

4.4

PORTION 78 (A PORTION OF PORTION 45) OF THE FARM 559, HANGKLIP SMALLHOLDINGS, A DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES: PLATINUM TOWN AND REGIONAL PLANNERS ON BEHALF OF KOGELBERG BIOSPHERE RESERVE COMPANY AND OVERSTRAND MUNICIPALITY

KHANG 78/559 (4561/2024)

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25 September 2025

1. EXECUTIVE SUMMARY

An application has been received on 8 January 2024 from Platinum Town & Regional Planners on behalf of Kogelberg Biosphere Reserve Company and Overstrand Municipality on Portion 78 (a Portion of Portion 45) of the Farm Hangklip No. 559 for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions B.b), B.d), B.e), B.o), B.p), B.r) and B.s) as contained in Title Deed T102546/2000 of the property to accommodate the proposed land uses on the property.

The restrictive title deed conditions B read as follows:

- “B. *to and ENTITLED to the benefit of the following special conditions imposed in Deed of Transfer No T2011/1958 by Hangklip Beach Estates Limited in favour of itself and the owner of any portion of the said Portion 45 of the Farm Hangklip, namely:*
- b) *No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.*
 - d) *All buildings and other constructional works, including all fences and gardens or other gates, shall be of good design and sound construction and plans thereof must be approved by the seller before construction is commenced. In the event of a breach of this clause the seller shall have the right to require the purchaser to demolish such unauthorised buildings or works and/or shall have the option to repurchase the land upon payment of the cost price thereof without compensation for improvements.*
 - e) *No signs, advertisements, advertisement boarding or other lettering shall be erected on the land hereby sold and purchased, nor shall any advertisements, signs or lettering be painted on any building, walls or fence erected or to be erected on the said land save and except with the written approval of the seller.*
 - o) *The land shall be used only for agriculture and the breeding or keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept except with the special written consent of the seller which consent shall in any case not be given for Portions 58, 59, 60, 61, 62, 64, 79 and 80.*
 - p) *Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.*

- r) *Outbuildings to serve any dwelling shall not except with the written consent of the seller first had and obtained, be erected prior to the dwelling house which shall be a complete dwelling and not one partly built and intended for completion at a later stage.*
- s) *No boarding houses, flats, maisonettes, hotels, shops, public garage or filling station, business premises, canteen, restaurant, bioscope, factory or industrial buildings shall be erected on the land nor shall any such business or entertainment be conducted on the land."*

❖ **Consent uses** in terms of 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, for the following:

- agriculture to accommodate a rehabilitation centre for injured wildlife, and;
- a place of instruction to accommodate an environmental research or other educational centre for all forms of wildlife care, rehabilitation, and training.

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 has been used over the years for various municipal activities such as baboon monitor residence and storage for the Operational Department Kleinmond.

The first building plan was approved in 2013.

4. SUMMARY OF APPLICANT'S MOTIVATION

The Overstrand Municipality Land-use Scheme (2020) stipulates under "Rural Zone 2: Conservation Usage (R2)" the following:

- a) Primary use: *"conservation use, dwelling house, guest rooms and home occupation"; and*
- b) Consent use: amongst others *"agriculture"* and *"place of instruction"*.
- **"Agriculture"** in terms of the said Land-use Scheme, 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".

- **“Place of Instruction”** in terms of the said Land-use Scheme, means “a place for education at pre-school, school or post-school levels (including a day care centre, a crèche, a farm school, a nursery school, a primary school, a secondary school, a college, a lecture hall, a university, a research institute, an environmental research or other educational centre) and associated uses such as boarding hostels or a civic facility for the promotion of knowledge to the community such as a convent, a monastery, a public library, a public art gallery or museum or a place of instruction in sport or other physical discipline where the main objective is instruction (as opposed to participation by the public sector as competitors or spectators) but excludes a reformatory, industrial school, commercial conference facility, institution, health centre or in-house business training centre”.

The following needs to be noted:

- It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in the Guest Houses in Betty’s Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Centre for training sessions; and
- Only a Caretaker will reside on the Farm on a permanent basis.

SERVICES

Engineering services infrastructure (i.e. electricity, water, sewer and storm water drainage) are readily available.

ACCESS

Access is obtained from the R44, at the existing entrance point.

FORWARD PLANNING

The National Development Plan (NDP)

The NDP is the supreme and overarching plan for South Africa that sets out the most crucial objectives and actions that need to be undertaken in the Republic of South Africa. The focus is to eliminate poverty and reduce inequality by 2030.

The following sets out some of the key interventions that the NDP seeks to achieve:

- Significantly reduce unemployment and increase the size of the economy through a range of actions.
- Invest in economic infrastructures, such as electricity, water, public transport, and broadband networks.
- Enhance environmental sustainability and resilience.
- Develop an inclusive rural economy through agri-processing and agriculture, tenure security, land reform.
- Increase trade within Southern Africa.
- Transform our human settlements, by co-locating places of work and human settlements, densifying our settlements, and improving public transport.
- Improve education, training, and innovation at all levels of the education system.
- Improve the health outcomes of the country.

- Enhance and ensure social protection and build safer communities.
- Build a capable state.
- Fight corruption.
- Promote nation-building.

While the NDP is an extensive plan with a significant amount of detail, more detailed Spatial Development Frameworks (SDF's) are needed at provincial level, district level and municipal level. These SDF's should be local tools through which the NDP is implemented.

Western Cape Provincial Spatial Development Framework (PSDF)

This PSDF aims to put in place a coherent framework for the province's urban and rural areas that:

- gives spatial expression to the national and provincial development agendas; • serves as basis for co-ordinating, integrating and aligning "on the ground" delivery of national and provincial departmental programmes;
- supports municipalities to fulfil their municipal planning mandate in line with the national and provincial agendas; and
- communicates government's spatial development intentions to the private sector and civil society.

In taking this forward the PSDF applies the following spatial principles:

Spatial Justice:

A socially just society based on the principles of equality, solidarity, and inclusion. Past spatial and other development imbalances should be redressed through improved access to and use of land.

Sustainability and Resilience:

Land development should be spatially compact, resource-frugal, compatible with cultural and scenic landscapes, and should not involve the conversion of high potential agricultural land or compromise ecosystems. The focus must be on creating complex, diverse and resilient spatial systems that are sustainable in all contexts.

Spatial Efficiency:

Efficiency relates to the form of settlements and use of resources - compaction as opposed to sprawl; mixed-use as opposed to monofunctional land uses; residential areas close to work opportunities as opposed to dormitory settlement, and prioritisation of public transport over private car use.

Accessibility:

Improving access to services, facilities, employment, training and recreation, and safe and efficient transport modes is essential to achieving the stated settlement transitions of the NDP and One Cape 2040. Accessibility is also defined by convenient and dignified access to private and public spaces for people with impaired mobility. • Quality and Liveability: The quality of an environment directly contributes to its liveability. Legible built environments are characterized by the existence of landmarks such as notable buildings and landscaping, well- defined public spaces, as well as navigable street networks.

To deliver on the Western Cape Growth Strategic Objectives, the PSDF focuses on growing the economy, building greater environmental resilience and much better inclusion. It is summarised as follows:

- Growing the Western Cape economy in partnership with the private sector, nongovernmental and community-based organisations;
- Using infrastructure investment as primary lever to bring about the required urban and rural spatial transitions; and
- Improving oversight of the sustainable use of the Western Cape's spatial assets.

These focus points are the pillars for the more detailed Spatial Development Frameworks (SDF's) at district level (Overberg DC) and municipal (Overstrand LM) level.

Overberg District Spatial Development Framework (ODSDF)

The purpose of ODSDF is to:

- Prepare a spatial perspective of the current developmental status quo within the Overberg District Municipality (ODM) to inform a basis for discussion on key spatial issues and linkages to other sector plans and opportunities to inform the Districts' future spatial development.
- Review and update the spatial vision and strategic direction of the municipality, to inform the drafting/amendment of the Integrated Development Plan (IDP) of the ODM; and
- Review and update the Spatial Development Framework proposals to guide local municipalities in the District regarding future spatial planning, strategic decision-making, and regional integration. The Overberg District SDF will focus on the following:
 - Identifying the structure and role of settlement, transportation, and regional services infrastructure across and between the local municipalities within the district area.
 - Classifying areas that require protection and conservation (i.e., protected areas), which include threatened ecosystems, critical biodiversity areas, valuable agricultural land, water catchment areas, and other resources of value within the District.
 - Identifying growth nodes, priority investment areas, and areas of rural decay within the District.
 - Classifying areas that require protection and conservation (i.e., protected areas), which include threatened ecosystems, critical biodiversity areas, valuable agricultural land, water catchment areas, and other resources of value within the District.
 - Resolving contradictions between the planning visions of the District's local municipalities.

- Describing the general urban design principles to be applied in all settlements located in the District. Critically, the District SDF must guide local municipalities in the development of their own SDF's, without impeding on local-level planning detail. The District sets the framework and context for local municipalities to work within. It is also critical that the District aligns to the Provincial and National planning and policy context. It is therefore clear that the District must operate within a well-defined (at the conceptual level) policy and planning context and therefore is constrained to these insofar as proposals that can be made.

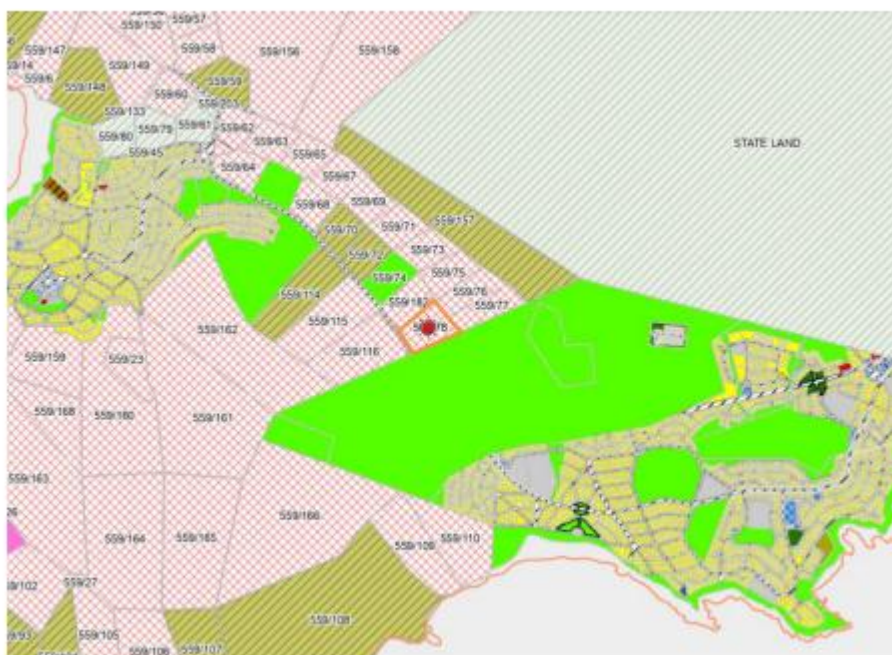
Overstrand Municipality Spatial Development Framework (SDF)

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

Within the SDF a hierarchal classification of zones is based on the nature of the function of the nodes, considering factors such as population size, influence sphere, interconnectivity, service delivery as well as informants from the Growth Potential of Towns Study, 2014 (GPTS).

The following key strategic land-use proposals are proposed:

- Conservation of the natural environment, particularly its combination of riverine estuarine conditions and sandy beaches; and
- Spatial integration and accessibility of the different land-use components through (i.e.) pedestrian linkages. Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is located to the south of the R44 Road (Clarence Drive/Hangklip Road), between Betty's Bay and Pringle Bay.



The areas surrounding the said property are characterized by land-uses such as “*conservation usage*” and “*nature reserve*”.

Pringle Bay is surrounded by protected CBA areas. These areas must be preserved and maintained. This is structurally formalized in the EMOZ regulations.

The following Local Spatial Development and Growth Management Principles for Pringle Bay are applicable to the broader Pringle Bay Area:

To promote, amongst others:

- the conservation of the existing coastal village character of Pringle Bay;
- the conservation of the natural environment within which the broader Pringle Bay Area is located;
- the role of the area to serve as a transitional zone between the Kogelberg Nature Reserve and the coastline; and
- the heritage value of the broader region;

To restrict, amongst others:

- further expansion beyond the existing urban edge;
- inappropriate housing forms and architectural treatment, particularly on steep slopes and highly visible locations adjacent to scenic routes; and
- land uses / development as per the provisions of the HPOZ regulations.

To maintain, amongst others:

- the HPOZ and EMOZ regulations; and
- Sensitive Development Areas.

The unique sense of place should be maintained by implementation of the EMOZ and the HPOZ Regulations. These areas are based on environmentally sensitive resources and should be protected as far as possible in their natural state. Limited development could be considered in accordance with the provisions of the HPOZ and EMOZ regulations.

In short, the rural development of the broader Pringle Bay Area should be protected in terms of its heritage and environmental resources. Only restricted and carefully considered development should be permitted.

The Betty’s Bay Area to the west specifically is also surrounded by protected CBA areas. These areas should also be preserved and maintained. This is structurally formalized in the EMOZ regulations. The following Local Spatial Development and Growth Management Principles, amongst others, are applicable:

To promote, amongst others:

- the conservation of the sensitive natural resources, including the inland lake wetland system, state and private nature reserves and the interface between the mountain backdrop and urban settlement (EMOZ);
- the role of the area as to serve as a transitional zone between the Kogelberg Nature Reserve and the coastline; and
- the heritage value of the region.

To restrict, amongst others:

- extensive expansion beyond the urban edge; and
- land uses / development as per the provisions of the HPOZ and EMOZ regulations.

To maintain, amongst others:

- adherence to the HPOZ and EMOZ regulations; and
- the interface of the mountain backdrop and urban settlement.

To contain, amongst others:

- the urban footprint of the broader Betty's Bay Area as far as possible within a clearly defined urban edge.

It is evident that within Sensitive Development Areas, the unique sense of place should be maintained by implementation of the HPOZ and EMOZ Regulations. These areas are based on environmental and heritage sensitive resources and should be protected as far as possible in its natural state. Limited development could be considered in accordance with the provisions of the HPOZ and EMOZ regulations. Only restricted and carefully considered development should be permitted.

The proposed Consent Use for "agriculture" and "place of instruction", specifically the intended Rehabilitation Centre for injured wildlife, forms part of and supplement the development character of the broader Nature Reserve/Biosphere Area. It will also have no negative impact on the Environmental Management Overlay, nor the Heritage Protection Overlay Zones

PLANNING PRINCIPLES

The following principles for development in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), are discussed:

Section 7(a) The principle of spatial justice

Section 7(b) The principle of spatial sustainability

Section 7(c) The principle of efficiency

Section 7(d) The principle of spatial resilience, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is located to the north of the R44 Road, between Pringle Bay and Betty's Bay.

The Overstrand Municipality Spatial Development Framework (SDF)(2020) regards the R44 from (i.e.) Gordonsbaai to Kleinmond as a Development Corridor. In general terms can a development corridor be defined as a geographical area identified as a priority for investment to catalyse economic growth and development. Along this R44-Corridor is coastal towns such as Rooi Els, Pringle Bay, Betty's Bay and Kleinmond located. The R44-Corridor links with the R43-Development Corridor (Hermanus / Stanford / Gansbaai) further on.

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is earmarked as a Farm Portion that lies within the following Zones:

- Environmental Management Overlay Zone (EMOZ). An EMOZ is purposed at regulating land uses within environmental sensitive areas to affect the preservation thereof; and

- Heritage Protection Overlay Zone (HPOZ). An HPOZ is purposed at regulating land uses within heritage sensitive areas to affect the preservation thereof. The proposed consent use for the land-uses “agriculture” and “place of instruction” to establish/operate a Rehabilitation Centre for injured wildlife will have no negative impact on either Zone.

Good Administration

The required public participation process, in accordance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, will be sufficiently dealt with via the advertising of the proposed Suspension/Amendment/Deletion of certain Restrictive Title Conditions and Consent Use Application. Their respective rights and all those affected will be adequately addressed during this process. The "audi alterem partum- rule", therefore, will have been complied with. The intrinsic knowledge of the process and the distribution of the Application to internal and external parties (where applicable) will also lead indisputably to the adherence of this requirement.

Section 42.(c) take into account:

- (i) *the public interest.*
- (iv) *the respective rights and obligations of all those affected.*

The required public participation process, in accordance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, will be sufficiently dealt with via the advertising of the proposed Suspension/Amendment/Deletion of certain Restrictive Title Conditions and Consent Use Application. The respective rights and all those affected will be adequately addressed during this process. The "audi alterem partum- rule", therefore, will have been complied with. The intrinsic knowledge of the process and the distribution of the Application to internal and external parties (where applicable) will also lead indisputably to the adherence of this requirement.

ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement

It is the intention of the Lessee to establish a Rehabilitation Centre for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife. The removal, suspension or amendment of Conditions B. b), d), e), o); p), r) and s), therefore, will have no financial benefit for any person or entity.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition/ The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed

Taking cognizance of the intention of the Lessee to establish a Rehabilitation Centre for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife, the removal, suspension or amendment of Conditions B. b), d), e), o); p), r) and s) will have no personal benefit for any person or entity.

The social benefit of the restrictive condition remaining in place /The social benefit of the removal of the restrictive condition

Taking cognizance of the intention of the Lessee to establish a Rehabilitation Centre for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife, the removal suspension, or amendment of Conditions B. b), d), e), o); p), r) and s) will have no social impact on society.

Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights

The removal, suspension, or amendment of Conditions B. b), d), e), o); p), r) and s) will only remove some of the conditions in the applicable Title Deed.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	14 November 2024	20 December 2024
Government Gazette	Yes	14 November 2024	20 December 2024
Email notices & site notice	Yes	14 November 2024	20 December 2024
Internal departments	Yes	14 November 2024	20 December 2024
Ward Councillor	Yes	14 November 2024	20 December 2024
Total comments	ONE (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments
Property Management	21/11/2024	The application makes note of a caretaker that will reside on the property. It must be noted that Paragraph 5.5 of the lease agreement between the applicant and OM restricts any residency on the property. An application in this regard must be submitted to Property Management for consideration. The application is in line with the purpose of the lease agreement and therefore I do not have any objections.
Fire Department	05/02/2025	No objection subject to compliance with the provisions of SANS 10400-A:2016, 10400-T:2020 and the By-Law relating to Fire Safety.
Building Control	14/11/2024	No objection.
Environmental Management Services (municipal)	17/12/2024	No objection.
Services Report	14/04/2025	See Annexure G.
Western Cape Government: DEA&DP (Planning)	10/06/2025 12/12/2024	See Annexure H.
Western Cape Government: DEA&DP (Environmental)	04/06/2025 11/12/2024	See Annexure I.
Western Cape Government: DEA&DP (Coastal Management)	19/12/2024	See Annexure J.
Western Cape Government: Dept of Infrastructure (Road Planning)	29/01/2025	See Annexure K.
Western Cape Government: Agriculture	17/02/2025	See Annexure L.
Cape Nature	13/01/2025 23/01/2025	See Annexure M.
Eskom	26/05/2025	See Annexure N.

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

The application was duly advertised in the local newspaper and Government Gazette. E-mail notifications were also sent out to property owners derived from Portion 45 and the Pringle Bay Ratepayers Association. A notice board was also placed on-site by the applicant's consultant.

One (1) letter of comment / objection was received from the **Pringle Bay Ratepayers Association** forthcoming the public participation process.

The applicant was provided with an opportunity to respond to the objections. See Annexures E and F respectively.

The objections, the applicant's reply and the Municipal Town Planner's response can be summarized as per numbering of the objection lodged.

It should be noted that paragraph 2 of the objections highlights main comments that are expanded on in Part A to D of the objection letter. The response will respond and cross reference as per objection letter.

PRINGLE BAY RATEPAYERS ASSOCIATION

GENERAL COMMENT

Paragraph 2: It is stated in Paragraph 2 that the PBRA supports the establishment of a "Wildlife Rescue Centre".

OBJECTION: PARAGRAPH 2.1: ENVIRONMENTAL MANAGEMENT PLAN

In PART A we request an Environmental Management Plan as per Clause 16.4 of the OM Land Use Scheme be commissioned by the OM from a registered environmental specialist.

APPLICANT'S RESPONSE

It is our opinion that no listed activities are triggered. Please refer to the comments above dealing with the comments from the different Western Cape Provincial Departments.

TOWN PLANNER'S RESPONSE

PART A: Environmental Management Plan

Paragraph 4.1:

The objector requests that an EMP be submitted before the application is processed. This is however not necessary, since the Directorate: Development Management Region 1, indicated in a letter dated 4 June 2025 that the consent use is supported, and Environmental Authorisation is not required. It does mention four requirements that needs to be complied with by the applicant.

Cape Nature in an e-mail dated 23 January 2025 supports the application, subject to conditions which the applicant must comply with. The requested EMP will be a condition of approval to ensure that the mentioned Departments conditions have been addressed.

Paragraph 4.2:

The request is further expanded to include all municipal sites next to the R44 to determine the most appropriate land uses along the R44. The appropriate land uses are already catered for under the Category "Rural Residential: Conservation Use".

Paragraph 4.3:

The study must be expanded to establish whether it is advisable or not to situate an apparently industrial or commercial use such as an injured wildlife centre should be next to the R44. The wild animals will have to be located in the Central Business District (CBD) of towns and or industrial areas. This comment does not justify an answer, since such a facility can never be commercial or industrial.

Paragraph 4.4:

Noted.

Paragraph 4.5:

The objector further mentions that specific attention should be given to NEMA Listing 1 and 3 in respect of the 32m restriction along a waterway and clearing of 300m² of fynbos. This aspect is dealt with under paragraph 4.1.

Paragraph 5.1:

It further mentioned the application falls within the buffer zone adjacent to the Kogelberg Biosphere. The objector also references Cape Nature definition of an area within a certain kilometre from the nature reserve as a "Zone of Influence". Cape Nature was part and parcel of the application and has supported the Rehabilitation Centre of injured wild animals. The proposed activity is in line with the goals as stipulated in the Biodiversity Policy and Strategy for South Africa: Strategy on Buffer Zones for National Parks, Notice 106 of 2012, Chapter 3.

Paragraph 5.2:

A study be commissioned for the future use of municipal sites along the R44. The response are as follows:

The municipal sites along the R44 between Betty's Bay and Pringle Bay consists of the following zonings:

- 1x transport zone;
- 1x undetermined;
- 1x conservation usage, and
- 3x nature reserve zoned properties.

There are no Overstrand Municipal properties between Pringle Bay and Rooi Els along the R44. It is unclear what the benefit of such a study will have for 1 Undermined zoned municipal property.

Paragraph 6:

The objector then made a comment on possible commercial and industrial ribbon development along the R44, a world class scenic route. Land uses of commercial and industrial nature should be located in towns. Development along the R44 should be limited to tourism accommodation.

The tourism accommodation establishment along the R44 over the years were not successful and the taste for accommodation has faded due to the extreme requirements of applicable legislation. The conservation usage category is assisting the viability of the holdings to ensure conservation, especially if non-residential land uses are located in existing structures and are subject to a land use application. This enables the Municipality to involve departments dealing with environmental issues and thus forcing applicants to acknowledge the buffer zone and restricts activities. The general public should not assume that tourism accommodation developments is beneficial to the environment or conservation and can have a detrimental impact on the scenic route.

OBJECTION: PARAGRAPH 2.1.1: LOCATION OF THE RESCUE CENTRE

Dealing specifically with the issue whether it is advisable to situate a use such as an injured wildlife centre next to a scenic route and whether it should not be situated elsewhere. We also reference our Part D, paragraph 9.7 in this regard.

APPLICANT'S RESPONSE

No suggestion(s) for a more suitable site is made. It is our opinion that the closeness of the R44 (where most of the wildlife is injured/killed) to the proposed site and the current building make this site an excellent location.

TOWN PLANNER'S RESPONSE

Agree with applicant.

One of the major concerns in the area is the shooting and injuring of baboons and injured animals during wildfires. A facility in proximity of rescuing and rehabilitation of injured animals and releasing them in their environment is necessary to limit the stress on the animals to ensure successful integration.

To question that such a facility should be situated elsewhere, no suggestions has been forthcoming from the objector on locality, financial implications etc.

Part D, paragraph 9.7 of the objection relates to National Building Regulations and Building Standards Act.

The building renovations is rectifications and maintenance in accordance with the approved building plan of 2013. The boundary fence does have a minor works approved building plan. The temporary structures are subject to the land use application approval. The National Building Regulations is the mandate of the Divisional Manager: Building Control to ensure that the requirements of the National Building Regulations are complied with.

In terms of the HPOZ, the land use is not to the detriment of the R44, but rather a visual confirmation of conservation efforts in the area. This aspect relates directly to Section 8, Paragraph 8.2.2 of the HPOZ that deals with the second purpose of the Scenic Corridor Heritage Protection Overlay. It states that the purpose is to promote the tourism, environmental and amenity potential of the Overstrand Scenic route network by enhancing the user's experience and understanding. Thus, the understanding and experience as per the second purpose of the HPOZ, the application confirms this principle. Only a portion of the property is utilised whilst the Remainder remains in its natural state (no development) to ensure the connection towards the core area of the Kogelberg Biosphere.

OBJECTION: PARAGRAPH 2.1.2: STUDY OF MUNICIPAL SITES ALONG THE R44

We also request that the study incorporate the broader future conservation use of this municipal site, together with the adjoining discontinued municipal dumping sites, to enhance the attractiveness of the R44 scenic route.

APPLICANT'S RESPONSE

It is not clear what the intention(s) of the PBRA is in this regard.

The proposed "Rescue Centre" will not only address the already acknowledged need for such a centre near the R44 but will also add to the "scenic route concept" in the sense that tourists to the area will have the opportunity to visit / experience such Centre, as the only Centre of its kind.

TOWN PLANNER'S RESPONSE

The attractiveness of the R44 is not reliant on the application property or the adjoining property, but to all developments along the R44, private property owners included. It is unclear why the objector elevates the municipal site (consent use) and makes no mention of private developments.

The one Undetermined zoned erf will have little impact on the attractiveness of the R44 and a whole study to investigate the future conservation use of one or two municipal properties is not financially viable. This aspect has been investigated since 2011 and addressed in the compilation of the Overlay Zones.

There is no reason why such a facility cannot be located adjacent the R44, especially under the auspices of the Kogelberg Biosphere Management whose main objective is conservation of fauna and flora. The added request of discontinued municipal dumping site has no relevance to this application. However, this aspect is duly noted and will be forwarded to the relevant departments within the municipality with regard to rehabilitation of the site.

OBJECTION: PARAGRAPH 2.2: NO CONTINUATION OF PRESENT SITE WORKS

If an environmental management plan is commissioned by the OM as requested, then no continuation of present site works by the applicant should be permitted until the OM has first approved an environmental management plan.

APPLICANT'S RESPONSE

Please refer to the comment under Paragraph 2.1.

TOWN PLANNER'S RESPONSE

This aspect has been addressed in Paragraph 2.1.1.

OBJECTION: PARAGRAPH 2.2.1: ALL BUILDING ACTIVITIES BE HALTED ON SITE

In addition to paragraph 2.2 above, we please request that building activities be halted until such time as all of the National Building Regulations and Building Standards Act 103 of 1977 requirements stated in our PART D, Paragraph 9.7 have been met, especially taking cognisance of the contribution to the scenic value of the subject property as described in the HPOZ.

APPLICANT'S RESPONSE

No building activities are taking place. Only cages are erected, within the 0.5ha that may be developed. The vegetation in most cases will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be split poles with wire. No permanent structures will be built.

TOWN PLANNER'S RESPONSE

It is a reiteration of the afore-mentioned paragraphs and have been dealt with under paragraphs 2.1.1.

OBJECTION: PARAGRAPH 2.2.2: CONSENT USES BE LIMITED TO CURRENT OWNER

We furthermore request (in Part C, paragraph 8.7) please that any of the consent uses, that may be granted to the applicant, be conditional for the benefit of the current owner only and that in the event of any change of ownership of the property, the consent uses granted under this application must be re-applied for.

APPLICANT'S RESPONSE

Noted.

TOWN PLANNER'S RESPONSE

Part C, paragraph 8.7: Noted. It should be emphasized that the owner of the property remains the Municipality. It is assumed that the objector refers to the Lessee. If that is the case, the objector's comment is supported.

OBJECTION: PARAGRAPH 2.2.3: AVAILABILITY OF ENGINEERING SERVICES

We draw the attention (in PART D, paragraph 9.3 and 9.4 below) that the subject property is only entitled to one household water connection from the Buffels River water scheme. We request please that when considering the application, the OM Infrastructure Department pay special attention to water supply and sewage treatment demands that the proposed development could potentially have.

APPLICANT'S RESPONSE

The land-use applications submitted to the Overstrand Municipality are circulated internally to all relevant (i.e.) Engineering Services Departments. The available engineering services in the area are evaluated against the proposals in the applications. If needed, the necessary upgrade(s) will be implemented to ensure that additional capacity is available for the proposed development.

TOWN PLANNER'S RESPONSE**Part D, Paragraph 9.3:**

The property has existing municipal water supply from the bulk network feeding the Voorberg Reservoir. The Engineers report indicated that no municipal services to the site is available, and the conditions stipulates the applicant's responsibility in this regard. It should be noted that water supply is rendered to the property, since it is a municipal site and has been used as such before the Lease Agreement. Should the Lessee require additional capacity, the conditions as per the service report be applicable.

Part D, Paragraph 9.4:

Once the application has been processed and should a favourable outcome be established, one of the conditions will be that a site development plan and building plans be submitted to the Building Department and the aspect of the sewer conservancy tank will be dealt with, if necessary.

OBJECTION: PARAGRAPH 2.2.4: APPROPRIATE ZONING

We request that the OM Planning Department confirm the appropriate zoning as per our comments in PART C: paragraph 8.5 and 8.6. We furthermore request that the OM PD please update their official zoning maps to reflect the correct zoning.

APPLICANT'S RESPONSE

The jurisdiction of the Overstrand Local Municipality gives them the authority to change / amend, in certain circumstances and with valid reasons, the zoning of land. This zoning change must also be read in conjunction with the Overstrand Spatial Development Framework, which identifies the broader area as "*conservation*".

TOWN PLANNER'S RESPONSE**PART C: PARAGRAPHS 8.5 AND 8.6****The history of Undetermined holdings**

All land excluded from a town planning scheme or land with no specific zoning, were deemed to be agricultural land. This aspect was further entrenched in a Proclamation (No.R.100, 1995, dated 31 October 1995) by the President of the Republic of South Africa, which stated that all land that was classified as agricultural land, immediately prior to the first election of the members of a transitional council, shall remain classified as such.

In July 2001, the Overberg District Municipality handed over the administration of rural land (farms and smallholdings) within the municipal area, to the Overstrand Municipality. In September 2001, the Municipality confirmed the zoning of Portion 95 of the farm Hangklip No. 559 as Agricultural Zone 1 and subsequently approved an application for a consent use for an abalone grow-out facility. Appeals against the approval of the consent use were lodged with the Provincial Department and were dismissed. One of the appellants, the Hangklip Environmental Action Group (HEAG), appealed to the Supreme Court to review and set aside the decision of the Minister.

Supreme Court, Judge J Thring, set aside the decision of the Minister on 15 June 2007 (Case No. 7139/03). The Court upheld the appeal of HEAG and also set aside the Municipality's zoning allocation of Agricultural Zone 1 pertaining to the property. In his order, Judge Thring stated that the Municipality should have determined the utilization of the subject property as of 1 July 1986 (the date the Land Use Planning Ordinance, Ordinance 15 of 1985, came into effect).

Due to the judgement, the Municipality obtained a legal opinion from Mr Johan du Plessis of Du Plessis & Hofmeyr Attorneys to assist in the zoning allocation of the smallholdings, subsequently left without any zoning. He recommended that a property owner needed to submit detailed and factual information as to the utilization of the property as of 1 July 1986, or alternatively, to submit an application for the rezoning of the property to an appropriate zoning which would permit current or proposed land usage.

In view of the aforementioned judgement, an agricultural zoning can only be applied for and allocated if it is in line with the judgement by the Supreme Court, provided that evidence be submitted which verifies the agricultural usage as of 1 July 1986. The Title Deeds of these smallholdings reflect a condition that they may only be utilized for agricultural purposes. In terms of Section 2.5 of the Regulations published in the Provincial Gazette as per Notice No. P.N. 1048/1988, dated 5 December 1988, the following is stipulated: *"In case of land that was vacant on 1 July 1986, the utilization thereof shall, for the purposes of the zoning as contemplated by section 14(1) of the Ordinance, be deemed to be the use which is permitted in terms of the title conditions imposed by the Administrator, or, where more than one use is so permitted, one of such uses as determined by the council concerned."* However, this condition was imposed by the Developer (Hangklip Beach Estates Limited).

A zoning of Undetermined was allocated to the smallholdings based on the judgement, the legal opinion and the fact that the rezoning to Open Space Zone III (nature reserve) was not allowed. The latter requires that a particular property should be declared as a Nature Reserve, which none of the properties were at the time.

In order to address the impasse, the proposed Integrated Town Planning Scheme, that was in process, the Municipality, made provision for a zoning category "Rural Zone 2: Conservation Usage". This zoning was specifically created to address the zoning concerns of the Hangklip smallholdings. It should be noted that this type of zoning category was created due to the fact that the smallholdings are located in a critical biodiversity area in terms of the SANBI (South African National Biodiversity Institute) Assessment in 2004, as amended.

During the 2011, The Kogelberg Biosphere Reserve Management appointed a consultant to compile the Kogelberg Biosphere Management Framework Plan. This process and the finalisation of the Integrated Zoning Scheme ran concurrently during this time period. One of the concerns of the consultant was that the undetermined zoning did not speak to the environmental objectives of the Biosphere. The proposed zoning of the category Rural 2: Conservation Usage was put forward as a solution to deal with the holdings in the buffer zone of the Kogelberg Biosphere Reserve. The proposed category of Conservation Use of the holdings was discussed during the consultation process of the Kogelberg Biosphere Framework Plan in 2012 to assist the conservation objectives in protecting the core. The buffer zone of the Kogelberg Nature Reserve Complex Management Plan 2013-2018, page 86 which describe the Buffer Zones as follows: " *which usually surrounds or adjoins the core areas and is used for cooperative activities compatible with sound ecological practices, including environmental education, recreation, ecotourism, and applied and basic research. In relation to the buffering function related to the core areas, buffer zones can have their own intrinsic, 'stand-alone' functions for maintaining anthropogenic, biological and cultural diversity. They can also have an important connectivity function with those in transition areas.*" Thus, any development of the holdings always relates back to the core values of the Management Plan to ensure conservation remains the focus point and primary concern.

In 2012, the owners on Portions 47, 56, 72, 75, 134 and 157 farm Hangklip No.559 lodged an appeal in terms of Section 44.(1)(a) of LUPO at the Department of Environmental Affairs and Development Planning against the Zoning certificates issued by the Municipality as Undetermined.

During a meeting held at 10:00 in the Betty's Bay Library Hall, On 29 August 2012 a discussion took place with various landowners on how to deal with the Undetermined holdings.

The landowner's present were as follows:

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

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. The process and zoning category was accepted. The Department of Environmental Affairs and Development Planning was informed, and the appeal was subsequently withdrawn.

The present members of the Pringle Bay Ratepayers Association were not part of the consultation process during 2011 and 2012 and thus has no background regarding the consultative process followed between the Consultant for the Kogelberg Biosphere Reserve Management, the owners of the holdings and Ratepayers Associations.

It should be noted that the owners during that period were all elderly and had to sell their properties to relocate to retirement or old age homes. Due to the Undetermined zoning, the selling of the holdings became a major financial burden. To assist the people, the Municipality undertook that on request from a property owner for a zoning certificate, the zoning of Rural Zone 2: Conservation Usage will be allocated. The category does allow for a residential dwelling and associated outbuildings, which is not allowed in the Category: Undetermined and all other applicable legislation remains applicable such as the Environmental Conservation Act and National Building Regulations. Should any owner request a different zoning, an application for rezoning will be applicable.

In terms of the EMOZ the area is identified as Protected Buffer Area. The application does not infringe or transgress the regulations applicable to the Protected Buffer area.

In terms of the HPOZ, the land use is not to the detriment of the R44, but rather a visual confirmation of conservation efforts in the area. This aspect relates directly to Section 8, Paragraph 8.2.2 that deal with the second purpose of the Scenic Corridor Heritage Protection Overlay. It states that the purpose is to promote the tourism, environmental and amenity potential of the Overstrand Scenic route network by enhancing the user's experience and understanding. Thus, the understanding and experience as per the second purpose of the area comes to the forefront in this application. Only a portion of the property is utilised whilst the Remainder remains in its natural state (no development) to ensure the connection towards the core area of the Kogelberg Biosphere.

The request for the GIS update is noted and will be addressed.

OBJECTION: PARAGRAPH 2.3: TITLE DEED

If our requests as per PART A are not accepted by the OM, then, in PARTS B, C AND D we submit simplified amendments to the title deed conditions to enable the proposed use, rather than completely removing the title deed conditions, as well as other considerations.

Condition B.(o): Proposed amendment: *The land must [shall] be used only for the purposes of conservation usage as defined in a land use scheme approved and adopted by any properly constituted Local Authority [agriculture and the breeding and keeping of domestic animals, poultry and/or bees] provided that no goats or pigs may be kept except with the express written consent of the seller which consent shall in any case not be given for Portions 58, 59, 60, 61, 62, 64, 79 and 80.*

Condition B.(p): Proposed amendment: *Only buildings and structures required for bona fide conservation purposes [to be used as dwellings and farm buildings] shall be erected on the land.*

APPLICANT'S RESPONSE

The land-use application states that the restrictive conditions be amended, suspended or deleted (my underling) in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020). It is the prerogative of the Municipality to determine which of Conditions B. b), d), e), o); p), r) and s), in conjunction with the OLM: Legal Department, must be either amended, suspended or deleted.

TOWN PLANNER'S RESPONSE**Part B: Complete removal of restrictive conditions:**

The objector does not agree with the complete removal of the conditions, but rather amendment of conditions with specific reference to Conditions B(o) and (r). The proposed removal of conditions will be discussed as per condition.

Condition B (b):

Wood and Iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.

This condition was inserted in the 1958's, which comparatively today cannot be viewed in the same context. Technological advances pertaining building and roofing material. Thus, should the concern be for safety, rust and aesthetics, this is not relevant today. In terms of the use, storage of material relates to Wendy houses and containers, which is all SABS approved addressing the concerns that may have been prevalent in the 1950's. It is recommended that the condition be removed to accommodate the Wendy house as per approved building plan 2013 and proposed container used for storage in the operation of the rehabilitation centre. The Wendy house is to be used for daily activities in maintaining the structures. The container will be used for storage of implements and food and being located in a baboon prone area, it is imperative that especially food stuffs be in a structure that is baboon proof.

Condition B.(d):

This condition relates to building work and can be removed since the National Building Regulations, 1977 is applicable.

Condition B.(e):

The condition can be removed since the Overstrand Signage By Law, and the Roads and Ribbon Act of 1940 are applicable.

Condition B.(o):

The condition indicates that the property shall be used only for agriculture purposes....,

The objector proposed the amendment of the condition that read as follows: "*The land must [shall] be used only for the purposes of conservation usage as defined in a land use scheme approved and adopted by any properly constituted Local Authority [agriculture and the breeding and keeping of domestic animals, poultry and/or bees] provided that no goats or pigs may be kept except with the express written consent of the seller which consent shall in any case not be given for Portions 58, 59, 60, 61, 62, 64, 79 and 80*".

The amendment is unnecessary over complicated with the inclusion of any properly constituted Local Authority and keeping the restriction of goats and pigs may be kept.

With regard to the properly instituted local authority, this aspect is acknowledged by the Constitution and thus not necessary for inclusion in a title deed condition. The remainder of the condition which relates to the keeping of goats and pigs is not relevant since the conditions relates to agricultural use, which with the following proposed amendment condition will be superfluous. The objector proposes to include the definition of conservation use as per the Overstrand Land Use Scheme. Unfortunately, the definition does not make provision for the rehabilitation centre, but only associated infrastructure, which relates to engineering services.

A more suitable amendment is proposed to read as follows: **The land shall be used only for the purposes of conservation, which includes a Rehabilitation Centre for injured wildlife and related uses.**

Condition B.(p): The condition restricts buildings to dwellings and farm buildings.

The objectors proposed the following amendment: *“Only buildings and structures required for bona fide conservation purposes [to be used as dwellings and farm buildings] shall be erected on the land.”*

The proposed amendment of condition B.(o) already stipulates the use and any structure to be constructed must be in line with the land use; thus the Condition B.(p) is not necessary to confirm the use of the structures. It is recommended that the condition be removed.

Condition B.(r):

The condition relates to the erection of outbuildings before the construction of a dwelling house and has no function since it relates directly to the agricultural use of the property. It is recommended for removal since the use of the property has changed from Agriculture to Conservation.

Condition B.(s):

The condition is to restrict any other use other than agriculture. This condition is to remain, although an amendment is proposed. The function of the condition to ensure development on the property that can have a detrimental effect on the conservation nature of the area.

It is proposed to amend the condition as follows: **No boarding houses, flats, maisonettes, hotels, public garage or filling station, bioscope, factory or industrial buildings shall be erected on the land, nor shall any such entertainment be conducted on the land.** The reason being that the facility under the auspices the Kogelberg Biosphere Management will also be used for research, the facility may require a restaurant or canteen to cater for the people at the facility. Canteen and restaurant relate back to the business use and therefore is recommended to be omitted from the condition to enable the use.

Part C: Desirability and Spatial Sustainability:

The objector object to the notion that it is desirable to remove a restrictive condition only to allow the Scheme Regulations to take effect. The objector makes specific reference to the Overlay Zones, Kogelberg Biosphere and NEMA requirements and the zoning certificate.

The overlay zones have been dealt with under paragraph 2.2.4. The Kogelberg Biosphere and the impact of the proposed application in the Buffer zone have been dealt with under paragraph 2.2.4. The NEMA requirements have been met as per letter dated 4 June 2025, received from Directorate: Development Management, Region 1, indicating that the application does not trigger any listed activities. The zoning certificate has been extensively dealt with under paragraph 2.2.4 – History of the Undetermined Holdings.

OBJECTION: GENERAL COMMENTS

Objection: Paragraph 9.1: Is it not the OM responsibility to send out notices?

TOWN PLANNER'S RESPONSE

In accordance with the Overstrand Municipality Amendment By-law on Municipal Land-use Planning, 2020, Sections 47 to 50, the Overstrand Local Municipality may request an applicant to deal with the required "*public participation process*".

With regard to the Consultant being a member of the Betty's Bay Ratepayers Association, this aspect was dealt with as per Affidavit submitted on 17 December 2024. See Annexure O.

OBJECTION: GENERAL COMMENTS

Objection: Paragraph 9.2: Was notification send to all holders of praedial rights of Portion 45 of 559?

TOWN PLANNER'S RESPONSE

The applicant was requested to notify all holdings deriving from Portion 45. In terms of the Removal of Restriction process, it is the responsibility to notify all the owners as identified by the Municipality and submit proof of the distribution of notices.

OBJECTION: GENERAL COMMENTS

Objection: Paragraphs 9.3 and 9.4: Is Services sufficient and compliant?

TOWN PLANNER'S RESPONSE

This aspect has been dealt with under paragraph 2.2.3. The applicant remains responsible to be compliant with any other relevant legislation.

OBJECTION: GENERAL COMMENTS

Objection: Paragraph 9.5: So called "Task Group" of the Kogelberg Biosphere Reserve Company has no regard for road kills along the R44. They demonstrate no regard to the potential increase of traffic as result of the activities foreseen, contradicting their own bona fides.

TOWN PLANNER'S RESPONSE

It is unfortunate that the Pringle Bay Ratepayers Association has this view on the conservation efforts by the Kogelberg Biosphere Reserve Company.

In a recent research paper “learning through Place-Based Implementation of the UNESCO MAB program in South Africa’s Oldest Biosphere Reserve: A Case Study of the Kogelberg Biosphere Reserve” it is clear that the KBR implements the holistic people centred landscape -level conservation approach. This approach enhances social-ecological system sustainability and resilience. One of the KBR projects based on the aforementioned view is the Kogelberg Wildlife Rescue Unit and Rehabilitation Centre. (Klaver,M; Currie,B; Sekonya,JG; Coetzer, K. Learning through Placed Based Implementation of the UNESCO MAB Program in South Africa’s Oldest Biosphere Reserve: A case study of the Kogelberg Biosphere Reserve. *Land* 2024,13,455. <https://doi.org/10.3390/land13040455>.) The project was a direct result of the wildfires in Kleinmond, 2022 leaving many injured animals with no facility in the area. To address the need of the rescued and injured, it was identified as a local pressure point to be addressed. The centre is the first permitted in the Western Cape. The centre will cater for injured wildlife, train rescuers and provide employment opportunities related to the centre. *animal*<https://kogelbergbiosphere.org.za/wildlife-rescue/>.

The centre will contribute to conservation tourism in the area, specially creating awareness of the Kogelberg Biosphere Reserve and the work they do. This is an important aspect since the Reserve relies heavily on donations and external funding, and the centre will elevate the status since it is visible and enforcing conservation in the wider area. The centre will train first responders in rescue and rehabilitation to educate the public on wildlife conservation in the area. Although the PBRA stated the support of the centre, it still does not support the location and the land use process and request that the application be withdrawn and resubmitted. Clearly is does not support the centre, only the principle of such a centre. Rather to applaud the efforts of the Kogelberg Biosphere Reserve efforts, it seems not to acknowledge the Kogelberg Biosphere Reserve Company as indicated under point 9.5 of the objection submitted. It is unfortunate that the Pringle Bay Ratepayers Association, a representative body of Pringle Bay Township, but not a representative of the Hangklip Small Holdings intention is to dictate and enforce their own will on where and how the centre should be and operate which is clearly not in the best interest of conservation and contrary to the MAB Program’s objectives.

The aspect of roadkill is unfortunately an everyday occurrence on all major roads and has very little to do with the Kogelberg Biosphere Reserve Company, however with the facility in close proximity of the R44, injured animals can be attended to immediately. With regard to the generation of traffic, the Department of Roads, supported the application.

OBJECTION: GENERAL COMMENTS

Objection: Paragraph 9.6: The contradictions between the three regulating documents are being address in the applications and the request that the application been withdrawn, allowing conformity between the documents should be considered.

TOWN PLANNER'S RESPONSE

This request is impractical and not to the benefit regarding conservation purposes. This will entail that the application be divided into three applications, which is not necessary since the By-Law makes provision that applications can be dealt with concurrently. The issue of the caretaker on the property, which is not in line with the Lease Agreement, the applicant will have to address the Amendment of the Lease Agreement to deal with the caretaker residence.

OBJECTION: GENERAL COMMENTS

Objection: Paragraph 9.7: National Building Regulations: Approval of building plans

TOWN PLANNER'S RESPONSE

The original building was built late 1980/early 1990, but the first building plan was approved in 2013 as a residential building and associated outbuildings. The caretaker can thus reside in the building, but the applicant will have to address the Lease Agreement to allow a residential component. The fence was approved as minor works in 2024. (Plans 47995 and 48494).

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)**Internal and External Departments**

Comments were received from the following external departments:

- Cape Nature
- DEA&P: Directorate Environmental Management Impact Services
- DEA&P: Development Management
- DEA&P: Biodiversity and Coastal Management

CAPE NATURE

In the email dated 23 January 2025, Cape Nature indicated that there is no objection to the Land-use Applications submitted, provided that the bush cutting vegetation clearing method is followed, the wetland areas are avoided, and no future development takes place outside of the 0.5ha fenced area (to keep the loss of natural – critically endangered – vegetation to the minimum).

APPLICANT'S RESPONSE

- i) According to the South African Vegetation Map (2018), the proposed site supports Kogelberg Sandstone Fynbos, which is listed as a Critically Endangered vegetation type (NBA 2018). Only a small area (approximately 0.5 ha) seems to be transformed due to the previous development of the existing building (my underlining), however the rest of the site consist of natural vegetation.

The reference to the 0.5ha that has been transformed due to previous development is correct. The remainder of the site still consist of natural vegetation.

- ii) Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (Northern and Eastern corners / boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed.

Noted. The conditions / suggested mitigation measures will be implemented.

- iii) It is understood that the proposed rehabilitation centre will be located within the existing transformed portion (existing building) of the property. Please can you indicate the total number of enclosures or other structures that will need to be built, and the total area of vegetation that will need to be cleared. Furthermore, please clarify the proposed vegetation clearing methods that will be followed.

Please find attached the proposed lay-out of the cages. The erection of such cages will only be allowed within the 0.5ha that may be developed. The vegetation in most cases will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be split poles with wire. No permanent structures will be built.

- iv) The application advertisement indicates that the removal, suspension, or amendment of Restrictive Title Deed Conditions B. b), d), e), o), p), r) and s) are applied for. Please can you specify what these conditions entail or alternatively send CapeNature Annexure D, for us to know if any of these conditions might have an impact on biodiversity before we submit our final comments.

The Title Deed was submitted for ease of reference.

- v) We recommend that the Wetland areas are avoided (and clearly demarcated as No-go areas) during the construction of the animal enclosures and operation of the rehabilitation centre and that the development footprint be kept to a minimum and no further loss of the natural vegetation occurs.

Although the wetland area is part of the approximate 8.8ha, it is outside the 0.5ha to be used / developed. No development is planned outside of the 0.5ha (fenced area).

TOWN PLANNER'S RESPONSE

The comments from both parties are noted. It is reiterated that the consent is only applicable to the 0,5ha fenced area. The Kogelberg Biosphere Reserve Company in conjunction with Cape Nature needs to ensure that wetlands are not impacted upon and clearing of vegetation be dealt with in accordance to best practice.

DEA&DP: DIRECTORATE ENVIRONMENTAL MANAGEMENT IMPACT SERVICES

The comment received indicates that the proposed development may (my underlining) trigger certain listed activities: Listing Notice 1: Activities 12 and 19 and Listing Notice 3: Activity 12 in terms of the EIA Regulations, 2014 (as amended).

APPLICANT'S RESPONSE

It is our opinion that no listed activities are triggered for the following reasons:

- i) According to the South African Vegetation Map (2018), the proposed site is within the Kogelberg Sandstone Fynbos Area, which is listed as a Critically Endangered Vegetation Type (NBA 2018). However, only a small area (approximately 0.5 ha in extent) has been transformed due to the previous development of the existing building (my underlining). The remainder of the site still consists of natural vegetation.
- ii) Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (northern and eastern corners / boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed. The proposed "Rescue Centre" is regarded as very low impact land-use.
- iii) Attached is the proposed lay-out of the cages. The erection of such cages will only be allowed within the 0.5ha that may be developed. The vegetation in most cases will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be split poles with wire. No permanent structures will be built.
- iv) Although the wetland area is part of the approximately 8.8ha, it is outside the 0.5ha to be used / developed. No development is planned outside of the 0.5ha (fenced area).

TOWN PLANNER'S RESPONSE

In a letter dated 4 June 2025, the Directorate did indicate that the consent use restricted to a 0,5ha does not require an environmental authorisation.

DEA&P: Development Management

The change of the zoning of the property in question from “Undetermined” to “Rural Zone 2: Conservation Usage (R2)” is questioned. The Rehabilitation Centre for injured wildlife is best suited as an ‘Animal Care Centre’ as per the Overstrand Land Use Scheme.

APPLICANT’S RESPONSE

The jurisdiction of the Overstrand Local Municipality gives them the authority to change / amend, in certain circumstances and with valid reasons, the zoning of land.

This zoning change must also be read in conjunction with the Overstrand Spatial Development Framework (SDF), which identifies the broader area as “*conservation area*”.

The issue pertaining to “*place of instruction*” is clearly addressed in the self-explanatory Memorandum that accompanied the Land-use Application.

Training of the students will be in the current building on site. No students will be accommodated on the Farm Portion. They will be accommodated in Guest Houses in Betty’s Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Centre for training sessions. Only a caretaker will reside on the Farm on a permanent basis.

TOWN PLANNER’S RESPONSE

This aspect was dealt with under paragraph 2.2.4.

It is noted that the Department regards the facility would be better suited under the definition “Animal Care Centre” This was a much-debated issue to fit the proposed consent within the definitions of the Land Use Scheme. The animal care centre was disregarded due to the incorporation of the word commercial, pets and other animals. The latter was interpreted as other domesticated animals such as horses. The primary terminology, which was focussed on, was the word “wild animals” In terms of the Agricultural definition, it refers to keeping of animals, which by definition included wild animals and was deemed an option to accommodate the Rehabilitation Centre for injured wild animals. In hindsight, the advice to the Consultant was not correct, since the Animal Care Centre definition also refers to other animals, which reads to the definition of animals that includes wild animals. The Municipality concur with the Department of Environmental Affairs and Development Planning: Directorate Planning comments pertaining to the Animal Care Centre.

The place of instruction relates directly to the consent activity and is subservient to the nature of the activity. This facility will train people from the surrounding area and volunteers to assist injured wildlife animals in times of need.

DEA&DP: Biodiversity and Coastal Management

The comment is that the subject property is not located within the Coastal Protection Zone.

APPLICANT'S RESPONSE

It was advised that the comments from Cape Naure be obtained, which was obtained.

TOWN PLANNER'S RESPONSE

The property does not fall in the Coastal Protection Zone.

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. It adheres to the triple bottom line of equal importance of the social, economic and environmental aspects within the environmental legislation.

Efficiency

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

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

- Consistent with the Western Cape Land Use guidelines for Rural areas: Chapter 7.
- Consistent with the Western Cape Biodiversity Spatial Plan Handbook, 2017 Chapter 4
- Consistent with Cape Nature Kogelberg Nature Reserve Complex Management Plan 2013-1018, page 86

10.6 Impact on Municipal Engineering Services

Potable water is available, but no other service will be provided by the Municipality.

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

In terms of the Environmental Legislation, the applicant did submit an Environmental Assessment for the Department and was found that the activity does not trigger any listed activities.

10.8 Existing and proposed zoning comparisons and considerations

N/A

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement

The removal, suspension or amendment of Conditions B. b), d), e), o); p), r) and s), therefore, will have no financial benefit for any person or entity

The personal benefits which accrue to the holder of rights in terms of the restrictive condition.

The proposed removal of the restrictive conditions will not have any personal benefit to holders of rights in terms of the title deed conditions.

The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed

The removal of the restrictive conditions does not hold any personal rights to the Municipality or the Lessee.

The social benefit of the restrictive condition remaining in place

The social benefit should the conditions remains in place is to the detriment of conservation and society

The social benefit of the removal of the restrictive condition

The removal of the restrictive conditions will have a positive social benefit for the Municipality and the inhabitants of the area in terms of the well-being of the endemic and rehabilitation of fauna and flora.

Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights

The removal, suspension, or amendment of Conditions B. b), d), e), o); p), r) and s) will only remove some of the conditions in the applicable Title Deed. Amendments to the conditions are proposed to ensure that the character of the area remains intact.

12. THE DESIRABILITY OF THE PROPOSAL**REMOVAL OF RESTRICTIVE CONDITIONS APPLICATION**

The application for the removal of restrictive conditions has been dealt with in Section 7, paragraph 2.3. It is proposed that not all the conditions need to be removed, but rather be amended to accommodate the facility, but still restrict activities not consistent with the Category: Rural Residential: Conservation Usage.

The proposal from the objectors to withdraw the application to align all legislative documentation pertaining to the application is not necessary, since the By-Law makes provision for applications to run concurrently.

CONSENT USE APPLICATIONS** Rehabilitation Centre for injured wildlife**

The applicant was advised to request a consent use for agriculture to accommodate the centre., The comments from the Department of Environmental Affairs and Development Planning, (Planning) which highlighted that the facility will be better suited as an Animal Care Centre. The Planning Division concur with this assessment. IT is proposed that the consent use for an Animal Care Centre be approved instead of Agriculture. The impact of the proposal will have little impact on the public participation process that has been followed, since the proposed use remains the same.

In a recent research paper “learning through Place-Based Implementation of the UNESCO MAB program in South Africa’s Oldest Biosphere Reserve: A Case Study of the Kogelberg Biosphere Reserve” it is clear that the KBR implements the holistic people centred landscape -level conservation approach. This approach enhances social-ecological system sustainability and resilience. One of the KBR projects based on the aforementioned view is the Kogelberg Wildlife Rescue Unit and Rehabilitation Centre. (Klaver,M; Currie,B; Sekonya, JG; Coetzer, K. Learning through Placed Based Implementation of the UNESCO MAB Program in South Africa’s Oldest Biosphere Reserve: A case study of the Kogelberg Biosphere Reserve. *Land* 2024,13,455. <https://doi.org/10.3390/land13040455>.) The project was a direct result of the wildfires in Kleinmond, 2022 leaving many injured animals with no facility in the area. To address the need of the rescued and injured, it was identified as a local pressure point to be addressed. The centre is the first permitted in the Western Cape. The centre will cater for injured wildlife, train rescuers and provide employment opportunities related to the centre. *animal*<https://kogelbergbiosphere.org.za/wildlife-rescue/>.

The centre will contribute to conservation tourism in the area, specially creating awareness of the Kogelberg Biosphere Reserve and the work they do. This is an important aspect since the Reserve relies heavily on donations and external funding, and the centre will elevate the status since it is visible and enforcing conservation in the wider area. The centre will train first responders in rescue and rehabilitation to educate the public on wildlife conservation in the area. Although the PBRA stated the support of the centre, it still does not support the location and the land use process and request that the application be withdrawn and resubmitted. Clearly is does not support the centre, only the principle of such a centre. Rather to applaud the efforts of the Kogelberg Biosphere Reserve efforts, it seems not to acknowledge the Kogelberg Biosphere Reserve Company as indicated under point 9.5 of the objection submitted. It is unfortunate that the Pringle Bay Ratepayers Association, a representative body of Pringle Bay Township, not a representative of the Hangklip Small Holdings intention is to dictate and enforce their own will on where and how the centre should be and operate which clearly not in the best interest of conservation and contrary to the MAB Program’s objectives.

Place of Instruction

The centre will use the existing facility to train first response rangers to assist the rescue of injured animals. It will also use the facility for educational purposes in rescue and rehabilitating wildlife animals. This is part of their social and economic responsibility in terms of the MAB program which will benefit the local community and injured wildlife. This on hands approach will assist in successful rescue and rehabilitating wildlife endemic to the area, which is subject to poaching, wildfires and human activities within the Biosphere and its Buffer areas.

The applicant will have to address the Lease Agreement Conditions to accommodate a caretaker residing on the property.

13. RECOMMENDATION

1. that the objection be noted.

2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 78 (a Portion of Portion 45) of the Farm Hangklip No. 559 for the **removal** of restrictive title deed **conditions B.b), B.d), B.e), B.p) and B.r)** as contained in Title Deed T102546/2000 of the property to accommodate the proposed land uses on the property (agriculture and place of instruction), **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 78 (a Portion of Portion 45) of the Farm Hangklip No. 559 for the **amendment** of restrictive title deed **conditions B.o) and B.s)** as contained in Title Deed T102546/2000 of the property to accommodate the proposed land uses on the property (agriculture and place of instruction), **be approved**, in terms of the provisions of Section 61 of the By-Law, to read as follows:

B.o) The land shall be used only for the purposes of conservation, which includes a wildlife rehabilitation centre and related associated uses.

B.s) No boarding houses, flats, maisonettes, hotels, public or filling station, bioscope, factory or industrial buildings shall be erected on the land, nor shall any such entertainment be conducted on the land.

4. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 Portion 78 (a Portion of Portion 45) of the Farm Hangklip No. 559 for the following **consent uses**:
 - agriculture to accommodate a rehabilitation centre for injured wildlife, and;
 - place of instruction to accommodate an environmental research or other educational centre for all forms of wildlife care, rehabilitation, and training

be approved, in terms of the provisions of Section 61;

5. that the approvals in Points 2 - 4 above be subject to the following conditions:
 - (a) that approval is for the development as indicated on Plan number 78/559/01 dated 20 and November 2024, as submitted with the application;
 - (b) that the Animal Care Centre be restricted to wildlife rehabilitation and the Place of Instruction be restricted to conservation and environmental purposes;
 - (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 Division: Environmental Management Services for approval;

- (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 owner is responsible for all waste generated on the property, and disposal therefore at a licensed municipal waste facility;
 - (i) that all the conditions in the Services Report (attached as Annexure G), be complied with;
 - (j) that all conditions imposed by Western Cape Government: DEADP (Environmental) (attached as Annexure I), be complied with;
 - (k) that all conditions imposed by Cape Nature (attached as Annexure M), be complied with.
6. that the applicant takes note of comments received from Eskom (attached as Annexure N).
7. that the applicant and objector 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 2

- ❖ Two (2) conditions - Conditions B.o) and B.s) - were proposed to be amended. The facility can be accommodated without the total removal of the conditions. This is to ensure that that the activities not in line with the zoning cater of Rural Residential; Conservation Use, remain in place, thus strengthening the conservation focus.

POINT 3 - 6

- ❖ The facility is the first in the Western Province under the auspices of a conservation body, whose main focus is conservation.
- ❖ It will address the need for a facility to treat injured wildlife in their immediate surroundings.
- ❖ It will minimize the stress of the animals on release.
- ❖ The facility is located in an area prone to poaching, wildfires and human interference, which make the facility highly desirable in terms of location
- ❖ The need for training first responders, whether volunteers or conservation officers are crucial for the survival of the injured animals.

15. ANNEXURES

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan
- Annexure D: Title Deed T102546/2000
- Annexure E: Objection received
- Annexure F: Applicant's response to the objection received

- Annexure G: Services Report
Annexure H: Western Cape Government: DEA&DP (Planning)
Annexure I: Western Cape Government: DEA&DP (Environmental)
Annexure J: Western Cape Government: DEA&DP (Coastal Management)
Annexure K: Western Cape Government: Dept of Infrastructure (Road Planning)
Annexure L: Western Cape Government: Agriculture
Annexure M: Cape Nature
Annexure N: Eskom
Annexure O: Affidavit from applicant
Annexure P: Previous building Plan approvals

SIGNATURE**REGISTERED PLANNER**

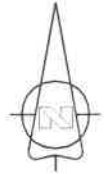
Name: **H VAN DER STOEP**

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

Signature: _____

Date: _____

LOCALITY MAP PORTION 78/559, HANGKLIP SMALL HOLDINGS



SCALE: 1 : 15 000



REFERENCE

 THE APPLICATION

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BETTY'S BAY
Cell : 072 164 9621
Email : amund@vodemail.co.za



Pretoria Office:
61 Woodlands Avenue,
PECANWOOD
Cell : 083 226 1316
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Annexure B 1/14



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MEMORANDUM

PORTION 78 OF THE FARM 559, HANGKLIP SMALLHOLDINGS

SIMILTANEOUS APPLICATION:

- 1) THE AMENDMENT, SUSPENSION OR DELETION OF CERTAIN TITLE RESTRICTIONS
- 2) CONSENT USE

A. PROPERTY DESCRIPTION

The property is known as Portion 78 (a portion of Portion 45) of the farm Hangklip 559. The Locality Map is attached as Annexure B.

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is approximately 8.7872ha in extent. The SG Diagram is attached as Annexure C.

B. OWNERSHIP

The property is registered in the name of the Hangklip-Kleinmond Municipality. Title Deed T102546/2000 is attached as Annexure D.

The Overstrand Municipality is the "Successor-in-law" of the Hangklip-Kleinmond Municipality. The "Special Power of Attorney" is attached as Annexure E.

There is no bond registered against the said property.

C. LOCATION

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is located to the south of the R44 Road (Clarence Drive/Hangklip Road), between Betty's Bay and Pringle Bay (Annexure B).



D. ZONING

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is zoned "*undetermined*" according to the GIS System of the Overstrand Municipality.

During discussions with the Municipality it was indicated that the zoning will be changed from "*undetermined*" to "*Rural Zone 2: Conservation Usage (R2)*" when issuing a Zoning Certificate.

The Zoning Certificate is attached as **Annexure F**.

E. APPLICATION

It is the intention of the Lessee (Kogelberg Biosphere Reserve Company)(Lease Agreement attached as **Annexure G**) to establish a Rehabilitation Center for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife.

To enable the said Company in this regard, a simultaneous Application is, therefore, submitted:

- **Application 1:** The restrictive conditions in Title Deed T102546/2000 that could impact on the proposed consent use are Conditions B. b), d), e), o); p), r) and s).

It, therefore, is requested that the restrictive conditions be amended, suspended or deleted in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020).

The following principles in the Western Cape Land-use Planning Act (2014), Section 39 (5), are discussed:

- The financial or other value of the rights: It is the intention of the Lessee to establish a Rehabilitation Center for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife. The removal, suspension or amendment of Conditions B. b), d), e), o); p), r) and s), therefore, will have no financial benefit for any person or entity.
- The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal: Taking cognizance of the intention of the Lessee to establish a Rehabilitation Center for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife, the removal, suspension or amendment of Conditions B. b), d), e), o); p), r) and s) will have no personal benefit for any person or entity.
- The social benefit of the restrictive condition remaining in place, and/or being removed / amended: Taking cognizance of the intention of the Lessee to establish a Rehabilitation Center for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife, the removal,



- suspension, or amendment of Conditions B. b), d), e), o); p), r) and s) will have no social impact on society.
- Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights: the removal, suspension, or amendment of Conditions B. b), d), e), o); p), r) and s) will only remove some of the conditions in the applicable Title Deed.
 - **Application 2:** The consent from the Overstrand Municipality, in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020), is requested for the following land-uses: “agriculture” and “place of instruction”.

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is zoned “undetermined”. During discussions with the Municipality it was indicated that the zoning will be changed from “undetermined” to “Rural Zone 2: Conservation Usage (R2)” when issuing a Zoning Certificate.

The Overstrand Municipality Land-use Scheme (2020) stipulates under “Rural Zone 2: Conservation Usage (R2)” the following:

- a) **Primary use:** “conservation use, dwelling house, guest rooms and home occupation”; and
- b) **Consent use:** amongst others “agriculture” and “place of instruction”.
 - “**Agriculture**”, in terms of the said Land-use Scheme, 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*” (my underlining).
 - “**Place of Instruction**”, in terms of the said Land-use Scheme, means “*a place for education at pre-school, school or post-school levels (including a day care centre, a crèche, a farm school, a nursery school, a primary school, a secondary school, a college, a lecture hall, a university, a research institute, an environmental research or other educational centre) and associated uses such as boarding hostels or a civic facility for the promotion of knowledge to the community such as a convent, a monastery, a public library, a public art gallery or museum or a place of instruction in sport or other physical discipline where the main objective is instruction (as opposed to participation by the public sector as competitors or spectators) but excludes a reformatory, industrial school, commercial conference facility, institution, health centre or in-house business training centre*” (my underlining).



The following needs to be noted:

- It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in the Guest Houses in Betty's Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Center for training sessions; and
- Only a Caretaker will reside on the Farm on a permanent basis.

F. NEED AND DESIRABILITY

F.1 PROPERTY

The property is known as Portion 78 (a portion of Portion 45) of the farm Hangklip 559.

F.2 APPLICABLE LEGISLATION

The following legislation is applicable:

- The Spatial Planning and Land-use Management Act, 2013 (Act 16 of 2013)(SPLUMA);
- The Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- The Overstrand Municipality Land-use Scheme, 2020.

F.3 APPLICABLE PLANNING POLICIES / DOCUMENTS

F.3.1 SPATIAL PLANNING AND LAND-USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013)(SPLUMA)

The following principles for development in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), are discussed:

- ***Section 7(a) The principle of spatial justice***
Section 7(b) the principle of spatial sustainability
Section 7(c) the principle of efficiency
Section 7(d) the principle of spatial resilience, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is located to the north of the R44 Road, between Pringle Bay and Betty's Bay.



The Overstrand Municipality Spatial Development Framework (SDF)(2020) regards the R44 from (i.e.) Gordonsbaai to Kleinmond as a Development Corridor. In general terms can a development corridor be defined as *a geographical area identified as a priority for investment to catalyze economic growth and development*. Along this R44-Corridor is coastal towns such as Rooi Els, Pringle Bay, Betty's Bay and Kleinmond located. The R44-Corridor links with the R43-Development Corridor (Hermanus / Stanford / Gansbaai) further on.

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is earmarked as a Farm Portion that lies within the following Zones:

- Environmental Management Overlay Zone (EMOZ). An EMOZ is purposed at regulating land uses within environmental sensitive areas to affect the preservation thereof; and
- Heritage Protection Overlay Zone (HPOZ). An HPOZ is purposed at regulating land uses within heritage sensitive areas to affect the preservation thereof.

The proposed consent use for the land-uses "*agriculture*" and "*place of instruction*" to establish/operate a Rehabilitation Center for injured wildlife will have no negative impact on either Zone.

- **Section 7(e) the principle of good administration**

The required public participation process, in accordance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, will be sufficiently dealt with via the advertising of the proposed Suspension/Amendment/Deletion of certain Restrictive Title Conditions and Consent Use Application. Their respective rights and all those affected will be adequately addressed during this process. The "*audi alterem partum- rule*", therefore, will have been complied with. The intrinsic knowledge of the process and the distribution of the Application to internal and external parties (where applicable) will also lead indisputably to the adherence of this requirement.

- **Section 42(c) take into account –**

- (i) ***the public interest***
- (iv) ***the respective rights and obligations of all those affected***

The required public participation process, in accordance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, will be sufficiently dealt with via the advertising of the proposed Suspension/Amendment/Deletion of certain Restrictive Title Conditions and Consent Use Application. The respective rights and all those affected will



be adequately addressed during this process. The "*audi alterum partum-rule*", therefore, will have been complied with. The intrinsic knowledge of the process and the distribution of the Application to internal and external parties (where applicable) will also lead indisputably to the adherence of this requirement.

(ii) *the constitutional transformation imperatives and the related duties of the State*

The proposed Consent Use for "*agriculture*" and "*place of instruction*" forms part of and supplement the development character of the broader Nature Reserve/Biosphere Area from a legal point to enhance the development of the broader area within a concise space. It will also have no negative impact on the Environmental Management Overlay nor the Heritage Protection Overlay Zones. The simultaneous Application, therefore, adheres to the constitutional and transformation imperatives and the related duties of the State in the sense that, prior the exercising of the land-use rights, the correct legal procedure and route are followed to assist the State, and in this case the Overstrand Local Municipality, to exercise its mandate to comply with the Constitution.

(iii) *the facts and circumstances relevant to the application*

It is the intention of the Lessee (Kogelberg Biosphere Reserve Company)(Lease Agreement attached as **Annexure G**) to establish a Rehabilitation Center for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife.

The following needs to be noted:

- It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in the Guest Houses in Betty's Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Center for training sessions; and
- Only a Caretaker will reside on the Farm on a permanent basis.

(v) *the state and impact of engineering services, social infrastructure and open space requirements*

Engineering services (electricity, roads, storm water drainage, sewer and water) are readily available.

Within the broader development itself will ample open space be provided.



F.3.2 The National Development Plan (NDP)

The NDP is the supreme and overarching plan for South Africa that sets out the most crucial objectives and actions that need to be undertaken in the Republic of South Africa. The focus is to eliminate poverty and reduce inequality by 2030. The following sets out some of the key interventions that the NDP seeks to achieve:

- Significantly reduce unemployment and increase the size of the economy through a range of actions.
- Invest in economic infrastructures, such as electricity, water, public transport, and broadband networks.
- Enhance environmental sustainability and resilience.
- Develop an inclusive rural economy through agri-processing and agriculture, tenure security, land reform.
- Increase trade within Southern Africa.
- Transform our human settlements, by co-locating places of work and human settlements, densifying our settlements, and improving public transport.
- Improve education, training, and innovation at all levels of the education system.
- Improve the health outcomes of the country.
- Enhance and ensure social protection and build safer communities.
- Build a capable state.
- Fight corruption.
- Promote nation-building.

While the NDP is an extensive plan with a significant amount of detail, more detailed Spatial Development Frameworks (SDF's) are needed at provincial level, district level and municipal level. These SDF's should be local tools through which the NDP is implemented.

F.3.3 Western Cape Provincial Spatial Development Framework (PSDF)

This PSDF aims to put in place a coherent framework for the Province's urban and rural areas that:

- gives spatial expression to the national and provincial development agendas;
- serves as basis for co-ordinating, integrating and aligning "*on the ground*" delivery of national and provincial departmental programmes;
- supports municipalities to fulfil their municipal planning mandate in line with the national and provincial agendas; and
- communicates government's spatial development intentions to the private sector and civil society.

In taking this forward the PSDF applies the following spatial principles:



- **Spatial Justice:** A socially just society based on the principles of equality, solidarity, and inclusion. Past spatial and other development imbalances should be redressed through improved access to and use of land.
- **Sustainability and Resilience:** Land development should be spatially compact, resource-frugal, compatible with cultural and scenic landscapes, and should not involve the conversion of high potential agricultural land or compromise ecosystems. The focus must be on creating complex, diverse and resilient spatial systems that are sustainable in all contexts.
- **Spatial Efficiency:** Efficiency relates to the form of settlements and use of resources - compaction as opposed to sprawl; mixed-use as opposed to mono-functional land uses; residential areas close to work opportunities as opposed to dormitory settlement, and prioritisation of public transport over private car use.
- **Accessibility:** Improving access to services, facilities, employment, training and recreation, and safe and efficient transport modes is essential to achieving the stated settlement transitions of the NDP and One Cape 2040. Accessibility is also defined by convenient and dignified access to private and public spaces for people with impaired mobility.
- **Quality and Liveability:** The quality of an environment directly contributes to its liveability. Legible built environments are characterized by the existence of landmarks such as notable buildings and landscaping, well- defined public spaces, as well as navigable street networks.

To deliver on the Western Cape Growth Strategic Objectives, the PSDF focuses on growing the economy, building greater environmental resilience and much better inclusion. It is summarised as follows:

- Growing the Western Cape economy in partnership with the private sector, non-governmental and community-based organisations;
- Using infrastructure investment as primary lever to bring about the required urban and rural spatial transitions; and
- Improving oversight of the sustainable use of the Western Cape's spatial assets.

These focus points are the pillars for the more detailed Spatial Development Frameworks (SDF's) at district level (Overberg DC) and municipal (Overstrand LM) level.

F.3.4 Overberg District Spatial Development Framework (ODSDF)

The purpose of ODSDF is to:

- Prepare a spatial perspective of the current developmental status quo within the Overberg District Municipality (ODM) to inform a basis for discussion on key spatial issues and linkages to other sector plans and opportunities to inform the Districts' future spatial development;



- Review and update the spatial vision and strategic direction of the municipality, to inform the drafting/amendment of the Integrated Development Plan (IDP) of the ODM; and
- Review and update the Spatial Development Framework proposals to guide local municipalities in the District regarding future spatial planning, strategic decision-making, and regional integration. The Overberg District SDF will focus on the following:
 - Identifying the structure and role of settlement,
 - transportation, and regional services infrastructure across and between the local municipalities within the district area.
 - Classifying areas that require protection and conservation (i.e., protected areas), which include threatened ecosystems, critical biodiversity areas, valuable agricultural land, water catchment areas, and other resources of value within the District.
 - Identifying growth nodes, priority investment areas, and areas of rural decay within the District.
 - Classifying areas that require protection and conservation (i.e., protected areas), which include threatened ecosystems, critical biodiversity areas, valuable agricultural land, water catchment areas, and other resources of value within the District.
 - Resolving contradictions between the planning visions of the District's local municipalities.
 - Describing the general urban design principles to be applied in all settlements located in the District. Critically, the District SDF must guide local municipalities in the development of their own SDF's, without impeding on local-level planning detail. The District sets the framework and context for local municipalities to work within. It is also critical that the District aligns to the Provincial and National planning and policy context. It is therefore clear that the District must operate within a well-defined (at the conceptual level) policy and planning context and therefore is constrained to these insofar as proposals that can be made.

F.3.5 Overstrand Integrated Development Planning (IDP)

The Integrated Development Plan (IDP) is a municipality's principal strategic plan that deals with the most critical development needs of the municipal area (external focus) as well as the most critical governance needs of the organization (internal focus). It aims to co-ordinate the work of local and other spheres of government in a coherent plan to improve the quality of life for all the people living in an area. It should consider the existing conditions and problems and resources available for development. The projects within the IDP are linked to the municipality's budget.



F.3.6 Overstrand Municipality Spatial Development Framework (SDF)

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

Within the SDF a hierarchal classification of zones is based on the nature of the function of the nodes, considering factors such as population size, influence sphere, interconnectivity, service delivery as well as informants from the Growth Potential of Towns Study, 2014 (GPTS).

The following key strategic land-use proposals are proposed:

- Conservation of the natural environment, particularly its combination of riverine estuarine conditions and sandy beaches; and
- Spatial integration and accessibility of the different land-use components through (i.e.) pedestrian linkages.

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is located to the south of the R44 Road (Clarence Drive/Hangklip Road), between Betty's Bay and Pringle Bay.





The areas surrounding the said property are characterized by land-uses such as “*conservation usage*” and “*nature reserve*”.

Pringle Bay is surrounded by protected CBA areas. These areas must be preserved and maintained. This is structurally formalized in the EMOZ regulations.

The following Local Spatial Development and Growth Management Principles for Pringle Bay are applicable to the broader Pringle Bay Area:

- To promote, amongst others:
 - the conservation of the existing coastal village character of Pringle Bay;
 - the conservation of the natural environment within which the broader Pringle Bay Area is located;
 - the role of the area to serve as a transitional zone between the Kogelberg Nature Reserve and the coastline; and
 - the heritage value of the broader region;
- To restrict, amongst others:
 - further expansion beyond the existing urban edge;
 - inappropriate housing forms and architectural treatment, particularly on steep slopes and highly visible locations adjacent to scenic routes; and
 - land uses / development as per the provisions of the HPOZ regulations.
- To maintain, amongst others:
 - the HPOZ and EMOZ regulations; and
 - Sensitive Development Areas.
- The unique sense of place should be maintained by implementation of the EMOZ and the HPOZ Regulations. These areas are based on environmentally sensitive resources and should be protected as far as possible in their natural state. Limited development could be considered in accordance with the provisions of the HPOZ and EMOZ regulations.
- In short, the rural development of the broader Pringle Bay Area should be protected in terms of its heritage and environmental resources. Only restricted and carefully considered development should be permitted.

The Betty’s Bay Area to the west specifically is also surrounded by protected CBA areas. These areas should also be preserved and maintained. This is structurally formalized in the EMOZ regulations. The following Local Spatial Development and Growth Management Principles, amongst others, are applicable:

- To promote, amongst others:
 - the conservation of the sensitive natural resources, including the inland lake wetland system, state and private nature reserves and the interface between the mountain backdrop and urban settlement (EMOZ);



- the role of the area as to serve as a transitional zone between the Kogelberg Nature Reserve and the coastline; and
- the heritage value of the region.
- To restrict, amongst others:
 - extensive expansion beyond the urban edge; and
 - land uses / development as per the provisions of the HPOZ and EMOZ regulations.
- To maintain, amongst others:
 - adherence to the HPOZ and EMOZ regulations; and
 - the interface of the mountain backdrop and urban settlement.
- To contain, amongst others:
 - the urban footprint of the broader Betty's Bay Area as far as possible within a clearly defined urban edge.

It is evident that within Sensitive Development Areas, the unique sense of place should be maintained by implementation of the HPOZ and EMOZ Regulations. These areas are based on environmental and heritage sensitive resources and should be protected as far as possible in its natural state. Limited development could be considered in accordance with the provisions of the HPOZ and EMOZ regulations. Only restricted and carefully considered development should be permitted.

The proposed Consent Use for "*agriculture*" and "*place of instruction*", specifically the intended Rehabilitation Center for injured wildlife, forms part of and supplement the development character of the broader Nature Reserve/Biosphere Area. It will also have no negative impact on the Environmental Management Overlay nor the Heritage Protection Overlay Zones.

F.3.7 Motivation

It is the intention of the Lessee (Kogelberg Biosphere Reserve Company)(Lease Agreement attached as **Annexure G**) to establish a Rehabilitation Center for injured wildlife at Portion 78 (a portion of Portion 45) of the farm Hangklip 559, and to train Field Rangers in the rehabilitation of injured wildlife.

The consent from the Overstrand Municipality, in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020), is requested for the following land-use "*agriculture*" and "*place of instruction*".

The Overstrand Municipality Land-use Scheme (2020) defines it as follow:

- "**Agriculture**", in terms of the said Land-use Scheme, 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” (my underlining).

- **“Place of Instruction”**, in terms of the said Land-use Scheme, means “a place for education at pre-school, school or post-school levels (including a day care centre, a crèche, a farm school, a nursery school, a primary school, a secondary school, a college, a lecture hall, a university, a research institute, an environmental research or other educational centre) and associated uses such as boarding hostels or a civic facility for the promotion of knowledge to the community such as a convent, a monastery, a public library, a public art gallery or museum or a place of instruction in sport or other physical discipline where the main objective is instruction (as opposed to participation by the public sector as competitors or spectators) but excludes a reformatory, industrial school, commercial conference facility, institution, health centre or in-house business training centre” (my underlining).

The following needs to be noted:

- It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in the Guest Houses in Betty's Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Center; and
- Only a Caretaker will reside on the Farm on a permanent basis.

The preliminary Site Development Plan is attached as **Annexure H**.

G. ENGINEERING SERVICES

Engineering services infrastructure (i.e. electricity, water, sewer and storm water drainage) are readily available.

H. ENVIRONMENTAL ISSUES

The proposed Application will have no negative effect on the environment. No environmental authorization is needed.



I. CONCLUSION

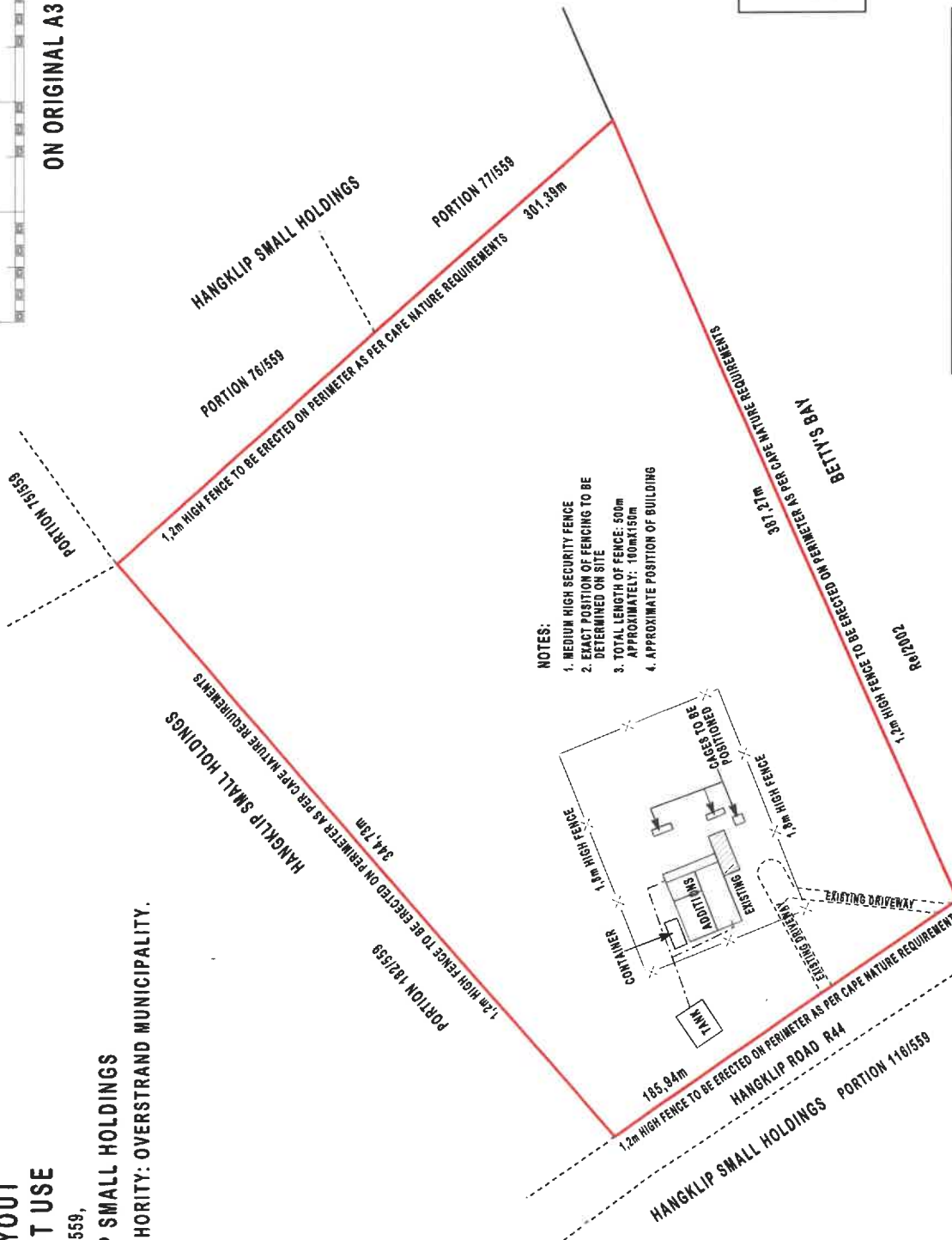
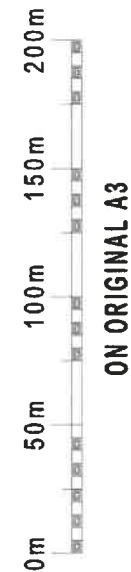
In view of the above mentioned it is recommended that Overstrand Local Municipality approves:

- The amendment, suspension or deletion, in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020), of Restrictive Conditions B. b), d), e), o); p), r) and s) in Title Deed T102546/2000; and
- The granted of consent by the Overstrand Municipality, in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020), for the following land-use "*agriculture and place of instruction*" to be implemented on Portion 78 (a portion of Portion 45) of the farm Hangklip 559.

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**SKETCH PLAN:
SITE LAYOUT
CONSENT USE**

PORTION 78/559,
HANGKLIP SMALL HOLDINGS
LOCAL AUTHORITY: OVERSTRAND MUNICIPALITY.



NOTES:

1. MEDIUM HIGH SECURITY FENCE
2. EXACT POSITION OF FENCING TO BE DETERMINED ON SITE
3. TOTAL LENGTH OF FENCE: 500m
APPROXIMATELY: 160m x 150m
4. APPROXIMATE POSITION OF BUILDING

NOTE FOR CONSENT

PORTION 78/559
RURAL ZONE 2: CONSERVATION USAGE (R2)
CONSENT:
AGRICULTURE AND PLACE OF INSTRUCTION

GENERAL NOTES:

1. ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO FINAL SURVEY.
2. PROPERTY AREA : 0,7872ha
3. OWNER : HANGKLIP-KLEINBOND MUNICIPALITY
4. DEED OF TRANSFER : T1025462000



Overstrand Office:
52 Seaview Drive,
BETTY'S BAY
Cell : 072 194 9821
Email : amurd@vodamail.co.za

Pretoria Office:
61 Woodlands Avenue,
PECANWOOD
Cell : 083 228 1316
Email : dchaas@telkomsa.net

PLAN NUMBER: 78/559/01	AMENDMENTS
REF: HANGKLIP 78/559/01	
DATE	SUBMISSION
NOV 2024	

Annexure D 1/6

143

RAYMOND MCCREATH
TEL: 852 7660

400;00

Prepared by me



CONVEYANCER
KANNENBERG C R



102546 * 2000

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT:

CHARLES ROBERT KANNENBERG

appeared before me, Registrar of Deeds, at Cape Town, the said appearer being duly authorised thereto by a Power of Attorney granted to him by

ANNETTE LANZ
Identity Number 351130 0068 080
Unmarried

which said Power of Attorney was signed at MONTAGU

on 20 NOVEMBER 2000



And the said appearer declared that his principal had, on 12 September 2000, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by these presents, cede and transfer to and on behalf of:

HANGKLIP-KLEINMOND MUNICIPALITY


its Successors in Title or Assigns, in full and free property

PORTION 78 (A PORTION OF PORTION 45) OF THE FARM HANGKLIP
NO 559
IN THE DIVISION OF CALEDON, WESTERN CAPE PROVINCE;

IN EXTENT 8,7872 (EIGHT comma SEVEN EIGHT SEVEN TWO)
Hectares

FIRST TRANSFERRED by Deed of Transfer No. T 2011/1958 with
Diagram SG No. 12347/1957 annexed and HELD BY Deed of Transfer No
T19954/1992

SUBJECT

- A. to the conditions referred to in Deed of Transfer No T25263/1970**
- B. to and ENTITLED to the benefit of the following special conditions imposed in Deed of Transfer No T2011/1958 by Hangklip Beach Estates Limited in favour of itself and the owner of any portion of the said Portion 45 of the Farm Hangklip, namely:**
- a) All buildings and other constructional works commenced shall be completed within a reasonable time. If any building or works shall not be completed the seller shall have the right to require such uncompleted building or works either to be completed within a specified period or alternatively to be demolished.**
 - b) No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.**
 - c) No building shall be erected within 25,18 metres of any road boundary or within 9,54 metres of any other boundary of the land provided that in the case of Portion 79 the distance from the road boundary shall be 15,74 metres.**
 - d) All buildings and other constructional works, including all fences and gardens or other gates, shall be of good design and sound construction and plans thereof must be approved by the seller before construction is commenced. In the event of a breach of this clause the seller shall have the right to require the purchaser to demolish such unauthorised buildings or works and/or shall have the option to repurchase the land upon payment of the cost price thereof without compensation for improvements.**
 - e) No signs, advertisements, advertisement boarding or other lettering shall be erected on the land hereby sold and purchased, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said land save and except with the written approval of the seller.**
 - f) No noxious trade or activity shall be carried out on the said land.**
 - g) Save with the consent in writing of the seller and of any local authority the purchaser shall not have the right to make or cause to be made upon the said land for any purpose other than for use in his own building and/or works, any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right to dig or quarry any earth, gravel, lime or stone thereon other than for use in his own buildings and/or works.**
 - h) No debris, scrap or other unsightly material shall be deposited on the said land nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said land without the written consent of the seller first had and obtained.**
- 

- j) No person other than the registered owner and his immediate family shall camp over night or light open fires on the said land save with the written consent of the seller which shall have the right to refuse such consent without assigning any reason therefor or to give such consent subject to such conditions as it thinks fit
- k) Access to public roads shall be limited to such points on the road boundary as may be approved by the Provincial and Divisional Council through its responsible Officers or by any other competent Authority. It shall be the duty of the purchaser to obtain approval of points of access
- l) No sewage shall be disposed of otherwise than by means of a properly constructed septic tank. No pit or bucket latrine will be permitted, except in the case of camping as provided in (j) above.
- m) The Purchaser shall have no right to use the water of the Buffels River for secondary or tertiary uses as defined in Act No 8 of 1912 as amended, which right the Seller reserves to itself. The purchaser shall not do or construct anything which will interfere with or interrupt the natural and normal flow of water in the said River without the written consent of the seller.
- n) The purchaser shall not subdivide the land without the written consent of the seller first had and obtained, which consent the seller shall not withhold in the case of any one or more of Portions 60, 62, 79 and 80 to which a Town Planning Scheme approved and adopted by any properly constituted Local Authority making provision for subdivision shall apply.
- o) The land shall be used only for agriculture and the breeding or keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept except with the special written consent of the seller which consent shall in any case not be given for Portions 58, 59, 60, 61, 62, 64, 79 and 80.
- p) Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.
- q) Each dwelling erected on the land shall be designed for a single family. The first dwelling to be erected shall have a superficial area of at least 892 square metre excluding outbuildings and all additional dwellings shall have a superficial area of at least 40.2 square metre each.
- r) Outbuildings to serve any dwelling shall not except with the written consent of the seller first had and obtained, be erected prior to the dwelling house which shall be a complete dwelling and not one partly built and intended for completion at a later stage.
- s) No boarding houses, flats, maisonettes, hotels, shops, public garage or filling station, business premises, canteen, restaurant, bioscope,

factory or industrial buildings shall be erected on the land nor shall any such business or entertainment be conducted on the land.

- t) The seller shall not be liable to maintain or repair or keep in order any roads, drains, culverts or any other works giving access to or affecting the said land.

In the foregoing conditions, except where otherwise stated or inferred, the expressions "the company" or "the Seller" shall mean Hangklip Beach Estates Limited or the lawful successors thereof which may assume control subdivisions of the farm Hangklip, and the expression "the purchaser" include the successors in title invitees and persons lawfully occupying the land or portion thereof with permission or consent of the registered owner.

- C. SUBJECT FURTHER to the endorsement dated 26-09-2000 on Deed of Transfer No T19954/1992 reading as follows: Expropriation by the Cape Provincial Administration for road purposes of Portion 78 (portion of portion 45) of the Farm Hangklip No 559 measuring approximately 232 square metres. EX514/85

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

ANNETTE LANZ

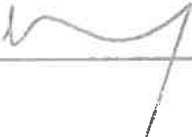
heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and disentitled to the same, and that by these presents, the said

HANGKLIP-KLEINMOND MUNICIPALITY

its Successors in Title or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R600 000,00 (SIX HUNDRED THOUSAND RANDS).

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

THUS DONE and EXECUTED at the Office of the Registrar of Deeds at Cape Town on 6 December 2000



q.q.

In my presence



REGISTRAR OF DEEDS



PRINGLE BAY RATEPAYERS' ASSOCIATION
PRINGLEBAAI BELASTINGBETALERSVERENIGING

SARS Reg. 9101/138/16/3

NPO Reg. 214-205

www.pringlebayratepayers.co.za

P O Box 409, Pringle Bay, 7196 / Posbus 409, Pringlebaai, 7196

Chairman / Voorsitter: chairman@pringlebayratepayers.co.za / Tel: 084 222 1242

The Municipal Manager
OVERSTRAND MUNICIPALITY
PO BOX 20
HERMANUS
7200
PER EMAIL: loretta@overstrand.gov.za

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
18 DEC 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

18 December 2024

TP- A Theart
(Huid Stoop)

SUBJECT: PORTION 78 (A PORTION OF PORTION 45) OF FARM 559, HANGKLIP SMALLHOLDINGS, A DIVISION OF CALEDON: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES: PLATINUM TOWN AND REGIONAL PLANNERS ON BEHALF OF KOGELBERG BIOSPHERE RESERVE COMPANY AND OVERSTRAND MUNICIPALITY

PREAMBLE

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

1. ORGANISATION

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

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

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

FILE NO. Ptn 78/559
Hangklip
SCAN NO.
COLLABORATOR NO.
2574274



2. EXECUTIVE SUMMARY:

The PBRA wishes to state our support for the establishment of a Wildlife Rescue Centre. In the context of the Kogelberg Biosphere Reserve it is a service we feel is long overdue and must be pursued in accordance with applicable legislation, permitting and licencing.

We have carefully considered the subject application hence our comments and requests as follows.

OUR REQUESTS PLEASE:

- 2.1. In PART A we request that an Environmental Management Plan as per Clause 16.4 of the OM Land Use Scheme be commissioned by the OM from a registered environmental specialist:
 - 2.1.1. Dealing specifically with the issue whether it is advisable to situate a use such as an injured wildlife centre next to a scenic route and whether it should not be situated elsewhere. We also reference our Part D, paragraph 9.7 in this regard.
 - 2.1.2. We also request that the study incorporate the broader future conservation use of this municipal site, together with the adjoining discontinued municipal dumping sites, to enhance the attractiveness of the R44 scenic route.
- 2.2. If an environmental management plan is commissioned by the OM as requested, then no continuation of the apparent present site works by the applicant should be permitted until the OM has first approved an environmental management plan.
 - 2.2.1. In addition to paragraph 2.2 above, we please request that building activities be halted until such time as all of the National Building Regulations and Building Standards Act 103 of 1977 requirements stated in our PART D, Paragraph 9.7 have been met, especially taking cognisance of the contribution to the scenic value of the subject property as described in the HPOZ.
 - 2.2.2. We furthermore request (in Part C, paragraph 8.7) please that any of the consent uses, that may be granted to the applicant, be conditional for the benefit of the current owner only and that in the event of any change of ownership of the property, the consent uses granted under this application must be re-applied for.
 - 2.2.3. We draw the attention (in PART D, paragraph 9.3 and 9.4 below) that the subject property is only entitled to one household water connection from the Buffels River water scheme. We request please that when considering the application, the OM Infrastructure Department pay special attention to the water supply and sewage treatment demands that the proposed development could potentially have.



- 2.2.4. We request that the OM Planning Department confirm the appropriate zoning as per our comments in PART C: paragraphs 8.5 and 8.6. We furthermore request that the OM PD please update their official zoning maps to reflect the correct zoning.
- 2.3. If our requests as per PART A are not accepted by the OM, then, in PARTS B, C AND D we submit simplified amendments to the title deed conditions to enable the proposed use, rather than completely removing the title deed conditions, as well as other considerations.

3. BACKGROUND

- 3.1. Municipal Notice number 194/2024 has reference.
- 3.2. The Motivation report states that it is the **intention** of the Lessee (Kogelberg Biosphere Reserve Company) to establish a Rehabilitation Centre for injured wildlife and to train Field Rangers in the rehabilitation of injured wildlife. ("**Intention**" being our emphasis).
- 3.3. The application received by us via email on 13 November 2024 from "Amund Beneke" of Platinum Town Planner addresses the aspects to achieve the development as outlined above in paragraph 3.2. To enable the said Company in this regard, simultaneous application are, therefore, submitted. These applications include:

"

- a) **Application 1:** *The restrictive conditions in Title Deed T102546/2000 that could impact on the proposed consent use are Conditions B. b), d), e), o); p), r) and s):*

It, therefore, is requested that the restrictive conditions be amended, suspended or deleted in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land- use Planning (2020).

- b) **Application 2:** *The consent from the Overstrand Municipality, in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020), is requested for the following land-uses: "agriculture" and "place of instruction".*

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is zoned "undetermined". During discussions with the Municipality it was indicated that the zoning will be changed from "undetermined" to "Rural Zone 2: Conservation Usage (R2)" when issuing a Zoning Certificate.

..."

- 3.4. In the event that our request for an environmental plan as per PART A: ENVIRONMENTAL MANAGEMENT PLAN A is not accepted, we comment and request in the alternative as follows.

Our comments follow in five parts, namely:

PART A: ENVIRONMENTAL MANAGEMENT PLAN

PART B: WHICH IS ADVISABLE: AN AMENDMENT OF A TITLE DEED CONDITION OR ITS COMPLETE REMOVAL?

PART C: DESIRABILITY AND SPATIAL SUSTAINABILITY

PART D: GENERAL COMMENTS

4. PART A: ENVIRONMENTAL MANAGEMENT PLAN

- 4.1. REQUESTS PLEASE: We request please that an Environmental Management Plan as per Clause 16.4 of the OM Land Use Scheme be commissioned by the OM, as owner of the property, from a suitably qualified environmental specialist, **before proceeding further with the present application:**
- 4.2. We request that the study incorporate the broader future conservation use of this municipal site, together with the adjoining discontinued municipal dumping sites, to enhance the attractiveness of the R44 scenic route.
- 4.3. We request that the study deal specifically with the present issue whether it is advisable or not to situate an apparently industrial or commercial use such as an injured wildlife centre next to a scenic route and whether it should not be situated elsewhere.
- 4.4. If an environmental management plan is commissioned by the OM as requested, then no continuation of the present site works by the applicant should be permitted until the OM has first approved an environmental management plan.
- 4.5. We therefor request that, as part of an environmental management plan for which approval is now sought, compliance with the NEMA Listings 1 and 3 requirements in respect of possible structures within 32 meters of a waterway and the clearing of fynbos of more than 300 m² respectively be specifically addressed.

5. BACKGROUND

- 5.1. The present application falls within the area of the buffer zone of the Kogelberg Biosphere Reserve (KBR), in that the area directly adjoins the KBR. In addition, CapeNature defines an area within a certain number of kilometres from a nature reserve as a "Zone of Influence". The present application is situated in such a Zone of Influence. It is also regarded as a Critical Biodiversity Area.

- 5.2. The OM already recognises the above by having formulated special protections of the environmental, scenic and tourist attractions of this section of the R44 between Gordons Bay and Kleinmond in both the "PROTECTED AREA BUFFER EMOZ" and the "SCENIC CORRIDOR HPOZ".

We submit that the OM, in furthering its above policies, should now **in addition** commission a study of the future use of the subject municipal sites, **before approving an apparently ad hoc application such as the present.**

- 5.3. The section of the R44 is generally acknowledged as a topmost scenic drive.

LONELY PLANET in its publication " EPIC DRIVES OF THE WORLD – Explore the planet's most thrilling road trips" lists the R44 as one of the top 50 scenic drives in the world.

- 5.4. We sincerely request the OM to recognise this by first commissioning an environmental management plan for the subject municipal sites next to the R44.

6. **RIBBON COMMERCIAL DEVELOPMENT**

We are concerned that the present and other current applications along the subject route of the R44 will amount to ribbon commercial and industrial uses, out of keeping with a world-class scenic route.

When the amendments to the OM land use legislation were published in 2019, ratepayers from a neighbouring town commented that the OM legislation opened the risk of numerous commercial uses, other than tourist accommodation, being opened along the R44, instead of being situated within the towns themselves, as conventional wisdom would indicate.

A traveller along the once-scenic Cheddar Gorge through the Mendip Hills in Somerset, England, will be struck with how a once scenic route can be irreparably spoiled by commercial stalls ribboned along the whole route. It is no surprise that LONELY PLANET does not list this route!

Request please: We therefore request that consent use applications along the R44 be limited by the OM to tourist accommodation in preference to ad hoc uses such as an injured wildlife centre.

7. **PART B: WHICH IS ADVISABLE: AN AMENDMENT OF A TITLE DEED CONDITION OR ITS COMPLETE REMOVAL?**

The Motivation Report is unclear what the application is for. Is it for the removal, amendment, or suspension?

- 7.1. We object against the complete removal of the present title deed condition.



In *Camps Bay Ratepayers' Association v Minister of Planning, Western Cape* par 321C, it was decided:

"When considering an application for removal of conditions of title the relevant competent authority must be mindful of the legal principles governing such applications whereby it is clear that the interests which must be served by the removal of restrictive conditions are the broader interests of **the township or the area, or the public interest**. The personal interest of an applicant seeking the removal of title deed conditions is therefore not the only consideration.. Moreover, the mere fact that the removal of restrictive conditions may not be *undesirable* does not mean that the removal is in fact *desirable*." **(our emphasis)**

- 7.2. We object against the apparent practice of the overbroad removal of title deed conditions, an action that affects all property owners as holders of praedial or other rights along the HPOZ: R44 Scenic Route as well as the present Pringle Bay township extensions.
- 7.3. In a previous appeal decision by the OM Appeal Authority, it was rightly pointed out, in line with common professional knowledge, that "*Restrictive conditions on a title deed are placed for a specific reason and the removal of these conditions should not be considered lightly*". The allowable land use restrictions per the title deed restriction are in our opinion essential for maintaining the spatial character of Pringle Bay and surrounds as is the case in terms of the utilisation (zoning or usage) of the subject conservation use zoned smallholding.
- 7.4. We submit that it is especially not desirable that a title deed restriction be removed in order to legalise a proposed new structure (or for that matter to legalise an apparent illegal building), nor is it desirable to remove a restrictive Title Deed condition in an attempt to allow a consent use described in the Scheme Regulations.

On Page 3 of the Motivation Report, the following is stated:

"Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights: the removal, suspension, or amendment of Conditions B. b), d), e), o); p), r) and s) will only remove some of the conditions in the applicable Title Deed. " (... will only remove some of the conditions" being our emphasis) It is the ONLY suggestion that the applicant is indeed seeking the **REMOVAL** of the restrictive Title Deed Conditions

We object to this overbroad removal proposal and instead propose to rather consider an amendment to the said conditions to read as follows:

"B

(o) The land **must [shall]** be used only for **the purposes of conservation usage as defined in a land use scheme approved and adopted by any properly constituted**

Local Authority [agriculture and the breeding and keeping of domestic animals, poultry and/or bees] provided that no goats or pigs may be kept except with the express written consent of the seller which consent shall in any case not be given for Portions 58, 59, 60, 61, 62, 64, 79 and 80.

(p) Only buildings and structures required for bona fide conservation purposes [to be used as dwellings and farm buildings] shall be erected on the land."

Notes:

We submit that the term "Conservation Usage" in the title deed condition, as we propose, will solve the applicant's problem, as it will include the rehabilitation of injured wildlife. The attempt by the applicant to classify the rehabilitation of wildlife under "farming" is in our opinion unfounded, as the subject activity can never be regarded as game farming in the ordinary understanding of the word "agriculture".

The reference to the keeping of goats and pigs needs to be retained as it cannot be removed without the consent of the seller, the present Hangklip Beach Properties CC. The reference is by no means unnecessary, as a recent high court case about the stench caused by pig farming illustrates.

See paragraph 9.6 below: The reference in title deed condition B (q) to 892 square metre appears to be a typing error. It should possibly have read 92, not 892. 92 square metre would be in line with the universally accepted preferable minimum floor coverage for dwellings.

The proposed changes tie in with the wording used in the title deed as well as that of the OM Land Use Scheme regulations.

We draw the attention of the Municipal Planning Tribunal to the common professional knowledge that title deed conditions and scheme regulations serve different purposes, and that a title deed condition cannot be removed, as the application would imply, because a scheme regulation covers the consent use (a non-allowable so-called "blanket removal", on the basis that more restrictive scheme regulations "cover" the situation).

We draw the applicant's attention to the fact that it is not sufficient merely to get the municipality to have the relevant building plans approved as required by the town planning scheme. The law in this respect is quite clear:

- (a) *A municipality's zoning scheme does not override title deed conditions (Camps Bay Ratepayers Association v Minister of Planning, Western Cape supra 324).*
- (b) *A consent by a local authority in terms of a town planning scheme does not per se authorise the use of an erf contrary to its registered restrictive title*

conditions (Malan v Ardconnel Investments (Pty) Ltd supra 40E). (refer to paragraph 2.7 herein).

- 7.5. We request please that the Municipal Planning Tribunal favourably consider our plea above. We request that no removal of the Title Deed condition be considered, but rather an appropriate amendment in line with the consent use applicable to the final zoning of the subject property.

8. PART C: DESIRABILITY AND SPATIAL SUSTAINABILITY.

- 8.1. We object to the notion that is it desirable to remove a restrictive title deed condition only to allow the Scheme Regulations to take effect. Refer to our paragraphs 7.4 and 7.5 above.

- 8.2. The applicant on page 5 of the Motivation Report states:

"The Overstrand Municipality Spatial Development Framework (SDF)(2020) regards the R44 from (i.e.) Gordonsbaai to Kleinmond as a Development corridor.

In general terms can a development corridor be defined as "geographical area identified as a priority for investment to catalyze economic growth and development". Along this R44-Corridor is coastal towns such as Rooi Els, Pringle Bay, Betty's Bay and Kleinmond located. The R44-Corridor links with the R43-Development Corridor (Hermanus / Stanford / Gansbaai) further on.

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is earmarked as a Farm Portion that lies withing the following Zones:

- *Environmental Management Overlay Zone (EMOZ). An EMOZ is purposed at regulating land uses within environmental sensitive areas to affect the preservation thereof; and*
- *Heritage Protection Overlay Zone (HPOZ). An HPOZ is purposed at regulating land uses within heritage sensitive areas to affect the preservation thereof.*

The proposed consent use for the land-uses "agriculture" and "place of instruction" to establish/operate a Rehabilitation Center for injured wildlife will have no negative impact on either Zone."

We object to this statement. We do not see how the applicant in terms of the "Spatial Sustainability" addresses the impact of the proposal on:

- i) **The requirements of the Heritage Protection Overlay Zone in general and in particular the "SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ")"**
- ii) **The impact on the Kogelberg Biosphere Reserve, especially given that the proposed development lies within the so-called identified "Buffer Zone". We submit that it is appropriate for the applicant to consider the various Environmental Management Overlay Zones (EMOZ).**
- iii) **The impact on the environment in general as per the requirements of NEMA.**

- 8.3. We also draw the attention to the SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ") paragraph 8.2 of which reads:

"8.2 Outdoor spaces must be designed so that the landscape appears to flow throughout the site. Extensions on coverage will be discouraged." (Our emphasis)

- 8.4. The PBRA in their email of 17 November 2024 requested a copy of the complete application including, but not necessarily limited to the conveyancer certificate, title deed, original approval documentation and zoning certificate. The OM Planning Department (PD) kindly replied and forwarded same via email dated 21 November 2024.

- 8.5. We submit that the above-mentioned included the Zoning Certificate for the subject property. It states:

"Zoning: Rural Zone 2: Conservation Usage (R2)"

Conversely, however, the applicant on page 3 of the Motivation Report states:

"Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is zoned "undetermined". During discussions with the Municipality it was indicated that the zoning will be changed from "undetermined" to "Rural Zone 2: Conservation Usage (R2)" when issuing a Zoning Certificate. "

The PBRA in their comments on PORTION 156 OF FARM HANGKLIP 559, DIVISION CALEDON: APPLICATION FOR CONSENT USES AND DEPARTURES: WRAP (obo B TOPHAM), in our submission of 12 August 2022, paragraph 3, among others wrote:

".....

- 1.1.1. 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."*

...."

The Town Planner's response in the report to the MPT was (we assume Ms H van der Stoep : SACPLAN registration number: **A/1708/2013**):

"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."

We question the validity of this statement especially using it as a blanket approach to all properties between Rooiels and Kleinmond that currently are zoned "Undetermined", especially considering the description of this zoning category quoted above as being a very strong intention in favour of protecting the environmental and heritage significance of the R44 SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ"). This is in stark contradiction to the applicant's statement and interpretation in this regard, who considers it is as a *"... geographical area identified as a priority for investment to catalyze economic growth and development ..."*

We therefore object to the blanket application for rezoning of Underdetermined to Conservation Usage, the latter that comes with several land uses which are not necessarily conducive towards achieving the desired objectives of the EMOZ and HPOZ.

We submit that Schedule 2 of Bylaw- Overstrand Municipality Land Use Scheme 2020 lists for R2 the following consent uses:

“Consent uses are: 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.”

The surrounding properties are all either Nature Reserve or zoned as “Underdetermined”. Allowing a rezoning such as is indicated in the application is in our opinion not in the spirit of the EMOZ or the HPOZ.

As per Schedule 2 of the Overstrand Municipality Amendment By-law on Municipal Land Use Planning 2020, the applicable consent uses are:

“Consent uses are: dwelling units, cemetery, conference facility, dwelling house, hospital, institution, recreational facilities, residential building, transmission apparatus (subject to the provisions of Chapter 16.10) and urban agriculture.”

- 8.6. **We request that the OM PD in their recommendation to the Municipal Planning Tribunal confirm that the zoning remains as Underdetermined until such time as a proper allocation for rezoning has been issued allowing for public comment.**
- 8.7. We furthermore request please that any of the consent uses that may be granted to the applicant, be conditional for the benefit of the current owner only and that in the event of any change of ownership of the property, the consent uses granted under this application must be re-applied for.

9. PART D : GENERAL COMMENT

- 9.1. We question whether it is not the responsibility of the OM Planning Department to distribute the application/Notice to all relevant parties? With the Applicant apparently having sent out emails via the Ward Committee to Bettys Bay Ratepayers’ Association and Pringle Bay Ratepayers’ Association via a private email address, and stating *“if there are any questions, please contact me via email amund@vodamail.co.za or at 072 184 9621”*. We question the validity of the OM to use members on the Ward Committee who is also a Planner in a private practice to distribute official municipal matters and to receive queries on behalf of the OM on matters that according to the Municipal Systems Act is supposed to be

handled by the OM itself. Was this compliant with the Municipal Systems Act and/or Protection Of Personal Information Act (POPIA)?

- 9.2. It is not clear to us from the application documentation whether notice of the application had been sent to all the holders of praedial rights against the subject property, namely the owners of the smallholdings into which Portion 45 had been subdivided.

On Page 6 of the Motivation Report the applicant states:

“The required public participation process, in accordance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, will be sufficiently dealt with via the advertising of the proposed Suspension/Amendment/Deletion of certain Restrictive Title Conditions and Consent Use Application. The respective rights and all those affected will be adequately addressed during this process. The *"audi alterum partum- rule"*, therefore, will have been complied with. The intrinsic knowledge of the process and the distribution of the Application to internal and external parties (where applicable) will also lead indisputably to the adherence of this requirement. “

It is common professional knowledge that the present title deed creates praedial rights in favour of all the owners of the smallholdings into which Portio 45 had been subdivided. The title deed states:

“B: to and ENTITLED to the benefit of the following special conditions imposed in Deed of Transfer No T2011/1958 by Hangklip Beach Estates Limited in favour of itself and the owner of any portion of the said Portion 45 of the Farm Hangklip, namely:”

We therefore disagree with the applicant’s apparent interpretation as per above that notice need not be given to the other property owners with praedial rights.

- 9.3. The applicant mentions in the Motivation Report on Page 13:

“Engineering services infrastructure (i.e. electricity, water, sewer and storm water drainage) are readily available.” **Water Supply being our emphasis.**

We request more information about the legitimacy of the existing water connection. According to our understanding the current water supply is from the same bulk supply pipeline from the Buffelsdam Purification Works, also serving part of Betties Bay, and it is supposed to be only one connection serving a single residential dwelling. It would be beneficial for the applicant to ensure that the referenced water connection is:

- i) In fact, in accordance with the demand for land uses applied for; and
- ii) In accordance with the applicable Water Use Licence (if any) or permit(s)

- 9.4. We notice on page 13 of the Motivation Report, the applicant states the following:

“Engineering services infrastructure (i.e. electricity, water, sewer and storm water drainage) are readily available.” Sewer being our emphasis.

We fail to see how the applicant motivates the existing capacity versus the potential demand based on the application for consent uses. We request that the applicant be requested to fully address sewage demand vs existing capacity as well as the functional status of the existing tank, especially given that the seepage of the effluent feeds into the nearby wetland area. We request that consideration be given to performing at least a Basic Assessment Report in terms of the NEMA requirements to determine the possibility of contamination due to seepage on the nearby wetland.

Furthermore, the applicant on the Site Plan dated April 2024, (Annexure H of the application) indicates that a “TANK” is located close to the western boundary of the subject portion. We assume it is a reference to the Sewer Conservancy Tank. We question the location of this tank and request that the responsible OM department conducts a site investigation to determine the accuracy of the Site Plan in this regard. The natural slope of the land does not favour the indicated location.

- 9.5. We are also aware of the so-called “Task Group” under the leadership of the Kogelberg Biosphere Reserve Company, also the applicant in this subject matter, to investigate the occurrence of road kills along the R44. The applicant, demonstrating no regard to the potential increase of traffic as result of the activities foreseen at the proposed rescue centre, is in our opinion contradicting their own *bona fides*.
- 9.6. The applicant will most probably be continuously in breach of their lease agreement (Annexure G to the Application) on the one hand and on the other the lease agreement being in contradiction with the Title Deed Conditions. An example:

The applicant on page 4 of the Motivation Report states:

“The following needs to be noted:

- *It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in the Guest Houses in Betty’s Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Center for training sessions; and*
- *Only a Caretaker will reside on the Farm on a permanent basis. “*

The Lease agreement however states:

“5.4. The LESSEE shall ensure that the Leased Premises, including the buildings and structures thereon, is property secured and protected during and after the close of business and shall ensure itself that no person is left on the Leased Premises at the time on closing and that no person resides overnight on the Leased Premises. The LESSEE shall be held liable for any damage or loss that may occur from such neglect.



14/16

5.5. *The LESSEE shall ensure that no person uses the Leased Premises for residential purposes."*

The Title Deed states:

o)

p) *Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.*

q) *Each dwelling erected on the land shall be designed for a single family. The first dwelling to be erected shall have a superficial area of at least 892 square metre excluding outbuildings and all additional dwellings shall have a superficial area of at least 40.2 square metre each. (The reference to 892 square metre appears to be a typing error. It should possibly have read 92, not 892)*

r) *Outbuildings to serve any dwelling shall not except with the written consent of the seller first had and obtained, be erected prior to the dwelling house which shall be a complete dwelling and not one partly built and intended for completion at a later stage.*

s) *No boarding houses, flats, maisonettes, hotels, shops, public garage or filling station, business premises, canteen, restaurant, bioscope, ...*

Several similar contradictions between the three regulating documents seem to occur between these documents. We request please that the application be withdrawn, allowing the applicant to ensure conformity across all relevant documentation.

We are of the opinion that an appropriate amendment of the restrictive title deed conditions will largely resolve the contradictions.

9.7. The National Building Regulations and Building Standards Act 103 of 1977 address the issue of preparing, submitting and getting approval for building plans, among other, as follows

If the owner's existing dwelling is to be extended or new buildings are to be erected, the owner would have to have the necessary building plans prepared and approved by the municipality. In this respect it is necessary to have regard to sections 5(1), 6(1) and 7(1) of the National Building Regulations and Building Standards Act 103 of 1977 which read as follows:

"....

5(1) [A] local authority shall appoint a person as building control officer in order to exercise and perform the powers, duties or activities granted or assigned by or under this Act.

6(1) A building control officer shall –

- (a) make recommendations to the local authority in question, regarding any plans, specifications, documents and information submitted to such local authority in accordance with s 4(3) ...

7(1) If a local authority, having considered a recommendation referred to in s 6(1)(a) –

- (a) is satisfied that the application in question complies with the requirements of this Act and any other applicable law, it shall grant its approval in respect thereof;
- (b) (i) is not so satisfied; or
- (ii) is satisfied that the building to which the application in question relates –
- (aa) **is to be erected in such manner or will be of such nature or appearance that –**
- (aaa) **the area in which it is to be erected will probably or in fact be disfigured thereby;**
- (bbb) **it will probably or in fact be unsightly or objectionable;**
- (ccc) **it will probably or in fact derogate from the value of adjoining or neighbouring properties;**
- (bb) **will probably or in fact be dangerous to life or property**

such local authority shall refuse to grant its approval in respect thereof and give written reasons for such refusal.”

“

We wish to emphasise (ii)(aa) and (ii)(bb) above.

The article by Prof Henk Delpoort, professor of law: Nelson Mandela University “THE ESTABLISHMENT OF A GUESTHOUSE ON A RESIDENTIAL PROPERTY: COMPLYING WITH RESTRICTIVE CONDITIONS OF TITLE AND TOWN PLANNING SCHEME PROVISIONS: OBITER 2007” includes, among other, the following paragraphs which have been extracted from the above article:

“This is where the first level of opposition may be encountered. But even if the adjoining owners have not been consulted, they will obviously become aware of developments on their neighbour’s property once the building work commences. The moment that the true nature of the development becomes known, aggrieved neighbours may seek to have the municipality’s approval of the building plan set aside on the grounds that the municipality had not appointed a building control officer as required by section 5(1) of the Act; that such officer (if appointed) had not made any recommendations regarding the building plan in question as required by section 6(1)(a); or that the municipality had not applied its mind to the matter properly having regard to the factors listed in section 7(1)(b)(ii)(aa)(aaa)- (ccc). The usual argument raised by aggrieved adjoining owners is that the new structures are unsightly and objectionable, and would probably or in fact derogate from the value of adjoining or neighbouring properties.

.....



Section 7(1) in express terms imposes an obligation on a municipality to refuse the approval of a building plan (i) if it is not satisfied that the application for approval of the plan complies with the requirements of the Act and any other applicable law, or (ii) once it is satisfied that one of the factors listed in subsections (b)(ii)(aa)(aaa)-(ccc) or subsections (b)(ii)(bb) is present. In these circumstances the municipality has no discretion to refuse the approval; it must do so." (our emphasis).

Taking cognisance of the above-mentioned, we please request that building activities be halted until such time as all of the above stated National Building Regulations and Building Standards Act 103 of 1977 requirements have been met, especially taking cognisance of the contribution to the scenic value of the subject property as described in the HPOZ.

10. CONCLUSION

- 10.1. We submit that there are so many issues with the present apparently ad hoc application for the use of municipal land, right next to an environmentally sensitive heritage protected scenic route, that the application be referred back to the applicant.
- 10.2. We also submit that it might be advisable for the OM to first consider an environmental plan for the future use of its subject municipal properties next to the R44 Scenic Route, to conform with its heritage protection policies for the scenic route, prior to leasing it out.

We sincerely request that you will please be so kind to acknowledge receipt of our objections and to take the necessary steps outlined above.

Kind regards

A handwritten signature in black ink, appearing to read "AW Vorster".

AW Vorster

Obo: Pringle Bay Ratepayers' Association



OVERSTRAND MUNICIPALITEIT
REKORDBEHEER
27 MAR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart
(H vld Stoep)

Annexure F 1/47

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ATTENTION:

- Hanneen van der Stoep (hvdstoep@overstrand.gov.za)
- Loretta Gillion (loretta@overstrand.gov.za)

FILE NO. Pbn 78 559
Hangklip
SCAN NO.
COLLABORATOR NO. 2633296

Hallo Hanneen / Loretta;

PORTION 78 (A PORTION OF PORTION 45) OF THE FARM 559, HANGKLIP SMALL HOLDINGS

You are referred to the Land-use Applications on Portion 78 of the Farm 559, Hangklip Small Holdings:

- Application 1** the amendment, suspension, or deletion of certain title restrictions in Title Deed T102546/2000 in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020); and
- Application 2:** the request for consent use from the Overstrand Municipality in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020) for the following land-use "agriculture and place of instruction".

Further, you are referred to objections / comments received (email dated 20 February 2025, attached as **Annexure A**).

Our Response to the objections / comments is as follow:

1) CAPE NATURE (Annexure B)

In the email dated 23 January 2025, Cape Nature indicated that there is no objection to the Land-use Applications submitted, provided that the bush cutting vegetation clearing method is followed, the wetland areas are avoided, and no future development takes place outside of the 0.5ha fenced area (to keep the loss of natural – critically endangered – vegetation to the minimum).

Their comment is based on the following concerns raised by Cape Nature, which was addressed in an email dated 22 January 2025 (**Annexure B**):

- i) According to the South African Vegetation Map (2018), the proposed site supports Kogelberg Sandstone Fynbos, which is listed as a Critically Endangered vegetation type (NBA 2018). Only a small area (approximately 0.5 ha) seems to be

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transformed due to the previous development of the existing building (my underlining), however the rest of the site consist of natural vegetation.

The reference to the 0.5ha that has been transformed due to previous development is correct. The remainder of the site still consist of natural vegetation.

- ii) Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (Northern and Eastern corners / boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed.

Noted. The conditions / suggested mitigation measures will be implemented.

- iii) It is understood that the proposed rehabilitation centre will be located within the existing transformed portion (existing building) of the property. Please can you indicate the total number of enclosures or other structures that will need to be built, and the total area of vegetation that will need to be cleared. Furthermore, please clarify the proposed vegetation clearing methods that will be followed.

Please find attached the proposed lay-out of the cages (Annexure C). The erection of such cages will only be allowed within the 0.5ha that may be developed. The vegetation in most cages will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be split poles with wire. No permanent structures will be built.

- iv) The application advertisement indicates that the removal, suspension, or amendment of Restrictive Title Deed Conditions B. b), d), e), o), p), r) and s) are applied for. Please can you specify what these conditions entail or alternatively send CapeNature Annexure D, for us to know if any of these conditions might have an impact on biodiversity before we submit our final comments.

The Title Deed was submitted for ease of reference.

- v) We recommend that the Wetland areas are avoided (and clearly demarcated as No-go areas) during the construction of the animal enclosures and operation of the rehabilitation centre and that the development footprint be kept to a minimum and no further loss of the natural vegetation occurs.

Although the wetland area is part of the approximate 8.8ha, it is outside the 0.5ha to be used / developed. No development is planned outside of the 0.5ha (fenced area).

2) WESTERN CAPE GOVERNMENT: DEPARTMENT OF INFRASTRUCTURE (Annexure D)

No objection.



3) **WESTERN CAPE GOVERNMENT: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING: DIRECTORATE DEVELOPMENT MANAGEMENT (REGION 1)(Annexure E):**

The comment received indicates that the proposed development may (my underlining) trigger certain listed activities: Listing Notice 1: Activities 12 and 19 and Listing Notice 3: Activity 12 in terms of the EIA Regulations, 2014 (as amended).

It is our opinion that no listed activities are triggered for the following reasons:

- i) According to the South African Vegetation Map (2018), the proposed site is within the Kogelberg Sandstone Fynbos Area, which is listed as a Critically Endangered Vegetation Type (NBA 2018). However, only a small area (approximately 0.5 ha in extent) has been transformed due to the previous development of the existing building (my underlining). The remainder of the site still consists of natural vegetation.
- ii) Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (northern and eastern corners / boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed. The proposed "Rescue Centre" is regarded as very low impact land-use.
- iii) Attached is the proposed lay-out of the cages (Annexure C). The erection of such cages will only be allowed within the 0.5ha that may be developed. The vegetation in most cages will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be split poles with wire. No permanent structures will be built.
- iv) Although the wetland area is part of the approximately 8.8ha, it is outside the 0.5ha to be used / developed. No development is planned outside of the 0.5ha (fenced area).

4) **WESTERN CAPE GOVERNMENT: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING: DIRECTORATE DEVELOPMENT MANAGEMENT (REGION 2)(Annexure F):**

The change of the zoning of the property in question from "Undetermined" to "Rural Zone 2: Conservation Usage (R2)" is questioned.

The jurisdiction of the Overstrand Local Municipality gives them the authority to change / amend, in certain circumstances and with valid reasons, the zoning of land.

This zoning change must also be read in conjunction with the Overstrand Spatial Development Framework (SDF), which identifies the broader area as "conservation area".

The issue pertaining to "place of instruction" is clearly addressed in the self-explanatory Memorandum that accompanied the Land-use Application.

Training of the students will be in the current building on site. No students will be accommodated on the Farm Portion. They will be accommodated in Guest Houses in Betty's Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Center for training sessions. Only a Caretaker will reside on the Farm on a permanent basis.



5) **WESTERN CAPE GOVERNMENT: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING: DIRECTORATE BIODIVERSITY AND COASTAL MANAGEMENT (Annexure G):**

The comment is that the subject property is not located within the Coastal Protection Zone. It was advised that the comments from Cape Naure be obtained, which was obtained (refer to Paragraph 1 above).

6) **PRINGLE BAY RATEPAYERS' ASSOCIATION (Annexure H):**

i) Paragraph 2:

- (1) Paragraph 2: It is stated in Paragraph 2 that the PBRA supports the establishment of a "Wildlife Rescue Centre".
- (2) Paragraph 2.1: Environmental Management Plan. It is our opinion that no listed activities are triggered. Please refer to the comments above dealing with the comments from the different Western Cape Provincial Departments.
- (3) Paragraph 2.1.1: It is questioned if the proposed location of the "Rescue Centre" is advisable. No suggestion(s) for a more suitable site is made. It is our opinion that the closeness of the R44 (where most of the wildlife is injured / killed) to the proposed site and the current building make this site an excellent location.
- (4) Paragraph 2.1.2: A study incorporating the broader future conservation use of the municipal site, together with the adjoining discontinued municipal dumping site, to enhance the attractiveness of the R44 Scenic Route is needed. It is not clear what the intention(s) of the PBRA is in this regard. The proposed "Rescue Centre" will not only address the already acknowledged need for such a centre near the R44 but will also add to the "scenic route concept" in the sense that tourists to the area will have the opportunity to visit / experience such Centre, as the only Centre of its kind.
- (5) Paragraph 2.2: Please refer to the comment under Paragraph 2.1
- (6) Paragraph 2.2.1: No building activities are taking place. Only cages are erected, within the 0.5ha that may be developed. The vegetation in most cages will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be split poles with wire. No permanent structures will be built.
- (7) Paragraph 2.2.2: Noted.
- (8) Paragraph 2.2.3: The availability of engineering services. The Land-use Applications submitted to the Overstrand Municipality are circulated internally to all relevant (i.e.) Engineering Services Departments. The available engineering services in the area are evaluated against the proposals in the Applications. If needed, the necessary upgrade(s) will be implemented to ensure that additional capacity is available for the proposed development.
- (9) Paragraph 2.2.4: Appropriate Zoning. The jurisdiction of the Overstrand Local Municipality gives them the authority to change / amend, in certain circumstances and with valid reasons, the zoning of land. This zoning change must also be read in conjunction with the Overstrand Spatial Development Framework, which identifies the broader area as "conservation".
- (10) Paragraph 2.3: Title Deed Conditions. The Land-use Application states that the restrictive conditions be amended, suspended or deleted (my underling) in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020). It is the prerogative of the Municipality to determine which of Conditions B. b), d), e), o); p), r) and s), in conjunction with the OLM: Legal Department, must be either amended, suspended or deleted.
- (11) Paragraphs 3 to 9: the content of these paragraphs deals in more detail with the points raised in Paragraph 2.
- (12) Paragraphs 9.1 and 9.2: Public Participation Process. The following point of correction is submitted:
 - (a) In accordance with the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020), the Overstrand Local Municipality may request an Applicant to deal with the required "public participation process".



- (b) As "the amendment, suspension or deletion of certain restrictive title conditions" are in play, the Municipality requested Platinum Town and Regional Planners CC to assist with this process via the sending of emails and registered letters / notices to all holders of praedial rights (as identified by the Municipality); and to display the required site placard notice on site.
- (c) Emails were sent under the signature of "*Platinum Town Planners*". No correspondence took place under the signature of either the Ward 10 Committee or the Betty's Bay Ratepayers Association.
- (d) Yes, I (Amund Beneke) are a member of both the Ward 10 Committee and the Betty's Bay Ratepayers Association (BBRA). But never was this "*position*" mis-used to influence any member of these two Committees or the public in general.
- (e) There was confusion within the BBRA as the Chairperson referred the Application sent to the BBRA for comment / input was referred to me for input. It was immediately rectified - refer to Annexure I, which is self-explanatory.
- (f) Please also refer to Annexure J submitted with the "*Public Participation Process Affidavit*".

8) WESTERN CAPE GOVERNMENT: LAND-USE MANAGEMENT (Annexure K):

No objection.

Please note that we hereby reserve our Client's rights to elaborate on the afore-mentioned Response Points, or any other points that might come to the fore.

Please acknowledge receipt of this Letter.

If there are any queries, please communicate directly with the Writer on 072 184 9621 or amund@vodamail.co.za. Alternatively, phone Pieter on 083 226 1316.

Thank you

Amund
31/03/2025

amund@vodamail.co.za

From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Tuesday, 04 March 2025 12:24
To: amund@vodamail.co.za
Cc: 'Pieter de Haas'
Subject: RE: STATUS UPDATE - Portion 78 of Farm No 559, Hangklip Smallholdings (4561/2024)

Dear Amund

Your request for extension of time refers.

An additional period of time until 31 March 2025 is hereby granted to submit the response.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning
Directorate: Planning & Development, Overstrand Municipality, Hermanus
A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
T: 028 313 8900 | E: loretta@overstrand.gov.za

From: amund@vodamail.co.za <amund@vodamail.co.za>
Sent: Monday, 03 March 2025 08:05
To: Loretta Gillion <loretta@overstrand.gov.za>
Cc: 'Pieter de Haas' <pieter@platinumtownplanners.co.za>; Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Subject: FW: STATUS UPDATE - Portion 78 of Farm No 559, Hangklip Smallholdings (4561/2024)

Hallo Loretta;

Trust you are well?

Referring to the email (dated 05 February 2025) below and attachments, can you please extent the period for a Response to **31 March 2025**?


Thanks 😊

Regards / Groetnis

Amund

Amund Beneke Pr. PLN (A/680/1992) // MSAACPP // MPRE 1137487
 M. Comm (Business Management // B. Art et Scien (Town-planning)
 Director: Platinum Town and Regional Planners CC
 Director: Platinum Town Properties (PTY) Ltd
 Director: Platinum Town Project Management (PTY) Ltd

Exciting news: We have a new Office in the Overstrand Municipal Area to serve the Western Cape / Eastern Cape / Northern Cape Areas.

 <p>Platinum TOWN PLANNERS</p>	<p><u>Overstrand Office</u></p> <p>52 Seaview Drive, Betty's Bay Cell: 072 184 9621 Email: amundpaul@gmail.com amund@vodamail.co.za</p>	<p><u>Pretoria Office</u></p> <p>61 Woodlands Avenue, Pecanwood Cell: 083 226 1316 Email: pieter@platinumtownplanners.co.za dehaas@telkomsa.net</p>
--	--	---

From: Loretta Gillion <loretta@overstrand.gov.za>

Sent: Wednesday, 05 February 2025 10:51

To: amund@vodamail.co.za

Subject: STATUS UPDATE - Portion 78 of Farm No 559, Hangklip Smallholdings (4561/2024)

Dear Amund

Your application submitted on 8 January 2024 refers.

Attached please find a copy of one (1) comment/objection received from the Pringle Bay Ratepayers Association on 18 December 2024.

Comments from the following external departments were received during the public participation process and is also attached for your attention:

- Western Cape Government: Department of Infrastructure (Road Planning)
- Western Cape Government: DEADP (Planning)
- Western Cape Government: DEADP (Environmental)
- Western Cape Government: DEADP (Coastal Management)
- Cape Nature

OUTSTANDING

- ✚ Western Cape Government: Agriculture
- ✚ Four (4) internal department comments

.Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning

Directorate: Planning & Development, Overstrand Municipality, Hermanus

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | E: loretta@overstrand.gov.za

Overstrand Municipality

A: 1 Magnolia Street,
Hermanus, 7200

P: P.O Box 20, Hermanus,
7200

T: +27 (0)28 313 8000 | F:
+27 (0)28 312
1894

E:

enquiries@overstrand.gov.za

W: www.overstrand.gov.za



Vision Statement: "To be a centre of excellence for the community"

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**Overstrand
Municipality****A:** 1 Magnolia Street,
Hermanus, 7200**P:** P.O Box 20, Hermanus,
7200**T:** +27 (0)28 313 8000 | **F:**
+27 (0)28 3121894</div>

E:

enquiries@overstrand.gov.za

W: www.overstrand.gov.za

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4

TP - A Theart
(H vld Stoop)

Loretta Gillion

From: Leandra Knoetze <lknoetze@capenature.co.za>
Sent: Thursday, 23 January 2025 11:31
To: amund@vodamail.co.za
Cc: 'Pieter de Haas'; Loretta Gillion; Loretta Gillion; admin@kogelbergbiosphere.org.za
Subject: RE: PORTION 78 OF FARM 559, HANGKLIP SMALL HOLDINGS

Good morning, Amund

I am well thanks – hope you are too!

Thank you so much for providing us with the requested and additional information regarding the Consent Uses and removal of Restrictive Title Deed condition application for Portion 78 of Farm 559 (Hangklip) – Animal/Wildlife Rehabilitation Centre.

All our questions and concerns were adequately addressed and after looking at the Title Deed Conditions, we are satisfied that this application (removal of Restrictive Title Deed Conditions) won't have any major impacts on biodiversity.

CapeNature, therefore does not object to this application, provided that the bush cutting vegetation clearing method is followed, the wetland areas are avoided, and no future development takes place outside of the 0.5ha fenced area (to keep the loss of natural – Critically Endangered - vegetation to a minimum).

Enjoy the rest of your week!

Kind regards
Leandra

Leandra Knoetze
Land Use Scientist | Central Landscape



tel: 7 81 800 000 | toll free 08 270 000
email: leandra@capenature.co.za | postal: Private Bag 6014 Stella, Post 7099
physical: Ansgorslooth Naturomgebings, Jan van Riebeeck, Stellenbosch, 7600
www.capenature.org.za

FILE NO. Ptn 78/559
Hangklip
SCAN NO.
COLLABORATOR NO.
2594997

From: amund@vodamail.co.za <amund@vodamail.co.za>
Sent: Wednesday, 22 January 2025 1:28 PM
To: Leandra Knoetze <lknoetze@capenature.co.za>
Cc: 'Pieter de Haas' <pieter@platinumtownplanners.co.za>; 'Loretta Gillion' <loretta@overstrand.gov.za>; 'Loretta Gillion' <loretta@overstrand.gov.za>; admin@kogelbergbiosphere.org.za
Subject: PORTION 78 OF FARM 559, HANGKLIP SMALL HOLDINGS

CAUTION: This is an external email and may be malicious. Please take care when clicking links or opening attachments. If in any doubt, Report the Message.

Hallo Leandra;

You well?

You are referred to the Applications on Portion 78 of the Farm 559, Hangklip Small Holdings:

- **Application 1:** the amendment, suspension, or deletion of certain title restrictions in Title Deed T102546/2000 in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020); and
- **Application 2:** the request for consent use from the Overstrand Municipality in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020) for the following land-use "*agriculture place of instruction*".

Your Letter SSD14/2/6/1/7/2/559-78 _ Consent Use _ Hangklip _ Caledon, dated 13 January 2025 (attached), has further reference. Your comments are addressed below (for ease of reference it is duplicated with our response in "red"):

- **Point 1:** According to the South African Vegetation Map (2018), the proposed site supports Kogelberg Sandstone Fynbos, which is listed as a Critically Endangered vegetation type (NBA 2018). Only a small area (approximately 0.5 ha) seems to be transformed **Correct**, due to the previous development of the existing building, however the rest of the site (8.7 ha) consist of natural vegetation. **Noted and will be considered when using the area.**
- **Point 2:** Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (Northern and Eastern corners/boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed. **Noted. The conditions / suggested mitigation measures will be implemented.**
- **Point 3:** It is understood that the proposed rehabilitation centre will be located within the existing transformed portion (existing building) of the property. **Correct.** Please can you indicate the total number of enclosures or other structures that will need to be built, and the total area of vegetation that will need to be cleared. Furthermore, please clarify the proposed vegetation clearing methods that will be followed. **Please find attached the proposed lay-out of the Cages. The erection of such cages will only be allowed within the 0.5ha that may be developed. The vegetation in most cages will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be mainly split poles with wire. No permanent structures will be built.**
- **Point 4:** The application advertisement indicates that the removal, suspension, or amendment of Restrictive Title Deed Conditions B. b), d), e), o), p), r) and s) are applied for. Please can you specify what these conditions entail or alternatively send CapeNature Annexure D, for us to know if any of these conditions might have an impact on biodiversity before we submit our final comments. **The Title Deed is attached for ease of reference.**
- **Point 5:** We recommend that the Wetland areas are avoided (and clearly demarcated as No-go areas) during the construction of the animal enclosures and operation of the rehabilitation centre and that the development footprint be kept to a minimum and no

further loss of the natural vegetation occurs. Although the wetland area is part of the total 9ha, it is outside the 0.5ha to be utilised / developed. No development is planned outside of the 0.5ha (fenced area).

Trust this will suffice.

Please let me know if any additional information is needed.

Thanks 😊

Regards / Groetnis

Amund

Amund Benke Fr. PLN (A/680/1992) // MSAACPP // MPRE 1157457
M. Comm (Business Management // B. Art et Scien (Town-planning)
Director: Platinum Town and Regional Planners CC
Director: Platinum Town Properties (PTY) Ltd
Director: Platinum Town Project Management (PTY) Ltd

Exciting news: We have a new Office in the Overstrand Municipal Area to serve the Western Cape / Eastern Cape / Northern Cape Areas.



Overstrand Office

52 Seaview Drive, Betty's Bay
Cell: 072 184 9621
Email: amund@platinumtownplanners.co.za
www.platinumtownplanners.co.za

Erasmia Office

61 Woodlands Avenue, Pecanwood
Cell: 083 226 1316
Email: erasmia@platinumtownplanners.co.za
www.platinumtownplanners.co.za

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Loriaan Isaacs

From: Leandra Knoetze <lknoetze@capenature.co.za>
Sent: Monday, 13 January 2025 10:55
To: Loriaan Isaacs
Cc: Loretta Gillion
Subject: RE: Request for comment: Portion 78 of Farm 559 Hangklip Smallholding (ROR Consent Use)
Attachments: 559-78_ConsentUse_20240113.pdf

Dear Loriaan and Loretta

I hope you are doing well!

Thank you for the opportunity to comment on the Portion 78 (A portion of Portion 45) of Farm 559, Hangklip Smallholdings, A Division of Caledon: Application for removal of Restrictive Title Deed Conditions and Consent Uses: Platinum Town and Regional Planners on behalf of Kogelberg Biosphere Reserve Company and Overstrand Municipality application.

Please find attached CapeNature's comments and recommendations.
 Please can I ask you to send us a kmz/kml or shapefile of the proposed development site (Footprint of the new structures) – we need it for our records. Thanks in advance.

Enjoy the rest of your week.

Kind regards
 Leandra

Leandra Knoetze
 Land Use Scientist | Central Landscape



tel +27 21 866 8022 | call +27 83 278 0949
 email lknoetze@capenature.co.za | postal Private Bag x5014 Stellenbosch 7500
 physical Assagabosch Nature Reserve, Jonkershoek, Stellenbosch, 7599
www.capenature.co.za

From: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Sent: Thursday, 14 November 2024 10:35 AM
To: Leandra Knoetze <lknoetze@capenature.co.za>; Rhett Smart <rsmart@capenature.co.za>
Cc: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Request for comment: Portion 78 of Farm 559 Hangklip Smallholding (ROR Consent Use)

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CONSERVATION INTELLIGENCE: LANDSCAPE CENTRAL

postal Private Bag X5014 Stellenbosch 7599
 physical Assegaibosch Nature Reserve Jonkershoek
 website www.capanature.co.za
 enquiries Leandra Knoetze
 telephone +27 21 866 8022 cell +27 83 278 0949
 email lknoetze@capanature.co.za
 reference SSD14/28/1772/559-78_ConseintUse_Hangklip_Caledon
 date 13 January 2025

Loriaan Isaacs / Loretta Gillon
 Overstrand Municipality
 Directorate: Planning & Development – Town & Spatial Planning
 P.O. Box 20
 Hermanus
 7200

By email: loriaanisaacs@overstrand.gov.za / loretta@overstrand.gov.za

Dear Ms Isaacs

RE: Portion 78 (A portion of Portion 45) of Farm 559, Hangklip Smallholdings, A Division of Caledon: Application for removal of Restrictive Title Deed Conditions and Consent Uses: Platinum Town and Regional Planners on behalf of Kogelberg Biosphere Reserve Company and Overstrand Municipality.
APP ID: 4561/2024

CapeNature would like to thank you for the opportunity to comment on this application. Please note that our comments pertain primarily to impacts on biodiversity and not to the overall desirability of the project.

1. According to the South African Vegetation Map (2018), the proposed site supports Kogelberg Sandstone Fynbos, which is listed as a Critically Endangered vegetation type (NBA 2018). Only a small area (approximately 0.5 ha) seems to be transformed, due to the previous development of the existing building, however the rest of the site (8.7 ha) consist of natural vegetation.
2. Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (Northern and Eastern corners/boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed.
3. It is understood that the proposed rehabilitation centre will be located within the existing transformed portion (existing building) of the property. Please can you indicate the total number of enclosures or other structures that will need to be built, and the total area of vegetation that will need to be cleared. Furthermore, please clarify the proposed vegetation clearing methods that will be followed.

<p>OVERSTRAND MUNISIPALITEIT</p> <p>REKORDBEHEER</p> <p>13 JAN 2025</p> <p>DOCUMENT CONTROL</p> <p>OVERSTRAND MUNICIPALITY</p>
--

TP - A Theart
(Hild Steep)

FILE NO. Ptn 78/559
Hangklip
SCAN NO
COLLABORATOR NO.

TP 13 JAN 2025

4. The application advertisement indicates that the removal, suspension or amendment of Restrictive Title Deed Conditions B. b), d), e), o), p), r) and s) are applied for. Please can you specify what these conditions entail or alternatively send CapeNature Annexure D, for us to know if any of these conditions might have an impact on biodiversity, before we submit our final comments.
5. We recommend that the Wetland areas are avoided (and clearly demarcated as No-go areas) during the construction of the animal enclosures and operation of the rehabilitation centre and that the development footprint be kept to a minimum and no further loss of the natural vegetation occurs.

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

Yours sincerely



Leandra Knoetze

ANNEXURE D

Department of Infrastructure

Vanessa Stoffels

Chief Directorate: Road Planning

Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

**Western Cape
Government****Ref:** DOI/CFS/RN/LU/REZ/SUB-21/299 (Application No: 2024-11-0101)

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Attention: Ms L Isaacs

Dear Madam

PORTION 78 OF FARM HANGKLIP NO.559, CALEDON: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE

1. Letter 4561/2024 to this Branch dated 14 November 2024.
2. The subject property is located west of Bettys Bay and takes access off private road.
3. The proposal is for the following:
 - 3.1. Removal of the restrictive title deed condition.
 - 3.2. Consent use to accommodate an animal care centre to rescue, rehabilitate and release wild animals back into the wild.
 - 3.3. Consent use for a place of instruction to accommodate environmental research.
4. This Branch gives its consent for the removal of the restrictive title deed conditions B. (b), (d), (e), (o), (p), (r), and (s) on the title deed T102546/2000 for the subject property.
5. This Branch offers no objection to the proposal in terms of the Land Use Planning Act 3 of 2014.

Yours Sincerely

DD FORTUIN**For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE BRANCH****DATE: 29 JANUARY 2025**

ENDORSEMENTS

1. Overstrand Municipality
Attention: Ms L Isaacs (e-mail: loriaanisaacs@overstrand.gov.za)
2. Platinum Town and Regional Planners
Attention: Mr P De Haas (e-mail: dehaas@telkomsa.net)
3. Ms R Beukes (e-mail)
4. Mr C Cronje (e-mail)
5. Ms PZ Govu (e-mail)
6. Mr D Fortuin (e-mail)



Western Cape
Government

ANNEXURE E
Department of Environmental Affairs and Development Planning
Taryn Mouries | Melanese Schippers
Directorate: Development Management, Region 1
Taryn.Mouries@westerncape.gov.za

REFERENCE: 16/3/3/6/6/E2/27/1616/24
DATE OF ISSUE: 11 December 2024

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

Attention: Ms. Loriaan Isaacs

Tel: 028 313 8000
E-mail: loriaanisaacs@overstrand.gov.za

Dear Madam,

APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE ON PORTION 78 OF THE FARM HANGKLIP NO. 559, CALEDON.

1. The documentation received by this Directorate on 14 November 2024, refers.
2. This letter serves as an acknowledgement of receipt of the abovementioned documentation and to determine the applicability of the EIA Regulations, 2014 (as amended), with respect to the proposed development.
3. Based on the information provided by you, this Directorate notes the following:
 - 3.1. The proposal entails the removal of the restrictive conditions in Title Deed and consent use for the establishment of an animal rescue and training centre (unspecified footprint) on Portion 78 of the Farm Hangklip Farm No. 559, Caledon; and
 - 3.2. The proposed site is located outside an urban area and is zoned Agriculture.
4. Based on the mapping tools available to this Directorate, the site is mapped to contain Kogelberg Sandstone Fynbos, which is classified as a critically endangered ecosystem. Furthermore, it is noted that a portion of the proposed site falls within a floodplain wetland and is adjacent to a floodplain wetland. A non-perennial stream is also located adjacent to the proposed site.
5. You are herewith informed that the proposed development **may** constitute the following listed activities in terms of the EIA Regulations, 2014 (as amended) if the thresholds are met:

Listing Notice 1Activity Number: 12

The development of-

- (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;

where such development occurs-

- 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;

excluding-

- (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 the development and where indigenous vegetation will not be cleared.

Activity Number: 19

The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving-

- a) will occur behind a development setback;
- b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.

Listing Notice 3**Activity Number: 12**

The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

i. Western Cape

- (i) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
 - (ii) Within critical biodiversity areas identified in bioregional plans;
 - (iii) Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;
 - (iv) On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or
 - (v) On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.
6. Should the proposed development meet any of the abovementioned thresholds, Environmental Authorisation **will be** required from the competent authority prior to the undertaking of the said development:
7. The Application Form, as well as other relevant forms and guidelines, are available from this Department's website.
8. This Directorate reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully

Melanes Schippers
 Digitally signed by
 Melanes Schippers
 Date: 2024.12.11
 13:16:39 +02'00'

**pp HEAD OF COMPONENT
 ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1
 DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: Ms Penelope Aplon (Overstrand Municipality)

Email: paplon@overstrand.gov.za



Western Cape
Government

Department of Environmental Affairs and Development Planning

Kobus Munro

Directorate: Development Management (Region 2)
kobus.munro@westerncape.gov.za | Tel: 083 701 1890

ANNEXURE F

Reference: 15/3/2/12/BO3

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

REQUEST FOR PROVINCIAL PLANNING COMMENT: APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES: PORTION 78 OF FARM 559, HANGKLIP

1. Your request for comment, dated 13 November 2024, has reference.
2. Application has been made for:
 - o Consent uses for agriculture (the keeping of animals) and a place of instruction to accommodate an environmental research/other educational centre for all forms of wildlife care, rehabilitation and training.
 - o The removal of restrictive title deed conditions B.b), B.d), B.e), B.o), B.p), B.r) and B.s) as contained in Title Deed T102546/2000 of the property, to accommodate the proposed land uses on the property.
3. It is the intention of the Lessee (the Kogelberg Biosphere Reserve Company) to establish a Rehabilitation Center for injured wildlife at the subject property and a Place of Instruction to train Field Rangers in the rehabilitation of injured wildlife. It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in guest houses in Betty's Bay and Pringle Bay and will be transported on a daily basis to the intended Rehabilitation Center for training sessions.
4. The subject property is 9,10ha in extent and is zoned Undetermined. The applicant, however, indicates in his motivation that "during discussions with the Municipality it was indicated that the zoning will be changed from "Undetermined" to "Rural Zone 2: Conservation Usage (R2)" when issuing a Zoning Certificate".
5. From a provincial land use planning perspective, the following concerns are noted:
 - 5.1 The action of effecting a change of zoning during the process of preparing and issuing a zoning certificate is not condoned.
 - 5.2 Given that the Overstrand Municipality Land Use Scheme (together with the zoning map) was approved/adopted by Council, the only means by which to lawfully change a zoning (in this case from Undetermined to Rural Zone 2: Conservation Usage) is by way of an

application to rectify an error in the zoning map in terms of sections 13(5) or (10) of the Amendment By-law on Municipal Land Use Planning, 2020 or by way of a rezoning application, should it be held that existing zoning of "Undetermined" is/was not an error.

- 5.3 The Overstrand Municipality Land Use Scheme specifically provides in section 14.3 that if additional uses or development rights are required for a property zoned Undetermined, a rezoning application to another, more appropriate zone in terms of this land use scheme must be processed.
- 5.4 With regards the rectification process, it should be noted that the adoption of the integrated zoning scheme by-law (which includes both the scheme and the map) is an exclusive Council decision and any subsequent amendment, either of the scheme or the map, can only be effected by Council as prescribed in the Local Government: Municipal Systems Act 32 of 2000.
- 5.5 A zoning determination will also not be considered appropriate in the current context given that zoning determinations, where necessary, were required to be done in the preparation of the current integrated zoning scheme by-law for the scenarios provided for in sections 34(1), (2) and (3) of LUPA.
- 5.6 Should the property, however, obtain the zoning of Rural Zone 2: Conservation Usage, it is held that the proposed land use i.e. a rehabilitation center for injured wildlife and training facility for Field Rangers, does not fall within the definition of 'agriculture', i.e. the keeping of animals, but is rather described as an 'animal care centre' i.e. a place for the care of pets and other animals, operated on either a commercial or welfare basis, which is permitted as a consent use under the zonings of Agriculture Zone 1: Agriculture and Rural Zone 1: Smallholdings.
- 5.7 The keeping of animals on agricultural land is held to be the practice of raising domesticated animals on land that is primarily used for farming with animals and poultry and does not by implication include a rehabilitation centre.
- 5.8 No details have been provided with regards the extent of the Place of Instruction in order to properly assess the impact on the smallholding area. Such details should be provided to the Directorate in order for us to provide constructive comment in this regard.

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Helene Janser

CHIEF TOWN & REGIONAL PLANNER (GRADE B)



Western Cape
Government

ANNEXURE G

Department of Environmental Affairs and Development Planning

Mercia Liddle

Biodiversity and Coastal Management

Mercia.Liddle@westerncape.gov.za | Tel: 021 483 4627

CMU Reference: 17/1/8(CMU 127/2024)

The Office of the Director: Infrastructure & Planning
Town and Spatial Planning
Overstrand Municipality
P.O. Box 20
HERMANUS
7200

Attention: Ms H van der Stoep

Tel: 028 313 8900

Email: loriaanisaacs@overstrand.gov.za

RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES IN TERMS OF PORTION 78 (A PORTION OF PORTION 45) OF FARM 559, HANGKLIP SMALLHOLDINGS, A DIVISION OF CALEDON.

Good Day Madam,

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application basic assessment report received on 14 November 2024, 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".
- 1.2. The Department, in pursuant 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.

The Department has developed the next generation PCMP that includes priority objectives for the next 5 years. This PCMP was adopted on 19 May 2023 and is available upon request.

- 1.3. A key priority of the PCMP is the Estuary Management Programme, which is implemented 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. The Department is in the process of approving a series of Estuarine Management Plans.
- 1.4. The facilitation of public access to the coast is an objective of the NEM: ICMA as well as a Priority in the WC PCMP. The Department developed the Provincial Coastal Access Strategy and Plan, 2017 ("PCASP") and commissioned coastal access audits per municipal district to assist municipalities with identifying existing, historic, and desired public coastal access. These coastal access audits also identify hotspots or areas of conflict to assist the municipalities with facilitating public access in terms of Section 18 of the NEM: ICMA. The PCASP as well as the coastal access audits are available upon request.

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 proposal entails an application for Removal of Restrictive Title Deed Conditions and Consent Uses applicable to Farm 78/559 in terms of sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, namely:
 - 2.1.1.1. Removal of Restrictive Title Deed Conditions in terms of section 16(2)(f) of the municipal by-law to accommodate the proposed land uses on the property;
 - 2.1.1.2. Consent Uses: (i) agriculture to accommodate an animal care centre to rescue, rehabilitate and release wild animals back into the wild and; (ii) a place of instruction to accommodate an environmental research centre for all forms of wildlife care, rehabilitation and training.
 - 2.1.2. Be advised that according to the Western Cape Biodiversity Spatial Plan 2017, the majority of Farm 78/559 is classified as a Terrestrial Critical Biodiversity Area and the management objective of these area are to maintain them in a natural or near-natural state with no further loss of natural habitat. As such, any proposed development on the subject property may in no way interfere with ecological processes and infrastructure.
 - 2.1.3. Be advised that the subject property is not located within the Coastal Protection Zone and as such the SD: Coastal Management has no further comments on the subject

property in terms of NEM: ICMA. The municipality is advised to obtain comments from CapeNature in this regard.

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 or withdraw its comments and request further information from you based on any information that may be received.

Yours faithfully

**leptieshaam
Bekko**

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Bekko
Date: 2024.12.19 14:59:16 +02'00'

**leptieshaam Bekko
CONTROL ENVIRONMENTAL OFFICER
SUB-DIRECTORATE: COASTAL MANAGEMENT
DATE: 19 December 2024**



PRINGLE BAY RATEPAYERS' ASSOCIATION
PRINGLEBAAI BELASTINGBETALERSVERENIGING

SARS Reg. 9101/138/16/3

NPO Reg. 214-205

www.pringlebayratepayers.co.za

P O Box 409, Pringle Bay, 7196 / Posbus 409, Pringlebaai, 7196

Chairman / Voorsitter: chairman@pringlebayratepayers.co.za / Tel: 084 222 1242

The Municipal Manager
 OVERSTRAND MUNICIPALITY
 PO BOX 20
 HERMANUS
 7200
 PER EMAIL: loretta@overstrand.gov.za

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

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DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

18 December 2024

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(Huld Stoep)

SUBJECT: PORTION 78 (A PORTION OF PORTION 45) OF FARM 559, HANGKLIP SMALLHOLDINGS, A DIVISION OF CALEDON: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES: PLATINUM TOWN AND REGIONAL PLANNERS ON BEHALF OF KOGELBERG BIOSPHERE RESERVE COMPANY AND OVERSTRAND MUNICIPALITY

PREAMBLE

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

1. ORGANISATION

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

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

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

Pln 78/559
 Hangklip
 NO.
 2574274



2. EXECUTIVE SUMMARY:

Support!

The PBRA wishes to state our support for the establishment of a Wildlife Rescue Centre. In the context of the Kogelberg Biosphere Reserve it is a service we feel is long overdue and must be pursued in accordance with applicable legislation, permitting and licencing.

We have carefully considered the subject application hence our comments and requests as follows.

OUR REQUESTS PLEASE:

2.1. In PART A we request that an Environmental Management Plan as per Clause 16.4 of the OM Land Use Scheme be commissioned by the OM from a registered environmental specialist:

2.1.1. Dealing specifically with the issue whether it is advisable to situate a use such as an injured wildlife centre next to a scenic route and whether it should not be situated elsewhere. We also reference our Part D, paragraph 9.7 in this regard.

2.1.2. We also request that the study incorporate the broader future conservation use of this municipal site, together with the adjoining discontinued municipal dumping sites, to enhance the attractiveness of the R44 scenic route.

2.2. If an environmental management plan is commissioned by the OM as requested, then no continuation of the apparent present site works by the applicant should be permitted until the OM has first approved an environmental management plan.

2.2.1. In addition to paragraph 2.2 above, we please request that building activities be halted until such time as all of the National Building Regulations and Building Standards Act 103 of 1977 requirements stated in our PART D, Paragraph 9.7 have been met, especially taking cognisance of the contribution to the scenic value of the subject property as described in the HPOZ.

2.2.2. We furthermore request (in Part C, paragraph 8.7) please that any of the consent uses, that may be granted to the applicant, be conditional for the benefit of the current owner only and that in the event of any change of ownership of the property, the consent uses granted under this application must be re-applied for.

2.2.3. We draw the attention (in PART D, paragraph 9.3 and 9.4 below) that the subject property is only entitled to one household water connection from the Buffels River water scheme. We request please that when considering the application, the OM Infrastructure Department pay special attention to the water supply and sewage treatment demands that the proposed development could potentially have.



2.2.4. We request that the OM Planning Department confirm the appropriate zoning as per our comments in PART C: paragraphs 8.5 and 8.6. We furthermore request that the OM PD please update their official zoning maps to reflect the correct zoning. ✓

2.3. If our requests as per PART A are not accepted by the OM, then, in PARTS B, C AND D we submit simplified amendments to the title deed conditions to enable the proposed use, rather than completely removing the title deed conditions, as well as other considerations. ✓

3. BACKGROUND

3.1. Municipal Notice number 194/2024 has reference.

3.2. The Motivation report states that it is the intention of the Lessee (Kogelberg Biosphere Reserve Company) to establish a Rehabilitation Centre for injured wildlife and to train Field Rangers in the rehabilitation of injured wildlife. ("Intention" being our emphasis).

3.3. The application received by us via email on 13 November 2024 from "Amund Beneke" of Platinum Town Planner addresses the aspects to achieve the development as outlined above in paragraph 3.2. To enable the said Company in this regard, simultaneous application are, therefore, submitted. These applications include:

".....

a) *Application 1: The restrictive conditions in Title Deed T102546/2000 that could impact on the proposed consent use are Conditions B. b), d), e), o); p), r) and s):*

It, therefore, is requested that the restrictive conditions be amended, suspended or deleted in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land- use Planning (2020).

b) *Application 2: The consent from the Overstrand Municipality, in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020), is requested for the following land-uses: "agriculture" and "place of instruction".*

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is zoned "undetermined". During discussions with the Municipality it was indicated that the zoning will be changed from "undetermined" to "Rural Zone 2: Conservation Usage (R2)" when issuing a Zoning Certificate.

..."



- 3.4. In the event that our request for an environmental plan as per **PART A: ENVIRONMENTAL MANAGEMENT PLAN A** is not accepted, we comment and request in the alternative as follows.

Our comments follow in five parts, namely:

PART A: ENVIRONMENTAL MANAGEMENT PLAN

PART B: WHICH IS ADVISABLE: AN AMENDMENT OF A TITLE DEED CONDITION OR ITS COMPLETE REMOVAL?

PART C: DESIRABILITY AND SPATIAL SUSTAINABILITY

PART D: GENERAL COMMENTS

4. PART A: ENVIRONMENTAL MANAGEMENT PLAN

- 4.1. **REQUESTS PLEASE:** We request please that an Environmental Management Plan as per Clause 16.4 of the OM Land Use Scheme be commissioned by the OM, as owner of the property, from a suitably qualified environmental specialist, before proceeding further with the present application:
- 4.2. We request that the study incorporate the broader future conservation use of this municipal site, together with the adjoining discontinued municipal dumping sites, to enhance the attractiveness of the R44 scenic route.
- 4.3. We request that the study deal specifically with the present issue whether it is advisable or not to situate an apparently industrial or commercial use such as an injured wildlife centre next to a scenic route and whether it should not be situated elsewhere.
- 4.4. If an environmental management plan is commissioned by the OM as requested, then no continuation of the present site works by the applicant should be permitted until the OM has first approved an environmental management plan.
- 4.5. We therefor request that, as part of an environmental management plan for which approval is now sought, compliance with the NEMA Listings 1 and 3 requirements in respect of possible structures within 32 meters of a waterway and the clearing of fynbos of more than 300 m² respectively be specifically addressed.

5. BACKGROUND

- 5.1. The present application falls within the area of the buffer zone of the Kogelberg Biosphere Reserve (KBR), in that the area directly adjoins the KBR. In addition, CapeNature defines an area within a certain number of kilometres from a nature reserve as a "Zone of Influence". The present application is situated in such a Zone of Influence. It is also regarded as a Critical Biodiversity Area.



- 5.2. The OM already recognises the above by having formulated special protections of the environmental, scenic and tourist attractions of this section of the R44 between Gordons Bay and Kleinmond in both the "PROTECTED AREA BUFFER EMOZ" and the "SCENIC CORRIDOR HPOZ".

We submit that the OM, in furthering its above policies, should now in addition commission a study of the future use of the subject municipal sites, before approving an apparently ad hoc application such as the present.

- 5.3. The section of the R44 is generally acknowledged as a topmost scenic drive.

LONELY PLANET in its publication "EPIC DRIVES OF THE WORLD – Explore the planet's most thrilling road trips" lists the R44 as one of the top 50 scenic drives in the world.

- 5.4. We sincerely request the OM to recognise this by first commissioning an environmental management plan for the subject municipal sites next to the R44.

6. RIBBON COMMERCIAL DEVELOPMENT

We are concerned that the present and other current applications along the subject route of the R44 will amount to ribbon commercial and industrial uses, out of keeping with a world-class scenic route.

When the amendments to the OM land use legislation were published in 2019, ratepayers from a neighbouring town commented that the OM legislation opened the risk of numerous commercial uses, other than tourist accommodation, being opened along the R44, instead of being situated within the towns themselves, as conventional wisdom would indicate.

A traveller along the once-scenic Cheddar Gorge through the Mendip Hills in Somerset, England, will be struck with how a once scenic route can be irreparably spoiled by commercial stalls ribboned along the whole route. It is no surprise that LONELY PLANET does not list this route!

Request please: We therefore request that consent use applications along the R44 be limited by the OM to tourist accommodation in preference to ad hoc uses such as an injured wildlife centre.

7. PART B: WHICH IS ADVISABLE: AN AMENDMENT OF A TITLE DEED CONDITION OR ITS COMPLETE REMOVAL?

The Motivation Report is unclear what the application is for. Is it for the removal, amendment, or suspension?

- 7.1. We object against the complete removal of the present title deed condition.



In *Camps Bay Ratepayers' Association v Minister of Planning, Western Cape par 321C*, it was decided:

"When considering an application for removal of conditions of title the relevant competent authority must be mindful of the legal principles governing such applications whereby it is clear that the interests which must be served by the removal of restrictive conditions are the broader interests of the township or the area, or the public interest. The personal interest of an applicant seeking the removal of title deed conditions is therefore not the only consideration.. Moreover, the mere fact that the removal of restrictive conditions may not be *undesirable* does not mean that the removal is in fact *desirable*." (our emphasis)

- 7.2. We object against the apparent practice of the overbroad removal of title deed conditions, an action that affects all property owners as holders of praedial or other rights along the HPOZ: R44 Scenic Route as well as the present Pringle Bay township extensions.
- 7.3. In a previous appeal decision by the OM Appeal Authority, it was rightly pointed out, in line with common professional knowledge, that *"Restrictive conditions on a title deed are placed for a specific reason and the removal of these conditions should not be considered lightly"*. The allowable land use restrictions per the title deed restriction are in our opinion essential for maintaining the spatial character of Pringle Bay and surrounds as is the case in terms of the utilisation (zoning or usage) of the subject conservation use zoned smallholding.
- 7.4. We submit that it is especially not desirable that a title deed restriction be removed in order to legalise a proposed new structure (or for that matter to legalise an apparent illegal building), nor is it desirable to remove a restrictive Title Deed condition in an attempt to allow a consent use described in the Scheme Regulations.

On Page 3 of the Motivation Report, the following is stated:

"Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights: the removal, suspension, or amendment of Conditions B. b), d), e), o); p), r) and s) will only remove some of the conditions in the applicable Title Deed. " (... will only remove some of the conditions" being our emphasis) It is the ONLY suggestion that the applicant is indeed seeking the REMOVAL of the restrictive Title Deed Conditions

We object to this overbroad removal proposal and instead propose to rather consider an amendment to the said conditions to read as follows:

"B

(o) The land must [shall] be used only for the purposes of conservation usage as defined in a land use scheme approved and adopted by any properly constituted



Local Authority [agriculture and the breeding and keeping of domestic animals, poultry and/or bees] provided that no goats or pigs may be kept except with the express written consent of the seller which consent shall in any case not be given for Portions 58, 59, 60, 61, 62, 64, 79 and 80.

(p) Only buildings and structures required for bona fide conservation purposes [to be used as dwellings and farm buildings] shall be erected on the land."

Notes:

We submit that the term "Conservation Usage" in the title deed condition, as we propose, will solve the applicant's problem, as it will include the rehabilitation of injured wildlife. The attempt by the applicant to classify the rehabilitation of wildlife under "farming" is in our opinion unfounded, as the subject activity can never be regarded as game farming in the ordinary understanding of the word "agriculture".

The reference to the keeping of goats and pigs needs to be retained as it cannot be removed without the consent of the seller, the present Hangklip Beach Properties CC. The reference is by no means unnecessary, as a recent high court case about the stench caused by pig farming illustrates.

See paragraph 9.6 below: The reference in title deed condition B (q) to 892 square metre appears to be a typing error. It should possibly have read 92, not 892. 92 square metre would be in line with the universally accepted preferable minimum floor coverage for dwellings.

The proposed changes tie in with the wording used in the title deed as well as that of the OM Land Use Scheme regulations.

We draw the attention of the Municipal Planning Tribunal to the common professional knowledge that title deed conditions and scheme regulations serve different purposes, and that a title deed condition cannot be removed, as the application would imply, because a scheme regulation covers the consent use (a non-allowable so-called "blanket removal", on the basis that more restrictive scheme regulations "cover" the situation).

We draw the applicant's attention to the fact that it is not sufficient merely to get the municipality to have the relevant building plans approved as required by the town planning scheme. The law in this respect is quite clear:

- (a) A municipality's zoning scheme does not override title deed conditions (Camps Bay Ratepayers Association v Minister of Planning, Western Cape supra 324).*
- (b) A consent by a local authority in terms of a town planning scheme does not per se authorise the use of an erf contrary to its registered restrictive title*



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conditions (Malan v Ardconnel Investments (Pty) Ltd supra 40E). (refer to paragraph 2.7 herein).

7.5. We request please that the Municipal Planning Tribunal favourably consider our plea above. We request that no removal of the Title Deed condition be considered, but rather an appropriate amendment in line with the consent use applicable to the final zoning of the subject property.

8. PART C: DESIRABILITY AND SPATIAL SUSTAINABILITY.

8.1. We object to the notion that is it desirable to remove a restrictive title deed condition only to allow the Scheme Regulations to take effect. Refer to our paragraphs 7.4 and 7.5 above.

8.2. The applicant on page 5 of the Motivation Report states:

"The Overstrand Municipality Spatial Development Framework (SDF)(2020) regards the R44 from (i.e.) Gordonsbaai to Kleinmond as a Development corridor.

In general terms can a development corridor be defined as "geographical area identified as a priority for investment to catalyze economic growth and development". Along this R44-Corridor is coastal towns such as Rooi Els, Pringle Bay, Betty's Bay and Kleinmond located. The R44-Corridor links with the R43-Development Corridor (Hermanus / Stanford / Gansbaai) further on.

Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is earmarked as a Farm Portion that lies withing the following Zones:

- *Environmental Management Overlay Zone (EMOZ). An EMOZ is purposed at regulating land uses within environmental sensitive areas to affect the preservation thereof; and*
- *Heritage Protection Overlay Zone (HPOZ). An HPOZ is purposed at regulating land uses within heritage sensitive areas to affect the preservation thereof.*

The proposed consent use for the land-uses "agriculture" and "place of instruction" to establish/operate a Rehabilitation Center for injured wildlife will have no negative impact on either Zone. "

We object to this statement. We do not see how the applicant in terms of the "Spatial Sustainability" addresses the impact of the proposal on:

- i) The requirements of the Heritage Protection Overlay Zone in general and in particular the "SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ")"**
- ii) The impact on the Kogelberg Biosphere Reserve, especially given that the proposed development lies within the so-called identified "Buffer Zone". We submit that it is appropriate for the applicant to consider the various Environmental Management Overlay Zones (EMOZ).**
- iii) The impact on the environment in general as per the requirements of NEMA.**



- 8.3. We also draw the attention to the SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ") paragraph 8.2 of which reads:

"8.2 Outdoor spaces must be designed so that the landscape appears to flow throughout the site. Extensions on coverage will be discouraged." (Our emphasis)

- 8.4. The PBRA in their email of 17 November 2024 requested a copy of the complete application including, but not necessarily limited to the conveyancer certificate, title deed, original approval documentation and zoning certificate. The OM Planning Department (PD) kindly replied and forwarded same via email dated 21 November 2024.
- 8.5. We submit that the above-mentioned included the Zoning Certificate for the subject property. It states:

"Zoning: Rural Zone 2: Conservation Usage (R2)"

Conversely, however, the applicant on page 3 of the Motivation Report states:

"Portion 78 (a portion of Portion 45) of the farm Hangklip 559 is zoned "undetermined". During discussions with the Municipality it was indicated that the zoning will be changed from "undetermined" to "Rural Zone 2: Conservation Usage (R2)" when issuing a Zoning Certificate. "

The PBRA in their comments on PORTION 156 OF FARM HANGKLIP 559, DIVISION CALEDON: APPLICATION FOR CONSENT USES AND DEPARTURES: WRAP (obo B TOPHAM), in our submission of 12 August 2022, paragraph 3, among others wrote:

".....

- 1.1.1. *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."*

...."

The Town Planner's response in the report to the MPT was (we assume Ms H van der Stoep : SACPLAN registration number: **A/1708/2013**):

"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."

We question the validity of this statement especially using it as a blanket approach to all properties between Rooiels and Kleinmond that currently are zoned "Undetermined", especially considering the description of this zoning category quoted above as being a very strong intention in favour of protecting the environmental and heritage significance of the R44 SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ"). This is in stark contradiction to the applicant's statement and interpretation in this regard, who considers it is as a *"... geographical area identified as a priority for investment to catalyze economic growth and development ..."*



We therefore object to the blanket application for rezoning of Underdetermined to Conservation Usage, the latter that comes with several land uses which are not necessarily conducive towards achieving the desired objectives of the EMOZ and HPOZ.

We submit that Schedule 2 of Bylaw- Overstrand Municipality Land Use Scheme 2020 lists for R2 the following consent uses:

"Consent uses are: 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."

The surrounding properties are all either Nature Reserve or zoned as "Underdetermined". Allowing a rezoning such as is indicated in the application is in our opinion not in the spirit of the EMOZ or the HPOZ.

As per Schedule 2 of the Overstrand Municipality Amendment By-law on Municipal Land Use Planning 2020, the applicable consent uses are:

"Consent uses are: dwelling units, cemetery, conference facility, dwelling house, hospital, institution, recreational facilities, residential building, transmission apparatus (subject to the provisions of Chapter 16.10) and urban agriculture."

- 8.6. We request that the OM PD in their recommendation to the Municipal Planning Tribunal confirm that the zoning remains as Underdetermined until such time as a proper allocation for rezoning has been issued allowing for public comment.
- 8.7. We furthermore request please that any of the consent uses that may be granted to the applicant, be conditional for the benefit of the current owner only and that in the event of any change of ownership of the property, the consent uses granted under this application must be re-applied for.

9. PART D : GENERAL COMMENT

- 9.1. We question whether it is not the responsibility of the OM Planning Department to distribute the application/Notice to all relevant parties? With the Applicant apparently having sent out emails via the Ward Committee to Bettys Bay Ratepayers' Association and Pringle Bay Ratepayers' Association via a private email address, and stating *"If there are any questions, please contact me via email amund@voiamail.co.za or at 072 184 9621"*. We question the validity of the OM to use members on the Ward Committee who is also a Planner in a private practice to distribute official municipal matters and to receive queries on behalf of the OM on matters that according to the Municipal Systems Act is supposed to be



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handled by the OM itself. Was this compliant with the Municipal Systems Act and/or Protection Of Personal Information Act (POPIA)?

- 9.2. It is not clear to us from the application documentation whether notice of the application had been sent to all the holders of praedial rights against the subject property, namely the owners of the smallholdings into which Portion 45 had been subdivided. ✓

On Page 6 of the Motivation Report the applicant states:

"The required public participation process, in accordance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, will be sufficiently dealt with via the advertising of the proposed Suspension/Amendment/Deletion of certain Restrictive Title Conditions and Consent Use Application. The respective rights and all those affected will be adequately addressed during this process. The "*audi alterum partum*-rule", therefore, will have been complied with. The intrinsic knowledge of the process and the distribution of the Application to internal and external parties (where applicable) will also lead indisputably to the adherence of this requirement." Done ✓

It is common professional knowledge that the present title deed creates praedial rights in favour of all the owners of the smallholdings into which Portio 45 had been subdivided. The title deed states: ✓

"B: to and ENTITLED to the benefit of the following special conditions imposed in Deed of Transfer No T2011/1958 by Hangklip Beach Estates Limited in favour of itself and the owner of any portion of the said Portion 45 of the Farm Hangklip, namely:"

We therefore disagree with the applicant's apparent interpretation as per above that notice need not be given to the other property owners with praedial rights. } ? a. Inquest

- 9.3. The applicant mentions in the Motivation Report on Page 13:

"Engineering services infrastructure (i.e. electricity, water, sewer and storm water drainage) are readily available." Water Supply being our emphasis.

We request more information about the legitimacy of the existing water connection. According to our understanding the current water supply is from the same bulk supply pipeline from the Buffelsdam Purification Works, also serving part of Betties Bay, and it is supposed to be only one connection serving a single residential dwelling. It would be beneficial for the applicant to ensure that the referenced water connection is: Not Technical services to deal with

- i) In fact, in accordance with the demand for land uses applied for; and
- ii) In accordance with the applicable Water Use Licence (if any) or permit(s)

- 9.4. We notice on page 13 of the Motivation Report, the applicant states the following:



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"Engineering services infrastructure (i.e. electricity, water, sewer and storm water drainage) are readily available." Sewer being our emphasis.

We fail to see how the applicant motivates the existing capacity versus the potential demand based on the application for consent uses. We request that the applicant be requested to fully address sewage demand vs existing capacity as well as the functional status of the existing tank, especially given that the seepage of the effluent feeds into the nearby wetland area. We request that consideration be given to performing at least a Basic Assessment Report in terms of the NEMA requirements to determine the possibility of contamination due to seepage on the nearby wetland.

OM
Technicians
Site Visit

Furthermore, the applicant on the Site Plan dated April 2024, (Annexure H of the application) indicates that a "TANK" is located close to the western boundary of the subject portion. We assume it is a reference to the Sewer Conservancy Tank. We question the location of this tank and request that the responsible OM department conducts a site investigation to determine the accuracy of the Site Plan in this regard. The natural slope of the land does not favour the indicated location.

- 9.5. We are also aware of the so-called "Task Group" under the leadership of the Kogelberg Biosphere Reserve Company, also the applicant in this subject matter, to investigate the occurrence of road kills along the R44. The applicant, demonstrating no regard to the potential increase of traffic as result of the activities foreseen at the proposed rescue centre, is in our opinion contradicting their own *bona fides*.
- 9.6. The applicant will most probably be continuously in breach of their lease agreement (Annexure G to the Application) on the one hand and on the other the lease agreement being in contradiction with the Title Deed Conditions. An example:

The applicant on page 4 of the Motivation Report states:

"The following needs to be noted:

- *It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in the Guest Houses in Betty's Bay and Pringle Bay. They will be transported on a daily basis to the intended Rehabilitation Center for training sessions; and*
- *Only a Caretaker will reside on the Farm on a permanent basis. "*

The Lease agreement however states:

"5.4. The LESSEE shall ensure that the Leased Premises, including the buildings and structures thereon, is property secured and protected during and after the close of business and shall ensure itself that no person is left on the Leased Premises at the time on closing and that no person resides overnight on the Leased Premises. The LESSEE shall be held liable for any damage or loss that may occur from such neglect.



5.5. The LESSEE shall ensure that no person uses the Leased Premises for residential purposes."

The Title Deed states:

o)

p) Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.

q) Each dwelling erected on the land shall be designed for a single family. The first dwelling to be erected shall have a superficial area of at least 892 square metre excluding outbuildings and all additional dwellings shall have a superficial area of at least 40.2 square metre each. (The reference to 892 square metre appears to be a typing error. It should possibly have read 92, not 892)

r) Outbuildings to serve any dwelling shall not except with the written consent of the seller first had and obtained, be erected prior to the dwelling house which shall be a complete dwelling and not one partly built and intended for completion at a later stage.

s) No boarding houses, flats, maisonettes, hotels, shops, public garage or filling station, business premises, canteen, restaurant, bioscope, ...

Several similar contradictions between the three regulating documents seem to occur between these documents. We request please that the application be withdrawn, allowing the applicant to ensure conformity across all relevant documentation.

We are of the opinion that an appropriate amendment of the restrictive title deed conditions will largely resolve the contradictions.

9.7. The National Building Regulations and Building Standards Act 103 of 1977 address the issue of preparing, submitting and getting approval for building plans, among other, as follows

If the owner's existing dwelling is to be extended or new buildings are to be erected, the owner would have to have the necessary building plans prepared and approved by the municipality. In this respect it is necessary to have regard to sections 5(1), 6(1) and 7(1) of the National Building Regulations and Building Standards Act 103 of 1977 which read as follows:

"....

5(1) (A) local authority shall appoint a person as building control officer in order to exercise and perform the powers, duties or activities granted or assigned by or under this Act.

6(1) A building control officer shall –



- (a) make recommendations to the local authority in question, regarding any plans, specifications, documents and information submitted to such local authority in accordance with s 4(3) ...

7(1) If a local authority, having considered a recommendation referred to in s 6(1)(a) –

- (a) is satisfied that the application in question complies with the requirements of this Act and any other applicable law, it shall grant its approval in respect thereof;
- (b) (i) is not so satisfied; or
- (ii) is satisfied that the building to which the application in question relates –
- (aa) is to be erected in such manner or will be of such nature or appearance that –
- (aaa) the area in which it is to be erected will probably or in fact be disfigured thereby;
- (bbb) it will probably or in fact be unsightly or objectionable;
- (ccc) it will probably or in fact derogate from the value of adjoining or neighbouring properties;
- (bb) will probably or in fact be dangerous to life or property

such local authority shall refuse to grant its approval in respect thereof and give written reasons for such refusal.”

“....

We wish to emphasise (ii)(aa) and (ii)(bb) above.

The article by Prof Henk Delpont, professor of law: Nelson Mandela University “THE ESTABLISHMENT OF A GUESTHOUSE ON A RESIDENTIAL PROPERTY: COMPLYING WITH RESTRICTIVE CONDITIONS OF TITLE AND TOWN PLANNING SCHEME PROVISIONS: OBITER 2007” includes, among other, the following paragraphs which have been extracted from the above article:

“This is where the first level of opposition may be encountered. But even if the adjoining owners have not been consulted, they will obviously become aware of developments on their neighbour’s property once the building work commences. The moment that the true nature of the development becomes known, aggrieved neighbours may seek to have the municipality’s approval of the building plan set aside on the grounds that the municipality had not appointed a building control officer as required by section 5(1) of the Act; that such officer (if appointed) had not made any recommendations regarding the building plan in question as required by section 6(1)(a); or that the municipality had not applied its mind to the matter properly having regard to the factors listed in section 7(1)(b)(ii)(aa){aaa}- (ccc). The usual argument raised by aggrieved adjoining owners is that the new structures are unsightly and objectionable, and would probably or in fact derogate from the value of adjoining or neighbouring properties.

.....



Section 7(1) in express terms imposes an obligation on a municipality to refuse the approval of a building plan (i) if it is not satisfied that the application for approval of the plan complies with the requirements of the Act and any other applicable law, or (ii) once it is satisfied that one of the factors listed in subsections (b)(ii)(aa)(aaa)-(ccc) or subsections (b)(ii)(bb) is present. In these circumstances the municipality has no discretion to refuse the approval; it must do so." (our emphasis).

Taking cognisance of the above-mentioned, we please request that building activities be halted until such time as all of the above stated National Building Regulations and Building Standards Act 103 of 1977 requirements have been met, especially taking cognisance of the contribution to the scenic value of the subject property as described in the HPOZ.

10. CONCLUSION

- 10.1. We submit that there are so many issues with the present apparently ad hoc application for the use of municipal land, right next to an environmentally sensitive heritage protected scenic route, that the application be referred back to the applicant.**
- 10.2. We also submit that it might be advisable for the OM to first consider an environmental plan for the future use of its subject municipal properties next to the R44 Scenic Route, to conform with its heritage protection policies for the scenic route, prior to leasing it out.**

We sincerely request that you will please be so kind to acknowledge receipt of our objections and to take the necessary steps outlined above.

Kind regards

AW Vorster
Obo: Pringle Bay Ratepayers' Association

**PORTION 78 OF HANGKLIP SMALLHOLDINGS 559: NOTICE 194/2024**

From Bertie Vorster <bvwossie04@gmail.com>

Date Wed 18-Dec-24 12:08 PM

To Loretta Gillion <loretta@overstrand.gov.za>

Cc chairman@pringlebayratepayers.co.za <chairman@pringlebayratepayers.co.za>; Heather Morkel <secretary@pringlebayratepayers.co.za>

1 attachment (521 KB)

PBRA - Portion 78 of 559 - Comments (FINAL).pdf;

Dear Ms Gillion

Please refer to the Municipal Notice number 194/2024 which we received via the trailing email from "Amund Beneke" of Platinum Town Planners dated 13 November 2024 and also as advertised in the Overstrand Herald of 14 November 2024 related to the subject matter.

As per the request on behalf of our members, we hereby submit our comments related to the subject matter.

The attached document titled "**PBRA - Portion 78 of 559 - Comments (FINAL).pdf**" addresses our interest in the application as well as our comments.

Through this submission we consider ourselves as registered parties wishing to receive all future relevant communication in this regard. Communications can be via email to chairman@pringlebayratepayers.co.za and CC secretary@pringlebayratepayers.co.za and bvwossie04@gmail.com

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

Yours Sincerely

AW Vorster
obo PBRA

On 21 Nov 2024, at 09:17, Loretta Gillion <loretta@overstrand.gov.za> wrote:

Dear Mr Vorster

ANNEXURE I**amund@vodamail.co.za**

From: amund@vodamail.co.za
Sent: Wednesday, 13 November 2024 09:37
To: 'Bettysbay Ratepayers'
Cc: 'Pieter de Haas'
Subject: RE: PORTION 78 OF HANGKLIP SMALLHOLDINGS 559

Hallo Wayne;

I cannot respond as it is my Application 😊

Regards / Groetns

Amund

Amund Beneke Fc. PLN (A/680/1992) // MSAACPP // MPRE 1137487
 M. Comm (Business Management // B. Art et Scien (Town-planning)
 Director: Platinum Town and Regional Planners CC
 Director: Platinum Town Properties (PTY) Ltd
 Director: Platinum Town Project Management (PTY) Ltd

Exciting news: We have a new Office in the Overstrand Municipal Area to serve the Western Cape / Eastern Cape / Northern Cape Areas.



Overstrand Office

52 Seaview Drive, Betty's Bay
 Cell: 072 184 9621
 Email: amundpaul@gmail.com
amund@vodamail.co.za

Pretoria Office

61 Woodlands Avenue, Pecanwood
 Cell: 083 226 1316
 Email: pieter@platinumtownplanners.co.za
pieter@telkomsa.net

From: Bettysbay Ratepayers <bettysbayratepayers@gmail.com>
Sent: Wednesday, 13 November 2024 09:33
To: amund@vodamail.co.za
Cc: chairman@pringlebayratepayers.co.za; Heather Morkel <secretary@pringlebayratepayers.co.za>; Bertie Vorster <bvossie04@gmail.com>; Pieter de Haas <pieter@platinumtownplanners.co.za>
Subject: Re: PORTION 78 OF HANGKLIP SMALLHOLDINGS 559

Thank you for the information.
 Amund please convey our position to this request.
 Kind regards
 Wayne

On Wed, Nov 13, 2024 at 9:29 AM <amund@vodamail.co.za> wrote:

TO: Betty's Bay Ratepayers Association
 Pringle Bay Ratepayers Association

Dear All;

Trust you are well?

Please find attached correspondence regarding **Portion 78 of Hangklip Smallholdings 559.**

If there are any questions, please contact me via email amund@vodamail.co.za or at 072 184 9621.

Thanks.

Regards / Groetnis

Amund

Amund Beneke Pr. PLN (A/680/1992) // MSAACPP // MPRE 1137487
 M. Comm (Business Management // B. Art et Scien (Town-planning)
 Director: Platinum Town and Regional Planners CC
 Director: Platinum Town Properties (PTY) Ltd
 Director: Platinum Town Project Management (PTY) Ltd

Exciting news: We have a new Office in the Overstrand Municipal Area to serve the Western Cape / Eastern Cape / Northern Cape Areas.



Overstrand Office

52 Seaview Drive, Betty's Bay
 Cell: 072 184 9621
 Email: amundpali@gmail.com
amund@vodamail.co.za

Pretoria Office

61 Woodlands Avenue, Pecanwood
 Cell: 083 226 1316
 Email: pieter@okai.nuntownplanners.co.za
dehaas@telkomsa.net

ANNEXURE J



PIETER DE HAAS (PR. PLN (A/289/1985))
 BA. Honnorus (Economics)
 B. Art. et Scien. (Planning)
 Mobile: 085 228 1318
 Email: dehaas@platinum.co.za

Postnet Suite 651
 Private Bag X15
 Somerset West
 7129

AMUND BENEKE (PR. PLN (A/680/1992))
 M.Com (Business Management)
 B. Art. et Scien. (Planning)
 Mobile: 072 184 9621
 Email: amund@vodamail.co.za


AFFIDAVIT / AFFIRMATION

TO WHOM IT MAY CONCERN

I, the undersigned, Amund Paul Beneke (Platinum Town and Regional Planners CC; 2008/161138/23), hereby declares that I serve on the following Committees:

1. Ward 10 Committee, representing "Sunny Seas"; and
2. Betty's Bay Residents Association (BBRA), Portfolio: Town-planning and Property Development.

I hereby makes an oath that I, as the Applicant regarding the Land-use Application(s) submitted on Portion 78 (a portion of Portion 45) Hangklip Smallholdings 559 and circulated to the said Committees for comment / input, did not influence any of the Committees or their members in rendering comments / inputs.

Signed: 
 On: 17/12/2024
 At: Kleinmond

I hereby certify that the deponent acknowledges that he was conversant with the contents of this statement and understood it, and that the deponent uttered the following words: "*swear that the contents of this statement are the truth and nothing but the truth, so help me God*".

SUID-AFRIKAANSE POLISIEDIENS
 COMMUNITY SERVICE CENTRE
17 DEC 2024
 CSC
 KLEINMOND
 SOUTH AFRICAN POLICE SERVICE

COMMISSIONER OF OATHS:
 DATE: 17/12/2024


 1235788-8
 Cor
 Abzoku

ANNEXURE K

Western Cape
Government

Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/976
YOUR REFERENCE : Khang 78/559
ENQUIRIES : Cor van der Walt

Overstrand Municipality
PO Box 20
HERMANUS
7200

Att: Mrs. H van der Stoep

**APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES:
DIVISION CALEDON
PORTION 78 (A PORTION OF PORTION 45) OF THE FARM NO 559**

Your application of 14 November 2024 has reference.

The Western Cape Department of Agriculture (WCDoA) has no objection to the application as proposed from an agricultural perspective.

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

Copy:

Platinum Town Planners
Email: dehaas@telkomsa.net


Mr. CJ van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT
2025-02-17

**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS & CONSENT USE: PORTION 78 (A PORTION OF PORTION
45) OF FARM 559, HANGKLIP SMALLHOLDINGS, DIVISION CALEDON
(4561/2024)**

Electricity	:	Eskom area
Stormwater	:	No services available
Water	:	No services available
Sewer	:	No services available
Roads and traffic	:	No services available

Conditions:

1. that the developer arrange with ESKOM for the provision of electricity and that he complies with all conditions as may be set by ESKOM;
2. that no water from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (Water and Sanitation, Health, BGCMA 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 Engineer: Water Infrastructure & Quality (Tel: 028 313 8972), Overstrand Municipality;
4. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and Department of Water & Sanitation for approval;
5. that the developer complies to all the conditions set by Department Of Water & Sanitation and BGCMA;
6. that, as there is currently no municipal sewer network in the vicinity, Remainder of the Farm 563 must be provided with adequate sewer conservancy tanks, which must comply with the standards of the Division: Engineering Services(Hermanus), and to which the sewer services on the development must connect to;
7. that the Municipality does not have the capacity to service the proposed development with regards to removal of sewerage from the property. The owner is therefore responsible for removal of sewerage from the property, and thereof at a licensed municipal sewerage treatment facility;

8. that alternatively, sewer treatment facilities that are approved by the Department of Water & Sanitation may be provided for disposal of sewer from the developments. Written proof of such approval is to be submitted to the Municipality;
9. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to minimum requirements of SANS 140400 – P: 2010: Drainage;
10. that stormwater discharged from higher lying properties and generated in the catchment area of Portion 78 of Farm 559 be allowed to drain freely through the property;
11. that, as no municipal refuse removal services are rendered in the area, the owner is responsible for removal of all refuse generated on the property, and disposal thereof at a registered municipal waste transfer station or-waste disposal facility.
12. that on-site parking facilities are provided as per the Planning Schedule, and to the satisfaction of the Division: Engineering Services;
13. that access can be obtained via the existing access routes(s) to Portion 78 of Farm 559, that any additional and / or extended vehicle entrances will be for the owner's account. The Provincial Engineer must however provide comment in this regard.


RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL


DATE

11 JUN 2025

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Loretta Gillion

Annexure H 1/3

From: Helene Janser <Helene.Janser@westerncape.gov.za>
Sent: Tuesday, 10 June 2025 12:57
To: amund@vodamail.co.za
Cc: Kobus Munro; Hanneen van der Stoep
Subject: DEA&DP Comment: PORTION 78 HANGKLIP 559

TP - A Theart
(H vld Stoep)

Dear Amund

Your email dated 28 May 2025 has reference.

The contents of your correspondence has been duly noted and this Directorate wishes to confirm that its comments on the application, dated 12 December 2024, remain unchanged.

It is acknowledged that municipal planning falls within the exclusive competence of municipalities. Accordingly, the comments provided by this Directorate were issued in an advisory capacity and may, at the discretion of the decision-maker, be taken into account during the assessment of the application.

Kind Regards

Helene Janser
Chief Town & Regional Planner: Development Management Region 2
 Department of Environmental Affairs and Development Planning
 Western Cape Government

4th Floor, Utilitas Building, 1 Dorp Street, Cape Town, 8000

Tel: +27 (0)21 483 3544
 Cell: +27 (0)84 585 2000
 Email: Helene.Janser@westerncape.gov.za
 Website: www.westerncape.gov.za/eadp



FILE NO	Ptn 78/559
	Hangklip
SCAN NO.	
COLLABORATOR NO.	2678604

Be 110% Green. Read from the screen.

Should you not be able to contact the numbers above, please call +27 (0)21 483 4091 between 7:30 -16:00.

From: amund@vodamail.co.za <amund@vodamail.co.za>
Sent: Tuesday, June 10, 2025 10:23 AM
To: Kobus Munro <Kobus.Munro@westerncape.gov.za>
Cc: 'Pieter de Haas' <dehaas@telkomsa.net>; 'Loriaan Isaacs' <loriaanisaacs@overstrand.gov.za>
Subject: FW: PORTION 78 HANGKLIP 559 : COMMENTS FROM WESTERN CAPE GOVERNMENT: DEPARTMENT OF

TP

10 JUN 2025



Reference: 15/3/2/12/BO3

TP- A Thearts
(Hvd Stoop)

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

FILE NO.	Ptn 78/559-Hangklip ✓
SCAN NO.	
COLLABORATOR NO.	2571552

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
13 DEC 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

REQUEST FOR PROVINCIAL PLANNING COMMENT: APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES: PORTION 78 OF FARM 559, HANGKLIP

1. Your request for comment, dated 13 November 2024, has reference.
2. Application has been made for:
 - o Consent uses for agriculture (the keeping of animals) and a place of instruction to accommodate an environmental research/other educational centre for all forms of wildlife care, rehabilitation and training.
 - o The removal of restrictive title deed conditions B.b), B.d), B.e), B.o), B.p), B.r) and B.s) as contained in Title Deed T102546/2000 of the property, to accommodate the proposed land uses on the property.
3. It is the intention of the Lessee (the Kogelberg Biosphere Reserve Company) to establish a Rehabilitation Center for injured wildlife at the subject property and a Place of Instruction to train Field Rangers in the rehabilitation of injured wildlife. It is not the intention of the Lessee to accommodate any students on the Farm Portion. They will be accommodated in guest houses in Betty's Bay and Pringle Bay and will be transported on a daily basis to the intended Rehabilitation Center for training sessions.
4. The subject property is 9,10ha in extent and is zoned Undetermined. The applicant, however, indicates in his motivation that "during discussions with the Municipality it was indicated that the zoning will be changed from "Undetermined" to "Rural Zone 2: Conservation Usage (R2)" when issuing a Zoning Certificate".
5. From a provincial land use planning perspective, the following concerns are noted:
 - 5.1 The action of effecting a change of zoning during the process of preparing and issuing a zoning certificate is not condoned.
 - 5.2 Given that the Overstrand Municipality Land Use Scheme (together with the zoning map) was approved/adopted by Council, the only means by which to lawfully change a zoning (in this case from Undetermined to Rural Zone 2: Conservation Usage) is by way of an

application to rectify an error in the zoning map in terms of sections 13(5) or (10) of the Amendment By-law on Municipal Land Use Planning, 2020 or by way of a rezoning application, should it be held that existing zoning of "Undetermined" is/was not an error.

- 5.3 The Overstrand Municipality Land Use Scheme specifically provides in section 14.3 that if additional uses or development rights are required for a property zoned Undetermined, a rezoning application to another, more appropriate zone in terms of this land use scheme must be processed.
- 5.4 With regards the rectification process, it should be noted that the adoption of the integrated zoning scheme by-law (which includes both the scheme and the map) is an exclusive Council decision and any subsequent amendment, either of the scheme or the map, can only be effected by Council as prescribed in the Local Government: Municipal Systems Act 32 of 2000.
- 5.5 A zoning determination will also not be considered appropriate in the current context given that zoning determinations, where necessary, were required to be done in the preparation of the current integrated zoning scheme by-law for the scenarios provided for in sections 34(1), (2) and (3) of LUPA.
- 5.6 Should the property, however, obtain the zoning of Rural Zone 2: Conservation Usage, it is held that the proposed land use i.e. a rehabilitation center for injured wildlife and training facility for Field Rangers, does not fall within the definition of 'agriculture', i.e. the keeping of animals, but is rather described as an 'animal care centre' i.e. a place for the care of pets and other animals, operated on either a commercial or welfare basis, which is permitted as a consent use under the zonings of Agriculture Zone 1: Agriculture and Rural Zone 1: Smallholdings.
- 5.7 The keeping of animals on agricultural land is held to be the practice of raising domesticated animals on land that is primarily used for farming with animals and poultry and does not by implication include a rehabilitation centre.
- 5.8 No details have been provided with regards the extent of the Place of Instruction in order to properly assess the impact on the smallholding area. Such details should be provided to the Directorate in order for us to provide constructive comment in this regard.

Digitally signed by Helene
Janser
Date: 2024.12.12 12:02:36
+02'00'

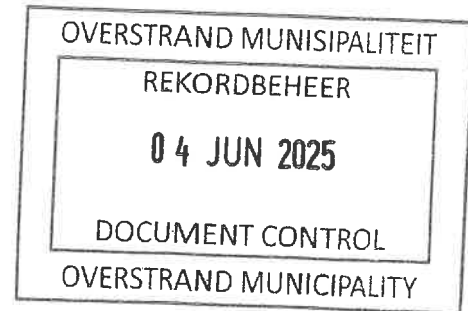
Helene Janser

CHIEF TOWN & REGIONAL PLANNER (GRADE B)

REFERENCE: 16/3/3/6/6/E2/27/1616/24**DATE OF ISSUE:** 4 June 2025

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

TP-A Theart
(H vld stoep)

**Attention: Ms. Loriaan Isaacs**

Tel: 028 313 8000

E-mail: loriaanisaacs@overstrand.gov.za

Dear Madam,

APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE ON PORTION 78 OF THE FARM HANGKLIP NO. 559, CALEDON.

1. The additional information received by this Directorate on 20 May 2025 and 21 May 2025, respectively, refers.
2. This letter serves as an acknowledgement of receipt of the additional information.
3. Based on the additional information provided by you, this Directorate notes the following:
 - 3.1. The 0.5ha area where the cages will be located was transformed by the development of buildings during 1990 which is prior to the coming into effect of the EIA Regulations promulgated in terms of the Environmental Conservation Act (Act 73 of 1989) ("ECA").
 - 3.2. The cages will consist of split poles and wire and no permanent structures will be developed;
 - 3.3. The proposed development will not result in the clearance of indigenous vegetation classified as a critically endangered ecosystem. However, the vegetation will be brushed cut; and
 - 3.4. No development will occur within or within 32m of a watercourse.
4. You are herewith informed that the proposed development **does** constitute the listed activities in terms of the EIA Regulations, 2014 (as amended).
5. This determination is based on the following:
 - 5.1. The site was lawfully transformed and will not result in the clearance of indigenous vegetation classified as a critically endangered ecosystem; and

FILE NO. Pbn 781559
Hangklip
SCAN NO. 2675411
COLLABORATOR NO.

- 5.2. No development will occur within or within 32m of a watercourse.
6. Written environmental authorisation is therefore **not required** from the competent authority prior to the undertaking of the said activity.
 7. However, should any revision of the proposed development constitute a listed activity(ies) in terms of the NEMA EIA Regulations, 2014 as defined in Listing Notices 1, 2 and 3 an application must be submitted and environmental authorisation obtained before such activity(ies) may commence.
 8. The applicant is reminded of his/her general duty of care and the remediation of environmental damage, Section 28(1) of NEMA specifically states that –“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”
 9. This Directorate reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully

**Melanese
Schippers** Digitally signed by
Melanese Schippers
Date: 2025.06.04
14:42:31 +02'00'

**pp HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: Amund Beneke (Platinum Town Planners)

Email: amund@vodamail.co.za



REFERENCE: 16/3/3/6/6/E2/27/1616/24
DATE OF ISSUE: 11 December 2024

The Municipal Manager
 Overstrand Municipality
 PO Box 20
HERMANUS
 7200

TP - A Theart
 (Huid Stoep)

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

12 DEC 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Attention: Ms. Loriaan Isaacs

Tel: 028 313 8000

E-mail: loriaanisaacs@overstrand.gov.za

Dear Madam,

APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE ON PORTION 78 OF THE FARM HANGKLIP NO. 559, CALEDON.

1. The documentation received by this Directorate on 14 November 2024, refers.
2. This letter serves as an acknowledgement of receipt of the abovementioned documentation and to determine the applicability of the EIA Regulations, 2014 (as amended), with respect to the proposed development.
3. Based on the information provided by you, this Directorate notes the following:
 - 3.1. The proposal entails the removal of the restrictive conditions in Title Deed and consent use for the establishment of an animal rescue and training centre (unspecified footprint) on Portion 78 of the Farm Hangklip Farm No. 559, Caledon; and
 - 3.2. The proposed site is located outside an urban area and is zoned Agriculture.
4. Based on the mapping tools available to this Directorate, the site is mapped to contain Kogelberg Sandstone Fynbos, which is classified as a critically endangered ecosystem. Furthermore, it is noted that a portion of the proposed site falls within a floodplain wetland and is adjacent to a floodplain wetland. A non-perennial stream is also located adjacent to the proposed site.
5. You are herewith informed that the proposed development **may** constitute the following listed activities in terms of the EIA Regulations, 2014 (as amended) if the thresholds are met:

FILE NO. Ptn 78/559

Hangklip

SCAN NO.

COLLABORATOR NO.

2571119

11 DEC 2024

Listing Notice 1Activity Number: 12

The development of-

- (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;

where such development occurs-

- 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;

excluding-

- (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 the development and where indigenous vegetation will not be cleared.

Activity Number: 19

The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving-

- a) will occur behind a development setback;
- b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.

Listing Notice 3Activity Number: 12

The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

i. Western Cape

- (i) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
 - (ii) Within critical biodiversity areas identified in bioregional plans;
 - (iii) Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on even in urban areas;
 - (iv) On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or
 - (v) On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.
6. Should the proposed development meet any of the abovementioned thresholds, Environmental Authorisation **will be** required from the competent authority prior to the undertaking of the said development:
7. The Application Form, as well as other relevant forms and guidelines, are available from this Department's website.
8. This Directorate reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully

Melanese Schippers
 Digitally signed by
 Melanese Schippers
 Date: 2024.12.11
 13:16:39 +02'00'

pp HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: Ms Penelope Aplon (Overstrand Municipality)

Email: paplon@overstrand.gov.za

Annexure J 1/3

Western Cape
Government

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

20 DEC 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Department of Environmental Affairs and Development Planning

Mercia Liddle

Biodiversity and Coastal Management

Mercia.Liddle@westerncape.gov.za | Tel: 021 483 4627

CMU Reference: 17/1/8(CMU 127/2024)

The Office of the Director: Infrastructure & Planning
Town and Spatial Planning
Overstrand Municipality
P.O. Box 20
HERMANUS
7200

TP-D/theak
(H. van der Stoep)

FILE NO.	Pin 78/559
SCAN NO.	1/longklip
COLLABORATOR NO.	2575218

Attention: Ms H van der Stoep

Tel: 028 313 8900

Email: loriaanisaacs@overstrand.gov.za

RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES IN TERMS OF PORTION 78 (A PORTION OF PORTION 45) OF FARM 559, HANGKLIP SMALLHOLDINGS, A DIVISION OF CALEDON.

Good Day Madam,

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application basic assessment report received on 14 November 2024, 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".
- 1.2. The Department, in pursuant 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.

The Department has developed the next generation PCMP that includes priority objectives for the next 5 years. This PCMP was adopted on 19 May 2023 and is available upon request.

- 1.3. A key priority of the PCMP is the Estuary Management Programme, which is implemented 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. The Department is in the process of approving a series of Estuarine Management Plans.
- 1.4. The facilitation of public access to the coast is an objective of the NEM: ICMA as well as a Priority in the WC PCMP. The Department developed the Provincial Coastal Access Strategy and Plan, 2017 ("PCASP") and commissioned coastal access audits per municipal district to assist municipalities with identifying existing, historic, and desired public coastal access. These coastal access audits also identify hotspots or areas of conflict to assist the municipalities with facilitating public access in terms of Section 18 of the NEM: ICMA. The PCASP as well as the coastal access audits are available upon request.

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 proposal entails an application for Removal of Restrictive Title Deed Conditions and Consent Uses applicable to Farm 78/559 in terms of sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, namely:
 - 2.1.1.1. Removal of Restrictive Title Deed Conditions in terms of section 16(2)(f) of the municipal by-law to accommodate the proposed land uses on the property;
 - 2.1.1.2. Consent Uses: (i) agriculture to accommodate an animal care centre to rescue, rehabilitate and release wild animals back into the wild and; (ii) a place of instruction to accommodate an environmental research centre for all forms of wildlife care, rehabilitation and training.
 - 2.1.2. Be advised that according to the Western Cape Biodiversity Spatial Plan 2017, the majority of Farm 78/559 is classified as a Terrestrial Critical Biodiversity Area and the management objective of these area are to maintain them in a natural or near-natural state with no further loss of natural habitat. As such, any proposed development on the subject property may in no way interfere with ecological processes and infrastructure.
 - 2.1.3. Be advised that the subject property is not located within the Coastal Protection Zone and as such the SD: Coastal Management has no further comments on the subject

property in terms of NEM: ICMA. The municipality is advised to obtain comments from CapeNature in this regard.

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 or withdraw 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: 2024.12.19 14:59:16 +02'00'

leptieshaam Bekko
CONTROL ENVIRONMENTAL OFFICER
SUB-DIRECTORATE: COASTAL MANAGEMENT
DATE: 19 December 2024



Western Cape Government

Department of Infrastructure

Vanessa Stoffels

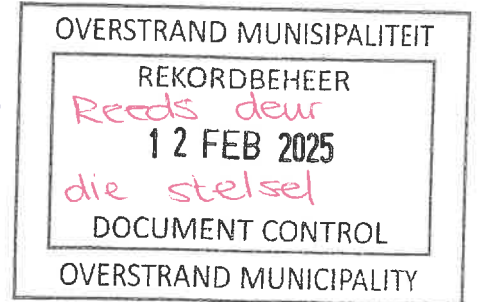
Chief Directorate: Road Planning

Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

Ref: DOI/CFS/RN/LU/REZ/SUB-21/299 (Application No: 2024-11-0101)

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

TP - A Theart
(H vld Stoep)



Attention: Ms L Isaacs

Dear Madam

PORTION 78 OF FARM HANGKLIP NO.559, CALEDON: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE

1. Letter 4561/2024 to this Branch dated 14 November 2024.
2. The subject property is located west of Bettys Bay and takes access off private road.
3. The proposal is for the following:
 - 3.1. Removal of the restrictive title deed condition.
 - 3.2. Consent use to accommodate an animal care centre to rescue, rehabilitate and release wild animals back into the wild.
 - 3.3. Consent use for a place of instruction to accommodate environmental research.
4. This Branch gives its consent for the removal of the restrictive title deed conditions B. (b), (d), (e), (o), (p), (r), and (s) on the title deed T102546/2000 for the subject property.
5. This Branch offers no objection to the proposal in terms of the Land Use Planning Act 3 of 2014.

Yours Sincerely

DD FORTUIN
For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE BRANCH
DATE: 29 JANUARY 2025

FILE NO. Ptn 78/559
Hangklip
SCAN NO.
COLLABORATOR NO.
2601694



Annexure L



Western Cape Government

Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/976
YOUR REFERENCE : Khang 78/559
ENQUIRIES : Cor van der Walt

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
21 FEB 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-A Theart
(H vld stoep)

Overstrand Municipality
PO Box 20
HERMANUS
7200

Att: Mrs. H van der Stoep

**APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USES:
DIVISION CALEDON
PORTION 78 (A PORTION OF PORTION 45) OF THE FARM NO 559**

Your application of 14 November 2024 has reference.

The Western Cape Department of Agriculture (WCDoA) has no objection to the application as proposed from an agricultural perspective.

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

2025-02-17

Copy:
Platinum Town Planners
Email: dehaas@telkomsa.net

FILE NO. Ptn 78/559
Hangklip
SCAN NO.
COLLABORATOR NO.
2612722

TP 21 FEB 2025



Annexure M 1/6

REKORDBEHEER
27 JAN 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Loretta Gillion

From: Leandra Knoetze <lknoetze@capenature.co.za>
Sent: Thursday, 23 January 2025 11:31
To: amund@vodamail.co.za
Cc: 'Pieter de Haas'; Loretta Gillion; Loretta Gillion; admin@kogelbergbiosphere.org.za
Subject: RE: PORTION 78 OF FARM 559, HANGKLIP SMALL HOLDINGS

Good morning, Amund

I am well thanks – hope you are too!

Thank you so much for providing us with the requested and additional information regarding the Consent Uses and removal of Restrictive Title Deed condition application for Portion 78 of Farm 559 (Hangklip) – Animal/Wildlife Rehabilitation Centre.

All our questions and concerns were adequately addressed and after looking at the Title Deed Conditions, we are satisfied that this application (removal of Restrictive Title Deed Conditions) won't have any major impacts on biodiversity.

CapeNature, therefore does not object to this application, provided that the bush cutting vegetation clearing method is followed, the wetland areas are avoided, and no future development takes place outside of the 0.5ha fenced area (to keep the loss of natural – Critically Endangered - vegetation to a minimum).

Enjoy the rest of your week!

Kind regards

Leandra

Leandra Knoetze
 Land Use Scientist | Central Landscape



tel +27 21 866 8022 | cell +27 83 278 0949
 email lknoetze@capenature.co.za | postal Private Bag x5014 Stellenbosch 7599
 physical Assegaibosch Nature Reserve, Jonkershoek, Stellenbosch, 7599
 www.capenature.co.za

FILE NO. Ptn 78/559
Hangklip
SCAN NO.
COLLABORATOR NO.
2594997

From: amund@vodamail.co.za <amund@vodamail.co.za>
Sent: Wednesday, 22 January 2025 1:28 PM
To: Leandra Knoetze <lknoetze@capenature.co.za>
Cc: 'Pieter de Haas' <pieter@platinumtownplanners.co.za>; 'Loretta Gillion' <loretta@overstrand.gov.za>; 'Loretta Gillion' <loretta@overstrand.gov.za>; admin@kogelbergbiosphere.org.za
Subject: PORTION 78 OF FARM 559, HANGKLIP SMALL HOLDINGS

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Hallo Leandra;

You well?

27 JAN 2025

You are referred to the Applications on Portion 78 of the Farm 559, Hangklip Small Holdings:

- **Application 1:** the amendment, suspension, or deletion of certain title restrictions in Title Deed T102546/2000 in terms of Sections 16(2)(f) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020); and
- **Application 2:** the request for consent use from the Overstrand Municipality in terms of 16(2)(o) of the Overstrand Municipality Amendment By-law on Municipal Land-use Planning (2020) for the following land-use "*agriculture place of instruction*".

Your Letter SSD14/2/6/1/7/2/559-78 _ Consent Use _ Hangklip _ Caledon, dated 13 January 2025 (attached), has further reference. Your comments are addressed below (for ease of reference it is duplicated with our response in "**red**"):

- **Point 1:** According to the South African Vegetation Map (2018), the proposed site supports Kogelberg Sandstone Fynbos, which is listed as a Critically Endangered vegetation type (NBA 2018). Only a small area (approximately 0.5 ha) seems to be transformed **Correct**, due to the previous development of the existing building, however the rest of the site (8.7 ha) consist of natural vegetation. **Noted and will be considered when using the area.**
- **Point 2:** Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (Northern and Eastern corners/boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed. **Noted. The conditions / suggested mitigation measures will be implemented.**
- **Point 3:** It is understood that the proposed rehabilitation centre will be located within the existing transformed portion (existing building) of the property. **Correct.** Please can you indicate the total number of enclosures or other structures that will need to be built, and the total area of vegetation that will need to be cleared. Furthermore, please clarify the proposed vegetation clearing methods that will be followed. **Please find attached the proposed lay-out of the Cages. The erection of such cages will only be allowed within the 0.5ha that may be developed. The vegetation in most cages will not be cleared. If needed, only bush cutting will be done. The roots of these bushes will not be disturbed. The cage structures itself will be mainly split poles with wire. No permanent structures will be built.**
- **Point 4:** The application advertisement indicates that the removal, suspension, or amendment of Restrictive Title Deed Conditions B. b), d), e), o), p), r) and s) are applied for. Please can you specify what these conditions entail or alternatively send CapeNature Annexure D, for us to know if any of these conditions might have an impact on biodiversity before we submit our final comments. **The Title Deed is attached for ease of reference.**
- **Point 5:** We recommend that the Wetland areas are avoided (and clearly demarcated as No-go areas) during the construction of the animal enclosures and operation of the rehabilitation centre and that the development footprint be kept to a minimum and no

further loss of the natural vegetation occurs. **Although the wetland area is part of the total 9ha, it is outside the 05.5ha to be utilised / developed. No development is planned outside of the 0.5ha (fenced area).**

Trust this will suffice.

Please let me know if any additional information is needed.

Thanks 😊

Regards / Groetnis

Amund

Amund Beneke Pr. PLN (A/680/1992) // MSAACPP // MPRE 1137487
 M. Comm (Business Management // B. Art et Scien (Town-planning)
 Director: Platinum Town and Regional Planners CC
 Director: Platinum Town Properties (PTY) Ltd
 Director: Platinum Town Project Management (PTY) Ltd

Exciting news: We have a new Office in the Overstrand Municipal Area to serve the Western Cape / Eastern Cape / Northern Cape Areas.



Overstrand Office

52 Seaview Drive, Betty's Bay
 Cell: 072 184 9621
 Email: amundpaul@gmail.com
amund@vodamail.co.za

Pretoria Office

61 Woodlands Avenue, Pecanwood
 Cell: 083 226 1316
 Email: pieter@platinumtownplanners.co.za
dehaas@telkomsa.net

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CONSERVATION INTELLIGENCE: LANDSCAPE CENTRAL

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 physical Assegaaibosch Nature Reserve Jonkershoek
 website www.capenature.co.za
 enquiries Leandra Knoetze
 telephone +27 21 866 8022 cell +27 83 278 0949
 email lknoetze@capenature.co.za
 reference SSD14/2/6/1/7/2/559-78_ConsentUse_Hangklip_Caledon
 date 13 January 2025

Loriaan Isaacs / Loretta Gillion
 Overstrand Municipality
 Directorate: Planning & Development – Town & Spatial Planning
 P.O. Box 20
 Hermanus
 7200

By email: loriaanisaacs@overstrand.gov.za / loretta@overstrand.gov.za

Dear Ms Isaacs

RE: Portion 78 (A portion of Portion 45) of Farm 559, Hangklip Smallholdings, A Division of Caledon: Application for removal of Restrictive Title Deed Conditions and Consent Uses: Platinum Town and Regional Planners on behalf of Kogelberg Biosphere Reserve Company and Overstrand Municipality.

APP ID: 4561/2024

CapeNature would like to thank you for the opportunity to comment on this application. Please note that our comments pertain primarily to impacts on biodiversity and not to the overall desirability of the project.

1. According to the South African Vegetation Map (2018), the proposed site supports Kogelberg Sandstone Fynbos, which is listed as a Critically Endangered vegetation type (NBA 2018). Only a small area (approximately 0.5 ha) seems to be transformed, due to the previous development of the existing building, however the rest of the site (8.7 ha) consist of natural vegetation.
2. Most of the site is situated within a Critical Biodiversity Area (CBA: Terrestrial) - which include areas in a natural condition that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Part of the property (Northern and Eastern corners/boundaries) has been determined as an Aquatic CBA. The CBAs were determined due to the presence of the Critically Endangered vegetation type, the Southwest Sand Fynbos Channelled Valley Bottom Wetland and water resource protection and it is essential that this area is maintained in a natural or near-natural state. No further loss of natural habitat should occur in CBAs, degraded areas should ideally be rehabilitated, and only low-impact, biodiversity-sensitive land uses should be allowed.
3. It is understood that the proposed rehabilitation centre will be located within the existing transformed portion (existing building) of the property. Please can you indicate the total number of enclosures or other structures that will need to be built, and the total area of vegetation that will need to be cleared. Furthermore, please clarify the proposed vegetation clearing methods that will be followed.

OVERSTRAND MUNISIPALITEIT REKORDBEHEER 13 JAN 2025 DOCUMENT CONTROL OVERSTRAND MUNICIPALITY

TP - A Theart
(H vld Stoop)

The Western Cape Nature Conservation Board trading as CapeNature

Board Members: Ms Marguerite Loubser (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Mr Tom Blok, Mr Melvin Burton, Ms Reyanah Gani, Dr Colin Johnson, Ms Ayanda Mvandaba, Prof Nicolaas Olivier, Mr Paul Slack

FILE NO. Ptn 78/559
Hangklip
SCAN NO.
COLLABORATOR NO.
2587546

TP 13 JAN 2025

4. The application advertisement indicates that the removal, suspension or amendment of Restrictive Title Deed Conditions B. b), d), e), o), p), r) and s) are applied for. Please can you specify what these conditions entail or alternatively send CapeNature Annexure D, for us to know if any of these conditions might have an impact on biodiversity, before we submit our final comments.
5. We recommend that the Wetland areas are avoided (and clearly demarcated as No-go areas) during the construction of the animal enclosures and operation of the rehabilitation centre and that the development footprint be kept to a minimum and no further loss of the natural vegetation occurs.

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

Yours sincerely



Leandra Knoetze

Loriaan Isaacs

From: Leandra Knoetze <lknoetze@capenature.co.za>
Sent: Monday, 13 January 2025 10:55
To: Loriaan Isaacs
Cc: Loretta Gillion
Subject: RE: Request for comment: Portion 78 of Farm 559 Hangklip Smallholding (ROR Consent Use)
Attachments: 559-78_ConsentUse_20240113.pdf

Dear Loriaan and Loretta

I hope you are doing well!

Thank you for the opportunity to comment on the Portion 78 (A portion of Portion 45) of Farm 559, Hangklip Smallholdings, A Division of Caledon: Application for removal of Restrictive Title Deed Conditions and Consent Uses: Platinum Town and Regional Planners on behalf of Kogelberg Biosphere Reserve Company and Overstrand Municipality application.

Please find attached CapeNature's comments and recommendations.

Please can I ask you to send us a kmz/kml or shapefile of the proposed development site (Footprint of the new structures) – we need it for our records. Thanks in advance.

Enjoy the rest of your week.

Kind regards

Leandra

Leandra Knoetze
 Land Use Scientist | Central Landscape



tel +27 21 866 8022 | cell +27 83 278 0949
 email lknoetze@capenature.co.za | postal Private Bag x5014 Stellenbosch 7599
 physical Assegaaibosch Nature Reserve, Jonkershoek, Stellenbosch, 7599
 www.capenature.co.za

From: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Sent: Thursday, 14 November 2024 10:35 AM
To: Leandra Knoetze <lknoetze@capenature.co.za>; Rhett Smart <rsmart@capenature.co.za>
Cc: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Request for comment: Portion 78 of Farm 559 Hangklip Smallholding (ROR Consent Use)

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Overstrand Municipality

loretta@overstrand.gov.za

OVERSTRAND MUNICIPALITEIT
REKORDBEHEER
26 MAY 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP- A Theart
(H vld stoep)

Annexure N 1/4

Date: 2025/05/26

Enquiries:

WayleavesWesternOU@eskom.co.za

WAYLEAVE APPLICATION: Removal of Restrictive Title Deed Conditions
Application in terms of : PORTION 78 (A PORTION OF
PORTION 45) OF FARM 559 HANGKI IP SMAI I HOI DINGS A

YOUR REF: KHANG 78/559 (4561/2024)

ESKOM REF: 17059-24

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:.

- a) Eskom has no objection to the proposed work and include a drawing indicating Eskom Overhead and underground services in close proximity.
- b) Please note that underground services indicated are only approximate and the onus is on the applicant to verify its location.
- c) There may be LV overhead services / connections not indicated on this drawing.
- d) 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: Grabouw

Enchanté Swartz / Bongiswa Babu

021 859 8005 / 021 859 8025 / 079 345 0733 / 073 260 2857

SwartzEn@eskom.co.za / BabuB@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

FILE NO. Ptn 78/559
Hangklip
SCAN NO.
COLLABORATOR NO.
2669214

26 MAY 2025

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 Nancy Piliso from the Land Development Office to be contacted at PilisoN@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 132kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Nancy Piliso at PilisoN@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 MotsisiL@ntcsa.co.za. Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES. NO WORK WITHIN 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)



PIETER DE HAAS (PR. PLN (A/283/1985))
 BA. Honnoreus (Economics);
 B. Art. et Scien. (Planning)
 Mobile: 083 228 1316
 Email: dehaas@telkomsa.net

Postnet Suite #51
 Private Bag X15
 Somerset West
 7129

AMUND BENEKE (PR. PLN (A/680/1992))
 M. Com (Business Management)
 B. Art. et Scien. (Planning)
 Mobile: 072 184 8621
 Email: amund@vodamail.co.za


AFFIDAVIT / AFFIRMATION

TO WHOM IT MAY CONCERN

I, the undersigned, Amund Paul Beneke (Platinum Town and Regional Planners CC; 2008/161136/23), hereby declares that I serve on the following Committees:

1. Ward 10 Committee, representing "Sunny Seas"; and
2. Betty's Bay Residents Association (BBRA), Portfolio: Town-planning and Property Development.

I hereby makes an oath that I, as the Applicant regarding the Land-use Application(s) submitted on Portion 78 (a portion of Portion 45) Hangklip Smallholdings 559 and circulated to the said Committees for comment / input, did not influence any of the Committees or their members in rendering comments / inputs.

Signed: 
 On: 17/12/2024
 At: Kleinmond

I hereby certify that the deponent acknowledges that he was conversant with the contents of this statement and understood it, and that the deponent uttered the following words: "I swear that the contents of this statement are the truth and nothing but the truth, so help me God".

COMMISSIONER OF OATHS:
 DATE: 17/12/2024


 2357888
 Cer
 Antzela

SUID-AFRIKAANSE POLISIEDIENS
COMMUNITY SERVICE CENTRE
17 DEC 2024
CSC KLEINMOND
SOUTH AFRICAN POLICE SERVICE

PTN 75

PTN 77
301.37

Overstrand Municipality

Authorisation granted in terms of section 13
of the National Building Regulations and
Building Standards Act No. 103 of 1977

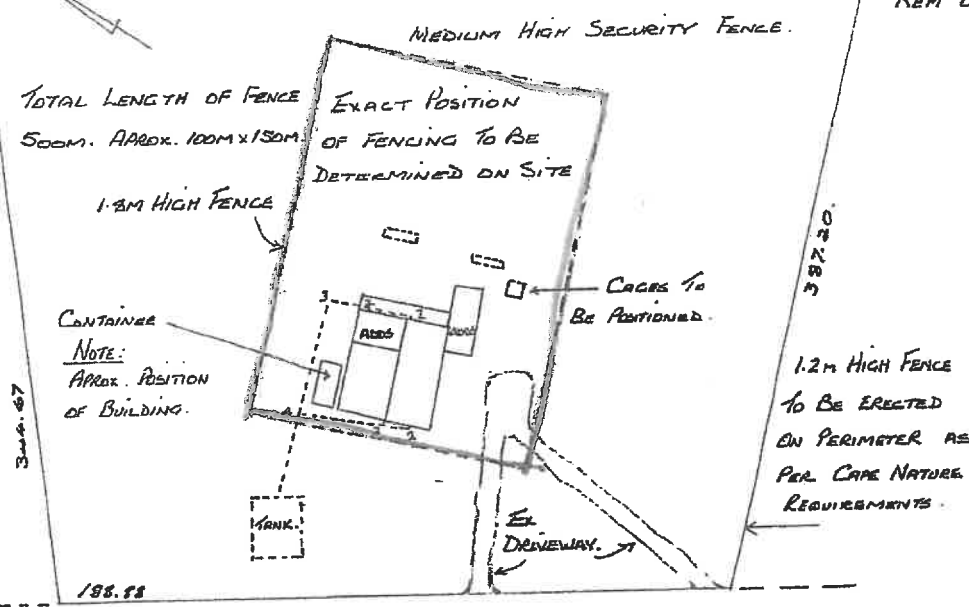
26 APR 2024

Building Control Officer

PTN 78 of FARM 559.

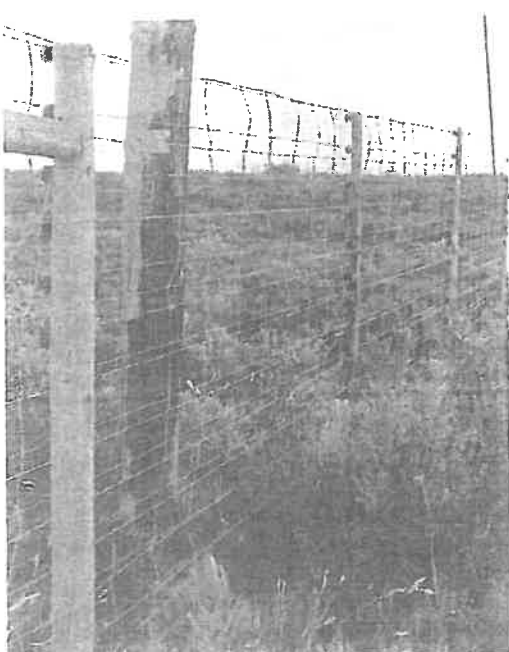
REM OF
HANGKLIP

REM OF HANGKLIP.



CLARANCE DRIVE.

**SITE PLAN
SCALE 1: 2000**



MEGUM EDITH REYNEKE



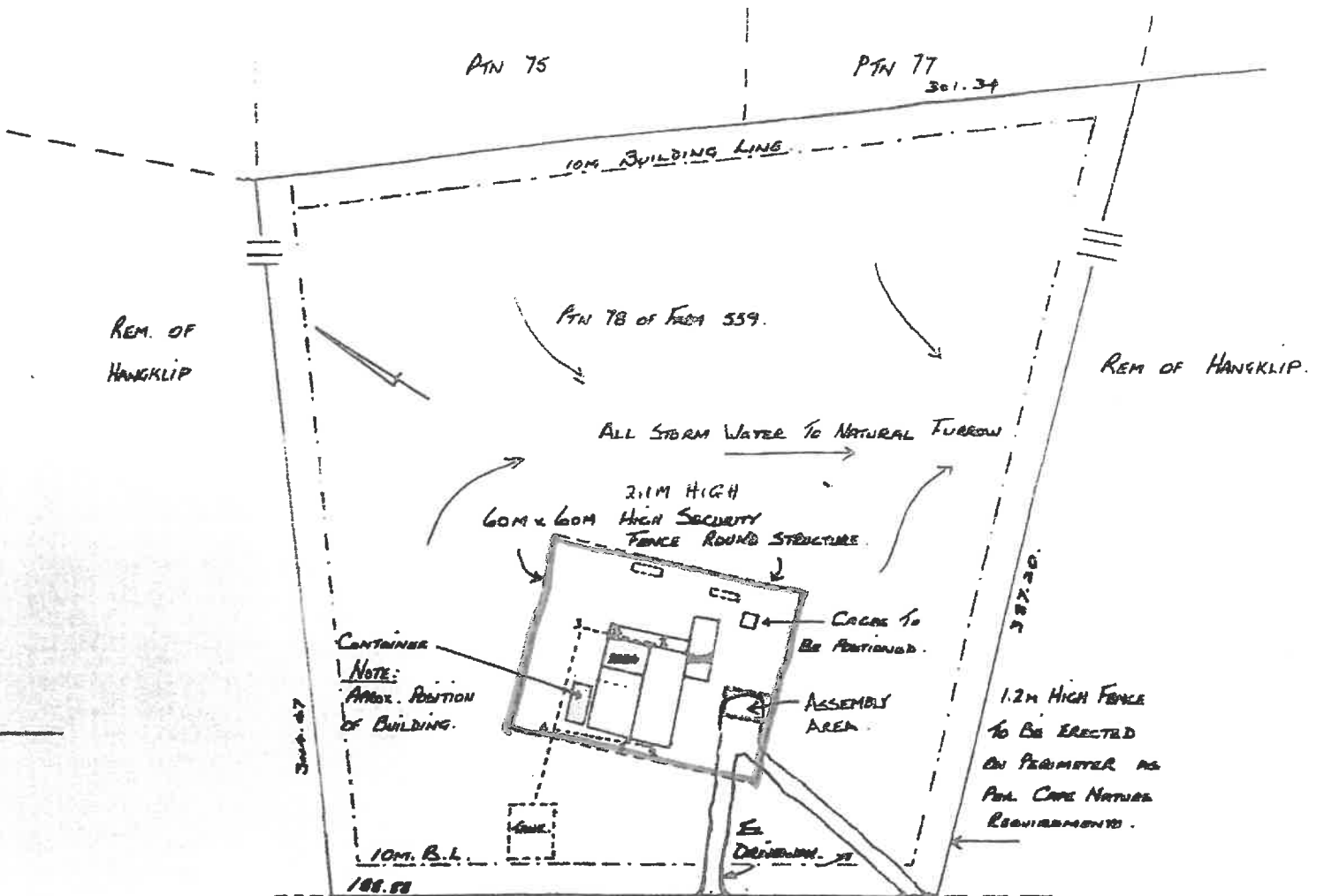
ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCING WORK.

PROPOSED MINOR WORKS
SECURITY FENCING
FOR;
**KOGELBERG
BIOSPHERE RESERVE
FARM 559 PTN 78
HANGKLIP**

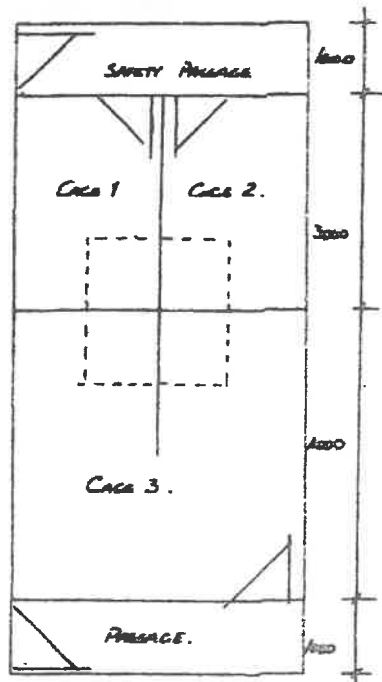
AUTHORISED SIGNATURE

DRAWN BY: M. REYNEKE	DATE: APRIL 2024
PR. NO. ST0125.	KOG 124/04/01

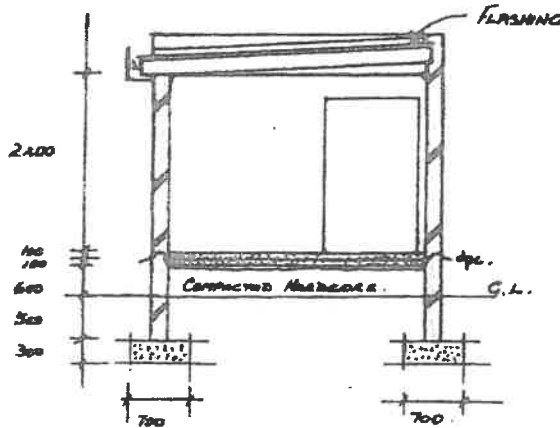
M. P. D.
Architectural Solutions
DESIGN- TOWN PLANNING- PROJECT MANAGEMENT
17 Steyn Street, Napier 7270 ; C 083 701 8750
megum@notactive.co.za



CLARENCE DRIVE.



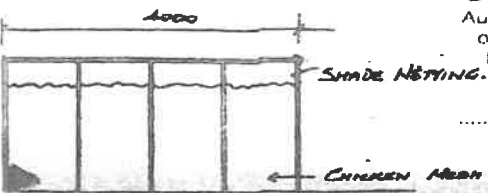
SITE PLAN
SCALE 1:2000



SECTION A-A
SCALE 1:100

WALL DETAIL -
DRAWN IN ACCORDANCE WITH SANS1008:
ALL TIMBER TO BE TAN TREATED GR 4 S.A.I
134 x 38 TIMBER USED THROUGHOUT.
FRAME CONSISTS OF 114 x 38 VERTICAL PG
AND 114 x 38 CROSS SUPPORTS AT 0.450 c/c
EXTERNAL WALL STUDS AT 0.400c/c
INTERNAL NON LOAD BEARING WALL STUD
FRAME HEIGHT BEFORE WALL PLATE 2430:
FLOOR TO CEILING HEIGHT 2400mm
12.5mm RHINOBOARD FIXED WITH
32mm GRUB SCREWS
RHIOGLIDE USED TO JOIN RHINOBOARD PA
FLOOR DETAIL
100mm CONCRETE FLOOR ON
COMPACTED HARDCORE.
FLOOR FINISH TO BE SMOOTH CONCRETE.
CONCRETE MIX TO BE QUALITY SAND WITH
CLAY IN SOIL
DPC ON ALL NEW BRICKWORK
300 x 700 STRIP FOUNDATION WITH
STEEL IN FOUNDATIONS AS PER ENGINEERS
MESH IN CONCRETE AS PER SPECS.
VERANDAH FLOORS TO HAVE 1DEGREE SLO:
FOR RAIN WATER.

FASCIAS AND BARGEBOARDS
CROMODECK AND NUTEC AS PER
ENGINEERING SPEC.



VERANDAH DETAIL
150 x 50 CARRIER BEAMS FIXED ON

Overstrand Municipality
Authorisation granted in terms of section 13
of the National Building Regulations and
Building Standards Act No. 103 of 1977

19 JUL 2024

Building Control Officer