

4.2

PORTION 104 (A PORTION OF PORTION 102) OF THE FARM HEMEL EN AARDE NO 587, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: PLAN ACTIVE TOWN AND REGIONAL PLANNING ON BEHALF OF HASPESLAGH VINEYARDS (PTY) LTD

RCAL 587/104 (4250/2022)

H Olivier

23 June 2023

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 21 September 2022 from Plan Active Town & Regional Planning on behalf of Haspeslagh Vineyards (Pty) Ltd on Portion 104 (a Portion of Portion 102) of the Farm Hemel & Aarde No. 587 for the following:

- ❖ **consent use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to allow tourist accommodation to accommodate four (4) eco cabins, and
- ❖ to obtain **consent of the District Roads Engineer** concerning restrictive title deed conditions imposed in terms of the Ribbon Development Act, Act 21 of 1940.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The farm measures 38,2481ha in extent and is zoned Agriculture Zone I and is utilized as such. The farm is planted with vineyards and the owners plan to construct four (4) eco cabins and a farm manager unit on the property.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is as follows:

- ❖ The applicant owns three farms which are used for vineyards and with diverse fauna and flora.
- ❖ Each of the four (4) proposed self-catering accommodation units will measure between 100m²-120m² in extent, and a total of 12 guests can be accommodated in the cabins.
- ❖ The application will not have a negative effect on the existing or future agricultural activities.
- ❖ An EIA Authorization was issued for the proposed tourist accommodation units and future plantings.
- ❖ The cabins will be above the 32m setback line from the De Bos Dam.
- ❖ The cabins will boost eco-tourism with surrounding hiking trails and mountain bike trails. It will create jobs and have a positive economic impact.
- ❖ The units will be clustered together, with no fragmentation of agricultural land.
- ❖ Only the farm manager will reside permanently on the farm.
- ❖ Heritage Western Cape supports the application.

- ❖ Compatible with surrounding character of the area. The Hemel & Aarde Valley is characterized by agricultural activities, resorts, tourist facilities, tourist accommodation etc.
- ❖ The farming activities will be increased in future to vineyards of 16,4ha.
- ❖ No additional access points or roads will be proposed.
- ❖ Services can be provided with no environmental impact.
- ❖ Solar power will be used, borehole water and a closed conservancy tank serviced by the municipality.
- ❖ The zoning will not be changed.
- ❖ In line the Agriculture Zone 1 land use restrictions.
- ❖ In line with municipal spatial planning policies and the Western Cape Rural Land Use Planning & Development Guidelines (2019).
- ❖ The Title Deed restriction which indicates that only two dwellings and farming buildings may be erected on the farm was inserted in favour of the District Road Engineer (DOT) in terms of Act 21 of 1940, and with their consent additional buildings can be erected. This is confirmed by way of a conveyancer's certificate.
- ❖ Compliant with SPLUMA principles:

Spatial Justice

Will address apartheid imbalances by creating employment to the historically poor.

Spatial Sustainability

No negative impact on the environment and tourist accommodation will help add to the economic viability.

Efficiency

It will make better use of resource being the land.

Good Administration

The Municipality ensured a streamlined public participation process.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Registered notices	Yes	07/12/2022	15/12/2022
Internal departments	Yes	07/12/2022	15/12/2022
Ward Councillor	Yes	07/12/2022	15/12/2022
Total comments	One (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the .By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments
Building Control	09/11/2022	No objection. Building plan application to comply with all applicable law.
Fire Department	14/11/2022	No objection.
Western Cape Government: EADP (Planning)	21/12/2022	See Annexure D.
Telkom	24/11/2022	See Annexure E.
Western Cape Government: Agriculture	24/01/2023	See Annexure F.
BGCMA	31/01/2023	See Annexure G.
Eskom	21/12/2022	See Annexure H.
Cape Nature	21/12/2022	See Annexure I.
Waste Management	15/11/2022	See Annexure J.
Western Cape Government: EADP (Environmental)	07/12/2022 & 19/12/2022	See Annexure K.
Western Cape Government: Transport & Public Works	24/10/2022	See Annexure L. Also provide consent to depart from Title Deed restrictions.
Engineering Services	14/11/2022	See Annexure M.
National Department of Agriculture	02/11/2022	See Annexure N.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

No objections were received from the public.

Western Cape Government: EADP (Planning) indicated they only support three (3) eco-units, not four (4). See Annexure D.

The applicant was provided with an opportunity to respond to Western Cape Government: EADP (Planning) comments and is also attached as Annexure D.

WESTERN CAPE GOVERNMENT: EADP (PLANNING)

- ❖ Further to a primary dwelling unit, manager's dwelling and *bona fide* farm workers accommodation, additional dwelling units can be permitted on the property at a ratio of one per 10ha, with a maximum of five additional dwelling units per land unit.
- ❖ Due to the extent of the property only three (3) additional dwellings would be permitted, which should be indicative of the number of tourist accommodation units to be sanctioned.

APPLICANT'S RESPONSE

- In the Overstrand Municipality Land Use Scheme there is a clear distinction between additional dwelling units and tourist accommodation. The definition of additional dwelling units allows for 1 unit per 10ha density with a maximum of five additional dwelling units per farm unit. The density control does not apply to tourist accommodation. The latter was confirmed by the Municipal Town Planners, and several applications for tourist facilities were approved on Agriculture Zone 1 land which exceeds the above-mentioned density parameters.
- It is a preferred option to not rezone land in rural areas to resort zone (split zonings) for tourist accommodation, and for that reason tourist accommodation is allowed under the Agriculture Zone 1 Zone.

TOWN PLANNER'S RESPONSE

The applicant's response is supported.

The Land Use Scheme does not define that tourist accommodation units may only be operated from an additional dwelling unit. This interpretation and discussion in terms of relevant policies/guideline documents will be discussed in more detail under the Evaluation heading.

WESTERN CAPE GOVERNMENT: EADP (PLANNING)

The manager's house should be reasonably connected to the main farming activities on the subject property and should not be allowed for the exclusive management of tourist accommodation.

APPLICANT'S RESPONSE

The farm manager's unit will be used for the vineyard management.

There is 4ha planted vineyard and the property will have a total of 15ha vineyard, with production starting in 2024.

TOWN PLANNER'S RESPONSE

The applicant sufficiently addressed the concern of Western Cape Government: EADP (Planning).

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 Departments

No objections.

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

Tourism accommodation is acceptable ancillary land uses in rural areas to increase economical sustainability. The units will not be placed on sensitive agricultural land or environmentally sensitive land.

Efficiency

The tourism accommodation will help the property make better use of a resource, being land.

Spatial Resilience

The tourism accommodation will provide more financial stability should the agricultural activities ever take an economical knock.

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 Overstrand Municipal SDF promotes tourist activities and accommodation of appropriate scale in the Hemel & Aarde Valley.

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

Western Cape Government: EADP (Planning) indicated that the application is not consistent with the Western Cape Land Use Planning Guidelines for Rural Areas (2019). They are of the opinion that only three (3) units should be approved, and not four (4). This will be discussed in more detail under the Evaluation heading.

10.6 Impact on Municipal Engineering Services

The property owner will have to supply water from bore holes and solar energy will be used for electricity. The sewerage system will be conservancy tanks which will be serviced by the Municipality.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

Portion 104 of Farm 587 Hemel & Aarde is zoned Agriculture Zone I and is vacant land with 4ha of vineyards.

The property owner wants to establish four (4) eco-tourism cabins on the farm and erect a farm manager unit. It is motivated that the vineyards will be extended to 16,4ha and that production will start in 2024.

The application is for a consent use for four (4) tourist accommodation units. It is a primary right to construct a farmhouse on a farm for a farmer or farm manager.

The existing farm access off the Karwyderskraal road will be used as access point to the tourists. The existing gravel roads on the farm will be used to provide vehicle access to a parking area situated close to the eco-cabins and the farm manager dwelling. From there tourists will access the eco-cabins by way of timber walkways.

The eco-cabins and manager's dwelling is clustered together and is situated in the lower lying area of the property next to the dam. It therefore has a low visual impact and will blend in with the landscape.

The fact that the buildings are situated on the edge of the property also ensures that it will have minimal impact on the remaining agricultural land and will have minimal impact on farming activities.

The applicant consulted with Western Cape Government: EADP (Environmental), and an Environmental Authorization was provided on 24 June 2022. Cape Nature and the Municipal Environmental Management Services Department indicated their support for the application, and it is therefore the opinion that the application is desirable from an environmental perspective.

The application was circulated to all relevant State and Municipal Departments, and it was supported by all. Western Cape Government: EADP (Planning) however indicated their support but indicated that the eco-cabins be reduced to three (3).

Western Cape Government: EADP (Planning) is of the opinion that the eco-cabins should be dealt with in the same manner as with additional dwelling units, and that only dwelling units may then be utilized as tourist accommodation units. They motivate that the Western Cape Land Use Planning Guidelines for Rural Areas (2019) recommend that the formula to develop additional dwelling units on farms, being 1 unit per 10ha, should be used to determine the number of units to be allowed on a land unit and such unit may then be utilized as tourist accommodation. In the case of this property measuring 38,2482ha, only three (3) units should thus be accommodated.

The applicant is correct in that the Overstrand Land Use Scheme specifically created a category for tourist accommodation as a consent use under Agriculture Zone 1. This was then to accommodate accommodations for specifically transient guests who could be accommodated in a dwelling house/unit or guest house, backpackers, camp site, etc. This land use does not allow for long leases or permanent residency and was created to fill the gap between the provision of additional dwellings on farms and resort scale developments in rural areas.

The fact is that the Land Use Scheme makes provision to accommodate tourist accommodation for transient guests. Similar applications have also been approved in the recent years that also do not comply with the Rural Guidelines.

In the Rural Guidelines it is stipulated in Paragraph 3.3.1.2 (5) that *“tourist accommodation in the rural landscape should cater exclusively for the temporary accommodation for transit visitors”*. This statement is however also not concurred with, as the Land Use Scheme does not stipulate that additional dwelling units must be utilized for tourist accommodation.

It must also be noted that similar developments have been approved by the Municipality in the past few years, and some also made provision for additional dwellings and self-catering pods, which exceeded the number of “dwelling units” on a farm should the interpretation of the Rural Guidelines be used as a measure.

The fact is the Rural Guidelines is only guidelines, and the Municipality may place the interpretation of the Land Use Scheme above the Rural Guidelines. Every application must be considered on merit, and if it is found desirable the Municipality can support such application.

It is also to be noted that in a later letter from Western Cape Government: EADP (Planning), it was indicated that Rural Guidelines is only to guide decision-makers about the preservation of the working of the agricultural landscape. It was stated it is however simply a guideline for land use planning decisions.

Considering the scale of the proposed development and the fact all other State and Municipal Departments, including the National and Provincial (Western Cape) Agriculture Departments, have no objection to the application, it is the opinion that the working agricultural landscape will not be negatively impacted on by this application.

Application was also made to obtain the consent of the District Roads Engineer concerning restrictive title deed conditions imposed in terms of the Ribbon Development Act, Act 21 of 1940. Conditions 3.I.C and 3.II.C in Title Deed 9040/2021 stipulate that only two dwellings and bona vide farming buildings may be constructed on the property. The conditions are in favour of Western Cape Government: Transport (District Roads Engineer) who is the controlling authority. The Department of Transport did provide consent by providing their support for the application.

No objections were received from surrounding property owners.

It was noted that two of the eco-cabins have bedrooms that is not interleaving with the main cabin. This could be later rented out as a separate eco-cabin, and it is therefore recommended that it be made interleaving with the cabin.

It is the opinion that the application will not have a negative effect on the character of the area or surrounding property owners and is desirable.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 104 (a Portion of Portion 102) of the Farm Hemel & Aarde No. 587 for a consent use to allow tourist accommodation to accommodate four (4) eco cabins, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that the submitted Site Development Plan be amended and that the non-interleaving bedrooms of the two larger cabins be made interleaving with the cabins,
 - (b) that the tourist accommodation be limited to four (4) eco-cabins;
 - (c) that building plans be submitted to the Building Control Department of the Municipality in accordance with the amended Site Development Plan, and that any requirements by the Fire- and Building Departments at that stage be complied with;
 - (d) that in terms of the “Noise Control Regulations” promulgated under the Environmental Conservation Act, 1989 (Act 72 of 1989) the music volumes emanating from the premises at all times be controlled in such a manner that it adds less than 7dB(A) to ambient noise;
 - (e) that the owner/manager must reside on the property to oversee the tourist accommodation;
 - (f) that adequate provision be made to manage the behaviour of patrons (both inside and outside the buildings) and protection of surrounding properties;

- (g) that commercial rates and taxes, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (h) that the site must have a dedicated waste storage area as per part of the National Building Regulations (SANS 10400), and all refuse must then be removed from the property to a registered dump site;
 - (i) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (j) that there be compliance with all relevant Health and Fire Regulations;
 - (k) that all the conditions imposed by Telkom (attached as Annexure E), be complied with;
 - (l) that the conditions of Western Cape Government: Agriculture (attached as Annexure F) be complied with;
 - (m) that all the conditions of BGCMA (attached as Annexure G) be complied with;
 - (n) that all the conditions imposed by Eskom (attached as Annexure H), be complied with;
 - (o) that the conditions in the EIA ROD (attached as Annexure K) be complied with, and
 - (p) that all the conditions in the Services Report (attached as Annexure M), be complied with.
2. that the applicant and objector be notified of his/her right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments objected to the application.
- ❖ The property owner will provide water and electricity, and the municipality will service the conservancy sewerage tank.
- ❖ State departments did not object to the application and no objections were received from surrounding landowners.
- ❖ An EIA ROD was obtained from Western Cape Government: EADP (Environmental) and Cape Nature supports the application, and therefore it is the opinion the application will not have a negative impact on the natural environment.
- ❖ Both the National and Western Cape Government: Agriculture departments support the application, and it is interpreted that the application will not have a negative impact on agricultural productivity.

- ❖ Western Cape Government: EADP (Planning) supported the application but requested that only three (3) units be approved, to be in line with the recommendations in the Western Cape Land Use Planning Guidelines for Rural Areas (2019). The fact is that the Land Use Scheme makes provision to accommodate tourist accommodation for transient guests. Similar applications have also been approved in the recent years that also do not comply with the Rural Guidelines. The fact is the Rural Guidelines is only guidelines, and the Municipality may place the interpretation of the Land Use Scheme above the Rural Guidelines. Every application must be considered on merit, and if it is found desirable the Municipality can support such application.
- ❖ The application is in line with SPLUMA principles as a resource land will be utilized to its full potential in a sustainable way not impacting on the natural environment or valuable agricultural land.
- ❖ Application was also made to obtain the consent of the District Roads Engineer concerning restrictive title deed conditions imposed in terms of the Ribbon Development Act, Act 21 of 1940. Conditions 3.I.C and 3.II.C in Title Deed 9040/2021 stipulate that only two dwellings and bona vide farming buildings may be constructed on the property. The conditions are in favour of The Department of Transport (District Roads Engineer) who is the controlling authority. The Department of Transport did provide consent by providing their support for the application.
- ❖ The application is in line with surrounding developments which includes wine estates with tourist accommodation and facilities.
- ❖ The application will not have a negative effect on the character of the area.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Western Cape Government: EADP (Planning) & applicant's response
Annexure E:	Comment: Telkom
Annexure F:	Comment: Western Cape Government: Agriculture
Annexure G:	Comment: BGCMA
Annexure H:	Comment: Eskom
Annexure I:	Comment: Cape Nature
Annexure J:	Comment: Waste Management
Annexure K:	Comment: Western Cape Government: EADP (Environmental)
Annexure L:	Comment: Western Cape Government: Transport & Public Works
Annexure M:	Comment: Engineering Services
Annexure N:	Comment: National Department of Agriculture

SIGNATURE

AUTHOR:

Name: **HENK OLIVIER**

SACPLAN registration number: **B/8128/2004**

Signature: _____

Date: _____

REGISTERED PLANNERName: **H VAN DER STOEP**SACPLAN registration number: **A/1708/2013**

Signature: _____

Date: _____



Scale:	NTS
Drawing Nr:	fam587:104.drw
Date:	AUGUST 2022

Plan Description:
LOCALITY MAP

Property Description:
**PORTION 104 OF
THE FARM HEMEL
& AARDE NO. 587**

All distances approximate
and subject to survey.
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PIAⁿActive
Stads- en Streeksbeplanners
Town & Regional Planners



PROPOSED CONSENT USE
**PORTION 104 OF THE FARM HEMEL
& AARDE NO. 587**
DIVISION CALEDON
OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

The company Plan Active has been appointed by Mr F. Herten, on behalf of Haspeslagh Vineyards Pty Ltd, owner of Portion 104 of the farm Hemel & Aarde no. 587, to submit an application for the consent use for tourist accommodation on the subject property.

The subject property forms part of the Hasher Family Farm Estate. The owner intends to diversify the land use on Portion 104 of the farm Hemel & Aarde no. 587 in order to offer tourists an unique experience on the subject property. The development will be eco-friendly, and all attempts were made during the planning design phase to keep the development footprint to a minimum.

This application proposes a consent use for tourist accommodation units to accommodate four (4) eco cabins as well as a manager's dwelling and new vineyards (primary uses) on the subject property.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the consent use for tourist accommodation to accommodate four (4) eco cabins on Portion 104 of the farm Hemel & Aarde no. 587;
- The consent from the District Roads Engineer concerning the restrictive title deed conditions imposed in terms of the Ribbon Development Act, Act 21 of 1940.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

The subject property is 38,2481ha in extent and held by title deed no. T43250/2021.

Haspeslagh Vineyards Pty Ltd owns Remainder Portion 102 of the farm Hemel & Aarde no. 587, Portion 103 of the farm Hemel & Aarde no. 587 and Portion 104 of the farm Hemel & Aarde no. 587 (the application property). The subject properties are adjacent to one another and are known as the Hasher Family Estate. The Hasher Family Estate is located in the Upper Hemel-en-Aarde Valley, Hermanus.

Portion 104 of the farm Hemel & Aarde no. 587 is situated ±14,4km north of Hermanus (travelling on the R320 / Hemel & Aarde Road from Hermanus to Caledon). The subject property is located north of the R320 / Hemel & Aarde Road and takes access from the Karwyderskraal Road that links to the R320. Refer to the locality plan attached. The subject property is situated in an agricultural and tourism environment.

3.2 ZONING

The land is zoned Agricultural Zone I and is utilized as such.

3.3 LAND USE

Portion 104 of the farm Hemel & Aarde no. 587 is used for agricultural purposes. There are 4ha of established vineyards on the subject property. There are no existing structures on Portion 104 of the farm Hemel & Aarde no. 587.

The following existing land uses are on the subject property:

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Vineyard	4		4
Mountainous land, veld / Fynbos, access roads, etc.			34,2481
TOTAL			38,2481

Land uses that surround Portion 104 of the farm Hemel & Aarde no. 587 are agricultural activities and tourism related land uses.

3.4 PROPOSED DEVELOPMENT

The following are proposed:

- The **consent use** of Portion 104 of the farm Hemel & Aarde no. 587 in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for **tourist accommodation** to accommodate four (4) eco cabins on the subject property;
- The consent from the District Roads Engineer concerning the restrictive title deed conditions imposed in terms of the Ribbon Development Act, Act 21 of 1940.

3.4.1 Background

The Hasher Family Estate spans 180ha that includes Remainder Portion 102 of the farm Hemel & Aarde no. 587, Portion 103 of the farm Hemel & Aarde no. 587 and Portion 104 of the farm Hemel & Aarde no. 587 (the application property). The Hasher Family Estate houses vineyards, their production facility and some of Hemel-and-Aarde Valley's most diverse Fauna and Flora.

The owner intends to diversify the land use on Portion 104 of the farm Hemel & Aarde no. 587

to offer tourists an unique accommodation experience. The development proposal consists of the establishment of vineyards, four (4) tourism accommodation units, a manager's house, and associated access roads on Portion 104 of farm nr. 587. Two alternative layouts were assessed for the accommodation units, with the alternative consisting of a more clustered layout. The layouts for the two proposed alternatives can be observed in figures 1 and 2 of the Terrestrial Biodiversity Assessment undertaken by Nature Works for the subject property.

The development proposal will entail the clearance of indigenous vegetation for cultivation purposes and the development of tourist accommodation units and a manager's dwelling unit on Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus. The development proposal comprises the following:

- The clearance of approximately 16,35ha of indigenous vegetation for the development of new vineyards;
- The development of four (4) overnight tourist accommodation units of approximately 100-120m² each (sleeping 12 guests);
- The development of one (1) manager's dwelling unit of approximately 250m²; and
- An access road at 0,34km off Karwyderskraal Road (Minor Road 4010).

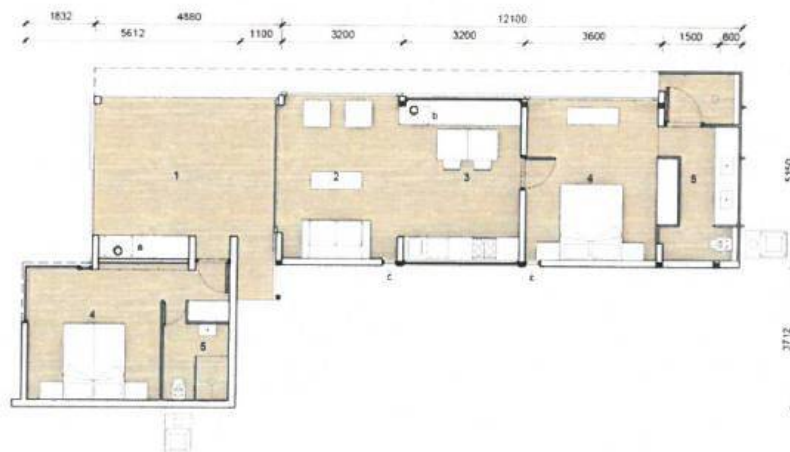
The proposed establishment of vineyards, four (4) tourism accommodation units, a manager's house and associated access roads on the subject property triggered listed activities in terms of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA"). The development proposal included with this application was therefore informed by the Environmental Impact Assessment (EIA) and Terrestrial Biodiversity Impact Assessment report undertaken for the subject property. The placement of the eco cabins on the subject property was to ensure privacy and tranquillity of guests staying over, while still meeting the requirements of a clustered development in close proximity to existing access roads.

3.4.2 Tourist accommodation units (eco-cabins)

An application is submitted for consent use to accommodate four tourist accommodation units (eco-cabins) on Portion 104 of the farm Hemel & Aarde no. 587. The four eco cabins will provide tourist accommodation options on the farm as an ancillary use to the Hasher Family Estate farm. The four units will take the form of eco cabins. The owner intends to place four (4) eco cabins and a manager's dwelling on the subject property in close proximity to each other.

The proposed eco cabins and manager's house on Portion 104 of the farm Hemel & Aarde no. 587 will mainly be constructed out of sustainably sourced timber and glass. The cabins are low slung in order to blend in with the natural environment and to allow the focus to be on the extraordinary surroundings. The architectural expression is understated and contemporary. From the east the buildings appear more solid to allow for privacy and act as a backdrop for the natural vegetation. The cabins open up towards the west views. The raised cabins allow ground water, the local fauna and flora uninterrupted routes under the cabins and allow the visitor uninterrupted views over the landscape and dam. The latter also ensures a minimal development footprint impact on the biophysical environment.

The four eco cabins will be self-catering units overlooking the farm and the stunning Hemel & Aarde Valley. Two of the cabins (cabins no. 1 and 4) will accommodate a maximum of four guests each and will be $\pm 99\text{m}^2$ in extent each (building footprint of $77,5\text{m}^2$ and deck of $21,5\text{m}^2$). The other two cabins (cabins no. 2 and 3) will accommodate a maximum of two guests and will be 71m^2 in extent each (building footprint of 54m^2 and deck of 17m^2). The total number of guests for all four the cabins amount to twelve (12). Although the environmental application and subsequent Environmental Authorization (EA) dated 24 June 2022 approved cabin footprints of 120m^2 each with four guests per unit (i.e. a total of 16 guests), the latest site development plan makes provision for a total of twelve guests in the four proposed eco cabins. Refer to the images below indicating what the two design types for the eco cabin units:



Typical plan

- 1 Deck
- 2 Living
- 3 Kitchen & dining
- 4 Bedroom
- 5 Ensuite
- a Braai
- b Wood burning stove
- c Vent

TYPE 01

CABIN 1 / CABIN 4

4 sleeper

99m^2

Living/kitchen: 29m^2

Bedroom 01: 17m^2

Ensuite 01: 10m^2

Bedroom 02: 16m^2

Ensuite 02: 5.5m^2

Deck : 21.5m^2

Motivation report

Portion 104 of farm Hemel & Aarde no. 587

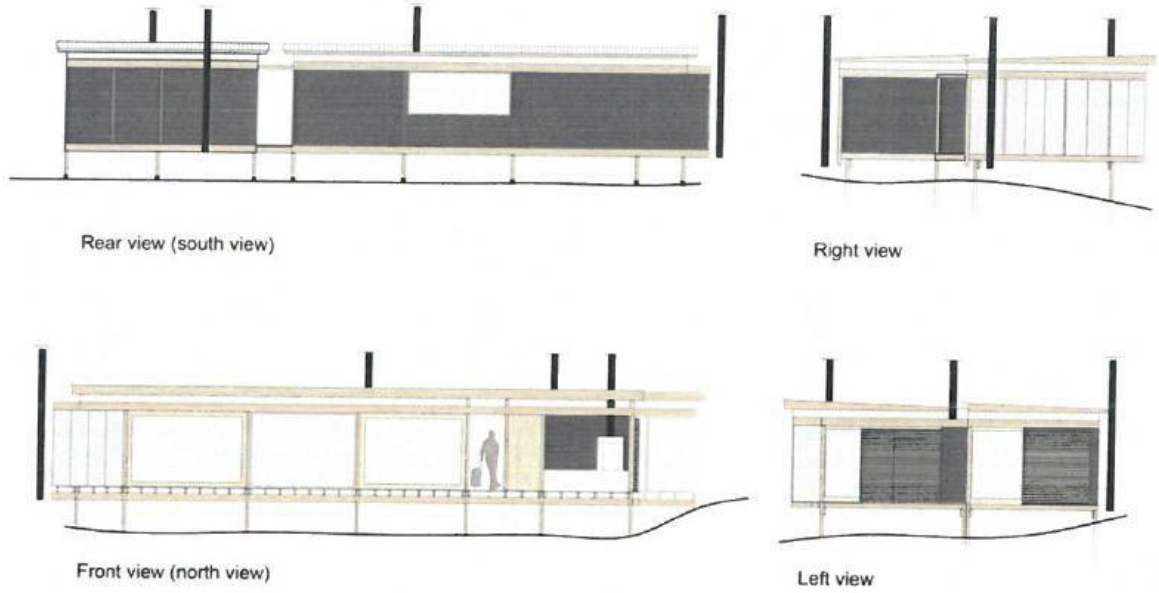
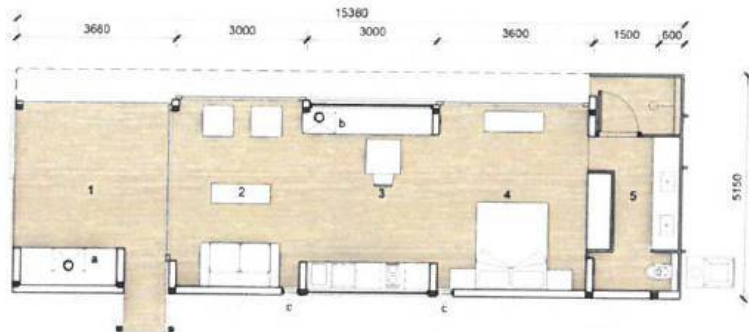


Image 1: Design type 1 for cabins no. 1 and 4



TYPE 02

CABIN 2 / CABIN 3

2 sleeper

71m²

Living/kitchen: 27m²

Bedroom 01: 17m²

Ensuite 01: 10m²

Deck : 17m²

Typical plan

- 1 Deck
- 2 Living
- 3 Kitchen & dining
- 4 Bedroom
- 5 Ensuite
- a Braai
- b Wood burning stove
- c Vent

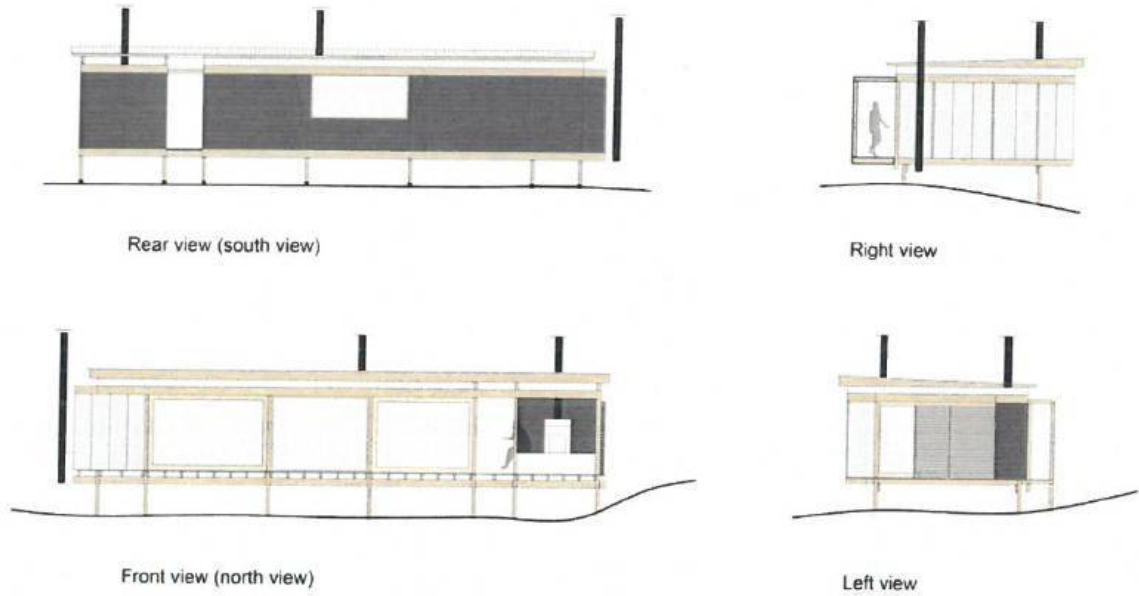


Image 2: Design type 2 for cabins no. 2 & 3

The proposed number and type of holiday accommodation units can be accommodated under the definition of tourist accommodation under the existing Agriculture Zone I zoning:

“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;”

The tourist accommodation units on the farm will be as follow:

• Cabin 1	±99m ²	4 guests
• Cabin 2	±71m ²	2 guests
• Cabin 3	±71m ²	2 guests
• <u>Cabin 4</u>	<u>±99m²</u>	<u>4 guests</u>
TOTAL	±340m²	12 guests

The site development plan included with this proposal was the preferred option in terms of the EIA conducted for the development proposal, as the tourist accommodation units are clustered together, therefore making access and the extension of services easier, which reduces the risk of sprawl of activities into the natural areas.

A 32m setback line from the edge of the De Bos Dam was determined, and the tourist accommodation units will be positioned outside of the 32m setback line as indicated on the site development plan. All land use restrictions pertaining to Agriculture Zone 1 and tourist accommodation units will be complied with for Portion 104 of the farm Hemel & Aarde no. 587.

The target market for the tourist accommodation units is nature lovers wanting to experience this beautiful area of the Hemel & Aarde Valley. The Hemel & Aarde Valley boasts abundant eco-tourism activities such as fauna and flora, hiking trails and mountain biking trails. It will therefore be solely an eco-tourism venture to diversify the farm's source of income.

The proposed eco cabins will take access from new timber walkways that connect to a parking area that is considered an extension of the existing gravel vehicular road. One parking bay is required per tourist accommodation unit. One parking bay is therefore proposed for each eco cabin. The parking bays will be positioned next to the existing gravel farm road to keep the impact to a minimum. One parking area will be created to serve the four eco cabins as well as the **manager's dwelling**. Refer to the site development plan attached. Provision is therefore made for ample parking space for guests visiting the eco cabins.

The Terrestrial Biodiversity Impact Assessment undertaken by Nature Works considered the vegetation types, biodiversity areas and botanical sensitivity of the subject portion. The study then considered the impact of the two alternative development proposals. It was concluded that both the assessed alternatives will result in the permanent loss of degraded to highly degraded endangered Elim Ferricrete Fynbos.

According to the Western Cape Bioregional Spatial Plan, the proposed eco-cabins for alternative 1 and 2 fall within CBA2. This Critical Biodiversity Area (CBA) has been identified as an area in natural condition that is required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure. The conservation objective of the CBA is to maintain the site in a natural or near-natural state, with no further loss of natural habitat. Degraded areas should be rehabilitated and only low-impact, biodiversity sensitive land uses are appropriate.

Portion 104 of the farm Hemel & Aarde no. 587 historically contained Elim Ferricrete Fynbos. This area has however been ploughed in the past and habitat condition is degraded to highly degraded, some native pioneer species were observed. The impact for both alternatives has been assessed to be of **Low (-)** significance. The implementation of the proposed mitigation measures will not reduce the impact significance for the two alternatives it will however have

a positive impact on the surrounding areas, especially for the habitats that are heavily impacted by interested and affected parties (IAPs) along the Die Bos dam.

3.4.3 General information pertaining to the tourist accommodation units

The property is zoned Agricultural Zone 1 and the expansion of the cultivation area is therefore permitted in terms of the land use rights of the property. A manager's dwelling is also permitted in terms of the existing land use rights of the subject property. This application is therefore for consent use for the establishment of overnight tourist accommodation only.

The total floor space of all the structures on the subject property will not exceed the allowable 5 000m² floor area for AGR1 zoned properties. In addition, the proposed tourist accommodation units will not encroach the 30m farm building lines.

The Overstrand Municipality has indicated in their comment on the EIA application that the proposed development is in line with the Overstrand Additional Dwellings Guidelines (2009). This guideline makes provision for rural owners in the agricultural environment to generate additional income from their land units other than standard farming practices. The position of the tourist accommodation units is shown on the site development plan attached.

The proposed tourist accommodation units will be clustered within a specific area on the farm. The natural features, current and future farming activities and views on the farm determined the position of the proposed eco cabins.

The proposed change in land use will not have a negative impact on any natural vegetation on the subject property. The footprints of the proposed structures were carefully chosen to ensure that the impact on the natural environment is kept to a minimum. The proposed structures will also not be situated on high potential agricultural land and therefore the units will have no impact on the viable agricultural land and the existing and future agricultural activities on the farm.

The tourist accommodation units will not lead to the fragmentation of ownership of land and therefore adheres to the objectives of the Agricultural Land Act, Act 70 of 1970.

The new tourist accommodation units will create new employment opportunities in the area.

There are no labourers living permanently on the farm. New staff members will be employed from the Hermanus / Caledon area, as and when required. Only the new farm manager will **reside permanently on the farm (in the proposed manager's dwelling)**. It is therefore evident that the farm will contribute towards job creation in the Overstrand region.

The proposed change in land use does not propose activities that will lead to uncalled for smoke, smells, noise or dust and will therefore not have a negative impact on the adjacent property owners or the ambiance of the Hemel & Aarde Valley.

For details pertaining to the services on the subject property refer to Section 3.7.1 of this report. Section 3.11 motivates the application further in terms of the applicable local and regional spatial planning policies.

Title deed no. T43250/2021 has title deed conditions that prohibit the proposed consent use. The consent use can however be allowed with the approval of the District Roads Engineer since these conditions (conditions 3. I.C. and 3. II.C. on pages 13-15) were imposed in terms of the Ribbon Development Act, Act 21 of 1940. Application is therefore made for consent from the District Roads Engineer concerning the restrictive title deed conditions. Refer to Section 3.8 of this report for the detail in this regard.

The proposed consent use does not have a negative impact on the surrounding farms as the **subject property's zoning will remain unchanged**. The owner simply intends to apply for the secondary right on the subject property to allow them to diversify the existing land uses with ancillary land uses. The reasons for the diversified land uses are to provide eco-friendly yet luxurious tourist accommodation options on the farm while simultaneously diversifying the source of income of the farm.

To conclude: We are of the opinion that the proposal is compact, unobtrusive, respects the rural vernacular and does not impact on the existing agricultural activities of the subject property or of the surrounding farms.

The proposed consent use of Portion 104 of the farm Hemel & Aarde no. 587 is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 CHARACTER OF THE ENVIRONMENT

The subject property is situated in the picturesque Hemel & Aarde Valley and last mentioned is known as an area with many tourism valued sites and attractions luring thousands of tourists to the area annually.

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 trails, adventure activities, etc.). The proposed tourist accommodation units are therefore in line with the existing character of the area.

Visually the proposed tourist accommodation units will blend in well with the natural and built environment.

3.6 THE POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)

Due to the size and location of the property the proposed tourist accommodation units can be accommodated on the subject property. In addition, the subject property forms part of the larger Hasher Family Estate – a working wine farm.

The owner still envisages to develop the subject property (and in turn the Hasher Family Estate as a whole) to its full potential in terms of the agricultural land / activities (hence the EIA application for the cultivation of another 16,4ha vineyards). It is however of utmost importance to diversify the land use to diversify the income of the farm and to ensure the long-term viability thereof. The natural beauty, surrounding agricultural activities and location in the Hemel & Aarde Valley are indicative of the potential the property has to create a unique tourist experience on the subject property, without compromising the agricultural land use. The owner therefore took the aforementioned into consideration and decided to contribute towards the tourist accommodation options in the Hemel & Aarde (and Greater Hermanus) area.

3.7 ECONOMIC IMPACT

The proposed consent use will have a positive impact on the economy of the area. By allowing the consent use of the subject property, it diversifies the land uses on the subject property and affords the owner the opportunity to generate additional income that would be re-invested in the conservation and cultivation of the land.

The existing and future farming activities as well as the proposed tourist accommodation units create and will continue to create permanent employment opportunities. It is a well-known fact that tourism plays an important role in the Western Cape's economy and in the Overstrand area in particular. It is anticipated that the employees will mostly (or all) come from the neighbouring Caledon and Hermanus areas. Further employment would be generated for goods sourced and services obtained from the surrounding farming community.

In addition, temporary employment opportunities will be created in the construction phase of the proposed development. It is therefore evident that the farm contributes and will continue to contribute towards job creation in the Overstrand region. Local businesses will benefit from construction material purchases. The diversified land uses will add value to the subject property once the development is complete and fully operational. This will imply higher rates and taxes payable to both the municipality and SARS. In addition, the proposed tourist accommodation units will also have positive spin-offs to the local service providers and businesses in the area.

It is therefore evident that the farm portion will contribute towards job creation in the Overstrand region.

3.8 SOCIAL IMPACT

It is the intent of the property owner to protect the sense of place of the area while generating additional income to manage the land sustainably and develop the farm to its fullest agricultural potential.

The consent use will attract more tourists to the area. The impact on the social wellbeing and social coherence of the adjacent property owners will be minimal given that the land use will be in line with the character and spatial planning policies for the area. Tourist accommodation in general is not associated with higher levels of traffic or crime in an area.

The proposed tourist accommodation units will have no impact on the general health and wellbeing of residents on surrounding farms.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.9.1 PROVISION OF SERVICES

Water, electricity and sewage

The tourist accommodation units will be solar powered (roof mounted solar panels). Water will be sourced from the onsite borehole, as per existing allocations. Sewage will be piped to on-site closed conservancy tanks (serviced by the municipality).

The Overstrand municipality has confirmed in correspondence (dated 14 January 2022) that sufficient capacity exists to provide the proposed development with sewage treatment and solid waste disposal services.

The provision, operation and maintenance of the services will be the responsibility of the farm owner.

Water availability

Portion 104 of the farm Hemel & Aarde no. 587 has lawful water use. The extent of the lawful water use of the subject property is confirmed by Breede-Gouritz Catchment Management Agency's (BGCMA's) letter dated 18 February 2019.

There are approved water rights for the subject property which are currently undergoing an amendment process with the water authority to accommodate the name change of the ownership of the property.

A copy of the water registration certificate is also attached to the application.

Fire Protection

Fire extinguishers will be provided in accordance with the SANS 10400 T and W regulations for firefighting purposes.

Solid Waste

A waste recovery / recycling process will be implemented, and all recyclable waste will be removed from the waste stream. The farm management will collect the solid waste and will cart it away to the municipal solid waste dump site.

3.9.2 TRAFFIC IMPACT, PARKING AND ACCESS

Since we are not applying for a subdivision of Portion 104 of the farm Hemel & Aarde no. 587, no additional access points or access roads will be created and the existing access points and roads will remain. Access to the subject property is obtained from the access road at 0,34km off Karwyderskraal Road (Minor Road 4010). The Karwyderskraal Road connects to the Hemel & Aarde Road (the R320 travelling from Hermanus to Caledon). The existing access point to the farm will be used to provide access to the proposed tourist accommodation units (eco cabins). The existing access and gravel roads on the farm and the existing access point from Karwyderskraal Road are indicated on the site development plan.

The manager's dwelling requires a minimum of two parking bays. One parking bay per tourist accommodation unit must be provided for on site. A total of six (6) parking bays are therefore required for the development proposal. Provision is made for a single parking area with seven (7) parking bays next to the existing gravel road on the subject property. The parking area will be in close proximity to the proposed manager's dwelling and walking distance from the proposed eco cabins. The proposed eco cabins will take access from new timber walkways that connect to the parking area that is considered an extension of the existing gravel vehicular road.

A mere additional six vehicles will travel to the subject property and will therefore have a low impact on the traffic of the area. In addition, vehicular trips will be generated throughout the day.

3.10 TITLE DEED

Title deed no. T43250/2021 has title deed conditions that prohibit the proposed consent use. The consent use can however be allowed with the approval of the District Roads Engineer since these conditions (conditions 3. I.C. and 3. II.C. on pages 13-15) were imposed in terms of the Ribbon Development Act, Act 21 of 1940. Application is therefore made for consent from the District Roads Engineer concerning the restrictive title deed conditions.

Tourist accommodation is a secondary right (consent use) for Agriculture Zone I properties. The subject property's title deed has conditions that prohibits the use of the subject property for tourism purposes:

Title deed no. T43250/2021, pages 13-15, paragraphs 3. I.C and 3. II.C:

- I. As regards the figure PbQLMN and JfgFGH as shown on the attached Diagram SG no 2738/2018 -

"C. SUBJECT FURTHER to the following special condition contained in Deed of Transfer Number 9040/1982 imposed by the Divisional Council of Caledon, as the controlling authority in terms of Section 11(6) of Act 21 of 1940 as amended, namely:

"n Maksimum van alleenlik twee wonings met die nodige bona fide boerdery geboue mag op elke onderverdeling opgerig word."

- II. AS REGARDS the figure QAaeBCDEgFJKcL as shown on the attached Diagram SG number 2738/2018 –

"C. SUBJECT FURTHER to the following special condition contained in Deed of Transfer Number 9040/1982 imposed by the Divisional Council of Caledon, as the controlling authority in terms of Section 11(6) of Act 21 of 1940 as amended, namely:

"n Maksimum van alleenlik twee wonings met die nodige bona fide boerdery geboue mag op elke onderverdeling opgerig word."

As mentioned, the abovementioned conditions were however imposed by the District Roads Engineer in terms of the Ribbon Development Act, Act 21 of 1940, and other structures and land uses can therefore be accommodated with the consent of the District Roads Engineer. We herewith request the consent from the District Roads Engineer to accommodate the proposed manager's dwelling and tourist accommodation units on the subject property. The consent of the District Roads Engineer will allow the owner to add new structures on the subject property to allow for the diversification of the land uses on the subject property.

All the servitudes, servitude areas and conditions pertaining to water usage as described in the title deed will remain unchanged for the purposes of this application.

There is no bond registered against the subject property. The conveyancing certificate was requested and will follow.

3.11 FORWARD PLANNING & OTHER LAND USE DOCUMENTS

3.11.1 PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK (2014)

DEVELOPMENT OUTSIDE THE URBAN EDGE

The PSDF (2014) stipulates that compatible and sustainable rural activities of an appropriate scale and form can be accommodated outside the urban edge (except in bona fide wilderness areas). The following criteria apply in assessing consistency with this policy:

- Does not alienate unique or high value agricultural land or compromise existing farming activities.
- Does not compromise the current or future possible use of mineral resources.
- Is consistent with the cultural and scenic landscapes within which it is situated.
- Does not involve extensions to the municipality's reticulation networks (i.e. served by off-grid technologies)
- Does not impose real costs or risks to the municipality delivering on their mandate.
- Does not infringe on the authenticity of rural landscapes.

The proposed tourist accommodation units comply with the criteria specified by the PSDF (2014):

- Existing roads will be used to accommodate the proposed tourist accommodation units (keeping the impact on the environment to a minimum).
- There is no impact on the agricultural productive landscape since areas available for the establishment of future agricultural activities on the subject property will not be affected. An Environmental Authorization was issued for the proposed tourist accommodation units and future vineyard planting.
- The proposed development does not compromise any possible future use of mineral resources.
- The provision, operation and maintenance of the services will be the responsibility of the farm owner. Additional services as described in Section 3.7.1 can be provided on site without having a negative impact on the environment.

- The tourist accommodation units are a small-scale development to keep the impact on the rural landscape to a minimum.

From the above it is evident that the proposed development is consistent with the PSDF's (2014) criteria to reach the Provincial objectives to strengthen and diversify the rural economy.

3.11.2 WESTERN CAPE RURAL LAND USE PLANNING & DEVELOPMENT GUIDELINES (2019)

The abovementioned policy specifies that rural tourism activities should not compromise farm production and should be placed to reinforce the farmstead precinct. Existing structures or disturbed footprints should preferably be used, and adequate provision should be made for access and parking. Buildings should respond to the farm's built vernacular.

The proposed tourist accommodation units will adhere to most of the above-mentioned criteria and objectives:

- The tourist accommodation units will not compromise the existing or future farming production activities;
- A specialist terrestrial assessment was conducted and informed the EIA. An environmental authorization was issued for the development proposal and the placement of the proposed manager's dwelling and tourist accommodation units was done accordingly.
- Adequate provision is made for access (existing) and parking (one proposed parking area will keep the impact to a minimum);
- The proposed structures are compatible with the overall built vernacular of the area.

From the above it is evident that the proposed development adheres and complies with the Western Cape Rural Land Use Planning and Development Guidelines (2019).

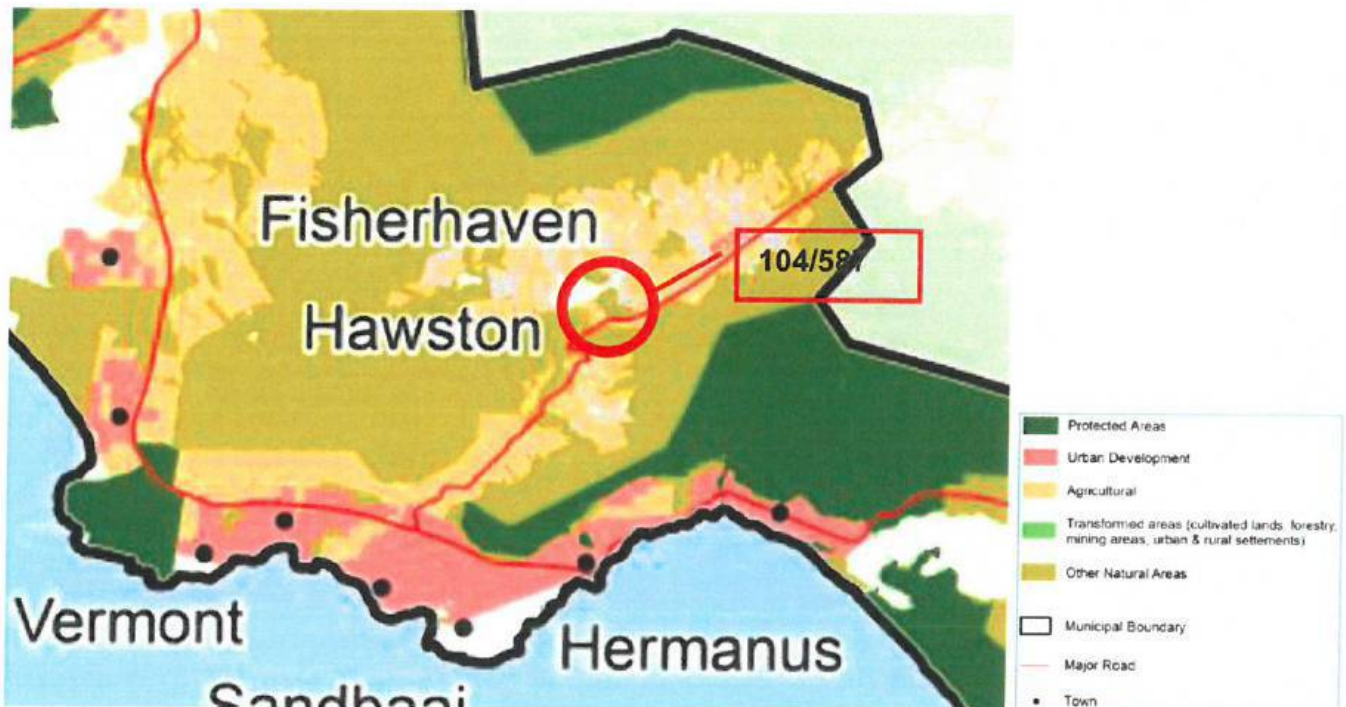
3.11.3 OVERBERG DISTRICT SPATIAL DEVELOPMENT FRAMEWORK (2017)

The objective of the ODSDF (2017) is to optimise the rich and balanced mix of the Overberg's agriculture, tourism, heritage, conservation resources and eco system services within their scenic setting. With this application conserving the natural environment and maintaining the

agricultural landscape are still promoted, and careful consideration is given to appropriate development rights. In addition, the tourist appeal and rural land use for Portion 104 of the farm Hemel & Aarde no. 587 are promoted and consistent with the Western Cape Rural Land Use Planning and Development Guidelines (2019).

3.11.4 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2020)

The *Overstrand Spatial Development Framework (2020)* stipulates that Portion 104 of the farm Hemel & Aarde no. 587 is situated outside the urban edge of the Overstrand region. The policy earmarks the subject property as mainly for "other natural areas". Refer to the SDF Plan (2020) for the Overstrand region below:



Map 3: Overstrand SDF (2020)

The Overstrand SDF (2020) stipulates that non-agricultural land uses should be restricted to those that support the sustainable production potential of the farming unit. In addition, the abovementioned SDF favours tourism-related development and describes the following statements for compliance for tourist facilities and tourist accommodation:

- Promote tourism development by means of strategically identifying areas which should be prioritised for tourism infrastructure / facilities development;

- Determine the nature and extent of infrastructure and facility development needed to make key natural areas accessible to all the Overstrand's inhabitants and tourists.

In addition, the 2050 Vision of the Overstrand SDF (2020) includes the key policy of ensuring that tourism destinations are accessible, safe and attractive by means of maintaining and developing new facilities.

Portion 104 of the farm Hemel & Aarde no. 587 will be used for tourism and agriculture purposes. The footprint of the proposed tourist accommodation units as well as the impact on the agricultural land will be minimal. The zoning will remain for agricultural purposes. It is submitted that the proposed land use will respect the rural character (with reference to the design of the structures and the green energy used) and is compatible with the area.

The proposed development will promote rural tourism in the Hemel & Aarde / Greater Hermanus area without degrading the critically biodiversity areas and agricultural land present on the subject property. The unique rural character of Hermanus is still promoted with this application.

From the above it is evident that the proposed consent use adheres to and falls within the spatial planning policies for the Overstrand area.

3.12 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.10.1 HERITAGE VALUE

The application involves partially changing the character of a site larger than 5 000m² since the total extent of the proposed tourist accommodation units will not exceed 5 000m² and the **greater extent of the subject property's** character will remain unchanged. Consequently, the proposed consent use triggers Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

A Notice of Intent to Develop was submitted to Heritage Western Cape as part of the EIA undertaken for the development proposal. Correspondence from Heritage Western Cape

(dated 2 February 2022 – copy attached) confirmed that no further action under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) is required.

Additionally, the property owner will comply with Conditions 20 and 21 of the Environmental Authorisation. This will help to ensure the protection of any heritage resources that may be encountered on the site.

3.10.2 ENVIRONMENTAL IMPACT

The development proposal will entail the clearance of indigenous vegetation for cultivation purposes and the development of tourist accommodation units and a manager's dwelling unit on Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus. The development proposal comprises the following:

- The clearance of approximately 16,35ha of indigenous vegetation for the development of new vineyards;
- The development of four (4) overnight tourist accommodation units of approximately 100-120m² each (sleeping 12 guests);
- The development of one (1) manager's dwelling unit of approximately 250m²; and
- An access road at 0,34km off Karwyderskraal Road (Minor Road 4010).

The proposed establishment of vineyards, four (4) tourism accommodation units, a manager's house and associated access roads on the subject property triggered listed activities in terms of NEMA. A Basic Environmental Impact Assessment (EIA) was submitted by Lornay Environmental Consultants for the development proposal and an Environmental Authorisation was issued on 24 June 2022.

The EIA was informed by a Terrestrial Biodiversity Impact Assessment undertaken by Nature Works. A copy of the report dated 15 January 2022 is attached. This specialist report considered the vegetation types, biodiversity areas and botanical sensitivity of the subject portion. The study also considered the impact of the two alternative development proposals on Portion 104. It was concluded that both the assessed alternatives will result in the permanent loss of degraded to highly degraded endangered Elim Ferricrete Fynbos.

According to the Terrestrial Biodiversity Impact Assessment Report the development proposal will result in the permanent loss of degraded to highly degraded Elim Ferricrete Fynbos, which is classified as a Critically Endangered ecosystem in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEM:BA"), List of Threatened

Ecosystems in Need of Protection, December 2011). According to the Cape Bioregional Spatial Plan, the proposed tourist accommodation units will be located within an area that has been classified as a degraded Critically Biodiversity Area 2 ("CBA2").

Clustering the tourist accommodation units together will result in minimal disturbance to natural vegetation. The manager's dwelling unit and areas proposed for the new vineyards will be located within a degraded area, since it has been previously ploughed. The Terrestrial Biodiversity specialist supports the proposed development from a terrestrial ecological perspective, with the implementation of the proposed mitigation measures. The impacts on indigenous vegetation as a result of the proposed development have been rated as being of low negative significance after mitigation.

The development proposal will result in both negative and positive impacts.

Negative impacts include:

- Construction related impacts, such as dust, noise and visual intrusion during the construction phase.

Positive impacts include:

- The creation of temporary employment opportunities during the construction phase;
- Removal of alien vegetation; and
- The proposed development will increase the financial viability of the farm.

In view of the above, the NEMA principles, compliance with the conditions stipulated in the Environmental Authorisation, and compliance with the Environmental Management Programme, the Department of Environmental Affairs & Development Planning is satisfied that the authorised listed activities will not conflict with the general objectives of Integrated Environmental Management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the undertaking of the listed activities can be mitigated to acceptable levels.

3.13 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: This principle addresses the need to address the past imbalances regarding

opportunity. The proposed development will contribute to addressing past apartheid spatial imbalances by providing access to employment opportunities particularly to the historically economically disadvantaged. This will increase the spending power of the employees by enabling upward economic mobility by being able to afford services, facilities and access to residential opportunities.

The proposed application will not further promote spatial development imbalances. The proposed application is in character with the existing rural area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposal has no negative impact on the conservation worthy areas and agricultural land on the farm. The development footprints will be kept to a minimum and within the 5 000m² floor area allowed for all structures on the farm. The tourist accommodation units will not have a negative impact on the economic viability of the agricultural land. The tourist accommodation units will rather add to the economic viability / self-sustainability of the subject property without negatively impacting on the conservation worthy / agricultural areas and surrounding farms.

The impact on the biophysical environment will be kept to a minimum as motivated in this report. Furthermore the extent of the subject property, the need to diversify the land use on the subject property to ensure an additional income, the location of the subject property in the Hemel & Aarde Valley and in close proximity to other tourist attractions, the anticipated economic spin-offs the proposed tourist accommodation units will have for other local businesses, compliance with the spatial planning policies for the area, etc. allow for the consideration and approval of the proposed consent use without having an adverse impact on the spatial sustainability of the area.

The proposal is for a farm situated within an established agricultural and tourism area and will therefore not impact on a sensitive environment.

Efficiency: The subject property is easily accessible and conveniently located close to Hermanus and Caledon, and situated within the Hemel & Aarde Valley, which makes travelling to the farm to make use of the tourist accommodation units easy.

The proposed tourist accommodation units prove to be efficient as it relates to more responsible resource use and sustainable development. Furthermore, the proposal is efficient in that it

optimizes existing resources.

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 Amendment 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 consent use will not have a negative impact on the existing or future agricultural activities;
- There is no impact on the agricultural productive landscape since areas available for the establishment of future agricultural activities on the subject property will not be affected. An Environmental Authorization was issued for the proposed tourist accommodation units and future plantings;
- Heritage Western Cape gave their consent for the development proposal;
- The proposal is compatible with the existing character of the area;
- No additional access points or roads are proposed. All road infrastructure already exists;
- Services for the new structures can easily be provided without having a negative impact on the environment;
- The zoning will remain Agricultural Zone I;
- The proposal complies with the development management scheme land use restrictions applicable to AGR1 zoned properties;
- The proposed consent use of the subject property complies with the spatial planning policies of the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

The application can be supported for your favourable evaluation. The opinion is held that this

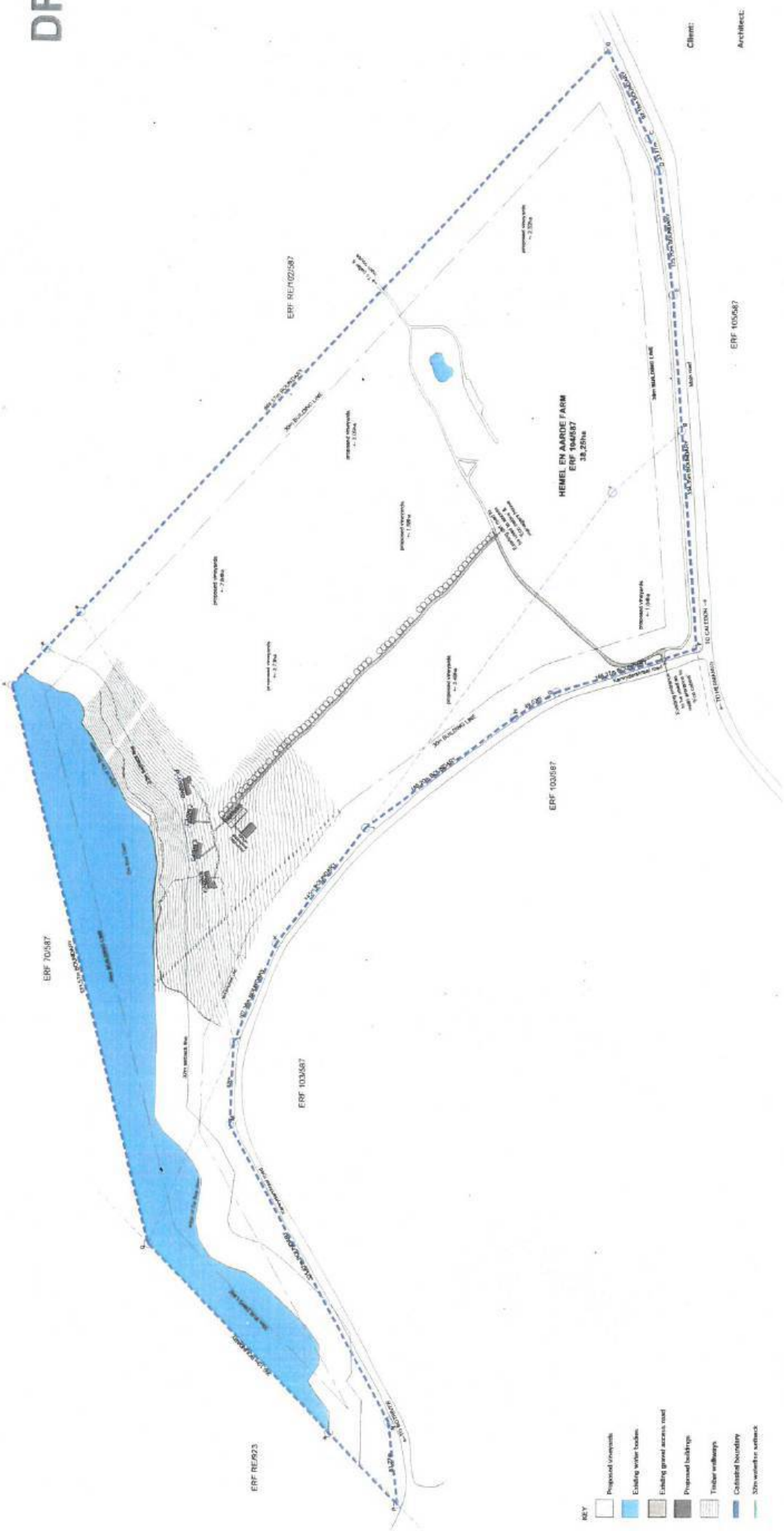
Motivation report

Portion 104 of farm Hemel & Aarde no. 587

application will have no negative impact in the area and that it will contribute towards the Overstrand rural area's tourist (specifically the agri-tourism) significance and value.

NOTE:
 All dimensions are based on the natural state conditions
 and a 1:1000 scale. All dimensions are to be rounded to 0.00m.

DRAFT



- KEY**
- Proposed Greenways
 - Existing water bodies
 - Existing graded access road
 - Proposed buildings
 - Timber walkways
 - Coloured boundary
 - 50m windbreak setback

⊕ SITE PLAN - PORTION OF 587
 Scale 1:2000

KLG
 ARCHITECTS

HEMEL EN AARDE
 ECO CABINS
 ERF 104/587

CLIENT: ARCHITECT: ARCHITECTURE: 104/587
 140 BLOEMFONTEIN STREET, PORT ELIZABETH, SOUTH AFRICA
 CITY DEVELOPMENT PLAN

NOTE: All dimensions - unless indicated otherwise - are in millimeters. All drawings are the property of KLG and shall not be reproduced or used in any way without the written consent of KLG.

DRAFT

Client:

Architect:

KLG

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 1001 Lakeside, Richmond, British Columbia
 (604) 273-7728 / (604) 273-7717 / klg@klg.com

HEMEL EN AARDE
 ECO CABINS
 ERF 104/587

SITE DEVELOPMENT DI AAN





Western Cape
Government



Department of Environmental Affairs and Development Planning

Kobus Munro

Directorate: Development Management (Region 2)

Kobus.Munro@westerncape.gov.za | Tel: 083 701 1890

Reference: 15/3/2/12/BO3

Director: Infrastructure and Planning
Overstrand Municipality
PO Box 20
HERMANUS
7200

FILE NO.	PN104/587
	Hemel & Aarde
SCAN NO.	22
COLLABORATOR NO.	1791562

REQUEST FOR ADDITIONAL COMMENT: APPLICATION FOR CONSENT USE ON PORTION 104 OF FARM HEMEL EN AARDE NO. 587, CALEDON DIVISION

1. Your request for further comment, dated 21 November 2022, has reference.
2. Granted that there is a distinction in the Overstrand Municipality Land Use Scheme between additional dwelling units and tourist accommodation, this Directorate's comment is offered from a provincial perspective with due regard to the Western Cape Land Use Planning Guidelines for Rural Areas (2019). Said policy does not differentiate between use zones defined in a specific zoning scheme but aims to guide decision-makers with regards the preservation of the working agricultural landscape.
3. The Rural Areas Guideline is aligned to international, national, and provincial policy but is simply a guideline for land use planning decisions.
4. Your additional comment, dated 21 November 2022, is noted but this Directorate abides by our comment dated 9 November 2022.

Helene
Janser

Digitally signed by
Helene Janser
Date: 2022.12.21
11:33:53 +02'00'

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT - REGION 2



TP. N. /heard
(H. Olivier)

2/8



Western Cape
Government

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Reference: 15/3/2/12/BO3

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7200

FILE NO. P/N 104/587
Hemel & Aarde ✓
SCAN NO.
PTN 104
COLLABORATOR NO.
1774556

REQUEST FOR PROVINCIAL PLANNING COMMENT: APPLICATION FOR CONSENT USE ON PORTION 104 OF FARM HEMEL EN AARDE NO. 587, CALEDON DIVISION

- Your request for comment, dated 7 November 2022, has reference.
- The application under consideration is for a consent use for tourist accommodation for four overnight tourist accommodation units. Cabins 1 and 4 will measure 99m², whilst cabins 2 and 3 will be 71m² each. The environmental application and subsequent Environmental Authorisation dated 24 June 2022, however, approved cabin footprints of 120m² each. The subject property measures 38,24ha in extent.
- The Western Cape Land Use Planning Guidelines for Rural Areas (2019) encourages the establishment of ancillary on-farm activities such as tourist and recreational facilities, that are an appropriate form and scale and facilitate diversification and 'value-adding'.
- 'Tourist accommodation' constitutes the letting of individual rooms or units on a property on a temporary basis and the extent of the tourist accommodation should be determined by the number of units permitted on any particular property. Further to a primary dwelling unit, manager's dwelling and bona fide farm workers accommodation, additional dwelling units can also be permitted on the property at a ratio of one unit per 10ha, with a maximum of five additional dwelling units per land unit.
- In terms of the extent of the subject property, only three additional dwellings would be permitted, which should be indicative of the number of tourist accommodation units to be sanctioned.

TP 09 NOV 2022

6. Although a manager's house is permitted as a primary right on land zoned Agriculture Zone I, it said manager's house should be reasonably connected to the main farming activities on the subject property and should not be allowed for the exclusive management of the tourist accommodation.
7. Bar the reservation on the number of units proposed, this Directorate has no objection to the provision of tourist accommodation on the property from a provincial planning perspective.

Kobus Munro Digitally signed by Kobus Munro
Date: 2022.11.09 10:54:45 +02'00'

DIRECTOR: DEVELOPMENT MANAGEMENT - REGION 2



TP. D. /hears 131
(H. Olivier)



4/8

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email:

**TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS**

planactive@hermanus.co.za
Website: www.planactive.co.za

Our reference: PA21050/ML
Your reference: 15/3/2/12/BO3

21 November 2022

**The Director: Development Management (Region 2)
The Department of Environmental Affairs & Development Planning
Private Bag X9086
CAPE TOWN
8000**

**For attention: Mr Kobus Munro
Email: Kobus.Munro@westerncape.gov.za**

FILE NO. <u>PA21050/ML</u>
<u>Hemel & Aarde</u>
SCAN NO.
<u>Farm 587</u>
COLLABORATOR NO.
<u>1778352</u>

PROPOSED CONSENT USE: PORTION 104 OF THE FARM HEMEL & AARDE NO. 587

- **Haspesslagh Vineyards Pty Ltd**

Your comments on the subject application sent to Overstrand Municipality dated 9 November 2022 refer.

With reference to the Overstrand Municipality Land Use Scheme (2020) there is a clear distinction between additional dwelling units and tourist accommodation. The following development parameters apply to additional dwelling units:

Additional dwelling units

- 5.1.3 The Council may approve additional dwelling units in Agricultural Zone I provided that:
- The additional dwelling units shall remain on the same cadastral units as the primary dwelling unit;
 - The number of additional dwelling units shall not exceed the 1 unit per 10,0 ha, up to a maximum of five additional dwelling units per land unit, and
 - No additional dwelling units may be erected within 100 m of the high water mark on the coast, other than where additional dwelling units are provided as an integral part of an existing farmstead or with the special consent of Council.

The definition of an additional dwelling unit in terms of the mentioned Zoning Scheme reads as follows:

"additional dwelling units" means dwellings in the Agriculture Zone 1, which are not required for the accommodation of bona fide persons involved in the agricultural practice on the property concerned; and additional dwelling units may be used for long or short term accommodation purposes;

With reference to the above-mentioned development parameters and definition of additional dwelling units the 1 unit per 10ha density with a maximum of five additional dwelling units per farm unit is only applicable to additional dwelling units. The Overstrand Municipality differentiates between the two land uses being additional dwelling units and tourist accommodation and therefore the density control for additional dwelling units does not apply to tourist accommodation. The latter was confirmed by the town planners at Overstrand Municipality. We have submitted several applications

21 NOV 2022

for tourist facilities on Agricultural Zone 1 land that were approved by the Overstrand Municipality that exceeds the density parameters mentioned above.

Furthermore, the Overstrand Municipality Zoning Scheme makes provision for tourist accommodation as a consent use, the same land use that is one of the primary rights under a zoning of Resort Zone.

The definition of tourist accommodation reads as follows:

"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;

With reference to previous discussions with Mr. Schalk van der Merwe it is a preferred option that where provision is made for a land use within a rural context as a consent use, that it should be used instead of applying for a rezoning. This is also the reason for the inclusion of tourist accommodation as a consent use under an Agriculture Zone 1 zoning in terms of the Overstrand Municipality Scheme Regulations. This was done to eliminate the rezoning of agricultural land and to eliminate cumbersome split zonings and the policing thereof relating to tourist related uses.

Our client confirmed that the manager's house will in fact be more connected to the farming activities than the tourism accommodation. There are 4ha of established vineyards on the subject property. The property owners are developing the subject property with approximately 15ha new vineyard as indicated on the site development plan. The first plantings have been done last winter. The property owners will need substantial vineyard management on the subject property when these come into production as from 2024. Hence the site development plan includes a manager's **dwelling**. This is a primary right and as explained will be related to the bona-fide agricultural activities (and not merely to the tourist accommodation units). **In terms of the definition of "agriculture" the land uses covered in the definition includes the last-mentioned land uses.** Please refer to the definition below:

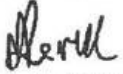
"agriculture" means the cultivation of land for crops and plants including plantations, the keeping and breeding of animals, beekeeping, bird farming or the operation of a game farm, and comprises natural veld, and includes only such activities and buildings as are reasonably connected to the main farming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

With reference to the above is it our opinion that most of the farm would still be for agricultural use and that the consent use would suit the proposal much better than a rezoning to Resort Zone. The farm is within a primary agricultural area of which farms in the vicinity are used for tourist related uses such as wedding venues, tourist accommodation and other tourist facilities of which land use rights have also been obtained by means of consent uses.

We appreciate your support of the proposed application, but we request that your conditions of approval / comments concerning the manager's house and reservation of the number of units be reconsidered based on the above information. It is our opinion that the current Agriculture Zone 1 zoning to be retained and that the proposed tourist accommodation units be accommodated as a consent use. The four proposed self-catering eco-cabins will be used for tourist accommodation purposes and cannot be classified as additional dwelling units and therefore the density control in terms of additional dwelling units does not apply.

We trust that you would find the above in order and it would be appreciated if you could amend your comments accordingly.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M. LERM'.

M. LERM Pr. PIn (A/158/2009)
PLAN ACTIVE

CC: Overstrand Municipality

NOTE:
This is a preliminary drawing and is subject to change without notice. It is not to be used for construction purposes.

DRAFT

134

7/8

Client:

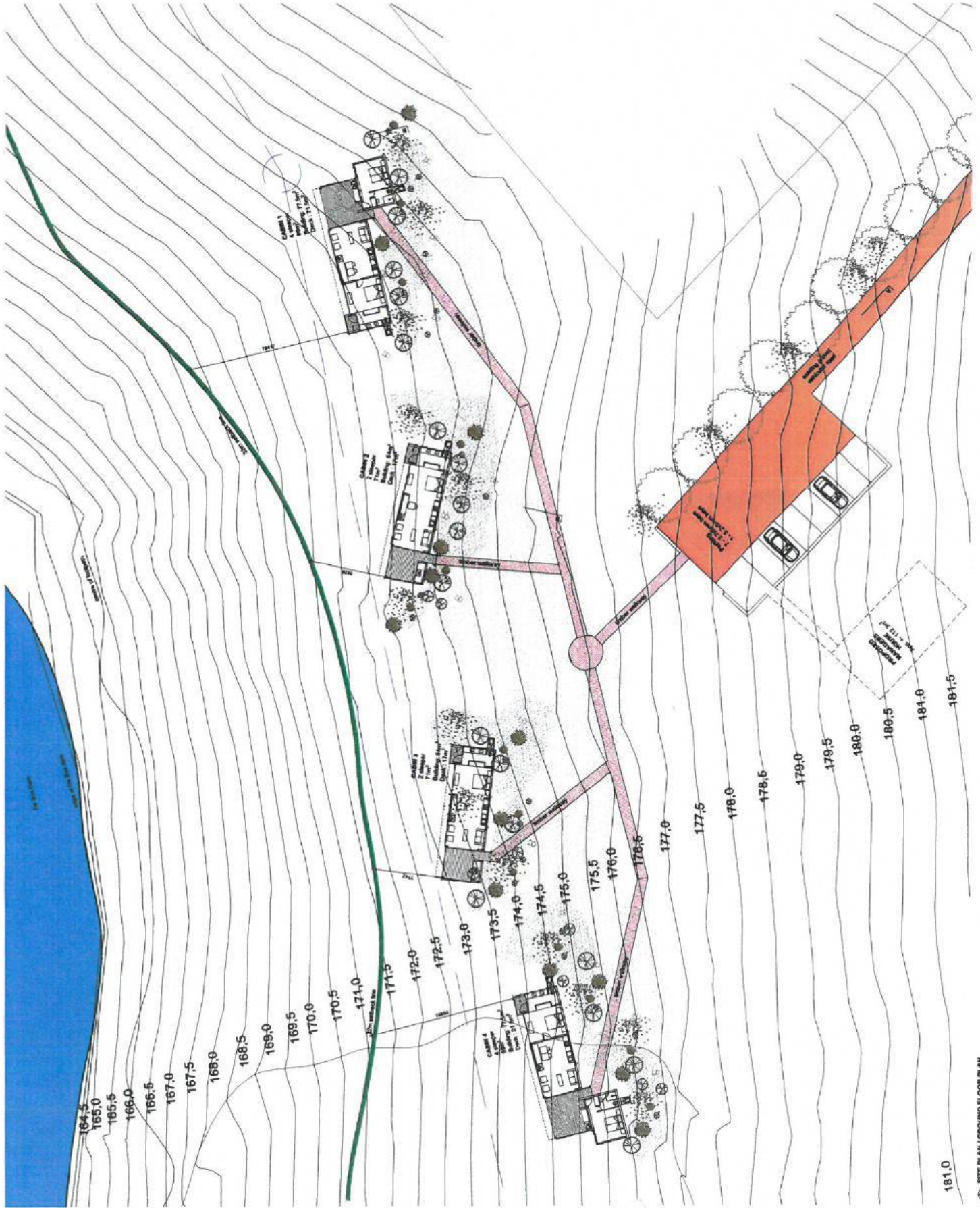
Architect:

KLG Architects
1.1000 Ave. Duquesne, Suite 1000, Montreal, QC H3B 2G9
Tel: (514) 392-1111 Fax: (514) 392-1112

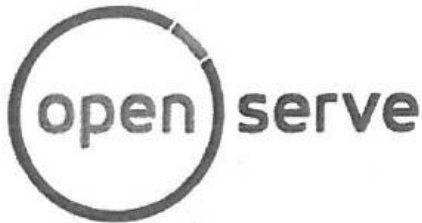
HEMEL EN AARDE
ECO CABINS
ERF 104/567

SITE DEVELOPMENT PLAN
SITE LAYOUT
LOCAL AUTHORITY

DATE: 2024-05-08 SCALE: 1:200 DRAWING NO. 2119-101 REV. 2



⊕ SITE PLAN / GROUND FLOOR PLAN
Scale 1:200



TP. n. Theart
(H. Olivier)

10 Jan Smuts Drive
Pinelands
7404

Stefan Geldenhuys
Tel: 021 414 5546
Email: StefanG@openserve.co.za

Our Ref. : WWIP_WONR4713_22
Your Ref. : 4250/2022

FILE NO. PTN 104 of Farm
587 H+A Valley
SCAN NO.
PTN 104
COLLABORATOR NO.
1779755

24 November 2022

Attention : S Muller
Overstrand Municipality
Hermanus

Wayleave application : Application for consent use, Portion 104 of Farm 587 Hemel & Aarde Valley, Hespelagh Vineyards (PTY) LTD

PLANT AFFECTED : COPPER AND OPTIC FIBRE

With reference to your letter received 07 November 2022

Important cables and other infrastructure are affected, please contact our representative
Melt Van As / 021 852 1717 / 081 363 7873 / Meltva@openserve.co.za
48 hours prior to commencement of construction work.

I hereby inform you that OpenServe approves the proposed work indicated on your drawing in principle. This approval is valid for 06 MONTHS ONLY, after which reapplication must be made if the work has not been completed

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

Approval is granted, subject to the following conditions.

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

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

TP 24 NOV 2022

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 OpenServe infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All OpenServe rights remain reserved.

Yours faithfully



For Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

PLANT AFFECTED : COPPER AND OPTIC FIBRE

This wayleave, Reference Number WWIP_WONR4713_22 valid for 06 months from date here of and is subject to the following conditions:

1. **No mechanical plant or vibrator type compactors may be used within three metres of any Open Serve 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 Melt Van As / 021 852 1717 / 081 363 7873 / Meltva@openserve.co.za must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Open Serve Plant will be indicated on site.**
3. **A written request must be submitted to Open Serve for consideration should the applicant require our plant to be relocated. The cost of such relocation will be recoverable from the applicant.**
4. **It is the responsibility of the applicant to verify the existence of the indicated plant and to notify Open Serve immediately should the applicant locate any Open Serve 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 the damage or loss as a result thereof.**

Date: 24 November 2022

By: S Geldenhuys
For Regional General Manager

Legend	
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)	
Optic Fibre indicated in PINK on the plan	

The pipeline indicated (in Pink) contains OPTIC FIBRE cables.





Optic fibre route

Title Block	
Project No.	4252202
Client	TELKOM REGIONAL
Contract No.	PK/CLTIVE
Contractor	PT. TELKOM INFRASTRUKTUR
Scale	1:100
Sheet No.	139
Total Sheets	139

1	Existing Property Boundary	Thin solid line
2	Proposed Property Boundary	Thick solid line
3	Proposed Optic Fibre Route	Thick black line with arrows
4	Proposed Cable Channel	Thin dashed line
5	Proposed Cable Manhole	Circle with cross
6	Proposed Cable Junction	Circle with dot
7	Proposed Cable Loop	Circle with cross
8	Proposed Cable Termination	Circle with dot
9	Proposed Cable Splice	Circle with cross
10	Proposed Cable Repair	Circle with cross
11	Proposed Cable Replacement	Circle with cross
12	Proposed Cable Removal	Circle with cross
13	Proposed Cable Installation	Circle with cross
14	Proposed Cable Maintenance	Circle with cross
15	Proposed Cable Inspection	Circle with cross
16	Proposed Cable Testing	Circle with cross
17	Proposed Cable Cleaning	Circle with cross
18	Proposed Cable Repair	Circle with cross
19	Proposed Cable Replacement	Circle with cross
20	Proposed Cable Removal	Circle with cross

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15	Proposed Cable Inspection	Circle with cross
16	Proposed Cable Testing	Circle with cross
17	Proposed Cable Cleaning	Circle with cross
18	Proposed Cable Repair	Circle with cross
19	Proposed Cable Replacement	Circle with cross
20	Proposed Cable Removal	Circle with cross



Western Cape
Government



TP. n. Shead
(i.d. Olivier)

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

OUR REFERENCE : 20/9/2/4/2/918
YOUR REFERENCE : Ptn 104 of 587, RCAL
ENQUIRIES : Cor van der Walt

Overstrand Municipality
PO Box 20
HERMANUS
7200

FILE NO. Ptn 104 / 587 ✓
Hemel & Aarde
SCAN NO.
PTN 104
COLLABORATOR NO.
1803454

Att: Mr. H Olivier

**PROPOSED CONSENT USE: DIVISION CALEDON
PORTION 104 OF THE FARM HEMEL & AARDE NO 587**

Your application of 07 November 2022 has reference.

The Western Cape Department of Agriculture: Land Use Management has no objection to the proposed development.

The Western Cape Land Use Planning Guidelines for Rural Areas (2019) encourages the establishment of ancillary on-farm activities such as tourist and recreational facilities, which are of appropriate form and scale and facilitate diversification and 'value-adding'.

It should be noted that although a manager's house is permitted as a primary right on agricultural land, the manager's house should be reasonably connected to the main farming activities on the subject property and should not be allowed for the exclusive management of the tourist accommodation.

Please note:

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

- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely

Cor van der Walt

Digitally signed by Cor van der
Walt
Date: 2023.01.26 09:04:53 +02'00'

Mr. CJ van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2023-01-24

Copy:

Plan Active Town & Regional Planners

PO Box 296

HERMANUS

7200



BREED-GOURITZ
CATCHMENT MANAGEMENT AGENCY

TP - A Theart
(H Olivier)

Corner Mountain Mill & East Lake Roads, Worcester, 6850 | Private Bag X3055 Worcester 6850

Enquiries: F Smith Tel: 023 346 8000 Fax: 023 347 2012 E-mail: fsmith@bgcma.co.za

Our Reference no: 4/10/1/G40H/Hemel & Aarde 587/104, Caledon RD

Date: 31 January 2023

Overstrand Municipality
P. O. BOX 20
HERMANUS
7200

For Attention: L. Isaacs

Madam,

APPLICATION FOR CONSENT USE: PORTION 104 (A PORTION OF PORTION 102) OF THE FARM HEHEL AND AARDE NO. 587, DIVISION CALEDON: PLAN ACTIVE OBO HASPESLAGH VINEYARDS (PTY) LTD

With reference to your email dated 07/11/2022 with letter requesting input by BGCMA dated 07/11/2022, with Reference Number: Prtn 104 of 587, RCAL and, with information including a Motivational report herewith the following:

The BGCMA in principle, has no objection against the proposed consent use, however the following are important:

1. P.13 of the report explains that water for domestic use would be obtained from an existing borehole. It also mentions the confirmation by Overstrand LM that capacity exists to accommodate the sewage volume from the facility. It is assumed that a Service Level Agreement is also in place.
2. It however should be ensured that development should take place either above the 100m floodline, or at least, 100m from the edge of the water resource. In this case it seems like the proposed dwellings might only be located behind the 32m setback line. Kindly confirm if the dwellings would be located above the 1:100m floodline.

Then, in addition:

3. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use should be adhered to.
4. Raw sewage should be contained and disposed off appropriately so that it does not pose a threat to the environment.
5. Polluted storm water should be contained and managed in such a way that it does not pose an additional threat to surface- and groundwater resources.

TP 01 FEB 2023

www.bgcma.co.za

FILE NO. Ptn 104/587
Hemel en Aarde
SCAN NO.
COLLABORATOR NO.
1808411

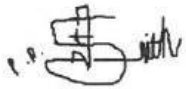
6. Any future development should not have a detrimental impact on water resources, both surface- and groundwater resources.

Please be advised that the comment provided is in the interest of responsible water resource management. The BGCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.

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,



JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)



Overstrand Municipality

Loretta@overstrand.gov.za

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FILE NO. Ptn 104/587 Hemel & Aarde
SCAN NO. 21
COLLABORATOR NO. 1791559

TP-N./Heart
(H. Olivier)



Date: 2022/12/21

Enquiries:

WayleavesWesternOU@eskom.co.za

WAYLEAVE APPLICATION: Application for consent : PORTION 104 (A PORTION OF PORTION 102) OF THE FARM HEMEL EN AARDE NO 587, DIVISION CAI EDON - Hermanus

YOUR REF: Ptn 104 of 587, RCAL

ESKOM REF: 07987-22

THIS IS NOT AN APPROVAL TO START CONSTRUCTION

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

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

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

Application for Working Permit must be made to:

Customer Network Centre: Caledon

Dirk Swart / Francois Swart

028 214 5710 / 028 214 5713 / 083 502 2590

SwartDi@eskom.co.za

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

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

Distribution Division - Western Region [Land Development]
Western Region
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA
Tel +27 86 003 7566 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/30

23 DEC 2022

2. Underground Services

The following conditions to be adhered to at all times:

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

3. O.H. Line Services:

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

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

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

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

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

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

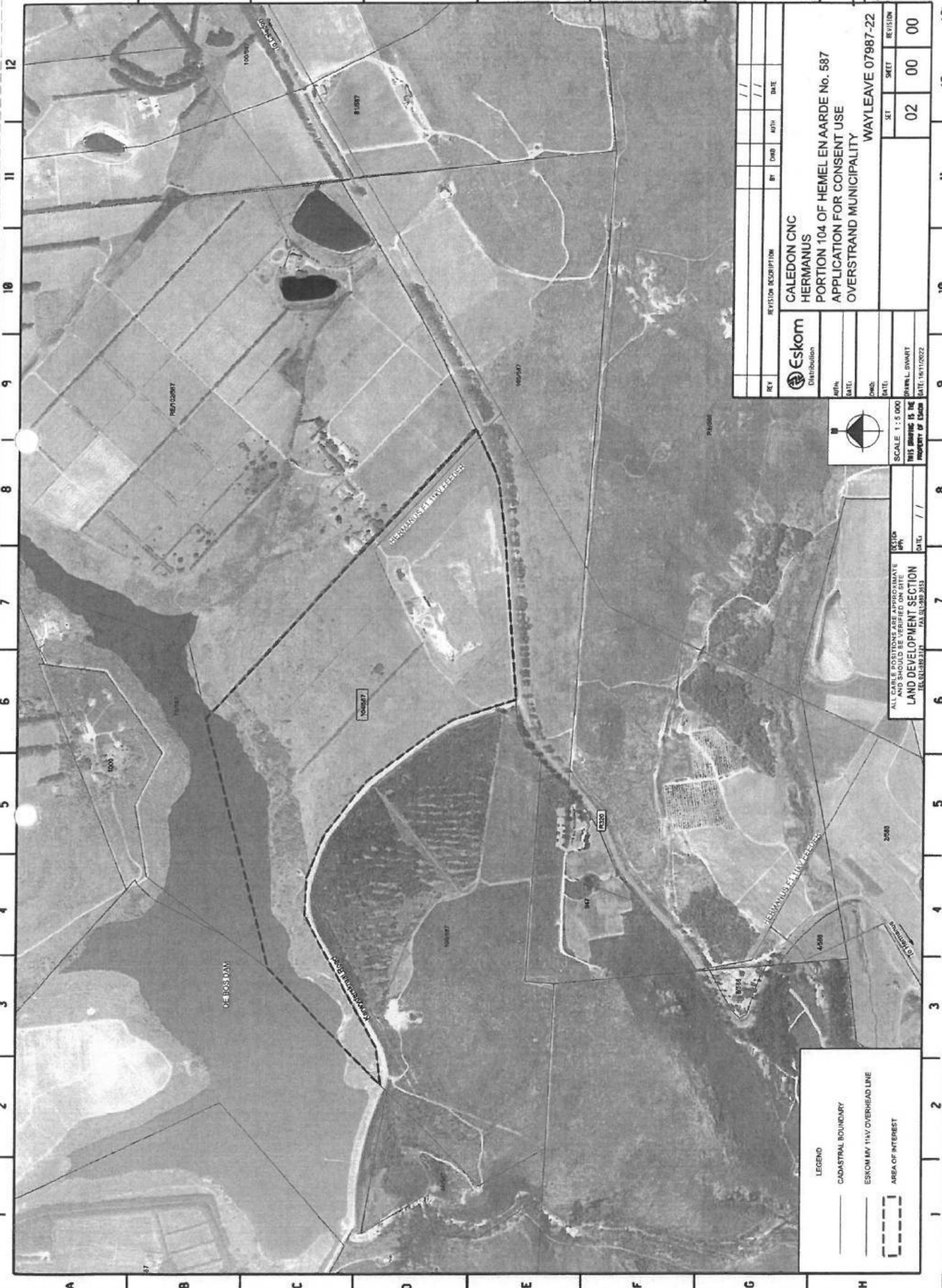
- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for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

4. **NOTE**

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

Yours faithfully

LAND DEVELOPMENT (BRACKENFELL)



LEGEND

- CADASTRAL BOUNDARY
- ESKOM MV HVV OVERHEAD LINE
- AREA OF INTEREST



SCALE 1:5 000
 THIS DRAWING IS THE PROPERTY OF Eskom
 DATE: 18/11/2022

ALL CABLE POSITIONS ARE APPROXIMATE AND SHOULD BE VERIFIED ON SITE
 LAND DEVELOPMENT SECTION
 TEL: 011 230 3110 FAX: 011 230 3133

REV	REVISION DESCRIPTION	BY	DATE

Eskom
 Distribution
 AP/IN: _____
 DATE: _____
 CHKD: _____
 DATE: _____
 GENERAL DRAWING
 DATE: 18/11/2022

CALEDON CNC
HERMANUS
 PORTION 104 OF HEMEL EN AARDE No. 587
 APPLICATION FOR CONSENT USE
 OVERSTRAND MUNICIPALITY
 WAYLEAVE 07987-22

SET	SHEET	REVISION
02	00	00

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AZL
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A B C D E F G H



CONSERVATION INTELLIGENCE

postal 16 17th Avenue, Voëlklip, Hermanus, 7200
 physical 16 17th Avenue, Voëlklip, Hermanus, 7200
 website www.capenature.co.za
 enquiries Rhett Smart
 telephone 087 087 866 8017
 email rsmart@capenature.co.za
 reference LS14/2/6/1/7/2/587-104_consent_Hemel-en-Aarde
 date 21 December 2022

Overstrand Municipality
 P.O. Box 20
 Hermanus
 7200

TP. n. Theait
 (M. Olivier)

FILE NO. P1N 104/587
Hemel en Aarde
SCAN NO.
24
COLLABORATOR NO.
1791569

Attention: Henk Olivier
 By email: loretta@overstrand.gov.za

Dear Henk

Application for Consent Use for Tourism Accommodation on Portion 104 of Farm 587, Hasher Family Wine Estate, Hemel-en-Aarde Valley (Overstrand Municipality ref: Ptn 104 of Farm 587, RCAL; 4250/2022)

CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.

An environmental authorisation was issued for additional vineyards and four tourism units on the property. The application is for consent use for the tourism units. The impacts on biodiversity were thoroughly assessed in the Basic Assessment Report and specialist studies, and concerns raised by CapeNature were addressed. This included an amendment to the original proposal which included tourism units located within fynbos/critical biodiversity area (CBA) which were removed.

The approved layout for the environmental authorisation is as for this consent use application. CapeNature therefore does not object to the application.

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

Yours sincerely

Rhett Smart
For: Manager (Landscape Conservation Intelligence)

The Western Cape Nature Conservation Board trading as **CapeNature**

Board Members: Associate Prof Denver Hendricks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Loubser, Mr Mervyn Burton, Dr Colin Johnson, Prof Aubrey Redlinghuis, Mr Paul Slack

22 DEC 2022

File reference:	Ptn 104 of Farm 587, RCAL (4250/2022)
Date:	7 November 2022
	LI



INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: Henk Olivier

TO:


<u>Area Manager</u>	<u>Building Control Department</u>	<u>District Health</u>	<u>Electrical Department</u>	<u>Environmental Officer</u>
<u>Fire Department</u>	<u>Infrastructure and Planning</u>	<u>Local Heritage Committee</u>	<u>Operational Services</u>	Property Administration
<u>Tourism</u>	Traffic Department	<u>Ward Councillor</u>	<u>Waste Management</u>	

Applicant	PLAN ACTIVE ON BEHALF OF HASPELAGH VINEYARDS (PTY) LTD
Property Details	PORTION 104 (A PORTION OF PORTION 102) OF THE FARM HEMEL EN AARDE NO 587, DIVISION CALEDON
Application Description	APPLICATION FOR CONSENT USE

ATTACHMENTS :

1. Notice	<i>Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.</i>
2. Locality Plan	
3. Motivation	
4. Site Development Plan	

YOUR DEPARTMENT'S COMMENTS:

No objection to the consent use application. The proposed recycling and solid waste management as proposed on page 14 of the application is supported by Solid Waste Planning. (Note that recycling materials separated from the waste stream needs to be delivered to a recycling operator and not the dump site in order for the materials to be recycled)			
Signature:		Date:	15 November 2022

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo **by not later than the date stipulated below**. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

COMMENTS REQUIRED BY:	15 December 2022
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Department of Environmental Affairs and Development Planning
 Ayesha Hamdulay
 Development Management
Ayesha.Hamdulay@westerncape.gov.za | Tel.: 021 483 0756

EIA REFERENCE: 16/3/3/1/E2/15/1001/22
NEAS REFERENCE: WCP/EIA/0001023/2022
DATE: 24 JUNE 2022

The Director
 Hasher Family Wines (Pty) Ltd.
 P O Box 224
HERMANUS
 7200

For Attention: Mr. Frederik Herten

Tel.: (028) 312 1097
 E-mail: frederik@hasherfamilyestate.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): THE PROPOSED CLEARANCE OF INDIGENOUS VEGETATION FOR CULTIVATION PURPOSES AND THE DEVELOPMENT OF TOURIST ACCOMMODATION UNITS ON PORTION 104 OF THE FARM NO. 587, HEMEL AND AARDE VALLEY, HERMANUS

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

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

Yours faithfully

Mare-Liez Oosthuizen
Digitally signed by
 Mare-Liez Oosthuizen
 Date: 2022.06.24
 11:23:48 +02'00'

MS. MARE-LIEZ OOSTHUIZEN
ACTING DIRECTOR: DEVELOPMENT MANAGEMENT – REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: Ms. Liezi De Villiers (Overstrand Municipality)
 Ms. Michelle Naylor (Lornay Environmental Consulting (Pty) Ltd)

E-mail: idevilliers@overstrand.gov.za
 E-mail: michelle@lornay.co.za



Department of Environmental Affairs and Development Planning
 Ayesha Hamdulay
 Development Management
Ayesha.Hamdulay@westerncape.gov.za | Tel.: 021 483 0756

EIA REFERENCE: 16/3/3/1/E2/15/1001/22
NEAS REFERENCE: WCP/EIA/0001023/2022
DATE: 24 JUNE 2022

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): THE PROPOSED CLEARANCE OF INDIGENOUS VEGETATION FOR CULTIVATION PURPOSES AND THE DEVELOPMENT OF TOURIST ACCOMMODATION UNITS ON PORTION 104 OF THE FARM NO. 587, HEMEL AND AARDE VALLEY, HERMANUS

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the Listed Activities specified in section B below with respect to the Preferred Alternative that is described in the Basic Assessment Report ("BAR") received by the Department on 14 March 2022.

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Hasher Family Wines (Pty) Ltd
 C/O Mr. Frederik Herten
 P O Box 224
HERMANUS
 7200

Tel.: (028) 312 1097
 E-mail: frederik@hasherfamilyestate.co.za

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

B. LISTED ACTIVITIES AUTHORISED

Listed Activities	Project Description
<p>Listing Notice 1</p> <p>Activity Number: 27 Activity Description: <i>"The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i> <i>(i) the undertaking of a linear activity; or</i> <i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan."</i></p>	<p>The proposed development entails the clearance of approximately 16.4ha of indigenous vegetation.</p>
<p>Listing Notice 3</p> <p>Activity Number: 6 Activity Description: <i>"The development of resorts, lodges, hotels, tourism or hospitality facilities that sleeps 15 people or more.</i></p> <p>i. Western Cape</p> <p>i. Inside a protected area identified in terms of NEMPAA;</p> <p>ii. Outside urban areas;</p> <p>(aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</p> <p>(bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; -</p> <p><i>excluding the conversion of existing buildings where the development footprint will not be increased."</i></p>	<p>The development proposal includes the establishment of resorts/tourism accommodation that sleeps more than 15 people on a site located outside the urban edge and within 5km of the Fernkloof Nature Reserve.</p>
<p>Listing Notice 3</p> <p>Activity Number: 12 Activity Description: <i>"The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p>i. Western Cape</p> <p>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater,</p>	<p>The proposed development will result in the clearance more than 300m² of Critically Endangered vegetation.</p>

<p>excluding where such removal will occur behind the development setback line on erven in urban areas;</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</p> <p>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister."</p>	
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The abovementioned Listed Activities are hereinafter referred to as "**the Listed Activities**".

The holder is herein authorised to undertake the following alternative that includes the Listed Activities relating to the development:

The development proposal entails the clearance of indigenous vegetation for cultivation purposes, and the development of tourist accommodation units and a manager's dwelling unit on Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus. The development proposal comprises the following:

- The clearance of approximately 16.35ha of indigenous vegetation for the development of new vineyards;
- The development of four (4) overnight tourist accommodation units of approximately 120m² each (sleeping more than 16 people);
- The development of one (1) manager's dwelling unit of approximately 250m²; and
- An access road at 0.34km off Karwyderskraal Road (Minor Road 4010).

The tourist accommodation units will be solar powered (roof mounted solar panels). Water will be sourced from the onsite borehole, as per existing allocations. Sewage will be piped to on-site closed conservancy tanks (serviced by the municipality).

C. SITE DESCRIPTION AND LOCATION

The Listed Activities will be undertaken on the Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus.

The SG 21-digit code is given below:

Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus	C0130000000058700104
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The co-ordinates of the site is given below:

Site	Latitude (S)	Longitude (E)
Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus	34° 22' 6.9096" S	19° 14' 48.1776" E

Refer to Annexure 1: Locality Map. Refer to Annexure 2: Site Development Plans.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Lornay Environmental Consulting
 Michelle Naylor
 33 Shearwater Crescent
 Vermont
HERMANUS
 7201

Cell: 083 245 6556
 Email: michelle@lornay.co.za

E. CONDITIONS OF ENVIRONMENTAL AUTHORISATION**Scope of Authorisation**

1. The holder is authorised to undertake the Listed Activities specified in Section B above in accordance with and restricted to the Preferred Alternative described in Section B above.
2. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for –

- (a) A period of five (**5**) years, from the date of issue, during which period the holder must commence with the authorised Listed Activities.
- (b) A period of ten (**10**) years, from the date the holder commenced with the authorised Listed Activities, during which period the authorised Listed Activities must be concluded.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his behalf, including an implementing agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the alternative described in section B above must be approved in writing by the Competent Authority before such changes or deviations may be implemented. In assessing whether or not to grant such approval, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written Notice to the Competent Authority

5. A written notice of seven (7) calendar days must be given to the Competent Authority before construction work can be commenced with.
 - 5.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 5.2. The notice must include proof of compliance with the following conditions described herein:

Conditions: 6, 7, 11 and 20

Notification of Environmental Authorisation and Administration of Appeal

6. The holder must in writing, within fourteen (14) calendar days of the date of this decision–
 - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1. the decision reached on the application;
 - 6.1.2. the reasons for the decision as included in Annexure 3;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date when the decision was issued.
 - 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
 - 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 6.4. provide the registered I&APs with the:
 - 6.4.1. name of the holder (entity) of this Environmental Authorisation,
 - 6.4.2. name of the responsible person for this Environmental Authorisation,
 - 6.4.3. postal address of the holder,
 - 6.4.4. telephonic and fax details of the holder,
 - 6.4.5. e-mail address, if any, of the holder,
 - 6.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the National Appeals Regulations, 2014 (as amended).

Commencement

7. The Listed Activities, including site preparation, must not be commenced with within (20) twenty calendar days from the date the applicant notifies the registered I&APs of this decision.
8. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

Management of Activities

9. The draft Environmental Management Programme ("EMPr") (submitted as part of the final BAR on 14 March 2022), is hereby approved and must be implemented.
10. The Environmental Authorisation and EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before the Listed Activities can be commenced with, to ensure compliance with the EMPr and the conditions contained herein. The ECO must submit ECO reports on a quarterly basis for the duration of the construction phase.
12. A copy of the Environmental Authorisation, EMPr, ECO reports, audit reports and compliance monitoring reports must be kept at the contractor's site office and must be made available to any authorised official of the Competent Authority on request.
13. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see the reports for the purposes of assessing and/or auditing compliance with the conditions contained herein.

Auditing

14. In terms of Regulation 34 of the EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr. Environmental audit reports must be compiled and be submitted to the Competent Authority. Environmental audit reports must be prepared by an independent person and must contain all the information required in Appendix 7 of the EIA Regulations, 2014 (as amended).
15. The audit reports must be compiled and subsequently submitted to the Department in the following manner:
 - 15.1. An audit report must be submitted to the Competent Authority within **six (6) months** of the commencement of the construction phase; and
 - 15.2. A final audit report must be submitted within **three (3) months** of the development being completed.
16. The audit report must indicate compliance status with the conditions of this Environmental Authorisation, and the EMPr and make recommendations for improved environmental management.
17. The holder must, within **seven (7) calendar days** of the submission of the audit report to the Competent Authority, notify all registered I&APs of the submission and make the audit report available to any registered I&AP on request.

Specific Conditions

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

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

19. A qualified archaeologist and/or paleontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
20. The construction footprint must be demarcated prior to the commencement of construction activities. All areas outside the construction footprint must be demarcated as "no-go" areas.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the Listed Activities.
2. Non-compliance with any Condition of this Environmental Authorisation or EMPr may render the holder liable for criminal prosecution.
3. If the holder does not commence with the Listed Activities within the period referred to in Condition 3, this Environmental Authorisation shall lapse. If the holder wishes to extend the validity

period of the Environmental Authorisation, an application for amendment in this regard must be lodged with the Competent Authority.

4. An application for amendment of the Environmental Authorisation must be submitted to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.
5. Please note that an amendment of the Environmental Authorisation is not required for a change in the contact details of the holder. In such a case, the Competent Authority must only be notified of such changes.
6. The manner and frequency for updating the EMPr must be as follows:
 - 6.1. Amendments to the EMPr must be made in accordance with Regulations 35 to 37 of GN No. R.982 (as amended) or any relevant legislation that may be applicable at the time.

G. APPEALS

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

1. An appellant (if the holder of the decision) must, within twenty (20) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker, *i.e.*, the Competent Authority that issued the decision.
2. An appellant (if not the holder of the decision) must, within twenty (20) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker, *i.e.*, the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within twenty (20) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

By post:	Western Cape Ministry of Local Government, Environmental Affairs and Development Planning Private Bag X9186 CAPE TOWN 8000
By facsimile:	(021) 483 4174; or
By hand:	Attention: Mr Marius Venter (Tel.: 021 483 2659) Room 809 8 th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority at the address listed above and/or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Authority at: Tel.: (021) 483 3721, E-mail: DEADP.Appeals@westerncape.gov.za or URL: <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

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

Yours faithfully

Mare-Liez
Oosthuizen

Digitally signed by
Mare-Liez Oosthuizen
Date: 2022.06.24
11:24:22 +02'00'

MS: MARE-LIEZ OOSTHUIZEN
ACTING DIRECTOR: DEVELOPMENT MANAGEMENT – REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 24 JUNE 2022

CC: Ms. Liezl De Villiers (Overstrand Municipality)
Ms. Michelle Naylor (Lornay Environmental Consulting (Pty) Ltd)

E-mail: ldevilliers@overstrand.gov.za
E-mail: michelle@lornay.co.za

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/E2/15/1001/22
NEAS REFERENCE NUMBER: WCP/EIA/0001023/2022

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLANS



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form received by the Department on 14 January 2022, and the EMPr submitted together with the final BAR for decision-making on 14 March 2022;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Need and Desirability and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA;
- d) The comments received from I&APs and the responses thereto, included in the BAR; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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

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

1. Public Participation

- Identification of and engagement with I&APs;
- Fixing two site notices at conspicuous places along the fence of the site on 15 November 2021;
- Giving written notice to potential I&APs, owners, interest groups and occupiers of land adjacent to the site, the Ward councilor, ratepayers association, the Municipality, Organs of State and State Departments having jurisdiction in respect of any aspect of the activity;
- The placing of a newspaper advertisement in the '*Hermanus Times*' on 17 November 2021;
- Making the pre-application BAR available to I&APs for comment from 15 November 2021 to 15 December 2021; and
- Making the draft BAR available to I&APs for comment from 26 January 2022 to 25 February 2022.

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

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

2. Alternatives

The site alternative proposed on Portion 103 of the Farm No. 587, Hemel and Aarde Valley, Hermanus was scoped out from further assessment following comment from both the Overstrand Local Municipality and CapeNature during the pre-application process. Subsequently, two layout alternatives were proposed on Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus. Layout alternative 1 clustered the tourist accommodation units closer together, while the second alternative positioned the tourist accommodation units further apart. The number and the size of tourist accommodation units was the same in both alternatives, with the only difference being their position on the site and the associated difference in footprint related to the service infrastructure. In addition to this, the Western Cape Government: Transport and Public Works requested that an alternative access point be considered, as the proposed access does not conform to the applicable traffic legislation. The access road was consequently moved northwards (towards De Bos Dam).

Preferred Development Alternative (Herewith Authorised)

The preferred alternative will entail the clearance of indigenous vegetation for cultivation purposes and the development of tourist accommodation units and a manager's dwelling unit on Portion 104 of the Farm No. 587, Hemel and Aarde Valley, Hermanus. The development proposal comprises the following:

- The clearance of approximately 16.35ha of indigenous vegetation for the development of new vineyards;
- The development of four (4) overnight tourist accommodation units of approximately 120m² each (sleeping more than 16 persons);
- The development of one (1) manager's dwelling unit of approximately 250m²; and
- An access road at 0.34km off Karwyderskraal Road (Minor Road 4010).

The tourist accommodation units will be solar powered (roof mounted solar panels). Water will be sourced from the onsite borehole, as per existing allocations. Sewage will be piped to on-site closed conservancy tanks (serviced by the municipality).

This alternative was preferred, as the tourist accommodation units are clustered together, therefore making access and the extension of services easier, which reduces the risk of sprawl of activities to natural areas.

'No-Go' Alternative

The 'No-Go' option is not preferred. The property is already developed as a well-established wine estate in a popular wine and tourism area of the Hemel and Aarde Valley. The benefits associated with the proposed development will not be realised, if the 'No-Go' alternative is implemented.

3. Key Factors Affecting the Decision

3.1 Need and Desirability

The property is zoned Agricultural Zone 1 and the expansion of the cultivation area is therefore permitted in terms of the land use rights of the property. A consent use for the establishment of overnight tourist accommodation is required and underway. The Overstrand Municipality has indicated in comment dated 11 December 2021 that the proposed development is in line with the Overstrand Additional Dwellings Guidelines (2009). This guideline makes provision for rural owners in the agricultural environment to generate additional income from their land units other than standard farming practices. The Overstrand municipality has confirmed in correspondence (dated 14 January 2022) that sufficient capacity exists to provide the proposed development with sewage treatment and solid waste disposal services. Electricity to the buildings will be provided by solar panels. There are approved water rights for the subject property which is currently undergoing an amendment process with the water authority to accommodate the name change of the property.

3.2 Heritage Resources

The correspondence from Heritage Western Cape (dated 2 February 2022), confirmed that no further action under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) is required.

Additionally, the applicant will comply with Conditions 20 and 21 of this Environmental Authorisation. This will help to ensure the protection of any heritage resources that may be encountered on the site.

3.3 Terrestrial Biodiversity Impacts

According to the Terrestrial Biodiversity Impact Assessment Report (compiled by Jacques van Rensburg of Nature Works Environmental Consultancy, dated 15 January 2022), the development proposal will result in the permanent loss of degraded to highly degraded Elim Ferricrete Fynbos, which is classified as a Critically Endangered ecosystem in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEM:BA"), List of Threatened Ecosystems in Need of Protection, December 2011). According to the Western

Cape Bioregional Spatial Plan, the proposed tourist accommodation units will be located within an area that has been classified as a degraded Critically Biodiversity Area 2 ("CBA2"). Clustering the tourist accommodation units together will result in minimal disturbance to natural vegetation. The manager's dwelling unit and areas proposed for the vineyards will be located within a degraded area, since it has been previously ploughed. The Terrestrial Biodiversity specialist supports the proposed development from a terrestrial ecological perspective, with the implementation of the proposed mitigation measures. The impacts on indigenous vegetation as a result of the proposed development has been rated as being of low negative significance after mitigation.

The development proposal will result in both negative and positive impacts.

Negative impacts include:

- Construction related impacts, such as dust, noise and visual intrusion during the construction phase.

Positive impacts include:

- The creation of temporary employment opportunities during the construction phase;
- Removal of alien vegetation; and
- The proposed development will increase the financial viability of the farm.

4. **National Environmental Management Act, 1998 (Act No. 107 of 1998) Principles**

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

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

5. **Conclusion**

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the authorised listed activities will not conflict with the general objectives of Integrated Environmental Management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the undertaking of the listed activities can be mitigated to acceptable levels.

-----END-----



Western Cape
Government

Department of Environmental Affairs and Development Planning
Ayesha Hamdulay
Development Management
Ayesha.Hamdulay@westerncape.gov.za | Tel: 021 483 0756



REFERENCE: 16/3/3/6/6/E2/27/1479/22

DATE: 7 December 2022

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Attention: Ms L. Gillion

FILE NO. P/N 104/587
Hemel & Aarde ✓
SCAN NO.
PTN 104
COLLABORATOR NO.
1786633

TP. N. (Heart)
(L. Olivier)

Tel.: 028 313 8900
E-mail: loretta@overstrand.gov.za

Dear Madam

THE APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) WITH RESPECT TO THE APPLICATION FOR CONSENT USE TO ALLOW FOR A TOURISM FACILITY ON PORTION 104 OF THE FARM HEMEL EN AARDE NO. 587, HERMANUS.

1. The planning application document received by this Department via electronic mail correspondence on 7 November 2022, refers.
2. This letter serves to confirm the applicability of the EIA Regulations, 2014 (as amended) with respect to the proposed development.
3. Based on the information provided by you, this Directorate notes that the application is for a consent use to establish vineyards, 4 tourism accommodation units, a manager's house and associated access roads on Portion 104 of the Farm No. 587, Hermanus.
4. Please note that an Environmental Authorisation was issued by the Competent Authority (in this instance, this Directorate) on 24 June 2022 for the abovementioned development.
5. No further Authorisation is required from the Competent Authority with respect to the proposed development.
6. However, should the proposed development be amended in a manner that is not consistent with the authorisation granted, an amendment of the EA must be applied for if the proposed amendment does not constitute a listed activity.
7. Kindly quote the abovementioned reference number in any future correspondence concerning the proposed development.

- 8 DEC 2022

8. This Department reserves the right to revise or withdraw its comments and request further information from you based on any information received.

Your interest in the future of the environmental is greatly appreciated.

Yours faithfully

Melanese
Schippers

Digitally signed by
Melanese Schippers
Date: 2022.12.07 20:08:17
+02'00'

pp **HEAD OF COMPONENT**

DIRECTORATE: DEVELOPMENT MANAGEMENT - REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Annexure L



**Western Cape
Government**

Transport and Public Works

Vanessa Stoffels

Chief Directorate: Road Planning

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

Ref: TPW/CFS/RP/LUD/REZ/SUB-21/262 (Job 29893)

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

TP-A Theart
(H Olivier)



Attention: Ms H van der Stoep

Dear Madam

PORTION 104 OF FARM HEMEL & AARDE NO 587, CALEDON: PROPOSED CONSENT USE

1. Plan Active letter PA21050/ML to this Branch dated 21 September 2022.
2. The subject property is located 27km south-west of Caledon and takes access off Minor Road 4010 at ±km 0.05 RHS.
3. The proposal is for the following:
 - 3.1. Consent use for tourist accommodation four eco cabins.
 - 3.2. Removal of restrictive title deed conditions.
4. This Branch gives its consent for the removal of the restrictive title deed conditions 3.I.C and 3.II.C on the title deed T43250/2021 for the subject property.
5. This Branch offers no objection to the proposal in terms of the Land Use Planning Act 3 of 2014.

Yours Sincerely

SW CARSTENS

For DEPUTY DIRECTOR-GENERAL: ROADS

DATE: 24 OCTOBER 2022

FILE NO.	Ptn 104/587
	Hemel & Aarde
SCAN NO.	04
COLLABORATOR NO.	1767567

26 OCT 2022

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE: PORTION 104 (A PORTION OF
PORTION 102) OF THE FARM HEMEL & AARDE NO. 587, DIVISION
CALEDON (4250/2022)**

Water	:	No services available
Sewer	:	In order
Roads and traffic	:	In order
Stormwater (SW)	:	No services available
Electricity	:	Eskom area

Conditions:

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

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

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

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

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

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

Freehold erven:

Sewerage (SEW5A)	R 17 555.00 x 4	=R 70 220.00
TOTAL (inclusive of VAT)		<u>R 70 220.00</u>

Note:

1.3 The above figures are estimates

2. that the developer arrange with ESKOM for the provision of electricity and that he complies with all conditions as may be set by ESKOM;

3. that no water service from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (water affairs, health, etc.) for the use of any other water resources and the extraction thereof;
4. that the developer is responsible to provide potable water to the development that complies with SANS0241 standards and that relevant proof be submitted to the Senior Manager: Engineering Services, Overstrand Municipality;
5. that the developer complies to all the conditions set by Department Of Water Affairs;
6. that the development on Portion 104 (A Ptn of Ptn 102) of the proposed property be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operations;
7. that the sewer conservancy tanks must be accessible to the municipal sewer tankers from one of the adjacent public roads, with the parking areas for the sewer tankers, that is provided with a permanent surface according to the layout and specification of the Department: Operations;
8. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
9. that, as no municipal refuse removal services are rendered in the area, the developer is responsible for removal of all refuse generated on the property, and disposal thereof at a registered municipal waste transfer station or-waste disposal facility;
10. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operations.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE



**agriculture, land reform
& rural development**

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



Private Bag X 120, Pretoria, 0001; Delpen Building, Corner of Annie Botha & Union Street, Riviera, 0084
Tel: 012 - 3197651; E-mail: annettes@dalrrd.gov.za/francinamo@dalrrd.gov.za; Website:
www.dalrrd.gov.za
Ref: 2022_06_0137

Planactive Town and Regional Planners
P. O. Box 296
HERMANUS
7200

Email: planactive@hermanus.co.za

Attention: M. Lerm

FILE NO. Ptn 104 / 587 ✓
Hemel + Aarde
SCAN NO. Ptn 104
COLLABORATOR NO. 1772597

POPOSED CONSENT USE ON A PORTION OF PORTION 104 (A PORTION OF PORTION 102) OF THE FARM HEMEL-EN-AARDE NO. 587, DIVISION CALEDON, WESTERN CAPE PROVINCE

Your letter PA21050/ML dated 21 September 2022 refers.

With reference to the above-mentioned matter, the Department has no objection against the proposed Consent Use for Tourist accommodation (4 eco cabins) as well as a manager's dwelling, on a portion measuring approximately 0,5 hectares of the agricultural land from an agricultural point of view.

This comment does not exempt any person from any provisions of any other law and does not purport to interfere with the rights of any person who may have an interest in the agricultural land.

Yours faithfully

MR D GERAGE
ACTING DEPUTY DIRECTOR GENERAL:
AGRICULTURAL PRODUCTION,
BIOSECURITY AND NATURAL RESOURCES MANAGEMENT
DATE: 2022/10/2

CC: Mr Brandon Layman Land use Management Department of Agriculture: Western Cape Private Bag x 1 ELSENBURG 7607



TP 04 NOV 2022