

**4.4****PORTION 11 OF FARM 587, HEMEL-EN-AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL: MESSRS WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD****11/587 RCAL (3274/2019)****H Olivier****22 September 2021****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application was received on 14 August 2019 from Messrs WRAP on behalf of Haygrove Heaven Pty Ltd on Portion 11 of Farm 587, Hemel-en-Aarde Valley for the following:

- Amendment of a condition of approval in terms of Section 16(2)(h) Overstrand Municipality By-Law on Land Use Planning, 2015 (By-Law) to allow for the expansion of the horticulture tunnels from 13,8209 ha to 33,9871 ha.
- Departures in terms of Section 16(2)(b) of the By-Law to relax the following building lines:
  - Eastern lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels.
  - Southern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels.
  - Western lateral building line from 30m to 10m to accommodate the proposed intensive horticulture tunnels.
  - Northern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels.
- Departure in terms of Section 16(2)(b) of the By-Law to relax the maximum allowable floor space for all buildings on the land unit from 5000m<sup>2</sup> to allow floor space of 35,0663 ha, to accommodate the additional intensive horticulture tunnels.

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

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

The farm measures 155,0487 ha in extent and is zoned Agriculture Zone I.

The farm is a productive farm that is already being farmed with intensive horticulture berry farming (Haygrove Heaven). The Municipality approved a consent use in early 2016 for intensive horticulture on the farm, providing for intensive horticulture tunnels of 13,8209 ha in extent and also for open berry fields. This application is then to amend such previous application to extend the footprint with the intensive horticulture tunnels to approximately 33,9871 ha in extent, and overall, on footprint for all buildings to 35,0663 ha.

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

- ❖ The farm is being utilized growing soft fruits, strawberries, raspberries and cherries for local and international markets.
- ❖ There is a large demand for the produce, and productivity can only be increased by way of intensive horticulture.
- ❖ The previous approval granted for intensive horticulture tunnels stipulated "that application will have to be made for any possible future tunnels", hence this application. The application is to amend the condition by replacing the existing Site Development Plan (SDP) with a new "Plan 3" showing the extension from 13,8209 ha to 33,9871 ha.
- ❖ Application is also made to relax various 30m building lines applicable to farm boundaries, to accommodate some extensions, and also construct buildings larger than 5000m<sup>2</sup>.
- ❖ There are existing water rights on the property, and such capacity will not be exceeded.
- ❖ There is sufficient sewerage capacity on the property.  
Electricity - Electricity is provided by Eskom.  
Access - Existing road accesses will be used.
- ❖ Compatible with surrounding land uses as it is predominantly agricultural. Portion 94 of Farm 587 also has intensive horticulture.
- ❖ The height of the structures will ensure it is not visually impeding, and the camouflage net covering over the existing and proposed tunnels blend in with the rural landscape.
- ❖ Intensive horticulture is labour intensive and will create employment opportunities.
- ❖ There is a need to increase yield on agricultural land due to competition for land by non-agricultural uses.
- ❖ No heritage legislation is triggered.
- ❖ No listed activities in terms of National Environmental Legislation are triggered.
- ❖ It is in line with SPLUMA requirements.
- ❖ In line with PSDF by prioritizing rural development and investment in agriculture, expansion and diversifying agriculture, etc.
- ❖ In line with the Overstrand Municipality's SDF in that it will develop and maintain a strong local economic base in the rural area, protect an agricultural resource, etc.

#### ❖ PLANNING PRINCIPLES

##### Spatial Justice

Will lead to employment opportunities to the historically marginalised.

##### Spatial Sustainability

The application will ensure unemployed people can have a share of the income out of this project.

##### Efficiency

More efficient use of agricultural land providing a greater output.

##### Spatial Resilience

It is in line with spatial planning policies and will help absorb environmental and economic shocks.

##### Good Administration

The Municipality follow a good public participation process.

## 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	N/A	N/A	N/A
Notices	Yes	8 October 2019 24 June 2020	15 November 2019 31 July 2020
Ward councillor	Yes	8 October 2019	15 November 2019
Total comments	<b>EIGHT (8)</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments.
Fire Department	08/10/2019	No objection.
Building Control	14/10/2019	Supported.
Environmental Department	29/11/2019	Annexure P.
Western Cape Government: EADP (Environmental)	06/11/2019	See Annexure F
Western Cape Government: EADP (Planning)	13/11/2019	See Annexure G
Western Cape Government: Agriculture	17/01/2020	See Annexure H
Eskom	17/12/2019	See Annexure I
Heritage Western Cape	29/11/2019	See Annexure J
Telkom	18/11/2019	See Annexure K
BGCMA	15/11/2019	See Annexure L
Engineering Services	28/10/2019	See Annexure M
Western Cape Government: Transport & Public Works: Roads	05/10/2021	See Annexure R

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION.

Notices were sent out to surrounding property owners in October 2019. It was however established that due to a lack of information on the municipal record system some surrounding property owners did not have an opportunity to provide comments. Notices were sent out to such property owners in June 2020 to provide them with an opportunity to comment on the applications.

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

### **HISTORIC RELATED CONSIDERATIONS:**

#### **OBJECTION 1(a)**

***Whilst it is correct that the Municipality approved intensive horticulture on the subject property in its record of decision dated 21 January 2016, there can be no suggestion that the aforesaid approval in any way indicates the Municipality's view regarding the desirability of the current application. The fact that there are existing extensive horticulture tunnels on 13,8209 ha on the subject property does not in any way motivate the desirability of a more than two-fold expansion of the horticulture tunnels now proposed for the subject property.***

#### **Applicant's response**

A distinction must be made between the impact of the approval and implementation of this proposal and the land use rights which are sought in the planning application.

#### ***Impact***

The application area for which land use rights for intensive horticulture is sought is currently cultivated and covered with shade netting. The reason for this that the changing climate coupled with wetter springs and summer negatively impact on the yield and has forced the applicant to cover the tunnels with shade cloth. The applicant therefore envisages covering the existing field with tunnels to protect the crop from rain. Apart from an open 6 ha area which was included in the application area, the approval of this proposal therefore does not constitute an actual expansion of activities currently on the subject property.

#### ***Planning application***

The approved intensive horticulture tunnels were limited to the site development plan, which was approved at the time. The proposed expansion of the approved footprint is to allow the proposed construction of horticulture tunnels in the existing fields, currently only covered with shade cloth.

From a practical perspective, the approval and implementation of this proposal will not lead to any additional visual expansion or any additional impact apart from what can already be seen on the property and the additional 6 ha which will further be covered in tunnels which collectively constitute a  $\pm 22\%$  coverage of the subject farm. Considering this, what is applied for might be perceived as a two-fold increase but what is on the ground are already cultivated areas which will not result in any additional development impact.

Town Planner's comment

The comments are noted that most of the fields are already covered with shade netting, and the shade netting will now be replaced with horticulture tunnels and that only 6 ha additional area will thus be covered.

This did explain why they thus referred to the current situation and why they motivated the application as such, with regards to additional impact.

**OBJECTION 1(b)**

***The National Veld and Forest Fire Act No 101 of 1998 section 12(1) requires that applicants must prepare fire breaks on their side of the property boundary where there is a reasonable risk of veld fires. On Thursday 7 November 2019, I was awoken before 5am by an explosion and a noxious fire, which had started in Haygrove's poisons and fertilizer depot. This is the second serious, polluting, unplanned fire in the past 3 years – in spring 2016 their fuel depot exploded and caused a severe fire with the ensuing pollution and lung irritation.***

Applicant's response

Haygrove Heaven (Pty) Ltd (Haygrove) did a fire risk assessment which was conducted by an independent specialist consultant where risk mitigation measures were implemented as a result of the incident cited by the objector.

Town Planner's comment

The objector's concerns regarding fire risk are noted, and also the comments regarding provision of fire brakes.

The landowner did compile a Fire Management Plan (FMP) (dated May 2020). The report stipulates specific fire belts to other properties and internally.

The fire belts to surrounding properties that are recommended differs and should be 1,5m - 2m, 2m – 3m, 3m and 5m in some areas.

It is to be noted that the FMP is more directed at the outer boundaries of the Haygrove Heaven Farm as a whole (both properties), and therefore the document is very difficult to interpret. The explanation of the fire belts was considered and also Annexure A in the document, to try to interpret the recommended fire belts next to the new proposed growth tunnels.

The fire belts were compared with the departures being applied for to relax the 30m building lines.

<b><i>Lateral building line</i></b>	<b><i>Apply for</i></b>	<b><i>Fire Plan</i></b>
Eastern	2m	2m – 3m The Grow Tunnels Plan (Annexure 10) however does not show all tunnels proposed next to this boundary.
Southern	3m	No specific belt indicated. It borders other parts of Haygrove Heaven on Portion 94/587.

Western	10m	No specific belt indicated. It borders other parts of Haygrove Heaven and Portion 94/587.
Northern	5m	No specific belt indicated. It borders other parts of Haygrove Heaven on Portion 88/587.

Considering the above, it appears as if the relaxations applied for can most be considered, but there is concern regarding relaxing the eastern building line from 30m to 2m, as the growth tunnels were not indicated on the Grow Tunnel Plan submitted with the FMPT.

Additional comments were obtained from the Municipal FMP (see Annexure N). The latter department indicated that although it is only good practise to have a FMP where there is a high risk in veld fires, such property owner must comply with the National Veld and Forest Act. In the FMP reference is then also made to the National Veld and Forest Act 101 of 1998, and it is therefore interpreted that the relevant regulations were considered with the preparation of the FMP.

### **OBJECTION 1(c)**

***Rule 7 of the Greater Overberg FPA, to which the property is subject specifies that the minimum width of a firebreak adjacent to farm buildings and infrastructure, is 10m. Relaxation of the building lines to 2 and 3m as proposed in Application 6 is therefore unacceptable from a fire management perspective and thus relaxation of these building lines (as described in 6) as proposed, is totally unacceptable. If Haygrove's operation were to increase as proposed to almost x3, it stands to reason that the fuel and fertiliser depots, clearly badly managed on the current scale, would also increase, and this risk is unacceptable.***

#### Applicant's response

The building line departures to 2m are only sought on the eastern side of the subject property. Departures are also sought on a portion of the northern part of the property. Large parts of the building line areas of the subject property do not have any buildings located in them. The approval and implementation of the departures sought can therefore not be interpreted as being a fire risk to surrounding applicants as asserted by the objector.

#### Town Planner's comment

The comment is noted that the Greater Overberg FPA specifies a minimum fire break of 10m adjacent to farm buildings and infrastructure, not 2m or 3m as applied for. The applicant comment that the relaxations of building lines applied for to 2m and 3m have no buildings on the properties situated next to such areas are also noted. The Town Planner's response in 1(b) already addressed this matter.

### **VISUAL IMPACT AND RELATED CONSIDERATIONS:**

#### **OBJECTION 2(a)**

***The first factor described by the applicant's planner pertains to the asserted compatibility of the application with surrounding land uses. The statement is made that all of the surrounding farms are predominantly used for agricultural purposes and that the "proposed intensive horticulture tunnels are in harmony with the surrounding land uses".***

***We submit that this is a fallacious statement for at least two primary reasons:***

***Firstly, it is not factually correct that all of the surrounding properties are used predominantly for agricultural purposes. Many of the surrounding properties (including our clients' properties) are principally used for residential purposes. Our clients' immovable properties form part of a residential estate that was constituted under a body corporate many years before the landowner of the subject property commenced with intensive agricultural production using horticulture tunnels.***

***Secondly, the suggestion that proposed horticulture tunnels (which will cover a total of 33,9871 ha of the subject property, if approved) can be said to be "in harmony" with the surrounding properties is a significant and misleading overstatement. Whilst it may be correct to assert that the neighbouring Portion 94 of Farm, Hemel-en-Aarde 587 also has intensive horticulture units, that property is owned and/or operated by the applicant. Beyond the latter property, various other landowners who reside on immovable properties that border the subject property would in fact experience significant disharmony (in the form of an actionable impairment to their reasonable use and enjoyment of their properties) if they were to be burdened by the significant visual impacts of overlooking over 200,000m<sup>2</sup> of plastic-clad horticulture tunnels.***

***Haygrove Heaven covers the side of Babylonstoring Mountain with plastic tunnels and shade cloth. The valley is a registered Conservancy, where we are all committed to the importance of biodiversity, sustainability, and the aesthetic value of our pristine, natural area. Additional tunnels will increase the already detrimental impact on this value, and this in turn will negatively impact our business on the farm. The first thing any visitors/tourists to our area comment on is Haygrove Heaven's plastic covering the mountain slopes. Further, Haygrove Heaven use white plastic on a number of their tunnels. This creates an extremely bright glare that lasts from 11am until 3pm, making it difficult to even look in their direction. It is highly offensive to the natural aesthetics of the area and not befitting a Conservancy.***

***The visual impact of permitting two and a half times more plastic-covered tunnels and a departure to the permissible floor area which is over 70 times the legally prescribed limit is simply not described in sufficient particularity to place the Municipality in a position to make an objective decision to approve the application on merit. It follows that the only decision that the Municipality can make on the facts and circumstances as presented and purportedly motivated by the applicant (and entirely rebutted in these objections) is to refuse the application.***

***The amount of plastic already visible on the Haygrove properties is unacceptable. The glare that is created for large parts of the day is something people living, working and visiting the Valley should not have to put up with. The plastic tunnels and shade cloth jar with the pristine surroundings of the rest of the valley, and most paying tourists and customers that support other businesses in the area are appalled by what Haygrove has been allowed to do. Unlike Haygrove these businesses are South African based, and profits are not expatriated. The taxes paid by these businesses are for the benefit of locals and these businesses cannot afford to be prejudiced by the behaviour of one tanner.***

Applicant's response

Herewith a list of properties which surround the subject property and the land uses:

- Remainder of Farm Hemel-en-Aarde 587 Caledon  
Agriculture (zoning is Agriculture Zone I: Agriculture)
- Portion 17 of Farm Hemel-en-Aarde 587 Caledon  
Agriculture (zoning is Agriculture Zone I: Agriculture)
- Portion 8 of Farm Hemel-en-Aarde 587 Caledon  
Agriculture and agricultural industry (zoning is Agriculture Zone I: Agriculture)
- Portion 7 of Farm Hemel-en-Aarde 587 Caledon  
Agriculture and tourist accommodation (zoning is Agriculture Zone I: Agriculture)
- Portion 13 of Farm Hemel-en-Aarde 587 Caledon  
Tourist accommodation (zoning is Agriculture Zone I: Agriculture)
- Portion 50 of Farm Hemel-en-Aarde 587 Caledon  
Tourist Accommodation (zoning is Agriculture Zone I: Agriculture)
- Portion 94 of Farm Hemel-en-Aarde 587 Caledon  
Agriculture (zoning is Agriculture Zone I: Agriculture)

Most farms around the subject property are used for agricultural purposes and therefore makes the land use sought by the applicant highly compatible with the surrounding land uses.

The residential estate which is constituted under a body corporate is located on a property which is zoned Agriculture Zone I: Agriculture. This by implication means that the dominant land use is supposed to be agricultural and not residential. The objection that the subject proposal should not be approved on the grounds of the existing residential estate is not reasonable as the Hemel-en-Aarde is a rural agricultural area.

The objection hinges on the assertion that the land use rights sought for the amendment of conditions of approval and departures would be an impairment of the reasonable enjoyment of the neighbouring applicants. This assertion is made based on an allegation that the visual impact thereof will be intrusive to the rural character. Firstly, the cultivation of crops which are covered by shade netting already exists on the property and the approval and implementation of this proposal will not unlock any additional visual impact. Secondly, there are rows of trees which are planted around the existing intensive horticulture tunnels which are aimed at reducing/softening the visual impact thereof on the neighbouring applicants. The proposed intensive horticulture tunnels are proposed to be located in blocks within the existing rows of trees which will reduce/soften the visual impact thereof on surrounding applicants. Considering this visual mitigation measure, the approval and implementation of this proposal will not be a visual intrusion.

The plastic covering referred to is also further covered with black/grey shade cloth.

Town Planner's comment

The objectors are of the opinion that the application does not fit in with the surrounding area, which also have residential estates, and will impede the right for enjoyment and have a major visual impact of over 200 000m<sup>2</sup> area of Haygrove farm under plastic and netting. It will also impact on a registered conservancy and the mostly white plastic of the tunnels have a bright glare further impacting the natural setting. This visual impact also impact tourism negatively in this area.

The applicant indicated that three (3) surrounding properties are used for Agriculture, one (1) for Agriculture and Agricultural Industry, one (1) for Agriculture and Tourist Accommodation, two (2) for tourist accommodation (residential estates) and one (1) for Intensive Horticulture and agriculture.

The applicant is also of the opinion that considering the fact that all the properties is zoned for agriculture, the dominant use is still agriculture. The statements of the impact on the residential estates are not supported by the applicant as it is an agricultural area.

This sentiment by the applicant is supported. The area is an agricultural area, and the residential estate is the exception to the rule. The residents in the residential estates and also tourist accommodation facilities should bear in mind that this is first and foremost an agricultural area, and that farming activities is part and parcel of the area they purchased their properties or opened their tourist accommodation establishments in.

The applicant is also of the opinion that the visual impact and impact on reasonable enjoyment by neighbours will be minimal, as most of the area is already covered by shade netting. It is stated that existing trees around the berry fields will also further minimize visual impact and the plastic tunnels will also further be covered by black and grey shade cloth, mitigating the possible glare.

The applicant's comments on visual impact are duly noted. It is not debatable, the tunnels will be visible, but it is debatable to say if it can really be considered to be an eyesore. The objections regarding the fact that the area is a conservation area and tourist area and could impact both, is noted.

It is however to be noted that the application was circulated to EA&DP: Environmental Branch, Cape Nature (did not comment) and Heritage WC, and no concerns were provided regarding the visual impact. This is probably due to the fact that this is already cultivated land and not an environmentally sensitive land. Also, the fact that horticulture tunnels are a feature we see more and more on the rural (farm areas) landscape, makes it acceptable in rural areas.

**OBJECTION 2(b)**

***The impact of this approval is definitely not in harmony with neighbouring land uses. Portion 94 is part of Haygrove and therefore irrelevant. De Werf, Portion 15 of Farm 587 on the southern boundary, is zoned Resort and attracts many tourists, holidaymakers and permanent residents (ourselves being permanent residents). And it would most definitely upset the already tarnished visual landscape.***

Applicant's response

Portion 15 of Farm 587 is zoned Agriculture Zone I: Agriculture and not Resort as asserted by the objector. The objector is not providing any details as to how the approval and construction of the tunnels would tarnish the existing landscape which makes it difficult to formulate a detailed response.

Town Planner's comment

The comments are noted. The objector once again must realize that the residential estates were created in an agricultural area, and therefore some form of visual impact associated with agricultural activities should have been anticipated.

**OBJECTION 2(c)**

***By allowing Haygrove to expand as proposed, significant precedent will be set for others to consider abusing what the Hemel-en-Aarde Valley has to offer. Unless protected by the those elected to enforce the laws necessary for this protection, the essence of the Valley will be compromised. The social and economic ramifications of such short sightedness would be dire for the entire area.***

Applicant's response

There is no precedent in planning as each application is evaluated based on its own merits and consistency with the relevant spatial planning policies. The expansion by means of cultivated areas being covered with shade netting has already occurred and the construction of horticulture tunnels on the same footprint does not constitute additional footprint or visual impacts. The submitted planning proposal is not intended to abuse what the Hemel-en-Aarde has to offer as asserted by the objector.

Town Planner's comment

The comments are noted. It is not only the visual impact that must be considered, but also the farmer's expectations that he could extend his farming activities and farm more productive. The horticulture tunnels are also proposed on agricultural land, where such structures are usually allowed on. The improvement of the yield by the farming activities will also have a social and economic impact.

**OBJECTION 2(d)**

***As regards the applicant's assertion that the proposal to develop intensive horticultural tunnels on an additional 20,1662 ha of the subject-property "will therefore not be a visual intrusion" is simply fallacious.***

***The further suggestion by the applicant, to the effect that the existing tunnels (and the camouflage net covering thereof) let the tunnels blend in with the rural landscape which contributes to the unique rural character which is visually more appealing than many other farms in the Overberg, is also a wholesale fallacy. It only has to be stated to be rejected. The applicant's assertion that the additional intensive horticulture tunnels proposed on a surface area of over 200,000m<sup>2</sup> an expansion of 20,1662 ha to the tunnels already established on the subject-property, which already cover a total surface area of 13,8209 ha), will "blend in" with the existing rural landscape is, quite frankly, nonsensical.***

*To suggest (as the applicant does) that the development of tunnels over an additional 20,1662 ha of the subject-property will contribute to enhancing the visual diversity of the Hemel-en-Aarde Valley which is one of the factors which draw tourists to the area is also nonsensical. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this “diversity” will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion.*

*To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriately detailed visual impact assessment by an appropriately qualified visual impact specialist before the application can proceed to the decision-making stage.*

*The insuperable difficulties with the statement cited verbatim above include at least the following:*

*The applicant’s planner does not disclose that the “neighbouring Portion 94 of Farm Hemel-en-Aarde” is owned and/or controlled by the subject property’s owner. It is thus no wonder that the use of those contiguous properties is perceived as harmonious. The alleged harmony arises purely from self-interest.*

*It is falsehood for the applicant’s planner to state that “neighbouring farmers” have become accustomed to the existing tunnels. The existing tunnels are an eyesore for the residents of the area, and for domestic and overseas tourists. The existing tunnels already have a significant visual impact which will be massively and unreasonably increased if further horticulture tunnels are permitted on the subject-property.*

*The applicant’s planner’s assertions that the proposed expansion will thus not be foreign to neighbouring applicants nor upset the visual impact only have to be stated to be rejected.*

*Annexure “C” to these objections comprises individual objections delivered together with this objection, in which various of our clients provide additional and personal insights and objections regarding the significant adverse impacts occasioned by intensive existing agricultural operations on the subject-property, as suffered by those objectors since the subject-property’s use for intensive horticulture.*

*The tunnels already spoil the view and the beautiful rural setting but have been tolerated in good neighbourliness, as Haygrove does create employment. However, expansion of these eyesores is not acceptable. Increasing the size of this operation by 2½ times will without a doubt impact on the Hemel-en-Aarde as a conservancy and tourist destination. Here I would like to comment on point 12.2 in the application from Haygrove where they suggest that the “implementation of their proposals will contribute to enhancing the visual diversity of the Hemel-en-Aarde Valley which is one of the factors which draw tourists to the area. “This is clearly a false motivation in that already with their current operation the impact of their tunnels is unsightly and negatively commented on by residents and visitors to the valley.”*

Applicant's response

A unique visual characteristic of the Hemel-en-Aarde is the diversity of colours in the visual landscape which are caused by the different agricultural and tourism related land uses. This is in stark contrast with the following example:

- A farming region which only comprises of corn or wheat farms create a vast visual impact which is exclusively characterised by yellow which is rather dull. That is one of the primary reasons why such areas have minimal tourism activities as such areas are not visually attractive.

The assertion in the motivation report that the approval and implementation of this proposal will contribute to the visual enhancement and diversity of the Hemel-en-Aarde is therefore valid. This is intended to build and capitalise on the existing visual diversity of the rural area which is one of the primary reasons why tourists visit the region. The approval and implementation of this proposal is therefore in the visual and financial interest of the surrounding applicants.

There is also no need for a visual impact assessment as the area where the tunnels are proposed is already covered with shaded cloths. The additional visual impact on 6ha of vacant land constitutes a minor expansion.

Town Planner's comment

The comments are duly noted. As previously indicated the application was circulated to Cape Nature (provided no comment), EA&DP: Environmental, Heritage Western Cape and the municipal Environmental Management Services Department, none who requested a visual impact.

The comments are noted that additional horticulture tunnels are also proposed on Portion 94 of Farm 587, which will create a greater visual impact, and spoil the view of the rural setting.

The question is what any person considers to be a view in a rural setting. Is the creation for example residential estates or resorts positive for a rural setting? If the farmer gets a higher yield from horticulture tunnels, he would need less fields covered with netting, which would ultimately have less of a visual impact on an area.

Visual impact in this case is in the eye of the beholder and a personal viewpoint of what is acceptable visual structures in a rural setting.

**OBJECTION 2(e)**

***No one has an issue with Haygrove Heaven farming in the industrial manner they do, the issue is that they are doing so in the Hemel-en-Aarde Valley Conservancy, at the expense of this unique and special area, and to the detriment of all those living and working in the valley.***

Applicant's response

The objector is not clear as to how the current agricultural activities on the subject property are to the detriment of the people living there, which makes it difficult to provide a detailed response.

Town Planner's comment

All relevant state and municipal environmental branches support the application. The objection also appears to be mostly based on a visual basis. The lower valley area is also zoned agricultural, and not zoned for nature conservation purposes.

**IMPACT OF CHEMICALS:****OBJECTION 2(f)****Chemicals:**

*The Overberg is windy, and when spraying, the spray drifts onto neighbouring properties. Some people are experiencing health issues relating to the spraying. To date, despite numerous requests to Haygrove Heaven, no indication of exactly what chemicals are used has been given. As their website does not indicate organic certification, there is no doubt that sprays include chemical fungicides, herbicides and insecticides that are not organically certified. Therefore, they can cause harm to people, animals, and indigenous flora. Portion 11 is on a steep slope, and fertilizers and chemicals find their way into the Onrus River. Increasing the size of the tunnels 2½ times will increase the spraying and chemicals/fertilizers by 2½ times. Approval of the application will allow tunnels up to neighbouring boundaries, and the sprays will come even closer to those living and farming around Haygrove Heaven, posing an increased risk to those who already suffer from health issues relating to the chemicals used.*

Applicant's response

The construction of more tunnels will result that less spraying is required as the proposed tunnels contribute to the protection against certain fungal diseases. Haygrove also operates according to a soft integrated pest management programme and adheres to all regulatory guidelines as is required by law.

Town Planners comments

The concerns are duly noted regarding spraying and using of chemicals. This is a normal practice in various types of farming and should be expected within such a rural area. The farmer will also be obliged to comply with any relevant legislation regarding using chemicals on farmland.

The applicant also then indicates that the tunnels will protect against diseases, which would then require less spraying than in the case with open berry fields.

**TRAFFIC IMPACT:****OBJECTION 2(g)**

*Haygrove Heaven make use of a circular drive system, and as a result we are surrounded on the east, west and south by heavy traffic all day and night. In addition, vehicles operate on Haygrove Heaven itself at all hours of the day, creating further noise disturbances. Expansion will exacerbate this problem. Our valley roads are no longer safe. Haygrove Heaven's busses are regularly breaking down on the R320, leaving oil and danger in their wake. There have already been deaths as a result of Haygrove Heaven transport busses having accidents. Haygrove Heaven taxis drive recklessly on our roads. We fear that it*

***will be our family that falls victim to their vehicles. Expansion by 2½ times will only amplify this problem.***

Applicant's response

The allegation of reckless driving, accidents and buses breaking down is not exclusively caused by Haygrove Heaven (Pty) Ltd, but the general public is also part of the problem. To therefore pin all of the activities on Haygrove Heaven (Pty) Ltd is unfounded and not substantive reason for the planning application to be refused.

Traffic movement is not projected to sharply increase as the scale of land use activities will remain within the confines of the existing cultivated areas, currently covered with shade netting.

Town Planner's comment

The comments are noted.

The residential estates (De Werf and Coch-y-Bondhu) increase traffic to the area and also tourist accommodation, tourist facilities such as restaurants and wine tasting, etc. The proposed application deals with existing intensive farming activities and to improve such farming practises. Due to possible increase in yield a slight increase in trips can be expected, but internal traffic could be less due to less chemical spraying being required. It will however be difficult to prove the application not to be desirable considering the fact that tourist facilities in all probability have a greater traffic impact, but still is accommodated in this area. Any claims of the possible impact that additional traffic can have, is speculative.

The Municipal Engineering Services Department and Western Cape Government : Transport and Public Works : Roads also had no objection against the application and did not require any further traffic studies or improvements to roads.

**IMPACT AND IMPLICATION OF THE APPROVAL AND IMPLEMENTATION THEREOF:**

**OBJECTION 3(a)**

***The applicant has not placed a full picture before the Municipality of the fundamental incompatibility of the development proposal with existing surrounding land uses. In support of this assertion, we point out on behalf of our clients that the applicant has provided no information to the Municipality regarding the significant likely increase in noise emissions on the subject-property if the expansion is to proceed, including noise generated by machinery; crop spraying (both on the ground and by helicopter); and the transport used by the applicant to bus seasonal contract workers to the subject-property. There will also be a likely increase in the odours emitted from the property including emissions from crop spraying; vehicle use; and toilets for the seasonal contract workers (which have proved in the past to be entirely insufficient, as one of our clients' principal concerns relates to seasonal workers relieve themselves on surrounding properties with no regard to the accompanying health hazard). It should also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including snares that have caught clients' domestic animals; and human waste as well as litter that is deposited on their properties.***

Applicant's response

The machinery used inside the cultivated areas which are covered with shaded netting does not emit excessive noise. The approval of this proposal will therefore not lead to additional excessive noise.

The crop spraying on the ground and in the air is done on an occasional basis and not continuous. It has also been motivated that the approval of this proposal would lead to a decrease of crop spraying on the premises. It is also a widely accepted phenomenon for crop spraying. It is also a widely accepted phenomenon for crop spraying to be done by farmers as it supports the agricultural output of farms.

As mentioned earlier, more tunnels will result in less crop spraying as the proposed tunnels will protect the crop against certain fungal diseases.

The applicant will address the allegation of seasonal employees relieving themselves on the surrounding properties and out in the open.

The allegation of contract workers trespassing on surrounding properties will be addressed by the owner of the subject property. This will be done by informing the employees of the cadastral boundaries which may not be traversed as such incidents are accidental on the part of the contract workers. Not all trespassers are necessarily employed by Haygrove Heave (Pty) Ltd but are people in search of employment on farms.

The objector cites that his/her pets were caught in snares on the subject property but does not acknowledge that the objector's pets are not supposed to be roaming on the subject property. If the objector had monitored the movements of his/her pets to not extend beyond the cadastral boundaries, this would not be a problem

The owner of the subject property has a waste disposal system which is applied on the subject property.

Town Planner's comment

The comments are noted. At this stage there are existing berry fields on the property, and therefore noise, spraying chemicals, etc. is considered as part of the normal farming activities. The tunnels would rather lessen the necessity to spray chemicals, with less noise and traffic, etc. as a result.

The comments regarding trespassing, lack of toilets for seasonal workers, injuries to domestic animals, etc. are noted. Once again, agricultural activities can take place without the horticulture tunnels, and it would not necessarily lead to an increase to the areas of concern. This is also matters that should be dealt with between landowners in a rural area. The applicant indicated they will address the concerns of surrounding property owners, at least indicating they want to have good relationships with neighbours by addressing some areas of concern.

**OBJECTION 3(b)**

***The applicant purports to conflate the alleged "visual enhancement" of the subject-property (which we have already been shown to be indefensible proposition); and growth of the taxable revenue base that would be achieved if the application succeeds. The suggestion is made that burdening the subject-property with an additional 20,1662 ha under intensive horticulture tunnels is***

*visually enhancing. This only has to be stated to be rejected. The suggestion that intensive horticulture tunnels covered in artificial material is an enhancement on the current milieu is entirely irrational and is motivated only from the applicant's perspective.*

*Any benefit that might accrue to the State in respect of enhanced tax revenue from the landowner's expanded activities is entirely outweighed by the impacts that the proposed expansion would have on neighbouring landowners, including our clients.*

#### Applicant's response

This proposal also does not constitute the additional burdening of the site as the cultivation which is covered by shaded netting already occurs.

The submitted planning proposal for the construction of horticulture tunnels acknowledges the balance which needs to be struck between the mutual rights of neighbours to the free use and enjoyment of their property on the one hand and the obligation on them on the other hand to exercise those rights in a manner which does not unreasonably impinge on the equivalent rights of the other.

This is largely a question of fact and of judgment and opinion, but there are guiding considerations which should be borne in mind in the interests of fairness to Haygrove Heaven (Pty) Ltd and surrounding applicants, many of which considerations have been regarded as material in determining whether a disturbance is of a degree which renders it unreasonable in the locality involved.

- **Loss of normal enjoyment of property rights**

The primary land use rights which surrounding applicants enjoy are agriculture, dwelling house, day care centre, guest rooms, home occupation. The approval and implementation of this proposal will not hinder or interfere with the ability of neighbouring applicants to exercise and enjoy these rights.

- **Incompatible character**

The proposal is to expand agricultural land uses within an area which has agricultural land uses which is compatible in the rural context.

The additional tax revenues will be derived from the fact that less agricultural produce will be lost as the proposed horticulture tunnels will protect such crop against the elements, which will ensure a better yield which would increase profits and taxes payable.

#### Town Planners comment

The objector states that the increase of the intensive horticulture tunnels from ±13 ha to ±33 ha and increasing tax revenue must not outweigh the impact that the proposed expansion would have on neighbours and character of the area.

The applicant's responded by trying to state what must be considered to be "Loss of normal enjoyment of property rights" and "Incompatible character". The town planner's opinion is that the additional tunnels would not impede right of enjoyment, because other than for the physical tunnel structures to be constructed, and some closer than 30m from property boundaries, the same farming activities could take place up to the fire brakes. Then, to say that a view onto a horticulture tunnel, which is a common structure on agricultural land, would impact enjoyment of a property or for a landowner

to exercise his rights, is considered a very speculative claim. The same with regard to the character of the area because horticulture tunnels are a typical structure found in agricultural areas.

### **OBJECTION 3(c)**

***Haygrove produce soft fruits and the severity of the impact of chemicals being discharged into the ground and air seems to go unnoticed. The noise and health pollution associated with the scale of the Haygrove operation is already unacceptable and an adverse effect on people coming to the Valley in support of other businesses – let alone the physical wellbeing of those living there. It is once again difficult to imagine how the effects of these pollutants will increase if Haygrove were allowed to triple the size of the operation.***

***Haygrove has a regular spraying program which is both noisy and toxic. Our proximity to Haygrove exposes residents, staff and visitors to some form of health risk which would be increased by the massive increase in intensive horticultural activity. Run-off must also carry these toxins into the Onrus River and may well contaminate ground water reserves.***

#### Applicant's response

As stated earlier, this proposal does not constitute the tripling of activities on the farm but with the exception of the additional 6 ha only constitutes the construction of intensive horticulture tunnels on areas currently cultivated and currently covered by shaded netting as delineated in the Site Development Plan.

Haygrove takes pride to be compliant to both local and export market audit requirements. All the chemicals applied on the subject farm are approved by Department of Water Affairs and Forestry and regulated by Global Gap and the Perishable Produce Export Certification Agency (PPECB).

Haygrove also strives towards combatting pest and disease issues with mechanical and biological control before using any chemicals. One mechanical solution is to cover the crop with poly tunnels and reduce the amount of fungicides as the crop will not be exposed to rain, which is the main cause for fruits rots.

#### Town Planner's comment

The comments are duly noted. This matter regarding chemical impact was previously discussed. As indicated by the applicant, there are strict requirements from Department of Water Affairs and Forestry, Global Gap and the Perishable Produce Export Certification Agency that must be complied with.

The statements are noted by the objectors, but if surrounding landowners have proof of non-compliance, they should direct their complaints to BGCMA, EA&DP: Environmental Department, etc. to investigate such matters.

### **OBJECTION 3(d)**

***There are constantly people on foot in the area under the guise of looking for work at Haygrove. This poses an enormous security risk to the surrounding properties as Haygrove seemingly do absolutely nothing to deter these people. The problem will get significantly worse if Haygrove is allowed to expand operations as proposed. This is unacceptable.***

Applicant's response

Haygrove has established a full-time recruitment centre in the town for people seeking to be employed by the company to avert the security concerns which are cited by the objector.

Town Planner's comment

The comments are noted. The applicant indicated that there is a recruitment centre in town and are doing what they can to deter job seekers to directly visit the farm.

**OBJECTION 3(e)**

***Our property is adjacent to Haygrove and has been trespassed by workers from time to time. There is ample evidence that this area is also used as a toilet. With the increased number of seasonal workers that would be required to work on the extra crops, these would be increased.***

Applicant's response

Haygrove Heaven (Pty) Ltd will encourage workers to not trespass on surrounding properties which will result in the future seasonal workers not being a problem.

Town Planners comment

Comments noted, and sufficiently addressed by applicant.

**OBJECTION 3(f)**

***It would be far more appropriate for Haygrove Heaven to expand in an area better suited to their operation i.e., not within a Conservancy within a world-renowned wine area of natural beauty. Since 1976, the Hemel-en-Aarde has been established as a top, world-class wine and eco-tourism region. Hundreds of millions of Rands have been invested by the 18 wineries that call this home.***

***Haygrove Heaven's industrial-scale farming and white, yellow and black plastic tunnels are not compatible with the previously established activities and economy of the valley, neither are they compatible with the history, heritage or aesthetics of the valley.***

***Given the simplified justifications currently contained in the applicant's document; if we allow this type of industrial expansion within an area of scarce resources and national importance and justify the approval of these activities as being an economic necessity only, then we might just as well start industrialising and developing other national assets, perhaps the Kruger National Park or the pristine Wild Coast coastline will be next. Please do not set a dangerous precedent in our beautiful valley – you would not permit a 15-storey office block to be erected on the sea front in Hermanus. The principle is the same; please help us protect our special valley from the devastating impact of further industrial development.***

Applicants' response

The land use rights which are sought are for intensive horticulture tunnels are not industrial land uses as cited by the objector.

What the objector omits is that the character and aesthetics of rural areas change over time as new people enter the space who bring other business ideas and farming practices. The character of the Hemel-en-Aarde has historically changed over time is due to that. The intensive horticulture tunnels are a modern method of agriculture which is in conformity with the other farming and intensive horticulture tunnels which are prevalent in the Hemel-en-Aarde. This nullifies the assertion by the objector that this proposal is incompatible with the character of the area.

The assertion that the approval and implementation of this proposal would open up the establishment of a national park or pristine wild coastline is a slippery slope.

Town Planner's comment

The comments are noted. The Hemel-en-Aarde Valley is a scenic valley with a mountainous backdrop and fynbos on the mountain slopes. However, the area in the valley is mostly cultivated land where fynbos was removed and vineyards were planted, wine cellars constructed and there are also some stud farms with large green paddocks. These afore-mentioned farming practises are allowed, and from an environmental perspective could have a similar impact as a berry farm. The fact is a berry farm that make use of horticulture tunnels is not industrial uses, and this comment was purely made due to the concern about visual impact and the perceived increase in feet to the area. The reality is there is limited agricultural land in this area and using modern methods (tunnels) is the only way to farm more productively. These tunnels will therefore become more prevalent in rural areas, where it belongs, and the rural community will have to start not only considering possible cons, but also the pros of these structures.

**OBJECTION 3(g)**

***Haygrove relate food security as reason to justify their expansion through the departure from regulations that all others are required to adhere to. This is ludicrous and in fact the opposite is more applicable. Because levels of crime are rising due to the point above, the cost of security and crime prevention is becoming more and more onerous on farmers that actually do produce food that feed normal South Africans in this area. Jeopardizing these farmers is much more of a threat to food security than any benefit Haygrove falsely presume they are adding by exporting berries to Europe.***

Applicant's response

The concern of crime and the security financial burden that farmers need to bear the brunt is also experienced by all South Africans. The objector has also not provided any irrefutable evidence to support the claim that the approval and implementation of this proposal will lead to jeopardy of surrounding farms.

Town Planners comment

The comments are noted. It is safe to say intensive horticulture tunnels will help increase yield, which increase food production. The statement that Haygrove will have

a negative impact on surrounding farms that produce food for normal South Africans are speculative.

To say the horticulture tunnels will increase security risks is also speculative.

If the sentiment is followed that farms should not expand production as it could create more security risks, then no farms should increase production in any form. This is considered a non-viable viewpoint.

### **OBJECTION 3(h)**

***It is also necessary that Haygrove have extended facilities to recycle the enormous amount of plastic waste from the tunnels. etc. They should recycle said plastic into saleable products.***

#### Applicant's response

In 2013, Haygrove established a waste management site in accordance with organisational principles of reduce, re-use and recycle. All unwanted material is separated and measured for collection by accredited recycle companies or re-used by Haygrove. Poly that has outlived its usefulness is baled and collected by TWK Recyclers based in Grabouw, Western Cape, who are accredited in terms of the National Environmental Management: Waste Act 2008 and Crop Life, South Africa.

#### Town Planners comment

Comments noted. The applicant successfully addressed this point.

### **OBJECTION 3(i)**

***We are writing to express our strongest possible objection to the applications on behalf of Haygrove Heaven Ltd for departure and approval for amendment of the current conditions of land use approval. As full-time residents and immovable applicants of an immediately adjacent property, we are already directly and negatively impacted on a daily basis by the current land use of Haygrove Heaven. For the reasons articulated by Nicholas Smith Attorneys in their letter of 15 November 2019, the proposed tremendous expansion of the intensive horticultural activities and the related expansion of building construction by a significant multiple would create an industrial enterprise which would be totally antithetical to the environmental land use values of the valley. The resulting degradation will very negatively impact ourselves, other adjacent applicants and the larger farming and tourism sector of the valley as well as the adjacent coastal communities. We look forward to receiving a full and detailed explanation from the Municipality's decisions with respect to the subject application.***

#### Applicant's response

The premises of the objector is based on the assertion that this proposal promotes the establishment of an industrial enterprise. An industry is defined as follow in the Overstrand Municipal Zoning Scheme.

***"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, manufactures, produced, build, 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 stores 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."

The application for an amendment of conditions of approval to allow the establishment of the horticulture tunnels does not fit the description of an industry as illustrated in the definition above. Considering this aspect, the degradation of the larger farming and tourism sector of the valley as well as the adjacent coastal communities which the objector alleges will accrue with the approval and implementation of this proposal, is unfounded.

The Overstrand Municipality will forward the decision of this application to the objector and provide an opportunity to appeal.

#### Town Planner's comment

The comments are duly noted. The concerns about the impact on immediate adjacent neighbours seem again to stem from the agricultural activities, which is already being practised without the horticulture tunnels. It is difficult to understand how the berry farm could negatively affect the surrounding farming sector. Then, this area is firstly a farming area, and the tourism sector is an additional use allowed in the farming area. Tourism and even residential estates should not dictate agricultural activities in rural areas and should accept that farming activities can take place and can be extended over time.

The Municipality will provide reasons for their final decision to all objectors and the applicant.

### **ECONOMIC AND SOCIAL CONSIDERATIONS:**

#### **OBJECTION 4(a)**

***As regards the third factor described in purported motivation of the application (economic impact) we point out on behalf of our clients that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective.***

***On behalf of our clients, we submit that in order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bald statement to the effect that the approval and implementation of the application will substantially increase the number of people employed on the subject farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding the number of likely future employees; the quantification of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained.***

#### Applicant's response

By covering the crops with poly tunnels as applied for, Haygrove will reduce the risk of losing production caused by rain. A conservative estimate of loss in production caused

by rain and fruit rot is around 100 to 150 tons per annum. By securing this volume loss, Haygrove will secure the current jobs and ensure a positive economic growth.

This will at the very least ensure job stability for the 267 permanent employees, let alone the 800 plus seasonal staff.

Town Planner's comment

The comments are duly noted. This application is not for commercial/industrial purposes, but purely an improved farming method. The lack of detailed financial figures and job creation does not mean the application is not desirable.

The applicant did however indicate that it is estimated up to 100 to 150 tons less fruits will rot due to rain. This means additional income to the farm and possibly more taxable money, and also to companies providing additional services. The applicant also indicated that existing jobs will be secured, but even if no additional jobs are created, additional income will be generated.

**OBJECTION 4(b)**

***Whilst it is correct that the State's transformation imperatives include enabling farmers to achieve economic growth and sharing the proceeds of that growth with their employees, the badly stated and unsupported suggestion that this will occur on the fact of this matter must be rejected by the Municipality, because the statement is supported by no objectively verifiable evidence.***

***The applicant provides no detail whatsoever as to the quantification of the economic proceeds to be shared with workers on the subject-property (who are engaged as seasonally used independent contractors by the landowner, rather than formally employed).***

Applicant's response

The economic proceeds which will be shared with the employees are in the form of salaries.

Town Planner's comment

The comments are noted. The detail of how or if additional money will be shared with employees is not considered the only point of consideration to determine if additional horticulture tunnels and building line departures are desirable. However, it is safe to say that more yield means more work for the labour, who will receive compensation for such labour.

**OBJECTION 4 (c)**

***What percentage of the taxes are in fact paid in South Africa, and how much in the United Kingdom, where the current owner/director lives?***

Applicant's response

This information is confidential.

Town Planner's comment

Comments are noted. This information is not required to prove desirability.

**OBJECTION 4(d)**

***Haygrove have a history of flagrant disregard for rules and regulations. The scale they have been able to achieve through this modus operandi has been used to justify the legitimacy of this behaviour. This cannot be allowed to continue at the expense of the rest of the Hemel-en-Aarde Valley.***

***The impact of the Haygrove operation on the social fabric of Hermanus has been immense. Thousands of seasonal workers have descended on the town in the hope of employment by Haygrove. These people are not employed on a full-time basis and have to find alternative means to survive whilst not being paid. Crime levels have surged, and unprecedented levels of social unrest have manifested. More seasonal workers in the event of Haygrove's expansion will only exacerbate this problem.***

Applicant's response

Urbanisation which is occurring in Hermanus cannot solely be blamed on Haygrove Heaven (Pty) Ltd as it is a general phenomenon in economically functional towns. The increase in crime and social unrest cannot be blamed on Haygrove Heaven (Pty) Ltd as there are other factors which cause that. The assertion that the approval and implementation of this proposal will exacerbate all these social problems, which are not caused by Haygrove Heaven (Pty) Ltd, is therefore unfounded.

Town Planner's comment

Comments are noted. The farming community has a major impact on creation of employment in South Africa to the benefit of the town. In terms of the National Development Plan: Vision for 2030 – Chapter 6 the potential for 250 000 new direct jobs and a further 130 000 indirect jobs were identified in the agricultural areas.

This proposed application is in line with this vision, and the comments that the application will be a negative for Hermanus cannot be supported.

**OBJECTION 4(e)*****Income and staff: Wine and Tourism:***

***Haygrove Heaven tunnels have a direct negative impact on the aesthetics, biodiversity and sustainability of the area. The Hemel-en-Aarde area is world renowned for wine and tourism, drawing people to the Hermanus area. Collectively, the wine farms employ more people and have invested more capital into the area than Haygrove Heaven ever will. Haygrove Heaven is a risk to our already fragile market, and they have a negative effect on our most important resource: tourism. Due to Haygrove Heaven, wine and eco-tourism suffers, and consequently our income and our ability to grow and employ. Already, the first question we are asked by visiting tourists is "what is all that black plastic covering the mountain?". Is it justifiable to increase this 2½ times so that one entity can profit, whilst other farms and business suffer as a result?***

***The Municipality has the obligation to consider the 30+ homes that are in close proximity to Haygrove Heaven, as well as the other commercial farms and wine***

***businesses/tasting rooms/restaurants, etc. within the valley. Many rely on tourism, and particularly eco-tourism, for income.***

***Our natural resources are an asset belonging to all, i.e., not just the rich with foreign capital. The Municipality should not condone industrial scale activities within this conservancy. Local tourism will be affected, wineries will struggle, and hundreds of permanent jobs will disappear. This will not just affect the valley. The Hemel-en-Aarde attracts many people to the area, and they all visit and spend their money in Hermanus.***

Applicant's response

As stated earlier, the approval and implementation of this proposal will not materially lead to an expansion of the footprint of the already cultivated areas currently covered by shade cloth.

A few clients enquiring about the intensive horticulture tunnels does not mean that there is a general dislike among tourists towards the tunnels. The approval and implementation of this proposal would not hinder the agricultural productivity of surrounding farms nor deter tourists from visiting the region. There is therefore no material evidence to support the assertion that the approval and implementation of this proposal will have an adverse impact on the income of surrounding applicants.

Town Planner's comments

Comments are duly noted. These points have previously been discussed. Also, as voiced by the applicant, there is no material evidence to support the objector's claims of loss in tourism and tourism related income. This is a agricultural area, and tourism is a subservient use to agriculture in agricultural areas.

**OBJECTION 4(f)**

***The use of seasonal contract workers has already resulted in numerous socio-economic problems. An increase in crime statistics may also be closely linked to these problems. Unhappy workers have already negatively affected the daily activities of the farmers and residents of the Hemel-en-Aarde valley in the past. The introduction of additional seasonal contract workers can only aggravate the situation and will be in direct conflict with Government and labour's opposition to the use of seasonal and short-term work.***

Applicant's response

People who are employed are less likely to engage in criminal activities due to the steady income. The assertion that additional employment opportunities which will be created on the subject property would increase crime is therefore unfounded.

There is no legislation in South Africa which prohibits seasonal employment.

Town Planners comment

The comments are duly noted. The objector's concern regarding impact of unhappy seasonal workers on the surrounding farms is noted. The wine industry also makes use of seasonal workers, and there are many wine cellars in the Hemel-en-Aarde valley. It is therefore not reasonable to only lay blame before the door of Haygrove Heaven, as seasonal workers are standard practice in many agricultural areas.

**OBJECTION 4(g)**

***Our concerns and issues relate back to one simple fact: We live and work in what was, prior to Haygrove Heaven, a pristine and tranquil area. An area that has the potential to rival many similar areas of natural beauty around the world. Wineries in the valley are also productive in what we do, making some of the best wines in South Africa, and we contribute to the growth of employment, through permanent employment and benefits to all employees, labourers included. Further expansion of Haygrove Heaven puts this all at risk.***

Applicant's response

The proposed establishment of the intensive horticulture tunnels of Haygrove Heaven (Pty) Ltd will not jeopardise the employment opportunities created by the objector or the agricultural output of the farm.

Town Planner's comment

The comments are noted. It is the objector's opinion that Haygrove Heaven negatively impact tourism and the wine farms. This is not a fair statement as it is not backed up with any concrete evidence.

**OBJECTION 4(h)**

***The Municipality must play a role in protecting the area, and its scarce natural resources, for the long-term benefit of all. After all, wine and tourism in the Hemel-en-Aarde make a significantly greater contribution to employment than do Haygrove Heaven. By allowing further expansion of Portion 11 i.e., Haygrove Heaven, in the manner that has been applied for the Municipality is effectively killing the Golden Goose that is the Hemel-en-Aarde and setting a dangerous precedent for the future industrial scale development of the area.***

Applicant's response

To compare the employment created by all wine farms and tourism related land uses in the Hemel-en-Aarde with employment created on the subject property is not a fair and balanced comparison.

The Hemel-en-Aarde can flourish as a viable wine, tourism and intensive horticulture area with minimal conflict between the different land uses.

Town Planner's comment

Both comments are duly noted. The objector's statements are speculative, and the applicant's opinion that it is not fair to compare Haygrove Heaven versus all other employment opportunities in tourism related land uses, is supported. Hemel-en-Aarde Valley is an agricultural area and thus cater for any agricultural activities, not only wine farms.

**FOOD SECURITY:****OBJECTION 5 (a)**

***As regards the fourth factor described in purported motivation of the application, our clients take issue with the applicants-planner's statement that there is "... therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security."***

***The fact of the matter is that the applicant produces soft fruit (berries) which are principally destined for the export market as a premium fruit product. To suggest that the Municipality approving the application will ensure the owner of the subject property's contribution to increasing and enhancing food security is simply incorrect.***

***Berries are luxury items, mostly exported, and definitely do not enhance food security.***

**Applicant's response**

The soft fruit on the subject property is exported and contributes to the food security in other countries, which is positive.

**Town Planner's comment**

The comments are noted. The definition of food security in terms of the Oxford Dictionary is "of having reliable access to sufficient quality of affordable nutritious food".

Even if berries is considered a high end food, the production of more food of very high nutritional value is an important part of world-wide food security. The additional income that can be generated for employees would also provide them with finances for reliable access to food.

**OBJECTION 5(b)**

***When it comes to the claim of ensuring food security, this is clearly a false claim. Food security involves plentiful nutritious food for all members of society, particularly the poor and needy. Their production of a luxury product sells in the supermarkets at least R79 per 300g is not providing food security; but is purely a luxury for those who can afford it.***

**Applicant's response**

Different income groups afford a variety of different foods. The fact that Haygrove Heaven (Pty) Ltd caters to a certain segment of the market can therefore not unduly be branded as not contributing towards food security.

**Town Planner's comment**

The comments are noted. This point has been addressed in point 5(a) above.

**APPROVALS BY OTHER GOVERNMENT DEPARTMENTS:****OBJECTION 6(a)**

*As regards the fifth factor used in purported motivation of the application, the applicant's planner states (somewhat glibly, we submit) the following: "None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal."*

*On behalf of our clients, we contest this statement. We point out that section 38(1)(c) of the National Heritage Resources Act ("NHRA") obliges any person who intends to undertake a development categorised as any form of development or other activity which will change the character of a site exceeding 5,000m<sup>2</sup> in extent at the earliest stages of initiating such a development, to notify Heritage Western Cape ("HWC") and furnish HWC with details regarding the location, nature and extent of the proposed development. The only organ of state with the requisite statutory competence to decide whether the jurisdictional requirements of section 38 of the NHRA are triggered on the facts of this matter is HWC.*

*In support of our submissions regarding the likely application of section 38 of the NHRA, we point out that the subject property is already occupied by intensive horticulture tunnels that cover 13,8209 ha of that property. In our submission, and in the event that the physical expansion of tunnels is permitted (across an additional 20,1662 ha of the subject property), that expansion would amount to a change in the character of the site. This is by virtue of the very significant increase (by almost 2½ times the physical extent of the existing tunnels) in the surface area that would be occupied by the proposed tunnels. The current character of the subject property is defined by a mixture of tunnels and open agricultural areas. That creates a tapestry of plastic-clad structures and vegetated areas. What the applicant now proposes is an artificial and monochromatic landscape and would present a jarring contradiction with the natural surrounds in this part of the Hemel-en-Aarde Valley that will irrevocably change the character of the area. This is entirely clear from Plan 3 appended to the applicant's motivation, which clearly shows that the southern half of the subject property will be effectively blanketed in plastic-covered horticulture tunnels which would extend almost to all of the subject property's boundaries.*

*No doubt the Municipality will oblige the applicant to furnish written confirmation from HWC to confirm the applicant's assertion that no provisions in the NHRA are triggered on the facts of the applications.*

**Applicant's response**

The planning application was forwarded to Heritage Western Cape and Record of Decision was issued which highlights the following:

*"You are hereby notified that, since there is no reason to believe that the proposed expansion of agricultural activities on Portion 11 of Farm, Caledon will impact on heritage resources, not further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required."*

Town Planner's comment

The application was circulated to Heritage Western Cape, who indicated that no further processes were required in terms of their legislation. The point of objection therefore has been only addressed.

**OBJECTION 6(b)**

*The sixth criterion analysed by the applicant's planner, purportedly in motivation of the application is under the head "Environmental impact". The applicant's planner submits that no activities listed in terms of the National Environmental Management Act: 8 ("NEMA") are triggered by the development proposal. The applicant's submission is that the proposed intensive horticulture tunnel expansion is not located on the environmentally sensitive part of the subject property (with reference by the applicant to a plan appended to the application as Plan 5).*

*On behalf of our clients, we submit that the purported motivation is both superficial and entirely misplaced. The correct enquiry that should have been made by the applicant's planner relates to whether the jurisdictional requirements of any of the listed activities respectively set out in the NEMA EIA Regulations' three listing Notices 9 are triggered on the facts of the application.*

*In the circumstances we submit that it behoved the applicant's planner to analyse the facts of the proposed intensive horticulture expansion and the receiving environment in the areas where the new tunnels are proposed in order to establish whether any NEMA listed activities are triggered, and then to obtain written confirmation from the competent authority responsible for administering NEMA and the NEMA EIA Regulations of the applicant's ascertain that the expansion does not require environmental authorisation.*

*A copy of this objection will be delivered to the Department of Environmental Affairs and Development Planning (DEA&DP) (the competent authority for the administration of NEMA in the Western Cape) in order for the Department's officials to furnish their comment as to the applicability (or otherwise) of NEMA, with specific reference to Section 24 of NEMA read with the NEMA EIA Regulations.*

*In any event, we have no doubt that the Municipality will ensure that the necessary enquiry is made to the DEA&DP (by the applicant, and at the behest of the Municipality) in order to confirm unequivocally whether NEMA-listed activities are triggered on the facts, then the applicant will be obliged under NEMA read with the NEMA EIA Regulations, and to obtain environmental authorisation before the Municipality can decide the land use applications on their merits.*

Applicant's response

The Overstrand Municipality has forwarded the submitted application to DEA&DP.

Town Planner's comment

The application was circulated by the Municipality to DEA&DP, and it was indicated that no listed activities are triggered.

**OBJECTION 6(c)**

*In support of our wholesale rebuttal (above) of the applicant's planner's purported motivation of the application against the applicable legal requirements in the By-Law, we direct the Municipality to the planner's unsubstantiated and misleading statement in paragraph 7 of the motivation. The applicant's planner says the following there:*

*"Considering that the neighbouring Portion 94 of Farm Hemel-en-Aarde also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed to the tunnels on the subject property and neighbouring farm. This proposed expansion will therefore not be foreign to neighbouring applicants or upset the rural visual landscape which farmers have become accustomed to (sic)."*

Applicant's response

This statement which the objector quotes is not misleading but factual.

Town Planner's comment

The comments are noted. The applicant is not wrong in making his statement as there is a berry farm on Portion 94 of farm Hemel-en-Aarde No. 587. There is however a difference in opinion between the two parties if the practise is an acceptable practise to surrounding neighbours. The objector's comment is duly noted.

**SPATIAL POLICIES:****OBJECTION 7(a)**

*Objector's comments on the purported motivation in respect of consistency with the WCLPGRA.*

*The application suggests that the underlying purpose for the application is to allow the owner of the subject property to be granted the appropriate land use rights to intensify agricultural activities on the farm to improve the economic viability". It is suggested that the intensification will be achieved by increasing capital investment and labour in order to raise the yield of produce on the subject property.*

*The objectors submit that this is an entirely one-sided and subjective analysis which is not supported by any evidence that the land use is appropriate. As is shown in these objections with reference to the objectively determinable desirability of the application, the application is inherently undesirable when all relevant factors are properly considered and accorded their appropriate wight.*

*As regards the applicant's statement that the proposal does not entail the fragmentation of the agricultural land uses on the property. That may be correct but again, is motivated exclusively from the applicant's (subjective) perspective and self-interest.*

*As regards the provisions in the WCLPGRA relating to the development's reinforcement of the farm precinct and the reflection of similar scale, the*

***objectors submit that the proposal is massively over-scaled. The fact that the intensive horticulture tunnels are lower than the 12m height restriction in no way derogated from the significant scale of the proposed erection of the tunnels in question. The fact that there may be other intensive agricultural land uses in the Hemel-en-Aarde rural area (none of which are explained in any detail in the application) does not represent harmonious scale in the area. To the contrary, the proposal is to develop the subject property by the installation of some 33,9871 ha under intensive horticulture tunnels.***

Applicant's response

For a building which is related to agricultural activities to be considered as visually imposing, it has to be higher than 12m which is not the case with the subject property. The proposed horticulture tunnels can therefore not be considered as visually imposing.

Town Planner's comment

The comments are duly noted. The objector is of the opinion that WCLPGRA supports reinforcement of the farm precinct, and the reflection of similar scale. It is also the objector's opinion the horticulture tunnels (lower than 12m in height) and covering ±33 ha in extent does not fit in with the harmonious scale of Hemel-en-Aarde valley. Ultimately the objection is mostly directed at the visual impact of the proposed tunnels. The applicant debate that the tunnels are visually imposing.

The quoted legislation is a guideline document for rural areas. It is an extensive document, and then advises municipal planning, which have its own policies and by-laws with criteria for municipal planning. The applicant is correct that the Zoning Scheme makes provision for farm buildings to be up to 12m high. It is however debated if horticulture tunnels can categorize as bona fide farm buildings such as sheds, etc. Quoting the 12m height restriction is considered extensive, as in the planning report it shows horticulture tunnels of 4,1m above ground level. Considering that netting will also be placed over the tunnels, the height of these structures will not be close to 12m high. It is to be noted that the mentioned guidelines do not elaborate on intensive horticulture.

Also note that EA&DP : Directorate Development Management also commented on this application and had no objection to the application.

**OBJECTION 7(b)**

***The suggestion that inclusive economic growth will be promoted by the application is not suitably motivated by the applicant. Although our clients are clearly alive to the fact that the owner of the subject property would benefit substantially from the increase production envisaged by the addition of intensive horticulture tunnels on a further 20,1662 ha on the subject property, there is no explanation as to how the economic growth would benefit parties other than the applicant (and to a lesser extent, the workers who might be contracted as a result of the expansion).***

***As regards the suggestion that the PSDF prescribed "a greater diversity of soft fruits which are proposed to be planted" we submit on behalf of our clients that the PSDF contains no such prescription.***

***The comparative strengths of the Hemel-en-Aarde valley relate not only to high agricultural output from a variety of agricultural initiatives, including cultivation of grapes and wine production, but also the value of the area as a tourist destination. The application is unlikely to capitalise in any material way on the latter and in fact will in all reasonable likelihood derogate from the tourism attractions currently on offer.***

Applicant's response

The approval and implementation of this proposal will increase the agricultural output of soft fruits on the subject property, which will contribute to enhancing the image of the Hemel-en-Aarde as a soft fruit production area. This could potentially open an opportunity for other farmers to ride on this image and convert existing agricultural land uses to soft fruits in pursuit of higher profits. The existing value chain which the owner of the subject property has created will be easy for surrounding farm owners to connect to and presents a huge economic/financial opportunity for the objector which can be capitalised on.

The approval and implementation of this proposal will not derogate from the existing character in the Hemel-en-Aarde due to the dominant land use being agricultural, which this proposal is aligned with.

Town Planner's comment

The comments are noted. The objector's claim that the applicant quotes information that is not contained in the PSDF, is noted, but will not be debated. The application was circulated to EA&DP: Directorate Development Management who provided no objection to the application. It is therefore at least then established that the proposal is not inconsistent with the PSDF.

**OBJECTION 7(c)**

***Objectors' comments on the purported motivation in respect of the application's consistency with the SDF.***

***The application does not meet the imperatives of the SDF, because it does not establish that the proposed expansion is (objectively viewed) to the benefit of all affected residents within the area. The application is motivated almost exclusively from the perspective of the owners of the subject property. As such it is not aligned with the applicable policy imperatives articulated in the SDF.***

Applicant's response

The assertion that this proposal is motivated from the perspective of the applicant is not substantive reason to claim inconsistency with the SDF. The motivation report also highlights a variety of benefits which employees will derive from the approval and implementation of this proposal.

Town Planner's comment

The objector also makes wide statements in terms of the SDF, but no detailed quotes from the SDF are provided. The applicant's opinion that the statements regarding the SDF are not substantive reason to claim inconsistency with the SDF, is supported.

**SPLUMA PLANNING PRINCIPLES:**

**OBJECTION 8(a)**

*The applicant suggests that the implementation of the proposal, by its approval by the Municipality will lead to "... employment opportunities being created which will primarily benefit the historically marginalised". The applicant submits that the development proposal would contribute to "addressing spatial development imbalances caused by apartheid planning which concentrated economic opportunities in urban areas to the neglect of rural/areas and rural residents".*

*The seasonal contract workers retained by the applicant be bussed to the subject property on a daily basis from Hermanus, and the latter's environs, in order to perform their work. At the end of the day, they return to the homes in which they reside, which are principally informal structures within the townships surrounding Hermanus. There can thus be no suggestion that the approval of the proposal would contribute to addressing spatial development imbalances, as the applicant would have it.*

Applicant's response

The structures which some of the employees reside in might be informal however the following benefits will be derived with the approval and implementation of this proposal.

- The current employees will derive an income which would enable the existing informal residential structures to be converted into formal bricks and mortar structures; and
- The current unemployed people who will be employed on the subject property will also earn an income to upgrade informal buildings to formal ones.

The cumulative impact therefore would be an incremental visual enhancement and improved living conditions of employed inhabitants who reside in townships. This would therefore contribute to addressing the apartheid spatial legacy and create more functional and visually appealing settlements.

Town Planner's comment

The objections are duly noted. Although it is difficult to determine the degree of the impact on the historically marginalized, any form of income would help improve employees' conditions at home, and as indicated by the applicant, afford them the finances to improve their living conditions. Also, with the possible raise in income employees will be able to seek higher quality accommodation.

**OBJECTION 8(b)**

*As regards the applicant's assertion that the implementation of the development proposal would increase agricultural output which in turn "would promote the efficient utilisation of the subject farm" we submit on behalf of the objectors that there is a fundamental difference between efficient utilisation (as the applicant would have it) and sustainable utilisation that properly strikes a balance between the ecological, social and economic impacts of the proposal. To the extent that utilising the subject property more efficiently impact significantly and negatively on the existing rights of neighbouring applicants to reasonably use and enjoy their property, the application simply does not pass muster.*

Applicant's response

The proposal promotes efficiency as confirmed by the objector; however, no material evidence is submitted which illustrates the unsustainability of current and projected agricultural land uses envisaged by the applicant. On the contrary, the proposed tunnels are not located on environmentally/ecologically sensitive land as illustrated in the maps which were attached to the application and can therefore not be branded as unsustainable.

Town Planner's comment

The objector's statement regarding sustainable development and that it should not negatively impact the surrounding area is a valid statement.

The applicant's opinion that no substantive reasons are provided why it is the opinion it would negatively impact the surrounding area, however, is supported.

The area is an agricultural area where farming activities takes place. Some form of increase in farming activity impacting on surrounding properties should have been expected by surrounding property owners, considering farming methods and technology change over time to improve farming production to improve sustainability.

The principles of Efficiency and Sustainability will be further elaborated on under Desirability of the proposal.

**OBJECTION 8(c)**

***As regards the planning principles pertaining respectively to spatial resilience and good administration, we submit on behalf of the objectors that the proposal is not in harmony with the relevant spatial planning policies.***

Applicant's response

The proposal is in harmony with the relevant spatial planning policies as illustrated in the motivation report. If the subject proposal was not in harmony with the relevant spatial planning policies, an application for a deviation from the relevant policy had to be applied for.

Town Planner's comment

The principles of Spatial Resilience relate to the ability of developments to deal with financial shocks or natural disasters. The horticulture tunnels will protect crops against rainstorms.

**OBJECTION 8(d)**

***As regards the proper administration of the application and good administration generally by the Municipality, we submit that a proper and objective analysis of the merits of the application must result in the refusal thereof.***

Applicant's response

The Overstrand Municipality can be relied upon to make an objective and impartial decision on the submitted planning application. It is however recommended to the

Overstrand Municipality that the submitted application be approved in the form it was submitted.

Town Planner's comment

The opinions are duly noted. Ultimately the Municipality will make an informed decision.

**DESIRABILITY:**

**OBJECTION 9(a)**

***Relevant considerations pertaining to the lack of desirability of the application that is entirely omitted from the applicant's motivation.***

***What is also notable about the applicant's purported motivation (as currently framed) is the wholesale omission to deal with aspects and likely impacts that are centrally relevant to the desirability enquiry obliged by law of the Municipality with particular reference to the impacts likely to be suffered by the objectors in the event that the application is approved by the Municipality. These include (but are not limited to) the following:***

- ***The wholesale failure by the applicant to address the issue of sustainable water supply to the subject property for purposes of the expanded intensive agricultural activities envisaged by the applicant, including proof of the applicant's rights to water supply and water use to meet its likely demand. We submit that to the extent that the applicant pursues the application, the Municipality should oblige the applicant to produce an appropriately detailed analysis of the existing and proposed operation's water abstraction, storage and use patterns, and should provide written proof to the Municipality that the applicant holds the relevant statutory water use rights in respect of those uses. Water is an extremely precious resource and with a proposed expansion of this nature it must have serious implications for water use in the future. As we share a portion of the southern boundary of Haygrove, we feel we have a right to ask for proof that the water demand of this proposed expansion will be within the authorised volumes allowed by the Breede-Gouritz Catchment Management Agency (BGCMA) in terms of the National Water Act. We also insist that run-off water should be collected in retention ponds to prevent eutrophication of the Onrus River (on our property), which is a serious problem as far as reed infestation of the river is concerned. This is not the case currently and the situation could be worsened if their proposal is accepted. We cannot see that this condition would be possible if building lines were to be reduced as per the proposal 6.1, 6.2, 6.3, 6.4, 6.5 and 6.6. Haygrove claim to have 'historical water rights'. What does this actually mean and how much water are they allowed to take. The pump they use to extract water from the Onrus River is on our property and nobody ever seems to measure this uptake or is aware of how much water is being extracted. In summer the river is literally pumped dry. All the water that flows into the Haygrove sump is sucked out of the river and nothing proceeds to any farmers downstream and nothing reaches the De Bos dam. This is the situation at the moment. It is impossible to imagine the burden on this water source if Haygrove were allowed to triple their requirement.***

- *The impact of the proposed relaxation of the building lines on the respective obligations of the owner of the subject property, and adjoining and proximate neighbours, in terms of the National Veld and Forest Fire Act; and*
- *The significant and dangerous existing impacts caused to residents of the Hemel-en-Aarde valley by incessant traffic, both on the primary access road through the valley and on the minor road via which the subject property is presently accessed. Our instructions are that busses, taxis, light delivery vehicles and heavy reticulated trucks pose a significant threat to other road users, but the impacts of existing traffic are not explored nor analysed in the motivation (to say nothing of the significant increase in traffic that could be anticipated in the event that the application is granted by the Municipality). This is another significant omission in the application as currently framed. To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriately detailed traffic impact assessment by an appropriately qualified expert before the application can proceed to the decision-making stage. This access road, Minor Road OPO4012m De Werf's only access road, is already severely compromised by Haygrove's incessant traffic. Busses, taxis, speeding bakkies and heavy reticulated trucks constantly damage the road, block our entrance, because unacceptable noise and dust from 5am until the night shift leaves, often 10pm in summer. If this application were to be approved in some form or another, a different access/exit road must be provided. "All the labour that Haygrove currently employs is bussed to the property every day. The R43 is the only road available for this purpose and because of its' design, passing the slow-moving busses is becoming more and more hazardous. Increasing the number of these buses for Haygrove's expansion requirement is going to make this route much more dangerous – which is unacceptable. The road constantly has to be repaired through the wear and tear caused by laden busses, and this together with an increased threat to safety is prejudicial to all other business and applicants in the valley. It cannot be allowed.*

#### Applicant's response

- The submitted application has been circulated by the Overstrand Municipality to BGCMA for an evaluation of water related considerations. Addressing water related considerations in the public participation process is pre-mature.
- The objector does not state which provisions of the National Veld and Forest Fire Act would be contravened with the approval and implementation of the departures sought. This makes it difficult to formulate a detailed response.
- The planning application has been forwarded by the Overstrand Municipality to the Western Cape Department of Transport and Public Work for comments on all transport and access related considerations. The suggestion by the objector that a traffic impact assessment be done is pre-mature as the relevant authority has not indicated if it will be necessary or not.

#### Town Planner's comment

The comments regarding water use are duly noted. The application was circulated to BGCMA who provided their support for the application.

It must also be noted that nor the Municipal Engineering Branch nor BGCMA stipulated any concerns or conditions relating to storm water control.

The objector voiced concern regarding compliance with the National Veld and Forest Act, but the applicant states no indication is provided what provisions will not be complied with. It is to be noted that a FMP was submitted by the applicant, providing for fire breaks, etc. In such FMP reference is made to the National Veld and Forest Act and being that such plan was prepared by a professional person, it must be assumed that all relevant considerations were addressed.

It is to be noted that the original application was not forwarded to the Western Cape Government : Public Works and Transport (DOT).

The Municipal Engineering Services Department indicated the roads are in order. The Engineering Services Department also indicated that only if more than 50 additional trips to or from the site is generated per hour by an application, or a land use change, then a TIA is required (see Annexure O). They indicated such criteria are not triggered by this application. It is also to be noted that the internal roads of both Portion 11 and Portion 94 of Farm No. 587 obtain access over Portion 45 of Farm No. 587 (servitude right-of-way), which is on upgraded tarred road to the south of Portion 94 of Farm No. 587. It appears that property owners of the residential estate have also recently amended their access point to also use the same entrance point used by Haygrove Heaven (tarred road). They have thus benefitted by the road upgrades to a certain extent.

The comments of Western Cape Government : Transport & Public Works : Roads was later obtained to ensure they consider any impact the application may have on the Hemel-en-Aarde Road. They indicated that they have no objection to the application.

#### **PROCEDURAL CONSIDERATIONS:**

##### **OBJECTION 10(a)**

***The defective nature of the applicant's power of attorney: and company resolution.***

***Annexure B to the application includes a power of attorney signed by a director and owner of the subject property, and a company resolution.***

***The power of attorney authorises WRAP to undertake the following acts: "The application for amendment of conditions of approval and departure from building lines."***

***The company resolution signed by the directors of the subject property's owner authorises one of the directors to act on behalf of the company regarding "... applications for the following: Amendment of conditions of approval and departure from building lines".***

***The company resolution signed by the directors of the subject properties authorises one of the directors to act on behalf of the company regarding "... applications for the following: Amend of conditions of approval and departure from building lines".***

***Neither the power of attorney nor the company resolution makes any reference to an application for departure from the maximum of 5,000m<sup>2</sup> allowable floor***

*space for all buildings on the land unit, to permit a floor space of 35,0663 ha (350,663m<sup>2</sup>) to accommodate intensive horticulture.*

*It follows in our submission that the necessary authority has not been provided by the subject property's owner for the latter application for departure. That omission has the consequences that the power of attorney and company resolution fall foul of the statutory requirements set out respectively in section 39(1)(b), and section 39(1)(c) of the By-law.*

*To the extent that the applicant's planner persists in pursuing the application as currently framed, the failure by the applicant to provide the necessary power of attorney and company resolution for purposes of the departure pertaining to the maximum allowable floor space, the application is fatally defective on that aspect. It follows that the Municipality must refuse the application for departure from the maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the land unit to permit a floor space of 35,0663 ha (350,663m<sup>2</sup>) to accommodate intensive horticulture, as the delivery of that application to the Municipality has neither been authorised by a power of attorney from the owner of the subject property to the applicant's planner, nor the subject of a company resolution that complies with the peremptory requirements stipulated in section 39(1)(c) of the By-law.*

#### Applicant's response

The reference to the departure in the power of attorney also includes other departures which may be required. This is due to a departure application whether it is from building lines or permissible floor space being submitted in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015. The submitted application is therefore not paternally defective considering that the empowering section of the legislation is the same which nullifies the request by the objector that the application be refused on that ground.

#### Town Planner's comment

The objector's comments are duly noted. The applicant's comments are duly noted, but to ensure that legalities regarding power of attorneys do not impact the application, the consultant was requested to obtain the necessary power of attorney.

An additional power of attorney was provided dated 17 March 2021 which address all the detail of the application (see Annexure P).

#### **OBJECTION 10(b)**

***Request for a site visit by the Municipality before deciding the application.***

***On the facts and circumstance of the application, we submit that the Municipality's officials should undertake a site visit on the subject property and its surrounds in order to fully appraise themselves of the current intensive agricultural operations on the subject property, and the significant and objectionable impacts that would be caused to the subject property's neighbours and other proximate landowners in this part of the Hemel-en-Aarde valley if the development proposal envisaged in the application was authorised to proceed.***

#### Applicant's response

The planners at the Overstrand Municipality are very diligent and generally conduct site visits before making a recommendation to the relevant decision-making authority. It is however submitted to the Overstrand Municipality planner that the approval and implementation of this proposal will not prejudice applicants as asserted by the objector.

Town Planner's comments

The comments are noted, and the Town Planner has done a site inspection in considering this application and will recommend that the MPT members also do a site inspection.

**OBJECTION 10(c)**

***Request for a hearing***

***To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal (or for that matter, when the matter serves before the Municipality's delegated official) we submit that the objectors are entitled to attend on that meeting and to deliver whatsoever oral representations may be necessary and relevant in the circumstance and in support of their representations.***

***We submit that it behoves the Municipality to grant an audience to the objectors and the applicant when it considers its decision of first instance in order to ensure that the parties' rights to administrative action that is lawful, reasonable and procedurally fair is fully given effect to, given facts and circumstance of the application. We look forward to hearing from the Municipality in this regard.***

Applicant's response

The request for a hearing will be the discretion of the Overstrand Municipality.

Town Planner's comment

The request for a hearing is noted. The Municipal Planning Tribunal (MPT) provides objectors and applicants the opportunity to attend MPT meetings. The objector was advised to consult directly with the Chairman of the MPT with regard to any further questions regarding the working of the MPT.

The comment about oral representation is noted and is further addressed under Point 12 – The desirability of the proposal.

**AGRICULTURAL ACTIVITIES ON THE SUBJECT PROPERTY:**

**OBJECTION 11**

***Haygrove grows soft fruits ... in a mainly organic manner. The fact that they spray the crops at night (until 10pm) and use helicopters on a regular basis to spray over the tunnels (and our home), suggests they are not organic, and are using fertilisers, pesticides and herbicides.***

***Any expansion should include the requirement to use only organic farming methods. The source of organic raw materials should be restricted to local suppliers to encourage local investment and capacity development.***

Applicant's response

The request by the objector that only organic farming methods be applied and that it all be sourced locally is onerous.

Town planner's comment

The comments are noted. The decision maker cannot stipulate or force a farm owner to farm in an organic manner and only source locally.

**OBJECTION 12**

***The current sewerage situation is not entirely satisfactory at all and already brings unnecessary flies and odour to this part of the valley.***

Applicant's response

The applicant will make a considerable effort to further enhance the sewage disposal system on the property to avert the concerns which are raised.

Town Planner's comment

The comments are noted. The applicant indicated that they would address the concern.

**INDUSTRIAL ACTION RELATED CONSIDERATIONS:****OBJECTION 13(a)**

***If this proposal were to be accepted there must be a minimum percentage of permanent employees relative to the total seasonal and permanent staff complement; a scheme to support local employees to acquire suitable housing; and a profit-sharing scheme for employee upliftment. We have experienced enough disruption with strikes and toyi-toyiing, blocking and burning of the R320.***

Applicant's response

Industrial action is a common phenomenon in most businesses. Haygrove is however committed to strong labour relations who would minimise the likelihood of any future industrial action.

Town Planner's comment

The comment regarding proposed staff appointments, profit sharing and employee upliftment to help reduce disruption with strikes, are noted.

The applicant indicates they are working on strong labour relations to avoid future industrial action.

Again, strikes are something that can happen on wine farms, tourist facilities and agricultural industries in the Hemel-en-Aarde valley, and not only Haygrove Heaven. This fact therefore does not prove the application to be undesirable.

**OBJECTION 13(b)**

***Provision of employment is a compelling argument, however the employment required in this country is that of permanent jobs, the security of a monthly salary throughout the year as well as the benefits that go with permanent employment. Seasonal and contract labour is coming under careful scrutiny throughout the world and especially in the Western Cape. Justifiably the labour force becomes disgruntled with this mode of employment and industrial action takes place. We have seen this in many parts of the Western Cape. Such industrial action which is quite legitimate unfortunately spills off into destruction and vandalism to neighbouring properties.***

Applicant's response

Seasonal employment might come under scrutiny from time to time. The nature however, of the harvesting on the subject property historically necessitates a mixture of permanent and temporary employees. The approval for the construction of the horticulture tunnels would allow a year-round employment of some seasonal workers. This would contribute to reducing the adverse impacts of seasonal employment, which is cited by the objector.

Haygrove has spent R90 329 082 in Hermanus on local salaries, wages and materials and very few companies in Hermanus have such a substantial wage bill. The employees in turn have 2 to 3 dependants with whom salaries are shared for survival, which constitutes a significant economic impact in Hermanus, which should not be understated. Haygrove also provides employees with necessary medical care via a registered nurse to ensure that employees are quickly attended to in times of illness and transported to the nearest hospital in cases of serious emergencies.

The disgruntlement regarding the mode of employment is a matter which is addressed by the employer and employee. The alleged vandalism of neighbouring properties is noted; however, the objector can contact SAPS to obtain relief in the unfortunate event of vandalism occurring.

Town Planner's comment

The comments are noted. The town planner's response in 13(a) addressed these issues.

The comments regarding destruction and vandalism to neighbours' properties if there is a strike is noted, but such matters must be referred to the SAPS.

**OBJECTION 13(c)*****Protest action:***

***Disgruntled Haygrove Heaven workers have begun to stage protests in the valley. They have blocked the R320, burning tyres and branches. This action will escalate if Haygrove Heaven further expands. This is also a security issue.***

Applicant's response

Industrial action, which the objector refers to occurred on the R320 once in 18 years and the objector infers that this is a common phenomenon, which is not the case.

Notwithstanding the above, industrial action does not exclusively occur in Haygrove but also on surrounding farms. It is however the responsibility of each farmer to have good relations with workers to avert industrial action. Industrial action is a labour relations matter and not a reflection on the merits of the planning proposal.

Town Planner's comment

The comments are noted, and the applicant successfully addressed the points.

**HEALTH RELATED OBJECTIONS:**

**OBJECTION 14**

***The current farming activities already affect the community's health. I, Andree Bonthuys, have been diagnosed as chronic asthmatic since moving here in 2016 and it is as a direct result of the spraying, which occurs most nights on the ground, and several times per year by air. I have also been hospitalised (Feb 2018) with pneumonia, also as a direct result of spraying. I never suffered from any respiratory illnesses before moving to De Werf. Many of the inhabitants of Haygrove also suffer from chronic asthma and respiratory illnesses. (Hermanus, Gertse and Low families who live on the Nieuwe Post premises, as example). Expansion as per this proposal would necessitate many people moving away from the area for health reasons, including myself and that in it is an infringement of our rights.***

Applicant's response

The lung related medical condition of the objector is indeed concerning. Notwithstanding that, the following factors also contribute to asthma and pneumonia.

- Airborne substances, such as pollen, dust mites, pet dander or particles of cockroach waste;
- Respiratory infections, such as the common cold;
- Physical activity (exercise-induced asthma);
- Cold air;
- Air pollutants and irritants, such as smoke;
- Certain medications, including beta blockers, aspirin, ibuprofen (Advin, Motrin IB, others) and naproxen (Aleve);
- Strong emotions and stress;
- Sulphites and preservatives added to some types of foods and beverages, including shrimp, dried fruit, processed potatoes, beer and wine; and
- Gastroesophageal reflux disease (GERD), a condition in which stomach acids back up into your throat.

For the objector to blame the illness on the activities on Haygrove and to suggest that the approval and implementation of this proposal would worsen the situation without having considered other probable causes, is unfair towards the owner of the subject property.

Notwithstanding the above, the products used by Haygrove have been authorised for use by different health authorities and are unlikely to be the cause of the objector's respiratory illnesses. Spraying occurs occasionally on the subject premises and does not occur on most nights.

Town Planner's comment

The comments are noted that the spraying of the berries create health problems. The applicant's detailed response from a medical perspective is noted and will not be commented on.

It must however be noted that even vines, which are grown extensively in the Hemel-en-Aarde Valley may require spraying at times. The tunnels will also reduce parasites on plants. Also, Haygrove Heaven must comply with very strict rules regarding using chemicals.

The fact is the spraying of chemicals in agricultural areas is required for healthy crops, and it is an action associated with farmland areas. That is why any person living in such rural environment will have to accept that there would be such activity.

**OBJECTIONS NOT RELATED TO THE SUBMITTED PLANNING PROPOSAL:****OBJECTION 15(a)**

*There are a large number of pine trees growing amongst the pristine fynbos on the slopes of the mountain on the north-west side of the Haygrove farm. Pine trees are planted between the blocks of tunnels on the farm. Wind blows the seeds which then germinate amongst the fynbos in the nature conservancy. These trees only appeared in the last 5 years, before that the area was pristine. The trees are getting large enough now that they will be utilising the much-needed water run-off to the Onrus River, apart from becoming a significant fire hazard. Haygrove may argue that the trees are not on their land, but neighbouring farms have no control over where the seeds will land. Other farmers in the valley are removing aliens on their properties.*

Applicant's response

The pines planted by Haygrove for windbreaks are coastal beefwoods and not the same spreader pine species as implied by the objector. Furthermore, Haygrove conducts alien clearing on an annual basis across its entire property. No farmer has any control over wind direction - the seeds blow away by wind.

Town Planner's comment

The comments are noted. The applicant suitably addressed this objection.

**OBJECTION 15(b)**

*We would like to register our strongest objection to the above application for departures and amendment of conditions of approval. The reasons for this are detailed in the objections submitted to you on our behalf and others by attorney Nick Smith in November 2019.*

*For the record, I would like to register my strongest objection possible to all the departures Haygrove is applying for. The reasons for this are detailed in the objections submitted to you by attorney Nick Smith and others in response to the first application by Haygrove.*

*I would also like to be informed of the exact reasons why the objections raised by Mr Smith and others would be ignored in the event of Haygrove being granted approval.*

Applicant's response

The objection submitted by Mr Nick Smith has been responded to.

Town Planner's comment

Comments are noted. It was addressed by the applicant.

**8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

See point 7 above.

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

See point 7 above.

**Internal Departments**

No objections

**10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**

**10.1 Background**

N/A

**10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)**

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

With improved yield more job opportunities could be created for the previously marginalized or higher incomes.

Spatial sustainability

The proposed activity (tunnels) will take place on agricultural land for agricultural activities. Although the area is a well-known tourist area, agricultural activities should not be limited to enhance tourism; both should be allowed to grow. No environmentally sensitive land will be utilized.

Efficiency

Putting up horticulture tunnels will produce more yield and is therefore a more efficient way to farm.

Spatial Resilience

The larger the productions the more markets with different fruits can be targeted to ensure during economic downturn wide clientele base have been created to ensure economic viability.

Good administration

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

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

Same as Point 10.2 above.

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

In terms of the SDF, 2020, the area is earmarked for agricultural purposes. The property falls within an Agricultural Resource area and is also situated close to a scenic corridor. In the SDF it is further recommended development be informed by EA&DP's development guidelines.

The proposed expansion of the horticulture tunnels is considered in line with the Policy. The property is situated close to a scenic corridor, but the fact that horticulture tunnels are part of the agricultural fabric, and the EA&DP Planning had no objection to the application, it is interpreted that the application is in line with the aims of the Policy.

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

N/A

**10.6 Impact on Municipal engineering services**

No municipal services are provided.

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

N/A

**10.8 Existing and proposed zoning comparisons and considerations**

The property is zoned Agriculture Zone I and will remain being zoned Agriculture Zone I.

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

N/A

**12. THE DESIRABILITY OF THE PROPOSAL**

Portion 11 of farm Hemel-en-Aarde 587 is zoned Agriculture Zone I. Haygrove Heaven (Pty) Ltd also owns the farm on Portion 94 of Farm 587 and established a berry farm on the properties.

Portion 11 of Farm 587 measures 155,0487 ha. The farm is mostly utilized for berry farming, but there is also a rural restaurant on the property. The appellant indicated at this stage there are 13,8209 ha of berry fields already under horticulture tunnels, approximately 6 ha open berry fields and approximately 14,1662 ha of berry fields are already covered with some form of shade netting. There are approximately 33,8871 ha berry fields under netting of which the applicant now wants to place horticulture tunnels on the remainder 20,1662 ha. There is also some other agricultural land open on the farm. The existing horticulture tunnels are at this stage on the southern and south-western part of the property.

It is to be noted that the property has already been approved for a consent use for intensive horticulture, and that this application is to amend such approval to allow horticulture tunnels over a larger area of existing berry fields.

The application then also includes the relaxation of the 30m building lines, and to relax the maximum 5000m<sup>2</sup> footprint for buildings allowed on a farm.

The application has been circulated to all relevant municipal and state departments and institutions, and no objections were received.

The application was advertised, and eight (8) letters of objection were received. One (1) letter was from a representative of the De Werf Estate, next to Portion 11 of Farm 587, and other surrounding landowners.

The objections were very substantial, and the applicant was also provided with an opportunity to respond to the objections. These points were discussed in detail by the municipal town planner in this report.

To properly apply our minds the most significant objections will again be discussed, to enable the determination of desirability of the application.

It is to be noted that the objectors indicated that to truly evaluate the application this application and a similar application on Portion 94 of Farm No 587 had to be considered at the same time. The application was therefore only tabled before the MPT with the application on Portion 94 of Farm No 587.

One of the major concerns of the objectors is the scale of the development and its perceived impact on the surrounding area.

It is to be noted that this farm and Portion 94 of Farm 587 is already farmed with berry farming, and that the property owner obtained consent use rights for intensive horticulture purposes on these properties. The application is to cover existing fields with horticulture tunnels. Farming activity will therefore not increase drastically and from the motivation it appears no additional staff will be required.

The concerns of the scale of the development appears to be more directed at the visual impact the horticulture tunnels will have and possible glare, the comments are noted that this is a scenic valley and a tourist destination. However, the area is firstly an agricultural area, and therefore berry farming is in line with uses allowed in agricultural areas. The applicant indicates that most of the berry fields are already covered with netting, with only 6 ha additional area that will be covered. The existing and new horticulture tunnels will all be covered with netting to reduce any glare. The fact is the property owner and objectors will both have their opinion with regard to what is "objectively viewed" in terms of this application. As indicated in this report, DEA&DP: Environmental and Planning, Heritage Western Cape and the Municipal

Environmental Section support this application, and not one of these departments requested a Visual Impact Assessment. The reason for this is that horticulture tunnels are an acceptable feature in the rural areas, and the Hemel-en-Aarde Valley is firstly a farm area.

It is also to be noted that it is not a unique situation that complaints are received in agricultural areas about farming methods and practises. More and more people are creating tourist facilities or additional dwelling units in farm areas, and their expectations of what can happen in such areas differ from farmers that must work the land. An example is the De Werf and Coch-y-Bondhu developments, which was approved on agricultural land, just to the south of Portion 11 of Farm 587.

The concerns about impact on water resources, additional possible storm water being created; fire impact and traffic impact were discussed in this report. It is clear that all relevant municipal departments, BGCMA and DOT support the application, and therefore water resources, storm water and traffic impact are considered acceptable.

The comments of the Municipal Fire Department were also obtained on the FMP received from the applicant, specifically due to the fact that application was also made to relax the 30m building lines adjacent to surrounding properties. No objection was provided by the Fire Department.

Considering the above, the objectors' opinions are not supported with regard to possible loss of property value, increase in crime and impact on the right of enjoyment of the properties, and it is speculative. The fact is horticulture tunnels are part of the landscape of agricultural areas, and in future more such tunnels will appear as it helps increase production and food security, safe water and in the process requires less chemicals on crops. Many of the objections relate to the fact that surrounding residents do not want to see changes to their surrounding environment, as they feel it would negatively affect them. Many of the uses that are considered to be impacted on are residential and tourism uses, which is considered additional uses to agricultural uses in farm areas.

It is the opinion that the expectation of such objectors should not impact farmland to be fully utilized in its most productive manner.

The objectors also debated the fact if the application complies with General Principles of SPLUMA and LUPA. The Development Principles was considered in detail with this application and the opinion regarding this application is as follows:

### **Spatial Justice**

This application would ensure work opportunity to disadvantaged communities, but due to the fact that this is not an application for new land development other principles of spatial planning is not triggered. The principle that an "MPT considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the grounds that the value of land or property is affected by the outcome of the application", is partially relevant.

Surrounding neighbours fear the impact of the development on their environment and ultimately property value. The MPT must therefore carefully consider such objections, as the weight of these objections should not outweigh the opportunity it creates for jobs for the disadvantaged communities.

**Spatial Sustainability**

The principle is to promote land development, ensure that special consideration is given to the protection of prime and unique agricultural land, uphold environmental land use management, promote and stimulate the effective and equitable functioning and markets, consider all current and future costs to all parties for the provision of infrastructure and social services, limit urban sprawl and result in communities that are viable.

The objectors are of the opinion that not sufficient information was provided with the application to prove the application to be sustainable and is also concerned that the applications impact on the tourist industry would negatively impact this area.

From the information and comments from State and Municipal departments it is safe to say that the application will not negatively impact agricultural land or sensitive environmental land. The additional yield will also provide additional produce for the markets.

The concerns regarding road infrastructure and traffic safety, use of water resources and storm water control are noted, but all relevant State and Municipal departments who are specialists on these matters support the application.

Further, the creation of job opportunities on agricultural land, close to urban centres, will help with the economic upliftment of the community and help create viable communities.

**Efficiency**

This principle means the optimization of use of resources and infrastructure, better decision making to minimize negative financial, social, economic or environmental impacts, and streamlined decision making procedures.

The application is to use the land of the farm and existing infrastructure to its maximum capacity.

In decision making all factors should be considered, and with this application all relevant State and Municipal departments' comments were obtained to ensure the impact of this application is duly considered.

**Good Administration**

It requires that all spheres of government must be involved in land use planning, all government departments must provide input with regard to spatial development frameworks or any requirements of law, and good public participation process must be followed.

It is clear from this report that all relevant comments were obtained from State and Municipal departments in terms of requirements of law.

**Spatial Resilience**

It is a resilient system to deal with external shocks by way of innovative thinking.

The reason for this application is a typical example of Spatial Resilience. The berry farm lose yield due to pests and rot due to heavy rain. By covering the berries with

horticulture tunnels the fruit rot is stopped and less pesticides are required. The positive is the increase in yield. This will ensure that, considering climate change, the farmer will have less shocks and disturbances and can farm more productively.

Considering the above it is the opinion that the construction of the additional horticulture tunnels is not out of line with the character of this agricultural area and is desirable.

The one objector also requested that objectors be afforded the opportunity to attend the MPT meeting and provide further representation. The objector was informed to consult with the MPT Chairman regarding his request.

It must be noted that on 27 July 2016 the Special Mayoral Committee approved "The Rules and Procedures for meetings held by the Municipal Planning Tribunal".

In terms of Point 4.1 in the procedure document the MPT meeting must be open to the public, except in so far as the MPT may in special cases otherwise direct that the meeting is closed due to matters of confidentiality.

It is also noted that in the report to the Special Mayoral Meeting on 27 July 2016 it stipulates, "The rules and procedures do not make provision for oral representation at this stage and allows for the planning tribunal to consider a matter before them only on written representation".

A site inspection was conducted by the Town Planner. Special attention was given to the previously approved horticulture tunnels, and also if these tunnels were covered by non-reflective netting.

It was established that some tunnels were not covered with netting. It appears from aerial photos that there might have been netting over such tunnels at a stage, but at this stage most of the tunnels on the southern boundary are not covered.

The Town Planner also wanted to scrutinize the building plans for the previously approved horticulture tunnels, but none was found at the Building Control Department.

The applicant will therefore have to submit the required building plans and fit the covered netting to comply with the previous approval, before any further horticulture tunnels may be erected. A special condition to such effect will have to be inserted into the recommendation.

It is also recommended that the MPT members do a site inspection.

The application to amend the relevant condition and Site Development Plan and to allow departures for building lines and total area for footprint of buildings be supported.

However, there is concern that the FMP did not take the grow tunnels proposed over the eastern farm boundary into consideration, and therefore such departure should be partially approved.

### **13. RECOMMENDATION**

1. that the application in terms of Section 16.(2)(h) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Portion 11 of Farm 587

Hemel-en-Aarde Valley to amend a condition of approval 3.(a) in a letter dated 21 January 2016 to allow for the expansion of the horticulture tunnels from 13,8209 ha to 33,9871 ha, **be approved** in terms of the provisions of Section 61 of the By-Law, and that the condition now reads as follows:

*“3.(a) that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan, submitted with the application, and an application will have to be made for any possible future tunnels”*

2. that the applications in terms of Section 16(2)(b) in terms of the By-Law -
  - for departures to relax the following:
    - southern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels;
    - western lateral building line from 30m to 10m to accommodate the proposed intensive horticulture tunnels;
    - northern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels; and
  - departure from the maximum 5000m<sup>2</sup> allowable floor space (intensive horticulture tunnels and other buildings) for all buildings on the land unit to allow floor space of 35,0663 ha to accommodate the new horticulture tunnels,

**be approved** in terms of the provisions of Section 61 of the By-Law,

3. that the application in terms of Section 16(2)(b) in terms of the By-Law for a departure to relax the eastern lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels, **be partially approved** in terms of the provision of Section 61 of the By-Law, and that the eastern lateral building line not be relaxed from 30m to 2m, but only up to 10m.
4. that the approvals in 1 – 3 above be subject to the following conditions:
  - (a) that building plans be submitted for approval for the horticulture tunnels as approved in the letter dated 21 January 2016, and that all such tunnels be covered with non-reflective netting prior to the applicant acting on the above approvals;
  - (b) that this approval is only for the horticulture tunnels as indicated on Site Development Plan No 19/47 dated July 2019, with only the limitation that the horticulture tunnels over the eastern building line only be allowed to be constructed up to 10m from such boundary;
  - (c) that detailed building plans be submitted to the Building Department for approval;
  - (d) that this approval does not absolve the applicant/owner from compliance with any relevant legislation;
  - (e) that all the development parameters as prescribed in the By-Law Land Use Regulations be retained;

- (f) that all the conditions imposed by Telkom (attached as Annexure K), be complied with;
  - (g) that all the conditions imposed by BGCMA (attached as Annexure L), be complied with;
  - (h) that all the conditions in the Services Report (attached as Annexure M), be complied with;
  - (i) that all the conditions imposed by Eskom (annexure as Annexure I), be complied with;
  - (j) that all the conditions by the Heritage Western Cape (attached as Annexure J), be complied with, and
  - (k) that non-reflective shade netting be placed over all new horticulture tunnels to limit glare.
5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

#### **14. REASONS FOR RECOMMENDATION**

##### **APPROVED (POINTS 1 & 2)**

- ❖ The new proposed horticulture tunnels are part of the fabric of agricultural areas, and the objections regarding visual impact and scale is not supported, as all relevant state and municipal departments being Heritage Western Cape, EA&DP: Planning Directorate, EA&DP: Environmental Department and the Municipal Environmental Management Department supports the applications.
- ❖ Existing berry fields are already covered with shade netting or horticulture tunnels, and only an additional 6 ha berry fields will now be covered additionally, which will have a limited impact on the surrounding area and existing trees on the farm will also help lessen visual impact and glare.
- ❖ The new proposed horticulture tunnels will help improve yield and would help reduce crop spraying.
- ❖ The concerns regarding additional water use, increase in storm water, traffic and possible fire safety does not prove the application to be undesirable, as the relevant municipal and state departments who specialise in these fields, being BGCMA and DOT, the Municipal Engineering Services- and Fire Departments, support the application, and consider the impacts to be acceptable.
- ❖ The Hemel-en-Aarde Valley is an agricultural area with environmentally sensitive areas on the mountain sides. Although this area is a tourist area, the main use is still agricultural; and therefore, application to improve agricultural productivity should receive priority. The comments regarding loss in property value, increased crime and loss of right of enjoyment of surrounding property owners is not supported, as the proposed activity fits in with the main function of the Hemel-en-Aarde Valley, being agricultural.
- ❖ The horticulture tunnels will increase food production.

##### **PARTIALLY APPROVED (POINT 3)**

- ❖ The concern by an objector why 10m building lines are required in terms of the Veld and Forest Act was not sufficiently addressed in terms of the relaxation of the

eastern building line from 30m to 2m. The grow tunnels were not indicated on the FMP submitted by the applicant in response to the objections and concerns regarding fire belts, and therefore it is not clear if the impact of such grow tunnels on fire safety was considered by the professional person who prepared the FMP.

- ❖ It is the opinion that a 10m building line would be an acceptable distance to implement, as it would comply with the Veld and Forest Act.

## **15. ANNEXURES**

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Objections received
Annexure E:	Applicant's response on objections received
Annexure F:	Comment: DEA&DP: Environmental
Annexure G:	Comment: DEA&DP: Planning
Annexure H:	Comment: Department of Agriculture: WC
Annexure I:	Comment: Eskom
Annexure J:	Comment: Heritage Western Cape
Annexure K:	Comment: Telkom
Annexure L:	Comment: BGCMA
Annexure M:	Services Report
Annexure N:	Comment: Fire Department
Annexure O:	Additional comments: Engineering Services Department
Annexure P:	Comment: Environmental Management Services Department

## **SIGNATURE**

### **AUTHOR:**

Name: **H OLIVIER**

SACPLAN Reg No: **B/81828/2004**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### **REGISTERED PLANNER**

Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

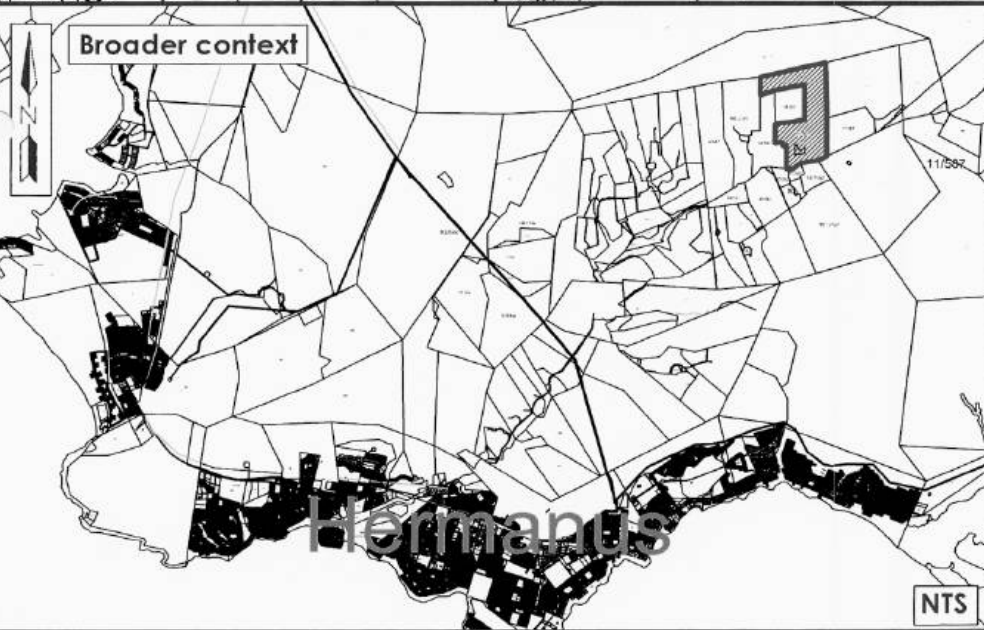
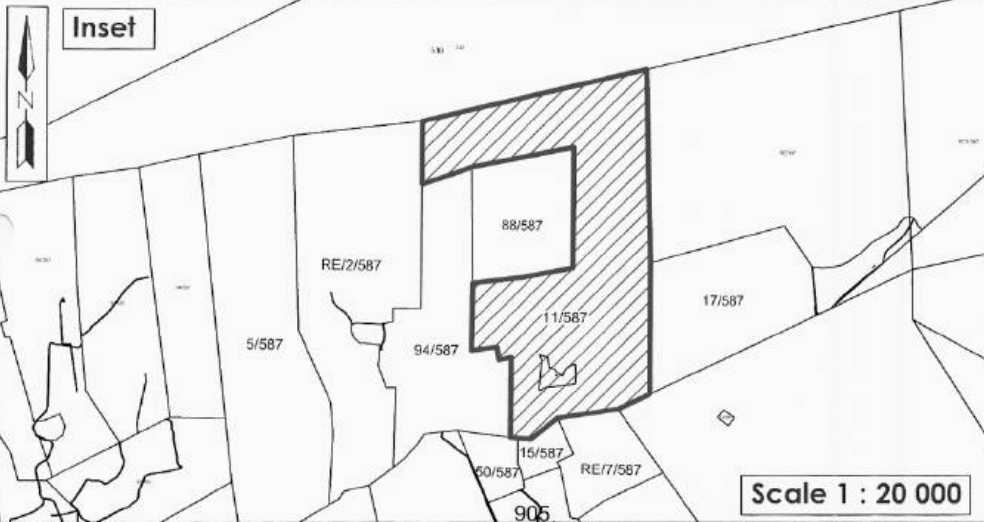
### Plan 1: Locality Plan

Annexure A 1/2

### Portion 11 of the Farm Hemel en Aarde 587 Caledon

Portion 11 of the Farm Hemel en Aarde 587 Caledon (155,0487 ha)

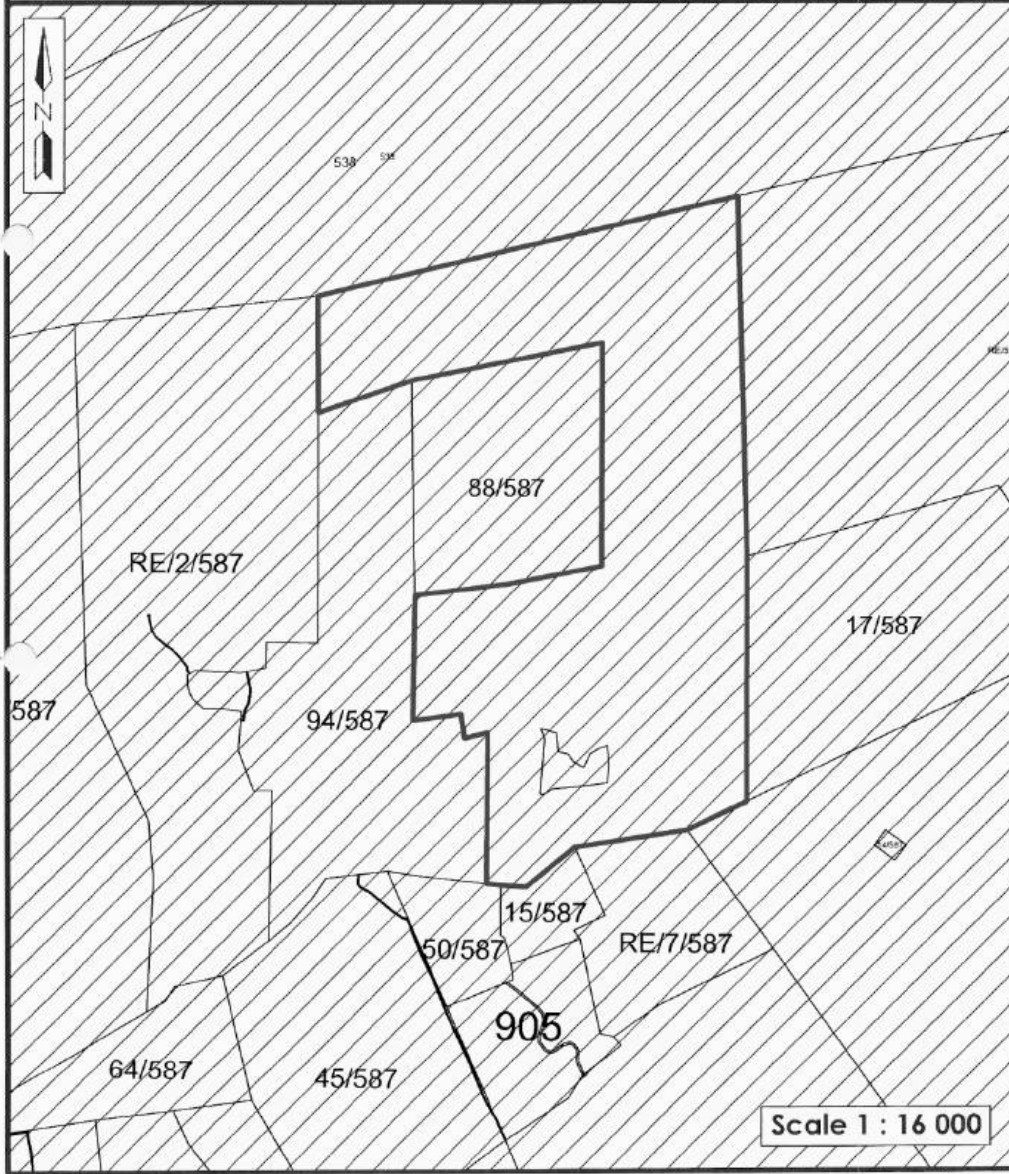
Tel: 028 313 1411  
Email: admin@wrapgroup.co.za  
Plan prepared in July 2019  
File number 18/033  
35 Duiker Street, Hermanus, 7200  
Plan prepared by: Reallehlie Jonkie  
All distances are approximate  
and subject to a survey



### Plan 2: Zoning Plan Portion 11 of the Farm Hemel en Aarde 587 Caledon

-  Portion 11 of the Farm Hemel en Aarde 587 Caledon (155,0487 ha)
-  Agriculture Zone 1: Agriculture

Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Plan prepared in July 2019
File number 18/033
35 Duker Street, Hermanus, 7200
Plan prepared by: Reallehle Jankie
All distances are approximate and subject to a survey





#### 4. FARMERS INTENT

##### 4.1 Current agricultural activities

Haygrove grows soft fruits, strawberries, raspberries and cherries, mainly in an organic manner. The commercial enterprise sells the fresh produce, both locally and internationally and has won numerous awards. Haygrove opted for intensive agriculture as it enables the farmer to increase yield, increase the quality of agricultural output, and enable innovative crop protection (refer to photos attached as **Plan 6**).

##### 4.2 Background and farmers intent

There is an historic consent use approval for intensive horticulture and building line departures on the subject property (refer **Annexure D**). The scale of the intensive horticulture on the subject property was limited to areas as indicated on an SDP which was submitted with the town planning application. The demand for the agricultural produce from the subject property outweighs what the property owner can produce and supply. To respond to this demand, the property owner is proposing to increase the footprint of the intensive horticulture area on the subject property.

#### 5. CONTENTS OF THE LETTER OF APPROVAL

WRAP submitted an application to the OM which was approved and contains the following conditions of approval relevant to this application (refer **Annexure D**).

"1. that in terms of Clause 2.2 of the Overstrand Municipality Zoning Scheme Regulations the application for a consent use on Remainder Portion 11 of Farm Hemel en Aarde No.587 to accommodate intensive horticulture (tunnels) on the property **be approved**;

2. that in terms of Section 15 of LUPO the application for departure to relax the southern lateral building line from 30m to 21m and the 30m building line with Portion 88 of Farm Hemel en Aarde No.587 to 3,4m to accommodate portion of the tunnels, **be approved**;

3. That 1 and 2 above be approved subject to the following conditions:

- (a) That the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 14/073/01/P11 submitted with the application and; **and application will have to be made for any possible future tunnels**;
- (b) That detailed building plans be submitted to the Building Department for approval;
- (c) That this approval does not absolve the applicant/owner from compliance with any other relevant legislation;
- (d) That all the other development parameters as prescribed in the Zoning Scheme Regulations be retained; ..."

The consent use for intensive horticulture measuring 13,8209ha already exists on the subject property. This application is however to expand the size from 13,8209ha to 33,9871ha as indicated on the SDP (refer **Plan 3**) which would require the condition of approval to be amended.

The OMZS defines intensive horticulture as follow;

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Portion 11 of Farm Hemel en Aarde 587 Caledon  
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## EXECUTIVE SUMMARY

**"intensive horticulture** means the cultivation of plants and indigenous flora on intensive scale, where plants are cultured under a roof or open land, or in green houses, and includes the sale of self produces plants from the land."

The existing and proposed horticultural tunnels which produce the fruits elucidated in Section 4.1 of this motivation report are in harmony with the definition above.

### 6. APPLICATION

For the owner of the subject property to be conferred with the appropriate land use rights, the following is applied for.

- 6.1 Amendment of condition of approval 3 (a) contained in letter of approval dated 21 January 2016 to read as follow: "that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 3 submitted with the application, and an application will have to be made for any possible future tunnels". This is to allow the proposed expansions of the tunnels from an area which measures 13,8209ha to 33,9871ha in terms of Section 16(2)(h) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.**

The existing intensive horticulture on the subject property has a higher crop output than traditional agriculture as more fruits are produced per square hectare. The intensive horticulture tunnels use less resources such as water and fertiliser and are more efficient compared to traditional agriculture. The intensive horticulture on the subject property is more profitable per hectare compared to traditional agriculture and enables a farmer to plant a wider variety of crops which would not be possible if the soil and weather conditions are not ideal.

The agricultural business on the subject property has grown beyond the forecasts of the property owner since 2016 and has resulted in the supply demand exceeding the supply. This proposal and other similar proposals which have been submitted also indicates that there is a trend taking hold among farmers in the OM who are increasingly opting for intensive horticulture to meet demand for agricultural produce. This is a positive trend as it maximises agricultural output on farms and contribute to the food security of the region and country. This also contributes to SA being an exporter of agricultural produce instead of an importer. The approval and implementation of this proposal would also enable the owners of the subject farm to derive a higher income and respond to the increased demand for agricultural produce.

- 6.2 Departure from the 30m eastern side building line to 2m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;**
- 6.3 Departure from the southern 30m building line to 3m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;**
- 6.4 Departure from the 30m western side building line to 10m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;**



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## EXECUTIVE SUMMARY

- 6.5 Departure from the 30m northern side building line to 5m to accommodate the proposed intensive horticulture tunnels in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015; and
- 6.6 Departure from the maximum of 5000m<sup>2</sup> allowed buildings on the subject property to permit the existing and proposed intensive horticultural expansion to be 35,0663ha in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.

The subject property contains mountains and dams which constitute approximately 40% of the subject property and significantly reduces arable land on the farm for the expansion of intensive horticulture tunnels. There are also critical biodiversity areas and wetlands on the subject property (refer **Plan 5**) which the property owner does not intend to farm on. The geology and environmental constraints which exist on the subject property reduce the amount of farmland available for intensive horticulture. The tunnels will not bring about additional noise. Workers occasionally work in the tunnels for a short time which also reduces the likelihood of noise impacts on neighbouring property owners. The soft fruits, raspberries, strawberries and indigenous fynbos species which are going to be planted in the tunnels proposed for expansion do not smell bad or emit any offensive fumes. The approval of the proposed tunnels over the building lines will therefore not interfere with the rights which adjacent property owners enjoy in the occupation of their properties. The proposed departure from the 5000m<sup>2</sup> permissible buildings to allow intensive horticulture covering land measuring 35,0663ha can be regarded as positive as it is intended to increase the agricultural output of the subject farm.

#### 7. IMPACT OF OUTCOME OF THIS APPROVAL

The impact and outcome of this approval will not alter the agricultural land uses on the subject property but will increase the agricultural output. Considering that the neighbouring Portion 94 of Farm Hemel en Aarde 587 Caledon 587 also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed to the tunnels on the subject property and neighbouring farm. This proposed expansion will therefore not be foreign to neighbouring property owners or upset the rural visual landscape which farmers have become accustomed to.

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Portion 11 of Farm Hemel en Aarde 587 Caledon  
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## MOTIVATION

**8. RURAL ENVIRONMENT**

The rural environment of the Hemel en Aarde area is characterised by intensive animal farming, intensive horticulture, agriculture and tourism related land uses. The approval and implementation of this proposal is in harmony with the rural environment which is valued by the residents.

**9. TITLE DEED**

Title deed T42402/2010 was perused and there are no restrictive title deed conditions which prohibit the approval and implementation of the subject proposal.

**10. ZONING**

The compliance or deviation of this proposal from the Agriculture Zone 1: Agriculture zoning was assessed and as a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:

<b>Agriculture Zone 1: Agriculture</b>			
	<b>Parameters</b>	<b>Proposal</b>	<b>Deviate or comply</b>
<b>(a) Primary use</b>	agriculture, dwelling house, day care centre, guest rooms, home occupation.	Agriculture	Comply
<b>(b) Consent use</b>	additional dwelling units, agricultural industry, animal care centre, aquaculture, crèche, farm shop/stall, guest house, hotel, institution, intensive animal farming, <b>intensive horticulture</b> , mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, rooftop base station, service trade, tourist accommodation, tourist facilities, transmission tower, utility services, wellness centre, 4 x 4 trail.	Intensive horticulture (tunnels) expansion	Application motivated
<b>Development rules</b>			
<b>Floor space</b>	The total floor space of all buildings on the land unit, may not exceed 5 000m <sup>2</sup> ; provided that Council may relax this requirement if it is satisfied that such buildings are required for genuine farming activities on the land unit.	35,0663ha	Departure motivated
<b>Building lines</b>	Street and common boundary building lines are all 30m	<b>Departure</b> from the 30m eastern side building line to 2m to accommodate the proposed intensive horticulture tunnels;	Departure motivated

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Portion 11 of Farm Hemel en Aarde 587 Caledon  
August 2019



## MOTIVATION

		<p><b>Departure</b> from the southern 30m building line to 3m to accommodate the proposed intensive horticulture tunnels;</p> <p><b>Departure</b> from the 30m western side building line to 10m to accommodate the proposed intensive horticulture tunnels; and</p> <p><b>Departure</b> from the 30m northern side building line to 5m to accommodate the proposed intensive horticulture tunnels.</p>	
<b>Height</b>	<p>(i) The maximum height of a building, measured from the base level to the top of the roof is 8,0 m, provided that;</p> <p>(ii) Agricultural buildings other than dwelling units shall not exceed a height of 12,0 m measured from the base level to the top of the roof; and where Council is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height; and</p> <p>(iii) Earth banks and retaining structures shall comply with 16.6, provided that earth banks and retaining structures, which in the opinion of Council are associated with the bona fide agricultural activities, are exempt from the requirements of 16.6.</p>	<p>(i) Buildings which are not related to agriculture are not higher than 8m;</p> <p>(ii) The existing and proposed intensive horticulture building do not and will not exceed the 12m height restriction;</p> <p>(iii) Comply</p>	Comply
<b>Parking</b>	<p>Parking and access shall be provided on the land unit in accordance with 17.1.</p> <p><b>Restaurant</b> 6 bays per 100m<sup>2</sup> GLA</p> <p><b>Dwellings</b> 1 bay per dwelling</p> <p>There are no parking requirements for intensive horticulture tunnels</p>	<p>The 322m<sup>2</sup> restaurant requires 19,3 parking bays</p> <p>The 11 dwellings and labourers cottages require 11 parking bays.</p> <p>There are 31 parking bays required and 31 parking bays are provided.</p>	Comply



6/9

## MOTIVATION

### 11. SERVICES

The availability of services to guarantee the functionality of the proposed intensive horticulture expansion will herewith be illustrated.

#### 11.1 Water

There are historic registered water rights on the subject property. The proposed tunnel expansion is aligned with the existing water rights capacity. The existing agricultural fields will be converted to intensive horticulture. This will ensure that the extraction of water does not exceed existing capacities.

#### 11.2 Sewage

"Boland Toilet" provides toilets and pumping services for the agricultural fields and tunnels. The same services will be used to cater to the proposed horticulture tunnels. The sewage services have been installed in accordance with the prescripts of audits which have been done on the property and the capacity thereof can be regarded as sufficient.

The packhouse and offices have tanks which get emptied by the Overstrand Municipality.

#### 11.3 Electricity

Electricity is provided by Eskom and the approval and implementation of this proposal will not alter this.

#### 11.4 Access

Access to the subject property is currently gained from Minor Road number OP04012 from km marker 0,991. The approval and implementation of this proposal will not alter this.

### 12. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law.

#### 12.1 Compatibility with surrounding land uses

All of the surrounding farms are predominantly used for agricultural purposes and the proposed intensive horticulture tunnels are in harmony with the surrounding land uses. The neighbouring Portion 94 of Farm Hemel en Aarde 587 Caledon 587 also has intensive horticulture units and this proposal is compatible with this use.

#### 12.2 Impact on views, sunlight and character of the area

The proposed intensive horticulture tunnels will not exceed the permissible height of 12m for agricultural buildings which all farmers in the OM enjoy. The approval and implementation of this proposal will therefore not be a visual intrusion. The camouflage net covering over the existing and proposed tunnels let the tunnels blend in with the rural landscape which contributes to the unique rural character which is visually more appealing than many other farms in the Overberg. The approval and implementation of this proposal will therefore contribute to enhancing the visual diversity of the Hemel en Aarde Valley which is one of the factors which draw tourists to the area.

File 19/47  
Portion 11 of Farm Hemel en Aarde 587 Caledon  
August 2019



7/9

## MOTIVATION

### 12.3 Economic impact

Intensive horticulture is more labour-intensive compared to other agricultural land uses, and the approval and implementation of this proposal will substantially increase the number of people employed on the subject farm. This will therefore contribute to the reduction of poverty which is a positive economic impact.

### 12.4 Need

The population growth of SA and other countries is increasing pressures for the conversion of agricultural land to non-agricultural land uses. There is therefore an increasing pressure for existing farms to increase agricultural yield/output per hectare to respond to these pressures and changes. There is therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security.

### 12.5 Impact on heritage

None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal.

### 12.6 Environmental impact

No listed activities in terms of the National Environmental Management Act are triggered by this proposal. The proposed intensive horticulture expansion is not located on the environmentally sensitive part of the subject farm (refer **Plan 5**).

## 13. SPLUMA MOTIVATION REQUIREMENTS

This application is motivated in terms of the requirements of SPLUMA as a relevant consideration in terms of Section 42 (c) as follows:

### 13.1 Public interest

The visual enhancement and additional taxes which will be collected by SARS if this proposal is approved and implemented will be used for service delivery which is in the public interest.

### 13.2 Constitutional transformation imperatives of the state

The constitutional transformation imperative of the state includes enabling farmers to flourish economically and share the proceeds with workers with the intent of improving the access to opportunities for the poor. The approval and implementation of this proposal will therefore enable the owner of the subject property to implement the constitutional transformation imperatives of the state.

### 13.3 Facts and circumstances pertaining to the application

There is a historic approval for intensive horticulture on the subject property which indicates that the OM considered the originally submitted proposal to be desirable. This proposal only pertains to expanding the footprint of the existing desirable tunnels on the subject property and no additional consent uses are sought.

### 13.4 Respective rights and obligations of all those affected

The proposed expansion of the intensive horticulture tunnels is not projected to interfere with the community's health, wellbeing and comfort in the occupation of their land. The land use right enjoyed by neighbouring property owners will therefore not be infringed upon.

File 19/47  
Portion 11 of Farm Hemel en Aarde 587 Caledon  
August 2019



## MOTIVATION

### 14. SPATIAL PLANNING POLICIES

The consistency of this proposal with all relevant spatial planning policies was investigated. This is a relevant consideration in terms of Section 66 (1) (h), (i) (u) (k) and (l) of the OM By-Law:

#### 14.1 WCLPGRA

The policy promotes appropriate growth of the rural economy in appropriate locations. Policy proposals in the WCLPGRA pertinent to this proposal are recorded as below:

##### 14.1.1 Improve the economic viability of farms through the intensification

The purpose of this application is for the property owner to be granted the appropriate land use rights to intensify agricultural activities on the farm to improve the economic viability. The intensification will be done increasing capital investment and labour to raise yield/output.

##### 14.1.2 Restrict the fragmentation of agricultural landscapes

This proposal does not entail the fragmentation of the agricultural land uses on the subject property but rather enhances the agricultural output on the subject property.

##### 14.1.3 Development should reinforce farm precinct and reflect similar scale

The proposed agricultural tunnels are within the height limits and scale of the existing intensive horticulture tunnels and lower than the 12m height restriction. There are other intensive agricultural land uses in the Hemel en Aarde rural area which makes this proposal to be in harmony with the scale of the area.

#### 14.2 PSDF

The aim of the PSDF is to communicate the governments sound spatial development intentions to the private sector and civil society. Policy proposal in the PSDF which are pertinent to this proposal are recorded below.

##### 14.2.1 Prioritise rural development and investment in agriculture

This proposal is intended to prioritise rural development by increasing investment in agricultural activities on the subject property as prescribed by the PSDF. This will therefore promote inclusive economic growth in the Hemel en Aarde rural area.

##### 14.2.2 Expand and diversify agriculture

The intent of this proposal is to expand the agricultural output on the subject property and have a greater diversity of soft fruits which are proposed to be planted as prescribed by the PSDF.

##### 14.2.3 Capitalise on the comparative strengths of the Western Cape

The comparative strength of the Hemel en Aarde is the high agricultural output and performance of the rural area. This proposal is intended to capitalise on this comparative strength of the rural area.

#### 14.3 SDF

The SDF identifies areas where growth and changes are projected and contains policy proposals which ensure that this occurs to the benefit of the inhabitants of the OM. Policy proposal in the SDF which are pertinent to this proposal are recorded below.



## MOTIVATION

### 14.3.1 Develop and maintain a strong local economic base in rural areas

The Hemel en Aarde has a relatively strong economic base and the approval and implementation of this proposal would contribute to the strengthening of the economic base in the rural area.

### 14.3.2 Protect agricultural resource base

This proposal does not only protect the agricultural resource base but is intended to at least double the agricultural output on the subject farm as prescribed by the SDF.

### 14.3.3 Spatial proposal plan

The subject property is designated as a core agricultural area and the proposal for intensive horticulture is in harmony with this land use designation.

## 15. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

### 15.1 Spatial justice

The approval and implementation of this proposal will lead to employment opportunities being created which will primarily benefit the historically marginalised. This will therefore contribute to addressing spatial development imbalances caused by apartheid planning which concentrated economic opportunities in urban areas to the neglect of rural areas and rural residents.

### 15.2 Spatial sustainability

This proposal promotes enhancing the functionality of the rural space economy. This will be done by ensuring that unemployed people can have a share of the income which will be derived on the subject property. This therefore promotes sustainable rural development which is contextually appropriate and inclusive.

### 15.3 Efficiency

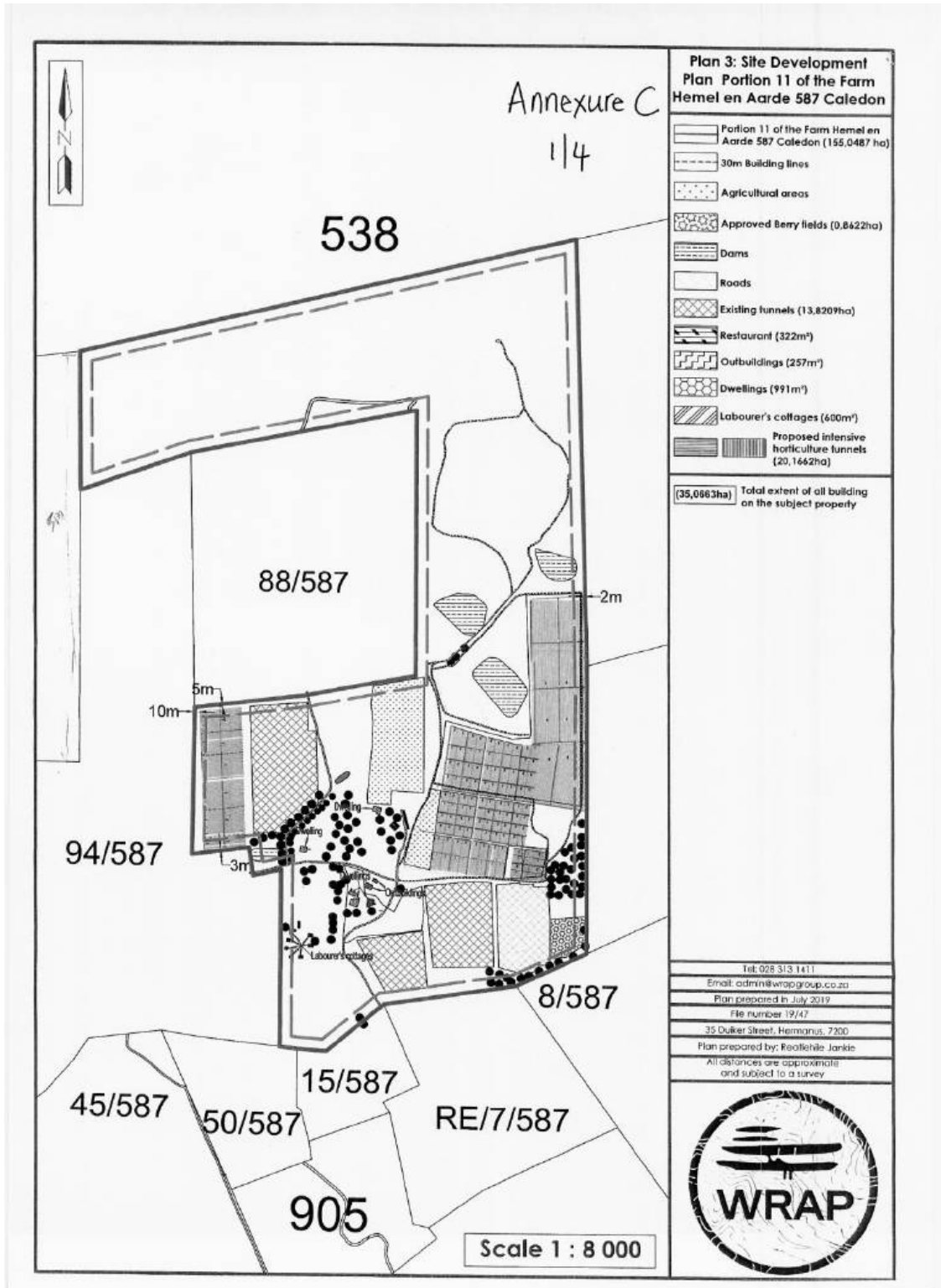
The approval and implementation of this proposal would increase agricultural output on the subject farm which would promote the efficient utilisation of the subject farm. This efficiency is however within the services capacity limits of the subject site as illustrated in Section 11 of this report.

### 15.4 Spatial resilience

The subject proposal is in harmony with the relevant spatial planning policies pertinent to the subject site which promote resilience. This will enable the approval and implementation of this proposal to be able to absorb environmental and economic shock in a timely and efficient manner.

### 15.5 Good administration

The OM has a credible track record of good administration regarding the method of public participation which accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.







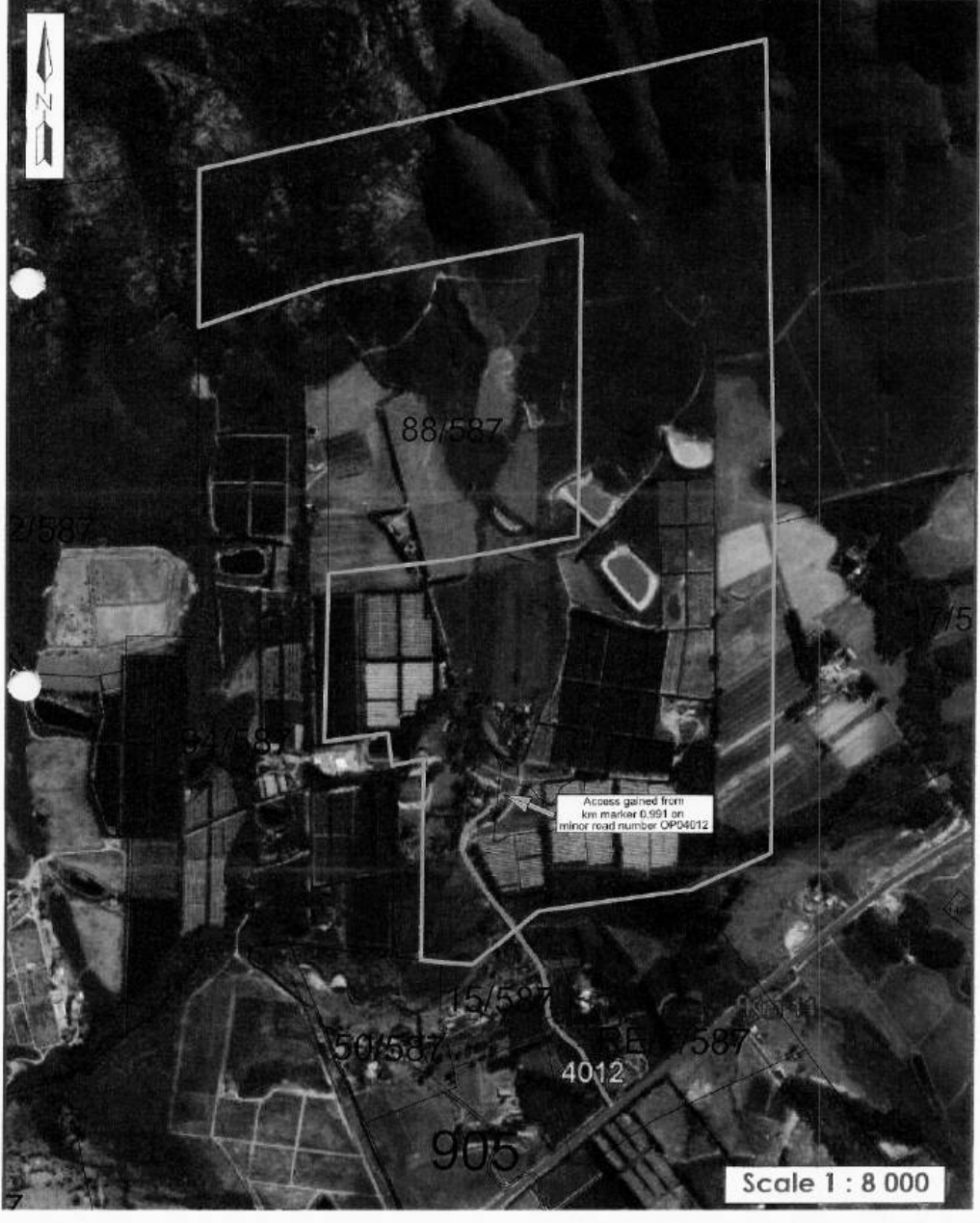
### Plan 4: Access Plan Portion 11 of the Farm Hemel en Aarde 587 Caledon

2/4

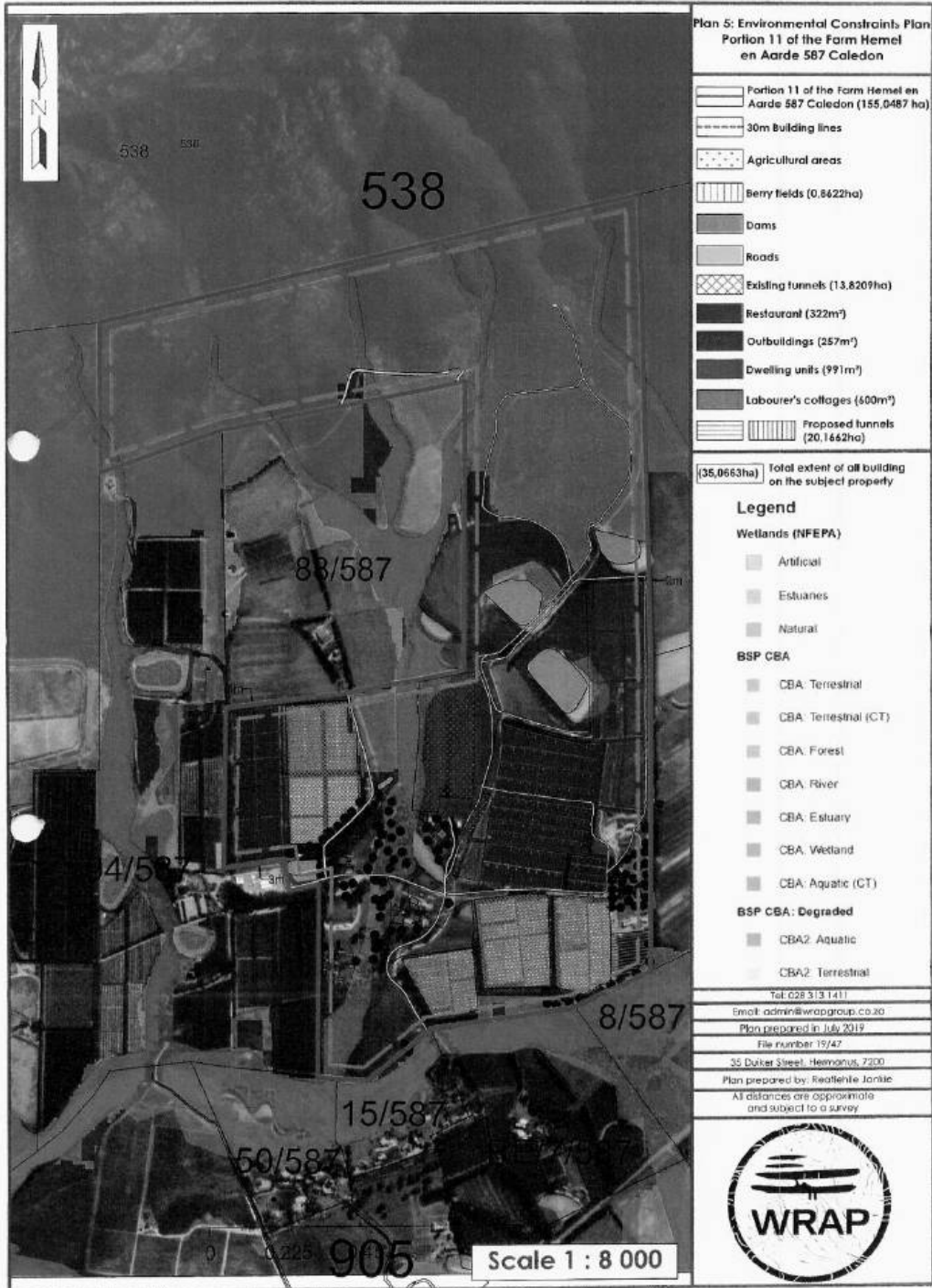


Tel: 028 313 1411  
Email: admin@wrapgroup.co.za  
Plan prepared in July 2019  
File number: 18/033  
35 Duiker Street, Heeremonde, 7200  
Plan prepared by: Redcliffe Jankis  
All distances are approximate  
and subject to a survey

-  Portion 11 of the Farm Hemel en Aarde 587 Caledon (155,0487 ha)
-  30m Building lines
-  Minor road number OP04012
-  Main road number MR00269



314



**Plan 5: Environmental Constraints Plan  
Portion 11 of the Farm Hemel en  
Aarde 587 Coledon**

- Portion 11 of the Farm Hemel en Aarde 587 Coledon (155,0487 ha)
- 30m Building lines
- Agricultural areas
- Berry fields (0,8422ha)
- Dams
- Roads
- Existing tunnels (13,8209ha)
- Restaurant (322m<sup>2</sup>)
- Outbuildings (257m<sup>2</sup>)
- Dwelling units (991m<sup>2</sup>)
- Labourer's cottages (600m<sup>2</sup>)
- Proposed tunnels (20,1662ha)

**(35,0663ha)** Total extent of all building on the subject property

**Legend**

**Wetlands (NFEPA)**

- Artificial
- Estuaries
- Natural

**BSP CBA**

- CBA: Terrestrial
- CBA: Terrestrial (CT)
- CBA: Forest
- CBA: River
- CBA: Estuary
- CBA: Wetland
- CBA: Aquatic (CT)

**BSP CBA: Degraded**

- CBA2: Aquatic
- CBA2: Terrestrial

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Plan prepared in July 2019

File number 19/47

35 Duker Street, Hermanus, 7200

Plan prepared by: Reetlehe Jantje

All distances are approximate and subject to a survey



Scale 1 : 8 000

**Plan 6: Photo Plan**  
**Portion 11 of the Farm Hemel en Aarde 587 Caledon**

4/4

Source:  
<http://www.haygrove.co.za/polytunnel/>  
Tel: 028 313 1411  
Email: [admin@wrapgroup.co.za](mailto:admin@wrapgroup.co.za)  
Plan prepared in July 2019  
File number 18/033  
35 Duker Street, Hermanus, 7200  
Plan prepared by: Reuthele Jankie  
All distances are approximate  
and subject to a survey



TP - A Theart  
(H Olivier)

Annexure D 1/61



**From:** "Chris Thompson" <basic@global.co.za>  
**To:** "Loretta Gillion" <lpage@overstrand.gov.za>  
**CC:** "magdaleen swart" <magdaleenswart@overstrand.gov.za>  
**Date:** 2020/06/30 04:38 PM  
**Subject:** Re: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

Dear Loretta

Thank you for your email.

Please be advised that Mr Ian Tingle (copied in) is now the new Chairman of the Cochybondhu Homeowners Association. Please send any further communication in this regard directly to Mr Tingle.

For the record, I would like to register my strongest objection possible to all the departures Haygrove is applying for. The reasons for this are detailed in the objections submitted to you by attorney Nic Smith and others in response to the first application by Haygrove.

I would also like to be informed of the exact reasons why the objections raised by Mr Smith and others would be ignored in the event of Haygrove being granted approval.

Thank you and kind regards

Christopher Thompson  
 Section 3  
 Portion 50 Farm 587  
 Hemel en Aarde  
 Hermanus

----- Original Message -----

**From:** "Loretta Gillion" <lpage@overstrand.gov.za>  
**To:** "basic@global.co.za" <basic@global.co.za>  
**Cc:** "magdaleen swart" <magdaleenswart@overstrand.gov.za>  
**Sent:** 6/25/2020 9:29:42 AM  
**Subject:** Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

>Dear Mr Thompson

>  
 >With reference to the attached e-mails, please note that it should be  
 >made clear to the property owners when notifying them that should they  
 >have any comments on either Portion 11 or Portion 94, that such  
 >comments be separated per application. Should the comments be combined  
 >this will create confusion and add to the administrative burden when  
 >the land use planning reports are being compiled.

>  
 >Hope you find the above in order.

>  
 >Kindly confirm receipt of this e-mail.

>  
 >Regards

>

FILE NO: Ptn S 11 & 94
Hemel & Aarde 587
SCAN NO:
06
COLLABORATOR NO: 1425815

T/P 01 JUL 2020

(2020/08/03) Loretta Gillion - Re: additional note: remainder of portion 11 of

TP N. / heart  
(H. Olivia)

2/61



**From:** James Smith <jpsmith654@gmail.com>  
**To:** <lpage@overstrand.gov.za>  
**CC:** <loretta@overstrand.gov.za>, <magdaleenswart@overstrand.gov.za>  
**Date:** 31/07/2020 01:41 PM  
**Subject:** Re: additional note: remainder of portion 11 of Farm Hemel & Aarde 587 and portion 94 of the Farm Hemel & Aarde 587

Dear Loretta,

We are writing to express our strongest possible objection to the applications on behalf of Haygrove Heaven Ltd. for departure and approval for amendment of the current conditions of land use approval. As full time residents and immovable property owners of an immediately adjacent property, we are already directly and negatively impacted on a daily basis by the current land use of Haygrove Heaven.

For the reasons articulated by Nicholas Smith Attorneys in their letter of 15 November, 2019, the proposed tremendous expansion of the intensive horticultural activities and the related expansion of building construction by a significant multiple would create an industrial enterprise which would be totally antithetical to the environmental land use values of the valley. The resulting degradation will very negatively impact ourselves, other adjacent property owners and the larger farming and tourism sector of the valley as well as the adjacent coastal communities.

We look forward to receiving a full and detailed explanation from the municipality's decisions with respect to the subject application.

Sincerely yours,

Martha M and James P Smith  
Coch y Bondhu, Section 5  
email: jpsmith654@gmail.com

FILE NO: <u>PN 11/587 Hemel &amp; Aarde</u>
<u>PN 94/587 Hemel &amp; Aarde</u>
SCAN NO: <u>03</u>
COLLABORATOR NO: <u>1437345</u>

Sent from my iPad

TP - 3 AUG 2020

3/61

**Loretta Gillion - Portion 11 of Hemel en Aarde Farm 587: Objections to application for departure and amendment of conditions of approval**



**From:** "Cheryl du Sautoy" <cheryl.dusautoy@gmail.com>  
**To:** "Loretta Gillion" <lpage@overstrand.gov.za>, <loretta@overstrand.gov.za>  
**Date:** 31/07/2020 06:12 PM  
**Subject:** Portion 11 of Hemel en Aarde Farm 587: Objections to application for departure and amendment of conditions of approval  
**Cc:** "IAN TINGLE" <ianadriantingle@gmail.com>

TP. N. Heat  
(H. Olivia)

Hi Ms Gillion and Mr Olivier

We would like to register our strongest objection to the above application for departures and amendment of conditions of approval. The reasons for this are detailed in the objections submitted to you on our behalf and others by attorney Nick Smith in November, 2019.

Kind Regards  
Cheryl du Sautoy and Ian Tingle  
Section 4  
Portion 50 Farm 587  
Hemel en Aarde Valley  
Hermanus  
Contact: 062 098 012 and 082 940 2175

FILE NO:	PN 11/587
	Hemel en Aarde
SCAN NO:	02
COLLABORATOR NO:	1437343

TP - 3 AUG 2020

4/61

**From:** "Cheryl du Sautoy" <cheryl.dusautoy@gmail.com>  
**To:** "Henk Olivier" <holivier@overstrand.gov.za>  
**CC:** "Loriaan Isaacs" <loriaanisaacs@overstrand.gov.za>, "Loretta Gillion",...  
**Date:** 2020/07/30 01:33 PM  
**Subject:** RE: Objection to application for departures of regulations on portions 11 and 94, farm 587, Hemel en Aarde

Hi Henk

Thank you for this information.

We live on Coch Y Bondhu but were included in the objections sent by Nic Smith for portion 11 of farm 587. I am therefore assuming we do not need to raise further objections in this case?

The application for Portion 94 of Farm 587 is identical to the application for Portion 11 as far as reasons and justifications for the departures are concerned. Are we allowed to refer to the objections for Portion 11 as they will be the same too? Or do we need to raise a whole new objection?

It is strange that we never received the notice for the cell phone tower, however, with our very poor reception I believe a tower on Haygrove Heaven will be beneficial to us.

Regards

Cheryl

**From:** Henk Olivier <holivier@overstrand.gov.za>  
**Sent:** 30 July 2020 12:41 PM  
**To:** cheryl.dusautoy@gmail.com  
**Cc:** Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>; Loretta Gillion <lpage@overstrand.gov.za>; magdaleen swart <magdaleenswart@overstrand.gov.za>  
**Subject:** Re: Objection to application for departures of regulations on portions 11 and 94, farm 587, Hemel en Aarde

M Du Sautoy

There are three applications on the Haygrove properties.

The First one on Portion 11 of farm 587 for the construction for the shade netting. The attorney Nic Smith

5/61

**From:** Henk Olivier  
**To:** Cheryl du Sautoy  
**CC:** Loriaan Isaacs; Loretta Gillion; magdaleen swart  
**Date:** 2020/07/30 12:41 PM  
**Subject:** Re: Objection to application for departures of regulations on portions 11 and 94, farm 587, Hemel en Aarde

M Du Sautoy

There are three applications on the Haygrove properties.

The First one on Portion 11 of farm 587 for the construction for the shade netting. The attorney Nic Smith acted on behalf of De Werf, which I presume you are a resident, and submitted objections. This will still be considered.

A Second application for shade netting was submitted on Portion 94 of Farm 587. There was a problem when the notices were send out, and were not send to De Werf or Cochy-y Bundu. it was send out again after lockdown for opportunity for comments. As far as I am aware Mr Smith and the HOA's were forwarded notices.

Lastly, a third application was submitted on Portion 94 of farm 587, but this application is for a cell phone transmission tower. This application was again send out to De Werf and Cochy-y Bundu. I am not sure if this one was sent to Nic Smith, as it has nothing to do with the shade netting applications.

You therefore need to scan the the notice you received what the description is of the application and what property is indicated, to see which of the above-mentioned applications the notices are for. Then you can determine the way forward.

Regards

Henk Olivier

Town Planner : 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: holivier@overstrand.gov.za  
 >>> "Cheryl du Sautoy" <cheryl.dusautoy@gmail.com> 07/28/20 1:37 PM >>>  
 Dear Loretta, Henk and Magdaleen

The reasons for our objections to the above applications were submitted to you by attorney Nic Smith on 15 November 2019. We have since been instructed to submit our own objections.

Is there a reason why Mr Smith acting on our behalf would not be valid? Our names and addresses are all included in the objection document and we have also added objections in our own words.

Regards  
 Cheryl du Sautoy and Ian Tingle

6/61

**From:** "Cheryl du Sautoy" <cheryl.dusautoy@gmail.com>  
**To:** <magdaleenswart@overstrand.gov.za>, <holivier@overstrand.gov.za>  
**Date:** 2020/07/30 08:42 AM  
**Subject:** Objection to application for departures of regulations on portions 11 and 94, farm 587, Hemel en Aarde

Dear Loretta, Henk and Magdaleen

The reasons for our objections to the above applications were submitted to you by attorney Nic Smith on 15 November 2019. We have since been instructed to submit our own objections.

Is there a reason why Mr Smith acting on our behalf would not be valid? Our names and addresses are all included in the objection document and we have also added objections in our own words.

Regards

Cheryl du Sautoy and Ian Tingle

Section 4

Portion 50 of Farm 587

Hemel en Aarde

Hermanus

083 266 7612 and 082 940 2175

TP - A Theart  
(Holivier)

7/61



**From:** RICHARD O'MOLONY <rom@jaywalk.co.za>  
**To:** <magdaleenswart@overstrand.gov.za>, <lpage@overstrand.gov.za>  
**CC:** Max Smith <maxsmith7777@gmail.com>, Mark Forster <markgforster@gmail.com...>  
**Date:** 2020/07/01 02:30 PM  
**Subject:** Fwd: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

Dear Loretta,

I totally concur with Mr Thompson's strong objections, for exactly the same reasons as he stated

Sincerely  
 Richard O'Molony  
 Sect. 2 Coch y Bondhu.

C: +27 (0)84 780 5555  
 E: rom@jaywalk.co.za

> Begin forwarded message:  
 >  
 > From: "Chris Thompson" <basic@global.co.za>  
 > Subject: Fw: Re: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587  
 > Date: 30 June 2020 at 4:36:50 PM SAST  
 > To: "Richard O'Molony" <rom@jaywalk.co.za>, "Max Smith" <maxsmith7777@gmail.com>, "Mark Forster" <markgforster@gmail.com>, "jpsmith654@gmail.com" <jpsmith654@gmail.com>, "Ian Tingle" <ianadriantingle@gmail.com>, "forster.diane@gmail.com" <forster.diane@gmail.com>, "Cheryl du Sautoy" <cheryl.dusautoy@gmail.com>, "shaz@global.co.za" <shaz@global.co.za>  
 > Reply-To: "Chris Thompson" <basic@global.co.za>  
 >  
 > FYI  
 >  
 > ----- Forwarded Message -----  
 > From: "Chris Thompson" <basic@global.co.za <mailto:basic@global.co.za>>  
 > To: "Loretta Gillion" <lpage@overstrand.gov.za <mailto:lpage@overstrand.gov.za>>  
 > Cc: "magdaleen swart" <magdaleenswart@overstrand.gov.za <mailto:magdaleenswart@overstrand.gov.za>>  
 > Sent: 6/30/2020 4:35:37 PM  
 > Subject: Re: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587  
 >  
 > Dear Loretta  
 >  
 > Thank you for your email.  
 >  
 > Please be advised that Mr Ian Tingle (copied in) is now the new Chairman of the Cochybondhu Homeowners Association. Please send any further communication in this regard directly to Mr Tingle.  
 >  
 > For the record, I would like to register my strongest objection possible to all the departures Haygrove is applying for. The reasons for this are detailed in the objections submitted to you by attorney Nic Smith and others in response to the first application by Haygrove.  
 >

FILE NO: Ptn 11 & Ptn 94 Hemel & Aarde 587
SCAN NO: 07
COLLABORATOR NO: 1425818

TP

01 JUL 2020

8/61

> I would also like to be informed of the exact reasons why the objections raised by Mr Smith and others would be ignored in the event of Haygrove being granted approval.

>  
> Thank you and kind regards

>  
> Christopher Thompson  
> Section 3  
> Portion 50 Farm 587  
> Hemel en Aarde  
> Hermanus

>  
>  
> ----- Original Message -----

> From: "Loretta Gillion" <lpage@overstrand.gov.za <mailto:lpage@overstrand.gov.za>>  
> To: "basic@global.co.za <mailto:basic@global.co.za>" <basic@global.co.za  
<mailto:basic@global.co.za>>

> Cc: "magdaleen swart" <magdaleenswart@overstrand.gov.za  
<mailto:magdaleenswart@overstrand.gov.za>>

> Sent: 6/25/2020 9:29:42 AM

> Subject: Additional Note : Remainder of Portion 11 of Farm Hemel & Aarde 587 and Portion 94 of the Farm Hemel & Aarde 587

>  
>> Dear Mr Thompson

>>  
>> With reference to the attached e-mails, please note that it should be made clear to the property owners when notifying them that should they have any comments on either Portion 11 or Portion 94, that such comments be separated per application. Should the comments be combined this will create confusion and add to the administrative burden when the land use planning reports are being compiled.

>>  
>> Hope you find the above in order.

>>  
>> Kindly confirm receipt of this e-mail.

>>  
>> 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  
<mailto:loretta@overstrand.gov.za>

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Our ref: NDS/sg/G33-001  
Your ref: Ptn 11 of Farm 587, RCAL

By fax: 028 313 2093

15 November 2019

Dear Ms. Guillion and Mr. Olivier

**RE: REMAINDER PORTION 11 (NIEUWE POST) OF FARM HEMEL-EN-AARDE NO. 587, OVERSTRAND MUNICIPAL AREA, A DIVISION OF CALEDON / OBJECTIONS TO APPLICATIONS FOR DEPARTURE; AND APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL**

**Introduction**

1. We act for the owners of the immoveable properties referred to in annexure "A" to these objections.
2. Our clients' properties are directly adjacent, or proximate to, *Portion 11 of Farm Hemel-en-Aarde 587 Caledon* (which is referred to herein as "the subject-property"). As such, they are directly and adversely affected by the land use applications at issue in this matter.
3. This document constitutes our clients' substantive objections to the applications delivered to Overstrand Municipality by Messrs. Wright Approach Consultancy ("WRAP") on behalf of Haygrove Heaven (Pty) Ltd.
4. The applications to which our clients object are respectively for:
  - 4.1. The amendment of an existing condition of approval<sup>1</sup> to allow for the very significant expansion, by over 20 hectares ("ha") (i.e. over 200,000m<sup>2</sup>) of plastic-covered tunnels on the subject-property, for purposes of intensive horticulture;

<sup>1</sup> Condition of approval 3(a), the amendment of which is sought in terms of section 16(2)(h) of the Overstrand Municipality By-law on Municipal Land Use Planning, 2015 (the "By-law"). Condition 3(a) is set out in a record of decision dated 21 January 2016, titled "Remainder of Portion 11 (Nieuwe Post) of Farm Hemel-en-Aarde No. 587, Overstrand Municipal Area: Proposed consent use and departure: Messrs WRAP on behalf of Haygrove Heaven (Pty) Ltd" and signed by the Municipality's Director: Infrastructure and Planning.

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	Hemel en Aarde
SCAN NO:	19
COLLABORATOR NO:	1357385

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- 4.2. four discrete departure applications in terms of section 16(2)(b) of the By-law and in respect of the significant proposed relaxation of the lateral building lines on all of the boundaries<sup>2</sup> of the subject-property;<sup>3</sup> and
- 4.3. a departure in terms of section 16(2)(b) of the By-law, from the maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the subject-property to allow a floor space of 35,0663ha (i.e. over 350,000m<sup>2</sup> *in lieu* of 5,000m<sup>2</sup>) to accommodate intensive horticulture.
5. The essence of the application to which these objections relate is thus for the proposed expansion of the existing intensive horticulture tunnels on the subject-property, by the addition of further tunnels that would cover an additional 20,1662ha on the subject-property.
6. The proposal to develop additional tunnels has the consequence that the surface area of the subject-property that is currently under intensive horticulture tunnels will be significantly expanded (from the current 13,8209ha, to a proposed total of 33,9871ha) if the applications are granted by the Municipality.
7. Similarly, the proposed departure from the current maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the subject-property to allow a floor space of 35,0663ha (over 350,000m<sup>2</sup>) "... to accommodate intensive horticulture" represents a massive (and we submit, for the reasons set out below, entirely undesirable) proposed physical expansion to the current farming infrastructure on the subject-property.

**Synopsis of the application (in terms of section 16(2)(h) of the By-law) for the amendment of condition of approval 3(a) in the Municipality's record of decision dated 21 January 2016**

8. On 21 January 2016, the Municipality delivered its record of decision in response to an application for proposed consent use and departure delivered by WRAP in 2015 and on behalf of Haygrove Heaven (Pty) Ltd.
9. In terms of the Municipality's record of decision, the Municipality resolved in early 2016 to approve an application for a consent use on the subject-property in order to accommodate intensive horticulture (in the form of tunnels) on that property. A copy of the record of decision is appended to these objections, together with the site development plan referred to in condition 3(a) in the record of decision, collectively marked "B"<sup>4</sup>
10. The Municipality's approval of the aforesaid consent use was subject to nine conditions, the most material of which for present purposes, was framed as follows:

<sup>2</sup> I.e. the eastern, southern, western and northern sides of the subject-property.

<sup>3</sup> The departure sought in respect of the eastern lateral building line is from 30,0 metres ("m") to 2,0m to accommodate the proposed intensive horticulture tunnels; the relaxation sought on the southern lateral building line is from 30,0m to 3,0m for the same purpose; the relaxation sought on the western lateral building line is from 30,0m to 10,0m to accommodate the intensive horticulture tunnels; and the relaxation sought on the northern lateral building line is from 30,0m to 5,0m, also to accommodate proposed intensive horticulture tunnels.

<sup>4</sup> The Municipality's record of decision is also appended to the current application as part of Annexure D thereof.



"3. that 1 and 2 above be approved subject to the following conditions:

(a) that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 14/073/01/P11 submitted with the application, and application will have to be made for any possible future tunnels ..." (Our emphasis.)

11. The requirements of paragraph 3(a) of the Municipality's record of decision dated 21 January 2016 thus necessitate the current application for the amendment of the condition cited *verbatim* above, in order to permit the extensive additional horticulture tunnels now proposed by WRAP on behalf of the owner of the subject-property.

**Synopsis of the departure applications**

12. The first four departure applications sought by the applicant in terms of section 16(2)(b) of the By-law (i.e. permanent departures) would, if approved by the Municipality, allow for significant reductions in the current lateral building lines that apply on the subject-property. As regards the eastern lateral building line, the proposal is to seek a departure that would allow the relaxation of that building line from the currently permissible line (30m), to 2m. Similarly, the southern lateral building line is proposed to be relaxed from 30m, to 3m. The western and northern lateral building lines are respectively proposed to be relaxed from 30m to 10m; and from 30m to 5m.
13. The departure application relating to the current permissible allowable floor space (a maximum of 5,000m<sup>2</sup> for all buildings on the subject-property) to allow a floor space of 35,0663ha provides a clear indication of the very significant extent of the proposed development activities that would follow on the grant of the application.
14. We refer to the applications described in paragraphs 11 to 13 above collectively herein as "the application".

**The jurisdictional requirements in section 66 of the By-law (titled "General criteria for decision-making") and relating to the substantive merit of the application**

15. The central substantive criterion for the Municipality's consideration of the applications pertains to "*the desirability of the proposed utilisation of land ...*"<sup>5</sup> (Our emphasis).
16. Desirability must be established by the municipal decision-maker on an objectively verifiable basis in order for an application to pass muster on its merits.
17. The applicant's planner purports to motivate the desirability of the application to which these objections relate with reference to six primary factors, which are recorded under the head "*Need and desirability*"<sup>6</sup> in the applicant's motivation report.
18. The six factors cited by the applicant in support of the application are the following:
  - 18.1. Compatibility with surrounding land uses;

<sup>5</sup> Section 66(1)(c) of the By-law.

<sup>6</sup> Pages 15 to 16 of the motivation report delivered by WRAP and dated August 2019.



- 18.2. impact on views, sunlight and character of the area;
  - 18.3. economic impacts;
  - 18.4. need;
  - 18.5. impact on heritage; and
  - 18.6. environmental impact.
19. The following section of our clients' objection traverses each of the motivating factors addressed by the applicant, and provides a substantive rebuttal to each of the primary factors cited, purportedly in support of the application, by the applicant.

**Objections in response to the applicant's purported motivation regarding the application's compatibility with surrounding land uses**

20. The first factor described by the applicant's planner pertains to the asserted compatibility of the application with surrounding land uses. The statement is made that all of the surrounding farms are predominantly used for agricultural purposes and that the "*proposed intensive horticulture tunnels are in harmony with the surrounding land uses*".
21. We submit that this is a fallacious statement for at least two primary reasons: Firstly, it is not factually correct that all of the surrounding properties are used predominantly for agricultural purposes. Many of the surrounding properties (including our clients' properties) are principally used for residential purposes. Our clients' immoveable properties form part of a residential estate that was constituted under a body corporate many years before the landowner of the subject-property commenced with intensive agricultural production using horticulture tunnels. Secondly, the suggestion that proposed horticulture tunnels (which will cover a total of 33,987ha of the subject-property, if approved) can be said to be "*in harmony*" with the surrounding properties is a significant and misleading overstatement. Whilst it may be correct to assert that the neighbouring *Portion 94 of Farm Hemel-en-Aarde 587* also has intensive horticulture units, that property is owned and/or operated by the applicant. Beyond the latter property, various other landowners who reside on immoveable properties that border the subject-property would in fact experience significant disharmony (in the form of an actionable impairment to their reasonable use and enjoyment of their properties) if they were to be burdened by the significant visual impacts of overlooking over 200,000m<sup>2</sup> of plastic-clad horticulture tunnels.
22. The applicant has not placed a full picture before the Municipality of the fundamental incompatibility of the development proposal with existing surrounding land uses. In support of this assertion, we point out on behalf of our clients that the applicant has provided no information to the Municipality regarding the significant likely increase in noise emissions on the subject-property if the expansion is to proceed, including noise generated by machinery; crop spraying (both on the ground and by helicopter); and the transport used by the property owner to bus seasonal contract workers to the subject-property. There will also be a likely increase in the odours emitted from the property including emissions from crop spraying; vehicle use; and toilets for the seasonal contract workers (which have proved in the past to be entirely insufficient, as one of our clients' principal concerns relates to seasonal workers relieving themselves on surrounding



properties with no regard to the accompanying health hazard). It should also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including snares that have caught clients' domestic animals; and human waste as well as litter that is deposited on their properties.

23. The visual impact of permitting two and a half times more plastic-covered tunnels and a departure to the permissible floor area which is over 70 times the legally prescribed limit are simply not described in sufficient particularity to place the Municipality in a position to make an objective decision to approve the application on merit. It follows that the only decision that the Municipality can make on the facts and circumstances as presented and purportedly motivated by the applicant (and entirely rebutted in these objections) is to refuse the application.

**Objections in response to the applicant's purported motivation regarding the (allegedly positive) impact on views, sunlight and the character of the area**

24. As regards the applicant's assertion that the proposal to develop intensive horticultural tunnels on an additional 20,1662ha of the subject-property "... will therefore not be a visual intrusion" is simply fallacious.
25. The further suggestion by the applicant, to the effect that the existing tunnels (and the camouflage net covering thereof) "*let the tunnels blend in with the rural landscape which contributes to the unique rural character which is visually more appealing than many other farms in the Overberg*" is also a wholesale fallacy. It only has to be stated to be rejected. The applicant's assertion that the additional intensive horticulture tunnels proposed on a surface area of over 200,000m<sup>2</sup> (an expansion of 20,1662ha to the tunnels already established on the subject-property, which already cover a total surface area of 13,8209ha) will "*blend in*" with the existing rural landscape is, quite frankly, nonsensical.
26. To suggest (as the applicant does) that the development of tunnels over an additional 20,1662ha of the subject-property will "*contribute to enhancing the visual diversity of the Hemel en Aarde Valley which is one of the factors which draw tourists to the area*" is also nonsensical. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this "*diversity*" will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion.
27. To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriately detailed visual impact assessment by an appropriately qualified visual impact specialist before the application can proceed to the decision-making stage.

**Objections in response to the applicant's purported motivation regarding economic impact**

28. As regards the third factor described in purported motivation of the application (economic impact) we point out on behalf of our clients that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective only.
29. On behalf of our clients we submit that in order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bald statement to the effect that the approval and implementation of the



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application will substantially increase the number of people employed on the subject-farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding the number of likely future employees; the quantification of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained.

**Objections in response to the applicant's purported motivation regarding need**

30. As regards the fourth factor described in purported motivation of the application, our clients take issue with the applicant-planner's statement that there is "... therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security."
31. The fact of the matter is that the applicant produces soft fruit (berries) which are principally destined for the export market as a premium fruit product. To suggest that the Municipality approving the application will ensure the owner of the subject-property's contribution to increasing and enhancing food security is simply incorrect.

**Objections in response to the applicant's purported motivation regarding impact on heritage**

32. As regards the fifth factor used in purported motivation of the application, the applicant's planner states (somewhat glibly, we submit) the following: "*None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal.*"
33. On behalf of our clients, we contest this statement. We point out that section 38(1)(c) of the National Heritage Resources Act<sup>7</sup> ("NHRA") obliges any person who intends to undertake a development categorised as any form of development or other activity which will change the character of a site exceeding 5,000m<sup>2</sup> in extent, at the earliest stages of initiating such a development, to notify Heritage Western Cape ("HWC"), and furnish HWC with details regarding the location, nature and extent of the proposed development. The only organ of state with the requisite statutory competence to decide whether the jurisdictional requirements of section 38 of the NHRA are triggered on the facts of this matter is HWC.
34. In support of our submissions regarding the likely application of section 38 of the NHRA, we point out that the subject-property is already occupied by intensive horticulture tunnels that cover 13,8209ha of that property. In our submission, and in the event that the physical expansion of tunnels is permitted (across an additional 20,1662ha of the subject-property), that expansion would amount to a change in the character of the site. This is by virtue of the very significant increase (by almost two and a half times the physical extent of the existing tunnels) in the surface area that would be occupied by the proposed tunnels. The current character of the subject-property is defined by a mixture of tunnels and open agricultural areas. That creates a tapestry of plastic-clad structures and vegetated areas. What the applicant now proposes is an artificial and monochromatic landscape and would present a jarring contradiction with the natural surrounds in this part of the Hemel-en-Aarde valley that will irrevocably change the character of the area. This is entirely clear from Plan 3 appended to the applicant's

<sup>7</sup> Act 25 of 1999.



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motivation, which clearly shows that the southern half of the subject-property will be effectively blanketed in plastic-covered horticulture tunnels which would extend almost to all of the subject-property's boundaries.

35. No doubt the Municipality will oblige the applicant to furnish written confirmation from HWC to confirm the applicant's assertion that no provisions in the NHRA are triggered on the facts of the applications.

**Objections in response to the applicant's purported motivation regarding environmental impact**

36. The sixth criterion analysed by the applicant's planner, purportedly in motivation of the application is under the head "*Environmental impact*". The applicant's planner submits that no activities listed in terms of the National Environmental Management Act<sup>8</sup> ("NEMA") are triggered by the development proposal. The applicant's submission is that the proposed intensive horticulture tunnel expansion is not located on the environmentally sensitive part of the subject-property (with reference by the applicant to a plan appended to the application as Plan 5).
37. On behalf of our clients, we submit that the purported motivation is both superficial and entirely misplaced. The correct enquiry that should have been made by the applicant's planner relates to whether the jurisdictional requirements of any of the listed activities respectively set out in the NEMA EIA Regulations' three Listing Notices<sup>9</sup> are triggered on the facts of the application.
38. In the circumstances we submit that it behoved the applicant's planner to analyse the facts of the proposed intensive horticulture expansion and the receiving environment in the areas where the new tunnels are proposed in order to establish whether any NEMA-listed activities are triggered, and then to obtain written confirmation from the competent authority responsible for administering NEMA and the NEMA EIA Regulations of the applicant's assertion that the expansion does not require environmental authorisation.
39. A copy of this objection will be delivered to the Department of Environmental Affairs and Development Planning (the competent authority for the administration of NEMA in the Western Cape) in order for the Department's officials to furnish their comment as to the applicability (or otherwise) of NEMA, with specific reference to section 24 of NEMA read with the NEMA EIA Regulations.<sup>10</sup>
40. In any event, we have no doubt that the Municipality will ensure that the necessary enquiry is made to the Department of Environmental Affairs and Development Planning (by the applicant, and at the behest of the Municipality) in order to confirm unequivocally whether NEMA-listed activities are triggered on the facts of the proposed expansion. If NEMA-listed activities are triggered on the facts, then the applicant will be obliged to undertake the necessary environmental assessment procedures stipulated under NEMA

<sup>8</sup> Act 107 of 1998.

<sup>9</sup> Published under NEMA respectively in GN R983 to GN R985 In *Government Gazette* 38282 of 4 December 2014 (as amended).

<sup>10</sup> Published in GN R982 In *Government Gazette* 38282 (titled '*National Environmental Management Act 107 of 1998 – Environmental Impact Assessment Regulations, 2014*').



read with the NEMA EIA Regulations, and to obtain environmental authorisation before the Municipality can decide the land use applications on their merits.

**The applicant's planner's baseless and misleading statements regarding impacts on neighbouring landowners**

41. In support of our wholesale rebuttal (above) of the applicant's planner's purported motivation of the application against the applicable legal requirements in the By-law, we direct the Municipality to the planner's unsubstantiated and misleading statement in paragraph 7 of the motivation.<sup>11</sup> The applicant's planner says the following there:

*"Considering that the neighbouring Portion 94 of Farm Hemel-en-Aarde also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed to the tunnels on the subject property and neighbouring farm. This proposed expansion will therefore not be foreign to neighbouring property owners or upset the rural visual landscape which farmers have become accustomed to (sic)."*

42. The insuperable difficulties with the statement cited *verbatim* above include at least the following:
- 42.1. The applicant's planner does not disclose that the "neighbouring Portion 94 of Farm Hemel-en-Aarde" is owned and/or controlled by the subject-property's owner. It is thus no wonder that the use of those contiguous properties is perceived as harmonious. The alleged harmony arises purely from self-interest.
- 42.2. It is a falsehood for the applicant's planner to state that "neighbouring farmers" have become accustomed to the existing tunnels. The existing tunnels are an eyesore for the residents of the area, and for domestic and overseas tourists. The existing tunnels already have a significant visual impact which will be massively and unreasonably increased if further horticulture tunnels are permitted on the subject-property.
- 42.3. The applicant's planner's assertions that the proposed expansion will thus not be foreign to neighbouring property owners nor upset the visual impact only have to be stated to be rejected.
- 42.4. Annexure "C" to these objections comprises individual objections delivered together with this objection, in which various of our clients provide additional and personal insights and objections regarding the significant adverse impacts occasioned by intensive existing agricultural operations on the subject-property, as suffered by those objectors since the subject-property's use for intensive horticulture.

**The applicant's purported motivation against the jurisdictional requirements set out in the Spatial Planning and Land Use Management Act ("SPLUMA")**

43. The applicant provides a purported motivation of the application against the requirements of SPLUMA, under four motivational factors.

<sup>11</sup> At page 12 of the application's motivation report delivered by WRAP.



44. Those factors are respectively the following:

- 44.1. The public interest;
- 44.2. the constitutional transformation imperative of the State;
- 44.3. the facts and circumstances pertaining to the application; and
- 44.4. the respective rights and obligations of all those affected.

**Objections in response to the applicant's purported motivation regarding public interest**

- 45. The applicant purports to conflate the alleged "*visual enhancement*" of the subject-property (which we have already shown to be an indefensible proposition); and growth of the taxable revenue base that would be achieved if the applications succeed. The suggestion is made that burdening the subject-property with an additional 20,1662ha under intensive horticulture tunnels is visually enhancing. This only has to be stated to be rejected. The suggestion that intensive horticulture tunnels covered in artificial material is an enhancement on the current *milieu* is entirely irrational, and is motivated only from the applicant's perspective.
- 46. Any benefit that might accrue to the State in respect of enhanced tax revenue from the landowner's expanded activities is entirely outweighed by the impacts that the proposed expansion would have on neighbouring landowners, including our clients.

**Objections in response to the applicant's purported motivation regarding the State's constitutional transformation imperatives**

- 47. Whilst it is correct that the State's transformation imperatives include enabling farmers to achieve economic growth and sharing the proceeds of that growth with their employees, the baldly stated and unsupported suggestion that this will occur on the facts of this matter must be rejected by the Municipality because the statement is supported by no objectively verifiable evidence.
- 48. The applicant provides no detail whatsoever as to the quantification of the economic proceeds to be shared with workers on the subject-property (who are engaged as seasonally used independent contractors by the landowner, rather than formally employed).

**Objections in response to the applicant's purported motivation regarding the historic facts and circumstances pertaining to the application**

- 49. Whilst it is correct that the Municipality approved intensive horticulture on the subject-property in its record of decision dated 21 January 2016<sup>12</sup> there can be no suggestion that the aforesaid approval in any way indicates the Municipality's view regarding the desirability of the current application. The fact that there are existing extensive horticulture tunnels on 13,8209ha on the subject-property does not in any way motivate the desirability of a more than two-fold expansion of the horticulture tunnels now proposed for the subject-property.

<sup>12</sup> The first document included as part of Annexure D to the applicant's motivation.



**Objections in response to the applicant's purported motivation regarding respective rights and obligations of all those affected**

50. The applicant's suggestion that a massive increase in the infrastructure on the subject-property (in the form of over 200,000m<sup>2</sup> of plastic-covered intensive horticulture tunnels), and the associated expansion in agricultural activities that will follow on the expansion, do not impact on neighbours' reasonable rights to the use and enjoyment of their property must be rejected.
51. Given that the applicant seeks the enhancement of the existing 'envelope' of development rights that currently apply to the subject-property, by way of:
  - 51.1. the amendment of condition 3(a) in the approval granted by the Municipality in writing on 21 January 2016;
  - 51.2. the significant relaxation of the side building lines on the subject-property; and
  - 51.3. a departure to exceed the maximum allowable footprint of buildings on the site (from 5,000m<sup>2</sup> to over 350,000m<sup>2</sup>); and
  - 51.4. we submit that the applicant's application clearly obliges the Municipality to have full and proper regard *inter alia* to the likely diminution in the value of the objectors' properties that would follow on the grant of enhanced development rights to the owner of the subject-property. No such analysis has been provided by the applicant.
52. The applicant's planner's bald statement to the effect that there will be no infringement on existing land use rights (including the objectors' right to the reasonable use and enjoyment of their properties) is simply fallacious.

**The motivation of the application against applicable spatial planning policies**

53. The application purports to analyse the consistency of the application against relevant spatial planning policies.
54. The application is considered against the following policy documents:
  - 54.1. The *Western Cape Land Use Planning Guidelines (Rural Areas)* ("WCLPGRA");
  - 54.2. the *Provincial Spatial Development Framework* ("PSDF"); and
  - 54.3. the Municipality's *Spatial Development Framework* ("SDF").

**Objectors' comments on the purported motivation in respect of consistency with the WCLPGRA**

55. The applicant suggests that the underlying purpose for the application is to allow the owner of the subject-property to be granted "the appropriate land use rights to intensify agricultural activities on the farm to improve the economic viability". It is suggested that the intensification will be achieved by increasing capital investment and labour in order to raise the yield of produce on the subject-property.



56. The objectors submit that this is an entirely one-sided and subjective analysis which is not supported by any evidence that the land use is appropriate. As is shown in these objections with reference to the objectively determinable desirability of the application, the application is inherently undesirable when all relevant factors are properly considered and accorded their appropriate weight.
57. As regards the applicant's statement that the proposal does not entail the fragmentation of the agricultural land uses on the property, that may be correct but again, is motivated exclusively from the applicant's (subjective) perspective and self-interest.
58. As regards the provisions in the WCLPGRA relating to the development's reinforcement of the farm precinct and the reflection of similar scale, the objectors submit that the proposal is massively over-scaled. The fact that the intensive horticulture tunnels are "lower than the 12m height restriction" in no way derogates from the significant scale of the proposed erection of the tunnels in question. The fact that there may be other intensive agricultural land uses in the Hemel-en-Aarde rural area (none of which are explained in any detail in the application) does not represent harmonious scale in the area. To the contrary, the proposal to develop the subject-property by the installation of some 33,987ha under intensive horticulture tunnels.

Objectors' comments on the purported motivation in respect of the application's consistency with the PSDF

59. The suggestion that inclusive economic growth will be promoted by the application is not suitably motivated by the applicant. Although our clients are clearly alive to the fact that the owner of the subject-property would benefit substantially from the increased production envisaged by the addition of intensive horticulture tunnels on a further 20,1662ha on the subject-property, there is no explanation as to how that economic growth would benefit parties other than the property owner (and to a lesser extent, the workers who might be contracted as a result of the expansion).
60. As regards the suggestion that the PSDF prescribes "a greater diversity of soft fruits which are proposed to be planted" we submit on behalf of our clients that the PSDF contains no such prescription.
61. The comparative strengths of the Hemel-en-Aarde valley relate not only to high agricultural output from a variety of agricultural initiatives including cultivation of grapes and wine production but also the value of the area as a tourist destination. The application is unlikely to capitalise in any material way on the latter and in fact will in all reasonable likelihood derogate from the tourism attractions currently on offer.

Objectors' comments on the purported motivation in respect of the application's consistency with the SDF

62. The application does not meet the imperatives of the SDF, because it does not establish that the proposed expansion is (objectively viewed) to the benefit of all affected residents within the area. The application is motivated almost exclusively from the perspective of the owner of the subject-property. As such, it is not aligned with the applicable policy imperatives articulated in the SDF.



**Objectors' comments on the applicant's purported motivation of the planning principles contained in Chapter 2 of SPLUMA**

63. The applicant suggests that the implementation of the proposal, by its approval by the Municipality will lead to "... *employment opportunities being created which will primarily benefit the historically marginalised*". The applicant submits that the development proposal would contribute to "*addressing spatial development imbalances caused by apartheid planning which concentrated economic opportunities in urban areas to the neglect of rural areas and rural residents*".
64. The seasonal contract workers retained by the applicant are bussed to the subject-property on a daily basis from Hermanus and the latter's environs, in order to perform their work. At the end of the day they return to the homes in which they reside, which are principally informal structures within the townships surrounding Hermanus. There can thus be no suggestion that the approval of the proposal would contribute to addressing spatial development imbalances, as the applicant would have it.
65. As regards the assertion by the applicant that the proposal promotes the enhancement of the functionality of the rural space economy and that this will be done "... *by ensuring that unemployed people can have a share of the income which will be derived on the subject property*" the applicant provides no indication whatsoever as to the share of that income that would be derived by the seasonal contract workers. It is therefore insufficient to suggest that the application promotes sustainable rural development or that such development is appropriate and inclusive.
66. As regards the applicant's assertion that the implementation of the development proposal would increase agricultural output which in turn "*would promote the efficient utilisation of the subject farm*" we submit on behalf of the objectors that there is a fundamental difference between efficient utilisation (as the applicant would have it) and sustainable utilisation that properly strikes a balance between the ecological, social and economic impacts of the proposal. To the extent that utilising the subject-property more efficiently impacts significantly and negatively on the existing rights of neighbouring property owners to reasonably use and enjoy their property, the application simply does not pass muster.
67. As regards the planning principles pertaining respectively to spatial resilience and good administration, we submit on behalf of the objectors that the proposal is not in harmony with the relevant spatial planning policies.
68. As regards the proper administration of the application and good administration generally by the Municipality, we submit that a proper and objective analysis of the merits of the application must result in the refusal thereof.
69. The applicant's planner's motivation concludes with the following recommendation: "*This motivation report has illustrated that this proposal is desirable and will be of value to the surrounding property owners and prospective employees.*"
70. We submit, for the reasons set out in this objection and annexure "C" hereto, that the proposal, objectively viewed, is fundamentally undesirable. We deny on behalf of our clients that it will be of any value whatsoever to surrounding property owners. There is no objectively verifiable proof provided with the application in respect of the engagement of employees (as opposed to the retention of contract workers). To the



extent that the applicant's planner suggests that the rural and urbanised poor who will allegedly benefit from the implementation of the development will enjoy tangible benefits, there is no evidence put up in support of the application that verifies that assertion.

**Relevant considerations pertaining to the (lack of) desirability of the application that are entirely omitted from the applicant's motivation**

71. What is also notable about the applicant's purported motivation (as currently framed) is the wholesale omission to deal with aspects and likely impacts that are centrally relevant to the desirability enquiry obliged by law of the Municipality, with particular reference to the impacts likely to be suffered by the objectors in the event that the application is approved by the Municipality. These include (but are not limited to) the following:
- 71.1. The wholesale failure by the applicant to address the issue of sustainable water supply to the subject-property for purposes of the expanded intensive agricultural activities envisaged by the applicant, including proof of the applicant's rights to water supply and water use to meet its likely demand. We submit that to the extent that the applicant pursues the application, the Municipality should oblige the applicant to produce an appropriately detailed analysis of the existing and proposed operation's water abstraction, storage and use patterns, and should provide written proof to the Municipality that the applicant holds the relevant statutory water use rights in respect of those uses;
- 71.2. the impact of the proposed relaxation of the building lines on the respective obligations of the owner of the subject-property, and adjoining and proximate neighbours, in terms of the National Veld and Forest Fire Act<sup>13</sup>; and
- 71.3. the significant and dangerous existing impacts caused to residents of the Hemel-en-Aarde valley by incessant traffic, both on the primary access road through the valley and on the minor road via which the subject-property is presently accessed.<sup>14</sup> Our instructions are that busses, taxis, light delivery vehicles and heavy reticulated trucks pose a significant threat to other road users, but the impacts of existing traffic are not explored nor analysed in the motivation (to say nothing of the significant increase in traffic that could be anticipated in the event that the application is granted by the Municipality). This is another significant omission in the application as currently framed. To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriately detailed traffic impact assessment by an appropriately qualified expert before the application can proceed to the decision-making stage

**The defective nature of the property owner's power of attorney; and company resolution**

72. Annexure B to the application includes a power of attorney signed by a director of the owner of the subject-property; and a company resolution.

<sup>13</sup> Act 101 of 1998.

<sup>14</sup> Minor Road OP04012.



73. The power of attorney<sup>15</sup> authorises WRAP to undertake the following acts: *"The application for amendment of conditions of approval and departure from building lines."*
74. The company resolution signed by the directors of the subject-property's owner authorises one of the directors to act on behalf of the company regarding *"... applications for the following: Amendment of conditions of approval and departure from building lines."*
75. Neither the power of attorney nor the company resolution make any reference to an application for departure from the maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the land unit, to permit a floor space of 35,0663ha (350,663 square metres) to accommodate intensive horticulture.
76. It follows in our submission that the necessary authority has not been provided by the subject-property's owner for the latter application for departure. That omission has the consequence that the power of attorney and company resolution fall foul of the statutory requirements set out respectively in section 39(1)(b), and section 39(1)(c) of the By-law.
77. To the extent that the applicant's planner persists in pursuing the application as currently framed, the failure by the property owner to provide the necessary power of attorney, and company resolution for purposes of the departure pertaining to the maximum allowable floor space, the application is fatally defective on that aspect. It follows that the Municipality must refuse the application for departure from the maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the land unit to permit a floor space of 35,0663ha (350,663 square metres) to accommodate intensive horticulture, as the delivery of that application to the Municipality has neither been authorised by a power of attorney from the owner of the subject-property to the applicant's planner, nor the subject of a company resolution that complies with the peremptory requirements stipulated in section 39(1)(c) of the By-law.

**Request for a site visit by the Municipality before deciding the application**

78. On the facts and circumstances of the application, we submit that the Municipality's officials should undertake a site visit on the subject-property and its surrounds in order to fully apprise themselves of the current intensive agricultural operations on the subject-property, and the significant and objectionable impacts that would be caused to the subject-property's neighbours and other proximate landowners in this part of the Hemel-en-Aarde valley if the development proposal envisaged in the application was authorised to proceed.

**Request for a hearing**

79. To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal (or for that matter, when the matter serves before the Municipality's delegated official) we submit that the objectors are entitled to attend on that meeting and to deliver whatsoever oral representations may be necessary and relevant in the circumstances and in support of their representations.

<sup>15</sup> Signed by Mr. Sean Tager on 13 May 2019.



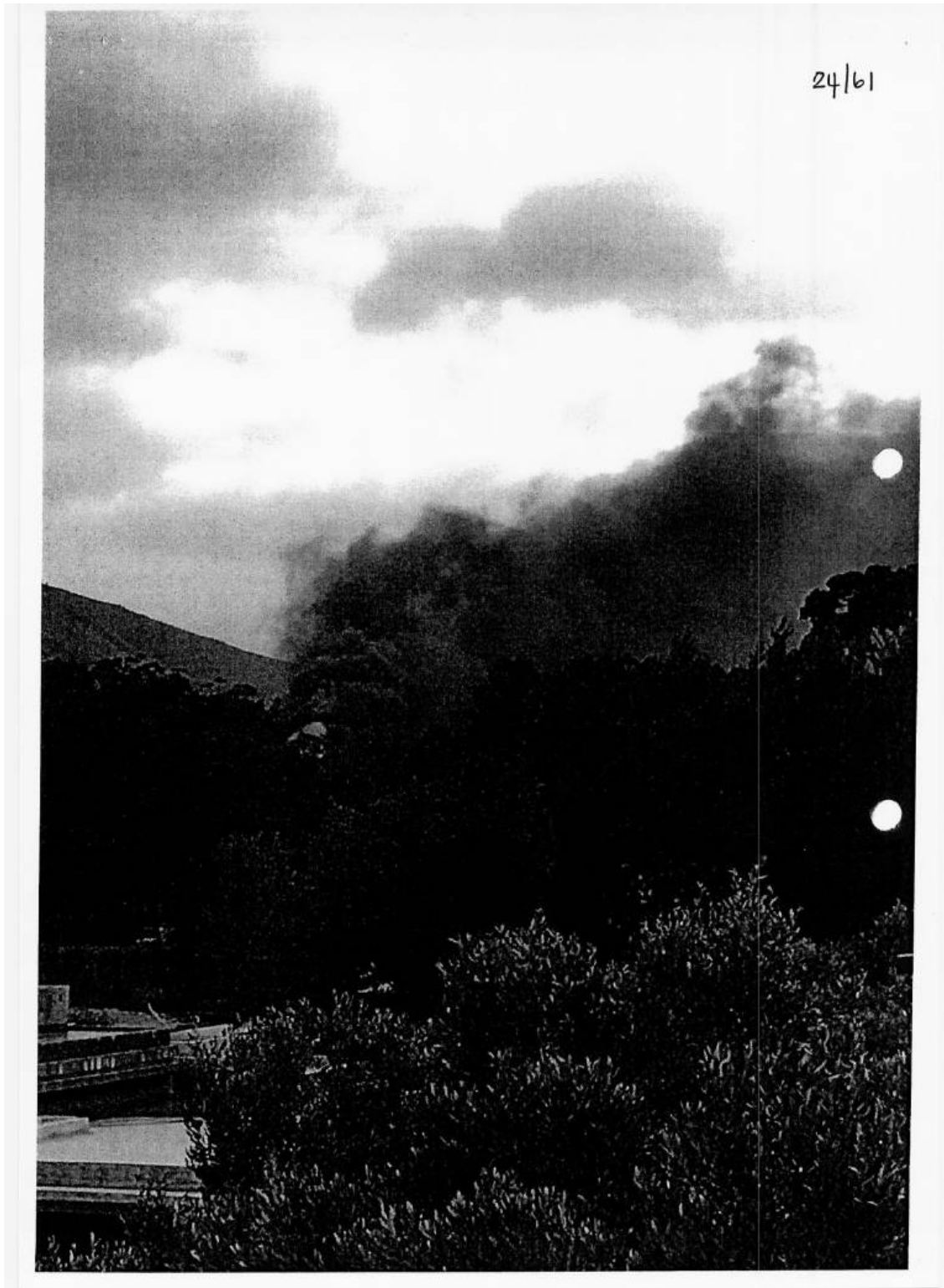
80. We submit that it behoves the Municipality to grant an audience to the objectors and the applicant when it considers its decision of first instance in order to ensure that the parties' rights to administrative action that is lawful, reasonable and procedurally fair is fully given effect to, given the facts and circumstances of the application. We look forward to hearing from the Municipality in this regard.

**Concluding submissions; relief sought by the objectors**

81. For the reasons set out in this objection read with its annexures, we submit that the application, objectively viewed, is fundamentally undesirable and as such, does not meet the jurisdictional requirements in section 66 of the By-law.
82. The application must therefore be refused by the Municipality.

Yours faithfully,  
**NICHOLAS SMITH ATTORNEYS**  
Per:

**NICHOLAS SMITH**



## Annexure A:

**List of owners of immovable property constituting the De Werf Body Corporate, Sectional Plan No SS266 92, situate at Portion 15 of the Farm Hemel-en-Aarde No. 587, Division Caledon**

	Name of owner	Immovable property details	Owner's representative	E-mail address
1.	G P Grobler	Unit 1	G P Grobler	gpgrob@iafrica.com
2.	The Karee Trust	Unit 2	A E van Riet	ensilivr@iafrica.com
3.	N A Howarth	Unit 3	N A Howarth	howarthholdings@icloud.com
4.	De Werf Silo (Pty) Ltd	Unit 4	K McManus	kevin.mcmanus@investec.co.za
5.	M Y Guttler	Unit 5	M Y Guttler	michelle.guttler@directaxis.co.za
6.	Gamlan Investments (Pty) Ltd	Unit 7	G Lanfranchi	giancarlo@swishproperties.co.za
7.	J J Stadler	Unit 8	J J Stadler	stadlera@iafrica.com
8.	G T Field	Unit 9	G T Field	topcap@iafrica.com
9.	The Hancke Family Trust	Unit 10	M Cloete	mamac@ivanhoe.net
10.	R C Bolus, A Bonthuys	Unit 11	R C Bolus	bolusrobert@gmail.com

**List of objectors proximate to the subject-property**

	Name of owner	Immovable property details	Owner's representative	E-mail address
11.	Finiglass (Pty) Ltd	Developable portions 5 and 7 in phases 2 and 3 of the residential development on Portion 15 of the Farm Hemel-en-Aarde No. 587, Division Caledon	Josh Kumpers	josh@figroup.co.za
12.	Hermanus Aberdeen 44 (Pty) Ltd	Farm 905, Caledon	Craig Wessels	craigw@wickedpixels.com
13.	Mark and Diane Forster	Unit 1 Cochybondhu Estate	Diane Forster	forster.diane@gmail.com

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Page 2

14.	Richard & Sally O'Molony	Unit 2 Cochybondhu Estate	Richard O'Molony	rom@jaywalk.co.za
15.	Chris & Sharon Thompson	Unit 3 Cochybondhu Estate	Christopher Thompson	basic@global.co.za
16.	Ian Tingle and Cheryl du Sautoy	Unit 4 Cochybondhu Estate	Ian Tingle	ianadriantingle@gmail.com
17.	James and Max Smith	Unit 5 Cochybondhu Estate	James Smith	jpsmith654@gmail.com
18.	Peter Sham	Portion 45 Farm Hemel-en-Aarde 587 Caledon	Peter Sham	petersham@twk.co.za

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Munisipaliteit • U - Msipala • Municipality  
**OVERSTRAND**

Navise:  
Enquiries: H Olivier (Town Planner)

Lêervysing:  
File Reference: Ptn 11/587 RCAL (2859)

Datum:  
Date: 21 January 2016

TOWN PLANNING / STADSBEPLANNING  
HERMANUS

WRAP  
PO Box 1247  
HERMANUS  
7200

REGISTERED MAIL

Dear Sir

**REMAINDER OF PORTION 11 (NIEUWE POST) OF FARM HEMEL-EN-AARDE NO. 587, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE AND DEPARTURE: MESSRS WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD**

With reference to your application regarding the above dated 18 March 2015, it is hereby confirmed that the matter was considered by the Executive Mayor (acting under delegated authority during the recess period) on 11 January 2016, and that it was resolved as follows:

**RESOLVED :**

1. *that in terms of Clause 2.2 of the Overstrand Municipality Zoning Scheme Regulations the application for a consent use on Remainder Portion 11 of Farm Hemel-en-Aarde No. 587 to accommodate intensive horticulture (tunnels) on the property, be approved;*
2. *that in terms of Section 15 of LUPO the application for departure to relax the southern lateral building line from 30m to 21,5m and the 30m building line with Portion 88 of Farm Hemel-en-Aarde No. 587 to 3,4m to accommodate portions of the tunnels, be approved;*
3. *that 1 and 2 above be approved subject to the following conditions:*
  - (a) *that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 14/073/01/P11 submitted with the application, and application will have to be made for any possible future tunnels;*
  - (b) *that detailed building plans be submitted to the Building Department for approval;*
  - (c) *that this approval does not absolve the applicant/owner from compliance with any other relevant legislation;*
  - (d) *that all the other development parameters as prescribed in the Zoning Scheme Regulations be retained;*

Tel: 028 313 8900  
Fax: 028 313 2093  
E-mail : [lgrella@overstrand.gov.za](mailto:lgrella@overstrand.gov.za)

PO Box 20 / Posbus 20  
HERMANUS  
7200

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- (e) that all the conditions imposed by Eskom (attached as Annexure G), be complied with;
  - (f) that all the conditions imposed by Telkom (attached as Annexure H), be complied with;
  - (g) that all the conditions in the Services Report (attached as Annexure I), be complied with;
  - (h) that all the conditions of the Fire Department be complied with at building plan submission phase, and
  - (i) that the tunnels either be of a non-reflective material or covered by non-reflective netting.
4. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

Your attention is drawn to your right of appeal to the Overstrand Municipality in terms of Section 62 of the Act on Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) within 21 days of date of registration of this letter. It needs to be noted, however, that the Council has resolved that all appeals in terms of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) must be accompanied with a deposit of R2560.00, which deposit is refundable in total should the appeal be upheld.

Yours faithfully

  
\_\_\_\_\_  
J.S. MÜLLER  
DIRECTOR : INFRASTRUCTURE & PLANNING

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Site Development Plan

- Agricultural fields
- Berry fields
- Dams
- Roads
- Dwelling units
- Outbuildings
- Restaurant
- Laborers cottages
- (A) 6.8170 ha
- (B) 2.8045 ha
- (C) 4.9070 ha
- (D) 4.0091 ha

Portion 11 of the Farm 587 Caledon

Plan: 14/073/01/P11

Scale: As indicated

All distances approximate and subject to survey.

WRAP is not liable for any loss or damage to any person or property arising from any error or omission in this plan. The plan is prepared for the purposes of a project with the prior written approval of the State.

1 Myrtle Avenue  
PO Box 1247  
Hermanus  
7200

Tel: 028 313 1411  
Fax: 086 508 3248  
Email: [wrap@skkorea.net](mailto:wrap@skkorea.net)  
Web: [www.wrapgroup.co.za](http://www.wrapgroup.co.za)



Scale 1: 10 000

Scale 1: 7 500

NCH

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The Director Infrastructure and Planning  
Overstrand Municipality

Re: Remainder of Portion 11 (Nieuwe Post) of the farm Hemel en Aarde 587, Overstrand Municipal area, a division of Caledon

**Application for Departure and Amendment of Condition of Approval**

Dear Sir/Madam,

We wish to lodge our objection to this application by Haygrove Heaven Pty Ltd for the following reasons:

Generally:

1. Water is an extremely precious resource and with a proposed expansion of this nature it must have serious implications for water use in the future. As we share a portion of the southern boundary of Haygrove, we feel we have a right to ask for proof that the water demand of this proposed expansion will be within the authorized volumes allowed by the Breede-Gouritz Catchment Management Agency in terms of the National Water Act.

We also insist that run-off water should be collected in retention ponds to prevent eutrophication of the Onrus River (on our property), which is a serious problem as far as reed infestation of the river is concerned. This is not the case currently and the situation could be worsened if their proposal is accepted.

We cannot see that this condition would be possible if building lines were to be reduced as per the proposal 6.1; 6.2; 6.3; 6.4; 6.5 and 6.6

2. The National Veld and Forest Fire Act No 101 of 1998 section 12(1) requires that property owners must prepare fire breaks on their side of the property boundary where there is a reasonable risk of veld fires.

On Thursday 7 November 2019, I was awoken before 5am by an explosion and a noxious fire, which had started in Haygrove's poisons and fertilizer depot. I attach pics.

This is the second serious, polluting, unplanned fire in the past 3 years - in spring 2016 their fuel depot exploded and caused a severe fire with the ensuing pollution and lung irritation.

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Rule 7 of the Greater Overberg FPA, to which the property is subject, specifies that the minimum width of a firebreak adjacent to farm buildings and infrastructure, is 10 m. Relaxation of the building lines to 2 and 3 m as proposed in Application 6 is therefore unacceptable from a fire management perspective and thus relaxation of these building lines (as described in 6) as proposed, is totally unacceptable.

If Haygrove's operation were to increase as proposed to almost x3, it stands to reason that the fuel and fertiliser depots, clearly badly managed on the current scale, would also increase, and this risk is unacceptable.

4.1 Haygrove grows soft fruits... in a mainly organic matter.

The fact that they spray the crops at night (until 10pm regularly) and use helicopters on a regular basis to spray over the tunnels (and our home), suggests they are not organic, and are using fertilisers, pesticides and herbicides.

Any expansion should include the requirement to use only organic farming methods. The source of organic raw materials should be restricted to local suppliers to encourage local investment and capacity development.

7. The impact of this approval is definitely not in harmony with neighbouring land uses. Portion 94 is part of Haygrove and therefore irrelevant. De Werf, Portion 15 of Farm 587 on the southern boundary, is zoned Resort and attracts many tourists, holiday-makers and permanent residents (ourselves being permanent residents). And it would most definitely upset the already tarnished visual landscape.

#### 11. Services

11.1 Historic registered water rights are not good enough, nor do they mean they should be continued, as South Africa's history shows only too well!! Water is already a critical issue and will only become more so. See Water as described above.

11.2 The current sewerage situation is not entirely satisfactory at all and already brings unnecessary flies and odour to this part of the valley.

11.4 This access road, Minor Road OPO4012, De Werf's only access road, is already severely compromised by Haygrove's incessant traffic. Busses, taxis, speeding bakkies and heavy articulated trucks constantly damage the road, block our entrance,

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cause unacceptable noise and dust from 5am until the night shift leaves, often 10pm in summer.  
If this application were to be approved in some form or another, a different access/exit road must be provided.

12.1 This expansion is not compatible with the residential Resort zoning of De Werf, being Portion 15 of Farm 587, and which was declared in 1992, long before Haygrove was established on the current premises.

12.2 The tunnels already spoil the view and the beautiful rural setting, but have been tolerated in good neighbourliness, as Haygrove does create employment. However expansion of these eyesores is not acceptable.

12.3 If this proposal were to be accepted there must be a minimum percentage of permanent employees relative to the total seasonal and permanent staff complement; a scheme to support local employees to acquire suitable housing; and a profit sharing scheme for employee upliftment.

We have experienced enough disruption with strikes and toy toying, blocking and burning of the R320.

12.4 Berries are luxury items, mostly exported, and definitely do not enhance food security.

12.6 The environmental impact of this proposal is enormous! It will certainly guzzle water, create opportunities for more unplanned fires, bring almost 3x more traffic, create more pollution - noise, air and water from the spray trucks and helicopters, increased employees and their effluent, and ruin the view.

This application refers to areas of the property that are conservation worthy. All such areas should be clearly mapped and set aside permanently. An environmental management plan must be drawn up for the entire property. This plan should be integrated with conservation plans for the conservancy within which the property is situated and should be implemented by a competent conservationist on Haygrove's permanent staff.

It is also necessary that Haygrove have extended facilities to recycle the enormous amount of plastic waste from the tunnels etc. They should recycle said plastic into saleable products.

13.1 There will be no visual enhancement.

What percentage of the taxes are in fact paid in South Africa, and how much in the United Kingdom, where the current owner/director lives?

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13.4 The current farming activities already affect the community's health. I, Andrée Bonthuys have been diagnosed as chronic asthmatic since moving here in 2016 and it is as a direct result of the spraying, which occurs most nights on the ground, and several times per year by air. I have also been hospitalised (Feb 2018) with pneumonia, also as a direct result of spraying. I never suffered from any respiratory illnesses before moving to De Werf. Many of the inhabitants of Haygrove also suffer from chronic asthma and respiratory illnesses. (Hermanus, Gertse and Louw families who live on the Nieuwe Post premises, as example). Expansion as per this proposal would necessitate many people moving away from the area for health reasons, including myself and that in itself is an infringement of our rights.

Yours sincerely

Andrée Bonthuys and Robert Bolus  
Owners Section 11, De Werf, Portion 15 of the Farm Hemel en  
Aarde 587

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The Director Infrastructure and Planning  
Overstrand Municipality

**Re: REMAINDER OF PORTION 11 OF THE FARM HEMEL AND AARDE  
NUMBER 587 OVERSTRAND MUNICIPAL AREA A DIVISION OF CALEDON :  
APPLICATION FOR DEPARTURE AND AMMENDMENT OF CONDITION OF  
APPROVAL**

Dear Sir/Madam

We wish to lodge our objection to this application by Haygrove Heaven Pty Ltd and to point out to the municipality some of the false motivations used in support of this application.

The existing operation on Haygrove is already approaching industrial proportions and has a significant impact on the valley. Further extension of this operation by at least 2 ½ times can but only make this worse. The impact of the operation on Haygrove has impacted on visitors, residents and local farmers. The significantly unsightly berry tunnels are frequently commented on by tourists and other visitors to the Hemel and Aarde valley.

Furthermore the impact of increasing traffic with trucks and busses as well as late night berry spraying has caused an increasingly unpleasant and unhealthy environment for those living and working in close proximity to Haygrove. Out of a sense of good neighbourliness and a wish to help Haygrove employ people without work, we have tolerated this over the years.

Increasing the size of this operation by 2 ½ times will without a doubt impact on the Hemel and Aarde as a conservancy and tourist destination. Here I would like to comment on point 12.2 in the application from Haygrove where they suggest that the "implementation of their proposals will contribute to enhancing the visual diversity of the Hemel and Aarde Valley which is one of the factors which draw tourists to the area" This is clearly a false motivation in that already with their current operation the impact of their tunnels is unsightly and negatively commented on by residents and visitors to the valley.

In point 13.4 they talk of not interfering with the wellbeing and comfort in occupation of the surrounding land. This will clearly not be the case with increased motorised traffic and night time spraying.

When it comes to the claim of ensuring food security, this is clearly a false claim. Food security involves plentiful nutritious food for all members of society, particularly the poor and needy. Their production of a luxury product sells in the supermarkets at at least R79 per 300g is not providing food security, but is purely a luxury for those who can afford it.

Provision of employment is a compelling argument, however the employment required in this country is that of permanent jobs, the security of a monthly salary throughout the year as well as the benefits that go with permanent employment. Seasonal and contract labour is coming under careful scrutiny throughout the world

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and especially in the Western Cape. Justifiably the labour force becomes disgruntled with this mode of employment and industrial action takes place. We have seen this in many parts of the Western Cape. Such industrial action which is quite legitimate unfortunately spills off into destruction and vandalism to neighbouring properties.

We feel that agreeing to this application by Haygrove will result in very unsightly developments together with noise pollution in what is essentially a near industrial operation which is very water intensive in this time when water is a precious asset.

Yours sincerely,

**MICHELE GUTTLER**  
OWNER PORTION 5, DE WERF, HEMEL AND AARDE VALLEY

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**OBJECTION TO HAYGROVE EXPANSION**

Objectors: Chris &amp; Sharon Thompson

Date: 14 November 2019

We object to the Haygrove expansion proposal in the strongest possible terms and the reasons for this are as follows:

1. Haygrove have a history of flagrant disregard for rules and regulations. The scale they have been able to achieve through this modus operandi has been used to justify the legitimacy of this behaviour. This cannot be allowed to continue at the expense of the rest of the Hemel en Aarde Valley.
2. The impact of the Haygrove operation on the social fabric of Hermanus has been immense. Thousands of seasonal workers have descended on the town in the hope of employment by Haygrove. These people are not employed on a full time basis and have to find alternative means to survive whilst not being paid. Crime levels have surged and unprecedented levels of social unrest have manifested. More seasonal workers in the event of Haygrove's expansion will only exacerbate this problem.
3. Haygrove relate food security as reason to justify their expansion through the departure from regulations that all others are required to adhere to. This is ludicrous and in fact the opposite is more applicable. Because levels of crime are rising due to the point above, the cost of security and crime prevention is becoming more and more onerous on farmers that actually do produce food that feeds normal South Africans in this area. Jeopardizing these farmers is much more of a threat to food security than any benefit Haygrove falsely presume they are adding by exporting berries to Europe.
4. All the labour that Haygrove currently employ is bussed to the property every day. The R43 is the only road available for this purpose and because of its' design, passing the slow moving busses is becoming more and more hazardous. Increasing the number of these buses for Haygrove's expansion requirement is going to make this route much more dangerous - which is unacceptable. The road is constantly having to be repaired through the wear and tear caused by laden busses, and this together with an increased threat to safety is prejudicial to all other business and property owners in the valley. It cannot be allowed.
5. The amount of plastic already visible on the Haygrove properties is unacceptable. The glare that is created for large parts of the day is something people living; working and visiting the Valley should not have to put up with. The plastic tunnels and shade cloth jar with the pristine surroundings of the rest of the valley, and most paying tourists and customers that support other businesses in the area are appalled by what Haygrove has been allowed to do. Unlike Haygrove these businesses are South African based and profits are not expatriated. The taxes paid by these businesses are for the benefit of locals and these businesses cannot afford to be prejudiced by the behaviour of one farmer.

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6. Haygrove claim to have 'historical water rights'. What does this actually mean and how much water are they actually allowed to take. The pump they use to extract water from the Onrus river is on our property and nobody ever seems to measure this uptake or is aware of how much water is being extracted. In summer the river is literally pumped dry. All the water that flows into the Haygrove sump is sucked out of the river and nothing proceeds to any farmers downstream and nothing reaches the De Bos dam. This is the situation at the moment. It is impossible to imagine the burden on this water source if Haygrove were allowed to triple their requirement.

7. Haygrove produce soft fruits and the severity of the impact of chemicals being discharged into the ground and air seems to go unnoticed. The noise created by spray machines goes on until late at night and little regard is given to cut-off times agreed to. The noise and health pollution associated with the scale of the Haygrove operation is already unacceptable and has an adverse effect on people coming to the Valley in support of other businesses - let alone the physical well being of those living there. It is once again difficult to imagine how the effects of these pollutants will increase if Haygrove were allowed to triple the size of the operation.

8. There are constantly people on foot in the area under the guise of looking for work at Haygrove. This poses an enormous security risk to the surrounding properties as Haygrove seemingly do absolutely nothing to deter these people. The problem will get significantly worse if Haygrove is allowed to expand operations as proposed. This is unacceptable.

9. There seems to be very little control over the hundreds of workers that come to the property every day. Snares are set to catch the wild life (and our domestic animals) and workers defecate in the bush around the orchards. The water run-off is directly into the Onrus river which supplies the De Bos dam - which is a source of drinking water for the Town of Hermanus. E-coli and drinking water are not a good combination. This behaviour will only increase if the size of the operation is allowed to expand as proposed.

10. By allowing Haygrove to expand as proposed, significant precedent will be set for others to consider abusing what the Hemel en Aarde Valley has to offer. Unless protected by the those elected to enforce the laws necessary for this protection, the essence of the Valley will be compromised. The social and economic ramifications of such short sightedness would be dire for the entire area.

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In confirmation of the facts set out in the objections delivered by Nicholas Smith Attorneys on behalf of the owners of the immovable properties that comprise Coch y Bondhu (and in particular, regarding the wholesale lack of desirability of the application) I wish to bring the following facts to the Municipality's attention:

1. Aesthetics:

The Hemel en Aarde valley is a particularly beautiful environment at the centre of a booming international tourist attraction. This aesthetic splendour has already been severely marred by the ugliness of hectares of the Haygrove plastic shade netting and tunnels. As neighbours we most certainly do not agree that we are used to the aesthetics of the tunnels nor do we agree that they could possibly 'contribute to enhancing the visual diversity of the Hemel en Aarde Valley which is one of the factors which draw tourists to the area'. They actually detract from the visual diversity of the valley and neither the farm nor the aesthetics of the farm provides any incentive for tourist activity

2. Water usage:

The open agricultural land that is proposed to be utilised for intensive horticultural purposes is currently not being farmed and hence none of the current Haygrove water allocation is being used for that land. Adding an excess of 20000 square metres of intensive planting is going to require a significant amount of extra water. In addition, the use of tunnels negates the effect of rainwater on the crops which means that the crops would need to be irrigated by run-off water saved in dams, or the Onrus river, for irrigation purposes. The Onrus river is the main supply of water to the De Bos dam which is the main supply of water to Hermanus and its surrounds. Currently, this supply is under severe pressure. Damming up the run off water on the Haygrove property means that less water is reaching the river which only exacerbates the Hermanus water problems. The river is already reduced to a mere trickle in the dry summer months. We would suggest that the proposal provides more details on current water usage and proposed water usage in the future.

3. Spraying:

Haygrove has a regular spraying program which is both noisy and toxic. Our proximity to Haygrove exposes residents, staff and visitors to some form of health risk which would be increased by the massive increase in intensive horticultural activity. Run-off must also carry these toxins into the Onrus river and may well contaminate ground water reserves.

4. Trespassing:

Our property is adjacent to Haygrove has been trespassed by workers from time to time. Snares have been placed. There is ample evidence that this area is also used as a toilet. With the increased number of seasonal workers that would be required to work on the extra crops, these ----- would be increased.

5. Traffic:

There is already a significant traffic load servicing the existing operation. This already detracts from a peaceful rural atmosphere. Any additional traffic would exacerbate the problem.

6. Security:

The use of seasonal contract workers has already resulted in numerous socio-economic problems. An increase in crime statistics may also be closely linked to these problems. Unhappy workers have already negatively affected the daily activities of the farmers and residents of the Hemel en Aarde valley in the past. The

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introduction of additional seasonal contract workers can only aggravate the situation and will be in direct conflict with Government and labour's opposition to the use of seasonal and short-term work.

7. There are a large number of pine trees growing amongst the pristine fynbos on the slopes of the mountain on the North West side of the Haygrove farm. Pine trees are planted between the blocks of tunnels on the farm. Wind blows the seeds which then germinate amongst the fynbos in the nature conservancy. These trees only appeared in the last 5 years, before that the area was pristine. The trees are getting large enough now that they will be utilising the much-needed water run-off to the Onrus river, apart from becoming a significant fire hazard. Haygrove may argue that the trees are not on their land, but neighbouring farms have no control over where the seeds will land. Other farmers in the valley are removing aliens on their properties.

Ian Tingle and Cheryl du Sautoy  
Unit 4  
Cochy Bondhu Estate  
Hemel en Aarde Valley.

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The Director Infrastructure and Planning: Overstrand Municipality

14 November 2019

Re; REMAINDER OF PORTION 11 OF THE FARM HEMEL AND AARDE  
NUMBER 587 OVERSTRAND MUNICIPAL AREA A DIVISION OF CALEDON :  
APPLICATION FOR DEPARTURE AND AMMENDMENT OF CONDITION OF  
APPROVAL

Dear Sir/Madam

We wish to lodge our objection to this application by Haygrove Heaven (Pty Ltd).

Restless River is a farm officially named, Farm 905, Caledon. We are situated directly opposite Haygrove Heaven, including Portion 11, in the Hemel-en-Aarde Valley. We farm and produce wine under the Restless River brand.

Notwithstanding further expansion, the scale of the current Haygrove Heaven operation is such that it negatively affects our income, the investment in our property and business, employment, health and lifestyle. The proposed expansion will increase Haygrove Heaven's operation 2.5 times it's current size under tunnel. The valley cannot absorb the impact this will have, particularly on those that live, farm and work close to Haygrove Heaven.

Our concerns and issues relate back to one simple fact: We live and work in what was, prior to Haygrove Heaven, a pristine and tranquil area. An area that has the potential to rival many similar areas of natural beauty around the world. We are also productive in what we do, making some of the best wines in South Africa, and we contribute to the growth of the country and our economy. Locally we contribute significantly to employment, through permanent employment and benefits to all employees, labourers included.

No one has an issue with farming in the industrial manner they do, the issue is that they are being allowed to do so in the Hemel-en-Aarde Valley, at the expense of this unique and special area, and to the detriment of all those living and working in the valley.

The Municipality must play a role in protecting the area for the long-term benefit of all. After all, wine and tourism in the Hemel-en-Aarde make a significantly greater contribution to employment that do Haygrove Heaven. By allowing further expansion of Portion 11, i.e. Haygrove Heaven, in the manor that has been applied for, the Municipality is efftely killing the Golden Goose that is the Hemel-en-Aarde, and setting a dangerous precedent for the future development of the area.

As we live and farm close to Haygrove Heaven, we experience the following problems, many on a daily basis, as a result of the ever-expanding Haygrove Heaven operation:

1. Noise. Unacceptably high levels of noise, day and night, from a.)constant night time spray machines, using high pitched turbine fans. This continues on weekends and public holidays, and b.) The numerous farm and earthmoving vehicles that operate constantly.

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2. Chemicals. The Overberg is windy, and when spraying, the spray drifts onto neighbouring properties. Some people are experiencing health issues relating to the spraying. To date, despite numerous requests to Haygrove Heaven, no indication of exactly what chemicals are used has been given. As their website does not indicate organic certification, there is no doubt that sprays include chemical fungicides, herbicides and insecticides that are not organically certified. Therefore they may cause harm to people, animals, and indigenous flora. Portion 11 is on a steep slope, and fertilizers and chemicals find their way into the Onrus River. Increasing the size of the tunnels 2.5 times will increase the spraying and chemicals/fertilizers by 2.5 times. Approval of the application will allow tunnels up to neighbouring boundaries, and the sprays will come even closer to those living and farming around Haygrove Heaven, posing an increased risk to those who already suffer from health issues relating to the chemicals used.
3. Plastic. Haygrove Heaven covers the side of Babylonstoring Mountain with plastic tunnels and shade cloth. The valley is a registered Conservancy, where we are all committed to the importance of bio-diversity, sustainability, and the aesthetic value of our pristine, natural area. Additional tunnels will increase the already detrimental impact on this value, and this in turn will negatively impact our business on the farm. The first thing any visitors/tourists to our area comment on is Haygrove Heaven's plastic covering the mountain slopes. Further, Haygrove Heaven use white plastic on a number of their tunnels. This creates an extremely bright glare that lasts from 11am until 3pm, making it difficult to even look in their direction. It is highly offensive to the natural aesthetics of the area and not befitting a Conservancy.
4. Fire. The long term prediction is that the country will experience more heat and water shortages. These factors pose severe fire risks in the Overberg. A departure from the 30m, or even 10m lines would not only cause increased risks of runaway fires, but it would also contravene the The National Veld and Forest Fire Act No 101 of 1998 section 12(1) with regards to mandatory fire breaks on property boundaries. Further, Haygrove Heaven recently had their second serious fire on the property, this time an explosion in the fertilizer/chemical room. Toxic smoke filled the valley. Had it been a windy day, with no fire breaks along their boundaries, the fire could easily have spread across the valley.
5. Rural safety and security. Since Haygrove Heaven set up operation, drawing hundreds, if not thousands of casual labourers to the area over time, often without work, security has become a very real issue, and our lives have been turned upside down by crime and fear for our safety. SAPS indicate that theft and organized crime is on the increase in our valley, including farm attacks – there has already been one violent farm attack on a farm neighbouring Haygrove Heaven. Restless River has been robbed three times in 2019. We all live with this reality, whilst the owner of Haygrove Heaven, Angus Davison, who has never spent a night on the farm, raises his family and sleeps in peace back at his home in England.
6. Protest action. Disgruntled Haygrove Heaven workers have begun to stage protests in the valley. They have blocked the R320, burning tyres and branches. This action will escalate if Haygrove Heaven further expands. This is also a security issue as per 5. above.

7. Traffic. Haygrove Heaven make use of a circular drive system, and as a result we are surrounded on the east, west and south by heavy traffic all day and night. In addition, vehicles operate on Haygrove Heaven itself at all hours of the day, creating further noise disturbances. Expansion will exacerbate this problem. Our valley roads are no longer safe. Haygrove Heaven busses are regularly breaking down on the R320, leaving oil and danger in their wake. There have already been deaths as a result of Haygrove Heaven transport busses having accidents. Haygrove Heaven taxis drive recklessly on our roads. We fear that it will be our family that falls victim to their vehicles. Expansion by 2.5 times will only amplify this problem.

8. Income and staff. Wine and Tourism. Haygrove Heaven tunnels have a direct, negative impact on the aesthetics, biodiversity and sustainability of the area. The Hemel-en-Aarde area is world renowned for wine and tourism, drawing people to the Hermanus area. Collectively, the wine farms employ more people and have invested more capital into the area than Haygrove Heaven ever will. Haygrove Heaven is a risk to our already fragile market, and they have a negative effect on our most important resource: tourism. Due to Haygrove Heaven, wine and eco-tourism suffers, and consequently our income and our ability to grow and employ. Already, the first question we are asked by visiting tourists is, "what is all that black plastic covering the mountain?". Is it justifiable to increase this 2.5 times, so that one entity can profit, whilst other farms and business suffer as a result?

The Municipality has the obligation to consider the 30+ homes that are in close proximity to Haygrove Heaven, as well as the other commercial farms and wine businesses/tasting rooms/restaurants, etc within the valley. Many rely on tourism, and particularly eco-tourism, for income.

Our natural resources are an asset belonging to all. Those of us in proximity to Haygrove Heaven are being severely prejudiced by Haygrove Heaven's ongoing industrial development within a highly sensitive, ecologically rich and diverse area. Portion 11, Haygrove Heaven, is right in the middle of The Hemel-en-Aarde Valley Conservancy.

The Municipality should not condone industrial scale activities within this conservancy. Tourism will be affected, wineries will struggle, and hundreds of permanent jobs will disappear. This will not just affect the valley. The Hemel-en-Aarde attracts many people to the area, and they all visit and spend their money in Hermanus.

It would be far more appropriate for Haygrove Heaven to expand in an area better suited to their operation, i.e. not within a Conservancy, or within a world-renowned wine area. Since 1976, the Hemel-en-Aarde has been established as a top, world-class wine and eco-tourism region. Hundreds of millions of rands have been invested by the 18 wineries that call this home.

Haygrove Heaven's industrial-scale farming and white, yellow and black plastic tunnels are not compatible with the previously established activities and economy of the valley, neither are they compatible with the history, heritage or aesthetics of the valley.

Given the simplified justifications currently contained in the applicant's document; if we allow this type of industrial expansion within an area of scarce resources and

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national importance, and justify the approval of these activities as being an economic necessity only, then we might just as well start industrialising and developing other national assets, perhaps the Kruger National Park or the pristine Wild Coast coastline will be next. Please do not set a dangerous precedent in our beautiful valley – you would not permit a 15-story office block to be erected on the sea front in Hermanus. The principle is the same; please help us protect our special valley from the devastating impact of further industrial development.

Yours sincerely,



Craig Wessels

TP. A. /hoort  
(H. Olivier)



The Director Infrastructure and Planning: Overstrand Municipality

14 November 2019

Re; REMAINDER OF PORTION 11 OF THE FARM HEMEL AND AARDE  
NUMBER 587 OVERSTRAND MUNICIPAL AREA A DIVISION OF CALEDON :  
APPLICATION FOR DEPARTURE AND AMMENDMENT OF CONDITION OF  
APPROVAL. Application ID 3274/2019.

Dear Sir/Madam

We wish to lodge our objection to this application by Haygrove Heaven (Pty Ltd).

Restless River is a farm officially named, Farm 905, Caledon. We are situated directly opposite Haygrove Heaven, including Portion 11, in the Hemel-en-Aarde Valley. We farm and produce wine under the Restless River brand.

Notwithstanding further expansion, the scale of the current Haygrove Heaven operation is such that it negatively affects our income, the investment in our property and business, employment, health and lifestyle. The proposed expansion will increase Haygrove Heaven's operation 2.5 times it's current size under tunnel. The valley cannot absorb the impact this will have, particularly on those that live, farm and work close to Haygrove Heaven.

Our concerns and issues relate back to one simple fact: We live and work in what was, prior to Haygrove Heaven, a pristine and tranquil area. An area that has the potential to rival many similar areas of natural beauty around the world. Wineries in the valley are also productive in what we do, making some of the best wines in South Africa, and we contribute to the growth of the country and our economy. Locally we contribute significantly to employment, through permanent employment and benefits to all employees, labourers included. Further expansion of Haygrove Heaven puts this all at risk.

No one has an issue with Haygrove Heaven farming in the industrial manner they do, the issue is that they are doing so in the Hemel-en-Aarde Valley Conservancy, at the expense of this unique and special area, and to the detriment of all those living and working in the valley.

The Municipality must play a role in protecting the area, and its scarce natural resources, for the long-term benefit of all. After all, wine and tourism in the Hemel-en-Aarde make a significantly greater contribution to employment than do Haygrove Heaven. By allowing further expansion of Portion 11, i.e. Haygrove Heaven, in the manner that has been applied for, the Municipality is efftely killing the Golden Goose that is the Hemel-en-Aarde, and setting a dangerous precedent for the future industrial scale development of the area.

As we live and farm close to Haygrove Heaven, we experience the following problems, many on a daily basis, as a result of the ever-expanding Haygrove Heaven operation:

1. Noise. Unacceptably high levels of noise, day and night, from a.) constant night time spray machines, using high pitched turbine fans. This continues on

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	Hemel en Aarde
SCAN NO:	4
COLLABORATOR NO:	1357196

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weekends and public holidays, and b.) The numerous farm and earthmoving vehicles that operate constantly.

2. Chemicals. The Overberg is windy, and when spraying, the spray drifts onto neighbouring properties. Some people are experiencing health issues relating to the spraying. To date, despite numerous requests to Haygrove Heaven, no indication of exactly what chemicals are used has been given. As their website does not indicate organic certification, there is no doubt that sprays include chemical fungicides, herbicides and insecticides that are not organically certified. Therefore they can cause harm to people, animals, and indigenous flora. Portion 11 is on a steep slope, and fertilizers and chemicals find their way into the Onrus River. Increasing the size of the tunnels 2.5 times will increase the spraying and chemicals/fertilizers by 2.5 times. Approval of the application will allow tunnels up to neighbouring boundaries, and the sprays will come even closer to those living and farming around Haygrove Heaven, posing an increased risk to those who already suffer from health issues relating to the chemicals used.

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6. Protest action. Disgruntled Haygrove Heaven workers have begun to stage protests in the valley. They have blocked the R320, burning tyres and branches. This

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action will escalate if Haygrove Heaven further expands. This is also a security issue as per 5. above.

7. Traffic. Haygrove Heaven make use of a circular drive system, and as a result we are surrounded on the east, west and south by heavy traffic all day and night. In addition, vehicles operate on Haygrove Heaven itself at all hours of the day, creating further noise disturbances. Expansion will exacerbate this problem. Our valley roads are no longer safe. Haygrove Heaven busses are regularly breaking down on the R320, leaving oil and danger in their wake. There have already been deaths as a result of Haygrove Heaven transport busses having accidents. Haygrove Heaven taxis drive recklessly on our roads. We fear that it will be our family that falls victim to their vehicles. Expansion by 2.5 times will only amplify this problem.

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The Municipality has the obligation to consider the 30+ homes that are in close proximity to Haygrove Heaven, as well as the other commercial farms and wine businesses/tasting rooms/restaurants, etc within the valley. Many rely on tourism, and particularly eco-tourism, for income.

Our natural resources are an asset belonging to all, i.e. not just the rich with foreign capital. The Municipality should not condone industrial scale activities within this conservancy. Local tourism will be affected, wineries will struggle, and hundreds of permanent jobs will disappear. This will not just affect the valley. The Hemel-en-Aarde attracts many people to the area, and they all visit and spend their money in Hermanus.

It would be far more appropriate for Haygrove Heaven to expand in an area better suited to their operation, i.e. not within a Conservancy or within a world-renowned wine area of natural beauty. Since 1976, the Hemel-en-Aarde has been established as a top, world-class wine and eco-tourism region. Hundreds of millions of rands have been invested by the 18 wineries that call this home.

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national assets, perhaps the Kruger National Park or the pristine Wild Coast coastline will be next. Please do not set a dangerous precedent in our beautiful valley – you would not permit a 15-story office block to be erected on the sea front in Hermanus. The principle is the same; please help us protect our special valley from the devastating impact of further industrial development.

Yours sincerely,



Craig and Anne Wessels  
Owners  
Restless River Vineyards  
Hemel-en-Aarde Valley  
Hermanus, 7200.

PO Box 1739  
Hermanus, 7200

Cel: 083 6580 555

OBJECTIONS TO LAND USE APPLICATIONS (IN RE PORTION 11 FARM HEMEL EN)

TP.D./thcc  
(H. Olivier)

48/61



**From:** BRIAN FROST <brianf@iafrica.com>  
**To:** <lpage@overstrand.gov.za>, <holivier@overstrand.gov.za>  
**CC:** Nick Smith <nicks@nsmithlaw.co.za>  
**Date:** 15/11/2019 02:29 PM  
**Subject:** OBJECTIONS TO LAND USE APPLICATIONS (IN RE PORTION 11 FARM HEMEL EN AARDE 587)

Dear Ms Gillion and Mr Olivier,  
I refer to the above mentioned matter and wish to place on record that I fully support the objections submitted by Nicholas Smith on behalf of the owners of the adjoining properties contained in the Annexure attached to his email of 15th November 2019.

I am a Director of Clouds End (Pty) Ltd the owner of Kantoorkloof Farm portion 18 of farm 587 which adjoins the farm in question in the objection.

Yours faithfully

B J FROST  
Director Clouds End (Pty) Ltd

FILE NO:	FIN 11/587
	Kantoor & Aarde
SCAN NO:	5
COLLABORATOR NO:	1357200

TP  
18 NOV 2019



TP. D. Olivier  
(I. Olivier)

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Overstrand Municipality

Attention: Ms. Loretta Gillion / Mr. Henk Olivier

16 Paterson Street

Hermanus

7200

By email: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za); [holivier@overstrand.gov.za](mailto:holivier@overstrand.gov.za)

FILE NO: PIN 11/587
Hemel & Aarde
SCAN NO:
PIN 11
COLLABORATOR NO:
1356578

13 November 2019

Dear Ms. Gillion and Mr. Olivier

**RE: REMAINDER PORTION 11 (NIEUWE POST) OF FARM HEMEL-EN-AARDE NO. 587, OVERSTRAND MUNICIPAL AREA, A DIVISION OF CALEDON / OBJECTIONS TO APPLICATIONS FOR DEPARTURE; AND APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL**

**Introduction**

1. We are the owners of the immoveable properties Portion 2 of Farm 587.
2. Our property is directly adjacent to Portion 11 of Farm Hemel-en-Aarde 587 Caledon (which is referred to herein as "the subject-property"). As such, it is directly and adversely affected by the land use applications at issue in this matter.

**OUR PROPERTY HAS BEEN VERY DIRECTLY AFFECTED BY ACTIVITIES ON HAYGROVE HEAVEN IN THE FOLLOWING INCIDENTS.**

- 2.a In the past we have had our pets caught in snares set by their employees. This was acknowledged by Haygrove management and a subsequent search of our farm yielded in excess of 200 snares. We have had our pet dog caught in a snare in the last month. Our property also houses a thoroughbred horse stud operation and the value of these animals runs into millions of rand. This operation belongs to a co-owner of the property.
- 2.b The staff on Haygrove are insufficiently supplied with adequate drinking water with the result that they trespass on our property to fill water bottles. They then leave the taps running at the water tanks which then run dry. These tanks have to be filled by a portable pumping system.
- 2.c We frequently have Haygrove staff trespassing on the property as they use our property as a thoroughfare.
- 2.d Haygrove Heaven spray extensively and late into the night which creates a major noise disturbance. There does not appear to be a stipulated time at which this should cease.
- 2.e Haygrove Heaven are the only property in Hemel-en-Aarde who have experienced labour unrest on a large scale which resulted in the road being closed.
- 2.f The busses which transport the seasonal workers are old and frequently break down with the result that the workers are often seen hitch-hiking along the road which affects road safety.

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**OUR PROPERTY COULD BE AFFECTED BY EXPANDED ACTIVITIES ON HAYGROVE HEAVEN,<sup>2</sup> 50/61  
IF THIS APPLICATION IS APPROVED, IN THE FOLLOWING WAYS;**

2.g It is unclear from the plans why Haygrove Heaven would wish to relax the building line on the western boundary from 30 meters to 10 meters and on the northern boundary from 30 meters to 5 meters as this area consists of fynbos and rocky mountain ridges and watercourses. Furthermore this potential relaxation would preclude compliance with the Overberg FPA and National Veld and Forest Fire Act no. 101 of 1998 regulations on fire break requirements.

2.h The expansion will necessitate considerable and significant increase in the scale of crop spraying. The applicant describes themselves as "mainly organic", however this implies that they are not certified as such. Their type of farming requires a much higher frequency of pesticide and fungicide spraying that would need to comply with the directives of the FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES ACT 36 OF 1947. Neighbouring residents are protected under the BILL OF RIGHTS (Chapter 2 of the Constitution of the Republic of South Africa): Environment

24. Everyone has the right;

- a. to an environment that is not harmful to their health or well-being; and
- b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
  - i. prevent pollution and ecological degradation;
  - ii. promote conservation; and
  - iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

- 3. This document constitutes our substantive objections to the applications delivered to Overstrand Municipality by Messrs. Wright Approach Consultancy ("WRAP") on behalf of Haygrove Heaven (Pty) Ltd.
- 4. The applications to which we object are respectively for:
  - 4.1. The amendment of an existing condition of approval<sup>1</sup> to allow for the very significant expansion, by over 20 hectares ("ha") (i.e. over 200,000m<sup>2</sup>) of plastic-covered tunnels on the subject-property, for purposes of intensive horticulture;
  - 4.2. four discrete departure applications in terms of section 16(2)(b) of the By-law and in respect of the significant proposed relaxation of the lateral building lines on all of the boundaries<sup>2</sup> of the subject-property;<sup>3</sup> and

<sup>1</sup> Condition of approval 3(a), the amendment of which is sought in terms of section 16(2)(h) of the Overstrand Municipality By-law on Municipal Land Use Planning, 2015 (the "By-law"). Condition 3(a) is set out in a record of decision dated 21 January 2016, titled "Remainder of Portion 11 (Nieuwe Post) of Farm Hemel-en-Aarde No. 587, Overstrand Municipal Area: Proposed consent use and departure: Messrs WRAP on behalf of Haygrove Heaven (Pty) Ltd" and signed by the Municipality's Director: Infrastructure and Planning.

<sup>2</sup> I.e. the eastern, southern, western and northern sides of the subject-property.

<sup>3</sup> The departure sought in respect of the eastern lateral building line is from 30,0 metres ("m") to 2,0m to accommodate the proposed intensive horticulture tunnels; the relaxation sought on the southern lateral building line is from 30,0m to 3,0m for the same purpose; the relaxation sought on the western lateral building line is from 30,0m to 10,0m to accommodate the intensive horticulture tunnels; and the relaxation sought on the northern lateral building line is from 30,0m to 5,0m, also to accommodate proposed intensive horticulture tunnels.

- 4.3. a departure in terms of section 16(2)(b) of the By-law, from the maximum of 5,000m<sup>3</sup> allowable floor space for all buildings on the subject-property to allow a floor space of 35,0663ha (i.e. over 350,000m<sup>2</sup> in lieu of 5,000 m<sup>2</sup>) to accommodate intensive horticulture.<sup>3 51/61</sup>
5. The essence of the application to which these objections relate is thus for the proposed expansion of the existing intensive horticulture tunnels on the subject-property, by the addition of further tunnels that would cover an additional 20,1662ha on the subject-property.
6. The proposal to develop additional tunnels has the consequence that the surface area of the subject-property that is currently under intensive horticulture tunnels will be significantly expanded (from the current 13,8209ha, to a proposed total of 33,9871ha) if the applications are granted by the Municipality.
7. Similarly, the proposed departure from the current maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the subject-property to allow a floor space of 35,0663 ha (over 350,000 m<sup>2</sup>) "... to accommodate intensive horticulture" represents a massive (and we submit, for the reasons set out below, entirely undesirable) proposed physical expansion to the current farming infrastructure on the subject-property.

**Synopsis of the application (in terms of section 16(2)(h) of the By-law) for the amendment of condition of approval 3(a) in the Municipality's record of decision dated 21 January 2016**

8. On 21 January 2016, the Municipality delivered its record of decision in response to an application for proposed consent use and departure delivered by WRAP in 2015 and on behalf of Haygrove Heaven (Pty) Ltd.
9. In terms of the Municipality's record of decision (appended to these objections marked "B"<sup>4</sup>) the Municipality resolved to approve an application for a consent use on the subject-property to accommodate intensive horticulture (tunnels) on that property.
10. The Municipality's approval of the aforesaid consent use was subject to nine conditions, the most material of which for present purposes, was framed as follows:
- "3. that 1 and 2 above be approved *subject to the following conditions:*
- (a) *that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan 14/073/01/P11 submitted with the application, and application will have to be made for any possible future tunnels ..."*  
(Our emphasis.)
11. The requirements of paragraph 3(a) of the Municipality's record of decision dated 21 January 2016 thus necessitate the current application for the amendment of the condition cited *verbatim* above, in order to permit the extensive additional horticulture tunnels now proposed by WRAP on behalf of the owner of the subject-property.

**Synopsis of the departure applications**

12. The first four departure applications sought by the applicant in terms of section 16(2)(b) of the By-law (i.e. permanent departures) would, if approved by the Municipality, allow for significant reductions in the current lateral building lines that apply on the subject-property.

<sup>4</sup> The Municipality's record of decision is also appended to the current application as part of Annexure D.

As regards the eastern lateral building line, the proposal is to seek a departure that would<sup>4</sup> 52/61 allow the relaxation of that building line from the currently permissible line (30m), to 2m. Similarly, the southern lateral building line is proposed to be relaxed from 30m, to 3m. the western and northern lateral building lines are respectively proposed to be relaxed from 30m to 10m; and from 30m to 5m

13. The departure application relating to the current permissible allowable floor space (a maximum of 5,000m<sup>2</sup> for all buildings on the subject-property) to allow a floor space of 35,0663ha provides a clear indication of the very significant extent of the proposed development activities that would follow on the grant of the application.
14. We refer to the applications described in paragraphs 11 to 13 above collectively herein as "the application".

**The jurisdictional requirements in section 66 of the By-law (titled "General criteria for decision-making") and relating to the substantive merit of the application**

15. The central substantive criterion for the Municipality's consideration of the applications pertains to "*the desirability of the proposed utilisation of land ...*".<sup>5</sup> (Our emphasis).
16. Desirability must be established by the municipal decision-maker on an objectively verifiable basis in order for an application to pass muster on its merits.
17. The applicant's planner purports to motivate the desirability of the application to which these objections relate with reference to six primary factors, which are recorded under the head "*Need and desirability*"<sup>6</sup> in the applicant's motivation report.
18. The six factors cited by the applicant in support of the application are the following:
  - 18.1. Compatibility with surrounding land uses;
  - 18.2. impact on views, sunlight and character of the area;
  - 18.3. economic impacts;
  - 18.4. need;
  - 18.5. impact on heritage; and
  - 18.6. environmental impact.
19. The following section of our objection traverses each of the motivating factors addressed by the applicant, and provides a substantive rebuttal to each of the primary factors cited, purportedly in support of the application, by the applicant.

**Objections in response to the applicant's purported motivation regarding the application's compatibility with surrounding land uses**

20. The first factor described by the applicant's planner pertains to the asserted compatibility of the application with surrounding land uses. The statement is made that all of the

<sup>5</sup> Section 66(1)(c) of the By-law.

<sup>6</sup> Pages 15 to 16 of the motivation report delivered by WRAP and dated August 2019.

surrounding farms are predominantly used for agricultural purposes and that the<sup>5</sup> 53/61  
 "proposed intensive horticulture tunnels are in harmony with the surrounding land uses".

21. We submit that this is a fallacious statement for the reason. The suggestion that proposed horticulture tunnels (which will cover a total of 33,987,1ha of the subject-property, if approved) can be said to be "in harmony" with the surrounding properties is a significant and misleading overstatement. Whilst it may be correct to assert that the neighbouring Portion 94 of Farm Hemel-en-Aarde 587 also has intensive horticulture units, that property is owned and/or operated by the applicant. Beyond the latter property, various other landowners who reside on immovable properties that border the subject-property would in fact experience significant disharmony (in the form of an actionable impairment to their reasonable use and enjoyment of their properties) if they were to be burdened by the significant visual impacts of overlooking over 200,000m<sup>2</sup> of plastic-clad horticulture tunnels.
22. The applicant has not placed a full picture before the Municipality of the fundamental incompatibility of the development proposal with existing surrounding land uses. In support of this assertion, we point out that the applicant has provided no information to the Municipality regarding the significant likely increase in noise emissions on the subject-property if the expansion is to proceed, including noise generated by machinery; crop spraying (both on the ground and by helicopter); and the transport used by the property owner to bus seasonal contract workers to the subject-property. There will also be a likely increase in the odours emitted from the property including emissions from crop spraying; vehicle use; and toilets for the seasonal contract workers (which have proved in the past to be entirely insufficient, as relates to seasonal workers relieving themselves on surrounding properties with no regard to the accompanying health hazard). It should also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including snares that have caught clients' domestic animals; and human waste as well as litter that is deposited on their properties.
23. The visual impact of permitting two and a half times more plastic-covered tunnels and a departure to the permissible floor area which is over 70 times the legally prescribed limit are simply not described in sufficient particularity to place the Municipality in a position to make an objective decision to approve the application on merit. It follows that the only decision that the Municipality can make on the facts and circumstances as presented and purportedly motivated by the applicant (and entirely rebutted in these objections) is to refuse the application.

**Objections in response to the applicant's purported motivation regarding the (allegedly positive) impact on views, sunlight and the character of the area**

24. As regards the applicant's assertion that the proposal to develop intensive horticultural tunnels on an additional 20,166,2ha of the subject-property "... will therefore not be a visual intrusion" is simply fallacious.
25. The further suggestion by the applicant, to the effect that the existing tunnels (and the camouflage net covering thereof) "let the tunnels blend in with the rural landscape which contributes to the unique rural character which is visually more appealing than many other farms in the Overberg" is also a wholesale fallacy. It only has to be stated to be rejected. The applicant's assertion that the additional intensive horticulture tunnels proposed on a surface area of over 200,000m<sup>2</sup> (an expansion of 20,166,2 ha to the tunnels already established on the subject-property, which already cover a total surface area of 13,820,9ha) will "blend in" with the existing rural landscape is, quite frankly, nonsensical.
26. To suggest (as the applicant does) that the development of tunnels over an additional 20,166,2ha of the subject-property will "contribute to enhancing the visual diversity of the

Hemel en Aarde Valley which is one of the factors which draw tourists to the area" is also<sup>6</sup> 54/61  
nonsensical. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this "diversity" will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion.

**Objections in response to the applicant's purported motivation regarding economic impact**

27. As regards the third factor described in purported motivation of the application (economic impact) we point out that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective only.
28. We submit that in order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bald statement to the effect that the approval and implementation of the application will substantially increase the number of people employed on the subject-farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding the number of likely future employees; the quantification of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained.

**Objections in response to the applicant's purported motivation regarding need**

29. As regards the fourth factor described in purported motivation of the application, we take issue with the applicant-planner's statement that there is "... therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security."
30. The fact of the matter is that the applicant produces soft fruit (berries) which are principally destined for the export market as a premium fruit product. To suggest that the Municipality approving the application will ensure the owner of the subject-property's contribution to increasing and enhancing food security is simply incorrect.

**Objections in response to the applicant's purported motivation regarding impact on heritage**

31. As regards the fifth factor used in purported motivation of the application, the applicant's planner states (somewhat glibly, we submit) the following: "None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal."
32. We contest this statement. We point out that section 38(1)(c) of the National Heritage Resources Act<sup>7</sup> ("NHRA") obliges any person who intends to undertake a development categorised as any form of development or other activity which will change the character of a site exceeding 5,000m<sup>2</sup> in extent, at the earliest stages of initiating such a development, to notify Heritage Western Cape ("HWC"), and furnish HWC with details regarding the location, nature and extent of the proposed development. The only organ of state with the requisite statutory competence to decide whether the jurisdictional requirements of section 38 of the NHRA are triggered on the facts of this matter is HWC.
33. In support of our submissions regarding the likely application of section 38 of the NHRA, we point out that the subject-property is already occupied by intensive horticulture tunnels that cover 13,8209ha of that property. In our submission, and in the event that the physical expansion of tunnels is permitted (across an additional 20,1662ha of the subject-property),

<sup>7</sup> Act 25 of 1999.

that expansion would amount to a change in the character of the site. This is by virtue of<sup>7</sup> 55/61  
 the very significant increase (by almost two and a half times the physical extent of the existing tunnels) in the surface area that would be occupied by the proposed tunnels. The current character of the subject-property is defined by a mixture of tunnels and open agricultural areas. That creates a tapestry of plastic-clad structures and vegetated areas. What the applicant now proposes is an artificial and monochromatic landscape and would present a jarring contradiction with the natural surrounds in this part of the Hemel-en-Arde valley that will irrevocably change the character of the area. This is entirely clear from Plan 3 appended to the applicant's motivation, which clearly shows that the southern half of the subject-property will be effectively blanketed in plastic-covered horticulture tunnels which would extend almost to all of the property's boundaries.

34. No doubt the Municipality will oblige the applicant to furnish written confirmation from HWC to confirm the applicant's assertion that no provisions in the National Heritage Resources Act are triggered on the facts of the applications.

**Objections in response to the applicant's purported motivation regarding environmental impact**

35. The sixth criterion analysed by the applicant's planner, purportedly in motivation of the application is under the head "*Environmental impact*". The applicant's planner submits that no activities listed in terms of the National Environmental Management Act<sup>8</sup> ("NEMA") are triggered by the development proposal. The applicant's submission is that the proposed intensive horticulture tunnel expansion is not located on the environmentally sensitive part of the subject-farm (with reference by the applicant to a plan appended to the application as Plan 5).
36. On behalf of our clients, we submit that the purported motivation is both superficial and entirely misplaced. The correct enquiry that should have been made by the applicant's planner relates to whether the jurisdictional requirements of any of the listed activities respectively set out in the NEMA EIA Regulations' three Listing Notices<sup>9</sup> are triggered on the facts of the application.
37. In the circumstances we submit that it behoved the applicant's planner to analyse the facts of the proposed intensive horticulture expansion and the receiving environment in the areas where the new tunnels are proposed in order to establish whether any NEMA-listed activities are triggered, and then to obtain written confirmation from the competent authority responsible for administering NEMA and the NEMA EIA Regulations of the applicant's assertion that the expansion does not require environmental authorisation.
38. A copy of this objection will be delivered to the Department of Environmental Affairs and Development Planning (the competent authority for the administration of NEMA in the Western Cape) in order for the Department's officials to furnish their comment as to the applicability (or otherwise) of NEMA, with specific reference to section 24 of NEMA read with the NEMA EIA Regulations.<sup>10</sup>
39. In any event, we have no doubt that the Municipality will ensure that the necessary enquiry is made to the Department of Environmental Affairs and Development Planning (by the applicant, and at the behest of the Municipality) in order to confirm unequivocally whether

<sup>8</sup> Act 107 of 1998.

<sup>9</sup> Published under NEMA respectively in GN R983 to GN R985 in Government Gazette 38282 of 4 December 2014 (as amended).

<sup>10</sup> Published in GN R982 in Government Gazette 38282 (titled "*National Environmental Management Act 107 of 1998 – Environmental Impact Assessment Regulations, 2014*").

NEMA-listed activities are triggered on the facts of the proposed expansion. If NEMA<sup>8</sup> listed activities are triggered on the facts, then the applicant will be obliged to undertake the necessary environmental assessment procedures stipulated under NEMA read with the NEMA EIA Regulations, and to obtain environmental authorisation before the Municipality can decide the land use applications on their merits.

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**The applicant's planner's baseless and misleading statements regarding impacts on neighbouring landowners**

40. In support of our wholesale rebuttal (above) of the applicant's planner's purported motivation of the application against the applicable legal requirements in the By-law, we direct the Municipality to the planner's unsubstantiated and misleading statement in paragraph 7 of the motivation.<sup>8</sup> The applicant's planner says the following there:

*"Considering that the neighbouring Portion 94 of Farm Hemel-en-Aarde also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed to the tunnels on the subject property and neighbouring farm. This proposed expansion will therefore not be foreign to neighbouring property owners or upset the rural visual landscape which farmers have become accustomed to (sic)."*

41. The insuperable difficulties with the statement cited verbatim above include at least the following:
- 41.1. The applicant's planner does not disclose that the "neighbouring Portion 94 of Farm Hemel-en-Aarde" is owned and/or controlled by the subject-property's owner. It is thus no wonder that the use of those contiguous properties is perceived as harmonious. The alleged harmony arises purely from self-interest.
- 41.2. It is a falsehood for the applicant's planner to state that "neighbouring farmers" have become accustomed to the existing tunnels. The existing tunnels are an eyesore for the residents of the area, and for domestic and overseas tourists. The existing tunnels already have a significant visual impact which will be massively and unreasonably increased if further horticulture tunnels are permitted on the subject-property.
- 41.3. The applicant's planner's assertions that the proposed expansion will thus not be foreign to neighbouring property owners nor upset the visual impact only have to be stated to be rejected.

**The applicant's purported motivation against the jurisdictional requirements set out in the Spatial Planning and Land Use Management Act ("SPLUMA")**

42. The applicant provides a purported motivation of the application against the requirements of SPLUMA, under four motivational factors.
43. Those factors are respectively the following:
- 43.1. The public interest;
- 43.2. the constitutional transformation imperative of the State;

<sup>8</sup> At page 12 of the application's motivation report delivered by WRAP.

- 43.3. the facts and circumstances pertaining to the application; and
- 43.4. the respective rights and obligations of all those affected.

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**Objections in response to the applicant's purported motivation regarding public interest**

44. The applicant purports to conflate the alleged "visual enhancement" of the subject-property (which we have already shown to be an indefensible proposition); and growth of the taxable revenue base that would be achieved if the applications succeed. The suggestion is made that burdening the subject-property with an additional 20,1662ha under intensive horticulture tunnels is visually enhancing. This only has to be stated to be rejected. The suggestion that intensive horticulture tunnels covered in artificial material is an enhancement on the current *milieu* is entirely irrational, and is motivated only from the applicant's perspective.
45. Any benefit that might accrue to the state in respect of enhanced tax revenue from the landowner's expanded activities is entirely outweighed by the impacts that the proposed expansion would have on neighbouring landowners.

**Objections in response to the applicant's purported motivation regarding the State's constitutional transformation imperatives**

46. Whilst it is correct that the State's transformation imperatives include enabling farmers to achieve economic growth and sharing the proceeds of that growth with their employees, the baldly stated and unsupported suggestion that this will occur on the facts of this matter must be rejected by the Municipality because the statement is supported by no objectively verifiable evidence.
47. The applicant provides no detail whatsoever as to the quantification of the economic proceeds to be shared with workers on the subject-property (who are engaged as seasonally used independent contractors by the landowner, rather than formally employed).

**Objections in response to the applicant's purported motivation regarding the historic facts and circumstances pertaining to the application**

48. Whilst it is correct that the Municipality approved intensive horticulture on the subject-property in its record of decision dated 21 January 2016<sup>19</sup> there can be no suggestion that the aforesaid approval in any way indicates the Municipality's view regarding the desirability of the current application. The fact that there are existing extensive horticulture tunnels on 13,8209ha on the subject-property does not in any way motivate the desirability of a more than two-fold expansion of the horticulture tunnels now proposed for the subject-property.

**Objections in response to the applicant's purported motivation regarding respective rights and obligations of all those affected**

49. The applicant's suggestion that a massive increase in the infrastructure on the subject-property (in the form of over 200,000 m<sup>2</sup> of plastic-covered intensive horticulture tunnels), and the associated expansion in agricultural activities that will follow on the expansion, do not impact on neighbours' reasonable rights to the use and enjoyment of their property must be rejected.

<sup>19</sup> The first document included as part of Annexure D to the applicant's motivation.

50. Given that the applicant seeks the enhancement of the existing 'envelope' of development rights that currently apply to the subject-property, by way of:
- 50.1. the amendment of condition 3(a) in the approval granted by the Municipality in writing on 21 January 2016;
- 50.2. the significant relaxation of the side building lines on the subject-property; and
- 50.3. a departure to exceed the maximum allowable footprint of buildings on the site (from 5,000m<sup>2</sup> to over 350,000m<sup>2</sup>);
- 50.4. we submit that the applicant's application clearly obliges the Municipality to have full and proper regard *inter alia* to the likely diminution in the value of the objectors' properties that would follow on the grant of enhanced development rights to the owner of the subject-property. No such analysis has been provided by the applicant.
51. The applicant's planner's bald statement to the effect that there will be no infringement on existing land use rights (including the objectors' right to the reasonable use and enjoyment of their properties) is simply fallacious.

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**The motivation of the application against applicable spatial planning policies**

52. The application purports to analyse the consistency of the application against relevant spatial planning policies.
53. The application is considered against the following policy documents:
- 53.1. The *Western Cape Land Use Planning Guidelines (Rural Areas)* ("WCLPGRA");
- 53.2. the *Provincial Spatial Development Framework* ("PSDF"); and
- 53.3. the Municipality's *Spatial Development Framework* ("SDF").

**Objector's comments on the purported motivation in respect of consistency with the WCLPGRA**

54. The applicant suggests that the underlying purpose for the application is to allow the owner of the subject-property to be granted "*the appropriate land use rights to intensify agricultural activities on the farm to improve the economic viability*". It is suggested that the intensification will be achieved by increasing capital investment and labour in order to raise the yield of produce on the subject-property.
55. The objectors submit that this is an entirely one-sided and subjective analysis which is not supported by any evidence that the land use is appropriate. As is shown in these objections with reference to the objectively determinable desirability of the application, the application is inherently undesirable when all relevant factors are properly considered and accorded their appropriate weight.
56. As regards the applicant's statement that the proposal does not entail the fragmentation of the agricultural land uses on the property, that may be correct but again, is motivated exclusively from the applicant's (subjective) perspective and self-interest.
57. As regards the provisions in the WCLPGRA relating to the development's reinforcement of the farm precinct and the reflection of similar scale, the objectors submit that the proposal is massively over-scaled. The fact that the intensive horticulture tunnels are "*lower than the*

12m height restriction" in no way derogates from the significant scale of the proposed<sup>11</sup> erection of the tunnels in question. The fact that there may be other intensive agricultural land uses in the Hemel-en-Aarde rural area (none of which are explained in any detail in the application) does not represent harmonious scale in the area. To the contrary, the proposal to develop the subject-property by the installation of some 33,9871ha under intensive horticulture tunnels.

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**Objector's comments on the purported motivation in respect of the application's consistency with the PSDF**

58. The suggestion that inclusive economic growth will be promoted by the application is not suitably motivated by the applicant. Although we are clearly alive to the fact that the owner of the subject-property would benefit substantially from the increased production envisaged by the addition of intensive horticulture tunnels on a further 20,662ha on the subject-property, there is no explanation as to how that economic growth would benefit parties other than the property owner (and to a lesser extent, the workers who might be contracted as a result of the expansion).
59. As regards the suggestion that the PSDF prescribes "*a greater diversity of soft fruits which are proposed to be planted*" we submit on behalf of our clients that the PSDF contains no such prescription.
60. The comparative strengths of the Hemel-en-Aarde valley relate not only to high agricultural output from a variety of agricultural initiatives including cultivation of grapes and wine production but also the value of the area as a tourist destination. The application is unlikely to capitalise in any material way on the latter and in fact will in all reasonable likelihood derogate from the tourism attractions currently on offer.

**Objector's comments on the purported motivation in respect of the application's consistency with the SDF**

61. The application does not meet the imperatives of the SDF, because it does not establish that the proposed expansion is (objectively viewed) to the benefit of all affected residents within the area. The application is motivated almost exclusively from the perspective of the owner of the subject-property. As such, it is not aligned with the applicable policy imperatives articulated in the SDF.

**Objector's comments on the applicant's purported motivation of the planning principles contained in Chapter 2 of SPLUMA**

62. The applicant suggests that the implementation of the proposal, by its approval by the Municipality will lead to "... *employment opportunities being created which will primarily benefit the historically marginalised*". The applicant submits that the development proposal would contribute to "*addressing spatial development imbalances caused by apartheid planning which concentrated economic opportunities in urban areas to the neglect of rural areas and rural residents*".
63. The seasonal contract workers retained by the applicant are bussed to the subject-property on a daily basis from Hermanus and the latter's environs, in order to perform their work. At the end of the day they return to the homes in which they reside, which are principally informal structures within the townships surrounding Hermanus. There can thus be no suggestion that the approval of the proposal would contribute to addressing spatial development imbalances, as the applicant would have it.

64. As regards the assertion by the applicant that the proposal promotes the enhancement<sup>12</sup> of the functionality of the rural space economy and that this will be done "... by ensuring that unemployed people can have a share of the income which will be derived on the subject property" the applicant provides no indication whatsoever as to the share of that income that would be derived by the seasonal contract workers. It is therefore insufficient to suggest that the application promotes sustainable rural development or that such development is appropriate and inclusive. 60/61
65. As regards the applicant's assertion that the implementation of the development proposal would increase agricultural output which in turn "would promote the efficient utilisation of the subject farm" we submit on behalf of the objectors that there is a fundamental difference between efficient utilisation (as the applicant would have it) and sustainable utilisation that properly strikes a balance between the ecological, social and economic impacts of the proposal. To the extent that utilising the subject-property more efficiently impacts significantly and negatively on the existing rights of neighbouring property owners to reasonably use and enjoy their property, the application simply does not pass muster.
66. As regards the planning principles pertaining respectively to spatial resilience and good administration, we submit on behalf of the objectors that the proposal is not in harmony with the relevant spatial planning policies.
67. As regards the proper administration of the application and good administration generally by the Municipality, we submit that a proper and objective analysis of the merits of the application must result in the refusal thereof.
68. The applicant's planner's motivation concludes with the following recommendation: "This motivation report has illustrated that this proposal is desirable and will be of value to the surrounding property owners and prospective employees."
69. We submit, for the reasons set out in this objection, that the proposal, objectively viewed, is fundamentally undesirable. We deny that it will be of any value to surrounding property owners. There is no objectively verifiable proof provided with the application in respect of the engagement of employees (as opposed to the retention of contract workers). To the extent that the applicant's planner suggests that the rural and urbanised poor who will allegedly benefit from the implementation of the development will enjoy tangible benefits, there is no evidence put up in support of the application that verifies that assertion.

**The defective nature of the property owner's power of attorney; and company resolution**

70. Annexure B to the application includes a power of attorney signed by a director of the owner of the subject-property; and a company resolution.
71. The power of attorney<sup>13</sup> authorises WRAP to undertake the following acts: "The application for amendment of conditions of approval and departure from building lines."
72. The company resolution signed by the directors of the subject-property's owner authorises one of the directors to act on behalf of the company regarding "... applications for the following: Amendment of conditions of approval and departure from building lines."
73. Neither the power of attorney nor the company resolution make any reference to an application for departure from the maximum of 5,000m<sup>2</sup> allowable floor space for all

<sup>13</sup> Signed by Mr. Sean Tager on 13 May 2019.

buildings on the land unit, to permit a floor space of 35,0663ha (350,663 square metres)<sup>13</sup> to accommodate intensive horticulture.

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74. It follows in our submission that the necessary authority has not been provided by the subject-property's owner for the latter application for departure. That omission has the consequence that the power of attorney and company resolution fall foul of the statutory requirements set out respectively in section 39(1)(b), and section 39(1)(c) of the By-law.
75. To the extent that the applicant's planner persists in pursuing the application as currently framed, the failure by the property owner to provide the necessary power of attorney, and company resolution for purposes of the departure pertaining to the maximum allowable floor space, the application is fatally defective on that aspect. It follows that the Municipality must refuse the application for departure from the maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the land unit to permit a floor space of 35,0663ha (350,663 square metres) to accommodate intensive horticulture, as the delivery of that application to the Municipality has neither been authorised by a power of attorney from the owner of the subject-property to the applicant's planner, nor the subject of a company resolution that complies with the peremptory requirements stipulated in section 39(1)(c) of the By-law.

**Request for a site visit by the Municipality before deciding the application**

76. On the facts and circumstances of the application, we submit that the Municipality's officials should undertake a site visit on the subject-property and its surrounds in order to fully apprise themselves of the current intensive agricultural operations on the subject-property, and the significant and objectionable impacts that would be caused to the subject-property's neighbours and other proximate landowners in this part of the Hemelen-Aarde valley if the development proposal envisaged in the application was authorised to proceed.

**Request for a hearing**

77. To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal (or for that matter, when the matter serves before the Municipality's delegated official) we submit that we should be entitled to attend on that meeting and to deliver whatsoever oral representations may be necessary and relevant in the circumstances and in support of their representations. We look forward to hearing from the Municipality in this regard.

**Concluding submissions; relief sought by the objectors**

78. For the reasons set out in this objection, we submit that the application, objectively viewed, is fundamentally undesirable and as such, does not meet the jurisdictional requirements in section 66 of the By-law.
79. The application must therefore be refused by the Municipality.

Yours faithfully,  
Nadeson Park C.C.

Gordon Newton Johnson



# Project Office

Town Planning & Project Management

Annexure E  
1/109



TP- n./heat  
(H. Olivier)

Our Reference: 19/47  
Your reference: Ptn 11 of Farm 587, RCAL 3274/2019

1 October 2020

The Municipal Manager  
Overstrand Municipality  
P O Box 20  
**HERMANUS**  
7200

FILE NO:	FIN 1/587
	Hemel & Aarde
SCAN NO:	42
COLLABORATOR NO:	1465186

Attention: Mr Henk Olivier

**REMAINDER OF PORTION 11 OF THE FARM HEMEL EN AARDE NO 587 CALEDON. APPLICATION FOR AMENDEMENT OF CONDITIONS OF APPROVAL AND DEPARTURE**

There were two rounds of public participation for this application.

The following comments and objections were received in the first round of public participation:

- Nicholas Smith Attorneys (N Smith);
- C & A Wessels;
- BJ Frost; and
- Nadeson Park CC (Newton Johnson).

The following comments and objections were received in the second round of public participation:

- R O'Molony;
- C Sautory & I Tingle;
- M & JP Smith; and
- C Thompson.

## Response to a historically related consideration.

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<b>Objection</b>	<i>"Whilst it is correct that the Municipality approved intensive horticulture on the subject property in its record of decision dated 21 January 2016, there can be no suggestion that the aforesaid approval in any way indicates the Municipality's view regarding the desirability of the current application. The fact that there are existing extensive horticulture tunnels on 13,8209ha on the subject-property does not in any way motivate the desirability of a more than two-fold expansion of the horticulture tunnels now proposed for the subject-property."</i>
<b>Comment</b>	<p>A distinction must be made between the impact of the approval and implementation of this proposal and the land use rights which are sought in the planning application.</p> <p><b>Impact</b> The application area for which land use rights for intensive horticulture is sought is currently cultivated and covered with shade netting. The reason for this is that the changing climate coupled with wetter springs and summer negatively impact on the yield and has forced the applicant to cover the tunnels with shade cloth. The applicant therefore envisages covering the existing fields with tunnels to protect the crop from rain. Apart from an open 6ha area which was included in the application area, the approval of this proposal therefore does not constitute an actual expansion of activities currently on the subject property.</p> <p><b>Planning application</b> The approved intensive horticulture tunnels were limited to the site development plan which was approved at the time. The proposed expansion of the approved footprint is to allow the proposed construction of horticulture tunnels in the existing fields, currently only covered with shade cloth.</p> <p>From a practical perspective, the approval and implementation of this proposal will not lead to any additional visual expansion or any additional impact apart from what can already be seen on the property and the additional 6ha which will further be covered in tunnels which collectively constitute a ±22% coverage of the subject farm. Considering this, what is applied for might be perceived as a twofold increase but what is on the ground are already cultivated areas which will not result in any additional development impact.</p>
<b>Objection</b>	<i>"The National Veld and Forest Fire Act No 101 of 1998 section 12(1) requires that applicants must prepare fire breaks on their side of the property boundary where there is a reasonable risk of veld fires. On Thursday 7 November 2019, I was awoken before 5am by an explosion and a noxious fire, which had started in Haygrove's poisons and fertilizer depot. I attach pics. This is the second serious, polluting, unplanned fire in the past 3 years - in spring 2016 their fuel depot exploded and caused a severe fire with the ensuing pollution and lung irritation."</i>
<b>Comment</b>	Haygrove Heaven (Pty) Ltd ( <b>Haygrove</b> ) did a fire risk assessment which was conducted by an independent specialist consultant where risk mitigation measures were implemented as a result of the incident cited by the objector (refer <b>Annexure A</b> )
<b>Objection</b>	<i>"Rule 7 of the Greater Overberg FPA, to which the property is subject, specifies that the minimum width of a firebreak adjacent to farm buildings and infrastructure, is 10 m. Relaxation of the building lines to 2 and 3 m as</i>



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	<p>proposed in Application 6 is therefore unacceptable from a fire management perspective and thus relaxation of these building lines (as described in 6) as proposed, is totally unacceptable. If Haygrove's operation were to increase as proposed to almost x3, it stands to reason that the fuel and fertiliser depots, clearly badly managed on the current scale, would also increase, and this risk is unacceptable."</p>
<b>Comment</b>	<p>The building line departures to 2m are only sought on the eastern side of the subject property. Departures are also sought on a portion of the northern part of the property. Large parts of the building line areas of the subject property do not have any buildings located in them. The approval and implementation of the departures sought can therefore not be interpreted as being a fire risk to surrounding applicants as asserted by the objector.</p>

#### Response to objections pertaining to visual impact related considerations.

<b>Objection</b>	<p>"The first factor described by the applicant's planner pertains to the asserted compatibility of the application with surrounding land uses. The statement is made that all of the surrounding farms are predominantly used for agricultural purposes and that the "proposed intensive horticulture tunnels are in harmony with the surrounding land uses".</p> <p>We submit that this is a fallacious statement for at least two primary reasons: Firstly, it is not factually correct that all of the surrounding properties are used predominantly for agricultural purposes. Many of the surrounding properties (including our clients' properties) are principally used for residential purposes. Our clients' immovable properties form part of a residential estate that was constituted under a body corporate many years before the landowner of the subject-property commenced with intensive agricultural production using horticulture tunnels. Secondly, the suggestion that proposed horticulture tunnels (which will cover a total of 33,9871ha of the subject-property, if approved) can be said to be "in harmony" with the surrounding properties is a significant and misleading overstatement. Whilst it may be correct to assert that the neighbouring Portion 94 of Farm, Hemel en Aarde 587 also has intensive horticulture units, that property is owned and/or operated by the applicant. Beyond the latter property, various other landowners who reside on immovable properties that border the subject-property would in fact experience significant disharmony (in the form of an actionable impairment to their reasonable use and enjoyment of their properties) if they were to be burdened by the significant visual impacts of overlooking over 200,000m<sup>2</sup> of plastic-clad horticulture tunnels.</p> <p>Haygrove Heaven covers the side of Babylonstoring Mountain with plastic tunnels and shade cloth. The valley is a registered Conservancy, where we are all committed to the importance of biodiversity, sustainability, and the aesthetic value of our pristine, natural area. Additional tunnels will increase the already detrimental impact on this value, and this in turn will negatively impact our business on the farm. The first thing any visitors/tourists to our area comment on is Haygrove Heaven's plastic covering the mountain slopes. Further, Haygrove Heaven use white plastic on a number of their tunnels. This creates an extremely bright glare that lasts from 11 am until 3 pm, making it</p>
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	<p>difficult to even look in their direction. It is highly offensive to the natural aesthetics of the area and not befitting a Conservancy.</p> <p>The visual impact of permitting two and a half times more plastic-covered tunnels and a departure to the permissible floor area which is over 70 times the legally prescribed limit are simply not described in sufficient particularity to place the Municipality in a position to make an objective decision to approve the application on merit. It follows that the only decision that the Municipality can make on the facts and circumstances as presented and purportedly motivated by the applicant (and entirely rebutted in these objections) is to refuse the application.</p> <p>The amount of plastic already visible on the Haygrove properties is unacceptable. The glare that is created for large parts of the day is something people living, working and visiting the Valley should not have to put up with. The plastic tunnels and shade cloth jar with the pristine surroundings of the rest of the valley, and most paying tourists and customers that support other businesses in the area are appalled by what Haygrove has been allowed to do. Unlike Haygrove these businesses are South African based, and profits are not expatriated. The taxes paid by these businesses are for the benefit of locals and these businesses cannot afford to be prejudiced by the behaviour of one tanner."</p>
<b>Comment</b>	<p>Herewith is a list of properties which surround the subject property and the land uses.</p> <ul style="list-style-type: none"> <li>• <b>Remainder of Farm Hemel en Aarde 587 Caledon</b> Agriculture (zoning is Agriculture Zone 1: Agriculture)</li> <li>• <b>Portion 17 of Farm Hemel en Aarde 587 Caledon</b> Agriculture (zoning is Agriculture Zone 1: Agriculture)</li> <li>• <b>Portion 8 of Farm Hemel en Aarde 587 Caledon</b> Agriculture and agricultural industry (zoning is Agriculture Zone 1: Agriculture)</li> <li>• <b>Portion 7 of Farm Hemel en Aarde 587 Caledon</b> Agriculture and tourist accommodation (zoning is Agriculture Zone 1: Agriculture)</li> <li>• <b>Portion 13 of Farm Hemel en Aarde 587 Caledon</b> Tourist accommodation (zoning is Agriculture Zone 1: Agriculture)</li> <li>• <b>Portion 50 of Farm Hemel en Aarde 587 Caledon</b> Tourist accommodation (zoning is Agriculture Zone 1: Agriculture)</li> <li>• <b>Portion 94 of Farm Hemel en Aarde 587 Caledon</b> Intensive horticulture and agriculture</li> </ul> <p>Most farms around the subject property are used for agricultural purposes and therefore makes the land use sought by the applicant highly compatible with the surrounding land uses.</p>



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The residential estate which is constituted under a body corporate is located on a property which is zoned Agriculture Zone 1: Agriculture. This by implication means that the dominant land use is supposed to be agricultural and not residential. The objection that the subject proposal should not be approved on the grounds of the existing residential estate is not reasonable as the Hemel en Aarde is a rural agricultural area.

The objection hinges on the assertion that the land use rights sought for the amendment of conditions of approval and departures would be an impairment of the reasonable enjoyment of the neighbouring applicants. This assertion is made based on an allegation that the visual impact thereof will be intrusive to the rural character. Firstly, the cultivation of crops which are covered by shade netting already exists on the property and the approval and implementation of this proposal will not unlock any additional visual impact. Secondly, there are rows of trees which are planted around the existing intensive horticulture tunnels which are aimed at reducing/softening the visual impact thereof on the neighbouring applicants. The proposed intensive horticulture tunnels are proposed to be located in blocks within the existing rows of trees which will reduce/soften the visual impact thereof on surrounding applicants. Considering this visual mitigation measure, the approval and implementation of this proposal will not be a visual intrusion.

The plastic covering referred to is also further covered with black/grey shade cloth, especially to mitigate possible glare of the plastic tunnels, without having any real benefit to the applicant.

The image below illustrates the rows of trees in blocks where the intensive horticulture tunnels are proposed to be located within.



**Objection** *"The impact of this approval is definitely not in harmony with neighbouring land uses. Portion 94 is part of Haygrove and therefore irrelevant. De Werf, Portion 15 of Farm 587 on the southern boundary, is zoned Resort and attracts many tourists, holidaymakers and permanent residents (ourselves being*



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	<i>permanent residents]. And it would most definitely upset the already furnished visual landscape."</i>
<b>Comment</b>	Portion 15 of Farm 587 is zoned Agriculture Zone 1: Agriculture and not Resort as asserted by the objector. The objector is not providing any details as to how the approval and construction of the tunnels would furnish the existing landscape which makes it difficult to formulate a detailed response.

<b>Objection</b>	<i>"By allowing Haygrove to expand as proposed, significant precedent will be set for others to consider abusing what the Hemel en Aarde Valley has to offer. Unless protected by the those elected to enforce the laws necessary for this protection, the essence of the Valley will be compromised. The social and economic ramifications of such short sightedness would be dire for the entire area."</i>
<b>Comment</b>	There is no precedent in planning as each application is evaluated based on its own merits and consistency with the relevant spatial planning policies. The expansion by means of cultivated areas being covered with shade netting has already occurred and the construction of horticulture tunnels on the same footprint does not constitute additional footprint or visual impacts. The submitted planning proposal is not intended to abuse what the Hemel en Aarde has to offer as asserted by the objector.

<b>Objection</b>	<p><i>"As regards the applicant's assertion that the proposal to develop intensive horticultural tunnels on an additional 20,1662ha of the subject-property "will therefore not be a visual intrusion" is simply fallacious.</i></p> <p><i>The further suggestion by the applicant, to the effect that the existing tunnels (and the camouflage net covering thereof) let the tunnels blend in with the rural landscape which contributes to the unique rural character which is visually more appealing than many other farms in the Overberg" is also a wholesale fallacy. It only has to be stated to be rejected. The applicant's assertion that the additional intensive horticulture tunnels proposed on a surface area of over 200,000m<sup>2</sup> (an expansion of 20,1662ha to the tunnels already established on the subject-property, which already cover a total surface area of 13,8209ha) will "blend in" with the existing rural landscape is, quite frankly, nonsensical.</i></p> <p><i>To suggest (as the applicant does) that the development of tunnels over an additional 20,1662ha of the subject-property will contribute to enhancing the visual diversity of the Hemel en Aarde Valley which is one of the factors which draw tourists to the area is also nonsensical. The suggestion that visual diversity in the valley will be enhanced by the erection of plastic-covered tunnels and in turn, that this "diversity" will draw tourists to the area simply does not stand scrutiny as an objectively motivated criterion.</i></p> <p><i>To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriately detailed visual impact assessment by an appropriately qualified visual impact specialist before the application can proceed to the decision-making stage.</i></p>
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	<p>The insuperable difficulties with the statement cited verbatim above include at least the following:</p> <p>The applicant's planner does not disclose that the "neighbouring Portion 94 of Farm Hemel-en-Aarde" is owned and/or controlled by the subject-property's owner. It is thus no wonder that the use of those contiguous properties is perceived as harmonious. The alleged harmony arises purely from self-interest.</p> <p>It is a falsehood for the applicant's planner to state that "neighbouring farmers" have become accustomed to the existing tunnels. The existing tunnels are an eyesore for the residents of the area, and for domestic and overseas tourists. The existing tunnels already have a significant visual impact which will be massively and unreasonably increased if further horticulture tunnels are permitted on the subject-property.</p> <p>The applicant's planner's assertions that the proposed expansion will thus not be foreign to neighbouring applicants nor upset the visual impact only have to be stated to be rejected.</p> <p>Annexure "C" to these objections comprises individual objections delivered together with this objection, in which various of our clients provide additional and personal insights and objections regarding the significant adverse impacts occasioned by intensive existing agricultural operations on the subject-property, as suffered by those objectors since the subject-property's use for intensive horticulture.</p> <p>The tunnels already spoil the view and the beautiful rural setting, but have been tolerated in good neighbourliness, as Haygrove does create employment. However, expansion of these eyesores is not acceptable. Increasing the size of this operation by 2 ½ times will without a doubt impact on the Hemel and Aarde as a conservancy and tourist destination. Here I would like to comment on point 12.2 in the application from Haygrove where they suggest that the "implementation of their proposals will contribute to enhancing the visual diversity of the Hemel and Aarde Valley which is one of the factors which draw tourists to the area" This is clearly a false motivation in that already with their current operation the impact of their tunnels is unsightly and negatively commented on by residents and visitors to the valley."</p>
<p><b>Comment</b></p>	<p>A unique visual characteristic of the Hemel en Aarde are the diversity of colours in the visual landscape which are caused by the different agricultural and tourism related land uses. This is in stark contrast with the following example:</p> <ul style="list-style-type: none"> <li>• A farming region which only comprises of corn or wheat farms create a vast visual impact which is exclusively characterised by yellow which is rather dull. That is one of the primary reasons why such areas have minimal tourism activities as such areas are not visually attractive.</li> </ul> <p>The assertion in the motivation report that the approval and implementation of this proposal will contribute to the visual enhancement and diversity of the</p>



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	<p>Hemel en Aarde is therefore valid. This is intended to build and capitalise on the existing visual diversity of the rural area which is one of the primary reasons why tourists visit the region. The approval and implementation of this proposal is therefore in the visual and financial interest of the surrounding applicants.</p> <p>There is also no need for a visual impact assessment as the area where the tunnels are proposed is already covered with shaded cloths. The additional visual impact on 6ha of vacant land constitutes a minor expansion.</p>
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<b>Objection</b>	<i>"No one has an issue with Haygrove Heaven farming in the industrial manner they do, the issue is that they are doing so in the Hemel-en-Aarde Valley Conservancy, at the expense of this unique and special area, and to the detriment of all those living and working in the valley."</i>
<b>Comment</b>	The objector is not clear as to how the current agricultural activities on the subject property are to the detriment of the people living there which makes it difficult to provide a detailed response.

<b>Objection</b>	<i>"Chemicals. The Overberg is windy, and when spraying, the spray drifts onto neighbouring properties. Some people are experiencing health issues relating to the spraying. To date, despite numerous requests to Haygrove Heaven, no indication of exactly what chemicals are used has been given. As their website does not indicate organic certification, there is no doubt that sprays include chemical fungicides, herbicides and insecticides that are not organically certified. Therefore, they can cause harm to people, animals, and indigenous flora. Portion 11 is on a steep slope, and fertilizers and chemicals find their way into the Onrus River. Increasing the size of the tunnels 2.5 times will increase the spraying and chemicals/fertilizers by 2.5 times. Approval of the application will allow tunnels up to neighbouring boundaries, and the sprays will come even closer to those living and farming around Haygrove Heaven, posing an increased risk to those who already suffer from health issues relating to the chemicals used."</i>
<b>Comment</b>	The construction of more tunnels will result that less spraying is required as the proposed tunnels contribute to the protection against certain fungal diseases. Haygrove also operates according to a soft integrated pest management programme and adheres to all regulatory guidelines as is required by law.

<b>Objection</b>	<i>"Haygrove Heaven make use of a circular drive system, and as a result we are surrounded on the east, west and south by heavy traffic all day and night. In addition, vehicles operate on Haygrove Heaven itself at all hours of the day, creating further noise disturbances. Expansion will exacerbate this problem. Our valley roads are no longer safe. Haygrove Heaven busses are regularly breaking down on the R320, leaving oil and danger in their wake. There have already been deaths as a result of Haygrove Heaven transport busses having accidents. Haygrove Heaven taxis drive recklessly on our roads. We fear that it will be our family that falls victim to their vehicles. Expansion by 2.5 times will only amplify this problem."</i>
<b>Comment</b>	The allegation of reckless driving, accidents and buses breaking down is not exclusively caused by Haygrove Heaven (Pty) Ltd but the general public is also part of the problem. To therefore pin all of the activities on Haygrove



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	<p>Heaven (Pty) Ltd is unfounded and not substantive reason for the planning application to be refused.</p> <p>Traffic movement is not projected to sharply increase as the scale of land use activities will remain within the confines of the existing cultivated areas, currently covered with shade netting.</p>
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**Response to objections related to the impact and implication of the approval and implementation of this proposal.**

<b>Objection</b>	<p><i>"The applicant has not placed a full picture before the Municipality of the fundamental incompatibility of the development proposal with existing surrounding land uses. In support of this assertion, we point out on behalf of our clients that the applicant has provided no information to the Municipality regarding the significant likely increase in noise emissions on the subject-property if the expansion is to proceed, including noise generated by machinery; crop spraying (both on the ground and by helicopter); and the transport used by the applicant to bus seasonal contract workers to the subject property. There will also be a likely increase in the odours emitted from the property including emissions from crop spraying; vehicle use; and toilets for the seasonal contract workers (which have proved in the past to be entirely insufficient, as one of our clients' principal concerns relates to seasonal workers relieve themselves on surrounding properties with no regard to the accompanying health hazard). It should also be noted that our clients regularly find evidence of contract workers trespassing on their properties, including snares that have caught clients' domestic animals; and human waste as well as litter that is deposited on their properties."</i></p>
<b>Comment</b>	<p>The machinery used inside the cultivated areas which are covered with shaded netting does not emit excessive noise. The approval of this proposal will therefore not lead to additional excessive noise.</p> <p>The crop spraying on the ground and in the air is done on an occasional basis and not continuous. It has also been motivated that the approval of this proposal would lead to a decrease of crop spraying on the premises. It is also a widely accepted phenomenon for crop spraying to be done by farmers as the activity supports the agricultural output of farms.</p> <p>As mentioned earlier, more tunnels will result in less crop spraying as the proposed tunnels will protect the crop against certain fungal diseases.</p> <p>The applicant will address the allegation of seasonal employees relieving themselves on the surrounding properties and out in the open.</p> <p>The allegation of contract workers trespassing on surrounding properties will be addressed by the owner of the subject property. This will be done by informing the employees of the cadastral boundaries which may not be traversed as such incidents are accidental on the part of the contract workers. Not all trespassers are necessarily employed by Haygrove Heaven (Pty) Ltd but are people in search of employment on farms.</p> <p>The objector cites that his/her pets were caught in snares on the subject property but does not acknowledge that the objector's pets are not</p>



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	<p>supposed to be roaming on the subject property. If the objector had monitored the movements of his/her pets to not extend beyond the cadastral boundaries, this would not be a problem.</p> <p>The owner of the subject property has a waste disposal system which is applied on the subject property.</p>
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<b>Objection</b>	<p><i>"The applicant purports to conflate the alleged "visual enhancement" of the subject- property (which we have already been shown to be indefensible proposition); and growth of the taxable revenue base that would be achieved if the application succeeds. The suggestion is made that burdening the subject-property with an additional 20,1662ha under intensive horticulture tunnels is visually enhancing. This only has to be stated to be rejected. The suggestion that intensive horticulture tunnels covered in artificial material is an enhancement on the current milieu is entirely irrational and is motivated only from the applicant's perspective.</i></p> <p><i>Any benefit that might accrue to the State in respect of enhanced tax revenue from the landowner's expanded activities is entirely outweighed by the impacts that the proposed expansion would have on neighbouring landowners, including our clients."</i></p>
<b>Comment</b>	<p>This proposal also does not constitute the additional burdening of the site as the cultivation which is covered by shaded netting already occurs.</p> <p>The submitted planning proposal for the construction of horticulture tunnels acknowledges the balance which needs to be struck between the mutual rights of neighbours to the free use and enjoyment of their property on the one hand and the obligation on them on the other hand to exercise those rights in a manner which does not unreasonably impinge on the equivalent rights of the other.</p> <p>This is largely a question of fact and of judgment and opinion, but there are guiding considerations which should be borne in mind in the interests of fairness to Haygrove Heaven (Pty) Ltd and surrounding applicants, many of which considerations have frequently been stated by our Courts. The factors which have been regarded as material in determining whether a disturbance is of a degree which renders it unreasonable the locality involved.</p> <ul style="list-style-type: none"> <li>• <b>Loss of normal enjoyment of property rights.</b> The primary land use rights which surrounding applicants enjoy are agriculture, dwelling house, day care centre, guest rooms, home occupation. The approval and implementation of this proposal will not hinder or interfere with the ability of neighbouring applicants exercise and enjoy these rights.</li> <li>• <b>Incompatible character</b> The proposal is to expand agricultural land uses within an area which has agricultural land uses which is compatible in the rural context.</li> </ul>



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The additional tax revenues will be derived from the fact that less agricultural produce will be lost as the proposed horticulture tunnels will protect such crop against the elements, which will ensure a better yield which would increase profits and taxes payable.

**Objection** *"Haygrove produce soft fruits and the severity of the impact of chemicals being discharged into the ground and air seems to go unnoticed. The noise and health pollution associated with the scale of the Haygrove operation is already unacceptable and an adverse effect on people coming to the Valley in support of other businesses - let alone the physical wellbeing of those living there. It is once again difficult to imagine how the effects of these pollutants will increase if Haygrove were allowed to triple the size of the operation.*

*Haygrove has a regular spraying program which is both noisy and toxic. Our proximity to Haygrove exposes residents, staff and visitors to some form of health risk which would be increased by the massive increase in intensive horticultural activity. Run-off must also carry these toxins into the Onrus river and may well contaminate ground water reserves."*

**Comment** As stated earlier, this proposal does not constitute the tripling of activities on the farm but with the exception of the additional 6ha only constitutes the construction of intensive horticulture tunnels on areas currently cultivated and currently covered by shaded netting as delineated in the Site Development Plan.

Haygrove takes pride to be compliant to both local and export market audit requirements. All the chemicals applied on the subject farm are approved by Department of Water Affairs and Forestry and regulated by Global Gap and the Perishable Produce Export Certification Agency (PPECB).

Haygrove also strives towards combatting pest & disease issues with mechanical and biological control before using any chemicals. One mechanical solution is to cover the crop with poly tunnels and reduce the amount of fungicides as the crop will not be exposed to rain, which is the main cause for fruit rots.

**Objection** *"There are constantly people on foot in the area under the guise of looking for work at Haygrove. This poses an enormous security risk to the surrounding properties as Haygrove seemingly do absolutely nothing to deter these people. The problem will get significantly worse if Haygrove is allowed to expand operations as proposed. This is unacceptable."*

**Comment** Haygrove has established a full-time recruitment centre in the town for people seeking to be employed by the company to avert the security concerns which are cited by the objector.

**Objection** *"Our property is adjacent to Haygrove and has been trespassed by workers from time to time. There is ample evidence that this area is also used as a toilet. With the increased number of seasonal workers that would be required to work on the extra crops, these would be increased."*



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<b>Comment</b>	Haygrove Heaven (Pty) Ltd will encourage workers to not trespass on surrounding properties which will result in the future seasonal workers not being a problem.
<b>Objection</b>	<p><i>"It would be far more appropriate for Haygrove Heaven to expand in an area better suited to their operation, i.e. not within a Conservancy or within a world-renowned wine area of natural beauty. Since 1976, the Hemel-en-Aarde has been established as a top, world-class wine and eco-tourism region. Hundreds of millions of Rands have been invested by the 18 wineries that call this home.</i></p> <p><i>Haygrove Heaven's industrial-scale farming and white, yellow and black plastic tunnels are not compatible with the previously established activities and economy of the valley, neither are they compatible with the history, heritage or aesthetics of the valley.</i></p> <p><i>Given the simplified justifications currently contained in the applicant's document; if we allow this type of industrial expansion within an area of scarce resources and national importance, and justify the approval of these activities as being an economic necessity only, then we might just as well start industrialising and developing other national assets, perhaps the Kruger National Park or the pristine Wild Coast coastline will be next. Please do not set a dangerous precedent in our beautiful valley - you would not permit a 15-story office block to be erected on the sea front in Hermanus. The principle is the same; please help us protect our special valley from the devastating impact of further industrial development."</i></p>
<b>Comment</b>	<p>The land use rights which are sought are for intensive horticulture tunnels are not industrial land uses as cited by the objector.</p> <p>What the objector omits is that the character and aesthetics of rural areas change over time as new people enter the space who bring other business ideas and farming practices. The character of the Hemel en Aarde has historically changed over time is due to that. The intensive horticulture tunnels are a modern method of agriculture which is in conformity with the other farming and intensive horticulture tunnels which are prevalent in the Hemel en Aarde. This nullifies the assertion by the objector that this proposal is incompatible with the character of the area.</p> <p>The assertion that the approval and implementation of this proposal would open up the establishment of a national park or pristine wild coastline is a slippery slope.</p>
<b>Objection</b>	<p><i>"Haygrove relate food security as reason to justify their expansion through the departure from regulations that all others are required to adhere to. This is ludicrous and in fact the opposite is more applicable. Because levels of crime are rising due to the point above, the cost of security and crime prevention is becoming more and more onerous on farmers that actually do produce food that feeds normal South Africans in this area. Jeopardizing these farmers is much more of a threat to food security than any benefit Haygrove falsely presume they are adding by exporting berries to Europe."</i></p>



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<b>Comment</b>	The concern of crime and the security financial burden that farmers need to bear the brunt is also experienced by all South Africans. The objector has also not provided any irrefutable evidence to support the claim that the approval and implementation of this proposal will lead to jeopardy of surrounding farms.
<b>Objection</b>	<i>"It is also necessary that Haygrove have extended facilities to recycle the enormous amount of plastic waste from the tunnels etc. They should recycle said plastic into saleable products."</i>
<b>Comment</b>	In 2013, Haygrove established a waste management site in accordance with organisational principles of reduce, re-use and recycle. All unwanted material is separated and measured for collection by accredited recycle companies or re-used by Haygrove. Poly that has outlived its usefulness is baled and collected by TWK Recyclers based in Grabouw, Western Cape, who are accredited in terms of the National Environmental Management: Waste Act 2008 and Crop Life, South Africa.
<b>Objection</b>	<i>"We are writing to express our strongest possible objection to the applications on behalf of Haygrove Heaven Ltd for departure and approval for amendment of the current conditions of land use approval. As full-time residents and immovable applicants of an immediately adjacent property, we are already directly and negatively impacted on a daily basis by the current land use of Haygrove Heaven. For the reasons articulated by Nicholas Smith Attorneys in their letter of 15 November, 2019, the proposed tremendous expansion of the intensive horticultural activities and the related expansion of building construction by a significant multiple would create an industrial enterprise which would be totally antithetical to the environmental land use values of the valley. The resulting degradation will very negatively impact ourselves, other adjacent applicants and the larger farming and tourism sector of the valley as well as the adjacent coastal communities. We look forward to receiving a full and detailed explanation from the Municipality's decisions with respect to the subject application."</i>
<b>Comment</b>	<p>The premise of the objection is based on the assertion that this proposal promotes the establishment of an industrial enterprise. An industry is defined as follow in the Overstrand Municipal Zoning Scheme.</p> <p><b>"industry"</b> 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."</p> <p>The application for an amendment of conditions of approval to allow the establishment of the horticulture tunnels does not fit the description of an industry as illustrated in the definition above. Considering this aspect, the</p>



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	<p>degradation of the larger farming and tourism sector of the valley as well as the adjacent coastal communities which the objector alleges will accrue with the approval and implementation of this proposal is unfounded.</p> <p>The Overstrand Municipality will forward the decision of this application to the objector and provide an opportunity to appeal.</p>
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**Response to objections relating to economic and social considerations.**

<b>Objection</b>	<p>"As regards the third factor described in purported motivation of the application (economic impact) we point out on behalf of our clients that this has been motivated exclusively (albeit entirely superficially) from the applicant's perspective.</p> <p>On behalf of our clients we submit that in order to sustain an argument that there will be a positive economic impact, the applicant is obliged to provide more information than a mere bald statement to the effect that the approval and implementation of the application will substantially increase the number of people employed on the subject- farm, thereby reducing poverty in the area. Without the provision of specific and detailed information regarding the number of likely future employees; the quantification of the wages that those prospective employees will earn, and all and any other relevant detail in support of the assertion that the applicant will contribute to the reduction of poverty, this so-called motivating factor cannot be sustained."</p>
<b>Comment</b>	<p>By covering the crops with poly tunnels as applied for, Haygrove will reduce the risk of losing production caused by rain. A conservative estimate of loss in production caused by rain and fruit rot is round 100 to 150 Tons per annum. By securing this volume loss, Haygrove will secure the current jobs and ensure a positive economic growth.</p> <p>This will at the very least ensure job stability for the 267 permanent employees, let alone the 800 plus seasonal staff.</p>
<b>Objection</b>	<p>"Whilst it is correct that the State's transformation imperatives include enabling farmers to achieve economic growth and sharing the proceeds of that growth with their employees, the badly stated and unsupported suggestion that this will occur on the fact of this matter must be rejected by the Municipality because the statement is supported by no objectively verifiable evidence.</p> <p>The applicant provides no detail whatsoever as to the quantification of the economic proceeds to be shared with workers on the subject-property (who are engaged as seasonally used independent contractors by the landowner, rather than formally employed)."</p>
<b>Comment</b>	<p>The economic proceeds which will be shared with the employees are in the form of salaries.</p>
<b>Objection</b>	<p>"What percentage of the taxes are in fact paid in South Africa, and how much in the United Kingdom, where the current owner/director lives?"</p>
<b>Comment</b>	<p>This information is confidential.</p>



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<b>Objection</b>	<p>"Haygrove have a history of flagrant disregard for rules and regulations. The scale they have been able to achieve through this modus operandi has been used to justify the legitimacy of this behaviour. This cannot be allowed to continue at the expense of the rest of the Hemel en Aarde Valley.</p> <p>The impact of the Haygrove operation on the social fabric of Hermanus has been immense. Thousands of seasonal workers have descended on the town in the hope of employment by Haygrove. These people are not employed on a full-time basis and have to find alternative means to survive whilst not being paid. Crime levels have surged, and unprecedented levels of social unrest have manifested. More seasonal workers in the event of Haygrove's expansion will only exacerbate this problem."</p>
<b>Comment</b>	<p>Urbanisation which is occurring in Hermanus cannot solely be blamed on Haygrove Heaven (Pty) Ltd as it is a general phenomenon in economically functional towns. The increase in crime and social unrest cannot be blamed on Haygrove Heaven (Pty) Ltd as there are other factors which cause that. The assertion that the approval and implementation of this proposal will exacerbate all these social problems which are not caused by Haygrove Heaven (Pty) Ltd is therefore unfounded.</p>

<b>Objection</b>	<p>"Income and staff: Wine and Tourism. Haygrove Heaven tunnels have a direct negative impact on the aesthetics, biodiversity and sustainability of the area. The Hemel-en-Aarde area is world renowned for wine and tourism, drawing people to the Hermanus area. Collectively, the wine farms employ more people and have invested more capital into the area than Haygrove Heaven ever will. Haygrove Heaven is a risk to our already fragile market, and they have a negative effect on our most important resource: tourism. Due to Haygrove Heaven, wine and eco-tourism suffers, and consequently our income and our ability to grow and employ. Already, the first question we are asked by visiting tourists is, "what is all that black plastic covering the mountain?". Is it justifiable to increase this 2.5 times so that one entity can profit, whilst other farms and business suffer as a result?</p> <p>The Municipality has the obligation to consider the 30+ homes that are in close proximity to Haygrove Heaven, as well as the other commercial farms and wine businesses/tasting rooms/restaurants, etc within the valley. Many rely on tourism, and particularly eco-tourism, for income.</p> <p>Our natural resources are an asset belonging to all, i.e. not just the rich with foreign capital. The Municipality should not condone industrial scale activities within this conservancy. Local tourism will be affected, wineries will struggle, and hundreds of permanent jobs will disappear. This will not just affect the valley. The Hemel-en- Aarde attracts many people to the area, and they all visit and spend their money in Hermanus."</p>
<b>Comment</b>	<p>As stated earlier, the approval and implementation of this proposal will not materially lead to an expansion of the footprint of the already cultivated areas currently covered by shade cloth.</p> <p>A few clients enquiring about the intensive horticulture tunnels does not mean that there is a general dislike among tourists towards the tunnels. The</p>



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	approval and implementation of this proposal would not hinder the agricultural productivity of surrounding farms nor deter tourists from visiting the region. There is therefore no material evidence to support the assertion that the approval and implementation of this proposal will have an adverse impact on the income of surrounding applicants.
<b>Objection</b>	<i>"The use of seasonal contract workers has already resulted in numerous socio-economic problems. An increase in crime statistics may also be closely linked to these problems. Unhappy workers have already negatively affected the daily activities of the farmers and residents of the Hemel en Aarde valley in the past. The introduction of additional seasonal contract workers can only aggravate the situation and will be in direct conflict with Government and labour's opposition to the use of seasonal and short-term work."</i>
<b>Comment</b>	People who are employed are less likely to engage in criminal activities due to the steady income. The assertion that additional employment opportunities which will be created on the subject property would increase crime is therefore unfounded.  There is no legislation in South Africa which prohibits seasonal employment.
<b>Objection</b>	<i>"Our concerns and issues relate back to one simple fact: We live and work in what was, prior to Haygrove Heaven, a pristine and tranquil area. An area that has the potential to rival many similar areas of natural beauty around the world. Wineries in the valley are also productive in what we do, making some of the best wines in South Africa, and we contribute to the growth of the country and our economy. Locally we contribute significantly to employment, through permanent employment and benefits to all employees, labourers included. Further expansion of Haygrove Heaven puts this all at risk."</i>
<b>Comment</b>	The proposed establishment of the intensive horticulture tunnels of Haygrove Heaven (Pty) Ltd will not jeopardise the employment opportunities created by the objector or the agricultural output of the farm.
<b>Objection</b>	<i>"The Municipality must play a role in protecting the area, and its scarce natural resources, for the long-term benefit of all. After all, wine and tourism in the Hemel en Aarde make a significantly greater contribution to employment than do Haygrove Heaven. By allowing further expansion of Portion 11, i.e. Haygrove Heaven, in the manner that has been applied for, the Municipality is effectively killing the Golden Goose that is the Hemel-en-Aarde and setting a dangerous precedent for the future industrial scale development of the area."</i>
<b>Comment</b>	To compare the employment created by all wine farms and tourism related land uses in the Hemel en Aarde with employment created on the subject property is not a fair and balanced comparison.  The Hemel en Aarde can flourish as a viable wine, tourism and intensive horticulture area with minimal conflict between the different land uses.



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**Response to objections pertaining to food security.**

<b>Objection</b>	<p>"As regards the fourth factor described in purported motivation of the application, our clients take issue with the applicants-planner's statement that there is "... therefore a definite need for the OM to approve this application so that the owner of the subject property can contribute to increasing and enhancing food security."</p> <p>The fact of the matter is that the applicant produces soft fruit (berries) which are principally destined for the export market as a premium fruit product. To suggest that the Municipality approving the application will ensure the owner of the subject-property's contribution to increasing and enhancing food security is simply incorrect.</p> <p>Berries are luxury items, mostly exported, and definitely do not enhance food security."</p>
<b>Comment</b>	The soft fruit on the subject property is exported and contributes to the fruit security other countries which is positive.

<b>Objection</b>	"When it comes to the claim of ensuring food security, this is clearly a false claim. Food security involves plentiful nutritious food for all members of society, particularly the poor and needy. Their production of a luxury product sells in the supermarkets at least R79 per 300g is not providing food security; but is purely a luxury for those who can afford it."
<b>Comment</b>	Different income groups afford a variety of different foods. That fact that Haygrove Heaven (Pty) Ltd caters to a certain segment of the market can therefore not unduly be branded as not contributing towards food security.

**Response to objections pertaining to approvals from other government departments.**

<b>Objection</b>	<p>"As regards the fifth factor used in purported motivation of the application, the applicant's planner states (somewhat glibly, we submit) the following: "None of the provisions in the National Heritage Resources Act, 1999 are triggered by this proposal."</p> <p>On behalf of our clients, we contest this statement. We point out that section 38(1)(c) of the National Heritage Resources Act ("NHRA") obliges any person who intends to undertake a development categorised as any form of development or other activity which will change the character of a site exceeding 5,000m<sup>2</sup> in extent at the earliest stages of initiating such a development, to notify Heritage Western Cape ("HWC") and furnish HWC with details regarding the location, nature and extent of the proposed development. The only organ of state with the requisite statutory competence to decide whether the jurisdictional requirements of section 38 of the NHRA are triggered on the facts of this matter is HWC.</p> <p>In support of our submissions regarding the likely application of section 38 of the NHRA, we point out that the subject-property is already occupied by intensive horticulture tunnels that cover 13,8209ha of that property. In our submission, and in the event that the physical expansion of tunnels is</p>
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	<p>permitted (across an additional 20,1662ha of the subject-property), that expansion would amount to a change in the character of the site. This is by virtue of the very significant increase (by almost two and a half times the physical extent of the existing tunnels) in the surface area that would be occupied by the proposed tunnels. The current character of the subject-property is defined by a mixture of tunnels and open agricultural areas. That creates a tapestry of plastic-clad structures and vegetated areas. What the applicant now proposes is an artificial and monochromatic landscape and would present a jarring contradiction with the natural surrounds in this part of the Hemel-en-Aarde valley that will irrevocably change the character of the area. This is entirely clear from Plan 3 appended to the applicant's motivation, which clearly shows that the southern half of the subject-property will be effectively blanketed in plastic-covered horticulture tunnels which would extend almost to all of the subject-property's boundaries.</p> <p>No doubt the Municipality will oblige the applicant to furnish written confirmation from HWC to confirm the applicant's assertion that no provisions in the NHRA are triggered on the facts of the applications."</p>
<b>Comment</b>	<p>The planning application was forwarded to Heritage Western Cape and Record of Decision was issued which highlights the following.</p> <p>"You are hereby notified that, since there is no reason to believe that the proposed expansion of agricultural activities on Portion 11 of Farm, Caledon will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required."</p>
<b>Objection</b>	<p>"The sixth criterion analysed by the applicant's planner, purportedly in motivation of the application is under the head 'Environmental impact'. The applicant's planner submits that no activities listed in terms of the National Environmental Management Act: 8 ("NEMA") are triggered by the development proposal. The applicant's submission is that the proposed intensive horticulture tunnel expansion is not located on the environmentally sensitive part of the subject-property (with reference by the applicant to a plan appended to the application as Plan 5).</p> <p>On behalf of our clients, we submit that the purported motivation is both superficial and entirely misplaced. The correct enquiry that should have been made by the applicant's planner relates to whether the jurisdictional requirements of any of the listed activities respectively set out in the NEMA EIA Regulations' three listing Notices 9 are triggered on the facts of the application.</p> <p>In the circumstances we submit that it behoved the applicant's planner to analyse the facts of the proposed intensive horticulture expansion and the receiving environment in the areas where the new tunnels are proposed in order to establish whether any NEMA listed activities are triggered, and then to obtain written confirmation from the competent authority responsible for administering NEMA and the NEMA EIA Regulations of the applicants assertion that the expansion does not require environmental authorisation.</p>



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	<p>A copy of this objection will be delivered to the Department of Environmental Affairs and Development Planning (the competent authority for the administration of NEMA in the Western Cape) in order for the Department's officials to furnish their comment as to the applicability (or otherwise) of NEMA, with specific reference to section 24 of NEMA read with the NEMA EIA Regulations.</p> <p>In any event, we have no doubt that the Municipality will ensure that the necessary enquiry is made to the Department of Environmental Affairs and Development Planning (by the applicant, and at the behest of the Municipality) in order to confirm unequivocally whether NEMA-listed activities are triggered on the facts of the proposed expansion. If NEMA listed activities are triggered on the facts, then the applicant will be obliged to undertake the necessary environmental assessment procedures stipulated under NEMA read with the NEMA EIA Regulations, and to obtain environmental authorisation before the Municipality can decide the land use applications on their merits."</p>
<b>Comment</b>	The Overstrand Municipality has forwarded the submitted application to the Department of Environmental Affairs and Development Planning.

<b>Objection</b>	<p>"In support of our wholesale rebuttal (above) of the applicant's planner's purported motivation of the application against the applicable legal requirements in the By-law, we direct the Municipality to the planner's unsubstantiated and misleading statement in paragraph 7 of the motivation. The applicant's planner says the following there:</p> <p>"Considering that the neighbouring Portion 94 of Farm Hemel-en-Aarde also has intensive horticulture tunnels, the approval and implementation of this proposal is in harmony with neighbouring land uses. The neighbouring farmers have become accustomed to the tunnels on the subject property and neighbouring farm. This proposed expansion will therefore not be foreign to neighbouring applicants or upset the rural visual landscape which farmers have become accustomed to (sic)."</p>
<b>Comment</b>	This statement which the objector quotes is not misleading but factual.

#### Response to objections pertaining to spatial policies.

<b>Objection</b>	<p>"Objectors' comments on the purported motivation in respect of consistency with the WCLPGRA.</p> <p>The applicant suggests that the underlying purpose for the application is to allow the owner of the subject-property to be granted "the appropriate land use rights to intensify agricultural activities on the farm to improve the economic viability". It is suggested that the intensification will be achieved by increasing capital investment and labour in order to raise the yield of produce on the subject-property.</p> <p>The objectors submit that this is an entirely one-sided and subjective analysis which is not supported by any evidence that the land use is appropriate. As is shown in these objections with reference to the objectively determinable</p>
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	<p><i>desirability of the application, the application is inherently undesirable when all relevant factors are properly considered and accorded their appropriate weight.</i></p> <p><i>As regards the applicant's statement that the proposal does not entail the fragmentation of the agricultural land uses on the property. That may be correct but again, is motivated exclusively from the applicant's (subjective) perspective and self-interest.</i></p> <p><i>As regards the provisions in the WCLPGRA relating to the development's reinforcement of the farm precinct and the reflection of similar scale, the objectors submit that the proposal is massively over-scaled. The fact that the intensive horticulture tunnels are lower than the 12m height restriction" in no way derogates from the significant scale of the proposed erection of the tunnels in question. The fact that there may be other intensive agricultural land uses in the Hemel-en-Aarde rural area (none of which are explained in any detail in the application) does not represent harmonious scale in the area. To the contrary, the proposal to develop the subject-property by the installation of some 33,9871ha under intensive horticulture tunnels."</i></p>
<b>Comment</b>	<p>For a building which is related to agricultural activities to be considered as visually imposing, it has to be higher than 12m which is not the case with the subject property. The proposed horticulture tunnels can therefore not be considered as visually imposing.</p>
<b>Objection</b>	<p><i>"The suggestion that inclusive economic growth will be promoted by the application is not suitably motivated by the applicant. Although our clients are clearly alive to the fact that the owner of the subject-property would benefit substantially from the increased production envisaged by the addition of intensive horticulture tunnels on a further 20,1662ha on the subject-property, there is no explanation as to how the economic growth would benefit parties other than the applicant (and to a lesser extent, the workers who might be contracted as a result of the expansion).</i></p> <p><i>As regards the suggestion that the PSDF prescribes "a greater diversity of soft fruits which are proposed to be planted" we submit on behalf of our clients that the PSDF contains no such prescription.</i></p> <p><i>The comparative strengths of the Hemel-en-Aarde valley relate not only to high agricultural output from a variety of agricultural initiatives including cultivation of grapes and wine production but also the value of the area as a tourist destination. The application is unlikely to capitalise in any material way on the latter and in fact will in all reasonable likelihood derogate from the tourism attractions currently on offer."</i></p>
<b>Comment</b>	<p>The approval and implementation of this proposal will increase the agricultural output of soft fruits on the subject property which will contribute to enhancing the image of the Hemel en Aarde as a soft fruit production area. This could potentially open an opportunity for other farmers to ride on this image and convert existing agricultural land uses to soft fruits in pursuit of higher profits. The existing value chain which the owner of the subject property has created will be easy for surrounding farm owners to connect to</p>



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	<p>and presents a huge economic/financial opportunity for the objector which can be capitalised on.</p> <p>The approval and implementation of this proposal will not derogate from the existing character in the Hemel en Aarde due to the dominant land use being agricultural which this proposal is aligned with.</p>
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<b>Objection</b>	<p><i>"Objectors' comments on the purported motivation in respect of the application's consistency with the SDF</i></p> <p><i>The application does not meet the imperatives of the SDF, because it does not establish that the proposed expansion is (objectively viewed) to the benefit of all affected residents within the area. The application is motivated almost exclusively from the perspective of the owner of the subject-property. As such, it is not aligned with the applicable policy imperatives articulated in the SDF."</i></p>
<b>Comment</b>	<p>The assertion that this proposal is motivated from the perspective of the applicant is not substantive reason to claim inconsistency with the SDF. The motivation report also highlights a variety of benefits which employees will derive from the approval and implementation of this proposal.</p>

#### Response to SPLUMA planning principles.

<b>Objection</b>	<p><i>"The applicant suggests that the implementation of the proposal, by its approval by the Municipality will lead to" ... employment opportunities being created which will primarily benefit the historically marginalised". The applicant submits that the development proposal would contribute to "addressing spatial development imbalances caused by apartheid planning which concentrated economic opportunities in urban areas to the neglect of rural/areas and rural residents".</i></p> <p><i>The seasonal contract workers retained by the applicant be bussed to the subject- property on a daily basis from Hermanus, and the latter's environs, in order to perform their work. At the end of the day they return to the homes in which they reside, which are principally informal structures within the townships surrounding Hermanus. There can thus be no suggestion that the approval of the proposal would contribute to addressing spatial development imbalances, as the applicant would have it."</i></p>
<b>Comment</b>	<p>The structures which some of the employees reside in might be informal however the following benefits will be derived with the approval and implementation of this proposal.</p> <ul style="list-style-type: none"> <li>• The current employees will derive an income which would enable the existing informal residential structures to be converted into formal bricks and mortar structures; and</li> <li>• The currently unemployed people who will be employed on the subject property will also earn an income to upgrade informal buildings to formal ones.</li> </ul> <p>The cumulative impact therefore would be an incremental visual enhancement and improved living conditions of employed inhabitants who</p>



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	reside in townships. This would therefore contribute to addressing the apartheid spatial legacy and create more functional and visually appealing settlements.
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<b>Objection</b>	<i>"As regards the applicant's assertion that the implementation of the development proposal would increase agricultural output which in turn "would promote the efficient utilisation of the subject farm" we submit on behalf of the objectors that there is a fundamental difference between efficient utilisation (as the applicant would have it) and sustainable utilisation that properly strikes a balance between the ecological, social and economic impacts of the proposal. To the extent that utilising the subject-property more efficiently impacts significantly and negatively on the existing rights of neighbouring applicants to reasonably use and enjoy their property, the application simply does not pass muster."</i>
<b>Comment</b>	The proposal promotes efficiency as confirmed by the objector however no material evidence is submitted which illustrates the unsustainability of current and projected agricultural land uses envisaged by the applicant. On the contrary, the proposed tunnels are not located on environmentally/ecologically sensitive land as illustrated in the maps which were attached to the application and can therefore not be branded as unsustainable.

<b>Objection</b>	<i>"As regards the planning principles pertaining respectively to spatial resilience and good administration, we submit on behalf of the objectors that the proposal is not in harmony with the relevant spatial planning policies."</i>
<b>Comment</b>	The proposal is in harmony with the relevant spatial planning policies as illustrated in the motivation report. If the subject proposal was not in harmony with the relevant spatial planning policies, an application for a deviation from the relevant policy was going to be applied for.

<b>Objection</b>	<i>"As regards the proper administration of the application and good administration generally by the Municipality, we submit that a proper and objective analysis of the merits of the application must result in the refusal thereof."</i>
<b>Comment</b>	The Overstrand Municipality can be relied upon to make an objective and impartial decision on the submitted planning application. It is however recommended to the Overstrand Municipality that the submitted application be approved in the form it was submitted.

**Response to objections pertaining to desirability.**

<b>Objection</b>	<i>"Relevant considerations pertaining to the (lack desirability of the application that is entirely omitted from the applicant's motivation</i>  <i>What is also notable about the applicant's purported motivation (as currently framed) is the wholesale omission to deal with aspects and likely impacts that are centrally relevant to the desirability enquiry obliged by law of the Municipality with particular reference to the impacts likely to be suffered by the objectors in the event that the application is approved by the Municipality. These include (but are not limited to) the following:</i>
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- The wholesale failure by the applicant to address the issue of sustainable water supply to the subject-property for purposes of the expanded intensive agricultural activities envisaged by the applicant, including proof of the applicant's rights to water supply and water use to meet its likely demand. We submit that to the extent that the applicant pursues the application, the Municipality should oblige the applicant to produce an appropriately detailed analysis of the existing and proposed operation's water abstraction, storage and use patterns, and should provide written proof to the Municipality that the applicant holds the relevant statutory water use rights in respect of those uses. Water is an extremely precious resource and with a proposed expansion of this nature it must have serious implications for water use in the future. As we share a portion of the southern boundary of Haygrove, we feel we have a right to ask for proof that the water demand of this proposed expansion will be within the authorized volumes allowed by the Breede Gouritz Catchment Management Agency in terms of the National Water Act. We also insist that run-off water should be collected in retention ponds to prevent eutrophication of the Onrus River (on our property), which is a serious problem as far as reed infestation of the river is concerned. This is not the case currently and the situation could be worsened if their proposal is accepted. We cannot see that this condition would be possible if building lines were to be reduced as per the proposal 6.1; 6.2; 6.3; 6.4; 6.5 and 6.6. Haygrove claim to have 'historical water rights', What does this actually mean and how much water are they actually allowed to take. The pump they use to extract water from the Onrus river is on our property and nobody ever seems to measure this uptake or is aware of how much water is being extracted. In summer the river is literally pumped dry. All the water that flows into the Haygrove sump is sucked out of the river and nothing proceeds to any farmers downstream and nothing reaches the De Bos dam. This is the situation at the moment. It is impossible to imagine the burden on this water source if Haygrove were allowed to triple their requirement.
- The impact of the proposed relaxation of the building lines on the respective obligations of the owner of the subject-property, and adjoining and proximate neighbours, in terms of the National Veid and Forest Fire Act; and
- The significant and dangerous existing impacts caused to residents of the Hemel-en- Aarde valley by incessant traffic, both on the primary access road through the valley and on the minor road via which the subject-property is presently accessed. Our instructions are that busses, taxis, light delivery vehicles and heavy reticulated trucks pose a significant threat to other road users, but the impacts of existing traffic are not explored nor analysed in the motivation (to say nothing of the significant increase in traffic that could be anticipated in the event that the application is granted by the Municipality). This is another significant omission in the application as currently framed. To the extent that the applicant pursues the application, we submit that the Municipality should oblige the applicant to produce an appropriately detailed traffic impact assessment by an appropriately qualified expert before the application can proceed to the decision-making stage. This access road, Minor Road OPO4012, De Werf's only access road, is already severely compromised by Haygrove's



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	<p>incessant traffic. Buses, taxis, speeding bakkies and heavy reticulated trucks constantly damage the road, block our entrance, cause unacceptable noise and dust from 5am until the night shift leaves, often 10pm in summer. If this application were to be approved in some form or another, a different access/exit road must be provided. "All the labour that Haygrove currently employs is bussed to the property every day. The R43 is the only road available for this purpose and because of its' design, passing the slow-moving buses is becoming more and more hazardous. Increasing the number of these buses for Haygrove's expansion requirement is going to make this route much more dangerous - which is unacceptable. The road is constantly having to be repaired through the wear and tear caused by laden buses, and this together with an increased threat to safety is prejudicial to all other business and applicants in the valley. It cannot be allowed."</p>
<p><b>Comment</b></p>	<ul style="list-style-type: none"> <li>• The submitted application has been circulated by the Overstrand Municipality to the Breede-Gouritz Catchment Management Agency for an evaluation of water related considerations. Addressing water related considerations in the public participation process is premature.</li> <li>• The objector does not state which provisions will be National Veld and Forest Fire Act would be contravened with the approval and implementation of the departures sought. This makes it difficult to formulate a detailed response.</li> <li>• The planning application has been forwarded by the Overstrand Municipality to the Western Cape Department of Transport and Public Work for comments on all transport and access related considerations. The suggestion by the objector that a traffic impact assessment be done is premature as the relevant authority has not indicated if it will be necessary or not.</li> </ul>

**Response to objections relating to procedural considerations.**

<p><b>Objection</b></p>	<p>"The defective nature of the applicant's power of attorney; and company resolution.</p> <p>Annexure B to the application includes a power of attorney signed by a director of the owner of the subject-property; and a company resolution.</p> <p>The power of attorney authorises WRAP to undertake the following acts: "The application for amendment of conditions of approval and departure from building lines."</p> <p>The company resolution signed by the directors of the subject-property's owner authorises one of the directors to act on behalf of the company regarding "... applications for the following: Amendment of conditions of approval and departure from building lines."</p> <p>Neither the power of attorney nor the company resolution make any reference to an application for departure from the maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the land unit, to permit a floor space of 35,0663ha (350,663 square metres) to accommodate intensive horticulture.</p>
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	<p><i>It follows in our submission that the necessary authority has not been provided by the subject-property's owner for the latter application for departure. That omission has the consequence that the power of attorney and company resolution fall foul of the statutory requirements set out respectively in section 39(1)(b), and section 39(1)(c) of the By-law.</i></p> <p><i>To the extent that the applicant's planner persists in pursuing the application as currently framed, the failure by the applicant to provide the necessary power of attorney, and company resolution for purposes of the departure pertaining to the maximum allowable floor space, the application is fatally defective on that aspect. It follows that the Municipality must refuse the application for departure from the maximum of 5,000m<sup>2</sup> allowable floor space for all buildings on the land unit to permit a floor space of 35,0663ha (350,663 square metres) to accommodate intensive horticulture, as the delivery of that application to the Municipality has neither been authorised by a power of attorney from the owner of the subject-property to the applicant's planner, nor the subject of a company resolution that complies with the peremptory requirements stipulated in section 39(1)(c) of the By-law."</i></p>
<b>Comment</b>	<p>The reference to the departure in the power of attorney also includes other departures which may be required. This is due to a departure application whether it is from building lines or permissible floor space being submitted in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015. The submitted application is therefore not patently defective considering that the empowering section of the legislation is the same which nullifies the request by the objector that the application be refused on that ground.</p>
<b>Objection</b>	<p><i>"Request for a site visit by the Municipality before deciding the application</i></p> <p><i>On the facts and circumstances of the application, we submit that the Municipality's officials should undertake a site visit on the subject-property and its surrounds in order to fully appraise themselves of the current intensive agricultural operations on the subject-property, and the significant and objectionable impacts that would be caused to the subject-property's neighbours and other proximate landowners in this part of the Hemel-en-Aarde valley if the development proposal envisaged in the application was authorised to proceed."</i></p>
<b>Comment</b>	<p>The planners at the Overstrand Municipality are very diligent and generally conduct site visits before making a recommendation to the relevant decision-making authority. It is however submitted to the Overstrand Municipality planner that the approval and implementation of this proposal will not prejudice surrounding applicants as asserted by the objector.</p>
<b>Objection</b>	<p><i>"Request for a hearing</i></p> <p><i>To the extent that the Municipality is minded to convene a meeting of the Municipal Planning Tribunal (or for that matter, when the matter serves before the Municipality's delegated official) we submit that the objectors are entitled to attend on that meeting and to deliver whatsoever oral</i></p>



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	<p>representations may be necessary and relevant in the circumstances and in support of their representations.</p> <p>We submit that it behoves the Municipality to grant an audience to the objectors and the applicant when it considers its decision of first instance in order to ensure that the parties' rights to administrative action that is lawful, reasonable and procedurally fair is fully given effect to, given the facts and circumstances of the application. We look forward to hearing from the Municipality in this regard."</p>
<b>Comment</b>	The request for a hearing will be the discretion of the Overstrand Municipality.

#### Response to objections pertaining to agricultural activities on the subject property.

<b>Objection</b>	<p>"Haygrove grows soft fruits... in a mainly organic manner. The fact that they spray the crops at night (until 10pm regularly) and use helicopters on a regular basis to spray over the tunnels (and our home), suggests they are not organic, and are using fertilisers, pesticides and herbicides.</p> <p>Any expansion should include the requirement to use only organic farming methods. The source of organic raw materials should be restricted to local suppliers to encourage local investment and capacity development."</p>
<b>Comment</b>	The request by the objector that only organic farming methods be applied and that it all be sourced locally is onerous.

#### Response to objections related to services.

<b>Objection</b>	"The current sewerage situation is not entirely satisfactory at all and already brings unnecessary flies and odour to this part of the valley."
<b>Comment</b>	The applicant will make a considerable effort to further enhance the sewage disposal system on the property to avert the concerns which are raised.

#### Response to industrial action related considerations.

<b>Objection</b>	"If this proposal were to be accepted there must be a minimum percentage of permanent employees relative to the total seasonal and permanent staff complement; a scheme to support local employees to acquire suitable housing; and a profit-sharing scheme for employee upliftment. We have experienced enough disruption with strikes and toying, blocking and burning of the R320."
<b>Comment</b>	Industrial action is a common phenomenon in most businesses. Haygrove is however committed to strong labour relations which would minimise the likelihood of any future industrial action.
<b>Objection</b>	"Provision of employment is a compelling argument, however the employment required in this country is that of permanent jobs, the security of a monthly salary throughout the year as well as the benefits that go with permanent employment. Seasonal and contract labour is coming under careful scrutiny throughout the world and especially in the Western Cape. Justifiably the labour force becomes disgruntled with this mode of employment and industrial action takes place. We have seen this in many



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	<i>parts of the Western Cape. Such industrial action which is quite legitimate unfortunately spills off into destruction and vandalism to neighbouring properties."</i>
<b>Comment</b>	<p>Seasonal employment might come under scrutiny from time to time. The nature however, of the harvesting on the subject property historically necessitates a mixture of permanent and temporary employees. The approval for the construction of the horticulture tunnels would allow a year-round employment of some seasonal workers. This would contribute to reducing the adverse impacts of seasonal employment which is cited by the objector.</p> <p>Haygrove has spent R90 329 082 in Hermanus on local salaries, wages and materials and very few companies in Hermanus have such a substantial wage bill. The employees in turn have 2 or 3 dependants with whom salaries are shared for survival which constitutes a significant economic impact in Hermanus which should not be understated. Haygrove also provides employees with necessary medical care via a registered nurse to ensure that employees are quickly attended to in times of illness and transported to the nearest hospital in cases of serious emergencies.</p> <p>The disgruntlement regarding the mode of employment is a matter which is addressed by the employer and employee. The alleged vandalism of neighbouring properties is noted however the objector can contact SAPS to obtain relief in the unfortunate event of vandalism occurring.</p>
<b>Objection</b>	<i>"Protest action. Disgruntled Haygrove Heaven workers have begun to stage protests in the valley. They have blocked the R320, burning tyres and branches. This action will escalate if Haygrove Heaven further expands. This is also a security issue."</i>
<b>Comment</b>	<p>Industrial action which the objector refers to occurred on the R320 once in 18 years and the objector infers that this is a common phenomenon which is not the case.</p> <p>Notwithstanding the above, industrial action does not exclusively occur in Haygrove but also on surrounding farms. It is however the responsibility of each farmer to have good relations with workers to avert industrial action. Industrial action is a labour relations matter and not a reflection on the merits of the planning proposal.</p>

#### Response to health-related objections.

<b>Objection</b>	<i>"The current farming activities already affect the community's health. I, Andree Bonthuys have been diagnosed as chronic asthmatic since moving here in 2016 and it is as a direct result of the spraying, which occurs most nights on the ground, and several times per year by air. I have also been hospitalised (Feb 2018) with pneumonia, also as a direct result of spraying. I never suffered from any respiratory illnesses before moving to De Werf. Many of the inhabitants of Haygrove also suffer from chronic asthma and respiratory illnesses. (Hermanus, Gertse and Louw families who live on the Nieuwe Post premises, as example). Expansion as per this proposal would</i>
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	<i>necessitate many people moving away from the area for health reasons, including myself and that in itself is an infringement of our rights."</i>
<b>Comment</b>	<p>The lung related medical condition of the objector is indeed concerning. Notwithstanding that, the following factors also contribute to asthma and pneumonia.</p> <ul style="list-style-type: none"> <li>• Airborne substances, such as pollen, dust mites, pet dander or particles of cockroach waste;</li> <li>• Respiratory infections, such as the common cold;</li> <li>• Physical activity (exercise-induced asthma);</li> <li>• Cold air;</li> <li>• Air pollutants and irritants, such as smoke;</li> <li>• Certain medications, including beta blockers, aspirin, ibuprofen (Advil, Motrin IB, others) and naproxen (Aleve);</li> <li>• Strong emotions and stress;</li> <li>• Sulphites and preservatives added to some types of foods and beverages, including shrimp, dried fruit, processed potatoes, beer and wine; and</li> <li>• Gastroesophageal reflux disease (GERD), a condition in which stomach acids back up into your throat.</li> <li>•</li> </ul> <p>For the objector to blame the illness on the activities on Haygrove and to suggest that the approval and implementation of this proposal would worsen the situation without having considered other probable causes is unfair towards the owner of the subject property.</p> <p>Notwithstanding the above, the products used by Haygrove have been authorised for use by different health authorities and are unlikely to be the cause of the objector's respiratory illnesses. Spraying occurs occasionally on the subject premises and does not occur on most nights.</p>

**Response to objections not related to the submitted planning proposal.**

<b>Objection</b>	<i>"There are a large number of pine trees growing amongst the pristine fynbos on the slopes of the mountain on the North West side of the Haygrove farm. Pine trees are planted between the blocks of tunnels on the farm. Wind blows the seeds which then germinate amongst the fynbos in the nature conservancy. These trees only appeared in the last 5 years, before that the area was pristine. The trees are getting large enough now that they will be utilising the much-needed water run-off to the Onrus river, apart from becoming a significant fire hazard. Haygrove may argue that the trees are not on their land, but neighbouring farms have no control over where the seeds will land. Other farmers in the valley are removing aliens on their properties."</i>
<b>Comment</b>	The pines planted by Haygrove for windbreaks are coastal beefwoods and not the same spreader pine species as implied by the objector. Furthermore, Haygrove conducts alien clearing on an annual basis across its entire property. No farmer has any control over wind direction the seeds which the wind blows.



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**Response to objections which support the content of other objections.**

<b>Objection</b>	<p>We would like to register our strongest objection to the above application for departures and amendment of conditions of approval. The reasons for this are detailed in the objections submitted to you on our behalf and others by attorney Nick Smith in November, 2019.</p> <p>For the record, I would like to register my strongest objection possible to all the departures Haygrove is applying for. The reasons for this are detailed in the objections submitted to you by attorney Nick Smith and others in response to the first application by Haygrove .</p> <p>I would also like to be informed of the exact reasons why the objections raised by Mr Smith and others would be ignored in the event of Haygrove being granted approval.</p>
<b>Comment</b>	The objection submitted by Nick Smith has been responded to.

**Conclusion**

The objections are noted however nothing was submitted which justifies the refusal of the submitted planning application.

Yours faithfully

**REA JANKIE**

**TOWN PLANNER (B/8392/2017)**



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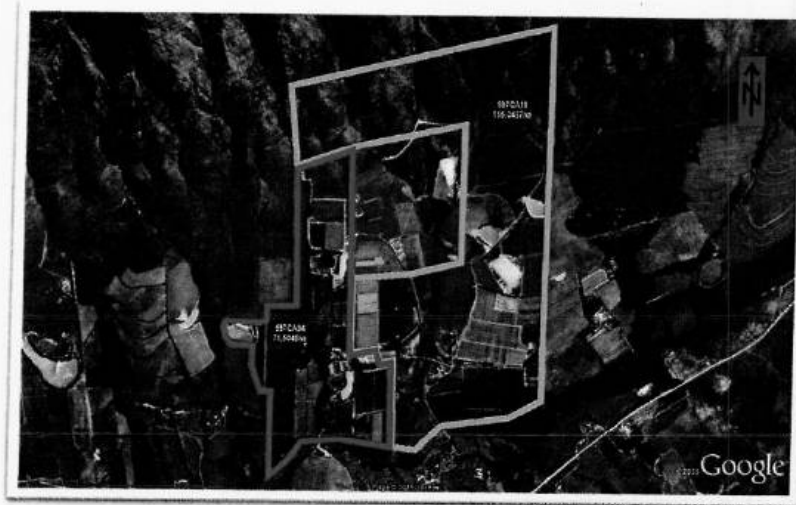
Annexure A

**Fire Management Plan**

**Haygrove Heaven Pty Ltd**

**Farm: Hemel & Aarde Portions 11 & 94/587**

**(Caledon RD)**



*Compiled by: CF Pool ([tiaap@mandela.ac.za](mailto:tiaap@mandela.ac.za) /0723742347)*

*May 2020*

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## 1 INTRODUCTION

The objective of this management plan is to provide a management framework that will guide activities that contribute towards protecting the farm (people, infrastructure and environment) from veldfires, preventing veldfires from starting and suppressing veldfires in a cost-effective manner. It further outlines the important principals involved in sound fire management practices and identifies and specifies specific management actions or options that should be implemented to mitigate risk from veldfires.

## 2. FIRE PLAN SETTING

Haygrove Heaven Estate consist of portions 94/587 (71.5 ha) & 11/587 (155 ha) of the parent farm Hemel op Aarde – 226.5 ha in total. Local names of previous farm portions include Tuintjiesfontein, Ertjiesvlei and Nuwepos. The property enclose the farm Gazate Site (88/587) (39 ha), the farm of Mr Helgardt Ackermann. Mr Ackerman uses the same access road from the R320 Caledon road and drive through Haygrove Heaven to access his property.

Neighbouring farms include:

- Western boundary: Sandford farm (RE/2/587) – Kobus van Zyl
- South Westerly boundary: Pieter Sham Farm (45/587) – Pieter Sham
- Southerly boundary: De Werf Estate (50/587 & 15/587) – Neville Howarth
- South Easterly boundary: Clouds End Farm (RE/7/587) – Brain Frost
- South Easterly boundary: Spookfontein Farm (8/587) – Andries Gotze
- Eastern boundary: Ertjiesvlei (17/587) – RW Erwee
- Eastern boundary: Ertjiesvlei (RE/587) – Willie Beukes

(Refer to Map in Annexure 1).

The estate falls within the municipal jurisdiction area of the Hermanus Municipality and in case of fire is serviced by the Overberg District Municipality. Haygrove Heaven is a member of the Greater Overberg Fire Protection Association (goFPA) whose office is situated in Bredasdorp.

### **2.1 Management Objectives and Command Structure**

Haygrove Heaven is a berry farm with focus on producing blueberries and raspberries. Farming is intensive and fruit is grown in tunnels as well as areas covered by shade netting. In addition to being berry growers, the farm also supports and funds a social upliftment project. The estate is a major employer in the region and employs ± 178 permanent staff, but also provide employment to 300-500 seasonal workers during harvesting season. The northern part of the estate includes pristine fynbos and efforts are made to maintain the area as such.

A well-developed infrastructure has been established in support of the farming activities. Apart from growing tunnels, a well-designed road system, dams and water delivery system have been developed. Buildings on the estate include offices, storerooms as well as residential areas.

As the region and vegetation within the area are part of a natural fire driven ecosystem, veldfire management plays an important part of general management on the estate. Fires pose a threat to the growing areas as well as the buildings on the estate and protection human life and infrastructure. Management objectives in this document therefore includes protection, prevention and suppression of veld fires.

A fire incident command structure as set out in Figure 1 has been developed to achieve the set objectives. This organogram contains names of key role players and the responsibilities and activities of these individuals will be discussed in this document.

**Fire Incident Organogram**

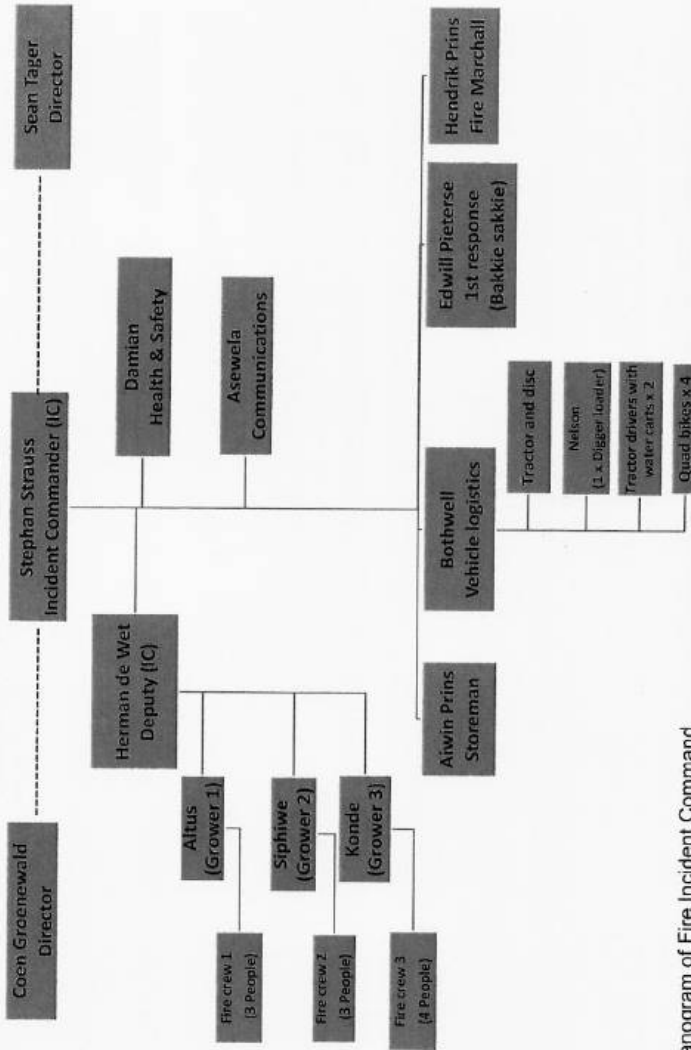


Figure 1: Organogram of Fire Incident Command

## 2.2 Location of the Estate

At an altitude of 400-870m, Haygrove Heaven is situated at the foothills of the Babilonstoring Mountain in the Hemel-en-Aarde valley north of the R320 Caledon road. The Estate is 15 km from Hermanus and 26 km from Caledon. To the north of the Estate and on the plateau of the mountain, is the Babilonstoring Nature reserve. The Onrus River defines the southern boundary of the Estate.

The Hermanus area is a popular tourist venue and as the Estate is part of the scenic route (R320) it is in plain view of passing motorists.

## 2.3 Vegetation, Land Cover and Ecological Requirements

The natural vegetation in the area is Fynbos. The Fynbos biome is one of the biomes of South Africa and is recognised as one of the floral kingdoms of the world because of its vast biodiversity of species. Three plant families give the fynbos its distinctive character – Proteaceae, Ericaceae and Restionaceae (Cape reeds). Geophytes – plants that spend much of the year underground as a bulb – are also a significant part of the fynbos and are responsible for the spectacularly colourful floral displays of spring and summer or after fire.

Of note is the level of endemism in the Cape Floral Kingdom. Plants are subject to environmental factors such as exposure to wind direction, soil type, north or south facing slopes, access to water and frequency of fire, which has resulted in adaptations to such environments and consequently a wildly varying diversity of species.

Fynbos is highly flammable and a fire dependant biome. It uses fires to spread its seeds, as fires free up space into which the seeds can germinate, or new plants can sprout. A post-fire environment has more available nutrients reintroduced from the ash, enough light and fewer "nibblers" (mice, ants and other animals and insects), giving the seedlings the perfect environment to grow in.

Fire is therefore an important driver of the ecology of Fynbos and protecting an area from fire will not only lead to build-up of excessive amounts of hazardous, flammable fuels, but will impact negatively on the survival of some Fynbos species. Fynbos in the Hermanus area typically needs to burn every 12-15 years.

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#### 2.4 Climate and Weather

Hermanus is classified as having a warm-summer Mediterranean climate. It receives roughly 520 mm of rain per annum, the majority of which falls during the winter months of June to August in the form of frontal precipitation. Average midday temperatures range from 25 °C in February to 16 °C in July. Extremes above 30 °C and under 10 °C are not uncommon. Summer and Winter months are characterised by strong South-Easterly and North-Westerly winds respectively. The North-Westerly wind is the dominant rain carrying wind.

It is important to note these dominant wind directions as veldfires are usually driven by these winds. The implication of this is that the north-westerly as well as the south-easterly boundaries of the Estate will be the most vulnerable to fires. The high fire season in this region starts in October and ends in February.

The area is frost free, hail is rare and thunderstorms very occasional.

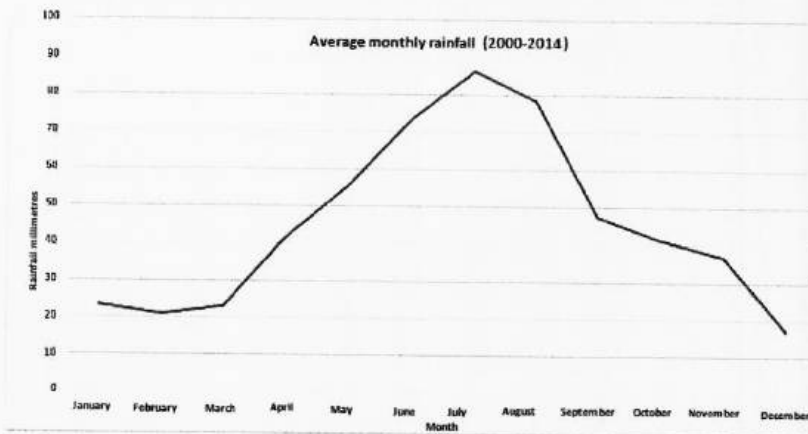


Figure 2: Rainfall in the Hermanus area

#### 3 FIRE PROTECTION

Fire Protection is the study of unwanted fires and mitigating its negative effects on infrastructure, human life and the environment. A fire protection strategy includes the study of local weather patterns, vegetation, topography, fire history and fire behaviour. Fire protection activities therefore focus on fire management infrastructure, roads,

water resources, training and responsibilities of staff, communication systems, adherence to statutory laws and regulations and maintenance of equipment.

### **3.1. Fire Belts & Blocks**

According to the National Veld and Forest Fire Act (Act 101 of 1998), landowners should prepare belts on the boundaries of their properties if there is a reasonable chance of a veldfire starting and spreading from, or onto the property. If a landowner belongs to the local Fire Protection Association (FPA), belts should be prepared in accordance to prescriptions of the FPA.

If neighbours are in agreement, boundary belts between them can be constructed at an alternative location. This agreement should be in writing. The FPA should endorse the alternative location. This is usually done if the current location of the shared belt does not facilitate optimal protection to the properties, needs very costly preparation or if the area is an ecological sensitive area.

Belts are divided in internal and external belts. External belts are on the boundary of a property, while internal belts divide the property in smaller units for additional protection of assets.

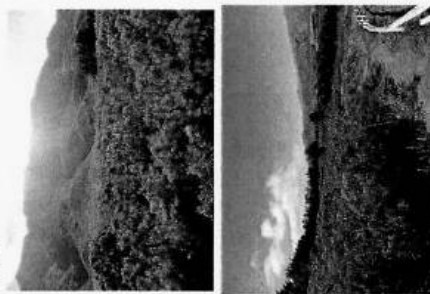
Belts may include natural or manmade features like water bodies, roads, cultivated land, managed conservation areas/blocks, sport fields, etc.

Fire belts and breaks should be prepared before the beginning of the fire season. High fire season in the Overberg region is in the summer (dry season), when temperatures are high, relative humidity low and south-easterly winds and warm north-westerly winds are common (Bergwinds). The high fire season in this region starts in October and ends in February. The beginning, duration and end of the fire season is dictated by the weather and should be communicated to members by the FPA.

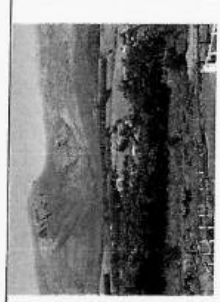
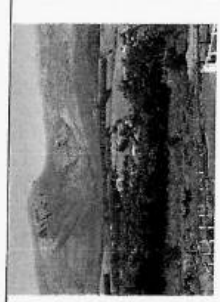
If prescribed burning is used to prepare fire belts or to manage fuels on the property, the owner should acquire a burning permit from the local FPA.



Refer to Table 1 and Annexures 10 & 11 for a complete list of fire belts and breaks for the farms Hemel op Aarde portions 94/587 and 11/587.

Table 1: Belt &amp; Block Register - Haygrove Heaven

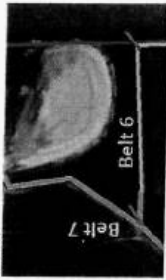

External belts	Description	Specifications	When to prepare	Preparation method
<p><b>Belt 1</b></p> 	<p>NW boundary of farm. Runs N (highest point) to S (Lowest point). Starts at homestead in north and runs past the racehorse track. It ends just south of the racetrack. It consists of fynbos.</p> <p>This belt is the most vulnerable to wildfire driven by the NW winds. It borders Block 2. Management of fuels in block 2 is essential to strengthen this belt.</p>	<p>Belt must be 5m wide. All vegetation to be removed to height of 10cm above mineral soil.</p>	<p>Each year by the end of September.</p>	<p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. All cut material to be distributed into Block 2 by making use of hayforks</p>
<p><b>Belt 2</b></p>	<p>Western boundary of farm bordering Stanford horse farm. Starts at NE corner of Kosie A1 where belt 1 ends. Belt 2 borders Kosie A1, Kosie E, C &amp; D. Ends at southern tip of Kosie D.</p>	<p>Belt must be 3m wide — including the road and road shoulder.</p>	<p>Each year by the end of September but can be prepared earlier in the year.</p>	<p>As cultivated fields on the horse farm west of the belt pose little threat, the road bordering Kosie provides sufficient protection from fire. The shoulder of the road bordering the Eucalyptus windbreak</p>

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	<p>The road running on the boundary of Kosie, forms part of belt 2. The belt is situated east of eucalyptus windbreaks.</p>	<p>Belt starts against belt 2 and runs south of Kosie D and Fugle B. The belt is situated south of the windbreak. The belt ends against the access road to the farm bordering the riparian vegetation from the Onrus river.</p>	<p>Belt must be 3m wide and is measured from the edge of the road bordering Kosie D and Fugle B. Windbreak is part of the belt.</p>	<p>Each year by the end of September but can be prepared earlier in the year.</p>	<p>As fynbos vegetation from the bordering Pieter Sham's farm (45/587) pose a marginal fire treat, the windbreak should be kept clean underneath with rakes and the vegetation south of the windbreak should be mowed with a brush cutter.</p>	<p>should be kept free of burnable fuels. It is recommended that windbreaks be kept clean underneath.</p>
	<p>This belt starts against the CFO block and runs east against the De Werf Estate fence line and the boundary of Clouds End apple farm and Spookfontein farm (blue gum plantation). The belt is situated south of CFO, SBB, Oak, Shell and Johan blocks. The belt consists of natural fynbos vegetation as well as</p>	<p>Belt must be 1.5-2 wide against the De Werf fence line. The windbreak against the berry blocks are part of the belt.  Against Clouds end and Spookfontein farm boundaries the belt should be at least 3m wide and is</p>	<p>Each year by the end of September but can be prepared earlier in the year.</p>	<p>The vegetation on De Werf Estate is well managed and pose little treat to the farm. The fynbos vegetation on Clouds End as well as the blue gums plantation on Spookfontein pose a marginal fire treat, the windbreak should be kept clean underneath with rakes and the vegetation south of the windbreak should be</p>		

	<p><b>Belt 5</b></p> 	<p>windbreaks on the edge of the berry blocks.</p>	<p>This belt forms the eastern boundary of the farm. It starts against belt 4 in the south (Spookfontein farm) and runs north to just south of Dam 1 on the eastern boundary of the farm. East of the belt is the farm (17/587) where vineyard cuttings are produced as well as the farm Ertjiesvlei (RE/587) consisting of cultivated fields. An area of concern is the eucalyptus stand north of Johan 3 growing block and opposite Johan 4. This area is not a high-risk area because of the bordering cultivated areas on the bordering farms. On both bordering farms a eucalyptus windbreak is evident.</p>	<p>measured from the edge of the road bordering the berry blocks and includes the windbreaks.</p>	<p>The belt should be 2-3m wide and should also protect the fence line. Where the belt passes the eucalyptus stand it should be at least 3m wide.</p>	<p>mowed with a brush cutter. The road bordering the berry blocks will provide additional protection in case of a fire.</p>	<p>Where possible the belt can be mowed with a tractor and mowed areas should not be higher than 10cm, and a brush cutter. There are however portions where the belts can be raked clean of burnable material and other areas where roads can be maintained as belts.</p>	<p>Each year by the end of September but can be prepared earlier in the year.</p>
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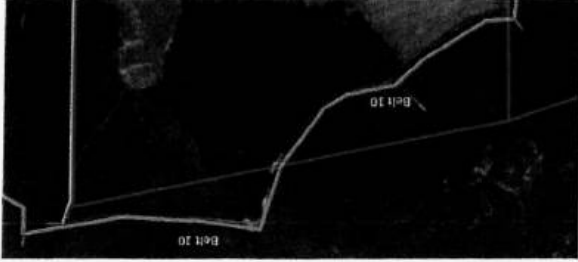
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<p><b>Belt 6</b></p> 	<p>This belt is situated south of Dam 1 on the eastern border of the farm and links and belt 5 (boundary belt) and Belt 7 (internal belt). Between the belt and the dam there is some fynbos vegetation. South of the belt is a eucalyptus windbreak that borders a cultivated field.</p>	<p>The belt should be 3m wide and include the western part of the belt is bordering fynbos on both sides and should be 5m wide in this area. See green line on map.</p>	<p>Each year by the end of September but can be prepared earlier in the year.</p>	<p>The belt can be mowed by a tractor and brush cutter but where it runs along the windbreak should be prepared by raking and removing burnable material from under the windbreak.</p> <p>**It is recommended that the fynbos between belt 6 and Dam 1 is burned every 10-12 years for additional protection as well as ecological health.</p>
<p><b>Belt 7</b></p> 	<p>Belt 7 starts as an internal belt against Dam 2 SW of belt 6. It follows the road running NE from Dam 2. This belt follows the road, as it will be easier and cheaper to prepare and maintain. The biggest part of this belt has fynbos vegetation on both sides.</p>	<p>This belt should be 5m wide including the road.</p>	<p>Each year by the end of September.</p>	<p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. A strip should be cut on either side of the road. All cut material to be distributed into Block 1 by making use of hayforks.</p> <p>**It is recommended that the fynbos between belt 7 and the Neighbouring farm be burned every 10-12 years for additional protection as well as ecological health.</p>

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<p><b>Belt 8</b></p> 	<p>This belt extends belt 7 and runs north up to the turning point of the <i>cul-de-sac</i> road. This belt has fynbos on both sides. Although this belt is not anchored in the north, it will provide the opportunity to suppress and or slow down wildfires.</p>	<p>This belt should be 5m wide including the road.</p>	<p>Each year by the end of September.</p>	<p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. A strip should be cut on either side of the road. All cut material to be distributed into the adjacent area by making use of hayforks.</p>
<p><b>Belt 9</b></p> 	<p>This belt starts against belt 7 &amp; 8 in the east and runs due west until it ends close the NW corner of the farm Gazate Site. The belt follows the road as indicated on the map. This belt has fynbos on both sides.</p>	<p>This belt should be 5m wide including the road.</p>	<p>Each year by the end of September.</p>	<p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. A strip should be cut on either side of the road. All cut material to be distributed into Block 1 by making use of hayforks.</p>

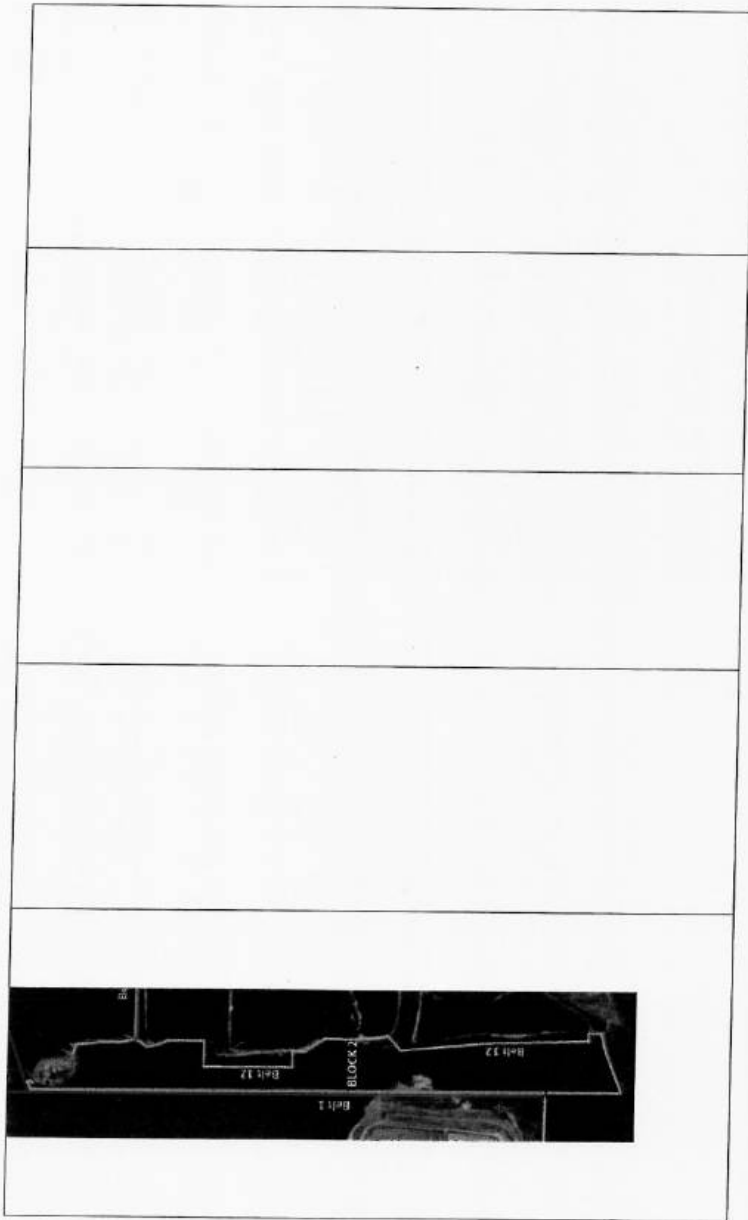
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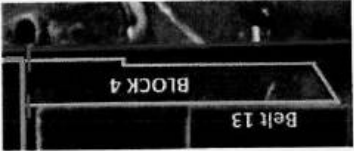
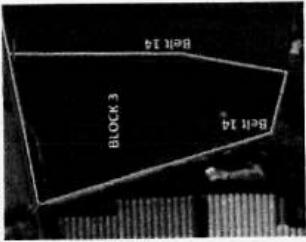
<p><b>Belt 10</b></p> 	<p>This belt provides protection to the farm Gazate Site and should be constructed next to the existing belt on the farm. The belt stretches across the northern boundary of Gazate Site in a E-W direction. It starts against belt 9 and ends at the windbreak NW of Gazate Site. As part of this belt will be constructed on the Gazate Site farm, an agreement should be entered into with the farm owner to allow construction of this belt on his farm but at the same time be recognised as the official belt from Haygrove. This agreement should be endorsed by the local FPA. The vegetation north of this belt is fynbos.</p> <p>It is recommended that this area is burned every 10-12 years. This should be done in corporation with the Babilongstoring nature reserve, Overberg FPA as well as adjacent farm owners</p>	<p>This belt should be 5m wide</p>	<p>Each year by the end of September.</p>	<p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. All cut material to be distributed into the area north of the belt by making use of hayforks.</p>
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<p><b>Belt 11</b></p>  	<p>This belt starts against belt 10 (NW corner of the farm Gazate Site) It stretches south along the windbreak along the boundary of this farm. It then runs in a westerly direction north of Sam 1 &amp; 2 until it reaches the access road to the mountain house. North of this belt is fynbos.</p> <p>It is recommended that this area is burned every 10-12 years. This should be done in corporation with the Babilongstoring nature reserve, Overberg FPA as well as adjacent farm owners.</p>	<p>This belt should be 5m wide</p>	<p>Each year by the end of September.</p>	<p>Mechanical mowing/brush cutting of vegetation or manual slashing to a maximum height of 10 cm. All cut material to be distributed into the area north of the belt by making use of hayforks.</p>
<p><b>Internal belts</b></p> <p><b>Belt 12</b></p>	<p><b>Description</b></p> <p>This belt is the eastern boundary of Block 2 and runs along service roads. It starts at the mountain house and stretches south along Sam 1 &amp; 2, Dam 7, Pink as well as Kosie 1 &amp; 2.</p>	<p><b>Specifications</b></p> <p>This belt includes roads and windbreaks and should be at least 3m wide.</p>	<p><b>When to prepare</b></p> <p>This belt should be prepared when burning in Block 2 is planned</p>	<p><b>Preparation method</b></p> <p>Mechanical mowing along the access road leading to the mountain house. Mowing/ slashing of vegetation to a maximum height of 10 cm. All cut material to be distributed into Block 2 by making use of hayforks. Windbreaks should be raked underneath.</p>

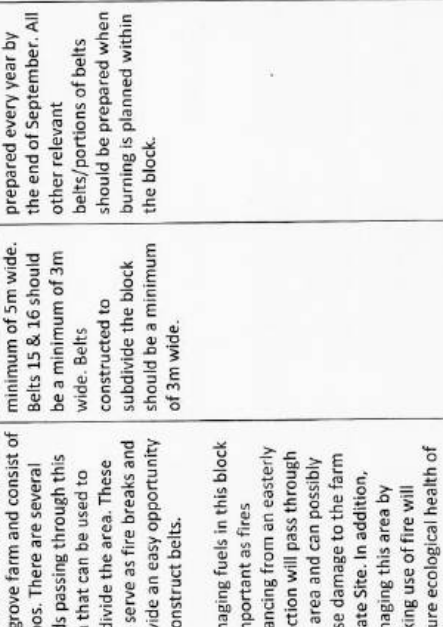
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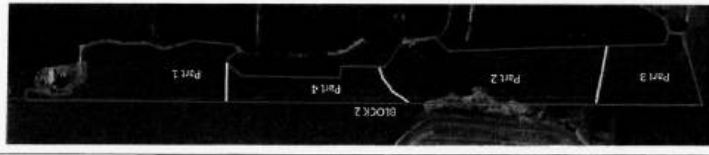
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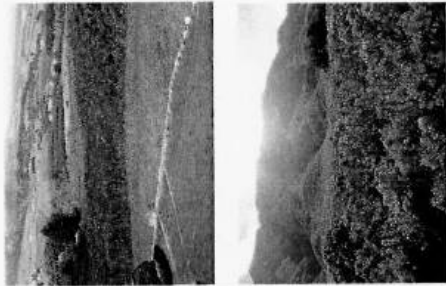

<p><b>Belt 13</b></p> 	<p>This belt is anchored against belt 11 and runs around Block 4. The eastern part of the belt stretches along a windbreak (Plastic water pipes on the ground) and the western part includes the road along Sam 2 &amp; 3.</p>	<p>The belt should be 3m wide.</p>	<p>The belt should be prepared when burning in block 4 is planned.</p>	<p>Belt should be slashed/mowed along the windbreak. Tall vegetation should be slashed when next to the road. Slashed material should be dispersed into the block.</p>
<p><b>Belt 14</b></p> 	<p>This belt is anchored against belt 15 and runs around Block 3. The eastern part of the belt runs south between fynbos and an old cultivated field and the western part includes the road along JRT &amp; JRB.</p>	<p>The belt should be 3m wide.</p>	<p>The belt should be prepared when burning in block 3 or 1 is planned.</p>	<p>Belt should be slashed/mowed between the fynbos and the old cultivated field. Tall vegetation should be slashed when next to the road. Slashed material should be dispersed into the block.</p>

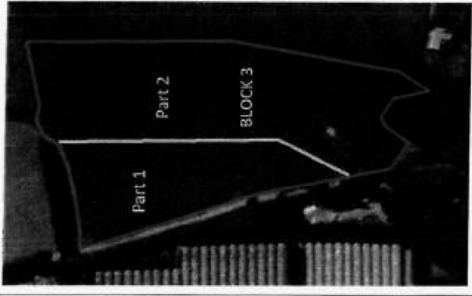
<p><b>Belt 15</b></p> 	<p>This belt is situated south of the farm Gazate Site. It starts at the NE corner of JRT and runs east until it reaches the road running NE. It stops at the SE corner of Dam 2. South of the belt is some fynbos as well as an old cultivated field. Once the belt has passed the boundary of Gazate Site farm, it forms the southern boundary of Block 1. The road forms part of the belt.</p>	<p>The belt should be 3m wide.</p>	<p>The belt should be prepared when burning in block 3 or 1 is planned.</p>	<p>Belt should be mowed/slashed to a maximum height of 10 cm. Tall vegetation should be slashed when next to the road. Slashed material should be dispersed into the blocks.</p>
<p><b>Belt 16</b></p> 	<p>This belt runs along the eastern boundary of Gazate Site farm and Haygrove. The northern part of this belt is bordered by fynbos on both sides, but towards the south Gazate Site farm has cultivated fields bordering it.</p>	<p>The northern part of this belt should be 5m wide and the southern part 3m</p>	<p>The belt should be prepared annually and/or when burning in block 1 is planned</p>	<p>Belt should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 1 with the use of hayforks.</p>



Blocks	Description	Specifications	When to prepare	Preparation method
<p><b>Block 1</b></p> 	<p>Block 1 in the NE corner of Haygrove farm and consist of fynbos. There are several roads passing through this area that can be used to subdivide the area. These also serve as fire breaks and provide an easy opportunity to construct belts.</p> <p>Managing fuels in this block is important as fires advancing from an easterly direction will pass through this area and can possibly cause damage to the farm Gazate Site. In addition, managing this area by making use of fire will ensure ecological health of the fynbos.</p>	<p>Belts 7 &amp; 9 should be a minimum of 5m wide. Belts 15 &amp; 16 should be a minimum of 3m wide. Belts constructed to subdivide the block should be a minimum of 3m wide.</p>	<p>Belts 16, 7 &amp; 9 should be prepared every year by the end of September. All other relevant belts/portions of belts should be prepared when burning is planned within the block.</p>	<p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 1 with the use of hayforks. A strip should be mowed on either side of the roads where possible.</p> <p>Every 3 years a section of the block should be burned. The different parts of the belt should be burned in the sequence of numbers allocated to these parts.</p>
	<p>The belt is enclosed by belt 7 (east) belt 9 (north), belt 16 (west) and belt 15 (south). The area is subdivided into 4 parts that should be burned separately on a 12-year rotation. (One part every 3 years.</p>			

<p><b>Block 2</b></p> 	<p>Situated on the western boundary of the farm and has a N-S orientation. It stretches from the mountain house in the north, and goes past Sam 1 &amp; 4, Pink and Kosie A1 &amp; A2.</p> <p>Managing fuels in this block is important as fires advancing from the north or NW will pass through this area and can possibly cause damage to growing blocks and fuel fires that can ultimately cause damage on the farm Gazate Site. In addition, managing this area by making use of fire will ensure ecological health of the fynbos.</p> <p>The block contains fynbos. It is subdivided into 4 smaller parts. Belts subdividing the block are starting at the windbreak at the SW part of Sam 1, along the mountain bike track and from the southern part of the racetrack towards Pink.</p>	<p>Belt 1 should be a minimum of 5m wide. Belt 12 should be a minimum of 3m wide. Belts constructed to subdivide the block should be a minimum of 3m wide</p>	<p>Belt 1 should be prepared every year by the end of September. All other relevant belts/portions of belts should be prepared when burning is planned within the block.</p>	<p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 2 with the use of hayforks. A strip should be mowed on either side of the roads where possible.</p> <p>Every 3 years a section of the block should be burned. The different parts of the belt should be burned in the sequence of numbers allocated to these parts.</p>
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	<p>It is bordered by Belt 1 in the west and belt 12 in the east.</p> <p>Part of a mountain bike track cuts through it from the corner of Sam 4 to the racehorse track.</p>			
<p><b>Block 3</b></p> 	<p>Situated south of the farm Gazate Site and east of JRB &amp; JRT growing blocks.</p> <p>The block contains fynbos. It is subdivided into 2 smaller parts. A belt subdividing the block starts against belt 15 and runs south until it ends in belt 14. A small drainage</p>	<p>All belts should be a minimum of 3m wide, including those constructed to subdivide the block. Roads should be included as part of the belts</p>	<p>Belt 15 should be prepared annually by September, and belt 14 when burning in the block is planned.</p>	<p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 3 with the use of hayforks.</p> <p>Every 6 years a section of the block should be burned.</p>

 <p><b>Block 4</b></p>	<p>line/stream runs from north to south through Part 2 of the block and will contain riparian vegetation that might be difficult to burn. As the area is reasonably small, it does not make sense to divide the area into more parts.</p> <p>Although the area contains fynbos the fire risk is not so high in this area and the primary objective in burning this block will be to ensure ecological health of the fynbos.</p>	<p>Situated between the farm Gazate Site and Sam 2 &amp; 3 growing blocks.</p> <p>The block contains fynbos and is subdivided into 2 smaller parts. A belt subdividing the block starts in the middle of Sam 2 &amp; 3 runs east until it ends against</p>	<p>All belts should be a minimum of 3m wide, including those constructed to subdivide the block. Roads should be included as part of the belts</p>	<p>Relevant portions of belts should be prepared when burning in the block is planned.</p>	<p>Belts should be mowed/slashed to a maximum height of 10 cm. Slashed material should be dispersed into block 4 with the use of hayforks.</p> <p>Every 6 years a section of the block should be burned.</p>
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 <p>BLOCK 4 Part 2 Part 1</p>	<p>the windbreak next to the boundary of Gazate Site.</p> <p>As the area is reasonably small, it does not make sense to divide the area into more parts.</p> <p>Although the area contains fynbos, the fire risk is not so high in this area and the primary objective in burning this block will be to ensure ecological health of the fynbos and to protect the infrastructure of Sam 3 &amp; 3.</p>	<p>A 3m belt should be constructed around each structure.</p>	<p>Each year by the end of September</p>	<p>Belts should be mowed/slashed to a maximum height of 10 cm and slash distributed into the adjacent area.</p>
<p>Communication tower and electricity distribution box</p> 	<p>To the east of the mountain house, there are some communication towers/structures. In case of a fire, they might get damaged and should be protected.</p>			

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### 3.2 Block Burning (Refer to Annexure 11 & 12)

The purpose of burning blocks are to manage hazardous fuels and to maintain the ecological health of the Fynbos vegetation in these blocks. Four blocks have been identified on the Estate. These blocks have been subdivided into smaller parts to facilitate easier burning. The burning cycle of the Fynbos is estimated to be a 12-year rotation and burns should be executed in these blocks accordingly. The subdivision of the blocks and the scheduling of the burning will create a mosaic of different field age classes. The different fuel ages will provide suitable habitats for different animal and insect species and allow succession of Fynbos species.

Burning of these blocks should be completed before October and a high green /low yellow Fire Danger Index (FDI) should be considered for safe burning (Refer to Annexure 3 for information on the FDI). Belts should be prepared before burning is attempted. A burning permit should be acquired from the local authorities prior to burning (Annexure 16).

Ideal burning conditions include the following parameters:

- Temperature:  $\pm 25^{\circ}\text{C}$
- Rain during raining season before burning: at least 50mm
- Wind: maximum 15km/hr
- RH: 40%-60%
- FDI: Maximum 45 (Yellow)

#### **Rules for controlled burns:**

- Permits are issued for different lengths of time depending on the time of year and the type of burn (stubble lands, ecological, rubbish heap, etc.). Please inquire at your local fire station for more information.
- The Fire Brigade does an inspection before issuing the permit. The Overstrand Municipality currently charges a consultation fee for this.
- You may not burn on a Friday, Saturday, Sunday or public holiday.
- You may only burn on a Friday or day before a public holiday with special permission from the Fire Brigade.
- You may not burn on an Orange or Red (Fire Danger Index) day.

- You are bound by the personnel and equipment numbers as on the application.
- You must inform your neighbours and/or other authorities 2 weeks prior to the burn and again daily before burning starts.
- You must inform the control centre or local fire station daily before burning starts.
- All fires have to be extinguished before 16:30 daily.
- Patrol the area until the burnt area is cold (See suppression).
- You are responsible for the burn and its consequences.

### 3.3 Road Network

Roads do not only serve as fire breaks, but also provide access to different parts of the Estate. For this purpose, all roads need to be maintained and inspected to ensure serviceability. All roads should be accessible to vehicles used to suppress fire. In addition, roads should provide turnaround points and narrow roads should provide areas where two vehicles can pass each other. Where roads pass water points, provision should be made for vehicles to pass one another and be able to turn around. Roads should be inspected before planned burning operations and before high fire season.

### 3.4 Buildings and Other Infrastructure

Infrastructure such as residences, offices, sheds, growing structures (Tunnels) as well as plastic water tanks & pipes may suffer damage or total destruction because of wildfire if not protected.

Annexures 17 & 18 provide an assessment tool to measure vulnerability of structures and point out some basic interventions that should protect these infrastructure from fire. In addition, the goFPA also provide some basic rules regarding the protection of buildings. As a summary of these guidelines the following should be considered:

- All buildings should conform to the municipal building regulations.
- Buildings should be equipped with fire extinguishers.
- A dedicated fire hose with sufficient water pressure should be installed at buildings. Alternatively, a 30m garden hose should be available.
- There should be a 30m radius defensible space around buildings (see annexure 18).

- Where buildings are close to hazardous vegetation a fire belt should be prepared to protect the building.
- Buildings should be free of flammable material on roofs, against walls, in front of windows and encroaching flammable vegetation.
- There should be well-defined escape routes from buildings that lead to emergency assembly points.
- Residents & staff should be educated w.r.t. fire awareness and emergency evacuation drills practiced.

### 3.5 Equipment & Tools

Equipment refers to vehicles and machinery used to suppress fires. Tools refer to hand held tools used by fire fighters to suppress fires. A register of all equipment and tools should be kept and regular checks perform to ensure its serviceability. During the high fire season, a weekly check should be performed on all equipment and tools. After a fire, all tools and equipment should be checked again.

All water-carrying vehicles should be equipped with hoses and nozzles. In addition, each vehicle should carry basic firefighting tools like fire beaters, knapsack pumps, rakehoes and slashers.

A dedicated storeroom should be allocated where all fire tools can be kept. Refer to Annexure 4 for a list of recommended resources. Annexure 5 indicates resources of neighbours who might be called upon for assistance in case of emergency.

### 3.6 Support Equipment/resources

Support equipment are not directly used to suppress fires, but are necessary to facilitate fire management/suppression. These may include:

- Head lamps/torches
- Spare radios and batteries
- First aid kit
- Containers with drinking water (Must be clearly marked)
- Containers with fuel for pumps
- Emergency rations for fire fighters

As is the case above, these items should be on register and checked for serviceability

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### **3.7 Water Points (Annexure 9)**

There are several water points located on the Estate. These points are part of the irrigation system for the berry tunnels. Valves should be checked regularly. Water points situated in the high-risk areas of the Estate (North, NW, NE boundaries) should have dedicated and marked refilling hoses that should be kept in a known location for fast deployment to any water point in case of fire.

In addition to water points, there are eight dams on the Estate. The Estate should have at least two mobile water pumps that can be used to refill vehicles at these dams.

The areas where refilling of fire fighting vehicles take place must be engineered to accommodate these vehicles without blocking roads. It should be kept in mind that these areas often become wet from water spillage during refilling and where relevant refill areas should have a gravelled surface area.

### **3.8 Fire danger index (FDI)**

Fire danger index should be calculated daily at 10am and 2pm. Members of the goFPA should receive daily updates on the FDI. The FDI is an important indicator of fire behaviour and should be used as criteria for planned burning operations. Landowners must inform all workers and visitors about the status of the FDI to ensure that people are cautious about fires especially on high fire danger days. The FDI status on any day also serves as guide for the level of fire preparedness on the Estate.

The FDI is presented as a number between 1 - 100 and then expressed as a colour code to indicate fire danger. Orange and red colours are regarded as very dangerous fire weather days (Annexure 3).

### **3.9 Preparation of Belts**

Refer to Table 1 for preparation of fire belts.

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### **3.10 Neighbours and Their Resources**

Preparation of boundary fire belts by burning should take place in collaboration with neighbours. Refer to the National Veld and Forest Fire Act (Act 101 of 1998) for procedures to follow. Neighbours should also be informed about any burning activities on the Estate. In case of an unwanted fire, neighbours have a legal obligation to assist if life or property is threatened. Annexure 1 display the names and contact details of all neighbours. Annexure 5 gives an indication of the resources available on neighbouring farms.

### **3.11 Responsibilities of Staff Members**

Refer to Annexure 7 for general responsibilities of key role players, w.r.t. fire management.

## **4 FIRE PREVENTION**

The goal of fire prevention is to prevent any unwanted fire ignitions that may cause damaging veldfires. In order to prevent unwanted fires from starting it is necessary to firstly identify possible ignition sources as well as the areas of probable ignition. Once these factors have been identified, mitigation plans/methods should be implemented. Mitigation measures typically includes education of people, engineering of the areas of ignition and enforcing the law should someone not adhere to company rules and legislation.

### **4.1 Education and Training**

Through education and awareness, unwanted fires can be prevented and/or damage caused by them minimized. Staff should be made aware dangerous activities and the risks of unwanted fires. It is therefore important to communicate high FDI conditions to staff. Dangerous work/activities such as welding, for example, should be banned on orange and red FDI days.

The daily FDI reading and colour be displayed in areas where it can be easy observed (Entrance of Estate, residential village and store area).

As part of the protection and prevention tactics, the following training for general staff should take place annually as specified by the goFPA:

- Basic fire fighting
- Basic safety induction

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- First aid level 1 (As stipulated by the OSH Act)
- Basic fire awareness workshops
- Advanced fire management courses are recommended for the owner e.g. Fire boss I & II and Basic Incident Command.

These causes should be scheduled in advance each year and names of staff nominates as well as times of courses displayed and budgeted for. Refer to Annexure 6 for course scheduling.

#### **4.2 Enforcement**

People living and working on the Estate should adhere to the basic fire safety rules laid down by the owner. These may include:

- People should only smoke in designated smoking areas on the farm.
- No open fires should be allowed during orange and red FDI weather.
- Fires should only be made in designated areas. (Ensure availability of water to extinguish sparks).
- All fires on or near the farm should be reported.
- Burning of rubbish in designated areas only.
- Burning material as well as hot ash from fireplaces should be put out with water to ensure that the risk of fire is removed.

#### **4.3 Engineering**

Refer to Table 1, Annexure 18 as well as Chapter 3 for engineering interventions in high risk areas.

#### **4.4 National Veld and Forest Fire Act NVFFA (Act 101 of 1998)**

- All landowners should adhere to all requirements for safe fire management as laid down by the NVFFA.

### **5 SUPPRESSION**

Suppression refers to activities contributing to the extinguishing and prevention of the spread of an unwanted fire. Suppression efforts prioritise the protection of lives, assets and the environment. Suppression includes the following activities:

- Detection: - Unwanted fires have to be identified and reported to the correct people as soon as possible.

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- **Standby:** - During high fire danger season, staff members should be identified who must be available after hours to suppress fires.
- **Mobilisation:** - Resources should be mobilised and deployed rapidly to the fire in an orderly and pre-arranged manner.
- **Initial attack:** - First resources to arrive at the fire should hit the fire in full force to extinguish it while still small.
- **Extended attack:** - If the initial attack fail, the attack are extended to more resources and planning done for an extended period of fire suppression.
- **De-mobilisation:** - Once the fire is controlled, the fire incident commander will release resources in a logic and orderly manner.
- **Patrol & guarding:** - the fire area has to be guarded for an extended period until there is no risk of a flare-up.
- **Post-mortem:** - After the fire is investigated, assessed and documented, the events are discussed amongst role players to prevent a re-occurrence or to improve on performances at the fire.

#### 5.1 Suppression Objectives

Effective suppression of fires can only be done if clear suppression objectives are identified and upheld. Suppression is only possible if all resources are known and ready once a fire is reported. These objectives typically include the following:

- **Be ready to suppress fire during high fire danger periods:** - During high fire danger periods, there should be a team on callout standby to suppress fires after working hours and over weekends. The staff should be divided into at least two teams that can perform standby duty every alternative week. Teams on standby duty should be available close/on the estate and be in a position to react reasonably fast to a fire and be sober and dressed in safety gear. These teams should include a manager, supervisor, drivers, labour and an admin (logistic) person. In case of a fire and under high fire danger conditions, all available staff will be engaged in the fire suppression effort.
- **React to fires fast and extinguish the flames effectively as soon as possible:** - Once the fire alarm has been sounded, staff must proceed to the dispatch area where they can be mobilised. Everyone should arrive at the fire scene as quick as possible with the correct vehicles and tools.

- **Control and Confine the fire to a small area:** - Safety of staff should be observed at all times. Once flames are knocked down, a control line (small belt cleared to mineral soil) should be constructed around the perimeter of the burned area. The width of this control line is dependent on the adjacent vegetation and the current and future weather expected. It should be cleared to mineral soil and be wide enough to prevent any smouldering material inside the burned out area to cross into the adjacent unburnt fuels.
- **Prioritise high-risk areas:** - Once a veldfire is threatening the property, the incident commander has to prioritise the areas/infrastructure that are the most vulnerable and focus fire suppression efforts to protect these. It should be kept in mind that this might include preventing a fire to escape to neighbouring properties to avoid legal accountability.
- **Mop-up the area in a manner that the fire will not restart:** - As soon as the control line has been constructed, a strip of  $\pm 30\text{m}$  from the control line inwards, into the burnt area, should be mopped-up. During this operation, all smouldering material on top of the soil and under the soil (ground fires) should be extinguished completely.
- **Patrol and guard the area until the fire is *dead out*:** - Patrolling should commence immediately after the fire has been controlled. The area should be guarded by staff 24 hours a day for at least 7 days after mopping-up has been completed. It is recommended that the area should be patrolled until the mop-up area has received the equivalent of 25mm water. The 7-day guarding period can be extended or resumed if the incident commander has any suspicion that the fire might reignite.
- **Safety of Firefighters:** - Safety of people should be the highest priority during suppression. All fire fighters at the fire should have received basic firefighting training from an accredited provider. If an untrained person is injured at the fire the person in charge of the fire will be held accountable. All firefighters must wear personal protective gear. Minimum requirements include:
  - Full body cotton overall
  - Leather boots (without metal toe caps)
  - Leather gloves
  - Hat

Additional safety gear is optional.

### **5.2 Basic Suppression Tactics**

If the fire behaviour allows, a direct attack should be attempted with a combination of staff and equipment. This usually implies that the fire is attacked from the rear and when possible, firefighters move up the flanks towards the head of the fire, while patrolling the extinguished perimeter.

As an alternative, if fire behaviour is too dangerous for a direct attack, a defensive approach can be followed by burning out unburned vegetation in front of the fire from internal belts/barriers or attempting to stop fires against internal belts. The burnout tactic is usually practiced if an approaching fire is closing in on the estate coming down the mountain. Fighting fire with fire is very dangerous and should only be used as a last resort. Unexperienced persons should not attempt this.

As a final tactic, fire fighters simply wait for fire at belts/barriers and prevent it from crossing these barriers. This is usually done when there is very few fire fighters. This might also create a potentially dangerous situation if the fire behaviour is very dangerous, and escape routes should be identified and kept open.

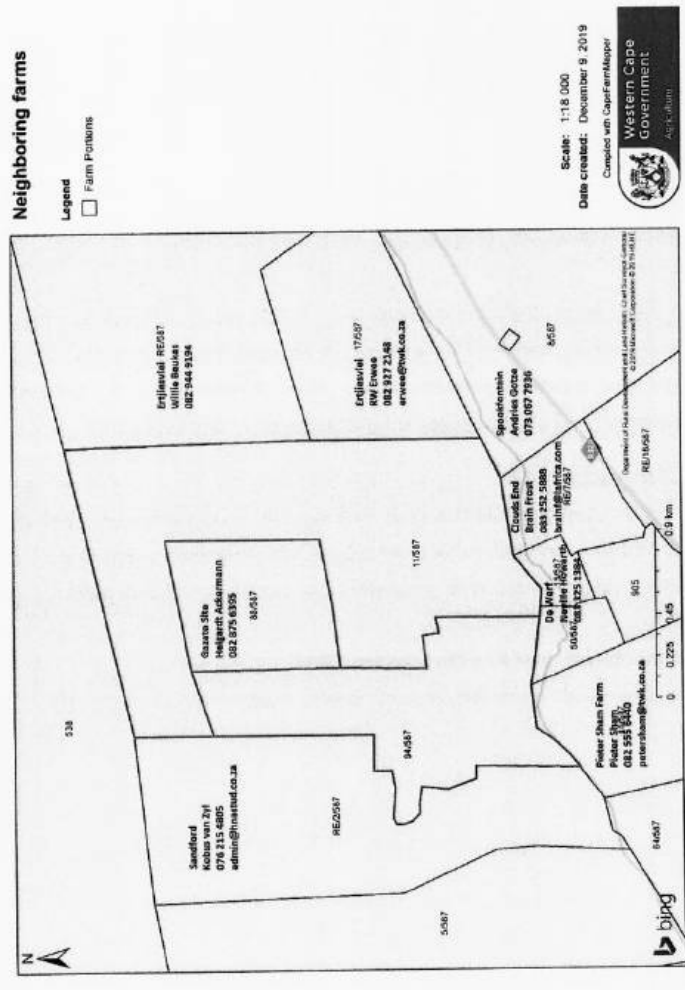
### **5.3 Fire Action Plan**

An action plan should inform each staff member about his/her responsibilities once a fire has been reported. Refer to Annexure 8 for a detailed action plan. In addition, all staff should be trained to be competent in the execution of their tasks.

### **5.4 Maintenance of Fire Management Plan**

This plan should be revised annually before September.

Annexure 1: Neighbouring Farms



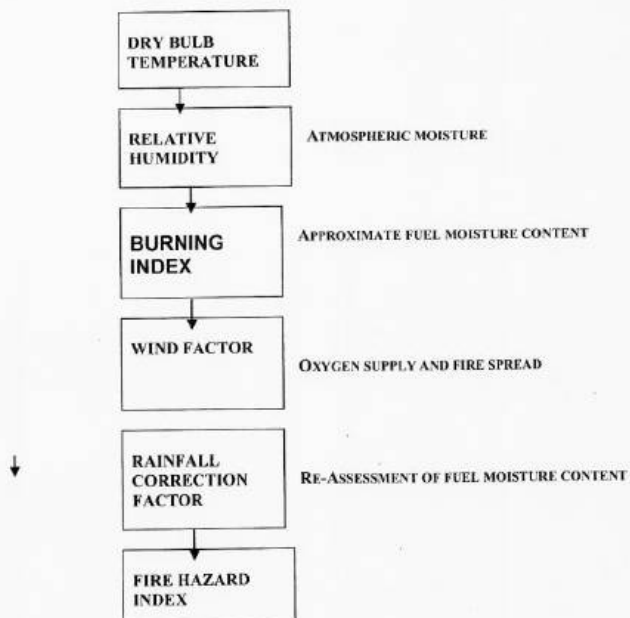
**Annexure 2: Contact Details of Role Players**

<u>Name</u>	<u>Farm name &amp; portion</u>	<u>Tel number</u>	<u>Email address</u>
Kobus van Zyl	Sandford farm (RE/2/587)	076 215 4805	<a href="mailto:admin@hmnastud.co.za">admin@hmnastud.co.za</a>
Pieter Sham	Pieter Sham farm (45/587)	082 555 6440	<a href="mailto:petersham@twk.co.za">petersham@twk.co.za</a>
Neville Howarth	De Werf (50/587 & 15/587) (Luxurious homas)	083 325 1384	
Brain Frost	Clouds End (RE/7/587) – (apple farm below shell blocks)	083 252 5888	<a href="mailto:brainf@iafrica.com">brainf@iafrica.com</a>
Andries Gotze	Spookfontein (8/587) – (where blue gums are cut out)	073 067 7936	
RW Erwee	Ertjiesvlei (17/587) – (Farm producing vine cuttings)	082 927 2148	<a href="mailto:erwee@twk.co.za">erwee@twk.co.za</a>
Willie Beukes	Ertjiesvlei (RE/587) – mostly grazing fields and Fynbos	082 944 9194	
Helgardt Ackermann	Gazate Site (88/587) – (middle of Haygrove Heaven)	082 875 6395	
Louise Wessels	Overberg FPA manager	063 890 7899	<a href="mailto:manager@overbergfpa.co.za">manager@overbergfpa.co.za</a>
Pieter Steenkamp	Local FPA representative	076 274 1800	<a href="mailto:info@overbergfpa.co.za">info@overbergfpa.co.za</a>
	ODM 24h control room	028 425 1690	
	Hermanus fire department (Overstrand)	028 312 2400	<a href="https://overbergfpa.co.za/">https://overbergfpa.co.za/</a>
Pieter Viljoen	CapeNature	082 740 7736	<a href="mailto:pviljoen@capenature.co.za">pviljoen@capenature.co.za</a>
Chris Mariëns	Fynbos trust	082 351 8963	
Dr Odette Curtis	Overberg renosterveld conservation trust	083 551 3341	<a href="mailto:info@overbergrenosterveld.org.za">info@overbergrenosterveld.org.za</a>

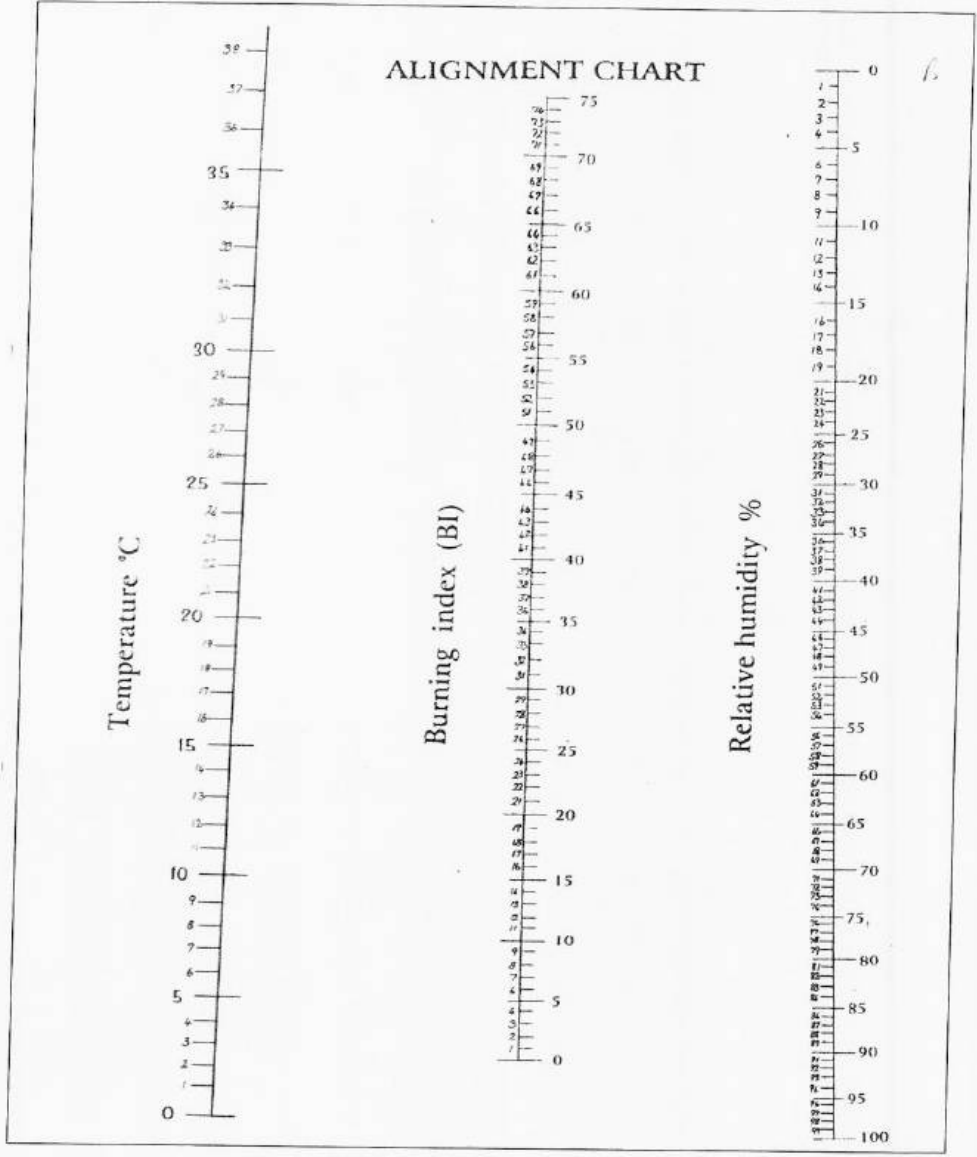
### Annexure 3: Fire Danger Index (FDI)

The fire danger index system is the collection of weather observations and the analysis of the data to give a prediction of the daily fire potential. These predictions must be in line with on-the-spot assessments by experienced field personnel. A measure of the accuracy of the predictions can also be obtained by recording and comparing the damage caused by fires to the fire danger index for the period during which the fire was burning.

The Lowveld FDI system (Official system is SA) is based on the system proposed by Laing. In this system, the index is calculated daily at 10h00 and 14h00. The relative humidity and dry bulb temperature are used with an alignment chart to calculate the burning index. Wind strength provides a spread danger and is added to the index, while the fuel moisture is taken into account by multiplying the index by a rainfall correction factor, the result being the fire danger index (FDI).



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Wind adjustment factors to be added to the Burning Index (B.I.) to calculate the Fire Danger Index.

Wind speed km/hour	Correction factor to be added to B.I.
0-1	0
2	4
3-4	5
5	6
6	9
7-15	10
16	11
17	14
18-24	15
24	15
25	16
26	19
27-31	20
32	21
33	24
34-35	25
36	26
37	29
38-40	30
41	31
42	34
43-44	35
45	36
46	40

Lang's (1978) rainfall correction factors used to adjust the Burning Index to account for antecedent moisture conditions, after adjustment for wind. Wind adjusted burning indices are multiplied by the correction factor to derive a Fire Hazard Index.

$$FDI = (BI + \text{Wind Factor}) \times \text{Rainfall Correction Factor}$$

Rainfall mm	Number of days since rain last fell											
	1	2	3	4	5	6	7-8	9-10	11-12	13-15	16-20	
0.1 - 2.6	0.7	0.9	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
2.7 - 5.2	0.6	0.8	0.9	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
5.3 - 7.6	0.5	0.7	0.9	0.9	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
7.7 - 10.2	0.4	0.6	0.8	0.9	0.9	1.0	1.0	1.0	1.0	1.0	1.0	1.0
10.3 - 12.3	0.4	0.6	0.7	0.8	0.9	0.9	1.0	1.0	1.0	1.0	1.0	1.0
12.9 - 15.3	0.3	0.5	0.7	0.8	0.8	0.9	1.0	1.0	1.0	1.0	1.0	1.0
15.4 - 20.5	0.2	0.5	0.6	0.7	0.8	0.8	0.9	1.0	1.0	1.0	1.0	1.0
20.6 - 25.5	0.2	0.4	0.5	0.7	0.7	0.8	0.9	1.0	1.0	1.0	1.0	1.0
25.6 - 33.4	0.1	0.3	0.4	0.6	0.6	0.7	0.8	0.9	1.0	1.0	1.0	1.0
38.5 - 51.1	0	0.2	0.4	0.5	0.5	0.6	0.7	0.8	0.9	1.0	1.0	1.0
51.2 - 63.3	0	0.2	0.3	0.4	0.5	0.6	0.7	0.7	0.8	0.9	1.0	1.0
63.4 - 76.5	0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0	1.0

FDI Description	Colour	Category	FDI Precaution
SAFE	BLUE	0 - 20	Low fire hazard. Controlled burn operations can normally be executed with a reasonable degree of safety.
MODERATE	GREEN	21 - 45	Although controlled burning operations can be executed without creating a fire hazard, care must be taken when burning on exposed, dry slopes. Keep constant watch for unexpected wind speed and direction changes.
DANGEROUS	YELLOW	46 - 60	Controlled burning not recommended when fire danger index exceeds 45. Assistance should be called in at early stages of a fire. Controlled burning should only attempted with the support of experienced fire managers and sufficient resources.
VERY DANGEROUS	ORANGE	61 - 75	No controlled burning of any nature should take place. Careful note should be taken of any sign of smoke anywhere, especially on the upwind side of the estate. Any fire should be attacked with maximum force at hand. Alert all staff about FDI.
EXTREMELY DANGEROUS	RED	75 <	Alert all staff about FDI. A senior manager should be available at all times in case a fire is reported. No open fires or dangerous activities should be allowed on the estate. All staff and equipment are to be placed on full standby. At first sign of smoke, every possible measure should be taken to bring the fire under control in the shortest possible time. All available support to be acquired immediately.

**Field method to determine FDI**

Put your finger in your mouth, wet it and stick it up in the air to dry:

- 10 Sec = Red FDI
- 15 Sec = Orange FDI
- 20 Sec = Yellow FDI
- 30 Sec = Green FDI
- 40 Sec = Blue FDI

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**Annexure 4: Own Fire Resources**

Item	Recommended	Available
Bakkiesakkie (500l water)	1	1 x 600 l
Water tanker or stored water capacity Min. 1 000 l	1	2 x 1000 l
Fire beaters	10	13
Rakehoes	5	
Knapsack pumps	5	
Slashers	4	
Trained Fire Fighters (Basic firefighting)		24 Trained
Torches	5	
Drip torch plus 20 litre mixture	2	
Radios with spare batteries	15	35
Mobile water pumps	2	
<b>Other</b>		<ul style="list-style-type: none"> <li>• 1x 90kw 4x4 tractor with disc</li> <li>• 1x JCB digger</li> <li>• Quad bikes x 4</li> </ul>

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Annexure 5: Neighbour's Fire Equipment

Item	Recom.	Sandford (RE/2/587) (113ha)	Pieter Sham (45/587) (60ha)	De Werf 50/587 & 15/587 (16.2ha)	Clouds End (RE/7/587) (23ha)	Spookfontein (8/587) (317ha)	Ertjiesvlei (17/587) (59ha)	Ertjiesvlei (RE/5/587) (187ha)	Gazate Site (88/587) (39ha)
Bakkie sakkie (500l water)	1	?	?	?	?	?	1 x 1000 l	2	
Water tanker stored water capacity Min. 1 000 l	1	?	1 x 1500 l	?	2 x 1500 l		2 x 1000 l 1 x 2000 l	1 x 5000 l 1 x 2500 l 1 x 8000 l	1 x 1000 l
Fire beaters	10	?	?	?	10	?	4	3	5
Rakehoes	5	?	?	?	?	?	?	?	?
Knapsack pumps	4	?	?	?	?	?	?	?	?
Slashers	1	?	?	?	?	?	?	?	?
Trained Fire Fighters (Basic fire fighting)		?	?	?	?	?	15 Untrained, only 4 over weekends	16 Trained	?
Torches	5	?	?	?	?	?	?	?	?
Drip torch plus 20 litre mixture	1	?	?	?	?	?	?	?	?
Other		1x JCB							

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**Annexure 6: Training Needs**

NAME	SURNAME	ID No	JOB TITLE	PROVIDER	COURSE NAME	DATE
					Fire Boss I	
					Prescribed burning	
					Basic Fire Fighting	
					Basic Fire Fighting	
					Basic Fire Fighting	
					Basic Fire Fighting	

**Annexure 7: Responsibilities of Staff**

Name	Responsibilities	Activities
Stephan Strauss	Incident commander	Responsible for all fire management functions (Planning, leading, organizing & control). Facilitate fire management activities (protection, prevention and suppression). Strategic and tactical planning, budgeting, fire incident commander, maintenance of fire management plan and welfare of staff.
Asawela	Communications and Administration	Receive and share daily FDI reading, have lists of telephone numbers and contact details of staff, neighbours, fire authorities and emergency services. Responsible to facilitate all communication during fire incident. Keep records of staff training and file all check lists.
Damian	Health & Safety	Order, distribute and check safety clothes of fire fighters, ensure first aid kits are up to date, perform safety checks on fire equipment and tools and keep records, give safety talks to fire fighters, conduct safety meetings.
Herman de Wet	Deputy Incident Commander	Perform management tasks in the absence of the IC, organise 3 x firefighting crews (people, tools and equipment), draw up standby team lists, schedule and control standby during high fire danger periods. Ensure that crews are mobilised and deployed to fire scene.

<b>Alwin Prins</b>	<b>Storeman</b>	Do regular checks on tools and equipment and facilitate maintenance thereof. Keep tools and equipment safe in storage. Manage support equipment and supplies. Keep record of tools and equipment, and store in dedicated building. Perform logistical administration to ensure tools, equipment and supplies are serviceable and available.
<b>Altus, Siphwe &amp; Khonde</b>	<b>Crew leaders 1, 2 &amp; 3</b>	Ensure firefighting crews are prepared and ready in case of fires (health & safety). Lead crew members to perform tasks productive and safe.
<b>Bothwell</b>	<b>Vehicle Logistics</b>	Perform pre-trip checks on fire fighting vehicles for road worthiness and serviceability (pipes, pumps, nozzles, water, fuelled up and hand tools on vehicles). Allocate vehicles and drivers to crew leaders and to other tasks.
<b>Hendrik Prins</b>	<b>Fire Marshall</b>	Regular checks on waterpoints, roads and dams and fire belts. Inspection of all infrastructure (buildings and tunnels) to ensure fire safety. Ensure refilling hoses and water pumps are available and serviceable in the event of fires. Check safety zones and escape routes. Assist with evacuation of staff and seasonal workers during emergency situations.
<b>Edwill Pieterse</b>	<b>Initial attack</b>	Allocate radios and call signs to firefighting crews and other role players. Make sure radio batteries are charged and spare batteries available. Do regular radio checks during high FDI days. Lead initial attack and direct resources at fire.

**Annexure 8: Action Plan for Suppression**

	<b>BLUE (safe)</b>	<b>GREEN (moderate)</b>	<b>YELLOW (dangerous)</b>	<b>ORANGE (very dangerous)</b>	<b>RED (extremely dangerous)</b>
<b>Stephan Strauss (IC)</b> 072 810 4860 <b>Stephan Strauss</b> stephanstrauss@haysgrove.net	None	Regular check on weather	Regular weather check. No further than 1 hour from farm. Must be able to ready staff & equipment within 45 minutes. Inform staff about FDI.	On farm/30min away from farm. In communication with staff. Inform all about FDI.	On farm at all times. Part of standby team. In communication with staff. Toolbox talks with staff. Inform all about FDI. Ensure readiness of staff.
<b>Asawela (Communication)</b>	None	None	Ensure communication system functional	Man communication lines (telephone and radio). Available on farm within 1 hour when needed.	Available on farm. Regular communication checks. Check and report weather & FDI regularly
<b>Damian (Health &amp; Safety)</b>	None	None	None	Safety inspection of fire crews, safety talks.	Safety inspection of fire crews, safety talks.
<b>Herman de Wet (Deputy IC)</b> 082 608 7799 hermandewet@haysgrove.net	None	None	Be aware of whereabouts of crews.	On farm at all times. Crews close to store (equipment). In communication with crew leaders.	On farm at all times. Part of standby team. Ensure all crew members are ready, equipment & tools ready. Regular communication with crew leaders.
<b>Alwin Prins (Storeman &amp; logistics)</b>	None	None	If not on farm, arrange to provide tools if needed.	Test and inspect tools & equipment. Ready for handing out.	Available at store. Test and inspect tools & equipment. Ready to hand out.

<b>Altus, Sipiwe, Khonde (Crew leaders)</b>	None	None	Be aware of whereabouts of crewmembers.	Work close to pick-up point with crews. Ensure crew members are dressed in safety gear.	Gather teams, ready to suppress fires (Food water). Revision of basic fire techniques.
<b>Bothwell (Vehicles)</b>	None	None	Be aware of whereabouts of firefighting vehicles.	Inspection of firefighting vehicles and equipment.	Mechanic on standby. Inspection of firefighting vehicles and equipment.
<b>Hendrik Prins (Fire marshal)</b>	None	None	Aware of whereabouts of workers on estate	Inspect all water refill points. In communication with work force and IC. Inspect infrastructure for fire safety.	Activate water points and dam refill points. Communicate to work force and alert about high FDI. Inspect safety zone and escape routes. Review evacuation procedures. Inspect infrastructure.
<b>Edwill Pieterse (Initial attack)</b>	None	None	30 min from Estate – vehicle with bakkiesakke available.	On farm and in contact with IC, have fire equipment and tank loaded. Do radio checks.	Patrol high risk areas. Work close to pick-up point. Bakkiesakke with helper ready. Ensure communication with all staff members (spare radios with batteries available).

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**Annexure 9: Belts, Blocks & Water Points**



Legend  
Water Points  
Dams  
Belts  
Blocks  
Water Points

0 0.25 0.5 1 km  
Scale: 1:5000  
Data source: August 2019

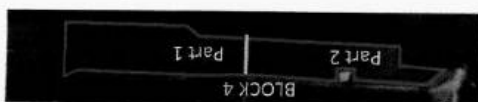
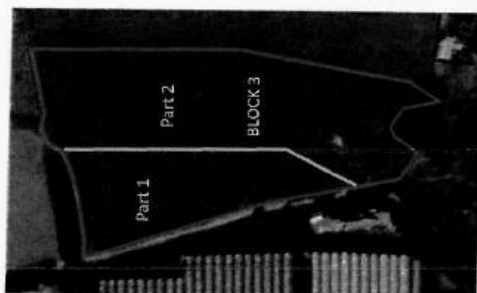
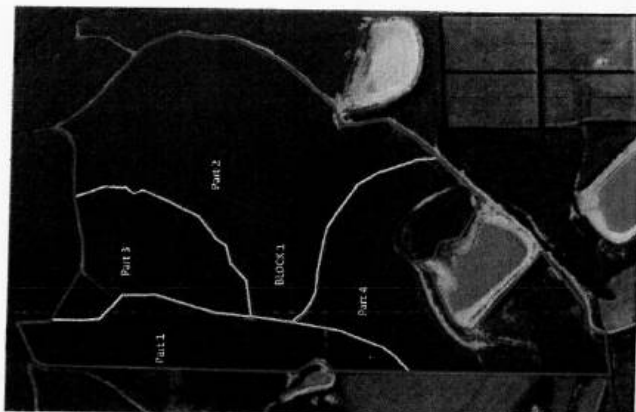


**Annexure 10: Grow Tunnels**



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**Annexure 11: Internal Blocks**

**Annexure 12: Dates of Burning****Blocks and subdivisions of blocks with dates of prescribed burning.**

Block	Sections	Area (ha)	Date	Date	Date	Date
Block 1	Part 1	3	2024	2036	2048	2060
	Part 2	7.8	2020	2032	2044	2056
	Part 3	2.6	2022	2034	2046	2058
	Part 4	5.3	2025	2037	2049	2061
Block 2	Part 1	1.4	2020	2032	2044	2056
	Part 2	2	2024	2036	2048	2060
	Part 3	0.7	2025	2037	2049	2061
	Part 4	1	2022	2034	2046	2058
Block 3	Part 1	1.6	2023	2035	2047	2059
	Part 2	2.2	2021	2033	2045	2057
Block 4	Part 1	0.4	2021	2033	2045	2057
	Part 2	0.4	2023	2035	2047	2059

**Chronological Sequence for Burning all Blocks**

Block	Sections	Date	
Block 1	Part 2	2020	} 9.2 ha
Block 2	Part 1	2020	
Block 3	Part 2	2021	} 2.6 ha
Block 4	Part 1	2021	
Block 1	Part 3	2022	} 3.6 ha
Block 2	Part 4	2022	
Block 3	Part 1	2023	} 2.0 ha
Block 4	Part 2	2023	
Block 1	Part 1	2024	} 5.0 ha
Block 2	Part 2	2024	
Block 1	Part 4	2025	} 6.0 ha
Block 2	Part 3	2025	

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**Annexure 13: Membership Fees for FPA**

**Greater Overberg Fire Protection Association**  
 Fire Station, Long Street, Bredasdorp, 7280. Tel: +2728 425 1690  
 www.overbergfpa.co.za

Haygrove Heaven (Pty) Ltd  
 Mr C. Groenewald  
 PO Box 538  
 Hermanus  
 7280

**Tax Invoice**  
 Vat no: 4360282105  
 Deliver to  
 Haygrove Heaven

Account	Your Reference	Date	Page	Tax Reference	Document No
GO2079	MEMBERSHIP FEES	10/06/2019	1		IN17018

Code	Description	Quantity	Unit	Unit Price	Disc%	Tax	Net Price
0235000	Membership Fees: April 2019 - March 2020					15.00%	1,337.75
	Total: 71.2ha						
	REF: GO2079						

**Banking details:**  
 Overberg FPA  
 Account no: 4074323400  
 Bank: ABSA, Bredasdorp

Sub Total		1,665.00
Discount @	0.00%	0.00
Amount Excl Tax		1,665.00
Tax		252.75
<b>Total</b>		<b>1,937.75</b>

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Annexure 14: Agreements with Neighbours

**MEMORANDUM OF AGREEMENT FOR CLEARING AND  
MAINTENANCE OF A FIRE BELT/BREAK AND COST RECOVERY IN  
THE EVENT OF A FIRE**

Entered into and concluded between

**Haygrove Heaven Portions 11/587 & 94/587**

**hereinafter referred to as Landowner "A", the one party**

**and**

**Sandford farm; Farm number RE/2/587**

**And hereinafter referred to as Landowner "B", the other party**

**A. Preamble**

Wildfires periodically occur in the natural fynbos and karroid / thicket vegetation types that are to be found in the Cape Floristic Region. In terms of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998 as amended) ("the Act") every owner of land has a duty to prevent a fire that originates on his or her land from spreading to any other property. Section 12(1) of the Act requires, amongst others, that landowners prepare and maintain firebreaks on the boundary of his/her land and any adjoining land. Section 12(7) of the Act however makes provision for situations where the optimal firebreak position may not be along a common boundary but rather at a position that is agreed to by the respective adjoining landowners.

In order to facilitate the optimal positioning of the required fire protection measures, the above-mentioned landowners and neighbours have met and mutually agreed upon the position, type and conditions pertinent to the construction and maintenance of the fire protection measures common to both landowners.

Now therefore the parties agree as follows:-

**B. Duration**

This agreement shall be for a period of (10) ten years as from 15 September 2019 and shall continue thereafter until terminated by ninety (90) days written notice by either of the parties hereto.

**C. Alignment**

The required firebreak as stipulated in section 12(1) of the Act will not be created and maintained along the common boundary but, in terms of Section 12(7), will be placed and maintained away from the common boundary along a route as described below and depicted in Annexure 1 respectively;

**D. Description of and reason for repositioned fire-belt/break:****1. Route Description**

The current fire break is located along the West side around a dam on Haygove Heaven farm premises as indicated in the attached annexure as line A,B,C,D. This belt shall be replaced by Belt 2 as indicated and regarded as the principle fire break between Haygrove Heaven Farm and Sandford farm.

The same will apply for the current break E,F on the West boundaries of Haygrove Heaven and will be replaced with Belt 2, 3.

**2. Reasons/motivation (i.e. improved access and utility)**

The reason for the location of the fire break are as follows

- Ease of Accessibility (new location is against a road)
- Cos effective Maintenance
- Improved protection of infrastructure (new belt will include windbreak)
- The actual boundary between the properties is in or directly adjacent to a Wetland at this point with a sensitive ecology (E,F).

**E. Terms and conditions:**

**1. Type**

The said fire belt/break will be prepared and maintained by way of brush cut at least 3-5 meters wide in some parts and a access road in some parts will form part of the break.

Using the road is a result of the block layout and the nature of the commercial crop next to the boundaries – not area to create a specific fire belt alone.

**2. Maintenance cycle**

- 2.1 The said fire belt/break will be maintained, after initial preparation, on a annual basis. The fire belt/break will be brush cutting and the removal of all fuel material will be maintained.
- 2.2 The party conducting the maintenance activities must ensure that the fire belt/break is maintained to the same standard immediately after the initial preparation.

**3. Obligations and Rights**

- 3.1 The costs of preparing and thereafter maintaining, the said fire belt/break will be borne by Haygrove heaven alone. Haygrove Heaven will ensure the upkeep of the boundaries on their premises.
- 3.2 In the case where both parties share the fire break/ belt, neither party shall claim any compensation from the other party for any damage or loss suffered during such preparing or maintenance of a fire belt/break.
- 3.3 In the case where both parties share the fire break/ belt, if either party fail to carry out his obligations in terms of this agreement, the other party reserves the right to prepare or maintain such fire belt/break and to claim such actual expenditure in so doing from the other party.
- 3.4 Either party undertakes to give the other party no less than 30 days prior notice of his intention to prepare or maintain a fire belt/break.

- 3.5 Should any part of the fire belt/break which is to be cleared and maintained as shown on the attached sketch plan (Annexure 1) fall within or adjoining a road reserve of a public road, the party responsible for the supervision of that part of the fire belt/break preparation shall take all necessary precautions for the safety of any members of the travelling public using the said road during such preparation or maintenance activities

**F. Special Conditions**

Actions during a fire

1. Both parties agree to not hold the other party liable for any damages or loss suffered should a natural fire start in the area, or traverse the area, between the actual boundary and the agreed upon position of the fire-belt.
  2. Both parties will assist with the combating of a fire along the agreed upon fire-belt should a fire be approaching the fire-belt from one side or the other (*as required by the Act*).
- G. This agreement does not release the parties to this agreement from any other obligations defined in the Act or any other relevant legislation.**
- H. Any change in ownership of the properties applicable to this agreement will render this agreement null and void and this agreement must be re-negotiated with the new landowner.**
- I. No variation, addition, deletion, or agreed cancellation shall be of any force or effect unless in writing and signed by or on behalf of the Parties hereto.**

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**J. Notice and Domicilia**

The Parties choose as their respective *domicilium citandi et executandi* for the purpose of giving or sending any notice provided for or necessary in terms of this Agreement, the following addresses -

**Landowner "A"**

Haygrove Heaven

Sean Tager

083 301 8747

**Landowner "B"**

Sandford farm; Farm number RE/2/587

Manager – Kobus van Zyl

076 215 4805

**THUS DONE AND SIGNED AT STANFORD this ..... day of ..... 2019**

**AS WITNESSES**

1.....

2.....

**THUS DONE AND SIGNED AT Cape Town this ..... day of ..... 2019**

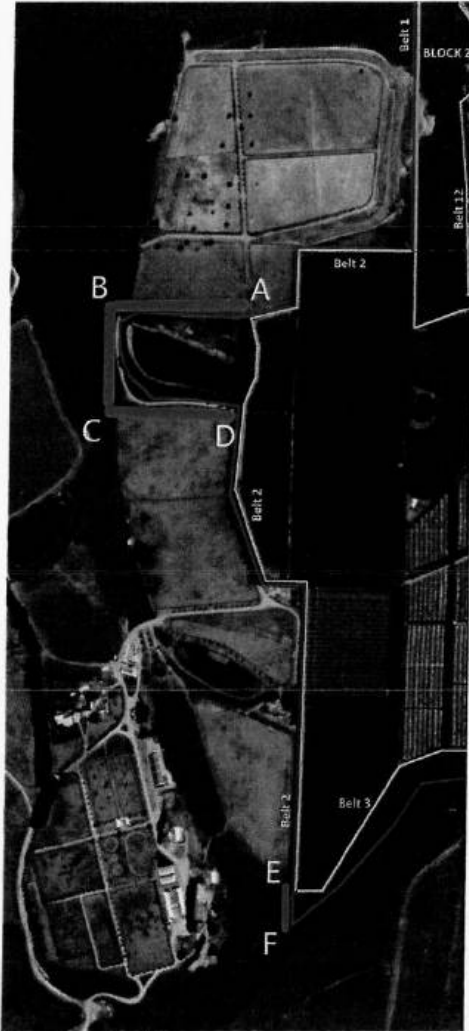
**AS WITNESSES**

1.....

2.....

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Annexure 1: Exclusion from fire belt



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**Annexure 15: Greater Overberg Fire Protection Association Rules****Greater Overberg Fire Protection Association**

Fire Station, Long Street, Brackenford, 7290 | Tel: +2728 425 1900  
www.goverbergfpa.co.za

**GREATER OVERBERG FIRE PROTECTION ASSOCIATION RULES**

These rules and regulations are to be adhered to by members of the Greater Overberg Fire Protection Association (goFPA) and where applicable will apply to ALL landowners residing within the goFPA area of operations in terms of the National Veld & Forest Fire Act 101 of 1998 (NV&FFA).

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General Manager: Louise Wessels

Fire Protection Officer: Reinard Geldenhuis  
Chairman: Dr P Cluver

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## 1 Terminology

- 1.1 **Bakkie Unit:** A water tank (250 - 700 litres) and pump which can easily be slipped onto the back of a bakkie. Or **Spray cart** with minimum of 500 litre capacity.
- 1.2 **Rake Hoe:** Hand held tool with a dual purpose head. Used to clear control lines during a fire.
- 1.3 **Fire beaters:** Hand held fire-fighting tool consisting of a wooden handle and a flexible flat rubber head.
- 1.4 **Knapsack Pump:** A hand operated 15 – 20 litre capacity water pump that is worn on the back of a firefighter.
- 1.5 **Drip Torch:** A hand held device for igniting fires. It consists of a fuel tank, a wick and nozzle through which the burning fuel is "dripped" onto vegetation.
- 1.6 **Landowner:** An "owner" means any landowner with a title deed as well as a lessee or other person legally controlling land, the executive body of a community, the manager of State land, and the chief executive officer of any local authority, or their duly appointed agents in the cases of State land ( including SANDF land) and local authorities.
- 1.7 **Contractor:** a person/company who is hired to perform work or to provide goods at a certain price or within a certain time.
- 1.8 **Member:**
  - 1.8.1 Any landowner in the area of the FPA may at any time become a member. Every municipality or organ of State must be a member.
  - 1.8.2 All land owners as defined by the Act and within the domain of the FPA can become members.
  - 1.8.3 All land owners, lessees, state entities, municipalities, or communities, who have applied for membership, completed and submitted membership application forms and who have paid their membership fees are members

## 2 Membership

Membership, member's duties and termination of membership is defined in Clause 8, 9, 10 and 11 of the goFPA Constitution.

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### 3 Housekeeping

It is the responsibility of every member to ensure that the buildings on their property are protected and made safe against the danger of fire.

### 4 Fire Management Plan/Hazard assessment

Members will be required to carry out an annual fire hazard assessment by 30 September each year. These hazards must be included in and addressed by the Integrated Management Plan of their Fire Management Unit (FMU).

### 5 Compliance with Fire Danger Rating System

Members must be conversant with the daily fire danger rating system and comply with the instructions and rules pertaining to the danger ratings.

Tip: During Fire Season the FDI (week days) will be posted on our website ([www.overbergfpa.co.za/FDI](http://www.overbergfpa.co.za/FDI)) or call our office at 028 425 1690.

### 6 Cooking/Warming Fires and designated fireplaces

- 6.1 Fires used for preparing meals, beverages or for warmth during cold conditions in the veld by farm or other workers must be located in fire-safe areas only.
- 6.2 Fires may not be left unattended and must be properly extinguished with water after use.
- 6.3 Fires may not be made:
  - a. If the weather conditions are unsuitable (fire danger rating is high: orange or red).
  - b. In areas that have not been sufficiently cleared of combustible material.
  - c. In areas with a deep litter layer.

- d. In no-fire zones as indicated by the landowner.
- e. Near thickets of dense vegetation or any other combustible material.
- f. In areas near wetlands with a thick peat layer.
- g. If the fire is to be left unattended.

6.4 Domestic/social fires used outside of residences must be managed carefully in designated safe areas.

6.5 Where situations arise that people have to prepare domestic meals on an outside fire, they must be informed in this regard by the property owner.

The landowner is responsible to inform contractors of this rule and remains responsible for the actions of said contractors.

**Tips:**

- a. Include a no fire policy into Contractor contracts; that Contractors have beaters & water on site
- b. Fire breaks around worker homes and open social areas

## 7 Firebreaks

### 7.1 Legislation

- According to the National Wild and Forest Fire Act (Section 12) every land owner on whose land a Wild fire may start or burn or from whose land it may spread must prepare and maintain a firebreak on his or her side of the boundary between his or her land and any adjoining land.
- According to Section 15 of the Act, Exemption from duty to prepare and maintain firebreaks may be granted by the Minister for good reason. Such an exemption may be subject to conditions. The Minister must consult the FPA before granting exemption.

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### 7.2 Definition of a firebreak

- A firebreak is a natural or constructed barrier utilized to stop or check fires, or to provide a control line from which to work.

### 7.3 Firebreak requirements

According to Section 13 an owner who is obliged to prepare and maintain a firebreak must ensure that, with due regard to the weather, climate, terrain and vegetation of the area:

- Is wide enough and long enough to have a reasonable chance of preventing a wildfire from spreading to or from neighbouring land.
- Will not cause soil erosion.
- Is reasonably free of inflammable material capable of carrying a wildfire across it.

**NB:** Always take into account that some natural (or human made) veld conditions for example, recently burned veld (younger than 4 years), a natural Vlei, a dam or a river, old farmlands and floodplains can be regarded as a natural firebreak.

**Table 1** shows the various terrain or land type relevant to this area and the width and method to create firebreaks.

Land Type	Prescribed width (meters)	Recommended rotation	Recommended method
Stubble land/fallow land	2 m	Annually	Plough , 'grop" on disturbed land only; cultivated by perennial none burnable crop
Fynbos/Natural veld agricultural land interface (except	Width = 2,5 x height (minimum = 5 m)	Initiation date: when the veld is 4 years old	Plough/grop on disturbed land only; Brush cut; hoeing allowed on slopes

Land Type	Prescribed width (meters)	Recommended rotation	Recommended method
stubble and Fallow land)		Maximum age of break: 5 years	less than 30 degrees only.
Road verge. (Provincial and district roads)	3 m on either side	annually	Plough, "grop" on disturbed land only; brush cut, hoe, burn.
Alien infestations	Width = 2,5 x height (minimum = 5 m)	Dependent on the adjacent Land Type	Crop; brush cut; hoe (dependent on the adjacent land Type)
Labour cottages, Farm infrastructure and homesteads	10 m	annually	Plough, "grop" on disturbed land only, brush cut, hoe
Urban Wildland Interface	20 m	Dependent on the adjacent Land Type	
Formally Protected Areas, Formal Forestry Plantations	As per protection (Fire break) plans approved by the FPO		

## 8 Prescribed burning

- 8.1 Members intending to conduct a prescribed burn must obtain a **Burning Permit** from the Fire Department to conduct the burn.
- 8.2 Neighbors and the Fire Protection Officer should be notified at least 24 hours before any fire is lit, and weather conditions should be monitored.
- 8.3 Final permission must be obtained from their local Fire Department the morning prior to the burn taking place.
- 8.4 A responsible person should be in attendance for the whole time a fire is lit and for a suitable mopping up period.
- 8.5 Members must observe all conditions of their Burning Permit

Tip: Burn permit applications can be downloaded from our website  
[www.overbergfpa.co.za](http://www.overbergfpa.co.za)

## 9 Minimum fire-fighting requirements

- 9.1 All members must comply with Chapter 5 of the NV&FF Act by having equipment, protective clothing and trained personnel as is reasonable for the extent of the member's property.
- 9.2 The Fire Services has the right to remove people from the fire, at their discretion, should they not have sufficient personal protective equipment.
- 9.3 Non-compliance to any or all of these minimum requirements (Table 2) have to be supported by the relevant FMU and approved by the Fire Protection Officer (FPO).
- 9.4 All members must ensure that in their absence there is a responsible person present on or near the property who will assist in extinguishing the fire and take reasonable steps to alert the FPO and neighbouring landowners/their agents.

**Table 2: Minimum Fire fighting equipment**

Property Size (ha)	Bakkie Unit/spray cart Min 500 €	Water tanker or stored water capacity Min. 1 000 €	Water tanker Min. 2 000 €
1 – 20	Avail. in 15 min*	Limited to an identified water source	NIL
20 -100	Avail. in 15 min*	1	NIL
100 - 500	1	1	NIL
500 – 1 000	1	1	NIL
1 000 – 4 000	1	NIL	1
4 000 – 10 000	1	NIL	1
Sawmill / Plantation	1	NIL	1

\* Must have access to a unit on a pre agreement with neighbours or FMU

**Please note** on Red FDI days a responsible and contactable person has to be on or near the property.

## 10 Training

10.1 Members/occupiers of land or their staff performing fire-fighting must partake in a basic fire-fighting course by an FPA approved Training Institution.

10.2 In-house refresher training must be conducted by the owner or his representative before 1 December each year.

Tip: Contact the FPA office to access training

## 11 Reporting Fires

11.1 Members must report all fires to the **Overberg Control Centre (028 425 1690)** or **Overstrand Fire and Rescue (028 312 2400)** and to the relevant Fire Management Unit (FMU) leader and neighbours.

Tip: FMU maps, Members and leader information on the FPA website [www.overbergfpa.co.za](http://www.overbergfpa.co.za) or email: [info@overberfpa.co.za](mailto:info@overberfpa.co.za)

## 12 Members' duties in respect of fire fighting

- 12.1 A member and / or landowner who becomes aware of a fire must—
- a. Report the fire to the Fire Brigade (ODM 24h control room 028 425 1690 or Overstrand 028 312 2400), and
  - b. Notify the FMU leader or, failing him or her, the FPA office , and
  - c. The owners of adjoining land; and
  - d. Do everything in his or her power to stop the spread of the fire.

- 12.2 A member and / or landowner who has reason to believe that a fire on any land may endanger life, property or the environment, may, together with any other person under his or her control, enter that land or land to which the fire can spread in order to prevent that fire from spreading or to extinguish it.

Tip: It is recommended that members ensure that **access routes** are identified and available for fire fighters and their vehicles to use.

### 13 Operational response and management/Incident command

- 13.1 Members must adhere to the firefighting command structure as per the goFPA Fire Management Plan and be conversant with the chain of command and communication procedures for your area.
- 13.2 Members must be aware that the CFO or his delegate will assume command upon arrival.
- 13.3 Members must verbally hand over the incident to the FPO and inform all other active participants at the fire of any specific danger areas.

### 14 Actions after fires

- 14.1 The perimeter must be patrolled and any smoldering material within 5m of the perimeter of the fire extinguished (Patrolling is especially necessary where underground fires may have occurred e.g. in dense litter or marshy ground.)
- 14.2 The FPO may conduct a fire debrief when necessary to discuss the actions during the fire especially where the fire spread across multiple properties.
- 14.3 Members should make every effort to attend debriefs of fires that they were involved in or were threatened by.

## 15 Communications

- 15.1 Members must ensure that some form of communication is achieved with their staff on the fire scene.
- 15.2 Cell phone numbers/Contact details of all members must be updated with the FPA as soon as reasonably possible after it has changed.
- 15.3 Members should identify and establish lines of communication once they arrive at a fire.

## 16 Limitation of Liability

- 16.1 Neither the goFPA nor any other person related thereto is liable for any damage or loss caused by—
  - a. The purported exercise of any power or performance of any duty; or
  - b. The failure to exercise any power or perform any duty,
- 16.2 In terms of these Rules and Regulations (to be read in conjunction with duties and responsibilities as contained in the Act), unless the goFPA or related person responsible did so—
  - a. In bad faith, if it relates to a power or duty in terms of Chapter 3 of the Act; or
  - b. Negligently or in bad faith, (as an FPA or as an appointed agent) in any other part of the Act.

## 17 Enforcement

The following will be the enforcement officers regarding provisions under the NV&FF Act, and the rules of the FPA as applied within the area of the FPA:

- a. The Fire Protection Officer
- b. The Fire Chief Officer of the ODM and Overstrand
- c. Any person delegated by a or b above.

End of document.

**Annexure 16: Application for Burn Permit**

	<b>OFFICE of THE CHIEF FIRE OFFICER</b> PO BOX 20 HERMANUS 7200 Tel: 028 313 5052 Fax: 028 313 1493 Email: fireadmin@overstrand.gov.za	
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**APPLICATION FOR PERMIT TO DO CONTROLLED BURNING OVERSTRAND  
COMMUNITY FIRE SAFETY BY-LAW: ARTICLE 35(4)**

**AANSOEK OM 'n PERMIT OM BEHEERDE BRAND UIT TE VOER OVERSTRAND  
GEMEENTSKAPSBRANDVEILIGHEID ORDINANSIE 35(4)**

PROPERTY DETAILS EIENDOM BESONDERHEDE						
Name of Property <i>Naam van Eiendom</i>		Mark Area:	Gansbaai	Stanford	Hermanus	Kleinmond
Farm Number <i>Plaasnommer</i>		Erf:				
OWNER'S DETAILS EIENAAR SE BESONDERHEDE						
Person responsible for account <i>Persoon verantwoordelik vir rekening</i>						
Owner <i>Eienaar</i>						
Identity number <i>Identiteits Nommer</i>		Contact number <i>Kontak Nommer</i>				
Postal Address <i>Pos Adres</i>						
Physical Address <i>Fisiese Adres</i>						
RESPONSIBLE PERSON VERANDWOORDELIKE PERSOON						
Person in control of the fire <i>Persoon in beheer van die brand</i>						
Person Name <i>Persoon Naam</i>						
Contact number (cell) <i>Kontak nommer (sell)</i>						
Email address <i>Epos adres</i>						
Radio Frequency <i>Radio Frekwensie</i>						
BURN AREA AND FLORA BRAND AREA EN PLANTEGROEI						
Reason for burning <i>Rede vir die brand</i>						
Type of vegetation <i>Tipe plantegroei</i>						
Size of burn area <i>Grootte van brand area</i>						Hectares <i>Hektar</i>
Rare and endangered species <i>Skaars en bedraigde spesies</i>						
Exotic species present <i>Indringer spesies teenwoordig</i>						
Age of the veld/vegetation <i>Ouderdom van veld/plantegroei</i>		Height <i>Hoogte</i>				

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Percentage of block <i>Persentasie van blok</i>		Total number of heaps <i>Totale getal hope</i>	
--	--	---	--

Sufficient protection around area <i>Genoegsame beveiliging om area</i>		
--	--	--

List danger flanks and reasons for it (eg old veld, alien infestation, mountain fynbos etc)  
*Lys gevaar flanke en die redes daar voor (bv. Ou veld, uitheemse plantegroei, berg fynbos ens.)*

RESOURCES AT BURNING <i>HULPBRONNE TYDENS BRAND</i>		
Description <i>Beskrywing</i>	Amount: Own <i>Getalle: Eie</i>	Amount: Ander <i>Getalle: Ander</i>
Adequate Personal <i>Genoegsame Personeel</i>		
Fire Beaters <i>Vuurplakke</i>		
Tankers: < 1000 L <i>Tenders: &lt; 1000 L</i>		
Tankers: > 1000 L <i>Tenders: &gt; 1000 L</i>		
Water pumps with hoses <i>Waterpompe met pype</i>		
WOF <i>WOF</i>		
Overstrand Munic or District <i>Overstrand Munis of Distrik</i>		
Other <i>Ander</i>		

LIST OF AUTHORITIES / PERSONS THAT WILL BE NOTIFIED <i>LYS VAN INSTANSIES / PERSONE WAT IN KENNIS GESTEL MOET WORD</i>			
NOTICE: The Applicant must inform all the relevant Authorities / Persons, fourteen (14) days prior to burning and on the day of burning before it starts. This is for example Overstrand Municipality Fire Department, the Fire Marshall of the area, Neighbours, Fire-Lookout Towers in vicinity and Fire Protection Officer. <i>KENNISGEWING: Die Aansoeker moet al die betrokke Instansies / Persone in kennis stel, veertien (14) dae voor die dag van brand, asook die dag van brand, voor die brandwerk begin. Dit is bv. Overstrand Brandweer, die Sal Leier van area, Bure, Vuur uitkyk punte in die omgewing en die Brand Beskerdings Beampte.</i>			
Name <i>Naam</i>	Alliance to Property <i>Verbinenis tot Eiendom</i>	Contact Number <i>Kontak Nummer</i>	Sign <i>Teken</i>
If list is longer, attach extra sheet <i>Indien die lys langer is, heg aparte bladsy aan</i>			

LEGEND INDEX	
<b>Road</b> <i>Pad</i>	
<b>House or Building</b> <i>Huis of Gebou</i>	
<b>Brigade Vehicle</b> <i>Brandweer Voertuig</i>	
<b>Vehicle: Traktor / Trailer / Digger loader / Other</b> <i>Voertuig: Trekker / Sleepwa / Stootskrapeer / Ander</i>	
<b>River</b> <i>Rivier</i>	
<b>Railway Line</b> <i>Spoorlyn</i>	
<b>Fence</b> <i>Heining</i>	
<b>Hydrant</b> <i>Brandkraan</i>	
<b>Mountain Range</b> <i>Berge</i>	
<b>Dam</b> <i>Dam</i>	
<b>Bridge</b> <i>Brug</i>	
<b>Wind Direction</b> <i>Wind rigting</i>	

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USE THIS PAGE FOR SKETCH OF AREA WHERE CONTROLLED BURN WILL OCCUR. GEBUIK HIERDIE  
BLADSY VIR DIE SKETS VAN DIE AREA WAAR BEHEERDE BRAND SAL GEDOEN WORD.

Supply a map or sketch of the block to be burned as well as immediate surrounding area. Indicate:  
*Voorsien 'n kaart of skets van area waar brand gaan plaasvind so wel as om die onliggende area. Dui aan:*

1. North / Noord
2. Flanks / Flanke
3. Access routes / Toevoer paaie
4. Dams for replenishment / Ligging van damme vir water behaal
5. Danger areas / Onliggende gevaar areas
6. Veld age on perimeter of blocks / Ouderdom van veld op buite grense van blokke
7. Total area in km<sup>2</sup> / Totale area in km<sup>2</sup>

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I,  as owner/manager and responsible person for the above mentioned burn. I hereby declare that all information given is correct and that personnel and equipment as indicated in this application will be present during and after the burn. I also realize that I accept full responsibility for the burn and its consequences and that the burn will be guarded for a minimum time of 24 hours and until it is completely out and cold.

Ek  as eienaar/bestuurder en verantwoordelike persoon vir bogenoemde brand. Hiermee verklaar ek dat alle gegewens in hierdie aansoek is korrek en dat alle personeel en toerusting in hierdie aansoek aangedui sal gedurende die brand op die toneel wees. Ek is bewus dat ek volle verantwoordelikheid vir enige gevolge wat deur die brand so ontstaan en dat die brand 'n minimum van 24 uur sal oppas totdat dit uit en koud is.

\_\_\_\_\_  
**Signature**  
*Handtekening*

\_\_\_\_\_  
**Name in print**  
*Naam in drukskrif*

\_\_\_\_\_  
**Date**  
*Datum*

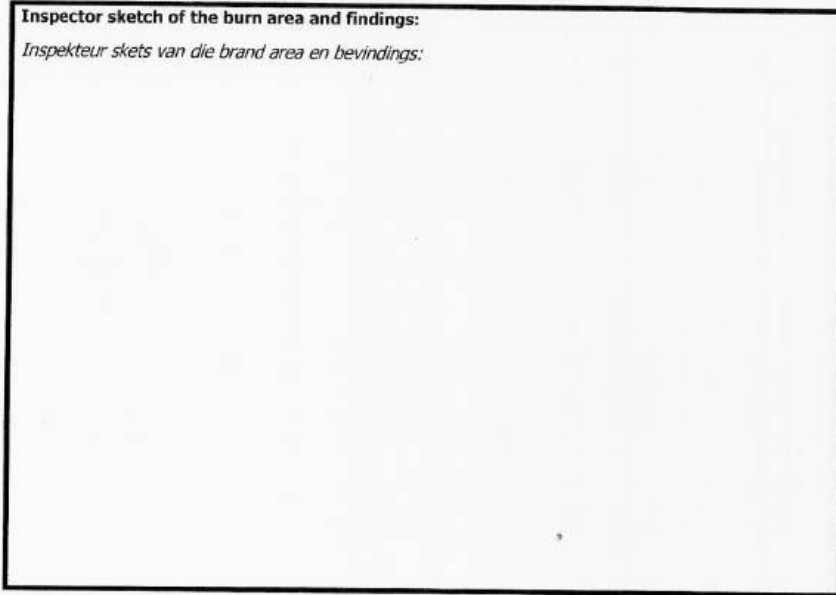
FOR OFFICE USE ONLY / SLEGS VIR KANTOORGEBRUIK		
<b>REMARKS BY DELEGATE: OPMERKINGS DEUR GEMAGTIGDE</b>		
<b>Application is</b> <i>Aansoek word</i>	Approved / <i>Goedgekeur</i>	Not approved / <i>Afgekeur</i>
<b>Reason for not approved</b> <i>Redes vir afkeur</i>		
<b>Permit issued by</b> <i>Permit uitgereik deur</i>	<b>Title</b> <i>Titel</i>	<b>Area</b> <i>Area</i>

<b>CONTROL BURN PERMIT INSPECTOR'S REPORT BEHEERDE BRAND PERMIT INSPEKTEURS VERSLAG</b>		
<b>Is the firefighting equipment of the applicant adequate for the Task?</b> <i>Is die brandbestryding toerusting van die aansoeker voldoende vir die taak?</i>		
<b>Is the applicant a member of the local FPA?</b> <i>Is die aansoeker 'n lid van die plaaslike FPA?</i>		
<b>Are there adequate fire breaks in place on the property and proposed burn area (in terms of the VFFA)</b> <i>Is daar voldoende voorbrande in plek op die eiendom en die voorgestelde brand area (in terme van die VFFA)</i>		
	<b>Width</b> <i>Breedte</i>	<b>Condition</b> <i>Toestand</i>
<b>Property</b> <i>Eiendom</i>		
<b>Proposed burn area</b> <i>Voorgestelde brand area</i>		
<b>Are there vegetation risk areas within 50m of the proposed burn area?</b> <i>Is daar plantegroei risiko areas binne 50m van die voorgestelde brand area?</i>		
<b>State type of risk eg. Fynbos, Plantation, Vineyard</b> <i>Verklaar tipe risiko? Bv. Fynbos, Plantasie,</i>		
<b>Are there buildings that can be considered a risk within the area?</b> <i>Is daar geboue wat 'n risiko in die gebied kan oorweeg word?</i>		
<b>State the type of building and distance from proposed burn area:</b> <i>Verklaar die tipe geboue and afstand van die voorgestelde brand area:</i>	<b>Buildings</b> <i>Geboue</i>	<b>Distance</b> <i>Afstand</i>

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**Inspector sketch of the burn area and findings:**

*Inspekteur skets van die brand area en bevindings:*



**Inspector Report**  
*Inspekteur Verslag*


\_\_\_\_\_  
**Signature / Handtekening**

\_\_\_\_\_  
**Date / Datum**

**Annexure 17: Veldfire Risk and Hazard Assessment Form (Infrastructure)**

Element	Points	Score	Notes
<b>A. Means of Access</b>			
<b>1. Entry &amp; exit roads</b>			
a. Two or more roads in/out	0		
b. One road in/out	7		
<b>2. Road width</b>			
a. More than 6 m	0		
b. More than 6 m but less than 7 m	2		
c. Less than 6 m	4		
<b>3. All-season road condition</b>			
a. Surfaced road, grade less than 20°	0		
b. Surfaced road, grade greater than 21°	2		
c. Gravel, grade less than 20°	2		
d. Gravel, grade greater than 21°	5		
<b>4. Municipal Fire Brigade service access</b>			
a. Less than 9 m with turnaround	0		
b. More than 9 m with turnaround	2		
c. Less than 9 m with no turnaround	4		
d. More than or equal to 9 m with no turnaround	5		
<b>5. Road signs</b>			
a. Present and reflective	0		
b. Present but no reflective	3		
c. Not present	5		
<b>B. Vegetation (Fuel Models)</b>			
<b>1. Characteristics of dominant vegetation within, adjacent to and on property</b>			
a. Light (alpine grasses, coastal fynbos)	5		
b. Medium (short shrub and fynbos, moist savanna, gum, pine and wattle plantation)	10		
c. Heavy (tall grass, mature mountain fynbos, dense woody alien plant invaders)	20		
<b>2. Defensible space</b>			
a. More than 30 m of vegetation treated around property	1		
b. 22m to 30 m of vegetation treated around the property	3		
c. 10 m to 21 m of vegetation treated around the property	10		
d. 9 m of vegetation treated around the structure(s)	25		
<b>C. Dominant topography within 100 m of structures</b>			
1. Slope less than 5°	1		
2. Slope 6° to 10°	4		
3. Slope 11° to 15°	7		
4. Slope 16° to 20°	8		
5. Slope greater than 20°	10		
<b>D. Additional rating factors (rate all that apply)</b>			
1. Topographical features that negatively affect veldfire behaviour i.e. hot and dry northern slope aspects, gullies, kloofs	0-5		
2. Sources of possible ignition that occur within the area assessed. Rate severity on a scale of 1 to 5.			
• Frequent lightning	0-5		
• Railways	0-5		
• Mountain passes	0-5		
• Power lines	0-5		
• Picnic and camping sites	0-5		

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3. Areas that are periodically exposed to unusually severe fire weather and strong dry winds	0 - 5		
4. Neighbour boundary density factor, or potential sources of accidental ignition (add number of properties or neighbours per km)			
• Less than 1 per km	1		
• 2-4 per km	2		
• 5-7 per km	3		
• 7-10 per km	5		
• More than 10 per km	10		
<b>E. Dominant roofing type</b>			
1. Tin	0		
2. Slate or tile	3		
3. Asbestos	15		
4. Thatch	25		
<b>F. Dominant building construction type</b>			
1. Materials (dominant)			
a. Non-combustible/fire resistant walls, eaves & deck (stoep)	0		
b. Non-combustible/fire resistant wall, combustible deck (stoep)	5		
c. Combustible wall and deck (stoep)	10		
2. Building distance from the nearest slopes of 15° or more			
a. More than 10 m to slope	1		
b. Less than 10 m to slope	5		
<b>G. Available fire protection</b>			
1. Water source availability			
a. Pressurised water source availability	0-1		
b. Stand alone pump	2		
c. Non-pressurized water source availability (off site)	3-5		
d. Water unavailable	10		
2. Organised response resources			
a. Station is less than 8 km from structure	1		
b. Station is more than 8 km from structure	3		
3. Fire detection facility			
• Camera monitored 24 hour	1		
• Manned lookout	2		
• Alternative plan	4		
• Satellite	6		
• None	10		
<b>H. Membership of Fire Protection Association/ FireWise community</b>			
1. Yes	0		
2. No	20		
<b>I. Safety zone</b>			
1. Does the community have a safety zone			
a. Barrier zone: 1.5 x the heights of the fuel. Refuge (FireWise) building (sufficient size), which is fire safe in a clearance, with very low fuel, with open space that is more than twice the height of surrounding vegetation	0		
b. Barrier zone: less than 1.5 x the height of the fuel. No building.	10		
c. No Safety or evacuation zone	20		
<b>Total:</b>			

	Total Points	Risk Assessment
1	Less than 40	Low Risk
2	Between 40 and 64	Moderate Risk
3	Between 65 and 109	High Risk
4	Greater than 109	Extreme Risk

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**Annexure 18: Safeguarding Houses From the Threat of Wildfire**



TP - P. (Theod) (H. Olivier)

Annexure F/2

Directorate: Development Management  
Region 1

**REFERENCE:** 16/3/3/6/E2/27/1350/19

**ENQUIRIES:** Ms. Saa-rah Adams

**DATE:** 2019 -11- 06

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

FILE NO:	PTN 11/587 ✓
	Hemel & Aarde
SCAN NO:	PTN 11
COLLABORATOR NO:	1351481

**Attention: Mr. S. Müller**

Tel: 028 313 8900

Fax: 028 313 2093

Dear Sir

**RE: APPLICATION FOR DEPARTURE AND AMENDMENT OF A CONDITION OF APPROVAL ON THE REMAINDER OF PORTION 11 OF THE FARM HEMEL AND AARDE NO. 587, CALEDON**

- The abovementioned document dated 8 October 2019 as received by this Department on 10 October 2019 and the Department's correspondence dated 21 October 2019, refer.
- Upon review of the information submitted to this Department, the following is noted:
  - Based on available mapping information sources, the site is comprised of Elim Ferricrete Fynbos, an ecosystem categorised as "Critically Endangered" in terms of section 52 of the National Environmental Management: Biodiversity Act (NEMBA), 2004. The area where the proposed development will be located is on previously cultivated areas and falls outside Critical Biodiversity and Ecosystem Support Areas.
  - The property is located within 5km of Babilonstoring Nature Reserve.
  - The current zoning of the property is Agriculture Zone 1: with an approved consent use for intensive horticulture.
  - The land use application is for an amendment of a condition of approval to allow for the expansion of tunnels from 13.8209ha to 33.9871ha including a departure from the existing building lines and a departure from the maximum 0.5ha allowable floor space to allow a floor space of 35.0663ha.
  - The proposal entails the expansion of intensive horticulture tunnels on the property to increase the agricultural productivity of the farm.

6th Floor, 1 Dorp Street, Cape Town, 8001  
Tel: +27 21 483 0773 Fax: +27 21 483 3089  
Email: Saa-rah.Adams@westerncape.gov.za

Private Bag X9086, Cape Town, 8000  
www.westerncape.gov.za/eadp

- The site is transformed by agricultural activities and the proposed development falls outside of any environmental features of a sensitive nature on site.
3. The Department has the following comments regarding the proposal and information provided. Your attention is drawn to the listed activities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended) and Listing Notices 1, 2 and 3. Based on the information provided, the proposed departure and amendment of a condition of approval to allow for the development of funnels on land disturbed by agricultural practices do not constitute a listed activity. Environmental Authorisation is therefore not required from this Department prior to commencement with the development.
  4. Please note that should any revision of the proposed development constitute a listed activity(ies) in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in Listing Notices 1, 2 and 3, an application must be submitted and environmental authorisation obtained before such activity(ies) may commence.
  5. The applicant is reminded of his/her general duty of care and the remediation of environmental damage, Section 28(1) of NEMA specifically states that – "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."
  6. Please note that the applicant must comply with any other statutory requirements that may be applicable to the undertaking of the activity.
  7. Your interest in the future of our environment is greatly appreciated.
  8. This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.

Yours faithfully



**HEAD OF COMPONENT**

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Liezl de Villiers (Overstrand Municipality)

Fax: 028 312 1894

Annexure G



DIRECTORATE: DEVELOPMENT MANAGEMENT (REGION 2)

E-mail: Helene.Janser@westerncape.gov.za  
Tel: +27 21 483 3544 Fax: +27 21 483 3633  
Private Bag X9086, 1 Dorp Street, Cape Town, 8000  
www.westerncape.gov.za/eodp

REFERENCE: 15/3/2/12/B03

The Director: Infrastructure & Planning  
Overstrand Municipality  
P.O. Box 20  
HERMANUS  
7200

(TP-A Theart)  
Holivier)



Sir

e-mail: Holivier@overstrand.gov.za

COMMENT: APPLICATION FOR DEPARTURES AND AMENDMENT OF A CONDITION OF APPROVAL: REMAINDER OF PORTION 11 OF THE FARM HEMEL EN AARDE NO. 587, HERMANUS

1. The abovementioned application submitted, refers.
2. This Directorate has no objection to the development proposal to expand the existing intensive horticulture production (tunnels), as depicted on proposed Site Development Plan 3.
3. The above comment is based on the information provided and on the information extracted from forward planning documents for the area.
6. This Directorate reserves the right to amend its comment, should any additional or new information be obtained.

K. MUNRO  
DIRECTOR: DEVELOPMENT MANAGEMENT: REGION 2  
DATE: 13.11.2019

FILE NO:	Ph 11/587
SCAN NO:	Farm 587
COLLABORATOR NO:	1358298

2nd Floor, 1 Dorp Street, Cape Town, 8001  
e: +27 21 483 3544 Fax: +27 21 483 3633

Private Bag X9086, Cape Town, 8000  
www.westerncape.gov.za

TP 19 NOV 2019

Annexure H



**Western Cape  
Government**

Agriculture

Cor Van Der Walt  
LandUse Management  
Email: LandUse.Eisenburg@elsenburg.com  
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/017  
YOUR REFERENCE : Ptn 11 of Farm No. 587  
ENQUIRIES : Cor van der Walt

FILE NO:	PN 11 587 ✓
	Memorandum
SCAN NO:	PN 11
COLLABORATOR NO:	1381635

Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

Att: H Olivier

**APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITION OF APPROVAL:  
DIVISION CALEDON  
REMAINDER OF PORTION 11 OF THE FARM HEMEL EN AARDE NO 587**

Your application of 08 October 2019 has reference.

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

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise Initial comments and request further information based on the information received.

Yours sincerely

Mr. CJ van der Walt

**LANDUSE MANAGER: LANDUSE MANAGEMENT**  
2020-01-17

<b>Copies:</b>	
Department of Environmental Affairs & Development Planning	WRAP
1 Dorp Street	35 Duiker Street
CAPE TOWN	HERMANUS
8001	7200



TP. A. Theart  
(H. Olivier)

Annexure I 1/3

FILE NO:	PTN 11 587 ✓
	Momod Madede
SCAN NO:	Farm 587
COLLABORATOR NO:	1367160

OVERSTRAND MUNICIPALITY  
Per email: [Loretta@overstrand.gov.za](mailto:Loretta@overstrand.gov.za)

Date:  
17 December 2019

Enquiries:  
Shaun Swanepoel  
Tel 021 980-3913  
Fax 086 660 0941

Attention: Loretta Gillion

Dear Madame

RE: AMENDMENT AND DEPARTURE FROM BUILDING REGULATIONS

OUR REF: 02538-19  
YOUR REF: PTN 11 OF FARM 587, RCAL

Eskom has no objection to the abovementioned application, provided the following conditions are adhered to:

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

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

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.

- c) No work or no machinery nearer than the following distances from the conductors:

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

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.

- e) That a minimum ground clearance of the overhead power line must be maintained to the following clearances:

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

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

Eskom Holdings SOC Limited Reg No 2002/015527/30



17 DEC 2019

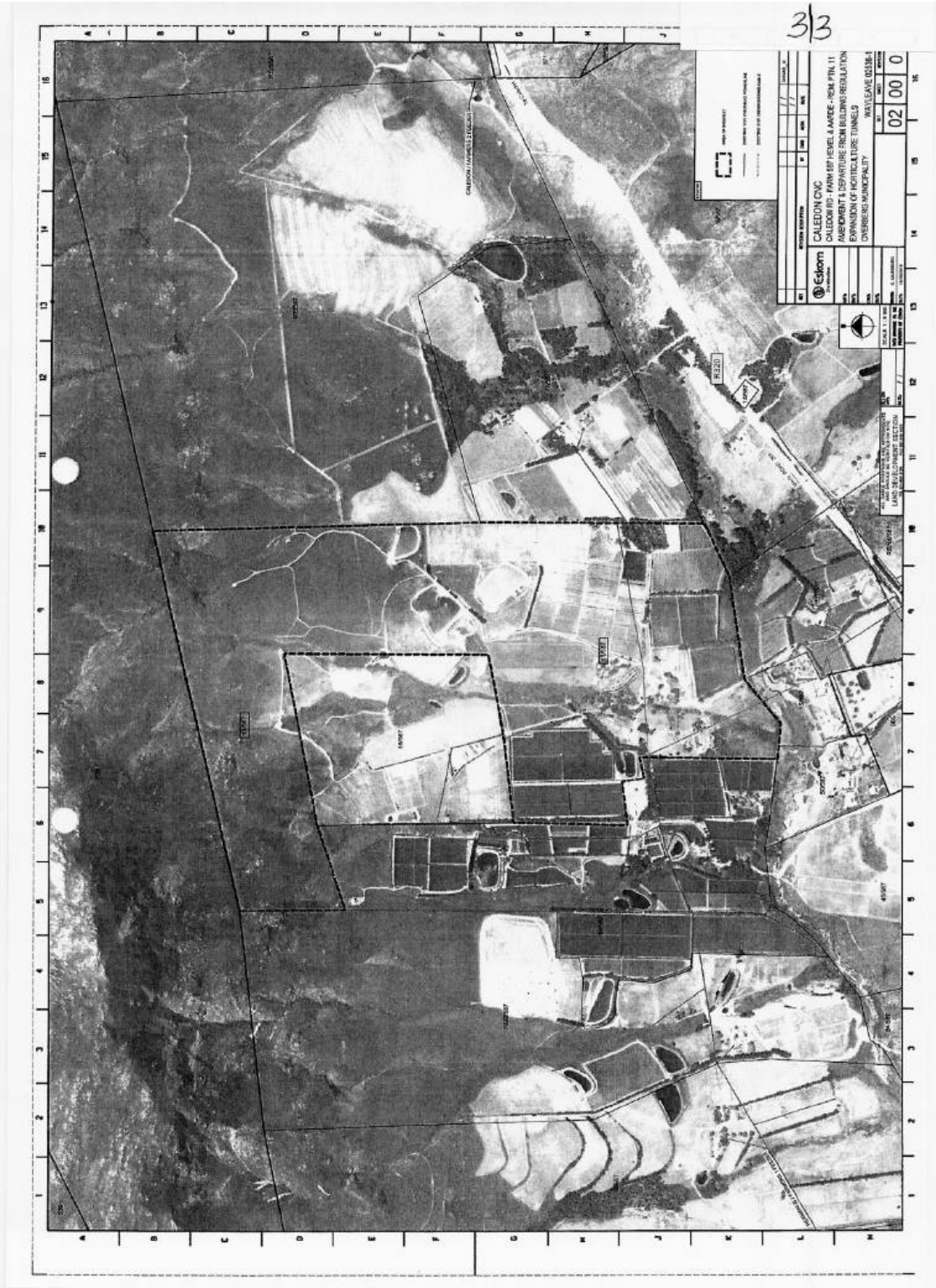
- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
  - i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
  - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
  - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
  - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) **DIRK SWART, CALEDON CNC** must be contacted on **+27 28 214 5710** before working in close proximity to the overhead power lines.

Kindly contact **Shaun Swanepoel** at Tel: 021 980 3913, should you require any further information.

Yours sincerely

**Shaun Swanepoel**  
**LAND DEVELOPMENT (BRACKENFELL)**  
(Transmitted electronically and thus not signed)

3/3



## Annexure J

## REGISTERED POST

Our Ref: HM/ OVERBERG / CALEDON / PORTION 11 OF FARM 587  
 Case No: 19110112581114E  
 Enquiries: Stephanie-Anne Barnard  
 E-mail: [stephanie.barnard@westerncape.gov.za](mailto:stephanie.barnard@westerncape.gov.za)  
 Tel: 021 483 9370  
 Date: 29 November 2019

Rea Jankie  
 35 Duiker Street  
 PO Box 1247  
 Hermanus  
 7200  
[admin@wrapgroup.co.za](mailto:admin@wrapgroup.co.za) , [coengroenewald@hgvgrape.net](mailto:coengroenewald@hgvgrape.net)



**RESPONSE TO NOTIFICATION OF INTENT TO DEVELOP: FINAL**  
 In terms of Section 38(2) of the National Heritage Resources Act (Act 25 of 1999) and the Western Cape  
 Provincial Gazette 6061, Notice 298 of 2003

**NOTIFICATION OF INTENT TO DEVELOP: PROPOSED EXPANSION OF AGRICULTURE ACTIVITIES ON PORTION 11 OF FARM 587, CALEDON, SUBMITTED IN TERMS OF SECTION 38(1) OF THE NATIONAL HERITAGE RESOURCES ACT (ACT 25 OF 1999)**

**CASE NUMBER: 19110112581114E**

The matter above has reference.

Heritage Western Cape is in receipt of your application for the above matter received on 14 November 2019. This matter was discussed at the Heritage Officers meeting held on 25 November 2019.

You are hereby notified that, since there is no reason to believe that the proposed expansion of agriculture activities on Portion 11 of Farm 587, Caledon will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.

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

This letter does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.

HWC reserves the right to request additional information as required.

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

Yours faithfully

  
 D. Mxolisi Dlamini  
 Chief Executive Officer, Heritage Western Cape

[www.westerncape.gov.za/cs](http://www.westerncape.gov.za/cs)

Street Address	City	Postal Code	Country



Annexure K 1/4

FILE NO: PTN 11 Farm H+A 587
SCAN NO: 32
COLLABORATOR NO: 1358019

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

Candice Spammer  
Tel: 021 414 5582  
Fax: 086 480 0617  
Email: spammec1@telkom.co.za

Our Ref.: WWIP\_WHMN3983\_19  
Your Ref.: Ptn 11 of Farm 587 RCAL

18 November 2019

Attention: S Muller

Overstrand Municipality  
HERMANUS

PLANT AFFECTED – COPPER & OPTIC FIBRE:

**APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITION OF APPROVAL: REMAINDER OF PORTION 11 (NIEUWE POST) OF THE FARM HEMEL AND AARDE NO 587**

With reference to your application received 8 October 2019.

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

I hereby inform you that OpenServe approves the proposed work indicated on your drawing in principle. This approval is valid for 12 MONTHS ONLY, after which reapplication must be made if the work has not been completed.

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

Approval is granted, subject to the following conditions.

TP 19 NOV 2019

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

2/4

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

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

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

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

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

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

All OpenServe rights remain reserved.

Yours faithfully



---

For Selwyn Bowers  
Operations Manager  
Wayleave Management: Western Region



This wayleave. Reference Number WWIP WHMN3983 19 is valid for 12 months from date here of and is subject to the following conditions:

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

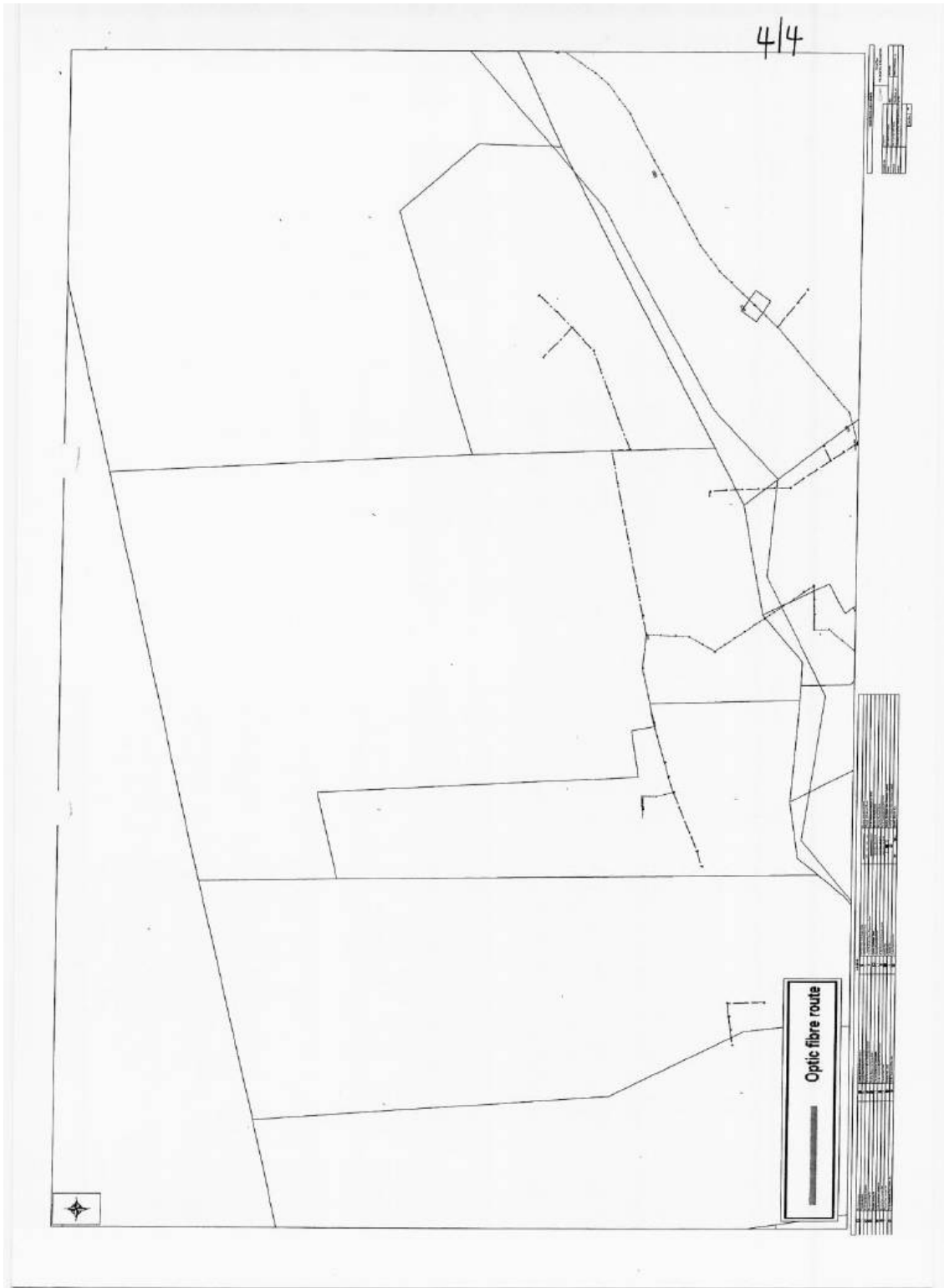
Date: 18 November 2019

By: C Spammer

For Wayleave Management  
Western Cape

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

The pipeline indicated contains OPTIC FIBRE cables.  
**Frederik Swart** @ telephone **028 514 1199 / 081 363 7815 /**  
**FrederikS@openserve.co.za** must be contacted at least 48 hours  
before commencement of work.





**BREEDE-GOURITZ**  
CATCHMENT MANAGEMENT AGENCY

51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

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

Our Reference no: 4/10/1/G40H/Farm Hemel and Aarde 587/11, Caledon RD

Date: 15 November 2019

Overstrand Municipality  
P. O. Box 20  
Hermanus  
7200

For Attention: H. Olivier

Sir/Madam,

**APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITION OF APPROVAL: WRAP CONSULTANCY (ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD); REMAINDER OF PORTION 11 (NIEUWE POST) OF THE FARM HEMEL AND AARDE NO. 587, CALEDON RD.**

With reference to your letter dated 08/10/2019 with Overstrand municipal file reference Ptn 11 of Farm 587, RCAL, together with WRAP report, dated AUGUST 2019, with WRAP file nr 19/47 and received by BGCMA on 10/10/2019, herewith the following:

1. After having had the opportunity to assess the report by WRAP, the BGCMA concludes that it has no objection against the said application, provided that the services (as explained in Section 11), be implemented/adhered to.
2. Of special importance is the authorization of water use. Should it be found that the planned activities would require additional water, application for water use authorisation be made to the BGCMA.
3. The planned development should not have any detrimental impact on water resources, both surface- and groundwater resources.
4. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use should be adhered to.
5. Polluted storm water should be contained and managed in such a way that it does not pose an additional threat to surface- and groundwater resources.

[www.bgcma.co.za](http://www.bgcma.co.za)

FILE NO:	FN 11/587
	Hemel & Aarde
SCAN NO:	7
COLLABORATOR NO:	1357211

TP 18 NOV 2019

Annexure L  
1/2



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

2/2

Please be advised that no activities may commence without the appropriate approvals/authorizations (where needed) from the responsible authority.

The onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorization for.

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

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

Please ensure to quote the above reference in doing so.

Yours faithfully,



PP  
**JAN VAN STADEN**  
**CHIEF EXECUTIVE OFFICER (ACTING)**

## Annexure M

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR DEPARTURE & AMENDMENT OF CONDITION OF  
APPROVAL: REMAINDER OF PORTION 11 OF THE FARM HEMEL & AARDE  
NO. 587 (3274/2019)**

Stormwater (SW)	:	In Order
Electricity	:	Eskom Area
Water	:	In Order
Sewer	:	In Order
Roads and traffic	:	In Order

**Conditions:**

1. that only the existing municipal services will be available to the development, should any additional services or larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to minimum requirements of SANS 10400 – P:2010: Drainage;
4. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
5. that stormwater be allowed to discharge through Ptn 11/587, Hemel & Aarde, unobstructed;
6. that any additional and / or extended vehicles entrances will be for the owner's account;
7. that no on-street parking be allowed.

  
**DENNIS HENDRIKS**  
**SENIOR MANAGER:**  
**ENGINEERING SERVICES**

  
**DATE**

Annexure N  
1/2**H Olivier**

**From:** A Aplon  
**Sent:** 09 May 2021 09:47 AM  
**To:** H Olivier  
**Cc:** E Solomons; Lester Smith; Y Scholtz  
**Subject:** Re: Enquiry: FMU  
**Attachments:** goFPA-Rules-May16-AGM-approved.pdf

Goeie dag

Ek antwoord u graag soos volg:

Daar is tans geen wet wat 'n Brandweer Diens die mag gee om grond eienaars te vereis om 'n "Fire Management Plan" op te stel vir hul eiendom nie. Maar persoonlik glo ek dat dis net redelik as 'n grond eienaar 'n plan het, hoe hy die brandbare material op sy eiendom gaan bestuur. Daar is ook verskeie voorbeelde van grond eienaar wat planne het maar hulle implementeer dit nie. Alles hang maar af van die gesindheid van die grondeienaar teenoor sy risiko.

Daar word wel tydens die ontwikkeling aansoek proses versoek van die ontwikkelaar / grond eienaar om 'n "fire management plan" te het, dit kan deel vorm van die "Enviromental Management Plans". Die veld / fynbos wat kan brand is deel die omgewing en daarom is dit meer 'n omgewing bestuur aangeleentheid.

Die "Fire Protection Association" (FPA) word gestig interme van die "National Veld and Forest Fire Act, Act No 101 of 1998" slegs munisipaliteite en staats instansies word verplig om aan dit te behoort. Grond eienaars word nie verplig om aan die FPA te behoort nie. In ons area is die FPA se naam Greater Overberg Fire Protection Association (goFPA). Die FPA stel reëls op vir hul lede maar dis slegs vir hulle lede. Hulle het ook geen magte om reëls te skep wat teenstrydig is met enige ander reëls of wette is nie. Aangeheg is die jongste reëls van goFPA.

Dit is wel verpligtend vir alle grond eienaars waar daar 'n risiko is van veld brande om aan die "National Veld Fire Act" te voldoen.

Indien u nog enige vrae het, kontak my gerus.

Sterkte

**Angelo Aplon**  
**Assistant Chief Fire Officer Operations & Training**  
**Overstrand Municipality**  
**M: +27 (0) 79 5077 297 T: +27 (0) 28 313 8980**  
**F: +27 (0) 28 313 1493 E: [aaapl@overstrand.gov.za](mailto:aaapl@overstrand.gov.za)**



**Overstrand Municipality**  
 A: 1 Magnolia Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200  
 T: +27 (0) 28 313 8000 | F: +27 (0) 28 312 1894  
 E: [enquiries@overstrand.gov.za](mailto:enquiries@overstrand.gov.za) | W: [www.overstrand.gov.za](http://www.overstrand.gov.za)

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

2/2



File reference:	Pm 11/587 RCAL (3274/2019)
Date:	8 October 2019
	LI

## INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: H Olivier

TO:


<u>Area Manager</u>	<u>Building Department</u>	<u>District Health</u>	<u>Electrical Department</u>
<u>Environmental Officer</u>	<u>Fire Department</u>	<u>Infrastructure and Planning</u>	<u>Local Heritage Committee</u>
<u>Operational Services</u>	Traffic Department	<u>Ward Councillor</u> (Cllr. A. Coatsee)	Waste Management

Applicant	WRAP CONSULTANCY (ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD)
Property Details	REMAINDER OF PORTION 11 (NIEUWE POST) OF THE FARM HEMEL EN AARDE NO. 587, OVERSTRAND MUNICIPAL AREA, A DIVISION OF CALEDON
Application Description	APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITION OF APPROVAL

## ATTACHMENTS:

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

## YOUR DEPARTMENT'S COMMENTS:

The fire departments have no objection.		<b>ASSISTANT CHIEF</b> <b>Enrico Solomons</b>  Tel: 028 313 1493 Fax: 028 313 1493 7200	
		Date: 08 OCT 2019	
		Email: esolomons@overstrand.gov.za	
Signature: 		Signature: _____	
Date: _____		2019	

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

*Building Control Department to confirm that all structures on the properties are in accordance with the approved building plans.*

**COMMENTS REQUIRED BY: 15 November 2019**

Annexure O

**H Olivier**

**From:** R Andrew  
**Sent:** 30 March 2021 08:44 AM  
**To:** H Olivier  
**Cc:** Loretta Gillion; D Hendriks; M Mantyi  
**Subject:** RE: Ptn's 11 and 94 of farm 587 Haygrove Heaven

Good Day,

A Traffic Impact Assessments (TIA) must be undertaken when:

- a) An application is submitted for a change in land use and;
- b) The highest total additional **hourly** vehicular trip generation as a result of the application exceeds 50 trips per hour.

We've assessed the application and determined that the above-mentioned criteria is not applicable.

**Ricardo Andrew**  
 Manager: Engineering Services  
 Tel: (028) 313 5073  
 Fax: (028) 313 0760  
 E: [randrew@overstrand.gov.za](mailto:randrew@overstrand.gov.za)

**From:** H Olivier <[holivier@overstrand.gov.za](mailto:holivier@overstrand.gov.za)>  
**Sent:** Monday, 29 March 2021 16:18  
**To:** R Andrew <[randrew@overstrand.gov.za](mailto:randrew@overstrand.gov.za)>  
**Cc:** Loretta Gillion <[lpge@overstrand.gov.za](mailto:lpge@overstrand.gov.za)>  
**Subject:** Ptn's 11 and 94 of farm 587 Haygrove Heaven

Ricardo

Applications were received on the above-mentioned properties for the construction of horticulture tunnels over existing and new berry fields. Your Department also already provided your support for the application. (Please see your own records)

Some objections were received in relation to traffic impact and statements were also made that a TIA should have been done for this application. Note the application was not sent to Department of Transport due to the fact that the properties does not border directly onto the Hemel en Aarde road.

Please indicate if and when a TIA is required necessary for a development. Note that this application is to construct tunnels over berry fields, on land that is already zoned Agriculture Zone 1.

Your urgent response will be appreciated.

Regards

**Henk Olivier**  
 Town Planner : 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: [holivier@overstrand.gov.za](mailto:holivier@overstrand.gov.za)

Annexure P

Munisipaliteit • U-Munispala • Municipality

OVERSTRAND



File reference:	Ptn 11/587 RCAL
Date:	8 October 2019
	LI

## INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: H.Olivier

## TO:


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

Applicant	WRAP CONSULTANCY (ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD
Property Details	REMAINDER OF PORTION 11 (NIEUWE POST) OF THE FARM HEMEL EN AARDE NO.587, OVERSTRAND MUNICIPAL AREA, A DIVISION OF CALEDON
Application Description	APPLICATION FOR DEPARTURE AND AMENDMENT OF CONDITION OF APPROVAL

## ATTACHMENTS :

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

## YOUR DEPARTMENT'S COMMENTS:

This office has no objection to this application for departure and amendment of the condition of approval.	
Signature:	
Date:	29/11/2019

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

**COMMENTS REQUIRED BY: 15 November 2019**

Annexure Q1/2

## POWER OF ATTORNEY

I, the undersigned

**SEAN TAGER**  
ID NUMBER: 7403215117085

In my capacity as Director of HAYGROVE HEAVEN (PTY) LTD (REG NR. 1997/001058/07), the owner of **PORTION 11 AND 94 OF FARM 587, CALEDON**, hereby nominate, constitute and appoint Wright Approach Investments 136 CC (Reg number CC 2002/060745/23) trading as Wright Approach Consultancy, with power of substitution, to be the duly authorised attorney and agent in name, place and stead, which may be necessary in order to sign documents and to perform all such acts which may be necessary in connection with:

**AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE FROM BUILDING LINES AND DEPARTURE FROM 5 000M<sup>2</sup> MAXIMUM FLOOR SPACE**

and generally for effecting the purposes aforesaid, to do or cause to be done whatever shall be requisite, as fully and effectual, for all intents and purposes as I might or could do if personally present and acting herein – hereby ratifying, allowing, confirming, promising and agreeing to ratify, allow and confirm all and whatsoever my said Agent shall lawfully do, or cause to be done, by virtue of these presents.

SIGNED AT HERMANUS ON THIS 17<sup>TH</sup> DAY OF MARCH 2021  
\_\_\_\_\_  
S TAGER  
\_\_\_\_\_  
WITNESS

**COMPANY RESOLUTION**

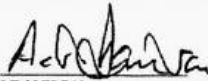
The Directors of HAYGROVE HEAVEN (PTY) LTD (REG. NO. 1997/001058/07), the owner of PORTION 11 & 94 OF FARM 587, CALEDON authorizes

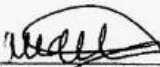
**SEAN TAGER**  
ID NO: 7403215117085

In his capacity as Director to act on behalf of the company regarding the applications for the following:

**AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE FROM BUILDING LINES AND DEPARTURE FROM 5 000M<sup>2</sup> MAXIMUM FLOOR SPACE**

SIGNED ATHERMANUS ON THIS 17<sup>TH</sup> DAY OF MARCH 2021

  
A J DAVISON

 MICHELLE WOODHOUSE  
WITNESS

  
STAGER

  
WITNESS

Annexure R



Western Cape  
Government

**TRANSPORT & PUBLIC WORKS: ROADS**

Chief Directorate: Road Planning  
Email: [grace.swanepoel@westerncape.gov.za](mailto:grace.swanepoel@westerncape.gov.za)  
Tel: +27 21 483 4669  
Room 335, 9 Dorp Street, Cape Town, 8001  
PO Box 2603, Cape Town, 8000

**REFERENCE:** 13/3/5/1-21/110 (Job 19318)  
**ENQUIRIES:** Ms GD Swanepoel  
**DATE:** 5 October 2021

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
**HERMANUS**  
7200

Attention: Mr H Olivier

Dear Sir

**PORTION 11 FARM 587, CALEDON DISTRICT: MINOR ROAD 4012: PROPOSED DEPARTURE**

1. Your e-mail dated 5 October 2021 refers.
2. The subject property is located 7km north from Hermanus and take access off Minor Road 4012.
3. This application is for various Departures to accommodate intensive horticulture tunnels.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act 3 of 2014.

Yours Sincerely

**SW CARSTENS**  
For DEPUTY DIRECTOR-GENERAL: ROADS