

LAND USE PLANNING ASSESSMENT REPORT FOR **LANGEBERG MUNICIPAL PLANNING TRIBUNAL**
(In terms of Sections 56, 65 & 66 of the Langeberg Land Use Planning Bylaw PN 264/2015, 30 July 2015)

**FARM 262 ROBERTSON, PORTION 2 OF SCHEEPERS HOOGTE NO. 139, ROBERTSON
AND PORTION 24 OF LE CHASSEUR NO. 88 ROBERTSON: SUBDIVISIONS AND CONSOLIDATIONS**

Date of meeting: 25 October 2021

Reference number	15/4/12/2	Application submission date	31 June 2020	Date report finalised	30 September 2021
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PART A: AUTHOR DETAILS

First name(s) & Surname	Tracy Brunings
Job title	Assistant Town and Regional Planner
SACPLAN registration number	Pr. Pln A/951/1997

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Farm No. 262, Robertson (401,081ha.); Ptn 2 of Scheepers Hoogte No. 139, Robertson (48,5479ha.); and Ptn 24 of Le Chasseur No. 88, Robertson (30.9545ha.).				
Physical address	±20km southwest of Robertson, off DR 1360.	Town	Rural – Le Chasseur / Eilandia		
Current zoning	Agricultural Zone I	Extent (m2/ha)	As above.	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Langeberg Integrated Zoning Scheme, 2018				
Current land use	Guest House, natural veld and agriculture		Title Deed number & date	Farm No. 262, Robertson, T45728/2019; Scheepers Hoogte No. 139/2, T26456/2018; Le Chasseur No. 88/24, T15330/96.	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)	T15330/96, Condition 1B and T26456/2018, Condition 2V: Le Chasseur No. 88/24 and farm 203 are notarially tied. T45728/2019: water pipeline (SG 3411/68)	
Any third party conditions applicable?	Y	N	If Yes, specify		
Any unauthorised land use/building work	Y	N	If Yes, explain		

PART C: APPLICATION DESCRIPTION

Application has been lodged in terms of Section 15(2) of the Langeberg Land Use Planning Bylaw, PN 264/2015, for the following:

- Subdivision of Farm 262 Robertson (401,081ha.) into portion A (31,7ha.), B (113ha.), and Rem/262 (256,38ha.).
- Consolidation of portion A (31,7ha.) with Portion 24 of Le Chasseur 88 (30,9545ha.) to create a new farm of 62,65ha.
- Consolidation of portion B (113ha.) with Ptn 2 of Scheepers Hoogte 139 (48,5479ha.) to create a new farm of 161,55ha.

A right of way was proposed to cover portion of the existing access to Ptn 2 of Scheepers Hoogte 139, however based on subsequent negotiations, the subdivision plan has been amended such that the accessway will be entirely on the proposed portion B which is to be consolidated with Ptn 2 of Scheepers Hoogte 139. Hence no right-of-way is required in the amended proposal.

PART D: BACKGROUND & SUMMARY OF APPLICANTS MOTIVATION

A copy of the applicant's motivation report, together with amendments to the application, are attached at [Annexure A](#). The original plans and the amended plans are attached at [Annexure B](#).

Subdivision and consolidations are proposed so as to realign the boundaries between 3 farms to create 3 new farms. The applicant motivates that the realigned boundaries will facilitate the more optimal use of land by serving the following purposes:

- The western portion of Farm 262 is not farmed by the current owner and is not accessible from within farm 262 due to steep topography in the centre of the farm. The owner wants to retain the agriculturally productive eastern portion of the farm and sell off the western portion.
- The flatter portions of the western portion of Farm 262 (two portions marked "A", linked by a 40m wide strip) can be productively used together with the adjoining Portion 24 of Le Chasseur 88. Consolidation of portion B and 24/88 is therefore proposed.
- The steeper portions of the western portion of Farm 262 (two portions marked "B", linked by a 10m wide strip) are proposed to be consolidated with Portion 2 of Scheepers Hoogte 139 which accommodates the Khanyisa Guest Lodge. Portion B has limited agricultural potential but does have aesthetic and recreational value (walking trails) for the Guest Lodge.

The applicant notes that although the shapes look strange on paper, the proposed boundaries follow the topography and potential use of the land. The reasons for the unusual shapes are summarized by the applicant as follows:

- Portion A consists of land with potential for cultivation. This land is, however, not accessible to the owner of Farm 262 due to topography. The owner of Ptn 24/88 needs to buy additional agricultural land to extend/strengthen his current agricultural activities and could more easily access portion A from DR 1360. Portion A comprises two areas with a narrow strip of land 40m wide (350m long) that links the two potential arable areas. The consolidation of Portion A with Ptn 24/88 will increase the sustainability of Ptn 24/88, especially as 30ha of water will be transferred with the land. The transfer of water and consolidation are supported by the Central Breede Water Users Association.
- Proposed Portion B consists of the steep land adjacent to Portion 2/139 and accommodates the access road to Khanyisa Lodge as well as another larger, mountainous piece of unsuitable agricultural land that will add value to the Khanyisa Mountain Lodge in terms of additional natural land available for hiking, cycling, etc. Both pieces are needed by the Lodge and are linked with a 10m wide strip.

PART E: SUMMARY OF PUBLIC PARTICIPATION

Public participation required in terms of Sections 45- 49 of the By-law?

Y

N

Where participation is required,
state method of advertising

Press

Notices

Ward Councillor

Other

PART F: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was advertised in the normal manner on 21 July 2020 and letters were sent to the surrounding property owners.

Two objections were received from neighbours. Copies of the objections are attached at [Annexure C](#) and summarized below:

Objection 1: I R Weichardt

Mr Weichardt is a part-owner of Portion 2 of Scheepers Hoogte No. 139 Robertson and manages Khanyisa Mountain Lodge located on Portion 2 of Scheepers Hoogte No. 139 Robertson. Although Mr Weichardt supports the subdivision and consolidation application, which includes increasing the size of the property on which Khanyisa Lodge is located, he did not support the initial subdivision plan that indicated that the new access to the proposed consolidated Portion A + 24/88 would share a portion of the access way to Khanyisa.

The concern relating to access is that currently there is only one entrance to Khanyisa Mountain Lodge (139/2) via a winding access road. This enables access control to the Lodge, which is an important safety and security measure for guests of the Lodge. The proposed new access to portion A/262 would affect the existing access rights and ability to secure this access.

Objection 2: Johan Roux Family Trust

The Johan Roux Family Trust's property is Farm 312, which is located below the application site, to the North of the application site. There is no objection in principle to the subdivision and consolidation, provided the following comments are complied with:

- "Further details are requested with regard to the "notification of intent to develop" application relating to S38 of the HRA.
- No development, be it vineyards or a dam, above my vineyards and olive grove, on Portion A is supported as it may adversely impact on the existing farming activities on the Trust's property".

The location of the objector's properties relative to the application site is indicated below:



The applicant responded to the objectors' concerns as follows (refer to [Annexure D](#)):

Applicant's Response to Objection 1:

The applicant interprets the objection as simply an objection to a shared entrance gate and notes that 2 separate entrance gates are proposed, and that the Department of Transport has supported the proposed second entrance gate.

Applicant's Response to Objection 2:

The applicant advises that the NID application to Heritage related to the length of the new access road and that HWC did not require further information or application in terms of their legislation.

With regard to the concerns about impact on farming activities on the objectors' property, the applicant notes that any clearing of land and the building of a dam would be subject to specialist studies and applications in terms of NEMA, CARA and NWA, to determine and mitigate any potential impacts. These requirements apply whether or not the land is subdivided and consolidated as proposed.

PART G: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS (<u>Annexure E</u>)					
Name	Date received	Summary of comments	Recommendation: Support Object Comment		
Manager: Electrical Engineering Services	-	Standard conditions relating to Municipal electricity supply.			
Department of Transport	11.09.20	No objection, subject to the new access only to be used for farming purposes and constructed as a camp access as per standard design (<u>attached</u>).			Comment
Cape Nature	13.09.21	Refer to <u>attached</u> comments from a biodiversity perspective: Ptn A encompasses portion of a CBA with Breede Alluvium Renosterveld (Endangered, 2018 NBA), and is the most sensitive part of the site. Dam construction and / or cultivation on portion A would result in the loss of CBA habitat and would not be supported. Game farming is unlikely to be a viable option given the small size of Ptn A. Cape Nature therefore objects to the application as currently proposed, in particular the subdivision of Portion A and consolidation with 24/88.		Object	
DEA&DP	—	No comment received.			
Provincial Department of Agriculture (Elsenburg)	02.07.21	In principle, the subdivision of Re/262 is possible but the proposed portions A & B are not supported in its current format. The creation of portion A (31ha.) is considered impractical due to: i) the linkage across the road, ii) the fact that it is a CBA which will restrict development as proposed in the application, and iii) viability is questioned. Comment <u>attached</u> .		Object	
National Department of Agriculture	05.08.20 & 11.12.20	Requested "reasoning for the strange configuration of Portions A and B as it can easily be seen as split portions". Based on additional information: Approved in terms of Act 70/1970. Restrictive Title Deed condition relating to the notarial tie of 88/24 and Farm 203 waived - Title Deed condition must be registered to the effect that the consolidated A/262+ 88/24 and Farm 203 may not be separately dealt with, without the consent of the Minister of Agriculture (<u>attached</u>).	Support		
Breede Gouritz Catchment Management Agency for DWAF	21.09.20	No objection to the proposed subdivision, subject to compliance with general conditions relating to compliance with the NWA, 1998 (<u>attached</u>).			Comment

Eskom	-	No comment. Not in Eskom supply area.			
Heritage	14.07.20	Application in terms of S38 of NHRA 25/1999 is not required. Should any heritage resources be discovered during execution of development, works must be stopped and HWC notified (attached).			Comment
Ward Councilor	05.08.2020	No objection, provided all legislation and regulations are complied with.			Comment

PART H: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Criteria for Assessing the Land Use Application:

In terms of Section 65 of the Langeberg Land Use Planning Bylaw, PN 264/2015, of 30 July 2015 a land use application is required to be assessed in terms of the following:

- Desirability of the proposed use (with reference to Province's "[Relevant Considerations Guideline](#)").
- Compliance with relevant plans (IDP, SDF, PSDF): The proposal must be consistent with the [forward planning vision](#) for the application area. Only in exceptional circumstances should deviation from these policies and/or plans be considered.
- Compliance with relevant [policies and principles](#).
- Compliance with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014): In terms of section 49 of LUPA consideration must be given to applicable spatial development frameworks and structure plans, and the desirability of the proposal must be determined. In addition, the proposal must be consistent with the land use planning principles referred to section 59 (spatial justice, spatial sustainability, efficiency and good administration).
- Compliance with the [Spatial Planning and Land Use Management Act, 2013 \(Act 16 of 2013\)](#): The proposal must be consistent with the principles of spatial justice, spatial sustainability, efficiency, spatial resilience and good administration. Public interest, constitutional transformation imperatives, facts and circumstances of the application, rights and obligations of those affected, impact on engineering services/social infrastructure/open space requirements, *inter alia*, must be taken into account.

Assessment:

1. Given the above assessment criteria, the key issues for consideration in this application include: impact on the natural environment; impact on agricultural land use; access; and impact on the objectors' properties and their existing rights.
2. The properties are located off Divisional Road 1360 and the Le Chasseur Road (DR1355). The applicable Zoning Scheme is the Langeberg Integrated Zoning Scheme (LIZS), 2018 and the farms are zoned Agricultural Zone I.
3. The extent and land use of the existing farms is as follows:

EXISTING FARM	EXTENT (ha.)	LAND USE
Farm No. 262, Robertson	401,0811ha.	64ha. vineyards and orchards, 2 dwelling houses, 12 labourer houses, 2 stores, 2 pump houses and 1 dam, and natural vegetation on the slopes of the Platberg mountain. Access from DR 1355, via right-of-way.
Scheepers Hoogte No. 139/2	48,5479ha.	Mountainous land, Guest House, Restaurant and 5 Additional Dwelling Units. Access off DR1360.
Le Chasseur No. 88/24	30.9545ha..	30ha. vineyards. Access off DR1360.
Total	480,5835ha.	

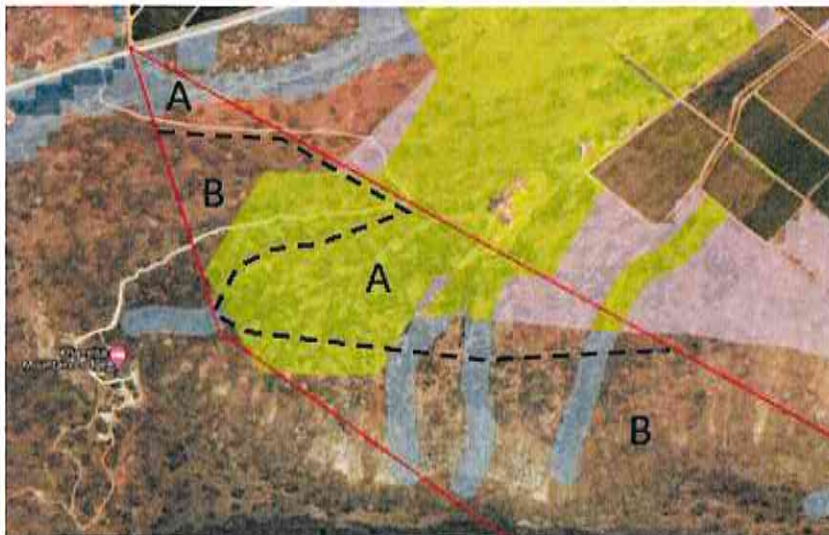
4. The extent of the proposed farms and associated land use is as follows:

PROPOSED FARM	EXTENT (ha.)	LAND USE
A/262 (31,7ha.) + Le Chasseur 88/24 (30,9545ha.)	62,65ha.	30ha. vineyards and natural vegetation. Future clearing of land >1ha. and/or construction of a road across drainage lines, and/or building of a dam >250m ³ , will be subject to applications in terms of NEMA, CARA and/ or NWA. i.e. as per 88/24, with an additional 31,7ha. natural veld for possible future use as a dam or agriculture.
B/262 (113ha.) + Scheepers Hoogte 139/2 (48,5479ha.)	161,55ha.	Mountainous land, Guest House, Restaurant and 5 Additional Dwelling Units, with additional steep land – natural vegetation. Future use would be recreational and aesthetic. i.e. as per 139/2, but with an additional 113ha. natural veld.
Rem/262	256,38ha.	64ha. vineyards and orchards, 2 dwelling houses, 12 labourer houses, 2 stores, 2 pump houses and 1 dam, and natural vegetation. i.e. as per Farm 262 but less 144ha. natural veld.
Total	480,58ha.	

5. In terms of the Langeberg Spatial Development Framework, 2015 this area is intended for agricultural purposes. With reference to the Spatial Planning Categories (SPCs) in terms of the Langeberg SDF, the property falls within existing "Transformed" and "Buffer 1" SPCs, with Core SPCs along the natural drainage lines.

Conclusion: The proposed subdivision lines between proposed Portions A and B are not compatible with the Langeberg SDF as they cut across Core 2 (river corridor) SPCs.

6. Natural Environment: In terms of the WC BSP 2017, almost all the land identified as Area A comprises Critical Biodiversity Area (CBA) and / or Ecological Support Areas (ESAs).



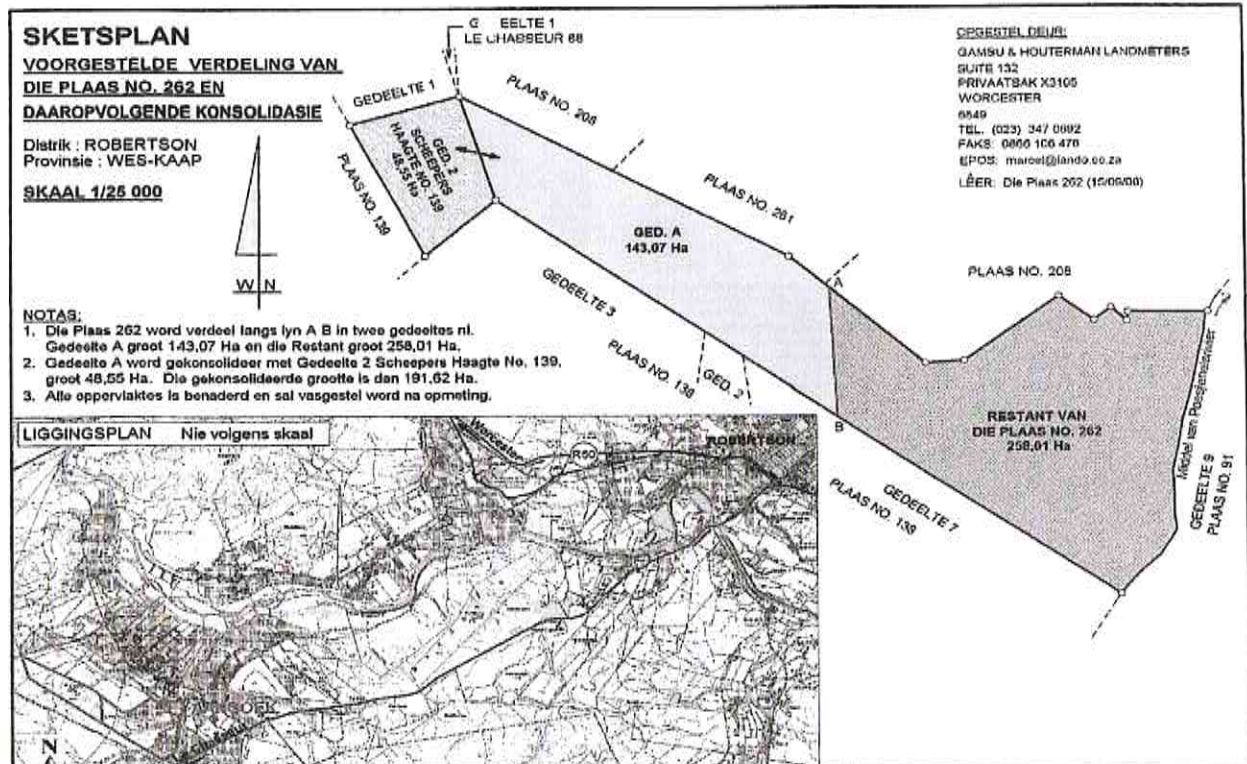
In terms of the WC BSP, 2017, CBAs and ESAs "require safeguarding to ensure the continued existence and functioning of species and ecosystems, including the delivery of ecosystem services across terrestrial and freshwater realms". These spatial priorities must be used to inform sustainable development, and are therefore a relevant consideration in any land use application.

The Vegetation Map (SANBI, 2018), indicates that a large portion of Area A comprises Breede Alluvium Renosterveld, which is currently identified as a vulnerable vegetation type, with proposals to reclassify to Endangered, based on the current loss of this vegetation type.

Accordingly, Cape Nature comments as follows: Proposed portion A encompasses portion of a CBA with Breede Alluvium Renosterveld (Endangered, 2018 NBA), and is the most sensitive part of the site. Dam construction and / or cultivation on portion A would result in the loss of CBA habitat and would not be supported. Game farming is unlikely to be a viable option given the small size of Ptn A. Cape Nature therefore objects to the application as currently proposed, in particular the subdivision of Portion A and consolidation with Portion 24 of Le Chasseur 88.

Conclusion: From an environmental point of view, the subdivision of the western portion of Farm 262 into two portions is not desirable.

It is noted that approval was previously granted to subdivide farm 262 into two portions and consolidate the western portion with Ptn 2 of Scheepers Hoogte 139, as indicated on the subdivision plan below. This approval was issued by the then Breede River Winelands Municipality on 10 March 2008. This approval lapsed as the subdivisions were not registered within the required 5 year period. The previous approval to subdivide Farm 262 into one portion and Rem, is more desirable than the current proposal, from an environmental perspective.



7. With reference to proposed Portion B to be consolidated with Ptn 2 of Scheepers Hoogte 139, the land use approval for Khanyisa (Guest House, Restaurant and Additional Dwelling Units) will remain valid on the consolidated farm. "Khanyisa" guest lodge will be located on a much bigger farm (161,5ha.) than at present with more land that can be used for related tourist activities such as walking, bike riding, and bird watching in the mountainous area. This surrounding larger area of natural veld will complement the tourist uses, and complies with the definition of agriculture which includes natural veld:

'agriculture'

Land use description: "agriculture" means the cultivation of land for raising crops and other plants, including plantations, the keeping and breeding of animals, birds or bees, stud farming, game farming, a riding school or **natural veld**, and—

(a) includes—

Conclusion: There is no objection to the consolidation of additional land, which is unsuitable for agricultural purposes, with Ptn 2 of Scheepers Hoogte 139 for aesthetic and recreational potential, supplementary to the existing approved tourist land uses.

8. Agricultural Land Use: With reference to proposed Portion A, to be consolidated with Ptn 24 of Le Chasseur 88, objector 2, Johan Roux Family Trust, expressed concern about the potential impact that future farming activities on Proposed Portion A/262, could have on his property. Mr Roux noted that he does not support the establishment of vineyard or a dam on this land, due to the potential adverse impact on his existing farming operations. As noted by the applicant, any clearing of land and/or the building of a dam on B/262 would be subject to specialist studies and applications in terms of the applicable legislation (NEMA, CARA and NWA), to determine desirability and mitigate any potential impacts. Further, these concerns apply equally now, as the current owner could similarly apply to clear the land.

9. Nonetheless, it would be undesirable to approve a subdivision application for a portion of land that could not be used for agricultural purposes in the future, and is not reasonably connected to property used for the conservation of natural vegetation and related recreational facilities. The following considerations are noted in this regard:
- 9.1. The Provincial Department of Agriculture does not support the subdivision application. The Western Cape Department of Agriculture comments as follows: In principle, the subdivision of Re/262 is possible but the proposed portions A & B are not supported in its current format. The creation of portion A (31ha.) is considered impractical due to:
- (i) the linkage across the road,
 - (ii) the fact that it is a CBA which will restrict development as proposed in the application, and
 - (iii) viability is questioned.
- 9.2. Although the National Departments of Agriculture approved the application in terms of Act 70/1970, their reservations regarding the "strange configuration of Portions A and B as it can easily be seen as split portions", are noted. It is also noted that it is unusual for the National Department to approve an application that is not supported by their Provincial Dept. The delay in comments provided by the Provincial Department of Agriculture may be a contributing reasons to this.
- 9.3. In terms of the DAFF/DEA "classes of land capability" mapping (2016), the land proposed to be subdivided for agricultural expansion is classified predominantly as low-moderate to moderate, with portions having very low to low agricultural capability. Further, soil erodability is indicated as "moderate to high", with shallow soils:



The agricultural potential is therefore limited and this would be a key consideration in any application to clear natural vegetation for cultivation. Further, the development of this land for agricultural purposes would be expensive in terms of accessing water pipelines and electricity. Servitudes over adjoining farms would inevitably be required for water and power supply, which would adversely impact on these neighbouring properties and their existing use rights.

- 9.4. Cape Nature does not support the clearing of the proposed Portion A for future agricultural use, game farming or dam construction

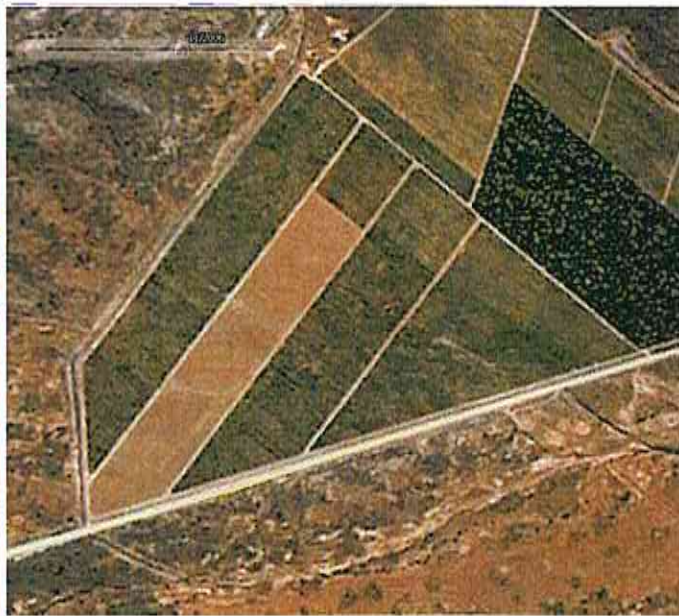
Conclusion: The subdivision of the western portion of Farm 262 into two portions is not desirable or viable from an agricultural perspective and there is potential for adverse impacts on existing agriculturally productive land and land use rights.

10. Water:

BGCMA has no objection to the proposed subdivisions and consolidations subject to compliance with conditions relating to the National Water Act, 1998. The CBR Water Users Association has no objection to the transfer of 30ha. of water to be allocated to the proposed consolidated farm of B/262 and 24/88.

The prospective owner indicated that even if he is not authorised to clear portion B at all, he still requires the water allocation for the property to be consolidated with (24/88).

The Department of Agriculture's 2017/2018 Winter crop census shows 24/88 as being entirely under wine grapes (28,762ha.). Google earth historical imagery shows this use has been in existence since at least 2006.



Conclusion: The need for the additional 30ha. of water cannot be considered as justification for the proposed subdivision of Farm 262 into portions A and B.

11. Access:

The Department of Transport has no objection to the existing access point to Khanyisa and has approved a new access point ($\pm 85\text{m}$ from the Khanyisa access) for the proposed consolidated farm of A/262 and 24/88, which must be constructed as a camp access for farming purposes. The objection of objector 1 (Weichardt) relating to a shared access gate is therefore addressed. The objector was also concerned that, even if there was a separate entrance, the new road to proposed portion A, would give access to their access driveway along a section which would be shared. This would not make any practical sense as it would enable people to bypass Khanyisa's secured access gate and gain access to the lodge via an alternative route. This concern led to subsequent discussions and the subdivision plan has been amended to provide for separate access ways to the two proposed new consolidated farms.

Mr Weichardt's objections are therefore addressed provided:

- i) Khanyisa are willing to realign portion of the lower section of their existing access way so that this will be located on the Portion B which they are purchasing.
- ii) The proposed new access road along the boundary with Farm 315 is practically viable.

There are concerns with regard to both the above proviso's: Firstly, the access to Khanyisa was approved via an existing access road, as shown by the orange dotted line below, which meanders across Farms 262 and 312, with the registration of a right-of-way over this access (neighbours are all in agreement). The proposed subdivision will require the realignment of this access road to a steeper portion of the property (as shown by the red dashed line). This will necessitate hardening of the surface, as with the higher portions of this access road, which will increase the visual impact of this access road from the surrounding area, whereas the existing meandering route is not visible from the surrounding area. This negatively impacts on existing use rights, as well as the condition of approval which requires the registration of a right-of-way over the existing access road.



Secondly, the proposed new access road along the boundary with Farm 312 is not considered to be practically viable: It accesses DR 1360 at a single point, which also coincides with a stormwater drain and a donga which channels stormwater from 2/88 through Farm 312 (objector2). The access road will affect stormwater drainage of the lower-lying property and necessitate three crossings of natural drainage lines, as shown below. This is not consistent with the principles of sustainability (protecting and managing natural resources), efficiency (minimise environmental impact, and optimize use of existing infrastructure) and spatial resilience (environmental shock).



Conclusion: The proposed subdivision of the western portion of Farm 262 into portions A and B is not desirable in terms of the implications for existing access rights and proposed future access road/s.

12. There is a restrictive condition of title which relates to the properties not to be mortgaged separately, transferred separately or otherwise dealt with, without the written consent of the Minister of Agriculture, Land Reform and Rural Development. The National Department of Agriculture (Consent No 55531, 11/12/2020) has approved the proposed subdivisions and consolidations in terms of Act 70 of 1970, subject to a newly worded restrictive title deed condition to be imposed in relation to the newly created farms. There are no other conditions of title that restrict the proposed subdivision and consolidation.
13. The application involves the realignment of boundaries between three farms to create three new farms. As such, theoretically no additional cadastral entities are being created. In practice however, the "strange configuration of Portions A and B", as noted by the National Department of Agriculture, are such that Portion B would effectively comprise a fourth farm.

PART I: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Not applicable.

PART J: RECOMMENDATION

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, the Langeberg Municipal Planning Tribunal refuses the subdivision of Farm 262 Robertson (401,0811ha.) into portion A (31,7ha.), B (113ha.), and Rem/262 (256,38ha.), as depicted on the plans marked PLAAS 262_139/2 & 88/24Rob- LBM-OP(a)(1) and (b), for the following reasons:

1. The proposed subdivision lines between proposed Portions A and B are not compatible with the Langeberg SDF as they cut across Core 2 Spatial Planning Categories.
2. The proposed subdivision and consolidations are not desirable from an environmental and agricultural perspective. Cape Nature and the Provincial Department of Agriculture do not support the application.
3. The primary motivation for proposed portion A is to strengthen the existing agricultural activities on 24/88. However portion A is not suitable for productive cultivation purposes, or viable game farming, and the construction of a dam is not favoured as this will result in the removal of a CBA. The need for the additional 30ha. of water cannot be considered as justification for the proposed subdivision of Farm 262 into portions A and B.
4. The proposed subdivisions and consolidations are not compliant with the principles referred to in the Land Use Planning Act, 2014 and the Spatial Planning and Land Use Management Act, 2013, specifically: spatial sustainability, efficiency, and spatial resilience.
5. The proposed subdivision would adversely impact on neighbours and existing access and land use rights.

PART K: ANNEXURES

- Annexure A Application and Amendments thereto.
- Annexure B Plans: Locality, Subdivision and Consolidation Plans
- Annexure C Objections from neighbours
- Annexure D Applicant's response to objections
- Annexure E Comments from Departments: National Dept Agriculture, BGCMA, Dept of Transport, Heritage, Elsenburg, Cape Nature.

PART L: SIGNATURES FOR DECISIONS BY TRIBUNALAuthor name: **Tracy Brunings, Assistant Town and Regional Planner**Date: **30 September 2021**Registered planner name : **Tracy Brunings**SACPLAN registration number: **Pr. Pln A/951/1997**Date: **30 September 2021**

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

REFUSED

LANGEBERG MUNICIPAL PLANNING TRIBUNAL

Date:

PART L: SIGNATURES FOR AUTHORISATION

Authorised for submission to Tribunal

.....
JV BRAND
MANAGER: TOWN PLANNING / BESTUURDER : STADSBEPLANNING.....
DATUM.....
M JOHNSON
DIRECTOR: ENGINEERING SERVICES / DIREKTEUR: INGENIEURS DIENSTE.....
DATUM

MOTIVATIONAL REPORT

RE-ALIGNMENT BETWEEN 3 FARMS IN ROBERTSON DISTRICT:

- **Farm 262,**
 - **Ptn 2 Scheepers Hoogte No 139; and**
 - **Ptn 24 Le Chasseur No 88.**
-

1. INTRODUCTION / PURPOSE

The purpose of this application is to obtain approval in terms of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA) as well as the Subdivision of Agricultural Act, 1970 (Act 70 of 1970) for the re-alignment of common boundaries between three farms, i.e. the subdivision of Farm 262 and the consolidation of Portions A and B with Ptn 24 of the farm Le Chasseur No 88 and Ptn 2 Scheepers Hoogte No 139 respectively.

2. LEGISLATION APPLICABLE

2.1 LANGEBERG MUNICIPAL LAND USE PLANNING BY-LAW, P.N. 264/2015 & LANGEBERG MUNICIPALITY: INTEGRATED ZONING SCHEME BY-LAW, P.N. 71/2018

The owner of land or his/her agent may apply to the Municipality in terms of Chapter 15(2) of the Langeberg By-law on Municipal Land Use Planning, PN 264/2015, for all of the above-mentioned.

The application sites are all zoned Agricultural Zone I according to the Integrated Zoning Scheme By-law. The application will have no impact on the current zoning, since the land use will remain unchanged.

2.2 SUBDIVISION OF AGRICULTURAL LAND ACT, 1970 (ACT 70 OF 1970)

According to Section 3(a) of Act 70 of 1970, agricultural land shall not be subdivided unless the Minister has consented in writing.

2.3 NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT NO 25 OF 1999)

According to Section 38(1)(a), the construction of a road over 300m in length triggers the need for a notification-of-intent-to-develop application.

3. THE PROPERTIES

Farm 262, district Robertson is 401,0811 ha in extent and belongs to Goree Boerdery Pty Ltd according to Deed of Transfer T45728/2019.

The subdivision of this farm was previously approved (see SG Plan 437/2003) similar than the current proposal, but the approval has lapsed as the two new farms were never registered.

Portion 2 of farm Scheepers Hoogte No 139, district Robertson is 48,5479 ha in extent and belongs to Provectus International according to Deed of Transfer T26456/2018.

Ptn 24 of farm Le Chasseur No 88, district Robertson is 30,9545 ha in extent and belongs to Le Chasseur Trust according to Deed of Transfer T15330/96.

4. LOCATION & EXISTING LAND USE & SERVICES

The farms are located between the Agterkliphoopte Road and the Breede River approximate 20km south-west of Robertson and 17km north-west of McGregor.

4.1 FARM 262

Farm 262 consists of the following:

Eastern half of farm:

- 48 ha vineyards
- 4 ha olives
- 5 ha apricots
- 6 ha peaches
- 2 dwelling houses
- 12 labourer houses
- 2 stores
- 2 pump houses
- 1 dam

Centre of farm:

- mountainous land

Western portion of farm:

- potential lands, but not easy accessible

The farm is registered for 123,58 ha water at the Central Breede River Water Users Association for the irrigation of the above-mentioned 48 ha vineyards and 15 ha orchards.

The farm gets access from a right of way servitude (SG No 1180/2003) of 6m wide over Farm 208 to the eastern part of the farm.

A 3 feet wide pipeline servitude traverses the farm – see SG No 3411/68.

4.2 PORTION 2 OF FARM SCHEEPERS HOOGTE NO 139

Ptn 2/139 consists of mountainous land and the Khanyisa Mountain Lodge comprising a guest house, restaurant and 5 additional dwelling units as approved by the Langeberg Municipality on 15 November 2018.

Services was included and approved as part of the consent use application.

4.3 PORTION 24 OF FARM LE CHASSEUR NO 88

This farms consists of 30 ha vineyard that is irrigated with 24,9 ha water registered at the Central Breede River Water Users Association.

5. THE PROPOSAL

Application is made for the following in terms of Sections 15(2) and 24(1) of the Langeberg Municipality Land Use Planning Bylaw PN 264/2015:

Section 15(2)(d):

- Subdivision of Farm 262 (401,0811ha), district Robertson into:
 - Re/262 of 256,38 ha;
 - Portion A of 31,7 ha; and
 - Portion B of 113 ha.

Section 15(2)(e):

- Consolidation of Portion A with Ptn 24 Le Chasseur No 88 (30,9545 ha)
- Consolidation of Portion B with Ptn 2 Scheepers Hoogte No 139 (48,5479 ha)

Section 24(1)(f)(iv)

- Exemption for private right of way "abc", 4m wide over proposed Ptn A in favour of Ptn 2/139.

6. DESIRABILITY OF APPLICATION & NEW ACCESS ROAD

The western portion of Farm 262 is not used by its owner as it is not accessible via the workable, eastern portion of the farm due to the high mountainous land in the centre of the farm. The difference in level between the cultivated portion of the farm and the centre of the farm is approximately 200m.

The north-western portion of the farm can only be accessed from Divisional Road 1360 that is more than 5km from the entrance to the workable portion of the farm on Divisional Road 1355.

Due to these circumstances, as well as the sustainability of the eastern portion, the subdivision of Farm 262 in two portions has been approved before.

The western portion of Farm 262 will not be able to be utilized optimally without supportive consolidations with adjacent farms:

- The mountainous portion (proposed Ptn B) has the potential to be optimally used by the owner of Ptn 2/139 and Khanyisa Mountain Lodge guests. This will improve the value of the lodge by expanding potential outdoor activities such as hiking and cycling.

Portion B consists of two separate portions of mountainous land that are linked with a 10m wide strip.

A portion of Portion B has been delineated as a Critical Biodiversity Area (CBA), but this land will not be developed.

- The owner of Ptn 24/88 wants to buy proposed Portion A to extend his current agricultural activities with possible cultivation, game farming or the building of a dam. Proposed Portion A consists of two portions with the best potential for cultivation that are linked with a narrow strip of land 25m wide (350m long).

The consolidation of Ptn A with Ptn 24/88 will increase the sustainability of Ptn 24/88, especially as 30ha of water will be transferred with the land.

The transfer of water and consolidation are supported by the Central Breede Water Users Association – see attached.

Almost the whole of Portion A is, however, part of a CBA and Ecological Support Area (ESA) according to Cape Farm Mapper (see attached)

The status is, however, questionable as a specialist vegetation study as part of the EIA process on the neighbouring farm (that forms part of the CBA) has shown that the veld type is mainly Robertson Karoo and not Breede Alluvium Renosterveld as indicated on the maps. This information was provided telephonically as the Onderplatberg EIA is still in process and the documents are not available yet. Proposed Portion A will therefore be subject to applicable legislation before it can be developed.

This entrance road on DR 1360 mentioned above (jeep track) gives access to Khanyisa Mountain Lodge and meanders over Ptn 2/139, Farm 262 and Farm 312 due to the steep gradient to the lodge.

Three of the conditions as part of the approval of the lodge were:

- That only this access point may be used;
- A right of way must be registered across the adjoining farm or this portion must be subdivided and consolidated with Ptn 2/139; and
- The existing access track may not be used for construction-related heavy vehicles. A temporary access over Amathunzi Game Lodge should be provided for such vehicles.

The right-of-way has not been registered yet, and due to re-alignment of boundaries, it has to be addressed as part of this application. The application includes the subdivision and consolidation of Ptn B that includes a large portion of this access road. The remainder of this access road (abc on Plan) falls on proposed Ptn A and a ROW servitude needs to be registered in favour of Ptn 2/139.

The road also traverses Farm 312, but it is proposed that this unnecessary bend be shortened from "b" to "c" over Ptn A that will also discard the need for a servitude over Farm 312. This will save 85m in road and is practical with a gradient of only 1,7%.

This access road will also give access to proposed Ptn A that is created for possible future cultivation/development, therefore including big trucks and tractors. As the existing access gate to Khanyisa Lodge needs to be closed for security purposes and is managed through access control (this has become a necessity/requirement in the minds of people), it will not be feasible to be left open during the day and used by agricultural equipment/vehicles.

It is therefore proposed to create an additional entrance road to Ptn A from Divisional Road 1360 that is located approximately 85m away from the existing entrance road.

The new access road starting from DR 1360 to "b" on Plan will be 4m wide and 370m long with no gradient.

The combined new road on Ptn A will therefore be 744m long with 1,7% gradient.

In support of the above motivation, the use of the existing access road was restricted from heavy vehicles during construction in the previous approval. Only portion "bc" will be used by the owners of both Ptn 2/139 and Ptn 24/88.

No additional cadastral units are created.

7. CONCLUSION / END REMARK

The proposed re-alignment of boundaries between three farms will improve the current situation:

- Removal of the inaccessible and redundant portion of a farm with no impact on the sustainability of the Remainder/Farm 262.
- Usage of the redundant western portion of the farm by dividing it into two functional portions:
 - (i) one aesthetically veld portion to be consolidated with the adjacent lodge; and
 - (ii) one potentially agricultural portion to be consolidated with a small cultivated farm (current limited sustainability) that will be strengthened by adding additional agricultural land and water.

Sentraal-Breërivier Watergebruikersvereniging Central Breede River Water User Association

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26 Junie 2020

Umzisa Planning
Posbus 649
Robertson
6705

Vir aandag: Anna-Christa Redelinghuys

Geagte Me Redelinghuys,

ONDERVERDELING EN KONSOLIDASIE: PLAAS 262, ROBERTSON

U skrywe van 19 Junie 2020 het betrekking.

Sentraal Breërivier WGV het geen beswaar teen die oordrag van 30 ha watergebruiksregte saam met die eiendomsgedeeltes wat met Gedeelte 24 Le Chasseur 88, Robertson, eiendom van Le Chasseur Trust, gekonsolideer word nie.

Geliewe ons in kennis te stel wanneer die transaksie geregistreer is sodat ons ons eie rekords kan opdateer.

Die uwe



Louis Bruwer Pr Ing
HUB: Sentraal Breërivier WGV

SENTRAAL-BREËRIVIER WATERGEBRUIKERSVERENIGING
CENTRAL BREEDE RIVER WATER USERS ASSOCIATION

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6705 ROBERTSON

10 Februarie 2020

SERTIFIKAAT VAN WATERGEBRUIKSREG

Hiermee word gesertifiseer dat die eiendom hieronder genoem vir 123.58 ha ingelys is vir water uit die Groter-Brandvleidamwaterwerke geleë binne die Breërivier Staatswaterbeheergebied:

Eienaar	Eiendom	Le Chasseur & Goree Kanaal @ 10 000 m³/ha/jaar	Addisioneel uit Breërivier @ 7 450 m³/ha/jaar
GOREE BOERDERY (PTY) LTD	Plaas 262, Afdeling Robertson, Groot 401.0811 ha	93.00 ha	30.58 ha

Gesertifiseer te Robertson op 10 Februarie 2020



HOOF-UITVOERENDE BEAMPTTE

Kontrole Breërivier
Watergebruikersvereniging
Posbus 232 Robertson 6705
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10 Februarie 2020

SERTIFIKAAT VAN WATERGEBRUIKSREG

Hiermee word gesertifiseer dat die eiendom hieronder genoem tans vir 185.8 ha watergebruiksreg ingelys is vir water uit die Groter-Brandvleidamwaterwerke geleë binne die Breërivier Staatswaterbeheergebied:

Eienaar	Eiendom	Le Chasseur & Goree Kanaal @ 10 000 m³/ha/jaar	Addisioneel uit Breërivier @ 7 450 m³/ha/jaar
LE CHASSEUR TRUST	Plaas 85, Afdeling Robertson, Groot 27.1721 ha	9.00 ha	14.00 ha
	Plaas 86, Afdeling Robertson, Groot 27.9443 ha	11.00 ha	16.00 ha
	Ged 24 Le Chasseur 88, Afdeling Robertson, Groot 30.9545 ha	22.90 ha	2.00 ha
	Plaas 203, Afdeling Robertson, Groot 48.7526 ha	nul	45.0 ha
	Plaas 207, Afdeling Robertson, Groot 124.1531 ha	31.0 ha	34.9 ha

Gesertifiseer te Robertson op 10 Februarie 2020

HOOF-UITVOERENDE BEAMPT

Sentraal-Breërivier
 Watergebruikersvereniging
 Posbus 232 Robertson
 Tel (023) 626 2451