring, recording and monitoring devices are properly maintained and in good working order as per design specification and must be easily accessible. This shall include a programme of checking, calibration, and/or renewal of measuring devices.



- 2.27 Calibration/verification certificates of the flow measuring, recording and integrating devices must be available for inspection by the Provincial Head/CEO or the representative upon request.

Membership to a Water Users Association

- 2.28 If a water user association exists or is established in the area to manage the resource, it is compulsory for the licensee to be a member of the water user association. The licensee must adhere to the rules, regulations and water management stipulations of the water user association.

Monitoring, Methods of analysis and Reporting

- 2.29 Sample analysis must be conducted by a recognized analytical laboratory, accredited by the South African National Accreditation System (SANAS), or that participates in a recognised Proficiency Testing Scheme to analyze the relevant constituents in wastewater.
- 2.30 The monitoring points must not be changed without prior notification to and written approval by the Provincial Head/CEO.
- 2.31 The date, time and monitoring point in respect of each sample taken shall be recorded together with the results of the analysis.

Stormwater Management

- 2.32 Increased runoff due to vegetation clearance and/or soil compaction must be managed, and steps must be taken to ensure that storm water does not lead to erosion and excessive levels of silt entering the stream.
- 2.33 Storm water management facilities must be constructed, operated and maintained in a sustainable manner throughout the project as detailed in the Storm Water Management Plan.
- 2.34 Increased runoff due to vegetation clearance and/or soil compaction must be managed, and steps must be taken to ensure that storm water does not lead to bank instability and excessive levels of silt entering the stream.
- 2.35 All storm-water that would naturally run across the dirty areas shall be diverted via lined channels and drains designed to contain the 1:50 year flood.
- 2.36 The dirty storm water system shall be designed and implemented to provide suitable routing and pumping capacity for contaminated storm water from the individual facilities to the respective storm water dams in accordance with the design specifications.



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- 2.37 Clean storm water must be managed in such a manner as to disperse runoff and to prevent the concentration of storm water flow.
- 2.38 The licensee must ensure that no storm water should ingress into the wastewater system and that there is no wastewater ingress into the storm water system.
- 2.39 Wastewater impoundments must be designed, constructed and managed to ensure that there is sufficient capacity to contain the 1:50 year flood event, with a minimum of 0.8 m freeboard. Freeboard will be defined as the difference between the water level and the crest of the overflow.
- 2.40 Cut-off drains must be provided around the WWTW to prevent storm-water ingress into the surrounding of the works. These drains shall be designed to contain the maximum runoff, which could be expected over a period of 24 hours with a frequency of once in every twenty (20) years.

Restrictions on access

- 2.41 Strict access procedures must be developed and followed in order to control access to the property. Access to the facility/ies must be limited to authorised persons and animals.
- 2.42 Notices prohibiting unauthorised persons from entering the areas as well as internationally acceptable signs indicating the risks involved in case of an unauthorised entry must be displayed along the boundary fence of these areas.

Operations

- 2.43 The licensee must develop and enforce bylaws to prevent the discharge of any substance into the sewerage system which could have a deleterious effect on the operation of works and/or the final discharge of water containing waste.

Auditing and reporting

- 2.44 The licensee must conduct annual internal audits on compliance with the conditions of this licence. The first audit must be conducted within ninety (90) calendar days from the date of commencement of water use entitlement. A report on internal audits must be submitted to the Provincial Head/CEO within sixty (60) calendar days of the finalisation of the audits.
- 2.45 The licensee must appoint an independent external auditor to conduct biennial (every two (2) years) external audits on compliance with the conditions of this licence. The first audit must be conducted and finalised within one (1) year after commencement of a water use. A report on the audit must be submitted to the Provincial Head/CEO within sixty (60) calendar days of the finalisation of each audit.



Compensative measures

- 2.46 The licensee must prevent adverse effects on other water users. All complaints must be recorded in complaints register and be investigated by a suitable qualified person, accredited by an institution/ registration body, appointed by the licensee, and if investigations prove that the licensee has impaired the rights of other water users, the licensee must implement appropriate compensative measures as determined by the Minister.

Closure Plan

- 2.47 A closure plan of any of the water use activities must be submitted one (1) year before commencing with closure to the Provincial Head/CEO for written approval.



APPENDIX II

Section 21 (a) of the Act – Taking water from a water resource

1. Taking water from a resource

- 1.1. This licence authorises **Brandon Topham** the taking of a maximum quantity of **Seven Hundred and Thirty 730 (m³)** per annum from groundwater as detailed in Table 1.

Table 1: water uses authorised

Water use Description	Purpose	Property	Volume of water taken (m ³ /annum)	Pumping rate/ hour	Coordinates	
					S	E
S21(a): Taking of water from a resource						
Abstraction of water from groundwater resource via borehole	On site and general use for garden irrigation, human consumption for two houses (one of which is commercial), koi pond, small scale nursery and landscaping	Portion 156 of the Farm Hangklip No 559, Pringle Bay, Caledon RD	730	2m ³ /day and/or 730m ³ /a and/or not more than 2 hours per day with a maximum of 0.3 l/s and have a rest or recovery period of at least 12 hours per day	-34.33655	18.85238

2. Water measurement and Reporting

- 2.1. All water taken from the resource shall be measured, recorded and reported as follows:
- 2.1.1 The daily quantity of water taken must be metered or gauged and the total recorded at the last day of each month; and

- 2.1.2 The water level measurements must be taken on a monthly basis and the date, time, and geographical location should be recorded;
- 2.1.3 The licensee shall keep record of all water taken and a copy of the records shall be forwarded to the Provincial Head/CEO on or before 25 January and 25 July of each.
- 2.2. The licensee must install appropriate water measuring devices or meters, to measure and account for the volume of water abstracted, received, lost and/or consumed as applicable to the technical configuration of infrastructure from abstraction point to consumer, including but not limited to:
- 2.2.1. Resource abstraction points;
- 2.2.2. Bulk distribution networks;
- 2.2.3. Reticulation networks;
- 2.2.4. Storage facilities;
- 2.2.5. Points of use (consumption by and/or sale to third parties);
- 2.2.6. Return flows from sewage works; and
- 2.2.7. All end users
- 2.3. The licensee shall install appropriate water measuring devices to measure the amount of water abstracted prior use of water.
- 2.4. The licensee shall ensure that all measuring devices are properly maintained and in good working order as per design specification and must be easily accessible. This shall include a programme of checking, calibration, and/ or renewal of measuring devices.
- 2.5. The licensee must, where water is stored off-channel in a dam or reservoir ensure that all distribution and reticulation systems or pipelines are properly constructed, operated and maintained in good working order to prevent water losses through physical leakages, burst and reservoir overflows.
- 2.6. The licensee must repair any major, visible or reported leaks in its water services system within 48 hours of becoming aware thereof.
- 2.7. The licensee must establish a formalised system to receive reports on burst or other visible water losses, monitor the repairs and at all times reflect the number of reported defects which are not yet repaired from the distribution and reticulation infrastructure, both from the public and its own employees.
- 2.8. Water storage facilities such as reservoirs and towers, must be fitted with automatic shut valves to prevent overflows and spillages when filled with water.



- 2.9. The licensee must implement water loss management measures as described in the subsection 4.2.1 of the DWS: Water Conservation and water Demand Management Strategy for the Water Services Sector, August 2004 and any updates thereafter.

3. Drinking Water Quality

- 3.1. The licensee must ensure that the drinking water quality supplied meets South African National Standards for Drinking Water: SANS 0241.

4. Specific conditions

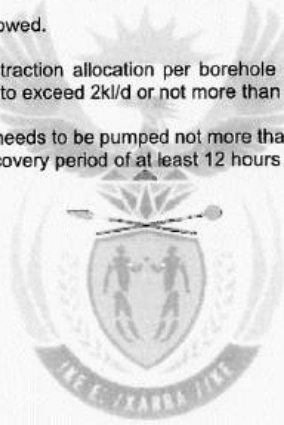
- 4.1. Borehole(s) to be used for human consumption, they should be at least sampled and analysed for macro-chemistry and microbiological such as Heterotrophic Plate Count, total coliforms, E. coli analyses quarterly for two years or until proven that no elevated microbiological or other related contaminants presence/impact and thereafter sampling frequency can be bi-annually.
- 4.2. Although not limited to – every analysis should include the following parameters – EC, TDS, pH, sulphate, chloride, sodium, manganese, and nitrate.
- 4.3. The proposed borehole and future boreholes should be fitted with dataloggers to measure water levels for proper groundwater monitoring for water level impact.
- 4.4. Selected dataloggers should be reliable to record data and friendly for data output reading.
- 4.5. Monitoring programme (document) needs to be compiled and submitted to the relevant authority (BOCMA/DWS) within six months of the licence issuance. The monitoring plan needs to consider the following:
- Utilisation of the backup or neighbouring/vicinity boreholes (if access is allowed) from the production boreholes.
- A database with baseline water levels needs to be included in the monitoring document as a reference point for the assessment of drawdown impact.
- No further borehole drilling to the site or within 500m to the wetland without approval by the authority.
- Monitoring report including electronic data needs to be submitted bi-annually to BOCMA/DWS. Applicant to arrange with the above authorities in terms of acceptable format and submission procedures.
- 4.6. New drilled boreholes need to obtain approval from the relevant authorities (BOCMA/DWS) prior pumping or usage of water and also need to capture information including but not limited to:

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Geologic logs,
Water strike(s)
Depth of the drilled borehole,
Borehole screen and its perforation information should be submitted as part of licence amendment application (where applicable) for to relevant authorities and as part of submission of monitoring report which needs to be submitted biannually (for both wet and dry seasons).

- 4.7. Water level measurements from borehole(s) need to be recorded monthly.
- 4.8. Where an increase in depth to static groundwater level or decrease in yield is observed, the abstraction is to be reduced either by adjusting abstraction rate or duration of abstraction.
- 4.9. Groundwater samples need to be taken quarterly and analysed by a South African National Accreditation System (SANAS) accredited laboratory.
- 4.10. No over-size pump is allowed.
- 4.11. The following water abstraction allocation per borehole should not be exceeded: Current borehole (unnamed) not to exceed 2kl/d or not more than 788.4 m³ /a.
- 4.12. The proposed borehole needs to be pumped not more than 2 hours per day maximum of 0.3 l/s and have a rest or recovery period of at least 12 hours per day.



APPENDIX III

Section 21 (b) of the Act: Storing water

1. Storing water

- 1.1 The licensee is authorised to store a maximum quantity of **18 000 (Eighteen Thousand) m³** of water in the facility(ies) in **Table1**.

Table 1: Water uses authorised

Water use Description	Purpose	Properties	Capacity (m ³)	Dimensions (m)	Co-ordinates	
					S	E
S21(b): Storing water						
Repair of existing channel dam that is fed from subsurface groundwater recharge	Storing of water for aesthetic purposes, firefighting if required.	Portion 156 of the Farm Hangklip No 559, Pringle Bay, Caledon RD	18 000	Wall height:4.5m Crest Length: 62m	-34.33775	18.85065

- 1.2 The quantity of water stored must be recorded at the last day of each month and the records must be submitted to the Provincial Head/CEO annually.

2. Monitoring requirements.

- 2.1. The Licensee must install appropriate measuring devices to measure the levels of the dam. Should the dam level reach a critical level then protective measures should be implemented.

3. Dam safety requirements

- 3.1 The construction, enlargement, alteration or repair of a dam with a safety risk, must be carried out under a licence issued in terms of the above Regulations.
- 3.2 The licensee must supply any information, drawings, specifications, design assumptions, calculations, documents and test results when requested by the Provincial Head/CEO.

4. Ecological Water Requirements



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4.1 The dam must allow for the Reserve releases as per approved designs.

5 Site Specific conditions

5.1 The licensee should submit engineering drawings of the proposed dam prepared by a suitably qualified engineering professional before construction. The plan should show the full capacity of the dam and the dam should have:-

- 5.1.1 An outlet pipe through the dam wall that can enable the entire volume to be released within 30days.
- 5.1.2 Have a suitably sized overflow/spillway and have a minimum free board of at-least 0.5m below the Non-overspill crest level.



APPENDIX IV

Section 21(c) water use: Impeding or diverting the flow of water in a watercourse/s
Section 21(i) water use: Altering the bed, banks, course or characteristics of a watercourse/s

1. Section 21 (c) and (i) activities

- 1.1 This licence authorises the Section 21(c) or (i) water use activities as set out in Table 1 and in the water use licence application reports submitted to the Department or the Regional Head (refer condition 1.2)

Table 1: Water uses authorised

Water Use description / Purpose	Property/ (ies)	Extent/Dimensions	Coordinates
Section 21 (c) and (i) water uses			
Development of the residential infrastructure within 500m of wetland habitat - general development footprint	Portion 156 of the Farm Hangklip No 559, Pringle Bay, Caledon RD	4000m ² (includes all below activities)	-34.33755, 18.85149
Repair of an off stream dam within 500m of a wetland		18 000m ²	
Formalisation of an existing access road (by installing grass blocks)-Access Road Starting Point		256m ²	
Drilling of Borehole in the vicinity of Site 1		6.25m ²	-34.33775, 18.85065
Development of main dwelling unit within 500m of a wetland (centre point)		399m ²	-34.33963, 18.84797
Development of secondary dwelling unit within 500m of a wetland (centre point)		241m ²	-34.336557, 18.85237
Formalisation of an		256m ²	-34.33751, 18.85130

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Water Use description / Purpose	Property/ (ies)	Extent/Dimensions	Coordinates
existing access road (by installing grass blocks)-Access Road End Point			
Development of a nursery within 500m of a wetland (centre point)		50m ²	-34.33754, 18.85178
Development of reservoir 1 within 500m of a wetland (centre point)		15.6m ³	-34.33821, 18.85003
Development of reservoir 2 within 500m of a wetland (centre point)		15.6m ³	-34.33779, 18.85159
Development of conservancy tank within 500m of a wetland (centre point)		10 000l	-34.33789, 18.85153
Development of a retention pond within 500m of a wetland (centre point)		25m ³	-34.33792, 18.85150
Development of a pipeline from the borehole to the reservoirs (start point)		300m	-34.33794, 18.85147
Development of a pipeline from the borehole to the reservoirs (end point)		300m	-34.33783, 18.85140
construction of a new access road into the development footprint (start point)		632m ²	-34.33655, 18.85239
construction of a new access road into the development footprint (end point)		632m ²	-34.33790, 18.85151

- 1.2 The licensee must carry out and complete all the activities listed under condition 1.1 according to documents detailed in Table 2 below:

Table 2: List of Reports and other technical documents

Number	Report Title	Compiled by	Date of report
1	Stormwater Management Plan for Portion 156 of Farm 559 Pringle Bay	Delta Ecology	02/06/2023
2	Waste and Water Quality Management Plan for Portion 156 of Farm 559 Pringle Bay	Delta Ecology	02/06/2023
3	Conservancy Tank Water Quality Determination: Portion 156 of Farm No 559	Delta Ecology	15/06/2023
4	Technical Drawings for Portion 156 of Farm 559 Pringle Bay	Delta Ecology	02/06/2023
5	Method Statements for Portion 156 of Farm 559 Pringle Bay	Delta Ecology	02/06/2023
6	Specialist Groundwater Use Statement	Parsons & Associates	12/08/2022
7	Final Draft Basic Assessment Report	Duncan Heard Environmental Consulting	December 2022
8	Development Alternative Preferred option	WRAP consulting	
9	Farm 156/559, Pringle Bay Dam Volume Calculation	Delta Ecology	17/05/2023
10	Water Use License Application Summary Report: Portion 156 of Farm 559, Pringle Bay	Enviro Swift Consulting	June 2023
11	Aquatic Biodiversity Screening Eco Estate Development, Pringle Bay	Duncan Heard Environmental Consulting / Delta Ecology	March 2022
12	Adjusted Footprint 1 Risk Matrix Assessment	Delta Ecology	27/04/2023
13	Environmental Authorisation Reference Number 16/3/3/1/E2/31/1057/22	Department of Environmental Affairs and Development Planning	13/04/2023
14	Public Participation Report	Duncan Heard Environmental	25/04/2023

		Consulting	
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- 1.3 No activity must take place within the extent of a watercourse/s, unless authorised by this licence.
- 1.4 No fundamental alterations of the work method statement, site plan/s and drawings are allowed, unless a modification is requested and granted by the responsible authority in writing; and

2. FURTHER REQUIREMENTS

- 2.1 For all the activities listed under condition 1.1, Table 1, "as-built" plans and engineering drawings prepared by a registered professional engineer, must be submitted to the responsible authority within six (6) months of completion of new activities and for existing water uses within six (6) months of the date of issuing of this licence. These plans and drawings must indicate the watercourse/s including wetland boundaries and layout and structure location/s of all infrastructure impeding and/or diverting flow of water in the watercourse/s as well as alternations to watercourse/s on the property/ies.

2.2 Structures, Construction Plant and Materials

- 2.2.1 Structures must withstand a 1:100 year flood.
- 2.2.2 Structures must be non-erosive, structurally stable and must not induce any flooding or safety hazard.
- 2.2.3 Structures must be inspected for a minimum of once a quarter for accumulation of debris, blockage, erosion of abutments and overflow areas - debris must be removed and damages must be repaired and reinforced within a reasonable time.

2.3 Water Quality

- 2.3.1 In-stream water quality must be analysed on a two-weekly basis during construction otherwise every 6 months at monitoring points both upstream and downstream of the activities for the following variables until pre-construction water quality levels have been reached

2.3.1.1 pH;

2.3.1.2 Electrical conductivity (mS/M);



- 2.3.1.3 Suspended solids (mg/l);
- 2.3.1.4 Turbidity;
- 2.3.1.5 Total dissolved solids (mg/l)
- 2.3.2 Monitoring must be undertaken as set out in condition 3.
- 2.3.3 Activities must be scheduled to take place during the dry seasons when flows are lowest where reasonably possible.
- 2.3.4 The licensee must ensure that the quality of the water to downstream water users does not decrease because of the water use activities listed under condition 1.1.

2.4 Flow

- 2.4.1 Diversion activities must be conducted in a manner that does not negatively affect the yield of the water course where the activity will take place. The licensee must ensure that the overall magnitude and frequency of flow in the watercourse/s does not decrease, other than for natural evaporative losses and authorised attenuation volumes.
- 2.4.2 Where flow in watercourse/s is permanent, the trench must be staged across part of the channel to maintain flows. Flows must not be stopped unless essential, if necessary to stop flows it must be for a minimal time only.

2.5 Riparian and Instream Habitat (Vegetation and Physical Structure)

- 2.5.1 Activities must start up-stream and proceed into a down-stream direction where feasible, so that the recovery processes can start immediately, without further disturbance from upstream works.
- 2.5.2 Operation and storage of equipment within the riparian habitat must only take place within the approved limits of disturbance indicated in the site plans and work method statements.
- 2.5.3 Activities must not occur in sensitive riffle habitats unless authorised by this licence.
- 2.5.4 Indigenous riparian vegetation, including dead trees, outside the limits of disturbance indicated in the site plans must not be removed from the area.
- 2.5.5 Alien and invader vegetation must not be allowed to further colonise the area, and all new alien vegetation recruitment must be sustainably eradicated or controlled.
- 2.5.6 Soils that have become compacted through the water use activities must be loosened to an appropriate depth to allow seed germination.



- 2.5.7 Stockpiling of removed soil and sand must be stored outside the extent of the watercourse/s, to prevent being washed into the watercourse/s and must be covered to prevent wind and rain erosion.
- 2.5.8 The use of machinery within the instream and riparian habitat will lead to compaction of soils and vegetation and must be restricted to demarcated areas only.

2.6 Directional drilling:

- 2.6.1 The licensee must submit an as-drilled report within three (3) months of completion of the drilling to the Provincial Head/CEO;
- 2.6.2 Drilling entry and exit locations must be located outside designated riparian corridors.

2.7 Trenching:

- 2.7.1 A buffer zone must be implemented for each wetland and construction within the buffer zone must be restricted to the trench line and working side of the trench.

2.8 Biota

- 2.8.1 The licensee must allow movement of aquatic species, including migratory species where applicable.
- 2.8.2 Ensure implementation of all mitigation measures not to disturb the breeding, nesting and/or feeding habitats and natural movement patterns of aquatic biota.

2.9 Rehabilitation and Management

- 2.9.1 The licensee must implement the rehabilitation programme to restore the watercourse/s to environmentally acceptable and sustainable conditions after completion of the activities as outlined in the rehabilitation plan.
- 2.9.2 The rehabilitation must be implemented according to the approved Rehabilitation Plan.
- 2.9.3 A photographic record must be kept as follows and submitted with reports as set out in condition 3.
- 2.9.4 Dated photographs of all the sites to be impacted before construction commences.
- 2.9.5 Dated photographs of all the sites during construction on a monthly basis; and
- 2.9.6 Dated photographs of all the sites after completion of construction, seasonally.

- 2.9.7 All disturbed areas must be re-vegetated with indigenous plants in consultation with an indigenous plant expert, ensuring that during rehabilitation only indigenous shrubs, trees and grasses are used in restoring the biodiversity.

3. MONITORING AND REPORTING

- 3.1 The monitoring plan must be implemented and reporting done to the Provincial Head/CEO as stipulated under condition 3.2.
- 3.2 Six (6) monthly monitoring reports must be submitted to the Provincial Head/CEO for the duration of the construction phase and yearly thereafter or until otherwise agreed in writing with the Regional Head/CEO.

4. Construction and Operational Phase

- 4.1 At least two water quality monitoring points, one upstream and one downstream of the affected length of the watercourse/s.
- 4.2 A bio-monitoring programme (SASS) must be implemented along the affected length of the watercourse/s and must include a habitat assessment.
- 4.3 Exact positions of monitoring points must be indicated on the master layout plan (including their co-ordinates).

5. SITE SPECIFIC CONDITIONS

Construction phase:

- 5.1 The access road must be constructed first. The grass-blocks on access roads must be used and should follow the route of existing tracks throughout the wetland area downslope, and be incorporated into the drainage channels and drainage humps that drain well into the vegetation on either side to prevent erosion of the road.
- 5.2 Alternative Footprint 1 should be implemented to prevent wetland loss and diversion.
- 5.3 Raft foundations should be used to minimise substantial interflow during winter.
- 5.4 All drains, parking and washing areas, cement, paint and chemical-handling areas must drain to the conservancy tank, including during the construction phase as far as possible.
- 5.5 The existing eroded tracks must either be repaired and grass-blocked where they coincide with the proposed road or must be decommissioned.

- 5.6. Care must be taken to look for leopard toads on the roads at night, particularly on rainy nights during August and September and again during December and January. Located toads must be moved off the road. All known toad mortalities must be noted in a toad logbook.
- 5.7. All construction vehicles must be limited to planned development footprints only.

Operational Phase:

- 5.8. A conservancy tank with no soak away or other means of outflow must be used (as planned). Reasonable maintenance measures, such as plumbing inspections and rapid response to spillage, must be put in place to further reduce risk of water quality impact from the house.
- 5.9. Should the number of mortalities exceed five per annum, toad barriers and underpasses must be installed. Contact Delta Ecology for advice on installation.
- 5.10. Shallow piezometers should be installed above the dam and another pair below, such that the difference in groundwater level can be accurately measured by dipstick in order to determine if there is an impact with the operation of the dam such as dropping of groundwater level, as most of the subsurface flow that feeds the wetland could be redirected into the dam.
- 5.11. The recommendation that shallow piezometers should be installed to monitor the groundwater level must be implemented.
- 5.12. Piezometers should be installed within 3 months after construction of the dam.



APPENDIX V**Section 21 (g) of the Act: Disposing of waste in a manner which may detrimentally impact on a water resource****1. DISPOSAL OF WATER CONTAINING WASTE**

- 1.1 The licensee is authorised to dispose a maximum volume of Six Hundred and Fifty Seven point Fourty Five cubic metres per annum (657.45 m³/a) of water containing waste into a conservancy tank with storage capacity of 10 000l (10 000 litres) at the following geographical locations -34.33794, 18.85147 at Portion 156 of the Farm Hangklip No 559, Pringle Bay, Caledon RD.
- 1.2 The quantity of wastewater authorised to be disposed in terms of this licence may be not exceeded.

2. CONSTRUCTION, OPERATION AND MAINTANANCE

- 2.1 The construction of the conservancy tank must be carried out by a suitably qualified contractor.
- 2.2 Groundwater pollution prevention measures by way of appropriate liners must be implemented.
- 2.3 The construction of a conservancy tank must be of such a nature that no water will enter the system or leave it by means of seepage. Special care must be taken with the placing of the damp proof coarse during the construction phase. The tank needs to be inspected on a regular basis for seepage as a precautionary approach against any sewage leaving the system and causing pollution.
- 2.4 When a conservancy tank is used for the disposal of sewage, this office must be furnished with a signed copy of the contract between the contractor or the Langeberg Municipality which is appointed to pump the conservancy tank and the applicant.
- 2.5 The volume of sewage needs to be metered on a monthly basis and a removal programme needs to be scheduled to ensure that the conservancy tank is pumped well within time before overflowing. Alternatively, floating devices should be installed within the tanks that initiate an alarm at 75% full capacity to arrange for collection and disposal.

3. GROUNDWATER MONITORING

- 3.1 The quality of the ground water resource must be monitored by taking samples every 6 months at groundwater monitoring point. Each sample shall be analysed for the variables



and at frequencies, as shown in Table 1 in Appendix V and/ or any other variable as may be required from time to time by the Provincial Head/CEO.

Table 1: Groundwater monitoring variables and frequency

Variables	Monitoring Frequency
Sodium (mg/l)	Every 6 months
Magnesium (mg/l)	Every 6 months
Calcium (mg/l)	Every 6 months
Chloride (mg/l)	Every 6 months
Sulphate (mg/l)	Every 6 months
Fluoride (mg/l)	Every 6 months
E. coli (per 100ml)	Every 6 months
Nitrate/ Nitrite (mg/l)	Every 6 months
Phosphate (mg/l)	Every 6 months

- 3.2 Should pollution occur or possible pollution occur, the licensee must conduct the necessary investigations to determine the impact on groundwater associated with the conservancy tank and any mitigating actions that could be required. This must be done in consultation with the Provincial Head/CEO and at time frames set by the Provincial Head/CEO.

END OF LICENCE

Hanneen van der Stoep

From: WRAP <admin@wrapgroup.co.za>
Sent: Wednesday, 22 May 2024 11:34
To: Hanneen van der Stoep
Cc: Loretta Gillion
Subject: NO APPEALS LODGED AGAINST THE GRANTING OF ENVIRONMENTAL AUTHORISATION (EA) TO BRANDON TOPHAM FOR DEVELOPMENT ON PTN 156 OF 159 HANGNG KLIP (NEAR PRINGLE BAY)

Good morning

Please see email below.

Regards

Salomé Kotzé

ADMINISTRATION

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From: Duncan Heard <duncanheard@telkomsa.net>

Sent: Wednesday, May 22, 2024 11:31 AM

To: WRAP <admin@wrapgroup.co.za>

Subject: NO APPEALS LODGED AGAINST THE GRANTING OF ENVIRONMENTAL AUTHORISATION (EA) TO BRANDON TOPHAM FOR DEVELOPMENT ON PTN 156 OF 159 HANGNG KLIP (NEAR PRINGLE BAY)

Good day Salomé.

With regard to your earlier enquiry, I can confirm that:

- All registered commenting authorities, as well as interested and affected parties were given notice of their right to lodge an appeal against the granting of the abovementioned EA granted on 13 April 2023. No appeals were subsequently lodged by the end of the regulated appeal period.
- Development on the project commenced with DEA&DP's knowledge and the appointment of an ECO, during the last quarter of 2023 when the 1st phase of the project, the construction of the access road to the homestead development footprint was undertaken. A borehole has thus far also been drilled and will be registered with BOCMA, when operational.
- To my knowledge, the landowner is currently preparing his building arrangements and would like to start construction as soon as all these arrangements are finalised.

Kind regards



Duncan H.W. Heard

(SACNASP: Reg. No. 300024/12 - Environmental Science) (Member IAIAAsa)

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