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**L Gillion**

From: Anton Odendal <birding@overberg.co.za>
Sent: Friday, 04 June 2021 09:33
To: L Gillion
Cc: 'Elaine Odendal'; 'Carin Malan'; paula@combrink.com; 'Jenny Parsons'; 'Carl Swart'
Subject: OBJECTION TO APPLICATION: "OVERSTRAND MUNICIPAL PORTION 141 (A Portion of Portion 133) OF THE FARM HANGKLIP NO. 559, DIVISION CALEDON"
Attachments: ANNEXURE 1.docx; ANNEXURE 2.docx; ANNEXURE 3.xlsx



Attention:
Ms Loretta Gillion
 Administrator, Town & Spatial Planning
 Overstrand Municipality
 Via email: loretta@overstrand.gov.za

OBJECTION TO APPLICATION: "OVERSTRAND MUNICIPAL PORTION 141 (A Portion of Portion 133) OF THE FARM HANGKLIP NO. 559, DIVISION CALEDON: APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: PLANNING PARTNERS (obo FREE LIFE TRUST). (Municipal Notice No. 70/2021)

NAME: Dr. Anton Odendal

ADDRESS: 2 Wagenboom Street, Onrus 7201

MOBILE:

EMAIL: birding@overberg.co.za

4 June 2021.

KINDLY CONFIRM RECEIPT OF THIS OBJECTION

INTEREST IN APPLICATION

FILE NO:	Ptn 141/559 ✓
Hangklip	
SCAN NO:	
	Oda dal
COLLABORATOR NO:	
	1547355

As Conservation Coordinator of BirdLife Overberg, previous Chairman of the Western Cape Birding Forum (representing bird clubs in the province) and previous Council member of BirdLife South Africa I have a particular interest in the marketing of the Western Cape Province as a top bird-watching destination. The site described in this application is globally regarded as one of the prime bird-watching destinations and most probably the most popular and important bird-watching site in the province. This is particularly significant as

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this is the only easily accessible site where the Cape Rockjumper, the BirdLife South Africa Bird of the Year 2021, can be viewed safely at low altitudes. The site therefore has to be protected at all costs. The significance of the site is clearly illustrated in the link mentioned in the objection below.

Note that we have objected to the previous application (document dated 3 August 2018) and that many people have supported our objections in writing. The application was then withdrawn due to many other objections having been received. This latest application is in my humble opinion merely cosmetic in an attempt to address several of the objections received after the 2018 application. In essence the application remains the same in that it is an expanded embellishment of what was submitted previously. The majority of the environmental and conservation issues raised previously have not been addressed sufficiently and in particular the birding tourism issues and concerns raised remain in place.

REASONS FOR COMMENTS

We wish to register our objection to the above application. We object to all three components of the application, namely: (1) Removal and amendment of restrictive title deed conditions, (2) Consent use, and (3) Departure.

This objection will focus on the environmental and conservation concerns being expressed by many individuals, bird clubs and conservation agencies and then highlights various other issues that need to be taken into consideration. Our objections will largely focus on the protection of the integrity of the so-called "Rockjumper site" at Rooiels and particularly on the conservation of the site for the Cape Rockjumper, the BirdLife South Africa Bird of the Year 2021. In this regard the birding tourism implications of the site are of far greater significance than the development of a distillery in the buffer zone of the Kogelberg Biosphere Reserve. We will further briefly mention several conservation issues not directly related to birds and birding that will be expanded on by some of our partners and specialists in other fields that are qualified to do so. Refer specifically to objections raised Michael Harrison and Gerard and Anuta Scholtz.

OBJECTION:

The Rooiels bird-watching site is internationally renowned as one of South Africa's top bird-watching destinations. Birding tourism (tourism aimed at experiencing birds in their natural habitat) is internationally regarded as one of the fastest growing eco-tourism segments. The Western Cape Province of South Africa is internationally renowned as a tourist destination – think of the Cape Floral Kingdom and the Cape Whale Coast, spectacular land- and seascapes, acclaimed wines, whale watching, the list just goes on. One of the province's great assets is bird-watching: the Cape Whale Coast (Overstrand Municipal area) and the Rooiels site host a diverse range of sought-after and often endemic bird species, such as the Cape Rockjumper, Cape Sugarbird, Orange-breasted Sunbird, Victorin's Warbler and many more. All of these mentioned sought-after species are available for viewing and photography along the road giving access to the proposed development. Note that access from both the Rooiels and Pringle Bay entrances apply here in that many of these sought-after bird species are available all along Porter Drive.

For ease of reference Annexure 1 provides a list of the endemic, near-endemic and other sought-after bird species that are on record at the Rooiels site. The fact that so many of these species are available in such a

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small area clearly illustrates the vast birding tourism potential of the site. Most importantly this site is generally referred to as the "Rockjumper site". The Cape Rockjumper is the BirdLife South Africa Bird of the Year 2021 and the logo bird of BirdLife Overberg. The Rooiels site represents the most accessible site where this bird can be studied, observed and enjoyed and as such a major birding tourism asset for the Overstrand, the Western Cape Province and South Africa. More specifically Annexure 2 indicates that the habitats where Cape Rockjumpers occur are dwindling due to the effects of climate change. For these reasons the Rooiels site needs to be protected from industrial and agricultural developments that are simply not sustainable. This site needs to be protected at all costs. This is of far greater importance to tourism to our region than the development of a whiskey distillery in the buffer zone of the Kogelberg Biosphere Reserve.

An hour-long pre-recorded illustrated presentation on the Cape Rockjumper by the author of this objection focussing on both the birding tourism implications of the species and the conservation challenges facing the bird is available. It is recommended that this talk be viewed during the evaluation of the distillery application. Annexure 2 provides the most important bullet points of the talk. Note should specifically be taken of the 'Bird-friendly Habitat Management Guidelines for the Endemic Birds of the Fynbos Biome' published by BirdLife South Africa. It is our contention that if this application is approved it will not comply with the vast majority of guidelines described. This alone should be enough reason to reject the application.

Further to this the significance of the Rooiels site can be viewed at this link:

<http://www.westerncapebirding.co.za/overberg/routes.php?id=16&open=293#route293>

Also take note of the "dropdown" links at the bottom of this description that feature several trip reports on visits to the site.

Most importantly the application does not provide any indication that meaningful and scientific studies had been undertaken to investigate the possible negative environmental impacts of the proposed development on the Fynbos habitat of the area. Refer to the recommendations in this regard in our 2018 objections.

OTHER IMPORTANT ISSUES THAT NEED TO BE CONSIDERED WHEN THIS APPLICATION IS ASSESSED

The evaluation process of this application should seek to ensure that a variety of the following questions (and possibly others) being asked by members and colleagues need to be satisfactorily answered:

- Photographic evidence illustrates that the owner has already continued with additions to the existing building(s) and the development of a dam as if this application has already been approved. It should be insisted that any possible current non-compliance be redressed before any consideration of rezoning/development be given.
- The presence of many alien, invasive plant and tree species on the property in the buffer zone of a Critical Biodiversity Area is certainly problematic and need to be addressed before this application is considered. In principle this should even apply to the kikuyu on the site – refer to attempts to eradicate this invasive species from the Hermanus cliff path.
- The detrimental impact of increased traffic (particularly with heavy vehicles) on the natural Fynbos environment in general and birds in particular is of critical importance and needs to play a pivotal role

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in the evaluation of this application. The impact of the transportation of raw materials to the site, the removal of solid and liquid waste from the site and access for service vehicles, visitors, clients and staff on the poorly maintained single lane access road need to be considered with this application. Note should be taken that this applies to the access from both Rooiels and Pringle Bay as the same plant and bird species have been recorded from both sides. One further need to ask what the effect of potential increased dust pollution will be on the pristine Fynbos and bird species along this road.

- Reference is made to pumping out of the sewerage tank. If this is a septic tank system, why would pumping be required? Pumping would be required for a conservancy tank system or when a septic tank system becomes blocked or over-full. This point needs more clarification.
- The overall carbon footprint of the transportation of raw materials to be used as well as both solid and liquid waste from the site needs to be considered when this application is assessed.
- Many questions are being asked by collaborators about the waste water of the proposed distillery and how this will be dealt with. These include: What will happen to the solid waste produced by the distillery and what impact will the removal of such waste have on the access road? What volume of effluent will be produced? What will happen if the waste effluent (including spent wash) from the distillery is accidentally discharged into the environment? In the application it is stated that liquid waste is to be used for irrigation purposes, but elsewhere mention is made of the high concentration of minerals in waste water. What impact would this have on the soil in which the highly specialised fynbos grows? If the waste water is "rich in dissolved minerals", how would that impact on the natural processes in a septic tank system? Grey water (1000 litres per week) would also contain high levels of minerals and nutrients and this could probably not be used in a fynbos habitat.
- Many comments were also made about the desirability of locating a distillery in the buffer zone of a CBA and not in an already zoned light-industrial area elsewhere in the Overstrand. Surely the owner of the land could find a less sensitive area on which to put his proposed distillery.
- Where will the distillery get its water from and what volume will be used per year? Are the volumes sustainable for that particular area? The property's water supply is apparently from groundwater and a spring – the change in land use will necessitate a Water Usage License Application (WULA) to DWA, as the usage will change from domestic to agricultural industrial – refer to the detailed description of these problems raised by Michael Harrison. Also take note of the dam that was built recently – were all legal requirements for this followed?
- How many sustainable (post construction) employment opportunities are envisaged with this development?
- The statement is made that "short educational lesson(s) about the reserve" will be given to guests. Will consultants be used for this as the owner clearly does not understand the critical importance of this buffer zone of the Kogelberg Biosphere Reserve?

CONCLUDING COMMENTS

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The local, regional, national and international bird-watching and botanical tourism potential of this area could potentially be detrimentally compromised by increased traffic and unsustainable developments for the proposed distillery. The claim that the activities "will have no impact on the reserve" is far-fetched. The core of the KBR is one thing, but the site is situated in the buffer zone of the KBR and anything happening there, does impact on the reserve. The claim is made that the proposal is "desirable, appropriate and worthy of approval." This proposed development in such a critical birding tourism site in the buffer zone of the KBR is certainly not desirable and is inappropriate and not worthy of approval. This is clearly illustrated in several objections raised.

We attach herewith as Annexure 3 a list of individuals who had forwarded letters of support in principle for this objection. Kindly ensure that these individuals, agencies and clubs are registered as Interested and Affected Parties as this saga continues.

In the final analysis a comment made by BirdLife Overberg member Jenny Parsons in her objection to the previous application remains relevant: "The issues mentioned above, all point to reservations with respect to his application. Very little detail has been provided and at no point has the application indicated who has decided on the possible impacts on the environment or what qualifications or professional standing they have, to do so. On what basis and data did the "Overstrand Environmentalist" make an informed decision not to have any objections as quoted in the application?"

It will be appreciated if the issues raised in this objection be considered. Clearly the total potential impact of the proposed developed needs to be considered before any decision regarding this application can be taken. It is therefore insisted that this application not be approved.

Kindly note that we are prepared to engage in discussions and negotiations regarding this issue in view of safeguarding this crucial site against possible unsustainable developments.

Also, kindly acknowledge receipt of this objection.

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ANNEXURE 1

IMPORTANT BIRD SPECIES RECORDED AT THE ROOIELS SITE

This description is based on personal observations, trip reports and the pentad records for the Rooiels site according to the second South African Bird Atlas Project (SABAP2).

ENDEMIC AND NEAR-ENDEMIC BIRD SPECIES ON RECORD AT THE ROOIELS SITE

1. Bokmakierie,
2. Southern Boubou,
3. Cape Bulbul,
4. Cape Bunting,
5. Cape Canary,
6. Yellow Canary,
7. Grey-backed Cisticola,
8. Jackal Buzzard,
9. Fiscal Flycatcher,
10. Cape Grassbird,
11. Karoo Prinia,
12. Cape Rockjumper,
13. Cape Rock-Thrush,
14. Sentinel Rock-Thrush,
15. Cape Siskin,
16. Cape Sparrow,
17. Cape Spurfowl,
18. Cape Sugarbird,
19. Orange-breasted Sunbird,
20. Southern Double-collared Sunbird,
21. Victorin's Warbler,
22. Swee Waxbill,
23. Cape Weaver,
24. Cape White-eye,
25. Ground Woodpecker.

COASTAL ENDEMIC AND NEAR-ENDEMIC BIRD SPECIES OFTEN OBSERVED FROM THE ROOIELS SITE

26. Bank Cormorant
27. Cape Cormorant
28. Crowned Cormorant
29. Cape Gannet
30. Hartlaub's Gull

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31. African Black Oystercatcher

CONSERVATION STATUS

From a conservation status perspective the following species are regarded as threatened by the IUCN

Globally Threatened Species (This category refers to species classified as globally threatened with extinction according to the IUCN criteria for threatened status): Bank Cormorant, Cape Cormorant, Cape Gannet, Crowned Cormorant and African Black Oystercatcher.

Regionally Threatened Species (This category refers to species classified as nationally threatened with extinction according to the IUCN criteria for threatened status): Bank Cormorant, Cape Cormorant, Crowned Cormorant, Verreaux's Eagle, Cape Gannet and Cape Rockjumper.

Restricted-Range and Biome-Restricted Species: (This category takes into account the species that define Endemic Bird Areas – where two or more species with restricted distribution ranges, or biome restricted ranges occur together): Cape Bulbul, Cape Rockjumper, Cape Siskin, Cape Spurfowl, Cape Sugarbird, Orange-breasted Sunbird, Victorin's Warbler and Swee Waxbill.

OTHER SOUGHT-AFTER BIRD SPECIES REGULARLY OBSERVED AT THE ROOIELS SITE

1. Familiar Chat
2. Verreaux's Eagle
3. Peregrine Falcon
4. Rock Kestrel
5. Neddicky
6. Cape Robin-Chat

LAND-BASED PELAGIC BIRDING

Note should further be taken of the increased popularity of the Rooiels site for land-based pelagic birding particularly during periods of weather storms. Species positively identified out to sea by BirdLife Overberg members and others at the Rooiels site and adjacent Pringle Bay over the previous twelve months include Black-browed and Shy albatrosses, Northern and Southern giant petrels, Soft-plumaged and White-chinned petrels, Parasitic Jaeger, Antarctic Prion, Red-tailed Tropicbird, Cory's, Great and Sooty shearwaters and Brown Skua.

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ANNEXURE 2

BULLET POINTS OF PRE-RECORDED TALK ON THE SIGNIFICANCE OF CAPE ROCKJUMPERS

Birders place a high value on spotting Cape Rockjumpers, partly due to the challenge of finding them, but also because of their evident personality and entertaining social interactions. The attractiveness of the more brightly plumaged male adds to their flair. These birds are hugely sought-after by local, domestic and international bird-watchers.

THE TALK REVIEWS THE IMPACT OF CLIMATE CHANGE ON CAPE ROCKJUMPER AND THE FOLLOWING ISSUES ARE DISCUSSED:

- Population declines
- Dwindling habitat – mountain fynbos
- Less water and dehydration
- Weight loss during foraging in heat
- Predation
- The 'sky island' or 'climate envelope' theories
- Over-active fire suppression in the lowland vegetation types and increasing fire frequencies in the mountains
- While initial population estimates were around 90 000 individuals this has recently changed to between 30 000 and 60 000. It is listed as Near Threatened on the IUCN Red List of Threatened Species.
- The bird's preferred habitat, mountain fynbos, is dwindling as a result of a warming climate. Future climate scenarios predict that the Cape Rockjumper's habitat may decrease by 62% by 2085.
- Initial research showed that Rockjumpers need a fair bit of water to cool down during hot weather, more so than your typical songbird living in warm environments. Although they seem well equipped to handle the odd summer heat wave in their mountain habitats, they may run the risk of dehydrating if they cannot find enough water-rich food such as insects or drinking water during the dry summers that persist over the Cape mountains.

PREDATION: "It's known that ground-nesting birds such as the Rockjumper face high rates of attack from ground predators. For example, we were shocked to find only one survivor from 20 nests during the 2017 breeding season. Given that Cape Rockjumpers lay two eggs per nest, this was a dismal 5% success rate. Previous data found Cape Rockjumpers fledged between 19% and 67% over a three-year study." If temperatures are warmer than usual early in the Cape Rockjumpers' breeding season, snakes may become active earlier in the year and attacks may become more common.

SKY ISLANDS or CLIMATE ENVELOPES

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- Another relevant factor in population declines could be diminishing “sky islands” or “climate envelopes”. Individual mountain ranges with Cape Rockjumper populations are separated by inhospitable valleys of semi-desert Karoo of up to 30 km. These valleys are likely to get wider due to warming temperatures which is leading to cooler Fynbos habitat retreating up the slopes of mountains. As such secure high-altitudes habitats where Cape Rockjumpers occur are dwindling at an alarming rate and therefore the Rooiels site needs to be protected at all costs.
- Cape Rockjumpers are able to take short gliding flights, but seem reluctant to embark on sustained flight. This means they would have to “hop and skip” across these valleys. It's not yet known whether Rock-jumpers have the ability to trek across these valleys in search of higher mountains.
- Note should further be taken of research indicating the negative impact of noise pollution (such as vehicle noise) on the breeding success of Orange-breasted Sunbirds that are common at the Rooiels site.

BirdLife South Africa recently published “Bird-friendly habitat guidelines for the endemic birds of the Fynbos Biome”. This booklet is available from us and should be scrutinised during the evaluation of the development of the application for the development of the distillery. We provide herewith a summary of some of the guidelines described in the booklet:

1. Allow appropriate fire regimes in natural veld patches wherever possible and never burn Fynbos vegetation in winter or spring. The fire risk of the gum trees on the proposed distillery property alone should raise eyebrows in this regard.
2. As far as possible, all alien invasive species should be identified and eradicated, with the priority to clear the lightly infested areas first.
3. Avoid clearing of existing fynbos habitat patches wherever possible.
4. Agricultural activities: Minimise pesticide and other chemical use as far as possible, especially in areas adjacent to natural fynbos patches or water courses. Where the use of agrochemicals is inevitable consider using more environmentally friendly products.
5. Avoid over-abstraction of water and ensure the ecological water requirements are retained in the river courses and water systems.
6. Avoid over-grazing of natural areas, particularly Renosterveld habitats
7. Plant indigenous, locally occurring fynbos plant species around homesteads in order to provide additional habitat. (Refer to the kikuyu on the site)
8. At a local, action level, everyone should be attempting to reduce their carbon footprint wherever possible: transitioning to ‘green’ energy sources e.g. solar; reducing travel or associated vehicle fuel emissions; assisting carbon off-set schemes; and reducing one’s use of, or reliance on, the national electric grid. Refer to the comments on the proposed distillery’s carbon footprint in this regard.

It should be abundantly obvious that the application for the distillery is simply not compliant to the guidelines described in the booklet.

During 2021, BirdLife South Africa will create awareness about the Cape Rockjumper through the production of an informative poster, the development of learning resources for schools that are free

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to download from the BirdLife South Africa website (birdlife.org.za), articles in *African Birdlife* magazine, social media posts, presentations to interested groups, and the sale of merchandise. Several of these resources can be made available to the authorities during the evaluation process of this application.

ANNEXURE 3

LETTERS OF SUPPORT WERE RECEIVED FROM THE FOLLOWING INDIVIDUALS AND ORGANISATIONS AND CAN BE FORWARDED IF REQUIRED

NUMBER	NAME	EMAIL ADDRESS	AFFILIATION
1	Paula Combrink	paula@combrink.com	Member of BirdLife Overberg
2	Riaan Swart	atswart@outlook.com	Local resident
3	Diana Parker	dianaparker228@yahoo.com	Member of BirdLife Overberg
4	Thinus & Anne-Marie Jonker	tjonker07@gmail.com	Member of BirdLife Overberg
5	Maureen Mout	themouits@gmail.com	Member of BirdLife Overberg
6	Liz van Wyk	benlizvw@tiscali.co.za	Member of Tygerberg Bird Club
7	Johan van der Westhuizen	rwest04@yahoo.com	Member of BirdLife Overberg
8	Kadin Madgwick	kadinraime@gmail.com	Member of BirdLife Overberg
9	Prof Colin & Myrna Cook	myrna.colin@gmail.com	Residents of Betty's Bay
10	Bas Kothuis	baskothuis@gmail.com	Member of the Somerset West Bird Club
11	Carin & Dawid Malan	Carin.Malan@fruitways.co.za	Member of BirdLife Overberg
12	Lakes Bird Club	jgn@lantic.net	The Lakes Bird Club
13	Pat Nurse (Personal)	jgn@lantic.net	Member of the Lakes Bird Club
14	Brian Wridgway	wridgways@gmail.com	The Hermanus Rate Payers Association
15	Peter Lor	peterjlor@gmail.com	Local resident
16	Steve Peck	napierbirding@gmail.com	Member of BirdLife Overberg
17	Heather Hartwig	hartwig.heather@gmail.com	Local resident
18	Ian Lewis	ian.storm.lewis@gmail.com	Resident of Rooiels
19	Lester van Groeningen	lesterjvg@gmail.com	Member of BirdLife Overberg
20	Felis Ungerer	fells.ungerer@gmail.com	Member of Tygerberg Bird Club
21	Wendy Smith	wendysmith@mweb.co.za	Member of BirdLife Overberg
22	Bev Geach	bev.geach@gmail.com	Residents of Betty's Bay
23	Sue Stuckie	pelmer@hotmail.co.za	Residents of Betty's Bay
24	Ashley Smith	kwasmiths@iafrica.com	Member of BirdLife Overberg
25	Lindsey Linforth	remlep@sonicmail.co.za	Resident of Kleinmond
26	Kevin Shields	kevin.lorna@mweb.co.za	Resident of Kleinmond
27	Friends of Verlorenvlei	vleiratdesign@gmail.com	The Friends of Verlorenvlei
28	Bryan Butler	bryan.butler39@gmail.com	Member of the Somerset West Bird Club
29	Gretchen Baretta	baretta@telkomsa.net	Resident of Kleinmond
30	Rynhard van der Merwe	RynhardvdMerwe@mail.com	Member of BirdLife Overberg
31	David Mourant	dmourant@iafrica.com	Member of BirdLife Overberg

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32 Anthony & Carol van Hoogstraten	carolvh@hermanus.co.za	Member of BirdLife Overberg
33 Horton Griffiths	hcg@iafrica.com	Member of BirdLife Overberg
34 Rev Ward	197twk@gmail.com	Member of BirdLife Overberg
35 Dyer Island Conservation Trust	ceo@marinedynamicstravel.com	The Dyer Island Conservation Trust
36 Paul Bramhall	paulbramhall00@gmail.com	Member of the Kleinmond Bird Club
37 Inge Hugo	ingeborghugo@gmail.com	Member of BirdLife Overberg
38 Ilse Bigalke	ilseb@mweb.co.za	Member of BirdLife Overberg
39 Gerry Morrisby	crewdlite04@yahoo.com	Residents of Betty's Bay
40 Robert Morrisby	robertmorrisby@gmail.com	Residents of Betty's Bay
41 Viv & Harry von der Heyden	vivdh@gmail.com	Residents of Betty's Bay
42 Corrie du Toit	corriedutoit5@gmail.com	Member of Tygerberg Bird Club
43 Hestie Endrody	endrodyh@gmail.com	Resident of Kleinmond
44 Jack Louwsma	jack@ultraliqors.co.za	Resident of Robertson
45 Chris Neethling	chris.neethling@gmail.com	Member of BirdLife Overberg
46 Audrey Longley	audreylongley2@gmail.com	Member of the Somerset West Bird Club
47 Mariehette Louwsma	mariehettelouwsma@gabs.co.za	Resident of Cape Town
48 Justin van den Hoven	justintm@telkomsa.net	Residents of Betty's Bay
49 Keith Harrison	keithbharrison@lando.co.za	Member of the West Coast Bird Club
50 Willem Botes	wgpbotes@gmail.com	Member of the Somerset West Bird Club
51 Duncan & Ines Cooke	belmont@oakbridge.co.za	Member of the Somerset West Bird Club
52 Patricia Dunn	pdunn@mweb.co.za	Member of the Somerset West Bird Club
53 J.C. Kruger	j.c.kruger@vodamail.co.za	Member of the Somerset West Bird Club
54 West Coast Bird Club	glenangil@gmail.com	The West Coast Bird Club
55 Dr Barbara Hockett	hockett@vodamail.co.za	Member of BirdLife Overberg
56 Jessame Malan	jmalan2013@telkomsa.net	Member of the Somerset West Bird Club
57 Andries & Tersia Van Vuuren	info@mtadventures.co.za	Manyathela Adventures - Tour guides
58 Paul Russell	paul.russell.obe@gmail.com	Member of the Somerset West Bird Club
59 Martin Ellenberger	martin@imaginat.co.za	Member of the Somerset West Bird Club
60 Peter Daniel	normadaniel@mweb.co.za	Bird watcher and amateur ornithologist
61 Prof Kobus du Pisanie	Kobus.DuPisanie@nwu.ac.za	Member of BirdLife Overberg
62 Elizabeth Arnold	lramold@kingsleyemail.co.za	Member of Cape Bird Club
63 Rod Arnold	lramold@kingsleyemail.co.za	Member of Cape Bird Club
64 Johan Slabbert	johanslabbert@vodamail.co.za	Member of the Somerset West Bird Club
65 Carl Swart	ciswart2348@gmail.com	Member of BirdLife Overberg
66 Madeleine Swart	madeleinemswart@gmail.com	Member of BirdLife Overberg

67 Corlene Vorster	corlene@mweb.co.za	Pretoria birder that visited the Rooiels site
68 Rudolph Vorster	rudolph.vorster@ebi-electric.com	Pretoria birder that visited the Rooiels site
69 Louise de Ru	louise@derubotha.co.za	Pretoria birder that visited the Rooiels site
70 Willem de Ru	willem@stratimail.com	Member of the Somerset West Bird Club
71 Basil Boer	basilboer@gmail.com	Member of BirdLife Overberg
72 Jenny Parsons	jenny@pasgc.co.za	Member of the Somerset West Bird Club
73 Theuns Kruger	tckruger@iafrica.com	The Kleinmond Bird Club
74 The Kleinmond Bird Club	hwurr@netactive.co.za	Member of BirdLife Northern Gauteng
75 Pieter Verster	pieter.verster@medtronic.com	Member of Cape Bird Club
76 Michael Fleming	fleming@finhealth.co.za	Member of Cape Bird Club
77 Helen Fleming	helen@finhealth.co.za	Member of the Somerset West Bird Club
78 Berdine Esterhuyze	berds@iafrica.com	Member of BirdLife Overberg
79 Danny Sapsford	danny@foureleven.co.za	In capacity as Chairman of the Western Cape Birding Forum
80 Brian Vanderwalt	brian@brians-birding.co.za	Brian's Birding and Ecotours
81 Brian Vanderwalt	brian@brians-birding.co.za	Member of Cape Bird Club
82 John Fincham	fincham04@gmail.com	Netherlands
83 Jan Strobbe	janmarion@graansilo.com	In capacity as Hon President of the Tygerberg Bird Club
84 Brian Vanderwalt	brian@brians-birding.co.za	Chairperson: Witzenberg Bird Club
85 Maddy Ross	maddyross75@gmail.com	Western Cape Tour Guide
86 Rose Mills	rmbmills@gmail.com	Chairperson of Somerset West Bird Club
87 Willem van der Menwe	vdmwillene@gmail.com	Member of the Somerset West Bird Club
88 Riel Tredoux	rtredoux@telkomsa.net	Member of BirdLife Overberg
89 Prof Cheryl Kirsten	clk@sun.ac.za	BirdLife South Africa
90 Dr Giselle Murison	giselle.murison@birdlife.org.za	



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2 June 2021

The Municipal Manager Overstrand Municipality
PO Box 20
HERMANUS
7200

TP-A Theart
(Huid Stoop)

Email: loretta@overstrand.gov.za

MN 70/2021: PORTION 141 OF THE FARM HANGKLIP 559
OBJECTION TO REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE
AND CONSENT USE

- 1 My name is Lwando Hanise. I am a political and environmental activist. My address is [redacted] I am opposed to the proposed distillery and have also encouraged many of my brothers to sign a petition against this.
2. We all feel that it is not right to have a distillery business in the middle of a place that should be a nature area and is part of the Kogelberg international biosphere reserve.
3. How can you approve something where just one person benefits while everyone else and nature will suffer? That is not justice.
4. We do not want another elitist and exclusive "boutique" distillery making expensive gin for a few rich people. There are already too many of these type of distilleries. They will not last.
5. We all feel that it is wrong to have people coming to this nature area for the purpose of consuming strong liquor. That is not respectful.

Yours sincerely

Mr L Hanise

FILE NO: Ptn 141/559
Hangklip
SCAN NO: 22
COLLABORATOR NO: 1547332

TP - 4 JUN 2021

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Mr. Jacques du Preez

TP-A Theart
(Hvid Steep)

4 June 2021

Cell phone: (

Email:

The Director: Infrastructure and Planning
Overstrand Municipality
P O Box 20
HERMANUS 7200
PER EMAIL: loretta@overstrand.gov.za

Dear Sir / Madam

OBJECTION TO APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO. 559, DIVISION CALEDON: PLANNING PARTNERS (obo FREE LIFE TRUST)

The Municipal Notice No. 70/2021 in the above regard, refers.

My objection to the above application, as fully outlined hereunder is hereby submitted for your appropriate attention.

1. Interest in application

As background - I loved this little village since I went there the first time and became a regular visitor to Pringle bay since 1979. I sincerely believe that by approving this application will lead to a flood of similar and other type of developments that will detrimentally affect this village in the future.

As the owners of developed erven 429 and 421 Pringle Bay we spend most of our free time at our house on erf 421, No. 1 Park Road, Pringle Bay and are looking forward to residing there on a permanent basis following our much anticipated retirement in a few years time.

FILE NO: Ptn 141/559 ✓
Hangklip
SCAN NO:
Jacques
COLLABORATOR NO: 1547374

TP - 4 JUN 2021

201/630

The existing village character of Pringle Bay and its surrounding areas, all enveloped, and with good reason, within the boundaries of the Kogelberg Biosphere Reserve and immediately adjacent to the Kogelberg Nature Reserve, provides its community with an environment that is of such a wonderful nature that it must be protected. Any endeavour that may have a negative impact on the status quo requires serious investigation and consideration.

I believe I have a valid interest in the matter and have accordingly, in view of the above, considered the application as well as its potential impact on our much-treasured environment.

2. Reason for comments

My reason for commenting on and objecting to the application is fully outlined in the following paragraphs.

3. Objection to the application for removal and amendment of restrictive title deed conditions, consent use and departure as set out in the application submitted by Planning Partners on behalf of Free Life Trust

The application

The application as put forward by the applicant is for the removal of certain restrictive title deed conditions, the amendment of a restrictive title condition as well as consent use in terms of the By-Law, for an Agricultural Industry to accommodate a distillery, a tasting room and a farm shop/stall on the property. The application also includes an application in terms of the relevant By-Law for the relaxation of a street building line from 30m to approximately 23.2m to accommodate the proposed application. The proposal is presented as an establishment of a micro-distillery for the production of small batches of bespoke whiskey and gin in handcrafted copper stills with personalized tours and tastings being offered. The applicant also points out that the proposal will be beneficial from both a local and regional perspective and that it "*will contribute, albeit in a small way, to sustainable economic activity with minimal impacts on the surrounding area*"

The applicant further states that implementation of the proposal will not have any negative impact on bulk municipal services as electricity is solar generated, water is obtained from an open well and sewage is managed in terms of the existing septic tank. Solid waste is minimal and will be managed as part of the business process.

In the presentation as well as evaluation of any proposal, the importance of "perspective" cannot be understated, such as the following example with reference to a car salesperson will illustrate:

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The car salesperson, in dealing with a customer that wishes to trade in his vehicle, will evaluate the vehicle and will point out all issues which may have a negative impact on the trade in value of the vehicle. The same salesperson, in trying to sell that very same vehicle to a prospective buyer, will put forward all the positive aspects of the vehicle in order to obtain as high a purchase price as possible.

Comments on application and objection thereto

The proposal is, from the perspective of the applicant, an excellent proposal.

However, from the perspective of a person particularly concerned with protecting the status quo of the wonderful nature of our environment, Pringle Bay and its surrounding areas, attention is directed to the following:

• **Extent of distilling operation**

The applicant refers to the distillery as a "micro-distillery". This implies that the operation is not of an industrial nature and the staff is specified as a driver to collect the barley as well as other general tasks, an administrative assistant, a groundsman/caretaker and seasonally, part time tour guides and assistants to work in the tasting room when necessary.

Having regard to the above, it must be pointed out that the applicant, in **Table 2** outlines the production process and it is pertinent to note that:

- 300 Kg of Barley grain is required for each spirit run (Step 1)
- 1200 Kg of Barley will be purchased at a time (Step 1)
- 1500 litres of water heated to 98 degrees Celsius will be required for each spirit run(Step 2)
- The water is heated by a water heater powered by wood chips from alien vegetation. (Step 2)
- The process produces waste consisting of grain husks and fibre suitable for human and animal consumption as well as compost and will be disposed of by selling or donating to bakeries or farmers ((Step 2)
- The same spirit that is produced for whiskey is used to produce gin. This spirit is piped to the ginning still where is distilled for a third time and at which time the still will contain a ginning basket that will hold botanicals such as citrus, flora, spice, herbs etc. PRD will use some of the local fynbos that is cultivated on the property. Gin will be bottled immediately. (Par. 6.3)
- Each spirit run from 300 Kg of grain will produce 250 litres of spirit. (Par 6.4.1)
- 1200 Kg of grain is envisioned per week. At full production which will take about 8 years to reach, only 3 bakkie loads or 3600 Kg grain per week is envisioned. (Par, 6.4.1)
- Eventually, at full production, about 1000 bottles of whiskey and gin will be produced per month. (Par. 6.4.1)

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The above figures have been extracted from the application and is indicative of an operation or business process that cannot be accepted as being micro in nature, particularly in view of the following:

The statement by the applicant that **"Eventually, at full production, about 1000 bottles of whiskey and gin will be produced per month" (Par. 6.4.1)**

is refuted, in that, according to the figures presented in the application and extracted above, four spirit runs have initially been envisioned per week, each producing 250 litres of spirit. This amounts to 1000 litres of spirit per week or 4000 litres of spirit per month. This equates to 1250 bottles of whiskey or gin per week or 5000 bottles thereof per month.

The applicant has further indicated in Paragraph 6.4.1 of the application that **"Even at full production (which will take about 8 years to reach) only three bakkie loads are envisioned per week."**

Three bakkie loads equates to 3600 Kg of Barley grain per week, the requirement for 12 spirit runs which, according to the figures specified in the application and referred to above in **Table 2**, will produce 3000 litres of spirit (3750 bottles) per week or 12000 litres of spirit (15000 bottles) per month.

The initial actual production as calculated above (4000 litres or 5000 bottles of spirit per month) represents an approximate 500% increase in production over the 1000 bottles per month as indicated by the applicant. Should the actual estimated figure be compared to the statement that at full production about 1000 bottles of whiskey and gin will be produced per month, (albeit in 8 years) an approximate 1500% increase in production is indicated. This discrepancy is relevant and necessitates further analysis.

Wood for heating purposes

The applicant, in paragraph 6.4.1 points out as follows: *"The best and most eco-friendly system for the heating system for the stills is a hot water heater that runs off wood chips. This does not produce pressured steam that is dangerous, but hot water that flows through the heating coils. As discussed above, the wood chips will come from the aliens hacked in the local environment"*

Having regard to the actual amount of water that require heating to just under boiling point, (1500 litres per spirit run, with one spirit run per day initially and 3 spirit runs per day for 4 days per week at full production) consideration should be given to the practical implementation of the proposal to purchase alien vegetation

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from hackers and to generate wood chips by using a wood chipper to be purchased for that purpose.

Disposal of waste water in septic tank

It is not possible from the application to establish exactly how much of the approximately 3000 litres of water that are required per spirit run (Par. 6.4.3.2) will eventually be dumped in the septic tank. The total amount of water used per day for the distilling process could be 3000 litres initially and 9000 litres at full production.

Although the applicant made the point (Par. 6.4.3.3) that the septic tank could be emptied more frequently if needed, such increased frequency and use of heavy vehicles in the area will have a definite negative impact on the road infrastructure.

Projected Employment

The applicant has indicated the following employees:

A driver, an administrative assistant and a groundsman/caretaker, as well as the possible employment of seasonal part time tour guides and assistants to work in the tasting room when necessary. This is of course in addition to the two qualified master distillers, (The owners)

It is in the above regard pointed out that the manpower involved in the production and bottling of the anticipated 15000 bottles of whiskey and gin per month at full production, would in all probability require additional manpower.

4. Conclusion

Thank you for the opportunity to consider and comment on the application.

My reasons for objecting to the application are set out fully in the preceding paragraphs and it is trusted that it will be considered objectively.

Yours faithfully



J du Preez

L Gillion

TP-A Theart
(Huld Stoep)

From: Melinda Kitshoff SAOTA <
Sent: Friday, 04 June 2021 09:49
To: L Gillion
Subject: Objection Letter from PO Trust (Erf576, Anne Rd, Pringle Bay)

205/630

SAOTA

Attention: Municipal Manager
 Overstrand Municipality
 Email: loretta@overstrand.gov.za

FILE NO: Ptn 144/559
Hangklip
SCAN NO: 24
COLLABORATOR NO: 1547356

Objection letter in respect of the following application:

Portion 141 (a portion of portion 133) of the Farm Hangklip No. 559, Division Caledon: Application for removal and amendment of restrictive title deed conditions, consent use and departure: Planning Partners (obo Free Life Trust)

Objection made by: Members of the PO Trust

Address: Erf 576, Anne Road, Pringle Bay
 Email: / Tel:

Interest in the application and reason for commenting:

We, the members of PO Trust are the owners of Erf 576, Anne Road, Pringle Bay. Erf 576 faces the Buffels River and Porter Road which is central to this application.

We believe the following applications will have a negative effect on the surrounding area:

- 1) Relaxation of street building line from 30m to 23.3m towards Porter Road
- 2) Application in terms of Section 16(2)(c) of the By-Law for an Agricultural Industry to accommodate a distillery, tasting room and a farm shop/stall

Please take into consideration my concerns with regard to the specific aspects highlighted below:

Building line setback

- Setbacks are defined by the municipality for specific reasons and kept for specific benefit to the environment and the adjacent properties. Modifying the setbacks undermines the fragile ecosystems that exist against the perimeters of the property, specifically towards the water's edge, as is the case for this application.
- Although the application advises the setback is required to keep an existing building from being demolished, adjusting the building line will not prevent the owners from erecting any new structures within this new adjusted building line area.
- Seeing as construction is already envisioned the small part of the disused stable can easily demolished and set back to be within the current building line parameters.
- Allowing further buildings closer to the coastline increases general pollution, including noise and light pollution on the fragile ecosystem.

Environmental impact:

- Increased Traffic:
The entrance/exit points for transport and delivery to this distillery will be the quiet, rural, gravel track between the ocean, fynbos and mountains currently used by the few homeowners in this undeveloped zone (Porters Road).

TP

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- The fact that the area remains underdeveloped is the main reason for being so attractive for walkers, joggers, bird lovers and cyclists.
- Deliveries and access to the property for additional staff, visitors, etc. will take place via Porter Road. Porters Road not only has an impact on the environment but runs through the adjacent erven and along the Buffels River. The increase in traffic will affect all the individual property owners along this road.
- Increased traffic will have the effect of increased pollution with regard to gas emissions, general littering and light and noise pollution which all have an impacting on the pristine environment and adding a burden to the municipality with regard to assigning resources to keeping these areas litter free and protected.
- Seasonal impact:
A substantial influx of foreign and local tourists especially during summer season will double the traffic impact and the impact on sewage, refuse and pollution along this fragile eco system along Porters Road and the position of the planned distillery on the coast.
- Sewage distribution and services:
Requirement for increased utilities adds a burden to the infrastructure. It needs to be considered how they would deal with onsite sewage and if the additional waste and use of sewage tanks will create additional maintenance problems for the municipality. Access for pump sewage on a farm with such remote access will not be desirable.
- Setting a precedent:
The municipality should consider whether granting this application will set a precedent in having to grant similar applications to erven along the coastline adjacent to this applicant. Additional applications will have even more devastating consequences for a sustainable future, and which will be difficult if not impossible to try and prohibit or reverse.

General objections:

- The addition of a distillery will give rise to a change to general character of the coastline between Pringle Bay and Rooi Els.
- The changes brought about will impact along the full length of Porter Road and all the owners of the properties affected by Porter Road.
- The general character of Pringle Bay as a very sleepy coastal towns will be irreversibly changed where every effort has been made thus far as to not have commercial activities in this area.
- Although the owners undertake to protect the fynbos, etc they have not comprehensively explained what the benefit of their application will be to the area in general except for personal gain.
- The owners need to consider approaching their development intent with a way that could actually contribute to everybody's enjoyment, as opposed to simply upgrading this island in the middle of nowhere.
- The developer does have alternatives and it's not prudent to develop right on the coastal edge in the middle of the sensitive, fynbos environment.
- They have the option to build the distillery and develop in the new Gordon's Bay area, there's a bigger pool of population, it's less invasive, it's more of a commercial kind of area. They could also rather develop in the in the town of Betty's Bay, Pringle Bay or Rooi Els, which will at least has the effect of consolidating commercial activity, contributing to the town scape and contributing to the commercial activity of the town.

Impact on my personal property:

- As stated the development would result in increased traffic on Porter Road which runs along the Buffels River opposite Erf 577, Anne Rd, Pringle Bay.
- The character of the Buffels River and character of the slopes of the Buffels River where Porter Road is developed fynbos areas, increase traffic and resultant pollution and refuse from traffic coming and going to the property, of course, will compromise all of this protected fynbos area.
- Increased traffic leads to increased noise and disturbance, including light pollution with cars coming and going in the evenings.
- It would result in potential security problems with the properties along the Buffels River being more exposed to people coming and going.

Specific comment with regard to the Removal and Amendment of restrictive title deed conditions:

- C2: This clause does not need removal; half-built structures left unattended over a period and give cause to the possibility of unwanted squatter situations.
- C3: There is no need to remove the clause for building consent if it falls with in municipal laws. It provides and added deterrent for building without the necessary consent.
- C4: As above – enforcing the building line requirements is a must with regard to the upkeep of the sensitive eco system.
- C5: Specifically in a rural area and agricultural setting it is important that the clause remain for all buildings to be of and fences to be of good design and sound construction to enforce the standards and character the original

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owner envisioned for the small holding. There is no reason to remove it other than to think the new owner would want to build structures of inferior quality.

- C6: We do not see what the new owners' reason could be for wanting to remove the clause with regard to the prohibition of noxious activity. Specifically, with a planned whiskey distillery this clause should remain in place.
- C8: The owner should give a more comprehensive reason for wanting to remove the clause stating that no debris, scrap, or other unsightly material shall be deposited on the land. If already enforced as a municipal law, there should be no reason for the owner to need to remove this clause other than the fact that he is planning to act in a manner prohibited by it.
- C10: The approval needed for the creation of additional points of access we believe is in staying with the protection of the surrounding fynbos and ecosystem and should remain in force.
- C11: In a rural setting this clause prohibiting the use of pit of bucket latrines is very important and should not be removed for the protection of the workers on the farm and for hygienic purposes.

We hope that the municipality will give serious consideration to my concerns addressed above and be assured that my objection is intended for the good of Pringle Bay as a community and protection of the surrounding eco system.

Yours faithfully

Members of PO Trust:
Philip Olmesdahl
Maxine Olmesdahl
Anton Slabbert

Melinda Kitshoff
SAOTA

info@saota.com
www.saota.com



109 Hatfield Street Gardens Cape Town 8001 South Africa
Directors: Stefan Antoni Philip Olmesdahl Greg Truen Philippe Fouché Mark Bullivant Logen Gordon



TP-A Theart
(Huid Steep)

208/620

Mrs. Tessa (Fourie) du Preez

4 June 2021

Cellphone: (

Email:

The Director: Infrastructure and Planning

Overstrand Municipality

P O Box 20

HERMANUS 7200

PER EMAIL: loretta@overstrand.gov.za

Dear Sir / Madam

OBJECTION TO APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO. 559, DIVISION CALEDON: PLANNING PARTNERS (obo FREE LIFE TRUST)

The Municipal Notice No. 70/2021 in the above regard, refers.

My objection to the above application, as fully outlined hereunder is hereby submitted for your appropriate attention.

1. Interest in application

I am the owner of developed erven 429 and 421 Pringle Bay. My family and I spend most of our free time at our house on erf 421, No. 1 Park Road, Pringle Bay and are looking forward to residing there on a permanent basis following our much anticipated retirement in a few years time.

The existing village character of Pringle Bay and its surrounding areas, all enveloped, and with good reason, within the boundaries of the Kogelberg Biosphere Reserve and immediately adjacent to the Kogelberg Nature Reserve, provides its community with an environment that is of such a wonderful nature that it must be protected. Any

FILE NO: Ptn 141 559 ✓
Hangklip
SCAN NO:
Tessa
COLLABORATOR NO: 1547410

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endeavour that may have a negative impact on the status quo requires serious investigation and consideration.

I believe I have a valid interest in the matter and have accordingly, in view of the above, considered the application as well as its potential impact on our much treasured environment.

2. Reason for comments

My reason for commenting on and objecting to the application is fully outlined in the following paragraphs.

3. Objection to the application for removal and amendment of restrictive title deed conditions, consent use and departure as set out in the application submitted by Planning Partners on behalf of Free Life Trust

The application

The application as put forward by the applicant is for the removal of certain restrictive title deed conditions, the amendment of a restrictive title condition as well as consent use in terms of the By-Law, for an Agricultural Industry to accommodate a distillery, a tasting room and a farm shop/stall on the property. The application also includes an application in terms of the relevant By-Law for the relaxation of a street building line from 30m to approximately 23.2m to accommodate the proposed application. The proposal is presented as an establishment of a micro-distillery for the production of small batches of bespoke whiskey and gin in handcrafted copper stills with personalized tours and tastings being offered. The applicant also points out that the proposal will be beneficial from both a local and regional perspective and that it "*will contribute, albeit in a small way, to sustainable economic activity with minimal impacts on the surrounding area*"

The applicant further states that implementation of the proposal will not have any negative impact on bulk municipal services as electricity is solar generated, water is obtained from an open well and sewage is managed in terms of the existing septic tank. Solid waste is minimal and will be managed as part of the business process.

In the presentation as well as evaluation of any proposal, the importance of "perspective" cannot be understated, such as the following example with reference to a car salesperson will illustrate:

The car salesperson, in dealing with a customer that wishes to trade in his vehicle, will evaluate the vehicle and will point out all issues which may have a negative impact on the trade in value of the vehicle. The same salesperson, in trying to sell that very same vehicle to a prospective buyer, will put forward all the positive aspects of the vehicle in order to obtain as high a purchase price as possible.

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Comments on application and objection thereto

The proposal is, from the perspective of the applicant, an excellent proposal.

However, from the perspective of a person particularly concerned with protecting the status quo of the wonderful nature of our environment, Pringle Bay and its surrounding areas, attention is directed to the following:

- **Extent of distilling operation**

The applicant refers to the distillery as a "micro-distillery". This implies that the operation is not of an industrial nature and the staff is specified as a driver to collect the barley as well as other general tasks, an administrative assistant, a groundsman/caretaker and seasonally, part time tour guides and assistants to work in the tasting room when necessary.

Having regard to the above, it must be pointed out that the applicant, in **Table 2** outlines the production process and it is pertinent to note that:

- 300 Kg of Barley grain is required for each spirit run (Step 1)
- 1200 Kg of Barley will be purchased at a time (Step 1)
- 1500 litres of water heated to 98 degrees Celsius will be required for each spirit run(Step 2)
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- The same spirit that is produced for whiskey is used to produce gin. This spirit is piped to the ginning still where is distilled for a third time and at which time the still will contain a ginning basket that will hold botanicals such as citrus, flora, spice, herbs etc. PRD will use some of the local fynbos that is cultivated on the property. Gin will be bottled immediately. (Par. 6.3)
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- 1200 Kg of grain is envisioned per week. At full production which will take about 8 years to reach, only 3 bakkie loads or 3600 Kg grain per week is envisioned. (Par, 6.4.1)
- Eventually, at full production, about 1000 bottles of whiskey and gin will be produced per month. (Par. 6.4.1)

The above figures have been extracted from the application and is indicative of an operation or business process that cannot be accepted as being micro in nature, particularly in view of the following:

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The statement by the applicant that **"Eventually, at full production, about 1000 bottles of whiskey and gin will be produced per month"** (Par. 6.4.1) is refuted, in that, according to the figures presented in the application and extracted above, four spirit runs have initially been envisioned per week, each producing 250 litres of spirit. This amounts to 1000 litres of spirit per week or 4000 litres of spirit per month. This equates to 1250 bottles of whiskey or gin per week or 5000 bottles thereof per month.

The applicant has further indicated in Paragraph 6.4.1 of the application that **"Even at full production (which will take about 8 years to reach) only three bakkie loads are envisioned per week."**

Three bakkie loads equates to 3600 Kg of Barley grain per week, the requirement for 12 spirit runs which, according to the figures specified in the application and referred to above in **Table 2**, will produce 3000 litres of spirit (3750 bottles) per week or 12000 litres of spirit (15000 bottles) per month.

The initial actual production as calculated above (4000 litres or 5000 bottles of spirit per month) represents an approximate 500% increase in production over the 1000 bottles per month as indicated by the applicant. Should the actual estimated figure be compared to the statement that at full production about 1000 bottles of whiskey and gin will be produced per month, (albeit in 8 years) an approximate 1500% increase in production is indicated. This discrepancy is relevant and necessitates further analysis.

Wood for heating purposes

The applicant, in paragraph 6.4.1 points out as follows: *"The best and most eco-friendly system for the heating system for the stills is a hot water heater that runs off wood chips. This does not produce pressured steam that is dangerous, but hot water that flows through the heating coils. As discussed above, the wood chips will come from the aliens hacked in the local environment"*

Having regard to the actual amount of water that require heating to just under boiling point, (1500 litres per spirit run, with one spirit run per day initially and 3 spirit runs per day for 4 days per week at full production) consideration should be given to the practical implementation of the proposal to purchase alien vegetation from hackers and to generate wood chips by using a wood chipper to be purchased for that purpose.

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Disposal of waste water in septic tank

It is not possible from the application to establish exactly how much of the approximately 3000 litres of water that are required per spirit run (Par. 6.4.3.2) will eventually be dumped in the septic tank. The total amount of water used per day for the distilling process could be 3000 litres initially and 9000 litres at full production.

Although the applicant made the point (Par. 6.4.3.3) that the septic tank could be emptied more frequently if needed, such increased frequency and use of heavy vehicles in the area will have a definite negative impact on the road infrastructure.

Projected Employment

The applicant has indicated the following employees:

A driver, an administrative assistant and a groundsman/caretaker, as well as the possible employment of seasonal part time tour guides and assistants to work in the tasting room when necessary. This is of course in addition to the two qualified master distillers, (The owners)

It is in the above regard pointed out that the manpower involved in the production and bottling of the anticipated 15000 bottles of whiskey and gin per month at full production, would in all probability require additional manpower.

4. Conclusion

Thank you for the opportunity to consider and comment on the application.

My reasons for objecting to the application are set out fully in the preceding paragraphs and it is trusted that it will be considered objectively.

Yours faithfully



T du Preez



213/630

TP - A Theart
(H Vid. stoep)

Murray McGregor
Erf 508 and 509
Pringle Bay

5 June 2021

Miss Loretta Gillion
Administrator, Town & Spatial Planning
Overstrand Municipality
By Email: loretta@overstrand.gov.za

Application for the removal and amendment of restrictive title deed conditions, consent use for the establishment of an agricultural industry and departure on land use rights. Portion 141 (a portion of 155) of the farm Hangklip no 559, Division Caledon: Planning Partners (obo Free Life Trust).

I am a resident of Pringle Bay and title deed holder of erf 508 and erf 509. I confirm I have no financial or legal interest in the success or failure of the above referenced application.

Carefully managed eco-tourism is key to the long term security of residents and to the preservation of the Kogelberg biosphere. I support initiatives which enhance the value proposition of our coastline, foster employment and increase awareness of the urgent need to protect our environment.

It is my understanding that in the course of this application the Department of Environmental Affairs & Development Planning has determined no Environmental Authorisation is required to permit the establishment and operation of the proposed micro-distillery within the buffer zone adjoining the biosphere. I understand this to mean that all waste management, particulate pollution, water use and fire hazard concerns have been appropriately considered by the Department. On this basis I would like to convey my support for the application.

Yours sincerely,

Murray McGregor

FILE NO: Ptn 141/559
Hangklip
SCAN NO:
26
COLLABORATOR NO: 1547391

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(Porters Road). The fact that the area remains underdeveloped is the main reason for being so attractive for walkers, joggers, bird lovers and cyclists.

- Deliveries and access to the property for additional staff, visitors, etc. will take place via Porter Road, Porters Road not only has an impact on the environment but runs through the adjacent erven and along the Buffels River. The increase in traffic will affect all the individual property owners along this road.
- Increased traffic will have the effect of increased pollution with regard to gas emissions, general littering and light and noise pollution which all have an impacting on the pristine environment and adding a burden to the municipality with regard to assigning resources to keeping these areas litter free and protected.
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A substantial influx of foreign and local tourists especially during summer season will double the traffic impact and the impact on sewage, refuse and pollution along this fragile eco system along Porters Road and the position of the planned distillery on the coast.
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Requirement for increased utilities adds a burden to the infrastructure. It needs to be considered how they would deal with onsite sewage and if the additional waste and use of sewage tanks will create additional maintenance problems for the municipality. Access for pump sewage on a farm with such remote access will not be desirable.
- Setting a precedent: The municipality should consider whether granting this application will set a precedent in having to grant similar applications to erven along the coastline adjacent to this applicant. Additional applications will have even more devastating consequences for a sustainable future, and which will be difficult if not impossible to try and prohibit or reverse.

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- The general character of Pringle Bay as a very sleepy coastal town will be irreversibly changed where every effort has been made thus far as to not have commercial activities in this area.
- Although the owners undertake to protect the fynbos, etc they have not comprehensively explained what the benefit of their application will be to the area in general except for personal gain.
- The owners need to consider approaching their development intent with a way that could actually contribute to everybody's enjoyment, as opposed to simply upgrading this island in the middle of nowhere.
- The developer does have alternatives and it's not prudent to develop right on the coastal edge in the middle of the sensitive, fynbos environment.
- They have the option to build the distillery and develop in the new Gordon's Bay area, there's a bigger pool of population, it's less invasive, it's more of a commercial kind of area. They could also rather develop in the town of Betty's Bay, Pringle Bay or Rooi Els, which will at least have the effect of consolidating commercial activity, contributing to the town scape and contributing to the commercial activity of the town.

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- C3: There is no need to remove the clause for building consent if it falls within municipal laws. It provides an added deterrent for building without the necessary consent.
- C4: As above – enforcing the building line requirements is a must with regard to the upkeep of the sensitive eco system.
- C5: Specifically in a rural area and agricultural setting it is important that the clause remain for all buildings to be of good design and sound construction to enforce the standards and character the original owner envisioned for the small holding. There is no reason to remove it other than to think the new owner would want to build structures of inferior quality.

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- C6: I do not see what the new owners' reason could be for wanting to remove the clause with regard to the prohibition of noxious activity. Specifically, with a planned whiskey distillery this clause should remain in place.
- C8: The owner should give a more comprehensive reason for wanting to remove the clause stating that no debris, scrap, or other unsightly material shall be deposited on the land. If already enforced as a municipal law, there should be no reason for the owner to need to remove this clause other than the fact that he is planning to act in a manner prohibited by it.
- C10: The approval needed for the creation of additional points of access I believe is in staying with the protection of the surrounding fynbos and ecosystem and should remain in force.
- C11: In a rural setting this clause prohibiting the use of pit of bucket latrines is very important and should not be removed for the protection of the workers on the farm and for hygienic purposes.

I hope that the municipality will give serious consideration to my concerns addressed above and be assured that my objection is intended for the good of Pringle Bay as a community and protection of the surrounding eco system.

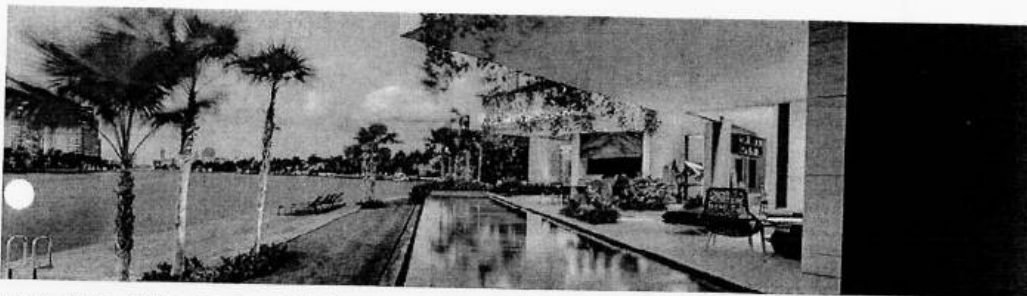
Yours faithfully
Philip Olmesdahl

Philip Olmesdahl
SAOTA

Director Pr.Arch.

info@saota.com

www.saota.com



109 Hatfield Street Gardens Cape Town 8001 South Africa
Directors: Stefan Antoni Phillip Olmesdahl Greg Truen Phillippe Fouché Mark Bullivant Logen Gordon

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PO Box 463
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7141

1 June 2021

Municipal Manager
Overstrand Municipality
PO BOX 20
HERMANUS
7200
Email: loretta@overstrand.gov.za



TP-A Theart
(H vld Staep)

**YOUR REF: MUNICIPAL NOTICE 70/2021 PORTION 141 OF THE FARM
HANGKLIP NO 559
OBJECTION TO THE APPLICATION FOR REMOVAL OF RESTRICTIVE
CONDITIONS, CONSENT USE AND DEPARTURE**

Dear Sir / Madam

Introduction

I hereby lodge my strong objection to the above development.

I am the owner of Erf 224, Rooiels and my family and I have been living in the area for the last 2 years.

I think that a micro distillery is entirely unsuitable for the proposed site. The proposed application, if accepted, would place the fragile ecosystem and the surrounding area at an unacceptably high risk of (1) fire damage and (2) significant environmental degradation due to heavy demands on water and the production of toxic waste products. This in turn will be detrimental to the birds, animals and people living in Rooiels and the surrounding areas.

More specifically, I object to the application on the following grounds:

- Fire hazard
- Dangers of establishing a noxious industry in an area of high conservation value and significance
- Impact of increased vehicle traffic via Porter Drive
- Agricultural zoning and use of Departure mechanism is incorrect
- High volumes of water usage from ground and surface water
- High volumes of contaminated waste water.
- It appears as if an independent environmental impact study by a professional service provider has NOT been conducted and NO such report has been presented by the applicant as part of the application.
- Lack of sufficient economic benefit for Rooiels and the wider community to justify the environmental risks.

TP - 4 JUN 2021

FILE NO: Ptn 141/559 ✓
Hangklip
SCAN NO:
Elsie
COLLABORATOR NO: 1547415

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Fire hazard: Product storage of highly flammable liquids in an area which has experienced regular fires.

Distilleries are at high fire risk. When fires in distilleries occur, they are often devastating. This is not surprising, as a barrel containing 250 litres of whisky can release the energy equivalent of 510 sticks of dynamite

This application should be rejected on the grounds that (1) a distillery (or similar agricultural industry) carries an unacceptably high risk of a fire arising from the distillery and associated operations, and (2) in the case of a fire from another source, the proposed distillery has the potential to intensify and exacerbate the destructive power and rapid spread of a fire.

Dangers of establishing a noxious industry in an area of high conservation value and significance

The area in which the proposed distillery is located is an ecological gem of international significance. It is a known fact that Nature Conservation authorities have always regarded this area as a key component of the declared Kogelberg Biosphere Reserve and it has Buffer status. Numerous threatened species and types of fynbos occur here and nowhere else in the world. Do we really want to take risks with handling noxious and hazardous materials in this area?

The nature of the distillery is such that it uses a lot of energy and water and produces a product (alcohol) which in its undiluted distilled form is extremely poisonous to all life. Waste products from the process are also poisonous and escape into the air, land and water. The cumulative effect of a distillery in the long term is that the surrounding ecosystem is systematically poisoned. This may happen very quickly in the case of negligence or accidents at the distillery or may occur slowly and cumulatively over many years. But the bottom line remains; the ecosystem will be much worse off.

It doesn't matter how well they are run, distilleries world-wide are classified as "noxious" due to their harmful waste products, including both emissions, "fermenter sludge" and "spent wash".

Except for scale, the distillery processes of a micro- manufacturer are not significantly different to that of a macro – manufacturer of exactly the same product.

The Applicant concedes the noxious nature of the proposed distillery by correctly applying for the removal of title deed restriction C6 prohibiting noxious trade or activity from being conducted on the property.

It should be noted that a distillery, however small and well-run it may be, is still a dangerous and noxious industry. A single accident or act of sabotage may impact and destroy much of what is precious about the area. This is not the right place for such an industry. It should ideally be situated in an area zoned for light industry where it can be properly monitored and regulated.

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Impact of increased vehicle traffic via Porter Drive

Porter Drive, which is to be the access road to the distillery, has the following limitations:

It is a simple narrow dirt track, which is very rocky and sandy in places and in other places requires a vehicle with fairly high clearance.

It can only accommodate a vehicle going in one direction at a time.

It is also used as a footpath by the many hikers, bird watchers, runners and tourists who love walking along this pristine stretch of coast.

It is a fact that the proposed distillery will substantially increase vehicular traffic on this section of Porter Drive. The Applicant will need to apply for a micro manufacturing license for the Distillery, which will entitle him to produce a substantial amount of liquor (2 million litres of spirits per annum). This would require many tons of barley to be transported in to the property per annum. There is also additional traffic necessitated by the visitors, packaging, waste products and sewerage – all which require trucks or big vehicles.

This Application is seriously damaging to the environment from a transportation point of view and the unnecessary use of fossil fuels. Everything is transported in and then everything is transported out.

The claim made by Applicant on how transportation will be limited are baseless and totally unenforceable. There is simply no legal mechanism in place to reduce such extensive use and the very undesirable environmental consequences thereof.

This road is simply not constructed to bear heavy commercial traffic on a daily basis.

Agricultural zoning and use of Departure mechanism is incorrect

Agricultural industry is defined as an enterprise for the processing of agricultural related products *"on or close to the land unit where these agricultural products are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products"*. These legal requirements, have clearly not been met as the barley for distilling will be transported from far away. There is also no necessity *"due to the nature, perishability and fragility"* as substantially all the ingredients used, are transported in.

High volumes of water usage from ground and surface water.

These large quantities of water would be used in the production process and also for bottling and to clean the floor and equipment

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Waste Water Disposal

Large quantities (estimated at 132 000 litres per month at full capacity, but significant even if only a fraction of this volume) of high-strength liquid effluents with high concentrations of organic matter and nitrogen compounds, will be produced.

Liquid waste with its high concentration of chemicals and minerals cannot be used for irrigation purposes and would contaminate the soil and have devastating effects on the nutrient poor soil which fynbos needs to survive. Greywater also contain high levels of chemicals, minerals and nutrients and cannot be used in a fynbos region.

An environmental impact assessment needs to be done by a specialist regarding the effect of irrigation and that of increased phosphates on the fragile natural fynbos ecosystem in which Portion 141 is situated. The effect thereof such a system on the seepage areas and run off into the sea should also be studied by a specialist.

Lack of sufficient economic benefit for Rooiels and the wider community to justify the environmental risks.

The applicant claims that the distillery will contribute to the local economy, but the benefits from the proposed Distillery to the wider community will be limited, while the income resulting from being the home to the Cape Rockjumper is far greater. The Municipality has expressed the wish to build tourism in our region and birding tourism makes a large contribution to tourism income. Furthermore, the fynbos and birdlife in that area has not only biodiversity and intrinsic value, but also is probably the most important specialised tourist destination along the Overstrand coastline. The proposed development and activities on the site would certainly impact negatively on the very small range of these iconic birds.

I hope that this application will be turned down in order to protect the pristine natural environment, not only for the current residents and tourists in the area, but also for future generations.

Yours sincerely

Elsie Johanna Louw
Owner: Erf 224, Rooiels
Email: :



221/630

Motsoo Investments2 Pty Ltd
 Rooiels stands 266 and 267
 3 June 2021

Municipal Manager
 Overstrand Municipality
 PO BOX 20
 HERMANUS
 7200

Email: loretta@overstrand.gov.za

FILE NO: PTN 141 FARM 559
Hangklip ✓
SCAN NO:
Piet
COLLABORATOR NO:
1547523

OBJECTION TO THE APPLICATION FOR REMOVAL OF TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: PORTION 141 OF THE FARM HANGKLIP NO 559

INTRODUCTION

1. Interest in this Matter

I am the legal representative of the company Motsoo Investments2 Pty Ltd, the owner of stands 266 and 267, Rooiels.

2. Objection to Removal of title deed restrictions:

The **total** removal of all the other restrictions, leaves us in doubt as to whether the Applicant had fully stated its intentions to Hangklip Beach Properties. In any event, it leaves us with the impression that the Applicant had taken advantage of the sole remaining member of Hangklip Beach Properties. It seems an anomaly that the Applicant, out of the large number of restrictions in condition C13, chose to retain a completely irrelevant one, namely the restriction against "public garages or filling stations". It appears to us that Applicant may well have been advised against the dangers of obtaining a "blanket approval" of restrictions, thus retaining one "as a token". The chances are, in our opinion, very remote of there ever being a demand or need for a garage or filling station on Portion 141 along this route, even in the unlikely event of it ever being upgraded to a usable road. The submission thus is an complete over-kill. This casts serious doubt on the truthfulness of the Applicant's disclosed intentions and motivations. It would therefore **not** be desirable to remove the present title deed conditions, which are similarly found in the other title deeds of the nearby smallholdings.

3. Non-compliance with formal consent use requirements for agricultural industry.

The application did not meet the legal requirements of the Overstrand Zoning Scheme Regulations for an Agricultural Industry.

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The formal requirements of source and proximity, which are retained in the Overstrand Zoning Scheme Regulations are not being met. The Applicant fails to make any claim of complying with the formal mandatory requirements for an Agricultural Industry consent use, namely that the products which are processed, need to be grown on or near the property. It is admitted in the application that that all agricultural produce will be supplied from Caledon, which is obviously not compliant with the mandatory requirements.

4. Removal of Restrictive Conditions: The Requirement that all Property Owners whose Properties came for the Subdivision of Portion 133 must receive Notice.

The legal position is that all property owners who acquired their property as a result of the relevant subdivision should receive notice. This should now be well known and should not be an issue any more. I have not seen any proof that all smallholding owners received notice of this application. This would not have been onerous to do at all. Failure to comply, would render any approval of an amendment or removal of title deed conditions irregular.

5. Zoning: The present Agricultural Zoning does not allow Industrial Use

The Overstrand Zoning Scheme does not support for split zonings, especially on farms. The latter has in the past led to that the agricultural industry becomes the dominant use and not the farming activity or residential use of the property. Thus, to establish a distillery in the area it is evident that the produce will have to come from the agricultural producing areas in the wider area of the Overberg. The fynbos, as part of the process and available on the farm and in the immediate surroundings is only a minute part of the product.

6. Porter Drive: Insufficient Safeguards and guarantees

I live close to the entrance of Porter drive and have seen numerous trucks and service vehicles enter the gates at the Rooiels side of going to the Property under discussion during the construction/ extension of the "stables". The undertaking of the Applicant to bring in guests via Pringle Bay, is just an undertaking and not a legal obligation. He will have not control to prevent guests from entering from Rooiels' side.

6. Waste Products of Distillery

The issue of the waste products produced by the proposed distillery is a major concern. Waste from distilleries and breweries are scientifically regarded as wasteful, toxic pollutants and difficult to treat without elaborate safeguards. The Applicant has not submitted a **proper waste management plan in specific terms** – only a generic internet copied one.

7. Environmental Impact Assessment may be required

The Applicant may well wish, and is not currently prevented to grow the barley produce on Portion 141, in an attempt to comply with the Agricultural Industry requirements of the

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source and proximity of the produce. In such a case, an EIA might be required by the National Environmental Management Act (NEMA).

The new extension is of the "stables"/ building as submitted to the Western Cape Liquor Authority) includes eight parking bays together with a large loading bay. The alterations should likely trigger the need for environmental authorisation as the total of the actual disturbance of indigenous vegetation thus might exceed 300 square meters, and would require authorisation in terms of NEMA. The cleared area can be confirmed by in situ inspection.

8. Piece meal development:

I am also concerned about the piecemeal and incremental manner in which the Applicant has gone about getting approvals and authorisations, without ever disclosing the full and total extent of the development.

- a. First an alteration of the building plans for the "stables" were applied for and granted by OM.
- b. The actual building dimensions cannot be described as "stables" as it was designed and built as a distillery.
- c. Then an illegal dam was built, which was regularized. During the subsequent authorisation for the illegal 600 square meter dam Applicant failed to disclose the highly relevant fact that the dam was actually a Fire Pool for a proposed distillery. Applicant also failed to disclose that such Fire Pool is situated in a wetland in a Critical Biodiversity Area.
- d. In the current application this is described as a "fire pool".
- e. Thereafter the current application was lodged.
- f. This represents a creep towards the final plan to have a distillery.
- g. One asks the question, what the next objective is, seeing that the current application applies for all of title deed restrictions to be lifted - bar one restriction.

9. Birdlife

The application will have a detrimental effect on the birdlife of the area. It is not a debate about whether the distillery on the one hand, or ecotourists / birders on the other, will have a bigger impact on the Cape Rockjumpers (although common sense tells us that it will be the distillery, not the people who have specially come to marvel at these birds in their natural habitat).

The real considerations which needs to be addressed by the Town Planning Department and the Applicant are:

- (a) The potential impact of the distillery on an existing ecotourism industry which has been operating successfully for years in this area without disturbing nature. This has been a source job creation and income for the guides and their families;

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(b) How can it be proven that the ecotourism industry will not be detrimentally affected? It is an accepted fact that the proposed distillery is, by its very nature and definition **not** environmentally friendly.

(c) How can it be proven that the cumulative effect of the distillery impacts over time will not lead to a degradation of this area of major conservation and birding significance?

10. Definition of "Industrial Activities"

We wish to point out that the definition of "industry" in the Scheme Regulations cannot and does not equate the distillery with a winery. The processes are completely different and cannot be equated. No stills and concentrated spirits are involved in wine-making. Distilleries and breweries are regarded as industrial uses, whereas wineries are not and the distilleris use will be **primarily** an industrial use. For such a use, **special care** should obviously be exercised before allowing it as a consent use in a Critical Biodiversity Area.

11. The scale of the distillery:

Applicant repeatedly tries to emphasise the "small scale" of the intended business. There are **no legally binding obligations** on the Applicant to produce less than the allowed **38 462 litres** per week. Also, when the Applicant sells the property there will be no obligation on the subsequent owner to produce less than 38 462 liters of alcohol per week. The whole dynamics and scale of such an operation will change the impact on each and every aspect in the objection – nature, roads, refuse, tourism, noise, pollution, fire danger, etc, etc.

This whole application should thus be seen as an application to produce 38 000 liters of alcohol per week.

12. Traffic Study and concerns about road maintenance by the Applicant

No traffic study has been presented which would have proven beyond doubt, or not, what the impact of a distillery would be on all aspects of the business.

13. Scarcity of Water, Distillery drawing its water from a Wetland, Authorisation Required

I have various concerns regarding the use of well/borehole water by the Applicant iro the usage of a scare resource in this area and its effect on the ecology of the area. The concern here is that of **environmental sustainability** and the use of ground water or subterranean water by the distillery in an area where it is **likely to affect the wetland in which the distillery is situated**. The Applicant have not stated the yield of such well/borehole, nor have they considered and dealt with the **obvious** effect on the underground water table and the identified wetland and even the intrusion of salt seawater into the aquafier, as have been seen with over usage of a water source.

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It appears that the newly constructed distillery extension as well as a portion of the dam/fire pool is situated in or within 35 meters of a wetland and thus that environmental authorisation will be required in terms of NEMA, before proceeding with this application.

We refer to a report by an environmental specialist with trenchant knowledge of this area, Amida Johns, which supports this contention.

14. Industrial use is not Leisure or Tourism as envisaged by the Western Cape Land Use Planning Guidelines: Rural Areas March 2019

Whilst leisure or tourism is specifically identified for the area as per the **Western Cape Land Use Planning Guidelines Rural Areas March 2019**, an industrial use such as the present is not allowed in a Critical Biodiversity Area, unless it can be brought within the ambit of an agricultural use. The Applicant is unable to motivate that it meets the formal requirements to qualify to apply for a distillery as a consent use under its agricultural zoning.

15. Cultural and scenic assets:

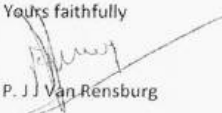
It is also an undeveloped coastal area on both sides of the mountains, except for single residential, mainly holiday homes on some of the smallholdings and some tourist accommodation.

The Applicant's property stands in sharp contrasts with the area, having presently converted and extended an existing stable building into an industrial building for an industrial enterprise of distilling.

16. Qualifications of the applicant.

The applicant states that he is a Master Distiller. According to "Distilique", such qualification does not exist.

Yours faithfully



P. J. J. Van Rensburg

For Motsoo Investments 2 Pty Ltd.

TP - A Theart
(Huid Stoep)

FHL Raymond
Erf 282
ROOIELS
EMAIL:



226/620

THE MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
HERMANUS
VIA EMAIL: loretta@overstrand.gov.za

**OBJECTION TO THE ESTABLISHMENT OF A DISTILLERY PORTION ON
SMALLHOLDING 141 (OF THE FARM HANGKLIP 559 - NOTICE: 70/2021)**

My home is the closest property in Rooiels to the proposed distillery. I am concerned about the health, safety and environmental impact of allowing a distillery in this location

1) High Risk

The reason why distilleries are generally only allowed in an industrial area, is that they carry big environmental risks. Even a relatively small scale distillery needs to engage in hazardous processes which carry a high risk of fire, pollution and contamination.

These "normal" and "accepted" risks involved in the day to day operations of a distillery in an industrial area, are greatly amplified by

- **The poor track record of the applicant towards the environment over the past 15 or more years in the area.**

I take a cynical view of the applicant's sudden desire in April 2021 (just a week before this application became public) to serve on both the Rooiels Ratepayers Organisation and the Rooiels Conservancy. The applicant has over 15 years never taken any interest in Rooiels matters.

The applicant has over more than 15 years, nurtured and protected invasive alien plant species on Portion 141.

During the previous veld fire in the area, the applicant monopolised four fire-fighting teams to protect its own homestead – due to the fact that it is located in a thicket of highly flammable eucalyptus trees. As a consequence our home and that of another smallholder was extensively damaged by the fire.

The applicant does not take its duties under NEMA seriously nor does the applicant even seem to have any awareness in this regard.

During 2020, the applicant constructed a large dam on the property (and on a wetland) without prior authorisation in terms of NEMA. This is despite the letter by the Breede-Gouritz Catchment Management Agency (September 2018) alerting the applicant to exactly this kind of activity. The applicant thus

FILE NO: Ptn 141/559	1
Hangklip	
SCAN NO:	
23	
COLLABORATOR NO: 1547338	

TP

- 4 JUN 2021

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appears to take no heed of any of the caveats and conditions imposed by the authorities. He simply professed ignorance thereof during the NEMA Section 24G process and in the present application.

This is even more blatant and unconscionable due to the fact that the applicant annexes this very letter in the present application as apparent support for the distillery.

- **The location of the proposed distillery in a remote area with difficult access.**

This creates difficulties with the frequency and likelihood of proper monitoring and policing of an applicant with a seemingly "happy go lucky" and "I do as I please and ask forgiveness later" attitude.

The remote location creates time delays and logistical difficulties in the event of an emergency such as explosion or spillage of highly hazardous liquids and materials. Please remember, accidents will inevitably happen.

- **The unpredictable strong and gale-force winds of the area.**

The past wild fire in this area has demonstrated how difficult and near impossible it is to predict and control a fire during a gale.

The distillery is situated in an area which is prone to veld fires from time to time. This is a normal occurrence and part of the fynbos cycle. It is a no-brainer that a distillery should not be situated in this kind of area.

- **The fact that the natural area within which the distillery is located is of exceptional conservation significance and importance**

This has been well documented and acknowledged in Overstrand's planning instruments, as well as in the Provincial Spatial Development Framework.

Mr Paul Hardcastle (CapeNature Scientific Services) had the following to say about this area some year ago:

"Of particular significance is the fact that the area includes a self-contained catchment system from the top of the Klein Hangklip range to the sea. This presents the possibility (which has been nearly completely completely lost elsewhere) of maintaining an entire intact gradient of plant communities. This is particularly important since the adaptation of fynbos to the low-nutrient status of the soils

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makes fynbos particularly vulnerable to enrichment by fertilizers and any form of pollution."¹

- **The close proximity of the proposed distillery to a wetland**

2) A Duty of Care Required

The National Environmental Management Act states that:

"every person who causes, has caused or may cause significant pollution or degrading of the environment must take reasonable precautions to prevent such pollution".

The burden of proof is on the applicant to show that the activities proposed on Portion 141 would not cause damage, pollution or degradation of the environment over time.

There are no considered, quantified and adequate measures and plans in place. It is unacceptable that the applicant's management plan is just an internet download! It underscores the applicant's track record and attitude as set out above.

Overstrand Municipality also has a duty or care towards all its citizens generally (and not just this particular applicant). It needs to take a very cautious approach to this matter as

- Additional rights are being sought, which impact on the rights of many others
- It has a responsibility, both nationally and internationally, not to allow the erosion of the Buffer Zone of the Kogelberg Biosphere Reserve
- It has a duty to promote and preserve biodiversity
- It has a duty to promote the health and safety of its inhabitants
- The potential harm caused by the distillery in this area could be significant and permanent and have unforeseen consequences.
- The applicant is not particularly responsible and reliable in its operations (as set out in para 1 above)

3) Protection of the natural environment / wetland

¹ (Source: Letter by CapeNature dated 26 June 1996. This was written in the context of comment on an application in respect of Portion 147, a neighbouring smallholding)

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The National Water Act makes provision for the protection of wetlands and defines wetlands as follows:

"Land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is periodically covered with shallow water and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil".

CapeNature stated some years ago that whole area below Porter Drive on the the Rooiels Pringle Bay small holdings constitute wetland:

"The area between Klein Hangklip and the sea is of special conservation significance. Very rare plant communities are present in particular a nearly continuous zone of Erica-Osmitopsis seepage fynbos on the level terrace below Porter Drive"²

Wetlands like the *Erica Osmitopsis* seepage areas are critically endangered and must be protected.

The wetland on which the applicant's home and the proposed distillery is situated is confirmed by the following

- The prevalence of the *Osmitopsis* and other indicator plants
- Mr Schroeder, a former neighbour, would refer to the homestead on Portion 141, as the house on the "bog"
- The prolific manner in which water-intensive Kikuyu thrives in this spot, as have the Eucalyptus which extract vast amounts of water from the wetland
- The well-point drawing water from the wetland
- The presence of the dam on the property, filling up from the seepage area
- I have personally seen and experienced that in wet years the wetland pushes up into Porter Drive for some 40 – 50 meters along this stretch of road

It appears from Google Earth that the recent extensions have occurred in or within 35 meters of this wetland, triggering environmental authorisation.

This information needs to be disclosed so that a site inspection can be arranged. A respected Fresh Water specialist, such as Liz Day needs to be appointed to verify this wetland.

² (Source: Letter by CapeNature dated 26 June 1996. This was written in the context of comment on an application in respect of Portion 147, a neighbouring smallholding)

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It seems highly likely that environmental authorisation would be required in terms of NEMA for the distillery building.

4) Conclusion

Overstrand Municipality has simply not been provided with enough reliable information to take a decision on a potentially far-reaching and dangerous application.

In the light thereof Overstrand Municipality is requested to dismiss / deny the application.

Yours faithfully

F H L RAYMOND

TP - A Theart
(Hild Stoep)



231/a30

To: The Municipal Manager
Overstrand Municipality
Hermanus
Email: loretta@overstrand.gov.za

OBJECTION: MN 70/2021: REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT USE PORTION 141 OF THE FARM HANGKLIP 559 TO ENABLE A DISTILLERY

I am writing to you as someone who has loved walking along the coastal dirt road (Porter Drive) between Rooiels and Pringle Bay. It is a virtually unspoilt area and a birders paradise. The proposed Distillery is right in the middle of this area between Rooiels and Pringle Bay.

I firmly believe that it is not the correct place to have a distillery and that it will constitute very poor town planning to allow this type of industry in an area which is otherwise in a near pristine state. Judging from the extensive buildings and newly built dam (as well as the parking garage in Pringle Bay) it certainly will be a large scale operation and not a small "home distillery" as stated in the application. This is clearly misleading in the application.

The proposed Distillery will be a disaster for Nature and for people who enjoy this stretch of unspoilt Nature. The long term effects of the wood-fires, fumes, waste products and considerable additional amount of heavy traffic on this road are not acceptable. There will be a lot of traffic on this ill-suited narrow one-way track, e.g. trucks bringing in the barley to be distilled, trucks bringing in bottles and packaging, trucks transporting the distilled products out, trucks transporting the waste products of the distillery out, the municipal "honey sucker" and vehicles bringing visitors to the facility. It also adds considerably to the existing high risk of fire in this vulnerable and remote area.

I also believe that this is not an appropriate place for a tasting facility and consumption of strong alcohol. It will be very difficult to police properly.

A development like this in an internationally declared and protected buffer zone of the Kogelberg Biosphere Reserve irresponsible and should not be allowed.

It is clearly not desirable in any way and I trust that you will disallow the removal of restrictive title conditions, consent use and departure.

Yours faithfully

Zita Hill

FILE NO: Ptn 141/559 ✓
Hangklip
SCAN NO:
Hill
COLLABORATOR NO:
1539930

TP



TP-A Theart
(Huld Steep)

L Gillion

From: Diarmuid Baigrie <
Sent: Sunday, 16 May 2021 16:20
To: L Gillion
Cc: Alison Baigrie; Jenny Baigrie; Tom Baigrie; Bob Baigrie
Subject: FROM ERF 336 ROOIELS: OBJECTION TO APPLICATION ON PORTION 141 OF THE FARM HANGKLIP NO.559 DIVISION CALEDON

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We are the owners of 2 Erven in Rooiels, Erf 101 and Erf 336. We have submitted a Letter of Objection for Erf 101 and would like it to be repeated for Erf 336.

Kind regards,
Jenny and Diarmuid Baigrie.
Erf336.

OBJECTION TO APPLICATION ON PORTION 141 OF THE FARM HANGKLIP NO.559 DIVISION CALEDON FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE.

Introduction:

The purpose of the Application is to enable a distillery to be built and operated on the site, so this end-use is what is being objected to, the amendment of conditions can only be judged by their end-purpose in context.

Below are aspects that lead to my my husband and my Objection:

1. "Although distillery wastewater is sometimes used as a fertilizer, it can have toxic impacts on the environment, and it is most often discarded in water treatment facilities where it is expensive and difficult to treat." Quote from google Dec 28, 2020 We are not satisfied that this aspect has been properly covered nor its costs been properly budgetted in the Application. This is an area of professional competence needing to be applied, so unless a Chemical Engineer Report is included in this aspect of the Application with estimated costs of carrying out the process of the safe disposal of waste product, it can have no credibility;

The use one assumes of Conservancy Tanks (not Septic tanks that leach their content into the surrounding soil area) for disposing of waste merely passes the responsibility of its safe disposal onto the municipality. This will be at taxpayers' expense and it may not be within their competence to do so, so their written comment would be needed. If in fact septic tanks are intended then the environmental impact on the immediate area will need scientific examination which must be assessed before the application can be seriously considered;

3. Water forms a huge part of the distillation process and a borehole on site is suggested as an adequate sustainable resource of acceptable quality for this purpose. The local terrain does not suggest a great usable water table is below the site for this to be used

1

FILE NO: Ptn 141 559
Hangklip ✓
SCAN NO:
Baigrie
COLLABORATOR NO: 1539933

TP 17 MAY 2021

233/630

indefinitely. A report from an expert is needed to verify the existence of this claim. The possibility of needing to truck in water at some future time is not an acceptable one, in a period of increasing droughts threatening water supplies as occurred in Cape Town 3 years ago and impacting as it would on the local gravel road and dust effect on vegetation bordering it;

4. The gravel road extension from Rooiels passes through a very sensitive birding area that draws local and foreign tourists in ongoing numbers year round. It passes through a pristine untouched area that the owners of the holdings must value and are not permitted to develop on. The electric gate to protect this environment can be operated by the holding owners from their cellphones for their personal use. While the applicant states that this gate will not be used he has the ability to open it whenever he wishes to, which makes this undertaking unenforceable by the neighbouring affected community of about 250 Rooiels propertyowners and his neighbouring holding owners. it should be noted that a photo of a huge cement making truck doing this when the new building was built on the site is in the social media. This suggests that the owner has not shown the application undertaking to be a serious one. The owners in Rooiels probably regard this as one of extreme seriousness in this Application and it needs to be addressed further;

5. Finally there is the Biosphere and its important buffer zone going down to the marine zone that this site falls under. Regardless of a general legal question, the question of the suitability of this particular site in relation to the principles of Biosphere management needs to be addressed fully. In our opinion there are many other more suitable and practical sites for a distillery, closer to their supply chains, consumers, farming buyers of their waste claimed, all in perfectly decent semi-rural surroundings. The Cape is full of wine and other distilled beverage manufacturers in beautiful surroundings, but not in our Floral Kingdom protected by our justifiably famous Biosphere.

Our conclusion is that we Object to this Application even being considered, it contains much that is just subjective substantiated opinion.

Yours sincerely,
Jenny and Diarmuid Baigrie,
Erf 101 Rooiels.

234/630

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



13th May 2021

Email: loretta@overstrand.gov.za
MN 70/2021

**OBJECTION TO REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT
USE PORTION 141 OF THE FARM HANGKLIP 559**

Dear Sir or Madam

I wish to note my objection to the proposed removal of the restrictive title covenants and departure consent on the following grounds;

I fail to see that it can be appropriate to have a distillery in what is understood to be a buffer zone of an internationally proclaimed Biosphere Reserve. It is furthermore quite clear that a Distillery is in essence an industry. It is furthermore my understanding that a licence to operate as a micro-distiller enables the production of up to 2 million litres of spirits.

I consider this to be inappropriate and irresponsible to have a distillery producing air pollution and noxious effluent along the shores of one of the very few unspoilt coastal plains areas.

It is common knowledge that Distilleries pose fire hazards as a result of the production of highly flammable alcohol.

Logistically it makes no sense for the distillery to operate in this remote location as all the grain will have to be transported in together with all the bottles and packaging. They will then have to transport out all the grain mash after they have produced the liquor. They will also have to transport the bottles out. I cannot see how adequate provision has been made for the mitigation of the impact on road infrastructure, traffic management on Clarence Drive (also a well known tourist route) or even how the environmental impact of the additional small and large vehicle traffic and related noise and pollution on the sensitive biosphere have been assessed and adequately mitigated.

Furthermore the road which all this is transported along is one of the very few remaining areas known to be a habitat of the endangered Cape Rockjumper. The population of this unique species of bird is rapidly declining in the few small areas that it has left as natural habitat.

FILE NO: PTN 141 of Farm 559
Hangklip ✓
SCAN NO:
Jacobus
COLLABORATOR NO: 1540140

TP 17 MAY 2021

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The area is known to be a habitat for many other vulnerable and rare plant, bird and animal species in what is a very unique habitat on the slopes of Klein Hangklip and the adjacent mountains. Please advise if an adequate environmental impact assessment have been concluded that details how it is to be ensured that these unique species are not adversely impacted by this proposed development ?

The negative impact of this proposed development in such a sensitive biosphere will most certainly lead to a loss of unique fauna and flora in the area which in turn will have devastating effects on the local eco tourism industry and visitors coming from all over the world to see and experience this unique coastal region.

I urge you to decline this application and help us protect the area from the environmentally destructive forces that an approval is most certain to unleash.

Sincerely,



Jacobus de Leeuw
Cell 1

236/630



Portion 141 (A portion of portion 133) of the farm Hangklip no. 559,
Division Caledon: Application for removal and amendment of
restrictive title deed conditions.

I wish to register my objection to the above application for the following reasons. Portion 141 lies on, and adjacent to, a unique portion of the Kogelberg Biosphere in terms of its fauna, flora and geomorphology. I list three potential impact areas:

- Fauna – the icon bird species of our region, the Cape Rock Jumper has a range that is seemingly constantly dwindling as urban sprawl takes its toll. Increased traffic on the access road from Rooiels will eventually lead to the loss of species in our area. It's common knowledge that our leopards move through, and adjacent to, the property. Mountain Rhebok and Klipspringer have been seen to inhabit the property. Further increase in traffic and visitors will, in time, cause these animals to stay away and have their range shrunk.
- Flora – A walk along the road through this wild area never disappoints in terms of allowing sightings of unique fynbos flower species. I offer but one such sighting photographed within half a meter of tyre tracks on this access road, and within a stone's throw of the proposed



A plant with no leaves: The genus *Harveya*

The genus *Harveya* is an African genus of parasitic plants comprising around 40 different species. Around 13 of these are found in southern Africa with other species found in Yemen, the Comores and Madagascar. Only their spectacular blooms are visible above the ground, as they do not photosynthesise. Host plants include species of *Aspalathus*, *Cliffortia* and *Wildenowia*

Photo Keith Moir, Text <https://botanicalsociety.org.za/the-secret-life-of-parasitic-plants/>

- Geomorphology – I have no claim to expert knowledge but a walk along the access road during wet winter months reveals a series of lakes in the lowland area adjacent to the distillery.

17 MAY 2021

FILE NO: Ptn 141/559
Hangklip ✓
SCAN NO:
Moir
COLLABORATOR NO: 1539938

237/630

coastline. It is quite clear that these lakes are fed by runoff from the mountain range behind Erf 141. Runoff water that must pass over and under the surface on which the proposed distillery will be located. Any attempt to dispose of distillery waste, no matter how well treated, will in time, lead to degradation of these lakes through added nutrients changing PH. This in turn will spin off on fauna and flora – the environment will lose, again.

The development of this proposed distillery will be far better suited to developed areas such as Pringle Bay or Rooiels where customer access is greater, and human development has already compromised the environment.

I thank you for considering my input in this matter

Keith Moir

Erf 161 Rooiels

238/630

Daysha Esterhuyse

12 May 2021

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200



TP-A Theart
(H vld Stoep)

Email: loreta@overstrand.gov.za

Dear Sir

OBJECTION: MN 70/2021

PORTION 141 OF THE FARM HANGKLIP 559

REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT USE

Dear Sir

I hereby object to the application for a Distillery.

I have lived in Rooiels for many years. I know the whole area of the smallholdings along the coast between Pringle Bay and Rooiels very well.

It is not desirable and not good practice to have a Distillery in a Critical Biodiversity Area and Buffer Zone of an International Biosphere.

My reasons are the following:

1. A light industry such as a Distillery will be completely out of keeping and disharmonious with the rest of the area.
2. Any industry, but especially a Distillery, has a high risk of dangerous spills, contamination, explosions and fire. Mr Elves' previous family business has already some years ago been involved in a devastating explosion in which people had unfortunately lost their lives.

FILE NO: Ptn 141/559
Hang Klip
SCAN NO: 08
COLLABORATOR NO: 1539631

TP 14 MAY 2021

239/630

3. The presence of flammable fynbos, wood chips for the stills, highly flammable blue gum trees surrounding the Distillery, large volumes of concentrated alcohol and the characteristic strong winds, together on the premises spell danger for the whole area.. A disaster is likely to occur in future which will destroy the surrounding properties, the two villages and a Critical Biodiversity Area.
4. **In the light of point 3 above, I believe it will be highly irresponsible for Overstrand to approve this application.**
5. A micro-distillers licence entitles the Distillery to produce up to Two Million Litres of Alcohol per year. That amounts to an average of 38 461 liters per week. That could mean a staggering 48 153 kg of wheat needed per week! The actual and potential future impacts of the Distillery have been cleverly (and dishonestly) down-played in the application.
6. A considerable amount of smelly waste will be produced from 48 153kgs of wheat. This waste will need to be transported through the area frequented by tourists, birdwatchers, hikers and cyclists. It will also be transported through either Pringle Bay or Rooiels village. There will also be a significant increase in traffic along the narrow road comprising of visitors to the Distillery, delivery vehicles and sewerage trucks.
7. Between 48 000 and 184 608 000 liters of water per month could be extracted from the subterranean water supply. Over the lifespan of a distillery over many years, this will detrimentally impact or even destroy the greater Critical Biodiversity Area.
8. There will inevitably be some additional air pollution due to emissions and smoke from the wood firing of the stills. This is not acceptable in a pristine area such as this.
9. The increase in vehicle traffic, depletion of subterranean water, air pollution, fire and contamination risk in this pristine area will clearly have undesirable and detrimental impacts on the vulnerable and rare plant, bird and animal species which occur in the area between Rooiels and Pringle Bay. It will reflect poorly on Overstrand if this is allowed to happen.

Yours faithfully

Daysha Esterhuysen



240/630

Mr Brett Bakos

12 May 2021

TP - A Theart
(Huld Stoep)

Municipal Manager Overstrand Municipality
PO Box 20
HERMANUS
7200

Email: loretta@overstrand.gov.za
MN 70/2021

**OBJECTION TO REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT
USE PORTION 141 OF THE FARM HANGKLIP 559**

It is not appropriate to have a distillery in the Buffer Zone of an internationally proclaimed Biosphere Reserve.

A Distillery is in essence an industry. A licence as a micro-distiller enables the production of up to 2 million litres of spirits, which is a considerable amount. The drafters of the application have gone to great lengths to make the application appear to be "folksy" and environmentally friendly. Nothing could be further from the truth when the potential impacts of a distillery in this particular place are properly considered.

The distillery will cause some smoke, air pollution and possibly noxious effluent along the shores of one of the very few coastal plain areas that are still left to nature. This is not desirable in a pristine area such as this.

Distilleries are known fire hazards because they produce highly flammable alcohol. The area in which this distillery is situated, makes it much more dangerous than usual, as it is surrounded by flammable alien trees and fynbos, its uses wood fires and the area is prone to gale force winds which make wildfires almost impossible to control.

The Distillery, which will use subterranean water, will eventually destroy the water table sustaining this Critical Biodiversity Area. It is accordingly not environmentally sustainable.

I suggest that the distillery be developed at another appropriate site in the Overstrand. Portion 141/559 is clearly not desirable for such an endeavour.

Please acknowledge receipt hereof.

Yours faithfully

Brett Bakos

FILE NO:	Ptn 141/559
	Hangklip
SCAN NO:	09
COLLABORATOR NO:	1539639

TP 14 MAY 2021

TP - A Theart
(Hvd stoep)



Portion 141 (A portion of portion 133) of the farm Hangklip no. 559,
Division Caledon: Application for removal and amendment of restrictive
title deed conditions, consent use and departure: Planning Partners
(obo Free Life Trust)

I, Robert John Baigrie, wish to register my objection to the above application. I own two properties in Rooiels (Erf 89 and 90) This application was registered in the past and was withdrawn after many objections from the community. The applicant has now embellished and expanded his motivation, but the application is in essence the same as before.

Below is the letter I wrote objecting to the 2018 application.

I have been a property owner in Rooiels for more than 30 years.

I am very familiar with the area under application.

It is a highly vulnerable area, including wetland and extremely vulnerable fauna and flora.

Attached is a document from The Rooiels Ratepayers Association. It includes several objections and I support all these.

In particular, I stress point 4: The local access is a very rough dirt road, which is adequate for its occasional use by the small number of landowners, but it is highly unsuitable for commercial traffic. This would inevitably render it unusable in its current role, as access for walkers and trail cyclists and birders. An upgrade of this road to paving would destroy the natural beauty of the area.

This very morning I hiked in the mountains directly above the farm and was sickened at the thought of what damage this development would inflict on this unique place.

Please recognise our wish that this environmentally conscious community perseveres in our role as custodians of this pristine biosphere periphery, rather than becoming exploiters of the same. The concept of a distillery in this area is, quite simply, daft.

Yours sincerely

Professor Robert Baigrie

(personal)
surgeons@surqcare.co.za (office)
www.surqcare.co.za

FILE NO:	Ptn 141/559
	Hangklip
SCAN NO:	10
COLLABORATOR NO:	1539644

TP 14 MAY 2021

242/630

You have received a scrupulously researched objection from Anuta Scholtz. She has shared it with the Rooiles community. I endorse it completely, and have added to it. Below is a cut-and-paste from her document with additional points of my own.

The proposed distillery is to be developed in the heart of one of the few remaining coastal belts of natural beauty that have not fallen prey to ribbon development. We are concerned about creeping commercialism and unnecessary and unwarranted development in Critical Biodiversity Areas.

I (Robert John Baigrie) list my objections to the application below:

1. The owner has already pre-empted his permission by completing the additions to the existing building. The introduction to the application states that it "will require a modest addition to the former stable building". This has already been done under the pretext of building a barn. It is certainly not modest. See photo.
2. The claim is made that the proposal will be "beneficial from both a local and regional perspective". This is an assumption and misleading considering the scale of the proposed activity.
3. The claim is made that the proposal is "desirable, appropriate and worthy of approval." Unproven and an assumption.
4. The statement is made in regard to the other smallholdings that "their contribution to the local economy is very limited." Considering that all the other smallholdings are not zoned for commercial activity, this statement has no substance.
5. "stone wall to prevent kikuyu from encroaching into the fynbos". No wall can stop the spread of kikuyu. The only stone wall visible from the road is one which borders the drive to the homestead. Nothing is built around the large lawn to the south of the "distillery" building. The applicant seeks to placate residents' concerns with this statement.
6. The applicants claim their "commitment to establish a sustainable eco-friendly lifestyle on the property." The transportation of raw materials to the site, removal of waste from the site and the pumping of liquid waste into the septic tank system don't support this claim.
7. "makes use of renewable resources and operates in accordance with sustainable production processes." Renewable resources? The applicant makes this claim only because he is using an existing building and old windows. Sustainable production processes? How long will he be able to keep up the trucking in of his raw materials to the site? Would all that fuel and the footprint of the transportation contribute to sustainable processes?
8. The claim that the activities "will have no impact on the reserve" is misleading. The core of the KBR is one thing, but the site is situated in the buffer zone of the KBR and anything happening there, does impact on the reserve.
9. "no alien plant species will be introduced onto the property which could potentially spread to the Reserve." The property is already overrun with alien, invasive species. Alien trees have been spreading from this property to neighbouring smallholdings over many years.

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10. The statement that "short educational lesson(s) about the reserve... to raise awareness about this unique world heritage site." will be given to guests is an attempt again to counter the concerns of property owners. The reality of these "lessons" is that they quickly become mere lip-service to satisfy a requirement, especially when a year or two later, an intern or student holiday worker, unfamiliar with anything local, is tasked with pointing at a poster and reading a script. Their use of sentences like "...create a synergy between the distillery and the biosphere reserve..." is simply nauseating to read. What synergy?
11. "no negative impacts ... are foreseen." How does the applicant plan to address the "unforeseen" negative impacts, such as fire? Distilleries, by their very nature with vats of alcohol, are at far higher risk of fire and explosion than a domestic dwelling.
12. Reference is made to pumping out of the sewerage tank. If this is a septic tank system, why would pumping be required? Pumping would be required for a conservancy tank system or when a septic tank system becomes blocked or over-full. This point needs more clarification.
13. Solid, dry waste is to be transported to "local" piggeries, chicken and sheep farmers. There are no local livestock farmers within a reasonable distance from the site. What distance is regarded as "local"? I refer again to the carbon footprint of such transportation. This part of the application is a direct cut-and-paste from a website from a company called Distillique made available for applicants to apply for a distillery permission in the W Cape. Hence the absurd mention local piggeries. Please refer to their website <https://distillique.co.za/Shop/blog/distillery-waste-management-plan-template-n7>
14. 20 kg of plastic and cardboard constitutes a large quantity of waste material. How far is this recyclable waste to be transported?
1. Liquid waste is to be used for irrigation purposes. Elsewhere mention is made of the high concentration of minerals in waste water. What impact would this have on the soil in which the highly specialized fynbos grows? If the waste water is "rich in dissolved minerals", how would that impact on the natural processes in a septic tank system? Distilleries are among the most polluting industries because ethanol fermentation results in the discharge of large quantities of high-strength liquid effluents with high concentrations of **organic matter** and **nitrogen** compounds, low pH, high temperature, dark brown color, and high salinity. 18 Jun 2020 (extract from website:coursehero.com). **Spent wash** is the residual liquid waste generated during alcohol production and pollution caused by it is one of the most critical environmental issues. Despite standards imposed on effluent quality, untreated or partially treated effluent very often finds access to water courses. 06 Oct 2011
Distillery spent wash is hot, highly coloured and acidic, apart from containing high percentage of dissolved inorganic and organic matter, the latter being particularly responsible for high biochemical oxygen demand (BOD) and the polluting nature of the waste. • Spent wash, contains dissolved salts and has a persistent dark brown color. (from article by Post Grad student)
2. Greywater (1000 litres per week) would also contain high levels of minerals and nutrients and cannot be used in a fynbos region.
3. The claim is made that the Pringle Bay entrance to the smallholdings will be used. Since the beginning of building operations on the property, the Rooiels entrance has been used. Why would this change? How would trucks and guests be prevented from using this entrance?
4. "compatible and sustainable rural activities (i.e. activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate)" How does importing all raw materials (except a small

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- amount of fynbos for flavouring) to be processed on the site constitute "compatible and sustainable rural activities? "positive socio-economic returns" : does the employment of three additional staff members and perhaps contract labourers constitute positive socio-economic returns?
5. The existence of other breweries and distilleries in the Overberg should not be used as a motivation to allow this application.
 6. OMSDF "... Opportunities ... must be promoted in selected areas to stimulate growth and employment of the rural population." Surely can't apply when this is a single agricultural portion surrounded by and included in a CBA. Stimulate growth and employment? Possibly only for the owners.
 7. Figure 15: "...close to an arterial road." But far away enough to incur great expense when the Municipality is compelled to upgrade the road to enable the current and possible future business activities which fall within the proposed new title deed status. In its current state, the connecting road to the arterial road is in bad condition for use by trucks and sewerage removal trucks.
 8. The applicant claims that the distillery will contribute to the local economy, but the income resulting from being the home to the Cape Rockjumper is far greater. The Municipality has expressed the wish to build tourism in our region and birding tourism makes a large contribution to tourism income. Furthermore, the fynbos and birdlife in that area has not only biodiversity and intrinsic value, but also is probably the most important specialised tourist destination along the Overstrand coastline. The proposed development and activities on the site would certainly impact negatively on the very small range of these iconic birds. They propose very few employees being required. The community benefit will be absolutely negligible.
 9. For us living in Rooiels it is important to our enjoyment of the area that we can walk along the smallholding road without traffic. Already significantly increased traffic on that road is a problem for most of us.
 10. Even if the owners are going to take every mitigation measure and are going to restrict their use to a very small distillery and tasting room, this will not be financially viable. Although they may be in the financial position to invest in a lifestyle venture, this could change. Certainly, the footprint of the building is much larger than that required for a small distillery. Once the title deed restrictions are lifted and the rezoning achieved, then any person they sell to will be able to significantly expand the distillery, or host weddings, rave parties, motorbike rallies or other such activities
 11. In the light of the fact that all materials have to be transported to the site, it would be far more suitable and appropriate for the distillery to be situated in the CBD of Pringle Bay.
 12. Please note that I have not commented directly on the legal, zoning, title deed aspects. However I am objecting to:
 - 1 The deletion and amendment of Restrictive Conditions of Title
 - 2 Consent uses for the establishment of an "agricultural industry" and a "farm shop/stall"
 - 3 Consent to permit "commercial activity... both the above as outlined in Section 9.
 - 4 Regulation departure in section 10.

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Thank you for your attention. I look forward to responses to each of my concerns.

Professor Robert J Baigrie

Erf 89 and 90 Rooiels

Cellphone no:



Figure 1 : Trucks and bulldozers using the Rooiels entrance during building operations



Figure 2 Imagine sewerage tankers, minibusses, cars on this fragile road...

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Figure 3 View from road - back entrance



Figure 4 View from Road: Tasting room/Venue to the left



Figure 5: From the road

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Figure 6: The narrow track to be used by trucks, mini busses and sewerage tankers. No passing places.



Figure 7: Image taken on 8 May 2021. Building of tasting room and distillery. Clearly in anticipation of a positive outcome.



Figure 8: Windows of the proposed tasting room in place. Image taken on 8 May 2021. This doesn't look like the barn for which building permission was requested.

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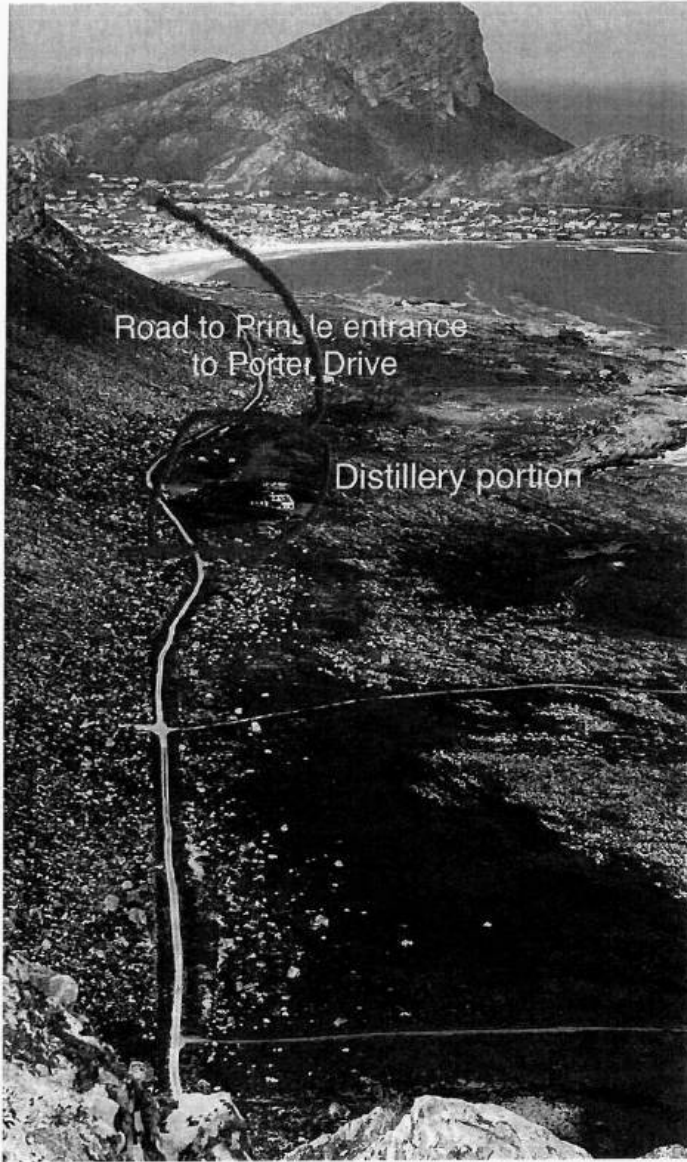


Figure 9: Farm with barn in 2019



Figure 10: 2020: dam added. Footprint of tasting room visible. All amidst a forest of bluegum trees

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Road to Ring le entrance
to Porter Drive

Distillery portion

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Image demonstrating the already intrusive impact of this cultivated property. It demonstrates the long unpaved single track road that will now have to accommodate tourist minibuses, bakkies, and building materials. There are no overtaking areas.

251/620
 TP-A Theart
 (Hild Stoep)



Portion 141 (A portion of portion 133) of the farm Hangklip no. 559,
 Division Caledon: Application for removal and amendment of restrictive
 title deed conditions, consent use and departure: Planning Partners
 (obo Free Life Trust)

I, Carolyn Frances Baigrie, wish to register my objection to the above application. I own one property in Rooiels (Erf 91) This application was registered in the past and was withdrawn after many objections from the community. The applicant has now embellished and expanded his motivation, but the application is in essence the same as before.

You have received a scrupulously researched objection from Anuta Scholtz. She has shared it with the Rooiels community and my husband (Professor RJ Baigrie) has used (and added to) her document in his objection. I cannot improve on it. I endorse it completely.

The proposed distillery is to be developed in the heart of one of the few remaining coastal belts of natural beauty that have not fallen prey to ribbon development. We are concerned about creeping commercialism and unnecessary and unwarranted development in Critical Biodiversity Areas.

I (Dr Carolyn Frances Baigrie) list my objections to the application below:

1. The owner has already pre-empted his permission by completing the additions to the existing building. The introduction to the application states that it "will require a modest addition to the former stable building". This has already been done under the pretext of building a barn. It is certainly not modest. See photo.
2. The claim is made that the proposal will be "beneficial from both a local and regional perspective". This is an assumption and misleading considering the scale of the proposed activity.
3. The claim is made that the proposal is "desirable, appropriate and worthy of approval." Unproven and an assumption.
4. The statement is made in regard to the other smallholdings that "their contribution to the local economy is very limited." Considering that all the other smallholdings are not zoned for commercial activity, this statement has no substance.
5. "stone wall to prevent kikuyu from encroaching into the fynbos". No wall can stop the spread of kikuyu. The only stone wall visible from the road is one which borders the drive to the homestead. Nothing is built around the large lawn to the south of the "distillery" building. The applicant seeks to placate residents' concerns with this statement.
6. The applicants claim their "commitment to establish a sustainable eco-friendly lifestyle on the property." The transportation of raw materials to the site, removal of waste from the site and the pumping of liquid waste into the septic tank system do not support this claim.

TP

14 MAY 2021

FILE NO:	PTn 141/559
	Hangklip
SCAN NO:	
	11
COLLABORATOR NO:	1539650

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7. "makes use of renewable resources and operates in accordance with sustainable production processes." Renewable resources? The applicant makes this claim only because he is using an existing building and old windows. Sustainable production processes? How long will he be able to keep up the trucking in of his raw materials to the site? Would all that fuel and the footprint of the transportation contribute to sustainable processes?
8. The claim that the activities "will have no impact on the reserve" is misleading. The core of the KBR is one thing, but the site is situated in the buffer zone of the KBR and anything happening there, does impact on the reserve.
9. "no alien plant species will be introduced onto the property which could potentially spread to the Reserve." The property is already overrun with alien, invasive species. Alien trees have been spreading from this property to neighbouring smallholdings over many years.
10. The statement that "short educational lesson(s) about the reserve... to raise awareness about this unique world heritage site." will be given to guests is an attempt again to counter the concerns of property owners. The reality of these "lessons" is that they quickly become mere lip-service to satisfy a requirement, especially when a year or two later, an intern or student holiday worker, unfamiliar with anything local, is tasked with pointing at a poster and reading a script. Their use of sentences like "...create a synergy between the distillery and the biosphere reserve..." is simply nauseating to read. What synergy?
11. "no negative impacts ... are foreseen." How does the applicant plan to address the "unforeseen" negative impacts, such as fire? Distilleries, by their very nature with vats of alcohol, are at far higher risk of fire and explosion than a domestic dwelling.
12. Reference is made to pumping out of the sewerage tank. If this is a septic tank system, why would pumping be required? Pumping would be required for a conservancy tank system or when a septic tank system becomes blocked or over-full. This point needs more clarification.
13. Solid, dry waste is to be transported to "local" piggeries, chicken and sheep farmers. There are no local livestock farmers within a reasonable distance from the site. What distance is regarded as "local"? I refer again to the carbon footprint of such transportation. This part of the application is a direct cut-and-paste from a website from a company called Distillique made available for applicants to apply for a distillery permission in the W Cape. Hence the absurd mention local piggeries. Please refer to their website <https://distillique.co.za/Shop/blog/distillery-waste-management-plan-template-n7>
14. 20 kg of plastic and cardboard constitutes a large quantity of waste material. How far is this recyclable waste to be transported?
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standards imposed on effluent quality, untreated or partially treated effluent very often finds access to water courses. 06 Oct 2011

Distillery spent wash is hot, highly coloured and acidic, apart from containing high percentage of dissolved inorganic and organic matter, the latter being particularly responsible for high biochemical oxygen demand (BOD) and the polluting nature of the waste. • Spent wash, contains dissolved salts and has a persistent dark brown color. (from article by Post Grad student)

2. Greywater (1000 litres per week) would also contain high levels of minerals and nutrients and cannot be used in a fynbos region.
3. The claim is made that the Pringle Bay entrance to the smallholdings will be used. Since the beginning of building operations on the property, the Rooiels entrance has been used. Why would this change? How would trucks and guests be prevented from using this entrance?
4. "compatible and sustainable rural activities (i.e. activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate)" How does importing all raw materials (except a small amount of fynbos for flavouring) to be processed on the site constitute "compatible and sustainable rural activities? "positive socio-economic returns" : does the employment of three additional staff members and perhaps contract labourers constitute positive socio-economic returns?
5. The existence of other breweries and distilleries in the Overberg should not be used as a motivation to allow this application.
6. OMSDF "... Opportunities ... must be promoted in selected areas to stimulate growth and employment of the rural population." Surely can't apply when this is a single agricultural portion surrounded by and included in a CBA. Stimulate growth and employment? Possibly only for the owners.
7. Figure 15: "...close to an arterial road." But far away enough to incur great expense when the Municipality is compelled to upgrade the road to enable the current and possible future business activities which fall within the proposed new title deed status. In its current state, the connecting road to the arterial road is in bad condition for use by trucks and sewerage removal trucks.
8. The applicant claims that the distillery will contribute to the local economy, but the income resulting from being the home to the Cape Rockjumper is far greater. The Municipality has expressed the wish to build tourism in our region and birding tourism makes a large contribution to tourism income. Furthermore, the fynbos and birdlife in that area has not only biodiversity and intrinsic value, but also is probably the most important specialised tourist destination along the Overstrand coastline. The proposed development and activities on the site would certainly impact negatively on the very small range of these iconic birds. They propose very few employees being required. The community benefit will be absolutely negligible.
9. For us living in Rooiels it is important to our enjoyment of the area that we can walk along the smallholding road without traffic. Already significantly increased traffic on that road is a problem for most of us.
10. Even if the owners are going to take every mitigation measure and are going to restrict their use to a very small distillery and tasting room, this will not be financially viable. Although they may be in the financial position to invest in a lifestyle venture, this could change. Certainly, the footprint of

254/620

the building is much larger than that required for a small distillery. Once the title deed restrictions are lifted and the rezoning achieved, then any person they sell to will be able to significantly expand the distillery, or host weddings, rave parties, motorbike rallies or other such activities

11. In the light of the fact that all materials have to be transported to the site, it would be far more suitable and appropriate for the distillery to be situated in the CBD of Pringle Bay.

Please note that I have not commented directly on the legal, zoning, title deed aspects. However I am objecting to:

- 1 The deletion and amendment of Restrictive Conditions of Title
- 2 Consent uses for the establishment of an "agricultural industry" and a "farm shop/stall"
- 3 Consent to permit "commercial activity... both the above as outlined in Section 9.
- 4 Regulation departure in section 10.

Thank you for your attention. I look forward to responses to each of my concerns.

Dr Carolyn Frances Baigrie

Erf 91 Rooiels

Cellphone no.:



Figure 1 : Trucks and builders using the Rooiels entrance during building operations

255 | 620



Figure 2 Imagine sewerage tankers, minibusses, cars on this fragile road...



Figure 3 View from road - back entrance



Figure 4 View from Road: Tasting room/Venue to the left

256/630



Figure 5: From the road



Figure 6: The narrow track to be used by trucks, mini busses and sewerage tankers. No passing places.



Figure 7: Image taken on 8 May 2021. Building of tasting room and distillery. Clearly in anticipation of a positive outcome.

257/620



Figure 8: Windows of the proposed tasting room in place. Image taken on 8 May 2021. This doesn't look like the barn for which building permission was requested.



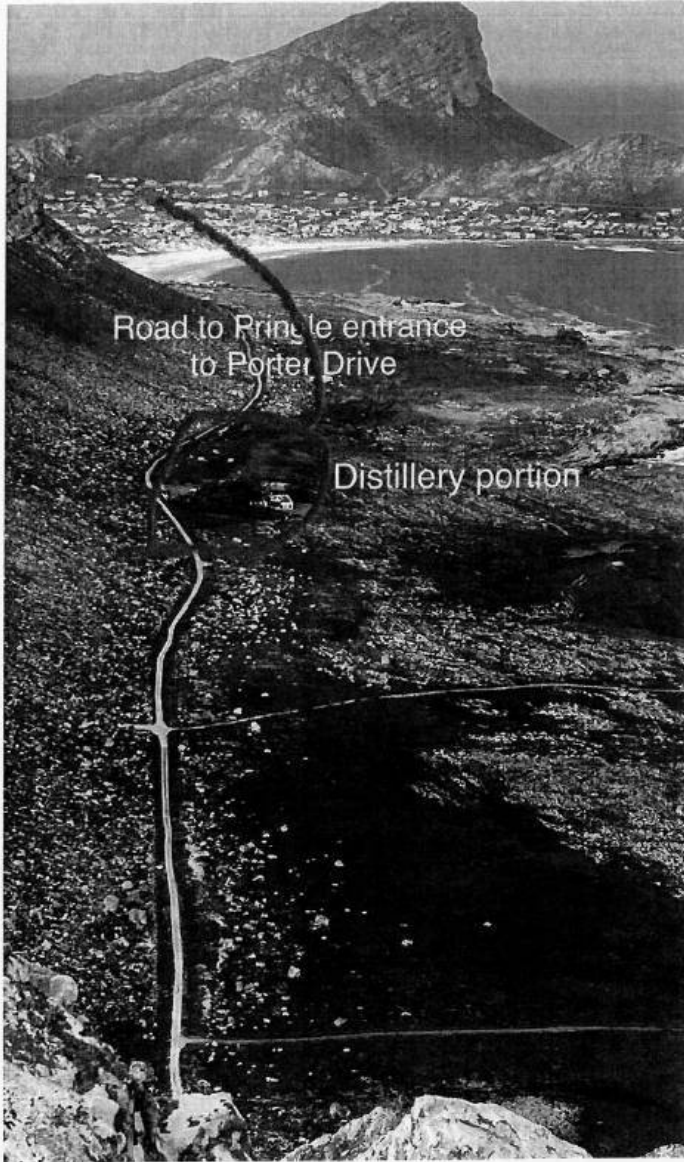
Figure 9: Farm with barn in 2019

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Figure 10: 2020: dam added. Footprint of tasting room visible. All amidst a forest of bluegum trees

259/680



260/630

Image demonstrating the already intrusive impact of this cultivated property. It demonstrates the long unpaved single track road that will now have to accommodate tourist minibuses, bakkies, and building materials. There are no overtaking areas.

L Gillion

TP-A Theart
(Hild Stoep)

261/230

From: Fanie Krige <sdkrige@gmail.com>
Sent: Friday, 14 May 2021 14:39
To: Herbert Voigt
Cc: Rera chair; L Gillion; Loriaan Isaacs
Subject: Re: Objection Erf 141



Dear Herbert (and RERA Chair)

I take note of your objection, but it must go to our Town Planning Department and the decision will be taken by a Municipal Planning Tribunal in which Councillors are not involved.

However, your participation will give you the right to appeal against the outcome.

Regards

FANIE KRIGE
 COUNCILLOR: WARD 10

Note to RERA Chair: Please inform your members to send their objections to the address given in the notice. It is very important for interested and affected parties to use the right channels to have a right of appeal at a later stage.

Op Vr. 14 Mei 2021 om 10:36 het Herbert Voigt <_____> eskryf:
 I would like to state that I do not agree, to the development on Erf 141 to that of a distillery.
 My answer is 'NO'

Regards,

Herbert Voigt

Erf 382 (231)

Sent from my iPhone

FILE NO:	Ptn 141/559 ✓
SCAN NO:	Hangklip
COLLABORATOR NO:	Voigt
	1539821

TP 14 MAY 2021

Municipal Manager Overstrand Municipality
PO Box 20
HERMANUS
7200

Email: loretta@overstrand.gov.za
MN 70/2021

OBJECTION TO REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT
USE PORTION 141 OF THE FARM HANGKLIP 559

Introduction

I am a frequent visitor to Rooiels and Pringle Bay and contribute to the local economy. I have lived in Rooiels for a number of years. I have served as vice chairman of the Rooiels Ratepayers Association in the past and participated in various activities such as the monthly hacks to remove invasive alien vegetation. I am very familiar with the pristine Buffer zone area forming a "green lung" between Rooiels and Pringle Bay.

Undesirability of Distillery

It is undesirable to have a distillery producing strong alcohol in the Buffer Zone of an internationally proclaimed Biosphere Reserve. Even if it is a "micro distillery" it can still produce up to 2 million litres per annum. This is a considerable potential output which will cause a considerable and undesirable impact in this particular area. It is also most undesirable and dangerous to have visitors consuming strong alcohol in this pristine area.

Not Legally allowed under Agricultural-Industry

Agricultural industry is defined as follows in the Overstrand Municipality Scheme Regulations: "agricultural industry" means an enterprise for the processing of agricultural related products on or close to the land unit where these agricultural products are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products"

These two legal requirements that have been underlined above, have clearly not been complied with. Substantially the whole product for distilling will be transported in from afar. There is also clearly no necessity "due to the nature, perishability and fragility" as substantially the whole product is transported in.

This is an abuse of this provision of the Overstrand Scheme Regulations and makes a mockery of them.

Danger to the Area

It is irresponsible to have a distillery producing air pollution and noxious effluent along what is one of the few pristine areas that are left in Overstrand. Distilleries are a known fire hazard. Their product are also highly flammable concentrated alcohol, which is also toxic should it spill into the environment.

262/630



TP-A Theart
(H vld stoep)

TP 14 MAY 2021

FILE NO: Ptn 141,559 ✓
Hangklip
SCAN NO:
Classens
COLLABORATOR NO:
1539827

2103/630

What kind of public liability insurance would the Distillery have in place for the surrounding owners of smallholdings and the surrounding Pringle Bay and Rooiels towns?

What kind of insurance and capability does Overstrand have in place to contain and clean up a major spill of highly toxic material in the buffer zone of an international Biosphere Reserve?

It would be highly irresponsible for Overstrand Municipality to approve such a dangerous activity in this particular area.

Degradation of the Area

The assurance that visitors will apparently be transported in from the Pringle Bay side, is completely unenforceable.

No assurances have been given for all the trucks which need to visit in this remote location to bring in all the grain, the bottles and the packaging. These trucks will then have to transport out all the grain mash after they have produced the liquor. They will also have to transport the bottles out. The long term cumulative impacts over many years of all this traffic in a pristine environment will have a detrimental effect on the bird and animal life along the small dirt road. This causes a loss not only to biodiversity but also to tourism to Overstrand.

The area between Rooiels and Pringle Bay is an internationally known birding spot and this will inevitably eventually be destroyed by allowing the development of a Distillery to proceed.

There are appropriately zoned areas in Pringle Bay where a Distillery may be developed.

You are accordingly urged to refuse this application

Yours faithfully



Andreas Claassens

LOTHAR U EDELTRAUD WOLTERS
LÜNTENBECK
D42327
DEUTSCHLAND

264/630

14 May 2021

The Municipal Manager Overstrand Municipality
PO Box 20
HERMANUS
7200

Email: loretta@overstrand.gov.za

mm@overstrand.gov.za

sdkrige@gmail.com

smuller@overstrand.gov.za



TP - A Theart
(H vid stoep)

Dear Sir

OBJECTION: MN 70/2021

REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT
USE PORTION 141 OF THE FARM HANGKLIP 559

We have visited South Africa every year since 1992, spending up to three months in your beautiful country. We have grown very fond of the Overstrand area and often spend time in Rooiels, Pringle Bay, Kleinmond, the Harold Porter Gardens and with the penguins at Stoney Point. We look forward to be back in Overstrand soon again as we have already had our vaccinations against Covid19 in Germany.

When in South Africa, a favourite walk of ours is along the Porter Drive road though the unspoilt fynbos between Rooiels and Pringle Bay. This is the area where the proposed Distillery will be.

We are very worried about the proposed Distillery between Rooiels and Pringle Bay. We do not think it will be a good idea. It will be a disaster for Nature and for tourists like us who enjoy unspoilt Nature. We cannot imagine that Overstrand would be so reckless as to approve this. It will totally spoil this area to breathe in smoke from the wood-fired stills, smell the distilling fumes and waste products. There will, of course, also inevitably be a considerable additional amount of heavy traffic, like the trucks bringing in the grain to be distilled, as well as the bottles and boxes etc. And then there will also be trucks transporting the distilled whiskey or gin and their waste products out.

We also think that a Distillery with a place where people can drink strong alcohol is totally out of keeping with the character of this area. We can't believe that

Overstrand can think that this is desirable. As tourists who have spent a lot of money in South Africa and in the Overstrand area, this is definitely a big NO.

A development like this in an internationally declared and protected buffer zone of the Kogelberg Biosphere Reserve is wrong and should not be allowed.

We request that you take the necessary steps to protect this beautiful area from inappropriate development.

With our best wishes

Lothar and Edeltraud Wolters

TP 14 MAY 2021

FILE NO: Ptn 141 559
Hangklip
SCAN NO:
07
COLLABORATOR NO: 1539628



L Gillion

KHANG 141/559

From: Robert Schafer <[redacted]>
Sent: Wednesday, 12 May 2021 12:45
To: L Gillion
Subject: Distillery in Pringle bay

TP-A Theart
(Huld Stoep)

Dear Loretta,

I trust that this mail finds you and your colleagues well.

My name is Robert Schafer, and my family trust owns ERF 3, 2 Terminal road Pringle bay. I am in support of the Distillery, and believe that it will add a lot of touristic value to Pringle bay and add great value our village and beyond our area.

In short, I am in support and look forward to treating my friends and international clients to a bottle or two of our very own False bay originating whiskey and gin.

Yours faithfully,
Robert Schafer



Robert Schäfer
Managing Director
201 Tallate Industrial Park | 12 Ravenscroft Road | Woodstock | Cape Town | South Africa
www.capecobra.com
@capecobraleathercraft

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TP 12 MAY 2021

FILE NO: Ptn 141/559 ✓
Hangklip
SCAN NO:
Schafer
COLLABORATOR NO:
1539296

Municipal Manager Overstrand Municipality
PO Box 20
HERMANUS
7200

Email: loretta@overstrand.gov.za
MN 70/2021



TP-A Theart
(H vld Stoep)

OBJECTION TO REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT
USE PORTION 141 OF THE FARM HANGKLIP 559

1. I often stay at Rooiels for my personal retreat. I have walked in the beautiful "green lung" between Rooiels and Pringle Bay.
2. It is not appropriate to have a distillery producing strong alcohol in the Buffer Zone of an internationally proclaimed Biosphere Reserve. It is also inappropriate to have people consuming such strong alcohol in this area.
3. It is irresponsible to have a distillery producing air pollution and noxious effluent along the shores of one of the very few coastal plains areas that are currently left to nature. Distilleries are also known fire hazards producing highly flammable alcohol. A distillery is in essence an industry. A licence as a micro-distiller enables the production of up to 2 million litres of spirits.
4. For the distillery to operate in this remote location all the grain will have to be transported in together with all the bottles and packaging. They will then have to transport out all the grain mash after they have produced the liquor. They will also have to transport the bottles out. These impacts on are not adequately mitigated and will have a detrimental effect on the bird and animal life along the small dirt road. This causes a loss not only to the biodiversity but also to tourism. The Cape Rockjumper and the Victorin's warbler, the Ground Woodpecker and other special birds found in that area attract people from all over the world. The area between Rooiels and Pringle Bay is known both nationally and internationally as a choice birding spot.

Yours faithfully
Swami Vidyananda

FILE NO:	Ptn 141/559 ✓
Hangklip	
SCAN NO:	
	Swami
COLLABORATOR NO:	
	1539303

j 12 MAY 2021

L Gillion

267/630

From: Eva Magan < >
Sent: Friday, 14 May 2021 10:31
To: sdkrige@gmail.com
Cc: Loriaan Isaacs; L Gillion
Subject: Re: Objection to application Erf141



Thanks a lot.
Eva Bakonyi

Sent from my iPhone

On May 13, 2021, at 21:22, Fanie Krige <sdkrige@gmail.com> wrote:

Dear Eva

I take note of your objection, but it must go to our Town Planning Department and the decision will be taken by a Municipal Planning Tribunal in which Councillors are not involved.

However, your participation will give you the right to appeal against the outcome.

Regards

FANIE KRIGE
COUNCILLOR: WARD 10

On Thu, 13 May 2021, 2:38 pm Eva Magan < > wrote:
Good Afternoon,

I am strongly against running a gin factory on Erf 141. My main concerns are:

- Increased traffic during construction
- Increased traffic during operation
- Increased traffic because of tourists visiting the tasting room
- Increased water use
- Increased waste production
- Road damage because of increased traffic
- Fire hazard
- Possible noise pollution
- Possible air pollution

I hope RERA will consider my objection.

Eva Bakonyi

FILE NO: Ptn 141/559
Hangklip
SCAN NO:
COLLABORATOR NO: 539620

TP 14 MAY 2021

The Municipal Manager Overstrand Municipality

PO Box 20, HERMANUS, 7200

Email: loretta@overstrand.gov.za

268/620



TP - A Theart
(H vld Steep)

OBJECTION TO REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT USE: PORTION 141 OF THE FARM HANGKLIP 559: MN 70/2021

Executive Summary

1/ The presented application is misleading. Based on the information provided, this venture does not make sense from a **business point of view**, it can only work if the operation is much bigger than currently forecasted. It can not operate profitable as a small family distillery, it has to be either a much bigger production and/or much bigger tourist activity. Mass tourism is not adequate to the area of the suggested distillery location.

2/ The application does not properly addresses the **major environmental risks** and does not represent an environmentally sustainable investment.

Interest in this application

I am the joint owner of erf 257 Rooiels and have been living in Rooiels for many years. Our house is close to the property of the planned distillery. We have a view towards Hangklip over the pristine fynbos of the smallholdings, including over Portion 141.

I am concerned that by allowing a distillery in this area will lead to many unintended consequences, both related to my property and our lifestyle and also for the whole Rooiels, Pringle Bay area. My property would definitely loose some of its value, having industrial production close to it. The distillery will damage this beautiful and also important biodiversity area and cause unnecessary environmental hazards.

I accordingly object on all counts: removal of title restrictions, departure and consent use.

1/ The Business model of the applicant is lacking or implausible and not consistent with what has already happened on site and in Pringle Bay

FILE NO: Ptn 141 559 ✓
Hangklip
SCAN NO:
Eva
COLLABORATOR NO: 1545117

TP-1 JUN 2021

269/630

I am an economist and have worked for the World Bank for twenty years both locally and around the world. I am an expert in sustainable business development and investment assessment. According to my understanding, the application and the presented business is economically not viable and environmentally not sustainable. The application is misleading from both aspects.

It says that *"the business model has been specifically formulated to make provision for a small scale, family run micro distillery that is appropriate for the site and context"*. The business model is not presented in this application. Based on the information available, this business can not be profitable.

Below are a few example of misleading information from the application:

- *"Eventually, at full production, about 1000 bottles of whiskey and gin will be produced per month"*. (p17)

The amount of capital has already been invested by the applicant (see below) indicates that this venture is not a small scale home distillery, but a growing commercial enterprise.

It is likely that production will have to be increased to the allowed (in case of a micro distillery) two million liters per annum, 38 000 liters per week, to make it financially viable. There is a huge difference between 1000 liters or 38 000 liters per week. It creates much bigger traffic to supply raw materials and transport products. It requires much more water and creates much more waste.

- It is stated in the application that tours and tastings of the distillery will be *"by appointment only"* and transported by minibus or a safari vehicle. Each group will comprise about 12 people.
- The application also states that the *"The proponents of the distillery are in the process of purchasing No16 Central Road"*. In this building in Pringle Bay the *"12 vehicles can be accommodated in the warehouse, while another 6 vehicles can be parked outside the warehouse on the property"*.
- *"Contingent on the approval of this application, a Site Development Plan, depicting both the extension to the existing structure and internal layout will be submitted to the Municipality for approval"*.

270/630

The property to be used as a parking garage which is situated at 16 Central Road, Pringle Bay (erf 378) was purchased by Allweld Investments (directors Leigh and Monique Elves) on 30 November 2020. This is more than four months before submission of the application in question, yet this misleading statement is included in this application. The purchase price of the property was R2,3 million.

The parking capacity of the 16 Central Road Property is significantly more than that needed for no more than 12 visitors at a time. This together with the R2,3 m capital outlay for the building seems to further suggests that this will be a much bigger operation.

Recent photographs of the property, as well as Google Earth show that a big portion of the distillery if not the whole has already been built. See also Figure 6 for misleading information in this regard.

Building plans for substantial extensions were submitted and approved many months prior to the submission of this application to Overstrand Municipality. It was also planned and built presumably prior to the applicant applying for a manufacturing license to the Western Cape Liquor Authority. It is misleading that the fact of the approval and construction of the distillery building has not been disclosed in this application.

Old and outdated building plans are annexed in Annex 6 of the application. Yet new plans had been approved more than 6 months before the submission of this application to Overstrand Municipality. It appears that the correct information may have been withheld to mislead and placate potential objectors, creating the impression of a small limited scale development.

The cost of the extensions to the old stable buildings/barn are conservatively estimated at R2m, comprising approximately 160 square meters. There are also eight water tanks indicated. This is without adding the cost of a 600 square meter dam to the property.

In total, a capital outlay of more than R 4,3 million has already been incurred for a so-called small scale family business which only intends to produce at "full" production 1000 liters of whisky and gin. A thousand liters is typically the amount which someone could produce in their garage or in a big kitchen without all the infrastructure that has already been built.

271 | 630

The stated intention of the application that it would be a small scale business, is not in line with the capital investment. The "business model" is clearly not a feasible and financially viable one at a production of a maximum of 1000 liters per week.

This is of concern, because after approval of the distillery, the visitor quota will probably be increased or visitors will be allowed to visit with their own vehicles, since it is a public road. Alternatively the property could be used as a "bush" drinking place. It could also be used as a wedding venue, since there is already a chapel on the property. There is nothing precluding the Free Life Trust to sell the property to a commercial distiller, or since the owner of the property is a Trust, new trustees could be brought in to run a commercial distillery without anyone (including Overstrand Municipality) being any wiser.

It is of great concern that Overstrand Municipality is not legally able to enforce and police any of the promises given by the application to limit production and to limit vehicles on Porter Drive. Unless these promises are enforceable, the consequences for the larger area will be dire.

2/ The application does not properly addresses the major environmental risks and does not represent an environmentally sustainable investment

In case of this business venture goes ahead it will create high risks and will have a major negative effect on the already fragile and unique environment. Unfortunately the application does not properly address these risks and potential damages and has not provided adequate mitigation strategies.

- **Increased traffic and road issues:** The incremental effects of increased traffic during construction and later during operation along Porter Drive is likely to lead to a gradual widening of Porter Drive over time with negative effects for all the eco systems in the area. Vehicles bringing in grain, tasting room and shop supplies, bottles and packaging materials, and vehicles taking away waste and the final products and are all going to add a significant load on this road even if the production is 1000 liter per week, but much more if it is several times more than that. Heavy vehicles will likely continue to use the Rooiels entrance, as they have been doing since the construction of the distillery started in contrast to what is indicated in the application.
- **Water issues:** The increased water usage has been underestimated. The distillery would use a very high volume of water in case of the stated 1000 liter per week

272/630

production already but it would create serious consequences for the ground and surface water usage in case of maximum production of 38000 liter per week. Water is a major concern in the Cape, this issue has not been properly addressed in the application.

- **Waste issues:** The amount of waste production and its risks and its impact on the environment has also been underestimated. The waste could create serious problems in case it is not properly handled. This is even more important in an area which has a very sensitive biosphere with unique flora and fauna.
- **Fire risks:** One of the most important risk related to any distillery is the fire risks. To place a distillery in an area which is a major fire hazard area anyway is highly dangerous and irresponsible. The level of fire risks and its mitigation plan mentioned in the application is not adequate to the Cape area. In addition to the highly flammable fynbos environment both the southeastern wind in the summer and the northwestern wind in the winter are extremely strong in that area, increasing the fire risk, which is high anyway irrespective of the location of any distillery.
- **Noise pollution:** Rooi Els and Pringle Bay are mostly residential areas. The local residents are very keen to minimize noise and light pollution to be able to enjoy peaceful life. A distillery production could be very noisy which would disturb the people and also the animals and birds living in the area. This has not been mentioned in the application at all. It could be misleading. The missing information about noise pollution could be intentional to reduce the number of opponents.
- **Unpleasant smell:** The distillery production and especially the waste create a very unpleasant smell. With strong wind mentioned above, this is a side effect which has been ignored in the application.

In the light of all the points raised above, I request that this application to be turned down.

Sincerely

Eva Bakonyi

Erf 257, Perspiqua Road, Rooi Els

30th May, 2021

L Gillion

KHANG 141/559

213/630

From: Mary van der Riet <[redacted]>
Sent: Wednesday, 12 May 2021 17:03
To: L Gillion
Subject: Fw: Objection to development on Erf 141



Dear Overstrand Municipality

We would like to confirm that we object to the development of Erf 141, specifically the application for removal of title deed restrictions, rezoning and consent use for a distillery. We would like RERA and REC to object to all three of these.

We are concerned by this type of development in the small coastal village of Rooi Els. We are concerned that it will negatively affect the particular ecosystem of the area, which contains a unique biosphere. The area is known for its particular birdlife, and fynbos vegetation.

We object on the basis that the development would draw more traffic into this ecosystem, particularly on the part of Porter drive which leads out of Rooi Els.

The signs of development and upgrading of the Rooi Els side to the erf suggest that it will be used as an access point. The use of the access roads for transporting of raw materials and the products, as well as tourism, will dramatically increase the traffic in the area and negatively impact on the ambience of Rooi Els.

The Rezoning of the property to Agriculture 2 (Agro-processing) is of particular concern and we object to this. We are concerned that once it has been rezoned to agro-industrial, and if a micro-distillery licence is granted, there are no further permissions required for a larger production (which for a micro distillery can go up to 2 million litres per annum).

In addition, once the title deed restrictions are lifted, future owners of the property will be able to develop it even further, in ways which are not aligned to the idea of the Rooi Els/Klein Hangklip are being a unique and protected biosphere.

We also object based on the limited and inaccurate information provided about the disposal of the waste water from the distillery. The waste disposal process described is not adequate to provide sufficient protection for the environment.

Please could you acknowledge our objection as part of the Rooi Els community of rate payers.

Yours sincerely

Professor Mary van der Riet, Mr Ryno van der Riet, and Mrs Elizabeth Connell, on behalf of Dr Jennifer van der Riet owner of Erf 254, KRE

Mary van der Riet (PhD), Associate Professor
 Discipline of Psychology, School of Applied Human Sciences, College of Humanities, University of KwaZulu-Natal, South Africa
 email: mvanrier1@ukzn.ac.za

1

TP

12 MAY 2021

FILE NO: Pen 141/559
Hangklip ✓
SCAN NO: VDR
COLLABORATOR NO: 1539350

L Gillion

274/630

From: Demi Esterhuyse <>
 Sent: Thursday, 13 May 2021 13:09
 To: L Gillion



PO BOX
 Pringle Bay
 7196

TP - A Theart
 (H v d Stoep)

The Municipal Manager Overstrand Municipality
 PO Box 20
 HERMANUS
 , 200

Email: loretta@overstrand.gov.za

Dear Sir

OBJECTION: MN 70/2021
 PORTION 141 OF THE FARM HANGKLIP 559
 REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT USE

1. Not Desirable in a Critical Biodiversity Area and Buffer Zone of an International Biosphere

I have lived in Rooiels for many years. I know the smallholdings along the coast between Pringle Bay and Rooiels very well. It is a pristine area ranging from the top of the mountains right down to the sea.

Most of this area has been designated as a Critical Biodiversity Area. This area also falls in the Buffer Zone of the Kogelberg Biosphere Reserve. All these smallholdings except portion 141 are zoned Conservation Use.

1

TP 13 MAY 2021

FILE NO: Ptn 141/559
Hangklip
SCAN NO:
01
COLLABORATOR NO: 1539417

215/630

In the light of the above, I believe that it is highly undesirable to grant Portion 141 rights for a distillery. This would be totally out of sync with the other properties comprising this green strip between Rooiels and Pringle Bay.

Given the high risk of spills, contamination, explosions, fire and air pollution associated with distilleries in general it is highly undesirable to situate such an enterprise in a fragile natural area which has mostly been given Critical Biodiversity status. The risks to the environment are simply too great. (If you doubt the basis of my claim regarding the high risk, please check this with any insurance company)

2 Undesirable effect on people using the road as well as wildlife in the area

This section of Porter Drive which runs through the smallholdings is a single dirt track. It is used by walkers, joggers, cyclists, photographers and bird-watchers – some of them coming from overseas to see the Cape Rock Jumper. The Cape Rock Jumper population is declining in South Africa to levels of concern, due to threats to a few small areas that it is found.

There are also other vulnerable and rare plant, bird and animal species in what is a very unique habitat on the slopes of Klein Hangklip and the other mountains. Examples are the Victorin's warbler, the Ground Woodpecker, Cape Leopard, Grey Rhebok, Diastellathymeloides and Erica pattersonia.

They will be heavily disturbed by all the traffic that will have to go on the road. Such traffic will be mostly heavy trucks supporting the proposed Distillery.

For example:

- The grain will need to be brought in and that truck will need to leave the area again.
- A vehicle removing the waste products of the Distillery will need to come in and out of the area
- A sewerage truck (for the visitor's tasting room and shop area) will need to come into the area and leave again
- Delivery vehicles bringing Distillery equipment and supplies will need to come into the area and leave again
- Delivery trucks for bottles, closures and packaging materials will need to come into the area and leave again
- The finished product will need to be moved from the Distillery to the warehousing or distribution point and such vehicle will have to traverse the road twice as well.
- The "taxi" bringing in visitors from Pringle Bay will have to enter the area and leave it again.

It should be clear to all concerned that the impact on the small dirt road will be considerable. It will detrimentally affect walkers, joggers, cyclists, photographers, tourists and bird-watchers alike. It is also highly likely to have a detrimental effect on the biodiversity of the area

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3 **Distilleries are a noxious trade due to the nature thereof. This will have a number of undesirable effects:**

- Continuous/regular firing of the stills using wood chips will cause smoke emissions in a pristine area
- There will be fumes and vapour produced in a pristine area
- The presence of wood chips for firing the stills, highly flammable blue gum trees surrounding the Distillery, large volumes of concentrated alcohol on the premises and the high winds, together create an explosive cocktail. All the elements necessary for a "perfect storm" are combined at the Distillery. A disaster is likely to happen in future which would threaten the surrounding properties, the two villages and a Critical Biodiversity Area.

4 **A tasting facility where people consume strong liquor is not desirable in this area and better suited to the existing towns of Rooiels or Pringle Bay.**

I trust that the application will be turned down.

Yours faithfully

Demi Esterhuysen

Sent from my iPhone

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With reference: Portion 141 (A portion of portion 133) of the farm Hangklip no. 559, Division Caledon: Application for removal and amendment of restrictive title deed conditions, consent use and departure: Planning Partners (obo Free Life Trust)

As a resident in Rooiels, I wish to register my objection to the above application. This application was registered in the past and was withdrawn after many objections from the community. The applicant has now embellished and expanded his motivation, but the application is in essence the same as before.

The proposed distillery is to be developed in the heart of one of the few remaining coastal belts of natural beauty that have not fallen prey to ribbon development. We are concerned about creeping commercialism and unnecessary and unwarranted development in Critical Biodiversity Areas.

I list my objections to the application below:

1. The owner has already pre-empted his permission by completing the additions to the existing building. The introduction to the application states that it "will require a modest addition to the former stable building". This has already been done under the pretext of building a barn.
2. The claim is made that the proposal will be "beneficial from both a local and regional perspective". This is an assumption and misleading considering the scale of the proposed activity.
3. The claim is made that the proposal is "desirable, appropriate and worthy of approval." Unproven and an assumption.
4. The statement is made in regard to the other smallholdings that "their contribution to the local economy is very limited." Considering that all the other smallholdings are not zoned for commercial activity, this statement has no substance.
5. "stone wall to prevent kikuyu from encroaching into the fynbos". No wall can stop the spread of kikuyu. The only stone wall visible from the road is one which borders the driveway to the homestead. Nothing is built around the large lawn to the south of the "distillery" building. The applicant seeks to placate residents' concerns with this statement.
6. The applicants claim their "commitment to establish a sustainable eco-friendly lifestyle on the property." The transportation of raw materials to the site, removal of waste from the site and the pumping of liquid waste into the septic tank system don't support this claim.
7. "makes use of renewable resources and operates in accordance with sustainable production processes." Renewable resources? The applicant makes this claim only because he is using an existing building and old windows. Sustainable production processes? How long will he be able to keep up the trucking in of his raw materials to the site? Would all that fuel and the footprint of the transportation contribute to sustainable processes?

TP 13 MAY 2021

FILE NO: Ptn 141 559
Hangklip
SCAN NO:
02
COLLABORATOR NO: 1539419

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8. The claim that the activities "will have no impact on the reserve" is misleading. The core of the KBR is one thing, but the site is situated in the buffer zone of the KBR and anything happening there, does impact on the reserve.
9. "no alien plant species will be introduced onto the property which could potentially spread to the Reserve." The property is already overrun with alien, invasive species. Alien trees have been spreading from this property to neighbouring smallholdings over many years. Kikuyu grass covers most of the developed area of the smallholding.
10. The statement that "short educational lesson(s) about the reserve" will be given to guests is an attempt again to counter the concerns of property owners. How many guests will receive this education and at what level?
11. "no negative impacts ... are foreseen." How does the applicant plan to address the "unforeseen" negative impacts?
12. Reference is made to pumping out of the sewerage tank. If this is a septic tank system, why would pumping be required? Pumping would be required for a conservancy tank system or when a septic tank system becomes blocked or over-full. This point needs more clarification.
13. Solid, dry waste is to be transported to "local" piggeries, chicken and sheep farmers. There are no local livestock farmers within a reasonable distance from the site. What distance is regarded as "local"? I refer again to the carbon footprint of such transportation.
14. 20 kg of plastic and cardboard constitutes a large quantity of waste material. How far is this recyclable waste to be transported?
15. Liquid waste is to be used for irrigation purposes. Elsewhere mention is made of the high concentration of minerals in waste water. What impact would this have on the soil in which the highly specialized fynbos grows?
16. If the waste water is "rich in dissolved minerals", how would that impact on the natural processes in a septic tank system?
17. Greywater (1000 litres per week) would also contain high levels of minerals and nutrients and cannot be used in a fynbos region.
18. The claim is made that the Pringle Bay entrance to the smallholdings will be used. Since the beginning of building operations on the property, the Rooiels entrance has been used. Why would this change? How would trucks and guests be prevented from using this entrance?
19. "compatible and sustainable rural activities (i.e. activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate)" How does importing all raw materials (except a small amount of fynbos for flavouring) to be processed on the site constitute "compatible and sustainable rural activities"? "positive socio-economic returns": does the employment of three additional staff members and perhaps contract labourers constitute positive socio-economic returns?
20. The existence of other breweries and distilleries in the Overberg can not be used as a motivation to allow this application.
21. OMSDF "... Opportunities ... must be promoted in selected areas to stimulate growth and employment of the rural population." Surely can't apply when this is a single agricultural portion surrounded by and included in a CBA. Stimulate growth and employment? Possibly only for the owners.

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22. Figure 15: "...close to an arterial road." But far away enough to incur great expense when the Municipality is compelled to upgrade the road to enable the current and possible future business activities which fall within the proposed new title deed status. In its current state, the connecting road to the arterial road is in bad condition and unsuitable for use by trucks and sewerage removal tankers.
23. The applicant claims that the distillery will contribute to the local economy, but the income resulting from being the home to the Cape Rockjumper is far greater. The Municipality has expressed the wish to build tourism in our region and birding tourism makes a large contribution to tourism income. Furthermore, the fynbos and birdlife in that area has not only biodiversity and intrinsic value, but also is probably the most important specialised tourist destination along the Overstrand coastline. The proposed development and activities on the site would certainly impact negatively on the very small range of these iconic birds.
24. For us living in Rooiels it is important to our enjoyment of the area that we can walk along the smallholding road without traffic. Already significantly increased traffic on that road is a problem for most of us.
25. Even if the owners are going to take every mitigation measure and are going to restrict their use to a very small distillery and tasting room, this will not be financially viable. Although they may be in the financial position to invest in a lifestyle venture, this could change. Certainly, the footprint of the building is much larger than that required for a small distillery. Once the title deed restrictions are lifted and the rezoning achieved, then any person they sell to will be able to significantly expand the distillery, or host weddings, rave parties, motorbike rallies or other such activities
26. In the light of the fact that all materials have to be transported to the site, it would be far more suitable and appropriate for the distillery to be situated in the CBD of Pringle Bay, from whence the guests would be transported anyway to the smallholding, according to the application.
27. Currently the property poses a fire hazard with its forest of eucalypts. During the last Rooiels fire in 2017, four teams of firefighters were sent to protect this single property while other homes in the village were burned down or damaged. Bluegums are extremely inflammable and cause far greater heat and fire spots during fires. Add to that the fact that the owners plan to use wood chip fires for the distillation process and the presence of high percentage alcohol and you have a recipe for disaster when the next fire threatens.
28. The waste management plan is a cut-and-paste exercise from a website. How can the applicants be sure of the data supplied for the amount of waste generated? Has the plan from a website been adapted to a fynbos region?
29. Distillation is potentially highly polluting:
- Distilleries are among the most polluting industries because ethanol fermentation results in the discharge of large quantities of high-strength liquid effluents with high concentrations of organic matter and nitrogen compounds, low pH, high temperature, dark brown color, and high salinity.
30. Spent wash is the residual liquid waste generated during alcohol production and pollution caused by it is one of the most critical environmental issues. Despite standards imposed on effluent quality, untreated or partially treated effluent very often finds access to water courses.

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The distillery spent wash is hot, highly coloured and acidic, apart from containing high percentage of dissolved inorganic and organic matter, the latter being particularly responsible for high biochemical oxygen demand (BOD) and the polluting nature of the waste. Spent wash contains dissolved salts and has a persistent dark brown color.

Thank you for your attention. I look forward to responses to each of my concerns.

A. Scholtz
Erf 222 Rooiels
P.O. Box
Cellphone no.

I include these images to support my objection:



Figure 1 : Trucks and builders using the Rooiels entrance during building operations



Figure 2 Imagine sewerage tankers, minibusses, cars on this fragile road...

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Figure 3 View from road - back entrance



Figure 4 View from Road: Tasting room/Venue to the left



Figure 5: From the road

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Figure 6: The narrow track to be used by trucks, mini busses and sewerage tankers. No passing places.



Figure 7: Image taken on 8 May 2021. Building of tasting room and distillery. Clearly in anticipation of a positive outcome.



Figure 8: Windows of the proposed tasting room in place. Image taken on 8 May 2021. This doesn't look like the barn for which building permission was requested.

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Figure 9: Farm with barn in 2019



Figure 10: 2020: dam added. Footprint of tasting room visible. All amidst a forest of bluegum trees.

L Gillion

284/630

From: florette <...>
Sent: Wednesday, 12 May 2021 10:51
To: L Gillion
Subject: OBJECTION TO REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE AND CONSENT USE PORTION 141 OF THE FARM HANGKLIP 559

Municipal Manager Overstrand Municipality
 PO Box 20
 HERMANUS
 7200
 12 May 2021

TP - A Theart
 (Huidstoeper)



Email: loretta@overstrand.gov.za
 MN 70/2021

RE: PORTION 141 OF FARM HANGKLIP 559 - OBJECTION TO PROPOSED CHANGE IN TITLE CONDITIONS, DEPARTURE AND CONSENT OF USE

Please note my personal objection to the following proposed change in Restrictive Title Conditions :

1. It is not appropriate to have a distillery in the Buffer Zone of an internationally proclaimed Biosphere Reserve. A Distillery is in essence an industry. A licence as a micro-distiller enables the production of up to 2 million litres of spirits.
2. It is inappropriate and irresponsible to have a distillery producing air pollution and noxious effluent along the shores of one of the very few coastal plains areas that are currently left to nature. Distilleries are also known fire hazards producing highly flammable alcohol.
3. For the distillery to operate in this remote location all the grain will have to be transported in together with all the bottles and packaging. They will then have to transport out all the grain mash after they have produced the liquor. They will also have to transport the bottles out. These impacts on are not mitigated.
4. The road which all this is transported along is one of the very few remaining areas known to have the vulnerable Cape Rockjumper. The population of bird is declining in the few small areas that it is found. There is also other vulnerable and rare plant, bird and animal species in what is a very unique habitat on the slopes of Klein Hangklip and the other mountains. They will be disturbed and impacted by all the traffic that will have to go on the road.
5. This causes a loss not only to the biodiversity but also to tourism. The Cape Rockjumper and the Victorin's warbler, the Ground Woodpecker and other special birds found in that area attract people from all over the world. The area between Rooiels and Pringle Bay is known both nationally and internationally as a choice birding spot.
6. Approval for the licence will enable the Distillery to produce 2 million litres of alcohol as a micro-distiller. I feel it is totally wrong to have a Distillery making hard liquor in an area that is otherwise kept for nature.

Yours faithfully,

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FILE NO: Ptn 141/559
Hangklip ✓
SCAN NO:
Naude
COLLABORATOR NO:
1538871

TP 12 MAY 2021




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MRS F A Naude
Cell: t



This email has been checked for viruses by Avast antivirus software.
www.avast.com

L Gillion	FILE NO:	Ptn 141 559-Hangklip	TP-A Theart (H vld stoep)	
	SCAN NO:	Johlene		
	COLLABORATOR NO:	1538779		

From: Johlene de Villiers < >
Sent: Tuesday, 11 May 2021 23:49
To: L Gillion
Subject: RESPONSE TO APPLICATION OF ERF 141 Hangklip no 559

286/1230

Importance: High

RESPONSE TO APPLICATION OF ERF 141 (A portion of portion 133) OF THE FARM HANGKLIP NO 559

Dear Ms Loretta/ Planning Department of Overstrand Municipality (Kleinmond Hangklip Area)

Thanks for the opportunity to comment on the above-mentioned application. After studying the document , I duly inform you that I **OPPOSE** the application for removal and amendment of restrictive title deed conditions, consent use and a relaxation of the planning conditions. The following are reasons of serious concern for me as a ratepayer of Rooiels .

1. The proposed distillery is (has already started!) to be developed in the heart of the buffer zone of the Kogelberg Biosphere (KBR). This is one of the few remaining coastal belts that has not been yet developed in the entire Overstrand area. (Think coastline from The Kelders through to Gansbaai etc). Do we really want this to happen to Rooiels? If this application is granted, the precedent for the other smallholdings in the neighborhood is set. **In law, a successful application mostly set a precedent.** Rooiels and Pringle Bay will then eventually become one coastal resort – like so many others!
2. **This application is clouded** by certain facts. To start with – this application was registered in the past and was withdrawn after many objections from the community. The applicant has now embellished and expanded his motivation, but the application is in essence the same as before. Meanwhile the applicant has started building before the necessary permission is granted. What is happening on erf 141 therefore states that the owner has pre-empted his permission. The so called “modest addition to the former stable building” has resulted in building a “barn” – with large windows – the tasting venue? If this is true, the process ran parallel to a campaign led by the RERA/REC Treasurer and another member to elect the owner of plot 141 on both the RERA and the REC Exco's. This suddenly starts to raise some questions about the fairness of this second attempt to influence people to support the application. **Taking into account all the irregularities involved in this application, I am of the opinion that the regulation departure is not a necessity for this application. The owner was aware of these regulations before he started building without the necessary permission.**
3. **A variety of biodiversity issues are not dealt with properly in the application:**
 - The claim that the activities “will have no impact on the reserve” is misleading. The core of the KBR is not affected, but anything happening in the buffer zone does affect the wellbeing of the KBR. This is not addressed adequately in the application.
 - The home of the Cape Rockjumper is a well- known tourist attraction for birdwatchers. How will this be affected? Together with other birdlife, the magnificent fynbos along the route, the occasional route of the Cape Leopard and numerous other wildlife....all these affect the biodiversity and intrinsic value of the area. The lovely narrow coastal road, the daily walks of many a Rooielsers in order to enjoy all these, will have to make way for an upgraded road for the necessary traffic? The claim that the Pringle Bay entrance to the smallholding will be used, is no guarantee for the biodiversity of the area. Since the start of the building operations, the Rooiels entrance was used – there are photos available proving trucks and builders

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continuously using the Rooiels entrance. There are no way to predict which road will be used by people driving to the proposed site. Porter Drive is a public road and no one may be stopped driving it.

- The application mentions a "stone wall to prevent kikuyu from encroaching into the fynbos". This is not true. No wall can stop the spread of kikuyu. There is also no stone wall around the lawn to the south of the building.
- Alien plant species: "no alien plant species will be introduced onto the property which could potentially spread to the Reserve" – a very strange statement because erf 141 is already covered by alien species to such an extent that it has spread to other properties already. What is planned to get rid of these? This is an urgent factor facing the owner – even if the application is not successful.
- Another sweeping statement in the application: "Short educational lesson(s) about the Reserve will be given to guests". How many guests will receive this education and at what level? What will be the qualifications of the lecturer and how can such lectures be in coordination with whiskey and gin tasting? (Perhaps only dealing with the flavouring of the product as a tool for more sales?) How will these lectures compare to the information on the Reserve available at the well-known Harold Porter Gardens? Is this another eye blinder to satisfy property owners?

4. Social and Economic issues:

- The application claims that the proposal will be "beneficial from both a local and regional perspective". The scale of the proposed activity makes this a misleading claim.
- Another misleading statement is made with regard to the other smallholdings, stating that "their contribution to the local economy is very limited". None of them is zoned for commercial activity, thus no contribution. Therefore applications for rezoning will be required for any economic activity to happen on these. Thus again leading us back to point 1 – a precedent is set!
- The following statement also needs clarification: the proposed distillery claims to become a "compatible and sustainable rural activity (i.e. an activity that is appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate)". To my knowledge, only a small amount of fynbos for flavouring, will be processed on the smallholding. With all the other raw materials to be transported to the site, how can it be described as a "compatible and sustainable rural activity"? As for "positive socio-economic returns", can it be obtained with a workforce of 3 additional staff members and perhaps some contract workers in high season?
- As far as the Municipality's mandate is concerned: Figure 15 in the application notes the site as "close to an arterial road". This distance however, is far enough to cost the Municipality a fair amount of money to upgrade the connecting road (which is not suitable for business activities which fall under the proposed new title deed status). At present that road is not in a condition to carry trucks and sewerage removal trucks.
- The present owners may opt to restrict their use to a very small distillery and tasting room, a lifestyle venue. This will not be economical viable. The present owners may be in the financial position to invest in such a lifestyle, but what about the future? The footprint of the distillery tells another story. Thus once the title deed restrictions are lifted and the rezoning achieved, they (or any person they may sell to), will be able to significantly expand the distillery or even use the buildings as a venue for weddings, parties, conferences, rallies, etc. This is a reality that cannot be ignored. The social impact of such a change will have detrimental consequences on the buffer zone, Rooiels, and the neighbouring properties. The decision on this application must take into consideration whether such a possibility is worth taking the risk? Almost all of the ratepayers of Rooiels have invested in a quiet little hamlet and the very special lifestyle we all adore. Support for this application will be detrimental to the future of what we have invested in. What will we tell the next generation (who seems to be much more aware of our footprint on Earth), if this decision turns in favor of the application and over a number of years it shows that it has been the turning point of a process that ends up converting Rooiels into a suburban area? Easier said than done? NO, just look around what is already happening everywhere. The buffer zone of the KBR needs to be protected for the KBR to be prosperous.
- **The tourism potential of this region lies in the natural state of the Biosphere and the buffer zone. No lifestyle distillery can ever replace this valuable asset. However, it is a fact that a single misplaced**

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industrial activity within this buffer zone has the potential to expand and destroy all of what makes this region unique to residents and tourists. E.g. with no more birds, fynbos, animals, walking routes, bicycle routes and pristine scenes, our guesthouses, air B&B's, restaurants and lifestyle shops will have no more customers. Staff will have to be laid off. The local economy will shrink and even the planned distillery will not be economical viable!

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5. Waste - a few statements signal red lights:

- Pumping out of the sewerage tank? Thought a septic tank system will be used? Where will the seepage of the septic tanks eventually go?
- High concentrations of minerals mentioned to be in the waste water. What will the impact be on the soil where the fynbos grows? Has a scientific study been made to get an answer on this?
- Greywater (1 000l/week) would also contain these high levels of minerals thus unsuitable for a fynbos region? How will the greywater be stored/used?
- Have the necessary studies been done with regard to the amount of waste to be produced? Have the potentially high polluting process of the fermentation of alcohol been taken into account when this proposal was planned? Has the issue of "spent waste" be addressed? It is well known that the residual liquid waste generated during alcohol production is one of severe and most critical environmental issues. To mention the existence of other breweries and distilleries in the Overberg, plays no role what so ever as motivation to allow this application. This is an unique setting, an unique application with its own specific reasons for not allowing the application.
- The application mentions that solid, dry waste is to be transported to "local" piggeries, chicken and sheep farmers. Where are these "local" livestock farmers within reasonable distance? The only ones I can think of are those having livestock in the informal housing areas of Kleinmond/Mooiuitsig. What health implications will come on board if the solid waste is deposited in these areas OR what health implications may be implicated if the population of these areas start to increase their stock because of the solid waste/food been delivered regularly? How will the Municipality react to such a dump? On the other hand – what will the economic impact be on the distillery if these loads of waste have to be transferred in bakkies load regularly over long distances? On the contrary – will the waste perhaps be stored on the site till the mass is appropriate to engage a truck load? (What will the carbon footprint be of all these activities? Especially if you take into account that about all of the materials for the distilling process have to be transported as well!) All these possibilities are not discussed in detail in the proposal.

Problems with waste handling add up to make distilling in a fynbos area a most unlikely sustainable activity. It rather has to be done in an industrial area. This is not about a person distilling a few bottles in his backyard – this is an application for an industrial activity (with the possibility for considerable expansion) in the buffer zone of a biosphere. An activity that will be uncontrollable once the necessary permission is given. All these industrial activity will be taking place within the buffer zone of the KBR of which all of us are custodians!

6. **A final thought on this document.** The document has been prepared by a professional business (Planning Partners) who is paid by the owners to set up a document to get the necessary amendment and consent and departure from the Municipality. Money is exchanged to get rid of the bureaucratic system! This is how the system works. I dare say neither the Planning Company, nor the owners have any reason to really care about what may happen to all the flickering red lights been mentioned by the Ratepayers of Rooiels. If the application is accepted, both sides will earn their money as planned for. That is why so many of the facts are just mentioned as easy solutions for all the red lights flickering. To my humble opinion, there was probably a carefully orchestrated plan to influence some of the Rooiels Ratepayers and in the process "divide and rule"! Fortunately not all Rooiels Ratepayers are willing to be swept away by a populist group. We care for our town, our region as buffer zone of the KBR and the people living in this area. No money or financial gain can

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ever substitute the beauty, tranquility, biodiversity and sheer pleasure to be part of this beautiful heritage. We plead to the officials dealing with this application, to carefully study the so-called new motivation plan and have a proper look at all the "easy" but inadequate solutions given for a large range of problems arising from this application.

Taking all the above-mentioned into consideration, I OPPOSE the application for removal and amendment of restrictive title deed conditions, consent use and a relaxation of the planning conditions. It is our duty not to be misled by carefully selected words and arguments in an application that spells great danger for the future of Rooiels and the buffer zone of the KBR.

Thank you for your time.

Best regards
Dr MJ (Johlene) de Villiers

Erf 223
6 Ocean View Drive
Rooiels

Postal address & Contact details:

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



TP - A Theart
(Huld Steep)

290/630
PO Box

Cell

10 May 2021

PORTION 141 OF THE FARM 559 HANGKLIP: OBJECTION TO THE APPLICATION FOR A DISTILLERY

EXECUTIVE SUMMARY

I would submit that the application should be withdrawn, for the reason set out below, without it being processed further by the OM. In my opinion the application has no prospect of success under a review by a court of law.

With the 2020 OM land laws changes, "desirability" was brought in as a specific requirement for approval of an agricultural industry

The applicant in my opinion makes a fatal error in assuming that the 2020 change of desirability overrides the existing, retained requirements of source and proximity, which distinguishes agricultural industry on farming property from the normal industrial use of a similar agricultural product on industrial land.

The applicant therefore fails to make any averment in support of its application, on complying with the strict requirements of the OM Zoning Scheme Regulations.

Moreover, it would appear that the applicant relies on desirability only, instead of complying with the mandatory requirements for an agricultural industry of the products being grown on or near the property.

This is then in effect simply an application for an industrial use, which is not allowed by the OM Zoning Scheme Regulations for an agricultural zoning.

1. THE FIRST APPLICATION

I am the owner of erf 237 Rooiels.

In this, second, application for an agricultural industry (distillery) consent use, I have been notified by the applicant as an interested party, having been an objector to the first application for an agricultural industry (distillery) consent use.

The first application was on the agenda for consideration on the 28 October 2019 meeting of the Municipal Planning Tribunal, before being withdrawn.

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Hangklip
SCAN NO:
07
COLLABORATOR NO: 538252

10 MAY 2021

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Despite the very brief and vague contrary explanation presented in the present application, the three possible reasons for withdrawal of the first application that stand out are:

- (a) Permission had not been obtained from the holder of the personal servitude as formulated in the title deed restrictions against the present application.
- (b) The application did not meet the OM Zoning Scheme Regulations requirements for an agricultural industry (distillery).
- (c) The limitation proposed by the Planning Department for distillery production quantities to below industrial level apparently did not suit the applicant.**

2. MOTIVATION PLEASE REQUIRED BY THE PROFESSIONALS INVOLVED: OM TOWN PLANNING DEPARTMENT

This is substantially the same application as had been withdrawn earlier.

The critical issue, that the previous application did not meet the legal requirements of the OM Zoning Scheme Regulations for an agricultural industry, has been well motivated legally by the objectors at the time.

I set out in paragraph 6 the previous objections in this regard. These same objections are still applicable in the present application. They were of such a number on this same point that they cannot be ignored. They form part of the detailed knowledge of the OM Planning Department.

There was no prospect of success with the previous application for an agricultural industry (distillery).

2.1 In my opinion the present application should not have progressed through the initial stages with the OM Planning Department. It should not have been advertised now in the first place.

2.2 The OM is legally obliged in terms of section 4(2) of the Local Government: Municipal Systems Act, of 2000 to a duty of care towards, amongst others, the proprietary interests of all ratepayers, and not only towards the interest of applicants.

2.3 In this application process both ratepayers and the Municipal Planning Tribunal rely on the professional input of the OM Town Planning Department.

2.4 The OM Town Planning Department should therefore please explain its approach in the present second application, which again does not meet the requirements for an agricultural industry.

3. MOTIVATION PLEASE REQUIRED BY THE PROFESSIONALS INVOLVED: APPLICANT'S TOWN PLANNERS

3.1 The professional town planners must be aware that their advice in this second application will be relied on by both the OM Town Planning Department and by the Municipal Planning Tribunal.

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3.2 They must also be aware that the mandatory compliance with the legal requirements of the OM Zoning Scheme Regulations for an agricultural industry (distillery) is the critical issue.

3.3 They also have had the benefit of having studied the legal objections raised in the previous application.

I set out in paragraph 6 the previous objections in this regard. These same objections are still applicable in the present application. They were of such a number on this same point that they cannot be ignored. They form part of the detailed knowledge gained by the town planners in their study of the background to the second application.

3.4 Instead of addressing the issue, they bluntly admit that that agricultural produce will be supplied from Caledon, which is not compliant with the mandatory requirements.

3.5 They further gloss over and downplay the critical requirement of source and proximity of the agricultural produce to the location of the agricultural industry. (Please refer to paragraph 7 below) .

3.6 They instead motivate, in a window-dressing exercise, the desirability of the proposed distillery.

3.7 The town planners should surely have been aware, in preparing the application, that desirability is not a consideration for the mandatory requirements of proximity and source of the agricultural products.

3.8 The town planners should therefore please explain their approach in the present second application.

4. THE REQUIREMENTS OF SOURCE AND PROXIMITY OF THE AGRICULTURAL PRODUCT.

4.1 "Agricultural industry" is a primary right for industrial properties zoned in the OM Zoning Scheme Regulations as Industrial Use 1: General Industry (IND1) and it is a consent use for farming properties such as the present, zoned Agriculture (AGR1).

4.2 Preventative measures, apparently to protect against industrial sprawl and industrial intrusion of agricultural industries, which should rather be conducted on industrial zonings IND1, into possibly inappropriate areas such as AGR1, have been promulgated in the Zoning Scheme Regulations of the OM, the City of Cape Town and other municipalities.

4.3 Agricultural industry is defined as follows in the OM Scheme Regulations:

"agricultural industry" means an enterprise for the processing of agricultural related products **on or close to the land unit where these agricultural products are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products**, and includes, inter alia: dairies, wineries, distilleries, olive processing facilities, breweries and other facilities required for the processing of agricultural products, where produce packed is not produced on the land unit, but does not include service trades;"

4.3.1 I specifically wish to draw the attention please to the fact that both the two legal requirements that I have indicated in **bold** above have not been complied with, namely;

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"on or close to the land unit....."

AND

"where processing in such proximity is necessary due to the nature, perishability....."

4.3.2 I specifically wish to draw the attention that the above two requirements are mandatory requirements, and that desirability is not a specified consideration in this strict set of requirements. **The consent use can therefore not be approved on the basis of desirability alone.**

4.3.3 I please draw the attention in Paragraph 5 to the fact that both OM Planning Department and the applicant's town planners are well aware, by reason of their detailed knowledge of the objections in the first application, that this, second, application does not meet the requirements detailed in Paragraph 4.3 for an agricultural industry.

4.4 For comparative purposes, agricultural industry is defined as follows in the City of Cape Town Scheme Regulations:

"110 Agricultural industry

The City may approve a consent use application for an agricultural industry provided:

- (a) it is satisfied as to the **desirability** of the agricultural industry on the land unit in question
- (b) the agricultural industry is **subservient and related to the dominant agricultural use** of the property;
- (c) the agricultural industry does not adversely affect the agricultural potential of the property; and
- (d) the area allocated for purposes of an agricultural industry shall be clearly identified on a land survey diagram."

4.4.1 The City of Cape Town, in the requirements that I have indicated in **bold** above, would allow an agricultural use only if the product is grown on the property, and only if the agricultural industry is subservient and related to the dominant agricultural use (that is, produce grown) of the property.

4.4.2 Like the OM requirements, these are strict requirements, with the additional requirement of desirability added, and like for the OM, approval cannot be based on desirability only, thereby ignoring the strict requirements.

4.5 The above OM requirements of proximity and source of the agricultural products were retained unchanged during the recent 2019-2020 comments on, and revision of the agricultural industry definition, along with the revision of the rest of the OM land legislation.

4.6 As set out above, the requirements of source and proximity of the agricultural products to the location of the industry would appear to be common requirements for the approval by municipalities of an agricultural industry consent use..

4.7 It would therefore in my opinion be inappropriate for the OM Town Planning Department not to apply the requirements of proximity and source to the present application, so soon after the revision.

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5. THE POSSIBLE LEGAL POSITION OF THE REGISTERED TITLE DEED RESTRICTIONS ON PORTION 141.

It is generally accepted that the stricter of, and both of, municipal zoning scheme regulations and title deed restrictions, would apply. The OM Zoning Scheme Regulations being the stricter, after the event of the present title deed restrictions being removed by the OM, I do not comment on the application for the removal of the title deed restrictions themselves.

6. NON-COMPLIANCE WITH THE ZONING SCHEME REQUIREMENTS OF SOURCE AND PROXIMITY OF THE AGRICULTURAL PRODUCT.

I set out in this paragraph the previous objections in this regard. These same objections are still applicable in the present application. They were of such a number on this same point that they cannot be ignored. They form part of the detailed knowledge gained by the town planners in their study of the background to the second application.

I submit for present consideration hereunder the relevant objections raised in the first application, to which both the OM Planning Department and the applicant's town planners have had recourse to, and which objections apply in my opinion unchanged in this, second, application.

The application on this particular point is unchanged and the objections raised in the first objection on this point remain valid objections in the second application.

6.1 Objections by myself on 16 July 2018:

6.1.1 In my previous objection "A1 FATALE FOUT", resubmitted in 6.1.3 hereunder, I submit that the applicant does not comply with the mandatory requirements of source and proximity as set out in Paragraph 4 above.

6.1.2 In my previous objection "A3. VERSOEK VIR DESKUNDIGE OPINIES", resubmitted in 6.1.4 hereunder, I submit that, even if the applicant can motivate that it can grow the agricultural product on the property, that the OM has a discretion to consider the desirability of allowing a consent use in the absence of positive proof by the applicant that a sustainable farming of the produce on or near the property to source the distillery is proved.

6.1.2.1 From before the 2020 changes to the OM land legislation, the OM has the overriding discretion to allow or disallow the application in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning van 2015, which reads as follows:

"CRITERIA FOR DECISION MAKING

66. General criteria for consideration of applications

(1) When the Municipality considers an application it must have regard to the following:

(a) the application submitted in terms of this By-law;

(b)

(c) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;

(d)"

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6.1.2.2 The 2020 revision of the Overstrand Zoning Regulations includes the following new paragraph as part of its section on General Development Parameters:

"Agricultural industry

16.10.3 The municipality may approve an agricultural industry, if it is satisfied that the proposed use or activity is desirable, provided that:

(a) The area affected by the agricultural industry must..... " etc.

6.1.2.3 The reader must please bear in mind that agricultural industry is primarily an industrial use, for which a primary right is given under the Industrial Use 1: General Industry (IND1) zoning. Section 16.10.3 of the General Development Parameters will apply to such industrial zoning. Agricultural Industry is however a consent use under Agriculture (AGR1), to which 16.10.3 also applies as a General Development Parameter.

However, for agricultural industry specific mandatory requirements of source and proximity of the agricultural product are set. These requirements must first be met to determine whether the industry complies with the requirements in the definition of an agricultural industry (source and proximity) before the application is tested as to desirability.

Desirability is not a prior determining factor in the application, but an overriding check afterwards, after the mandatory requirements have been met.

(In Section 5.1.3 of the OM Zoning Scheme Regulations the above section 16.10.3 is repeated specifically for agricultural industry. The applicant refers to section 16.10.3 only. The omission seems to me to have no effect.)

6.1.3 A1. FATALE FOUT

Die aansoeker motiveer nie in sy aansoek hoe hy aan die vereistes gaan voldoen om 'n distilleerdery op die perseel te bedryf nie.

Hy doen aansoek vir 'n vergunningsgebruik op landbougrond.

1.1 Die vergunning kan net toegestaan word as die graan op of naby die perseel, waar die distilleerdery is, verbou word. Aangekoopte graan is nie toelaatbaar nie.

1.2 Dit is ook net waar dit weens bederfbaarheid nodig is dat die verwerking op of naby die perseel moet geskied. Dit is duidelik nie die geval met graan nie.

1.3 Die grond waarop die plaas geleë is, is tipiese seekussandgrond met baie ronde spoelklippe. Na my beste wete is dit nie bewerkbaar vir graan nie. Daar is in elkgeval nog nooit oor die jare heen graan langs die kus van Hangklip verbou nie, bes moontlik omdat dit weens sterk wind nie moontlik is nie.

6.1.4 A3. VERSOEK VIR DESKUNDIGE OPINIES

Ek versoek graag dat u asseblief eers die volgende deskundige opinies sal aanvra van die aansoeker alvorens u die aansoek oorweeg:

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3.1 'n Opinie deur 'n landboukundige dat graan volhoubaar op die perseel verbou kan word.

3.2 'n Raming deur 'n finansiële kundige persoon dat die distilleerderij finansiële volhoubaar kan opereer met die beskikbare graan vanaf die perseel. **(Please note that Stellenbosch Municipality may require such information, as set out in 8.3 below).**

3.3 Motivering waarom die graan bederfbaar is en slegs op die perseel gedistilleer kan word

6.2 Objection by the Pringle Bay Ratepayers' Association dated 26 July 2018

- 2.2. Consent to establish an "Agricultural industry" on this property may be in conflict with municipal Zoning Scheme Regulations. The primary agricultural product (an unspecified grain of some sort) needed for the distillation process is not grown on or close to this property as is required in the regulations. (Schedule B of the Overstrand Municipal Zoning Scheme Regulations of June 2013 refers).

6.3 Objection by Mr Ian Milne on 26 July 2018

2 As far as I am aware an "Agricultural industry" is one that processes produce grown on the property, which would appear to rule out the above application.

6.4 Objection by Mr OJ van der Walt and Ms M Barnard dated 26 July 2018

Die aansoeker voer aan dat hy/sy 'n landbouïndustrie op die eiendom wil vestig wat Whisky en Gin op die eiendom wil vestig. Die basiese bestandele van Gin is Jenever bessies met moontlike bykomende geure van suurlemoen, lemoenskil en verskeie speserye. Whisky se bestandele is gort en/of mielies en/of rog en/of koring. Geeneen van hierdie produkte word op die eiendom of aangrensende plase verbou nie. Die klimaat is ook ongeskik vir die verbouing van hierdie bestandele. Dit moet dus aangekarwei word. Dit sal verhoogde

6.5 Objection by Ms H and Mr P Hartwig dated 25 July 2018

1. Agricultural industry consent is usually approved for the processings of products on or close to the land unit where these products were grown, harvested and raised where processing in such

proximity is necessary due to the nature, perishability and fragility of such agricultural products. As the raw product used at this proposed distillery will be transported into the area, this application falls outside the primary motivation for consent use.

6.6 Objection by the Rooiels Conservancy dated 25 July 2018

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3.1.1) The main components of these products (grains, hops, ethanol) are not produced "on or close to" the Property, nor can this Property ever produce such products given its topography and soil. In fact, these products will probably have to be transported at least 50kms to the Property. Any mention of "fynbos flavouring" being added on the Property is pure sophistry and has nothing to do with the essence what is proposed on the Property. Even if a little fynbos is actually used as "flavouring", this is a miniscule and arbitrary additive in proportion of less than 0,05% of the product. This is clearly not the situation which is intended in the provision allowing agricultural industry.

3.1.2) The Applicant is not by any stretch of the imagination a "fynbos farmer". To the best of our knowledge no permit has been issued by Cape Nature for the industrial harvesting of fynbos on the Property, nor is it likely to be given in the light of many threatened and near threatened species occurring on the Property; e.g. *Protea compacta*, *Diastellathymeriodes*, *Erica brachialista* name but a few.

3.1.2) The definition of "Agricultural industry" furthermore requires that processing "in such proximity" (which it is clearly not), must be due to "the nature, perishability and fragility of such agricultural products". None of the products used in the Distilling process, including any so-called "fynbos flavouring" are of such fragility or perishable nature that they cannot be transported to an appropriate industrial facility. These are all products known for their long shelf life. Grain and ethanol in particular can be stored for years and fynbos is robust and regularly exported overseas, lasting weeks to no ill effect.

6.7 Objection by Birdlife Overberg dated 3 August 2018 (The contents of this objection were subscribed to by 90 individuals)

- Another observation suggests that this application is potentially unnecessary as the definition of agricultural industry in clause 2.4.1 in section B of the motivational report makes provision for a distillery; possibly with the reservation that the product to be distilled has to be grown in close proximity to the distillery – if not, the "importation" of the product to be distilled will have a major impact on the access road. (See further comments below).

6.8 Objection by Mr G Scholtz dated 30 July 2018

12. Portion 141 has never been used for *bona fide* agriculture. I do not believe that the owner is entitled to apply for a distillery under the definition of "agricultural industry" as he meets none of the requirements of this definition. The Application is based on a fatal legal flaw.

6.9 Objection by Mr M Harrison dated 27 July 2018

12. Portion 141 has never been used for *bona fide* agriculture. I do not believe that the owner is entitled to apply for a distillery under the definition of "agricultural industry" as he meets none of the requirements of this definition. The Application is based on a fatal legal flaw.

6.10 Objection by Friends of Rooiels dated 27 July 2018

Please especially note the concern raised in the last paragraph below.

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Definition of Agricultural Industry

The Applicant is required to meet 2 legal requirements in order to be allowed an agricultural industry on the smallholding. The Applicant is unable to meet both of these.

None of the raw products used in the proposed distillery are produced on or close to the land unit in question as required by the definition. Even in the highly unlikely and near impossible event of some the raw products being produced on this smallholding in future, this definition requires that the need for such processing must be necessarily due to the *"nature, perishability and fragility of such agricultural products"*. This is clearly not the case for the type of products involved.

Any reliance on this provision to obtain permission for a distillery on this smallholding is thus unlawful, deceitful and should be dismissed out of hand by the MPT.

It is telling that senior officials in Overstrand Planning Department have turned an apparent blind eye to this fact and have allowed this Application to proceed this far.

7. FATAL NON-AVERMENT IN THE APPLICATION

7.1 With the 2020 OM land laws changes "desirability" was brought in as a specific requirement for approval of an agricultural industry.

This brought the OM in line with for example the City of Cape Town, as set out in 4.4 above, which requires compliance with all requirements of source and proximity of the agricultural product as well as desirability.

7.2 The applicant in my opinion makes a fatal error in assuming that the 2020 change of desirability overrides the existing requirements of source and proximity, which distinguishes agricultural industry on farming property from normal industrial use of the agricultural products on industrial land,

7.3 The applicant therefor fails to make any averment on the strict requirements in support of its application.

7.4 Moreover, from the extracts below it would appear that the applicant relies on desirability only, instead of complying with the mandatory requirements for an agricultural industry of the products being grown on or near the property.

This is simply an application for an industrial use, which is not allowed by the OM Zoning Scheme Regulations.

activities of a commercial nature. This is particularly the case with consent uses whereby the Municipality can grant consent for a range of enterprises if they are considered to be appropriate to the site and context. The proposed micro-distillery and farm shop/stall are such appropriate enterprises.

The barley grain is grown in Caledon.

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It is important to appreciate that while the subject property is zoned Agriculture Zone 1 and therefore can be used for cultivation, the land owners do not wish to engage in commercial cultivation for the grains, due to the limited soil potential and substantial fynbos loss.

Application for consent for an *agricultural industry* is applied for in this application. Section 16.10.2 of the Land Use Scheme deals with general development parameters of an agricultural industry and is reproduced below.

The Municipality may approve an agricultural industry if it is satisfied that the proposed use or activity is desirable, provided that:

- a) the area affected by the agricultural industry must be clearly identified on a land survey diagram or other plan prepared by a suitably qualified person to the Municipality's satisfaction and endorsed by the Municipality; and
- b) the following development parameters apply:

8. A CONSIDERATION OF DESIRABILITY BY REFERENCE TO THE LATEST MODEL SCHEME REGULATIONS

8.1 The Stellenbosch Municipality Zoning Scheme By-Law 2019 could be presented as a modernised, model set of zoning regulation which should be emulated by other municipalities in their future revision of their land laws.

I would please submit that, whilst the Stellenbosch zoning scheme is obviously not applicable in the present application it is however comparable for purposes of considering what would be desirable before approving a consent use in the present application.

8.2. Instead of following a one-size-fits-all approach as is the customary, Stellenbosch has introduced a set of modernised land zonings categories, which allow land use according to the character of the zonings.

8.3 Agricultural industry is allowed only on agricultural zonings, and then only according to much more detailed new requirements as set out below in 203(1): At least 50% grown on the property; 203(4): Information is required to match the scale of the proposed building with production capacity; 203(5): The industry must be subservient to the agricultural activities etc.

"CHAPTER 20: AGRICULTURE AND RURAL ZONE

203. Agricultural industry

(1) At least 50% of the produce used in an agricultural industry shall be grown or produced on the particular farm on which the agricultural industry is located.

(4) The Municipality may require information about produce, yields and production capacity to confirm the scale of the proposed building is commensurate with the farming activities on the land unit or farm concerned.

(5) The agricultural industry shall remain subservient to the agricultural activities on the land unit or farm.

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(6) Other farm owners in the surrounding area may supply produce to the agricultural industry provided that the definition is complied with.

(7) Should agricultural industry buildings on one land unit serve a farm which consists of more than one land unit, the Municipality may, in their sole opinion, require that land units be notorially tied to prevent the separate sale thereof, before approving the building plan on a specific land unit."

8.4 Stellenbosch emphasises in their section 221 below the purpose of protecting the natural environment, irrespective of its present status, much more than is customarily found in zoning schemes.

Agricultural industry is not an allowed use. Tourism is promoted.

CHAPTER 21: NATURAL ENVIRONMENT ZONE

221. Purpose of the zone

(1) The purpose of this zone is to make provision for the following:

(a) the use of land or an area for preservation of the natural environment or for conservation purposes;

(b) protection of the natural environment whether or not the land has been proclaimed for conservation purposes in terms of the relevant legislation;

(c) the sustainable utilisation of these areas by the controlled provision of holiday accommodation and tourist facilities.

8.5 I would submit that, in order to consider desirability, the OM should also consider as a guideline comparable development parameters such as Stellenbosch.

9. REQUEST PLEASE

I would submit that the application should be withdrawn, for the reasons set out above, without it being processed further by the OM. In my opinion the application has no prospect of success under a review by a court of law.

Yours faithfully,

E Brink

L Gillion

301/630

From: Brenda Koornneef <[redacted]>
Sent: Thursday, 06 May 2021 11:00
To: L Gillion
Subject: FW: URGENT: Objection Distillery 141.docx
Attachments: REC objection Distillery 141.docx



For attention:
 The Municipal Manager,
 Overstrand Municipality.

TP-A Theart
 (H vld Stoop)

6th May 2021

Dear Sir/Madam,

I am writing with reference to the application for **Removal of title deed restrictions, consent and use and departure: Portion 141 of the Farm Hangklip no 559** – see copy of the notice from Overstrand Municipality below.

wish to lodge my STRONG objection to this application.

I am the owner of HANGKLIP SMALLHOLDING 559/142 – which is the neighbouring property to the smallholding for which the application for a Distillery is made.

My objection should therefore be taken into specific consideration.

The proposed application is completely in conflict with the eco-conservation principles and purpose of the Bio-conservancy of Rooiels.

This application is, in essence, the same as that submitted to Overstrand Municipality in 2018, to which I, and many others raised our objection. The application was dismissed at the time.

My objections remain, in essence, exactly the same.

It must be noted that the property in question (Portion 141 of the Farm Hangklip no 559) is right in the very centre of the most important area between Rooiels and Pringle Bay. And NOT on the "border" of the conservancy area as the application states.

I am of the strong view that this application is in contradiction to the regulatory requirements for, and would be seriously damaging to the eco-environment of the area. Not even to mention the change of character of the land-use specified. The area in question is a bio-diverse and ecologically sensitive area, which requires careful protection now and into the future.

Moreover, all the properties in this conservancy area have developed their homestead with full respect for the natural environment. The development of a commercial distillery/farmstall in this area will disturb and disrupt the peaceful environment and the natural fauna and flora occurring in the area. Some of the most rare bird and animal species, as well as plant species occur in this area, and will be under real threat from any commercial development.

Such a development will not only threaten the fauna and flora, but also devalue all of the neighbouring properties which have respected the conservancy purpose of the land in this area.

FILE NO: Ptn 141/559
Hangklip ✓
SCAN NO: Brenda
COLLABORATOR NO: 1537440

TP - 6 MAY 2021

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I wish to refer the Municipality of Overstrand to the letter sent to you, dated 25th July 2018, from Jeanette Yeats – a copy of which is attached hereto. This letter is still totally relevant to the current application.

I support every point that is made by the Rooiels Conservancy, and my objection should be noted per each of the objections raised in this letter and is applicable to the latest application

I too, request that the Municipality of the Overstrand should **refuse** the application for amendment of the Title Deed for Portion 141 of the Farm Hangklip no 559. I support also that the Municipality should give the Rooiels Conservancy the opportunity to make a verbal submission to the Municipal Planning Tribunal.

Should the Municipality Planning Tribunal grant the amendment rights requested by the Applicant, I would bring to your notice that the Municipality would have to carry the full responsibility for the damage to the Rooi-El's and Overstrand bio-conservation area which would occur, and the unintended consequences that would go along with such consent.

Should this Distillery Project be authorized to proceed, this would open up the rights for other smallholding owners, such as myself, to apply for a similar variation to my title deeds. I trust this is not what the Municipality would wish to happen in our precious eco-tourism area.

Please can you confirm receipt of this email

Kind regards

Brenda Koornneef
Owner: Portion 142, Hangklip Farm 559

Home address:

Email:

Telephone:

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OVERSTRAND MUNICIPALITY
PORTION 141 (A PORTION OF PORTION 133) OF
THE FARM HANGKLIP NO. 559, DIVISION
CALEDON: APPLICATION FOR REMOVAL AND
AMENDMENT OF RESTRICTIVE TITLE DEED
CONDITIONS, CONSENT USE AND DEPARTURE:
PLANNING PARTNERS (obo FREE LIFE TRUST)

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559, namely:

Removal and Amendment of Restrictive Title Deed Conditions

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions with reference to Clauses C.1., C.2., C.3., C.4., C.5., C.6., C.7., C.8., C.9., C.10., C.11. and C.12. of Title Deed T8920/2005, as well as the amendment of a restrictive title condition with reference to Clause C.13. of Title Deed T8920/2005.

Consent Use

Application in terms of Section 16(2)(o) of the By-Law for an Agricultural Industry to accommodate a distillery, tasting room and a farm shop/stall.

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25 July 2018

The Municipal Manager
Overstrand Municipality
Hermanus

Dear Sir

OBJECTION TO REMOVAL OF TITLE DEED RESTRICTIONS, CONSENT USE AND DEPARTURE: PORTION 141 OF THE FARM HANGKLIP NO 559
Your reference Municipal Notice 69/2018

Rooiels Conservancy is registered with CapeNature. The Conservancy Area comprises Rooiels townshio and its adjacent smallholdings up to the Buffels River (i.e. including the area in which Portion 141 of the Farm Hangklip is situated).

The Rooiels Conservancy was established in pursuance of the biosphere principles set out in UNESCO's Biosphere program. Both the Rooiels Conservancy Area and Portion 141 is situated *in* the internationally registered Kogelberg Biosphere Reserve. (Please note the deliberate use of the word "*in*" and not "*near*".)

The fynbos biomes of the Biosphere Reserve (*encompassing Portion 141*) have been deemed important enough to be given international, national and provincial protection status. To give some context to the importance of the Kogelberg Biosphere Reserve (and here we are *not* referring to its Core zone only), many of its plant communities and species are *as* endangered as the black rhino, for instance.

Accordingly, very special considerations must apply when considering an application such as the present one for a brewery, distillery and on-consumption facility.

1 The Proposed use of the Property (Portion 141) does not align with the Land-use character of the area

The Property falls within an area that is highly protected and worthy of conservation on a number of levels, making this development highly undesirable and extremely risky.

- 1.1) It is situated within the registered area of the Rooiels Conservancy, with the Conservancy's stated aim of keeping this area as natural as possible and encouraging eco-tourism. Light industrial development on the Property (especially one which is known for producing dangerous toxins), is certainly not in keeping with this and inappropriate in a Conservancy. Apart from the danger of severe environmental harm caused by accidental spillage, explosion, pollution of groundwater and other accidents, there is also greatly increased vehicular traffic,

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distillery visitors (who are not necessarily nature lovers), noise, liquor abuse, etc. This is totally in conflict with the present character and sense of place of Rooiels and surrounds.

- 1.2) The Property falls within an almost pristine stretch of land between Rooiels and Pringle Bay, comprising both *critically endangered* Kogelberg Sandstone Fynbos vegetation and *endangered* Hangklip Sand Fynbos. This forms "a green lung" demarcating the two villages and preventing both urban and industrial sprawl.
 - 1.3) The Agricultural 1 Zoning of the Property is a historical anomaly and totally out of keeping with the rest of the smallholdings in this area which are zoned Indeterminate. No *bona fide* farming activities have ever taken place on this property, nor is it suited for farming. The small size, soil, topography and nutrient poor fynbos simply cannot sustain any *bona fide* farming activity. A previous owner stabled 3 horses for a while when the Agriculture 1 Zoning was erroneously obtained, but horse feed had to be transported in for these animals. Likewise, the present occupant attempted to keep a handful (less than 10 sheep), but had to allow them (without consent) to forage on neighbouring properties and even in the Nature Reserve. The anomalous zoning of the Property which is already out of keeping with its surrounding area, should not be expanded and made worse, by allowing Agricultural Industry thereon. Fragmentation has been proven to have an irrevocable negative impact on the environment.
 - 1.4) The area between Rooiels and Pringle Bay where the Property is situated has been designated as of "*Critical Biodiversity importance*" by the South African National Botanical Institute (SANBI).
 - 1.5) The Property falls within the Buffer zone of the Kogelberg Biosphere. The purpose of the Buffer zone is to buffer and protect the Core zone which is absolutely pristine. It goes without saying that this is clearly not an appropriate area in which to locate an Industry - especially a particularly "dirty", noxious and hazardous Industry. (See par 5)
 - 1.6) The development of an Industry on the Property does not fit in with Overstrand's Draft Environmental Overlay Zoning and pre-empts the future protection of this area.
 - 1.7) The development of an Industry of the Property does not fit in with Overstrand's Draft Heritage Overlay Zoning and will disturb the scenic landscape character of the area.
 - 1.8) The area in which the Property is situated is recognised in the SDF and other planning documents as an Ecological Support area.
 - 1.9) The numerous considerations and protections listed in 1.1 to 1.8 above, point to the fact that this is indeed an area widely considered suitable for conservation and highlights the fact that the proposed use of the Property as a brewery and distillery, will be completely out of sync with the Land-use character of the area.
- 2 The Scoping and EIA process has been cleverly circumvented. This has the effect that inadequate information on the Property and the potential environmental impacts are before the Municipal Planning Tribunal rendering any decision taken by it flawed.**
- 2.1) The Applicant misrepresents / fails to disclose various material facts in this application as will be highlighted throughout this objection. The Applicant deliberately downplays the extent ("*smallish*" see p3) of the development and does not disclose the hazardous nature of the proposed Industry in order not to trigger a full-blown EIA. The Applicant (who is a professional

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Planner and not a lay person) deliberately misrepresents on p6 that the Property "borders of the Kogelberg Nature Reserve". This is completely untrue. The Property is *in* the Kogelberg Nature Reserve itself, specifically in a crucial section of it which has been designated as of "Critical Biodiversity" importance by SANBI.

- 2.2) As detailed in paragraphs 1.1 – 1.8 above, both the presence of:
- (a) the myriad of environmental protection layers which apply to this Property; and
 - (b) the Property falling in the center of a designated "Critical Biodiversity Area" of worldwide importance; must alert decision making authorities that this is not just another straightforward "run of the mill" application. Environmental and heritage considerations (of International dimensions) apply and the absence of a scoping report, public participation and specialist reports is both glaring and shocking.

Given the importance and sensitivity and importance of the area - which is undisputed by all - is clear that the Municipal Planning Tribunal lacks detailed and specific scientific input on which to base a proper and informed decision. It is noted that none of the members of the Municipal Planning Tribunal are qualified environmental experts.

- 2.3) The **Precautionary Principle**, is a principle established in SA Environmental Law and entails that the utmost caution should be applied by any decision making authority before authorizing something which may have irrevocable, unintended or unknown environmental outcomes. This is even more so in respect of this Property, where it is known that the area in which it is situated is of vital conservation and ecological importance.

In summary, the Municipal Planning Tribunal is therefore *obliged* to take a conservative and precautionary approach in this matter as:

- (a) the area is situated in an ecologically significant, valuable and sensitive area, but no specialist reports whatsoever have been submitted for public scrutiny; and
 - (b) additional rights are being sought by the Applicant which are more than likely to impact negatively on the natural environment and possibly also on the health of neighbours. (See concerns raised in paragraph 5.)
- 2.4) The **incremental effect** of the Industry on the environment **over time** is another important consideration supporting the commission of a scoping report, specialist studies and /or EIA before approval. While the Distillery is likely to start off as a small Industry, avoiding triggering a full blown EIA, this situation will become much more serious once the Industry becomes established and more successful, increases its production and bottling facilities, increases its staff, increases its discharge of effluent and emissions, caters for a greater number of visitors and has to expand its logistical operations in transporting the grain to the Property and distributing the distilled product from the Property. This is clearly not sustainable on this Property in the long run and will undoubtedly have a serious and irrevocably detrimental impact on the environment.
- 3 **The proposed brewing and distilling of beer, gin and whiskey (according to the liquor licence application) on this Property is clearly not allowed in terms of the definition of "Agricultural Industry" and constitutes a clear abuse of this provision.**
- 3.1) The definition of "Agricultural industry" refers to an enterprise for the processing of agricultural related products "on or close to the land unit where these agricultural products are grown, harvested and raised where processing in such proximity is due to the nature, perishability and fragility of such agricultural products". This Application falls foul of the

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definition of Agricultural industry in at least three respects:

- 3.1.1) The main components of these products (grains, hops, ethanol) are not produced "on or close to" the Property, nor can this Property ever produce such products given its topography and soil. In fact, these products will probably have to be transported *at least* 50kms to the Property. Any mention of "fynbos flavouring" being added on the Property is pure sophistry and has nothing to do with the essence what is proposed on the Property. Even if a little fynbos is actually used as "flavouring", this is a miniscule and arbitrary additive in proportion of less than 0,05% of the product. This is clearly not the situation which is intended in the provision allowing agricultural industry.
- 3.1.2) The Applicant is not by any stretch of the imagination a "fynbos farmer". To the best of our knowledge no permit has been issued by CapeNature for the industrial harvesting of fynbos on the Property, nor is it likely to be given in the light of many threatened and near threatened species occurring on the Property; e.g. *Protea compacta*, *Diastella thymeriodes*, *Erica brachialis* to name but a few.
- 3.1.2) The definition of "Agricultural industry" furthermore requires that processing "in such proximity" [which it is clearly not], must be due to "the nature, perishability and fragility of such agricultural products". None of the products used in the Distilling process, including any so-called "fynbos flavouring" are of such fragility or perishable nature that they cannot be transported to an appropriate industrial facility. These are all products known for their long shelf life. Grain and ethanol in particular can be stored for years and fynbos is robust and regularly exported overseas, lasting weeks to no ill effect.

4 Application for Removal of Title Deed Conditions

4.1) Failure to give proper notice in terms of Section 39(2) of the Western Cape Land Use Planning Act, 2014

Proof needs to be furnished that proper notice as contemplated in Section 39(2) was given to other smallholding owners and community organisations representing them, including the Rooiels Conservancy.

4.2) Removal of these title deed conditions are not in the public interest

These title deed conditions are praedial or reciprocal in nature and also appear in the title deeds of the other smallholdings in this area.

According to the Supreme Court of Appeal; the reason for the insertion of title deed restrictions should always be taken into account when considering an application. The Court has likewise held that such title deed restrictions are **not** made obsolete by Zoning Scheme regulations, contrary to what the Applicant alludes to in Section A of the Application.

The Applicant (who is a professional Town and Regional Planner) thus deliberately makes an incorrect and misleading statement on p3 of the Application stating that title deed conditions are "regarded as "burdens" to Authorities and landowners since zoning schemes have been in place for years already in terms of which the development parameters of properties are regulated by local authorities."

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This is clearly incorrect and not the legal position. The Supreme Court of Appeal in *Van Rensburg N.O. and another v MEC for Housing, Local Government and Traditional Affairs*, held that:

"Restrictive conditions of the kind in question ensure for the benefit of all other even in a township, unless there are indications to the contrary. They are inserted for the public benefit and in general terms, to preserve the essential character of a township."

"If landowners across the length and breadth of South Africa, who presently enjoy the benefits of restrictive conditions, were to be told that their rights, flowing from these conditions, could be removed at the whim of a repository of power, without hearing them or providing an opportunity for them to object, they would rightly be in a state of shock."

The reason why these reciprocal title deed conditions relating, *inter alia*, to building lines, noxious trades, shops, business premises etc, were imposed, was to create and protect a certain sense of place and character.

An Industry of this kind is completely out of sync with the character and sense of place of this particular area and there are no similar or comparable activities taking place on any of the smallholdings in the area.

The Applicant incorrectly and misleadingly alleges on page 6 of the Application: *"The proposed distillery – development is merely an extension of and/or similar to the existing character of the area"*. This unsubstantiated statement is blatantly untrue.

Because these title deed conditions are applicable to all the properties in the green belt between Rooiels and Pringle Bay, any removal of conditions would create imbalances and injustices and create spacial and environmental fragmentation. Such removal will certainly not be to the public benefit and nor in the public interest.

Section 47 of the Spatial Planning and Land Use Management Act (SPLUMA), specifically stipulates that due regard must be given the **public interest** as opposed to merely the owner's interest. There is wide spread opposition in our community to the removal of any of these title deed conditions and as a community organization representing this area, the Rooiels Conservancy places on record that it is **not in the public interest** to remove same.

4.3) Lack of spatial justice and the *ad hoc* nature of this particular development is not in keeping with spirit of SPLUMA

As stated above the Argiculture 1 Zoning of the Property is already an anomaly and out of sync with the surrounding properties. This inequality and injustice will be made much worse by the removal of the title deed conditions in question while the remaining area remains subject to the very same title deed conditions. This will be allowing development to occur in a **disharmonious** and *ad hoc* manner and is clearly **spatially unjust** to the rest of the community.

It is clear that this application is not in keeping with the principles of "integrated development", "spatial justice" and "upholding consistency of land use measures in accordance with environmental management instruments" as is legally required by SPLUMA and by which the Municipal Planning Tribunal is bound.

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There is no doubt that a distillery, bottling plant and tasting facility will create fragmentation of this area.

4.4) Lack of greater Social Benefit accruing and detrimental effects on Eco-tourism and economy

4.4.1) The "green lung area" between Rooiels and Pringle Bay is extensively used for eco-tourism purposes and is frequented daily on foot by various birding and botanical groups and tour groups (some of which are from overseas), which support local businesses and B&B's. The area is world famous for the elusive Cape Rock Jumper which frequents this area and birders from abroad specifically walk along the Porter Drive to view this bird.

4.4.2) The area is also frequented by nature lovers, hikers, cyclists and runners - all who use Porter Drive on foot.

4.4.3) A potentially dangerous and noxious industry with heavy duty delivery vehicles and slightly inebriated distillery visitors driving up and down along Porter Drive, (which is only a narrow dirt track in this area) will greatly detract from the present eco-tourism use of the area and the social benefit of retaining the pristine and natural sense of place of the area.

4.5) Condition 6 relating to the prohibition of "noxious trades" will preclude the use of the Property as a distillery, but is not included in the present Application

"Noxious trade" is a term used to describe activities that cause or carry the risk of causing a great deal of pollution. There can be no doubt that the term "noxious trade" includes industries such as breweries and distilleries. Distilleries and breweries are high risk and infamous in this regard, which a rudimentary internet search will reveal. For example, raw distillery wastewater (which typically includes ethanol, chlorine and other toxic chemicals) is very toxic to plants, to the soil microorganisms and to the ecosystem, when it seeps out through a spill or via the septic tank system which is in place on the Property. CO₂ and ethanol emissions are also significant and tend to cause a black fungus that settles downwind on plants and is unhealthy to humans and other animals.

In the event of Application not being brought to remove this Condition 6, the Applicant will be precluded from operating a distillery on the Property.

5 Various Safety, Health, Fire, Water and other Environmental Concerns

5.1) Road Capacity, Services and Traffic:

5.1.1) The Applicant devotes almost 4 pages (a quarter of the Application) to the extensive benefits of tourism that will be generated by the proposed Distillery. All these tourists will presumably visit the facility in busses or private vehicles that travel along Porter Drive to the Distillery.

5.1.2) It is clear that none of the materials used in the production of the beer, gin or whisky will be produced on or near the Property and that all raw materials (wheat, grain, ethanol) will need to be transported along Porter Drive in heavy trucks.

5.1.3) Bottles from the bottling plant will have to be brought in in heavy vehicles along Porter Drive.

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- 5.1.4) The gin and whisky produced on the Property will be transported from the Property to various distribution points in heavy trucks along Porter Drive
- 5.1.5) Supplies for the visitors to the Distillery (food, utensils, etc) will be transported to the Property along Porter Drive.
- 5.1.6) The Applicant states that all waste material "will be carted away" (p7). This again will be transported in heavy trucks along Porter Drive.
- 5.1.7) The Applicant states that the toxic effluent from the Distillery will merely go into the sewerage system which consists of a "septic tank", that will be emptied from time to time by the municipality (p7). The heavy municipal sewerage truck will use Porter Drive for this purpose. It is well documented and researched that breweries and distilleries are heavy users of water and also produce large amounts of toxic effluent. This, together with the effect of the sewerage produced by the many tourists visiting the Distillery, could make sewerage and effluent collection a bi-weekly occurrence along Porter Drive.
- [Does the Overstrand Municipal Sewerage Works in fact do processing industrial effluent containing ethanol?]
- 5.1.8) The Applicant on p6 of the Application makes the unsubstantiated assertion that the present access to the property from Porter Drive "will provide safe access to and exit from the proposed development".
- 5.1.9) On p7 of the Application it is glibly stated that the "low level of traffic generated by this planned kind of development will have no significant impact on Porter Drive and the existing street networks of Pringle Bay and Rooi Els and the traffic flow patterns around the site will not be affected at all. Because of the foregoing, no traffic impact assessment or environmental impact is necessary with this application."
- 5.1.10) The Applicant states on p9 that "The proposed development will be self-supported and no extra services will be required."
- 5.1.11) It is clear that the Applicant's statements referred to in paragraphs 5.1.8 - 5.1.10 are blatant untruths. The Applicant furthermore fails to disclose vital information, such as that this stretch of Porter Drive is a narrow, rocky single lane on which only one normal size vehicle can travel at a time and that the road will be need to be widened and remade.
- 5.1.12) The Applicant fails to disclose that Porter Drive is frequented on a daily basis on foot by eco-tourism groups, birders, botanists, hikers, dog walker, runners and photographers. The Applicant fails to mention that Porter Drive is regularly used for organised community fun runs and mountain bike rides.
- 5.1.13) The Applicant fails to mention the dangers posed to the pedestrian use of this road and furthermore fails to quantify the loss of such considerable eco-tourism and sport tourism to the greater community, as a direct result of the use of this track by heavy vehicles supporting the industry on the Property.
- 5.1.14) In the light of the above, it is shocking and disturbing that no traffic impact assessment or environmental impact assessment has been required by Overstrand Municipality.

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5.2) Increased Fire Risk

Alcohol is a highly flammable substance and the fire risks associated with micro distilleries have been well documented - as a rudimentary internet search will reveal. The area in which the Property is situated is particularly vulnerable to fire. The fire safety of the whole surrounding area is likely to be compromised by the proposed Distillery in the vicinity with insurance premiums likely to increase for neighbouring properties.

5.3) Effluent treatment

Disposing of toxic industrial effluent containing ethanol and other waste products of the distilling process into an existing "septic tank" built many years ago (see p7 of the Application) is illegal and highly irresponsible. A septic tank system is designed to allow sewerage to break down and to seep into the soil slowly over time. Industrial effluent in this system will without a doubt contaminate the soil and kill micro-organisms vital to the fynbos biome. It will also poison the surrounding wetlands and eventually the marine environment too.

It is shocking that no expert reports have been obtained from an effluent treatment specialist and a ground water specialist. It also appears that no measures are in place to curtail accidental leakage and spillage which can have serious consequences for the greater community.

5.4) Carbon Dioxide and Ethanol emissions

We are concerned about the effect of carbon dioxide and ethanol emissions by the Distillery in this sensitive area and its unforeseen detrimental effects on this Critical Biodiversity Area. It is known that ethanol emissions cause a black fungus harmful to plants, humans and other animals. Specialist reports need to be made available for public scrutiny.

5.5) Water

Distilleries and breweries are water intensive industries. This is a water scarce area. We are concerned about the long term effect on the ecology of the area of ground water being extracted from the well point and borehole on the Property. Kindly furnish us with a copy of the Applicant's permit for groundwater use in terms of the National Water Act, 1998.

We accordingly request the tribunal to **refuse** this application. Please grant us an opportunity to make a verbal submission to the Municipal Planning Tribunal.

On behalf of the Rooiels Conservancy

Janette Yeats

L Gillion

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From: Brenda Koornneef < >
Sent: Tuesday, 01 June 2021 11:31
To: L Gillion
Subject: Re: URGENT: Objection Distillery 141.docx
Attachments: Objection to application of Portion 141, Hangklip 559.pdf

Dear Loretta,

Please find attached a further submission from myself with reference to my Objection to the relaxation of Title Deeds and the proposed establishment of a Distillery on Portion 141 of the Hangklip Farm 559.

Having now had a further opportunity to consider this issue, I wish to submit this additional Objection on this matter – please see attached. As an immediate neighbour of the property in question, my concerns should carry specific weight when the Municipality considers this application.

Thank you

Kind regards

Brenda Koornneef

(Owner Portion 142 of the Farm Hangklip 559)

From: L Gillion <loretta@overstrand.gov.za>
Date: Thursday, 06 May 2021 at 12:42
To: Brenda Koornneef < >
Subject: RE: URGENT: Objection Distillery 141.docx

Dear Ms Koornneef

Receipt is hereby acknowledged of your email.

Regards

Loretta Gillion

Administrator : Town & Spatial Planning

Overstrand Municipality

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

T: 028 313 8900 | F: 028 313 2093 | E: loretta@overstrand.gov.za

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Cel no: 1

31 May 2021

The Municipal Manager
 Overstrand Municipality
 Hermanus
loretta@overstrand.gov.za

PORTION 141 (PORTION OF PORTION 133) OF THE FARM HANGKLIP 559; APPLICATION FOR A
 DISTILLERY REMOVAL OF TITLE DEED RESTRICTIONS, CONSENT USE AND DEPARTURE MN 70/2021

OBJECTION AGAINST THE TOTAL REMOVAL OF TITLE DEED CONDITIONS AND CONSENT USE

This letter should be read in conjunction with my earlier letter of objection sent to you on 6th May 2021.

1. INTEREST IN THE APPLICATION

I am owner of the neighbouring smallholding, Portion 142.

The coastal strip between Rooiels and Pringle Bay is a pristine area of critical biodiversity. The long term integrity and cohesion of this area will be adversely affected by the proposed total removal of title deed conditions. It will have a ripple effect on the other smallholdings in this area. Retaining the Conservation and non-commercial character of the area is of critical importance to the specific area between Rooiels and Pringle bay, as well as to the whole, wider Overstrand area.

2. MY OBJECTION AGAINST THE PROPOSED COMPREHENSIVE REMOVAL OF TITLE DEED CONDITIONS

2.1 THERE EXISTS A NEED FOR A UNIFORM APPROACH TO TWO SETS OF TITLE DEEDS FOR PORTION 133 AND PORTION 45.

I request that a uniform approach be followed by the Overstrand Municipality regarding the compliance with title deed restrictions on the smallholdings between Rooiels and Pringle Bay,

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even though there are two sets, distinguished from each other by the aspect of who may give consent to the removal thereof (as set out below).

2.2 THE HISTORY

The smallholdings between Rooiels and Pringle Bay consist of two mother portions, namely Portion 133 and Portion 45, both of the farm Hangklip 559. The smallholdings are either zoned Conservation Usage, or Undetermined, and some as Agriculture, as in the case of Portion 141.

Both mother portions are designated as part of the Critical Biodiversity Area.

Mother Portion 133 was subdivided in the 1960's into a number of smallholdings on the slope of the mountains on the landside of the mountains, and also on the seaside of the mountains.

Inland, across the trunk road, Portion 45 was subdivided into a number of smallholdings at about the same time.

As is usual for township establishment, title deed restrictions for regulating the use of the smallholdings were registered on the title deeds. Zoning scheme regulations were apparently not invented at that time.

Unlike the usual registration (as for mother Portion 45) of the restrictions on smallholdings in favour of both the developer, Hangklip Beach Estates Ltd, as well as in favour of all the other smallholdings in the subdivision, the restrictions on mother Portion 133 were effected only in favour of Hangklip Beach Estates Ltd.

This leaves the smallholdings between Rooiels and Pringle Bay with two sets of title deed conditions.

This, in my opinion, is not an ideal situation for a coherent conservation approach for the Critical Biodiversity Area between Rooiels and Hangklip.

3. THE DANGER OF ACCEPTING CONSENT BY A SINGLE REMAINING MEMBER OF HANGKLIP BEACH ESTATES

In the application for a distillery on Portion 141, application is also made for the complete removal of title deed conditions, after the sole remaining member of Hangklip Beach Estates had recently consented to it – in my view a serious error of judgement, and most detrimental to the protection of the natural biodiversity of the area in question.

Such removal might now destroy the original land planning that holds the smallholdings together and which protects the other owners from any inappropriate development.

This applies to both mother Portion 133 and mother Portion 45 - as Portion 45 will not escape the effects of adverse development, detrimental to conservation, of any Portion 133 smallholdings across the trunk road from them

4. DEEDS OFFICE REQUIREMENT.

I support the view from the Deeds Office of not allowing the removal of the title deed restrictions on Portion 141 solely on the basis of the consent of Hangklip Beach Estates Ltd. This is singularly

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unfair and does not take into account the views of other residents, and does not serve to protect the natural heritage of this area.

Instead, the Deeds Office now requires the consent of the Overstrand Municipality before registration of the cancellation. It is critical that the Overstrand Municipality should act in the interests of the greater area, and with the focus on protection of fauna and flora in this biodiverse area, which is a natural attraction to tourists.

5. IMPORTANT PRECEDENT NEEDS BE SET NOW

In my opinion, it is important now that a precedent also be set that the Overstrand Municipality needs to approve all removals of restrictions. Removals of restrictive title deed conditions cannot be dealt with on the basis of consent only without motivating the *desirability* of having the restrictions removed.

6. THE NEED FOR DESIRABILITY MUST BE PROVED BY APPLICANT

6.1 It is important that the set legal procedure and considerations be followed for the application.

6.2 I would submit that consent by Hangklip Beach Estates does not amount to the requirement of desirability (or public interest or social benefit).

6.3 Title deed conditions can only be removed if it is in the "public interest" (as legally defined) to do so. I find no compelling reason in the Applicant's report why the application is in the public interest. In fact, exactly the opposite, as the protection of the natural fauna and flora is what this area is praised for by the public at large.

6.4 It is important to retain as much of these title deed conditions as possible, as these conditions create the very character of a particular area. Typically most nearby properties have similar title deed conditions. It follows that any change in this status quo may have consequences and disparities for all other nearby properties owners.

6.5 It should also be considered that the Applicant is seeking to change the status quo of the area in a way that will seriously impact on the existing use and enjoyment of the area by the general public. The potential cost to the environment, and very real loss of income from eco-tourists like the birders (including the whole hospitality industry serving them) by far outweigh the benefits of having a distillery. The Applicant has failed to prove public interest.

6.6 There appears to be considerable over-reach in the removal of title deed conditions going way beyond what are required to be removed for the operation of a distillery.

In fact, only two small adjustments would be truly necessary to enable the distillery, namely

- (a) **The deletion of C4:** "No building shall be erected within 25,19 metres of any road or within 6,3 metres of any other boundary of the land."
- (b) **The amendment of C13 to delete the word "shop":** "No [shop,] public garages or filling stations, business premises, canteens, bioscopes, factory or industrial buildings shall be erected on the land nor shall any such business or public entertainment be conducted on the land."

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The complete removal of all title deed conditions, which is now applied for, has not been properly motivated as it is not required for the proposed development. Such comprehensive removal should thus not be allowed.

7. OBJECTION AGAINST CONSENT USE

The Applicant has failed to prove that he qualifies to apply for "consent use" within the requirements of the applicable legislation. There is no agricultural activity at present on the property. The distillery will not distil anything produced on or near the property which is particularly fragile, etc. It is my considered opinion that the applicant is not entitled to such consent use and needs to apply for a rezoning.

We rely solely on the correct and proper judgement of the Overstrand Municipality to serve as the protector of our precious natural heritage

Kindly acknowledge receipt of this further motivation, in addition to my letter sent earlier on

Yours faithfully,



Brenda Koornneef

Owner Portion 142, Hangklip 559

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L Gillion

From: Peter Berrisford <[redacted]>
Sent: Saturday, 01 May 2021 11:47
To: L Gillion
Cc: sdkrige@gmail.com
Subject: FW: Application -Plot 141 (portion of farm 133 between Pringle Bay and Rooiels), Distillery and farmstall.

TP - A Theart
(H vld stoep)



Fixed the email error! Apologies Peter Berrisford

From: Peter Berrisford <[redacted]>
Sent: Friday, 30 April 2021 16:39
To: 'loretta@overstrand.org.za' <loretta@overstrand.org.za>
Cc: 'Fanie Krige' <sdkrige@gmail.com>; 'Dean O'Neill' <mm@overstrand.gov.za>; 'D Lakey' <dlakey@overstrand.gov.za>
Subject: Application -Plot 141 (portion of farm 133 between Pringle Bay and Rooiels), Distillery and farmstall.

Dear Loretta

I am a permanent resident in Betty's Bay. I have a long history of life in Pringle Bay, Betty's Bay, Rooiels and Kleinmond. (In fact a past Chairman of the Betty's Bay Ratepayers' Association.)

I have walked the gravel road known as Porters Drive many times. This inspiring road provides access between Rooiels and Pringle Bay.

I have no particular Objection to the proposed application.

But for many years, I have felt that the owners of properties along the coast between Rooiels and Pringle Bay, have very selfishly restricted public access along that section of Porters Drive. There is absolutely no difference regarding poaching and environmental matters, comparing the land between Porter Drive and the ocean, compared to many coastal roads that provide public access to the coast all round our country. So the motivation for restricting access from Porter Drive, is of no relevance. Poaching and bird life are simply excuses for this. Access from Porter Drive to the sea is also restricted.

The Western Cape Government is currently engaged in promoting ease of public access to the coast throughout the province.

Public access should definitely be encouraged, especially for those who have been restricted in the past.

I therefore think that the restriction to access by vehicles along Porter Drive is simply a selfish attempt by local property owners to "keep the public out!".

I think the Overstrand Authorities should use the opportunity created by this application, to review the merits of removing the gates at both ends of Porter Drive. Make it a condition of Approval?

Sincerely

Peter Berrisford

FILE NO: Ptn 141	559
Hangklip ✓	
SCAN NO:	Peter
COLLABORATOR NO:	1535754

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TP - 3 MAY 2021

Municipal Manager Overstrand Municipality
PO Box 20
HERMANUS
7200

Email: loretta@overstrand.gov.za

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TP-A Theart
(H vld Staep)

MUNICIPAL NOTICE 70/2021

**Objection to removal of title deed conditions, departure & consent use
Portion 141 of the farm Hangklip 559**

I am an environmental activist and lawyer with a qualification in environmental conservation. I am a regular visitor to the Kogelberg Biosphere area.

I object to the establishment of a distillery in an ecologically sensitive area which is of major biodiversity importance. The risks attached to distilleries are significant and the potential damage and degradation of this special area could be significant over time.

The applicant's proposal states that water for the distillery will be drawn from a borehole/well. This is of completely unacceptable and likely illegal.

It is common cause that distilleries are huge consumers of water. According to this application, the water required for each "run" is estimated to be 3000 litres (p.15). Therefore, the total water consumption per week will be 12000 litres and 48000 litres per month. Calculated over 10 or 20 years the cumulative impact thereof is staggering. But such impact is likely to be up to 40 times worse, in the event of the applicant producing up to 40 000 liters per week (based on 50 months per annum) in terms of the micro manufacturing liquor license. The "promise" of only 1000 litres per week is completely implausible for a commercial enterprise with its capital outlay. This is not ecologically sustainable.

As the distillery water is sourced from a well or borehole, this means it is taking water from the underground water table which sustains a Critical Biodiversity Area within the Buffer Zone of the Biosphere. It is a known fact that there are numerous wetlands on the adjoining and nearby smallholding. Over time, the use of water will detrimentally affect the whole area, which is supposed to be protected by Overstrand Municipality. It will directly cause ecological harm over time.

According to national water legislation no-one can use groundwater for commercial purposes without a Water Use License.

Such a license is also required if one is generating quantities of contaminated water. The wastewater from distilleries is acknowledged to be one of the most polluted water waste there is. Ethanol fermentation results in the discharge of large quantities of hot, high-strength liquid effluents with high concentrations of organic matter and nitrogen compounds. Despite standards imposed on effluent quality, untreated or partially treated

FILE NO: Ptn 1411559
Hangklip
SCAN NO: 16
COLLABORATOR NO: 1547110

- 4 JUN 2021 TP

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effluent very often finds its way to water courses. This is why distilleries are normally situated in an appropriate industrial setting and not in an environmentally sensitive area. This application is accordingly defective, as no permits have been submitted by it as a commercial user, on account of the high water usage and as a generator of hot and potentially toxic waste water. All permissions need to be in place prior to considering of the matter by the Overstrand tribunal. Our courts have taken a grim view of incremental decision making by municipalities, i.e. making its approval contingent upon approvals being obtained from other authorities in future.

I also wish to point out another matter of concern. The applicant has in Annexures 9 and 10 annexed "approvals" from DEA & DP and the Breede Gouritz Catchment Management Agency, obtained in 2018 in respect of a withdrawn application. It is obvious that these bodies could not have considered the 2021 application and that they in all likelihood have no knowledge whatsoever of the new 2021 application. These annexures are accordingly totally irregular and the Overstrand tribunal should refuse the application because of this serious misrepresentation. It should also investigate the laying of criminal charges against the applicant for providing misleading information in an application.

Yours faithfully

Ziegfried Loots
1 June 2021

it

TP-A Theart
(H vld Stoep)



191 Beach Road

Gordon's Bay

7140

31 May 2021
The Municipal Manager
Overstrand Municipality
P O Box 20
Hermanus
7200

Your reference: Municipal Notice 70/2021 portion 141 of the farm Hangklip no 559.
Objection to the application for removal of restrictive conditions, consent use and departure

Dear Sir/Madam,

On a recent veld walk with friends, we happened to choose the scenic gravel road between Pringle Bay and Rooiels. It was a beautiful autumn day, and we were so aware of the serene, pastoral nature of the area. We came across a few joggers and a few bird watchers, but no vehicular traffic.

Suddenly an unsightly, incongruous structure appeared. There was obviously building activity - major additions to a very ugly building - with a questionable large picture window which had a view over a newly built dam and the shoreline, most probably something planned for visitors. On closer inspection, it became obvious that there was quite a development planned. Then the note on the gate brought us into the picture.

1. I would like to lodge a strong objection to the planned development on portion 141 of farm Hangklip no 559.

2. I am a homeowner of a property in Gordon's Bay and, as a nature lover with a particular interest in the flora of the area, a regular visitor to the greater Kogel Bay area.

3. These are the specific objections I have and the reasons:

* The owner is not honest. Building activity is very much in evidence and quite advanced, despite no permission having been granted. This leads to questions about keeping to any restrictions if any permission should be granted. There is already a large addition to the old stables, certainly not a modest addition. A dam has also been built or increased in size, despite not having been granted permission. A lot of money was spent on building this pretty rather than functional dam; It certainly seems to have been built for aesthetic reasons rather than for irrigation and firefighting.

FILE NO: Ptn 141/559 ✓
Hangklip
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COLLABORATOR NO: 1547122

- 4 JUN 2021 TP

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* The owner says he has a love of the land. From what I could see there is little evidence of this. Apparently, he has been the owner of this property for many years. My first impression was of neglect, apart from the new development. There is a glade of gums, which are water guzzling invaders. Why have these not been removed over the years? There is a large kikuyu lawn, which is not being contained and is unacceptable in a threatened fynbos biome.

* The owner believes that the planned development will be a "good fit" and "imaginative recycling of existing buildings" which will have no negative impact but lead to sustainable economic activity in the Rooiels area.

Such a gin and whisky distillery will have a major impact on this sensitive area of which the increased traffic flow comes to mind first. The single-track dirt road is perfect for the present requirements, but with increased traffic will lead to cars and larger vehicles transporting visitors driving into the veld in order to pass one another. There are several very precious red data plants - *Diastella thymelaeoides* ssp *meridiana*, *Erica brachialis*, *Erica patersonia*, *Lachenalia salteri*, *Lachnaea densiflora*, *Leucospermum prostrata*, *Serruria adscendens*, *Spatalla curvifolia* - which may be damaged or have their habitat negatively affected by mechanical means (tyres) or dust.

Grain will have to be transported to the distillery and the waste products out. Wherever grain is transported, some of it spills along the way. This attracts bird species which would not otherwise have a food source and they will disturb the ecological balance in the bird population. The rock jumper is endemic to this area and ornithologists fear for their survival due to disruption.

Where are all the waste products going to be "discarded"? It is a long way to any suitable facility and a lot of waste is generated which cannot just be dumped into a very special environment. Anyone who has visited the whisky distilleries in Scotland will know about the resulting, very specific, odours. This is totally inappropriate in this setting. Who knows how it may influence the flora and fauna, especially the pollinators?

The extraction of ground water will negatively affect the availability to the surrounding fynbos. The use of grey water to irrigate will also have a detrimental effect on the ecologically sensitive environment.

This property is NOT the place for "appropriate economic activity". Everything that makes this area so very special, will become endangered when you have a never-ending flow of environmentally unaware visitors to the area. People do not understand how fragile natural areas are and will inadvertently do a lot of damage. Much jollity is associated with alcohol use, and this is exactly what is not wanted here.

I appeal to you to not be sweet talked into granting permission for this selfish development. "Refusal of this application will negatively impact on the livelihood of a number of people" is pure blackmail. You must carefully consider the impact of such a development - which is far better suited to a town - on the natural surroundings.

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Mother Nature cannot put her case and it will be upon your head if you are the cause of irreversible damage and loss of irreplaceable and precious living beings. Granting permission creates a precedent and who knows what the next scheme(s) will be. It will be a grave error. Once you allow one powerful owner to bully your council into granting permission, there will be no stopping others.

Yours sincerely,

Elizabeth Odendaal



Rooiels Ratepayers Association (RERA)

TP-A Theart
(Huld Stoep)

2 June 2021

Town Planning Department
Overstrand Municipality
Hermanus
loretta@overstrand.gov.za

323/630

Application for the removal and amendment of restrictive title deed conditions, consent use for the establishment of an agricultural industry and departure on land use rights. Portion 141 (a portion of 133) of the farm Hangklip no 559, Division Caledon: Planning Partners (obo Free Life Trust).

In response to the above application, the Rooiels Ratepayers Association ("RERA") canvassed its members in terms of the decision taken at the AGM to hold a survey and to determine an appropriate action to **inform, invite comment and encourage individual submissions of objection or support** of the application above. In this regard a total of 279 e-mails were sent to all property owners, while a follow up summary was also posted on the village and the conservation chat groups (for over 200 members to read). In total, RERA received 73 responses), of which the **majority (40) voted against the application**, with 33 voting in favor. The application mainly concerns the removal of certain title deed restrictions and obtaining consent for agricultural industry and permit commercial use.

OBJECTIONS SUMMARISED

There were a number of concerns which were common to a large **majority of the no votes**.

1. The **legality of the application in question**. In terms of the OM zoning scheme regulations, source and proximity as well as desirability are used to distinguish agricultural industry on farming property from industrial use of an agricultural product. Given that no raw materials are grown on the property, how is this not simply an **industrial use versus agricultural use consent**.
2. If permission is given for the industrial use as outlined above, this could **create a precedent** for similar uses on the other smallholdings leading eventually to a light industrial area occupying the buffer zone in the Kogelberg nature reserve.
3. The Rooiels side of Porter drive is home to the endangered **Cape Rock Jumper**. While the applicant states that access will be from the Pringle Bay side in a controlled manner, the experience to date has been entirely different. There is current construction being done on the property – all the access has been through the Rooiels side. What **assurances** are there that this will not be the case going forward?
4. There is a serious concern around the **waste disposal** and the impact thereof on the surrounding fauna and flora if not done correctly. Who will police this and how will it be **monitored**?
5. There is a concern on the **water usage** given that Rooiels residents currently experience frequent water shortages. While the applicant states he is currently self-sufficient in terms of water resources, is this **sustainable over time** and particularly if production is ramped up?
6. There is a concern around the increased **fire risk** to the property and the area given the distillation process, the wood burning fire, the flammable vapors and liquids generated by the distillation process as well as the stored alcohol on the premises
7. There is an overall concern that while the Rooiels to Pringle Bay corridor currently represents a unique pristine natural area within the buffer zone of the biosphere, by

2021 RERA Exco: Hilgard Muller-Chairperson, Mijé Christelle-Vice-Chairperson, Ivan Bezler-Treasurer, Allison Vierings-Secretary, Veronika Jacobs, Leigh Reeves

- 4 JUN 2021 R

FILE NO: Ptn 1411559 ✓
Hangklip
SCAN NO:
RERA
COLLABORATOR NO: 1547102



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Rooiels Ratepayers Association (RERA)

allowing any form of industry into it there is a **risk of destroying the balance between fauna, flora and wildlife in the biosphere.**

There were 2 common opinions in both the yes and no votes. Firstly, the application is very clear that **access** will only be through the Pringle Bay side of Porter drive. This needs to be assured and a means found that if the application is approved, it can be withdrawn if this proviso is not adhered to.

Secondly, a number of the people who voted yes only did so as they were comfortable firstly with the scale of the operations and secondly the applicant. As such, the **consent use should be linked to the current applicant**, and should the current occupants of the property sell the property the consent use should be withdrawn.

The same holds true for the scope of operations – should the application be successful, rights need to be withdrawn should the operation be **scaled up** beyond what is envisaged in the application.

Lastly **not everyone in favor was in favor of removing the consent rights from the title deeds** as it is thought that this is the best way to control future development proposals.

Yours Sincerely

Hilgard Muller
Chairperson, Rooiels Ratepayers Association
hilgardmullerprojects@absamail.co.za

Mike Christelis
Vice-Chairperson, Rooiels Ratepayers Association
mikechristelis@gmail.com

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L Gillion

From: Ral Meredith <r
Sent: Thursday, 03 June 2021 13:01
To: L Gillion
Subject: Objection

TP - A Theart
(H vld Stoep)



Municipal Manager
Overstrand Municipality
PO Box20

Your ref : Municipal notice 70/2021 portion 141 of the farm Hanhklip No559 objection to the application for the removal of restrictive conditions, consent ,use and departure.

Dear Sir /Madam.

I, Raleigh Llewellyn Meredith, am the owner of 48 Lovers Walk, Rooi Els.

I hereby submit my objection to the removal of restrictions which would enable the industrial /commercial use of land situated in an endangered and pristine area. (Clause 13.)

There appears to be nothing to prevent "a small family distillery" from escalating into further industrial-sized development.

I object to the very notion that a commercial / industrial operation can as much as be contemplated in this sensitive area.

The suggestion that the dangers of a noxious industry in a pristine area, whose value is acclaimed by thousands of visitors, both local and foreign, as a scene of natural beauty - one of the most beautiful in the world - can be even be considered by the guardians of our land - you our municipality - is difficult to comprehend. Vehicle access, with commercial trucks and visitors vehicles, running up and down, dust smothering our Fynbos, and all the life that it supports will be a nail in the coffin.

When the policing authorities blatantly fail to prevent the on-going poaching around us, why should we believe that policing of vehicle activity, waste control and other consequences of a commercial distillery will be guaranteed, even if this is what the Overberg Municipality promises will be the case ?

How long before a casino is established in our area ?

I should be grateful if you would consider my objection, as brief as it is.

R.L. Meredith

FILE NO: Ptn 141 1559 ✓
Hanhklip
SCAN NO:
Meredith
COLLABORATOR NO:
1547080

- 4 JUN 2021 RP

TP-A Theart
(H Vld Steep)

326/620

L Gillion

From:
Sent: Thursday, 03 June 2021 15:24
To: L Gillion
Subject: Portion 141 Farm Hangklip



Hi Loretta,
There has been an application for removal and amendment of restrictive title deed rights to portion 141 of the farm hangklip no 559.
The application is in hopes of creating a distillery and tasting room.

Overstrand, and particularly the sections around rooi-els and pringle bay is such a special area, and it would be lovely to keep it that way for future generations. The impact of removing restrictive title deeds will lead to more development with high environmental impact to a very sensitive biome.

As a citizen of this municipality, I would like to make it clear that I greatly OPPOSE the lifting of restrictions as well as the development of a distillery. I trust many of my fellow citizens feel the same, and will contact you as well.

I haven't taken part in such objections before, so if there is any further information you require of me, please let me know.

Kind regards from Rooi-els,

Freddie du Plessis
Cell: (0) 82 900 1234
www.creativedude.co.za



FILE NO:	Pen 141 / 559 ✓
	Hangklip
SCAN NO:	Freddie
COLLABORATOR NO:	547063

- 4 JUN 2021 *TR*

TP-A Theart
(H vld stoep)



327/630

1 June 2021

Municipal Manager

P O Box 20
Hermanus
7200

Email: Loretta@overstrand.gov.za

**Removal of Restrictive Title Deed Conditions, Departure and Consent Use –
Portion 141 of the Farm Hangklip 559: MN 70/2021**

I wish to strongly object to the above application.

I am a resident of Porter Drive, Rooiels and have lived here for the past 3.5 years. My husband and I, after much research and deliberation, chose to invest and retire in this beautiful, pristine, biodiverse conservation area, Rooiels. I, as well as other village residents, visitors and tourists from far and wide enjoy walking or cycling on Porter Drive. It is very serene, peaceful and home to magnificent plant, animal and birdlife species.

The applicant states that the access to the distillery will be through the Pringle Bay gate. I find this statement null and void as it is unenforceable by law or by Municipal Regulation! I therefore have to assume that Porter Drive from the Rooiels entrance will be used. The increased traffic flow will certainly have a negative impact for the Residents of Porter Drive. Even more concerning, is the disturbance to our wildlife and birdlife as vehicles and trucks pass by. The road is also very narrow and can only accommodate a vehicle travelling in one direction.

Other Concerns

- **Fire Hazard** : The prevailing summer South Easterly winds are surely a concern for everyone here. We do not want a repeat of the devastating wild fires experienced here in the past. Distilleries are a known fire hazard due to the production of alcohol products. The distillery property is covered in alien trees, again a huge fire hazard.
- **Waste**: If not properly handled, this will have a devastating impact on our very sensitive and unique fauna and flora and wetlands in the area. Waste water management needs a robust plan, with law enforcement. How would this be undertaken?
- **Noise**: Sound travels in this area with our summer South Easterly winds. I feel this will disturb our wildlife and birdlife and result in a reduction of tourism to this

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FILE NO: Ptn 141/559
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beautiful and biodiverse area of South Africa. After all, the tourists I have met here, are nature loving people and are here to enjoy our biodiversity.

- **Smell:** Once again, with our prevailing winds, the smell emanating from distillery production and its waste will adversely affect residents and tourists to this area.
- **Traffic:** As stated, there will be through traffic using Porter Drive in Rooiels. It is a public road that the distillery cannot control, hence the assurances from the proposed distillery are meaningless.
- **If the applicant sells the property, the new owner would not be obliged to maintain the assurances made by the proposed developer.**

To conclude, I am of the opinion that should this application be granted, it would set a precedent for other properties to apply for a similar consent use. This would most certainly decrease the environmental value of this area due to its potential hazards and pollutants.

I am of the opinion that a much better option would be to protect our environment and be proud of what we have protected. Wouldn't it be nice to share this with our future generations.

Let's educate and not commercialise.

In view of the above, kindly take my objection into consideration.

Sincerely

Lesley Lundie
295 Porter Drive
Rooiels

Email: | _____

Attention:

Ms Loretta Gillion

Administrator, Town & Spatial Planning

Overstrand Municipality

Via email: loretta@overstrand.gov.za

**Comments on: Portion 141 (A portion of portion 133) of the farm Hangklip no. 559,
Division Caledon: Application for removal and amendment of restrictive title deed
conditions, consent use and departure: Planning Partners (obo Free Life Trust)**

Names: Dr Jennifer Makin Pattinson

Professor Robert Pattinson

Address: Erf 936: George Way, Pringle Bay

Contact details: Postal address:

Mobile:

Email:

Date: 02-06-2021

Interest in the application:

We live in Pringle Bay and hike and ride in the area where this farm is based. We are nature lovers and gardeners with a particular interest in the fynbos and the associated bird and animal life. We have seen what is happening around us in Pringle Bay regarding development and construction and the heavy toll it places on the existing fynbos. It is thus very clear from what one has read and experienced first-hand that **this is not** a venture that should be allowed in the area.

We wish to register our objection to the above application based on the following: -

- The nature of enterprise given the area in which it is proposed to be built.
- The deliberate retention of alien vegetation on the property despite its known detrimental effect on the fynbos and the fact that the law requires it to be removed thus suggesting a lack of concern for the environment and the law.
- The apparent lack of qualifications and experience to run a distillery with all its complexity and its potential impact on the fynbos, fauna and people in the area.
- The misleading, flawed and incomplete information on the process of distilling.
- The impact on the Porter drive and thus on the people, fauna and flora in the area.
- Other matters.

The nature of enterprise given the area in which it is proposed to be built.

From an article written by ³Mikucka, W. & Zielińska, M. titled "Distillery Stillage: Characteristics, Treatment, and Valorization.", I quote the following-

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Hangklip
SCAN NO:
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COLLABORATOR NO: 1547120

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TP - A Theart
(Huld Stoep)



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"Distilleries are among the **most polluting industries** because ethanol fermentation results in the discharge of large quantities of high-strength liquid effluents with high concentrations of organic matter and nitrogen compounds, low pH, high temperature, dark brown color, and high salinity."¹

Just on **this basis alone and despite** the fact that that the property is **not** in the **Kogelberg Reserve** but in the biosphere (as was **pointedly noted by the owners**) this is **not where one should be placing this micro-distillery at all.**

Tim Atwell in his book "Your Place in the Kogelberg" states that the so called southern coastal transition zone, where this property is situated" is critically important from a biodiversity conservation point of viewpoint "².

It must also be noted that this area is home to a number of fynbos species that are on the IUCN's International Red List of Threatened Species.

Species	ICN Classification
Serruria adscendens	Near threatened
Lachnea densiflora	Near threatened
Spatalla curvifolia	Near threatened
Leucospermum Prostrata	Vulnerable
Diastella thymelaoides Rourke subsp. Meridiana	Vulnerable
Lachenalia salteri	Vulnerable
Erica brachialis	Vulnerable
Erica patersonii	High Risk of Extinction

This area is also home to the Cape Rockjumper which is only found in the mountain fynbos of the South western Cape. It is a classified as "**Near Threatened**". Not far from the property there is in fact a plaque indicating this.

The deliberate retention of alien vegetation on the property despite its known detrimental effect on the fynbos and the fact that the law requires it to be removed suggesting lack of concern for the environment and the law.

As the owners have seen fit to mention the following in this proposal in order to establish their credentials as people concerned about their environment, I feel it necessary to address some of their apparent misconceptions :-

- The owners have stated that they have gum trees on their property and when approached by neighbours to remove them their answer was negative, because they felt that gum trees had their benefits. I quote from Tim Atwell's book "Gum trees consume copious amounts of water, lower water tables, invade water courses, block rivers, create large monospecific stands, change soil chemistry, out-compete indigenous vegetation and threaten biodiversity"²
They are also highly flammable because of the eucalyptus oil, clearly not trees that deserve a place in the biosphere or anywhere in the Western Cape.
Gum trees are Category 1 invaders The owners are thus in contravention of the law regarding invader species and are required by law to remove them.
The stand of trees which can be seen from the road and on Google maps is a large one. Outside the property along Porter Road there has been an apparent "explosion" of alien vegetation -and included in that vegetation are gum tree saplings, no doubt spread from the stand of trees on the property.

- They also stated that they have kikuyu grass on the property. This is another Category 1/1b invader and should not be grown but removed. It cannot be controlled by building "knee-high" wall to prevent it getting into the fynbos. It affects the growth of bulbs annuals and other fynbos plants.

The above examples provided by the applicants **do not** in any way give credence to their claim of concern for the environment. They just suggest that **the applicants are irresponsible** with regard to the environment

They apparently collect and germinate protea seeds which are then dispersed into the environment (the description I don't understand at all). This according to them, has resulted in more proteas around their property. This was not apparent on our walk a week ago and I must point out the obvious that, the protea is not the only species of fynbos.

They have also stated that that they will arrange with local hack groups to make use of the alien vegetation obtained during the hacks in the wood burning fires used in the distillation process They propose that this would help with problems of where to store this vegetation and the possibility of fire. As these groups tend to be small and run by volunteers and usually on a monthly basis- I find it questionable that this would supply a wood burning still with enough wood. This wood would need to be shredded and dried, in other words stored, with it seems to me, the same if not worse risk of fire because of its size. This seems to be an impractical idea which is used to try and boost the idea that they are in fact thinking of their environment.

The apparent lack of qualifications and experience to run a distillery with all its complexity and its potential impact on the fynbos, fauna and people in the area

The fact that the owners have a qualification (Distillique) which qualifies them to **work** in a distillery in no ways qualifies them to run one. There is however no documentary proof of this qualification such as it is. There is also no further reference in the proposal to them even having worked in a distillery. This does not inspire confidence that this will be a distillery run in a safe, efficient way let alone that it is protective of the environment.

The misleading, flawed and incomplete information on the process of distilling

The distillery process

The way the output of whiskey and gin been calculated is very unclear. If one uses the figures provided: -

From 1 bakkie load of barley (300kg) **per week** 250l of spirits would be produced
 $=250000/750 = 333$ potential bottles would be produced. This would be at **start up**. With **3 bakkie loads at full production** this would mean **1000 bottles per week** and **not per month** as indicated would be the final target in document. If one assumes that the distillery is active for 48 weeks of the year and assuming 6 weeks of cumulative loss of production because of weather etc, then this micro-distillery would produce 48000 bottles of whisky and gin. That is a lot of whisky /gin and, as a consequence of the production process, a lot of environmentally toxic substances going into the environment which is not suited to handle, namely the fynbos.

I can only assume that the calculations are flawed. This does not speak to the implied expertise of the owners. This is a problem because if the calculations are not accurate this affects how one estimates the effect of this operation in terms of certainly the following: -

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1. Storage
2. Transport and thus road usage and parking
3. Employment, parking and again possible road usage
4. Sewerage
5. Waste from the distillery

Utility services

Water

The applicants refer to the use of surface and ground water – what surface water would be used and how this would be obtained? This is not explained.

Although it appears that it is allowable to extract 400m³/ha/a, a number of questions arise. It seems to me it is not issue of what is allowed, but what is feasible and related to the property namely: -

1. Is there enough water on the property to provide the water required?
2. What happens in a drought?
3. What will happen to the fynbos when water is removed?
4. What will happen to the wetlands noted to the north and south on the property?

That calculation based on the total number of hectares is surely a problem because it refers to the whole of the plot which not relevant.

Sewerage

It seems that it is highly likely, despite the applicant's assurances, that there will be a significant increase in sewerage from the distillery, from the cleaning, from the employees, from the visitors. It thus seems likely that sewerage will need to be removed more often. There is no indication of how often it is performed and how big the current sewerage tank is. All this speaks to is traffic on Porter drive

Management of waste

It seems to me that these waste products while not necessarily toxic to humans, would certainly be toxic to the environment. There appears to be no thought has been given to the containment and storage thereof except for bins for the solid waste.

▪ Solid waste

One is not sure on what period in the distillery "lifecycle" the amount of 300kg is based -is it at start up or when the distillery is completely functional?

If one is producing 1200kgs of solid waste per week assuming a 4-day functioning of distillery and it has a shelf life of 2-3 days, it seems it will have to be removed more than once a week. It is highly unlikely that this amount would be used for animal feeding at the farm on the property. This would thus have to be taken to farms to be used as animal feed. One wonders if any farms have been contacted as to the feasibility of this. I cannot find anything on this in the proposal.

Once again this has impact on road use

▪ Liquid waste

Grey water and the type of grey water described in the proposal should not be used for irrigation because, although you could potentially use it on some plants, it cannot be used directly for fynbos

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which grows in nutrient poor soils. Furthermore, if it is used for other plants but not fynbos, it will potentially seep into the ground and thus affect fynbos that way. It could also potentially affect soil quality and potentially the ground water.

The impact on the Porter drive and thus on the people, fauna and flora in the area

This is used by the residents, hikers, birdwatchers and cyclists. It is not a road that is designed for a lot of traffic and given its current users this is also highly undesirable. It is narrow and very rocky. It appears to be a single-track road so any two-way traffic would find it difficult to negotiate. This would probably mean the incursion of vehicles into the vegetation on either side of it.

It is apparently a municipal road not maintained by the municipality but by the residents. One does wonder if the municipality would not be obliged to intervene if the road deteriorates because of high traffic volumes and would that mean grading or taring eventually with the attendant effects on the vegetation etc alongside the road?

It must be noted that the construction work and preparation to get this enterprise up and running will affect the road and surrounds and potentially the flora and fauna adversely even before the micro distillery is up and running. There is anecdotal evidence of cement tankers running over tortoises on the way to the property, presumably to complete the extension of the stables that seems to have started taking place- something we noticed on our walk last week with friends.

It seems from the information provided once the property is functioning that transport of sorts will be required for: -

1. Wood for fires from hacking activities.
2. Barley collection.
3. Removal of waste.
4. Transport of shop items from the site of purchase.
5. Sewerage tankers.
6. Employees – undetermined number in season and no information on projected numbers to be employed when the property is running at full steam. It appears that the start-up numbers are underestimated (or they have an enormous family). If so, where will these people come from and how will they access the property?
7. Tourist buses over the weekends-undetermined total number of trips/tourists out of season. This would presumably change in season where this would not be restricted to weekends only, once again an undetermined number. This, thus impacts on the number of trips undertaken.
8. Transport of bottles of gin to unknown storage site as mentioned in a in the text.
9. Whiskey is aged in barrels for 3 years. Does this mean that whiskey will not be available for consumption for the first 3 years or will whisky be distilled elsewhere and brought to the property, thus more transport?

As can be seen from the above, despite the owner's assurances, Porter Rd will be put under a **lot of pressure. This will impact on the flora and fauna negatively and will affect the people living along that road.**

Other matters

1. The owners have built a so-called dam **without permission**. This actually looks like a swimming pool from the road.

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2. The owners have **already done** building work related to the distillery and yet the photo of the stables in the proposal does not show this. This is to me is concealment. It also suggests that the owners are confident that they will get their zoning application passed. I do not understand why.

The above do not suggest that they have any respect for due process and the law. This makes one doubt their general integrity and clearly this has implications for every aspect of this enterprise

Conclusion

This rezoning application should be turned down. I foresee if this does not happen and proposal passes through all of the checks and balance that would be required, that this area will become a green desert devoid of fynbos and animals, but populated by alien vegetation thriving on the effluent of this enterprise.

References

1. Mikucka, W. & Zielińska, M. 2020. Distillery Stillage: Characteristics, Treatment, and Valorization. *Applied Biochemistry and Biotechnology*, 192, 770-793
2. Attwell T, Your place in the Kogelberg. Published by the Botanical Society of South Africa 2015

335/630

Dr CJA du Plessis & Dr Tanya Goodman
263 Perspicua Rd
Rooiels

OBJECTION AGAINST THE REMOVAL OF TITLE DEED CONDITIONS,
CONSENT USE AND DEPARTURE APPLICATION PORTION 141/559
MN 70/2021

3 June 2021

The Municipal Manager
Overstrand Municipality
16 Paterson Street, Hermannus
7200

TP-A Theart
(H vld Stoep)



Dear Sir

We have owned Erf 263 in Rooiels since 1999. We jokingly refer to this side as "die onderdorp" because, situated on Bakkies Baai facing the smallholdings between ourselves and Pringle Bay, this is the lesser-developed side of town. Also, it is the area most likely to experience the impact of the application serving before you, listed above.

We have been privy to some of the research conducted by fellow residents, comprehensively addressing several technical and ethical flaws within the application, and herewith list such arguments that carry our support:

1. FIRE RISK: Being situated directly downwind of the prevailing dry summer South-Eastern wind, we are extremely concerned with the fire risk to our property, family, neighbours and wildlife in this immediate area.
2. ENVIRONMENTAL IMPACT: For years we have seen pedestrians, birdwatchers from all over the world, walk down Porter to enjoy the rare sights in this area. The potential traffic, effluent and emissions of the proposed distillery are in direct conflict with the ethos of the area at large and of this location in specific.
3. WATER: Memory is short. If 2017 taught us anything, water will be an increasingly scarce resource. Our part of town already experiences regular interrupted water supply. Allowing an industrial process that will not only add to the constraints, but actively affect the water quality, should raise extreme concern on your side.
4. SMELL: With the prevailing wind from that direction, there is little doubt that the emission from a distillery will affect the air quality in our downwind direction.
5. NOISE: Sound travels over water. We have no reason to trust the applicant's intent, as should you, that the activities at a tourist site where alcohol is involved will remain subdued and within the limits of this application. As we often see with the masses of poachers that strip the bay in front of our house with impunity, our

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COLLABORATOR NO: 1547127

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Dr CJA du Plessis & Dr Tanya Goodman
263 Perspicua Rd
Rooiels

local government structures have neither budgets nor manpower to enforce every law and regulation in this area with precision and regularity.

6. **INTEGRITY:** The application is full of misrepresentations. This should raise serious concern with the integrity of the applicants. And as mentioned in point (5) above, if they already show their willingness to deceive and distract at the application phase (actually, prior to this phase given that they have already skirted building regulations), how could you possibly believe that once you have given them a green light under set conditions, that they will honour these constraints?

FURTHER CONSIDERATIONS

We live in a troubled society with high levels of unemployment, accompanied by similarly high levels of crime, domestic violence, alcohol abuse and reckless driving. Just last night, returning to Cape Town from Rooiels, we passed two massive accidents where people had lost their lives according to this morning's news. How does one weigh this application when it comes to the broader public interest and economic development with which we entrust our local and national government structures?

Having worked as a consultant on SMME economic development to UN agencies, international donors and leading poverty-relief foundations, I can safely say that this application will cost our society significantly more than what we may benefit. Here are the arguments in defence of this conclusion:

1. **JOB CREATION:** Being the small-scale operation the applicants promise (tenuously) this venture will remain, the establishment will create an insignificant number of unskilled and low-paying positions, and in a location far away from people's homes. This remotely-located proposed establishment simply perpetuates one of the enduring legacies of the Apartheid era, namely workers' distance from place of work and the cost of transport. If a distillery is intended to create jobs, build it in the Kleinmond harbour tourist area where employees can walk to work and back.
2. **ALCOHOL AND DRIVING:** Lockdown data showed how emergency rooms at hospitals stood empty once alcohol was banned. Need one say anything more about the irresponsible manner in which South Africans drink, drive and behave when under the influence? In the 30 odd years that we have travelled to Rooiels and back on the R44, we have lost count of the number of accident victims lying covered under EMR blankets by roadside after drivers enjoyed one too many drinks on their weekend excursions. To allow another establishment in a remote area that could only be reached by driving there, and where people go with the express intent to consume alcohol, will increase the hazard and the social cost. I cannot see anyone willingly fork out the R600+ that an Uber ride from this location back to Gordon's Bay would cost, assuming people do not visit from further afield.

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Dr CJA du Plessis & Dr Tanya Goodman
263 Perspicua Rd
Rooiels

3. **PUBLIC PARTICIPATION:** Any assessment of the pros and cons of a decision with impact on a community assumes certain preferences among constituents. It then requires some validation to establish whether such assumptions hold any water. The most credible available option is to turn to the elected representatives representing the constituency.

This option, in the case of Rooiels, however, is not a valid option. In short, several elected officials, known to be friendly with the applicants in this affair, used the trust the village placed in them, and the megaphone they were given by way of household emails and whatsapp numbers, to first actively lobby for the election of people supportive of this application. Then, as soon as they were elected, sent out a circular in which they pretended to be saving households the time of reading the whole application, and then selectively downplaying or omitting key areas of the concern. This is plain and simple manipulation of trust placed in this body. As such, it would be a grave mistake to assume that any group posing as acting on behalf of the village of Rooiels actually speaks for anything or anyone more than their own conflicted interests. Members of this group have previously shown their colours by ignoring public participation processes and stakeholders such as Cape Nature, when erecting an art installation on a highly visible rock on the main beach at Rooiels in direct contravention of regulations.

We thank you and your colleagues for allowing the opportunity to address this matter, and we wish you clear heads and clean hands in coming to a wise decision that will continue to respect and conserve this wonderful little spot on the globe we have been granted to share.

Yours faithfully,



Dr Charl du Plessis
MBA (Yale); PhD (UVA)
Tel:



Dr Tanya Goodman
PhD (Yale)
Tel:

Johan Bestbier (Trustee of JJMA Trust)
Erf 240, Rooiels



3 June 2021

The Municipal Manager
Overstrand Municipality
Emailed to: loretta@overstrand.gov.za

TP - A Theart
(H vld stoep)

338 | 630

Portion 141 (A portion of portion 133) of the farm Hangklip no. 559, Division Caledon: Objection against Application for removal and amendment of restrictive title deed conditions, consent use and departure

The JJMA Trust (IT4337/2006), which I am representing as Trustee, is the owner of Erf 240 Rooiels. I, on behalf of the trust and its beneficiaries, am objecting to the above application on all counts: removal of title restrictions, departure and consent use.

I have been privy to some of the research conducted by fellow residents, addressing several technical and other flaws within the application and I also made my own observations and studied the owner's submission. I hereunder list my concerns and such arguments that carry my support and herewith submit my objection on the following grounds:

1. Environmental concerns and Character of Area

- 1.1. The area in which the proposed distillery is located is an ecological gem of international significance. This fact is not disputed by anyone and requires no proof. It is a known fact that Nature Conservation authorities have always regarded this area as a key component of the declared Kogelberg Biosphere Reserve (KBR). The proposed distillery is to be developed in the heart of one of the few remaining coastal belts of natural beauty that is mostly still free from commercial development other than in the CBD areas of the towns of Rooiels and Pringle Bay. This "creeping" commercial development does not augur well for the long-term sustainability of the KBR. The planned development is actually in the Buffer zone of the KBR which will eventually, especially with the precedent it is creating, have a detrimental effect on the bigger biosphere.
- 1.2. A distillery (small or big) is noxious and a potentially dangerous industry. To establish this in a remote and ecologically very sensitive area, would be reckless.
- 1.3. The planned commercial development cannot go under the banner of "a sustainable eco-friendly lifestyle on the property" as claimed by the owner. The transportation of raw materials to the site, removal of waste from the site, the

FILE NO: Ptn 141/559
Hangklip ✓
SCAN NO:
Bestbier
COLLABORATOR NO: 1547128

- 4 JUN 2021 TP

depositing of wastewater into the septic tank system, the creation of explosion and fire risks, etc. is completely out of line with this claim.

- 1.4. The Overberg Municipality has the vision to build tourism in this region; and the birdlife and fynbos in this area have not only biodiversity and intrinsic value, but also is probably one of the most important specialised tourist destinations along the Overstrand coastline. International tourists are attracted to the Overstrand by the global recognition of this area as a prime birding site and a micro-ecosystem of immense biodiversity value. This is an area where visitors can quietly sit, often completely alone, and view an unusually high number of endemic and rarely seen birds, including the Cape Rockjumper, Victorin's Warbler, Sentinel Rockthrush, Ground Woodpecker, Verraux's Eagle and many others. It is rare for visitors to so easily be able to access a site with this solitude and sense of wildness. Increased traffic and industrial/commercial activity along this road will undermine this experience. These activities will reduce the wilderness ambience and sense of place so important to attract these nature tourists. Walking along a remote dirt road to view birds and beautiful fynbos, and having trucks and minibuses transporting bottles, barley, waste products and staff and visitors respectively, is not conducive to the experience. The planned commercial development and activities will certainly impact negatively on this natural asset and experience.
- 1.5. The proposed distillery is completely inappropriate in this natural, rural and conservation-worthy area. The type, behaviour and interest of visitors to a distillery and associated tasting room is in general different from the nature lover and someone who embraces and values peace and tranquillity and therefor this commercial development is out of keeping and undesirable in this area.
- 1.6. In summary, the planned commercial development and activities will have a negative impact on the rural character, peace and tranquillity and sense of place relating to this natural area.

2. Increased Fire and Explosion risk

- 2.1. Distilleries, by its nature, pose huge fire and explosion risk due to the nature of the process which involves high concentration of alcohol produced and stored (fermentation, heat and fire).
- 2.2. The development will pose a significant fire hazard in this very sensitive area which can be very dry and windy in the extended summer season. Fires can either be started or accelerated by this property. This risk is two-fold, i.e., increased intensity of the fire caused by the distillery, and/or diversion of fire resources to this property instead of having it available to the rest of the area.
- 2.3. Approval of this commercial/industrial type of development with its highly flammable materials (alcohol and ethanol fumes) in this area will be reckless.

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3. Porter Drive, access, etc.

- 3.1. Porter Drive is a poorly maintained and very uneven gravel road which can only accommodate a vehicle going in one direction at a time. It is also used as a footpath by the many hikers, bird watchers, cyclists, runners and tourists who love walking in peace along this pristine stretch of coast. How can this be reconciled?
- 3.2. This section of Porter Drive has, since I started coming to Rooiels more than 10 years ago, never been maintained by the Municipality according to my observations. How and by whom will it be maintained given the higher use and traffic?
- 3.3. The developer's undertaking to limit visitors and vehicular traffic on Porter Drive is not within his control nor enforceable. Furthermore, the claim is made that the Pringle Bay entrance to the smallholdings will be used. Since the beginning of building operations on the property, the Rooiels entrance has been used. Why would this change? How would trucks and guests be prevented from using this entrance? It is highly doubtful whether there is any enforceable regulation or process that can ensure that in the future only the Pringle Bay entrance will be used for this development. This matter is misleading in the application.

4. Scale of Activity and Development / Operational Rules & Procedures

- 4.1. My contention is that as the current owners (as per their submission) are going to take every mitigation measure and are going to restrict their use to a very small distillery and tasting room, this will not be financially viable. The stated intention of the owner that it would be a small-scale business, is not in line with the capital investment. The "business model" is clearly not a feasible and financially viable one at a production of a maximum of 1000 litres per week. Although the current owners may be in the financial position to support this as a lifestyle venture, this could change in the future. Certainly, the footprint of the building is much larger than that required for a small distillery. Once the title deed restrictions are lifted and the consent uses given, then any person they sell to will be able to significantly expand the distillery or even introduce other commercial and industrial activities. As financial pressures change and/or the economy changes, the current owners may be forced to expand, and nothing would prevent them. This is of concern, because after approval of the distillery, the visitor quota will probably be increased or visitors will be allowed to visit with their own vehicles, since it is a public road.
- 4.2. The developer's undertaking to limit visitors and motorised traffic on Porter Drive is not enforceable and therefore misleading. There is simply no legal mechanism in place to reduce such extensive use and the very undesirable environmental consequences thereof in the future.
- 4.3. The property and business owner will need to apply for a micro manufacturing license for the Distillery, which will allow them to produce a substantial amount of liquor (2 million litres of spirits per annum). As this (by the current owners

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or their successors in title) cannot be controlled by the local authorities, this operation will be legally licenced to transport, process and handle many tons of barley and product per annum. This will necessitate additional traffic by the visitors, packaging, waste products and sewerage – all which will require more and/or bigger vehicles.

- 4.4. It is of great concern that Overstrand Municipality is not legally able to enforce and police any of the promises given by the application to limit production and to limit vehicles on Porter Drive. Unless these promises are enforceable, the consequences for the larger area will be dire.

5. Removing and amending of restrictions in Title Deed

- 5.1. Title deed conditions cannot and should not be removed if it is not in the "public interest" (as legally defined) to do so. The Title deed restrictions are for the benefit of the wider community or at least that would have been the intention and spirit when it was agreed with the "Hangklip Beach Company" at the time. If the context of more than 55 years ago is extrapolated to today, it is only reasonable to assume that the restrictions was meant to serve the wider public. These title deed restrictions were imposed in lieu of a local authority (which was not in existence at the time) and the consent of the "Hangklip Beach Company" is of no real consequence. The removal of such conditions of title falls within Overstrand Municipality's sole domain of power.
- 5.2. It is important to retain as much of these title deed conditions as possible, as these conditions create and "governs" the very character of a particular area. Typically, most nearby properties have similar title deed conditions. It follows that any change in the status quo may have consequences and disparities for all other nearby property owners and will create a serious precedent.
- 5.3. It should also be considered that the owner is seeking to change the identity and status quo of the area in a way that will seriously impact on the existing use and enjoyment of the area by the general public. The potential cost to the environment, negative publicity for Overstrand, and very real loss of income from eco-tourists like the birders (including the restaurants and accommodation facilities serving them) by far outweigh the benefits of having this distillery. In my opinion, the owner has failed to prove public interest for removing and/or amending the restrictions.
- 5.4. Removing and amending of the restrictions in the Title Deed is only in the interest of the land and business owner and is against the interests of neighbouring villages and property owners (for their sense of place, peace and tranquillity, nature and as a fire hazard) and it is against the interests of all nature inclined tourists that visit the area and the businesses that benefit from these visitors.

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6. Consent for Agricultural Industry

- 6.1. Portion 141 has never been used for *bona fide* agriculture. I do not believe that the owner is entitled to apply for a distillery under the definition of "agricultural industry" as he meets few of the requirements of this definition. The application is thus based on a legal flaw and the only legal route available for the owner is rezoning.
- 6.2. Given the high (and near-threatened biodiversity in that area) it would not be appropriate to allow Agri-processing on Erf 141, especially a distillery which is known worldwide as potentially "*one of the major sources of environmental pollution*" owing to its high volume of wastewater containing organic and inorganic pollutants. It would significantly decrease the environmental value of the area if Agri-industries, processing mostly imported produce, were to be allowed. When consent use has been granted as requested, a precedent will have been created and it will be more difficult to not grant similar consent uses to other properties in the area.
- 6.3. As mentioned, it will be an inappropriate consent use as it is not processing own produce, nor even neighbouring produce. The regulations and guidelines support agricultural processing in an agriculture zone, only when a farm processes the materials that it grows, and the industry should not be subservient to the primary use. This property does not produce barley or other grains (the primary raw materials) and would have to ship them in. Therefore, the owners cannot claim that they are processing the products they grow.
- 6.4. The planning relevant regulations reflect the reluctance to convert agricultural land to agri-industry and to change the landscape. This is in place to discourage urban and industrial/commercial sprawl and to reduce the negative impacts on landscape, global warming and biodiversity.

7. Burden on Municipality

- 7.1. The statement is made in the application that this commercial development will not put any significant pressure on the Overberg Municipality.
- 7.2. What was under-played or even overlooked in the application are the following infrastructure and services that will be required from the Municipality:
 - 7.2.1. Maintenance and upgrading of this part of Porter Drive (see par. 3). This will be required for the current scale of the planned operations and may escalate significantly should the scale of operations be expanded in future. As already mentioned in par. 4.4, the Overstrand Municipality is not legally able to enforce or contain the scale of operations in the future (of current owner or successor in title).
 - 7.2.2. Firefighting and fire prevention – see paragraph 2 for the dangers and risks. Approving this development will place a huge additional burden on the Municipality – and that at the risk of all other existing properties and the natural environment (fauna and flora).

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- 7.2.3. Sewage and waste removal: This will be required for the current scale of the planned operations and may escalate significantly should the scale of operations be expanded in future. As already mentioned in par. 4.4, the Overstrand Municipality is not legally able to enforce or contain the scale of operations in the future (of current owner or successor in title).

8. Building line departure

- 8.1. The building and set back lines are there to ensure harmony and uniformity among properties and with nature in this area. Allowing this in respect of one property will be out of keeping with the other properties and will create a serious precedent for the future. All other properties are currently bound by this condition.
- 8.2. I would like to argue that being over the building line restriction is already one "serious transgression", but to then increase and upscale the bulk and footprint of that same building and to change the use of the same building to allow for more staff, visitors and service providers and also to include production (industrial) type of activities is "compounding the transgression" and creating a much bigger problem. It boils down to "adding insult to injury".
- 8.3. Given the sensitive, natural and unique sense of place of the smallholding area between Rooiels and Pringle Bay, this departure should not be allowed.

9. Argument re. Diversifying and strengthening of Rural economy

- 9.1. The owner motivates the development on the argument of "compatible and sustainable rural activities (i.e., activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate)." How does importing just about all raw materials (except a small amount of fynbos for flavouring) to be processed on the site constitute "compatible and sustainable rural activities"? Furthermore, does the employment of 3 additional staff members and perhaps seasonal contract labourers (who also need to be transported in and out of the area) constitute positive socio-economic returns?
- 9.2. In the light of the fact that just about all raw materials, staff, visitors and service providers must be transported to the site, it would be far more suitable and appropriate for the distillery to be situated in the CBD of Pringle Bay or another appropriate area.
- 9.3. As stated before, the property involved is completely inappropriate for the purposes of a distillery. As mentioned, access for distillery visitors, customers, staff and service providers could hardly be more difficult. Typical distillery tourists would be much happier in busier surroundings in the adjoining Pringle Bay, Rooiels or the Kleinmond Harbour precinct. It makes for bad town planning allowing those areas to languish, whilst approving a new manufacturing enterprise in an ill-suited and undesirable area.


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10. Pattern in the behaviour of the Landowner

- 10.1. The building plans for the additions were lodged by the owner well before bringing this application and well knowing that it was for a distillery, not for stables as was submitted to the Municipality for approval. In fact, the additions are now already completed as per recent photographs of the property, as well as Google Earth. It is clearly a distillery building and not stables or a barn. The introduction to the application states that it "will require a modest addition to the former stable building". This has already been done under the pretext of building a barn.
- 10.2. Consequently, the building plans for the additions were clearly submitted by the owner under false pretences and without full disclosure.
- 10.3. According to many witnesses, the property is currently overrun with alien, invasive species. Alien trees have been spreading from this property to neighbouring smallholdings over many years. The owner has allowed the kikuyu to thrive, and the stand of gum trees has become a real fire threat to the greater area over time. My question is whether this owner and applicant is truly "conservation conscious"?
- 10.4. Since the beginning of building operations on the property, the Rooiels entrance has been used – and not the Pringle Bay entrance. Why would this change? This pattern has now been established by the owner - how would trucks, guests and staff be prevented from using this entrance?
- 10.5. The owner recently constructed a dam of 600 square meters while ignoring the fact that authorization in terms of NEMA was required.
- 10.6. The above incidents and trend raise a lot of doubt and mistrust regarding the owner and applicant. Due process is disregarded in some instances. The actions mentioned above are not the actions of an environmentally responsible and knowledgeable owner and applicant. As a result, I, as an interested and affected party, am finding it very difficult to trust the owner on the submissions made and the various promises and undertakings as per the application submitted.
- 10.7. Based on the above, it would be irresponsible to allow such an applicant to operate a distillery, which is by its very nature a high-risk operation in a very sensitive area.

I strongly oppose this application and truly believe it should be rejected. The distillery could, and should, be established in an area that is less vulnerable to fires, less likely to have an impact on the flora and fauna, and closer to the source commodities.

Yours faithfully,



.....
J.B. Bestbier
On behalf of the JJMA Trust (IT4337/2006) and its beneficiaries

L Gillion

TP-A Theart
(H vld Steep)



From: Kay Leresche < >
Sent: Thursday, 03 June 2021 14:17
To: L Gillion
Cc: Gavin Lundie
Subject: Supplementary Comment on Application for Distillery Portion 141 of 133 of Hangklip 559

345/620

Attention the Town Planner.

This objection is supplementary to the objections already lodged individually by each of us separately. It is sent to you because we have only recently been made aware of the legislation with respect to wetlands when building a dam and is in respect of the retroactive approval of the dam on Portion 141 of Portion 133 of Farm Hangklip no 559.

On 30th November Gavin Lundie and Kathleen Leresche responded to a public invitation to attend a presentation on the unlawful construction of a dam that had been built without approval and was now applying for retroactive permission. We were the only two members of the public that attended.

It was made very clear to us that the dam was drawing all its water from seepage. It was obviously not on a stream and they stated that they would not be drawing water from underground to fill the dam even in dry summers. It was obvious that the area is surrounded by wetland and that seepage was coming from under the kikuyu grass surface.

The distillery was never mentioned in respect to the dam. We were told that the dam was constructed because it had been an unsightly old rubble dump. It was portrayed as part of their efforts to beautify their surroundings and that the water was there for birds and animals and would be used to water the vegetable garden but had no other purpose. We queried the problem of vegetables being grown without extensive protective fencing but were advised that they already had a large garden and that they are not troubled by baboons as neither the Rooiels nor the Pringle Bay troop ranges reach them. We pointed out this could become a problem and that they should avoid creating such a situation. We also queried how close the dam bordered on what was obvious wetland to the south east but were assured it is not drawing from there and that the dam is not affecting the wetland.

It is only now that we learn from maps of the area that, in fact, the entire area is probably a wetland, with the kikuyu and gum trees draining the surface water and making it less obvious that it is a wetland. We were ignorant and assumed that the Environmental consultant was presenting the facts. Furthermore we were not aware that this dam is constructed almost on top of the boundary line.

At no stage were we advised that this dam was to be used as a 'fire pool' for a distillery. In fact we were the first to raise the issue of the distillery when we explicitly stated that we were most definitely not in any way condoning a distillery which had been applied for in the past. But we were not inclined to object for the sake of objection and that as we were not aware of any reason to object to the dam we would not object provided it was otherwise in compliance with national, provincial and municipal regulations. The owner then asked us why we were so against a distillery and we said that we were not going to start discussing that issue in this setting and the environmental consultant also quickly deflected the owner from that line of questioning.

We have already submitted our objections to the application for removal of title deed restrictions and consent use for a distillery. We did not see the point of objecting just to be obstructive and so indicated we did submit this additional information because we were very disturbed to learn

a) that it is against the regulations for the dam to be so close to what is clearly a wetland which is the source of the seepage for the dam

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- 4 JUN 2021 *TP*

FILE NO: Ptn 141/559 ✓
Hangklip
SCAN NO:
Kathleen
COLLABORATOR NO: 1547136

b) that this dam is actually to be used as the fire pool for the distillery and we were not told the truth at the meeting.

Yours sincerely,
Kathleen Leresche and Gavin Lundie

346/630

347/630

LYNETTE HUNKIN
EMAIL:

The Municipal Manager
Overstrand Municipality
Hermanus

1 June 2021

Per email: loretta@overstrand.gov.za

TP-A Theart
(H vld stoep)



**OBJECTION TO DISTILLERY ON PORTION 141/559
MN:70/2021**

Dear Sir

I live in Gordons Bay and regularly visit the nearby Kogelberg Biosphere Reserve area as a keen hiker, runner and photographer.

I object to the above application which will be most undesirable in its intended location. There are industrial areas in Gordons Bay and Kleinmond which will be much better suited to such an industry.

It should be kept in mind that distilleries are not "green" industries and have undesirable by-products. Accordingly, it is important not to allow such activity in a near-pristine landscape of great beauty. It makes no sense from an environmental point of view.

The Municipality should keep in mind that the cost to society and the environment, by far outweighs any potential benefit gained by having a distillery in this inappropriate place. A flammable and hazardous industry, accompanied with delivery vehicles driving up and down along the narrow track daily, creating dust, noise and exhaust fumes, will greatly detract from the present eco-tourism use of this special area. This is certainly not what is meant by sustainable development!

Please turn down this inappropriate application.

Yours faithfully


Lynette Hunkin

FILE NO: Ptn 141/559 ✓
Hangklip
SCAN NO:
Hunkin
COLLABORATOR NO:
1547142

- 4 JUN 2021 TP

L Gillion

348/630

From: Ian Milne < >
 Sent: Thursday, 03 June 2021 14:34
 To: L Gillion
 Subject: Portion 141 of the Farm Hangklip - Application for removal of Title Deed restrictions and consent use.

Ms. Loretta Gillion

Overstrand Municipality

By email: loretta@overstrand.gov.za

3 June 2021

Re: Application for the removal and amendment of restrictive title deed conditions, consent use for the establishment of an agricultural industry and departure on land use rights: Portion 141 (a portion of 133) of the farm Hangklip no 559, division Caledon.

From: Ian Bertram Milne and Stephanie Milne.

Address: Erf 262 Rooiels.

Email: _____

In response to the above application, we have some concerns, mainly from an environmental point of view:

- 1 **Waste treatment:** There are a number of publications referring to the toxicity and difficulty in treating waste water from distilleries, all of which we presume have been reviewed or will be reviewed in the course of an EIA. However, it appears that the environmental risk has been, to a large extent, glossed over in the application and we feel that this aspect needs to be given greater priority. Melamane, Strong and Burgess (2007) from Rhodes University, present a detailed review of publications on treatment of distillery waste water and the challenges thereof.
- One article from the journal *Applied Biochemistry and Biotechnology* by Wioleta Mikucka & Magdalena Zielińska (2020) describes this as follows:

Distilleries are among the most polluting industries because ethanol fermentation results in the discharge of large quantities of high-strength liquid effluents with high concentrations of organic matter and nitrogen compounds, low pH, high temperature, dark brown color, and high salinity. The most common method of managing this wastewater (distillery stillage) is to use it for soil conditioning, but this requires thickening the wastewater and may cause soil pollution due to its high nitrogen content. Therefore, treatment of distillery stillage is preferable. Successful treatment of the stillage and possible recovery of useful by-products is a highly complex process.

As our erf, No 262, is in a direct line of sight from erf 141, when the South Easter blows, we are particularly concerned about the **smell of the waste water, which will directly affect our quality of life and could be a health hazard**, and which is described by a number of authors as "one of the

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FILE NO: Ptn 141/559
Hangklip
SCAN NO:
01
COLLABORATOR NO: 1546791

TP-A Theart
(H Vld Stoeep)

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greatest problems". Another significant problem is that of **soil pollution**. If the water is used to irrigate crops it means that it will potentially pollute ground water and the fresh water ponds nearby, which are most probably used by the Cape Clawless Otters found in the area. Judging from the above articles it appears that the **amount of water consumed, and waste water that will be produced, has not been adequately addressed in the application and severely underestimated**. (Possibly due to point 3 of this letter)

Due to the production of a large amount of wastewater (12 times as much by volume as the alcohol produced) of very high organic loads, distilleries are highly water intensive units. Wioleta Mikucka & Magdalena Zielińska (2020)

2 Fire hazard: The other aspect that does not appear to have been given the emphasis it needs, is the fire hazard. Fire is a very real danger in this area, especially in summer when the area is usually dry and when the South Easter blows! The storage and handling of highly flammable material and the highly volatile vapour produced during the process of distilling, creates what would appear to be a huge danger, both from within the distillery and in the event of a fire from elsewhere. Equipment and procedures need to be in place to mitigate the fire danger as it poses a direct threat to Rooiels and its residents.

3 Much of the wording of the application, as well as estimates of water consumption and waste production, has been taken directly from a template produced by "*Distillique*", the authority quoted by the applicants, which raises doubts about the applicability in this case.

In common with the submission by the Rooiels Ratepayers Association, it is **our opinion that the consent use should be linked to the current applicant** as we feel sure that they are aware of, and sensitive to, matters such as the presence of the Cape Rockjumper and other wildlife, as well as the very sensitive fynbos. This would not necessarily apply to a future owner. We are also **not in favour of removing the consent rights from the title deeds**. We are of the opinion that there needs to clarity as to how the undertakings described in the application will be monitored and 'policed'.

In my professional capacity of Zoologist and Environmentalist, I seriously question the suitability of this endeavour, without more in-depth plans for treatment / disposal of waste products, being within the confines of the Kogelberg Biosphere Reserve Buffer Zone.

Yours sincerely

Ian Milne & Stephanie Milne

3 June 2021

TP-A Theart
(Huid stoep)



Municipal Manager

P O Box 20
Hermanus
7200

Email: Loretta@overstrand.gov.za

**Removal of Restrictive Title Deed Conditions, Departure and Consent Use –
Portion 141 of the Farm Hangklip 559: MN 70/2021**

I wish to OBJECT to the above application.

I am a resident at 380 Porter Drive, Rooiels, residing here for just over 3 years. I am extremely concerned about the increased traffic flow in front of my home, should the application for a distillery be granted. I am aware of the applicants promise to access the distillery from the Pringle Bay side but fail to see how this can be policed or controlled. Increased traffic flow past my house would negatively affect the value of my property.

I am also concerned about the abundant birdlife, wildlife and fynbos species that occur along Porter Drive. Many people and tourists from abroad specifically visit Rooiels to view such wonders.

Furthermore, as a business owner for a number years, I realise that there is always a temptation to expand one's business. The 1000 bottles stated in the application could grow and grow, negatively impacting on our precious environment.

I do not believe that the area lends itself to a Distillery and kindly request that you consider my OBJECTION!!!

Sincerely

Ms Schoeman
380 Porter Drive
Rooiels
Email:

FILE NO: Ptn 141 559
Hangklip
SCAN NO:
02
COLLABORATOR NO: 1546793

- 4 JUN 2021 TP

JP-A Theart
(Huid Stoop)



Attention: Ms Loretta Gillion
Administrator, Town & Spatial Planning
Overstrand Municipality
Via email: loretta@overstrand.gov.za

**Objection to: Portion 141 (A portion of portion 133) of the farm Hangklip no. 559,
Division Caledon: Application for removal and amendment of restrictive title deed
conditions, consent use and departure: Planning Partners (obo Free Life Trust)**

Names: Carina Lochner
Address:
Contact details: Postal address: PO Box
Mobile:
Email:
Date: 3 June 2021

Interest in the application: We are

Reasons for comment: We wish to register our objection to the above application. We object to all three components of the application, namely: (1) Removal and amendment of restrictive title deed conditions, (2) Consent use, and (3) Departure.

We believe that a microdistillery is entirely unsuitable for the proposed site. The proposed application, if accepted, would be seriously detrimental to the site and surrounding area.

More specifically we object to the application on the following grounds:

1. Fire hazard.
2. Product storage of highly flammable liquids in an area which has experienced regular fires.
3. High volumes of water usage from ground and surface water.
4. High volumes of contaminated waste products.
5. No adequate plausible strategy for the containment, treatment and/or management of the contaminated waste products.
6. Increased traffic volume and its impact on other individuals and on the environment.
7. Spillage of grain with unintended consequences such as the attraction of rodents, pests, and birds not endemic to the area.
8. Possible damage to the fragile eco system (especially the wetlands nearby) as well as to many plant species of conservation concern in the area.

FILE NO: Ptn 141/559
Hangklip
SCAN NO: 04
COLLABORATOR NO: 1546794

- 4 JUN 2021 *TR*

TP-A Theart
(H vld Stoep)



Attention: Ms Loretta Gillion Administrator,

Town & Spatial Planning Overstrand Municipality Via email: loretta@overstrand.gov.za
Comments on:

Portion 141 (A portion of portion 133) of the farm Hangklip no. 559, Division Caledon:
Application for removal and amendment of restrictive title deed conditions, consent use and
departure: Planning Partners (obo Free Life Trust)

We wish to register our objection to the above application. We object to all three components
of the application, namely: (1) Removal and amendment of restrictive title deed conditions, (2)
Consent use, and (3) Departure

Names: Dr Paul Hartwig and Heather Hartwig

Residential Address: Erf 158 Priestleya Road, Rooiels, 7196

Postal; Address:

Contact Numbers:

Email:

FILE NO:	Ptn 141/559
	Hangklip
SCAN NO:	06
COLLABORATOR NO:	1546797

Interest in the Application

We are owners of erf 158 Priestleya Road and have lived in Rooiels permanently since 2017. Previous to that we were regular visitors, attracted to the area because of the unique experience of being part of a community who endeavored to live in harmony with their environment rather than insisting that the environment adapt to lifestyle demands that prevent co-existence with existing flora and fauna ecosystems. We believe this manner of life is appropriate for communities bordering the KBR world heritage site.

Although we acknowledge the need for infrastructure and work opportunities, we believe that these basic needs should be appropriate to the area and in no way threaten the quality of life or continued existence of all inhabitants – human, animal, floral or water and soil. We believe that the distillery poses a significant threat to the survival of the Rock Jumper population, fynbos, sea life and water resources due to pollutants created during the production process and the heavy trucks required to transport raw material in and waste out.

Please note that we objected to the first application in 2018 and it appears that this new application is not substantially different to the original except for the change from craft to micro distillery and therefore higher production limits (i.e. up to 38 000 litres per week or 2 million litres per annum). As per the original application, the environmental and conservation concerns are not adequately addressed in this revised application. (Please note that the supporting documents from the Department of Environmental Affairs and Breede-Gouritz Catchment Management Agency are dated 2018 and relate to the original application.)

- 4 JUN 2021 TP

Five Main Concerns about the Application

1. Fire Risk

Distilleries are considered a high fire risk. In the UK and EU the Still House/ Distillery is "classified as a hazardous area and falls under [...] legislation to protect against potentially explosive atmospheres". The application does not address the real fire hazards such as the wood burning fire, flammable vapours and liquids. Mention is made of the lower risk posed by hot water in pipes.

The frequency and impact of fires in this sensitive area provides a very compelling reason not to approve a high fire risk industry. Even if the proposed Distillery is not the starting point of a fire, it is almost inevitable that it will one day place large quantities of highly explosive liquids in the path of a fire. In the event of a local fire, this will mean the concentration of fire-fighting resources around this property leaving many others to defend their properties with reduced help from Fire Services. Consequently this application should be rejected on the grounds that:

(1) A distillery (or similar agricultural industry) carries **an unacceptably high risk of a fire arising from the distillery and associated operations.**

(2) In the case of a fire from another source, the proposed distillery **has the potential to intensify and exacerbate the destructive power and rapid spread of a fire.**

Taking into consideration prevailing strong summer winds and the proximity of the south end of Rooiels village, **both Overstrand Municipality and the applicant should consider the possibility of public liability claims in the event of a fire arising from the distillery.**

We also believe that the distillery will pose a significant fire risk that could see adjacent residents loaded with higher insurance premiums as well as the real risk of loss of homes.

This application should be rejected as unsuitable industry in a high fire risk area.

2. Pollution

Water Pollution

Distilleries produce waste water that is considered highly toxic. However, the application represents the waste water amounts as small and suitable for garden irrigation.

Such water is not suitable for a fynbos which requires nutrient poor soils and dies when fertilizers are applied. If the water is used to irrigate a vegetable garden, a real risk of seepage and soil degradation remains.

According to Amida Johns who is a fynbos botanist and previous co-manager of the Koegelberg Core area, there appears to be a wetland seepage area (see map below with area outlined in red) based on the darker vegetation recovery post fire. She estimated that the encircled yellow area with the dam is probably within the wetland area. However, having obtained the wetland maps for 114/559, the wetland is shown as stopping short of the

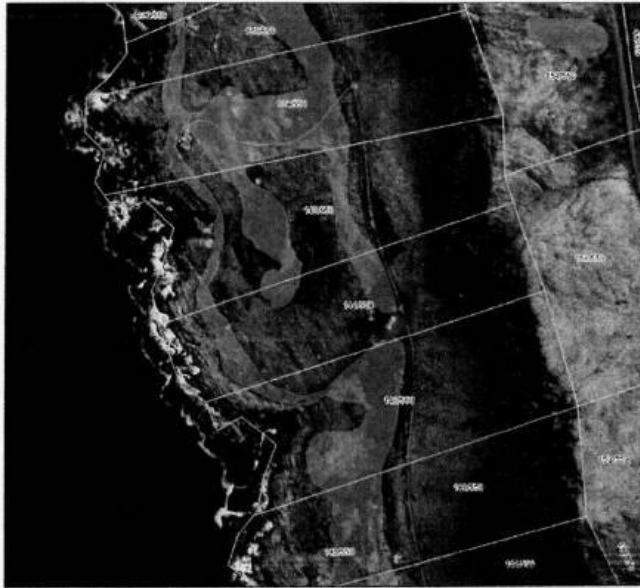
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buildings and dam. There is a strong possibility that this is incorrect – the fact that the dam has water, the gum trees are flourishing and there is a borehole supports this.



The maps (below) show that the development is within 32 meters of the wetland. This means the application needs an Environmental Impact Assessment and a fresh water report. The wetland area should also be truthed on the ground by a wetland soil expert to confirm the wetland footprint.

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Wetland Map - 141/559

- Legend**
- Farm Portions
 - Wetlands (NWMS)**
 - Depression wetland
 - Floodplain wetland
 - Seep wetland

Scale: 1:9 028
Date created: June 2, 2021



**Wetland Map - 141/559,
32 Buffer**

- Legend**
- Wetlands (NWMS)**
 - Depression wetland

Scale: 1:1 128
Date created: June 2, 2021



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357/030

Please note the applicant does not appear to have applied for a Water Use License. Although Breede-Gouritz Catchment Management calculates general use limit (as per property size) at 8762.08 cubic meters of water p.a. they neglect to mention that the DWS water regulations say 10 cubic meters (10 000 litres) per day per borehole without formal application for own substance use. Above this amount a Water Use License is required. If the distillery functions at maximum permitted production it is feasible that this amount of water will be pumped on a daily basis. The property size water allocation does not set this daily limit aside. Will Overstrand Municipality place a meter on the property borehole to monitor the amount of water pumped? Will they also monitor impact on groundwater levels? Water does not belong to the property owner. As per National Water Act it is a national resource and should be directed toward the greatest need of adjacent communities.

As a National Resource, water should be protected from potential pollutants. However, the true scale of the waste products is not discussed in the application.

The annexure accompanying the application are based on volumes that are not firmly known and therefore these are not a basis for evaluation of the proposal:

Annexure 10, the Breede-Gouritz Catchment Management report is an old-dated report for the first application, based on a previous small production indicated by the applicant.

Annexure 11, the Waste Management Plan, is based on a small illustrative sample of production waste, without considering the implications of potentially much more waste from the potentially large maximum monthly production for a micro-distillery. (38 000 litres per week).

If this application recognized the extent of the waste problem, the distillery would need a comprehensive wastewater treatment plant which would result in additional unacceptable degradation of this sensitive environment. The potential for the pollution of groundwater and wetlands is high and militates against approving this industry.

During the course of 2020, the Applicant constructed a 600 square meter dam on Portion141 without authorisation. An application in terms of Sec 24 G of the National Environmental Management Act, was brought. A public participation process was followed during November and December 2020. According to the two members of Friends of Rooiels who attended the Applicant's public participation presentation on 10 December 2020, it was **not** disclosed that an application was being prepared to establish a distillery adjacent to the dam. It was also not disclosed that the dam was intended as a "fire pool" for the planned distillery. We submit that the applicant has not been transparent in his present or anticipated water management. Thorough investigation of all water concerns raised via this public participation process is necessary.

This application should be rejected due to the real risk of contaminating an unpolluted wetland area and its coexistent ecosystems.

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Air Pollution

It is documented that ethanol air emissions from distilleries can cause a black fungus that settles downwind. The chance of this occurring and the possible effects on fynbos and downwind communities should be included in an environmental impact study.

We are concerned that if consent use is granted the distillery without proper pollutant management and monitoring protocols included, the applicant can assume that the pollutants produced by the distillery are regarded as acceptable and they do not have to accept responsibility for problems caused by the pollutants.

3. Sustainability

The applicant claims that this commercial proposal "makes use of renewable resources and operates in accordance with sustainable production processes." It is reasonable to question the assumed sustainable production processes when raw materials must be trucked to the site and waste product removed. Agricultural industry consent is usually approved for the processing of products on or close to the land unit where these products were grown, harvested and raised. Therefore, a distillery would be more suitably located in a grain growing agricultural area. In this remote location unavoidable transport costs will escalate input costs, necessitate a higher carbon footprint and negatively impact sustainability.

Attaining return on capital input and offsetting high production costs will likely be met by exceeding the 'promised' 1000 litres per week to the maximum allowed as per application for a micro-distillery and applicable zoning (38 000 litres per week). If this happens and the Overstrand Municipality is not legally able to enforce and police any of the promises given by the application to limit production and to limit vehicles on Porter Drive the larger area will be impacted by heavy vehicle traffic, air and noise pollution. This will change the tourist appeal of the area.

The applicant says that they will deliver solid waste to local piggeries, chicken and sheep farms to use as animal feed. He does not mention the distances involved in transporting this waste but anticipates arrangements that will maximize profit. The nearest chicken farm is in Gordons Bay +-28km distance. Desert Star Piggeries are +- 50km distance. Assuming these farms will buy the applicant's solid waste; these distances represent significant transport costs and carbon footprint.

4. Spot Zoning

This application for agricultural industry is out of tune with the surrounding properties. It equates to spot zoning that brings industrial activity smack in the middle of the Koegelberg buffer zone. As a resident of Rooiels this proposed enterprise contradicts the very reasons we chose to buy property and live in this area. At best, spot zoning introduces preferential treatment of a single application. If this is not spot zoning but a setting of precedent for future zoning, this stretch of coastline will no longer be an appropriate buffer zone on the edge of a

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unique biosphere but a jarring infringement. As permanent residents and property owners we object.

5. The Transparency of the Application

The owner has pre-empted his permission by completing the additions to the existing building. The application includes an outdated photo of the barn that does not show the addition to the barn that has already been built. The introduction to the application states that it "will require a modest addition to the former stable building". The fact that this addition is already in place but not mentioned undermines the applicant's reassurances and claims to transparency.

The applicant's assurances of considerate practice in regard to road access, amount of traffic, not exceeding 1000 litres production of spirit per week, fire safety and disposal of waste carry little weight as he will not be legally bound to keep to these reassurances. He or any subsequent owner will be free to function to maximum production limits according to the rezoning, consent use and title deed changes as per the application.

Conclusion

We appeal to you the Overstand Municipality to seriously consider these five concerns from local residents of the area and to take into account their objectivity and facticity. They do not rise from prejudice or superficial knee-jerk reactions to any development in our area. The light-industry of a proposed distillery on Portion 141 of the farm Hangklip will have serious detrimental impact and potential risk to all forms of life in the area. In the light of our objections and pointers of how the application transgresses certain standing regulations we request that the application for removal and amendment of restrictive title deed conditions, consent use and departure be declined.

Regards,

Dr P.B and Mrs H Hartwig

Attention:
 Ms Loretta Gillion
 Administrator, Town & Spatial Planning
 Overstrand Municipality
 Via email: loretta@overstrand.gov.za

TP-A Theart
 (H vld stoep)



**Comments on: Portion 141 (A portion of portion 133) of the farm Hangklip no. 559,
 Division Caledon: Application for removal and amendment of restrictive title deed
 Conditions, consent use and departure: Planning Partners (obo Free Life Trust)**

We wish to register our objection to all three components of the above application, namely: (1) Removal and amendment of restrictive title deed conditions, (2) Consent use, and (3) Departure.

Names: Mr Ian Richter and Mrs Shirley Richter
 Address: Erf 122 Rocklands Road, Rooiels
 Contact details: Email:
 Mobile:
 Date: 1 June 2021

Interest in the application: As the occupiers of a residence in Rooiels we have examined the above application in the context of its impact on the surrounding areas. In addition, as a chemical engineer with an MSc qualification and thesis on the treatment of yeast waste, Ian Richter has a professional interest in the quantities and characteristics of waste from the proposed distillery. After a thorough study of the application and a survey of the relevant literature we find the application to have serious flaws and misrepresentations to the extent that we find it to be a serious risk to the environment in which the distillery is to be situated and hence not suitable for approval.

In summary we have the following specific concerns:

- The Cape Rockjumper (*Chaetops frenatus*) is a localised endemic resident in the area but is classed as near threatened on the IUCN Red List. Many local and overseas bird enthusiasts travel to the area specifically to see the Rockjumper. Ground woodpeckers, Sentinel and Cape Rock-thrushes are all present in the area and all mentioned to be at risk to a varied degree by Birdlife South Africa (Nov 26, 2020). We would be concerned that increased traffic to and from the site for raw material supplies and visitors would impact on this fragile environment.
- A literature survey shows distillery effluent to be among the most problematic industrial effluents with high concentrations of organics, colour, low pH, and high levels of BOD (Biological Oxygen Demand) and COD (Chemical Oxygen Demand). In addition the quantity of aqueous waste (spent wash) produced is a significant 12-15 times greater than the end product produced on a volume/volume basis. This volume demand for raw water and treated effluent should not be underestimated as would the combined impact of these flow streams on the environment.
- Treatment of this spent waste is complicated and would need to be considerably more extensive than outlined in the proposal to meet most discharge consents. It is noted that some of the waste is being discharged to the septic tank. The presence of organics in the waste is contrary to the claim in the application is specifically not beneficial for fynbos which thrives on nutrient poor soil.
- Because of the volume requirements outlined above abstracting water from the nearby dam filled with groundwater will put pressure on the surrounding wetland area. The existing gum trees on the site will exacerbate this pressure.
- Odour problems are hard to avoid in a distillation process of this nature and would be considered a nuisance to nearby areas and residences.
- Transport to and from the site would be on deproclaimed roads. Surely this is neither suitable nor advisable for an access road to nearby residences.
- We would be concerned that if this application is allowed a strong precedent will have been set to establish other industrial projects on neighbouring areas in this fragile but valuable ecosystem.
- With these buildings being so close to wetlands we would argue that more stringent regulations than normal would apply to such a project which would appear to have a strong probability of degrading the surrounding environment.

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FILE NO: Ptn 141/559
Hangklip
SCAN NO:
05
COLLABORATOR NO: 1546796

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Taking the above into account surely this application is not suited to the rather special surroundings between Pringle Bay and Rooiels and would be more suited to a more industrial zone. We would be pleased to hear from you should there be any reasons you consider why this application should be approved given the several disadvantages associated with the project.

Kind regards

Ian & Shirley Richter

TP - A Theart
(Hvid Steep)



Attention:
Ms **Loretta Gillion**
Administrator, Town & Spatial Planning
Overstrand Municipality
Via email: loretta@overstrand.gov.za

362/630

Objection to: Portion 141 (A portion of portion 133) of the farm Hangklip no. 559, Division Caledon: Application for removal and amendment of restrictive title deed conditions, consent use and departure: Planning Partners (obo Free Life Trust)

Names: Tony & Anne Makin
Address: Erf :5426
Disa Circle,
Betty's Bay

Contact details:

Mobile:
Email:
Date: 3rd June 2021

Interest in the application: We are resident in Betty's Bay and often walk along that road for recreation and bird watching.

Reasons for comment: We wish to register our objection to the above application. We object to all three components of the application, namely: (1) Removal and amendment of restrictive title deed conditions, (2) Consent use, and (3) Departure.

We believe that a microdistillery is entirely unsuitable for the proposed site. The proposed application, if accepted, would be seriously detrimental to the site and surrounding area.

More specifically we object to the application on the following grounds:

1. Fire hazard.
2. Product storage of highly flammable liquids in an area which has experienced regular fires.
3. High volumes of water usage from ground and surface water.
4. High volumes of contaminated waste products.

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FILE NO: Ptn 141/559
Hangklip
SCAN NO:
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COLLABORATOR NO: 1546860

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5. No adequate plausible strategy for the containment, treatment and/or management of the contaminated waste products.
6. Increased traffic volume and its impact on other individuals and on the environment.
7. Spillage of grain with unintended consequences such as the attraction of rodents, pests, and birds not endemic to the area.

We fail to understand why it is necessary to open a distillery in a pristine yet vulnerable fynbos environment that will not only lead to excessive road usage but will have a detrimental impact on the fauna of the area, when alternative sites would be more suitable.

Yours sincerely

Dr Tony and Anne Makin

364/630



380 Porter Drive
Rooiels

3 June 2021

TP - A Theart
(Hvd Steep)

Municipal Manager
P O Box 20
Hermanus
7200

Email: Loretta@overstrand.gov.za

Removal of Restrictive Title Deed Conditions, Departure and Consent Use – Portion 141 of the Farm Hangklip 559: MN 70/2021

I wish to lodge my **OBJECTION** to the above application.

I purchased property in Porter Drive, Rooiels three and half years ago. My investment decision was strongly motivated by the peaceful rural setting and the fact that my property is in a quiet road. I invested in a lifestyle in which my children can safely ride their bicycles and my elderly parents are free to walk safely without the dangers inherent to a suburban road.

I certainly would not have invested in my property had I been aware that it might turn into an access road for a distillery that allows on-premises consumption of strong alcohol through the guise of a tasting room. It is a well-known fact that Rooiels is in a remote location and that there are few other transportation options available to visitors but to drive themselves. This further exacerbates the risk of having a tasting room for strong alcohol in a quiet residential street. The applicant's statement that only the Pringle Bay gate will be used is legally unenforceable and without merit.

This biosphere is home to an array of birdlife, wildlife and fynbos species which attracts tourists from far and wide and should be protected at all costs. To industrialise this pristine coastline and pollute the environment, is unacceptable.

I strongly **OBJECT** to this application.

Sincerely

Gustav Schoeman
Email:

FILE NO: Ptn 141 1559
Hangklip
SCAN NO:
07
COLLABORATOR NO: 1546800

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365/630

**CONCERNS AND COMMENTS REGARDING THE PROPOSED ROOI-ELS DISTILLERY APPLICATION –
PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP 559, CALEDON DIVISION:
APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS,
CONSENT USE AND DEPARTURE**

By: Priscilla Beeton, Chairperson (Cape Bird Club), on behalf of Committee and Members: CAPE
BIRD CLUB

Address:

Tel:

Interest in the case:

The Cape Bird Club, one of the largest bird clubs in South Africa, has a particular interest in the conservation of the habitat along Porter Drive between Rooi Els and Pringle Bay. It is an important birding area as it is an area rich in bird diversity where the charismatic endemic Cape Rockjumper species occurs as well as other endemic birds (found only in this part of the world) such as Orange-breasted Sunbird, Cape Sugarbird and Cape Siskin. Many other highly sought after species such as the Ground Woodpecker are also found here. Important to note is that the Cape Rockjumpers living on the mountain slopes south of Rooi Els are, in ecotourism circles, world famous. This area is currently the safest and most easily accessible place, globally, to see this endemic species. Particularly those birders on time-restricted trips to the South Western Cape the easy access to the area is of prime importance. In addition, it is a beautiful and relatively unspoilt area which our ecotourists find appealing.

Biologically, these Cape Rockjumpers at Rooi Els are unique in that they are the only population of an otherwise strictly alpine species living close to sea-level. The area consequently draws good numbers of both local and international birders; it is, therefore, very important for both avitourism and general tourism to the area. This area also has a botanically interesting patch of remnant alpine fynbos, left over from the last Ice Age. There are many rare and endangered plant species to be found along this stretch of road which also serve to draw tourists to the area.

Scientists working with the Rooi Els birds estimate there are no more than 40 individuals on the slopes, and small populations like these tend to be more vulnerable to human disturbance; we are, thus, concerned about possible disturbances that could be caused not so much by the development of the micro-brewery itself but rather by the inevitable rise in vehicular traffic along the road between Rooi Els and Pringle Bay.

We, at present, do not have a clear knowledge of how this development of a micro-distillery will create a disturbance which would negatively affect the birds along the road and on the mountain slopes. Therefore a detailed Environmental Impact Assessment which covers the whole area near the road from Rooi Els to Pringle Bay needs to be carried out by an acknowledged and accepted avifaunal expert to assess this. Also, before they even consider allowing this development to go ahead, the authorities need to assess the tourism value of the area and weigh that against the value of the intended micro-distillery.

CONCERNS:

It does seem that Mr and Mrs Elves in this new application are striving to address many of the concerns raised about their first (in 2018) application seeking the removal of restrictive title deeds and permission to build a micro-distillery. They have assured us that their (present) intention is to keep the enterprise small

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FILE NO: Ptn 141/559
Hangklip
SCAN NO:
05
COLLABORATOR NO: 1546872

- 4 JUN 2021

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and to limit vehicular traffic on Porter Drive between Rooi Els and Pringle Bay and that they are planning to put measures in place to do this.

We do, though, have concerns and question that need to be addressed, as, essentially, the problems resulting from such a development on the area have remained the same as those raised by the first application. We trust that both the Elves and especially the Overstrand Municipality will take note of the concerns and, firstly, do a **full environmental impact assessment of the entire stretch of the road** which will be affected if the development goes ahead, and secondly, to **put comprehensive measures in place that are enforceable to counteract any of the concerns.**

1. The biggest concern is that if this development is allowed to proceed, will it be the proverbial "foot in the door", with other landowners in the area, by quoting this precedent, wanting to follow suit with similar applications until there is undesirable development with its attendant disturbances all along the road? How will the Overstrand Municipality prevent this happening? Once a request like this has been granted to one landowner, how will the authorities block similar requests by other nearby landowners? What mechanisms are in place to prevent this scenario? Perhaps, the Overstrand Municipality could write a clause into the proposal that no further commercial development will be permitted.
2. The present owners of the site are seemingly conservation-conscious; their intention is to keep the development small. They have submitted plans of how they will strive to minimise the impact of their operation on the surrounding landscape. We are told that the remainder of the property will be managed to support indigenous flora and fauna. They apparently actively propagate fynbos on their property and have taken measures to control the spread of alien kikuyu grass. We appreciate all that.

However, hardly any mention is made of the birds, and especially the endemic birds and the Cape Rockjumpers that are so important in this area. The only mention to bird life is to say they will not be chopping down their stand of alien gum trees which provide roosting and nesting sites and to state that by transporting clients to the distillery they will be mitigating against any 'disturbance of the birds'. They seem not to have considered the importance and value of avitourism at this important birding area. Similarly, they have omitted any direct mention of the botanical rarities present on the slopes of the mountain in the area.

3. An important concern that we raise is the increased amount of vehicular traffic that will inevitably occur as a result of this proposed development. Under Par7.1.1 Policy R1: Protect Biodiversity and Ecosystem Services, it is stated that DEA & DP have said that no Environmental Authorisation is required to permit the establishment and operation of the micro-distillery as the development will have a very limited development footprint and be a low impact operation. However, that pertains specifically to the property itself and not the impact of the inevitable increased traffic along the road, as a result of this micro-industry. Traffic will increase even more if similar requests emanate from other landowners for building along the stretch of Porter Drive between Rooi Els and Pringle Bay if this development is allowed to go ahead. Again we would strongly recommend that an environmental impact assessment on the whole area, not

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just the property in question be done by a fully qualified professional (preferably not selected by the developers) who will be able to assess the impact of increased road usage on the fauna and flora.

The Elves have, in their proposal, suggested ways in which they intend to minimise traffic along the road – on the face of it all commendable suggestions. But there remains a lack of clarity on the following:

- 3.1 What means will there be of ensuring that they or subsequent owners of the property adhere to these plans and suggestions? At this stage, Pringle Bay Distillery is not planned to be an industrial scale operation. How will the authorities prevent that happening in the future, either while still in the possession of the Elves or by subsequent purchasers of the property? Before the authorities approve the application, it must be stipulated that it cannot exceed the current proposed size or differ from the current proposed usage.
- 3.2 At present the process of purchasing the property in Pringle Bay where clients will be able to park their cars is still under way and not yet confirmed. If this part of the plan fails to go forward, what back-up plan is there to prevent clients from driving themselves to the distillery and hence increasing dramatically the vehicular traffic along that road? This arrangement, therefore, or a similar one, where clients leave their vehicles at a designated place in Pringle Bay and are transported to the micro-distillery, must be part of the overall plan. The conditions of approval must stipulate that all aspects of the plan need to be fulfilled, now and in the future, if the development is allowed to go ahead.
- 3.3 This development will inevitably mean an increase in delivery vehicles to bring in the raw ingredients for the gin-making and whiskey-making processes and the items to sell in the shop, and also to transport the finished and packaged products to Pringle Bay and beyond. If one adds the transportation / removal of solid and liquid waste sold to other landowners / businesses and the bringing in of raw ingredients, the number of times vehicles will have to travel the route grows and is likely to be more than the 1 bakkie load per week initially and the 3 bakkie loads per week envisioned in 8 years' time. At present the Elves plan to use just a 'small bakkie'. Will the size of vehicle allowed on this road be constrained? How will the increase in vehicular traffic be managed and controlled? Will the Overstrand Municipality be able to enforce the rule that NO DELIVERIES / NO TRANSPORTATION of any goods may be made from the Rooi Els entrance to the road?
- 3.4 The Elves mention they will be using chipped wood from alien clearing operations to fuel their heating processes. This means, when their own alien vegetation on the property has been cleared and used up, these wood chops will have to be transported from elsewhere. (We understand they do not plan to chop down the alien Bluegums on their property.) Thus, in time, more transport will be required!
- 3.5 In the application the limited number of parking bays at the property has been stipulated. What mechanisms will be in place to ensure that this number is not exceeded in the future?
- 3.6 The Elves plan is to bring in just two to four mini-bus loads of visitors per day. Will the tours and tastings ALWAYS be only by appointment? Will there be a limit placed on the number of visitors per day? How will this be policed by the authorities? What of walk-in visitors, tourists who are visiting the area to see the birds and who have walked along the road?

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4. It should be stipulated exactly how all waste will be disposed of instead of just stating "in the most environmentally responsible manner possible". This phrase is too broad and vague.
5. Will the distilled Condensate Waste not be a fire hazard in an area already prone to runaway fires?
6. The Pringle Bay Distillery will not provide many new employment opportunities – at most 3 extra full-time jobs and a few part-time jobs (for guides/hosts). It may give a small economic boost to the Pringle Bay and Rooi Els communities in terms of residents there providing some of the goods to be sold in the shop but it will be very small as the planned number of visitors to the site will be few each week. Our fear is that the micro-distillery may not prove to be sustainable, and that the owners will want to expand the development or will sell the property to someone who is not as ecologically conscious / aware and who may not adhere to the conditions proposed by the Elves.
7. In 8.4 it is stated that "the authorities have sufficient legal mechanisms to control buildings and the use of land" – the questions are "do they?" and even more importantly "will they?". The agreement between the Overstrand Municipality and the Elves must be sufficiently rigid to ensure that the conditions are adhered to and there are penalties imposed if they are not observed. We would request that, before an agreement is made, all Interested & Affected Parties have access to it and can, if necessary, seek a legal opinion.
8. It is stated that the emphasis of the Spatial Planning and Land Use Management Act is on sustainability and that the local environment should be explained to visitors. Nowhere, however, in their actual proposal have the Elves explained how this will be done. Their application could have been strengthened by mentioning this aspect. They do need to indicate how they plan to educate their visitors / clients about the importance of the biodiversity of the area, including the very special birds and plants that occur there. There are numerous specialists in the region who would be able to advise and assist with this. What an opportunity there is for creating a synergy between their proposed business and ecotourism! For example, they could create an exhibition area/interpretation centre where information about the birds and plants in the area could be explained.

STIPULATIONS AND RESTRICTIONS

We believe consent should only be given with the following stipulations by the authorities:

1. "Obtain consent for an "agricultural industry" and farm shop / stall". The nature of the industry must be stipulated (so it may not be changed in the future) as must be the size of the shop and nature of goods sold there.
2. "Obtain a street line building line departure". As the street line has already suffered a departure in that the existing (stable) building is only 23.5 metres from the road this could be allowed on condition that all other buildings planned in the future be restricted to the required minimum distance of 25.19 metres from the road. We would like to see that all new buildings are still subject to a building line of 25.19 metres. We cannot see there is any reason to allow a departure from this restriction.

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3. "Deletion and amendment of restrictive title deed". We do not believe that any of the restrictions placed in the title deeds need to be withdrawn except for no. C12 and no. C13, and then only if the above concerns are dealt with by stipulating conditions that are acceptable to all parties.
4. "Obtain consent to permit 'commercial' activity" – it MUST be stipulated exactly what commercial activity would be permitted, i.e. a micro-distillery.
5. Obtain permission ... "to permit construction or placement of any permanent object, building, shelter, pathway or structure, as required by the Environmental Overlay Zone Regulations". Surely this property lies within both the Coastal Protection EMOZ and the Protected Area Buffer EMOZ (being that the area lies adjacent to the Biosphere Reserve)? Yet on Page 27 reference is only made to the Coastal Protection EMOZ. We query this omission.

CONCLUSION

From the above discussion, it can be seen that the Cape Bird Club does not object outright to the development of a micro-distillery on Property 141 as outlined in this document. However, the concerns we have raised **must be addressed by the Overstrand Municipality** when considering this application.

The biggest concern is that of increased vehicular traffic and the control thereof along the road and the impact it will have on the birds and other fauna and the flora. This can **ONLY** be done by conducting an environmental impact assessment the entire length of the road between Rooi Els and Pringle Bay.

While it is unclear at this stage of what the effect would be of this development on the flora and fauna along this stretch of Porter Drive, we do know that increased use of the road by vehicles would definitely have a detrimental effect on birders who are walking along the road. Not only will pedestrian safety be at risk but it will also decrease the enjoyment of groups walking along the road. This area is very important for avitourism. Lots of dust and cars rushing past will change this site from one of absolute peace and solitude to one that is far less pleasant.

We do wonder why the Elves have not chosen a less sensitive area in which to situate their micro-distillery, especially as they are having to purchase property in Pringle Bay anyway where visitors can park their vehicles.

Thus, we urge the Overstrand Municipality to **weigh the importance of this area in terms of international, national and local avitourism / ecotourism against the possible disturbances that might be caused by this micro-distillery both in the short-term and by similar requests from adjoining landowners in the long-term.** The Overstrand Municipality must ensure that the avitourism value of this site and area is adequately investigated and considered before any final decision is made in the decision-making process. Again, we stress the importance of ensuring that the area is assessed properly by an avifaunal and botanical specialist. We request that such a specialist be identified and before their appointment, that their name be forwarded for approval by the Interested and Affected Parties who are concerned about the conservation of the very special stretch of coastline from Rooi Els to Pringle Bay.

L Gillion

TP-A Theart
(H vld Stoep)

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From: Drooge Vallei Aartappels <
Sent: Friday, 04 June 2021 11:59
To: L Gillion;
Subject: Beswaar ERF141



Objection against the Removal and Amendment of Title Deed Conditions, Consent use and Departure of Planning Regulations, Portion 141 (A portion of portion 133) of the Farm Hangklip no. 559 M/N 70/2021

Visser Kindertrust

Erf 335

Rooiels

Die Munisipale Bestuurder

Overstrand Munisipaliteit

Hermanus

Vir wie dit mag aangaan

Geagte Meneer, Mevrou

FILE NO: Ptn 141/559
Hangklip
SCAN NO:
04
COLLABORATOR NO: 1546868

Ons het Erf 335 op Rooiels gekoop (2009), nadat ons verlief geraak het op die ongereptheid en die estetiese aanslag van die omgewing en die rustigheid wat dit in mens se gemoed bring. Dit was nog altyd vir ons 'n voorreg en 'n trots om vriende van reg oor die wêreld hier te ontvang en met almal te kon deel in een van die mooiste dele van ons pragtige land. Die rustigheid hier is byna tasbaar en 'n kosbare kleinood vir medebewoners in al die tye wat ons nog hier woon.

Ek wil nie u tyd mors met argumente wat geboekstaaf is en reeds aan u voorgelê is deur wel belese en dinamiese inwoners van Rooiels en omgewing nie.

Ek wil 'n beroep op u as aangestelde amptenare doen om rondom u te kyk na die gevolge van ontwikkeling en die ontginning van die onvervangbare broosheid van die omgewing waarvan u die mandaat het om dit met oorleg en integriteit te bestuur.

Die feit dat 'n Munisipale gebied opgedeel word in woon-, industriële-, nywerheids-, ontspannings en landbougebiede, beteken tog sekerlik dat kundiges na deeglike oorleg hierop besluit het? Dit is dan tog seker ook voor die handliggend dat 'n persoon wat in 'n sekere gebied wil gaan bly, eers deeglik sal ondersoek instel en homself sal vergewis van watter ekonomiese aktiwiteit op 'n bepaalde eiendom mag plaasvind voordat hy die eiendom koop? Dit wil egter (na aanleiding

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van die styging in die aantal aansoeke die afgelope paar jaar), voorkom asof persone wat aansoek doen om afwyking of verslapping van reeds bestaande regulasies, op 'n arrogante wyse hulle sin wil kry ten koste van inwoners wat juis die ongereptheid en "onderontwikkeltheid" wil behou. Hier is dit dan juis die plig van die Munisipale Bestuur om regulasies soos reeds bestaan af te dwing en nie lukraak te verander soos versoeke ontvang word nie.

Dit is voorts ons mening dat u as Plaaslike Owerheid 'n fermere en meer arbitêre posisie moet inneem wanneer soortgelyke aansoeke wat negatiewe en radikale verandering en intervensie tot gevolg het aan u voorgelê word. Dit was immers kundiges wat deur u raad met die aanvanklike sonering van die munisipale gebied ondersoek geloods en weldeurdagte besluite geïmplimenteer het. Dit is gewoon onaanvaarbaar dat die onus om hierdie sonerings te verander telkemale op huidige inwoners geplaas word om sodanige aansoeke om veranderings te verdedig, teë te staan en te beskerm.

U stel uself in die proses ongelukkig bloot daaraan om by ons as inwoners 'n wanbeeld van onwilligheid te skep as sou u nie dit wat die aanvanklike regulasies, wat deur uself as Dorpstigters daargestel is te verdedig en te beskerm nie.

Ontwikkeling ten alle koste mag op die kort termyn fisiese behoeftes bevredig, maar die vernietiging van die natuurskoon en ekosisteme, wat onvermydelik hiermee gepaard gaan, kan nie in monitêre waarde geskat word nie. Ons as huidige kurators van ons omgewing het 'n onbetwisbare verantwoordelikheid teenoor ons nageslagte om aan hulle 'n natuurêre erfenis na te laat wat hulle sal verryk en leer om met eerbied na die skepping te kyk.

Terwyl die aansoekers heel waarskynlik eerbare intensies het met beloftes van gewaande werk- en welvaartskepping wat dan die minder bevoorregte persone in ons samelewing sou bevoordeel, is dit 'n geykte argument wat meer dikwels gebruik word om selfverrykings-moontlikhede en -ideale te verbloem.

Die klem van die argumente bly feitlik sonder uitsondering gefokus op die (gewaande) voordeel wat mense uit ontwikkeling sal trek. Ons mag egter nie uit die oog verloor dat ons nie die eerste of enigste bewoners / afhanklikes van hierdie gebied is nie. As gevolg van die mens se inhirente arrogansie en fokus op eie belang, word enige ander lewende organisme, hetsy plante, diere, insekte en voëls onbelangrik en matig ons onself die reg aan om net in eie belang besluite te neem en op te tree.

Ons kinders was bevoorreg om 'n band te vorm met die omgewing en het respek en waardering vir die ongereptheid en die onverstoerbare gang van die natuur. Hulle het veral besef dat die mens net so deel van die omgewing is, as enige lewende organisme. Hulle is onbeskaamd uitgesproke daarvoor dat hulle bevoorreg is om hierdie nederige besef vir die res van hulle en hulle nageslagte se lewens te kan ultiëf, maar dat dit 'n verantwoordelikheid op elkeen plaas om toe te sien dat die ongereptheid van die omgewing bewaar word.

Ek wil u graag herinner aan ons onlosmaakbare verantwoordelikheid teenoor ons nageslagte soos verwoord deur Greta Thunberg: **"The eyes of all future generations are upon you. And if you choose to fail us, I say – we will never forgive you". (23 September 2019).**

Ten tyde van die aankoop van die eiendom was ons deeglik bewus daarvan dat die waarde van eiendomme hier merkbaar hoër is as elders waar ons belangstelling ons geneem het. Ons het desnieteenstaande besluit om die belegging te maak gebaseer op dit wat Rooiels bied in terme van natuurskoon, rustigheid, en die algemene gevoel van euphoria vanuit die omgewing.

Ons kan in alle opsigte ons vereenselwig met dit wat Rooiels bied. Ons is bewus daarvan dat al die hoofstroom godsdienste melding maak van hoe om verantwoordelik met die natuur om te gaan. Sulke sentimente lê vir ons as gesin na aan die hart. Ons vind 'n tuiste hier in Rooiels vir ons oortuigings.

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Die beoogde oprigting van 'n nie-residensiële tipe aanleg soos 'n distillery in hierdie omgewing druis in teen elke rede waarom ons hier woon. Daar is reeds ongeveer 10 soortgelyke aanlegte in die gebied wat strek vanaf Grabouw tot Stanford. Bo en behalwe die besoedelingsaspek en brandrisiko van so 'n aanleg is dit vanselfsprekend dat die fasiliteit 'n negatiewe invloed gaan hê op die druk verkeer wat alreeds tussen die Strand en dorpies verder Suid tot by Kleinmond voorkom.

Die somtotaal van al hierdie potensiële negatiewe impakte op ons psige en die waarde van ons belegging is vir ons totaal onaanvaarbaar.

Ons maak hiermee ten sterkste beswaar teen die oprigting van 'n distillery op Erf 141, en 'n afwyking van die stadsbeplanningsriglyne en voorwaardes soos vervat in die bestaande regulasies van toepassing op die betrokke erf gedeelte 141 ('n gedeelte van gedeelte 133 van die Plaas Hangklip no. 559 M/N 70/2021.

Helene Visser

namens Visser Kindertrust



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TP - A Theart
(H vld stoep)

The Town Planning Department
Overstrand Municipality
Hermanus (Erf 76, Gull rd, Pringlebay)
loretta@overstrand.gov.za

03 June 2021

To whom it concerns,

RE: OBJECTION TO THE REMOVAL OF TITLE DEED CONDITIONS PORTION 141 (PORTION OF PORTION 133) OF THE FARM HANGKLIP 559: APPLICATION FOR A DISTILLERY AND REMOVAL OF TITLE DEED RESTRICTIONS

1. My interest in the application

I have grown up spending every holiday and many weekends in Pringle Bay since 1996. I am a PhD candidate in South African ecology with a focus on Fynbos response to climate change. I am therefore uniquely aware of the many threats to the ecology of the region and it concerns me when I hear of further potential threats, hence my objection below.

2. Legal and environmental issues with rezoning an area in an ecologically unique environment.

- a) **Areas of critical biodiversity should not be rezoned or developed** unless strong evidence exists for the conversion.
- b) **I support the view from the Deeds Office of not allowing the removal of title deed restrictions on Portion 141** solely on the basis of the consent of Hangklip Beach Estates Ltd.
- c) All neighbouring smallholdings are zoned Rural Area 2: Conservation or undetermined (undetermined only permits existing use which is a single dwelling or no development at all on most of the erven). It is therefore a bad idea to **change the very nature of this area with a conversion to Agricultural processing.**
- d) Further to this, it may stimulate or **encourage more applications to convert the smallholdings** to commercial/industrial use which would have far-reaching consequences for the unique biodiversity and ecological integrity of this region.
- e) The impacts of a conversion would include **unprecedented use on the dirt road**, which very likely will impact the movement of animals and birds through this landscape. Notably, are the Cape Rockjumper (endemic to this region), the Orange breasted Sunbird and the Cape Sugarbird.
- f) **Further impacts include an enhanced fire risk** that comes with the production of alcohol. With higher fire risk, the resultant increased fire frequency and intensity of the area may result in a

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COLLABORATOR NO: 1546866

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loss of plant species that are not able to germinate between fire intervals. We are all aware that already, our human movement in the landscape causes the majority of fires and this type of activity will only increase this risk.

Herewith, I would like to be registered as an interested and affected party for further developments. Please acknowledge receipt of this objection.

Regards,

Nicola Kühn

DPhil/PhD Candidate, University of Oxford, UK

L Gillion

TP-A Theart
(H vld Stoop)

From:
Sent:
To:
Subject:

Thursday, 03 June 2021 19:38
L Gillion
Objection to Distillery on the smallholdings between Rooiels and Pringle Bay

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Objection to the Application for removal and amendment of restrictive title deed conditions, consent use and departure: Portion 141 (A portion of portion 133) of the farm Hangklip no. 559, Caledon

To the Senior Planner, Overstrand Municipality, loretta@overstrand.gov.za
Objection submitted by Jane Van Wijk (j)

I often visit Rooiels in order to walk along the dirt track with the magnificent mountains one side and the sea on the other. Surrounded by amazing birdlife and a magical sense of peace that one gets when surrounded by untamed nature without human noise and distractions.

I am distressed to learn that consent use may be given to allow industrial use on one of those smallholdings. It is not processing its own produce, it is not adding to the value of the area and it is not in the public interest. This is an area which attracts many international birders and nature lovers. Granting this application will have a negative impact on the wetlands along that road - coastal wetlands are especially vulnerable and the Hangklip Sandstone Fynbos is on the Red Data List as Vulnerable. There are particular requirements for any development on the wetlands. Have these been taken into account?

This development will have a negative environmental impact in a Critical Biodiversity Area and which supports the Kogelberg Biosphere Reserve. It will also impact negatively on the tourism revenue generated for the Overstrand from the nature and birding that is a key attractor to international visitors.

The fynbos areas in the Overberg are especially vulnerable to fires. Why would the Overstrand Municipality consider approving an unnecessary, inappropriate industry to be developed in a critical biodiversity area that is going to significantly increase fire risk by producing and storing flammable liquids and ether gas? The distillation process also produces air pollutants and waste products that are very detrimental to the fynbos. The Waste Management plan proposed is inadequate and cannot be easily controlled. One only needs to see the disgusting 3 big dams that are used for fermenting waste water from the Oude Molen distillery in Grabouw to appreciate how detrimental a distillery would be to the beautiful, mostly unspoilt ecosystem in the Rooiels/Pringle Bay area, which is also by no means an industrial area and never should be.

Why is a distillery desirable in that area? It would seem much better if it was located nearer to where it can be easily accessed without all the additional transport at a time when we are all trying to reduce our carbon footprint. The Overberg has many areas where grains are grown and it would seem much more sensible to locate the distillery in those areas. In fact a distillery in small villages such as Bot River would be much more sensible from an employment, accessibility and environmental perspective.

I strongly oppose this application and I do not think it is desirable and I do not think that it is in the public interest.

Thank you for your attention.

Regards
Jane van Wijk

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02
COLLABORATOR NO: 1546861

TP-A Theart
(H vld Stoep)



L Gillion

From: Mike Leresche < >
Sent: Friday, 04 June 2021 00:00
To: L Gillion
Subject: FW: Objection to Distillery on erf 141

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For the attention of Senor Town Planner, H. van der Stoep

Dear Sir,

Objection to: Application for removal and amendment of restrictive title deed conditions, consent use and departure of Planning regulations, Portion 141 (A portion of portion 133) of the farm Hangklip no. 559, Division Caledon Advertisement Municipal Notice 70/2021.

Objection by Mike Leresche, teacher, Wynberg Boys High School and resident at 25 Rocklands Rd, Rooiels.

I am strongly opposed to the development of a distillery on erf 141

I have a direct interest in this application. I am a nature photographer and the area that the access road to the distillery is where there are excellent opportunities for photographers and bird-watchers. As per this photograph taken recently along that road against the south slope of Klein Hangklip. Bird enthusiasts are brought specifically to this spot by guides looking to find Verreaux Black Eagle (photo below) and the Cape Rock-jumper, endemic to the area, a threatened species, named SA Bird of the Year by Birdlife South Africa.

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The increase in traffic is a disturbance to us visitors. But more importantly, it is likely to upset the delicate balance in an ecosystem containing endangered endemic species. If this proposal is granted consent use, what provisions are made to ensure that all traffic to the distillery (inputs, bottles, waste and visitors) is routed through the Pringle Bay entrance?

I also strongly object to a distillery as a fire hazard in an area which is very exposed to fire? A property that stores alcohol is a danger. Distilleries are known fire hazards internationally. This property is even more vulnerable because it is isolated and has large alien trees.

It is inappropriate to approve an industry in one of the few undeveloped areas. It will undermine the character of the area and threaten the flora, fauna and people that live there. It is against the public interest to approve such a development.

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I am opposed to this application for consent use for a distillery

Michael Leresche

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L Gillion

From: Kathleen Garrity < >
Sent: Thursday, 03 June 2021 23:02
To: L Gillion
Subject: Objection to Application by Free Life Trust in Municipal notice no. 70/2021

Attention:
Ms Loretta Gillion
Adminstrator, Town and Spatial Planning
Overstrand Municipality

TP - A Theart
(H vld Steep)



Objection to: Portion 141 (A portion of portion 133) of the arm Hangklipno.559, Division Calendon:

Application for removal and amendment of the restrictive title conditions, consent use and departure: Planning Partners (obo Free Life Trust)

Name:

Address:

Contact details: Postal address: PO Box
Mobile:
Email:

Date: 3 June 2021

Interest in the application: As a resident of Pringle Bay, member of the Pringle Bay Hack Group, member of the Cape Bird Club, and member of the Kogelberg Branch of CREW (Custodians of Rare and Endangered Wildflowers) I am very well aware of the importance of this conservation of this environmentally sensitive area and the importance of careful and informed management of any further development which could cause irreversible damage to it.

Reasons for comment: I wish to register my objection to the above application. I object to all three components of the application, namely: (1) Removal and amendment of restrictive title deed conditions, (2) Consent use, and (3) Departure.

I believe that a microdistillery is entirely unsuitable for the proposed site. The proposed application, if accepted, would be seriously detrimental to the site and surrounding areas.

More specifically I object on the following grounds:

- Fire hazard. This area in the Overstrand has seen much devastation to the environment, including loss of life of residents due to regular fires. Product storage of highly flammable liquids would put the area at further risk.
- High volumes of water usage from ground and surface water.
- High volumes of contaminated waste products.
- No adequate plausible strategy for the containment, treatment and/or management of the contaminated waste products.
- Increased traffic volume and its impact on other individuals and on the environment.

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Spillage of grain with unintended consequences such as rodents, pests and birds not endemic to the area.

These concerns are increased by the fact that people running such a business (selling alcohol) will want as many customers as possible to come into the area and they will not care about whether the people are environmentally conscious.

With kind regards,

Kathleen Garrity

**Attention:**

Ms Loretta Gillion
 Administrator, Town & Spatial Planning
 Overstrand Municipality
 Via email: loretta@overstrand.gov.za

TP - A Theart
 (H vld Steep)

**RE: "Portion 141 (a portion of portion 133) of the farm Hangklip, no. 559, division Caledon:
 Application for removal and amendment of restrictive title deed conditions, consent use and
 departure: Planning Partners (obo Free Life Trust)**

- application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions with reference to Clauses C.1, C.2., C.3., C.4., C.5, C.6., C.7., C.8., C.9., C.10., C.11., and C.12. of the Title Deed T8920/2005, as well as the amendment of a restrictive title condition with reference to Clause C.13. of the Title Deed T8920/2005.
- application in terms of Section 16(2)(o) of the By-Law for an Agricultural Industry to accommodate a distillery, tasting room and a farm shop/stall.
- application in terms of Section 16(2)(b) of the By-Law to relax the street building line from 30m to ± 23.2m to accommodate the proposed application."

As the owners of 296 Porter Drive, Rooiels.

Names : Mr Pierre Neethling and Mr Willie du Plooy
 Address : Erf 296, Porter Drive, Rooiels
 Contact details : PO Box
 : Mobile -
 : Email -

we OBJECT to all components of the application as stated:

1. Removal and amendment of restrictive title deed conditions; for the removal of several restrictive title deed conditions and amendment of one.

- C.1: "the owner of this lot shall without compensation be obliged to allow electricity and water mains to be conveyed across this lot if deemed necessary by HBEL and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the Lot at any reasonable time in order to construct, maintain, alter, remove or inspect any manhole, channel, conduct, or other works pertaining thereto"
 - This limits the municipality's right of way for any of the reasons specified.
- C.2: "all buildings and other constructional works commenced shall be completed within a reasonable time and if not so completed shall be demolished"
 - This is a general stipulation in municipal by-laws and would limit the municipality's rights in this regard
- C.3: "no wood and iron building or works of any description shall be erected without the consent in writing of the HBEL and if required the consent of the Local Authority"
 - The limits the municipality's level of control regarding building regulations

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- C.4: "no building shall be erected within 25.19 meters of any road or within 6.3 meters of any other boundary of the land"
 - This has already been disregarded by a previous owner, hence the request to relax the boundary line. If the municipality allows this building to remain, a servitude should be registered.
- C.5: "all buildings and other constructional works including fences and garden or other gates shall be of good design and sound construction"
 - It is unclear why this clause would require removal
- C.6: "no noxious trade or activity shall be carried on on the said land"
 - It is unclear why this clause would require removal. On the contrary, this poses a significant risk on how the property could be used.
- C.7: "the purchaser shall not have the right to make or cause to be made upon the said land for any purpose other than for use in his own buildings and/or bricks, tiles or earthenware pipes or other articles of such nature nor shall he have the right to dig or quarry any earth gravel, lime or stone thereon other than for use in his building and/or works on the said land"
 - It is unclear why this clause would require removal.
- C.8: "no debris, scrap, or other unsightly material shall be deposited on the said land"
 - The removal of this clause can be detrimental to the environment.
 - The application state that they will not produce more than 20kg of packaging waste per week.
- C.9: "empty clause"
- C.10: "access to public roads shall be limited to such points on the said boundary as may be approved by the Provincial or Divisional Council through its responsible Officers or by any other competent authority. It shall be the duty of the purchaser to obtain approval of points of access"
 - It is unclear why this clause would require removal. It will limit the municipality's locus of control.
- C.11: "no sewage shall be disposed of otherwise than by means of a properly constructed septic tank. No pit or bucket latrine will be permitted"
 - It is unclear why this clause would require removal.
- C.12: "the said land may be used for agriculture and the breeding or keeping of domestic animals, poultry, and/or bees provided that no goats or pigs may be kept"
 - Given that the applicant indicated that the waste is good pig food, may be the reason why this clause requires removal
- C.13: "no shop, public garages or filling stations, business premises, canteens, bioscopes, factory, or industrial buildings shall be erected on the land nor shall any such business or public entertainment be conducted on the land"
 - The mere fact that an amendment to this clause is requested compared to the complete removal of the other restrictive clauses, raised concerns about the need to have the other completely removed.
- The Integrated Development Plan hope to ensure that environmentally sensitive areas, significant cultural landscapes and heritage sites are protected and enhanced.
- The Integrated Development Plan considers agricultural smallholdings in the Hangklip – Kleinmond region, sections of the coast and the marine area as part of the buffer zone. Plantations, farms, local towns and industrial developments make up the transition zones.

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- The Integrated Development Plan values the Kogelberg Biosphere Reserve, which is one of South Africa's six existing Biosphere Reserves. The Kogelberg is regarded as the heart of the Cape Floral Kingdom as it provides habitat for approximately 1880 plant species, of which an estimated 77 species are endemic to the area, and numerous animals including leopards, baboons, antelope, many birds, freshwater fish, reptiles, amphibians, crustaceans and a huge diversity of insects and arachnids occur there. The Kogelberg Nature Reserve forms the largest part of the core area of the biosphere reserve. The remainder of the Core Zone is comprised of the Kleinmond Coastal and Mountain Nature Reserve, the Rooiels Nature Reserve and the Harold Porter National Botanical Garden
 - The application claims that it favours economic development and tourism, while completely disregarding the tourists attraction to, or preference for, unspoilt land. The road between Rooiels and Pringle Bay provides easily accessible (gravel road) access to some of the most unspoilt land in the Western Cape. This operation will sit right in the middle of this unspoilt paradise, but more importantly, in an area home to the endangered and endemic Cape Rock Jumper
- the municipality will weaken its ability to impose any restrictions or limitations on future applications by this applicant or other applicants if they now ease restrictions with regards to this property as the applicable restrictions apply to several other properties
- applicant seems well-informed regarding which By-Laws to address and could reasonably be expected to have understood the restrictions imposed on this property and the Overstrand SDF prior to acquiring the property or considering such an application
- the natural vegetation of this erf and the surrounding environment is threatened by this application

2. Consent use; to accommodate a distillery, tasting room and a farm shop/stall

- The Spatial Development Framework aims to promote the intensification of the existing business nodes based on specific local urban design guidelines. **Business uses should only be permitted in the existing node.**
- The Spatial Development Framework wants to manage these biophysical environments with **conservation objectives in mind**. Protect the reserve from urban development.
- this application holds no apparent benefit to the communities of Rooiels or Pringle Bay, the immediate surroundings, or the Overstrand. Leigh Elves had registered Pringle Rock Distillery (Enterprise number K2016330376) from 1 August 2016 with the likely intention of building a distillery prior to any application being lodged in this regard
- the applicant's honesty and integrity is doubtful as they describe the property as a dwelling house with a separate outbuilding, a disused horse stable and a small dam while, in fact, the dam was already enlarged, and a non-native grass (kikuyu) planted around its edge. Their attempts at building a knee-high stone wall to prevent this grass from encroaching on the surrounding fynbos, ignores the fact that lawn seeds spread through wind. The property has a large plantation of Eucalyptus (blue gum) trees which is considered alien vegetation in a sensitive area, and they continue to justify its existence. More worryingly, it appears as if the extension being applied for has already been built.

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3. Departure; to relax the street building line from 30m to 23.2m to accommodate the proposed application

- reduction of the street building line may appear to be less than 7m, but it will apply to the complete edge of the property line which, should it be developed or cleared for parking, will affect several fauna and flora. It is disquieting that the existing stable is already outside the building line. Legally, they should be requested to demolish the part of the building that exceeds their building line. At least, a servitude should have been applied for to allow for the encroachment by a previous owner.

Overstrand's Integrated Development Plan (IDP) said it best:

"Overall, all development and growth in Overstrand must be sensitive to the area's most important asset, that being the natural environment. Sustainable development in Overstrand will be guided by the spatial development framework (SDF) and related sector plans. The SDF identified Kleinmond, Hawston, Hermanus, Stanford and Gansbaai with its suburbs as areas prioritized for further development. This is due to bulk services being available to support densification and developments."¹

The Overstrand should be proud of their spatial development framework that balances economic growth with the protection of the natural environment. The Constitution of the Republic of South Africa, 1996 entrusts our local municipalities with the gargantuan responsibility of deciding whether a proposed development site is appropriate from a municipal planning point of view and our Constitutional Court has made it clear that these local authorities effectively have a veto decision when it comes to deciding whether such development is to take place at all.

We believe that the municipality will weaken its ability to impose any restrictions or limitations on future applications by this applicant or other applicants if they now ease restrictions with regards to this property as the applicable restrictions apply to several other properties.

The applicant seems well-informed regarding which By-Laws to address to succeed in this application. Therefore, one might assume he understood the restrictions imposed on this property and the Overstrand SDF prior to acquiring the property or considering such an application. This application is in direct disregard to the SDF.

This appears to be a self-centred application with no benefit to the communities of Rooiels or Pringle Bay, the immediate surroundings, or the Overstrand. Leigh Elves had registered Pringle Rock Distillery (Enterprise number K2016330376) from 1 August 2016 with the likely intention of building a distillery prior to any application being lodged in this regard.

A significant portion of the application goes at length to tell the Municipality how to go about making a decision, as if to force the municipality's hand while, in fact, section 6(1)(c) of the Spatial Planning and Land Use Management Act (SPLUMA)² guides the sustainable use and development of land. Furthermore:

¹ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 80

² Spatial Planning and Land Use Management Act, 2013

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s7(a)(vi) a Municipal Planning Tribunal considering an application before it, **may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected** by the outcome of the application

s7(b)(iii) uphold consistency of land use measures **in accordance with environmental management instruments**

s7(c)(ii) decision-making procedures are designed to **minimise negative financial, social, economic or environmental impacts**

s8(2)(a) **The norms and standards must reflect** the national policy, national policy priorities and programmes relating to land use management and land development

s12 The national and provincial spheres of government and each municipality must prepare spatial development frameworks that (a) interpret and represent the spatial development vision of the responsible sphere of government and competent authority; (b) are **informed by a long-term spatial development vision statement and plan; (m) take cognisance of any environmental management instrument adopted by the relevant environmental management authority**

Blatant disregard for Overstrand's vision and inconsistencies in the application

The opening paragraph raises concerns about the applicant's honesty and integrity as it describes the property as a dwelling house with a separate outbuilding, a disused horse stable and a small dam while, in fact, the dam was already enlarged, and a non-native grass (kikuyu) planted around its edge. Their attempts at building a knee-high stone wall to prevent this grass from encroaching on the surrounding fynbos, ignores the fact that lawn seeds spread through wind. The property has a large plantation of Eucalyptus (blue gum) trees which is considered alien vegetation in a sensitive area, and they continue to justify its existence. More worryingly, it appears as if the extension being applied for has already been built.

The reduction of the street building line may appear to be less than 7m, but it will apply to the complete edge of the property line which, should it be developed or cleared for parking, will affect several fauna and flora. It is worrying that the existing stable is already outside the building line. Legally, they should be requested to demolish the part of the building that exceeds their building line. At most, a servitude should be applied for to allow for the encroachment by a previous owner.

The application makes mention that this is a small-scale distillery. Small-scale distilleries can produce up to two million litres of alcohol per year; perhaps small compared to large producers, but not insignificant on its impact. More so, if application is granted for this distillery, an application by a future owner with larger volumes in mind, would have to be favourably considered.

Although described as a "previous withdrawal and subsequent resubmission", they omit to clearly explain that they have had sight of the objections and reworked their application to do so those reservations/objections. This appears to be a response to a failed application, rather than a new application. Ideally, as it is a reapplication, previous objections should be considered against the application.

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Section 12 of the application claims that due to the limited scale, nature, location and extent of the proposal, the Development Principles from SPLUMA and LUPA are of limited applicability and relevance. We would argue that the two communities on either side of this isolated plot are highly affected by thoroughfare, and the other factors mentioned.

The application claims that it favours economic development and tourism, while completely disregarding the tourists attraction to, or preference for, unspoilt land. The road between Rooiels and Pringle Bay provides easily accessible (gravel road) access to some of the most unspoilt land in the Western Cape. This operation will sit right in the middle of this unspoilt paradise, but more importantly, in an area home to the endangered Cape Rock Jumper.

Section 12.4.1 claims that refusal of this application will negatively impact on the livelihood of a number of people while no significant negative environmental impact is **anticipated**. Note, anticipated, not guaranteed. We argue that there is little to zero impact on the livelihood of the people referred to if this application is rejected, unless the applicant can substantiate that claim with documented proof. They also state that they are in the process of acquiring a business property in Pringle Bay as part of this operation, and they will also require brewing equipment, vehicles, etc. Clearly, they have the financial means.

The applicant offers no supporting documentation:

- regarding their financial means
 - o to link the success of this application to their livelihood
 - o to ensure long-term success of this endeavour and all it entails
- regarding supporting contracts and obligations
 - o intent by farmers to accept waste products (failing which, it will most likely end up at the garden refuse waste site)
 - o intent by the Hacker groups to supply wood for the boiler room, as well as surety that the storage of such material will not be a fire risk

Misalignment with Overstrand Integrated Development Plan

What follows is a summary or extract of the Overstrand Integrated Development Plan. This section contains pieces of text or interpretations from this plan, and where appropriate, highlights the relevance to the application.

The Overstrand's goal is to be a dynamic unity combining great potential and a beautiful setting. It wants to bring about growth and development to the benefit of all its people, in their different communities, whilst **maintaining a balance with nature**.

The Overstrand values state: We care; We Serve and We Belong. This is the **driving force behind every decision**.³

- We care
 - o implies a sentiment of serious attention or consideration given to issues which relate to our communities as to mitigate risk and ensure a sound quality of life.
- We Serve

³ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, Foreword by Executive Mayor, page 9

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- o suggests humility in the event of giving and assisting.
- **We belong**
 - o relates to our inclusive humanity. Our citizens might come from different social standings, but they all deserve and receive the same level of loyalty and commitment.

In terms of Section 35(l) of the Municipal Systems Act No 32 of 2000 an IDP adopted by the council of a municipality-

- a) is the **principal strategic planning instrument** which **guides and informs all planning and development**, and **all decisions with regard to planning, management and development**, in the municipality;
- b) binds the municipality in the exercise of its executive authority, except to the extent of any inconsistency between a municipality's integrated development plan and national or provincial legislation, in which case such legislation prevails; and
- c) **binds all other persons** to the extent that those parts of the integrated development plan that impose duties or affect the rights of those persons have been passed as a by-law.⁴

Public Participation Policy with the following objectives was adopted by the Overstrand Council in September 2016:

- a) to promote the values of good governance and human rights;
- b) to establish appropriate mechanisms, processes and procedures for public participation in the municipal affairs;
- c) to acknowledge the fundamental right of all people to participate in the governance system;
- d) to promote direct and indirect platforms of participation; and
- e) to provide, clear, sufficient, and timeous information concerning community participation to communities.⁵

There are six main reasons why a municipality should have an IDP:

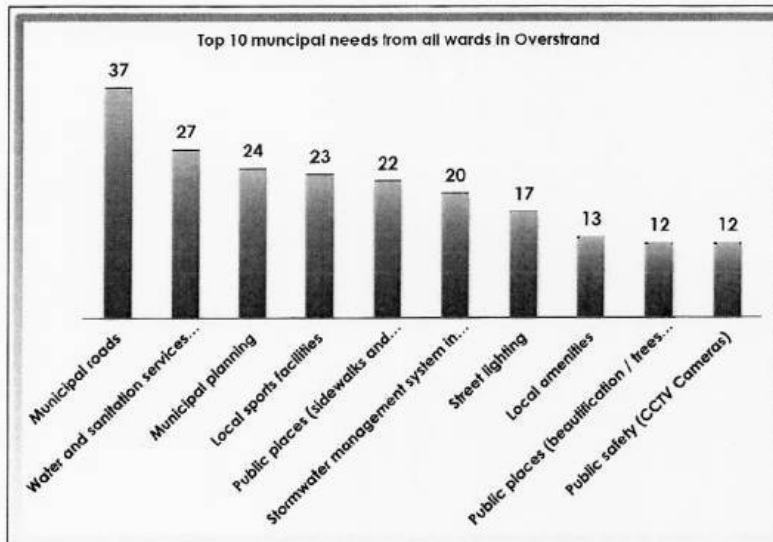
- Effective use of scarce resources
 - o **We believe the natural vegetation of this erf and the surrounding environment is threatened by this application**
- It helps to speed up delivery
- It helps to attract additional funds
- Strengthens democracy
- Helps to overcome the legacy of apartheid
 - o **This is a self-enriching application with no apparent benefit to anyone other than the owners of the property, and perhaps one or two workers**
- Promotes co-ordination between local, provincial and national Government
- It is a tool for performance management.

The top three municipal function needs from wards in the Overstrand area are defined as: Municipal roads (37 responses), Water and Sanitation Services (27 responses) and Municipal planning (24 responses)⁶.

⁴ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 13

⁵ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 86

⁶ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 34



Therefore, it is safe to assume that the applicant is likely to rely on the need for improved municipal roads with regards to Porter Drive once the distillery has been in operation and considered a tourist attraction. On that note, tourists' interests are limited in this needs-analysis to the provision of public spaces.

State of the environment⁷

The natural beauty of the Overstrand Municipal Area and its abundant environmental wealth are **the regions greatest assets** (*Overstrand Strategic Environmental Management Framework, June 2014*).

Surface water resources

The Overstrand Municipality has a large network of **important wetlands** and river corridors many of which have been identified by the South African National Biodiversity Institute (SANBI) as Freshwater Ecosystem Priority Areas (FEPAs) and/or as Flagship Free-Flowing Rivers (*Overstrand Strategic Environmental Management Framework, June 2014*).

Indigenous Vegetation Types of the Overstrand Municipal Area

The Overstrand Municipal Area is characterised by habitats containing **remarkable plant diversity**. The Overstrand Municipality jurisdiction area contains eighteen vegetation types, six of which are classified as critically endangered in Government Gazette No. 1002, promulgated in

⁷ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 124

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terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEM:BA) of 9 December 2011 (*Strategic Environmental Management Framework, June 2014*).

Fynbos, which is largely confined to nutrient-poor soils, is the dominant vegetation group in the Overstrand Municipal Area, accounting for ± 99.7% of the natural vegetation.

According to the SANBI's Overberg Transformation Map, ± 111 500ha (65.65%) of the Overstrand Municipality is classified as —natural habitat, whilst the remainder comprises degraded areas (3.44%); high density alien plant infested areas (6.93%); plantations (1.78%); intensively farmed areas (15.98% - excluding extensive grazing in natural vegetation); dams (0.14%); roads (3.60%); and urban areas (2.47%).

Protected areas

The Municipal Area also includes the Bettys Bay Marine Protected Area, the Walker Bay Whale Sanctuary Marine Protected Area, and **the Kogelberg Biosphere Reserve, which is one of South Africa's six existing Biosphere Reserves**. The Kogelberg is **regarded as the heart of the Cape Floral Kingdom as it provides habitat for approximately 1 880 plant species, of which an estimated 77 species are endemic to the area, and numerous animals including leopards, baboons, antelope, many birds, freshwater fish, reptiles, amphibians, crustaceans and a huge diversity of insects and arachnids occur there**. The Kogelberg Nature Reserve forms the largest part of the core area of the biosphere reserve. The remainder of the Core Zone is comprised of the Kleinmond Coastal and Mountain Nature Reserve, the Rooiels Nature Reserve and the Harold Porter National Botanical Garden. **The agricultural smallholdings in the Hangklip – Kleinmond region, sections of the coast and the marine area comprise the buffer zone**. Plantations, farms, local towns and industrial developments make up the transition zones.

The IDF thus creates a strategic framework that integrates the existing spatial planning policy context into a more coherent and aligned one, strategically focused at the collective goal of reaching the Overstrand's 2050 spatial vision.⁸ From this plan, key actions are listed for Rooiels⁹

Key policies directing future management and development

- LO 8 (ii) Ensure that **environmentally sensitive areas**, significant cultural landscapes and heritage sites **are protected** and enhanced.
- EO 1 (i) Ensure the **protection of prominent indigenous vegetation and the habitats of indigenous fauna**.
- EO 2 (ii) Ensure that **development is confined within urban edges** and growth is **managed based on sustainable densification principles**.
- EO 3 (i) Encourage and support the development of networks of open space that sustain and enhance eco-system functioning, connect fragments of vegetation, protect waterways and **regenerate the natural environment**.
- EO 4 (ii) Encourage natural dune processes to occur where appropriate and pro-actively work towards reducing coastal erosion.
- EO 5 (i) Encourage the design and construction of new developments and retrofitting of existing buildings based on low environmental impact design principles, the utilisation of energy efficient sources and locally sourced materials.

⁸ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 224

⁹ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 230

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- MO 1 (v) Roads traversing the outstanding scenery of the Overstrand Municipality should be designated as scenic routes, and **views and vistas from these routes should be protected from insensitive development.**

Commercial / Community Nodes

- Rooiels Business/Retail Node
 - o **Promote the intensification of the existing business node based on specific local urban design guidelines. Business uses should only be permitted in the existing node.**

Special Places

- The Point
 - o Ensure an appropriate interface between the coastline and urban development.
- Beach
 - o Ensure protection of the dynamic coastal dune system.
- Rooiels Nature Reserve & Klein Hangklip Peak
 - o **Manage these biophysical environments with conservation objectives in mind. Protect the reserve from urban development.**

Open Spaces/Linkages

- Open Space Corridor / Amenities
 - o The functioning of the Rooiels River and its estuary environment as an ecological corridor and linear open space area should be protected and managed with conservation objectives in mind.

Key Improvements

- Spatial Integration
 - o The spatial integration of the residential areas, business area, coastline and nature areas should be promoted through the establishment of a formalised network of footpaths that link these areas.
- R44 Scenic Link Route
 - o The R44 should be designated as a scenic route

Infrastructure

Porter Drive, that joins up with the R44 at Rooiels and next to the entrance of Pringle Bay, is mostly a poorly maintained gravel road. While it may suffice for use by the few smallholdings and foot traffic along this road, it is unlikely to handle frequent traffic well. The proposed vans for bringing in visitors, deliveries, and staff is a fraction of the load this road will be expected to handle. Construction vehicles are likely to, severely impact the road surface, and have already. This will most likely result in drivers driving towards the edges of the road to avoid potholes. This, in turn, will affect the vegetation on either side of the narrow road.

Long-term, it is likely that the operations will switch from a taxi-service to a self-drive option, or a mixed model. Even if visitors are brought in via taxi for which a public driving permit (PDP) will be required, they will likely need to find their way home from Pringle Bay on sometimes challenging

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roads, such as Clarence Drive. At 272 per 100 000 population, the incidence of driving under the influence of drugs and alcohol in Overstrand is significantly above the District average of 209.¹⁰

Waste management

Wastewater management, more specifically the servicing of the septic tank, is likely to increase traffic dramatically compared to current levels because of the more frequent visits to this smallholding by the heavy truck.

300kg of solid waste per day is not insignificant. Poorly managed waste introduces the risk of becoming a breeding ground for flies and other creatures feeding on waste material. There are no guarantees regarding the origins of the grains being used (genetic modification) and how the waste could affect the animals and insects that feed on it. Maggots and insects will provide a food source for rodents, contributing to population growth, which in turn, will contribute to the population growth of snakes and other predators. Any manipulation of the natural order of things are likely to disturb an already sensitive balance in nature.

¹⁰ Integrated Development Plan (IDP) 2017/18-2021/22, Overstrand Municipality, page 32

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● FRIENDS OF ROOIELS



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(H vld stoep)

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3 June 2021

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Email: loretta@overstrand.gov.za

FILE NO: Ptn 141/559
Hangklip
SCAN NO:
10
COLLABORATOR NO: 1546884

YOUR REF: MN 70/2021

OBJECTION TO THE APPLICATION FOR REMOVAL OF TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: PORTION 141 OF THE FARM HANGKLIP NO 559

INTRODUCTION

1. Interest in this Matter

Friends of Rooiels is a non-profit community based organisation which was established in March 2018 in terms of its constitution.

We received notice of the application as an Interested and Affected Party. Friends of Rooiels also objected to the application for a distillery brought in 2018 by the Applicant (MN69/2018).

2. Pattern of half-truths and misleading information

This application abounds with misleading half-truths and nuances aimed at downplaying, "green-washing" and disguising the actual scope and impact of the proposed distillery. A pervasive pattern of distortions of the truth and soft-peddling will be pointed out throughout this objection. (Marked with an asterisk*)

In terms of Sec 84(1)(e) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning 2020, any person who "supplies particulars, information or answers in an application or in an appeal to a decision on a land development application, knowing it to be

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false, incorrect or misleading or not believing them to be correct" shall be guilty of an offence which can lead to a fine or imprisonment.

3. History of this Application

The Applicant does **not fully and correctly disclose*** the chronological history of this application leading up to the advertisement for public comment of the current application (MN70/2021), namely:

- 3.1 On 27 October 2017 Applicant lodged an application for a liquor licence to the Western Cape Liquor Authority. A layout plan of the "**Proposed Pringle Rock Distillery Plant**" was attached to this application. (See attached plan)
- 3.2 On 23 January 2018 Applicant brought its first Town Planning application for the removal of title deed conditions, consent use and departure to enable a distillery (MN69/2018). Some 97 objections and a few letters of support were received.
- 3.3 On 31 October 2018 the 2018 application (MN69/2018) served before the Municipal Planning Tribunal. Despite the recommendation of approval by the Town Planning Department, the Municipal Planning Tribunal on 31 October 2018 referred this application **back for legal opinion**.
- 3.4 On 24 June 2020 this application (MN69/2018) was formally withdrawn by the Applicant. Friends of Rooiels received a letter of withdrawal from the Applicant dated 30 June 2020.
- 3.5 On 24 July 2020 the Applicant lodged plans for the apparent "extension of the stables". This plan was substantially in accordance with the plan submitted to the Liquor Authority in 2017 as the plan for the "**Proposed Pringle Rock Distillery Plant**".
- 3.6 The Western Cape Liquor Authority **refused** Applicant's application for a licence per the Liquor Authority's letter to objectors dated 20 August 2020. (See copy of letter attached)
- 3.7 During the course of 2020, Applicant illegally constructed a 600 square meter dam on Portion 141 without authorisation. An application in terms of Sec 24 G of the National Environmental Management Act, was brought. A public participation process was followed during November and December 2020. According to the two members of Friends of Rooiels who attended the Applicant's public participation presentation on 10 December 2020, it was **not disclosed*** that an application was being prepared to have distillery adjacent to the dam. It was also **not disclosed*** that the dam was intended as a "fire pool" for the planned distillery.
- 3.8 The building plans for the apparent "**extension of the stables**"* were approved on 11 September 2020 and the first inspection of the building work was held on 18 January 2021. It appears as if the construction of the "stables"/distillery was substantially completed by the end of March 2021.

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- 3.9 In February 2021, a **new** application document for the removal of title deed conditions, consent use and departure to enable a distillery was finalised by the Applicant's town planners (dated February 2021). This was in all likelihood submitted to Overstrand Town Planning Department shortly thereafter.
- 3.10 On 20 April 2021 we were informed by Overstrand Town Planning that a **new** application had been submitted in respect of Portion 141 and that the public participation process would commence shortly.
- 3.11 On 29 April 2021 the current application (MN 70/2021) was advertised for public comment.
- 3.12 Upon enquiry from a Rooiels Resident as to the nature of the building, the Overstrand Town Planning Department responded on **2 May 2021** as follows:

*"A Building plan was submitted and approved relating to the stables. Until such time I have prove that it is used for any other use as Agriculture, I cannot do anything about it. Should it not be the case, procedure to address the use will be followed."**

4. The Structure of this Objection

This objection comprises of five parts, with each part numbered separately.

- PART ONE: NON-DESIRABILITY OF THE REMOVAL OF THE TITLE DEED RESTRICTIONS p 4
- PART TWO: APPLICANT'S NON-COMPLIANCE WITH FORMAL CONSENT USE REQUIREMENTS FOR AGRICULTURAL INDUSTRY p 10
- PART THREE: POINTING OUT A FEW FALLACIES, IRREGULARITIES, UNSOUND ARGUMENTS AND MISLEADING INFORMATION p 13
- PART FOUR: WESTERN CAPE LAND USE PLANNING, ZONING AND RETENTION OF FARMING TITLE DEED RESTRICTION p 24
- PART FIVE: CONCLUDING REMARKS p 27
- ANNEXURE TO PART FOUR: EXCEPTS FROM THE WESTERN CAPE LAND USE PLANNING GUIDELINES RURAL AREAS MARCH 2019 p 28
- ATTACHMENTS

Plan of Proposed Pringle Rock Distillery Plant (para 3.1)

The Western Cape Liquor Authority letter of refusal dated 20 August 2020 (para 3.6)

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PART ONE: NON-DESIRABILITY OF THE REMOVAL OF THE TITLE DEED RESTRICTIONS**1. The Deeds Office Requirement Correctly reflects the Legal Position**

1.1 We support the requirement set by the Deeds Office, that the removal of the title deed restrictions in this matter, need to be approved by the Overstrand Municipal Planning Tribunal.

1.2 It is a concern that a prior (unsuccessful) attempt was made, directly by application to the Deeds Office, by the Applicant to expunge almost all restrictive title deed restrictions. This appears to be an attempt to avoid public participation and formal submission of its application to the Overstrand Municipal Planning Tribunal.* The Deeds Office, was quite rightly not prepared to expunge such title deeds.

1.3 The nucleus of the Applicant's restrictive title deed conditions is similar to the nucleus of title deed conditions of a large number of the other smallholdings in the area and together serve to maintain the smallholding development parameters for the area between Rooiels and Pringle Bay.

1.4 These restrictive conditions were imposed upon creation of the smallholding portions when the farm Hangklip 559 was subdivided. They describe the rights and obligations in respect of each smallholding portion. These restrictive conditions are intended to create and protect the local amenity and character of the area for the benefit of surrounding property owners and the general public at large. (See for instance title deed condition C1, which enabled the laying of the water pipeline to Rooiels in the previous century.)

1.5 Hence, it is clearly incorrect to argue that these restrictive conditions could be removed at the whim of a lone shareholder/member who inherited shares in the Company/CC from the developers. This lone shareholder/member was never even involved in the original development. It is also decades after the company/close corporation had scaled down and/or ceased its active involvement in the area.

1.6. The Overstrand Municipal Planning Tribunal needs to treat this application for removal of restrictive title deed conditions with exactly the same scrutiny and on the **same basis** as all other applications for removal of title deed restrictions. It would be improper and incorrect to give any weight and regard whatsoever to the "Consent" attached in Annexure 8 of this application.

2. The Removal of these Title Deed Restrictions is not Desirable

2.1 "Desirability" is the overriding consideration in an application for the removal of restrictions, irrespective of the terms used in various land laws to express the requirement of desirability, namely "desirability", "public interest" and/or "social benefit".

2.2 The requirement of desirability is not met in the present application. Our submission on this is three-pronged:

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2.2.1 Firstly, the consent by Hangklip Beach Properties CC (previously named Hangklip Beach Estates Ltd) does **not equate to desirability**. (As more fully set out in para 3 below).

2.2.2 Secondly, we motivate why it is not desirable to remove **all** these conditions, when actually only **two** restrictions are incompatible with the distillery applied for. (As fully set out in para 4 below).

2.2.3. Thirdly, the Applicant has **not met the onus of proof** required of it, of motivating why it is desirable to remove all the title deed conditions. (As fully set out in para 5 below).

3. First Objection to Removal: The Consent by a Sole Member of Hangklip Beach Properties CC does not equate to "Desirability"

3.1 The fact that Hangklip Beach Properties had (ostensibly) consented to the removal does not mean that the legal requirement of "desirability" has been fulfilled.

3.2 Consent is **not** among the list of legal parameters to assist the Overstrand Municipal Planning Tribunal in the consideration of the removal of restrictions.

3.3 The present consent by Hangklip Beach Properties only obviates the necessity of complying with section 25 of the Constitution, without in itself making approval desirable.

3.4 We question whether the sole remaining representative of the inactive Hangklip Beach Properties, in fact properly considered the implications of consenting to the removal of the title deed conditions. Consent was given for the removal of all 13 title deed conditions, many of which are not rationally connected to this application.

It seems an anomaly that the Applicant, out of the large number of restrictions in condition C13, chose to retain a completely irrelevant one, namely the restriction against "public garages or filling stations". It appears to us that Applicant may well have been advised against the dangers of obtaining a "blanket approval" of restrictions, thus retaining one "as a token".

The retention of the restriction against "public garages or filling stations", is a red herring as it is an irrelevant restriction and of purely academic value in this case. The course of the provincial trunk road (R44), which was planned to run through the property on the present dirt track, was shifted to its present course in 1981 at the request of Rooiels.

The original trunk road is now a single lane dirt track (Porter Drive), which is open for walkers and birders. After its de-proclamation as a provincial trunk road, this portion of Porter Drive is now (with the consent of the then Regional Services Council) **only** open for vehicular use by smallholding owners. The chances are, in our opinion, very remote of there ever being a demand or need for a garage or filling station on Portion 141 along this route, even in the unlikely event of it ever being upgraded to a usable road.

This prominent retention, out of all the other restrictions, makes no sense. Its retention seems to point to (a) complete irrationality, or (b) that this was used to placate the sole

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member of Hangklip Beach Properties, or (c) it was done to try to obfuscate the fact that this is essentially a comprehensive removal of all title deed conditions.*

3.6 Retention of this unlikely restriction against a garage and filling station, as opposed to the **total** removal of all the other restrictions, leaves us in doubt as to whether the Applicant had fully stated its intentions to Hangklip Beach Properties. In any event, it leaves us with the impression that the Applicant had taken advantage of the sole remaining member of Hangklip Beach Properties.

4. Second Objection to Removal: It is not Desirable to remove All the Conditions of Title, whilst only Two Restrictions are needed to enable the Proposed Distillery on Portion 141

4.1 The aims of the Applicant to conduct the agricultural industry and farm stall can be achieved by merely deleting one condition and deleting the word "shop" from another, namely:

- Deletion of C4: *"No building shall be erected within 25,19 metres of any road or within 6,3 metres of any other boundary of the land."*
- The amendment of C13: *"No [shop,] public garages or filling stations, business premises, canteens, bioscopes, factory or industrial buildings shall be erected on the land nor shall any such business or public entertainmnet be conducted on the land."*

4.2 Instead, the applicant applies for the removal of **substantially all** title deed conditions (with the exception of retaining an academic and irrelevant restriction relating to a garage and filling station). This is **overly broad and irregular**.

4.3 This irregularity is amplified when one has regard to Annexure 3 to the application (the Overstrand Town Planning Application Form).

On the official Overstrand Town Planning Application Form the Applicant indicates in Section C that **only conditions C3 and C13 need to be removed**.*

4.4 Contrary to the information provided in Annexure 3, the Applicant in its written submission applies for complete over-kill. This casts serious doubt on the truthfulness of the Applicant's disclosed intentions and motivations. It certainly constitutes providing conflicting and misleading information as contemplated in Sec 84(1)(e) of Overstrand's By-law.*

4.5 In contrast to a zoning scheme, which is designed by experts and adopted by elected public officials on behalf of all residents, each overbroad removal of conditions (such as the present), each departure from the applicable zoning scheme and/or each condonation and "regularization," **serves only a small number of individuals**. These changes **undermine** the laws passed for the benefit of the many, and only provide benefit for a particular private owner (corporate or individual) who seeks its own self-interest, unfettered by duties to others. In order to preserve the integrity of its over-arching planning instruments, it is

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strongly suggested that Overstrand follows a conservative and cautious approach and to hold such aberrations in check.

4.6 The present title deed contains a nucleus of restrictions that are **also** found in the title deed conditions of the other smallholdings that were subdivided from Portion 133, as also in the title deed conditions of the other smallholdings that were subdivided from Portion 45.

Together, Portions 45 and 133 comprise most of the present smallholdings between Pringle Bay and Rooiels.

What is unusual about the title deed of the Applicant's property, is that the restrictions appear to be for the sole benefit of Hangklip Beach Properties, whereas the similar nucleus of restrictions in Portion 45 smallholdings are for the benefit of **both** Hangklip Beach Properties and the other property owners. This is apparently also the case with a number of smallholdings derived from Portion 133, with the exception of Portion 141. This anomaly is likely due to a historic oversight or mistake.

It would therefore **not** be desirable to remove the present title deed conditions, which are similarly found in the other title deeds of the nearby smallholdings. This will cause this single property to become **out of sync** with all the other smallholdings between Rooiels and Pringle Bay, which is clearly detrimental to the harmonious development planning of the whole area.

4.7 The application for removal of the title deed conditions forms part-and-parcel of the application for a distillery and cannot be dealt with in isolation.

The zoning of Portion 141, Agriculture (AGR1) does not legally allow the Applicant an industrial use such as a distillery. Moreover, a distillery cannot be approved under the guise of an Agricultural Industry if the Applicant does not meet the formal legal prerequisites for such a consent use. This was already pointed out to Overstrand's Municipal Planning Tribunal in the 2018 application and still applies to the current application. (Our legal objection on this point is set out fully in PART TWO.)

It would be inappropriate to approve the removal of the restrictions in isolation, without **first** approving the Agricultural Industry.

4.8 We wish to point out that this legal issue, namely that the Applicant does not meet the formal requirements allowing Agricultural Industry, is likely to be taken on review to the High Court by Friends of Rooiels (and others), should this nevertheless be allowed.

As the issue of consent use under Agricultural Industry may thus still be pending for some time, it would be prudent for Overstrand Municipality **not** to remove all the title deed conditions until such time as finality has been reached on Applicant's **non-eligibility** for a distillery as Agricultural-Industry.

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5. Third Objection to Removal: The Applicant has not discharged the Onus of Proof, required of it, to motivate the Desirability of removal of Substantially All Title Deed Conditions

5.1 The applicant motivates as follows:

8.4 Motivation for Deletion and Amendment of Restrictive Conditions

Condition C contains restrictions relating to buildings and use of the land. These restrictions were imposed by Hangklip Beach Company for its sole benefit, prior to development of the property. At that time local government regulations and town planning controls were not well established in the rural areas. It is evident that the conditions were inserted by Hangklip Beach Company in order to protect its commercial interests as a developer. There are now very comprehensive environmental, planning and building regulations that govern the matters listed in the title deed conditions. Hangklip Beach Company has confirmed that it no longer wishes to enforce Condition C save for a portion of clause C13. For this reason, and also because the authorities have sufficient legal mechanisms to control buildings and the use of land, the conditions are no longer relevant and are not required. This is supported by the following statements in relation to the individual clauses of Condition C.

5.2 We have motivated in 4.6 above why the present title deed conditions form part of a nucleus of title deed conditions that apply to all the smallholdings of the two portions of land that were subdivided to establish the smallholdings between Rooiels and Pringle Bay.

5.2.1 The changes from the past history, as motivated by the applicant (see quote in 5.1 above), does **not** outweigh the weight of opinion towards the importance of retaining the title deed conditions in line with the rest of the Rooiels / Pringle Bay smallholdings to **preserve the identity of the area.**

5.2.2 The Supreme Court of Appeal in **Van Rensburg NO v Naidoo NO [2010] ZASCA 68 (26 May 2010)** specifically advises against using changed circumstances by themselves as motivation (e.g. The past commercial interests of Hangklip Beach Properties as a developer that may no longer apply),

Navsa JA in para 40 says:

"[40] ...Further, since restrictive conditions are usually inserted to preserve the identity of an area, the Municipality might be required to engage with other neighbours and owners in the area. Even if the area has undergone some change, it does not necessarily follow that further change is warranted or unchallengeable."

5.3 The Applicant submits two more arguments/reasons for the deletion of its conditions of title (see para quoted under 5.1), namely:

5.3.1 That there now exist comprehensive legal mechanisms to control the matters that are listed in the title deed conditions, and

5.3.2 That the conditions are no longer relevant.

5.4 Both the abovementioned motivations by Applicant in 5.3 are legally incorrect. They fly in the face of South African law of precedent as established by our Supreme Court of Appeal and High Courts. These Court judgments are part of South African Law as they determine how legislation applies and exactly what it means. All organs of state and all citizens need to

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act in accordance with the pronouncement of the law as made by our Courts. (In other words, anyone cannot just interpret and apply these laws as they please.)

The fact that these cases date from before present legislation, does not matter as the principle of law created by the Courts (*ratio decidendi*), is what is applicable.

5.5 As to the consideration in 5.3.1 Revelas J says in **Van Rensburg NO and Another v Equus Training and Consulting CC and Another [2009] ZAECPEHC 50 (25 September 2009)** in para 70:

"[70] In my view, it was incumbent upon the MEC to recognize that restrictive conditions and zoning scheme regulations serve different purposes. The first is aimed at the preservation of specific ownership rights, and the second is the general regulation of general town planning standards."

It is therefore not lawful to remove title deed conditions on the basis that they have been replaced by zoning scheme regulations. By relying on this wrong premise or basis for its motivation, the motivation of the Applicant is **fatally tainted and it has not met the onus of proving desirability** of removing all the title deed conditions.

5.6 As to the submission by Applicant that its title deed conditions are no longer relevant Judge Revelas says in **Van Rensburg NO v Equus Training and Consulting CC** in para 62:

"[62] In Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration Western Cape, and Others 2001(4) SA 294(C) Griesel J had the following to say about branding title deed conditions as relics 'of the past' and abolishing them in favour of the applicable zoning scheme:

'However, this is not the philosophy of the [Removal] Act and it was inappropriate and irregular for the Minister to have allowed himself to be swayed by this consideration. In my view the Ministers' approach in this regard is fundamentally unsound'."

Revelas J in para 64 says :

" [64] In the Camps Bay matter the Minister also relied on reports denouncing title deed conditions, which informed his reasoning as in the present case. The remarks of Griesel J therefore find equal application here. The learned judge reasoned that if it were in the interest of the public or the interest of all properties to be subject to zoning restrictions, the legislature would have abolished all restrictive conditions by Statute. Instead, it has laid down a procedure, in the Removal Act (now SPLUMA), whereby such conditions can be removed if it were in the public interest to do so."

We submit that this is also not the philosophy of the present legislation to remove title deed conditions after denouncing them as no longer relevant, as the Applicant does. In its motivation, the Applicant **solely relies** on arguments and considerations that have been **ruled by the courts as irrelevant** in determining desirability. The Applicant has therefore **not met the onus** of proving the desirability of removing all the title deed conditions in this Application. This Application is thus fatally flawed and it must be turned down.

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PART TWO: APPLICANT'S NON-COMPLIANCE WITH FORMAL CONSENT USE REQUIREMENTS FOR AGRICULTURAL INDUSTRY

1. This application for consent use is substantially the same application as the one that had been withdrawn earlier (MN 69/2018), although it had undergone considerable "green-washing".

2. However, the critical issue, namely that the previous application did not meet the legal requirements of the Overstrand Zoning Scheme Regulations for an Agricultural Industry, still holds true. This has been well motivated legally by many of the objectors in the previous application. These same legal reasons are still applicable to the present application. They were of such a number on this same point that they cannot be ignored and they form part of the detailed knowledge of the Town Planning Department on this matter.

3. With the Overstrand land laws changes in 2020, "desirability" was brought in as a specific requirement for approval of an agricultural industry.

4. The Applicant makes a fatal error, if it assumes that the 2020 addition of "desirability" overrides the existing "hard" or formal requirements of **source and proximity**, which are **retained** in the Overstrand Zoning Scheme Regulations. These two requirements (source and proximity) distinguish agricultural industry on agricultural property, from normal industrial use of a similar agricultural product on industrial land. If these two requirements are not met in respect of agricultural property, a rezoning is required.

5. The Applicant **fails** to make **any claim** of complying with "source and proximity" in its application, in order to discharge the onus of proof that it complies with the formal requirements of the Overstrand Zoning Scheme Regulations. It appears that the Applicant relies on desirability only instead of complying with the formal mandatory requirements for an Agricultural Industry consent use, namely that the **products** which are processed, need to be **grown on or near** the property.

6. Given the Applicant's total **non-compliance** with these requirements for Agricultural Industry consent use, as illustrated above, and the Town Planning Departments **knowledge** of this legal problem, the present application should **not** have progressed through the initial stages of advertisement.

6.1 This is of great concern to us as a community organisation. The Overstrand Municipality (which includes the Town Planning Department) is legally enjoined in terms of section 4(2) of the Local Government: Municipal Systems Act, of 2000 to act with duty of care towards all ratepayers, and not only towards the interest of the Applicant.

6.2 In the land use application process **all** role players, including objectors, community organisations and the Municipal Planning Tribunal, should be able rely on the **professional and impartial** input of the Overstrand Town Planning Department.

7. It is admitted in the application that that **all** agricultural produce will be supplied from Caledon, which is obviously not compliant with the two mandatory requirements discussed above. (Please note that the Applicant is not a fynbos farmer, no consents have been given

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for fynbos farming and the nature of any fynbos used is negligible. Fynbos is not a particularly fragile and perishable product.)

8. The Applicant and, in the previous application, the Overstrand Town Planning Department, have glossed over and downplayed the **critical requirement of source and proximity** of the agricultural produce to the location of the agricultural industry. (Please refer to paragraph 9 below). Instead, they purport to motivate, in a window-dressing exercise, the "desirability" of the proposed distillery.

9. Requirement of Source and Proximity of the Agricultural Product which is to be processed by the Agricultural Industry

9.1 "Agricultural industry" is a primary right for industrial properties zoned in the Overstrand Zoning Scheme Regulations as Industrial Use 1: General Industry (IND1) and it is a **consent use** for farming properties such as the present, **zoned Agriculture (AGR1)**.

9.2 Preventative measures, apparently to protect against industrial sprawl and industrial intrusion of agricultural industries, which should preferably be conducted on industrial zonings IND1, into possibly inappropriate areas such as AGR1, have been promulgated in the Zoning Scheme Regulations of the Overstrand, the City of Cape Town, Stellenbosch Municipality and many other municipalities.

9.3 Agricultural industry is defined as follows in the Overstrand Scheme Regulations:

"agricultural industry" means an enterprise for the processing of agricultural related products on or close to the land unit where these agricultural products are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products, and includes, inter alia: dairies, wineries, distilleries, olive processing facilities, breweries and other facilities required for the processing of agricultural products, where produce packed is not produced on the land unit, but does not include service trades;"

9.4 We draw your attention to the fact that **both** of the two legal requirements that we have indicated in **bold** above have **not** been complied with, namely;

9.1 "on or close to the land unit" and

9.2 "where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products"

9.5 The above two requirements are mandatory requirements and **both** need to be proven.

9.6 The Application fails to prove that it complies with both these aspects.

9.7 It is abundantly clear that this particular consent use application cannot be approved on the basis of "desirability" alone.

9.8 Allowing an industry on agricultural land is not the norm nor is it generally desirable. Hence, strict parameters apply for allowing industry as a consent use on agricultural land. To illustrate this general and common sense rule, regard can be had to the planning legislation of the Overstrand's sister municipalities.

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9.8.1 For comparative and interpretative purposes, "agricultural industry" is defined as follows in the City of Cape Town Scheme Regulations:

"110 Agricultural industry

The City may approve a consent use application for an agricultural industry provided:

*(a) it is satisfied as to **the desirability** of the agricultural industry on the land unit in question*

*(b) the agricultural industry is **subservient and related to the dominant agricultural use** of the property;*

*(c) the agricultural industry does not adversely affect the agricultural potential of the property; **and***

(d) the area allocated for purposes of an agricultural industry shall be clearly identified on a land survey diagram."

9.8.2 The City of Cape Town, in the requirements in **bold** above, would allow an agricultural use **only** if the product is grown on the property, and only if the agricultural industry is **subservient and related** to the dominant agricultural use (that is, produce grown) of the property.

9.8.3 Like the Overstrand's two requirements, these are **formal** requirements, with the additional requirement of **desirability** added, and like in the Overstrand, approval cannot be based on **desirability only**, thereby ignoring the other two requirements.

9.8.4 With Overstrand Municipality's 2020 land laws changes, "desirability" was brought in as a specific requirement for approval of an Agricultural Industry. This brought the Overstrand in line with the City of Cape Town, as set out in above, which requires compliance with **all** requirements of source and proximity of the agricultural product **as well as** desirability.

9.8.5 Stellenbosch Municipality, who no-doubt have much experience in dealing with applications for distilleries and wineries on agricultural land, have even **stricter** requirements to approve such industries on agricultural land. Stellenbosch Municipality has much more detailed requirements which include that at least 50% of the produce should be grown on the property. The industry must be also be **subservient** to the agricultural activities on the property. Furthermore, information is required to match the scale of the proposed building with production capacity (They have no doubt had an experience of been caught by applicants on this aspect, as Overstrand Municipality will soon have too, if this application is granted!).

10. As set out above, the requirements of source and proximity of the agricultural products to the location of the industry would appear to be common requirements for the approval by municipalities of an agricultural industry consent use.

11. The Applicant has failed to make any averment on the strict requirements in support of its application and its application should accordingly not be entertained any further as it is fatally flawed.

PART THREE: POINTING OUT A FEW FALLACIES, IRREGULARITIES, UNSOUND ARGUMENTS AND MISLEADING INFORMATION

1. Relevance of the Previous Application

1.1 The applicant states on page 1 (para 1) of the application *"However this application makes use of information gained during a previous application submitted on 23 January 2018 and subsequently withdrawn on 24 June 2020"*.

1.2 The previous application is in the public domain, including the contents of the objections and the responses thereto. Likewise, the Overstrand's Town Planning Department's assessment of the application and its recommendation to the Municipal Planning Tribunal forms part of the knowledge gained.

1.3 Both the facts and contents of the first and the second applications are substantially the same, although the latter has now been given a slick veneer. We foresee that a large number of public objections will be on substantially the same issues as before.

1.4 We also foresee that the assessment and recommendations by the Town Planning Department might also be the same as before. In the light of the assessment and recommendations made in the previous application, we wish to point out **in advance** why certain of these assessments and recommendations are **flawed**, lest these be utilised again to ill effect.

2. The Relevance of the Legal Opinion requested by the Tribunal and failure to disclose the legal position in an even-handed and transparent manner to all role players

2.1 Friends of Rooiels on 12 May 2021 requested a copy of the legal opinion that was requested by the Municipal Planning Tribunal at its meeting of 31 October 2018, before it would consider the previous application (MN69/2018) any further.

2.2 This legal opinion was requested by the Municipal Planning Tribunal, despite the Town Planning Department having finalised its recommendation that the application be approved.

2.3 On 24 June 2020 the application was withdrawn without adequate explanation. We suspect* that the conclusions of this legal opinion had been disclosed to the Applicant and that this was one of the reasons for bringing a new application in 2021 (MN70/2021).

2.4 We submit that this legal opinion is highly relevant to the present application. It is in the public domain in any case, it forms part of detailed knowledge gained in the previous application. Because there are again similar legal issues raised by objectors in this application, there is the possibility that the Municipal Planning Tribunal may again request a legal opinion. This possibly need not be duplicated if the previous legal opinion is disclosed to all interested and affected parties.

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2.5 The Town Planning Department on 12 May 2021 refused our request for a copy of this legal opinion relating to the closed application (MN69/2018).

2.6 We therefore on 12 May 2021 emailed a new request to the Overstrand legal adviser, explaining the considerations in par 2.4, and requesting a copy of the legal opinion. We in addition drew the attention to the fact that the application does not meet the formal requirements of the definition in the scheme regulations of "agricultural industry".

We have not yet received a response to our request.

2.7 We therefore place **procedural fairness** directly in issue in this 2021 application.

3. Removal of Restrictive Conditions: The Requirement that all Property Owners whose Properties came for the Subdivision of Portion 133 must receive Notice.

3.1 The point of incomplete notice, was raised in the previous application (MN69/2018). The Planning Department responded as follows in their assessment of comments:

"The Title Deed makes no reference to "all owners" and therefore the application was only distributed to the surrounding owners and advertised in the local newspaper and government gazette."

3.2 The legal position is that all property owners who acquired their property as a result of **the relevant subdivision** should receive notice. This should now be well known and should not be an issue any more.

3.3 We see no proof that all smallholding owners received notice of this application. This would not have been onerous to do at all. Failure to comply, would render any approval of an amendment or removal of title deed conditions irregular.

4. Zoning: The present Agricultural Zoning does not allow Industrial Use

4.1 This point was raised in the previous application (MN69/2018) and is still applicable. The Planning Department responded as follows (our indications in **bold**) in two extracts under (b) Zoning:

4.1.1 *"The Overstrand Zoning Scheme does not support for split zonings, especially on farms. The latter has in the past **led to that the agricultural industry becomes the dominant use** and not the farming activity or residential use of the property. The rezoning of a part of the Portion will not be supported. The Zoning Scheme **specifically brought land uses in line with agricultural related produce and activities** under a consent use, thus ensuring that the agriculture industry is restricted in footprint, activity and is **subservient to the primary use.**"*

The Town Planning Department acknowledges at our indications in bold, that Agricultural Industry (in this case the brewing of whiskey from barley) should **not** be the **dominant** use, and that it should be **subservient** to the dominant use (in this case the growing of barley). Yet, it makes no attempt to relate the application to the facts of this case, namely that the

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distillery (the Agricultural Industry) will in fact be the dominant use. It is admitted by Applicant that there is no production of barley on or near Portion 141 as a dominant use.

4.1.2 *"Thus, to establish a distillery in the area it is evident that the produce will have to come from the agricultural producing areas in the **wider area of the Overberg**. The **infusion of the product with fynbos**, is part of the process and is available on the farm and in the immediate surroundings."*

The Town Planning Department acknowledges, in the indications in bold, that the barley produce which will be used, does not meet the zoning requirements of source and proximity.

Instead, the Town Planning Department appears to use the far-fetched submission of the availability of a tiny, subservient, unspecified (and, may we speculate, secret?!) fynbos ingredient as motivation for compliance with source and proximity requirements. The Applicant is not a fynbos farmer. Fynbos, if it is ever used, will be a miniscule component.

4.2 We trust that this far-fetched submission will not be repeated in the assessment of this application (MN70/2021).

5. Porter Drive: Insufficient Safeguards and Meaningless Mitigations

5.1 We are aware that many objectors will raise objections in relation to the impact on Porter Drive and all who use this amenity. We share those concerns.

We draw attention to the Planning Department's poor response in the previous application to the issues raised and wish to point out the following inappropriate and sarcastic comment which was made under "(c) Porter Drive" :

*"The objectors did mention that **"tens of thousands"** use the road for recreation and bird watching each year. **One objector** mentions the possibility of film shoots and **the aforementioned involve big trucks and trailers** and this is already being done in this area with no objection and has not impacted on the road or the wild life... **Pringle Bay gate will be used as an access road.**"*

We take exception to the Town Planning Department's inappropriate window-dressing, exaggeration and sarcasm in equating numerous objections received from environmentalist, birders, Birdlife Overberg and scientists to just two poorly articulated objections!*

We cannot imagine that numerous objectors (**note the use of the plural** by the Town Planning Department), would use the term *"tens of thousands"*, nor can we imagine, or recall having seen, the suggestion made by the Town Planning Department of attendant big trucks and trailers.

We find it selective that the Town Planning Department does not even refer to the objection by Professor Phoebe Barnard, who is an internationally acclaimed scientist. Professor Barnard had, under auspices of the Percy Fitzpatrick Institute, conducted an ornithological study on **that very section** of Porter Drive and is **an absolute authority** on this aspect.

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5.2 Bird watchers and the tourism businesses involved in taking birders on foot, will be affected by the intrusion of traffic, which will be detrimental to the peacefulness and amenity of the surrounding area.

The following condition, proposed by the Town Planning Department in the previous application (69/2018) is nothing but vague, wishful thinking:

"(m) that the agricultural industry be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;"

It is obvious to all concerned that there can and will be no enforcement and no penalties.

5.3 In the previous application (MN69/2018), the Town Planning Department did not pay any regard to the potential impact on the businesses of these guides and tour operators and their livelihood. This is a valid concern and we trust that the Town Planning Department will afford these concerns the necessary respect and consideration they deserve.

6. Waste Products of Distillery

6.1 The issue of the waste products produced by the proposed distillery is a major concern.

6.2 Waste from distilleries and breweries are scientifically regarded as wasteful, toxic pollutants and difficult to treat without elaborate safeguards. This cannot be glossed over. This cannot be dealt with by "cut and paste" plans from the internet with no specifics as to actual quantities.

6.3 In the previous application (MN69/2018), the Town Planning Department responded as follows under (d) Waste Products:

"The information as submitted by the applicant was not available during the application process."

The Town Planning Department then, at its own initiative, supplied the motivation which should have been supplied by the Applicant. What is even more worrying, is that the Town Planning Department's assessment did not consider whether the requirements of the National Water Act were applicable.

6.4 This is irregular. It is not in order for the Town Planning Department to give vague answers to pressing concerns raised by many objectors about hazardous materials.

6.5 The Applicant needs to **submit a proper waste management plan in specific terms and not a generic one***. Otherwise there is nothing of substance to evaluate. This failure by the Applicant, also detrimentally impacts the ability of the Municipal Planning Tribunal to properly evaluate the environmental safety concerns of this hazardous industry and will be a ground for judicial review.

6.6 It is also not the function of the Town Planning Department to **supplement** incomplete applications. If this occurs again in the present application, we will submit it as a ground for improper conduct in both our appeal and review application to the High Court.

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7. Indigenous Vegetation: Environmental Impact Assessment may be required

7.1 This issue was raised in the previous application and is raised again in our objection to the current application.

In the previous application the Town Planning Department responded to our concerns as follows under (e) Environmental Impact Assessment (EIA):

"It is noted that the Western Cape Government: Environmental Affairs and Development Planning did indicate that an EIA is not required. Cape Nature did not have an objection against the application and did not require any additional studies."

7.2 We fear that that this is not a complete and correct picture of the issue, because the Applicant may well wish to grow the barley produce on Portion 141, in an attempt to comply with the Agricultural Industry requirements of the source and proximity of the produce.

7.3 In such a case, an EIA might be required by the National Environmental Management Act (NEMA), which in its Listing Notice 3 under "Definitions" defines "Indigenous vegetation" as regardless of the amount of alien infestation, and which requires an EIA for the clearance of indigenous vegetation of more than 300 square meters in a Critical Biodiversity Area such as the present (Listing notice 3 Par 12 I (ii)).

7.4 It is also our understanding of the building plan of the distillery, that the new extension is 170 square meters (we stand to be corrected as we were refused viewing of the approved plans by Overstrand Municipality). On the one side of the building there is a cleared, flattened and compacted area for eight water tanks.

We also notice that on the very same plan (previously submitted to the Western Cape Liquor Authority) eight parking bays are indicated together with a large loading bay. This is also consistent with Table 3 on p 26 of this application.

It is likely that the Applicant, who has taken great pains **not to disclose** its approved building plans (approved on 11 September 2020), has triggered the need for environmental authorisation. The total of the actual disturbance of indigenous vegetation thus appears to exceed 300 square meters, and would require authorisation in terms of NEMA as also set out above in par 8.3. Listing Notice 3 under "Definitions" defines "Indigenous vegetation" as **regardless of the amount of alien infestation**, and requires an EIA for the clearance of indigenous vegetation of more than 300 square meters in a Critical Biodiversity Area such as the present (Listing notice 3 Par 12 I (ii)). The cleared area can be confirmed by an in situ inspection.

Once again, we need to point out that we find it both obfuscating and misleading, that outdated building plans from the 1980's were submitted in Annexure 6 when there are detailed plans available which have been approved as recently as 2020!*

7.5 We are also concerned about the piecemeal and incremental manner in which the Applicant has gone about getting approvals and authorisations, without ever disclosing the

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full and total extent of the development. This is not in keeping with the spirit of NEMA. This smacks of wilful misrepresentation and obfuscation of relevant considerations to the public and the decision-making authorities.*

See for example:

7.5.1 During the subsequent authorisation for the illegal 600 square meter dam Applicant failed to disclose the highly relevant fact that the dam was actually a Fire Pool for a proposed distillery. Applicant also failed to disclose that such Fire Pool is situated in a wetland in a Critical Biodiversity Area.

7.5.2 The Applicant states on page 1 of this application:

"This is a new application and the process for notification and assessment must start afresh based on the information provided in this report. However this application makes use of information gained during a previous application process submitted on 23 January 2018 and subsequently withdrawn of 24 June 2020".

The Applicant then attaches letters by DEA& DP and the Breede-Gouritz Catchment Management Agency in Annexures 9 and 10. These three letters all relate to the **previous withdrawn application**.*** They can have **no relevance** whatsoever on the present application as this current application was **never seen** by these organs of state. These letters are not "information gained", they were specific directions given in respect of the 2018 application which was advertised under MN69/2018.

It is misleading and deceptive to include these letters as Annexures to this application without even pointing out that they were given in response to a different application.

If the intention was not to mislead, we are curious why the letter dated 12 September 2018 from CapeNature (also with regard to the previous application MN69/2018) was not also included in the Annexures to this application?

8. Birdlife

8.1 The application will have a detrimental effect on the birdlife of the area. There will, no doubt, once again, be other objectors elaborating this point.

8.2 We are concerned about the Town Planning Department's previous response to these concerns in its report to the Municipal Planning Tribunal under "(f) Bird Life":

"There are no evidence that the craft distillery will have a bigger impact than the tourists and birding groups visiting the area where the Cape Rockjumpers breed. At present the birders are on foot visiting the area, the people visiting the distillery will be brought in by the applicant and thus eliminating the threat of vehicles driving the road constantly."

This statement completely misses the point. It is not a debate about whether the distillery on the one hand, or ecotourists / birders on the other, will have a bigger impact on the

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Cape Rockjumpers (although common sense tells us that it will be the distillery, not the people who have specially come to marvel at these birds in their natural habitat).

The real considerations which needs to be addressed by the Town Planning Department and the Applicant are:

- (a) The potential impact of the distillery on an existing ecotourism industry which has been operating successfully for years in this area without disturbing nature. This has been a source job creation and income for the guides and their families;
- (b) How can it be proven that the ecotourism industry will not be detrimentally affected? It is an accepted fact that the proposed distillery is, by its very nature and definition **not** environmentally friendly.
- (c) How can it be proven (remember the Applicant has the onus of proof) that the cumulative effect of the distillery impacts over time will not lead to a degradation of this area of major conservation and birding significance?

9. Kogelberg Biosphere: An industrial application is contrary to the Western Cape Land Use Planning Guidelines: Rural Areas: March 2019

9.1 In the previous application the Town Planning Department responded to concerns raised with regard to the KBR, as follows under "(h) Kogelberg Biosphere":

"The aims and objectives of Biospheres have under the MAB Action Plan of UNESCO never prohibited development, but emphasize the sustainability of any development that is not to the detriment of the natural environment".

9.2 The above is no motivation for the present application for a number of reasons. The present 2021 application **still does not comply with the requirements for an agricultural industry**, but even if it did, it is common cause that a distillery is **not** an environmentally sustainable industry.

9.3 The 'nuisance' aspect inherent in any distillery is acknowledged in *The Western Cape Land Use Planning Guidelines : Rural Areas, March 2019* (see p 39 thereof).

9.4 In this particular case, the proposed distillery's non-sustainability is due to, inter alia, high water usage, excessive transportation of the raw materials far from where they are cultivated, elevated risk fire in a fire prone area, risk of contamination of soil and water, air pollution, emissions, waste water, dust, noise and irrigation - which will all occur to some degree and which are all harmful to the environment . No attempt has been made to look holistically and assess their cumulative impact. This is a serious flaw and omission in this application.

9.5 In the Annexure to PART FOUR of this document, we motivate in detail why an industrial usage such as the present, which is being applied for, does not comply with the *The Western Cape Land Use Planning Guidelines : Rural Areas, March 2019* (PSDF)

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10. Definition of "Industrial Activities"

10.1 We wish to point out that in the previous application, the Town Planning Department made a legal error in their report to the Municipal Planning Tribunal in its response under "(i) Industrial activities":

"In terms of the Zoning Scheme definitions, an industry is a factory or workshop of which the proposed application is neither. It falls under the same category as wineries that are located on farms due to its produce and scale of development."

10.2 We draw the attention in bold to the definition of "industry" in the Scheme Regulations:

*" 'industry' means a property which, in the Municipality's opinion, is used as a factory or workshop and in which an article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage; and includes self-storage, offices, caretaker's quarters, **warehouses and breweries, distilleries** and mechanical workshops or other uses which are subservient and ancillary to the use of the property as a factory but does not include noxious trade or risk activities;"*

10.3 It is important that the error set out above, **not again** be repeated in the Town Planning Department's report on this current application.

10.4 Furthermore the Overstrand Town Planning Department errs when it attempts to "ameliorate" the application for a distillery, by equating it with a winery. The processes are completely different and cannot be equated. No stills and concentrated spirits are involved in wine-making. Distilleries and breweries are regarded as industrial uses, whereas wineries are not.

10.5 We submit that the Overstrand Municipality quite rightly regards a distillery as **primarily** an industrial use. For such a use, **special care** should obviously be exercised before allowing it as a consent use in a Critical Biodiversity Area.

10.6 A limitation as to as to the volume of production by the distillery was recommended by the Town Planning Department in the first application. In the current 2021 application the Applicant repeatedly tries to emphasise the "small scale" of the intended business. This is pure window dressing in our opinion. There are **no legally binding obligations** on the Applicant to produce less than the allowed **38 462 litres** per week. As a business, which has already spent a considerable amount on its distillery buildings, dam, consultants and other professionals, it is clear that the Applicant intends to run a **substantial** commercial and manufacturing enterprise. Any statements about "small scale" are simply misleading and manipulative*.

11. Traffic Study and concerns about road maintenance by the Applicant

11.1 In the previous application the Town Planning Department responded as follows under:

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(j) Traffic Study:

"The owner did indicate that he will contribute to the maintenance of the road."

11.2 We have had sight of another objection, which raises concerns about maintenance that the applicant has already carried out.

11.3 We are not aware that it is **appropriate** for a single individual (apparently in agreement with the Town Planning Department) to carry out repairs at his own whim and standard to a municipal road. This seems highly irregular.

11.4 The words *"indicate"* and *"contribute"* are notoriously vague and render the response by the Town Planning Department without practical substance. If there are no structures for compliance and enforcement in place, **no value** whatsoever ought to be given to these type of comments, should they be repeated in the Town Planning Department's report to the Municipal Planning Tribunal.

12. Pollution

12.1 We are concerned that the issue of pollution is not properly addressed in this application. In the previous application the Town Planning Department responded as follows under: *"(k) Pollution"*:

"The information was not addressed in the motivating memorandum, but the aspect was addressed in the reply on the objections received during the public participation process. It is extensively addressed under Paragraph (d)."

12.2 Objectors need **specifics** on these **crucial issues** in order to examine the proposed management plan and to comment meaningfully. Failure to provide such specifics renders the process irregular.

13. Scarcity of Water, Distillery drawing its water from a Wetland, Authorisation Required

13.1 We have various concerns regarding the use of well/borehole water by the Applicant.

13.2 In the previous application (MN69/2018) neither the Applicant nor the Town Planning Department responded to the actual concerns of objectors, namely the wasteful use of a scarce resource in this area and its effect on the ecology of the area.

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13.3 The Town Planning Department's response was follows under "(l) Scarcity of water":

"The applicant obtains water from an existing well. This in itself is a limiting factor to possible extension of the distillery."

13.4 We find this response disconcerting. It is tantamount to a shrug and saying "Oh, when the water is used up or becomes scarce, no additional quantities of spirits will be produced and the distillery wont expand, so you really have nothing to worry about"

13.5 The real concern here is that of **environmental sustainability** and the use of ground water or subterranean water by the distillery in an area where it is **likely to affect the wetland in which the distillery is situated.**

13.6 Neither the Applicant nor the Town Planning Department have stated the yield of such well/borehole, nor have they considered and dealt with the **obvious** effect on the underground water table and the identified wetland. There also is the possibility of intrusion of salt seawater into the aquafier, which sometimes occurs with over usage of a water source.

13.7 The smallholding is entitled to one household connection only from the Buffels River pipeline, but what controls are in place to prevent the applicant from drawing its water supply from the pipeline?

13.8 It appears that the newly constructed distillery extension as well as a portion of the dam/fire pool is situated **in or within 35 meters of a wetland.** This explains why the water thirsty Kikuyu and the grove of Eucalyptus trees thrive and help to keep the area around the proposed distillery relatively dry. Thus, it appears that environmental authorisation will be required in terms of NEMA, before proceeding with this application.

We refer to a report by an environmental specialist with trenchant knowledge of this area, Amida Johns, which supports this contention and has submitted comment to this application.

14. Supply of Raw Material and the fact that the Application does not meet the formal requirement of proximity

14.1 The Applicant confirms in its application that the produce will be obtained in Caledon.

14.2 *En route* to Rooiels, the trucks will pass a number of industrial areas that are zoned for, amongst others, a distillery.

14.3 By no stretch of the imagination can produce from Caledon be regarded as from the proximity of Portion 141.

14.4 Applicant has chosen to make no reference to the requirements for an Agricultural Industry or even of trying to show that it meet the requirements.

14.5 We are therefore of the opinion that this application should be withdrawn by the Applicant and not be further entertained by Overstrand Municipality. Please note that it

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would be most irregular for the Town Planning Department to try to supplement and prove this significant omission on the Applicant's behalf.

15. Vague undertakings regarding Municipal Services

15.1 In its submission in the previous application, the The Town Planning Department responded as follows under "(n) Municipal Services":

"A Management Plan needs to be submitted and approved by Council."

15.2 In view of the fact that waste management is a critical issue for distilleries, this answer by the Town Planning Department is simply not good enough. It also amounts to **incremental decision making** on a vital issue.

15.3 In this application there are only hard-to-believe and non-binding statements by the Applicant about its intended "small scale" production (with an extensive and expensive outlay). There is no actual indication of the volume of waste, making this application incapable of evaluation for meaningful comment on a crucial matter.

16. Industrial use is not Leisure or Tourism as envisaged by the Western Cape Land Use Planning Guidelines: Rural Areas March 2019

16.1 Whilst leisure or tourism is specifically identified for the area as per the **Western Cape Land Use Planning Guidelines Rural Areas March 2019**, an industrial use such as the present is not allowed in a Critical Biodiversity Area, unless it can be brought within the ambit of an agricultural use.

16.2 In this application the Applicant is once again unable to motivate that it meets the formal requirements to qualify to apply for a distillery as a consent use under its agricultural zoning.

17. The Western Cape Land Use Planning Guidelines: Rural Areas March 2019 need to be applied

17.1 The Applicant seems to be arguing around the point in the 2021 application, by seeking guidance in a number of policy documents, but ignoring the most definitive recent provincial guideline of 2019.

17.2 As will be set out in PART FOUR: WESTERN CAPE LAND USE PLANNING, ZONING AND RETENTION OF FARMING TITLE DEED RESTRICTION and the ANNEXURE thereto, the present industrial application does not meet the requirements of the 2019 policy document which directly acknowledges the "nuisance" nature of a distillery.

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PART FOUR: WESTERN CAPE LAND USE PLANNING, ZONING AND RETENTION OF FARMING TITLE DEED RESTRICTION (PLEASE REFER TO ANNEXURE)

Please refer to the relevant parts of The Western Cape Land Use Planning Guidelines: Rural Areas March 2019 (PSDF) set out in the ANNEXURE to this part of our objection

1. We base PART FOUR of our objections on the above-mentioned provincial spatial development framework (PSDF) by the Western Cape Government.
2. The area of smallholdings between Rooiels and Pringle Bay are identified in the PSDF (See ANNEXURE) as follows:
 - 2.1.1 Ref C. The SPDF on page 7 shows : MAP 1 WILDERNESS/NATURAL LANDSCAPES - The Rooiels to Pringle Bay smallholdings are identified as Rural/Agricultural
 - 2.1.2 Ref E The SPDF on page 13 shows : MAP 2 PSDF CONSOLIDATED PROPOSALS – The map identifies the smallholdings between Rooiels and Pringle Bay as Leisure as opposed to Farming etc
 - 2.1.3 Ref G. The SPDF on page 14 shows: MAP 3: THE WESTERN CAPE BIODIVERSITY SPATIAL PLAN-The smallholdings between Rooiels and Pringle Bay are identified as Protected Area or Critical Biodiversity Area.
3. It is necessary to abide by the Core Spatial Planning Category (SPC) Delineation Guidelines (ANNEXURE REF M)

3.1 To implement the guidelines, Ref M Page 19: 4.1.3 of the delineation guidelines emphasises the need for:

- title deed conditions and;
- conservation zoning.

3.1.1 The need for title deed conditions

We would therefore request the Overstrand Municipality to retain the present zoning of Agriculture (ADR1), with retention of the title deed condition C12, which reads as follows:

C12 *"The said land may be used for agriculture ... etc"*.

3.1.2 The need for conservation zoning

3.1.2.1 We would therefore in the alternative request the Overstrand Municipality, in the event that the consent use for an agricultural industry is **refused**, that the process to change the zoning of Portion 141 to RURAL ZONE 2: CONSERVATION USAGE (R2) should be considered.

3.1.2.2 We also request that Overstrand Municipality set the process going to rezone all the subdivided smallholdings on the seaside of the mountains, subdivided from the original portion 133 to Conservation Usage.

This would bring the zonings on the original portion 133 in line with the zonings from the original Portion 45 on the other side of the mountains between Rooiels and Pringle Bay.

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3.2 In support of the above requests, we present herein below, a comparison of the smallholding area between Rooiels and Pringle Bay with the rural characteristics as specified in the PSDF as per the ANNEXURE.

3.2.1. Ref A. Page 6:2.2 CULTURAL AND SCENIC ASSETS

The area is a rural area of scenic significance.

It is also an undeveloped coastal area on both sides of the mountains, except for single residential, mainly holiday homes on some of the smallholdings and some tourist accommodation.

The Applicant's property stands in sharp contrasts with the area, having presently converted and extended an existing stable building into an industrial building for an industrial enterprise of distilling.

3.2.2 Ref B. Page 6: 2.3 RURAL VISION

In its Rural Vision, the Western Cape seeks to ensure: 1) sustainable development of its rural areas; 2) conservation of their biological diversity; 3) functionality of ecosystems; 4) protection of agricultural productive land; and 5) safeguarding of rural heritage and culture.

This application clearly, with its industrial application and removal of protective title deed conditions, does not tick these boxes.

3.2.3 Ref D. Page 8: In relation to the rural vision, the Rural Areas Guideline strives to achieve certain performance qualities:

- Maintaining the authenticity of the Western Cape's unique rural areas, which involves:
 - ensuring that new development in the rural landscape is as unobtrusive as possible and responds to the 'sense of place',
 - securing and consolidating the conservation estate,

We refer you to the numerous other objectors to the application, who are pointing out the attendant traffic associated with an industrial enterprise in an undeveloped coastal area, and in an identified Critical Biodiversity Area on top of it.

The application clearly, with its industrial application and removal of protective title deed conditions, does not meet the performance qualities above.

3.3 Ref H. Page 16 TABLE 1: Categories on the Biodiversity Spatial Plan Map and their recommended corresponding spatial planning category (SPC)

3.3.1 The smallholding area between Rooiels and Pringle Bay is identified as CORE 1, with the following management objective as per Annexure Ref I page 17:

Terrestrial: Maintain in a natural or near natural state with no further loss of natural habitat.

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We refer you to the numerous local and international Birder objectors to the application, who point out the attendant loss of the habitat of the Cape Rockjumper and other fauna. There is also a threat to eco-tourism in the area, which will detrimentally affected by the attendant traffic associated with an industrial enterprise in a near-pristine coastal area, which is an identified Critical Biodiversity Area on top of it.

The applicant clearly, with its industrial application and removal of protective title deed conditions, does not meet the management objectives stated above.

3.4 Ref K. Page 17: 4.1.2 GUIDELINES ON LAND USE AND ACTIVITIES IN THE CORE 1 SPC

Essentially, core areas are no-go areas per the PSDF.

How does the application fit in?

3.5 Ref L. Page 17:

- Subject to stringent controls the following biodiversity-compatible land uses (i.e. those of very low impact) may be accommodated in Core 1 areas:

The PSDF sets out biodiversity-compatible land uses which are available to the applicant.

We suggest that the application for the removal of the distillery be refused by Overstrand Municipality and that the Applicant should instead seek the use of available uses as per the PSDF.

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CONCLUDING REMARKS

Thank you for the opportunity to comment on this application. We trust that these objections and comments will be dealt with in a fair and open-minded manner.

Our objections and concerns can be summarised as follows

- We are concerned about the lack of candour, subterfuge and the many subtle, insidious distortions of the truth which have tainted this application. No less than 16 such misrepresentations have been marked with an asterisk * in this document. There are no doubt many more in the application.
- We object against the removal of title deed restrictions to enable the establishment of a distillery.
- We object against the aggressive over-reach and irrational removal of substantially all title deed restrictions when their removal has not been motivated with regards to the proposed distillery.
- The Applicant has failed to prove that it complies with the two formal requirements of the Zoning Scheme, namely **source and proximity** and that it is not entitled to the Agricultural Industry consent use applied for.
- The Waste Waste Management Plan is insubstantial and generic
- The Applicant requires authorisation in terms of NEMA in respect of (a) the building of the extension comprising the likely clearing of more than 300 square meters of indigenous vegetation (as defined) and (b) authorisation in respect of the building activities on Portion 141 occurring within 32 meters of a wetland.
- The Application is not in line with the Western Cape Land Use Planning Guidelines: Rural Areas, March 2019 (PSDF)

For a fully-informed decision to be made on this application it is important to carry out a full economic, environmental and social cost benefit analysis to ensure that the short term, individual gain by one property is not advanced at the expense of the losses to current and future generations. It is not correct to determine desirability simply for the creation of one full time job and perhaps a few part time jobs and some additional rates revenue.

That needs to be offset against the economic impact it will have at even the slightest chance that this development undermines the area as a birding hotspot and tourist attraction. An assessment of the rate of risk can be determined together with sensitivity analysis on the

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assumptions made. Furthermore it is inappropriate to ignore all the environmental, amenity, existence and bequest costs that will be incurred by various groups across different geographies and time periods.

The benefits of retaining the area in its natural state relate to the direct benefits that accrue to the local residents (amenity value), South African bird and nature lovers and international visitors as well as the significant tourism benefits of the attraction of this small area to the Overstrand community. These values can all be quantified if a thorough financial cost benefit analysis is carried out. In addition to that, there are ways to aggregate the environmental and social impacts across different social groups and time, ascribing monetary value.

It is essential that a multi-dimensional approach is used to determine the full social, environmental and economic costs and benefits are of approving a distillery that is to be established in a remote, fire-sensitive, critical biodiversity area especially where such a project is of dubious financial value to the individual and jeopardises both the environment and tourism to the Overstrand.

Yours faithfully

Piet van Rensburg
Chairperson

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ANNEXURE TO PART FOUR:**OBJECTION: ZONING AND RETENTION OF FARMING TITLE DEED RESTRICTION**

This annexure contains extracts from the Western Cape Government publication

WESTERN CAPE LAND USE PLANNING GUIDELINES RURAL AREAS MARCH 2019.(PSDF)

- The extracts are referenced alphabetically in substantiation of PART FOUR of the objection itself.
- These extracts below are intended to facilitate finding the passages in the publication itself.
- Paragraphs F, J and N are reproduced for information purposes, and are not referred to in the objection itself.

A. Page 6: 2.2 CULTURAL AND SCENIC ASSETS

- Rural landscapes of scenic and cultural significance that are situated in close proximity to major urban development pressure (e.g. Cape Winelands)
- Undeveloped coastal landscapes under major development pressure.
- Loss of scenic qualities of wilderness landscapes.

B. Page 6: 2.3 RURAL VISION

The Western Cape economy is founded on the Province's unique asset base. These include farming resources, that make the Western Cape the country's leading exporter of agricultural commodities and whose value chains (e.g. agri-processing) underpin the Province's industrial sector; and its natural capital (i.e. biological diversity) and varied scenic and cultural resources which are the attraction that makes the Western Cape the country's premier tourism destination. The Western Cape seeks to ensure: 1) sustainable development of its rural areas; 2) conservation of their biological diversity; 3) functionality of ecosystems; 4) protection of agricultural productive land; and 5) safeguarding of rural heritage and culture.

C. Page 7: MAP 1 WILDERNESS/NATURAL LANDSCAPES - The Rooiels to Pringle Bay smallholdings are identified as Rural/agricultural

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D. Page 8: In relation to the rural vision, the Rural Areas Guideline strives to achieve the following performance qualities:

- Maintaining the authenticity of the Western Cape's unique rural areas,

which involves:

- preserving the dominance of working agricultural landscapes,
- ensuring that new development in the rural landscape is as unobtrusive as possible and responds to the 'sense of place',
- securing and consolidating the conservation estate, and
- integrating rural developments with existing regional and subregional movement routes.

E. Page 13: MAP 2 PSDF CONSOLIDATED PROPOSALS – The map identifies the smallholdings between Rooiels and Pringle Bay as Leisure (as opposed to Farming etc)

F. Page 12: This PSDF CONSOLIDATED PROPOSALS MAP (Map 2) is an important spatial planning and development management tool and graphically portrays the Western Cape's spatial agenda. In line with Provincial spatial policies, the map shows what land use activities are suitable in different landscapes and highlights where efforts should be focused to grow the Provincial economy. The WCG will support rural communities (inclusive of agri workers and land owners) to take control of their destiny, and help build opportunities for growth and development in rural areas. This involves a shift from a compliance driven system to a developmental system that encourages rural entrepreneurship, whilst recognising the importance of protecting important biodiversity areas and ecological infrastructure.

G. Page 14: MAP 3: THE WESTERN CAPE BIODIVERSITY SPATIAL PLAN-The smallholdings between Rooiels and Pringle Bay are identified as Protected Area or Critical Biodiversity Area

H. Page 16 TABLE 1: CATEGORIES ON THE BIODIVERSITY SPATIAL PLAN MAP AND THEIR RECOMMENDED CORRESPONDING SPATIAL PLANNING CATEGORY (SPC)

The smallholding area between Rooiels and Pringle Bay are identified as CORE 1

I Page 7: 4.1 GUIDELINES FOR THE CORE 1 SPC

4.1.1 DESCRIPTION AND OBJECTIVE

Core 1 Areas are those parts of the rural landscape required to meet targets/ thresholds for biodiversity patterns or ecological processes (i.e. Protected Areas and Critical Biodiversity

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Areas). These also include areas currently not yet exhibiting high levels of biodiversity loss, but which should be protected and restored, in order to ensure biodiversity pattern and ecological process targets/thresholds can be met, in the most efficient way possible

J. Page 17: THREE COMPONENTS OF THE RURAL LANDSCAPE AS MAPPED BY THE WESTERN CAPE BIODIVERSITY SPATIAL PLAN, MAKE UP CORE 1 AREAS, WITH THE FOLLOWING MANAGEMENT OBJECTIVES:

- Critical Biodiversity Area 1: Terrestrial: Maintain in a natural or near natural state with no further loss of natural habitat.

K. Page 17: 4.1.2 GUIDELINES ON LAND USE AND ACTIVITIES IN THE CORE 1 SPC

What kinds of activities?

- Essentially Core areas are 'no-go' areas from a development perspective. Accordingly, human impact must be restricted to ensure that there is no further loss of natural habitat.

L. Page 17: • Subject to stringent controls the following biodiversity-compatible land uses (i.e. those of very low impact) may be accommodated in Core 1 areas:

- non-consumptive low impact eco-tourism activities, such as recreation and tourism (e.g. hiking trails, bird and game watching, and visitor overnight accommodation); and
- harvesting of natural resources (e.g. wild flowers for medicinal, culinary or commercial use), subject to a management plan demonstrating the sustainability of harvesting.
- Controlled livestock grazing and game farming must be informed by the habitat type, grazing potential and other site sensitivities. Where Core areas are identified on land that has no formal conservation status (e.g. private farm), no further loss of natural habitat should occur and lower than standard stocking rates are encouraged

M. Page 19: 4.1.3 CORE SPATIAL PLANNING CATEGORY (SPC) DELINEATION GUIDELINES

- Where possible, incentivise incorporation using the following designations:
 - Private Land: Stewardship Agreements or as a Protected Environment or Nature Reserve in terms of NEM: PAA.
 - Municipal Land: Nature Reserve in terms of NEM: PAA.
 - Title deed restrictions where land has been designated under the Stewardship Program or declared a Nature Reserve or Protected Environment.
 - Rezoning land to appropriate conservation zones.

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- Financial incentives (e.g. the Property Rates Act, Income Tax Act).
- Other incentives (e.g. resource economic approaches).

N. Page 31: MAP 4: PRIMARY SECTORS- AGRICULTURE, FISHING, FORESTRY AND MINING

None of the Rooiels Pringle Bay area is indicated as such.

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WESTERN CAPE
LIQUOR AUTHORITY

Physical: 3rd Floor | Sunbel Building | 3 Old Paarl Road | Bellville | 7530
Postal: Private Bag X6 | Santamhof | Bellville | 7532
Email: Liquor.Enquiries@wcla.gov.za
Tel: +27 (0) 21 204 9700 | www.wcla.gov.za

Reference number: 2017/1603 /

Date: 20 August 2020

Enquiries: Kuttwano Maphike

Saunders Attorneys
P.O. Box 1742
CAPE TOWN
8000

APPLICATION IN TERMS OF SECTION 36 OF THE LIQUOR ACT, ACT 4 OF 2008:

PREMISES NAME: The Pringle Rock Distillery

MAGISTERIAL DISTRICT:

Dear Sir/Madam

Your application lodged 27 October 2017 refers.

The said application was **REFUSED** by the Liquor Licensing Tribunal for the following reasons:

- A) licence applications has to satisfy the requirement set in section 36(1)(b) that a zoning certificate or a copy of a planning application submitted to the municipality concerned in terms of applicable planning legislation. There is no proof of the correct zoning or proof that a land use application is in place.

In terms of the provisions of the Western Cape Provincial Liquor Act, Act 4 of 2008, and the Western Cape Liquor regulations amended 01 June 2017, you are hereby informed that you may apply to the Western Cape Liquor Authority to request further reasons for the decision taken by the LLT to refuse the said application, by following the procedures as stipulated in Regulation 34(1) to (2).

Regulation 34(1) to (4) stipulates the following:

- (1) A person who has lodged -
(a) an application;
(b) an objection; or
(c) representations.

In terms of the Act any person who feels aggrieved by a decision made by the Liquor Licensing Tribunal or the Presiding Officer in connection with that application or objection or those

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representations, referred to as the appellant for the purpose of this regulation, may request the Liquor Licensing Tribunal or the Presiding Officer, as the case may be, to furnish reasons for the decision.

(2) The Presiding Officer or the Licensing Tribunal, as the case may be, must within 21 days after receipt of the request for reasons, furnish the reasons for the decision, as contemplated in subregulation (1).

Furthermore in terms of the provisions of the Act, Act 4 of 2008, you may also apply to the WCLA to either appeal or review the decision taken by the LLT by following the procedure as set forth in Regulation 34 (5) (a) to (b) which stipulates the following:

(5)(a) An appellant must lodge with the Authority a notice of appeal or an application for review in the form of Form 29 in Annexure 3 within 20 days of receipt of the reasons for the decision being communicated to him, her or it in writing or, if during those 20 days reasons are requested in terms of subregulation (1), within 21 days of the reasons having been furnished in terms of subregulation (2).

(5)(b) An appellant must, simultaneously with the lodging of the notice referred to in subregulation (5) serve copies on each interested party affected by the notice of appeal or application for review and provide the Authority with proof that the notice or application has been so served.

Any enquiries with regards to this correspondence can be forwarded to the Secretariat of the LLT, Mr Johan Dreyer, Tel: (021) 204 9802.

Yours faithfully



Western Cape Liquor Authority

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WESTERN CAPE
LIQUOR AUTHORITY

Physical: 3rd Floor | Sunbel Building | 3 Old Paarl Road | Bellville | 7530
Postal: Private Bag X6 | Sanlamhof | Bellville | 7532
Email: Liquor.Enquiries@wcla.gov.za
Tel: +27 (0) 21 204 9700 | www.wcla.gov.za

Reference number: 2017/1603 /

Date: 20 August 2020

Enquiries: Kuthwano Maphike

SA Police Services (Kleinmond)
P.O. Box 12
KLEINMOND
7195

APPLICATION IN TERMS OF SECTION 36 OF THE LIQUOR ACT, ACT 4 OF 2008:

PREMISES NAME: The Pringle Rock Distillery

MAGISTERIAL DISTRICT:

For attention: ADJ. OFF. CB Lakey

Dear Sir/Madam

Your application lodged 27 October 2017 refers.

The said application was **REFUSED** by the Liquor Licensing Tribunal.

Yours faithfully

A handwritten signature in black ink, appearing to be 'M. Lakey', written over a circular stamp or seal.

Western Cape Liquor Authority

CHENNELLS ALBERTYN
ATTORNEYS, NOTARIES & CONVEYANCERS

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NEWLANDS 7725

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WEBSITE: www.chennellsalbertyn.co.za

Our ref: 10655GW/aa

03 June 2021



MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
18 PATERSON STREET
P O Box 20
HERMANUS
7200
(Tel: 023 313 2903)

TP - A theart
(H vld stoep)

ATTENTION: SENIOR MANAGER: TOWN AND SPATIAL PLANNING

Ms. H van der Stoep

Per email: loretta@overstrand.gov.za

hvdstoep@overstrand.gov.za

Dear Madam,

FILE NO: Ptn 141/559
Hangklip
SCAN NO:
11
COLLABORATOR NO: 1546895

RE: MUNICIPAL NOTICE NO. 70/2021

PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO. 559,
DIVISION CALEDON: OBJECTION TO THE APPLICATION FOR THE REMOVAL AND
AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND
DEPARTURE FOR THE RELAXATION OF A STREET (ROAD) BUILDING LINE

Partners: GE Williams BA LLB; F Bester BJuris BProc; AJ Dorel LLB; S Elisabeth LLB; GJ Hendriksz BSocSc LLB
Assisted by: S Pearce LLB; E Mukasa LLB;
Consultants: RS Chennells BCom LLB LLM PhD; I.K. Macaob BA LLB;
WJK Thomson BSocSc BProc LLB DPLR; LJ Jansen-Lawrence BProc LLM

Rondebosch: 18A Greenwich Grove, Station Road,
Rondebosch, 7700 • PO Box 78, Newlands, 7725
Tel: 021 685 8354 • Fax: 021 685 0710
• E-mail: info@chennellsalbertyn.co.za

Stellenbosch: 44 Alexander Street, Stellenbosch, 7600
• PO Box 1022, Stellenbosch, 7590
Tel: 021 883 3189/883 8069 • Fax: 021 883 8910
• E-mail: chenstel@chennellsalbertyn.co.za

In association with Chrystelle van Staden Attorneys



- 4 JUN 2021

We act for Hangklip Environmental Action Group ("HEAG"). We are instructed to note an objection to the above application on behalf of our client, as we hereby do. Our client is prepared to accept notice and service of documents via registered post at the above Post Office box address, by hand at our street address, or via email at info@chennellsalbertyn.co.za.

THE OBJECTOR - HEAG

1. HEAG is a civic action group established for the purpose of protecting the ecological and environmental integrity of the Kogelberg Biosphere Reserve and the villages with their sense of place located within its boundaries and its surrounding areas. The villages of Rooi Els, Pringle Bay, and Bettys Bay and the biosphere that surrounds them boasts unique, diverse and endangered indigenous fauna and flora in a scenically spectacular mountain setting. HEAG evaluates proposed developments in this ecological sensitive landscape in terms of National, Provincial, Municipal and Local legislation and its regulations to ensure that the environment maintains its integrity, historical and ecological value and unique sense of place.

BACKGROUND

2. The above application is the second by the current owner of the above farm for essentially the same approvals that it sought in 2018. The first application was withdrawn on 23 June 2020 because the applicant intended "... to prepare and submit a further application in due course, so as to effect service as required by Section 35(3) of the Planning By-Law, and to provide further written motivation for the Applicant based on the required criteria / principles which need to be taken into consideration."

3. Since the last application was made, the owner of the above farm has further extended the "*disused stable*" on the property that had always illegally encroached over the street building line without the consent that is the subject of this application having been granted, as well as used that stable as a micro-distillery in contravention of the restrictive conditions of title that are also the subject of this application. Accordingly, the "*modest addition*" to which the Application refers in paragraph 1 of the Introduction has already been built. HEAG has been informed that the building plans for this addition have already been approved despite the fact that the consent use application and departure must still be considered.
4. In addition, the owner of the farm, in alleged contravention of the provisions of the National Environment Management Act 107 of 1998 ("NEMA") has allegedly unlawfully constructed a dam on the farm damming the spring that rises on it and flows into the natural wetlands on the neighbouring farms. The alleged unlawful construction of the dam and the existence of a wetland on the farm are dealt with in paragraphs 43 to 46 and 52 and 53 below.
5. It is submitted that this application must be considered in the context of this alleged unlawful conduct by the owner of the farm.
6. As will be demonstrated below, notwithstanding this application, before the Applicant is entitled to lawfully use the stable on the farm for the production of Whiskey and Gin in the micro-distillery, it requires to obtain a number of other approvals in terms of our environmental, water, agricultural, and liquor laws. If this application is considered by your Municipality and approved before any of the other requisite approvals have

been granted, and any of them are refused, the use by the owner of the stable on the farm as a micro-distillery will be unlawful. Despite this, a decision by your Municipality approving the removal of the restrictive conditions of title, the consent uses and building line departure that has been sought will stand, and constitute a precedent for the uses by all of the properties in Rooi Els, Pringle Bay and Bettys Bay that are encumbered by the same restrictive conditions, in breach thereof.

7. It will, accordingly, be submitted that, should your Municipality not agree that the application should be refused, it should at least decide that they should not be considered until the other approvals that the Applicant requires having been sought and obtained.

LOCATION OF THE PROPOSED MICRO-DISTILLERY

8. It is located within the boundaries of the Biosphere as shown in the Environmental Potential Atlas of South Africa as provided for in the current Municipal Spatial Development Framework.
9. The Biosphere has been proclaimed in terms of international legal conventions.
10. It is located on a farm outside of the urban edges of Pringle Bay and Rooi Els that had been proclaimed in terms of the SDF, on the coastal road, a proclaimed scenic route between Pringle Bay and Rooi Els, within the Conservation – Agricultural buffer zone of the reserve and within a one kilometer radius of its core or Formal Protected Area (SANBY 2010).

11. There are at least two other more suitable and appropriate sites zoned Industrial within a 40 kilometer radius of this proposed site.
12. No other light industrial micro-distillery is located on the designated scenic routes, Porter Drive, or the R44 between Gordons Bay and Kleinmond.

IS THE EXISTING ZONING AS AGRICULTURAL 1 CORRECT?

13. Following the decision of the Western Cape High Court in 2007 in the matter of *HEAG v. MEC for Environmental Affairs and Development Planning and Others* in relation to Farm 559/95, your Municipality conceded that it had erred in zoning the Hangklip Farms and smallholdings outside the urban edge of towns as Agricultural Zone 1, and re-assigned either a zoning of Undetermined or a Rural Zone 2: Conservation Usage to them. A copy of a letter from your Municipality evidencing this is attached at "A".
14. Accordingly, before the consent use that is the subject of this application can be considered, your Municipality must determine whether the recordal of the zoning of the Applicant's farm on your zoning maps as Agricultural Zone 1: Agriculture is correct, and determine whether or not it should in fact be zoned Undetermined or Rural Zone 2: Conservation Usage.
15. *Agricultural industry* is not a consent use that is permissible on farms zoned Undetermined or Rural Zone 2: Conservation Usage.
16. However, for the reasons given in paragraph 34 and 35 below, even if the Applicant's farm is rezoned, the use of it as a micro-distillery, where he does not process any

agricultural products farmed by him, does not fall within the definition of "agricultural industry", as defined in your Municipality's Planning by-laws.

RESTRICTIVE CONDITIONS OF TITLE

17. It is trite law that restrictive conditions of title, like praedial servitudes may not be removed without the consent of the owners of the dominant tenements in whose favour the restrictive conditions exist.
18. There is a dispute between HEAG and the other objectors to the development and the Applicant that was aired in HEAG's objection to the Applicant's previous, virtually identical application in 2018. As referred to in paragraph 2 above, this is one of the reasons why the 2018 application was withdrawn by the Applicant's attorney on 23 June, 2020.
19. The dispute is not about whether consent is required before restrictive conditions of title may be removed, but who are the beneficiaries of those conditions.
20. The Applicant contends that there is only one beneficiary of all of the restrictive conditions of title contained in its title deed, namely the original creator thereof, Hangklip Beach Estates Limited ("HBE Ltd").
 - 20.1. From 1937 HBE Ltd established townships in Rooi Els, Pringle Bay and Bettys Bay, comprising hundreds of erven and subdivided the Hangklip Farms into over a hundred portions and, in each instance imposed virtually identical restrictive conditions of title on the owners of those erven and farms

as are contained in the restrictive conditions of title of the Applicant in this matter.

- 20.2. The restrictive conditions that prohibit the proposed use of the Applicant's farm as a micro-distillery and shop are restrictive conditions that have been imposed by HBE Ltd as the developers of the townships in Rooi Els, Pringle Bay and Bettys Bay as well as of the Hangklip farms on all of the owners of those erven in those townships and the owners of the Hangklip farms. In the case of the Applicant, they are those conditions recorded paragraph C, 6, 11 and 13.
- 20.3. In the title deeds of some of the erf and farm owners it is recorded that the restrictive conditions have been imposed for the "*sole benefit*" of HBE Limited and in others for "*its benefit*."
- 20.4. The restrictive conditions of title in the Applicant's title deed were imposed by HBE Ltd

"for its sole benefit as the owner of the remaining extent of the Farm "Hangklip" measuring as such 1466,0427 Hectares and held by it under Certificate of Consolidated Title No. T3720 dated 17 April 1937 provided always however that if, in the said Company's opinion it is expedient that the Company may suspend or relax restrictions contained in any of such conditions and then subject to such conditions as the Company may impose:-"

CHENNELLS ALBERTYN
ATTORNEYS, NOTARIES & CONVEYANCERS

P.O. BOX 78
NEWLANDS 7725

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STATION ROAD
RONDEBOSCH 7700
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WEBSITE: www.chennellsalbertyn.co.za

Our ref: 10655GW/aa

03 June 2021



MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
18 PATERSON STREET

P O Box 20
HERMANUS
7200

(Tel: 023 313 2903)

ATTENTION: SENIOR MANAGER: TOWN AND SPATIAL PLANNING

Ms. H van der Stoep

Per email: loretta@overstrand.gov.za

hvdstoep@overstrand.gov.za

Dear Madam,

FILE NO: Ptn 141/559
Hangklip
SCAN NO:
11
COLLABORATOR NO: 1546895

RE: MUNICIPAL NOTICE NO. 70/2021

PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO. 559,
DIVISION CALEDON: OBJECTION TO THE APPLICATION FOR THE REMOVAL AND
AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND
DEPARTURE FOR THE RELAXATION OF A STREET (ROAD) BUILDING LINE

Partners: GÉ Williams BA LLB; F Bester Blaris BProc; AJ Dorer LLB; S Etsebeth LLB; GJ Hendriksz BSocSc LLB
Assisted by: S Pearce LLB; E Mukasa LLB;
Consultants: RS Chennells BCom LLB LL.M PhD; I.K. Macnab BA LLB;
WJK Thomson BSocSc BProc LLB DPLR; LJ Jansen-Lawrence BProc LLM

Rondebosch: 18A Greenwich Grove, Station Road,
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Stellenbosch: 44 Alexander Street, Stellenbosch, 7600
• PO Box 1022, Stellenbosch, 7599
Tel: 021 883 3189/883 8069 • Fax: 021 883 8910
• E-mail: chenstef@chennellsalbertyn.co.za

In association with Chrystelle van Staden Attorneys



- 4 JUN 2021

RP

We act for Hangklip Environmental Action Group ("HEAG"). We are instructed to note an objection to the above application on behalf of our client, as we hereby do. Our client is prepared to accept notice and service of documents via registered post at the above Post Office box address, by hand at our street address, or via email at info@chennellsalbertyn.co.za.

THE OBJECTOR - HEAG

1. HEAG is a civic action group established for the purpose of protecting the ecological and environmental integrity of the Kogelberg Biosphere Reserve and the villages with their sense of place located within its boundaries and its surrounding areas. The villages of Rooi Els, Pringle Bay, and Bettys Bay and the biosphere that surrounds them boasts unique, diverse and endangered indigenous fauna and flora in a scenically spectacular mountain setting. HEAG evaluates proposed developments in this ecological sensitive landscape in terms of National, Provincial, Municipal and Local legislation and its regulations to ensure that the environment maintains its integrity, historical and ecological value and unique sense of place.

BACKGROUND

2. The above application is the second by the current owner of the above farm for essentially the same approvals that it sought in 2018. The first application was withdrawn on 23 June 2020 because the applicant intended "... to prepare and submit a further application in due course, so as to effect service as required by Section 35(3) of the Planning By-Law, and to provide further written motivation for the Applicant based on the required criteria / principles which need to be taken into consideration."

3. Since the last application was made, the owner of the above farm has further extended the "disused stable" on the property that had always illegally encroached over the street building line without the consent that is the subject of this application having been granted, as well as used that stable as a micro-distillery in contravention of the restrictive conditions of title that are also the subject of this application. Accordingly, the "modest addition" to which the Application refers in paragraph 1 of the Introduction has already been built. HEAG has been informed that the building plans for this addition have already been approved despite the fact that the consent use application and departure must still be considered.
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6. As will be demonstrated below, notwithstanding this application, before the Applicant is entitled to lawfully use the stable on the farm for the production of Whiskey and Gin in the micro-distillery, it requires to obtain a number of other approvals in terms of our environmental, water, agricultural, and liquor laws. If this application is considered by your Municipality and approved before any of the other requisite approvals have

been granted, and any of them are refused, the use by the owner of the stable on the farm as a micro-distillery will be unlawful. Despite this, a decision by your Municipality approving the removal of the restrictive conditions of title, the consent uses and building line departure that has been sought will stand, and constitute a precedent for the uses by all of the properties in Rooi Els, Pringle Bay and Bettys Bay that are encumbered by the same restrictive conditions, in breach thereof.

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11. There are at least two other more suitable and appropriate sites zoned Industrial within a 40 kilometer radius of this proposed site.
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15. *Agricultural industry* is not a consent use that is permissible on farms zoned Undetermined or Rural Zone 2: Conservation Usage.
16. However, for the reasons given in paragraph 34 and 35 below, even if the Applicant's farm is rezoned, the use of it as a micro-distillery, where he does not process any

agricultural products farmed by him, does not fall within the definition of "agricultural industry", as defined in your Municipality's Planning by-laws.

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18. There is a dispute between HEAG and the other objectors to the development and the Applicant that was aired in HEAG's objection to the Applicant's previous, virtually identical application in 2018. As referred to in paragraph 2 above, this is one of the reasons why the 2018 application was withdrawn by the Applicant's attorney on 23 June, 2020.
19. The dispute is not about whether consent is required before restrictive conditions of title may be removed, but who are the beneficiaries of those conditions.
20. The Applicant contends that there is only one beneficiary of all of the restrictive conditions of title contained in its title deed, namely the original creator thereof, Hangklip Beach Estates Limited ("HBE Ltd").
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20.3. In the title deeds of some of the erf and farm owners it is recorded that the restrictive conditions have been imposed for the "sole benefit" of HBE Limited and in others for "its benefit."

20.4. The restrictive conditions of title in the Applicant's title deed were imposed by HBE Ltd

"for its sole benefit as the owner of the remaining extent of the Farm "Hangklip" measuring as such 1466,0427 Hectares and held by it under Certificate of Consolidated Title No. T3720 dated 17 April 1937 provided always however that if, in the said Company's opinion it is expedient that the Company may suspend or relax restrictions contained in any of such conditions and then subject to such conditions as the Company may impose:-"

21. The question of the identity of the beneficiaries of restrictive conditions of title imposed on the owners of erven and farms developed by HBE Ltd was considered in the matter of *Ex Parte Kirsten* and pronounced upon in an Order by a Judge Davis of 18 November 2018 under Western Cape High Court case number 17268/2008 and was held to mean service on all "... *property owners (who) have or may have rights by virtue of the title condition which he seeks to have removed, and (who) are the owners of the (properties) immediately surrounding (the Applicant's farm.)*" A copy of this Order is attached at "B".
22. In a similar application for the removal of restrictions in relation to farm 559/2003, when the Western Cape government thought that the power to remove strictive conditions of title vested with it, it was of the view that

"... the above restriction against the title deed constitutes a praedial servitude established over the Servient Tenement for benefit of the Dominant Tenement, namely the Remainder of portion 45 of the farm "Hangklip" number 559, Caledon ..."

and consequently the Province agreed that-

"... the successors in title to the Remainder of Portion 45 of the farm "Hangklip" number 559, Caledon are the relevant parties required to be notified of the application."

The Western Cape government confirmed that it intended instructing the Applicant in that case to identify and serve Notice of the application in these parties. A copy of the Province's letter to this effect is attached at "C."

23. It is submitted that, by the Province requiring the Applicant, in the case of Farm 559/203 to serve notice of the application on the successors in title of the Remainder of Portion 45 of the farm "Hangklip" No. 559, it required the applicant in that case to obtain the consent of those parties.
24. The Applicant contends that it is only for it to seek and obtain consent from HBE Ltd and that it has sought and obtained the consent of Hangklip Beach Properties CC from Mrs. E.P.E Wallis, its only member, on its behalf, which close corporation it alleges is the successor of HBE Ltd. It will be noted, with reference to the application in respect of Farm 559/203 that the Western Cape government, in paragraph 9 of "C", has noted that HBE Ltd "... *no longer exists as a legal entity.*"
25. HEAG contends that the Judgment of Davis in the *Ex Parte Kirsten* matter should be applied, and notice of the application should be served on all of the successors in title of the remaining extent of the Farm Hangklip held by Certificate of Consolidated Title No. T3730 dated 17 April 1937 on whom restrictive conditions of title were imposed by HBE Ltd and their consent obtained. Alternatively, the owners of the farms immediately surrounding the Applicant's farm must be served with the application and their consent obtained.
26. As the Applicant thus made no attempt to identify these persons and obtain their consent, the application should be refused.
27. HEAG is aware that the owner of Farms 559/142, the immediate neighbour of the Applicant's farm refuses to consent to the removal of the restrictive conditions of title.

28. It is submitted that this refusal precludes your Municipality from approving this application. Accordingly, the only recourse available to the Applicant is to approach the Courts for an appropriate Order.

COMPLIANCE WITH THE PROVINCIAL AND MUNICIPAL SDF's and THE MUNICIPAL ZONING SCHEME
PROVINCIAL SDF

29. The following guiding principles of the Provincial SDF apply to the application:
- 29.1. the land development should be compatible with the scenic landscapes and should not compromise eco-systems;
 - 29.2. the Western Cape's unique cultural, scenic and coastal resources should be safe-guarded and celebrated; and
 - 29.3. urban growth should be located within the urban edge of existing urban nodes.
30. In paragraphs 7.1.1 to 7.1.3 of the application, the Applicant submits that the proposed micro-distillery and farm shop complies with the policies contained in the Provincial SDF. The reasons that are given are the following:
- 30.1. DEA&DP, in 2018 informed the Applicant that no environmental authorization was required for the use of the farm as a micro-distillery. In 2020 a public participation process was advertised to deal with the allegedly unlawful construction of a dam on the Applicant's property. This is dealt with in

paragraph 42 below. Nevertheless, it is submitted that the DEA&DP decision in January 2018, in the context of this subsequent development on the farm, is not evidence of compliance with the Provincial SDF. There is no need to locate this industry in the buffer zone and coastal protection zone of the Biosphere Reserve.

- 30.2. The Applicant claims that the development "... will not constitute urban sprawl ... (and the) ... activity ... is consistent with the rural character of the site ...," and that this is evidence that the proposal is consistent with the Provincial SDF. On the applicant's own version, the use of the building on the site will be an industrial use that is noxious and outside the urban edges of both Rooi Els and Pringle Bay that requires the removal of a restrictive condition of title that prevents this. With respect, this evidences a proposal that contradicts the policy guidelines of the Provincial SDF.

MUNICIPAL SDF

31. The following guiding principles of the Municipal SDF apply to the application:

- 31.1. transformation of the Conservation-Agricultural Buffer areas must be prohibited;
- 31.2. the distinctive landscape of the area should be protected;
- 31.3. only the sustainable use of agricultural land in the Conservation-Agricultural Buffer must be promoted;

- 31.4. no transformation of natural areas which provide connectivity between protected and threatened eco-systems within and beyond the municipal boundary should be permitted;
- 31.5. land along the coast from Rooi Els to Pringle Bay must be retained for agricultural purposes;
- 31.6. development decisions should also be informed by the existing development and function of the towns;
- 31.7. the ideal location for industrial uses is within an existing industrial zone such as Kleinmond or Hermanus, and the location of industrial or business uses outside the existing industrial or business areas must be prohibited.
32. It is submitted in paragraph 7.3 of the application that "*(t)he proposal is in general accordance with the spirit and intent of the (Municipal SDF) as it will, albeit in a small way, assist with land use diversification and stimulate appropriate economic activity.*" That which is stated in paragraphs 10 and 11 above illustrate the illogicality of the statement.

MUNICIPAL ZONING SCHEME

33. The Applicant submits that the proposed use of the farm as a micro-distillery and farm shop, with consent, will be in compliance with the Municipal Zoning Scheme.

Definition of "Agricultural Industry"

34. The Applicant regards this activity as a noxious industry, hence the need for the removal of the restrictive condition of title that prevents this, and for the need for consent because the industrial activity allegedly falls within the definition of *agricultural industry* contained in the zoning scheme.
35. The Applicant misrepresents the definition of *agricultural industry* by conveniently omitting reference to the words "... on or close to the land unit where these agricultural products, ... are grown, harvested and raised where such proximity is necessary due to the nature, perishability and fragility of such agricultural products ...". The agricultural products necessary for the production of whiskey and gin are neither grown on or in close proximity to the farm, nor are they highly perishable or fragile. As the grain products must be imported from elsewhere, there is no reason why they could not be delivered to a light industrial building located either within the light industrial areas of Kleinmond and Hermanus.

Parking arrangements and access

36. Porter Drive is a single track gated at both ends. It is suitable for 4 x 4 and high-clearance vehicles. It is gated at both ends to prevent vehicular traffic other than that

which is necessary to access the 20 or so smallholdings whose street-frontage is on Porter Drive, as well as the dwellings that have been constructed on 8 of those smallholdings.

37. The Applicant clearly recognizes the negative impact of tourist vehicles accessing his proposed micro-distillery on his farm in addition to the impact of vehicles bringing bottles and the raw materials necessary to distil the whiskey and gin and remove the final products and solid waste.
38. To address these negative impacts the Applicant represents that it is in the process of purchasing No. 16 Central Road in the business zone of Pringle Bay and using the warehouse on that property as well as the remainder thereof to park some 18 vehicles which the Applicant envisages will be the private vehicles of persons who participate in tours to and of the micro-distillery.
39. Business Zone 3 of the local business zoning applies to this property. Its use as a parking garage or a warehouse is neither a primary right nor a consent use.
40. The application is silent on the parking of vehicles that do not belong to prospective customers such as delivery of service vehicles or the vehicles of staff. These vehicles parking at No. 16 Central Road would have the effect of limiting the number of customer parking to less than 12. If your Municipality is to properly apply the parking regulations in the zoning scheme, it would not allow street parking as this would deprive the customers of other businesses to access to their business premises.

41. Should your municipality not refuse the applications for the reasons stated in this objection, it should not consider them in the absence of an appropriate application for approval by the Applicant to use No. 16 Central Road as a parking garage and for outside parking.

NEGATIVE ENVIRONMENTAL IMPACTS

42. The Applicant's contention that an environmental authorization is not necessary to enable it to use the farm as a micro-distillery is based on a letter by the Provincial Department of Environmental Affairs and Development Planning ("DEA&DP") dated 26 January 2018 that, in paragraph 4 thereof, gives the reason, why DEA&DP was of the opinion that an environmental authorization is not required. The reason given is that-

"... the proposed conversion of existing stables and extension thereof will not result in the triggering of any listed activities in terms of the NEMA EIA Regulations, 2014 (as amended), as the development footprint within 32m of identified wetlands does not fall within the core area of the Koggelberg Biosphere Reserve and is below the applicable threshold."

43. It is submitted that, in 2018 the DEADP must have only been informed about the extension of the disused stable, and not about the other activities on the farm that the Applicant considers to be necessary for the stable to be used as a micro-distillery. Had the DEADP been informed of these other activities, namely the damming of the spring and the use of the well-water it is submitted that it would have informed the Applicant that an environmental authorization was in fact necessary.

44. Your Municipality has been informed that there is a wetland on the farm, and, as the use of the *disused stable* is an activity occurring within 32 metres of a wetland, as environmental authorisation is necessary. The letter of Ms. Johns, an environmental expert, of 2 June 2021 that informs you of this, together with the attached wetland map and aerial photographs is attached at "D."
45. The DEADP appears to have been informed of the damming of the spring after it had issued its letter of 26 January 2018. Upon being informed of this alleged unlawful activity by the Applicant, DEADP required it to apply to "legalise" this unlawful activity in terms of Section 24(G) of NEMA. Evidence hereof is the Public Participation Process Notice that was published in the Overstrand Herald of 12 November 2020, a copy whereof is attached at "E."
46. Accordingly, since 26 January 2018 the DEADP has clearly identified negative environmental impacts of using the disused stable as a micro-distillery on the farm.
47. As it is a trite and basic principle of planning, heritage, and environmental legal regimes that approvals for land uses regulated by these laws must be integrated, it would be irregular for your Municipality to consider this application without knowing the attitude of DEADP at the present time to the proposed activity on the farm.

WASTE

48. The Applicant represents that a great deal of the solid waste produced by the use of the stable as a micro-distillery will be fed to farm animals. This requires the issue of permits from the Department of Agriculture. If the permits are not granted, on the

Applicant's own version, the solid waste will have to be dumped on the farm on environmentally sensitive fynbos, in the buffer zone of the Biosphere where it will attract wildlife exacerbating the problems with baboon management that already exist.

49. It is accordingly submitted that it would likewise be irregular for your Municipality to further consider consenting to these applications until the attitude of the Department of Agriculture is known regarding the Applicant's intention to feed solid waste to farm animals.

THE USE OF ALIEN WOOD ON THE FARM AS FUEL

50. The Applicant's intention to use the alien wood on the farm as fuel with the operation of the micro-distillery is cited as a positive effect on the environment.
51. The alien vegetation on the Applicant's farm is finite and will be utilized within a short period of time, whereafter alternative fuel must be brought to the micro-distillery. No information is furnished as to either the nature of this alternative fuel, where it will be sourced, how it will be transported and delivered to the farm, and where and under what conditions it will be stored on site. The Applicant has not addressed the fire hazard that this will create.

WATER

52. The letter by the Breede-Gouritz Catchment Management Agency ("CMA") attached to the application is not a water use licence. It simply informs the Applicant of the maximum volume of ground water that may be extracted from the farm and used for

industrial purposes. It directs the Applicant to apply for a water use licence, and informs it that –

"Should any activities take place within the regulated area of a water course, application will have to be made for (a) Section 21(c) and (i) water use which must include the Risk Matrix and a Fresh Water/Wetland Impact Assessment Report."

53. As the Applicant intends using the water from the natural spring that flows into a wetland on the farm that it has dammed, it will require a Section 21(c) and (i) authorization. It is also highly likely that the damming of the well by the Applicant is also unlawful in terms of our national water legislation.
54. Accordingly, it would be irregular for your Municipality to consider this application before the Breede-Gouritz CMA has considered applications by the Applicant for a water use licence and Section 21 Consent, as, should either be refused, this application should also be refused.

LIQUOR LICENCE

55. The Applicant's contention in the last paragraph on page 14 of the application that a liquor licence was granted but has since lapsed is not true. The liquor licence application was in fact refused. A copy of the refusal is attached at "F." If your Municipality grants this application, a liquor licence may still be refused. As pointed out in paragraph 6 above, your Municipality's decision will still stand as a precedent for other inappropriate applications.

56. In terms of our liquor licencing laws a micro-distillery is permitted to produce up to 2 million litres per annum. If a liquor licence were to be granted, and if your Municipality approves these applications, the production, storage, and transport of nearly 2.7 million bottles of alcohol to and from the Applicant's farm will have major adverse planning and environmental impacts.

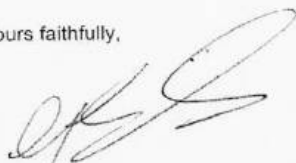
THREAT TO ENDANGERED BIRD SPECIES

57. HEAG supports and endorses the objection submitted by Birdlife Overberg as one of its grounds of objection.

CONCLUSION

58. On the basis of the above grounds of objections, HEAG submits that the application for the removal of the title deed restrictions, consent use and departure should be refused.

Yours faithfully,



CHENNELLS ALBERTYN

Per. G.E. Williams

454/630 "D"

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KLEINMOND
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02 June 2021

Overstrand Municipality
16 Paterson Str.
Hermanus
Tel: 028 3132093
loretta@overstrand.gov.za

Attention: Loretta

RE: PORTION 141 (PORTION OF PORTION 133) OF FARM HANGKLIP No.559, CALEDON DIVISION: APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: PLANNING PARTERS (obo Free Life Trust).

As a former Environmental Impact Assessor and Botanical Consultant within the Kogelberg Biosphera Reserve area I would like to draw your attention to a potential misrepresentation of the wetland area on Portion 141 of Farm Hangklip 559 with respect to the on-site dam and proposed distillery development activity.

As seen on the National Freshwater Ecosystems Priority Areas (NFEPA) and updated National Wetland Map 5 (NWM5) map Attachment 1, the wetland mapping has excluded the transformed area of Portion 141 from the natural continuation of a depression wet zone. This exclusion is mostly likely an error due to the removal of the natural indicative vegetation cover and the water uptake from the planted Eucalyptus trees. It is unlikely to have been ground truthed with soil sampling which may have indicated that this as a continuous wetland area. The filling of the new dam with fresh water would also indicate it is a wetland with surface or near surface water.

It would thus seem prudent to request the further investigation of this area as a potential wetland by a freshwater specialist in light of the ongoing and proposed development activities and the relevance of NEMA regulations Listing Notice 1 as well as Point 7 of the 2018 comments by the Breede-Overberg Catchment Management Agency (BOCMA) that states *".... should any activities take place within the regulated area of a watercourse, application will have to be made for Section 21 (c) and (i) water use which must include the Risk Matrix and a Freshwater/Wetland Impact Assessment Report"*. The National Water Act of 1998 defines a watercourse to include wetlands.

Further, considering the NFEPA/NWM5 as it is presently mapped the new building activities, as seen on google maps 2021 attachment 2 below, appear to be occurring within 32m of the wetland and thus triggering NEMA regulations.

Your consideration of the above comments would be appreciated.

Regards
Amida Johns

From: H van der Stoep <hvdstoep@overstrand.gov.za>

Sent: [REDACTED]

To: [REDACTED]

Subject: RE: PORTION 134 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO 559

455/630" A"

More [REDACTED]

Case Number: 7139/03. Then in July 2001 the Overberg District Municipality handed the administration of farms and small holdings which were outside the urban edges of towns, but within the boundaries to the Overstrand Municipality.

In the mentioned case, the Municipality did an allocation of Portion 95/559 as Agricultural 1 zoning due to the Title Deed conditions. The court found that it is incorrect, LUPO 1986 at that stage indicated that Council should have

determined what the utilisation of the subject property was at 1 July 1986 (the date when the Land Use Planning Ordinance, Ordinance 15 of 1985, came into effect), Section 14. (1) of the mentioned Ordinance.

Due to the abovementioned a category was created Rural Zone 2: Conservation Usage to accommodate the holdings zoned Undetermined at that stage. The Department of Agriculture should give an indication whether the properties were excluded after 1994. The Municipality deals with this holdings as Undetermined and give the Rural Zone 2: Conservation Usage on request.

Regards

hanneen

Hanneen van der Stoep
Senior Town and Regional Planner
Overstrand Municipality
e-mail: hvdstoep@overstrand.gov.za
Tel: 028-3138906

456/2008 39
"B"
X

**IN THE HIGH COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)**

CASE NO.: 17268/2008

CAPE TOWN: TUESDAY, 18 NOVEMBER 2008
BEFORE HIS HONOURABLE JUSTICE DAVIS

In the *ex parte* application of:

GERHARD FRANCOIS KIRSTEN

Applicant

(Application for the removal of a title deed restriction).

DRAFT ORDER

The Court having read the documents filed of record and having heard representations from counsel:

IT IS ORDERED THAT:

1. The application is postponed to 28 January 2009.
2. The applicant is directed, if he desires to pursue this application, to supplement his papers by filing an affidavit and/or conveyancer's

457/230 40

2

certificate by no later than 2 December 2008 which serves to fully inform the Court about;

2.1 which property owners have or may have rights by virtue of the title condition which he seeks to have removed, and

2.2 which of the property owners contemplated in sub-paragraph 2.1 above are the owners of the erven immediately surrounding erf 3371, Betty's Bay, in the Municipality of Hangklip/Kleinmond, Division Caledon, Western Cape Province, and

2.3 which ratepayers organisation(s) represent the property owners contemplated in sub-paragraphs 2.1 and 2.2 above.

3. A copy of the Notice of Motion filed of record in this application, together with a copy of this order, is to be sent by pre-paid registered post to the owners of all the erven contemplated in sub-paragraph 2.2 above at the address to which their rates accounts are sent by the Overstrand Municipality.

4. A copy of the Notice of Motion filed of record in this application, together with a copy of this order and the affidavit or certificate mentioned in paragraph 2 above, is to be served on the ratepayers' organisation(s) contemplated in sub-paragraph 2.3 above

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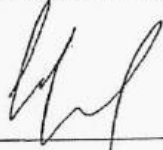
5. A copy of the Notice of Motion filed of record in this application together with a copy of this order is to be published, by no later than 19 December 2008 in both English and Afrikaans;

5.1 Once only in the Government Gazette, and

5.2 Twice, with an interval of one week, in the Overstrand Herald newspaper.

6. That the applicant shall obtain, and cause to be filed prior to the hearing of this application, the Report from the Registrar of Deeds, Cape Town.

BY ORDER OF COURT



COURT REGISTRAR

Barry Nortje Attorneys
GORDON'S BAY
c/o 42 Fairbridge Ardene & Lawton Inc
CAPE TOWN

/ec



**Western Cape
Government**
Environmental Affairs and
Development Planning

459/630 "C"
Head of Department
Mr. P van Zyl

REFERENCE: 15/3/1/4/E2/31/Form 559/203, Pringle Bay
ENQUIRIES: G. Williams

Mr. G. E. Williams
Chennells Albertyn
Attorneys, Notaries & Conveyancers
P.O. Box 78
Newlands
7725

Dear Mr. Williams

OVERBERG DISTRICT: OVERSTRAND MUNICIPALITY: REMOVAL OF RESTRICTIONS ACT, 1967 (ACT 84 OF 1967): FARM 559/203, PRINGLE BAY

1. Your letters dated 9 and 10 May 2017 refer.
2. We were requested to instruct the applicant to search the records of the office of the Register of Deeds, to identify all owners of properties that were developed by Hangklip Beach Estates, and serve a notice of its intention to apply for the removal of the relevant restrictive conditions.
3. We note in this regard that the applicant submitted an application in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) ["Removal of Restrictions Act"], and the provisions applicable to that Act apply to the application. The applicant has not applied to the Western Cape High Court for it to remove the relevant title deed conditions.
4. The Western Cape Provincial Minister of Local Government, Environmental Affairs and Development Planning ("the Minister") is the competent authority in terms of the Removal of Restrictions Act for pending applications.
5. The relevant title deed condition in this matter provides as follows:

"SUBJECT to the following special conditions contained in Deed of Transfer No. T.35725/1969 imposed by Hangklip Beach Estates Limited for its benefit and for its Successors in Title as owner of the remainder of the said Portion 45 of the farm "Hangklip" No. 559, Caledon: Extent 127.3693 morg and held by Certificate of Registered Title No T. 5789/1957: ..."
6. We note your request for each property owner in each settlement developed by Hangklip Beach Estates Limited to be identified and served with a notice of this application.

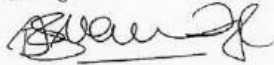
8th Floor, 1 Dorp Street, Cape Town, 8001
tel: +27 21 483 4790 fax: +27 21 483 3016

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp

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7. The Department of Environmental Affairs and Development Planning, which advises the Minister in terms of the Removal of Restrictions Act, is not in agreement with the above interpretation. In this regard, we submit that it is clear from the wording of the title deed condition that it was imposed in favour of the company, Hangklip Beach Estates Limited, and any successors in title, specifically as owner, for the remainder of Portion 45 of the farm "Hangklip" No. 559, Caledon. To interpret the above condition as being in favour of each development developed by Hangklip Beach Estates Limited no matter where such development occurs within South Africa would be illogical and a legal absurdity. Further to the above, we are of the view that the above restriction against the title deed constitutes a praedial servitude established over the servient tenement for the benefit of the dominant tenement, namely the remainder of Portion 45 of the farm "Hangklip" No. 559, Caledon.
8. Consequently, we are in agreement that the successors in title to the remainder of Portion 45 of the farm "Hangklip" No. 559, Caledon are the relevant parties required to be notified of the application. In this regard, we confirm that we intend instructing the applicant to identify and serve a notice of the application on such parties.
9. We note further that Hangklip Beach Estates Limited no longer exists as a legal entity.
10. We will, nevertheless, ensure that your correspondence is brought to the attention of the Minister when he executes his mandate.
11. We trust that you will find the above to be in order and be guided accordingly.

Kind regards



P VAN ZYL
HEAD OF DEPARTMENT

DATE: 14.07.2017

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ENDORSEMENT

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

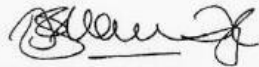
For attention: H. van der Stoep
Your reference: Ptn 203 of 559, KHANG (2965)

Copy for your information.

ENDORSEMENT

I.C. @ Plan
Private bag X15
Somerset West
7129

For attention: Ingrid Germishuys



HEAD OF DEPARTMENT

DATE: 14.07.2017

462/630 "E"

Overstrand Herald

12 November 2020

Bladsy 15

PUBLIC PARTICIPATION PROCESS: NOTICE

Application property: Portion 141 of the farm Hangklip no.559, Pringle Bay

Location: Farm portion 141, Hangklip Road, Rooi Els

Applicable legislation:

Section 24G application in terms of Section 49A (1) (a) of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA").

Listed activity: The unlawful construction of a dam.

A Public Participation Process is required.

Applicant: Mr. L. Elves

Invitation to interested and affected parties:

Contact the consultant if you require any further information about the application or if you wish to register as an interested and affected party.

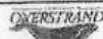
Please submit Initial comments by 30 November 2020.

Public meeting Thursday 10 December 2020 at 11am at farm shed.

Contact details of the environmental consultant: Green Africa Group, PO Box 49, Somerset West, 7129.

Office contact 087 153 1736. Email: info@greenafricagroup.com / www.greenafricagroup.com

GREEN AFRICA GROUP



TENDER NO. SC2153/2020	TENDER NR. SC2153/2020	UCIKELELO XABISO NO. SC2153/2020
<p>Tenders are hereby invited for the Supply and Delivery of Swimming Pool Chemicals for a Contract Period Ending 30 June 2023.</p> <p>Tender documents, in English, are obtainable from Wednesday, 11 November 2020, at the offices of the Supply Chain Management Unit, Overstrand Municipality, Magnolia Avenue, Hermanus from Ms Rita Neehling. Tel. 028 313 8064, between 08h30 and 15h30 upon payment of a tender documentation administration fee of R207-00 per set. Alternatively the document may be downloaded free of charge from the website: www.overstrand.gov.za.</p> <p>Sealed tenders, with "Tender No. SC2153/2020: Supply and Delivery of Swimming Pool Chemicals for a Contract Period Ending 30 June 2023" clearly endorsed on the envelope, must be deposited in Tender Box No. 4 at the offices of the Overstrand Municipality, Magnolia Avenue, Hermanus. Bids may only be submitted on the bid documentation issued by Overstrand Municipality.</p> <p>The closing date and time of the tender is on 11 December 2020 at 12h00 and tenders will be opened in public immediately thereafter in the Supply Chain Management Committee Room, Hermanus Administration.</p> <p>Please refer enquiries to Ms. B Platjies at e-mail: bplatjies@overstrand.gov.za and/or telephone number: 028 313 8921.</p>	<p>Tenders word hiermee ingewag vir die Supply and Delivery of Swimming Pool Chemicals for a Contract Period Ending 30 June 2023".</p> <p>Tenderdokumente, in Engels, is verkrygbaar vanaf Woensdag 11 November 2020, by die Voorsieningskanaanbestuursseenheid, Overstrand Munisipaliteit, Magnoliaaan, Hermanus, vanaf Me Rita Neehling. Tel. 028 313 8064 tussen 08h30 en 15h30 na betaling van 'n tender dokumentasie administrasie fees van R207-00 per stel. Alternatiewelik mag die dokument gratis afgelaai word vanaf die webblad www.overstrand.gov.za.</p> <p>Verseëde tenders duidelik gemerk "Tender Nr. SC2153/2020: Supply and Delivery of Swimming Pool Chemicals for a Contract Period Ending 30 June 2023" op die kovert, moet geplaas word in Tenderbus Nr. 4 by die kantore van die Overstrand Munisipaliteit, Magnoliaaan, Hermanus. Tenders mag slegs ingedien word op die tenderdokumentasie uitgereik deur Overstrand Munisipaliteit.</p> <p>Die sluitingsdatum en -tyd van die tender is 11 Desember 2020 om 12h00 en tenders sal onmiddellik na oop van die sluitingsyd in die openbaar oopgemaak word in die VKB Komiteekamer, Hermanus Administrasie.</p> <p>Nevree kan geis word aan Ms. B Platjies by e-pos adres: bplatjies@overstrand.gov.za en/ of telefoonnommer 028 313 8921.</p>	<p>Kucelwa isiniki-xabiso: "Supply and Delivery of Swimming Pool Chemicals for a Contract Period Ending 30 June 2023".</p> <p>Amaxwebhu, ebhalwe ngesiNgesi, ayalumanika ukusukela NgoLwesithathu 11 Novemba 2020, kwi-ofisi yoLawulo Lwentsango, ku-Masipala we-Overstrand, eMagnolia Avenue, ku Nkszn. Rita Neehling eHermanus, Nombolo. 028 313 8064, phakathi ko 08h30 no 15h30, usakuhlawula indawulo yokuthaha inkxhobisa kwisiniki-xabiso oyi R207-00 laeti, Kunenjalo; amaxwebhu ayatumaneka kwi webhusayiti elhi: www.overstrand.gov.za</p> <p>Isiniki-xabiso esitywinweyo kwabhalwa, isiniki-Xabiso "No. SC2153/2020: Supply and Delivery of Swimming Pool Chemicals for a Contract Period Ending 30 June 2023" ibhalwe ngokucacileyo kwimvulophu, mayilakwe kwi Bhokisi yeZiniki-maxabiso 4 kwi-ofisi zika-Masipala wese-Overstrand, Magnolia Avenue, Hermanus. Isiniki-maxabiso zingafakwa kumaxwebhu akhuthwe ngu Masipala wese-Overstrand.</p> <p>Umhla naxexha lokuzala kweziniki-xabiso yi 11 Desemba 2020 ngo 12h00 kwayo ziya kuvulwa ngokuthawuloza kwiGumbi laKomisa, loLawulo Lwetyathanga Lwentsango, kuLawulo lwase Hermanus.</p> <p>Nceda unxibelelana no Nkszn. B Platjies kule ameyila lili: bplatjies@overstrand.gov.za kunye okanye inombolo yomxeba 028 313 8921</p>
DIENSTREK: GEMEINSKAPSDIENSTE	DIENSTREK: GEMEINSKAPSDIENSTE	UMONGAMELI: WENKONZO ZOLUTU



WESTERN CAPE
LIQUOR AUTHORITY

Physical: 3rd Floor | Sunbel Building | 3 Old Paarl Road | Belville | 7530
Postal: Private Bag X8 | Santamhof | Belville | 7532
Email: Liquor.Enquiries@wcla.gov.za
Tel: +27 (0) 21 204 9700 | www.wcla.gov.za

463/630

W
F

Reference number: 2017/1603 /
Enquiries: Kutiwano Maphike

Date: 20 August 2020

Saunders Attorneys
P.O. Box 1742
CAPE TOWN
8000

APPLICATION IN TERMS OF SECTION 36 OF THE LIQUOR ACT, ACT 4 OF 2008:
PREMISES NAME: The Pringle Rock Distillery
MAGISTERIAL DISTRICT:

Dear Sir/Madam

Your application lodged 27 October 2017 refers.

The said application was **REFUSED** by the Liquor Licensing Tribunal for the following reasons:

- A) licence applications has to satisfy the requirement set in section 36(1)(b) that a zoning certificate or a copy of a planning application submitted to the municipality concerned in terms of applicable planning legislation. There is no proof of the correct zoning or proof that a land use application is in place.

In terms of the provisions of the Western Cape Provincial Liquor Act, Act 4 of 2008, and the Western Cape Liquor regulations amended 01 June 2017, you are hereby informed that you may apply to the Western Cape Liquor Authority to request further reasons for the decision taken by the LLT to refuse the said application, by following the procedures as stipulated in Regulation 34(1) to (2).

Regulation 34(1) to (4) stipulates the following:

- (1) A person who has lodged -
(a) an application;
(b) an objection; or
(c) representations.

In terms of the Act any person who feels aggrieved by a decision made by the Liquor Licensing Tribunal or the Presiding Officer in connection with that application or objection or those

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representations, referred to as the appellant for the purpose of this regulation, may request the Liquor Licensing Tribunal or the Presiding Officer, as the case may be, to furnish reasons for the decision.

(2) The Presiding Officer or the Licensing Tribunal, as the case may be, must within 21 days after receipt of the request for reasons, furnish the reasons for the decision, as contemplated in subregulation (1).

Furthermore in terms of the provisions of the Act, Act 4 of 2008, you may also apply to the WCLA to either appeal or review the decision taken by the LLT by following the procedure as set forth in Regulation 34 (5) (a) to (b) which stipulates the following:

(5)(a) An appellant must lodge with the Authority a notice of appeal or an application for review in the form of Form 29 in Annexure 3 within 20 days of receipt of the reasons for the decision being communicated to him, her or it in writing or, if during those 20 days reasons are requested in terms of subregulation (1), within 21 days of the reasons having been furnished in terms of subregulation (2).

(5)(b) An appellant must, simultaneously with the lodging of the notice referred to in subregulation (5) serve copies on each interested party affected by the notice of appeal or application for review and provide the Authority with proof that the notice or application has been so served.

Any enquiries with regards to this correspondence can be forwarded to the Secretariat of the LLT, Mr Johan Dreyer, Tel: (021) 204 9802.

Yours faithfully



Western Cape Liquor Authority