

4.2**PORTION 228 OF THE FARM NO 575, BENGUELA COVE, HERMANUS: PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONSENT USE: MESSRS WRAP ON BEHALF OF BENGUELA COVE INVESTMENTS (PTY) LTD****HBENG 228/575****H Olivier****12 March 2021****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application was received on 20 February 2019 from Messrs WRAP on behalf of Benguela Cove Investments (Pty) Ltd on Portion 228 of the Farm No. 575, Benguela Cove in terms of the Overstrand Municipality By-Law on Land Use Planning, 2015 for the following:

- Amendment of the Site Development Plan in terms of Section 2.(l) for the proposed development of a lodge on Portion 228 of Farm 575, consisting of forty (40) units to be used as tourist accommodation, a boat house, open space for parks and recreation, spa/health bar (restaurant) and pond.
- Consent use in terms of Section 16(2)(o) of the abovementioned By-Law, for forty (40) lodge units to be used as tourist accommodation.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

With the approval of the Benguela Cove Estate, Portion 228 of Farm 575 was specifically approved to be developed as a hotel site with forty (40) rooms and amenities. A hotel is normally a single building with different rooms and other amenities. The property owner wants to create more of a lodge type of development with separate tourist accommodation unit, but still providing for a restaurant / spa on the premises to cater for guests and the general public as would be in the case of a hotel.

4. SUMMARY OF APPLICANT'S MOTIVATION

- ❖ The proposal is to create a lodge with forty (40) loose standing units, and restaurant / spa for guests and the public and other amenities such as a boat shed for kayaks, canoes, etc.
- ❖ The lodge with units will have a much less of a visual impact on the area that a three (3) storey hotel building which can be constructed on the property.
- ❖ The new proposed building will compliment the existing style of buildings in the Benguela Cove Lagoon Wine Estate.
- ❖ The proposed forty (40) units will equate to a density of 14,3 dwelling units/ha.
- ❖ The units will be 146m² in extent with a total sum area of 5840m².
- ❖ The proposed boat house will be 60m² and the restaurant / spa 540m² in extent.

- ❖ Only single storey is proposed up to a maximum height of 9m.
- ❖ Each tourist accommodation unit will have two (2) parking bays and fifty four (54) parking bays will be provided for the restaurant / spa area.
- ❖ There will be forty (40) covered parking areas and ninety four (94) open parking areas.

❖ **Services:**

Electricity

There is an existing 11KV cable passing the site, and a mini substation can be established to service the site.

Water

Available.

Sewerage

The existing system has sufficient capacity to accommodate the development.

Traffic

The existing road infrastructure can provide access to the site. The original Traffic Impact Assessment (TIA) for Benguela Cove was proposed to serve a hundred (100) room lodge, and only eighty (80) rooms will now be accommodated. The existing road infrastructure was planned to accommodate this development.

❖ **Desirability:**

- The development will have a positive economic impact as it will create employment opportunities.
- It will have a positive social impact as it would lead to intercultural interactions.
- It would lead to significant capital investment.
- Safety will be enhanced with extra surveillance by genteel guests.
- No heritage impact.
- Approval conditions can be inserted to mitigate any adverse impact of the land use.

❖ **Provincial Spatial Development Framework (PSDF):**

- In line as it would promote the area as a tourist destination, create outdoor recreational areas and preserve the ecological integrity in Benguela Cove.

❖ **Spatial Development Framework (SDF):**

- In line as it would preserve the unique identity of the area, improve the built environment and provide tourism facilities.

❖ **Planning principles:**

Spatial Justice

Will contribute to a more spatially just urban landscape.

Spatial Sustainability

It promotes spatial sustainability in Benguela Cove.

Efficiency

Promotes the efficient use of services and facilities.

Spatial Resilience

Aligned with the resilience policy proposals for this site.

Good Administration

The Municipality has an inclusive and efficient public participation process and a joint planning approach.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	24 July 2019	30 August 2019
Notices	Yes	24 July 2019	30 August 2019
Ward councillor	Yes	24 July 2019	30 August 2019
Total comments	THIRTEEN (13)		
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
Waste Management	20/08/2019	No objection.
Building Control	29/07/2019	No objection.
Fire Department	25/07/2019	No objection.
Engineering Services	20/11/2019	See Annexure F.
Eskom	29/07/2019	See Annexure G.
Telkom	20/08/2019	See Annexure H.
Heritage Western Cape	5/09/2019	See Annexure I.

Western Cape Government : Ministry of Local Government, Environmental Development and Development Planning (Environmental ROD)	26/08/2019	See Annexure J.
Western Cape Government : Transport & Public Works	2/12/2019	See Annexure K.
Environmental Management	29/11/2019	See Annexure L.
Cape Nature	21/09/2019	See Annexure M.
Breede-Gouritz Catchment Management Agency	23/10/2019	See Annexure N.

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

Thirteen (13) letters of objection were received from the following parties:

- A Grimanis
- The Diessner Family Trust
- V & I Buchholz
- NB Buchholz
- RC Anderson
- Urban Dynamics South Cape Town & Regional Planners on behalf of Benguela Cove Home Owners Association and individual homeowners
- Plan Active on behalf of Pumatech Prop (Pty) Ltd
- S & M Prew
- JM Rogerson
- G & PW Boshoff
- Afdakrivier Trust (S Delport)
- J & L van der Westhuizen
- H Elcock

The objectors also include the Benguela Cove Homeowners' Association (HOA). Copies of the objections received are attached as Annexure D. The applicant was also provided with an opportunity to respond to the objections. (See Annexure E.)

The objections, applicant's response and Municipal Town Planner's response can be summarized as follows:

1. Objection : Relating to expectations of the future use of the site

The previous developer indicated in 2010 only a small boutique hotel would be constructed, not forty (40) units which are now proposed. The forty (40) units will not be in line with the low-density expectations and the expectations of a secure area.

Applicant's response

The objector was misled as there is an existing approval for a "lodge" with forty (40) units for the property in terms of the EIA RoD.

Town Planner's response

The planning approval in terms of the Zoning Scheme granted approval for a residential building, which in terms of the old Section 8 Zoning Scheme provided for a hotel building with guest rooms and en-suites.

The applicant's comment that the EIA RoD provided for a lodge with forty (40) units is noted. The applicant's main reason for his interpretation is due to the naming of "units". This still however does not mean that the definition of a unit in terms of the Zoning Scheme can be made applicable to wording in an EIA RoD.

Also, the EIA RoD refers to an hotel consisting of forty (40) units, which again appear to be a single entity containing these units.

To obtain some more clarity about what the original approval proposed some older correspondence/comments were scanned to obtain more clarity on this matter, and the following were found:

- A plan named a Site Development Plan (was never formally approved) dated June 2004 from DHK Consultants showing what appears to be four (4) larger buildings and two (2) tennis courts, and the wording hotel/lodge (see Annexure O).
- Western Cape Nature Conservation comments dated 27/06/2003 refer to a forty (40) roomed lodge.
- Service Design Report LC Consulting undated refer to lodge (fifty [50] rooms) for potable water.
- Planning report to the Portfolio Committee dated 25 February 2004 states, applicant intends to develop this site as a hotel/lodge. Zoning Scheme could allow for a 4-storey building, which would have a visual impact, therefore strict architectural guidelines should be enforced.
- Plan of Johan de Villiers Consultants called Design Proposal dated May 2003, it shows hotel/lodge on a plan and it shows what appear to one (1) or two (2) larger buildings.
- Section 31 of the Benguela Cove HOA Constitution refer to a "Hotel and Related Facilities Development" on Portion 228.

Although there is no approved SDP for Portion 228, the approval in terms of the Zoning Scheme was still only for a residential building, which related to a hotel/lodge with interleading rooms with en-suites. The former developer, as what appears in terms of some draft proposal plans, were planning a hotel building in line with the zoning allocation of the property.

The applicant's opinion that the fact that the EIA RoD referred to forty (40) units, and this means that forty (40) units can be constructed on the site is not supported.

The fact is the description of definitions in the Zoning Scheme was for a residential building (including rooms), hence the reason why the applicant had to

apply for a consent use for tourist accommodation, to be able to construct units, which are thus also not interleading with the main hotel/lodge building.

2. Objection : Security / Privacy considerations

- *The HOA was not consulted about security concerns on their private roads and cannot be held responsible for security for the lodge.*
- *The security of properties near the property will be jeopardized, and no indication was provided how security will be resolved and controlled.*
- *Only the lodge users should use the spa and other facilities on-site to limit other guests for security purposes.*
- *The privacy and safety of the adjacent landowner (Portion 245) was disregarded.*
- *A sound security strategy is non-negotiable with limited access to hotel guests and staff/contractors into the wider residential road network of the estate.*
- *Recently there were three (3) break-ins into Benguela Cove Investments' commercial / agricultural properties.*

Applicant's response

Benguela Cove Investments will employ suitable security measures on the property to prevent existing security in Benguela Cove Estate is not jeopardised. The break-ins are not in any way related to the submitted proposal.

Town Planner's response

The concerns regarding security and privacy is duly noted, and also the applicant's commitment to a sound security strategy.

The Benguela Cove development was originally planned and approved in a format to ensure the public can have access to the lagoon via the hotel site. A hotel can cater for guests and also visitors to restaurants and other facilities on such property. Even if a boutique hotel was proposed on the property, the same principle would have applied. Therefore, the security and privacy would always have been challenged due to existing development rights.

The applicant originally submitted an application to utilize an existing illegal road that was created over Portion 212/575, a private open space in ownership of the HOA, to limit impact on residents in Benguela Cove Estate. The residents and the HOA did not want to consent to such proposal at that stage, but now after the application has been amended to make use of the existing approved road network, they propose that the illegal road be utilized. It is not debated that the utilization of the illegal road will lessen impact on the residents in Benguela Cove Estate and could provide for an additional security gate point, but this will require a totally new land use planning application by the client.

What should however be considered is if a hotel/lodge with interleading rooms and amenities will have less of an impact on security and privacy of surrounding landowners than loose standing self-catering units.

A larger hotel can monitor guests and visitors better due to the fact that all activities and guests are in a more confined area. Activities in or close to the hotel is provided to guests for entertainment, where self-catering units will have

limited amenities and guests will be more prone to travel to and from the site for entertainment.

Considering the above, it is the opinion that the development of self-catering units would have a greater impact on security than a larger hotel building with interleading rooms and amenities. The applicant's lack of providing more detailed proposals on a sound security strategy, makes it impossible to evaluate how security concerns could be mitigated.

3. Objection : Constitutional related considerations

- *The constitution provides for a building plan approved via the HOA and Architectural Review Committee in line with the Architectural Design Guidelines which was not complied with.*
- *The constitution only allows one (1) dwelling per erf, not forty (40) structures.*
- *The constitution makes provision for a hotel, not a lodge.*

Applicant's response

- The approval of the building plans is only attended to once the Town Planning application has been approved.
- Section 31.1 in the Constitution clearly indicates that Erf 228 has been zoned as a hotel and related facilities development, which shall enjoy a separate zoning status.
- Section 31.2 in the Constitution clearly states that no more than one (1) dwelling together with such outbuilding shall be erected on any member's erf in accordance with UADC manual. This site therefore has different development rules.

Town Planner's response

- It is noted that the applicant did not consult with the HOA or Architectural Review Committee with regard to the preliminary proposed structures. It possibly would have been good practice to consult with especially the Architectural Review Committee before hand, but as stated by the applicant it could be dealt with at a later stage.
- Considering Section 31.1 and 31.2 of the Constitution, the applicant's opinion is supported that the limitation of one (1) dwelling per erf does not relate to Portion 228.
- The comment that the Constitution refers to the development of a hotel and not a lodge does at least give the impression that a larger hotel type structure was to be developed on the site. The lack of an approved SDP however makes it very difficult to get clarity on the precise development.

4. Objection : Flawed historic application

Benguela Cove Investments (BCI) initially applied to create a sensible access road to the new hotel over a private open space, but due to procedural errors the application could not be considered. The HOA and residents supports such proposal as it would re-route traffic away from the internal network and create less of a security risk.

Applicant's response

BCI did want to create the new road to not enter the internal roads but had to obtain power of attorney from Benguela Cove HOA since they owned the private open space. They refused to grant power of attorney and the applicant at great cost had to submit a new application.

The new road would impact the viability of the open space.

Town Planner's response

The objectors' and applicant's comments are duly noted. The applicant correctly stated the flow of events.

This office can however only now consider the application which was formally submitted to the Municipality.

5. Objection : Scale of the development

- *The RoD approval was for a hotel with 40 lodge units and a tennis court, not for forty (40) free standing houses with a total of eighty (80) bedrooms, forty (40) living rooms, kitchens, recreational areas and carports. Tennis court is not provided, as it is the intention to make use of the community's tennis court and pool.*
- *This is an opportunistic attempt to double the size of the hotel, not in line with the original development intention and approval.*
- *Application is flawed due to its scale, size, built form and operational impact, doubling the hotel size and making it undesirable.*
- *The RoD indicated the building area next to the lagoon may not be accessed, the boat house and spa ignore this rule.*
- *This is a "multi-house holiday village" which triple the development with self-catering units, which does not conform to the existing architectural guidelines.*
- *An upmarket, well designed hotel building with forty (40) rooms on a more compact footprint would have been more acceptable, similar to Arabella Hotel to maintain exclusivity.*
- *Maximum 9m height restriction is not supported.*
- *The consent use is for additional rights allowing free-standing units (160 rooms) in a design configuration and at a scale totally inconsistent and incompatible with surrounding land uses, which has a low-density fabric/character.*
- *The units should be reduced from 40 to 20 units to be more acceptable.*

Applicant's response

- *Forty (40) units were approved in terms of the EIA RoD. In terms of the Land Use Planning Ordinance, 1985 applicable at that time a dwelling unit means a self-contained interleading room with kitchen used for living accommodation and housing of a single family.*
- *EIA RoD specifically refers to "the lodge which consist of forty (40) units".*
- *There is no limit in rooms a unit may have.*
- *The application for consent use for forty (40) tourist accommodation units was applied for to give effect to the word "units" which is elucidated in the submitted proposal.*

- The Overstrand Municipality Zoning Scheme provides a clear definition of dwelling units, and the definition of tourist accommodation clearly means the letting of rooms or individual units on a temporary basis to paying lodgers or guests. The definition of a unit therefore permits exactly what was applied for.
- A hotel with forty (40) units may be 3-storeys high / 9m with a coverage of 80%, similar to Arabella Hotel. It would be visually intrusive to the low-density character of Benguela Cove.
- Only guests to the lodge will use the facilities on the site being the spa and restaurant / health bar.
- The submitted proposal is to give effect to the land use rights conferred in the EIA RoD.
- In terms of the zoning rights 80% coverage is allowed up to 3-storeys high, which allow for a hotel of 22290m². The proposed development will only be single storey and 6440m², which is at a lower scale and not triple that of a hotel.
- The zoning of the property allows for a 9m high restriction, which cannot arbitrarily be deprived.
- Hotel units does not always only provide for only one (1) bedroom, some have more rooms and a kitchen. Hotels, especially in metropolitan areas have a lack of space, and that is why they develop as such.
- The statement that one hundred and sixty (160) rooms will be created is highly inflated from what was applied for.

Town Planner's response

It is not clear from the planning approval precisely to what the scale was supposed to be, as no specific SDP was ever approved. Some historic reports/documentation referred to 40/50 rooms, but only the EIA RoD refers to 40 units. The proposed facilities and self-catering units with their parking facilities will however cover most of the property, and the concerns regarding scale in relation to the existing surrounding residential development, open spaces, nature areas and agricultural properties with very low density, is valid concerns.

The applicant's opinion that a single building with forty (40) rooms or units, would have a greater impact due to the fact that it may be a 3-storey building, with a greater visual impact is noted. It might have a greater visual impact due to height, but it would cover much less area of the site and would be more in line with surrounding properties with large open spaces around dwellings.

The erstwhile zoning approval was only for a residential building, which definition reads as follows:

"A building (other than a dwelling house, group house or flats), for human habitation, together with such outbuildings as are normally used therewith, and includes a boarding house, residential rooms, a licenced hotel (excluding an off-sales facility, an old age home, a children's home and a hostel, but does not include buildings mentioned, whether by means of inclusion or exclusion, in the definition of 'place of instruction' or 'institution'."

The definition of a "licenced hotel" in terms of the former Section 8 Zoning Scheme Regulations reads as follows:

“Licenced hotel means a building designed to comply with the requirements of a hotel as laid down in the Hotels Act, 1965 (Act 70 of 1965), but does not include an off-sales facility.”

Considering the above, the zoning of the property does not provide for residential/dwelling units, and that is why the application for tourist accommodation was applied for to provide for self-catering units.

For further clarity the definition for a hotel was also searched in terms of the Cambridge dictionary, which reads as follows:

“a building where you pay to have a room to sleep in, and where you can sometimes eat meals.”

The applicant’s opinion about the EIA RoD approval providing for a lodge with forty (40) units are noted, but even if the applicant’s opinion is correct about the interpretation of the EIA RoD, it cannot be applied without a further planning approval, hence the submission of the application for tourist accommodation.

The difference for development of either a spread-out development with self-catering units vs a 3-storey (9m high) hotel with rooms must therefore be considered, and will be elaborated on under the heading Evaluation.

Note some of the objectors motivate for less self-catering units, some for no self-catering units, some for a single building hotel, but other objectors do not want a 9m high 3-storey building to be erected on the site. There are therefore different opinions, but ultimately the Town Planner can only consider the desirability of the proposal submitted.

The applicant did indicate that on-site facilities will be used by guests only.

The one point the applicant did not address is the statement that the nature area to the south of the site is a birding area and may not be accessed, and the boat house and walkway ignores this. The historical documents indicate that it was always the intention to construct wooden pathways over the nature area and a second jetty at this location. The applicant will however have to obtain any additional approvals, if so required in terms of other legislation, and also consult with the HOA if the land is registered in their name.

There are clearly some concerns regarding the scale of the development, but ultimately it must be considered if the application is still desirable. It will be further discussed later in this report.

6. Objection : Impact and implication of development (and on the character of the area and residents)

- *Less security, decrease safety and annoyance.*
- *Greater construction impact (roads and parking) and less natural environment (Renosterveld Nature Reserve enshrined in the RoD).*
- *More light pollution.*
- *More traffic, more risk to children playing.*
- *More braais mean greater fire risk, smoke and air pollution, noise pollution and impact on wildlife with less desirable guests.*
- *Access to spa, restaurant and lagoon must be for guests only.*
- *The proposal, same as Portion 229, will change the character of the area and will lead to a loss of sense of place.*
- *The changing of the units to individual holiday houses, or a retirement village must be prohibited.*
- *The BCE sale document never envisaged high density "township" development, and a lodge is not in tune with the marketing statement on Benguela Cove website and does not suite the exclusiveness of the estate.*
- *The impact on surrounding property owners were not considered.*
- *Residents prefer a boutique hotel in line with the tourist grading of a 5-star grading (as confirmed by one of the site's property owners) to provide a high-quality accommodation environment.*
- *If a jetty is approved for this development, all property owners should get such right.*
- *Will guests use the boat yard, where will they park, who will control people?*
- *The development is incompatible with surrounding land uses and the established spirit and ethos of Benguela Cove Lagoon Wine Estate and will not create a harmoniously designed estate and is not in line with the grain of the existing fabric.*
- *Tourist accommodation represents a built form which contradicts the very basis of the original development and intent in terms of the HOA Constitution and Urban and Architectural Design Guidelines.*

Applicant's response

- *There will be strict control regarding security and there is no evidence that tourists will create an annoyance.*
- *The natural environment is highly prevalent in Benguela Cove and this application will have a minimal impact on surrounding land.*
- *The site is on the same contour levels as other properties and light emitted from individual units will be similar, whilst a 3-storey hotel could be more visible.*
- *Due to larger erven and communal areas children will play less in the streets.*
- *Braais will be used occasionally and at intervals and therefore likelihood of smoke, fire, pollution and noise should have a minimal impact. The upmarket nature of units will attract genteel guests similar to the residents of BCE.*
- *The spa and restaurant will only be for guests.*
- *The amendments to the SDP for Portion 229 have a marginal impact considering that it has commercial land use rights.*
- *Hotel rights only provide for temporary residents for transient guests and the property owner will comply therewith.*

- The density is still in line as what was envisaged on the subject property, at a density of 14,35 dwelling units/ha. The proposals now submitted (drawings) is of high-quality integrity and align with the expectations of exclusivity.
- The owner has the right to construct a lodge with forty (40) units, and therefore did not have to consult with residents.
- The property owner is committed to ensure the subject development attains a 5-star rating and to appease the legitimate expectations of residents in Benguela Cove.
- There is already a jetty constructed for residents elsewhere in the development, and each owner must apply therefore should they wish to obtain such approval.
- Guests will be able to bring watercrafts to the boat yard, and the lodge owner will have to take control of guests and their watercrafts.
- The existing zoning of the site enable a different nature of development on the subject site. The different zonings in the development makes provision for a mix-use of different uses (different grains). This variation in built form and grain in Benguela Cove will enlarge aesthetic appeal of the development and create a high-quality development.
- The proposal will only be limited to the site and buildings on the SDP, which will ensure the fabric and form of Benguela Cove is not tarnished.

Town Planner's response

- Impact on security are noted. This has already been dealt with in this report.
- A lodge with self-catering units will require more roads and parking, and therefore less green space on the site. If this was an environmental concern Western Cape Government : Environmental Affairs and Development Planning (EA&DP) would not have approved the latest EIA RoD. It could however create a greater footprint with visual impact, which will be discussed in more detail in the report.
- With any new development more light will be created, and it is debatable if the lodge type development or 3-storey hotel will have more light pollution.
- The applicant's opinion is supported that it is highly unlikely children playing in the street will be at risk of more traffic. Once again, the site has certain development rights and an increase in traffic should have been expected by residents with future development.
- The comment regarding braais creating fire, smoke, etc. is noted, This could have some impact as holiday makers do expect to have a braai area at self-catering units, and will make use of such facility. This could create a fair bit of smoke. This will not be experienced with a more standard hotel development with rooms.
- The whole reason why a hotel site was approved in Benguela Cove was to allow the public to still have access to the lagoon edge. The lodge facilities can therefore be open to the public as is described in the definition of a hotel. It appears in the applicant's comments that they will only cater for guests (staying in units), but this cannot be enforced.
- The objector is concerned about the land use on Portion 229 (commercial site) and believes such changes and this proposal will change the character of the development. The applicant expects a marginal impact. The development on Portion 229 is in line with the zoning rights, and it is therefore difficult to debate the issue as to what the objector's expectations were and the same is for this development.
- The concern that the units will be individual holiday homes, or a retirement village are a valid concern, and the applicant indicated it will only be used for

temporary transient guests. This is a valid concern and should this application be considered, will have to be highlighted with a limiting condition.

- The objectors indicate nor the sales documents nor the marketing indicated to this new development proposal. The applicant only indicated a high-quality exclusive development will be created. It is very difficult to comment on sales documents and marketing, as the property owners have changed over time and this office can only be led by the development rights in terms of a planning approval.
- Objectors say they were not consulted or the impact on them considered, whilst the applicant indicated they are only acting on existing rights. This clearly show the expectation of residents in Benguela Cove and their HOA as to what extent they believe they must be consulted with, and the developer's opinion that not all matters needs consultation. This is an in house debate possibly in terms of the HOA Constitution and must be dealt with by the two (2) parties.
- A resident request that a 5-star boutique hotel be developed, and the applicant indicate it is the intention to develop the lodge and units to a 5-star quality. The comments are noted.
- Objectors want to know if all owners can have a jetty if this development can get one, and the applicant rightly indicated that such person must apply therefore via the correct process. From the historic documentation it appears that the jetty close to the site was part of the planning application.
- The concern regarding if guests using the boat yard, was addressed by the applicant. The response was that they will be able to use it, and the lodge owner will have to control this. The boat yard is a private open space and controlled by the HOA. The HOA in consultation with their constitution will have to determine if the boat yard and slipway will be open for visitors to the new development.
- The objectors' concerns regarding the impact of this development on the design and fabric of Benguela Cove is noted. The applicant is of the opinion that a mixture of land uses was always proposed with different zonings. The applicant's opinion is partially supported, since the hotel site and commercial site does provide for different development. In this application the type of development, a lodge with units instead of a hotel building, must however be considered, and if it has a greater impact on the character of the area, such impact must be considered. This will be later discussed in this report.
- The perceived negative impact of tourist accommodation by objectors (similar than above point) is noted, and also the comments by the applicant that it will provide a good fabric and design as indicated on the SDP submitted. This will be further discussed under the heading Evaluation.

7. Objection : Definitions

- *What does "upmarket" and "harmonious" mean, "health bar" and "genteel guests", and what will happen if guests are not genteel?*
- *Any reading of the common use of the word "lodge" describe smaller scale hospitality establishments synonymous with boutique hotel or country houses.*

Applicant's response

- Upmarket and harmonious means high architectural integrity to conform / be in harmony with the existing character of Benguela Cove Estate. A health

bar is a restaurant which has a component of a spa which will exclusively be used by visitors of the property. Genteel guests are people who are polite, refined and respectable. The manager of the lodge will monitor the behaviour of guests and intervene if so required.

- The Zoning Scheme and Land Use Planning Ordinance definitions must be used to determine rights and no other skewed interpretations.

Town Planner's response

The comments regarding the definitions are noted, and it has successfully been addressed by the applicant.

8. Objection : Heritage related queries

No evidence the development is not in a heritage sensitive area.

Applicant's response

The application was submitted to Heritage Western Cape who issued a decision that no heritage resources will be impacted.

Town Planner's response

The applicant duly addressed the objection.

9. Objection : Financial related considerations

Residents of BCE is not prepared to financially subsidise the running of this development, and it will place a financial and administrative burden on the HOA.

Applicant's response.

The running of the development will be the sole financial responsibility of the developer and not the residents.

Town Planner's response

The comments are noted. Residents are possibly concerned about who will deal with security, private road maintenance, etc. inside the estate itself, which have a financial and administrative implication.

This is something the developer and HOA will have to resolve possibly by way of levies, etc. They will have to deal with these challenges in terms of their constitution.

10. Objection : Drop in property values and economic related considerations

- The change of the original vision of an exclusive quiet area to a mass impact highly commercialized tourism establishment will decrease property value. (Change in market feel.)
- The development is not considered economically feasible, the investment is excessively large considering the low usage / occupancy of the current restaurant. The proposal is only a front to convert it into residential units (for sectional title) to be sold off in future.

- It is not clear what the nightly tariff for accommodation would be, but if less than R5 000.00 per night, it would be cheaper to stay in the hotel than to build your own place.
- The application in its existing format is not economically feasible.

Applicant's response

- SPLUMA Section 7.(a)(vi) states that a Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application. The concerns regarding property value can therefore not be considered.
- It is BCI that will have to bear the financial brunt for low occupancy. The comments regarding possible sectionalisation of the units are speculative.
- The rental price will only be determined at a later stage, as it is premature at this point without knowing future tourism market conditions.
- The assumption that the development will not be profitable is presumptuous without substantive reasons.

Town Planner's response

The comments are duly noted.

The objections regarding drop in property value, possible sectionalisation of the units and assumptions that the development will not be profitable is all pure speculation. There is no way that the Town Planner can determine if such statements are correct and can only consider known facts to consider the desirability of the application.

This application is not for the sectionalisation of the units, and it would also not be in line of the original approval and development rights. The comment is however noted.

11. Objection : Other illegal land uses

The Municipality has been unable to take BCI to task on constructing without approved building plans and illegal signage.

Applicant's response

The Municipality is liaising with BCI to find an amicable solution to this concern raised by the objector.

Town Planner's response

The matter regarding illegal signage is already in the legal domain and being dealt with by the Municipal Court. The matter regarding the waterpark that was constructed without building plans is being dealt with, and the planning application was considered by the Municipal Planning Tribunal in November 2020 and the applicant and objectors were informed of the decision.

12. Objection : Service related objections

- *Additional forty (40) units means additional pressure on water, electricity and sewerage infrastructure. Water gardens will put major strain on the water supply.*
- *A unit of 146m² versus an average 40m² hotel room will create a greater influx of guests, increasing strain on services.*
- *There is an existing dispute between the HOA and developer about services and access to services.*
- *A fifty (50) car parking area clearly show a drastic increase in traffic on a road already starting to brake-up.*
- *The sewerage network for the beachfront properties can hardly handle the existing homes, and this development will increase pressure.*

Applicant's response

With the original planning for the whole Benguela Cove Development, the services demand for the subject property was included in the calculations for the whole development.

Town Planner's response

The comments and concerns regarding services such as water, sewerage, electricity and the road network are noted.

It is to be noted that the application with services reports were circulated to the Department and Transport, the Municipal Engineering Department and Eskom who all supported the application.

It is therefore the opinion that sufficient services capacity exists.

The comment regarding a dispute between the HOA and developer is noted. This is however internal issues and will have to be resolved in-house.

13. Objection : Proposal not in line with EIA Rod approval

Not in line with EIA RoD approval and no decision should be taken on the planning application by the decision maker prior to an amended EIA RoD approval.

Applicant's response

A revised EIA RoD was submitted by the applicant dated 26/08/2020.

Town Planner's response

The concern was duly addressed by the applicant.

The new RoD make provision for forty (40) units, a tennis court, boathouse of 60m², spa/health bar (restaurant) of 540m², ponds and open spaces.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

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

See Paragraph 7 above.

Internal and External Departments

The application was supported by all internal municipal departments and external provincial and semi-state institutions.

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 application is within the urban edge of Benguela Cove Estate (BCE) and will not impact on agricultural land or environmentally sensitive areas. The low-density character of the BCE must however be considered and this proposal for tourist accommodation for self-catering units at a density of fourteen (14) units/ha and providing for a different type of accommodation with specific impact, could negatively impact the surrounding area.

Efficiency

The property is surrounded by an existing road network and services infrastructure and will lead to the more efficient use of existing services.

Spatial Resilience

The development of the property will ensure that the developer have an additional income base other than the commercial site, which will help during times of economic downturns. The developer will also have to contribute for service provision to the HOA which could lower the financial pressure on other residence in BCE.

Good Administration

Good procedure was followed and with a good public participation process.

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

Same as Point 10.2 above.

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

The area is indicated for development purposes in terms of the SDF allocation.

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

N/A

10.6 Impact on Municipal Engineering Services

The area is already serviced, and sufficient bulk capacity exists to accommodate the development. The application is supported by the Engineering Department.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The zoning will not be changed. The type of development will be changed from a hotel to self-catering tourist accommodation.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

Portion 228 of Farm 575 was created to develop a hotel/lodge. The planning approval in terms of the former Section 8 Zoning Scheme Regulations limited the development to a residential building (inter leading building), whilst the EIA RoD referred to a lodge that consist of forty (40) units.

The fact is the EIA RoD made reference to units, but it is not supported by any approved SDP. The opinion is that the "residential building" restriction in terms of the original zoning approval (Residential Zone V), limit development to a residential building. The applicant has submitted a planning application to obtain additional rights for tourist accommodation, in an attempt to develop tourist units instead of a hotel/lodge with rooms.

The reference to hotel in the original motivation, and even in the Constitution of Benguela Cove also clearly provided expectations by residents that such type of development will be developed on the site. The applicant does have the right to apply for a consent use for tourist accommodation, and its desirability will now have to be evaluated.

The concerns regarding the economic viability and the concerns that the applicant could possibly create sectional title units or an old age home, is speculations, and was addressed previously in the report.

The concerns regarding service availability and maintenance were also addressed in the report.

There were concerns that the EIA RoD that was approved for the development was not applicable anymore. It must be noted that an amended EIA RoD was obtained dated 26/08/2020, wherein the Department of Environmental Affairs and Development Planning provided their support for the application. Concerns about the nature areas for birding around Portion 228 is therefore also considered to be addressed.

The concerns about security were discussed in detail in this report. The objectors should understand that Portion 228 was created to ensure that visitors and guests could access a hotel/lodge next to the waters edge. This obviously will have an impact on security considering the existing situation as the site is till vacant. However, it is the opinion that a hotel/lodge with interleading rooms and amenities, which is the existing rights, will have less of a security impact than a development with loose standing self-catering units. It will be more difficult to monitor guests and there will also be more movement onto and off the site by guests. The applicant indicates a sound security strategy will be applied, however no detail is provided of such strategy. It is therefore the opinion that tourist accommodation for loose standing self-catering units will have a greater impact on security in the BCE.

The concerns and comments regarding the scale of the development is duly noted. Once again, no specific SDP was approved. It is the opinion that if the original zoning of the property is considered, it provided for a hotel/lodge with rooms. This would be in line with the development style of the larger Benguela Cove, where larger dwellings can be constructed on erven and some structures on the agricultural land, but that large spaces are left for vineyards and private open spaces. A development with forty (40) units spread out over the property does not comply with such planning form of BCE.

The impacts on the character of the area and existing residences within BCE should be considered. A spread-out development for accommodation units will lead to the requirement of more road surface and parking areas. A separate self-catering unit provide other facilities such as yard area, washing lines, braai facilities, where with hotel facilities it is provided as part of the service, and combined facilities are provided to guests for entertainment recreational, etc. In a sense, the tourist accommodation will have the same impact as a relatively dense (fourteen [14] units/ha) residential development. The impact will further be increased on surrounding residences due to the fact that tourists will visit these units, who will be more prone to seek forms of entertainment and survey the surrounding area, than a normal residential development.

Benguela Cove has an upmarket feel and the area beyond the security gate is an area with very low density (2,5 to 5 units/ha) residential dwellings on large properties of which only a specific footprint can be developed. Further, there are large portions of agricultural land and private open spaces and nature reserve areas. A proposal for forty (40) self-catering loose standing units with the restaurant/spa main facility, will have a density of fourteen (14) units/ha which relates to a high density residential development. The proposed development also

covers the whole site, which is not in line with the planning form of the rest of the BCE residential component.

The fact is a larger hotel structure with interleading rooms and amenities with larger open areas around it, would be more fitting to the planning form of this area of Benguela Cove, which was then also the original development aim considering the draft historical SDP's prepared and the original zoning approval.

Considering the above, this application will have a negative impact on the character of this area.

There are also other concerns regarding the proposed development, which directly can impact not only the character of the area, but also the privacy of surrounding property owners.

The applicant indicates that the units will have braai facilities, which is a normal facility associated with self-catering units in South-Africa. The applicant down-plays the impact of such amenities, but considering there will be forty (40) units, which will be regularly visited by guests and them using the braais, large amounts of smoke can be created and possibly noise levels for outside braais. Considering that a hotel with interleading rooms (considering Arabella) will possibly only provide limited braai amenities for guests, self-catering loose standing units of this scale could create a much greater impact on this very quant low density area and its residents.

The other matter that raises concerns, due to the type of development proposed, is the use of the boat yard by visitors. If holiday accommodation is approved it will be more likely that guests will bring their own boats as they will have sufficient parking at the units, also to clean a boat after using it, etc. With hotels it is not standard practise for guests to bring their own boats. It is also debatable if the boat slipway was ever created for "hotel" guests, as it is a Private Open Space managed by the HOA. There is also limited boat storage facilities at the slipway. This could create a major impact if guests and owners of 130 residential units wait to use the slipway and boat house, and this could have a major impact on not only the privacy of the property owners close to the slipway and boat house area, but could create a major nuisance and impact the tranquil atmosphere of BCE.

In the case of a hotel site with interleading rooms and amenities, staff monitor guests due to the fact that all amenities are under a limited footprint area and linked. The behaviour and movement of guests can also be controlled easier, as amenities are in or close to the hotel and hotel staff oversee such facilities and amenities. In the case with loose standing self-catering facilities spread out over a large area, it would be very difficult to monitor or control guests' behaviour or movement, which would create a greater security risk for surrounding property owners.

Ultimately, a spread out tourist accommodation development will have a greater impact on the property itself and surrounding amenities and residents, than an hotel. Benguela Cove Estate has a low density character, and even a larger multi-storey hotel with a smaller footprint will be more in line with the character of the surrounding area than forty (40) self-catering tourist accommodation units.

The residents' concerns regarding a drop in their property value could be considered speculative if a 5-star luxury development with self-catering units is developed, versus that of an hotel. There could however be a negative impact on

surrounding properties and amenities within the BCE, which would influence potential buyers and possibly impact property values.

It is therefore the opinion that the scale of the development, impact on the low-density character of BCE and impact on surrounding residents will be greater than that of a hotel (residential building) with inter-leading rooms. The character of the BCE and the privacy and security of residents in Benguela Cove will be negatively impacted.

The concerns of the objectors are therefore valid, and the application is not considered desirable.

The applications are not supported.

13. RECOMMENDATION

1. that the application for a consent use in terms of Section 16(2)(c) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) for forty (40) self-catering lodge units to be used for tourist accommodation, **not be approved** in terms of the provisions of Section 61;
2. that the application for the amendment of the Site Development Plan in terms of Section 16(2)(l) of the By-Law for the proposed development of a lodge on Portion 228 of Farm 575, consisting of forty (40) units to be used for tourist accommodation, a boat house, open space for parks and recreation, spa/health bar (restaurant) and pond, **not be approved**, in terms of the provisions of Section 61.
3. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

REASONS FOR NON-APPROVAL

- ❖ Considering historical documents, it was always the intension to develop a larger hotel type building on the site, to create a similar development as Arabella, to create an upmarket development where persons not owning property in Benguela Cove Estate, can be accommodated to overnight.
- ❖ Thirteen (13) letters of objection were received, with valid objections.
- ❖ The proposal will allow for the development of the whole site with forty (40) units and restaurant/spa. This will entail the construction of internal roads and large parking areas. Considering the character of the area surrounding the site, being larger dwellings constructed on a limited footprint, on large plots, and also large portions of agricultural land, private open spaces and nature areas, the proposed built form is not in line with the character of the surrounding area.
- ❖ The development of a larger hotel with interleading rooms and amenities will be contained in a smaller footprint and mirror the surrounding development with large open spaces around them. Existing residential erven next to the site have a density of approximately 5 units/ha, and other residential pockets as low as 2,6 units/ha, whilst the proposed tourist accommodation self-catering units will have a density of 14 dwelling units/ha. It will have the appearance of a dense residential development, which will not fit in with the surrounding properties in BCE.

- ❖ Whilst hotels do not usually have braai facilities, otherwise limited with self-catering facilities private braai facilities are usually the norm. The impact of forty (40) self-catering units utilizing such facilities at the same time could create significant smoke and noise in the case of outside braais in the BCE development, which would impact surrounding residents.
- ❖ It is indicated quest to self-catering facilities could bring their boats, which would usually not be the case in hotel developments. If the boat yard and slipway is utilized by additional guests, this could create a lot of pressure on the slipway and boat yard, which have limited capacity. This will ultimately create additional noise and nuisance at the boat yard/slipway and impact on the privacy of surrounding property owners.
- ❖ A hotel development with larger interleading buildings with rooms and amenities allows for easier monitoring the movement and behaviour of guests, due to the fact that all facilities/amenities are in a more confined area. With self-catering units, control over the movement and behaviour of guests will be very difficult, and this would create greater security risks in BCE.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Layout Plan
Annexure D:	Objections received
Annexure E:	Applicant's comments on objections
Annexure F:	Services Report
Annexure G:	Comments: Eskom
Annexure H:	Comments: Telkom
Annexure I:	Heritage Western Cape
Annexure J:	Western Cape Government: EADP (EIA ROD)
Annexure K:	Western Cape Government: Transport & Public Works
Annexure L:	Municipal Environmental Management Services
Annexure M:	Cape Nature
Annexure N:	BGCMA
Annexure O:	Extract from old plan (SDP DHK) dated June 2004

SIGNATURE

AUTHOR:

Name: **HENK OLIVIER**

SACPLAN Reg No: **B/8128/2004**

Signature: _____

Date: _____

REGISTERED PLANNERName: **H VAN DER STOEP**SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____

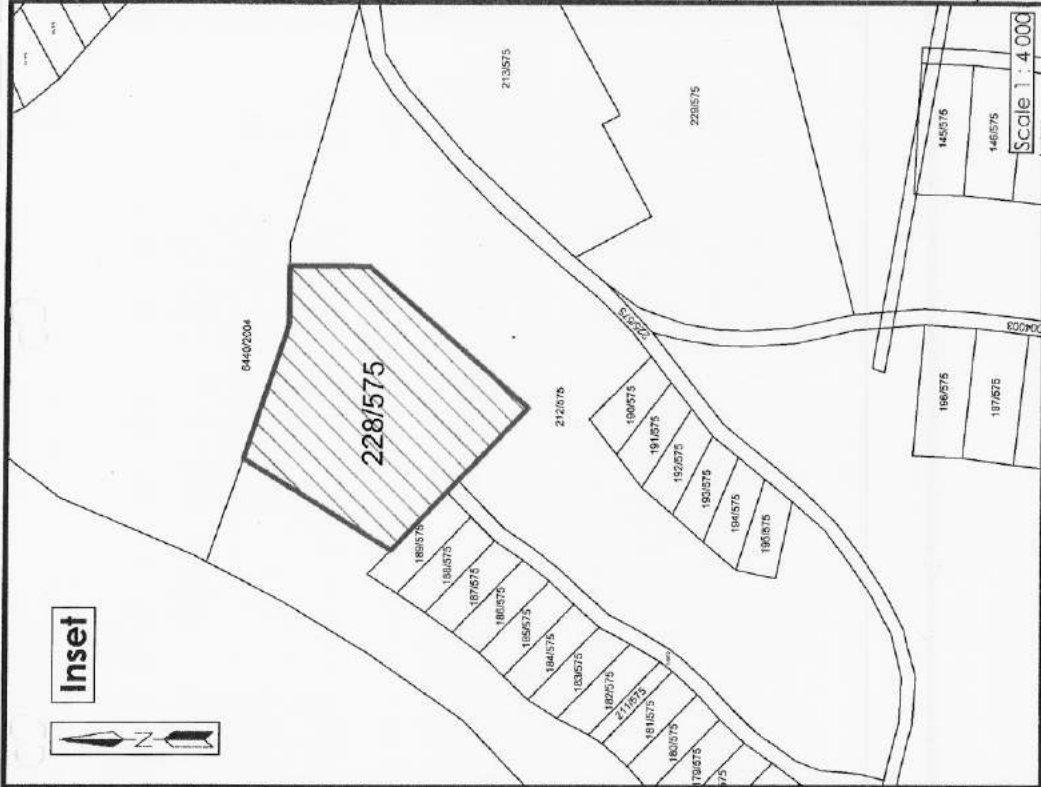
Plan 1
Locality Plan of
Portion 228 of Farm
Afdaks Rivier 575
Caledon

Portion 228 of Farm Afdaks Rivier 575 (2,7863 ha)

Plan prepared by: Keratlethe Jonkie
 All distances approximate and subject to survey.

ANNEXURE A
 35 Dulkar Street
 Pobox 1247
 Hermanus
 7200

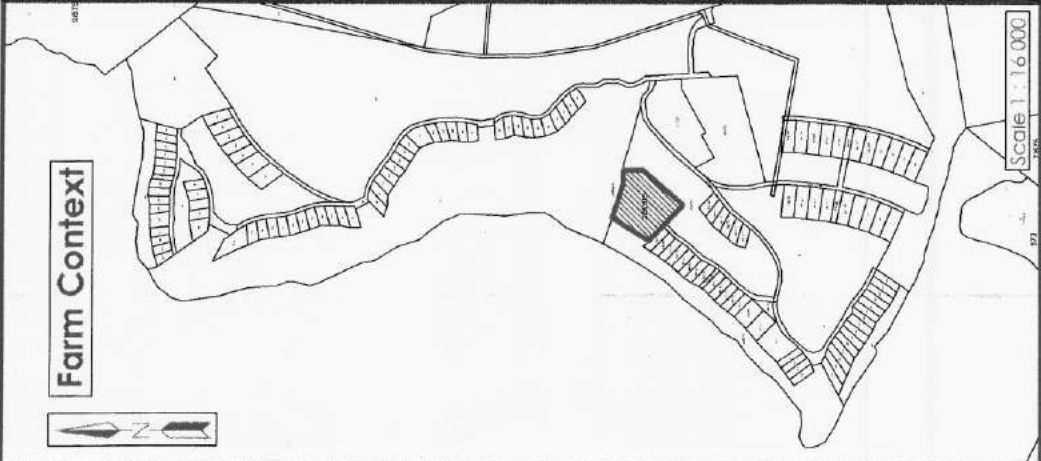
Tel: 028 313 1411
 Fax: 086 508 3248
 Email: wrap@telkomsa.net
 Web: www.wrapgroup.co.za



Inset



Scale 1 : 4 000



Farm Context



Scale 1 : 16 000

2. ABBREVIATIONS

OMZS	Overstrand Municipality Zoning Scheme, 2013
SDF	Overstrand Municipality Spatial Development Framework, 2006
OM	Overstrand Municipality
OM By-Law	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015
SPLUMA	Spatial Planning and Land Use Management Act, 2013
LUPA	Land Use Planning Act, 2014
PSDF	Western Cape Provincial Spatial Development Framework 2014
IDP	Overstrand Municipality Integrated Development Plan
IDF	Integrated Development Framework 2014
DEADP	Western Cape Department of Environmental Affairs and Development Planning
SDP	Site Development Plan
BCI	Benguela Cove Investments Pty (Ltd)
BCLWE	Benguela Cove Lagoon Wine Estate

3. DEFINITIONS PERTINENT TO THIS PROPOSAL

Consent use	The use of a property for any purpose specified as a consent use in the OMZS only if Council grants its prior written consent.
Submission of an SDP	A submission of an SDP if there has been no SDP submitted for the concerned site.
Urban fabric	Refers to the physical aspect of urbanism, emphasizing building types, thoroughfares, open space, frontages, and streetscapes but excluding environmental, functional, economic and sociocultural aspects.
Externalities	In the context of land use planning are consequences of an activity/land use which adversely affects other parties without this being reflected in the value of the applicant's property.

4. SUMMARY OF PROPERTY DETAILS

Authorised consultant	WRAP (Wright Approach Consultancy)
Registered owner	Benguela Cove Investments Pty (Ltd)
Farm number	Portion 228 of Farm Afdaks Rivier no 575 Caledon
Suburb	Benguela Cove Lagoon Wine Estate
Property extent	2,7863 ha
Proposed building footprint	6440m ²
Title deed	T32226/2006
Restrictive title deed conditions	None
Applicable zoning scheme	OMZS
Current zoning	General Residential Zone 3: Flats Bulk Zone 1 (GR3)

WRAP

EXECUTIVE SUMMARY

Permissible primary uses on the subject property as elucidated in the Zoning Certificate	Hotel
Current land use	Vacant

5. PROPOSAL

There is a historical approval highlighted in the Environmental Record of Decision for a 40-unit lodge on the subject property. The OMZS does not provide a definition for a lodge, but a lodge normally consists of several units used for the accommodation of guests. Lodge units are normally spread out on a property and are planned in a manner which is organised and in harmony with the surrounding land uses. Lodges also vary in visual appearance and standards. The subject proposal for tourist accommodation conforms to the prevailing character of a lodge. The subject tourist accommodation however is proposed to be very up market with high architectural standards and finishes as can be expected in an aesthetically appealing neighbourhood like Benguela Cove Lagoon Wine Estate (BCLWE) (refer **Plan 3 and 4**).

The zoning certificate which was issued by the OM indicates that the only primary right on the subject property is a **hotel**. The definition for a hotel in terms of the OMZS is the following:

"Hotel means a property used as a temporary residence for transient guests, where lodging and meals are provided, and may include;

- (i) A restaurant or restaurants;*
- (ii) Associated conference and entertainment facilities that are subservient and ancillary to the dominant use of the property as a hotel; and*
- (iii) Premises which are licensed to sell alcoholic beverages for consumption on the property; but does not include an off-sales facility;"*

A hotel is normally a single building with different rooms which is contrary to this proposal. The owner of the subject property can "as of right" construct a hotel which is 3 storeys high and covers up to 80% of the subject site (22290m²). This would be of a large scale, visually intrusive and out of character with the look and feel which the residents of BCLWE value. To mitigate the potential harm a hotel would have on the character of BCLWE, it is proposed that tourist accommodation (lodge) consisting of 40 units be constructed and spread out on the subject site. The proposed consent use as highlighted in the zoning certificate (refer **Annexure C**) is intended to bring the zoning development rights on the property in harmony with the existing approval elucidated in the ROD for 40 lodge units.

A "hotel" is defined as a property used as a temporary residence for transient guests, where lodging and meals are provided and may include a restaurant, associated conference and entertainment facilities that are subservient and ancillary to the dominant use of the property as hotel.

The proposed development includes a spa and restaurant. The spa is intended to be a beauty spa that will provide facials, body treatments and other relaxing treatments for residents and visitors. The proposed restaurant will provide a healthy selection of meals and beverages (health bar) to guests of the hotel and will also cater for visitors to the spa. The restaurant and spa are permissible in terms of the definition of hotel and it is generally

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EXECUTIVE SUMMARY

common practice for hotels, providing tourist accommodation to have restaurants and spas.

The boat shed will house kayaks, canoes and the like as well as being the main reception area. It is emphasised, that this proposal is not intended to function as a backpacker's establishment, camping site, motel, boarding house or hostel. These land uses would be incompatible with the upmarket character which is prevalent in BCLWE. It can therefore be a condition of approval that the subject property not be used for any of these incompatible land uses. This would put the mind of the residents at ease that the proposed development would not devolve into land uses which are contrary to how BCLWE is marketed.

Considering the above, WRAP has been appointed to apply for the approval of a Site Development Plan and a consent use for 40 tourist accommodation units.



6. URBAN FABRIC

Benguela Cove Lagoon Wine Estate is one of the most upmarket areas in the Overstrand, characterised by a high quality of life and functional space economy. The buildings all have modern architectural designs and building materials which are all in harmony with each other. The agricultural and open space land uses enhance the openness of the area and promotes easy movement of residents within the estate. The street frontages and offset of buildings from the street boundary are longer than on other residential properties in Hermanus and enhance the configuration of homes on the different erven. There is also a restaurant which offers a variety of up market meals and beverages which also caters to kids as there is a pirate golf course on the premises.

This proposal is intended to add value to this prevailing urban fabric of BCLWE characterised by high standards in the built environment in the area. The architects on the project is renowned for designing some of the best architectural buildings and the proposed building plans attest to that (refer **Plan 3 and 4**).

7. ZONING

The following zoning parameters for General Residential Zone 3: Flats Bulk Zone 1 (GR3) of the subject property were assessed in conjunction with the proposal.

Use	Building envelope	Proposal	Deviate/comply
Primary use	Hotel/Lodge	Boathouse and Spa/health bar;	Comply
Consent uses (that may be applied for)	Creche, day care centre, home occupation, hotel, institution, place of assembly, place of instruction, place of worship, retirement village, roof top base station, tourist accommodation , transmission tower.	Tourist accommodation	Deviate/applied for
Consent uses approved	None	N/A	N/A
Departures approved	None	N/A	N/A
Density	40 units as indicated in the Environmental Impact Assessment Record of Decision (EIA ROD) (refer Annexure D)	Tourist accommodation with 40 units which equals 14.3 dwelling units per hectare.	Comply
Coverage	80%	Each of the 40 units are 146m ² which is a total of 5840 m ² . The proposed boat house is 60 m ² and the proposed spa/health bar is 540 m ² . The total coverage is 23%.	Comply


 WRAP

MOTIVATION

Height	3 Storeys, maximum 9m high	1 storey and not higher than 9m.	Comply
Bulk	1.5	0.15	Comply
Street building line	4m	N/A	N/A
Side building line	4.5m	4.5m	Comply
Rear	3m	NA	N/A
Parking	1 bay per bedroom plus an additional 10 parking bays per 100m ² of public access areas.	<p>There are 40 tourist accommodation units which have 2 bedrooms each which require 80 parking bays.</p> <p>The spa/health bar is 540m² which requires 54 parking bays.</p> <p>A total of 40 covered parking bays and 94 open parking bays are provided.</p>	Comply

NB: There is an existing approval for 40 lodge units in terms of the ROD on the subject property. There is also an approval for a hotel. This proposal therefore primarily pertains to the format of the implementation of existing approvals.

8. SERVICES
8.1 Electricity

Driger Consulting investigated the demand for the proposed tourist accommodation. There is an existing 11kV cable passing by Portion 228 of Farm Afdaks Rivier No 575, Caledon. A min-sub can therefore be established. It is proposed that it be made a condition of approval that an electrical reticulation plan be submitted to the satisfaction of the relevant authority.

8.2 Water

An Engineering Services report was compiled by AVDM Consulting Engineers and Project Managers which highlights the availability of civil engineering services (refer **Annexure E**).

8.3 Sewage

The Engineering Services report highlights the sufficient capacity of the existing sewage system to handle the proposed tourist accommodation (refer **Annexure E**).

8.4 Traffic impacts, parking access and other transport related considerations

Access to the subject tourist accommodation is gained from the existing access road which connects to the subject property.


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A traffic impact assessment (refer **Annexure G**) was submitted with the original application for the development of Benguela Cove Lagoon Wine Estate. The traffic impact assessment included a facility with 100 lodge rooms on the subject property. The proposed lodge only has a total of 80 rooms which is below the number of rooms provided for in the traffic impact assessment. The projected vehicular movement to and from the subject property was anticipated long before the first home was constructed on the site and the road layout in BCLWE was designed to accommodate this projected vehicular movement.

9. NEED AND DESIRABILITY

Section 66.(1)(c) of the By-Law read with Section 55.(b) of LUPA highlights that each town planning application must motivate the desirability of a proposal in accordance with provincial guidelines. DEADP issued the "Provincial support document on Relevant Considerations 2015" which should be considered before the Municipality takes a decision. The desirability guideline in the document was used to assess the desirability of the approval and implementation of this proposal.

Element consideration	for	Motivation of the impact of the approval and implementation of this proposal.	Impact Positive or Negative
Economic impact		The proposed tourist accommodation will require labour during the construction and operational phase. This will be a positive economic impact considering the high unemployment rate in the OM.	Positive
Social impact		The subject tourist accommodation will attract genteel guests from different socio-cultural backgrounds and will promote intercultural interaction in the communal spaces on the subject property. This will result in the tourist accommodation contributing to social cohesion which is a positive social impact. The approval and implementation of this proposal will therefore facilitate the envisaged positive social impact.	Positive
Scale of the capital investment		The owner of the subject property intends to invest a substantial amount of money for the construction of the subject tourist accommodation. The sheer scale of the envisaged capital investment on the subject property illustrates the commitment of the property owner towards enhancing the built environment of BCLWE.	Positive
Compatibility surrounding uses	with	BCLWE functions as an upmarket establishment which exclusively attracts genteel residents and guests. Considering that the proposed tourist accommodation units are upmarket and of high	Positive

WRAP

MOTIVATION

	architectural integrity (Refer Plan 3 and Plan 4), the envisaged tourist accommodation units are compatible and desirable on the subject property. The approval and implementation of the tourist accommodation units is also projected to enhance the genteel character of BCLWE, make it more sought after which could potentially contribute to increasing property values in the BCLWE.	
Impact on safety, health and wellbeing of the surrounding community;	<p>The proposed tourist accommodation is residential and is aligned with land uses which prevail in BCLWE and is not projected to adversely impact on the health of other residents as there will be no noxious land uses which will emanate from the subject property.</p> <p>The guests who will visit the subject tourist accommodation are genteel and will be additional surveillance in BCLWE which is projected to contribute to either reducing crime or deter criminals from breaking into residential buildings in BCLWE.</p>	Positive
Impact on heritage	The subject property is vacant and is not heritage sensitive.	Positive
Whether the imposition of conditions can mitigate an adverse impact of the proposed land use	<p>The imposition of conditions of approval on the subject proposal is essential as it will ensure that the land use rights which surrounding property owners enjoy are not deprived.</p> <ul style="list-style-type: none"> • That all signage to comply with the Overstrand Municipality By-Law on Signage; • That all development parameters in the applicable Special Zone and other title deed restrictions be complied with. This will ensure that the scale of the subject development remains within reasonable bounds; • That building plans be submitted to the Building Department for approval as that will ensure that building is designed in accordance with prescribed legislation; • That all prescripts of the fire department be complied with to ensure that the subject building does not become a fire risk to the occupant as well as clients; • That all land uses on the subject premises not interfere with the peace, comfort or become an unbearable nuisance to surrounding property owners; and 	Positive

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MOTIVATION

	<ul style="list-style-type: none"> • That all other relevant legislation be complied with. 	
Aspects which impact on quality of life (including views, sunlight, privacy, visual impact, character)	The subject property is currently vacant. The approval and implementation of this proposal entails the transformation of the subject property into an architecturally appealing entity which will be a positive visual asset in BCLWE.	Positive

10. SPATIAL PLANNING DOCUMENTS**Spatial planning documents**

This proposal was assessed in terms of the existing spatial planning documents. This is to ensure that this proposal is in harmony with the urban form and urban fabric which is envisaged by the local and provincial authorities.

PSDF

The PSDF highlights that the space economy in the Overstrand Municipality is highly dependent on the unique cultural, scenic and coastal resources prevalent in the area. The alignment of this proposal with the PSDF will herewith be illustrated.

The policy proposals which are pertinent to this proposal are recorded.

Word class tourist destination

The PSDF cites that the Western Cape should function as a world class tourist destination and capitalise on the authenticity of the rural landscape of scenic and natural splendour. BCLWE currently functions as prestigious residential area which complies to high standards, even by international standards. The landscape is characterised by homes which are designed in compliance with modern architectural design principles with a backdrop of the mountains and Botrivier Lagoon. The proposed tourist accommodation as depicted on the SDP and 3D images is conforming to the modern architectural design of the area and will add value to the prevailing character of BCLWE.

Provide diverse outdoor activities

The PSDF promotes the provision of diverse outdoor recreational activities for the residents and visitors to the Western Cape. There is a boathouse, open space for a park and recreation, spa/health bar and pond proposed on the subject premises. This is intended to provide diverse, high quality outdoor recreational activities for the visitors to the proposed tourist accommodation units as prescribed by the PSDF.

Preservation of ecological integrity

Development along the coast, lakes, rivers and dams is proposed to not compromise on ecological integrity, tourism potential and the landscape character. The subject site is located adjacent to the lagoon and approved in terms of the existing ROD (refer **Annexure D**) and does not compromise on the ecological integrity of BCLWE which is highly valued by the residents. The proposed boat house and jetty (as approved in the ROD) are intended to introduce the guests to the natural systems prevalent in the area and create a greater

WRAP

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sense of appreciation among the residents for the natural systems which would enhance the tourism image of the area.

SDF

The objective of the SDF is to formulate strategic spatially based policy guidelines and proposals where the needs, changes and growth in the area can be managed to benefit the inhabitants and the environment in the Overstrand Municipality. The SDF is guided by a set of objectives and it will be highlighted how the proposal is consistent these core objectives.

The Spatial Proposal Plan in the SDF indicates that the subject property is located in the urban edge. The consistency of this proposal will be examined in conjunction with the overarching principles and development goals in the SDF.

Contain urban sprawl

The SDF cites that the spatial development pattern should contain urban sprawl within the urban edge. The subject property is located within the urban edge and the approval of this application will contribute to combatting urban sprawl.

Unique identity

The unique identity of the municipal area and districts is proposed to be strengthened and retained. The unique identity which exists in BCLWE is the up-market character of the area and the high standards which the residents of the area reasonably expect any building to comply with to maintain this unique character. This proposal conforms to the unique identity of BCLWE.

Improvement of the built environment

The improvement of the aesthetic quality of the built environment is cited as integral in the development of Hermanus. This proposal is intended to contribute to the aesthetic improvement of the built environment in BCLWE to add value to the existing development and to appease the existing residents by conforming to the reasonably expected high standards which are held.

Tourism facilities

The improvement and development of tourism related land uses is promoted in the document. There is a restaurant on the subject premises which attracts tourists to BCLWE which makes the area function as a tourist destination. This proposal for 40 tourist accommodation units is intended to develop additional tourist opportunities in BCLWE and contribute to the visual improvement of the area.

OMGMS

The subject property does not feature in the OMGMS and will therefore not be addressed.

11. MITIGATION PROPOSED

Possible externalities were identified, and the following mitigation measures are proposed:



WRAP

MOTIVATION

Possible externalities	Mitigation measures
BCLWE is marketed as an exclusive estate on the website. The subject tourism accommodation units may potentially destroy the exclusivity of the area as marketed.	BCLWE is a very exclusive area with good security and access control to the residential and farm component of BCLWE. The guests who will overnight at the subject tourist accommodation units will also be monitored and recorded when entering and exiting the subject premises and will be exclusive/genteel guests at the subject tourist accommodation units which are proposed and will therefore maintain the exclusivity of the estate as marketed.
The tourist accommodation units may not be in tune with the visual architectural appeal which suits the exclusiveness which is used to market BCLWE.	The architectural plans have been amended since the initial application which was submitted (refer Plan 3 and Plan 4). The designs are architecturally appealing and conform to the modern building typology and design prevalent in BCLWE and will further enhance the prevailing housing typology and fabric of the area.
The 40 tourist accommodation units may potentially lead to a more compact urban footprint on the property.	The subject tourist accommodation is almost entirely surrounded by private open spaces and a nature reserve. There is also a lagoon view which the residents of the subject tourist accommodation will witness the splendour of. The openness which surrounds the proposed tourist accommodation decrease the visual impact and compactness of this proposal and makes it to be in harmony with the prevailing visual setting in the area.
The tourist accommodation could potentially not be in line with the initial intention of the BCLWE development.	The ROD included approval for a 40-unit lodge and a primary right on the property is for a hotel. This is in conformity with the initial planning for the subject property as approved. The BCHOA constitution highlights the following: 31. NO SUBDIVISION OR REZONING AND NOT MORE THAN ONE DWELLING <i>31.1 No Member shall be entitled to subdivide or rezone his erf, it being noted that that <u>Erf 228 has been zoned as the Hotel and Related Facilities Development, together with the Agricultural Enterprise, which shall enjoy a separate zoning status commensurate with its function as main farm complex for the cultivation, harvesting, processing and marketing of the produce of the agricultural property, together with the Commercial Component, being Erf 229, comprises of with the Winery, Restaurant, Farm Stall, the Chapel, Conference facilities being zoned as Commercial.</u></i>



WRAP

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	The BCHOA constitution explicitly highlights that the subject property enjoys separate zoning rights which are conferred by the zoning certificate (refer Annexure C) and intended to be depicted on an SDP (refer Plan 3). The constitution therefore is written in a manner to acknowledge the unique nature of the land use rights which are applicable on the subject property which justify the proposed tourist accommodation.
The upmarket standards of the estate may potentially be compromised.	Included in the application are 3D images which depict the proposal (refer Plan 3) and illustrate that the development will add value to the up-market standard of the estate. The subject tourist accommodation units are not intended to be a backpacker type of accommodation which would be out of tune with the prevailing character of BCLWE.
The tranquil living environment prevalent in BCLWE can potentially be compromised with the approval of this proposal.	The tourism industry is seasonal, and it is unlikely that all the units of this proposed tourist accommodation will be occupied every day of the year. Tourists are also not projected to compete with the traffic of the estate before and after normal working hours as tourists normally wake up later and do not compete with working hours traffic. The guests of the subject tourist accommodation units are not projected to arrive and depart on the subject property simultaneously but will do so in different intervals. These site-specific circumstances pertaining to this proposal will therefore maintain the tranquillity in BCLWE which the residents value.

12. COMMON LAW

Common law dictates that a land owner may not use his land in such a way as to interfere with the rights of others, particularly neighbours (*sic utere tuo ut alienum non laedas*). A nuisance occurs when a land use is reasonably projected to interfere with a neighbour's or communities health, wellbeing or comfort in the occupation of his/her land. There must however be evidence of material interference and the complainant must not be oversensitive.

The test applied is one of reasonableness. In other words, would a reasonable person who is the neighbour or public be of the opinion that 40 upmarket and luxurious tourist accommodation units which exclusively attracts genteel guests and are contextually appropriate and complies with relevant guidelines tolerate the subject land uses. In other words, would this proposal affect the wellbeing of the neighbours or the public in the occupation of land? Considering the merits and scale of this tourist accommodation

proposal, a reasonable person would not be deprived of his right of occupation and wellbeing should this application be approved. The nature of the rights which are applied for with the development parameters which are proposed do not permit land uses which are project to deprive a resident in BCLWE area of any land use rights which are enjoyed.

13. PLANNING PRINCIPLES

The proposal was analysed for consistency with the planning principles to provide a recommendation to the OM for the application in terms of Section 7 of SPLUMA and Chapter VI of LUPA.

Spatial Justice

The approval and implementation of this proposal will contribute to employment creation during the construction and operational phase of the subject development. Most of the employees will be from the previously disadvantaged groups who would receive an income which will be used to access opportunities such as services, facilities, housing and guarantee improved living conditions for the employees. This will contribute to the materialisation of a spatially just urban landscape and contribute to combating historic spatial development imbalances caused by apartheid spatial and land use planning.

Spatial Sustainability

This proposal does not entail the encroachment on agricultural land, biodiversity rich and environmentally sensitive areas. The scenic and cultural landscape which is prevalent in BCLWE will be protected with the approval and implementation of this proposal. The location of the subject site within the urban edge will contribute to it combatting urban sprawl.

Efficiency

The subject property is currently underutilised. This proposal entails the optimal utilisation of the subject site and services within the engineering services capacity limits to the benefit of the genteel guests who will visit the subject tourist accommodation.

Spatial Resilience

The PSDF and SDF have policy proposals for the subject site which promote resilience which this proposal is aligned with. This will enable the subject property to resist, absorb and accommodate economic shocks in a timely and efficient manner.

Good Administration

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. WRAP will also respond to the comments of the public and take the comments into consideration in the planning of the project. All these measures will ensure that a joint planning approach is pursued to the benefit of the owner of the subject property and the community.



EVALUATION AND RECOMMENDATION

14. EVALUATION

Application

- **Submission** of an SDP for approval; and
- **Consent use** for 40 lodge units to be used as tourist's accommodation.

Urban fabric

The approval and implementation of this proposal will enhance the prevailing upmarket and quality-built environment fabric which is prevalent in BCLWE.

Zoning

- The proposal includes the submission of an SDP for approval;
- A consent use to utilise 40 lodge units for tourist accommodation is applied for;
- There are 40 tourist accommodation units proposed which constitute 14,3 dwelling units per hectare;
- The permissible coverage is 80% and the proposed coverage is 23%;
- A maximum of 3 storeys are permissible and only 1 storey is proposed;
- The permissible height is 9m and the subject buildings are lower than 9 m;
- The permissible bulk is 1,5 and the proposal is for 0,15;
- No building lines are encroached upon; and
- There are 134 parking bays required and 134 parking bays are provided.

Services

Service	Motivation	Availability Yes or No
Electricity	It is proposed that it be made a condition of approval that an electrical reticulation plan be submitted.	Yes
Water	AVDM Consulting Engineers have confirmed the availability of potable water on the site.	Yes
Sewage	The Engineering Services Report illustrates the capacity sufficiency for sewage.	Yes
Traffic	There is an existing approved traffic impact assessment which illustrates that traffic will be smooth functioning.	Yes

Desirability

Element for consideration	Motivation	Impact Positive or Negative
Economic impact	The employment opportunities which will be created on the subject property are regarded as a positive economic impact.	Positive
Social impact	The enhancement of intercultural interaction which will occur on the subject property if this application is approved is regarded as a positive social impact.	Positive
Scale of the capital investment	The significant scale of the capital envisaged to be invested on the subject	Positive



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EVALUATION AND RECOMMENDATION

	property illustrate the commitment of the property owner towards the enhancement of BCLWE.	
Impact on safety, health and wellbeing of the surrounding community;	The additional surveillance of genteel guests on the subject property will contribute to enhancing safety of the existing residents of BCLWE.	Positive
Impact on heritage	The subject property is not heritage sensitive.	Positive
Whether the imposition of conditions can mitigate an adverse impact of the proposed land use	There are several conditions of approval which are proposed as a mitigation measure.	Positive

Spatial planning initiatives

Policy	Motivation	Compliance Yes or No
PSDF	The approval and implementation of this proposal will promote the following: <ul style="list-style-type: none"> • BCLWE as a world class tourist destination; • Provide outdoor recreation facilities; and • Preserve the ecological integrity in BCLWE. 	Yes
SDF	There are site specific circumstances which justify a deviation from the SDF which include the following: <ul style="list-style-type: none"> • Contain urban sprawl; • Preserve the unique identity of the area; • Improve the built environment; and • Provide tourism facilities. 	Yes

Externalities

There are probable externalities which this application can result in, however mitigation measures are proposed to protect character and ambiance of BCLWE which the residents value.

Planning principles

Policy	Motivation	Compliance Yes or No
Spatial justice	The approval and implementation of this proposal will contribute to a more spatially just urban landscape in the Overstrand.	Yes
Spatial sustainability	This proposal promotes spatial sustainability in BCLWE.	Yes
Efficiency	This proposal promotes the efficient use of services and facilities.	Yes
Spatial resilience	This proposal is aligned with the resilience policy proposals for the subject site.	Yes



EVALUATION AND RECOMMENDATION

Good administration	The Overstrand Municipality has an inclusive and efficient public participation process where the comments from the public will be taken into consideration and ensure a joint planning approach between WRAP, Municipal Officials and the public.	Yes
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15. RECOMMENDATION

It has been motivated that the subject proposal is aligned with the prevailing urban fabric of the BCLWE.

Considering the above, it is recommended that the following be **approved**:

- **A Site Development Plan** for the proposed development of a lodge on Portion 228 of Farm 228 Caledon, consisting of 40 units be used as tourist accommodation, a boathouse, open space for parks and recreation, spa/health bar and pond in terms of Section 16 (2) (f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015; and
- **Consent use** for 40 lodge units to be used for tourist's accommodation in terms of Section 16(2)(g) of the Overstrand Municipality By-Law on Municipal Land Use Planning.

27 MAR 2019

**BENGUELA COVE
LODGE AND SPA**

107 St. Hill Road, 600
SUNSHINE BEACH
20170, 401
1000 225 104
1000 225 104
1000 225 104
1000 225 104

PERIOD: 04.2019

MEM ASSEMBLY MEMBERS
MEMBERS OF THE BOARD
MEMBERS OF THE COMMITTEE
MEMBERS OF THE STAFF
MEMBERS OF THE VOLUNTEERS
MEMBERS OF THE DONORS
MEMBERS OF THE SPONSORS
MEMBERS OF THE PARTNERS
MEMBERS OF THE INVESTORS
MEMBERS OF THE ADVISORS
MEMBERS OF THE CONSULTANTS
MEMBERS OF THE PROFESSIONALS
MEMBERS OF THE SPECIALISTS
MEMBERS OF THE EXPERTS
MEMBERS OF THE RESEARCHERS
MEMBERS OF THE ANALYSTS
MEMBERS OF THE EVALUATORS
MEMBERS OF THE MONITORS
MEMBERS OF THE ASSESSORS
MEMBERS OF THE AUDITORS
MEMBERS OF THE INSPECTORS
MEMBERS OF THE SUPERVISORS
MEMBERS OF THE MANAGERS
MEMBERS OF THE COORDINATORS
MEMBERS OF THE FACILITATORS
MEMBERS OF THE MEDIATORS
MEMBERS OF THE NEGOTIATORS
MEMBERS OF THE RECONCILIATORS
MEMBERS OF THE TRANSFORMERS
MEMBERS OF THE CHANGEMAKERS
MEMBERS OF THE INNOVATORS
MEMBERS OF THE CREATORS
MEMBERS OF THE DESIGNERS
MEMBERS OF THE BUILDERS
MEMBERS OF THE OPERATORS
MEMBERS OF THE MAINTAINERS
MEMBERS OF THE SUPPORTERS
MEMBERS OF THE ENABLER

ANNEXURE C - BENGUELA COVE LODGE AND SPA
The site plan shows the proposed layout of the lodge and spa, including the swimming pool, parking area, and various buildings. The plan also shows the location of the proposed new spa location. The site is bounded by a road to the north and a road to the east. The plan shows a central road that runs north-south, with several smaller roads branching off to the east and west. The lodge and spa buildings are shown in grey, and the swimming pool is shown in blue. The parking area is shown in grey. The site is landscaped with many trees and shrubs. The proposed new spa location is shown in purple. The site plan is a detailed architectural drawing that shows the layout of the lodge and spa, including the swimming pool, parking area, and various buildings. The plan also shows the location of the proposed new spa location. The site is bounded by a road to the north and a road to the east. The plan shows a central road that runs north-south, with several smaller roads branching off to the east and west. The lodge and spa buildings are shown in grey, and the swimming pool is shown in blue. The parking area is shown in grey. The site is landscaped with many trees and shrubs. The proposed new spa location is shown in purple. The site plan is a detailed architectural drawing that shows the layout of the lodge and spa, including the swimming pool, parking area, and various buildings. The plan also shows the location of the proposed new spa location. The site is bounded by a road to the north and a road to the east. The plan shows a central road that runs north-south, with several smaller roads branching off to the east and west. The lodge and spa buildings are shown in grey, and the swimming pool is shown in blue. The parking area is shown in grey. The site is landscaped with many trees and shrubs. The proposed new spa location is shown in purple.



TP A. (Henk)
(H. Olivier)

ANNEXURE D 1/76



Andrew Grimanis

195 Benguela Cove Lagoon Wine Estate
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E: andrew@essential.co.za



Overstrand Municipality
Town Planning Department
Mr. Henk Olivier
Via email: Loretta.Gillion@overstrand.gov.za
30th August 2019

Re: LETTER OF COMMENT AND OBJECTION BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT PLAN (SDP)
FOR PORTION 228 OF THE FARM AFDAKSRIVIER: NO 575 CALEDON

To whom it may concern

I strongly object to the site development plan for the following reasons;

- 1) When I purchased my plot in 2010 from Chris Drummond. I was told that a small **boutique hotel** would be constructed on portion 228.
- 2) I have now seen the plans for 40 x free standing, 2-bedroom units and this goes against what I bought into.
- 3) The reason for buying at Benguela Cove was that it was less dense than other developments and would remain **exclusive and secure**.
- 4) In my opinion, 40 x stand alone units would make the hotel area denser than was previously permitted and necessary to maintain exclusivity as well as make it **less secure than a small hotel would**.
- 5) BCI has **not engaged** the Homeowners Association at any point about security and the lack thereof on their part will **jeopardize the security** of my house which is less than 500m from the hotel site.
- 6) Access to the hotel needs to be restricted to prevent people driving around the estate invading our privacy much like when the vehicle from the commercial precinct drives past my house with people who are going on "booze cruises" screaming and shouting.

Please confirm receipt of my objection.

Yours sincerely

Andrew Grimanis

FILE NO:	PN 228 / 575
	Afdakrivier ✓
SCAN NO:	
	ANDREW
COLLABORATOR NO:	1318456

TP

30 AUG 2019

TP. A/Heart
(H. Olivier)



THE DIESSNER FAMILY TRUST – ITO21192/2014
Benguela Cove plots 171 & 172

Attention:
Overstrand Municipality
Town Planning Department
Mr. Henk Olivier

Via email: Loretta Gillion lp@overstrand.gov.za

FILE NO: PA/ 228/575
Afdaksrivier ✓
SCAN NO: DIESSNER
COLLABORATOR NO: 1318440

CPT 29th Aug 2019

Re: **LETTER OF COMMENT AND OBJECTION BENGUELA COVE LAGOON WINE ESTATE APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER: NO 575 CALEDON**

To whom it may concern

We do not have any objection to a small boutique hotel in line with the original zoning scheme as long as all architectural, constitutional and other guidelines and proposed comments are complied with. However, we **strongly object to the application** by WRAP on behalf of Benguela Cove Investments Ltd ("BCI") for the approval of a consent use and site development plan (SDP) for portion 228 of the Farm Afdaksrivier No. 575 Caledon.

Please consider the following reasons for our objection:

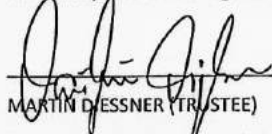
1. BCI is a member of the Benguela Cove Home Owners Association ("HOA") and must adhere to the Constitution of the HOA as much as any other member.
 - a. The constitution provides for an approval process of visual and architectural design guidelines to be followed, which BCI has not complied with at all.
 - b. The constitution regulates that only one building (except for inhabitable outbuildings as per the zoning regulation for residential zoning) is permitted per erf, yet BCI intends to build 40 habitable structures on one erf which is non-compliant with both the constitution and architectural guidelines.

TP 30 AUG 2019

- c. The constitution regulates that the Association must approve any construction or alteration of an erf. BCI has not once pro-actively engaged directly with its Members (other homeowners) relating to this application, other than through registered letters via Overstrand Municipality.
2. BCI initially applied for a subdivision of neighboring erf 212 in order to provide a convenient and sensible access road to the new hotel. Due to procedural errors on BCI's side, this subdivision was rejected by the Overstrand Municipality. The HOA and an overwhelming majority of >75% of its Members have already provided support for a special resolution to be passed, which will permit the subdivision of erf 212, which subsequently paves the road for more suitable hotel access, instead of re-routing all vehicular traffic via the internal network of the estate, creating additional security risks. In 2019, there were 3 break-ins reported into BCI's commercial/agricultural properties, and a sound security strategy is a non-negotiable concern with limited access to hotel guests and staff/contractors into the wider residential road network of the estate.
3. Although we only purchased our two plots in 2014 and 2018 respectively (and weren't part of the early specifications of a boutique hotel outlined by the late developer Chris Drummond), we do believe that the initial scope of the SDP must be followed: Instead of 40 x 2 bedrooms + 1x kitchenette/lounge, a 40-room boutique hotel should be the maximum foot print that is being permitted. Related infrastructure such as civil services (electrical, potable water, sewage) were specified based on a 40-room size hotel and not based on a 40 x 4 room scale project.

Kindly confirm the receipt of our objection via email to martin.diessner@me.com

With many thanks and regards



MARTIN DIESSNER (TRUSTEE)



ROBYN DIESSNER (TRUSTEE)

(Duly authorized to sign on behalf of The Diessner Family Trust)

Cape Town, 29th of August 2019

TP A. Ahead (H. Oliver)

Volkhard + Ilse Buchholz

30th August, 2019



Overstrand Municipality
Town Planning
att. Mr. Henk Oliver
16 Paterson Street

Hermanus, 7200

FILE NO:	PIN 228/575
	Afdaks Rivier ✓
SCAN NO:	
	VOLKHARD
COLLABORATOR NO:	
	1318425

Dear Mr. Oliver

Ref.: Portion 228 of Farm 575, Afdaksrivier

APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIEVER NO 575, Caledon

We refer to the above matter an notice received from your office. The following is placed on record formally.

We are owners of plot and house 182 at Benguela Cove and writing to you to comment and object to the a.m. "Proposed site development plan" of portion 228 of farm no 575, Afdaksrivier.

Reasons and Comments for our objection:

- 1. Non-compliance with the Constitution of Benguela Cove Estate HOA.**
The Estate and its Home Owners Association is governed by a formal Constitution, which requires from the members of the Association to follow specific procedures concerning particular matters. In the instance of the application to develop Portion 228 the applicant (BCI) should have approached the Association as well as the Urban and Architectural Review Committee to obtain consent for the matter(s) in question. BIC failed to do so.
- 2. Size of development**
According to the Record of Decision (ROD) of 15th December 2003 of the Department of Environmental Affairs and Development makes reference to a "Lodge consisting of 40 units and a tennis court". Reading the word UNITS in different documents it becomes clear that the

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TP 30 AUG 2019

Volkhard + Ilse Buchholz

meaning is rooms not free standing houses. The applicant instead interprets this intentional wrong as 40 free standing houses with a total of 80 bedrooms + 40 living rooms + kitchen + 40 outside recreation areas and 40 carports.

Furthermore the ROD requires ".....40 units and a tennis court..." However a tennis court is not included in the application. It can be speculated that the applicants intention is to make use of the community tennis courts and swimming pool. With his record of transgressing of rules and ruthless behavior it would be no surprise.

3. Type of structure

The constitution stipulates that on each erf only **ONE** dwelling together with outbuildings shall be erected. 40 freestanding houses on one plot are definitively violating the constitution.

4. Security

in his application the applicant does not address the serious impact which a development of this size and nature will have on the security of the Estate. According to the application each visitor of the proposed development be it as a guest or only visiting the spa facilities has access to the internal private roads which in fact means that the public has access to the internal private road system owned by the HOA. The HOA cannot held responsible for providing the security for this the applicants business.

5. Environment

The Benguela Cove Architectural and Urban Design Guidelines is part of the environmental application documentation on which the Environmental Authorization was granted by DEADP. The Record of Decision specifically refers to the fact that the fluctuating lagoon shoreline is a registered international Birding Area and a such may not be accessed by residents and their guests.

The proposed pathway from the boathouse/spa towards the waterfront is ignoring the rules and conditions of the Environmental Authorization.

V. Volkhard + Ilse Buchholz

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Page | 2

TP A. Mearl
(H. Olivier)



Nico Boris Buchholz

Tel. (home): +27-810663624
e-mail: nicobuchholz@hotmail.com

House 130
Benguela Cove
Hermanus
South Africa

Overstrand Municipality
Town Planning Section
loretta@overstrand.gov.za

FILE NO: PAN 228/518
Afdaks Rivier ✓
SCAN NO:
NICO
COLLABORATOR NO:
1318419

August 29, 2019

Ref.: BENGUELA COVE LAGOON WINE ESTATE, APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT, PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIEVER: NO 575 CALEDON

To Whom It May Concern:

I am writing to you to comment and object to the BENGUELA COVE LAGOON WINE ESTATE, APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT, PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIEVER: NO 575 CALEDON

My name is Nico Buchholz, I am owner of plot 130 at Benguela Cove.

The approval of the change of the development plan may have a significant negative impact on the lifestyle, safety and security of the existing residents, wildlife and the environment.

I base my objection on the following:

Objection 1 – Substantial increase in number and nature of units, resulting in a change of the amount of guests and nature of activities and resulting impact on residents, wildlife and environment:

The core of this objection is centred on the change from the existing approval of a "hotel" to what is essentially a "multi-house holiday village" which does not conform to existing architectural guidelines. The approval is for a single hotel with 40 units (i.e. bedrooms). What is being proposed are 40 independent/ detached self-catering structures (i.e. houses) with 80 bedrooms/units, 40 open plan kitchen/ living rooms, 40 substantial terraces (incl. braai area) and major road system so every house can be accessed by car. In a very narrow and specific sense it can be argued that the application asks for the size of the development to be more than tripled.

This is a major and fundamental change ! Specifically the change can be quantified in size (incl. number of guests, number of rooms, number of parking spaces), a significant change in the nature of activities (self catering holiday houses vs hotel) and guest profile.

The potential impact on the lifestyle of residents and wildlife may be significant, specifically.

- > Independent structures (i.e. many houses vs. 1 hotel) means:

TP
30 AUG 2019

- Less regulated, controlled and supervised access to the residential area = decreased safety for and annoyance to residents
- Much higher impact construction/ design is required (incl. roads, parking, etc.) = less natural environment
- More light pollution (one hotel unit emits less light than a house)
- More bedrooms/ units mean:
 - = More people = more noise pollution
 - = More people wandering around residential areas = increased security risk and annoyance.
 - = More light pollution
 - = More road traffic = more disturbance through noise & light pollution (particularly in view that the proposed traffic flow is through a residential area (plots 175-189))
 - = More traffic = increased risk to safety of resident's children playing on the road.
 - = More parking facilities = more concrete/ less nature (see point below)
- Self-Catering means:
 - More braais = greater fire risk
 - More braais = More smoke = more air pollution
 - More braais = More outdoor activities = more noise pollution and disturbance for residents and wildlife
 - A completely different client/ guest profile and a profile that is less desirable to have in a residential area.

The net effect of the above may have a high and predominantly negative impact on residents, wildlife and the environment.

When I purchased my property at Benguela Cove I gave consideration to the site development plan and the approved activities. My purchase was based on this and the change in the development plan may fundamentally change the character of the estate.

Benguela Cove was envisaged as a low density (big plots, detached houses), private, rural, in "the middle of nature" exclusive lagoon/ wine estate. I am concerned that the estate will become "Benguela-Land" or "Disney-ela", a place of entertainment of "low value, high impact" on residents and wildlife.

The application cannot be viewed on isolation but must also be looked at in the context of the relatively recently approved "Portion 229 Of Farm 575, Benguela Cove – Proposed Amendment Of Approved Site Development Plan And Departure", which is already changing the character of the estate.

How many more changes – it's enough !?

Objection 2 – Visual & Environmental Impact:

The visual and environmental impact of a "40 detached - 2 bedroom house - development" is significantly different from "a single 40 unit hotel".

The issue is compounded by:

- Need to have road access to each individual house within the proposed development,
- The need for extra parking
- The high density cluster of the houses within the proposed development fundamentally contradicts the spirit and rules of Benguela Cove as a low density estate. What is being proposed is a "holiday village".

The units may be "harmony with each other" but they are not in harmony with the remainder of the estate.

Objection 3 – Access To Non-Hotel Guests and Commercial Activities Not Related To Hotel Ops.

The existing approval is for a hotel. **There should be no facilities (incl. commercial) for non-hotel guests or non-residents.** Specifically the Spa, Restaurant and access to the lagoon for watersports must strictly be for hotel guests only.

The applicant's provisions for parking suggests that the applicant wants to develop activities/ services (incl. commercial) for non-hotel guests and non-residents. This must NOT happen as it has an obvious direct impact on:

- Noise: By increased human activity and transport
- Safety: By increased road traffic
- Security: By increased and less restrictive access
- Wildlife: By increased human activity (water sports, etc.)

Objection 4 - Water, Sewage, Electricity, Road

Please be aware of the legal dispute between the Benguela HOA and the applicant
The fact that some utilities of sufficient capacity are available is not the same as the applicant having authority to have access to them.
As the HOA is opposed to the applicant's plans it is unlikely that a request for access will be viewed positively.

Objection 5 – Potential Future Repurpose Of Proposed Development

The proposed development is of such a nature that approval could be sought at a future date to repurpose it from a hotel to the sale of individual holiday homes/ houses, retirement village, etc.
This must be prohibited.

Objection 6 – Access

The applicant is proposing that access to the proposed development is through the existing road within the residential area (plots 175 – 189). Due to the increased amount of rooms/ units and likely amount of guests (see point above) this is not acceptable due to noise and light pollution and increased risk to residents and their children playing outside.

Please note that there are other and in my view less impactful access options.

Objection 7 – Security

Due to the reasons mentioned above (increased # bedrooms/ units, detached units, road through residential area) a completely new security concept is required to protect residents. No mention of this was made in the application, only vague statements.

Objection 8 – HOA Architectural Guidelines

If the applicant would like to repurpose the land from hotel to holiday houses, the applicant should adhere to existing architectural guidelines.

A purpose of the existing guidelines is to create an architecturally harmonious estate. This would not be achieved given the proposed dense cluster of houses. I suggest the applicant has to conform to the existing architectural guidelines (including density of built) if detached houses are planned.

Objection 9 - Lack Of Specificity Of Application:

Some of the terms used to justify the application are not sufficiently concrete and need to be qualified. Some terms are unspecific and abstract and should not be used as the basis for approval.

Examples:

- o The proposed development is often referred to as "upmarket".
This term needs to be explained. Coming from a developer who has done the opposite over recent years (mini-golf course, splash park, etc.) this change in trajectory is unlikely.
- o "Harmony" is mentioned frequently in the proposal. The applicant's understanding of this term needs to be explained given that this is unlikely going to happen, given the dense built of the new proposal (see my point above).
- o "Health Bar" – This is not a term with a specific meaning.
- o The development is supposed to attract "genteel guests".
What are "genteel guests" and what system will be used to deny access to people who do not meet this criteria ?

Objection 10 – Statements/ Motivations are not qualified, not proven, invented or simply incorrect

- o Page 6 – "6. Urban Fabric"
 - o The proposed development "promotes easy movement of residents"
Comment: How can this be reasonably argued ? Knowing the site this is in my view a made up attribute.
 - o The street frontages and offset of buildings from the street boundary are longer than on other residential properties in Hermanus
Comment: Irrelevant how the estate relates to Hermanus. What is important how it relates to the estate as a whole.

o I refer to the column:

Impact on heritage:	The subject property is not heritage sensitive	Positive
---------------------	--	----------

Comment: How can the impact be classed as positive, if the property is "not heritage sensitive". The applicant is inventing "positives".

o I refer to the column:

Impact on safety, health and wellbeing of the surrounding community	The additional surveillance of genteel guests on the subject property will contribute to enhancing safety of the existing residents of BCLWE	Positive
---	--	----------

- *Comment 1: The impact on "health and wellbeing" has not been answered and cannot be determined to be "positive". Personally the proposed change will have a detrimental effect on my view of the estate and negative effect on my wellbeing.*

- *Comment 2: What is a "genteel guest" and what system is place to prohibit access of "non-genteel" guests ? This is gibberish !*

- *Comment 3: What additional enhanced surveillance ? Specific security systems/ concepts need to be put down here, rather than abstract, non-specific and aspirational statements that lack specifics.*

- *Comment 4: Some points made by the applicant are unsubstantiated. I could make the exact opposite claim.*

Objection 11 – Impact on relationship with HOA not addressed

The proposed change places additional burdens onto the HOA, which have not been addressed by the applicant. The burden is administrative but also financial.

I am personally not willing to financially subsidize the running of the new development, which what the change would amount to. Part of the application, in my view, should be a detailed tentative agreement between the HOA and the applicant.

Objection 12 – Impact on Property Value

The applicant has a history of wanting to make Benguela Cove appealing to a much wider audience by changing the original vision of the estate from an exclusive, quiet area to that of a low end, mass, high impact tourism. Specifically introducing facilities like mini-golf, a splash park, multiple bus parking bays are testament of that changed vision towards commercialisation.

The continued use of the word “upmarket” in the application is in my opinion the opposite of what the applicant has tried in the past.

I am concerned that the value of my property will fall as the result of the proposed change.

At no point has the applicant consulted, asked for input or considered the desires of a substantial number of residential plot/ house owners.

In summary, due to the reasons outlined above I am strongly opposed to the proposed change.

Please contact me if I can be of assistance to you.

Best regards



TP. A. Head
(I. Olivia)



BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM
AFDAKSRIVIER:
NO 575 CALEDON

I, the undersigned, Rodney Charles Anderson director of Lindfield Brokers being the registered owner of erf 135 Benguela cove hereby confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575 Caledon

My personal history includes +35 years in the property industry as a Commercial, Industrial and Residential Property Broker and Developer with 7 projects completed including Gateway Centre

We have lived in Benguela Cove for 10 years and were amongst the very first permanent occupants.

Based on my experience and observations. We object on the following grounds:

The vision offered and the developers obligations in terms of the original sales documentation are at odds with the BCI proposal. The original developers were professionals who could be trusted to perform.

The high-density "township" development for which they seek Approval was nowhere envisaged.

The proposal will certainly further prejudice the sense of place and may be challenged on those grounds alone. The Municipality has been unable to take them to task on construction without approved plans and illegal signage et al. BCI show little regard for other opinions and rules of play.

The Low-Density Framework and protections of the Renosterveld Nature Reserve, enshrined in the ROD are not respected, nor are the obligations of Custodianship.

FILE NO:	PAU 208 / 575
	Afdaks Rivier ✓
SCAN NO:	ANDERSON
COLLABORATOR NO:	1318397

TP 30 AUG 2019

I have read, fully understand, endorse and support all the points made by Urban Dynamics.

We trust that good sense will prevail and the Application will be refused in its entirety and that the Municipal Authority, in future supports the obligation of BCI to elicit co-operation and agreement from the HOA on all matters that concern them such as this one.

Signed at HERMANUS on 30TH August 2019

Signature

A handwritten signature in black ink, appearing to read 'H. G. G. G.', written over a horizontal line.

Plan Active
Town & Regional Planners
Stads- en Streeksbeplanners



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Our reference: PA18029

26 August 2019

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

For attention: Mr. Henk Olivier

Sir,

FILE NO:	FAN 228/575
	Vain Afdaks Rivier ✓
CAN NO:	PTN 228
COLLABORATOR NO:	1318244

**OBJECTION: PORTION 228 OF THE FARM AFDAKS RIVIER NO.575, BENGUELA COVE:
PROPOSED CONSENT USE AND THE AMENDMENT OF THE SITE DEVELOPMENT PLAN**

We have been appointed by the owner of Portions 188 and 189 (consolidated to 245) of the Farm Afdaks Rivier No.575, Mr. Sean Mac Dermott on behalf of Pumatech Prop Pty(Ltd) to object against the proposal for the a consent use and amendment of the site development plan for Portion 228 of the Farm Afdaks Rivier No.575.

Contact Details:

SBD Mac Dermott (obo Pumatech Properties Pty Ltd)
Stands 188 & 189 (Consolidated 245)
Benguela Cove Lagoon Wine farm and Estate, Hermanus
Cell : 082 373 1483, Email: seanm@pumatech.co.za

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
Reg. No. 2006/030921/07
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009

TP 30 AUG 2019

Our objections against the proposed development are as follow:

- With reference to the original approval of the Benguela Cove Estate, and the intended use of Portion 228 of the Farm Afdaks Rivier No.575 was for a hotel and therefore a proposed Residential Zone V zoning (in terms of the Section 8 Scheme Regulations of the Land Use Planning Ordinance, Ordinance 15 of 1985) was approved for the last-mentioned farm portion. The primary right for a Residential Zone V zoning is Residential Building of which the definition reads as follows:

"Residential building means a building (other than a dwelling-house, group house, town house or flats) for human habitation, together with such outbuildings as are normally used therewith, and includes a boarding-house, residential rooms, licenced hotel (excluding an off-sales facility), an old age home, a children's home and hostel, but does not include buildings mentioned, whether by means of inclusion or exclusion, in the definitions of "place of instruction" or "institution".

With reference to the above definition of a Residential Building a lodge is not included but only a hotel. The intention of the construction of a hotel on Portion 228 of the Farm Afdaks Rivier No.575 was therefore brought forward in the Benguela Cove Home Owner's Association Constitution. The construction of a Lodge is not mentioned in the Constitution.

- Benguela Cove is an exclusive estate that is marketed on their website as follows:

"Only 1 hour from Cape Town International airport, overlooking the Atlantic Ocean in Hermanus lies the 200-hectare security estate, Benguela Cove, a unique piece of real estate in South Africa which is surrounded by the Botriver lagoon a natural lagoon which is teeming with fish and birdlife. This exclusive development has 124 plots on the estate, which over time are being turned into luxury waterside and vineyard properties.

Benguela Cove is surrounded by water, mountains, vineyards, olive trees, lavender fields and is a working wine farm, on which you can buy or build property. The plots are set in a protected nature reserve and your only view is dreamy sunsets with flocks of birds highlighted against the mountains.

As the only watersport development in the Western Cape, this Hermanus estate, has its very own jetty, slipway, boating garages, clubhouse and storage. Waterskiing, kitesurfing, kayaking and open water swimming, swimming pool, tennis court, basketball and boule courts and an 11km walking/biking track are all exclusively for residents use.

This lifestyle estate has strict but workable architectural controls to ensure that your investment is protected and as an exclusive resident of the estate you benefit from an agricultural agreement with the farm for an allocation of estate wines annually.

Benguela Cove offers residents one of the best lifestyles South Africa has to offer, from top notch security to first class lifestyle pursuits. The estates separate commercial complex is home to a state of the art winery, restaurant and barrel room, tasting room, shop, as well as an 18-hole Pirate Adventure Golf and fun Splash Park facility.

The site plan and architectural building plans that accompanied the application gives the impression of the proposed lodge to be that of a typical Road Lodge that is not in tune with the above marketing statement and does not suit the exclusiveness of the Estate as a whole. The units furthermore are perceived as being self-catering units, and if so, it will not benefit the businesses already established in the estate that also include the restaurants.

An upmarket, well designed hotel building with 40 guestrooms that has a more compact footprint would have been more acceptable than the proposed freestanding self-catering units and auxiliary buildings that are proposed. The proposed layout does not take the adjoining residential land owners into consideration by creating the main access directly next to Portion 189 (Consolidated 245) of the Farm Afdaks Rivier No.575.

The proposed site plan does not address the security issues of current residents and totally disregards the safety and privacy of the adjoining landowner Portion 189 (Consolidated 245)

- Even though an approval has been obtained from the Overstrand Municipality and the Department of Environmental Affairs and Development Planning to accommodate a hotel on Portion 228 of the Farm Afdaks Rivier No.575 no site plan has been approved. The fact that approvals have been obtained for the rezoning of the last-mentioned portion cannot be used as a reason for the desirability of the application.

The proposed land use and the impact thereof on the surrounding land owners should rather be taken into consideration. It is our opinion that the proposal has not taken the surrounding land owners and the impact of the development on them into consideration. There are other alternatives that can be investigated to make the development more viable and acceptable to all such as the **intended hotel and not a lodge.**

- The proposed land use is not in keeping with the character of the upmarket residential estate and retracts from its current built form and should be re-visited.
- The proposed development does not make use of the site potential and is to the detriment of the existing residential farm portions and the character of the Benguela Cove Estate.
- The proposed development scale of 40 freestanding two bedroomed self-contained dwelling/houses with lounge and kitchenets is deemed not economically feasible. This investment is excessively large relative to the current and projected revenue based on the very low usage/occupancy of the current restaurant. There is a very real concern that the proposed development is a 'front' by the developer/applicant to convert the units to residential units (or sectional title) to be sold off in the future.
- No attempt to address the safety and security of the current residents. Public access to the internal private road network will breach the safety, security and privacy of current and future homeowners. It is critical that public access to the proposed hotel development is configured in a manner that does not compromise the safety, security and privacy of the Homeowners.
- The applicant has totally disregarded their statutory obligations to adhere to the Architectural Design guidelines as per the Home Owners Association Constitution. The proposal is totally incompatible in terms of scale and design with the existing resident properties.

In the light of the above stipulated objections it is our opinion that the application should not be supported. A summary of the reasons for this statement is as follows:

- The proposed application is not in line with the intended use that was approved with the original application that was for a hotel;
- Benguela Cove is an upmarket estate and the proposal is not in line with the character of the development.
- The applicant has not complied with their statutory obligation to comply with the HOA Constitution.
- Total disregard for the safety, security and privacy of the current Homeowners in the layout of the proposal.

We trust that you would find our objections sound and that the application will be turned down.

Yours faithfully



John Mc Lachl

17/76

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Email: planactive@hermanus.co.za

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Appendix A – Extract from Benguela Cove Home Owners Constitution:

Benguela Cove
LAGOON WINE ESTATE

4. MEMBERSHIP

- 4.1 Membership of the Association shall be limited to registered owners of erven in the development which Membership shall commence simultaneously with the transfer of an erf in the development into the name of the registered owner; provided that:
- 4.1.1 a person who is entitled to obtain in terms of the provisions of Section 43 of Act No. 47 of 1937 a Certificate of Registered Title to any such erf shall be deemed to be registered owner thereof.
- 4.1.2 when any such owner is more than one person or entity, all the registered owners of that erf shall be deemed, jointly and severally, to be one Member of the Association.
- 4.2 When a Member ceases to be the registered owner of an erf, he shall immediately cease to be a Member of the Association. The registered owner of an erf may not resign as a Member of the Association.

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Reg. No. 2006/030921/07
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pl.n B/8250/2014
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pl.n A/158/2009

31. NO SUBDIVISION OR REZONING AND NOT MORE THAN ONE DWELLING

31.1 No Member shall be entitled to subdivide or rezone his erf, it being noted that that Erf 228 has been zoned as the Hotel and Related Facilities Development, together with the Agricultural Enterprise, which shall enjoy a separate zoning status commensurate with its function as main farm complex for the cultivation, harvesting, processing and marketing of the produce of the agricultural property, together which the Commercial Component, being Erf 229, comprises of with the Winery, Restaurant, Farm Stall, the Chapel, Conference facilities being zoned as Commercial.

31.2 No more than one dwelling together with such outbuildings as are ordinarily required to be used in connection therewith, shall be erected on any Member's erf in accordance with the UADC Manual.

32. BUILDING STANDARD RULES AND AESTHETIC APPROVAL

32.1 It is recorded that the Trustee Committee has appointed the Benguela Cove Urban and Architectural Design Review Committee which comprises of the Architect, *[redacted]* and two Members appointed by the Developer. In compliance with paragraph 4.6.2 above no owner of any erf shall be entitled to build on his erf or effect any improvement thereto or erect any structure thereon without

¹ 02th April 2015, Martin Deonck, 21039497 Special Resolution 01 Committee to start work on 15th August
² 02th April 2015, Martin Deonck, 21039497 Special Resolution 01 ARC Committee Martin Deonck Associates

Benguela Cove
Benguela Cove
 RESIDUAL DEVELOPMENT

the prior written approval of the Urban and Architectural Review Control Committee, hereinafter referred to as UARCC, as hereinafter set out.

TP A. Theart
(H. Olivier)



Loretta Gillion - OBJECTION - BENGUELA COVE LAGOON WINE ESTATE - APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER: no 575 CALEDON

From: Siobain Prew <siobainprew@yahoo.co.uk>
To: <loretta@overstrand.gov.za>
Date: 29/08/2019 04:30 PM
Subject: OBJECTION - BENGUELA COVE LAGOON WINE ESTATE - APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER: no 575 CALEDON
Cc: Mike Prew <manofproperty@gmail.com>

Dear Madam

We write in our personal capacity as the owners of 176 Benguela Cove to object to the above.

When we bought our plot of land at Benguela Cove we were told by the then owner of BCi, Chris Drummond, that there would be a small luxury 5* boutique hotel on site in low density as per the rest of the estate.

We complied with the very full set of design guidelines (both architectural and landscape) and would expect the developer to be held to the same high standards as set out in those guidelines for the construction of a boutique hotel. What is proposed is very far from that vision and absolutely not in keeping with the rest of the estate. It looks like this is only one step away to a fractional ownership type of development which was absolutely not what we bought in to.

We are also very concerned about the extra security that would be involved. Obviously safety is everyone's paramount concern when visiting South Africa.

We understand the benefits in terms of employment and opportunities that a small luxury 5* boutique hotel would bring to the local area and support what was originally envisioned and marketed to us but object strongly to what is currently proposed.

Yours faithfully

Siobain and Michael Prew
176 Benguela Cove

FILE NO:	FIN 228/575
	Kam Afdaks Rivier ✓
SCAN NO:	PREW
COLLABORATOR NO:	1318027

TP 30 AUG 2019

TP. D. Theard
(J. Olivier)

20/76

FILE NO: PIN 228/575
Nkobe River

SCAN NO: PTN 228

COLLABORATOR NO: 1316489

sth
SCHOOL OF TOURISM
AND HOSPITALITY



College of Business and Economics, University of Johannesburg
PO Box 524, Auckland Park 2006, South Africa
+27 011 559 _____ Jayner@uj.ac.za



Date: 27 August 2019

The Establishment of a Boutique Hotel at Benguela Cove Lagoon Wine Estate

Town Planning Department, Overstrand Municipality

To whom it may concern

Re: HBENG 228/575

I am writing to you as a concerned resident of Benguela Cove Lagoon Wine Estate and as Professor of Tourism at the School of Tourism and Hospitality, University of Johannesburg. My areas of research interest are types of tourism accommodation and issues surrounding property and sustainability. My PhD focused on the changing South African hotel sector from the demise of Apartheid to the hosting of the FIFA World Cup and research on Boutique Hotels formed an integral part of that study and has continued to be a topic of interest to me (for further information please see my Google Scholar profile on published articles in peer reviewed journals). I am also currently working as part of a consulting team for the National Department of Tourism on leveraging national and municipal owned tourism assets for black SMME development.

Like most of the other Benguela Cove residents I am aware that a hotel is part of the overall development scheme. In addition, most of us were also told verbally by the estate agents – Pam Golding and Seeff, both approved by BCI, that the hotel would be a boutique hotel in keeping with the rest of the estate. This was also the vision of the original developer who told one of the initial owners at Benguela Cove that the hotel would be "uber luxury boutique brand like leading Small Hotels of the World". This estate markets itself as low density and a desirable place to live. All homeowners have spent in excess of ten million rands with many spending considerably more to secure living in this spectacular and low density setting. All homeowners have complied with architectural and landscaping requirements in order to compliment the estate and we expect that the developers honour those same requirements with regard to the construction of a Boutique Hotel.

I am aware, having read the application for the lodge development, that the Municipality's definition of a hotel is "a temporary residence for transient guests, where lodging and meals are provided and may include a restaurant..."etc. This is a very broad definition of a hotel. As Benguela Cove Lagoon Wine Estate is a unique and exclusive real estate development it makes sense that any tourism facility should be sympathetic to the existing built environment. Given this, as residents of Benguela Cove Wine Estate, we would prefer that any hotel development follow the guidelines of a boutique hotel as laid down by the South African Tourism Grading Council (SATGC). Indeed, in a WhatApp response to one of the residents (Mike Abel) queries on 10 April 2018 as to the quality of the proposed 'lodge' Penny Streeter of BCI responded "Mike it will of course be 5 star we will I will be working closely with the South African grading inspectors to get everything right". The granting of five-star status will only be given if SATGC guidelines are followed.

As you are no doubt aware there has been much segmentation and differentiation in the hotel accommodation sector due to new consumer trends and demands. Boutique hotels began to emerge in Europe and North America as a response to the standardization and commodification of traditional 1980s mass market hotels and hotel chains. This counter-movement was inspired by consumers in search for hotels with unique or innovative characteristics. Unlike hotel chains which work with small profit margins and large number of tourists the Boutique Hotel stresses unique experiences and variety and adds high value to the tourism commodity chain. So whereas in the past the hotel played a secondary role in the travel experience staying in a boutique hotel became the travel experience. Boutique properties therefore embody a tourism sub-culture that emphasizes personality, experience and individuality.

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Auckland Park Bunting Campus • Auckland Park Campus • Doornfontein Campus • Soweto Campus

TP
7 AUG 2019

I conducted a detailed hotel national audit in 2010 and at that time there were 127 boutique hotels in South Africa. Most were 4 and 5 star with between 10 and 25 rooms although some were in the 25-50 room size bracket. In terms of the geography the Western Cape dominated with 60% of all South African boutique hotels located there. 40% of the national total were in the city of Cape Town and the rest in the wineland areas of Stellenbosch, Franschhoek and Hermanus. The other significant cluster of boutique hotels was in Gauteng. Interviews revealed that nearly all of these boutique hotels were developed after 2000 and that international leisure tourists were the dominant tourist type. Similar to the international experience the South African Boutique hotel owners and managers reinforced that their boutique hotels were distinguished by their experiential qualities regarding intimacy, service excellence, high levels of personalized attention, individualized décor, design and ambience. In addition to this caring and personalized environment service excellence is critical. Boutique hotels by nature have high staff to guest ratios and the interviews revealed that only 25% of staff were recruited from hospitality agencies most recruited staff with an emphasis on their individual personalities and communication skills rather than formal tourism qualifications. In nearly all cases staff were hired from local areas due to the need for flexible and sometimes long working hours. One Boutique hotelier had not recruited one staff member from a hospitality background they hired purely on people's inter-personal skills "the less staff know about hospitality the better, because all those people know is a lot of theory and nothing about people and this is a people business" another stated "we don't hire anyone with a hospitality background. I hire local people with character who we then train up". It is not just the service and staff that are important but also the physical setting of the hotel. One boutique hotel owner in Knysna remarked "Our location on an island on a lagoon is unique. The décor and look of the hotel is unique. The atmosphere, and being surrounded by hills and water, is tranquil and calming". My research also revealed that many boutique hotel owners and managers were very critical of the grading of their hotels the same as large chain hotels as well as the tendency for many small establishments who were graded as Country Houses or Lodges to term themselves 'boutique hotels'. The TGCSA has in 2019 created a new category for Boutique Hotels and this is a step in the right direction.

To be graded as a five star boutique hotel the main requirements relate to high levels of safety and security, quality lighting, storage, furniture, bedding and linen; all bedrooms to be en-suite, spacious and well laid out with quality furniture decoration and artwork in the public areas; provision of breakfast lunch and dinner; staff to be skilful friendly and professional with "outstanding knowledge of food, beverage and wine knowledge"; There must be a dining facility and dinner provided in the dining facility; 24 hour room service and housekeeping. Whilst these are only guidelines there is more emphasis on quality furniture and decoration and personal service and professionalism than in the past.

In summary, the unique location and physical beauty of Benguela Cove Lagoon Wine Estate demands that a high quality accommodation establishment is developed. A Boutique hotel of up to 40 rooms should compliment the existing houses which will be adjacent to it on the 'beach'. The architecture and landscaping should follow the same stringent guidelines that all owners have adhered to. In addition, a boutique hotel would be a welcome addition to the Hermanus tourism market. At present only the Arabella Hotel and Spa in Kleinmond, Birkenhead House and The Marine in Hermanus offer 5 star hotel accommodation. Arabella has moved its focus to attracting business tourists in the form of conferences and golf days. Birkenhead House attracts high-end tourists but is constricted by only offering 11 rooms. Interviews with tourism entrepreneurs in Hermanus support the need for another 5 star hotel to supplement the Marine. A 30 to 40 roomed boutique hotel in this unique location would attract the medium sized wealthy foreign leisure tourist groups. Many of these tourists are on organized coach tours and are looking for more than a 10 roomed establishment but do not want to stay in a large generic hotel. Hermanus offers a lot of bed and breakfasts self-catering and guest lodges that caters for local family holidays but has a shortage of medium sized high-end accommodation. Finally, a boutique hotel at Benguela Cove would employ and hopefully train-up numerous local people providing not merely low skilled cleaning and gardening work but medium and high level management jobs as well.

Yours Sincerely



Prof. Jayne M Rogerson

AP N. Noord
(I. Olivier)



Loretta Gillion - VOORGESTELDE WYSIGING VAN TERREINONTWIKKELINGSPLAN EN VERGUNNINGSVERBRUIK - GEDEELTE 228 VAN DIE PLAAS NR 575, BENGUELA COVE, HERMANUS.

From: "Cenpro Projects (Pty) Ltd" <willem@cenpro.co.za>
To: <loretta@overstrand.gov.za>
Date: 19/08/2019 03:44 PM
Subject: VOORGESTELDE WYSIGING VAN TERREINONTWIKKELINGSPLAN EN VERGUNNINGSVERBRUIK - GEDEELTE 228 VAN DIE PLAAS NR 575, BENGUELA COVE, HERMANUS.
Cc: "Gene Boshoff" <gene@cenpro.co.za>

Naam : Gene en Petra Willemien Boshoff;
Adres : Gedeelte 84, Benguela Cove, Hermanus;
Selfoonnommer : 082 417 6215
E-pos adres : willem@cenpro.co.za

FILE NO:	PtN 228 / 575
	Makiesruer ✓
SCAN NO:	BOSHOFF
COLLABORATOR NO:	1314356

Hiermee teken ons, Gene en Willemien Boshoff, beswaar aan teen die voorgestelde wysiging van die terreinontwikkelingsplan en vergunningsverbruik op gedeelte 228 van plaas nr 575, Benguela Cove, Hermanus, soos per u verwysing Ptn 228/575 HBENG.

Die redes vir ons beswaar is as volg:

1. Die oorspronklike sonering van gedeelte 228 was vir 'n hotel, wat beteken dat die oorgrote meerderheid van gaste slegs op die perseel sou oornag het, of hoogstens 'n ekstra dag sou oorbly met geen selfsorg fasiliteite nie. 'n Lodge met 40 eenhede beteken dat gaste vir baie langer tydperke sal oorbly met 40 ekstra kombuise wat stremming op die water, elektrisiteit en riool infrastruktuur sal plaas;
2. Die groottes van die wooneenhede word beplan vir gemiddeld 146m², terwyl die gemiddelde hotelkamer ±40m² groot is. Dit beteken 'n groter invloed van gaste per wooneenheid wat weereens stremming op die water, elektrisiteit en riool infrastruktuur sal plaas;
3. Daar word voorsiening gemaak vir 80 ekstra parkeerplekke (2 per wooneenheid). Die padoppervlak van die enigste toegangsroete op die ontwikkeling is reeds besig om te verbreek en gemiddeld 60 voertuie per dag sal die pad onder erge druk plaas. Die ekstra voertuie sal ook verkeersprobleme veroorsaak binne in die bestaande ontwikkeling;
4. Die groter invloed van gaste sal ook ekstra druk plaas op die bestaande sekuriteit netwerk van die ontwikkeling en die permanente inwoners;
5. Ons is gekant daarteen dat 'n maksimum hoogte van 9 meter vir 'n enkelverdieping gebou toegelaat word;
6. Indien toestemming verleen word aan gedeelte 228, om 'n "jetty" op te rig, wil ons versoek dat die vergunning aan alle ander erwe in die bestaande ontwikkeling uitgebrei word.

Die uwe

G + PW Boshoff

TP

19 AUG 2019

file:///C:/Users/loretta/AppData/Local/Temp/XPgrpwise/5D5AC3E8HermanusMunpo... 2019/08/20

Afdakrivier Trust

23/76
 P. D. Heat
 (I. Olivier)
 PO Box 104
 Hermanus 7200
 Cell 082 3267144
 siasd@afdakrivier.co.za



5 Augustus 2019

Re: Benguela Hotel ontwikkeling HBENG 228/575

Aan wie dit mag aangaan:

In beginsel het ons geen objeksie teen die ontwikkeling nie.
 Ons het slegs n kommer omtrent die water wat gaan nodig wees vir die tuine om die hotel en wil graag weet waar die water vandaan gaan kom.
 Daar was geen aanhangsels by die brief ingesluit om te verduidelik waarna verwys word nie.
 Dit sê slegs dat n ingenieurs verslag saamgestel is.

Die uwe

Sias Delpont
 Afdakrivier plaas 575/21

FILE NO:	PTN 228 / 575
	Afdaks Rivier
SCAN NO:	PTN 228
COLLABORATOR NO:	1311997

TP

12 AUG 2019

TP-A Threat
(C H Olivier)

Loretta Gillion - Concerns- Benguela Cove Lodge



From: Licia Albertyn <liciaanne_albertyn@yahoo.ca>
To: <loretta@overstrand.gov.za>
Date: 29/07/2019 06:41 AM
Subject: Concerns- Benguela Cove Lodge
Cc: Martin Diessner <martin.diessner@gmail.com>

HBENG 228/575

FILE NO:	Am 228/575
SCAN NO:	LICIA
COLLABORATOR NO:	1306126

Good Morning Loretta,

I hope this email finds you well.

We are currently the owners of plot 180, which is in the process for a new build, scheduled to start early in 2020.

The new proposed developments regarding the lodge, we were told "boutique hotel" by the estate agent, may very well affect our building style, possibly needing architectural plans to change, if the beach in front and the road behind of our property, will now be open to a multitude of temporary visitors from the lodge.

We would also like to clarify if these visitors would have access to the boat house/facilities and docks? If this is indeed the case, then additional security measures need to be in place before resident's boats and equipment stored in the boat yard are exposed to these visitors. Please note that the significant shortage in boat garages, as in the initial agreement, will now come into play and I feel these need to be completed on an expedited basis before allowing ourselves exposure to this threat.

It is very important to know what access these unknown people will have to not only our equipment, houses and even the facilities we pay for as residents but also to our families. We bought in Benguela as it offered us something we had as children and would like to offer our children- the ability to safely ride their bicycles in the street and explore the estate safely without the threat of drunken, speeding drivers or those shopping for a easy target. What happens if a visitor drives into a structure on the estate causing damage to individual or communal property before just 'CHECKING OUT' the next morning? Are we now going to start paying for the damage, investigations and further judicial steps when this happens? Note we asked "WHEN" not "IF".

Make no mistake, by allowing those to enter and use the facilities at a mere fraction of the overall price of ownership, we are opening our front door to a different pack of wolves every day and every night. The estate is planned and operated in a way that optimises the open, natural feel and environment but this philosophy does not keep our families, property or regulations safe from those who think a few thousand Rand a night entitles them to do what they want on our doorstep and at our expense in more ways than you could ever imagine. How could one expect residents to put up with the extra time and admin suffered as you have to wait in what will inevitably be lines of vehicles and trailers every day during check in and check out.

Would these guests be allowed to bring their boats, canoes and trailers down to the boatyard? If so, where would they park these cars and trailers? Just drive down to the main harbour boat launch during December for a taste of what's to come. Who would police these loud, mostly intoxicated individuals breaking bottles and damaging property? Martin I hope you have plans

TP 6 JUL 2019

for installing an industrial firehose on your roof for crowd control on public holidays at the boat launch.

We would also like to know what the desired price point for accommodation in the "hotel" would be for two reasons:

No 1- This would indirectly translate into how much security my family needs to invest in to keep the property safe.

No 2- If this price would ever drop under R5000 a night, would the developer then pick up the levies on the unsold properties because then in essence it would be cheaper to permanently stay in the "hotel" than building your own place considering a modest 7% return on investment could afford you this without any of the headaches while killing further property sales in the estate.

This entire experience makes us wonder what advantages we as owners and custodians of the estate would now enjoy compared to the "hotel guests". The few boxes of vino a year may be spreading it a bit thin.

Kindest regards,

Dr. Johann and Licia van der Westhuizen

TPA Theart
C Molivier



Loretta Gillion - Feedback on proposal for hotel on the beachfront and Benguela Cove

From: Harry Elcock <harry@comparisure.co.za>
To: "loretta@overstrand.gov.za" <loretta@overstrand.gov.za> HBENG 228/575
Date: 26/07/2019 08:25 PM
Subject: Feedback on proposal for hotel on the beachfront and Benguela Cove

Good day Loretta

Our family has a house on site 186 Benguela Cove, which is the fourth plot away from the site of the proposed hotel development at Benguela Cove.

I was advised to provide any feedback on the proposal to you, which I am now doing.

We have no objection in principle to the proposal for a boutique hotel with 40 rooms on the site, which was what communicated in writing to all buyers - we all knew about and in fact welcomed the hotel when we purchased the plot.

Our only objection is that a 40 individual free-standing unit development (each unit obviously with multiple rooms) is very different to a regular hotel with 40 rooms:

- We had something like the Arabella Hotel, a single structure with multiple rooms, but on a smaller scale in our minds at the time
- In our view, 40 individual free-standing units will result in far greater densification in the following areas than a single structure with multiple rooms:
 - o Increased building structures covering the available area and less open spaces
 - o The number of people in residence at a single time - instead of a maximum of 40 couples (or families) in residence at one time, there could potentially be up to 80 couples or families in residence
 - o Likewise, instead of expecting there to be 40 cars on site (i.e. 1 per room, there could potentially be 2 cars per unit if two couples or families occupy one unit
- Another practical consideration is that the current sewerage system for the beachfront properties, can barely handle the existing homes on the beachfront and is most unlikely to be able to deal with another 40 individual units with multiple toilets and bathrooms, compared to this being limited to 40 toilets and bathrooms in a regular hotel configuration

We would have no objection if the number of proposed individual free-standing units was reduced so that in there are no more than 40 bedrooms in total within the development. On the basis that each unit contains 2 bedrooms, this means reducing the number of free-standing individual units from 40 to 20 to be consistent with the expectations of a boutique hotel with no more than 40 rooms.

This amendment would be fully in line with what was communicated in writing to all prospective buyers, would be within the intention and spirit of the original vision, would limit the strain on the road and sewerage infrastructure as well as limiting over-crowding of the available space and facilities.

We request that this letter be viewed as our feedback prior to the deadline on 30 August 2019 and that the different planning authorities take consideration of our practical proposals outlined in this e-mail.

Yours sincerely
Harry Elcock

TP 26 JUL 2019

FILE NO:	Ph 228/575
	Afduksriver
SCAN NO:	PTN 228
COLLABORATOR NO:	1306690
	2019/07/20

TP A. Theart (I.J. Olivier)

URBAN DYNAMICS south

TOWN & REGIONAL PLANNERS



Reference: L0153-PO-en-3101205

Attention: Mr. Riaan Kuchar

E-mail: Riaan@overstrand.gov.za

FILE NO: PN 228 1515

Karin Adriaans Ried

SCAN NO:

COLLABORATOR NO: 1317613

28 August 2019

LETTER OF COMMENT AND OBJECTION**BENGUELA COVE LAGOON WINE ESTATE****APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER: NO 575 CALEDON**

1. This office acts, in the above matter, for and on behalf of a number of concerned individual Benguela Cove Homeowners and the Benguela Cove Home Owners Association (HOA), hereafter collectively referred to as the Homeowners (refer attached Annexure A: Power of Attorney).
2. The objective of this memorandum is to provide comment and make objection to the abovementioned Overstrand Municipal By-Law application which was submitted in terms of the Overstrand Municipal Land Use Planning By-Law and duly advertised in terms of Section 46 thereof, by the Overstrand Municipality. In this regard, it is also the intention of this memorandum to ensure that the incumbent decision maker being the Municipal Planning Tribunal (MPT) and any statutory decision making structures thereafter (i.e mayoral appeal authority, judicial processes, etc.) hereafter referred to as the authorized decision maker, are fully aware of the significant potential negative impacts of the abovementioned development proposal/application (hereafter referred to as the application) on the affected Benguela Cove Estate Homeowners.
3. The application was prepared for Benguela Cove Investments (Pty) Ltd by Messrs. WRAP Consultancy, and submitted to the Overstrand Municipality, hereafter referred to as "the decision making authority" in February 2018. In summary, it is noted that the advertised development application documentation is based on a development concept for a hotel facility and ancillary uses that proposes the development of 40 single storey, two bedroom freestanding units, serviced by separate standing restaurant, spa, health bar and a boat house facility. The layout thereof is depicted on a Site Development Plan (SDP) dated 22/08/2018 (hereafter referred to as the SDP) included within the advertised statutory application. The statutory application seeks the approval of a consent use for "tourist accommodation" and the simultaneous approval of the abovementioned Site Development Plan (SDP), related thereto.

Tyger Valley Chambers Five, 2nd Floor, 27 Willie van Schoor Avenue, Bellville 7535

PO Box 2445, Bellville 7535

Tel: +27(0)21 948-1545

Email: paul@udwc.co.za

Reg No: 1997/006197/07

Directors: W Herbert (Managing) (A/624/1990) * PL Olden (A/1162/2000) * GP Swart (A/1126/1999)*

Associate Director: PJ Lerm (A/163/2009)*

*Registered Professional Planners

BEE LEVEL 4

29 AUG 2019

TP

4. At the outset, it is important to note that the Homeowners represented herein, have no “in principle” objection to the development of Portion 228 of the Farm Afdakrivier No 575 Caledon, for an appropriate scaled and sensitively designed, aesthetically acceptable hotel facility, consistent with the original zoning and applicable architectural guidelines of the HOA. The Homeowners positively acknowledge that the existing zoned hotel site (portion 228/575) presents an important strategic opportunity in terms of improving the supply side of the Overstrand’s tourism offering, thereby facilitating access to the public to enjoy and share the world class setting and unique environmental experience of Benguela Cove. Notwithstanding this and in terms of both its implementation and future ongoing operation it is rational that the proposed development of a boutique hotel facility, be of a high standard that is in keeping with the Benguela Cove context. The proposed facility as a high quality accommodation establishment must not be allowed to impact negatively on the overall environmental quality of the Benguela Cove Estate, which has been achieved at substantial effort and financial cost (in excess of R750 million) to the homeowners. **More specifically, it is now critical to the Homeowners that any hotel development on portion 228/575 does not, in terms of its size, built form and operation, detract from the architectural ambience of the existing development nor affect the operational integrity of the security systems or the safety of the Benguela Cove Lagoon Wine Estate residents.**
5. It is most important to the Homeowners that the relevant decision making authorities, are fully aware of the historical context and the environmental and architectural ethos of the development intent of the Benguela Cove project, which has been diligently followed from its very inception.
6. It is relevant to note that the development concept that was ultimately supported by the decision making authorities, was from the very outset intended to be an upmarket, private, secure, low density residential lifestyle estate with five star tourist facilities accessible to the public. The original developer’s vision for the development of the hotel site was based on discussions and agreement with the provincial authorities and the Over strand Municipality regarding the inclusion of a smaller scale luxury five star Boutique Hotel into the development. This concept of a small scale hotel facility, was then in due course reflected in the related, statutory Environmental ROD (December 2003) and following the Town Planning approval for the overall development (September 2004). It was on this basis that the Benguela Cove Investments (Pty) Ltd BCI marketed the estate, showing a luxury small scale boutique type hotel on the zoned hotel site (Portion 228/575) in their marketing plans, site development plans and in their communications with homeowners and the public.
7. Further to this, any reading of the prevailing statutory Environmental (ROD) and Town Planning approvals and conditions related to the Benguela Cove development approval, clearly serve to demonstrate the high level of sensitivity to the built and natural environment shown by the authorised decision makers. Particularly with regard to the siting of buildings, impacts on views, as well as the need for strict design controls over the overall massing and built architectural aesthetic. **Nonetheless, it remains statutorily incumbent on the decision making authorities, that the utilisation of the existing hotel rights on Portion 228/575 be interpreted most carefully and sensitively within the context of the spirit and ethos of Benguela Cove Lagoon Wine Estate and the various related conditions of the Environmental Authorisation.**

8. The current General Residential 3 zoning (GR3) applicable to Portion 228/575 is strictly limited to a hotel consisting of 40 (rooms). Further to this, the siting, design controls, landscaping and the overall built form and aesthetic would be subject to the further approvals of the HOA, and the municipality in terms of SDP approval requirements and following that a building plan approval. It is the homeowners considered opinion that, before proceeding to give comment on the current application, it is important to clarify the rather convoluted chronology and context of the existing Hotel Use Zoning rights attached to Portion 228/575. In this regard the following salient points are noted for the record:
- 8.1 On the 15 December 2003, the Department of Environmental Affairs and Development Planning issued a Record of Decision (ROD) in terms of the regulations of the Environmental Conservation Act 1989 (78 of 1989). The ROD, in paragraph A (page 2), makes specific reference to a "Lodge consisting of 40 units and a tennis court" (refer attached Annexure B: Extract from 16 Dec 2003 ROD – G: Conditions of Authorisation).
- 8.2 The granting of the planning approval (development rights, as per the applicable zoning scheme) for the Benguela Cove development, which followed thereafter, was undertaken in terms of the relevant sections of the Land Use Planning Ordinance (15 of 1985). In terms of the relevant and then applicable Section 8 zoning scheme Portion 228/575 was approved with a Residential Zone (V) zoning, by the Overstrand Municipality on the 10 September 2004 (refer attached Annexure C: Planning Approval).
- 8.3 The municipal decision makers' intention was that the site's intended use was as per the zoning schemes definition of the primary use right for a "residential building". The implication thereof being that this planning decision implicitly confirmed that the development rights on the Portion 228/575 were limited to a hotel, as per the zoning schemes prescribed definition of the primary use right for " a residential building" meaning "one" building.
- 8.4 At this point, it is important to note that no additional specific zoning conditions were prescribed to Portion 228/575 by the Municipal decision makers in their planning approval dated 10 September 2004. The verbatim prescriptions and parameters of the prevailing zoning scheme are therefore applicable.
- 8.5 On the 21 November 2013 the various zoning schemes applicable to the Overstrand Municipality were repealed and replaced by a revised uniform integrated zoning scheme applicable to the entire Overstrand Municipal area.
- 8.6 In terms of this current applicable zoning scheme (2013), Portion 228/575 is, as per the Municipal Zoning Certificate currently zoned General Residential 3 (GR3) specifically limited to a hotel, as a primary use right. This primary use right prescribes very specific development rights in terms of the zoning parameters and the applicable definitions of this scheme. (Refer to the attached Municipal zoning certificate dated 1 September 2017: Annexure C).

- 8.7 With regard to the relevance of the common use wording terminology used in the Environmental ROD, it is important to note that any reading of the common use of the word "lodge" within the context of the hospitality industry relates to it being used to describe a smaller scale hospitality establishment synonymous with a Boutique Hotel or Country House. The Municipal planning approval decision correctly referred to a hotel (instead of a lodge). Implicit to the use of the word hotel, is that 40 units logically becomes 40 rooms. As per its mandated function, the municipality correctly interpreted and clarified the exact land use, its parameters and restrictions in the statutory zoning process.
9. It is within this context, as set out in the aforementioned paragraphs, that the following **comments and objections** are raised against the application for the approval of a Consent use for Tourist Accommodation and the Site Development Plan (SDP) for Portion 228/575 Caledon. **The application as submitted, is in the considered opinion of the homeowners patently defective, technically flawed and fundamentally undesirable insofar as it relates to the size and scale of the facility proposed, its built form and its operational impact.**
10. It should be noted that this application is in the Homeowners view a disingenuous and opportunistic attempt by the applicant to double the size of the hotel, relative to what the authorized approving authorities original development intention was for Portion 228/575, and consequently to what is statutorily approved for the hotel site in terms of the applicable zoning parameters and prescriptions.
11. It is a documented fact that the Environmental Impact Assessment undertaken by the developer and approved by the Provincial Environmental Authorities undertook extremely careful and due cognizance of the need to carefully limit the scale/size of the hotel facility in keeping with the overall landscape sensitivity, the environmental carrying capacity and the low density of the residential component of the site. Critical aspects to this were the impact assessments relating to vehicular trip and generation traffic, services capacity, visual absorption etc. given the significant increase in the proposed scale of the hotel and its ancillary uses.
12. The "number of rooms", within the context of the hospitality industry, is the internationally accepted generic impact indicator/measure for Hotels, in terms of hotel size, building scale, visual impact, parking requirements, trip generation and consumption/demand, take up of potable water, sewer, electrical services etc. In this regard, it is critically important to note that the Environmental Record of Decision (ROD) issued for the Benguela Cove development made specific reference to limiting the density/scale of the proposed development on Portion 228/575 by prescribing the scale/size and by the explicit use of the word Lodge, which is a word used to describe a small scale hospitality establishment i.e. a boutique hotel or country hotel. It is understood that the number of rooms directly affects the built scale and the visual and qualitative impact on the overall environmental quality and carrying capacity.
13. The applicant in paragraph 5 of the development application states that "there is a historical approval highlighted in the Environmental ROD for a 40 unit lodge on the subject property". This is incorrect, the Environmental ROD does not define or grant zoning rights. It is the zoning

approval that prescribes what the use rights and development parameters are for a specific site. The applicant opportunistically chosen to misinterpret the ROD's density prescription, as being 40 x two bedroom self-catering type free standing houses each with a living room and kitchen. **On this point the application is considered patently defective.** The incorrect assumptions made by the applicant regarding the permitted density, in terms of the prevailing Environment ROD and zoning rights zoning are incorrect and disingenuous. The practical implication of this opportunistic misinterpretation of the rights, is a SDP with 40 freestanding self-contained dwellings each with two bedrooms, livingroom, kitchen, etc. **The maximum density parameter for the site, as per the correct interpretation of the Environmental ROD and the Zoning Approval which followed, is a Hotel with a maximum of 40 rooms.**

14. The implication of the prevailing statutory density parameter, is that the current development proposal will have to be reduced to 20, two bedroom units or a permutation thereof, so as to fall within the permitted limit of 40 hotel rooms. It should further be noted that should the number of hotel rooms be increased to above 20 rooms, as is currently proposed in the application, then an amendment to the existing Environmental ROD will be statutorily required, given the increase in scale and the associated increase in impact. **On this basis, it can be concluded that this current Municipal By-Law application, submitted by the applicants, is technically flawed. The proposal is in conflict with the ROD, and requires an application and an approval for an amendment to the prevailing wording of the Environmental ROD, given the scale of the Hotel facility proposed.**
15. It should further be noted that the Environmental ROD requires that ".....will consist of 40 units and a tennis court.....". It is further noted that the SDP submitted does not have a tennis court and this in itself will also require an amendment to the prevailing Environmental ROD.
16. **It is the Homeowners considered opinion that unless the applicant reduces the density (number of rooms) to within the threshold prescriptions of the prevailing ROD (maximum 40 rooms), the Municipal Authority should prudently pend any decision making on this matter, until the authorized Environmental approving authority (DEADP), has undertaken an environmental impact assessment process which should include an array of studies/assessments and on the findings thereof, issue an informed decision to amend the prevailing ROD to allow an 80 room hotel facility. Alternatively, the authorized Environmental Approving Authority (DEADP) may decide to refuse the application, for the increased size of the hotel, based on its lack of desirability.**
17. The proposed development concept, as contained in the applicant's SDP, consists of 20 x freestanding 2 bedroom self-catering type units, with a resultant relatively high coverage and a "figure ground" (refer figure 1) reflecting a built form/texture that is absolutely contrary to the fundamental design principles and built design idiom fabric that has been successfully applied and established throughout the Benguela Cove Lagoon Wine Estate. It is blatantly obvious that the development plan and siting arrangement of multiple, same size freestanding units, as proposed on Portion 228/575 is directly contrary and incompatible with the existing pattern, grain and configuration of the built form that has been so carefully crafted, since the very inception of the Benguela Cove Lagoon Wine Estate. **On this basis the application is considered wholly incompatible with the surrounding land uses and the established spirit and ethos of the Benguela Cove Lagoon Wine Estate.**



Figure 1: The figure ground study clearly shows the incompatibility of the applicants' proposal with the grain of the existing built fabric.

18. It is the Homeowners considered opinion that the development form and architectural proposal of the Hotel building must serve to compliment the estate and ensure compatibility with surrounding uses and the estates environmental context. To date all homeowners have complied with the architectural and landscaping requirements and it is therefore only reasonable and fair to expect the applicant to meet the same requirements with regard to the construction of a Boutique Hotel. Therefore adherence to the estates approved guidelines architectural guidelines is paramount.
19. Further to the above, it is most alarming that the applicant Messrs. Benguela Cove Investments (BCI) have made no attempt whatsoever to constructively engage with the Homeowners or the HOA, in order to ensure that there is an acceptable level of consensus on the scale, form and operational context of their Hotel proposal.
 - 19.1 It must be noted that the Municipality, the HOA, the Homeowners and the applicant, have statutory obligations in terms of both Section 31 and 32 of the Municipal Planning By-Law (2015) and further in terms of both the Homeowners Constitution and the related functioning of the Architectural Design Review Committee. In compliance thereof the applicant is bound to their statutory prescriptions and is reminded that no owner of any erf shall be entitled to build on his erf or effect any improvement thereto or erect any structure thereon without the prior written approval of the Urban and Architectural Review Control Committee.

- 19.2 Section 31.2 of the Homeowners Constitution further explicitly states that *"no more than one dwelling together with such outbuildings as are ordinarily required to be used in connection therewith, shall be erected on any Member's erf in accordance with the UADC Manual"*.
- 19.3 The constitution further states in section 20.7.2 *"that any amending or repealing of paragraph 31 of this constitution, which precludes....the erection of more than one dwelling per erf, should require a 75 % (three quarters) majority of all Members entitled to vote before the resolution may be passed, which shall be known as a special resolution" (refer attached Annexure D)"*.
20. It should be noted that a consent use for "tourist accommodation", by its very definition, as set out in the applicable zoning scheme definition, represents a built form which contradicts the very basis of the original development intent for the site in terms of the HOA constitution and the Urban and Architectural Design controls. Notwithstanding this, the applicant has further disingenuously misinterpreted the statutory zoning prescription of 40 rooms, in an opportunistic attempt to effectively quadruple the proposed hotel size/built form/coverage to a 160 room set of buildings including 80 bedrooms and 80 related ancillary rooms.
21. **The application for a Consent Use for tourist accommodation, on the existing primary Hotel use is therefore strongly opposed.** The basis of our objection being that the consent use application is a misguided and opportunistic attempt to obtain an approval for a consent for "Tourist Accommodation", which will then give the applicant the zoning rights to configure the development in a form that the applicant's describe as a so called "lodge" (as per the applications SDP). More importantly, the consent use rights, if obtained, will then give the applicant grounds to argue that the so called application is now consistent with the wording of the Environmental ROD, which uses the words "a lodge consisting of 40 units and a tennis court". **In short, the application is in our considered opinion a misguided attempt to disingenuously amend the zoning approval to align with the wording of the Environmental ROD, and in so doing attempt to legitimise the increased density and scale of the hotel.**
22. It is the Homeowners considered opinion, based on expert input from various specialists, that the Hotel development proposal in its current format and scale (consisting of 40 free standing two bedroom self-contained dwellings/houses with lounges and kitchens serviced by a clubhouse/spa/restaurant facility) is deemed not economically feasible. It is the homeowners informed view that the proposed 80 roomed hotel, is an excessively large and capital intensive project in terms of its potential income return, relative to market related demand projections for the scale and type of facility proposed. **This concern serves to further strengthen the homeowners suspicion that the proposed hotel scheme, is simply a "Trojan Horse" that is being planned, by the applicant, for future conversion to residential units to be sold off as freehold or sectionalised.**
23. From the very inception of the Benguela Cove development concept, the principle of safety, security and privacy to the residential Homeowners has been a fundamental driver to the success of the development as a safe and harmonious residential environment. The safety and security factor is one of the key reasons why residents purchased and developed property in Benguela Cove. It is therefore extremely concerning to the Homeowners that the development proposal

makes no attempt whatsoever to address the devastating impact of the development proposal on the security and safety of residents. The simple fact is that public access to the internal private road network will breach the safety, security and privacy of the existing homeowners. It is therefore regarded as absolutely critical, that the public access arrangement to the proposed hotel development and its associated facilities, is configured in a manner that it does not in any way breach the security of Benguela Cove Homeowners.

24. To effectively address this, it is essential that the development of the hotel site is provided with its own dedicated road access arrangement, together with an internal boom control system (2 x booms) to ensure that public visitors and staff related to the hotel, its ancillary facilities and the public health spa, do not in any way breach the integrity of the existing security and safety arrangements of the residents. It is therefore non-negotiable to the Homeowners that the applicant provide, in co-operation with the HOA, a dedicated secured vehicular access road to the proposed hotel facility and boom system, that is acceptable to the homeowners. The function of this road link being to provide a direct driveway access/road between/through the private entrance to the hotel site. It is the Homeowners views that a workable solution can be practically achieved using the existing informal gravel road alignment (on HOA ground) and a boom control system. To facilitate a solution in this regard, the Homeowner's and the HOA have undertaken to co-operate by making the HOA private use land available for this use. In this regard, more than 75% of the HOA members have already signed proxy's allowing for a road reserve to be created so that this formal access to the hotel site can be created.

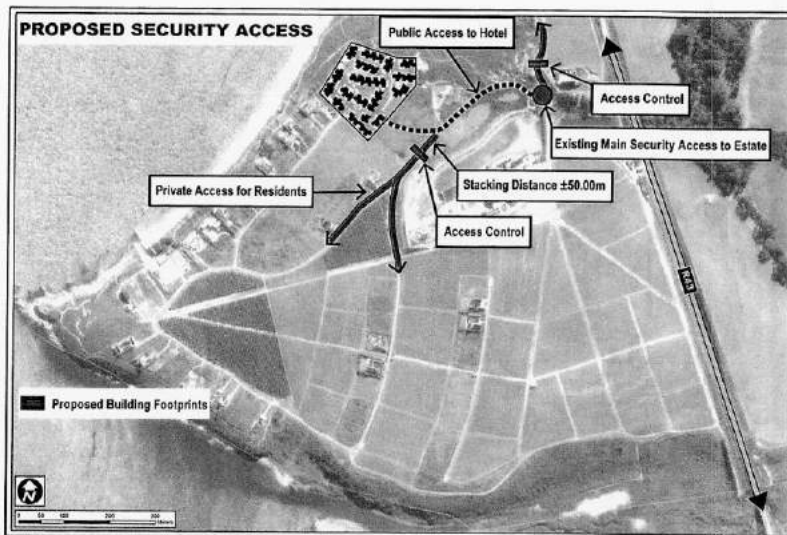


Figure 2: The proposed revised Access arrangements to the Hotel.

25. **CONCLUSION:**

On the basis of the foregoing it is concluded that the application fails dismally to meet the requirements of Section 66 (1) (c) of the applicable By-Law, as read with Section 55 (6) of LUPA.

- 25.1 The application is inconsistent and in direct contradiction with the prevailing/relevant conditions of Environmental (ROD). It is the homeowners contention that the Consent Use for tourism accommodation and SDP approval is a disingenuous and opportunistic attempt to reverse engineer the zoning rights to align with the wording of the prevailing Environmental ROD. It is a serious concern that should the consent use for tourist

accommodation be granted by the authorized decision making authority, the applicant will then argue that the application is consistent with the wording of the prevailing Environmental ROD. It is therefore timeous and prudent that the applicant be required to immediately undertake an open and fully transparent statutory process to amend the prevailing Environmental ROD conditions, before any Municipal decision making authority further considers this application or takes any decisions on this application. In this regard, the Municipal decision maker is respectfully requested to pend the further processing of this application, until an Environmental ROD amendment application has been finally concluded by DEADP relating to the increase in scale and the tennis court requirement.

- 25.2 The approval of a consent use for tourism accommodation on the current hotel right will effectively grant the applicant additional rights in a development format allowing freestanding units in a built design configuration and at a scale (160 rooms including 80 bedrooms) that is totally inconsistent and incompatible with the surrounding land uses, the established low density fabric/character, the HOA design requirements and the environmental carrying capacity of the overall Benguela Cove setting. In this regard the proposal, in terms of its scale and design format is considered totally incompatible with the surrounding land uses.
- 25.3 The applicants' blatant disregard relating to their statutory obligations, in terms of the HOA and the Architectural Design and review committee is most concerning and requires redress in terms of Section 31 and 32 of the Overstrand Municipal Planning By-Law (2015).
- 25.4 The application, as configured will effectively undermine the integrity of the existing security system protecting the estate. The development of a hotel facility in any form will require significant changes to the estates security system in co-operation with the developer of the hotel. The application therefore fails to adequately address the safety of residents and in this regard impacts negatively on the safety and well-being of the surrounding community.
- 25.5 It is the Homeowners further contention and a matter of serious concern, that this application may be the first step in a process to ultimately, apply to obtain freehold development rights or alternatively to sectionalise or shareblock the scheme. In this

regard, the Homeowners respectfully request that if any deviations or amendments to the existing hotel rights are approved by the authorized decision makers, that a condition is explicitly included in the approval to foreclose this eventuality.

While the Homeowners in principle do not oppose a hotel, as originally envisaged by the original first developer and the municipality, the application submitted by Messrs. WRAP Consultancy on behalf of the Benguela Cove Investment (Pty) Ltd is strongly objected to by the Benguela Cove Lagoon Wine Estate homeowners. The application fails dismally to meet the requirements of the statutory desirability criteria and on the basis of the foregoing memorandum is considered patently defective, technically flawed and fundamentally undesirable.

Please acknowledge timeous acceptance of this letter of objection in writing.

Should you have any questions relating to the content of this letter, you may contact the undersigned.

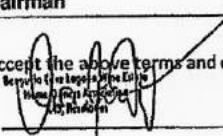



PAUL OLDEN *PR Pin. A/1162/2000*
DIRECTOR
URBAN DYNAMICS SOUTH CAPE (PTY) LTD

Appendix A

INFORMATION SHEET**PORTION 228 OF FARM AFDAKS RIVIER NO 575, CALEDON
APPOINTMENT ON A TIME AND COST BASIS**

Please complete the following:

1. Full Name: Martin Dlessner
2. Full Name of Company/Trust/CC: Benguela Cove Home Owners Association ("BCHOA")
3. Position: Chairman
4. Hereby I/we accept the above terms and conditions
- 4.1 Signature:  _____
- 4.2 Date: 14th August 2019
5. Invoices are to be addressed to:
- 5.1 Attention: Aloniel Navidowitz
- Email: accounts@mybenguela.com
- 5.2 Company Name: Benguela Cove Home Owners Association
- 5.3 Postal Address: Postnet Suite 124
Private Bag X16
Mermonus 7200
- 5.4 Ref/Contract Nr: 228 Afdakrivier No 575
- 5.5 Company VAT Nr: 4180259204


 Please initial here

SPECIAL POWER OF ATTORNEY

*I/We Martin Wiessner
_____ the undersigned

do hereby nominate, constitute and appoint

PAUL LAURENCE OLDEN

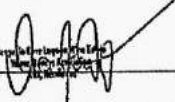
of

URBAN DYNAMICS SOUTH CAPE (PTY) LTD TOWN AND REGIONAL PLANNERS
With power of Substitution to be *my/our lawful representative in *my/our application for:

PORTION 228 OF FARM AFDAKS RIVIER NO 575, CALEDON
APPOINTMENT ON A TIME AND COST BASIS

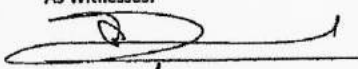
In addition to apply for such amendments of any zoning schemes as may be deemed necessary and to make other necessary application and further to represent *me/us at any inquiry in relation to the abovementioned matters and generally do whatever may be necessary or desirable to procure the approval of the application, by virtue of those present and whatever our said representative have to date done herein.


Signed at Cape Town on this 14 day of August 2019

Signed: 

In the presence of the undersigned witnesses:

As Witnesses:





*Delete whichever is not applicable

Home Owner Trustees of the ACHOA
RESOLUTION OF THE BOARD OF DIRECTORS
Alternatively MEMBERS, alternatively TRUSTEES

of

Aenguela Cove Home Owners Association ("ACHOA")
(Name of Company, Close Corporation or Trust)

Portions 209-212 + 214-227 (Portion of Portion 80) of Farm Afotaks Rivier
(Registered Owner: Property Description) Number 575

Held at Cape Town on this 14 day of August 2019

RESOLVED THAT:

1. Jaul Olden
(Name in BLOCK LETTERS)
Be and is hereby duly appointed as representative in the Town Planning Application as per
Appointment Letter _____

2. The aforementioned shall furthermore be entitled to attend, speak ~~and vote in person or by proxy~~ at the Project Meetings held by URBAN DYNAMICS SOUTH CAPE or the PROJECT MANAGEMENT TEAM and to bind the Company / Close Corporation / Trust in this regard.

[Signature]
DIRECTOR / MEMBER / TRUSTEE
(Signature) Martin Dressner

[Signature]
DIRECTOR / MEMBER / TRUSTEE
(Signature) ELA GUNNING

[Signature]
DIRECTOR / MEMBER / TRUSTEE
(Signature) Sean McCarthy

[Signature]
DIRECTOR / MEMBER / TRUSTEE
(Signature)

N. Wells
DIRECTOR / MEMBER / TRUSTEE
(Signature)

DIRECTOR / MEMBER / TRUSTEE
(Signature)

[Signature]
Please initial here

Appendix B*Department of Environmental Affairs & Development Planning
Chief Directorate: Environmental Affairs***E. SITE VISIT(S):**

Date: 5 November 2002

Persons Present: Zaahir Toefy of the Department Of Environmental Affairs & Development Planning ("DEA&DP")

F. DECISION:

In terms of Sections 22 and by virtue of powers delegated by the Minister in terms of Sections 28 & 33 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), the relevant authority (as defined in GN No R1183 of 5 September 1997, as amended), hereby grants authorisation with the conditions contained in this Record of Decision, for the execution of the activity described above.

This Authorisation has been granted in terms of section 22 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) solely for the purpose of undertaking the activity referred to above, and does not exempt the holder thereof from compliance with any other relevant legislation.

G. CONDITIONS OF AUTHORISATION:

1. The activity, including site preparation, may not commence before the statutory thirty (30) day appeal period expires.
2. One week's notice, in writing, must be given to the Directorate: Environmental Management, (hereinafter referred to as "this Directorate"), before commencement of construction activities.
 - 2.1 Such notice shall make clear reference to the site location details and reference number given above.
 - 2.2 The said notice must also include proof of compliance with the following conditions described herein:
Conditions: 1, 8 & 11
3. One week's notice, in writing, must be given to the Directorate: Environmental Management, (hereinafter referred to as "this Directorate"), before commencement of operation activities.
 - 3.1 Such notice shall make clear reference to the site location details and reference number given above.
 - 3.2 The said notice must also include proof of compliance with the following conditions described herein:
Conditions: 10
4. An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
5. The mitigation measures as detailed on pages 37 to 40 in the Scoping Report dated August 2003 compiled by EnviroAfrica and in the Botanical Survey dated 12 May 2003, undertaken by Nick Helme as well as recommendations in the Specialist Avifaunal report compiled by K.N. Bamas in March 2003 must be adopted and implemented.

*Department of Environmental Affairs & Development Planning
Chief Directorate: Environmental Affairs*

this part of the development in relation to the overall area of the site will be one unit to 2 hectares. The erven are clustered over the site in linear arrangements. Boardwalks or a suitably constructed hiking trail will be established on the lower portion of the erven abutting the lagoon for the residents and their visitors to use. Setback lines were determined by the avifaunal specialist for residential erven located on the shoreline. The lodge will consist of 40 units and a tennis court and will be located on the lagoon and adjacent to the area identified for nature conservation.

31,6 % of the site will be proclaimed a Private Nature Reserve in order to conserve the remaining indigenous vegetation. Boardwalks will be erected in the conservation area as part of the lagoon hiking and leisure walkways and they will provide access to the proposed jetties.

The winery will be positioned within the ridgelines of the site so that a ridgeline serves as a visual barrier between the winery and the residential development at the southern position of the site. The winery will be based on the concept of gravity feed to minimize power consumption.

Private roads within the estate will be constructed in accordance with the standards of the local authority. Internal roads will consist of surfaced minor roads with a pavement design that will lead to the erven while gravel roads will allow access to the maintenance areas and stables.

||| The sites identified for the proposed jetties have been extensively investigated. The southernmost jetty will be located approximately 270 meters north of the headland known as "South Cape". The gradient of the shore is relatively shallow, therefore, if the slipway is to be used at all levels, it would need to extend 50 meters into the water.

The northernmost jetty will be located 770 meters north of "South Cape". This site is a depositional zone and foundations would require placement on bedrock to prevent undermining of the structure. This jetty would require a short slipway as it is close to an existing channel.

The closest source of potable water is the Fisherhaven Reservoir which is located approximately 2,5km south of the site. The external works would consist of a 150mm diameter pressure pipeline from the Fisherhaven Reservoir. 150mm diameter and 110m diameter pipes will be needed to service the erven on the site.

Solid waste will be collected by the estate management and stored at a single refuse collection point on site. The waste will be removed as necessary either by the estate or the Overstrand Municipality and taken to the Karwyderskraal regional landfill site.

The Overstrand Municipality's preferred option for the management of sewage involves the pumping of sewage from the site to the municipal treatment works at Hawston. Treated sewage effluent will also be pumped from the Hawston treatment works to a dam at Benguela Cove, with a capacity of 125 000m³, for irrigation purposes. The system on site will consist of gravity fed pipeline networks that will discharge into 2 pump stations. A mini pump station will be required to pump sewage from the northern half of the site to the southern pump station. A medium sized pump station, located on the southern portion of the site, will be required to pump the effluent to the Hawston treatment works which is situated approximately 4,5km south of the site.

Appendix C

**ZONING CERTIFICATE**

Our Reference	HBENG 228/575
Enquiries	Mr H Olivier
Contact details	028 313 8900 / hollvier@overstrand.gov.za
Date	1 September 2017

TO WHOM IT MAY CONCERN

Erf	Portion 228 of Farm 575
Address	Benguela Cove
Owner	Benguela Cove Inv (Pty) Ltd

DEVELOPMENT PARAMETERS				
Zoning	General Residential Zone 3: Flats (GR3)			
Primary use	Hotel (see additional information)			
Consent uses	crèche, day care centre, home occupation, hotel, institution, place of assembly, place of instruction, place of worship, retirement village, rooftop base station, tourist accommodation, transmission tower.			
Consent uses approved	See additional information			
Departures approved	See additional information			
Density	See Environmental Impact Assessment Record of Decision (EIA ROD)			
Coverage	80%			
Height	3 storeys, maximum 9m high			
Bulk	1,5			
Building lines	Street	4,0m	Perimeter	Within Complex
			Not Applicable	Not Applicable
	Side	4,5m (fourth storey to have a set back of 6.0m from boundary)	Not Applicable	Not Applicable
	Rear	3,0m (fourth storey to have a set back of 6.0m from boundary)	Not Applicable	Not Applicable

ZONING CERTIFICATE

Parking	
---------	--

See attached parking requirements as per land use.

Parking and access shall be provided on the land unit in accordance with 17.1.

Minimum off-street parking requirements

Land use	Standard areas
Dwelling house	2 on site parking bays per dwelling unit provided that on erven less than 400m ² only one on site parking bays needs to be provided.
Second dwelling	1 bay
Group dwelling/town housing	1 bay per dwelling unit plus 1 bay per dwelling for visitors
Flats	1.5 bays per 1 bedroom dwelling unit 2 bays per 2 and more bedroom dwelling units
Bed and breakfast establishment	2 bays per establishment (owner/manager) 1 bay per guest room
Boarding house, Guest house	1 bay per bedroom/2 persons accommodated
Hotel	1 bay per bedroom plus an additional 10 parking bays per 100m ² of public access areas
Retirement home	1 bay per bedroom plus 0,25 bays per frail care bed
Crèche	1 bay per 10 children plus stop & drop facility where a crèche makes provision for more than 20 children
School	1 bay per classroom or office plus a stop and drop facility
Place of instruction (tertiary education facility)	0,5 bays per student plus 1 bay per classroom or office
Place of assembly/entertainment/funeral parlor	1 bay per 4 seats
Recreation, sport	1 bay per 4 seats or persons
Hospital/clinic (general and private)	1 bay per bed plus 4 bays per consulting room
Medical consulting rooms	6 bays per 100m ² GLA
Supermarket/shopping centre	6 bays per 100m ² GLA
Shops/offices/restaurants	6 bays per 100m ² GLA

ZONING CERTIFICATE

Conference centre	1 bay per 2 seats
Place of worship	1 bay per 6 seats

Land use	Standard areas
Motor showroom	2 bays per 100m ² GLA and 2 bays per 100m ² outdoor display area
Motor repair garage/service station/car wash/service centre	2 bays per service bay plus 2 bays per 100m ² GLA
Motor fitment centre	2 bays per service bay plus 2 bays per 100m ² GLA
Car wash	4 bays per service bay plus 2 bays per 100m ² GLA
Industry	2 bays per 100m ² GLA
Warehouse/storage	2 bays per 100m ² GLA

GLA means Gross Leasable Area

LOADING REQUIREMENTS

To be in line with Zoning Scheme.

ADDITIONAL INFORMATION

The original planning approval for this erf was for Residential Zone V in terms of the former Section 8 Zoning Scheme Regulations. The land uses allowed for was for a Residential Building. The application was to specifically construct a Hotel / Lodge on the property, and this was also captured in the EIA ROD. To act on any other primary or consent uses, application will then have to be made for amendment of conditions of approval.

Yours faithfully


S MÜLLER
 DIRECTOR: INFRASTRUCTURE AND PLANNING



ANNEXURE D: ENVIRONMENTAL AUTHORISATION



Appendix D



3. OBJECT AND PURPOSE

- 3.1 The main business of the Association is to promote, advance and protect the interests of its Members, relative to their ownership of erven in the development.
- 3.2 The main object and purpose of the Association is to provide for:
- the promotion and enforcement of standards in keeping with the character of the Benguela Cove Lagoon Wine Estate development, in such a way that Members derive the maximum collective benefit.
 - control over and protection and maintenance of the common property of areas regarded as common to all Members, and to apportion the expenses in relation thereto between the Members by the charging of levies to the Members,
- 3.3 It is recorded that the agricultural property within the development designated for the cultivation of vines, olives trees and lavender fields are under the direct control and ownership of the Developer, notwithstanding the fact that the Developer has granted the H.O.A and its Members certain rights and benefits, which are governed by the Agricultural Benefits Agreement annexed hereto marked Annexure "A". It is further recorded that notwithstanding the aforementioned ownership of the Developer, the Developer shall be unconditional obliged to develop the agricultural enterprise and commercial facilities in order to fulfil its obligations to the H.O.A and its Members in terms of the aforementioned Agricultural Benefits Agreement.

4. MEMBERSHIP

- 4.1 Membership of the Association shall be limited to registered owners of erven in the development which Membership shall commence simultaneously with the transfer of an erf in the development into the name of the registered owner; provided that:
- 4.1.1 a person who is entitled to obtain in terms of the provisions of Section 43 of Act No. 47 of 1937 a Certificate of Registered Title to any such erf shall be deemed to be registered owner thereof;
- 4.1.2 when any such owner is more than one person or entity, all the registered owners of that erf shall be deemed, jointly and severally, to be one Member of the Association.
- 4.2 When a Member ceases to be the registered owner of an erf, he shall immediately cease to be a Member of the Association. The registered owner of an erf may not resign as a Member of the Association.

- 19.2 The instrument appointing a proxy and the Power of Attorney or other authority (if any) under which it is signed, or a certified copy thereof shall be deposited at the office at any time before the time appointed for the commencement of the meeting, or adjourned meeting, at which the person named in the instrument is proposed to vote. No instrument appointing a proxy, shall be valid after the expiration of 12 (twelve) months from the date of its execution.
- 19.3 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that no intimation in writing of the death or revocation shall have been received by the Trustee Committee at least one hour before the time fixed for the holding of the meeting.

20. VOTING

- 20.1 At every general meeting, every Member in person or by proxy and entitled to vote shall have one vote for each Erf registered in his name subject to the provisions of paragraph 4.1.2 hereof. The Developer shall be entitled to a single vote in respect to each erf held by it, in terms of the general plan and in accordance with the deeming provision of paragraph 4.1.1 above.
- 20.2 Save as expressly provided for in these presents, no person other than a Member duly registered, who is not under suspension and who has not had voting rights suspended in accordance with clause 26.1.3, shall be entitled to be present or to vote on any question, either personally or by proxy, at any general meeting.
- 20.3 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless either prior to or on the declaration by the Chairman of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.
- 20.4 Notwithstanding the provisions of 20.3 aforesaid, voting on the election of a Chairman of a general meeting (if necessary) or on any question of adjournment, shall be decided on a show of hands by a majority of the Members present in person or by proxy, and entitled to vote.
- 20.5 Every resolution and every amendment of a resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not seconded, shall not be voted upon.
- 20.6 An ordinary resolution (that is a resolution other than a special resolution) or the amendment of an ordinary resolution, shall be carried on a simple majority of all the votes cast thereon, and an abstention shall not be counted as a vote for or against the resolution in question. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the general meeting shall be entitled to a casting vote in addition to his vote as Member, subject to Clause 6.5 in favour of the Developer.
- 20.7 Notwithstanding anything contained in this constitution, any resolution or the amendment of a resolution



20.7.1 which would have the effect of amending or repealing any part of this constitution, or

20.7.2 which would have the effect of amending or repealing paragraph 31 of this constitution which paragraph precludes subdivision or rezoning of the erven or the erection of more than one dwelling per erf, or

20.7.3 which would have the effect of amending or repealing paragraph 32 and 33 dealing with the Urban and Architectural Review Controls Manual the Architectural Controls, shall require a 75% (three quarters) majority of all Members entitled to vote before the resolution may be passed, which shall be known as a special resolution.

20.8 Unless any Member present in person or by proxy at a general meeting shall before closure of the meeting have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, whether by show of hands or by poll, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted, and an entry in the minutes to the effect that any motion has been carried or lost, with or without a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the vote so recorded if such entry conforms with the declaration made by the Chairman of the meeting as to the result of any voting at the meeting.

21. FINANCIAL YEAR END

The financial Year End of the Association is the end of February each year.

22. ACCOUNTS

22.1 The Association in a general meeting or the Trustee Committee, may from time to time make reasonable conditions and regulations as to the time and manner of the inspection by the Members, of the accounts and books of the Association, or any of them, and subject to such conditions and regulations, the accounts and books of the Association shall be open to the inspection of Members at all reasonable times during normal business hours.

22.2 At each Annual General Meeting the Trustee Committee shall lay before the Association a proper income and expenditure account for the immediately preceding financial year of the association, or in the case of the first account, for the period since the incorporation of the Association, together with a proper balance sheet made up as at the last financial year of the Association. Every such balance sheet shall be accompanied by proper extensive reports of the Trustee Committee and the Auditors, and

30. DEALINGS WITH THE COMMON PROPERTY

30.1 Neither the whole nor any portion of the common property shall be:

- 30.2.1 sold, alienated, otherwise disposed of, subdivided or transferred; or
- 30.2.2 subjected to a mortgage; or
- 30.2.3 subjected to any rights, whether registered in the Deeds registry or not, of use, occupation or servitude, save those enjoyed by the Members of the Association in terms hereof, or which allow for agricultural activities to be conducted similar in nature to the Agricultural Enterprise; or¹¹
- 30.2.4 built upon, improved or enhanced in value by the construction of buildings, erection of facilities or amenities, other than as contained in this constitution and in the approved layout plan, without the sanction of a special resolution of the Members of the Association.

31. NO SUBDIVISION OR REZONING AND NOT MORE THAN ONE DWELLING

31.1 No Member shall be entitled to subdivide or rezone his erf, it being noted that that Erf 228 has been zoned as the Hotel and Related Facilities Development, together with the Agricultural Enterprise, which shall enjoy a separate zoning status commensurate with its function as main farm complex for the cultivation, harvesting, processing and marketing of the produce of the agricultural property, together which the Commercial Component, being Erf 229, comprises of with the Winery, Restaurant, Farm Stall, the Chapel, Conference facilities being zoned as Commercial.

31.2 No more than one dwelling together with such outbuildings as are ordinarily required to be used in connection therewith, shall be erected on any Member's erf in accordance with the UADC Manual.

32. BUILDING STANDARD RULES AND AESTHETIC APPROVAL

32.1 It is recorded that the Trustee Committee has appointed the Benguela Cove Urban and Architectural Design Review Committee which comprises of Ellis Associates Architects¹² and two Members appointed by the Developer. In compliance with paragraph 4.6.2 above no owner of any erf shall be entitled to build on his erf or effect any improvement thereto or erect any structure thereon without

¹¹ 07th April 2018, Martin Dössner, 20180407-Special-Resolution-09-Common-use-area-lease-to-agri-Business
¹² 07th April 2018, Martin Dössner, 20180407-Special-Resolution-10-ARC-Committee-Flaydn-Ellis-Associates

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

MICHAEL
~~BEANSTATED~~ being the registered owner of 81 hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

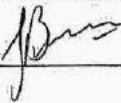
Signed at COLOGNE on 29.08, 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, Gene Rothoff being the registered owner of Portion 24 hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksvier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.


Signed at CENTURION on 29 August 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, Asanda Ntshhe being the registered owner of Stand 88 hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Sandton on 30 August 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

Jayne Rogerson
I, being the registered owner of 95 hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Schamaburg on 28 August 2019
Signature *J. Rogerson*

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIEVER:
NO 575 CALEDON

I, K. van der Merwe being the registered owner of 112 hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at M. BURG NL on AUGUST 29 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIEVER:
NO 575 CALEDON

I, **Dr L C Boezaart** being the registered owner of **114** hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at **Mauritius** on **29th August** 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, Jean Marcel Viljoen being the registered owner of 116 hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Hermanus on 29th August 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, J. Dokter being the registered owner of Plot 117 hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksvier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Pretoria on 28 August 2019

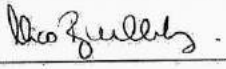
Signature



BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIEVER:
NO 575 CALEDON

I, Nico Buchholz..... being the registered owner of House 130, Benguela Cove, hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019;

Signed at Hong Kong on August 28, 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, Annerie van den Berg, being the registered owner of Erven 145 hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at LUSAKA, ZAMBIA on 29th August 2019

Signature  _____

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

Deon van den Berg
I..... being the registered owner of Erven 145..... hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Flora Clinic, JHB on 29th August 2019

Signature




Home Owner Declaration

BENQUILA COVE LAGOON WMS ESTATE
 APPLICATION FOR THE APPROVAL OF A HOUSE USE AND SITE
 DEVELOPMENT PLAN (SDP) FOR PORTION 222 OF THE FARM AFDKSRVEM
 NO 573 CALEDON

I, SILOEN PEGG being the registered owner of 76 hereby
 confirm my objection to the development of a house on 222 of the Farm Afdksrven No 573
 Caledon as per our consultant's attached letter dated 22 August 2010.

Noted at LEWIS on 21/8/2010

Attest: 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, BEN KODISANDZ being the registered owner of 177 hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksvier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Johannesburg on 28 August 2019

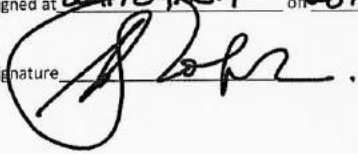
Signature 

NOTE: BEN KODISANDZ IS DULY AUTHORIZED TO REPRESENT
CORPORATE PARKIES INVESTMENTS CC

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, SAVIN DALGUESH being the registered owner of 178 hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksvier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at WINTHONGA on 28 AUGUST 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

MICHELE
DALGLEISH being the registered owner of **Plot 178** hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at **KLOOF** on **28 AUGUST** 2019

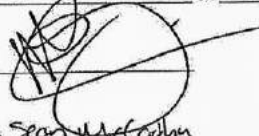
Signature *Michele Dalgleish*

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

Iris McCarthy Family Trust being the registered owner of 179 Benguela Cove hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksvier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Bellville on 29 August 2019

Signature


Cormack Sean McCarthy

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, JOHANNES PETRUS V/D WERSTHUIZEN being the registered owner of ^{PLOT 180} hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

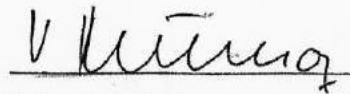
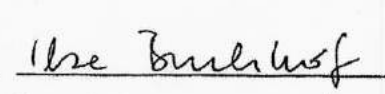
Signed at CALGARY, CANADA on THE 28TH OF AUGUST 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

We Volkhard & Ilse BUCHHOLZ being the registered owners of Plot 182
Benguela Cove hereby confirm our objection to the development of Portions 228
of The Farm Afdakrivier: No 575 Caledon as per our consultant's attached letter
dated 28 August 2019.

Signed at Lichtenstein on 20th day of August 2019

Volkhard Buchholz

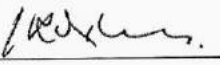
Ilse Buchholz

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I...JOHN R OXLEY..... being the registered owner of ...PLOT 185..... hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at _____ Home address _____ on 28 AUGUST _____ 2019

Signature



BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, Harry Elcock*..... being the registered owner of Erf 186*..... hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Blouberstrand on 29 August 2019

Signature 

* Duly authorised to act and sign on behalf of the Elcock Family Trust

Home Owner Declaration

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, Eric Falletsch... being the registered owner of est 190... hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Somerset West on 29.8 2019

Signature E Falletsch


Home Owner Declaration

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, Andrew Grimanis being the registered owner of 195 Benguela Cove hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Hermanus on 28th August 2019

Signature



BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

LHOLBETHGAM PROD. PTY LTD

I, KENNETH DAVID being the registered owner of 240 hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Armenia on 29th August 2019

Signature: [Handwritten Signature]
on behalf of Lhol Bethgam Properties Pty Ltd

Home Owner Declaration

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIEVER;
NO 575 CALEDON

Remittance Properties (Pty) Ltd

I, *Sb Mac DeLamer* being the registered owner of *Stand 215 (185 + 189)* hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at *Benguela Cove Winery* on *28/08/2019* 2019

Signature 

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

**Martin and Robyn Diessner,
duly authorised to sign on behalf
of The Diessner Family Trust**

171 and 172 consolidated 246

I..... being the registered owner of hereby
confirm my objection to the development of Portion 228 of The Farm Afdaksvier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Cape Town on 28th August 2019

Signature

The image shows two handwritten signatures in black ink. The first signature is a cursive name, likely 'Martin Diessner', and the second is a more stylized signature, likely 'Robyn Diessner'. Both are written over a horizontal line.

BENGUELA COVE LAGOON WINE ESTATE
APPLICATION FOR THE APPROVAL OF A CONSENT USE AND SITE
DEVELOPMENT PLAN (SDP) FOR PORTION 228 OF THE FARM AFDAKSRIVIER:
NO 575 CALEDON

I, KASSIEN DORFEL being the registered owner of297..... hereby
confirm my objection to the development of Portion 228 of The Farm Afdakrivier: No 575
Caledon as per our consultant's attached letter dated 28 August 2019.

Signed at Stellenbosch on 29th AUGUST 2019

Signature K. Dorfel



Benguela Cove
LAGOON WINE ESTATE



POSTNET SUITE 124
PRIVATE BAG X16
HERMANUS
7200

30 August 2019

OVERSTRAND MUNICIPALITY
NO 16 PATERSON STREET
HERMANUS
7200

FILE NO:	PN 228/575
	farm No. 575
SCAN NO:	
	Farm 575
COLLABORATOR NO:	
	1317166

ATTENTION: TOWN PLANNING DEPARTMENT (MR H OLIVIER/MS L GILLION)

Dear Sir/Madam

**PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONSENT USE: WRAP ON BEHALF OF BENGUELA COVE INVESTMENT (PTY) LTD
PORTION 228 OF THE FARM NO 575, BENGUELA COVE, HERMANUS
MUNICIPAL NOTICE NO: 94/2019**

Kindly find attached hereto a Letter of Comment and Objection by Urban Dynamics South Cape, together with 26 individual Benguela Cove Home Owners' support to such Letter.

Yours faithfully

**M. DIESSNER
CHAIRPERSON: BENGUELA COVE HOA
CELL PHONE: 072 644 1789**

benguela cove lagoon wine estate home owners association • walker bay • western cape
Trustees: P. Streeter • N. Rea • M. Diessner (Chairman) • K. Wellner • R. Anderson

TP 30 AUG 2019

TP. A. Moor
(H. Olivier)



Project Office

Town Planning & Project Management

Our Reference: 16/113
Your reference: HBENG 228/575

2 October 2019

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO: PTN 228 / 575
Middelburg Rivier ✓
SCAN NO: PTN 228
COLLABORATOR NO: 1330086

Attention: Mr Henk Olivier

PORTION 228 OF FARM AFDAKS RIVIER 575 CALEDON: APPLICATION FOR THE APPROVAL OF A SITE DEVELOPMENT PLAN AND CONSENT USE

Comments and objections were received from:

- A Grimanis;
- The Diesner Family Trust;
- V & I Buchholz;
- NB Buchholz;
- RC Anderson;
- Urban Dynamics South Cape Town & Regional Planners on Behalf of Benguela Cove Home Owners Association and individual home owners;
- Plan Active on behalf of Pumatech Prop (Pty) Ltd;
- S & M Prew;
- JM Rogerson;
- G & PW Boshoff;
- Afdaksrivier Trust (S Delportl);
- J&L van der Westhuizen; and
- H Elcock.

Project Planning Project Feasibility Land Use Applications Project Execution Management Liquor Licensing			
Wright Approach Investments 136 CC (Reg No. 2002/060745/23)	35 Duiker Street, P O Box 1247 Hermanus, 7200	Tel: +27 (0)28 313 1411 Fax: +27 0865083248	Email: admin@wrapgroup.co.za Web: www.wrapgroup.co.za

Established 2002

78

- 3 OCT 2019

Acronyms

- BCI** Benguela Cove Investments (the owner of the subject property)
- BCHOA or HOA** Benguela Cove Home Owners Association
- OM** Overstrand Municipality

Traffic related considerations

The Western Cape Department of Transport and Public Works (DTPW) requested that an updated Traffic Impact (TIA) assessment be submitted to assess the impact of this proposal on traffic related considerations. All traffic related concerns raised by the objectors will therefore not be responded to in this response as the owner of the subject property has appointed EFG Engineers to compile an updated TIA which will address all traffic related concerns raised by the objectors.

Environmentally related considerations

There are environmentally related issues which have been raised by the Western Cape Department of Environmental Affairs and Development Planning (DEADP). The owner of the subject property will appoint an environmental practitioner to liaise with DEADP regarding this. All objections pertaining to environmentally related considerations will therefore not be addressed in this objection.

Response to objections pertaining to the expectations relating to the future use of the subject site.

Objection	Comment
When a plot was purchased in 2010 from Chris Drummond, the information in circulation was that a small boutique hotel would be constructed on portion 228. The 40 units are therefore upsetting the expectation of the property owner.	It is rather unfortunate that the objector has been misled. The reality is that there is an existing approval for a "lodge" with 40 units for the subject property and a record of decision reflecting this, was attached as Annexure D in the submitted motivation report.
The 40 units are undermining the low-density exclusive and secure character of Benguela Cove.	

Response to objections pertaining to the security/privacy related considerations.

Objection	Comment
BCI has not engaged the Homeowners Association at any point about security and the lack thereof on their part will jeopardize the security of existing properties located in proximity to the subject property.	BCI is committed to employ suitable security measures on the subject property if this proposal is approved and implemented. The additional security measures will therefore prevent that the existing security which the objector currently enjoys in BCE, is not jeopardised.
According to the application each visitor of the proposed development be it as a guest or only visiting the spa facilities has access to the internal	



<p>private roads which in fact means that the public has access to the internal private road system owned by the HOA. The HOA cannot hold responsible for providing the security for the applicant's business.</p> <p>The proposed site plan does not address the security issues of current residents and totally disregards the safety and privacy of the adjoining landowner Portion 189 (Consolidated 245).</p> <p>In 2019, there were 3 break-ins reported into BCI's commercial/agricultural properties, and a sound security strategy is a non-negotiable concern with limited access to hotel guests and staff/contractors into the wider residential road network of the estate.</p>	<p>The break ins are not in any way related to this submitted proposal. The BCI is committed to a sound security strategy on the subject property.</p>
<p>Response to objections pertaining to constitution related considerations.</p>	
<p>Objection</p> <p>The constitution provides for an approval process of visual and architectural design guidelines to be followed, which BCI has not complied with at all.</p> <p>The constitution regulates that only one building (except for inhabitable outbuildings as per the zoning regulation for residential zoning) is permitted per erf, yet BCI intends to build 40 habitable structures on one erf which is in compliance with both the constitution and architectural guidelines.</p>	<p>Comment</p> <p>The BCE constitution highlights the following under Section 31.</p> <p>"31.1 No Member shall be entitled to subdivide or rezone his erf, it being noted that Erf 226 has been zoned as the Hotel and Related Facilities Development, together with the Agricultural Enterprise, which shall enjoy a separate zoning status commensurate with its function as main farm complex for the cultivation, harvesting, processing and marketing of the produce of the agricultural property, together with the Commercial Component, being Erf 229, comprises of with the Winery, Restaurant, Farm Stall, the Chapel, Conference facilities being zoned as Commercial.</p> <p>31.2 No more than one dwelling together with such outbuildings as are ordinarily required to be used in connection therewith, shall be erected on any Member's erf in accordance with the UADC Manual."</p> <p>The BCE constitution highlights that the subject property enjoys a different zoning status which have different development rules. The</p>



The access above is proposed as a workable solution to the subject property.

to grant a power of attorney to the application at the time, which resulted in the entire application being withdrawn. The withdrawal of the application and submission of a new application in February 2019 came at a huge financial cost to the BCI. Considering that the subdivision and rezoning of Portion 212 of the Farm Adaks Rivier was not supported by the BCHOA, the submitted application is proposed to remain in the current form. It is not the intention of the BCI to construct a road on Portion 212 of Farm Adaks Rivier as that would decrease the size of the open space and the viability thereof.

The proposal of the access road also indicates that the submitted application is not entirely opposed however an alternative access to the subject site is sought.

Response to objections pertaining to the scale of the development.

Objection

The ROD was for an approval consisting of 40 lodge units and a tennis court. The definition of units does not mean free standing houses. The applicant instead interprets this incorrectly as 40 free standing houses with a total of 80 bedrooms, 40 living rooms, kitchens, 40 recreational areas and 40 carports. The tennis court is not included in the application as there is an intension to make use of the community's tennis court and swimming pool. Implicit to the use of the word hotel, is that 40 units logically become 40 rooms.

It should be noted that this application is in the Homeowners view a disingenuous and opportunistic attempt by the applicant to double the size of the hotel, relative to what the authorized approving authorities original development intention was for Portion 228/575, and consequently to what is statutorily approved for the hotel site in terms of the applicable zoning parameters and prescriptions.

Comment

The existing ROD refers to 40 units as highlighted by the objectors.

When the ROD was approved, a unit was defined in terms of the Regulations promulgated in terms of the Land Use Planning Ordinance, 1985, as follows:

"dwelling unit means a self-contained interleading group of rooms with not more than one kitchen, used only for the living accommodation and housing of a single family, together with such outbuildings as are ordinarily used therewith."

There is clearly no limit to the number of rooms which a unit may have as purported by the objector.

The application for a consent use for 40 tourist accommodation units was applied for to give effect to the word "units" which is elucidated in the



submitted proposal. Below is the definition for tourist accommodation and dwelling "unit" in the OMS as that would provide better guidance of how a "unit" can be defined.

"Tourist accommodation means the letting of rooms or individual units on a temporary basis to paying lodgers or guests, and includes a guest house, bed and breakfast, backpackers establishment, and camp sites, provided that the use complies with the requirements of any other relevant legislation.

Dwelling unit means a unit containing one or more rooms, with adequate sanitary facilities and a kitchen, which may be used for long- or short-term accommodation purposes and may be included in or separate from the main building on the property."

The definition of a unit therefore permits exactly what was applied for.

It also needs to be borne in mind that a hotel with 40 units which may be 3 storeys/9m high with a coverage of 80% would be similar to the Arabella Hotel and would be visually intrusive to the low-density character of BCE. The proposal for 40 units which are spread out and not higher than 1 storey was intended to protect the low-density visual character of the BCE which is valued by the residents.

The recreational facilities proposed on the subject property which include a spa, restaurant/health bar will be used by the guests for recreational purposes and not the existing tennis court and swimming pool used by residents of the BCE.

The submitted proposal is therefore intended to give effect to the land use rights conferred by the ROD.



<p>The core of this objection is centred on the change from the existing approval of a "hotel" to what is essentially a "multi-house holiday village" which does not conform to existing architectural guidelines. The approval is for a single hotel with 40 units (i.e. bedrooms). What is being proposed are 40 independent/detached self-catering structures (i.e. houses) with 80 bedrooms/units, 40 open plan kitchen/ living rooms, 40 substantial terraces (incl. braai area) and major road system so every house can be accessed by car. In a very narrow and specific sense it can be argued that the application asks for the size of the development to be more than tripled.</p>	<p>The size of the proposal has not tripled considering that the current zoning permits a coverage of 80% on a property which is 27863m². The owner of the subject property could therefore construct a hotel which is 3 storey high which is 22290.4 m² in extent. The footprint of all structures on the proposed development is 6440m² and not higher than 1 storey. This size of the proposal is therefore of a much lower scale than what is permissible on the subject site.</p>
<p>An upmarket, well designed hotel building with 40 guestrooms that has a more compact footprint would have been more acceptable than the proposed freestanding self-catering units and auxiliary buildings that are proposed.</p>	
<p>The objection is that a 40 individual free-standing unit development (each unit obviously with multiple rooms) is very different to a regular hotel with 40 rooms. The expectation was something like the Arabella Hotel, a single structure with multiple rooms, but on a smaller scale. The 40 x stand alone units would make the hotel area denser than was previously permitted and necessary to maintain exclusivity as well as make it less secure than a small hotel would.</p>	
<p>The maximum height of 9 meters for the subject property is vehemently opposed.</p>	<p>The 9m height restriction is a right conferred on the subject property which cannot arbitrarily be deprived.</p>
<p>The applicant opportunistically chosen to misinterpret the ROD's density prescription, as being 40 x two-bedroom self-catering type free standing houses each with a living room and kitchen. On this point the application is considered patently defective.</p>	<p>The objector is assuming that all hotel units have one bedroom and do not have a living area and a kitchen which is not correct. There are hotels which have units with two bedrooms and a kitchen. The only reason why hotels are generally perceived to be in one building is because of the lack of space which is a site constraint prevalent in metropolitan areas.</p>



<p>The practical implication of this opportunistic misinterpretation of the rights, is an SDP with 40 freestanding self-contained dwellings each with two bedrooms, living room, kitchen, etc. The maximum density parameter for the site as per the correct interpretation of the Environmental ROD and the Zoning Approval which followed, is a Hotel with a maximum of 40 rooms.</p> <p>The approval of a consent use for tourism accommodation on the current hotel right will effectively grant the applicant additional rights in a development format allowing freestanding units in a built design configuration and at a scale (160 rooms including 80 bedrooms) that is totally inconsistent and incompatible with the surrounding land uses, the established low-density fabric/character.</p>	<p>Considering that space is not a constraint on the subject property, the units can be free standing.</p> <p>The ROD also explicitly refers to an approval for 40 units and a lodge. The consent use for tourist accommodation which was applied for uses the OMZS and the planning process to give effect to the existing approval of the ROD.</p> <p>The ROD on page 2 explicitly refers to "the lodge which consist of 40 units" and not 40 rooms as interpreted by the objector.</p> <p>The individual units all have a maximum of 2 bedrooms. The submitted proposal will therefore not have 160 rooms. It appears that the objection is based on the assumption that there will be 160 rooms on the subject property which is highly inflated from what was applied for and explicitly depicted in the submitted SDP and 3D elevations.</p>
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Response to objections pertaining to the impact and implication of the proposed development.

Objection	Comment
<p>Less regulated, controlled and supervised access to the residential area leads to decreased safety for and annoyance to residents.</p>	<p>The access to the proposed tourist accommodation will be strictly controlled in order to safeguard the safety of residents in BCE. There is no evidence to support the claim that the tourists will be an annoyance to the local residence as there will be no interaction between guests and residents.</p>
<p>Much higher impact construction/ design is required (incl. roads, parking, etc.) leads to less natural environment.</p>	<p>The natural environment in BCE is highly prevalent and the approval and implementation of this proposal will have a minimal impact on the surrounding.</p>
<p>More light pollution (one hotel unit emits less light than a house).</p>	<p>The subject site is on the same contour lines as the surrounding properties. Considering that the subject site is not elevated, the light which will be</p>




<p>More traffic leads to increased risk to safety of resident's children playing on the road.</p> <p>Self-catering means more braais which leads to greater fire risk, more smoke, more air pollution, more outdoor activities, more noise pollution and disturbance for residents and wildlife. This also attracts a completely different clientele/ guest profile and a profile that is less desirable to have in a residential area.</p> <p>The application cannot be viewed in isolation but must also be looked at in the context of the relatively recently approved "Portion 229 Of Farm 575, Benguela Cove Proposed Amendment of Approved Site Development Plan and Departure", which is already changing the character of the estate. How many more changes, it's enough?</p> <p>The spa, restaurant and access to the lagoon for water sports must strictly be for hotel guest only.</p> <p>The proposed development is of such a nature that approval could be sought at a future date to repurpose it from a hotel to the sale of individual holiday homes/ houses, retirement village, etc. This must be prohibited.</p> <p>The high-density "township" development which the applicant seeks approval for was never envisaged in the original sales document of the BCE.</p>	<p>emitted from the individual units will be similar to the light emitted from other properties.</p> <p>If the BCE opted to construct a hotel which is 3 storeys high on the subject property, the light pollution from the hotel would be highly visible and prominent compared to the application which was submitted.</p> <p>The erven in BCE are very large and children either play in the residential properties or communal spaces and not in roads as that is a trend more prevalent in low income areas with small and limited space on erven.</p> <p>Braais are projected to occur occasionally in the units and at different intervals which would reduce the likelihood of smoke, fire, pollution and noise pollution and have a minimal impact on the residents and wildlife. The upmarket nature of the subject units is projected to attract genteel guest whose profile is similar to the residents of BCE.</p> <p>The approved amendment of the site development plan has marginally impacted on the character of Portion 229 of Farm Atdaks Rivier 575, Caledon considering that the land use rights of the property are commercial.</p> <p>The spa and restaurant on the subject property will strictly be for guests. This objection indicates that the objector is not wholly opposed to the submitted proposal but would like certain conditions of approval to be inserted.</p> <p>The definition of a hotel in the OMZS highlights that the subject property may only be used as a temporary residence for transient guests. The land use rights conferred on the subject property will therefore be complied with by the property owner.</p> <p>The approved 40 units highlighted in the ROD and the 40 units proposed in the application ensures that the density of the subject site is still the same as what was envisaged on the subject property. The density of the subject property is proposed to be 14,35 dwelling units per hectare which</p>
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<p>The site plan and architectural building plans that accompanied the application gives the impression of the proposed lodge to be that of a typical Road Lodge that is not in tune with the marketing statement on the Benguela Cove website and does not suit the exclusiveness of the Estate as a whole. The units furthermore are perceived as being self-catering units, and if so, it will not benefit the businesses already established in the estate that also include the restaurants.</p> <p>Even though an approval has been obtained from the Overstrand Municipality and the Department of Environmental Affairs and Development Planning to accommodate a hotel on Portion 228 of the Farm Addaks Rivier No.575 no site plan has been approved. The fact that approvals have been obtained for the rezoning of the last-mentioned portion cannot be used as a reason for the desirability of the application.</p> <p>The proposed land use and the impact thereof on the surrounding landowners should rather be taken into consideration. It is our opinion that the proposal has not taken the surrounding landowners and the impact of the development on them into consideration. There are other alternatives that can be investigated to make the development more viable and acceptable to all such as the intended hotel and not a lodge.</p> <p>Residents of Benguela Cove Wine Estate would prefer that any hotel development follow the guidelines of a boutique hotel as laid down by the South African Tourism Grading Council (SATGC). Indeed, in a WhatsApp response to one of the residents (Mike Abel) queries on 10 April 2018 as to the quality of the proposed lodge Penny Streefer of BCI responded "Mike it will of course be 5 star we, will be working closely with the South African grading inspectors get everything right". The granting of five-star status only be given if SATGC guidelines are followed. The beauty of Benguela Cove Lagoon Wine Estate demands that a high-quality accommodation environment establishment is developed.</p>	<p>is a stark contrast with densities of approximately 200 dwelling units per hectare prevalent in some townships.</p> <p>The 3D drawings which were submitted with the planning application are of high architectural integrity and are aligned with the expectations of exclusivity which the BCE residents have.</p> <p>The restaurant which the objector refers to belongs to the owner of the subject property.</p> <p>It was a condition approval in the initial application that a site development plan be submitted. This proposal is an attempt to comply with the condition of approval.</p> <p>The applicant has the right to construct a lodge with 40 units as per the ROD.</p> <p>The property owner is highly committed to ensuring that the subject development attains a five-star rating in accordance with the prescripts of the SATGC and to appease this legitimate expectation which residents of BCE have.</p>
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<p>If a jetty is approved on the proposed development, the right to construct a jetty will have to be extended to all other even in the existing development.</p> <p>Would these guests be allowed to bring their boats, canoes and trailers down to the booyard? If so, where would they park these cars and trailers? Just drive down to the main harbour boat launch during December for a taste of what's to come. Who would police these loud, mostly intoxicated individuals breaking bottles and damaging property? I hope there are plans for installing an industrial firehose on the roof for crowd control on public holidays at the boat launch.</p> <p>It is blatantly obvious that the development plan and siting arrangement of multiple, same size freestanding units, as proposed on Portion 228/575 is directly contrary and incompatible with the existing pattern, grain and configuration of the built form that has been so carefully crafted, since the very inception of the Benguela Cove Lagoon Wine Estate. On this basis the application is considered wholly incompatible with the surrounding land uses and the established spirit and ethos of the Benguela Cove Lagoon Wine Estate.</p>	<p>There is already a jetty constructed for residents elsewhere in the development. If the objector requires his own jetty, he will have to apply for an environmental authorisation from DEADP. The approval of this proposal can therefore not confer additional land use rights on other properties in BCE.</p> <p>Guests will be allowed to bring water craft down to the booyard of the lodge and it will be responsibility of the owner of the lodge to control guests and the use of their water craft.</p>
	<p>The objector is negating the fact that the zoning of the subject property is General Residential Zone 1: Flats with a hotel as a primary use. These development parameters are different from the Residential Zone 1: Single Residential and Agriculture Zone 1: Agriculture zoning applicable on other properties in BCE and will by implication enable a different nature of development on the subject site.</p> <p>BCE comprises of different land uses which range from agriculture, commercial and residential which vary in terms of patterns, grains and configuration of the built form. Making provision for the variation of the built form was carefully crafted since the inception of BCE. The figure ground drawn by the applicant therefore illustrates that the grain in BCE is a mixture of course grain (the restaurant), fine grain (the residential properties) and the finest grain (the proposed development).</p> <p>The approval and implementation of this proposal is therefore intended to complement this variation of built form and grain in BCE with the intent of contributing to further enhancing the aesthetic appeal of the development. The figure ground diagram drawn by the objector</p>



<p>The figure ground study clearly shows the incompatibility of the applicant's proposal with the grain of the existing fabric.</p> <p>It should be noted that a consent use for "tourist accommodation"; by its very definition, as set out in the applicable zoning scheme definition, represents a built form which contradicts the very basis of the original development intent for the site in terms of the HOA constitution and the Urban and Architectural Design controls.</p>	<p>elucidates the diversity of built grain and form of BCE which creates a peculiar environment which is of high quality.</p> <p>It is proposed that the approval of this application only be limited to the buildings and land uses in the submitted SDP to ensure that the built fabric and form of BCE is not tarnished.</p>
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Response to objections pertaining to definitions related to the submitted proposal.

Objection	Comment
<p>What does "upmarket" and "harmony" mean in the context of the submitted application.</p>	<p>It means that the architectural drawings submitted are of high architectural integrity to conform/be in harmony with the existing character of BCE.</p>
<p>What is a health bar</p>	<p>This is a restaurant which has a component of a spa which will exclusively be used by visitors of the subject property.</p>
<p>What are genteel guests and what system will be used to deny guests who are not genteel.</p>	<p>Genteel guests are people who are polite, refined and respectable. The manager of the proposed lodge will monitor the behaviour of guests and intervene in the highly unlikely event where disorderly behaviour emerges.</p>
<p>It is important to note that any reading of the common use of the word "lodge" within the context of the hospitality industry relates to it being used to describe a smaller scale hospitality establishment synonymous with a boutique hotel or country house.</p>	<p>The OMZS and LUPO was used for the interpretation of definitions. Subjective definitions which are not in the OMZS or LUPO cannot be used to interpret the land use rights which were applied for as that will lead to a skewed interpretation of the submitted proposal and potentially undermine the outcome and integrity of the planning decision.</p>



<p>We would also like to know what the desired price point for accommodation in the "hotel" would be for two reasons: This would indirectly translate into how much security my family needs to invest in to keep the property safe. If this price would ever drop under R5000 a night, would the developer then pick up the levis on the unsold properties because then in essence it would be cheaper to permanently stay in the "hotel" than building your own place considering a modest 7% return on investment could afford you this without any of the headaches while killing further property sales in the estate.</p>	<p>The BCI will determine the price of the units if this proposal is approved and implemented. To determine that at this point is premature as it is unclear what the tourism market conditions will be in the future.</p>
<p>It is the Homeowners considered opinion, based on expert input from various specialists, that the Hotel development proposal in its current format and scale (consisting of 40 free standing two-bedroom self-contained dwellings/houses with lounges and kitchens serviced by a clubhouse/spa/restaurant facility) is deemed not economically feasible. It is the homeowners informed view that the proposed 80 roomed hotel, is an excessively large and capital intensive project in terms of its potential income return, relative to market related demand projections for the scale and type of facility proposed. This concern serves to further strengthen the homeowner's suspicion that the proposed hotel scheme, is simply a "Trojan Horse" that is being planned, by the applicant, for future conversion to residential units to be sold off as freehold or sectionalised.</p>	<p>The assumption that the proposed development will not be profitable is presumptions and not substantive reason for the refusal of the approval and implementation of the submitted proposal.</p>

Response to objections pertaining to other land uses by BCI.

Objection	Comment
<p>The OM has been unable to take BCI to task on constructing without approved building plans and illegal signage.</p>	<p>The OM is currently liaising with the BCI to find an amicable solution to this concern raised by the objector.</p>



Response to objections pertaining to heritage related considerations.

<p>Objection The motivation report highlights that the proposal is not heritage sensitive without submitting any evidence to that effect.</p>	<p>Comment The proposal was submitted to the Heritage Western Cape which issued a record of decision which highlights that the submitted proposal will not have any impact on heritage resources.</p>
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Response to objections pertaining to financially related considerations.

<p>Objection The residents of the BCE are not prepared to financially subsidise the running of this proposed development.</p>	<p>Comment The running of the proposed development will be the sole financial responsibility of the BCE and not the residents of the BCE.</p>
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Response to objections pertaining to property value and economic related considerations.

<p>Objection This proposal is altering the original vision of the BCE which was exclusive, quiet area to a mass high impact highly commercialised tourism establishment. This is projected to decrease property values of the BCE.</p>	<p>Comment Section 7 (a)(vi) of SPLUMA highlights the following. "a Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application." The concern raised by the objector regarding property values can therefore not be used to influence the refusal of the submitted application. In the highly unlikely event that the occupancy of the proposed units is low, the BCE will have to bear the financial brunt for that. This can however not be used to speculate that the owner will sectionalise the units to be sold off to the public.</p>
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The proposed development scale of 40 free-standing two bedroom self-contained dwelling/houses with lounge and kitchenets is deemed not economically feasible. This investment is excessively large relative to the current and projected revenue based on the very low usage/occupancy of the current restaurant. There is a very real concern that the proposed development is a 'front' by the developer/applicant to convert the units to residential units (or sectional title) to be sold off in the future.



Response to objections pertaining to service-related considerations.

Objection	Comment
<p>A lodge with 40 units will lead to guests residing for longer time frames on the subject property and will be additional strain on water, electricity and sewage infrastructure. The water which will be required to water the gardens is of concern as that will be additional strain on the water supply of the area.</p> <p>The average size of the units is 146m² while the average size of a hotel room is 40m². This means that there will be a greater influx of guests per dwelling unit which will place strain on the water, electricity and sewage infrastructure.</p>	<p>With the planning of the service provision for the development, the services demand for the subject property was included in the calculations for the whole development.</p>

Conclusion

The objectors are not completely opposed to the application but would however prefer that the 40 units be a hotel which is a single building which is the major contention point of the submitted application.

The objections which have been raised are noted however there has been no substantive objection raised which would justify the refusal of the submitted application.

Correspondence from Western Cape Department of Transport and Public Works (DTPW), Western Cape Department of Environmental Affairs and Development Planning (DEADP) and Heritage Western Cape will be submitted on receipt.

Yours faithfully

REA JANKIE

TOWN PLANNER (B/8392/2017)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR AMENDMENT OF THE SITE DEVELOPMENT PLAN &
CONSENT USE, PORTION 228 OF THE FARM N0 575, BENGUELA COVE
(2958/2019)**

Stormwater (SW)	:	According to the master plan by the Developer
Electricity	:	Eskom
Water	:	According to the master plan by the Developer
Sewer	:	According to the master plan by the Developer
Roads and traffic	:	In order

Conditions:

1. that the applicant must comply with all statutory requirements that may be applicable to the undertaking of the proposed development.
2. that only the existing municipal services and service connections will be available to the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost
3. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage
4. that the developer indemnifies and keep the Council indemnified against all actions, proceedings, claims and demands, costs, damages and expenses arising out of the establishment of the development, the provision of services to the development or the use of servitude areas or municipal property:
5. that the developer may enter into an agreement with the Council to install or upgrade bulk and/or link municipal services and amenities at an agreed cost, subject to the following:
 - 5.1 such costs to be established in accordance with a system which is fair, equitable, transparent, competitive and cost effective;
 - 5.2 such costs shall be set-off against (part or full) development contributions payable in respect of engineering services;
 - 5.3 to the extent that such costs exceed the development contributions payable, the Council will refund the developer the difference with interest calculated at the prime rate, when funds are available

6. that the developer at his cost constructs the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be provided;
 - 6.1 the Director: Infrastructure and Planning may require the developer to construct internal, link, and/or bulk municipal services to a higher capacity than warranted by the development for purposes of allowing other existing or future developments to also utilise such services, provided;
 - 6.2 the rates and prices of such work be established in terms of a system which is fair, equitable, transparent and cost effective;
 - 6.3 if link municipal services have already been provided, the developer to contribute towards the cost thereof, the Director: Infrastructure and Planning to determine the amount of such contribution in terms of a system which is fair and equitable;
7. that servitudes for municipal services be registered in favour of the Council at the developer's cost in respect of all main services to be taken over by the Council and all existing municipal services concerned crossing private property;
8. that a plan of all existing services be submitted to the Director: Infrastructure and Planning, by the developer and that any of the services that need to be relocated, be done by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning;
 - 8.1 way-leaves must be obtained from the Operational Manager;
 - 8.2 such way-leaves to be obtained prior to any excavation on public property or property where existing services are located;
9. that plans of all the internal municipal civil and electrical (high and low voltage supply) services and such link services as required by the Director: Infrastructure and Planning, prepared by an ECSA registered professional engineer/technologist, be submitted to the Director: Infrastructure and Planning for his prior approval;
10. the "Guidelines for the Provision of Engineering Services in Residential Townships" (Blue Book), SABS 1200 specifications and the Design and Construction Standards for civil and electrical services of the Council to be used as the standard design and construction criteria with which such plans must comply;
11. the Director: Infrastructure and Planning to be notified in writing of all deviations from the Standard Design and Construction Criteria when plans are submitted for his approval and such deviations to be separately approved in writing by the Director: Infrastructure and Planning;

12. the successful completion of such works to be supervised and certified by an independent professional civil engineer/technologist i.e. a professional civil engineer/technologist who has no direct financial interest in the development, other than payment as standard professional fees for the work concerned; and
13. such independent professional civil engineer/technologist to furnish the Director: Infrastructure and Planning with satisfactory proof of his professional indemnity insurance to an amount which shall not be less than that required by the SAACE and which insurance shall be valid for the relevant contract and maintenance period;
14. that all municipal civil and electrical services installed or constructed by the developer, be maintained after completion thereof for a maintenance period, as described in the General Condition of Contract for works of Civil Engineering Construction – 2004, of 12 months, and
15. that a Certificate of Completion together with as-built services plans be provided by the independent professional engineer/technologist to the Overstrand Municipality. As-built plans to be on quality paper, together with a DXF file thereof;
16. that a stormwater management plan, which may include attenuation facilities to ensure that the pre-development run-off is not exceeded and that erosion and pollution is minimised, be submitted to the Director: Infrastructure and Planning for approval and that the approved management plan be implemented by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning;
17. that the above stormwater management plan include the following:
 - 17.1. pre-development run-off from the catchment area;
 - 17.2. post-development run-off from catchment area;
 - 17.3. existing stormwater reticulation system and the capacity thereof;
 - 17.4. connection of internal stormwater reticulation system;
 - 17.5. overland escape routes;


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE



ANNEXURE G

TPA Theart
C H Olivier

Overstrand Municipality
loretta@overstrand.gov.za

Date: 2019/07/29

Enquiries:
WayleavesWesternOU@eskom.co.za

WAYLEAVE APPLICATION: • Amendment of the site development plan : PORTION 228 OF THE FARM NO 575, BENGUELA COVE, HERMANUS : HERMANUS

YOUR REF: HBENG 228/575 (2958/2019)

OUR REF: 01562-19

Referring to your application dated 24/07/2019

1. Eskom Distribution has no objection to the proposal.
2. This application is not affected by Eskom services and should be referred to the Local Authority.

Yours faithfully

LAND DEVELOPMENT (BRACKENFELL)

FILE NO:	PH 228/575 Afdel. 1
SCAN NO:	HANS
COLLABORATOR NO:	1307071

29 JUL 2019

TP

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

TP N. (Sheet 1) Olivier
ANNEXURE H 1/4



Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Candice Spammer
Tel: 021 414 5582
Fax: 086 480 0617
Email: spamme1@telkom.co.za

Our Ref.: WWIP_WHMN2666_19
Your Ref.: Ptn 228/575 HBENG

20 August 2019

Attention: S Muller

Overstrand Municipality
HERMANUS

FILE NO:	PTN 228 / 575
	Nickels Olivier ✓
SCAN NO:	PTN 228
COLLABORATOR NO:	1314333

PLANT AFFECTED

PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONSENT USE: PORTION 228 OF THE FARM 575, BENGUELA COVE, HERMANUS

With reference to your application received **24 July 2019**.

As important cables and other infrastructure are affected, please contact our representative **Frederik Swart** at **028 514 1199 / 081 363 7815 / FrederikS@openserve.co.za** 48 hours prior to commencement of construction work.

I hereby inform you that Open Serve approves 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.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

TP 20 AUG 2019

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

As per sketch attached, Open Serve infrastructure **WILL BE AFFECTED**, consequently the conditions below and on the attached legend will apply.

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

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


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

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should open serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

pp 

Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

PLANT AFFECTED : COPPER

This wayleave, Reference Number WWIP WHMN2666 19 is valid for 12 months from date hereof and is subject to the following conditions:

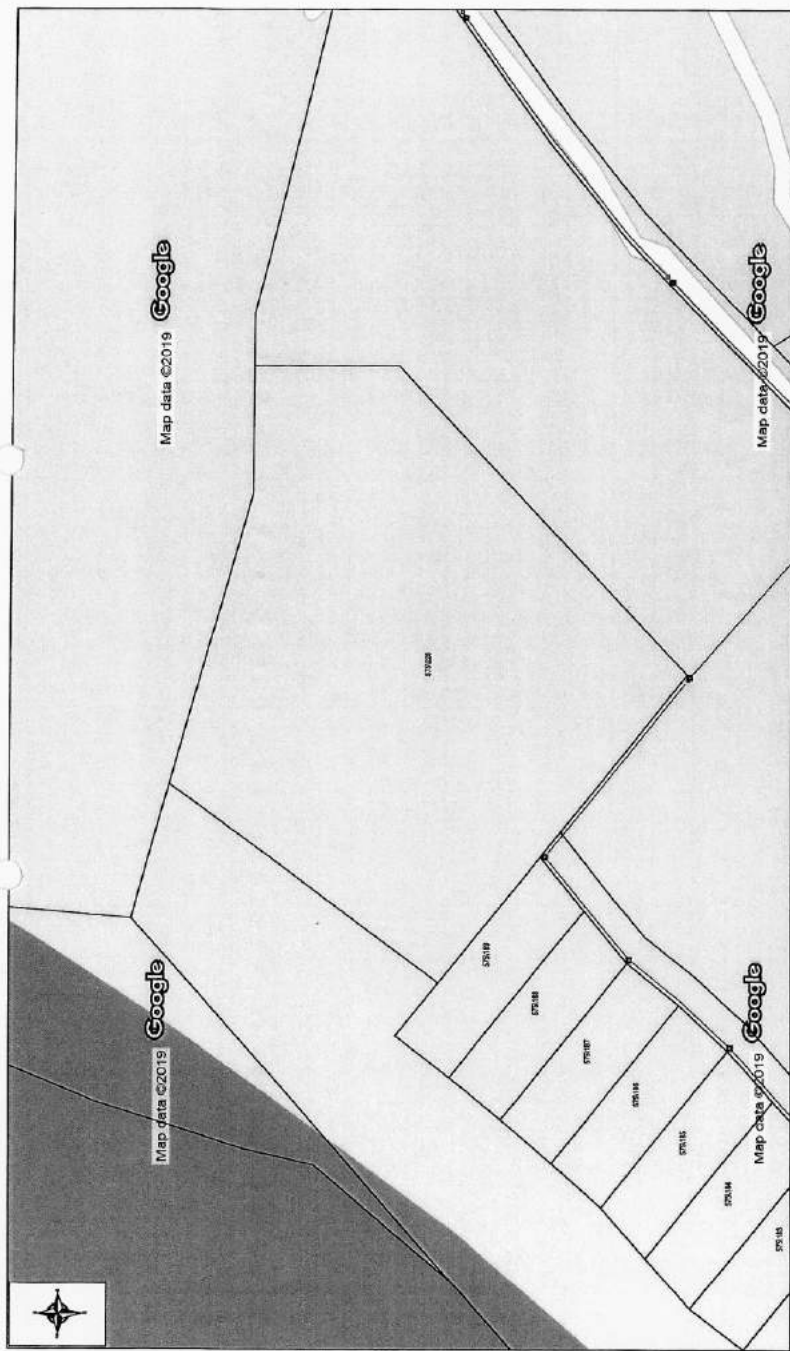
1. No mechanical plant or vibrator type compactors may be used within three meters of any Openserve Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and Frederik Swart at Telephone No 081 363 7815 must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Openserve Plant will be indicated on site.
3. A written request must be submitted to Openserve for consideration, should the of the work, upon which the actual location of Openserve Plant will be applicant require our plant to be relocated. The cost of such a relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existance of the indicated plant and to notify Openserve immediately, should the applicant locate any Openserve Plant which is not indicated on the plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for any damage or loss as a result thereof.

Date: 2019/08/20

By: C Spammer
For Regional General Manager
Western Cape

Legend	Green
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC)	
5. Jointing Pit/ AJB	
6. Jointing Pillar (PJ)	
7. Pipe Junction Box (B/S)	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable (A/C)	





Legend

	Existing Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System
	Proposed Street Distribution System		Proposed Street Distribution System

OpenSpace plan details

Created by	C. G. G. G.
Date	10/06/2019
Created by	COPIES 4/21/2019 17:00:00
Date	10/06/2019

TELUKOM REGIONAL EXECUTIVE

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ANNEXURE I

REGISTERED MAIL

Our Ref: HM/OVERBERG/OVERSTRAND/HERMANUS/PTN 228 OF FARM AFDAKSRIVIER 575
Case No.: 19082905AS0904E
Enquiries: Andrew September
E-mail: andrew.september@westerncape.gov.za
Tel: 021 483 9543
Date: 05 September 2019

ILifa leMveli leNtshona Kaloni
 Erfenis Wes-Kaap
 Heritage Western Cape

TP-N. (heard)
 (H. Olivia)

Michelle Naynor
 PO Box 1990
 Hermanus
 7200

RESPONSE TO NOTIFICATION OF INTENT TO DEVELOP: FINAL
 In terms of Section 38(8) of the National Heritage Resources Act (Act 25 of 1999) and the Western Cape Provincial Gazette 6061, Notice 298 of 2003

NOTIFICATION OF INTENT TO DEVELOP: PROPOSED RESIDENTIAL DEVELOPMENT ON BENGUELA COVE LAGOON WINE ESTATE, PORTION 228 OF FARM AFDAKSRIVIER 575, HERMANUS, OVERSTRAND, SUBMITTED IN TERMS OF SECTION 38(8) OF THE NATIONAL HERITAGE RESOURCES ACT (ACT 25 OF 1999)

CASE NUMBER: 19082905AS0904E

The matter above has reference.

Heritage Western Cape is in receipt of your application for the above matter received on 04 September 2019. This matter was discussed at the Heritage Officers meeting (HOMS) held on 16 September 2019.

You are hereby notified that, since there is no reason to believe that the proposed development will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.

This decision is subject to an appeal period of 14 working days. The appeal period shall be taken from the date above. It should be noted that for an appeal to be deemed valid it must refer to the decision, it must be submitted by the due date and it must set out the grounds of the appeal. Appeals must be addressed to the official named above and it is the responsibility of the appellant to confirm that the appeal has been received within the appeal period.

Applicants are strongly advised to review and adhere to the time limits contained the Standard Operational Procedure (SOP) between DEADP and HWC. The SOP can be found using the following link <http://www.hwc.org.za/node/293>

However, should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately and Heritage Western Cape must be notified without delay.

HWC reserves the right to request additional information as required.

Should you have any further queries, please contact the official above and quote the case number.

Yours faithfully

pp 
 Dr Mxolisi Dlamuka
 Chief Executive Officer, Heritage Western Cape

FILE NO: <u>PTN 228/575</u>
<u>D. Pretorius Riva</u> ✓
SCAN NO.: <u>PTN 228</u>
COLLABORATOR NO: <u>1458309</u>

www.westerncape.gov.za/cas

Street Address: Protea Assurance Building, Green Market, Square, Cape Town, 8000 • Postal Address: P.O. Box 1965, Cape Town, 8000
 • Tel: +27 (0)21 493 5959 • E-mail: ceoheritage@westerncape.gov.za
 Street Address: Protea Assuransgebou, Groenmarkplein, Kaapstad, 8000 • Posadres: Posbus 1965, Kaapstad, 8000
 • Tel: +27 (0)21 493 5959 • E-pos: ceoheritage@westerncape.gov.za
 Idilesi yendawo: kumpaniyo-Bo 3, kumakadawo iprotea Assurance, Greenmarket, Square, akapa, 8000 • Idilesi yeposi: Inombolo walibokisi



Western Cape
Government



ANNEXURE J 1/2

MINISTRY OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND
DEVELOPMENT PLANNING

TP- n. /thead
(I.J. Olivier)
cc/L. Bezuidenhout

REFERENCE NO: 16/3/3/5/E2/15/1009/20

Ms. Penelope Streefer
Benguela Cove Investments (Pty) Ltd
P.O. Box 327
BELLVILLE
7535

FILE NO:	Pin 10-18 / 575
SCAN NO:	Farm 575
COLLABORATOR NO:	114 7872

Email: penny.streefer@benguelacove.co.za

Dear Ms Streefer

APPLICATION FOR THE AMENDMENT OF THE APPEAL RECORD OF DECISION GRANTED FOR THE CHANGE OF LAND USE FOR THE DEVELOPMENT OF RESIDENTIAL UNITS, A WINERY, A RESTAURANT, A LODGE, JETTIES AND THE ESTABLISHMENT OF A NATURE RESERVE ON PORTIONS 10 – 18 OF FARM AFDAKSRIVIER NO. 575, CALEDON

1. With reference to your Amendment Application dated 7 February 2020, submitted for the amendment of the Appeal Record of Decision ("RoD") issued on 17 August 2004, find below the Amended Appeal RoD in respect of the Amendment Application.
2. **EMPOWERING PROVISIONS IN TERMS OF THE APPLICABLE LEGISLATION:**
 - 2.1. Sub-Regulation 27(1) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") Environmental Impact Assessment ("EIA") Regulations, 2014 (Government Notice No. R. 982 of 4 December 2014) states that "The competent authority that issued an environmental authorisation has jurisdiction in all matters pertaining to the amendment of that environmental authorisation as long as the environmental authorisation is still valid, provided that the competent authority that issued such environmental authorisation still has jurisdiction in terms of the Act."
3. **DECISION:**
By virtue of the powers conferred on me by the NEMA and EIA Regulations, 2014 (Government Notice No. R. 982 of 4 December 2014), I amend the Appeal RoD as follows:
 - 3.1. **Description of the activity, third paragraph: last sentence**
"The lodge will be constructed on Portion 228 (a portion of Portions 10 – 18 of Farm Afdakrivier No. 575, Caledon) of Farm Afdakrivier No. 575 and will consist of 40 units. The following associated infrastructure will form part of the lodge development:
 - A tennis court;
 - A boathouse of approximately 60m²;
 - A spa / health bar (restaurant) of approximately 540m²;
 - Ponds; and
 - Open spaces."

Room 809 Utilitas Building, Cape Town, 8001 Private Bag X9186, Cape Town, 8000
tel: +27 21 483 3721 fax: +27 21 483 4174 e-mail: DEADP.Appeals@westerncape.gov.za

TP 28 AUG 2020

3.2. Change of ownership or transfer of rights and obligations:

The holder of the Appeal RoD has changed and the rights and obligations are transferred to the following person:

"Benguela Cove Investments (Pty) Ltd
c/o Penelope Streeter
P.O. Box 327

BELLVILLE

7535

Tel: (021) 944 1245

Email: penny.streeter@benguelacove.co.za"

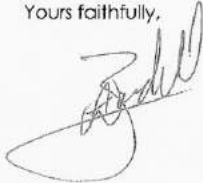
4. REASONS FOR THE DECISION:

Find below the reasons for the amendment of the Appeal RoD:

- 4.1. The proposed amendment is in terms of Part 1 of the 2014 EIA Regulations and will not change the scope of the valid EA nor increase the level or nature of the impact, which was initially assessed and considered when an application was made for the original authorisation.
- 4.2. Even though the area of a lodge will incorporate additional development components such as the boathouse, spa/ health bar (restaurant), ponds and open spaces, it will be developed within the extent of the originally approved development footprint.
- 4.3. The ownership or rights and obligations have been transferred or changed from Woodlands Heights Investments (Pty) Ltd to Benguela Cove Investments (Pty) Ltd.
- 4.4. The environment and the rights and interests of the Interested and Affected Parties will not be adversely affected by the decision to amend the Appeal RoD.
- 4.5. No new activities are triggered by the proposed amendments in terms of the EIA Regulations, 2014 (Government Notices No. R. 983, R. 984 and R. 985 of 4 December 2014) promulgated in terms of the NEMA.

Your interest in the future of our environment is appreciated.

Yours faithfully,



ANTON BREDELL
WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 26/8/2020

Copied to:

1. Ms Michelle Naylor (Lomay Environmental Consulting) Email: michelle@lomay.co.za
2. Ms Liesl Bezuidenhout (Overstrand Municipality) Email: lbezuidenhout@overstrand.gov.za

ANNEXURE K



ROAD NETWORK MANAGEMENT
 Email: Grace.Swanepoel@westerncape.gov.za
 tel: +27 21 483 4669
 Rm 335, 9 Dorp Street, Cape Town, 8001
 PO Box 2603, Cape Town, 8000

REFERENCE: TPW/CFS/RP/LUD/REZ/SUB-21/190 (Job 27169)
ENQUIRIES: Ms GD Swanepoel
DATE: 2 December 2019

The Municipal Manager
 Overstrand Municipality
 PO Box 20
HERMANUS
 7200

*TP - A Theart
(H Olivier)*



Attention: Mr H Olivier

Dear Sir

PORTION 228 OF FARM 575, BENGUELA COVE: TRUNK ROAD 28: PROPOSED AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND DEPARTURE

1. The following refer:
 - 1.1 Your letter dated 5 March 2018 and
 - 1.2 This Branch's even-numbered letter dated 27 August 2019.
2. Cognisance is taken of the updated Traffic Impact Assessment dated November 2019 undertaken by EFG Consulting Engineers, specifically the recommendation that a left turn lane or taper is not required.
3. Accordingly, this Branch withdraws its objection to the application in terms of the Land Use Planning Act, No 3 of 2014.

Yours faithfully

SW CARSTENS
 For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

FILE NO: Ptn 228, 575, HM
SCAN NO:
COLLABORATOR NO: 1363379

ANNEXURE L

Office of the Director:
Infrastructure & Planning
Environmental Management

MEMORANDUM

Kantoor van die Direkteur:
Infrastruktuur & Beplanning
Omgewingsbestuur

Date : 29 November 2019

To: Loretta Gillion (Town Planning)
From: Penelope Aplon (Environmental Management)

RE: **Proposed amendment of the SDP and consent-use: Portion 22
of farm 575**

This office has the following comments on this application:

Construction work:

- A construction phase Environmental Management Plan must be submitted by the applicant. The ROD specifies this document as well.

Stormwater management:

The development is located adjacent to the Bot River estuary, which is a RAMSAR site. Due to the sensitivity of the estuary it is requested that a stormwater management plan must be submitted.

Blue and Green infrastructure:

The design of the development should consider blue and green infrastructure. These could include the following measures:

- rainwater harvesting
- permeable paving
- stormwater planters/rain gardens

The applicant must specify if the use of the boat shed will only be intended for residents.

Kind regards,



Penelope Aplon
Environmental Manager

ANNEXURE M


**CONSERVATION INTELLIGENCE: LANDSCAPE
CENTRAL**

postal Private Bag X5014, Stellenbosch, 7599
physical Assegaaibosch Nature Reserve, Jonkershoek
website www.capenature.co.za
enquiries Rhett Smart
telephone +27 21 866 8017 **fax** +27 21 866 1523
email aduffell-canham@capenature.co.za
reference SSD14/2/6/1/7/2/575-228_Amendment&ConsentUse_
 BenguelaCove
date 18 September 2020

The Municipal Manager
 Overstrand Municipality
 PO Box 20
 Hermanus 7200
 Attention: Loretta Page
 By email: loretta@overstrand.gov.za

Dear Loretta

**RE: Proposed amendment of the site plan and consent use: Portion 228 of Farm 575,
 Benguela Cove.**
 Municipal Notice: 94/2019

CapeNature would like to thank you for the opportunity to comment on the amendment and consent use application for a lodge with 40 units and wish to make the following comments:

1. The application property historically supported Elim Ferricrete Fynbos which has been listed as Endangered according to the latest National Biodiversity Assessment (NBA 2018). However, the site is degraded and the vegetation on site is not representative of Elim Ferricrete Fynbos. Although a portion of the site has been identified as Critical Biodiversity Area 2, which are areas which are recognised as being degraded but should ideally should be rehabilitated, CapeNature is of the opinion that rehabilitation and conservation efforts would be more beneficial in the area north of this property.
2. The amended development appears to comply with the requirement for all structures to be above the 5m contour above the high water mark (as per the original Benguela Cove development application).
3. Erosion management measures should be put in place for the artificial wetland and watercourse running through the site.

Provided the above is complied with, CapeNature does not object to this application.

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

Yours sincerely

Alana Duffell-Canham

The Western Cape Nature Conservation Board trading as CapeNature

Board Members: Prof Denyse Hendricks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Louber, Mr Mervyn Burton, Dr Colin Johnson, Prof Aubrey Roodinghuis, Mr Paul Stock

TP. N. Theart
(H. Olivier)
cc/ H. Blignaut



BREED-GOURITZ
CATCHMENT MANAGEMENT AGENCY



51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: Rafoeq Le Roux Tel: 023 346 8000 Fax: 023 347 2012 E-mail: rleroux@bgcma.co.za

Reference No: 4/10/1/G40E/FARM 575/228 BENGUELA COVE, HERMANUS
Date: 23rd October 2019

Overstrand Municipality
P.O. Box 20
Hermanus
7200

Attention: H Olivier

COMMENT ON THE APPLICATION FOR PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONSENT USE ON PORTION 228 OF THE FARM BENGUELA COVE NO 575, HERMANUS. BENGUELA COVE INVESTMENTS (PTY) LTD.

With reference to the above application received on 29/07/2019.

The available information has been assessed and the following comments are made:

1. This office is not in a position to comment as it does not have the full application. In the motivation report various annexures are referred to including Annexure E, Civil Engineering and services report. This office requires the full application to be able to make an informed comment.
2. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.
3. No use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a license in terms of Section 41 of the National Water Act (Act 36 of 1998) and/or formal authorisation in terms of General Authorisations issued under Section 39 (Government Notice 538 dated 02 September 2016), and/or if it is authorised under Schedule 1 of the National Water Act, 1998 (Act 36 of 1998) and/or if it is an Existing Lawful Water Use in terms of the National Water Act, 1998 (Act 36 of 1998).

Please do not hesitate to contact this office if you have any further queries.

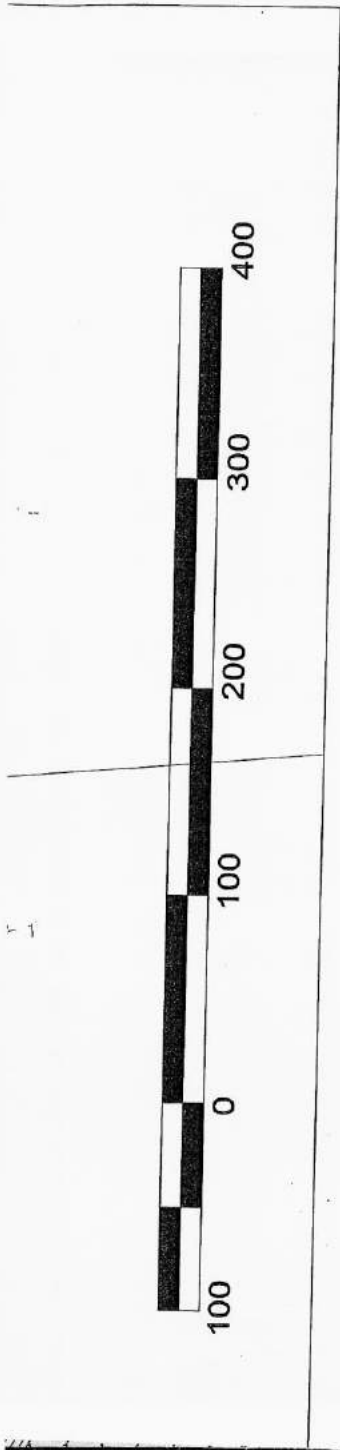
Please ensure to quote the above reference in doing so.

Yours Faithfully

[Signature]
MR. JAN VAN STADEN

CHIEF EXECUTIVE OFFICER (ACTING)

FILE NO: PIN 228 / STB ✓
Benguela Cove
SEAN NO:
PIN 228
COLLABORATOR NO:
1352891



Site Development Plan
1:2500



02099 sk 1001D
 June 2004

27 (0) 461 8299

urbanconcepts@dhk.co.za

