

4.4

PORTIONS 34, 35, 36 AND 37 OF THE FARM HEMEL AND AARDE NO. 587, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, DEPARTURE AND CONSOLIDATION: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNING ON BEHALF OF DEPSON 40 (PTY) LTD

RCAL 34, 35, 36 & 37/587 (3698)

H van der Stoep

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Hermanus Administration

16 August 2018

1. EXECUTIVE SUMMARY

An application has been received on 31 May 2017 from Messrs PlanActive Town- & Regional Planners on behalf of Depson 40 (Pty) Ltd on Portions 34, 35, 36 and 37 of the Farm Hemel and Aarde No. 587, in terms of Section 16(2)(b), (e) and (d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-law) for the following:

- ❖ departure to relax the building lines from 30m to 7m to accommodate the existing manager's dwelling on the newly created Remainder;
- ❖ consolidation of Remainder of Portion 34, Portion 35, Portion 36 and Portion 37;
- ❖ subdivision of the consolidated portion into three (3) portions and a remainder;
- ❖ subdivision of the remainder to register a pipeline servitude of 3m wide and two (2) pump station areas of approximately $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$, respectively in favour of Portion C; and
- ❖ consent in terms of Act 21 of 1940 for the subdivision of land adjacent to a road under the jurisdiction of the District Road Engineer.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Subdivisional and Consolidation Plans are attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The farm portions are located approximately 8km north of Hermanus in the Hemel and Aarde Valley. The descriptions are as follows:

Property Description	Extent	Title Deed No.
Remainder Portion 34 of the Farm Hemel and Aarde No. 587	51,2209 ha	T61681/2008
Portion 35 of the Farm Hemel and Aarde No. 587	73,1630 ha	T61681/2008
Portion 36 of the Farm Hemel and Aarde No. 587	47,4219 ha	T61681/2008
Portion 37 of the Farm Hemel and Aarde No. 587	41,7175 ha	T61681/2008

The subject properties are used for agricultural purposes. The application properties are located in an area which is predominantly agricultural and tourism related, such as wine tasting, restaurants, accommodation and outdoor sport facilities.

The present land uses on each of the portions are as follows:

The following existing land uses are on the subject properties:

Remainder Portion 34 of the Farm Hemel & Aarde No. 587

<i>Land Use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total extent in hectares</i>
Pastures		19	19
Mountainous land			32
Fynbos, quarry, etc.			
TOTAL			51

Portion 35 of the Farm Hemel & Aarde No. 587

<i>Land Use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total extent in hectares</i>
Pastures		28	28
Vineyards	9,2		9,2
Mountainous land			35,8
Fynbos, quarry, etc.			
TOTAL			73

Portion 36 of the Farm Hemel & Aarde No. 587

<i>Land Use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total extent in hectares</i>
Pastures		8	8
Vineyards	11,48		11,48
Mountainous land			27,5
Fynbos, quarry, etc.			
TOTAL			47

Portion 37 of the Farm Hemel & Aarde No. 587

<i>Land Use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total extent in hectares</i>
Pastures		3	3
Vineyards	20,91		20,91
Mountainous land			17
Fynbos, quarry, etc.			
TOTAL			41

4. SUMMARY OF APPLICANT'S MOTIVATION

It is the intention of the owners of Portions 34, 35, 36 and 37 of the Farm Hemel and Aarde No. 587, to realign the farm boundaries to create farm portions in line with

production of their farms and to create a portion south east of the Hemel and Aarde road where the aforementioned cuts through the farm portions.

The re-alignment proposed is as follows:

Proposed Consolidation	Re-Portion 34: 51,2209 ha Portion 35: 73,1630 ha Portion 36: 47,4219 ha Portion 37: 41,7175 ha
TOTAL EXTENT OF NEWLY CONSOLIDATED SUMARIDGE FARM	213,52 ha
OWNER	Depston 40 (Pty) Ltd
TITLE DEED	T61681/2008

It is then proposed to subdivide the newly consolidated farm portion as follows:

TOTAL AREA	213,52 ha
AREAS FOR SUBDIVISION	Portion A: 38,93 ha Portion B: 38,28 ha Portion C: 37,79 ha Remainder: 98,52 ha

The proposed subdivision lines forms natural boundaries. Portion A and B follows the existing gravel road to Botriver. The existing Hemel and Aarde Road define the new northern boundary for the newly created Portion C to create a portion no longer dissected by the mentioned road.

The departure of the western lateral building line from 30m to 7m is to accommodate the existing manager's dwelling. To move the proposed boundary 23m west to adhere to the 30m building line would make the boundary impractical due to the position of the existing line of trees that already defines this boundary.

All the farming activities will remain in place and will be as follows after consolidation and re-subdivision:

Portion A

<i>Land Use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total extent in hectares</i>
Pastures		13,5	13,5
Mountainous land		25,43	25,43
TOTAL			38,93

Portion B

<i>Land Use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total extent in hectares</i>
Pastures		31	31
Mountainous land		7,28	7,28
TOTAL			38,28

Portion C

Land Use	Irrigated (ha)	Dry land (ha)	Total extent in hectares
Pastures		2,5	2,5
Vineyards	3,48		3,48
Future plantings	6		4,6
Mountainous land, Fynbos, quarry, etc.		25,81	25,81
TOTAL			37,79

Remainder Portion

Land Use	Irrigated (ha)	Dry land (ha)	Total extent in hectares
Pastures		10,5	10,5
Vineyards	38,11		38,11
Fynbos, quarry, etc.		49,91	49,91
TOTAL			98,52

It is important to note that the proposed farm boundary realignment does not lead to the fragmentation of agricultural land and no additional portions are created with the proposed application.

The new farm boundary realignment will entail the transferring of water from the newly created Remainder Portion to newly created Portion C. An application is therefore submitted for subdivision to register a 3m wide pipeline servitude as well as two (2) servitude areas of $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$ respectively, over the existing pump stations on the Remainder Portion in favour of Portion C. The proposed 3m wide pipeline servitude will run from the existing weir to the newly created farm boundary of Portion C as indicated on the Subdivision Plan.

The realignment of the boundaries was determined by the present agricultural activities and follows physical structures defining the different portions whether it is the tree line and or roads.

The existing farm portions do have water registration certificates and the newly created Portion C will be allocated water from the existing allocation. This process will start once the application is approved. All services remains in place and no added capacity is foreseen.

Title Deed

In terms of Title Deed T61681/2008, Page 2, Paragraph 1.C does contain a restrictive condition in terms of the Roads and Ribbon Development Act, 1940, Act 21 of 1940.

The condition reads as follows:

“1.C. Subject further to the following special condition contained in Deed of Transfer No. T9040/1982 imposed by the Divisional Council of Claedon, as

the controlling authority in terms of Section 11(6) of Act 21 of 1940 as amended, namely:

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

This condition was imposed by the Roads Engineer and with consent of the aforementioned the proposed land use activities can be accommodated.

All other servitudes as registered in the Title Deeds remain in place.

Spatial Planning Documents

Provincial Spatial Development Framework, 2013

Criteria for development outside the urban edge are as follows:

- ❖ Do not alienate high value agricultural land or compromising existing farming activities. The application does none of the aforementioned.
- ❖ Is consistent with the cultural and scenic landscapes. Does not involve extension of municipal services. The proposed development is self-sufficient.

Overstrand Development Framework, 2006

The farm is earmarked as Core Agriculture and Conservation 2 purposes. The aforementioned makes provision for agriculture and tourist facilities. The proposed re-alignment complies with the aforementioned.

Environmental Impact

The application does not trigger any listed activities in terms of NEMA. Sumaridge Farm has over the years eradicate alien vegetation, does practice organic and eco-friendly waste treatment.

Planning Principles

Spatial Justice

Not applicable.

Spatial Sustainability

The proposed re-alignment allows the owners to align the agricultural production activities along natural and manmade structures. There will be no impact on the environment.

Efficiency

The application property is easily accessible and conveniently located next to existing farm roads. The production and management of the respective farm portions after the subdivision can be done more efficiently without the provincial and gravel road cutting through the subject properties.

Spatial Resilience

Not applicable.

Good administration

The application was submitted in accordance of the Overstrand Municipal Planning By-Law and procedures.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	19 June 2017	14 July 2017
Ward councillor	Yes	19 June 2017	14 July 2017
Total comments	ONE (1)		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments	Recommendation
Eskom	10/07/2017	Annexure F.	Supported.
Fire Services	24/07/2017	No objection provided that all structural development is in compliance with National Fire Protection Regulations SANS10400T:2011	Supported.
Department of Transport and Public Works	01/08/2017	Annexure G.	Supported
Environmental Section	04/08/2017	No objection.	Supported.
Electro Technical Services	14/08/2017	Eskom distribution area.	Supported.
Building Department	15/08/2018	Activity does not change the character of the site.	Supported
Telkom	19/09/2017	Annexure H.	Supported
Engineering Services	28/11/2017	Annexure I.	Supported
Department of Agriculture	31/05/2018	Annexure J.	Supported

National Department : Agriculture, Forestry & Fisheries	23/07/2018	Annexure K.	Approved the application in terms of Act 70 of 1970
Breede Gouritz Catchment Management Agency		Requested comments on 20/06/17, 29/08/17, 27/11/17 and 12/1/18	No comment received.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Objection was received from one (1) individual, Steyn Wilson Inc. on behalf of MT Consulting and Training. See objection attached as Annexure D. The applicant's response to the objection received is attached as Annexure E.

The objection and reply can be summarized as follows

Points 1 to 8 has reference to the credentials of the Attorney, Owner and property description and applicable legislation.

Applicant's response

Noted.

Town Planner's response

Noted.

The fragmentation of the property will bring about that the subdivided properties had the potential to create different uses and sold as such.

Applicant's response

There are at present four (4) properties and the individual portions can be sold as separate since it is not notarial tied.

Town Planner's response

The present portions can be sold at any time individually and the use remains Agriculture Zone 1, thus the land uses is still restricted, whether re-aligned or not.

Paragraphs 11 to 18 have reference to the principles of and stipulations of Act 70 of 1970 in which the objector indicate that the application must be submitted in terms of Act 70 of 1970.

Applicant's response

The application in terms of Act 70 of 1970 was submitted to National and Provincial Agriculture on 31 May 2017.

Town Planner's response

Noted.

The application first has to be submitted and dealt with in terms of Act 70 of 1970. The departure and servitudes application can only then be dealt with.

Applicant's response

The applications can be dealt with simultaneously. The Municipality will not finalize and approve the application prior to receiving the consent from the National Department of Agriculture.

Town Planner's response

Agree with applicant.

The subdivision into 4 portions will have a detrimental effect on the services currently in operation. The re-alignment may place an extra burden on services.

Applicant's response

The aspect of services was addressed in the report. The Breede-Gouritz Catchment Agency and the respective agricultural department will be contacted to address the water rights allocation after approval of the re-alignment.

Town Planner's response

The aspect of water allocation of existing water rights can only be addressed after the approval of the application. Other services such as household water, electricity and sewerage will be no different than the current existing rights on the different portions.

The application will lead to fragmentation and the application is to enable to sell the properties as individual portions.

Applicant's response

The present situation is four (4) individual portions that can be sold individually.

Town Planner's response

No additional portions are created and thus all land uses, water rights and ownership remains as is. Nothing prohibit the owner to sell of portions should he wish so, the application will not change the position.

8. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

8.1 Background

N/A

8.2 (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.

Spatial Justice

The applicant bought the property on the open market and thus no spatial injustice occurred.

Spatial sustainability

The need of the realignment will ensure more effective and productive units without disturbing the environment, thus ensuring minimal impact on the environment.

Efficiency

The realignment will ensure a more efficient working of the farm activities.

Spatial Resilience

The spatial resilience is based on the effective execution of the sustainability principle. In this case the realignment attributes to a more sustainable farming operation and thus contributes to reliance of the farming units.

Good administration

Procedure was followed and full public participation was applicable.

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

Same as Point 8.2 above.

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

Consistent

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

Consistent

8.6 Impact on Municipal engineering services

None.

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

The Title Deed makes provision for consent from the District Engineer Roads in terms of the Roads and Ribbon Development Act, 1940. The consent has been obtained by the applicant.

8.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial Documents and Overstrand Zoning Scheme.

9. THE DESIRABILITY OF THE PROPOSAL

The main purpose of the application is to realign the farm boundaries of four (4) portions e.g. Portions 34 to 37 of the Farm Hemel and Aarde No. 587, Division Caledon, known as Sumaridge. The application entails a departure to accommodate a manager's dwelling that with the realignment transgresses the 30m building line applicable on farm land. The manager's house exists and will have no detrimental impact on the environment versus the substitution thereof on another part of the farm in order to comply with the 30m building line. The servitudes to be registered are to ensure water availability of Portion C. The servitudes will ensure that there is no dispute in future with regard to water availability should the properties be sold.

The realignment does not create any new portions of farmland that is already in existence and no fragmentation is thus applicable. The existing water allocation has the necessary certificates and the applicant did not request an additional allocation. The existing water rights will be reallocated as necessary. The impact thereof is null.

It is imperative to note that the Department of Agriculture, Forestry and Fisheries did consent to the subdivision, Consent No 53831.

The application is supported.

10. RECOMMENDATION

1. that the application received from Messrs Plan Active Town & Regional Planners on behalf of Depson 40(Pty) Ltd on Portions 34, 35, 36 and 37 Farm No. 587, Hemel and Aarde Valley in terms of Section 16(2)(b),(e) and (d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the following:
 - ❖ departure to relax the building lines from 30m to 7m to accommodate the existing manager's dwelling on the newly created Remainder;
 - ❖ consolidation of Remainder of Portion 34, Portion 35, Portion 36 and Portion 37;
 - ❖ subdivision of the consolidated portion into 3 portions and a remainder;
 - ❖ subdivision of the remainder to register a pipeline servitude of 3m wide and two (2) pump station areas of approximately $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$, respectively in favour of Portion C; and
 - ❖ consent in terms of Act 21 of 1940 for the subdivision of land adjacent to a road under the jurisdiction of the District Road Engineer;

be approved in terms of the provisions of Section 61 of the By-Law, be subject to the following conditions:

- (a) that the approval must be in accordance with the consent issued by Department of Agriculture, Forestry and Fisheries, Consent No. 53831, (attached as Annexure K);
 - (b) that proof of registered water certificates be submitted once the water allocation to Portion C has been approved by the Breede-Gouritz Catchment Management Area;
 - (c) that all the relevant conditions of Eskom, Department of Transport and Public Works, Telkom, Engineering Services and Department of Agriculture (respectively attached as Annexures F-J), be complied with;
 - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (e) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant and objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

11. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ One (1) objection has been received.
- ❖ None of the internal departments have any objection.
- ❖ None of the municipal services will be needed.
- ❖ It is in line with policy documents.
- ❖ The impact will not be more than a full scale farming operation.
- ❖ The subdivision was approved in terms of Act 70 of 1970.

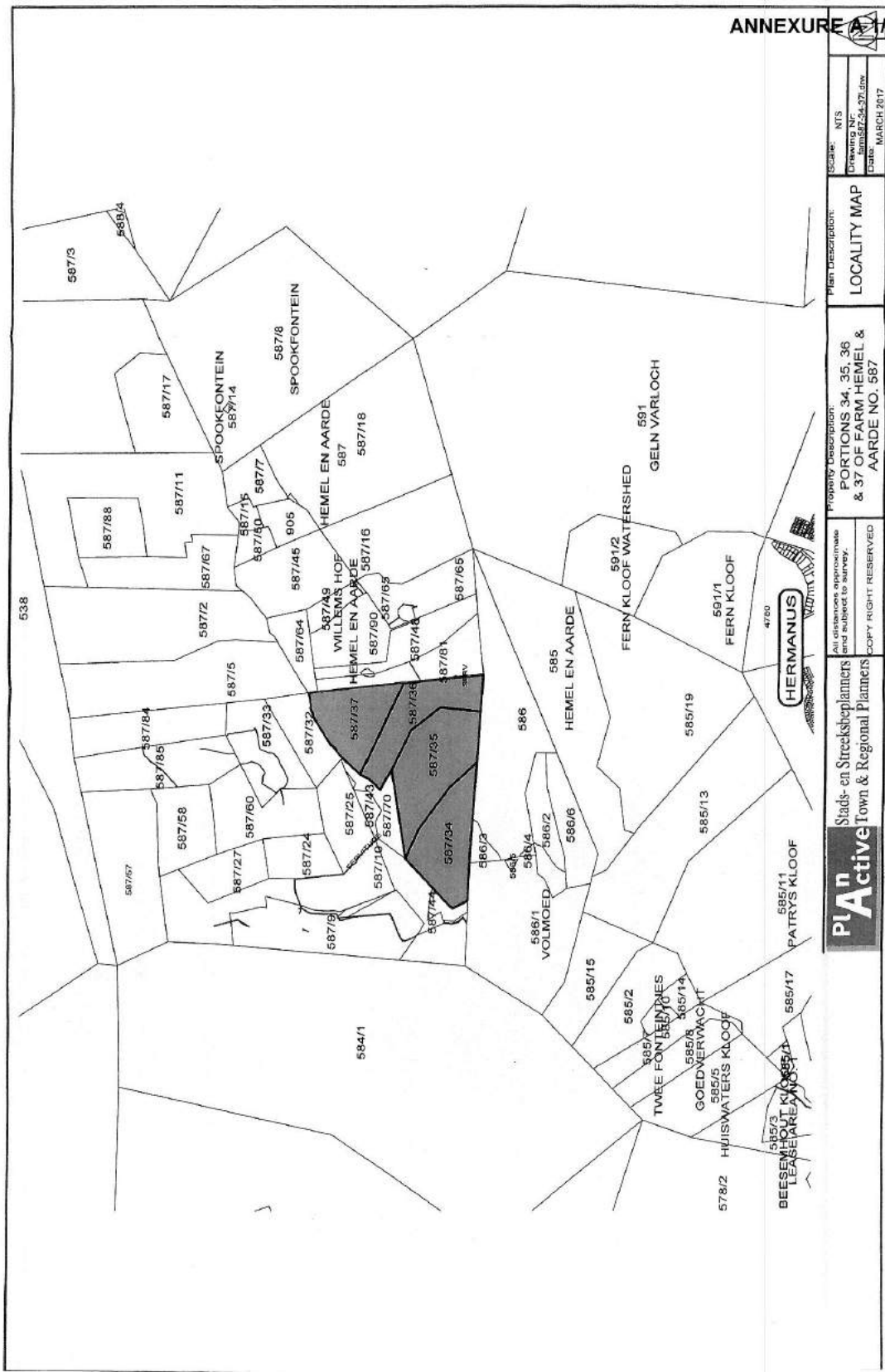
12. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Objection received
Annexure E:	Applicant's response to objection received
Annexure F:	Eskom
Annexure G:	Comment: Western Cape Government: Transport & Public Works
Annexure H:	Telkom
Annexure I:	Engineering Services
Annexure J:	Comment: Department of Agriculture
Annexure K:	Comment: Department of Agriculture, Forestry and Fisheries

SIGNATURES**REGISTERED PLANNER**Name : **S VAN DER MERWE**SACPLAN registration number: **A/1850/2014**

Signature : _____

Date: _____



ANNEXURE A-11

<p>Scale: NTS Drawn by: [Signature] Date: MARCH 2017</p>	<p>Plan Description: LOCALITY MAP</p>	<p>Property Description: PORTIONS 34, 35, 36 & 37 OF FARM HEMEL & AARDE NO. 587</p>
<p>All distances approximate and subject to survey.</p>	<p>PL'n Stads- en Streeksplanners Town & Regional Planners</p>	<p>COPY RIGHT RESERVED</p>

**PROPOSED CONSOLIDATION & SUBDIVISION
(FARM BOUNDARY REALIGNMENT), DEPARTURE
AND REGISTRATION OF A PIPELINE SERVITUDE &
PUMP STATION SERVITUDE AREAS:
REMAINDER PORTION 34, PORTION 35, PORTION
36 AND PORTION 37 OF THE FARM HEMEL &
AARDE NO. 587**

DIVISION CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

The company Plan Active has been appointed by Holly Bellingham, on behalf of Depston 40 (Pty) Ltd, the owners of Remainder Portion 34, Portion 35, Portion 36 and Portion 37 of the farm Hemel & Aarde No. 587, to submit an application for the farm boundary realignment, departure and registration of a pipeline servitude and two pump station servitude areas of the subject properties.

The subject properties are also known as Sumaridge Wine Farm. It is the intention of the owners of Rem. Portion 34, Portions 35, 36 and 37 of the farm Hemel & Aarde No. 587 to realign the farm boundaries to create farm portions in line with the production of their farms and to create a portion south of the Hemel & Aarde Road where the aforementioned cuts through the existing farm portions.

The existing manager's dwelling will be positioned within the 30m lateral building line after the farm boundary realignment. A simultaneous application is submitted to address the building line encroachment.

In addition water rights will be transferred to the new portion south-east of the Hemel & Aarde Road indicated as Portion C on the subdivision plan. A subdivision application is

therefore also submitted to register a new 3m wide pipeline servitude and two pump station servitude areas of $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$ respectively over the new Remainder Portion in favour of newly created Portion C.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(e) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the consolidation of Remainder Portion 34, Portion 35, Portion 36 and Portion 37 of the farm Hemel & Aarde no. 587;
- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the subdivision of the newly consolidated farm portion that consists of Remainder Portion 34, Portion 35, and Portion 36 of the farm Hemel & Aarde No. 587;
- The Subdivision of Agricultural Land Act, Act 70 of 1970, for the subdivision of the newly consolidated portion (Remainder Portion 34, Portion 35, and Portion 36 of the farm Hemel & Aarde No. 587);
- Act 21 of 1940 for the subdivision of land adjacent to a road under jurisdiction of the District Road Engineer;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departure (building line encroachment) of the newly created Remainder Portion;
- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the subdivision of the Remainder Portion to register a pipeline servitude and two pump station servitude areas of $\pm 97\text{m}^2$ and 75m^2 respectively on the newly created Remainder Portion in favour of the newly created Portion C.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

The subject properties are situated $\pm 8\text{km}$ north of Hermanus in the Hemel & Aarde Valley. Please refer to the locality plan attached. The property descriptions of the respective portions are as follows:

ANNEXURE B 3/17

Property description	Extent	Title deed No.
Remainder portion 34 of farm Hemel & Aarde No. 587	51,2209ha	T61681/2008
Portion 35 of farm Hemel & Aarde No. 587	73,1630ha	T61681/2008
Portion 36 of farm Hemel & Aarde No. 587	47,4219ha	T61681/2008
Portion 37 of farm Hemel & Aarde No. 587	41,7175ha	T61681/2008

The Sumaridge Wine Estate lies between two imposing mountain ranges (the Kleinriver and Babilonstoring Mountains) in the Western Cape's Upper Hemel-en-Aarde Valley. The subject properties are also characterised by a superb array of flora and fauna and abuts the De Bos Dam and Onrus Rivier to the north.

The Sumaridge Farm generally faces North West rising from the Onrus River at 180m to the highest vineyards at 275m above sea level. Midway up the slope, the cellar enjoys stunning views of the Atlantic Ocean.

3.2 ZONING

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

Surrounding properties are zoned for Agriculture Zone I purposes.

3.3 LAND USE

The subject properties are used for agricultural purposes. There are no structures on Remainder Portion 34 and Portion 37 of the farm Hemel & Aarde No. 587. The following structures can be found on Portion 35 of the farm Hemel & Aarde No. 587:

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

The following structures can be found on Portion 36 of the farm Hemel & Aarde No. 587:

- Cellar;
- Cellar effluent plant.

The following existing land uses are on the subject properties:

Remainder Portion 34 of farm Hemel & Aarde No. 587

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		19	19
Mountainous land, Fynbos, quarry, etc.			32
TOTAL			51

Portion 35 of farm Hemel & Aarde No. 587

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		28	28
Vineyards	9,2		9,2
Mountainous land, Fynbos, werf, quarry, etc.			35,8
TOTAL			73

Portion 36 of farm Hemel & Aarde No. 587

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		8	8
Vineyards	11,48		11,48
Mountainous land, Fynbos, werf, quarry, etc.			27,5
TOTAL			47

Portion 37 of farm Hemel & Aarde No. 587

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		3	3
Vineyards	20,91		20,91
Mountainous land, Fynbos, werf, etc.			17
TOTAL			41

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

3.4 PROPOSED DEVELOPMENT

The following are proposed:

- The consolidation of Remainder Portion 34, Portion 35, Portion 36 and Portion 37 of the farm Hemel & Aarde no. 587 in terms of Chapter 4, Section 16(2)(e) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016;
- The subdivision of the newly consolidated farm portion that consists of Remainder Portion 34, Portion 35, and Portion 36 of the farm Hemel & Aarde No. 587 in terms of Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016;
- The subdivision of agricultural land (Remainder Portion 34, Portion 35, and Portion 36 of the farm Hemel & Aarde No. 587) in terms of the Subdivision of Agricultural Land Act, Act 70 of 1970;
- The subdivision of land adjacent to a road under jurisdiction of the District Road Engineer in terms of the Ribbon Development Act, Act 21 of 1940;
- The departure (building line encroachment) of the newly created Remainder Portion in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016;
- The subdivision of the Remainder Portion to register a pipeline servitude and two pump station servitude areas of $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$ respectively on the newly created Remainder Portion in favour of newly created Portion C in terms of Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016.

It is the intention of the owners of Portions 34, 35, 36 and 37 of the farm Hemel & Aarde No. 587 to realign the farm boundaries to create farm portions in line with the production of their farms and to create a portion south-east of the Hemel & Aarde Road where the aforementioned cuts through the existing farm portions.

For the realignment of the boundaries of Remainder Portion 34, Portion 35, Portion 36 and Portion 37 of the farm Hemel & Aarde No. 587 it is proposed to consolidate the aforementioned portions as follows:

PROPOSED CONSOLIDATION	RE-Portion 34: 51,2209ha
	Portion 35: 73,1630ha
	Portion 36: 47,4219ha

ANNEXURE B 6/17

	Portion 37: 41,7175ha
TOTAL EXTENT OF NEWLY CONSOLIDATED SUMARIDGE FARM	213,52ha
OWNER:	Depston 40 Pty Ltd
TITLE DEED	T61681/2008

Please refer to the consolidation plan attached.

It is then proposed to subdivide the newly consolidated farm portion as follows:

TOTAL AREA:	213,52ha
AREAS FOR SUBDIVISION:	Portion A: 38,93ha Portion B: 38,28ha Portion C: 37,79ha Remainder: 98,52ha

Refer to the subdivision plan attached.

The proposed subdivision line next to the manager's houses follows a line of trees on the subject property. To move the proposed boundary 23m west to adhere to the 30m building line would make the boundary impractical due to the position of the existing line of trees that already defines this boundary. The proposed new boundary will run parallel with the trees 1,5m to the west of the tree line. It is therefore proposed to apply for a departure to relax the lateral building line on the newly created Remainder Portion after subdivision and consolidation as follows:

- Relaxation of the western lateral building line from 30m to 7m to accommodate the existing manager's dwelling.

The new common boundary between Portions A and B follows the existing gravel road to Botrivier. The existing Hemel & Aarde Road defines the new northern boundary for newly created Portion C to create a portion no longer dissected by the aforementioned road.

All existing structures will be positioned on the newly created Remainder Portion after the farm boundary realignment. The proposed subdivision lines (new boundaries) will have no impact on any of the other existing structures on the respective portions after subdivision. The zonings of the subject properties will remain unchanged and it is not proposed to deviate from any other land use restrictions applicable to Agriculture Zone 1 to accommodate the proposed farm boundary realignment.

ANNEXURE B 7/17

The existing farming activities and land uses will prevail with the proposed farm boundary realignment. After the farm boundary realignment the agricultural activities for the respective newly consolidated portions will be as follows:

Portion A:

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		13,5	13,5
Mountainous land, Fynbos, quarry, etc.		25,43	25,43
TOTAL			38,93

Portion B:

<i>Land use</i>	<i>Irrigated (ha)</i>	<i>Dry land (ha)</i>	<i>Total Extent in hectares</i>
Pastures		31	31
Mountainous land, Fynbos, quarry, etc.		7,28	7,28
TOTAL			38,28

Portion C:

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

Remainder Portion:

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

It is important to note that the proposed farm boundary realignment does not lead to the fragmentation of agricultural land. No additional portions are created with the proposed farm boundary realignment.

The new farm boundary realignment necessitates the transferring of water from the newly created Remainder Portion to newly created Portion C. An application is therefore submitted for subdivision to register a 3m wide pipeline servitude as well as two servitude areas of

±97m² and ±75m² respectively over the existing pump stations on the Remainder Portion in favour of Portion C. The proposed 3m wide pipeline servitude will run from the existing weir to the newly created farm boundary of Portion C as indicated on the subdivision plan. The detail pertaining to the transferring of the water rights is stipulated in Section 3.7.1 of this report.

Sumaridge Wine Farm employs ±20 people with diverse viticulture and farming skill sets, and varied responsibilities around the estate. In addition another ±10 people are employed at the cellar and in the offices. Their contribution to the local economy is therefore undisputed.

For details pertaining to the services and water availability on the subject properties please refer to Section 3.7.1 of this report.

Section 3.9 motivates the application further in terms of the applicable local and regional spatial planning policies.

The proposed consolidation and subdivision (farm boundary realignment), departure and registration of a 3m wide pipeline servitude and two servitude areas do not have a negative impact on the surrounding farms and are not in contrast to the existing land use tendencies in the surrounding environment. We therefore do not anticipate any problems with the proposed application.

3.5 CHARACTER OF THE ENVIRONMENT

Sumaridge Wine Estate lies between two imposing mountain ranges (the Kleinriver and Babilonstoring Mountains) in the Western Cape's Upper Hemel-en-Aarde Valley. The subject property is also characterised by a superb array of flora and fauna and abuts the De Bos Dam and Onrus Rivier to the north.

The Hemel & Aarde Valley is characterised by agricultural activities, resorts, tourist facilities (such as wine tasting facilities, function venues, restaurants, farm stalls, etc.), tourist accommodation (although only a few exist) and recreational facilities (mountain biking trials, adventure activities, etc.). The zoning and existing land uses (agriculture and tourist-related land uses) will remain unchanged and consequently the proposal to realign the farm boundaries is in line with the existing character of the area. The proposed farm boundary realignment does also not create any additional portions (there will still be only four portions

after the farm boundary realignment). Visually the character of the area will therefore remain unchanged.

Since the proposed consolidation and subdivision application entails a farm boundary realignment for farm portions owned by one entity, the impact on the adjacent properties will be kept to a minimum.

The proposed departure and registration of a 3m wide pipeline servitude and two servitude areas will have no impact on the character of the area. The departure (building line relaxation) is to accommodate the existing manager's dwelling only. The possible impact this deviation can potentially have is mitigated by the existing line of trees west of the dwelling.

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

Due to the size of and land uses on the subject properties, after the farm boundary realignment, the subject properties have the potential to be realigned. The proposed farm boundary realignment has no impact on the existing agricultural activities on any of the existing farm portions. It is anticipated that the newly created Portion C south-east of the Hemel & Aarde Road will reach its full potential when farmed as a single portion south-east of the road. All new farm boundary lines were determined in line with the existing agricultural activities and follows the natural (tree line) and man-made (roads) features as well as specific agricultural activities on the various portions. The aforementioned allows for the cultivation of the newly realigned portions without having a negative impact on the economic viability of and the existing agricultural activities associated with the Sumaridge Wine Farm.

The position of the existing natural features (tree line) mitigates the impact that the proposed building line encroachment will have and consequently the subject property has the potential to accommodate the building line encroachment without having a negative impact on the adjacent property owners.

The potential exist to transfer water rights from the Remainder Portion to the newly created Portion C to ensure the viability of last mentioned portion without impacting on the viability of the Remainder Portion. The proposed pipeline servitude follows the existing pipeline on the

Remainder Portion and the proposed servitude areas will be positioned over the two existing pump stations. Consequently the proposed registration of the pipeline servitude and two servitude areas can easily be accommodated on the subject property without having a negative impact on the existing land uses, existing structures and the character of the farm and surrounding areas.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

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

Available water

Remainder Portion 34: A copy of the water registration certificate confirming available water for irrigation purposes is attached. The subject property falls within the Breede Water Management Area. The subject property is registered to take 300 000 cubic metres of water from a river / stream. The lawful use of the water still has to be determined. All existing servitudes referred to in the title deed will remain unchanged.

Portion 35: A copy of the water registration certificate confirming available water for irrigation purposes is attached. The subject property falls within the Breede Water Management Area. The subject property is registered to take 34 450 cubic metres of water from a river / stream. The subject property is also registered to store 270 000 cubic metres of water. The lawful use of the water still has to be determined. All existing servitudes referred to in the title deed will remain unchanged.

Portion 36: Copies of the water registration certificates confirming available water for irrigation purposes are attached. The subject property falls within the Breede Water Management Area. The subject property is registered to take 71 550 cubic metres of water from a river / stream. The subject property is also registered to store 100 000 cubic metres and 75 000 cubic metres of water in two respective dams on the subject property. In addition the subject property is registered to take 1200 cubic metres from a spring / eye (borehole).

Portion 36 is also registered to irrigate land with waste / water containing waste generated through any industrial activity or waterwork. The subject property is allowed to use a total

ANNEXURE B 11/17

volume of 1200 cubic metres of wastewater irrigation per year. The lawful use of the water and wastewater irrigation still has to be determined. All existing servitudes referred to in the title deed will remain unchanged.

Portion 37: A copy of the water registration certificate confirming available water for irrigation purposes is attached. The subject property falls within the Breede Water Management Area. The subject property is registered to take 159 000 cubic metres of water from a river / stream bi-annually. The subject property is also registered to store 10 000 cubic metres of water on the subject property. In addition the subject property is registered to take 1200 cubic metres from a spring / eye (borehole).

Portion 37 is also registered to divert the flow of water in a watercourse (Onrus River) as described on the water registration certificate attached.

Sumaridge farm will submit their application to BGCMA for lawful water use in due course.

The existing structures on the newly created Remainder Portion are serviced with water for domestic use from the existing borehole on the existing property (Portion 36). After the farm boundary realignment the borehole will be positioned on newly consolidated Portion C. A new borehole will be sunk in future to serve the same purposes – to provide the newly consolidated Remainder Portion with water for domestic use.

Water rights will be transferred to accommodate the proposed consolidation and subdivision (farm boundary realignment) application. Water rights will be transferred from newly consolidated Remainder Portion to newly consolidated Portion C to ensure the economic viability of Portion C in future. It is anticipated that $\pm 60\,000$ cubic metres will be transferred to Portion C. The water to be transferred will be extracted from the existing weir. To accommodate the proposed transfer of water, a 3m wide pipeline servitude will be registered over the Remainder Portion from the existing weir down to the new boundary of Portion C. Application is therefore made for the subdivision to accommodate the proposed pipeline servitude. Remainder Portion and Portion C will share the existing two pump stations positioned on the Remainder Portion after the farm boundary realignment. Consequently it is proposed to register two servitude areas of $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$ respectively over the existing two pump stations on the Remainder Portion in favour of Portion C. The proposed pipeline servitude and two pump station servitude areas are shown on the subdivision plan attached.

All existing servitudes referred to in the title deed will remain unchanged.

Sewerage

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

The proposed consolidation and subdivision application will have no impact on the existing sewerage infrastructure.

Solid waste

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

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

Electricity

Eskom is the electricity supplier to all the subject properties.

Conclusion

Since there are no changes in the services capacities and since it is not proposed to construct any new structures with the proposed farm boundary realignment, no additional services (except for the transfer of water rights as described above) are required to accommodate the proposed application.

Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

After the farm boundary realignment the access to both the subject farms will remain unchanged. All farm portions take access from the Hemel & Aarde Road. Since no additional land use rights or additional portions are proposed, it is submitted that the existing roads and access points should remain unchanged.

The servitudes right-of-way being referred to in title deed no. T61681/2008 will remain.

3.8 TITLE DEED

Title deed no. T616818/2008 does not have any restrictions that need to be removed in order for this application to be approved.

All servitudes described in title deed no. T61681/2008 will remain unchanged.

There is no bond registered against the subject properties.

3.9 FORWARD PLANNING & OTHER LAND USE DOCUMENTS

3.9.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)

The *Overstrand Spatial Development Framework (2006)* stipulates that the subject properties are situated outside the urban edge in the rural areas of the Overstrand region. The aforementioned policy earmarks the subject properties for Core Agriculture, Conservation-Agriculture buffer and Conservation 2 purposes.

The subject properties will be used for agricultural and tourist related purposes. It is not proposed to change the land use of the subject properties to accommodate the proposed farm boundary realignment.

From the above it is evident that the proposed farm boundary realignment of Remainder Portion 34, Portion 35, Portion 36 and Portion 37 of the farm Hemel & Aarde No. 587 adheres to and falls within the spatial planning policies for the Overstrand area.

3.10 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.10.1 HERITAGE VALUE

The proposed consolidation and subdivision (farm boundary realignment), departure and

subdivision to register a pipeline servitude and two servitude areas do not trigger any listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

3.10.2 ENVIRONMENTAL IMPACT

The proposed consolidation and subdivision (farm boundary realignment), departure and subdivision to register a pipeline servitude and two servitude areas do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

Approximately 30% (65ha) of the Sumaridge Wine Farm (inclusive of all four portions) is virgin fynbos, which is the natural scrubland vegetation occurring in a small belt of the Western Cape. This has been sectioned off and declared as exclusive natural areas for the preservation of the flora and fauna. The only control carried out is that of firebreaks and alien vegetation eradication.

Sumaridge allows their vines to exist in as natural an environment as is practicable. There are permanent swards of indigenous grasses and sedges which are cut and cast under vine as mulch, thus encouraging microbial activity in the soil and reducing the need for herbicides. Sumaridge encourages natural indigenous insect predators, such as free roaming guinea fowl.

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

At Sumaridge, the eradication of alien vegetation has been carried out for some years. The wood is chipped and incorporated with the farm waste for compost. As the seed bank for these virile plants is enormous, measures have been implemented towards sustainable control. Fallow land is grazed by herds of both Sussex and Dexter cattle. Foreign vegetation encroachment is physically removed from the entire farm on an annual basis. Natural areas are established and fenced, offering protection to indigenous plants and the ecosystem.

The Critically Biodiversity Map shows that only a small portion of Remainder Portion 34 and

Portion 36 of the farm Hemel & Aarde no. 587 fall within an area earmarked as a critical biodiversity area (map attached). The proposed consolidation and subdivision (farm boundary realignment), departure and registration of a pipeline servitude and two servitude areas will not have an impact on the existing CBA's since each portion, after the farm boundary realignment, still allows for ample arable areas for cultivation and pasture purposes.

From the above it is evident that the proposed consolidation and subdivision (farm boundary realignment), departure and subdivision to register a pipeline servitude and two servitude areas will not have a negative impact on the environment.

3.11 PLANNING PRINCIPLES

The planning principles of spatial justice and spatial resilience do not apply to this application.

Spatial sustainability: The proposed farm boundary realignment is to allow the owners to realign the farm boundaries in line with the agricultural production activities as well as the natural (trees) and man made features (farm roads and provincial road) on the subject properties. Consequently the proposed consolidation and subdivision (farm boundary realignment), departure and subdivision to register a pipeline servitude and two servitude areas do not impact negatively on the character of the area or the existing rights of adjacent property owners. The impact on the biophysical environment will also be kept to a minimum as described in Section 3.10.2. Furthermore the realignment of the farm boundaries, departure, pipeline servitude and two servitude areas will have no adverse impact on the spatial sustainability of the respective farm portions after the farm boundary realignment since the change in agricultural activities per portion varies minimally from the original portions. The extent of the subject properties, the shapes of the subject properties, the position of the provincial and roads, the natural features as well as the agricultural activities, the compliance with the spatial planning policies for the area, etc. allows for the consideration and approval of the proposed farm boundary realignment and registration of a pipeline servitude and two servitude areas without having an adverse impact on the spatial sustainability of the area. The proposed farm boundary realignment, departure and registration of a pipeline servitude and two servitude areas are to an improved farm within an established agricultural and tourism area and therefore will not impact on the sensitive environment.

Efficiency: The subject properties are easily accessible and conveniently located next to existing farm roads. Since it is only proposed to realign the farm boundaries, relax a lateral building line to accommodate the existing dwelling and create a pipeline servitude for the transferring of water (with little to no impact on the surrounding farms), it proves to be efficient to realign the farm boundaries. The production and management of the respective farm portions after subdivision can be done more efficiently without the provincial and gravel road cutting through the subject properties and by creating cadastral units in line with the existing agricultural activities and features on the farms.

In addition it proves to be efficient to keep the subdivision line next to the manager's house to follow the existing line of trees on the subject property. To move the proposed boundary 23m west to adhere to the 30m building line would make the boundary impractical due to the position of the existing line of trees that already defines this boundary.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation.

4. RECOMMENDATION

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

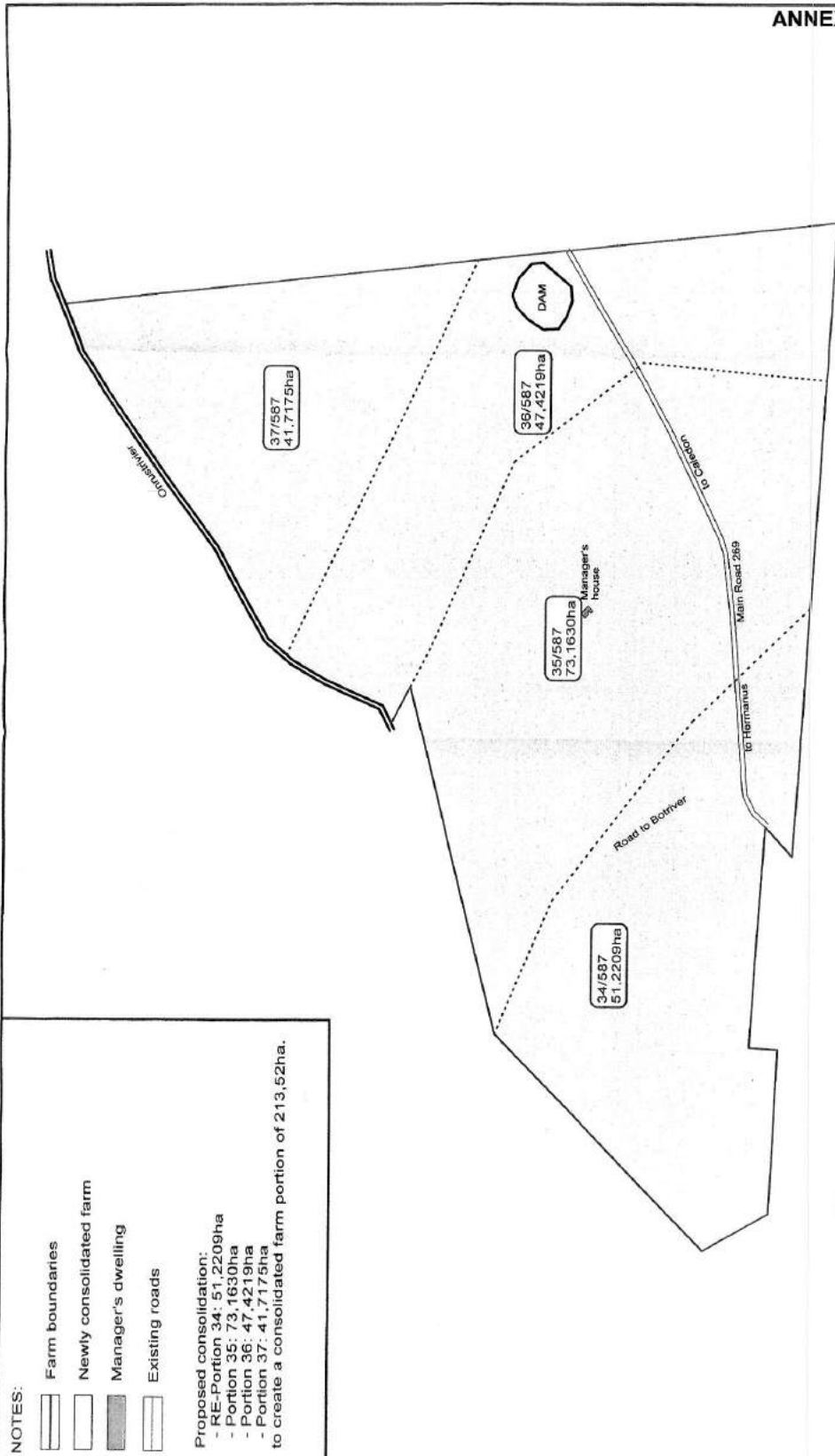
- The proposed consolidation and subdivision (farm boundary realignment), departure and subdivision to register a pipeline servitude and two servitude areas will not have a negative impact on the current character and land values of the surrounding farms;
- The zoning will remain Agriculture Zone I;
- The proposed farm boundary realignment does not constitute the fragmentation of agricultural land since no new additional farm portions are created;
- After consolidation and subdivision (farm boundary realignment) the viability of each farm portion is not less than the original portions' viability;

ANNEXURE B 17/17

- The consolidation and subdivision (farm boundary realignment) will create portions no longer dissected by the existing gravel road travelling to Botrivier and the Hemel & Aarde Road – last mentioned road currently runs through three of the four portions;
- The departure (lateral building line relaxation) is to accommodate an existing dwelling only to ensure a practical new boundary is created as defined by the existing line of trees;
- No additional access routes or access points will be created;
- There are no environmental aspects that will negatively impact on the application and the application will not have a negative impact on any environmental factors;
- The proposed consolidation and subdivision (farm boundary realignment), departure and subdivision to register a pipeline servitude and two servitude areas of the subject properties comply with the spatial planning policies of the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014).

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impacts in the area and that it will contribute towards the Overstrand rural area's significance and value.

ANNEXURE C 1/2



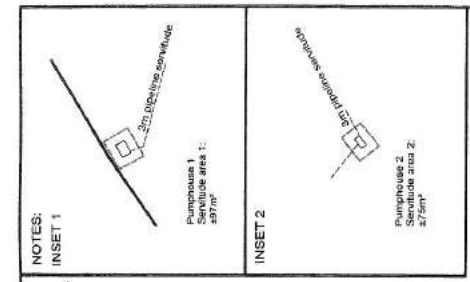
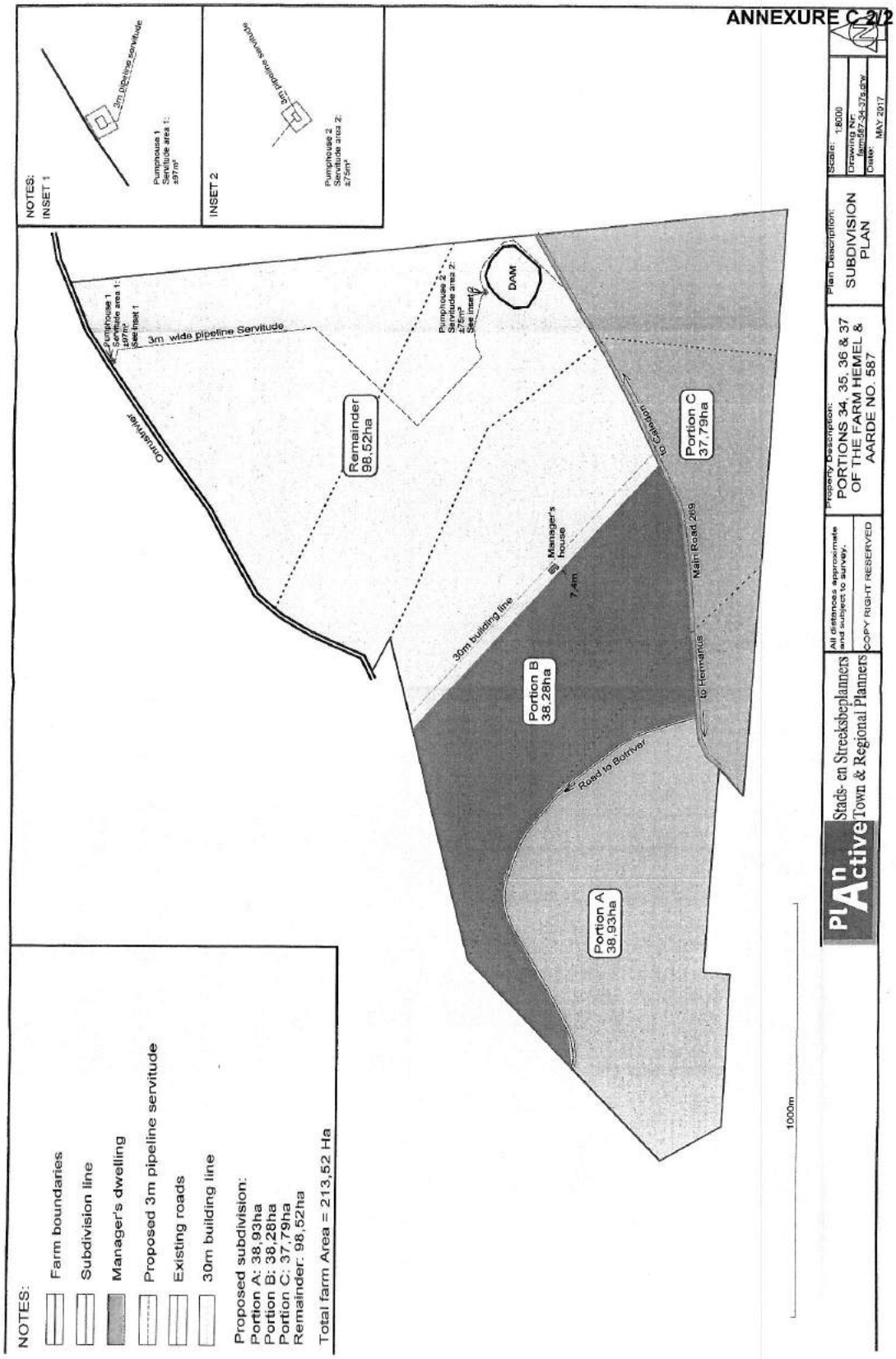
NOTES:

- Farm boundaries
- Newly consolidated farm
- Manager's dwelling
- Existing roads

Proposed consolidation:
 - RE-Portion 34: 51,2209ha
 - Portion 35: 73,1630ha
 - Portion 36: 47,4219ha
 - Portion 37: 41,7175ha
 to create a consolidated farm portion of 213,52ha.

1000m

<p>Plan Stads- en Streekskeplanners Town & Regional Planners Active</p>	<p>All distances approximate and subject to survey.</p>	<p>Property Description: PORTIONS 34, 35, 36 & 37 OF THE FARM HEMEL & AARDE NO. 587</p>	<p>Plan Description: CONSOLIDATION PLAN</p>	<p>Scale: 1:8000 Drawing No: 837-34-37-587 Date: MAY 2017</p>
	<p>COPY RIGHT RESERVED</p>			



- NOTES:**
- ▭ Farm boundaries
 - ▭ Subdivision line
 - ▭ Manager's dwelling
 - ▭ Proposed 3m pipeline servitude
 - ▭ Existing roads
 - ▭ 30m building line
- Proposed subdivision:**
 Portion A: 38,93ha
 Portion B: 38,28ha
 Portion C: 37,79ha
 Remainder: 98,52ha
- Total farm Area = 213,52 Ha**

ANNEXURE C 2/2

1000m

PLA n Stads- en Sireeksbeplanners
Active Town & Regional Planners

Scale: 1:8000
Drawn by: Jans 07-54-326-607
Date: MAY 2017

Plan Description:
SUBDIVISION PLAN

Property Description:
PORTIONS 34, 35, 36 & 37 OF THE FARM HEMEL & AARDE NO. 587

All distances approximate and subject to survey.
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ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice



Your Reference/Uw verwysing:

Our Reference/Ons verwysing: LL/cs/LL0253

Date/Datum: 17 August 2017

THE DIRECTOR
INFRASTRUCTURE AND PLANNING
OVERSTRAND MUNICIPALITY
HERMANUS

BY E-MAIL: loretfa@overstrand.gov.za

Dear Sir/Madam

FILE NO: Ptn'S 34-37/587
SCAN NO:
COLLABORATOR NO: 1068982

RE: PROPOSED DEPARTURE, SUBDIVISION & CONSOLIDATION – PORTIONS 34, 35, 36 AND 37 OF FARM 587 HEMEL EN AARDE, CALEDON, OVERSTRAND MUNICIPAL AREA

1. We are acting on behalf of MT Consulting and Training 101, Registration Nr. 2001/006320/07, the registered owner of portion 70 of Farm nr. 587 Hemel en Aarde Valley, forming the North/North Western boarder of Portion 35 and Portion 36 and approximately 30% of Portion 37 of the subject property.
2. Depston 40 Pty Ltd. is the registered owner of the above properties, and neighbouring the property of our client in the Hemel en Aarde Valley, which forms the subject of the Application for Departure, Subdivision and Consolidation of the above properties to form 4 new subdivided units, namely Portion A, Portion B, Portion C and the Remainder (see 3.4 of the Application).
3. The Amended Notice served on our offices by e-mail on 10 August 2017 has reference.
4. For purposes of the Section 52(3) of the By-Law, our client records the following:
 - 4.1 Name of the person or body concerned MT Consulting and Training
Registration Nr. 2001/006320/07

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TP 21 AUG 2017

Director: Laurina Wilson | Jan Wagener (consultant)
REG No.: 2013/142144/21

Date: 21/8/17

- statutory body;
- (iii) the sale or grant of any right to any portion of agricultural land to the State or a statutory body;
- (b) any subdivision of, or the passing of an undivided share in, any land in accordance with a testamentary disposition or intestate succession, if the testator died before the commencement of this Act;
- (c) the passing of an undivided share in any land in accordance with a contract entered into prior to the commencement of this Act;
- (d) any subdivision of any land in connection with which a surveyor has completed the relevant survey and has submitted the relevant subdivisional diagram and survey records for examination and approval to the surveyor-general concerned prior to the commencement of this Act."
- c. Advertising on Roads and Ribbon Development Act 21 of 1940
Section 11 of the above states that
- "(6) Any approval or consent granted under this section by a controlling authority may be made subject to any condition prohibiting the division of the land in question or any part thereof, or limiting the use to which the land in question or any part thereof may be put, or limiting the number and extent of any buildings or other structures which may be erected thereon, or prohibiting the erection of any building or other structure thereon within a stated distance from the road in question."
- d. Overstrand Municipality's By-Law on Municipal Land Use Planning
Section 16(2)(b)
(b) a permanent departure from the provisions of the zoning scheme
6. The Proposed Development consist of the following individual processes:
- 6.1 Consolidation of the four subject properties
 - 6.2 Subdivision of the newly consolidated farm (comprising of the previous 4 individual subject properties)
 - 6.3 The permanent departure of building restrictions
 - 6.4 Registration of a pipeline servitude and 2 pump stations in favour of Portion C
7. The eventual goal of the applications is stated as being:

"It is the intention of the owners of Portions 34, 35, 36 and 37 of the farm Hemel en Aarde No.587 to realign the farm boundaries to create farm portions in line with the production of their farms and to create portion south-east of the Hemel en Aarde Road where the aforementioned cuts through the existing farm portions."

"All existing structures will be positioned on the newly created Remainder Portion after the farm boundary realignment. The proposed subdivision lines (new Boundaries) will have no impact on any of the other existing structures on the respective portions after subdivision. The zonings of the subject properties will remain unchanged and it is not proposed to deviate from any other land use restrictions applicable to Agricultural Zone 1 to accommodate the proposed farm boundary realignment."

8. From the Application follows that:
 - 8.1 The Subject properties, namely Portion 34, 35, 36 and 37 are zoned as Agricultural Zone 1 and currently used as such.
 - 8.2 The surrounding properties, including the property that belongs to our client, are all zoned similar.
 - 8.3 The subject properties are used as such.
 - 8.4 The surrounding properties are used accordingly.
 - 8.5 The subject properties belong to a single owner, Depston 40 Pty Ltd.
 - 8.6 The fragmentation of the property (realignment of boundaries) will bring about 4 individual farming capable of being utilized for complete different purposes and being sold as such.
 - 8.7 The fragmentation of the units has the potential create new opportunities for complete different uses of the subject properties.
9. The creation of 4 individual properties "to realign the farm boundaries to create farm portions in line with the production of their farms" will eventually create 4 individual farming entities which could be sold individually. The proposed subdivision would therefore be in preparation of a sale of the individual properties as separate entities.

CONSOLIDATION OF THE 4 SUBJECT PROPERTIES

10. The application for consolidation of the 4 subject properties is not opposed. This application falls within Section 16(2)(e) and Section 33 of the By-Laws on Municipal Land Use Planning, 2016, subject to the principles as set out in

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Section 42 of the Spatial Planning Land Use Management Act, 16 of 2013 (SPLUMA).

The consolidation of the 4 subject properties is in line with the general land use and character of the environment and will contribute to the overall purpose of Act 70 of 1970.

SUBDIVISION OF THE NEWLY CONSOLIDATED UNIT

11. The Application for Subdivision, should also be considered in terms of SPLUMA, except that this application is also subject to the Subdivision of Land Act, 70 of 1970.
12. The Subdivision of Agricultural Land Act, 70 of 1970 prohibit the subdivision of Agricultural Land without the consent of the Minister of Agriculture and provides for very limited exclusions in Section 2.
13. The exclusions are very specific and limited to the following:
 - " The provisions of this Act shall not apply in respect of-
 - (i) any subdivision of land for the purpose of transferring a portion thereof to the State or statutory body;
 - (ii) the transfer of an undivided share in land to the State or a statutory body;
 - (iii) the sale or grant of any right to any portion of agricultural land to the State or a statutory body;
 - (b) any subdivision of, or the passing of an undivided share in, any land in accordance with a testamentary disposition or intestate succession, if the testator died before the commencement of this Act;
 - (c) the passing of an undivided share in any land in accordance with a contract entered into prior to the commencement of this Act;
 - (d) any subdivision of any land in connection with which a surveyor has completed the relevant survey and has submitted the relevant subdivisional diagram and survey records for examination and approval to the surveyor-general concerned prior to the commencement of this Act."

It is clear from the application for subdivision of the consolidated property, that it does not form part of the exclusions provided for in Section 2, namely where the subject property had initially consisted of separate portions, then consolidated into one undivided unit. Therefore the subdivision into new, but different portions needs to follow the provisions and process prescribed

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in Act 70 of 1970 and the considerations set in terms of the Act (as applied by the Courts) needs to be followed.

14. It is trite law that the SCA applies very strict interpretation to the application of Act 70 of 1970.

Several attempts have been made in the past to avoid the strict application of the particular legislation.

In the recent matter of Four Arrows Investments 68 v Abigail Construction (unreported case no 20472/2014) the Supreme Court of Appeal, went even further and prohibited steps which may be a precursor to enable a prohibited sale. The Honourable Court specifically ruled that:

"That the Legislature has prohibited the advertisement of a portion of Agricultural land for Sale in the absence of Ministerial consent, clearly indicates that the object of the legislation was not only to prohibit concluded sale agreements, but also preliminary steps which may be a precursor to the conclusion of a prohibited agreement of sale".

The current Application is an attempt to avoid the provisions of the Act and may be "preliminary steps which may be a precursor to the sale" of certain portions of the subject properties after conclusion of the prospective consolidation and subdivision.

15. Should the object of the owner of the subject property be to continue to farm the property in terms of its current zoning restrictions, there is no need to take the process further to subdivide the property into individual entities, and registration of servitudes as per the current application.
16. Our client submits that in considering the subdivision, the Municipality cannot rely only on the considerations stated in Section 42 of SPLUMA, but the application needs to be considered according to the principles set down by Act 70 of 1970, together with the recent authority on the interpretation and application of the Act. The subdivision of agricultural land is specifically regulated by separate and very specific legislation and process to ensure the sustainable productivity of agricultural land in the interest of the broad population of the country.
17. No mention is made in the Application for the subdivision of the specific considerations provided for in the Subdivision of Land Act. Section 33(2) of SPLUMA specifically states that: "Despite subsection (1) where an

application or authorisation is required in terms of any other legislation for a related land use, such application must also be made or such authorization must also be requested in terms of that legislation. The subdivision of the consolidated farm in this application is a new and separate process that needs to be dealt with in terms of the provisions of the Subdivision of Agricultural Land Act, 70 of 1970.

18. The subdivision of the consolidated agricultural unit can never be watered down to mere "farm boundary realignment" as suggested in the application and specifically in the first bullet of the final Recommendations. It is clear from the recommendations as well, that the newly subdivided units, will be easier to sell as individual units, which goes to the core of the object of Act 70 of 1970, namely to prevent the negative impact of small fragments of uneconomical farm land to be formed. It requires very specific consideration. In considering the application for subdivision the Municipality should follow the guidelines set down by the Courts (and more specifically the more recent judgment of the Supreme Court of Appeal in the Four Arrows Investment Case).

RELAXATION OF THE PERMANENT BUILDING LINE

19. The relaxation of the permanent building line of the western lateral building from 30 m to 7 m, should not be considered until such time as the Application for subdivision of the newly consolidated unit has been granted and completed with consent of the Minister of Agriculture. The municipality should not condone the inclusion of the application for relaxation pending the Application for Subdivision.

The relaxation of the building line, forms an inherent part of the objection to the fragmentation of Agricultural Land, as is regulated by Act 70 of 1970, since this will eventually lead to the establishment of several smaller uneconomical units - each with a separate dwelling and an independent agricultural unit which cannot be sustainable. The relaxation of the building line in itself has the potential to enable the erection of several buildings closer to the boundary which will have a negative impact on the environment.

PIPELINE SERVITUDE

20. The registration of a pipeline servitude is further indication of the fragmentation of the land and is necessary only if consent for the subdivision

is granted. This is a further indication that the specific subdivision is a precursor to the fragmentation of the specific consolidated farming unit and contrary to the objects of Act 70 of 1970.

CHARACTER OF THE ENVIRONMENT

21. It is common cause that the Hemel en Aarde Valley is unique in its character as an agricultural zone and limited tourist destination. The law does not make provision for realignment of farm boarders. Therefore this application is subject to the strict principles of the law on subdivision of farm land to ensure that the new entities that will be subdivided will not have a negative impact on the unique character and agricultural potential of the environment.

Since the new entities will be, according to the application, independent in its nature and usage, it is clear that this new sub-divided properties will enable the applicants to sell the units which will defeat the object of Act 70 of 1970.

IMPACT ON EXTERNAL ENGINEERING SERVICES

22. The properties are situate on the banks of the Onrus River. This river forms the main water source to the greater Overstrand (Hermanus) area and is the main supply of drinking and household water to a population of approximately 26,000. Draughts are not uncommon in this water sensitive area and the creation of 4 individual units, which has the potential to be utilized as independent farming units due to the realignment of the farm boundaries, holds the potential to have a negative impact on the precious resource.
23. The application refers to the transfer of water rights, but does not describe the detail and the impact of these transfers on the limited water source.
24. Should the new sub-divided units be utilized as independent farming entities, sewerage, solid waste and electricity supplies will need to be adjusted and extended to accommodate and serve each entity independently.

W

FORWARD PLANNING

25. The new realigned units will be suited for individual use and could be sold individually which might have an impact on the Overstrand Spatial Development Framework if it is over utilized for tourist and function venues. The decision to allow the fragmentation of the unit that is currently only functional as a single unit, would not take into account the over development potential in future.

ENVIRONMENTAL IMPACT

26. The possible impact the newly subdivided independent units might have on the environment might be severe. The decision to allow 4 individual and independent units to be formed, could possibly be the precursor to the sale of one or more units to developers of tourist accommodation and other facilities which would necessarily lead to an influx of tourists. This undoubtedly might lead to increased human activity, waste and pollution which would lead to serious damage to the environment and the sensitive natural resources, which have been protected from over exposure due to the limited availability of land in the valley.

FINAL REMARKS

27. Our client has no objection to the Consolidation Application as this is in line with the Overstrand Spatial Development Framework and does not hold the potential for future exploitation of the environment.

Our client however objects to the subdivision and consequential applications for departure and registration of a pipeline servitude and pump station servitude for the reasons stated above.

Yours faithfully



STEYN WILSON ING/INC

Per: L Wilson

ANNEXURE E 1/5

Plan Active
Town & Regional Planners
Stads- en Streeksbeplanners

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email: planactive@hermanus.co.za
Website: www.planactive.co.za



Our reference: PA17011/ML
Your reference: RCAL 34, 35, 36 & 37 of 587 (3698)

26 SEPTEMBER 2017

THE MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
P.O. BOX 20
HERMANUS
7200

FOR ATTENTION: MRS HANNEEN VAN DER STOEP

TP-A Theart
(Huld Stoep)

FILE NO:	Plans 34 - 37 / 587
SCAN NO:	57
COLLABORATOR NO:	1079202

Sir

**PROPOSED CONSOLIDATION & SUBDIVISION (FARM BOUNDARY REALIGNMENT),
DEPARTURE & SUBDIVISION TO REGISTER A PIPELINE SERVITUDE AND TWO SERVITUDE
AREAS: REMAINDER PORTION 34, PORTION 35, PORTION 36 & PORTION 37 OF THE FARM
HEMEL & AARDE NO. 587, CALEDON**

- **DEPSTON 40 (PTY) LTD**

Reference is made to our application dated 31 May 2017 and your email dated 12 September 2017 with an objection attached thereto.

One objection was received from Steyn Wilson Inc. on behalf of MT Consulting and Training. Herewith our response to the objection:

Paragraphs 1-7 on pages 1-4 merely confirms the attorney's power of attorney and quotes the relevant legislation applicable to the application.

In paragraph 8 the objector summarizes the application and states the reasons for objecting:

- *The fragmentation of the property will bring about 4 individual farms being utilized for different purposes and being sold as such;*
- *The fragmentation creates new opportunities. The farm boundary realignment is considered preparation of the sale of the individual properties as separate entities.*

There are currently four properties. After the farm boundary realignment there will still be four properties. The statement with regards to the fragmentation of agricultural land is irrelevant since we are not creating any additional portions. In addition, although the properties are owned by the same company, the existing respective four portions can be sold individually since they are not notarially tied. The statement with regards to the "preparation of the sale of individual properties" is therefore considered irrelevant.

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

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lenn: B. Art et Scien Cum Laude (Town Planning) UNW; SACTRP

Paragraphs 11 to 18 that refer to the application that has to be submitted in terms of the Subdivision of Agricultural Land Act, Act 70 of 1970, is irrelevant and should be dismissed. The application was submitted to the National and Provincial Departments of Agriculture on 31 May 2017 for the consolidation, subdivision and departure of Portions 34, 35, 36 and 37 of the farm Hemel & Aarde no. 587 in terms of the aforementioned Act. Recent correspondence with Mrs Annette Stoltz (Department Agriculture, Forestry & Fisheries) and Mr. Cor van der Walt (Department of Agriculture: Western Cape) in September 2017 confirmed that the aforementioned departments are busy considering the proposed farm boundary realignment in terms of Act 70 of 1970.

Paragraphs 19 and 20 of the objector's letter refer. Both the departure and servitude right-of-way applications can be considered simultaneously with the consolidation and subdivision applications. The latter does not have to precede the departure and servitude application. In addition the municipality will not finalize and approve the consolidation, subdivision, departure and servitude applications in terms of the Municipal Planning Bylaw prior to receiving the National Department of Agriculture's consent in terms of Act 70 of 1970. The objector's comments in this regard are consequently also deemed irrelevant.

Paragraph 21 was already addressed in our comments above.

The impact on the external engineering services (paragraphs 22-24) was addressed in our report. Our client is currently in communication with Breede-Gouritz Catchment Management Agency and the respective agricultural departments to address the water rights after the farm boundary realignment.

Paragraphs 25 and 26 were already addressed in our comments above (no fragmentation proposed; sale of respective portions before or after farm boundary realignment remains unchanged – four portions can now be sold and this will remain unchanged once the farm boundary realignment is concluded).

Also find attached the comments from Mr Lucas Steyn from Vorster & Steyn Attorneys dated 22 September 2017.

Yours faithfully



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



BTW/VAT no. 4400177491

VORSTER & STEYN

Prokureurs, Notarisse & Aktebesorgers
Attorneys, Notaries & Conveyancers

MITCHELL HOUSE
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POSBUS 500
7200 HERMANUS
DOCEX 2

TELEFOON (8 Lyne)
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TELEFAKS (Akte)
(028) 312 3348
TELEFAKS (Hof & Ander)
(028) 313 0364

ilse@vorsteyn.co.za

MITCHELL HOUSE
16 MITCHELL STREET
P.O. BOX 500
7200 HERMANUS
DOCEX 2

TELEPHONE (8 Lines)
(028) 313 0033
TELEFAX (Conveyancing)
(028) 312 3348
TELEFAX (Court & Other)
(028) 313 0364

The Director
Infrastructure and Planning
Overstrand Municipality
Hermanus

Ons Verw./Our
Ref.

U Verw./Your
Ref.

Datum/Date

22 September 2017

**RE: PROPOSED DEPARTURE, SUBDIVISION & CONSOLIDATION
PORTION 34, 35, 36 AND 37 OF FARM 587 HEMEL EN AARDE, CALEDON,
OVERSTRAND MUNICIPAL AREA.
APPLICANT: DEPSTON (PTY) LTD**

I have been instructed by the directors of the Depston 40 (Pty) Ltd to look at the letter of objection dated 17 August 2017, prepared by Mrs Wilson of Steyn Wilson attorneys and to comment thereon.

With all due respect to Mrs Wilson, I have been unable to find any valid objection to the application lodged by my clients. Most of the nine pages of Mrs Wilson's letter are extracts from the Municipal By-laws, The Subdivision of Agricultural Lands Act and other legislation, which we all know have to be complied with. I am sure that the Municipality does not have to be reminded of the fact that my clients' application has to comply with the By-laws and other relevant legislation.

VORSTER & STEYN ING / INC (REG. NO. 1998/009462/21)

Direkteure / Directors: • Lucas Cornelis Steyn B.Comm.(Stall) LL.B.(UNISA) • Coenraad Johannes Bierman B.Comm.(UOVS) B.Proc.(UNISA) •

Konsultante / Consultants: • Etienne Le Roux B.Proc.(UNISA) LL.B.(UNISA) • Leon Weakley BLC, LL.B (TUKS)

Professionele Assistentie / Professional Assisstants: • Gerhard Johannes Louw LLB (NWU) • Wynand Nortje BA Law, LLB, BA Hons International Relations(STELL) • Ilse De Wet LLB (STELL) •

In Ms Wilson's letter of objection she refers more than once to the fragmentation of the property which will be brought about by the realignment of the boundaries, which is of course nonsense. Our clients already own 4 individual properties which are capable of being sold separately and the realignment of the boundaries cannot cause any further fragmentation of farm land!

The argument of Mrs Wilson that the proposed subdivision would be in preparation of a sale of the individual properties as separate entities, is ridiculous, because as mentioned above our clients already hold the four properties under separate title deeds and will not be creating any addition entities. She also makes reference to the re-zoning of the properties, which is of course irrelevant. Like any other property owner, our clients, or their successors in title, have the right to apply for the rezoning of their property and at that stage all affected parties would have the right to object thereto. The objection in Mrs Wilson's letter is accordingly premature.

On page 6 of her letter of objection Mrs Wilson also insinuates that an attempt is being made by my clients to avoid compliance with the provisions of the Subdivision of Agricultural Lands Act, Act 70 of 1970, where she says "the current application is an attempt to avoid provisions of the Act and may be preliminary steps which may be a precursor to the sale of certain portions of the subject properties after conclusion of the prospective consolidation and subdivision." What in the application makes Mrs Wilson think that the application is an attempt to avoid the provisions of the Act is a mystery.

On page 7 of the letter of objection Mrs Wilson also makes the unfounded allegation "that the newly subdivided units will be easier to sell as individual units which goes to the core of the object of Act 70 of 1970, namely to prevent the impact of small fragments of uneconomical farm land to be formed.". Again Mrs Wilson has lost sight of the fact that the

VORSTER & STEYN ING / INC (REG. NO. 1996/009462/21)

Direkteure / Directors: • Lucas Cornelis Steyn B.Comm.(Stell) LL.B.(UNISA) • Coenraad Johannes Bierman B.Comm.(UOVS) B.Proc.(UNISA) •

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application will not result in the fragmentation of farm land and that there are already four existing units which can be sold.

In Mrs Wilson's letter she also says that the relaxation of the building line would have a negative impact on the environment . How on earth can that impact on the environment?

The objections based on the character of the environment, the impact on external engineering services and forward planning does not deserve any comment, because it is obvious that it is not relevant to the application.

In conclusion it is my submission that no serious consideration can be given to the objection lodged by Mrs Wilson on behalf of MT Consulting and Training 101 (Pty) Ltd because the grounds on which the objection are based are totally unfounded.



Yours faithfully

Lucas Steyn

VORSTER & STEYN INC (REG. NO. 1998/009462/21)

Direkteure / Directors: • Lucas Cornelis Steyn B.Comm (Stell) LL.B (UNISA) • Coenraad Johannes Bierman B.Comm.(UOVS) B.Proc.(UNISA) •

Konsultante / Consultants: • Etienne Le Roux B.Proc (UNISA) LL.B.(UNISA) • Leon Weakley BLC, LL.B (TUKS)

Professionele Assistentie / Professional Assistants: • Gerhard Johannes Louw LLB (NWU) • Wynand Nortje BA Law, LLB, BA Hons International Relations(STELL) • Ilse De Wet LLB (STELL) •



ANNEXURE F 1/3

Overstrand Municipality
PO Box 20
HERMANUS
7200
Attention: Brendelene Stewart

TP- A Theart
(HOLIVIER)

Date: 3 July 2017

Enquiries:
Owen Peters
Tel: +27 21 980 3817
Fax: +27 86 566 7877

Dear Sir/Madam

RE: PORTIONS 34, 35, 36 & 37 OF FARM 587, HEMEL AND AARDE, CALEDON, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE, SUBDIVISION AND CONSOLIDATION.

OUR REF: 02038/17

YOUR REF: RCAL 34,35,36 & 37 OF 587 (3698)

I hereby inform you that this department has no objection against the proposed land use application, subject to the following conditions:

- a) The following building (or structure) 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	9m

- b) 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.
- c) 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:
- Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - To upgrade or refurbish its existing power lines, structures and infrastructure as determined by Eskom,
 - To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.

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

FILE NO: Ptn'S 34-37 587
H+A ✓
SCAN NO:
COLLABORATOR NO: 1050519

ESKOM (WESTERN REGION)

OCCUPATIONAL HEALTH AND SAFETY ACT (Act No 85 of 1993) WITH REGULATIONS

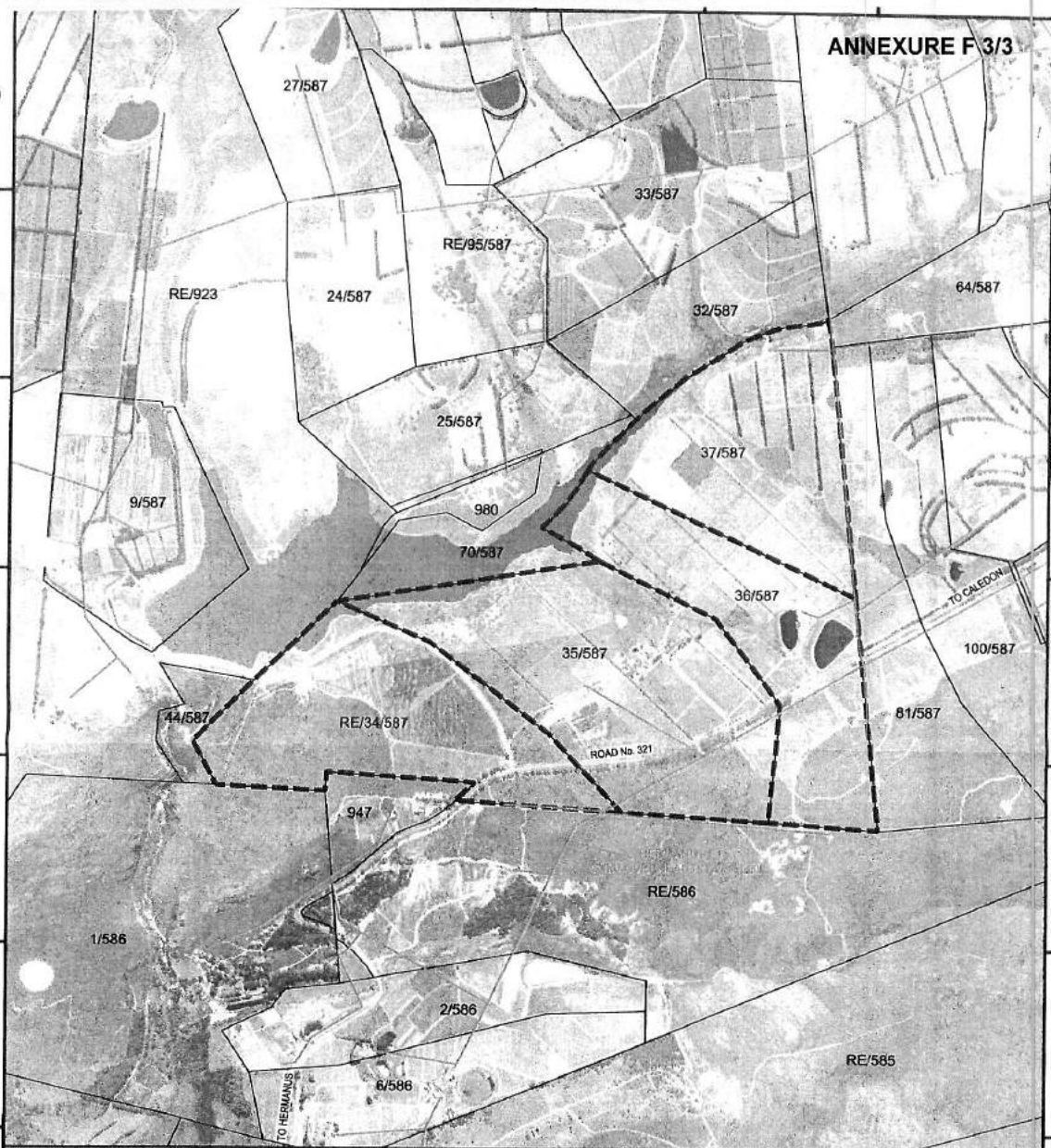
D16 (7) Excavations

"The builder or excavator shall ascertain as far as possible the location and nature of underground services likely to be affected by the excavation and take such steps as may be necessary to prevent danger to persons".



THE ELECTRICITY ACT (Act No 41 of 1987)

Section 27 (3) : Offences and Penalties

"Any person who without legal right (the proof of which shall be upon him) cuts or damages or interferes with any apparatus for generating, transmitting or distributing electricity, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000,00 or to imprisonment for a period not exceeding twelve months".



ANNEXURE F/3/3

<p>LEGEND</p> <p>—— CADASTRAL BOUNDARY</p> <p>—— ESKOM MV 11kV O/H LINE</p> <p>- - - AREA OF INTEREST</p>				<p>SCALE 1:12 500</p>													
		<p>ALL CABLE POSITIONS ARE APPROXIMATE AND SHOULD BE VERIFIED ON SITE</p> <p>LAND DEVELOPMENT SECTION</p> <p>TEL 021-980 3128 FAX 021-980 3053</p>		<p>THIS DRAWING IS THE PROPERTY OF ESKOM</p>													
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">REV</th> <th style="width: 65%;">REVISION DESCRIPTION</th> <th style="width: 5%;">BY</th> <th style="width: 5%;">CHKD</th> <th style="width: 10%;">AUTH</th> <th style="width: 10%;">DATE</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		REV	REVISION DESCRIPTION	BY	CHKD	AUTH	DATE									<p>CALEDON CNC R/34, PORTION 35, 36 AND 37 OF FARM No. 587 HEMEL AND AARDE PROPOSED SUBDIVISION, CONSOLIDATION & DEPARTURE OVERSTRAND MUNICIPALITY WAYLEAVE REQUEST</p>	
REV	REVISION DESCRIPTION	BY	CHKD	AUTH	DATE												
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<p>DRAWN: S. ALBERTS</p> <p>DATE: 2017/09/30</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">SET</th> <th style="width: 33%;">SHEET</th> <th style="width: 33%;">REVISION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td style="text-align: center;">0</td> </tr> </tbody> </table>		SET	SHEET	REVISION			0	<p>TEL 021-980 3128 FAX 021-980 3053</p>							
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ANNEXURE G 1/1



ROAD NETWORK MANAGEMENT

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

REFERENCE: 16/9/6/1-28/108 (Job 6874)
ENQUIRIES: Ms GD Swanepoel
DATE: 20 July 2017

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

Attention: Ms L Isaacs

Dear Madam

**PORTION 34, 35, 36 AND 37 OF FARM HEMEL & AARDE 587, CALEDON: MAIN ROAD 269:
PROPOSED CONSOLIDATION, SUBDIVISION, DEPARTURE, AND REGISTRATION OF SERVITUDE
AREAS**

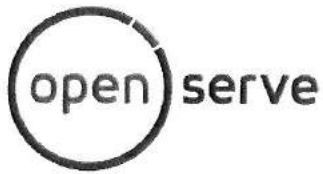
1. The application received from Plan Active dated 31 May 2017 refers.
2. The affected properties are located 5 km north of Hermanus and take access off Main Road 269.
3. This application is for the consolidation and subdivision of the properties, registration of servitudes and for a departure as set out on drawing number farm587-34-37s.drw dated May 2017.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014.
5. This Branch approves the subdivision in terms of Act 21 of 1940.

Yours faithfully

ML WATTERS
For **CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT**

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	1058192

*1/10
1/10/17*



*TP-ATheart
C H Jol Stoop*

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_WONR2937_17
Your Ref:

18 September 2017

Attention: S Muller

Overstrand Municipality
HERMANUS

WAYLEAVE: PROPOSED CONSOLIDATION: PORTION 34, 35, 36 AND 37 OF FARM 587, HEMEL AND AARDE, CALEDON

With reference to your application dated July 2017.

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

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

Approval is granted, subject to the following conditions.

As per sketch attached, Open Serve infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

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

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

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

19 SEP 2017

FILE NO:	<i>Ptms 34-37/587</i>
SCAN NO:	<i>09</i>
COLLABORATOR NO:	<i>1077497</i>

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.


As important OPTIC FIBRE cables are affected, please contact our representative Frederik Swart at telephone number 028 514 1199 / 081 363 7815 / FrederikS@openserve.co.za at least 48 hours prior of commencement on construction work.

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

Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

pp 

Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

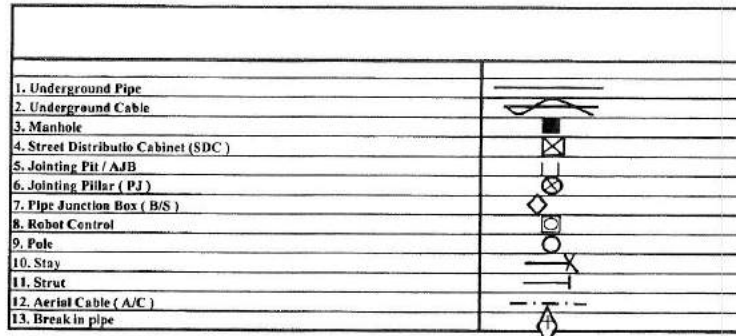
This wayleave, Reference Number **WWIP WONR2937 17** is valid for 12 months from date here of and is subject to the following conditions:

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** 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 a 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 indicated on the provided 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 September 2017

By: C Spammer

For Regional General Manager
Western Cape (N2W3T1B)



The pipeline indicated contains **OPTIC FIBRE** cables.

F Swart - telephone 028 514 1199 must be contacted at least 48 hours before commencement of work.





**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE, SUBDIVISION & CONSOLIDATION:
PTN 34, 35, 36 & 37 OF FARM 587, HEMEL & AARDE (3698)**

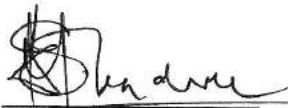
Electricity	:	Eskom area
Stormwater	:	No services available
Water	:	No services available
Sewer	:	In Order
Roads and traffic	:	No services available

Conditions:

1. that the developer arrange with ESCOM for the provision of electricity and that he complies with all conditions as may be set by ESCOM;
2. that no water from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (Water and Sanitation, Health, Bocma etc.) for the use of any other water resources and the extraction thereof;
3. that the developer is responsible to provide potable water to the development that complies with SANS0241 standards and that relevant proof be submitted to the Senior Manager: Engineering Services, Overstrand Municipality;
4. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and DWA for approval;
5. that the developer complies to all the conditions set by Department Of Water Affairs & Bocma;
6. that, as there is currently no municipal sewer network in the vicinity, Portion 34, 35, 36 & 37 of Farm 587 must be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services (Hermanus), and to which the sewer services on the development must connect to;
7. that the Municipality does not have the capacity to service the proposed development with regards to removal of sewerage from the property. The owner is therefore responsible for removal of sewerage from the property, and thereof at a licensed municipal sewerage treatment facility;
8. that alternatively, sewer treatment facilities that are approved by the Department of Water Affairs may be provided for disposal of sewer

from the developments. Written proof of such approval is to be submitted to the Municipality;

9. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to minimum requirements of SANS 140400 – P: 2010: Drainage;
10. that disposal of effluent from the site must comply with all relevant legislation, as well as with the municipal Water Supply & Sanitation Services By-Law (2009), and in light of the proposed wine making activities on site, with specific reference to Section 58: Objectionable discharge, Section 72: Application for disposal of Industrial effluent, Section 73: Unauthorised discharge of industrial effluent and Annexure A: Conditions for disposal of Industrial effluent and Annexure A: Acceptance of industrial effluent for discharge into the sewerage disposal system;
11. that it is noted that the conditions of Annexure A: acceptance of industrial effluent for discharge into the sewerage disposal system: Special Limitations specifically exclude acceptance of, amongst other, any yeast waste as well as molasses (spent or unspent) for disposal into the sewerage disposal system;
12. that any relevant restaurant -/ commercial food preparation facilities must be provided with grease trap, which must comply with the standards and specification of the Department: Operational Services;
13. that access can be obtain from Provincial Road R321 via the existing access to Portion 34, 35, 36 & 37 of Farm 587, that any additional and / or extended vehicle entrances will be for the owner's account. The Provincial Engineer must however provide comment in this regard.



DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

22/11/2017

DATE



ANNEXURE J 1/2

Cor Van Der Walt
LandUse Management
Email: LandUse.Elsenburg@elsenburg.com
tel: +27 21 808 5099 fax: +27 21 808 5092

TP-A Theart
(Huld Stoep)



OUR REFERENCE : 20/9/2/4/2/395
YOUR REFERENCE : -
ENQUIRIES : Cor van der Walt

Plan Active Town & Regional Planners
PO Box 296
HERMANUS
7200

Att: M Lerm

FILE NO: Ptn'S 34, 35, 36 & 37
Farm 587
SCAN NO: ✓
FARM 587
COLLABORATOR NO: 1163476

**PROPOSED CONSOLIDATION, SUBDIVISION AND DEPARTURE: DIVISION CALEDON
REMAINDER OF PORTION 34 OF THE FARM HEMEL & AARDE NO 587
PORTION 35 OF THE FARM HEMEL & AARDE NO 587
PORTION 36 OF THE FARM HEMEL & AARDE NO 587
PORTION 37 OF THE FARM HEMEL & AARDE NO 587**

Your email of 03 November 2017 and an email from Lornay Environmental Consulting dated 12 March 2018 has reference.

The Western Cape Department of Agriculture has no objection against the proposed re-alignment with water allocations as per motivation of Lornay Environmental Consulting

Please note:

- That this is comment to the relevant deciding authorities in terms of the Subdivision of Agricultural Land Act 70 of 1970.
- 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

2018-04-06

Copies:

Directorate Land Use and Sustainable Resource Management
National Department of Agriculture
Private Bag X 120
PRETORIA
0001

Overstrand Municipality
PO Box 20
HERMANUS
7200

Collab

ANNEXURE K 1/4



**agriculture,
forestry & fisheries**

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA



TP-A Theart
(Hollivier)

Private Bag X120, Pretoria, 0001
Delpen Building, C/o Annie Botha & Union Street, Riviera, 0084

From: Directorate Land Use and Soil Management
Tel: 012-319-7634 Fax: 012-329-5938
Enquiries: Helpdesk Ref: 2018_04_0029

Plan Active Town & Regional Planners
P. O. Box 296
HERMANUS
7200

Attention: M. Lerm

APPLICATION IN TERMS OF THE SUBDIVISION OF AGRICULTURAL LAND ACT, 70 OF 1970: REMAINDER OF PORTION 34, PORTION 35, PORTION 36 AND THE PORTION 37, ALL OF THE FARM HEMEL AND AARDE NO. 587, DIVISION CALEDON WESTERN CAPE PROVINCE

Your letter bearing reference PA17011/ML dated 09 April 2018 refers.

With reference to the above-mentioned subject, the Department wishes to inform you that the application has been granted.

Consent no. 55831, issued in terms of Section 4 of the Act is enclosed.
This consent supersedes Consent No 53435 of 2017-10-19.

To facilitate registration, it is advised that the conveyancer must lodge the signed copy of the consent with the Registrar of Deeds together with the documents for registration.

It is trusted that you will find the decision in order.

Yours faithfully

DR I.B. KGAKATSI
ACTING CHIEF DIRECTOR: NATURAL RESOURCES MANAGEMENT
DELEGATE OF THE MINISTER
DATE: 18/06/2018

CC: The Surveyor-General Private Bag X 9028 CAPE TOWN 8000
CC: Land Use and Soil Management, Private Bag x2, SANLAMHOF, 7532
CC: Mr Brandon Layman Landuse Management Department of Agriculture: Western Cape Private Bag x 1 ELSENBURG 7607

DAFF2018/ FM Hemel & Aarde 587

FILE NO: Ptn's 34, 35, 36 & 37/587
SCAN NO: Hemel + Aarde
Farm 587
COLLABORATOR NO: 1180872



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

VERWREF.

2018_04_0029

TOESTEMMING
KRAGTENS DIE WET OP DIE ONDERVERDELING
VAN LANDBOUGGROND, 1970

CONSENT
IN TERMS OF THE SUBDIVISION OF
AGRICULTURAL LAND ACT, 1970

53831

By virtue of the powers delegated to me by the Minister of Agriculture, Forestry and Fisheries, consent is hereby granted in terms of section 4(2) of the Subdivision of Agricultural Land Act, 1970, for the subdivision of the agricultural land described in paragraph 1, into units indicated in paragraph 2, subject to the conditions set out in paragraph 3.

PARAGRAPH 1: THE AGRICULTURAL LAND TO WHICH THIS CONSENT APPLIES

- 1.1 REMAINDER OF PORTION 34 (PORTION OF PORTION 1) (ATTAQUASKLOOF), IN EXTENT 51,2209 HECTARES,
- 1.2 PORTION 35 (PORTION OF PORTION 1) (ATTAQUASKLOOF), IN EXTENT 73,1630 HECTARES;
- 1.3 PORTION 36 (PORTION OF PORTION 1) (ATTAQUASKLOOF), IN EXTENT 47,4219 HECTARES;
- 1.4 PORTION 37 (PORTION OF PORTION 1) (ATTAQUASKLOOF), IN EXTENT 41,7175 HECTARES, ALL OF THE FARM HEMEL-EN AARDE NO. 587, DIVISION CALEDON WESTERN CAPE PROVINCE

PARAGRAPH 2: CONSENT GRANTED

After consolidation the subdivision of the above-mentioned agricultural land into four portions measuring approximately 38,93 hectares, 38,28 hectares, 37,79 hectares and 98,52 hectares respectively represented by the figures marked Portions A, B, C and Remainder as shown on the sketch plan attached.

PARAGRAPH 3: CONDITIONS PERTAINING TO THIS CONSENT

- 3.1 Simultaneously with registration of transfer written proof must be submitted to the effect that:
 - a. The portion measuring approximately 38,93 hectares (Ptn A) has been allocated 34373,70 m³ of water rights from a recognized state water scheme ;
 - b. The portion measuring approximately 38,28 hectares (Ptn B) has been allocated 48123,18 m³ of water rights from a recognized state water scheme;
 - c. The portion measuring approximately 38,79 hectares (Ptn C) has been allocated 34373,70 m³ of water rights from a recognized state water scheme; and
 - d. The portion measuring approximately 98,52 hectares (Remainder) has been allocated 112287,42 m³ of water rights from a recognized state water scheme.
- 3.2 The portions created in this consent may only be used for agricultural and related purposes.
- 3.3 This consent does not imply that the above-mentioned subdivisions are assured of a permanent water supply.
- 3.4 This consent does not exempt any person from any provision of any other law and does not purport to interfere with the rights of any person who may have an interest in the agricultural land.


ANNEXURE K 3/4

- 3.5 This consent is valid for 5 years from date of this grant. Should it not be registered within the time frame, a new complete application must be lodged which will be considered on its own merits.

PARAGRAPH 4: WITHDRAWAL OF PREVIOUS CONSENT

This consent supersedes Consent No 53435 of 2017-10-19.

18/06/2018
DATE



DR I.B. KGAKATSI
ACTING CHIEF DIRECTOR: NATURAL RESOURCES
MANAGEMENT
DELEGATE OF THE MINISTER

