

**REMAINDER PORTION 102 OF FARM NO. 587 AND PORTION 105 OF FARM NO. 587, HEMEL EN AARDE VALLEY, CALEDON DIVISION: APPLICATION FOR SUBDIVISION (SERVITUDE): PLAN ACTIVE (obo DEPSTON 40 (PTY) LTD AND BOEKENHOUTSKLOOF WINERY (PTY) LTD)**

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for a subdivision in terms of Section 16(2)(d) to register a servitude area (water storage servitude) on Remainder Portion 102 of Farm No. 587 in favour of Portion 105 of Farm No. 587.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **18 June 2021**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr. Henk Olivier** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

**RESTANT GEDEELTE 102 VAN PLAAS NR. 587 EN GEDEELTE 105 VAN PLAAS NR. 587, HEMEL EN AARDE VALLEI, AFDELING CALEDON: AANSOEK OM ONDERVERDELING (SERWITUUT): PLAN ACTIVE (nms DEPSTON 40 (PTY) LTD AND BOEKENHOUTSKLOOF WINERY (PTY) LTD)**

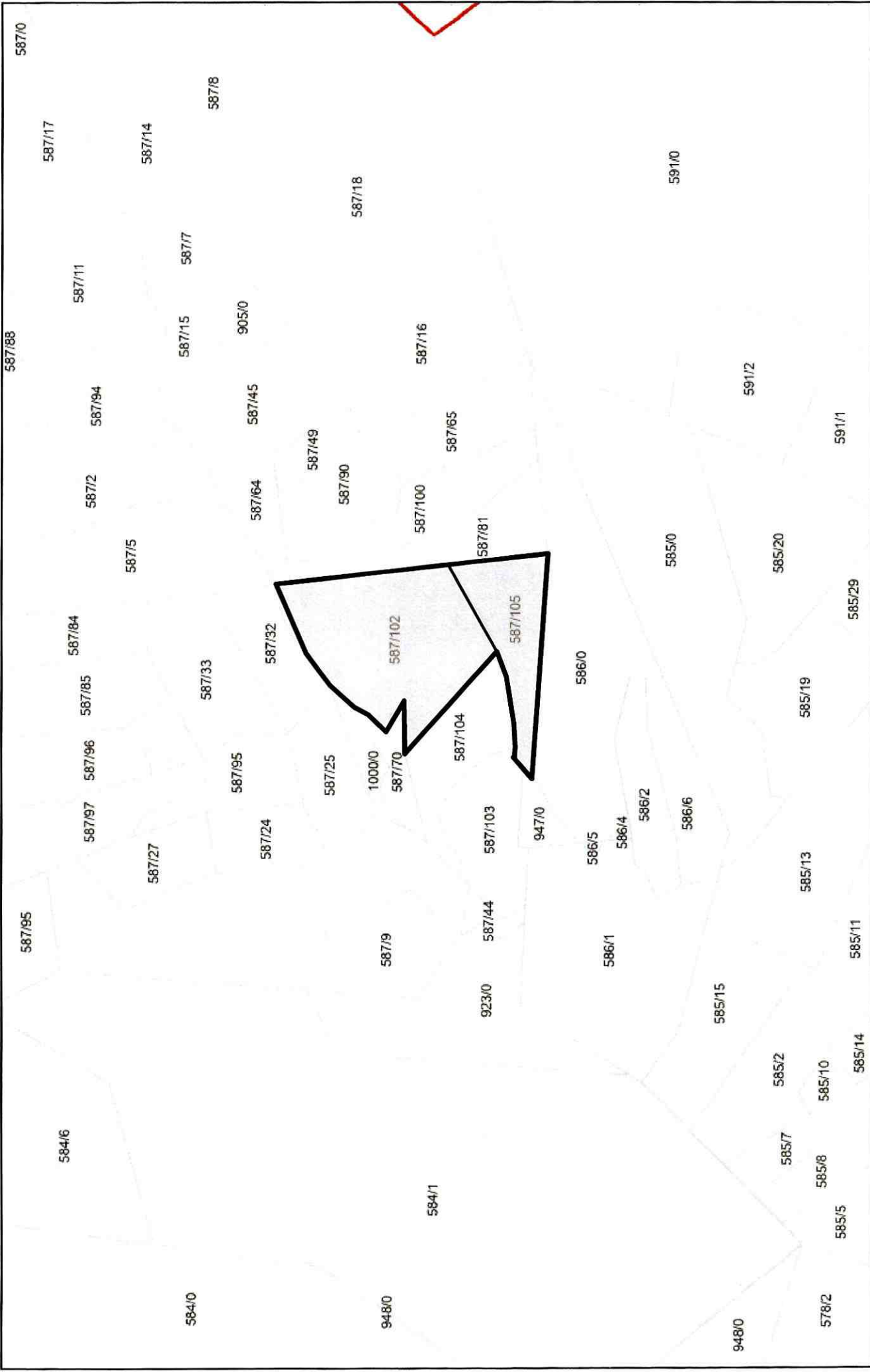
Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek om onderverdeling ingevolge Artikel 16(2)(d) ontvang is om 'n serwitut-area (water stoor-serwitut) te registreer op Restant Gedeelte 102 van Plaas Nr. 587 ten gunste van Gedeelte 105 van Plaas 587.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) voor of op **18 Junie 2021**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr. Henk Olivier** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

**INTSALELA YENXALENYE ENGUPTION 102 KWIFAMA ENGUNO. 587 NENXALENYE 105 YEFAMA EYINOMBOLO ENGUNO. 587, HEMEL EN AARDE VALLEY, CALEDON DIVISION: ISICELO SOKWAHLULUHLULA (IRHANGA/INDLELA YOKUNQUMLA ABASEBENZI ABANIKA IINKONZO): NGABAKWAPLAN ACTIVE (egameni labakwaDEPSTON 40 (PTY) LTD AND BOEKENHOUTSKLOOF WINERY (PTY) LTD)**

Kukhutshwe isaziso esimayela nemiba yeSolotyama 48 Ngokuhlomela uMthethwana kaMasipala waseOverstrand OngoMthethwana ngeZicwangciso zokuSetyenziswa koMhlaba kaMasipala ku2020 esithi, kufunyenwe isaziso ngokwahlulahlula ngokweSolotyama le16(2)(d) ukubhalisa irhanga/indlela yokunqumla abasebenzi abanikela ngeenkonzo kulo mmandla (abafuna indlela enqumlayo ukuyokujonga imiba enxulumene namanzi) kwiNxalenye yeNtsalela u102 kwiFama No. 587 ngokuvumela iNxalenye enguPortion105 yeFama No. 587.

linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi Phakathi kwentsimbi ye08:00 ne16:30 kwiSebe: LeZicwangciso ngeDolophu, ePaterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo zingangeniswa ngokwezibonelelo zeSolotyama lama51 nelama52 loMthethwana likaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngomhla okanye ngaphambi komhla wama**18 Juni 2021**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla. linkcukacha zingangeniswa ku**Mnu. Henk Olivier** kwa028-313 8900. UMasipala angala ukwamkela I zimvo izimvo ezifumaneke emva komhla wokuvala. Nabanina ongakwazi ukufunda nokubhala angahambela kwiSebe Lezicwangciso zeDolophu apho igosa likamasipala ukubanceda bafake isikhalazo ngokusemthethweni.



**PROPOSED SUBDIVISION IN ORDER TO CREATE A  
SERVITUDE AREA (WATER STORAGE SERVITUDE  
AREA):**

**REMAINDER PORTION 102 OF THE FARM HEMEL  
EN AARDE NO. 587 AND PORTION 105 OF THE  
FARM HEMEL EN AARDE NO. 587**

**DIVISION CALEDON**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

The company Plan Active has been appointed by Mr. S. Turner, on behalf of Depston 40 (Pty) Ltd, the owner of Remainder Portion 102 of the farm Hemel & Aarde No. 587, and Mr M.C. Kent on behalf of Boekenhoutskloof Winery (Pty) Ltd the owner of Portion 105 of the farm Hemel & Aarde No. 587 to submit an application for the registration of a servitude area (water storage servitude) on Remainder Portion 102 of the farm Hemel & Aarde No. 587 in favour of Portion 105 of the farm Hemel & Aarde No. 587.

An application was approved for the consolidation and re-subdivision of Portions 34, 35,36 and 37 of the farm Hemel and Aarde No. 587. The application entailed the consolidation of the portions and re-subdivision thereof in order to re-align the farm boundaries, please refer to the attached letter of approval dated 18 October 2018. Remainder Portion 102, Portion 103, Portion 104, and Portion 105 of the Farm 587 were created.

With the new farm boundary realignment, the transfer of water from the newly created Remainder Portion 102 of the farm Hemel and Aarde No. 587 to the newly created Portion 105 of the farm Hemel and Aarde No. 587 was also necessary. The previous application also included a subdivision to register a 3m wide pipeline servitude as well as two servitude areas of  $\pm 97\text{m}^2$  and  $\pm 75\text{m}^2$  respectively over the existing pump stations on the Remainder

Portion 102 of the farm Hemel and Aarde No. 587 in favour of Portion 105 of the farm Hemel and Aarde No. 587.

The 3m wide pipeline servitude runs from the existing weir on Remainder Portion 102 to the farm boundary of Portion 105 of the farm Hemel and Aarde No. 587. The intention is to also register a water storage servitude area (over the existing dam) on Remainder Portion 102 of the Farm Hemel and Aarde No. 587 in favour of Portion 105 of the Farm Hemel and Aarde No. 587 as per the agreement between the property owners of Remainder Portion 102 of the Farm Hemel and Aarde No. 587 and Portion 105 of the Farm Hemel and Aarde No. 587, attached as Annexure A.

Remainder Portion 102 of the farm Hemel & Aarde No. 587 is 98.5278ha in extent and is held by Title Deed No. 13626/2019. Portion 105 of the farm Hemel & Aarde No. 587 is 37.7849ha in extent and is held by Title Deed No. 13629/2019.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the registration of a servitude area (water storage servitude);
- The subdivision of agricultural land in terms of the Subdivision of Agricultural Land Act, Act 70 of 1970 to create a water storage servitude area over Remainder Portion 102 of the farm Hemel and Aarde No. 587 in favour of Portion 105 of the farm Hemel and Aarde No. 587.

## **3. GENERAL APPLICATION INFORMATION**

### **3.1 PROPERTY DESCRIPTION**

The subject properties are situated ±8km north of Hermanus in the Hemel & Aarde Valley. Please refer to the locality plan attached. The property descriptions of the respective portions are as follow:

<b>Property description</b>	<b>Extent</b>	<b>Title deed No.</b>
Remainder Portion 102 of farm Hemel & Aarde No. 587	98,5278ha	T13626/2019
Portion 105 of farm Hemel & Aarde No. 587	37,7849ha	T13629/2019

Remainder Portion 102 of the Farm Hemel and Aarde No. 587 and Portion 105 of the Farm Hemel and Aarde No. 587 are situated between two imposing mountain ranges (the Kleinriver and Babilonstoring Mountains) in the Western Cape's Upper Hemel-en-Aarde Valley. The subject properties are also characterised by a superb array of flora and fauna and abuts the De Bos Dam and Onrus Rivier to the north.

Remainder Portion 102 of the Farm Hemel and Aarde No. 587 is situated to the north of the Hemel en Aarde Valley Road (R320) and Portion 105 of the Farm Hemel and Aarde No. 587 to the South of the Hemel en Aarde Valley Road (R320), see locality plan attached.

### 3.2 ZONING

The subject properties are zoned Agriculture Zone I and utilized as such.

Surrounding properties are zoned for Agriculture Zone I purposes.



### 3.3 LAND USE

The subject properties are used for agricultural purposes. There are no structures on Portion 105 of the farm Hemel & Aarde No. 587. The following structures can be found on Portion 102 of the farm Hemel & Aarde No. 587:

- Main dwelling;
- Manager's dwelling;
- Shed
- Three labourer's cottages.
- Cellar;
- Cellar effluent plant.

The following existing land uses are on the subject properties:

#### **Portion 105 of the farm Hemel & Aarde No. 587:**

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		2,5	2,5
Vineyards	3,48		3,48
Future plantings	6		4-6
Mountainous land, Fynbos, quarry, etc.		25,81	25,81
<b>TOTAL</b>			<b>37,79</b>

#### **Remainder Portion 102 of the farm Hemel & Aarde No. 587:**

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		10,5	10,5
Vineyards	38,11		38,11
Mountainous land, Fynbos, werf, etc.		49,91	49,91
<b>TOTAL</b>			<b>98,52</b>

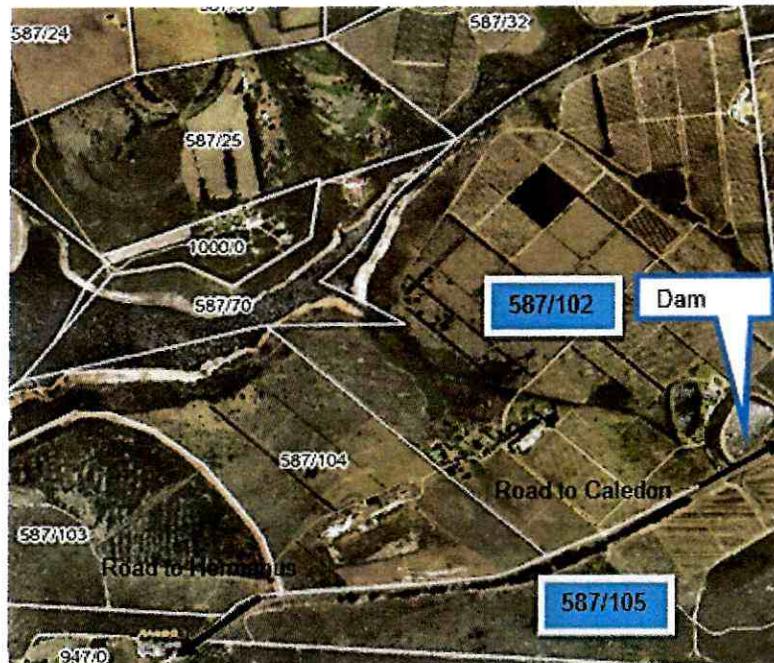
Land uses that surround the subject properties are tourism related land uses (farm stalls, wine tasting facilities, wedding facilities, restaurants, mountain biking trails, quad biking trails, etc.), agriculture related land uses (mostly wine farms) and nature reserves / conservation areas.

### 3.4 PROPOSED DEVELOPMENT

The following are proposed:

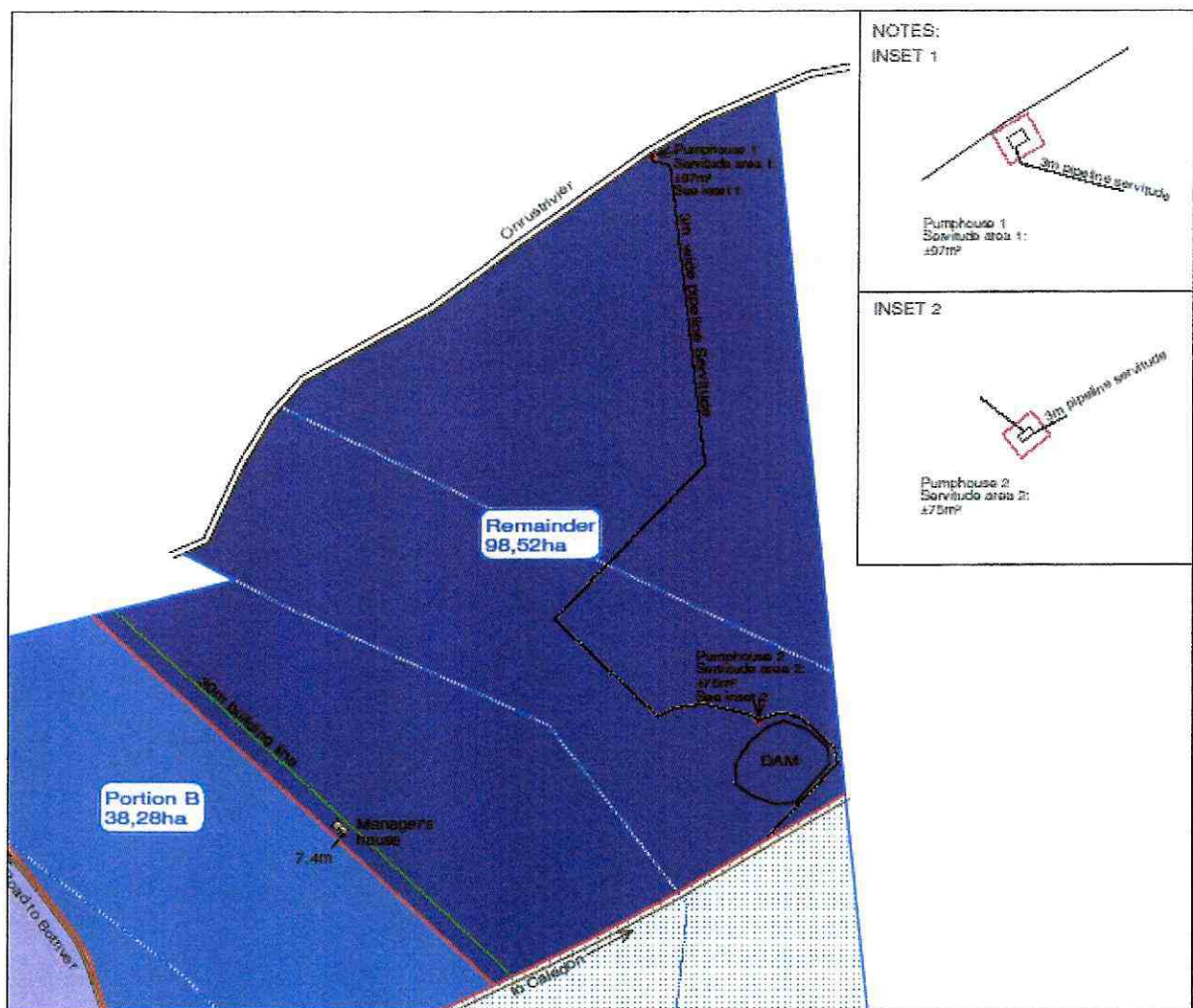
- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, Proposed Subdivision, Servitude area (water storage servitude);
- The subdivision of agricultural land in terms of the Subdivision of Agricultural Land Act, Act 70 of 1970 to create a water storage servitude area over Remainder Portion 102 of the farm Hemel and Aarde No. 587 in favour of Portion 105 of the farm Hemel and Aarde No. 587.

It is the intention of the owners of Remainder Portion 102 of the farm Hemel & Aarde No. 587 and Portion 105 of the farm Hemel & Aarde No. 587 to register a servitude area over an existing dam (water storage servitude area) on Remainder Portion 102 of the farm Hemel & Aarde No. 587 in favour of Portion 105 of the farm Hemel & Aarde No. 587.

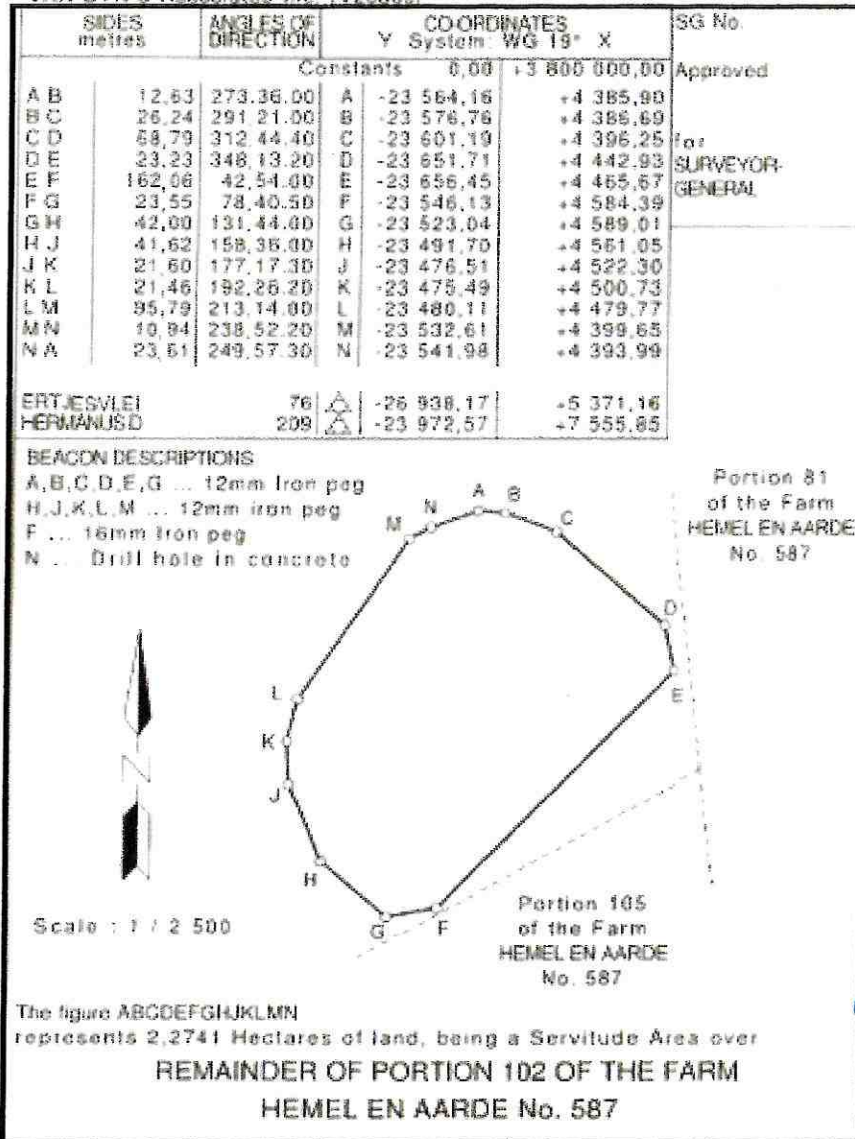


The proposed servitude area is 2.2741ha in extent (as per the draft diagram attached) and is proposed over the existing dam (as seen in the picture above) on Remainder Portion 102 of the farm Hemel & Aarde No. 587. A water apportionment and servitude agreement has been reached between Depston 40 (Pty) Ltd (owner of Remainder Portion 102 of the farm Hemel & Aarde No. 587) and Boekenhoutskloof Winery (Pty Ltd (owner of Portion 105 of the farm Hemel & Aarde No. 587). **Page 5 Section 6.1.2.of the attached agreement** states that provision must be made for: "A servitude of water storage, for storage of water in the dam

indicated as “dam” on Annexure A (the water storage servitude). As per the previous approval letter dated 18 October 2018, a 3m wide pipeline servitude as well as two servitude areas of  $\pm 97\text{m}^2$  and  $\pm 75\text{m}^2$  respectively over the existing pump stations on Remainder Portion 102 of the farm Hemel & Aarde No. 587 were created in favour of Portion 105 of the farm Hemel & Aarde No. 587. The mentioned 3m wide pipeline servitude runs from the existing weir on Remainder Portion 102 to the boundary of Portion 105 of the farm Hemel & Aarde No. 587 (see approved **Subdivision plan, Drawing No. farm587-34-37s.drw dated May 2017**). The 3m pipeline servitude as well as the 2 servitude areas of  $97\text{m}^2$  and  $75\text{m}^2$  are all related the dam over which a servitude of water storage will be registered.



The proposed water storage servitude area (over the existing dam) will have no negative impact on the surrounding farms and is not in contrast to the existing land use tendencies in the surrounding environment. The proposed application will have no impact on the character or the agricultural activities on the subject farms.



### 3.5 CHARACTER OF THE ENVIRONMENT

Remainder Portion 102 of the farm Hemel & Aarde No. 587 and Portion 105 of the farm Hemel & Aarde No. 587 are situated between two imposing mountain ranges (the Kleinriver and Babilonstoring Mountains) in the Western Cape's Upper Hemel-en-Aarde Valley. The subject properties are also characterised by a superb array of flora and fauna and abuts the De Bos Dam and Onrus Rivier to the north.

The Hemel & Aarde Valley is characterised by agricultural activities, resorts, tourist facilities (such as wine tasting facilities, function venues, restaurants, farm stalls, etc.), tourist accommodation (although only a few exist) and recreational facilities (mountain biking trials, adventure activities, etc.). The zoning and existing land uses (agriculture and tourist-related

land uses) will remain unchanged and consequently the proposal to register a water storage servitude is in line with the existing character of the area. The proposed registration of a water storage servitude does not create any additional portions. Visually the character of the area will therefore remain unchanged.

There will be no impact on the adjacent properties with the proposed application.

### 3.6 IMPACT ON EXTERNAL ENGINEERING SERVICES

#### 3.6.1 PROVISION OF SERVICES

All services on the subject properties already exist. The services infrastructure for the respective portions after farm boundary realignment will be as follows:

#### Available water

The subject properties fall within the Breede Water Management Area. The water rights for the subject farms are indicated in the table below as per the BGCMA directive:

#### **REALLOCATION OF WATER RIGHTS FOR SUMARIDGE WINE ESTATE PORTION 34, 35 36 AND 37 OF THE FARM NO. 587, HEMEL AND AARDE VALLEY, HERMANUS.**

With reference to the above-mentioned application received by this office on 15/11/2018, a letter dated 22/10/2018 and request for comment dated 01/02/2019, please be advised as follows:

1. This office in principle supports the proportional split of Water Use Entitlement as follows:

Property Description	Size (ha)	SOURCE OF SPLIT			Total per Portion
		Surface water existing lawful water use	Ground water existing lawful water use	Groundwater GA to be confirmed/ amended	
Portion A (Portion 103 of Farm 587)	38.9625	34 373.70	-	-	34 373.70
Portion B (Portion 104 of Farm 587)	38.2481	48 123.18	-	-	48 123.18
Portion C (Portion 106 of Farm 587)	37.7849	23 000	1200	9192.25	33 392.25
Remainder (Sumaridge Estate Wines (Remainder Portion 102 of Farm 587))	95.52	111 511.12	-	27 093	138 604.12
<b>Total</b>	<b>213.5233</b>	<b>217 008</b>	<b>1200</b>	<b>36 285.25</b>	<b>254 493.25</b>

### **Sewerage**

All sewerage infrastructures for existing structures already exist. The manager's house is serviced with a soak away system. All other structures are serviced with septic tanks that are serviced by the Overstrand Municipality on a regular basis.

The proposed water storage servitude application will have no impact on the existing sewerage infrastructure.

### **Solid waste**

The farm management transfer refuse to the nearby landfill sites on a regular basis.

All organic grape waste including cellar water is recycled and returned to the vineyard either as irrigation water in dry spells, or in the case of solid post wine production waste as post-harvest compost.

### **Electricity**

Eskom is the electricity supplier to all the subject properties.

### **Conclusion**

Since there are no changes in the services capacities and since it is not proposed to construct any new structures with the proposed water storage servitude, no additional services are required to accommodate the proposed application.

## **3.6.2 TRAFFIC IMPACT, PARKING AND ACCESS**

After the registration of the servitude for the water storage area the access to both the subject farms will remain unchanged. All farm portions take access from the Hemel & Aarde Road. Since no additional portions are proposed, it is submitted that the existing roads and access points should remain unchanged.

## **3.7 TITLE DEED**

Title Deed No. 13626/2019 and Title Deed No. 13629/2019 do not have any restrictions that need to be removed in order for this application to be approved.

All servitudes described in Title Deed No. 13626/2019 will remain unchanged

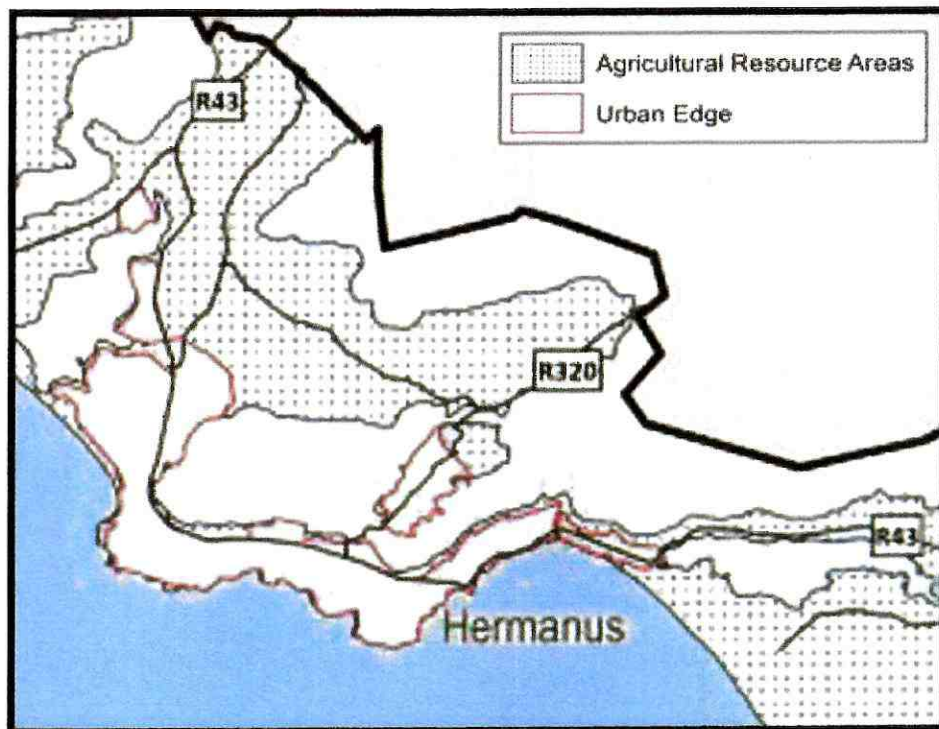
There are no bonds registered against the subject properties.

### **3.8 FORWARD PLANNING & OTHER LAND USE DOCUMENTS**

#### **3.8.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)**

The *Overstrand Spatial Development Framework (2020)* stipulates that both the subject properties are situated outside the urban edge in the rural areas of the Overstrand region. The aforementioned policy earmarks the subject properties for Agricultural resource areas.

The subject properties will be used for agricultural and tourist related purposes. It is not proposed to change the land use of the subject properties. The proposed application only constitutes a registration of a water storage servitude.



From the above it is evident that the proposed water storage servitude area over Remainder Portion 102 of the Farm Hemel en Aarde No. 587 in favour of Portion 105 of the Farm Hemel en Aarde No. 587 adheres to and falls within the spatial planning policies for the Overstrand area.

### **3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.9.1 HERITAGE VALUE**

The proposed water storage servitude area over an existing dam situated on Remainder Portion 102 of the Farm Hemel en Aarde No. 587 in favour of Portion 105 of the Farm Hemel en Aarde No. 587 does not trigger any listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

#### **3.9.2 ENVIRONMENTAL IMPACT**

The proposed water storage servitude area over the existing dam on Remainder Portion 102 of the Farm Hemel en Aarde No. 587 in favour of Portion 105 of the Farm Hemel en Aarde No. 587 does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The proposed application only constitutes a water storage servitude area over an existing dam situated on Remainder Portion 102 of the Farm Hemel en Aarde No. 587 in favour of Portion 105 of the Farm Hemel en Aarde No. 587. The proposal will not have any impact on the environment.

### **3.10 PLANNING PRINCIPLES**

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

**Spatial Justice** refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities, services and land. In the broadest sense, it seeks to promote the integration of communities and the creation of settlements that allow the poorest of the poor to access opportunities. In a spatially just settlement, opportunities and access are provided to those whose historical access and opportunities have been impeded by the practice of apartheid spatial planning. Land development procedures must include provisions that accommodate access to, and

facilitation of, security of tenure and the incremental upgrading of informal areas. The principle spatial justice does not apply to the proposed application.

**Spatial sustainability** essentially refers to a sustainable form of development. A part of this means promoting less resource consuming development typologies that promote compaction, pedestrianisation and mixed-use urban environments which allow for the development of a functional public transport system and space economy. A spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl. The principle spatial sustainability does not apply to the proposed application.

**Efficiency** refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land. Inherent in this statement is the need to promote densification and urban (as opposed to suburban) development typologies. This also has to do with the manner in which the settlement itself is designed and functions, which should reduce the need to travel long distances to access services, facilities and opportunities. Efficiency also refers to decision making procedures which are designed to minimise negative financial, social, economic or environmental impacts. In addition, efficiency refers to the need for development application procedures that are efficient and streamlined. The principle efficiency does not apply to the proposed application.

**Spatial resilience** in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). The principle spatial resilience does not apply to the proposed application.

**Good administration:** Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

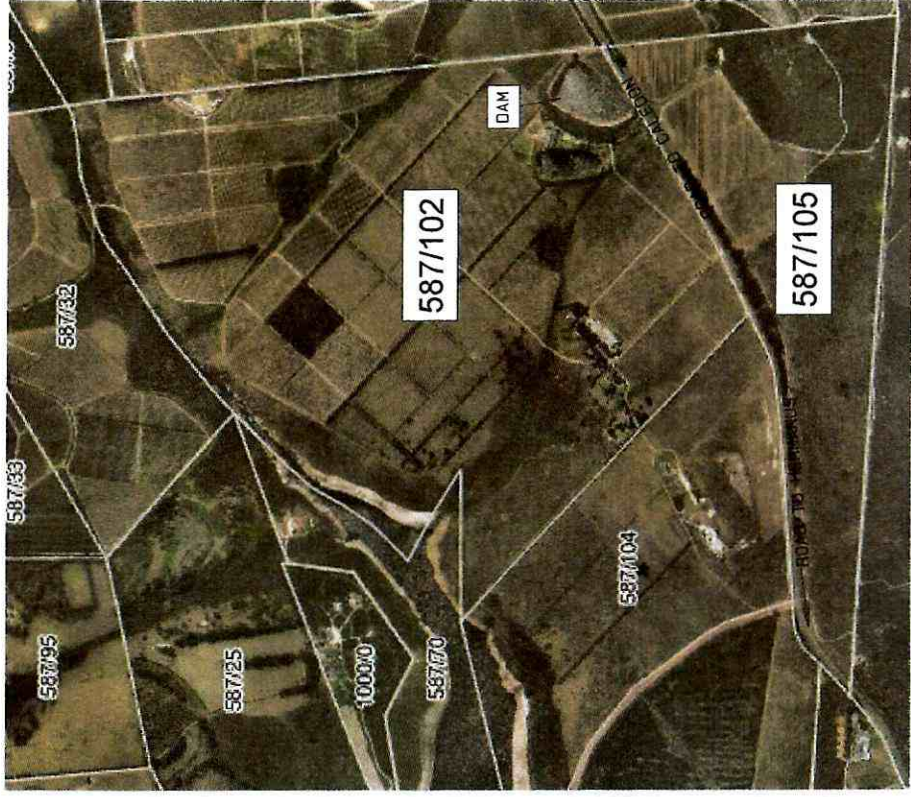
#### **4. RECOMMENDATION**

When this application is evaluated it is important to take note of the following:

- The proposed water storage servitude area over an existing dam situated on Remainder Portion 102 of the farm Hemel & Aarde No. 587 in favour of Portion 105 of the farm Hemel & Aarde No. 587 will not have a negative impact on the current character and land values of the surrounding farms;
- The zoning will remain Agriculture Zone I;
- The proposed servitude area does not constitute the fragmentation of agricultural land since the proposed application only constitutes the registration of a water storage servitude area over an existing dam;
- No additional access routes or access points will be created;
- There are no environmental aspects that will negatively impact on the application and the application will not have a negative impact on any environmental factors;
- The proposed water storage servitude area over Remainder Portion 102 of the farm Hemel & Aarde No. 587 in favour of Portion 105 of the farm Hemel & Aarde No. 587 complies with the spatial planning policies of the area.

The application for the registration of a water storage servitude area over an existing dam situated on Remainder Portion 102 of the farm Hemel & Aarde No. 587 in favour of Portion 105 of the farm Hemel & Aarde No. 587 can be supported for your favourable evaluation. The opinion is held that this application will have no negative impacts in the area.





Stads- en Streeksbeplanners  
Town & Regional Planners

All distances approximate  
and subject to survey.

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Property Description:

REMAINDER PORTION 102 AND  
PORTION 105 OF THE  
FARM NR.587

Plan Description:

AERIAL  
PHOTOGRAPH

Scale: NTS

Drawing Nr:  
noname00.dwg

Date:  
NOVEMBER 2020

