



**MEETING OF THE  
MUNICIPAL PLANNING TRIBUNAL  
(MPT)**

**A G E N D A**

**DATE:  
VENUE:  
TIME:**

**28 MARCH 2024  
VIRTUAL  
10:00**

# OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT  
Civic Centre  
HERMANUS  
7200

**20 March 2024**

**TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

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

**NOTICE IS HEREBY GIVEN** that the **Municipal Planning Tribunal (MPT)** will go into session virtually on **Thursday, 28 March 2024 at 10:00**, to consider the attached agenda.

**H JANSER (MS)**  
**CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

**Distribution:**

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

**MUNICIPAL PLANNING TRIBUNAL  
(MPT)**

**28 March 2024**

**I N D E X**

**ITEM**

**PAGE  
NUMBER**

**APPLICATIONS FOR LEAVE OF ABSENCE**

<b>4.1</b>	<b>PORTION 12 OF THE FARM MIDDELBERG NO. 643, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION: MESSRS WRAP PROJECT OFFICE ON BEHALF OF MIDDELBERG INVESTMENTS (PTY) LTD</b>	<b>1</b>
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- 1. OPENING**
- 2. APPLICATIONS FOR LEAVE OF ABSENCE**
- 3. CONFIRMATION OF MINUTES**
  - 3.1 Minutes of a Municipal Planning Tribunal Meeting held on 27 February 2024**
- 4. ITEM FOR CONSIDERATION**
  - 4.1 PORTION 12 OF THE FARM MIDDELBERG NO. 643, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION: MESSRS WRAP PROJECT OFFICE ON BEHALF OF MIDDELBERG INVESTMENTS (PTY) LTD**

Report attached

## 4.1

**PORTION 12 OF THE FARM MIDDELBERG NO. 643, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION: MESSRS WRAP PROJECT OFFICE ON BEHALF OF MIDDELBERG INVESTMENTS (PTY) LTD**

Prt 12 of Farm 643 (4089/2022)

P Roux

20 October 2023

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

An application was received on 09 March 2022 from Messrs WRAP Project Office in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), to subdivide Portion 12 of the Farm Middelberg No. 643, Division Caledon into two portions namely Portion A approximately 51.2726ha in extent and the Remainder Portion approximately 499.7812ha in extent.

The Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the application is attached as Annexure B and the Subdivisional Plan is attached as Annexure C.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Portion 12 of the Farm Middelberg No. 643, Division Caledon is for zoned for Agricultural Zone 1 purposes and is developed with various structures including a farm shed, main dwelling, and labourer's accommodation. The property owner recently obtained approval for various consent uses to diversify the land use rights, the land uses which were approved in 2022 included the following:

- *five additional dwelling units (tourist accommodation), tourist facilities, restaurant, gift shop, pottery studio, restrooms, admin office and farm shop on the property*

The property owner now seeks to subdivide the farm into two portions.

**4. SUMMARY OF APPLICANT'S MOTIVATION**

The motivation for the application is summarised as follows:

- ❖ Portion 12 of the Farm Middelberg No. 643, Division Caledon measures 551.0538ha. The subject property is situated next to the Klein Rivier lagoon and gains access from the Wortelgat Road via Stanford.
- ❖ The subdivision will allow for the property owner to split the farm into two portions namely: Portion A ±51.2726ha in extent and the Remainder Portion ±499.7812ha in extent.

- ❖ The zoning of the farms will remain unchanged, and the same land use parameters will be applicable after subdivision. It is further intended to use both erven for agricultural purposes including the acquired consent uses on the remainder.
- ❖ The subdivision was supported by the Department of Agriculture, Land Reform and Rural Development.
- ❖ There are no title deed restrictive conditions which prohibit the proposal.
- ❖ The subject property has an existing water license which will be divided between the properties. Portion A will receive 389 607,12m of water to irrigate the ±42ha and the Remainder will receive 621 516,12m of water for 67ha of cultivated land.
- ❖ Access to both portions will be from Wortelgat Road, each access will be 250m apart from each other as per comment from DOT.
- ❖ The application is motivated to be in line with the land use principles and the Overlay zones as contained in the Land Use Scheme.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	24 May 2022	24 June 2022
Internal Departments	Yes	20 May 2022	24 June 2022
Ward councillor	Yes	20 May 2022	24 June 2022
Total comments	<b>NONE</b>		
Total letters of support	<b>NONE</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly?			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			<b>Yes</b>
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			<b>N/A</b>

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

Name	Date received	Summary of comments
Building Department	20/05/2022	No objection.
Waste Management	23/05/2022	No objection.
Fire Services	24/05/2022	No objection.
Local Heritage	31/05/2022	No objection.
Eskom	20/06/2022	Attached as Annexure D.
Engineering Services	01/07/2022	Attached as Annexure E.

Department of Environmental Affairs and Development Planning: <i>Component: Planning</i>	14/07/2022	No objection.
Department of Environmental Affairs and Development Planning: <i>Component: Environmental</i>	21/07/2022	No listed activities.
Department of Environmental Affairs and Development Planning: <i>Component: Coastal Management</i>	26/07/2022	Attached as Annexure F.
Heritage Western Cape	02/09/2022	No impact on heritage resources.
Overstrand Municipality Environmental Services	-	No comment received.
Western Cape Department of Agriculture	14/12/2023	Annexure H

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Local Heritage Committee has no objection with regards to the proposed subdivision.

Western Cape Department of Agriculture does not support the proposed subdivision this is discussed under the evaluation heading.

Further Comment received from DEADP: Coastal Management. The comment highlights concern regarding location of the property adjacent to the Kleinrivier and several aspects which was not discussed by the applicant in the motivation. These comments are summarised below:

**The applicant did not consider the subject property's location in relation to the Coastal Protection Zone (CPZ) and delineated by the department in the project for the delineation of the coastal management line and the applicant did not explain how the CPZ will be affected by the proposed development.**

### Response from town planner

The proposed development is only for the subdivision of the farm into two portions, the proposed Coastal Protection Zone (CPZ) will remain unchanged and unaffected. Should any of the proposed portions be developed in future then the developer will have to take cognisance of all constraints of the property.

**The subject property is located seaward of the Stanford bridge and may be succumbed to increased effects of climate change, sea level rise and increased storm surges.**

### Response from town planner

Should any of the proposed portions be developed in future then the developer/property owner will have to take cognisance of all constraints of the property. When building plans are submitted in close proximity to the estuary/lagoon then it is also circulated to DEA&DP coastal for comment.

**The property falls within the estuarine functional zone and the broader littoral active zone must be taken into account in the land-use. The capacity of the estuary to accommodate agriculture activities by the applicant should be considered in determining the nature and scale of the activities.**

Response from town planner

It is noted that smaller agricultural sizes does tend to have a negatively impact on the capacity of agriculture activities, this is further elaborated in the evaluation below. The impact of additional uses on the estuary is of concern as the property owner will be able to (in terms of primary right) develop the new portion with a main dwelling and agricultural structures which needs to be considered. As pointed by the department no such information was provided.

**The water use licence provided does not provide sufficient proof of the volumes was approved by DWS.**

Response from town planner

The water use licence as provided by the Department of Water and Sanitation does state that the amount of water available which includes 1 020 400m<sup>3</sup>/a.

**The applicant does not clearly state the mitigation measures which will be employed to prevent spillages and how such potential incidents would be mitigated.**

Response from town planner

Should any of the proposed portions be developed in future then the developer will have to take cognisance of all constraints of the property and develop it in line with the norms and standards. Should building plans be submitted then the municipality will ensure that the building complies with the NBR and Overlay Zones.

**Further elaboration on the economic impact of the agricultural activities on vulnerable population such as women youth elderly black or disabled persons should be also included.**

Response from town planner

The economic activities on the farm will remain unaffected, or if two separate property owners manage the two farms additional workforce may be required which will benefit the local community.

**The applicant should consider the impact of future developments such as the tourism facilities on the salt marsh and submerged macrophyte habitats.**

Response from town planner

The tourist activities were approved in 2022 with no appeal received. The concern regarding the impact of development along the estuary is noted and will be considered in the evaluation.

**8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

N/A

**9. MUNICIPAL ASSESSMENT OF COMMENTS**

All relevant departments provided positive comments, the comment from Department of Environmental Affairs and Development Planning: Coastal Management was discussed above, and it is noted that no objection is provided and only concerns raised, these concerns will be considered in the evaluation of the application.

**10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)****10.1 Background**

N/A

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

The application can be motivated in terms of the principles in the following manner:

Spatial Justice

The application is for the subdivision of the existing property and therefore it does not apply to this principle.

Spatial sustainability

The application will have no impact on the conservation status of the subject properties or the area. The impact on the biophysical environment will also be kept to a minimum. The new property will be developed in line with the relevant Zoning Scheme and in cognisance with the constraints on the property.

Efficiency

The farms will be developed optimally and used for agricultural activities.

Spatial Resilience

Food security is one of the most important aspects of South Africa which needs to be addressed. This proposal does not hamper farming activities and will allow the property owners to still develop the farms in line with its primary uses.

Good administration

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

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

Same as 10.2 above.

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

The Spatial Development Framework, states the following with regards to subdivision of agricultural land:

*“Subdivision of agricultural land should be strongly resisted except where it is consistent with the requirements as stipulated by Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970) and the related policy of the responsible department (SDF Policy P.1, 2006). Refer DEADP Rural Development Guidelines 2019.”*

The applicant provided approval from the Department of Agriculture, Land Reform and Rural Development. However the adherence to the DEADP Rural Development Guidelines 2019 is questioned and discussed in the evaluation, as seen under the evaluation and point 10.7 a negative comment was received from Western Cape Department of Agriculture.

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

Please refer to the prior heading.

**10.6 Impact on Municipal engineering services**

The existing services are available. The property owner will have to contribute to the bulk service levy for the additional property.

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

Although the proposal is motivated to be in line with the Rural Development Guidelines 2019 for the proposed sizes, regarding planting a vineyard, 40ha is required for vineyards under irrigation. It is noted that the applicant states that 42.8ha of cultivated land will be situated on Portion A, however from aerial photography large portions of the land is still uncultivated, this is also verified from the comment received from Western Cape Department of Agriculture. One cannot assume that the full extent can be cultivated as prior approval is required, and no proof to this affect was provided. Therefore the extent of land available could be severely lower than what is required for cultivation in terms of the Rural Development Guidelines 2019.

**10.8 Existing and proposed zoning comparisons and considerations**

The zoning of the proposed subdivided properties will remain for agricultural use.

Further, what is also noted is that large areas of the property falls under the EMOZ Overlay which includes the Rural Risk Zone and Coastal Protection Buffer on the northwestern side of the property, which is mostly uncultivated, and then also Urban Conservation EMOZ on the rest of the property, which is mostly cultivated. In the application the consultant only discusses the Urban Conservation EMOZ and neglects to consider the other two zones. In this regard one must also consider the history of the property which has gained the land use rights to various tourist land uses.

Under Rural Risk Zones the intensification of development is prevented in general risk zone, but allows exercising of existing rights. To further subdivide the farm means that additional development rights will automatically be acquired and multiply the rights already enjoyed by the property owner, this is done by means of a main dwelling, labour's cottages and manager's dwelling and other buildings required for farming activities, which are primary rights under the current zoning. The applicant did not provide any detail of the proposed development on the subdivided portion and therefore no compliance can be shown or evaluated in terms of the development parameters as contained in the EMOZ. It is therefore considered that the proposal is not aligned with the EMOZ regulations.

#### **11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

N/A

#### **12. THE DESIRABILITY OF THE PROPOSAL**

It is proposed to subdivide Portion 12 of the Farm Middelberg No. 643 to create two portions namely Portion A approximately 51.2726ha in extent and the Remainder Portion approximately 499.7812ha in extent.

The zonings of the farms will not be changed and both portions will primarily be used for agricultural activities. It is noted that the remainder portion of the farm has existing rights for tourist facilities and accommodation, while there are currently no approved or proposed building plans for Portion A.

Considering the size and form of the subdivision the farm with the historical rights (prior to subdivision) one must also consider what the benefit will be to the property owner to apply for the subdivision; in the motivation it is clear that the property owner seeks to provide the farm to one of their relatives to manage and develop with a dwelling. As noted before, by subdividing the farm the new portion will have automatic right to develop another manor house, manager's house and labourer's cottages. The potential development footprint will be able to multiply, and this is where the comment from DEA&DP Coastal Management comes into effect as there is a true concern regarding the impact of developments on the estuary. As further noted in this report large portions of the Portion A are located within Overlay Zones which seeks to limit the impact of development on the estuary. What is also noted is that the farm has received rights to develop tourist facilities on the farm including several additional dwellings. In terms of the land use scheme a maximum of five additional dwellings is allowed and in terms of the approval provided in 2022 five additional dwellings were approved. The subdivision will therefore allow the property owner to develop an "additional" dwelling as a primary right which would in other circumstances not be allowed. The proposal is considered not to be aligned with the Rural Risk Zones as contained in the EMOZ regulations due to the potential intensification of development rights. It should also be noted that the applicant did not provide any detail of the proposed development on the subdivided portion and therefore no compliance can be shown or evaluated in terms of the development parameters as contained in the EMOZ.

What is also of concern is the way, shape and size in which the property is to be subdivided. A portion of the river front is subdivided into small narrow slithers, these are the areas which are most sensitive to development and needs careful

consideration. Further, the area which is to be cultivated are situated to the rear of the farm and if the property owner is to ever develop a dwelling, farm shed and other buildings these buildings will have to be placed either in the rural risk zone, and an area where no development has taken place or on cultivated portions, none of which is desirable.

The municipality is also not in favour of creating smaller agricultural land units which in turn will require additional facilities such as tourist or commercial enterprises to become more sustainable. This is also in part why the application for consent use was supported on the original farm. To subdivide these portions will now cause the farm to be fragmented and the new section will be separated from the income derived from the tourist activities.

Concern is provided from DEA&DP Coastal Management and further concern was raised by the Western Cape Department of Agriculture which stated that via a desktop study only 30ha of land is available for the cultivation on Portion A. According to aerial photography portions of Portion A has not been cultivated previously and the consent/proof that it may be legally cultivated must be provided in terms of the Conservation of Agricultural Resources Act No. 43 of 1983 (CARA) and the National Environmental Management Act No. 107 of 1997 (NEMA), otherwise it cannot be considered as cultivated land from a legislative point of view.

Due to the size and layout the position where infrastructure can be developed may also be of concern as it may take up some of the cultivated areas, further reducing agricultural land. The area to be cultivated on the Remainder is also questioned except for an estimated 12 ha on the western boundary. The larger portion of land ( $\pm 33$  ha) that has been cultivated since 2015/2016 has not been cultivated prior to that. Proof must be provided in terms of the Conservation of Agricultural Resources Act No. 43 of 1983 (CARA) and the National Environmental Management Act No. 107 of 1997 (NEMA), otherwise it cannot be considered as cultivated land from a legislative point of view.

The sizes proposed in terms of the subdivision are in line with the Rural Development Guidelines 2019. Considering the comment received from Western Cape Department of Agriculture one cannot simply assume that the guidelines are adhered to in terms of the size of the property. It might well be that the size of the property is larger than the size of the "ideal farming unit sizes" however what should be noted is that it is not a given that the full extent of the farm will be cultivated or be allowed to be cultivated without prior approval which does not seem to be the case.

Considering the abovementioned evaluation the proposed application is considered undesirable from a planning perspective.

### 13. RECOMMENDATION

1. that the application for subdivision in terms of Section 16.(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) to subdivide Portion 12 of the Farm Middelberg No. 643, Division Caledon into two portions namely Portion A approximately 51.2726ha in extent and the Remainder Portion approximately 499.7812ha in extent, **not be approved** in terms of the provisions of Section 61; and

2. that the applicant be notified of its 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 conditions of approval.

#### 14. REASONS FOR RECOMMENDATION

- The farm is already extensively developed with additional dwelling units, primary land uses and tourist facilities. By approving the application, the development rights and footprint will effectively be multiplied in an area which is marked as a rural risk area. The additional primary uses obtained cannot be gained without subdivision of agricultural land hereby the application is noted to be creating smaller agricultural land units to facilitate an additional dwelling unit. Farming activities can continue on the farm irrespective of the property being subdivided or not.
- A portion of the river front is subdivided into small narrow slithers; these are the areas which are most sensitive to development and needs careful consideration. Further, the area which is to be cultivated are situated to the rear of the farm and if the property owner is to ever develop a dwelling, farm shed and other buildings these buildings will have to be placed either in the rural risk zone, which seeks to prevent intensification of development, or in an area where no development has taken place or on cultivated portions, none of which are desirable.
- The applicant did not provide any detail of the proposed development on the subdivided portion and therefore no compliance can be shown or evaluated in terms of the development parameters as contained in the EMOZ.
- The municipality is also not in favour of creating smaller agricultural land units which in turn will require additional facilities such as tourist or commercial enterprises to become more sustainable. To subdivide these portions will now cause the farm to be fragmented and the new section will be separated from the income derived from the existing tourist facilities approved on the original farm.
- The sizes proposed in terms of the subdivision cannot directly be comparable to the "ideal farming unit sizes" as contained in the Rural Development Guidelines 2019. Prior approval is required to develop and cultivate land and in this case no such approval was provided. Further, from a desktop study only 30ha of Portion A is cultivated, prior approval is required to develop the rest. This may not be provided and then the land cultivated will be less than the ideal sized land for this type of cultivation which again will lead to seeking other means of making the farm sustainable such as additional consent uses.

#### 15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Subdivisional Plan
Annexure D:	Comment: Eskom
Annexure E:	Services Report
Annexure F:	Department of Environmental Affairs and Development Planning: Coastal Management
Annexure G:	Department of Agriculture, Land Reform and Rural Development
Annexure H:	Western Cape Department of Agriculture

**SIGNATURES****AUTHOR**

Name:

**P ROUX**

SACPLAN Reg No:

**A/2246/2015**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**REGISTERED PLANNER**

Name:

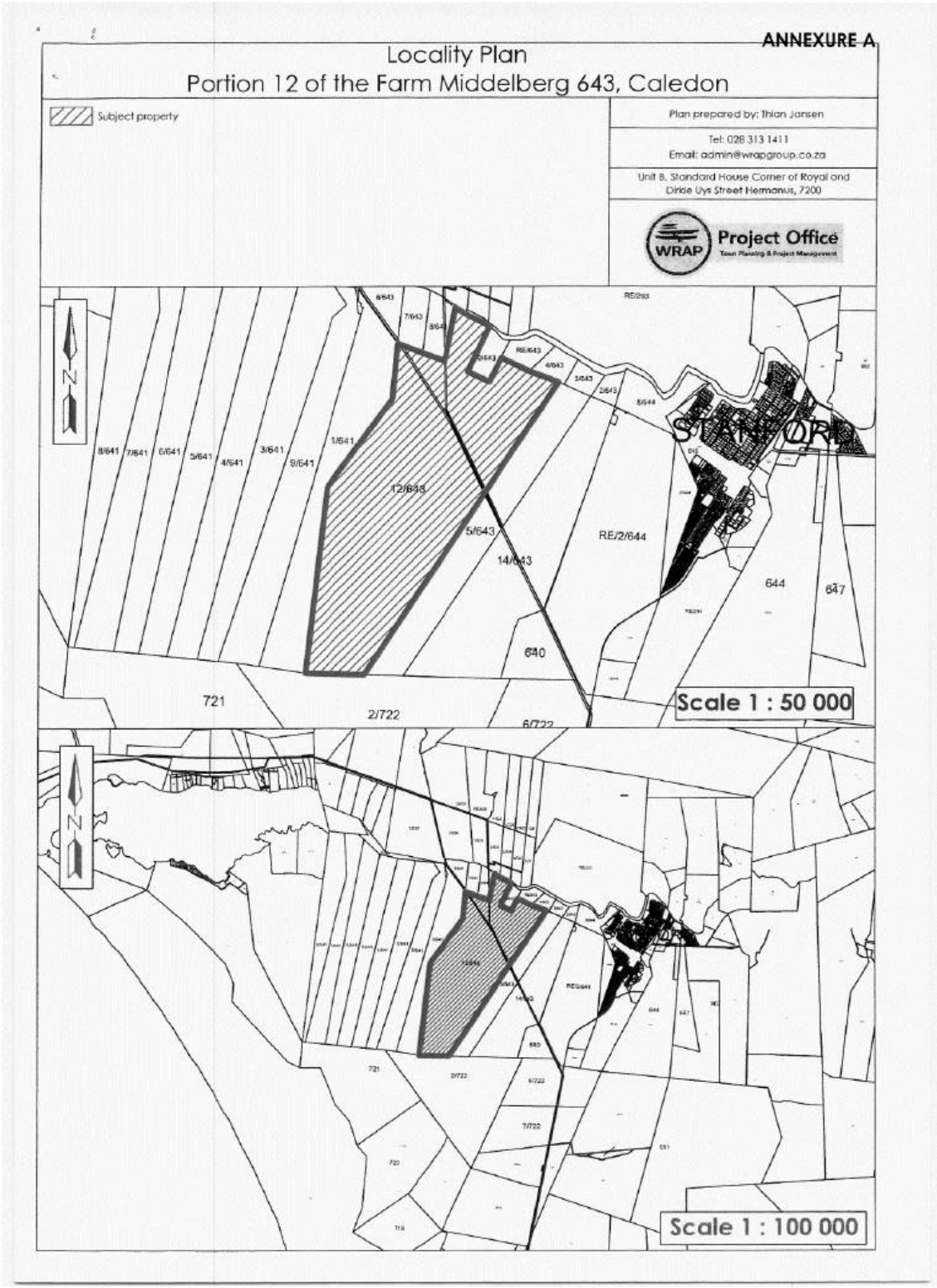
**SW VAN DER MERWE**

SACPLAN Reg No:

**A/1850/2014**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_





## MOTIVATION

### 1. ABBREVIATIONS

<b>OM</b>	Overstrand Municipality
<b>OMLUS</b>	Overstrand Municipality Land Use Scheme, 2020
<b>OM BY-LAW</b>	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
<b>DEADP</b>	Western Cape Department of Environmental Affairs and Development Planning
<b>PSDF</b>	Western Cape Provincial Spatial Development Framework, 2014
<b>LUPA</b>	Western Cape Land Use Planning Act, 2014.
<b>MSDF</b>	Overstrand Spatial Development Framework, 2020
<b>SDP</b>	Site Development Plan
<b>AGR1</b>	Agricultural Zone 1: Agriculture

### 2. SUMMARY OF STATUS QUO AND PROPOSED PROPERTY DETAILS

<b>Consultant</b>	WRAP Project Office
<b>Restrictive title deed conditions</b>	None
<b>Erf extent</b>	551,0538 Ha
<b>Current zoning</b>	Agricultural Zone 1: Agriculture

### 3. BACKGROUND

Portion 12 of Farm Middelberg 643, Caledon hereafter referred to as the subject property has an extent of 551,0538ha and the owners of the subject property (Middleberg Investments (Pty) Ltd) hereafter referred to applicant, wants to subdivide the farm into two portions. (Refer **Annexure B: Power of Attorney and Company Resolution**)

Both these portions will remain in the name of Middleberg Investments (Pty) Ltd. The applicant wants to allow their children, each to farm a portion of the farm and to allow them to build a homestead on the subdivided portion while ensuring the agricultural landscape stays intact.

### 4. PROCEDURE TO ACHIEVE THE APPLICANT'S INTENT

WRAP was appointed to compile and submit a land use planning application to achieve the vision that highlighted in Section 3 of this report. The following is proposed:

**4.1 Subdivision** of Portion 12 of the Farm Middelberg 643 Caledon into Portion A, ±51,2726ha and the Remainder, ±499,7812ha in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The subject property has an extent of 551,0538ha. The proposal is to subdivide the property into two parts with the Remainder proposed to be ±499,7812ha and Portion A ±51,2726ha, which allows the applicant to maximise the usage of the farm. The proposal for the extents of the two portions are to ensure the proposed subdivision creates two viable agricultural properties as the applicants intend to utilise both properties for agricultural purposes. The proposed subdivision has been approved by the Department



## MOTIVATION

of Agriculture, Land Reform and Rural Development (DALRRD). (Refer **Annexure C - Approval Letter**)

Refer to Figure 1 that illustrates the proposed subdivision:

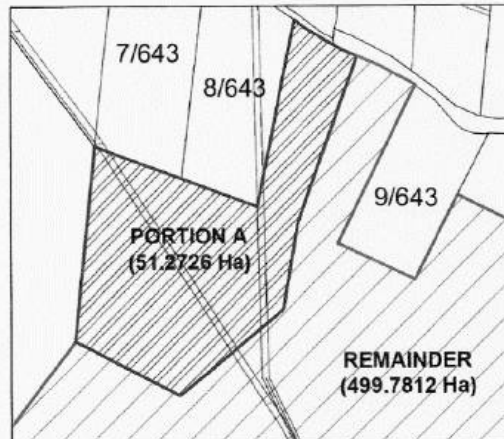


Figure 1: Extract of Plan 4 - Proposed subdivision

The subject property has approximately 110 ha of cultivated land under irrigation. The water licence allows for the irrigation of 110 ha of land. A total of  $\pm 42.8$  ha of cultivated land will be located on the proposed Portion A and  $\pm 67.1$  ha will be located on the Remainder of the subject property.

Availability of water is always of concern as was approved by the DALRRD as the subject property has a water licence that allows the property to access and abstract water for agricultural irrigation purposes from the Stanford Aquifer.

The volume of water allocated and available from three boreholes (PD1, PD2 and PD3) which may be supplemented from an additional three boreholes MBP01, MBP03 and MBP05 is 1 020 400m<sup>3</sup> per annum.

The water is sufficient to irrigate 110ha. Both properties will utilise the water made available through the water licence (Licence Number: 02/G40L/S/8750).

The water will be divided between Portion A and the remainder on the following basis:

**1 020 400m<sup>3</sup>** of water may be abstracted annually from the aquifer, which equates to **110ha** of land that may be irrigated at a rate of 9272 m<sup>3</sup> per ha (as per the conditions of the water licence).



## MOTIVATION

Portion A	
Proposed extent	±51.2726 ha
Cultivated land	±45 ha
Land to be irrigated	±42 ha
Water required	42 ha x 9276.36m <sup>3</sup> (Water required for the irrigation of 1 ha)
	= 389 607.12 m <sup>3</sup> <b>389 607.12 m<sup>3</sup> of water will be required to irrigate the proposed ±42 ha of vineyards on Portion A.</b>

Remainder	
Proposed extent	±499.7812 ha
Cultivated land	±67 ha
Land to be irrigated	±67 ha
Water required	67 ha x 9276.36m <sup>3</sup> (Water required for the irrigation of 1 ha of crop)
	= <b>621 516.12 m<sup>3</sup></b> of water will be required to irrigate the proposed 67 ha of cultivated land on the Remainder of the subject property.
Total volume of water required	1 011 123.24 m <sup>3</sup>
Total volume of water available	1 020 400 m <sup>3</sup>

It is important to note that the water licence belongs to Middelberg H20 (Pty) Ltd who has a lease agreement with Middleberg Investments (Pty) Ltd which allows Middleberg Investments (Pty) Ltd to utilise the licensed water on the subject property.

The lease agreement will be amended to reflect the division of the water between **Portion A** and the **Remainder**.

#### 5. APPLICATION

Considering the above, application is made for the following:

**5.1 Subdivision** of Portion 12 of the Farm Middelberg 643 Caledon into Portion A, ±51.2726ha and the Remainder, ±499,7812ha in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

#### 6. LAND USE ENVIRONMENT

The properties surrounding the subject property are also zoned Agricultural Zone 1: Agriculture. The surrounding area's zoning is illustrated in Plan 2 (zoning plan).



**MOTIVATION**

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**7. TITLE DEED**

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The title deed (T13189/2020) does not contain any restrictive conditions which may prohibit the approval of the subdivision of the subject property.

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**8. ZONING**

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The following zoning parameters were assessed in conjunction with the AGR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:

The proposal is to create two properties both being zoned AGR1 to allow the properties to be operate as two individual agricultural entities.

MOTIVATION



Agricultural Zone 1: Agriculture (AGRI) Land Use Restrictions				
Parameters	Portion A Proposed House	Dwelling	Remainder Dwelling House	Comply/ deviate Comply
<b>Primary use</b>	Agriculture, Crèche, Dwelling House, Guest Rooms and Home Occupation.			
<b>Consent use that may be applied for</b>	Additional Dwelling Units, Agricultural Industry, Animal Care Centre, Aquaculture, Day Care Centre, Farm Shop/Stall, Fertiliser Plant, Guest House, Hotel, Institution, Intensive Animal Farming, Intensive Horticulture, Lodge, Mining, Place of Assembly, Place of Entertainment, Place of Instruction, Plant Nursery, Riding Stables, Service Trade, Tourist Accommodation, Tourist Facilities, Transmission Apparatus, Utility Services, Wellness Centre and 4x4 Trail.	N/A	An application for consent is currently being considered by the OM, reference number PTN 643/12 RCAL.  The application is to allow the following: - Additional Dwelling Units - Tourist Accommodation - Tourist Facilities - Farm shop/stall	
<b>Development parameters</b>			<b>Total – 1513.2m<sup>2</sup></b>	Comply
<b>Floor space</b>	The total floor space of all buildings on the land unit may not exceed 5000 m <sup>2</sup> , provided that the Municipality may relax this requirement if it is satisfied that such buildings are required for bona fide farming activities on the land unit.	Vacant		



**MOTIVATION**

<p><b>Height</b></p>	<p>(i) The maximum height of a building, measured from the base level to the top of the roof is 8.0 m, provided that:                  (ii) Agricultural buildings other than dwelling units shall not exceed a height of 12.0 m measured from the base level to the top of the roof; and where Council is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height; and                  (iii) Earth banks and retaining structures shall comply with 16.6, provided that earth banks and retaining structures, which in the opinion of Council are associated with the bona fide agricultural activities, are exempt from the requirements of 16.6.</p>	<p>Vacant</p>	<p>(i) The buildings are lower than 8m and will be addressed during building plans submission process;                  (ii) Future agricultural buildings will be lower than 12m; and                  (iii) N/A.</p>	<p>Comply</p>
<p><b>Building lines</b></p>	<p>Street and common boundary building lines are all 30m.</p>	<p>Comply</p>	<p>19m                  Departure application has been submitted and the outcome is being awaited.</p>	<p>Comply</p>
<p><b>Parking</b></p>	<p>The provision of parking is provided in accordance with Section 17.1.3 of the OMLUS:                  Additional dwelling unit = 1 bay per unit                  Restaurant = 6 bays per 100m<sup>2</sup>.</p>	<p>Vacant, parking will comply with the OMLUS</p>	<p>5 additional dwelling units = 5 parking bays                  Restaurant/gift shop 538.5m<sup>2</sup> = 32 parking bays                  Shop 27.8m<sup>2</sup> = 1,67 parking bays</p>	<p>Comply</p>



**MOTIVATION**

			Pottery studio 72 m <sup>2</sup> = 4,3 parking bays Admin/reception = 71,9m <sup>2</sup> = 4,3	
<b>Loading</b>	The minimum off-street loading must be provided to the satisfaction of the Engineering Department.		Loading bays will be provided if required, but with the subject property being a farm, there is ample space for loading and off-loading purposes.	Comply



## MOTIVATION

### 9. SERVICES

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

#### **Solid waste**

Solid waste is collected on the premises and transported by the landowner to the Stanford waste transfer station.

#### **Electricity**

Electricity to the existing buildings is supplied by Eskom and the approval and implementation of this proposal will not alter that.

#### **Water**

There is an approved water use license which has been issued by the National Department of Water and Sanitation which permits water for the subject property to be extracted from the Stanford Aquifer in volume of 1 020 400m<sup>3</sup> (refer **Annexure C**). There is sufficient potable water available to cater to the demand which will be required by the proposed tourist facilities, farm shop/stall and tourism accommodation which is being applied in a separate land use application.

#### **Sewage**

Sewage for the proposed land uses will be discharged by means of a conservancy tank which will be regularly emptied.

#### **Access, Egress, and Parking**

Both properties are proposed to gain access from the Wortelgat Road, a minor road No 4017.

- The remainder will take access at marker ±km 2,52 off Minor Road 4017;
- Portion A is proposed to take access at marker ±km 2,78 off Minor Road 4017.

Prior correspondence with the Provisional Department of Transport and Public Works indicated due to the status of the road 260m is required between access points, which is proposed to be adhered to.

### 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 proposed development arose from the applicant's vision to be able to optimise the utilisation of the entire extent of the subject property. This includes that the applicants may utilise Portion A as a homestead for their children.

Desirability is more often a personal feeling of the applicant, the subdivision is not proposed to add any value to the surrounding area, but it will increase the applicant's enjoyment and function of the subject property.



## MOTIVATION

To achieve their desire, the applicant has appointed WRAP Project Office to submit this application, to ensure the proposed subdivision is not in contradiction to any policies, legislation or title deed conditions.

### **Impact on views, sunlight and character of the area**

The proposed subdivision does not have an impact on the views, sunlight and character of the surrounding area.

The proposed subdivision will follow the development parameters set out by the OMLUS, which will ensure that the proposed development will not impact on the views and sunlight of the surrounding area.

### **Economic impact**

The agricultural use for which the subject property is being used for creates employment opportunities and the subdivision will not affect this.

### **Opportunity cost**

An opportunity cost in the context of land use planning refers to a development proposal which leads to the devaluation or foregoing valued land use rights of interested and affected parties when an application is approved.

### **Impact on heritage**

The subject property is not listed in the OM Heritage Register. None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal. There is therefore no impact on heritage.

### **Environmental impact**

No listed activities in terms of the National Environmental Management Act are triggered by this proposal.

## **11. POLICIES AND REGULATIONS**

### **11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)**

#### **Urban Conservation – EMOZ**

The subject property is classified as an Urban Conservation, but the proposal for subdivision is proposed to not affect the Urban Conservation – EMOZ, no physical alterations are being proposed for the subject property.

### **11.2 Heritage Protection Overlay Zone**

#### **11.2.1 Scenic Route**

The subject property is located adjacent the Wortelgat Road which is identified as a 'Route of Regional Scenic Significance'. The applicant acknowledges the significance of the route and would not want to impact on the scenic nature thereof.

To ensure compliance, the HPOZ has guidelines in place to ensure new developments do not impact the scenic route as indicated in Section 8.2.6:



## MOTIVATION

Protection of scenic corridors	Compliance
8.2.6.1 - New buildings must not block views from scenic routes, particularly views towards the mountains and the coastline and towards places/sites identified as having visual or heritage significance, where possible.	This is noted and all future plans submitted to the OM will consider this.
8.2.6.2 - Comment must be obtained from the Overstrand Heritage and Aesthetics Committee, Stanford Heritage Committee and/or a registered conservation body on potential visual impacts before the Municipality approves any applications within this HPOZ.	The Overstrand and Stanford Heritage Committees will be afforded the opportunity to comment on the application during the public- and authority commenting period.
8.2.6.3 - Development on ridge lines and on steep slopes greater than 1:4 must be avoided in this zone.	This is noted and is not applicable to this application as no development is proposed.
8.2.6.4 - New interventions must be modest and restrained in scale, limited in height, recessive in character and appropriate to the natural and cultural landscape.	This is noted and is not applicable to this application as no development is proposed.
8.2.6.5 - New developments must be associated and linked with existing settlements, rather than being built on isolated sites on undeveloped land.	This is noted and is not applicable to this application as no development is proposed.
8.2.6.6 - Buildings must be aligned parallel to the contours. Hard and soft landscaping must be used to tie the buildings into the landscape.	This is noted and is not applicable to this application as no development is proposed.
8.2.6.7 - Building platforms on sloping sites must be kept to a minimum. Buildings on high stilts in excess of 2,4 m, as measured from the base level and as defined in the land use scheme, must be avoided. New levels must be designed to fit into the surrounding landform. Mitigation measures must be identified to limit visual impacts.	This is noted and is not applicable to this application as no development is proposed.
8.2.6.8 - Outdoor spaces must be designed so that the landscape appears to flow throughout the site. Extensions on coverage will be discouraged.	This is noted and is not applicable to this application as no development is proposed.
8.2.6.9 - The layout and design of new buildings must respect local traditions and settlement patterns in terms of the placement and alignment of buildings on sites.	This is noted and is not applicable to this application as no development is proposed.
8.2.6.10 - Access roads and pathways must be designed to avoid excessive cutting and filling and to ensure	This is noted and all access roads will be constructed engineering standards and will meet the requirements of the OM.

File 20/58

Portion 12 of the Farm Middelberg 643 Caledon

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## MOTIVATION

harmonious adaptation to the existing topography.	
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### 11.2.2 Significant landscape

A portion of the subject property is located in the Heritage Protection Overlay Zone as a 'Significant landscape' and it is predicted the proposed subdivision will not have an impact on the HPOZ.

To ensure the application may be considered, and it complies with the HPOZ, it is of importance that 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 reason for inclusion is as a result of the scenic route (Wortelgat road) running through the property.

The steps to ensure heritage significance is respected, no boundary walls or obstructions are proposed. The area will be used mainly for agricultural purposes with possible future tourist related activities.

#### Heritage Research

Due to the small-scale nature of the application, no specific heritage research was done.

#### Photographs, Including Contextual Photograph

Aerial maps were included in the application, refer to **Plan 3 – Aerial Plan**. As illustrated by the Aerial map, the subject property is only developed on the northern side of the Wortelgat road, and the southern side is being utilised for agricultural purposes.

**File 20/58**

Portion 12 of the Farm Middelberg 643 Caledon

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## MOTIVATION

### Results of Public Consultation

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

### Impact Assessments

No assessments were conducted.

### Comment From Affected and Interested Bodies

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

### **11.3 Spatial Planning Policies**

The compliance of this proposal with the applicable spatial development policies was assessed. These policies are instrumental in guiding spatial development and providing prescripts of what constitutes sound town planning development patterns. The compliance of this proposal in conjunction with provincial and local policies which are key development informants will be illustrated.

#### **WESTERN CAPE LAND USE PLANNING GUIDELINES RURAL AREAS - WCLUPGRA**

The proposed subdivision will leave Portion A with  $\pm 51.2726$  ha of land, of which  $\pm 42.8$  ha will be planted with vineyards under irrigation. The  $\pm 42.8$  ha is in line with the ideal farming unit sizes set out in the 'Norms for the Subdivision of Agricultural Land' within the Western Cape Land Use Planning Guidelines for Rural Areas, 2019. Table 2 on page 33 of the guidelines indicates that 40 ha of vineyards is a sustainable agricultural enterprise. The applicant envisions an agricultural enterprise that is able to be operated independently from the proposed Remainder. The Remainder will also be left with  $\pm 67$  ha of cultivated land that will be planted with vineyards under irrigation, which is also in-line with the ideal farming unit sizes.

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.

## **12. PLANNING PRINCIPLES**

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

### **Spatial justice**

Spatial justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal for the subdivision does not perpetuate apartheid spatial development imbalances.

### **Spatial sustainability**

Spatial sustainability refers to planning proposals which result in communities that are viable. This proposal to subdivide intends to ensure that the subject property is utilised to its maximum capabilities and allows the applicants to create viable agricultural land units.



## MOTIVATION

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### **Efficiency**

This proposal is intended to maximise the usage of the subject property.

### **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 which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.

**RECOMMENDATION**

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**13. EVALUATION**

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Considering the abovementioned motivation, there is sufficient land and water in terms of agricultural subdivision norms on the subject property for the proposed subdivision into Portion A and the Remainder to be approved.

The proposal needs to be evaluated on the basis that the subdivision has been approved by the DALRRD in terms of the Subdivision of Agricultural Land Act, Act 70 of 1970. This proposal is in harmony with all relevant spatial planning policies which illustrates that the applicant did not arbitrarily invent this application but had due consideration for relevant spatial planning policies.

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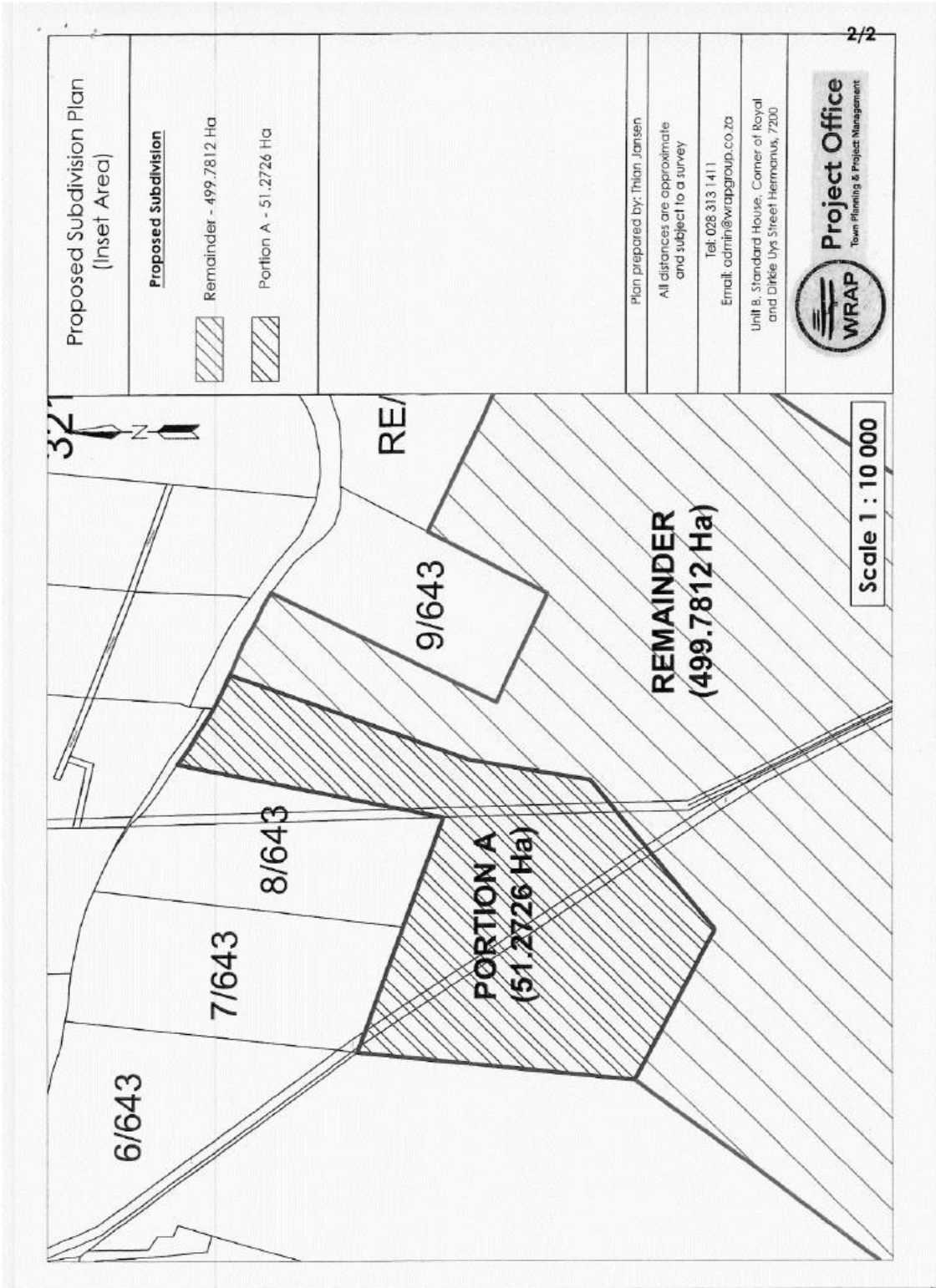
**14. RECOMMENDATION**

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

**Subdivision** of Portion 12 of the Farm Middelberg 643 Caledon into Portion A, ±51,2726ha and the Remainder, ±499,7812ha and in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.







Overstrand Municipality  
alida@overstrand.gov.za

TP. D. /hoord  
(S. ud w/Name)

FILE NO. Ptn 12/643 v
Stanford
SCAN NO. Farm 643
COLLABORATOR NO. 1699205



Date: 2022/06/14

Enquiries:  
WayleavesWesternOU@eskom.co.za

**WAYLEAVE APPLICATION:** Application for Subdivision : Ptn 643/12, Middelberg, Caledon  
Division : Stanford

**YOUR REF:** 643/12 RCAL

**ESKOM REF:** 05772-22

### THIS IS NOT AN APPROVAL TO START CONSTRUCTION

I hereby inform you that Eskom has no objection to the proposed work indicated on your drawing in principle. This approval is valid for **12 months** only, after which reapplication must be made if the work has not been completed.

**1. Eskom services are affected by your proposed works and the following must be noted:**

- Eskom has no objection to the proposed work and include a drawing indicating Eskom 11kV/LV underground services in close proximity.
- Please note that underground services indicated are only approximate and the onus is on the applicant to verify its location.
- There may be LV overhead services / connections not indicated on this drawing.
- The successful contractor must apply for the necessary agreement forms and additional cable information not indicated on included drawing, in order to start construction.

Application for Working Permit must be made to:

Customer Network Centre: Caledon  
Dirk Swart / Francois Swart  
028 214 5710 / 028 214 5713 / 083 502 2590  
SwartDi@eskom.co.za

**Include Eskom Wayleave as-built drawings and all documentation, when applying for Working Permit.**

Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost. Application for relocating services must be made to Customer Services on 08600 37566 or customerservices@eskom.co.za

Distribution Division - Western Region [Land Development]  
Western Region  
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA  
Tel +27 86 003 7566 www.eskom.co.za  
Eskom Holdings SOC Limited Reg No 2002/015527/30

20 JUN 2022

## 2. Underground Services

The following conditions to be adhered to at all times:

- a) Works will be carried out as indicated on plans.
- b) No mechanical plant to be used within 3.0m of Eskom underground cables.
- c) All services to be verified on site.
- d) Cross trenches to be dug by hand to locate all underground services before construction work commences.
- e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Lianne Muller from the Land Development Office to be contacted at MullerLE@eskom.co.za , to arrange the capturing of such services.
- f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000mm.
- g) Where proposed services cross underground power cables the separation should be a minimum of **300mm** with protection between services and power cables. (Preferably a concrete slab)
- h) No manholes; catch- pits or any structure to be built on top of existing underground services.
- i) Only walk-behind (2 ton Bomac type) compactors to be used when compacting on top of and 1 metre either side of underground cables.
- j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work.
- k) **No work can take place within the servitude of a 66kV Cable or 13kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Lianne Muller at MullerLE@eskom.co.za to arrange a site visit.

## 3. O.H. Line Services:

- a) The following building and tree restriction on **either side of centre line** of overhead power line must be observed:

Voltage	Building restriction either side of centre line
11 / 22kV	9.0 m
66kV	11.0 m
132kV	15.5 m

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.
- c) No work or no machinery nearer than the following **distances from the conductors**:

Voltage	Not closer than:
11 / 22kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.
- e) That a **minimum ground clearance** of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11 / 22kV	6.3 m
66kV	6.9 m
132kV	7.5 m

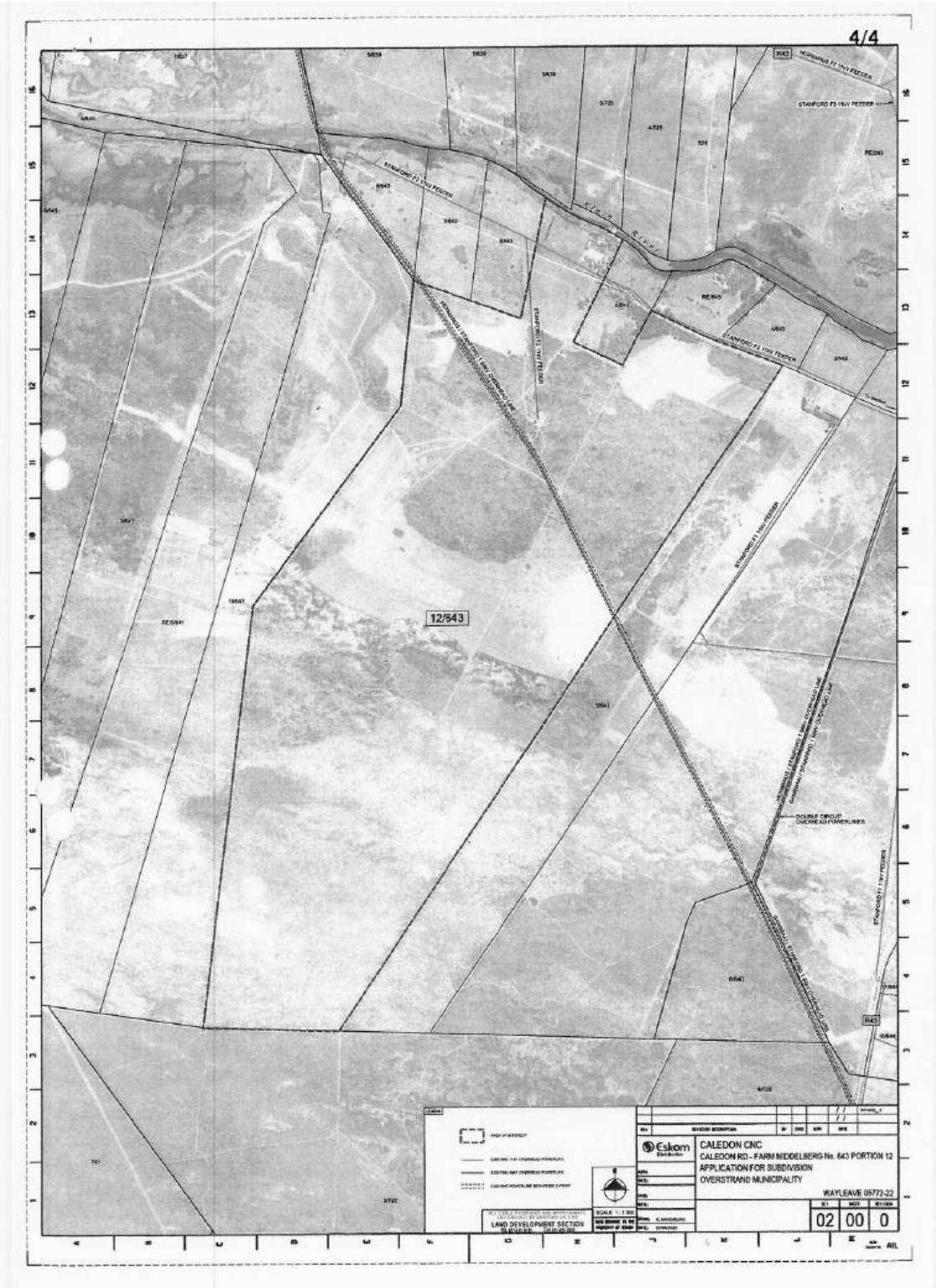
- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
  - i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
  - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
  - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
  - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) Lungile Motsisi MosisiL@eskom.co.za, Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES. NO WORK WITIN THIS SERVITUDE OR UNDERNEATH POWERLINES IS ALLOWED until comment from Eskom Transmission has been obtained.

#### 4. NOTE

Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom to be kept on site at all times during construction period.

Yours faithfully

**LAND DEVELOPMENT (BRACKENFELL)**



4/4

<p>KEY</p> <ul style="list-style-type: none"> <li>--- ROAD OF INTEREST</li> <li>--- ROAD (NOT FOR OVERHEAD POWERLINES)</li> <li>--- ELECTRIC (NOT OVERHEAD) POWERLINE</li> <li>--- WATER MAIN</li> <li>--- GAS MAIN</li> <li>--- SANITARY MAIN</li> <li>--- TELEPHONE MAIN</li> <li>--- CABLE MAIN</li> <li>--- FENCE</li> <li>--- BOUNDARY</li> <li>--- EASEMENT</li> <li>--- OTHER</li> </ul>	<p>SCALE: 1:1000</p> <p>SEE DRAWING 12/543 FOR THE NUMBER OF SHEETS</p>	<p>ESKOM Distribution</p>	<p>SECTION DESCRIPTION</p> <p>NO. OF SHEETS: 04</p> <p>OF SHEETS: 04</p> <p>NO. OF SHEETS: 04</p>		
			<p>CALEDON CNC CALEDON RD - FARM MIDDELBERG No. 643 PORTION 12 APPLICATION FOR SUBDIVISION OVERSTRAND MUNICIPALITY</p> <p>WAYLEAVE 05772-22</p> <p>02 00 0</p>		

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR SUBDIVISION: PORTION 12 OF THE FARM NO. 643,  
DIVISION CALEDON**

Stormwater (SW) : In order  
Electricity : Eskom  
Water : No Services Available  
Sewer : In order  
Roads and traffic : In order

**Conditions:**

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

**1.1 Developments containing Sectional Title Units/ Commercial Buildings (non-free standing properties – property is not to be subdivided)**

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

**1.2 Developments with free standing properties (property that is subdivided and plots to be sold individually).**

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (**2022/2023**) is as follows:


**Freehold erven:**

Sewerage	R 17 555.00 x 1	=	R 17 555.00
<b>TOTAL (inclusive of VAT)</b>		<b>=</b>	<b>R 17 555.00</b>

Note:

- 1.3 The above figures are estimates**
- 1.4 The above figures do not include evaluation/investigation levies and connection fees**
2. that no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (water affairs, health, etc.) for the use of any other water resources and the extraction thereof;
3. that the developer is responsible to provide potable water to the development that complies with SANS0241 standards and that relevant proof be submitted to the Senior Manager: Engineering Services, Overstrand Municipality;

4. that the developer complies to all the conditions set by Department Of Water Affairs;
2. that the proposed development on Portion 12 of Farm 643 be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services, and to which the sewer services of the development must connect to;
3. that the sewer conservancy tanks must be accessible to the municipal sewer tankers from one of the adjacent public roads, with parking areas for the sewer tankers provided with permanent surfaces and to the layout and specification of the Department: Operational Services;
4. that, alternatively, sewer treatment facilities that are approved by the Department of Water Affairs may be provided for disposal of sewer from the developments, and written proof of such approval be submitted to the Municipality;
5. that stormwater run-off within the development must be accommodated in line with the National Building Regulations, the Overstrand Municipal Stormwater Bylaw and common law principles. A Stormwater Master Plan may be required;
6. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
7. that on site parking facilities be provided as per the Planning Schedule, and to the satisfaction of Department: Operational Services;
8. that any additional and / or extended vehicle entrances will be for the owner's account;
9. that stormwater be allowed to discharge through Portion 12 of farm 643, unobstructed.

  
**DENNIS HENDRIKS**  
**SENIOR MANAGER:**  
**ENGINEERING SERVICES**

01/07/2022  
DATE



Department of Environmental Affairs and Development Planning

**Mfundo Ndovela**

Biodiversity and Coastal Management

Mfundo.Ndovela@westerncape.gov.za | Tel: 021 483 5157

CMU Reference: 033/2021

TR n. Theat  
(S. ud Nane)

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

FILE NO. PIN 12/143
Middelberg SF
SCAN NO.
12
COLLABORATOR NO.
1720344

**Attention: Ms. Marlize Miller**

Tel: +028 313 8900

Email: [mmiller@overstrand.gov.za](mailto:mmiller@overstrand.gov.za)

**RE: ORGANS OF STATE REQUEST FOR COMMENT – SUBDIVISION OF PORTION 12 OF THE FARM NO. 643, MIDDELBERG, CALEDON DIVISION**

Good day Madam

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application basic assessment report received on 20 May 2022, refers.

## 1. CONTEXT

- 1.1. The Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) ("NEM: ICMA") is a Specific Environmental Management Act under the umbrella of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"). The NEM: ICMA sets out to manage the nation's coastal resources, promote social equity and best economic use of coastal resources whilst protecting the natural environment. In terms of Section 38 of the NEM: ICMA, the Department of Environmental Affairs and Development Planning ("the Department") is the provincial lead agency for coastal management in the Western Cape as well as the competent authority for the administration of the "Management of public launch sites in the coastal zone (GN No. 497, 27 June 2014) "Public Launch Site Regulations".

25 JUL 2022

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Department of Environmental Affairs and Development Planning

- 1.2. The Department, in pursuance of fulfilling its mandate, is implementing the Provincial Coastal Management Programme ("PCMP"). The PCMP is a five (5) year strategic document, and its purpose is to provide all departments and organisations with an integrated, coordinated and uniform approach to coastal management in the Province. A key priority of the PCMP is the Estuary Management Programme, which is predominantly implemented through the Estuary Management Framework and Implementation Strategy ("EMFIS") project. The Department is implementing estuary management in accordance with the NEM: ICMA and the National Estuarine Management Protocol ("NEMP"). Relevant guidelines, Estuarine Management Plans, Mouth Management Plans need to be considered when any listed activities are triggered in the Estuarine Functional Zone.

## 2. COMMENT

- 2.1 The sub-directorate: Coastal Management ("SD: CM") has reviewed the information as specified above and have the following commentary:
  - 2.1.1. The applicant wishes to subdivide Portion 12 of the Farm Middelberg, Caledon into Portion A 51,2726 hectares and the Remainder 499,7812 hectares.
  - 2.1.2. The applicant has noted that the subject property falls within an Urban Conservation Zone. It should however be further noted that the subject property forms part of an Ecological Support Area. According to the Western Cape Biodiversity Spatial Plan (2017) Ecological Support Areas (ESAs): Areas that are not essential for meeting biodiversity targets, but that play an important role in supporting the functioning of PAs or CBAs and are often vital for delivering ecosystem services. They support landscape connectivity, encompass the ecological infrastructure from which ecosystem goods and services flow, and strengthen resilience to climate change. They include features such as regional climate adaptation corridors, water source and recharge areas, riparian habitat surrounding rivers or wetlands, and Endangered vegetation. ESAs need to be maintained in at least a functional and often natural state, in order to support the purpose for which they were identified, but some limited habitat loss may be acceptable. A greater range of land uses over wider areas is appropriate, subject to an authorisation process that ensures the underlying biodiversity objectives and ecological functioning are not compromised. Cumulative impacts should also be explicitly considered. As such, the applicant should acknowledge this in the application.
  - 2.1.3. The SD: CM notes that the applicant has not considered the subject property's location in relation to the Coastal Protection Zone ("CPZ") as defined in Section 16 of the NEM: ICMA and delineated by the Department in the project for the delineation of the coastal management line. The proposed development is located within the CPZ, and it should be noted that the purpose of the CPZ is to avoid increasing the effect or severity of natural hazards in the coastal zone and to protect people and

properties from risks arising from dynamic coastal processes, including the risk of sea level risks. The applicant did not explain how the CPZ will be affected by the proposed development.

- 2.1.4. The proposed portion of the subject property is also located seaward of the Overberg coastal management line ("CML"). The increased effects of climate change, sea level rise and increased storm surges in coastal environments obliges the Department to take a more cautious approach when considering developments along the coast and estuaries. The technical delineation of the CML project was to ensure that development is regulated in a manner appropriate to risks and sensitivities in the coastal zone. The CML was informed by various layers of information including biodiversity, estuarine functionality, risk to flooding, wave-run-up modelling, inter alia, and was delineated in conjunction with and supported by other organs of state including the Local and District Municipalities, CapeNature and all other organs of state represented on the steering committee for the Overberg District CML project. The principal purpose of the CML is to protect coastal public property ("CPP"), private property and public safety; to protect the CPZ; and to preserve the aesthetic value of the coastal zone. The use of CMLs is of particular importance in response to the effects of climate change, as it involves both a quantification of risks and pro-active planning for future development.
- 2.1.5. Be advised, the subject property falls partially within the estuarine functional zone of the Klein River Estuary. The nature of estuaries and the broader littoral active zone must be taken into account in land-use planning and this includes planning for the natural meandering and/or migration of the estuary channel and mouth, riparian flooding tidal surges and sea storm events as well as long term natural processes of erosion and accretion in the coastal zone. The capacity of the estuary to accommodate agriculture activities by the applicant should be considered in determining the nature and scale of agriculture activities adjacent to estuaries.
- 2.1.6. As the agricultural activities are in close proximity to the estuary, the applicant should consider the Klein River Estuarine Management Plan that is accessible on the Departmental website at: [https://www.westerncape.gov.za/eadp/files/atoms/files/Klein%20River%20Estuary%20Draft%20EMP\\_2021.pdf](https://www.westerncape.gov.za/eadp/files/atoms/files/Klein%20River%20Estuary%20Draft%20EMP_2021.pdf)
- 2.1.7. The applicant should also consider the Western Cape Estuarine Management Framework and Implementation Strategy: Best Practice Activity Guidelines (2019) that is accessible on the Departmental website at: <https://www.westerncape.gov.za/eadp/files/atoms/files/WC%20EMFIS%20Activity%20Guidelines.pdf>

- 2.1.8. Page 8 of the application indicates that there is an approved Water Use Licence which has been issued by the National Department of Water and Sanitation which permits water for the subject property to be extracted from the Stanford Aquifer in volume of 1020 400 m<sup>3</sup> and this would be reflected in Annexure C. Upon inspection of Annexure C, it was determined that there was no sufficient proof that DWS has approved volumes as indicated by the applicant. The applicant must submit the proof of the approved volumes of water so that the competent authority may make an informed decision.
- 2.1.9. It is noted that sewage for the proposed land uses will be disposed by means of a closed conservancy tank in section 9 however the applicant does not provide any clarity in terms of who will be tasked with this responsibility including the frequency of disposal activities. The applicant does not clearly specify the mitigation measures that would be employed to prevent spillages and how such potential incidents would be mitigated.
- 2.1.10. In terms of the socio-economic impacts, it is noted that the proposed development aligns with the Western Cape Spatial Development Framework 2014 and the Overberg District Spatial Development Framework 2020. Further elaboration on the economic impact of the agriculture activities on vulnerable populations (women, youth, elderly, black or disabled persons) should also be included.
- 2.1.11. The applicant should take note of the fact that the draft Western Cape Provincial Coastal Management Programme 2022- 2027 supports the establishment of Protected Areas declarations for the Klein River Estuary. The applicant must consider the impact of future developments such as the tourism facilities on the salt marsh and submerged macrophyte habitats because SD: CM seeks to restore and rehabilitate these sensitive environments within the Klein River Estuary.
- 2.1.12. The applicant indicated that the proposed tourism facility will form part of a separate land use application. The applicant must consider the proposed location of the facility in relation to the Coastal Protection Zone, Coastal Management Lines and the Klein River Estuarine Management in terms of the NEM: ICMA, when lodging that land use application.
- 2.1.13. It is recommended that any proposed development be located landward of the CML and outside any areas at risk or are sensitive from an environmental and ecological infrastructure perspective. The connectivity of environmental systems or biodiversity corridors should therefore not be negatively impacted.

3. The applicant must be reminded of their general duty of care and the remediation of environmental damage, in terms of Section 28(1) of NEMA, which, specifically states that: "...Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment..." together with Section 58 of the NEM: ICMA which refers to one's duty to avoid causing adverse effects on the coastal environment.
4. The SD: CM reserves the right to revise its comments and request further information from you based on any information that may be received.

Yours faithfully

**leptieshaam  
Bekko**

Digitally signed by  
leptieshaam Bekko  
Date: 2022.07.25 14:40:46  
+02'00'

**leptieshaam Bekko**  
**CONTROL ENVIRONMENTAL OFFICER**  
**SUB-DIRECTORATE: COASTAL MANAGEMENT**  
**DATE: 25 JULY 2022**



**agriculture, land reform  
& rural development**

Department:  
Agriculture, Land Reform and Rural Development  
REPUBLIC OF SOUTH AFRICA

Private Bag X120, Pretoria (Tshwane), 0001  
Delpon Building, C/o Annie Botha & Union Street, Riviera, 0084

From: Directorate Land Use and Soil Management  
Tel: 012-319-7678 Fax: 012-329-5938 E-mail: [LufunoS@dalrmd.gov.za](mailto:LufunoS@dalrmd.gov.za)  
Enquiries: Help Desk Ref: 2021\_09\_0179

WRAP Project Office  
P O Box 1247  
HERMANUS  
7200

For attention: Salome Kotze

**APPLICATION IN TERMS OF THE SUBDIVISION OF AGRICULTURAL LAND ACT, ACT 70 OF 1970: PORTION 12 OF THE FARM MIDDELBERG NO. 643, DIVISION OF CALEDON, WESTERN CAPE PROVINCE**

Your letter dated 8 September 2021 refers.

With reference to the above-mentioned subject, the Department wishes to inform you that the application has been granted.

Consent No. 56330 issued in terms of section 4 of the Act is enclosed.

To facilitate registration, the conveyancer must lodge the signed copy of the consent with the Registrar of Deeds together with the documents for registration.

Kindly note that the properties concerned are subject to the provisions of the Conservation of Agricultural Resources Act 1983 (Act 43 of 1983).

Yours faithfully

**MS T.S. CHIPETA  
CHIEF DIRECTOR: NATURAL RESOURCES  
AND DISASTER MANAGEMENT  
DELEGATE OF THE MINISTER**

DATE: 14/02/2022

CC: The Surveyor-General Private Bag X9028 CAPE TOWN 8000  
CC: Land Use and Soil Management P. O. Box 380 BELLVILLE 7535  
CC: Mr Brandon Layman Land Use Management Department of Agriculture: Western Cape Private Bag x 1 ELSENBURG 7607



**agriculture, land reform  
& rural development**

Department:  
Agriculture, Land Reform and Rural Development  
REPUBLIC OF SOUTH AFRICA

VERW/REF.

2021\_09\_0179

**TOESTEMMING**

*KRAGTENS DIE WET OP DIE ONDERVERDELING  
VAN LANDBOUGGROND, 1970*

56330

**CONSENT**

*IN TERMS OF THE SUBDIVISION OF  
AGRICULTURAL LAND ACT, 1970*

By virtue of the powers delegated to me by the Minister of Agriculture, Land Reform & Rural Development, consent is hereby granted in terms of section 4(2) of the Subdivision of Agricultural Land Act, 1970, for the subdivision of the agricultural land described in paragraph 1, into units indicated in paragraph 2, subject to the conditions set out in paragraph 3.

**PARAGRAPH 1: THE AGRICULTURAL LAND TO WHICH THIS CONSENT APPLIES**

PORTION 12 OF THE FARM MIDDELBERG NO. 643, DIVISION OF CALEDON, IN EXTENT 551,0538 HECTARES; WESTERN CAPE PROVINCE

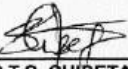
**PARAGRAPH 2: CONSENT GRANTED**

The subdivision of the above-mentioned agricultural land into two Portions measuring approximately 51,2726 hectares and 499,7812 hectares respectively represented by the figures marked Portion A and Remainder as shown on the sketch attached.

**PARAGRAPH 3: CONDITIONS PERTAINING TO THIS CONSENT**

- 3.1 This consent does not imply that the above-mentioned subdivisions are assured of a permanent water supply.
- 3.2 This consent does not exempt the property from the provisions of any other law and does not purport to interfere with the rights of any person who may have an interest in the agricultural land.
- 3.3 This consent is valid for 5 years from date of this grant. Should it not be registered within the time frame, a new complete application must be lodged which will be considered on its own merits.

14/02/2022  
DATE

  
\_\_\_\_\_  
MS T.S. CHIPETA  
CHIEF DIRECTOR: NATURAL RESOURCES AND  
DISASTER MANAGEMENT  
DELEGATE OF THE MINISTER

SKETSKAART WAARNA VER-  
SKETCHPLAN TO WHICH IS  
WYS WORD IN TOESTEMMING  
REFERRED IN CONSENT  
No. ~~50950~~

*Sketch 14/02/2022*



**Petrus Roux**

**From:** Cor Van der Walt <Cor.VanderWalt@westerncape.gov.za>  
**Sent:** Thursday, 14 December 2023 10:42  
**To:** Petrus Roux  
**Cc:** Brandon Layman  
**Subject:** FW: Organs of State Request for Comment - Portion 12 of the Farm No. 643, Middelberg, Caledon Division

Petrus Ignoreer vorgie e-pos, in die een het ek die volume water reg.

Petrus

According to the report, 1 020 400m<sup>3</sup> of irrigation water is available and is considered sufficient to irrigate 110 ha as claimed to be cultivated.

The concern that the Western Cape Department of Agriculture has is as follows:

- a) Portion A - A desktop study reveals that approximately 30 ha for land is possibly available for cultivation on Portion A (±51 ha) as proposed subdivision plan.
- b) Portion A - The remainder of the land is according to aerial photo photography not been cultivated previously and the consent/proof that it may be legally cultivated must be provided in terms of the Conservation of Agricultural Resources Act no 43 of 1983 (CARA) and the National Environmental Management Act no 107 of 1997 (NEMA), otherwise it cannot be considered as cultivated land from an legislative point of view.
- c) Portion A - the position where infrastructure can be developed may also be of concern as it may take up some of the cultivated areas, further reducing agricultural land.
- d) Remainder - The land claimed to be cultivated on the Remainder is also questioned except for an estimated 12 ha on the western boundary. The larger portion of land (±33 ha) that has been cultivated since 2015/2016 has not been cultivated prior to that. Proof must be provided in terms of the Conservation of Agricultural Resources Act no 43 of 1983 (CARA) and the National Environmental Management Act no 107 of 1997 (NEMA), otherwise it cannot be considered as cultivated land from an legislative point of view.

Thus, it is the opinion of the Western Cape Department of Agriculture; Land Use Management that the areas available for cultivation as claimed, may not be correct as permission to cultivate is not provided and therefore does not support the application for subdivision.

NS: the 10 year cultivation prerequisite can only be argued if legal permits or authorisations to cultivate were obtained.

Groete/Kind regards

**Cor van der Walt** (Pr.Sci.Nat; SACNASP reg no. 400120/13)  
 Manager: Sub-Programme: Land Use Management  
 Programme: Sustainable Resource and Use Management  
 Western Cape Department of Agriculture  
 Private Bag X 1  
 ELSENBURG  
 7607  
 Ground Floor, Main Building, Muldersvlei Road Elsenburg