

APPEAL REPORT

PORTION 6 OF THE FARM MIDDELBURG NO. 10, ROBERTSON:

APPLICATION TO REZONE FROM AGRICULTURAL ZONE I

TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) & CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Appeal reference number	15/4/12/ 5 & 7 Appeal Middelburg 10/6		Appeal report date:	5 March 2020	
Application reference number	15/4/12/5&7	Application submission date	24 October 2017	Application decision date	18 October 2019

Was the original application processed correctly (if no, elaborate below):

Y ☐ **N** ☐

PART A: AUTHOR DETAILS

First name(s)	Tracy
Surname	Brunings
Job title	Assistant Town and Regional Planner
SACPLAN registration number	Pr. Pln A/951/1997
Directorate/Department	Engineering Services: Town Planning Department
Contact details	023-6148000

PART B: APPLICANT DETAILS

First name(s)	Anna-Christa
Surname	Redelinghuys
Company name	Umsiza
SACPLAN registration number	A/1076/1998
Registered owner(s)	The Reben Trust and SAFAM
Is the applicant the appellant	Y ☐ N ☐

PART C: APPELLANT(S) DETAILS

Name(s)	Representing	Property description	Contact details	Valid?
Du Bois Attorneys (Hannes du Bois)	SAFAM / Reben Trust / H de Bod	Middelburg 10/6, Robertson	P O Box 466, Robertson 6705 hannes@ipdubois.co.za 023-626 6523/4	Y
Christo Reeders Attorneys (Christo Reeders)	Perisseia Pty Ltd: Le Roux Fourie & Johan Fourie	Middelburg 10/R, Robertson & 4 other adjoining properties	P O Box 1138 Houghton 2041 christo.reeders@crattorneys.co.za 087-809 0406 082-882 0826	Y
P J Gerber (Pierre-Jean Gerber)	P J Gerber	Middelburg 10/6, Robertson	P O Box 837 Wellington 7654 gerberpa@vodamail.co.za 021-864 3579	Y
Ndlovu de Villiers Environmental Law Specialists (Sibonelo Ndlovu)	L Jordaan & H Jooste	Vinke Rivier 8/R & Vinke Rivier 8/22, Robertson	Block A Victoria House 170 Peter Brown Drive Pietermaritzburg 3201 ndlovu@ndvlaw.co.za 033-001 7521 072-320 0283	Y
Total valid appeals	Four			

PART D: APPLICATION PROPERTY DETAILS									
Property description (in accordance with Title Deed)	Portion 6 (Middelste Kloof) of the farm Middelburg 10, Robertson								
Physical address	DR1377			Town/City		Rural			
Current zoning	Agricultural Zone I		Extent (m ² /ha)	758,0308ha.		Are there existing buildings on the property		Y	N
Applicable zoning scheme	Section 8 Zoning Scheme in terms of LUPO 15 of 1985 (Note: Langeberg Integrated Zoning Scheme, 2018 came into effect on 18 May 2018)								
Current land use	Agricultural pastures, abattoir waste compost facility, natural vegetation, dams					Title Deed number & date		T/12255/2013	
Any unauthorised land use/building work	Y	N	If Yes, explain		Shed adjoining Middelstekloof river – no building plans, and within 32m. Abattoir waste treatment compost facility on agricultural land.				
PART E: SUMMARY OF PUBLIC PARTICIPATION									
Total valid comments	Three					Total invalid comments and petitions			
Valid petition(s)	Y	N	If yes, number of signatures						
Community organisation(s) response	Y	N	N/A			Ward councillor response		Y	N
Was public participation undertaken in accordance with section 45- 49 of the Langeberg Land Use Planning Bylaw?								Y	N
Was the Provincial Minister afforded the opportunity to comment on the appeal ?								Y	N
If the proposal triggered an application for land development in terms of section 10 of the Western Cape Land Use Planning Regulations, 2015, was the Provincial Minister afforded the opportunity to comment on the appeal ?								N/A	N
PART F: APPLICATION									
The application site is located in the Vinke Rivier area behind the Cape Lime Factory and at the foothills of the Langeberg Mountains. Locality Plans, Site Plans and aerial photographs are attached at Annexure 1. An application was lodged in terms of the Langeberg Land Use Planning Bylaw, 2015, for the following land uses: - Rezoning a 3,6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning. - Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity). Refer to Part D of the 1 February 2019 Tribunal item (Annexure 2(1), p22 of the Appeal Bundle) for background to the disposal of waste from the Robertson abattoir and a summary of the applicant's motivation.									

PART G: MUNICIPAL TOWN PLANNING DEPARTMENT'S EVALUATION OF APPLICATION
The municipal planning assessment reports which were submitted to the Tribunal, are attached as Annexures 2(1) – 2(3). Refer in particular to the assessment in Part I of the 1 February 2019 Tribunal Report (Annexure 2(1), p28-39 of the Appeal Bundle) and Part G of the 18 October 2019 Tribunal Report (Annexure 2(3), p298-302 of the Appeal Bundle). This assessment remains applicable.

PART H: DECISION ON APPLICATION

The Tribunal's letter of decision is attached at [Annexure 3](#). In summary: the abattoir waste composting facility was approved with conditions, and the feedlot was not approved.

A copy of [Section 65](#) of the Land Use Planning Bylaw, 2015 (Criteria for consideration of applications) is attached at [Annexure 4](#).

The applicant and objectors were informed of their right to appeal in terms of Section 79(2) of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015.

PART I: TYPE OF APPEALS

First name(s)	Type of appeal		
All 4 appellants are appealing the decision and the conclusion of the Tribunal regarding the merits of the application. In addition, the Applicant is appealing the conditions of approval of the Compost Facility.	Appealing the decision	Y	N
	Appealing the failure of the decision maker to make a decision within the period permitted	Y	N
	Appealing a condition(s) of approval	Y	N
	Appealing the process followed	Y	N
	Appealing the conclusion of the decision maker regarding the merits of the land development application	Y	N

PART J: APPLICANT'S APPEALS AND RESPONSE THERETO

The applicant lodged an appeal, a copy of which is attached at [Annexure 5](#).

The objectors' responses to the applicant's appeal are attached at [Annexure 6](#).

PART K: OBJECTOR'S APPEALS AND RESPONSE THERETO

Three appeals were lodged by objectors. Full copies of these appeals are attached at [Annexures 7, 8 & 9](#), and the applicant's response is attached at [Annexure 10](#).

PART L: MUNICIPAL PLANNING COMMENT ON THE APPEALS AND RELATED PROCESSES

Processes running in parallel with the Land Use Planning Appeals:

- Compliance Notices were served on the applicant, as the compost facility commenced operating prior to approval. Copies of these Compliance Notices and the Applicant's responses thereto are attached at [Annexure 11](#). The applicant persistently argued that the compost facility is a primary use right in the Agricultural Zone I and that no application is required for the existing compost facility. As result, a legal opinion was obtained with regard to the legality of the use in terms of the LLUP Bylaw, 2015 and the Zoning Scheme. The legal opinion is attached to Annexure 2 (2) and confirms that the Municipality was correct in serving the Compliance Notices.
- The DEA&DP issued a Waste Management Licence (WML) and Environmental Authorisation (EA) on 28 and 29 November 2019, respectively (attached at [Annexures 12 and 13](#)). These decisions were issued following a Court Order, and have been appealed by the Municipality (refer to [Annexure 14](#)) and by the objectors. Decisions on these appeals, by the Provincial Minister, were pending at the time of this report.

The Tribunal's Decision:

The Appeal Authority's attention is drawn in particular to the following extract from the minutes of the Tribunal meeting of 18 October 2020, at which the final decision was taken:

"The Tribunal agreed that the following areas of concern, as raised previously by Tribunal members, remain: the compost facility does generate an unpleasant odour, which is offensive downwind of the application site, to varying degrees, depending on temperature, wind direction and speed, and the time of day when products are off-loaded. Fly activity is a nuisance and not compatible with tourist uses. The feedlot would result in additional odour and flies. At the same time, there is no immediately available alternative disposal option. The decision is therefore a difficult one which must find a balance between economic, social and environmental benefits, without compromising the long term socio-economic success of agriculture and tourism or environmental integrity".

"A cautious, risk averse approach is considered justified given that:

- Cooperation by the applicant, and where necessary, enforcement of compliance with conditions of approval will be necessary in order to ensure no future negative impact on surrounding residents.*
- The applicant has ignored all previous legal action by the Municipality, based on sound legal opinions and advice, to cease operating prior to approval".*

The Land Use Planning Appeals

Comments highlighting existing information and providing factual information, are provided below to enable the Appeal Authority to independently apply its mind to the decision taken by the Langeberg Municipal Planning Tribunal, and to the divergent appeals:

- On the one hand, the applicant's appeal (Appeal 1) argues that the Tribunal did not consider all relevant factors and the Appeal Authority should dismiss the objectors' appeals and replace the Tribunal's decision with the approval of the application in total.
- On the other hand, the objectors' appeals (Appeals 2, 3 and 4) argue that the Tribunal should have refused the application for the compost facility, for the same reasons as those given for refusing the feedlot and the Appeal Authority should therefore dismiss the applicant's appeal and replace the Tribunal's decision with a refusal of the application in total.

Appeal 1: Applicant's Appeal: du Bois Attorneys (Reben Trust / SAFAM) Annexure 5)

The du Bois appeal requires the Appeal Authority to dismiss the three objectors' appeals and uphold the du Bois appeal and replace the Tribunal's decision with a decision approving the application for the feedlot and compost facility in total, with amended conditions of approval.

Most of du Bois' appeal is not an appeal against the Tribunal decision, but a lamentation about the content of the Town Planning Assessment report submitted to the Tribunal's meeting on 1 February 2019. It is not known where or how Mr du Bois obtained this report, and it is important to note that there were 2 subsequent reports considered at Tribunal meetings on 6 Sept and 18 October 2019. The Tribunal decision was taken with due consideration of all 3 reports. Much of du Bois' criticism relates to information not being made available in the 1 February report, but this information was only available at a much later date after subsequent information requests, as well as a Court Order and environmental decisions. One cannot evaluate a past report based on what you know now, but only on what could have been reasonably known at the time. On this basis alone, the Appeal Authority should disregard the majority of the content of this appeal, in the interests of assessing the desirability of the proposed land uses.

The du Bois appeal also contains a **barrage** of unfounded allegations. It is not helpful to the case to debate each allegation, and I refrain from this in the body of this report. I have however recorded a file note responding to du Bois' allegations, supported by factual evidence disproving the validity of all allegations made. This file note can be found at **Annexure 15** and the Appeal Authority is respectfully requested to note this information in order to avoid reliance on factually **incorrect** information and irrelevant considerations.

The Appeal Authority should also not be distracted by the dramatic and **emotive** nature of this appeal – the focus must remain unwaveringly on a fair assessment of the pros and cons of the application in question and the correctness or otherwise of the Tribunal's decision, and whether or not the Tribunal gave the correct weighting to the issues considered in coming to its decision on the **proposed** land uses.

The starting point for clarification with regard to this appeal is that an application in terms of the LLUP Bylaw, 2015 is required for the existing compost facility and the **proposed** expansion thereof. The applicant started operating without the land use approval which is required in terms of the LLUP Bylaw, 2015, as **confirmed** by the legal opinion obtained by the Municipality, referred to above. The applicant's legal advice from Du Bois does not stand up against the aforementioned legal opinion. Mr du Bois' refusal to accept this fact, and his insistence on ignoring the notices and deciding himself that the Municipality is wrong in requiring an **application**, and wrong in issuing compliance notices has done a huge **disservice** to the applicant and has considerably delayed the **processing** of the application. This attitude and ongoing letters "**correcting**" the Municipality has been very disruptive to the **process** of reaching an outcome on the application. Refer to Annexure 6 (Objector's response to Appeal 1), paragraphs 52-56, which addresses this matter succinctly.

The main relevant considerations for this land use are odour and flies. The appellant has never provided a specific olfactory impact report or a more general Atmospheric Impact Report, including dispersion modelling, which would address the key issues in this decision and appeal. The Tribunal requested this **information** but it was not provided. It is unclear why the applicant dismissed this request – if the approval of an application would save R140 000.00 per month, as stated in this appeal (or R100 000.00 pm as inconsistently stated in the affidavit to DEA&DP for the court order) then it would appear to be money well spent on such a specialist. It is also unclear why such report, was not requested by the DEA&DP as part of either the EIA application or the waste management licence application.

There is therefore no independent objective assessment of the atmospheric impact of the existing compost facility or the proposed expanded compost facility plus the **proposed** feedlot, to enable the appeal authority to determine conclusively whether or not (and despite the current implementation of SOPS) the current impact in terms of flies and odours is acceptable; what the future impact will be and whether these impacts are acceptable in terms of the legislation.

There are a series of monitoring reports by the CWDM: Environmental Health, DEA&DP officials and Veterinary Public Health, which express individual opinions on the level of odour and flies from the current compost facility, based on visual observation and "smelling". Copies of these reports are **attached** at **Annexure 16**. On balance, these investigations concluded that there was no undue impact on neighbours in terms of odour or flies, and that the compost facility was being well managed.

Refer to the aerial photograph at Annexure 1 for the location of the following appellants' properties relative to the application site:

Appeal 2: Christo Reeders Attorneys (Perisseia) (Annexure 7):

The Reeders appeal requires the Appeal Authority to dismiss the applicant's appeal and uphold the Reeders appeal by replacing the Tribunal's decision with a decision refusing the application for the feedlot and compost facility in total.

Perisseia (J and L Fourie) are the direct neighbour to the south east of the compost site (on the **Robertson** side), and own a number of other properties in this area. The appellant considers that the reasons for refusal of the feedlot apply equally to the compost facility and that in approving the compost facility, the Tribunal has not **properly** considered all relevant considerations in NEMA and the LLUP Bylaw, **specifically**: desirability of the proposed land use, comments by IAPs and other authorities, and the significant impacts likely to be **suffered** by the neighbouring community and the environment. The following studies should have been done: Biodiversity, Health Impact, Traffic Impact **Assessment**, Air Quality Study, Storm water management, Socio-Economic **Assessment**.

The appellant notes that the applicant's history of non-compliance and disregard for the environment and neighbours is a material and relevant consideration under any circumstances: The applicant persists in unlawful conduct despite compliance notices and without the **necessary** protections and measures to the **detriment** of the environment and neighbours. The neighbour states that the existing activities are causing **unsavoury** and nauseating smells. To introduce additional activities would be environmentally irresponsible and infringe on the neighbours' constitutional rights to an environment which is not harmful to their health and wellbeing.

Appeal 3: P A Gerber (Annexure 8)

The Gerber appeal requires the Appeal Authority to dismiss the applicant's appeal and uphold the Gerber appeal by replacing the Tribunal's decision with a decision refusing the application for the feedlot and compost facility in total.

P A Gerber is a direct neighbour, to the west of the application site, and on the opposite side of the district road. The reasons given for the appeal are stated as the same reasons given for objecting to DEA&DP on 10/6/2018:

- There are alternative properties more suitable for the purpose of a compost facility.
- The threat that SAFAM would close without the facility is melodramatic – other disposal options are possible.
- Proximity to the Vinkriver and storm water is a concern.
- The tourism opportunities in the surrounding area will be negatively affected.
- There was no public participation process prior to the compost facility starting to operate.
- The increase in trucks will negatively impact the road network which is narrow and unsuitable for the resultant traffic.
- Odours, flies and noise are not adequately addressed. The use will cause odours.
- The application is "very economical with the truth regarding the impact on the surrounding land users impact cost".
- The only benefit will accrue to the abattoir. Nobody else.
- There is no guarantee that other abattoirs in the district will not also use this facility, resulting in waste from other areas being processed at the site.

Appeal 4: Ndlovu de Villiers Environmental Law Specialists, on behalf of H Jooste and L Jordaan (Annexure 9):

The Ndlovu appeal requires the Appeal Authority to dismiss the applicant's appeal and uphold the Ndlovu appeal by replacing the Tribunal's decision with a decision refusing the application for the feedlot and compost facility in total.

H Jooste and L Jordaan are direct neighbours to the north-west of the application site (on the Worcester side of the site).

The Ndlovu appeal draws the Appeal Authority's attention specifically to the following points:

- The Appeal Authority should commission an independent registered planner to undertake the assessment of the application in its entirety (Sections 65(1)(g) and 81(10) of LLUP, 2015).
- The Municipality has a conflict of interest given the need to dispose of waste: "there is reasonable apprehension that the decision-maker will not decide the case impartially or without prejudice". But the Municipality may not recuse itself from the consideration of the appeals. The specific issue may very well be resolved by the High Court, on judicial review, after the Appeal Authority has made its decision.
- Whilst composting may be environmentally friendly in terms of the product it produces, "the place where this supposedly friendly activity takes place still needs to be suitable for the proposed land use".
- The Trust has ignored its obligation to comply with notices of non-compliance. The "Trust comes before the Municipality with unclean hands" in that it is in willful disregard of the Municipality's authority. In all likelihood, the Trust would disregard conditions of authorization that the Appeal Authority would include, if approval were to be granted.
- The Court Order must be considered with caution. It did not issue a reasoned judgement on the rights and responsibilities of the parties that were before the Court.
- The WML and EA will be appealed and therefore these decisions are suspended until the outcome of the appeal/s: The survey diagram provided to DEA&DP does not include the total area used for the composting facility – Section 24G of NEMA should have been followed.

Ndlovu states that the Tribunal failed to provide reasons for approval of the compost facility. It is noted that the reasons for the approval are elaborated on in the assessment report, and it is agreed that these reasons should have been listed with the approval. Ndlovu states that Condition 6 is contrary to Section 66(8) of the Bylaw. It is noted that Condition 6 should not have been included as a condition, but as a note: It is a statement of law, with the fact being that a basket of approvals is required in order to operate.

Time line for processing the Application

Notwithstanding the long time since the application submission date (24 October 2017), the time taken to process the application is within the time frames as permitted within Langeberg Land Use Planning Bylaw, 2015, as is evident from the control sheets on the application and appeal files, and as detailed at [Annexure 17](#).

PART M: PROVINCIAL MINISTER'S COMMENT ON THE APPEAL

The application was circulated to the Provincial Minister in terms of [Section 80\(11\) \(b\)\(i\)](#) of the Langeberg Land Use Planning Bylaw, 2015, namely: "a development outside the Municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework".

No comments were received from Province within the 60-day commenting period. A request for extension was received but there is no provision in the LLUP Bylaw, 2015 to authorise such extension of the commenting period.

PART N: RECOMMENDATION

1. It is recommended that the Appeal Authority:
 - 1.1. Take note of [Section 81](#) of the LLUP Bylaw, 2015 ([Annexure 18](#)).
 - 1.2. Conduct a site visit of the Middelburg site and the existing Roodehoogte feedlot.
 - 1.3. Obtain legal advice regarding the implications of the following for the Appeal Authority decision:
 - 1.3.1. The legislative framework regarding nuisances, including the new Langeberg Municipal Air Quality By-law (24 January 2020).
 - 1.3.2. The compliance notices issued in terms of the LLUP Bylaw, 2015.
 - 1.3.3. The pending appeals with DEA&DP in terms of NEMA, 1998.
 - 1.4. Determine if additional specialist input is required in terms of [Section 81\(10\)](#) of the LLUP Bylaw, in particular, an independent assessment by an olfactory specialist and/or an independent registered Town and Regional Planner, with proven knowledge of and experience in waste treatment facilities and land uses which generate odour and attract pests.
 - 1.5. Permit an oral hearing of all 4 appellants.
2. It is further recommended that the Appeal Authority, note the following, *inter alia*:
 - 2.1. There are 4 appeals which require one decision.
 - 2.2. The Appeal Authority's decision (minutes) must refer to the legislation ([Section 81](#) of LLUP Bylaw, 2015) in terms of which they are taking a decision.
 - 2.3. The Appeal Authority must state whether they "confirm, vary or revoke" the Tribunal's decision, as referred to in the Bylaw.
 - 2.4. The minutes of the Appeal Authority hearing must record the reasons for its decision.

PART O: REASONS FOR RECOMMENDATION

The primary reasons for the above recommendation are:

- The legalistic nature of many of the appeal arguments, and the possibility of future High Court action.
- The various accusations made by appellants relating to municipal bias.
- The fact that there are 4 divergent appeals for consideration and therefore a considerable volume of documentation.
- The Town Planning Department comprises only 2 registered Town Planners, and it was not possible to have an independent third party from within the Department, submit the appeal report.

Annexure 1	Plans: Locality, Site, Aerial: Application Site and Objectors
Annexure 2	Planning Assessment Reports to Langeberg Municipal Planning Tribunal
	2(1) 1 February 2019 (18.01.19): Agenda item and Minutes
	2(2) 6 September 2019 (30.08.19): Agenda item and Minutes
	2(3) 18 October 2019 (25.10.19): Agenda item and Minutes
Annexure 3	Tribunal Decision Letter
Annexure 4	Section 65 of the Langeberg Land Use Planning Bylaw 2015: Criteria for Consideration of Applications
Annexure 5	Appeal 1: Applicant
Annexure 6	Objectors' Response to Applicant's Appeal (Appeal 1)
Annexure 7	Appeal 2: Christo Reeders - Perisseia
Annexure 8	Appeal 3: P J Gerber
Annexure 9	Appeal 4: Ndlovu de Villiers – L Jordaan & H Jooste
Annexure 10	Applicant's Response to Appeals 2-4
Annexure 11	Compliance Notices and Applicant's Responses
Annexure 12	Environmental Authorisation (EA)
Annexure 13	Waste Management Licence (WML)
Annexure 14	Municipal Appeals against EA and WML
Annexure 15	File Notes re. factual inaccuracies and unsubstantiated allegations in the du Bois appeal
Annexure 16	Reports on flies and odours: Site Inspections by Departmental officials (DEA&DP, CWDDM, VPH)
Annexure 17	Time line: progress of LLUP application
Annexure 18	Section 81 of the Langeberg Land Use Planning Bylaw 2015: Consideration by Appeal Authority

Note: Copy of DEA&DP Court Order attached to Appeal 1: Annexure "A11"
Copy of Legal Opinion **attached** to Sept Tribunal item: Annexure 2(2)
Other documents on file: BAR i.t.o. EIA regulations; Objectors' Appeals against WML & EA.

PART Q: SIGNATURESAuthor name: T L Brunings 

Date: 5 March 2020 05.03.2020

Kommentaar:

.....
JV BRAND
BESTUURDER : STADSBEPLANNING
MANAGER: TOWN PLANNING.....
DATUM

Kommentaar:

.....
M JOHNSON
DIRECTOR: ENGINEERING SERVICES
DIREKTEUR: INGENIEURS DIENSTE.....
DATUM

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

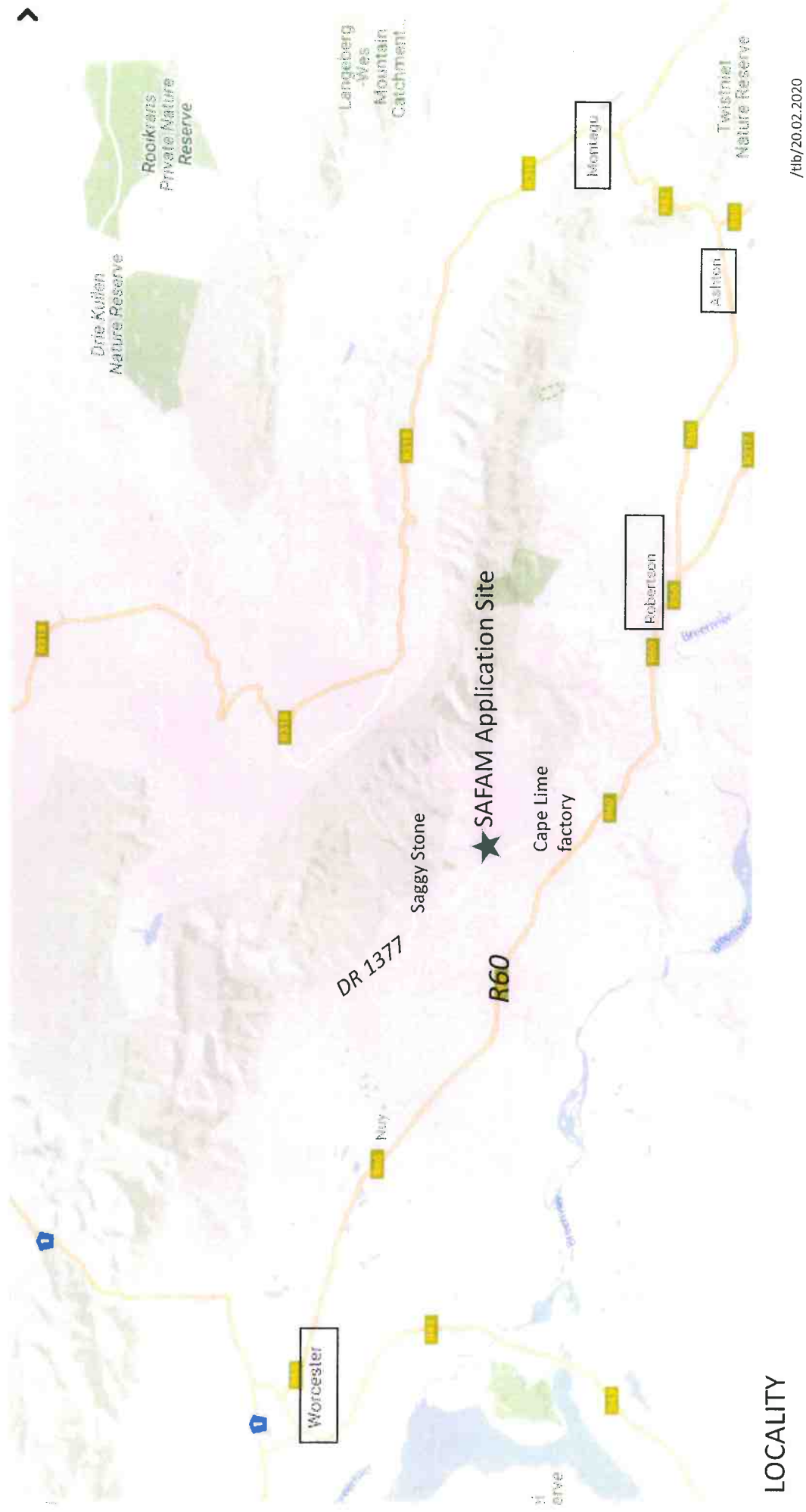
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APPEAL AUTHORITY

Date

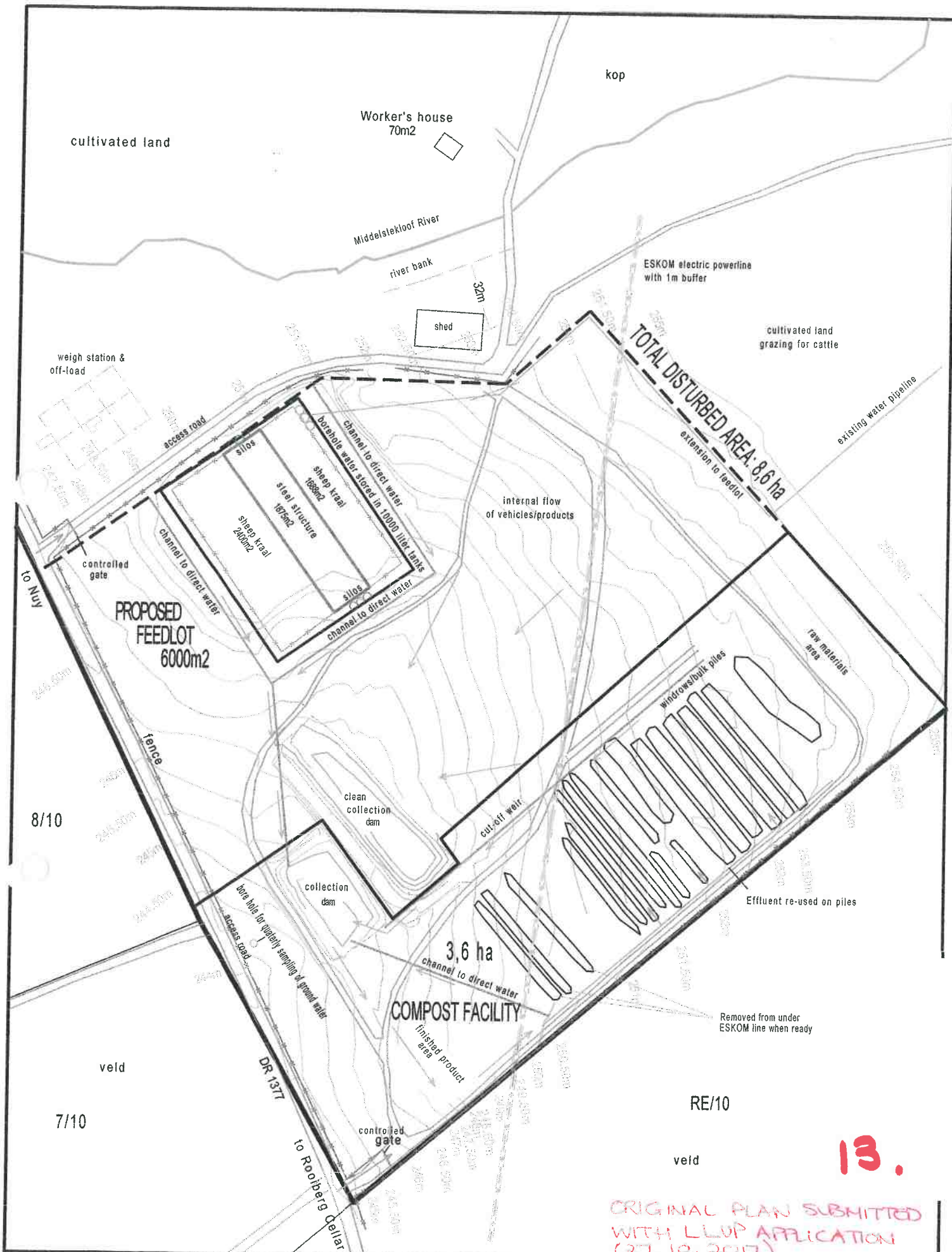
Annexure 1

Plans:
Locality, Site,
Aerial (Application Site and Objectors)



/tlb/20.02.2020

LOCALITY



13.

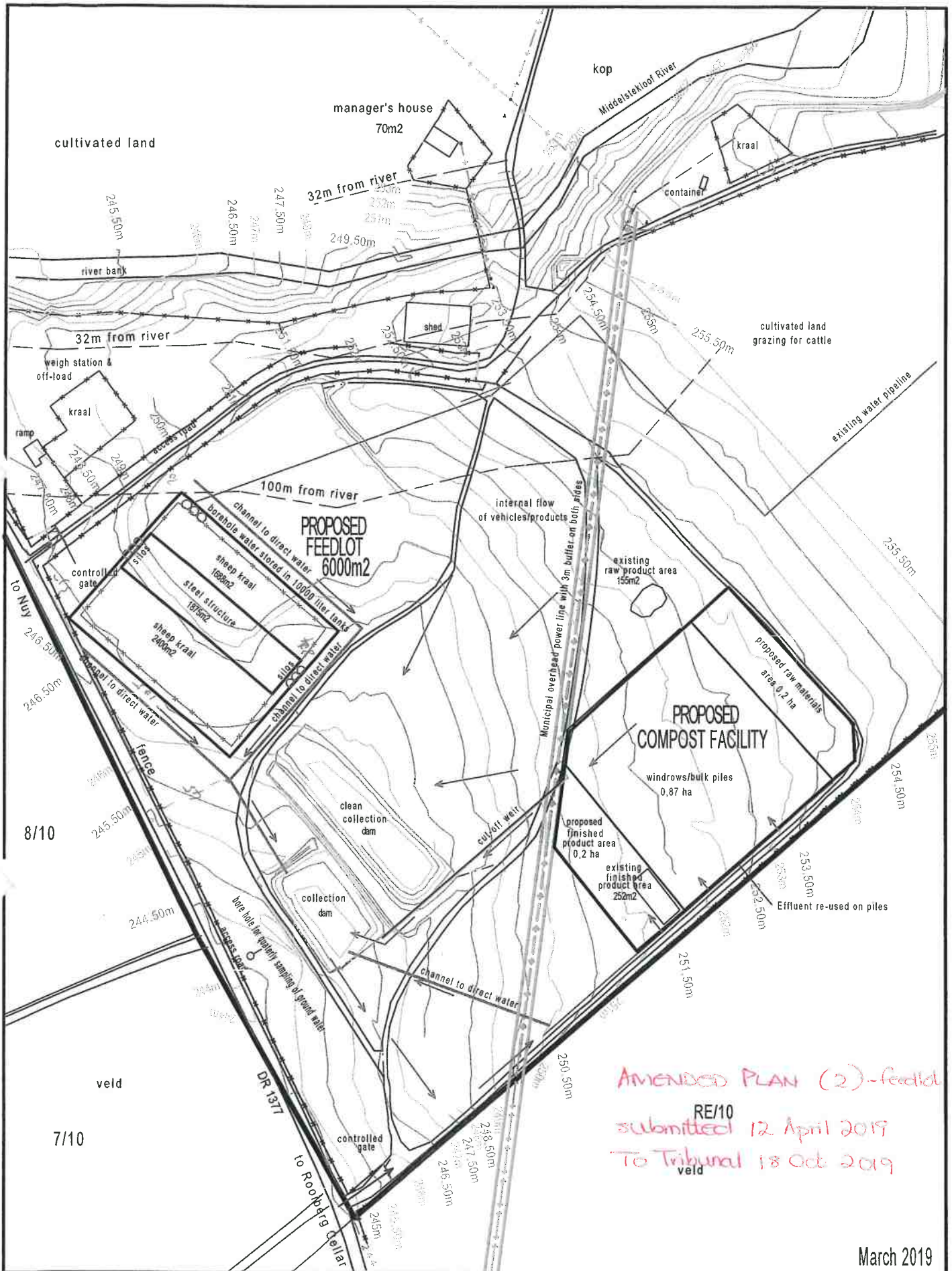
ORIGINAL PLAN SUBMITTED
WITH LLUP APPLICATION
(27.10.2017)

SITE PLAN: PTN 6 MIDDELBURG NO 10, ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA
PLANNING
Town and Regional Planner

SCALE 1:2250



March 2019

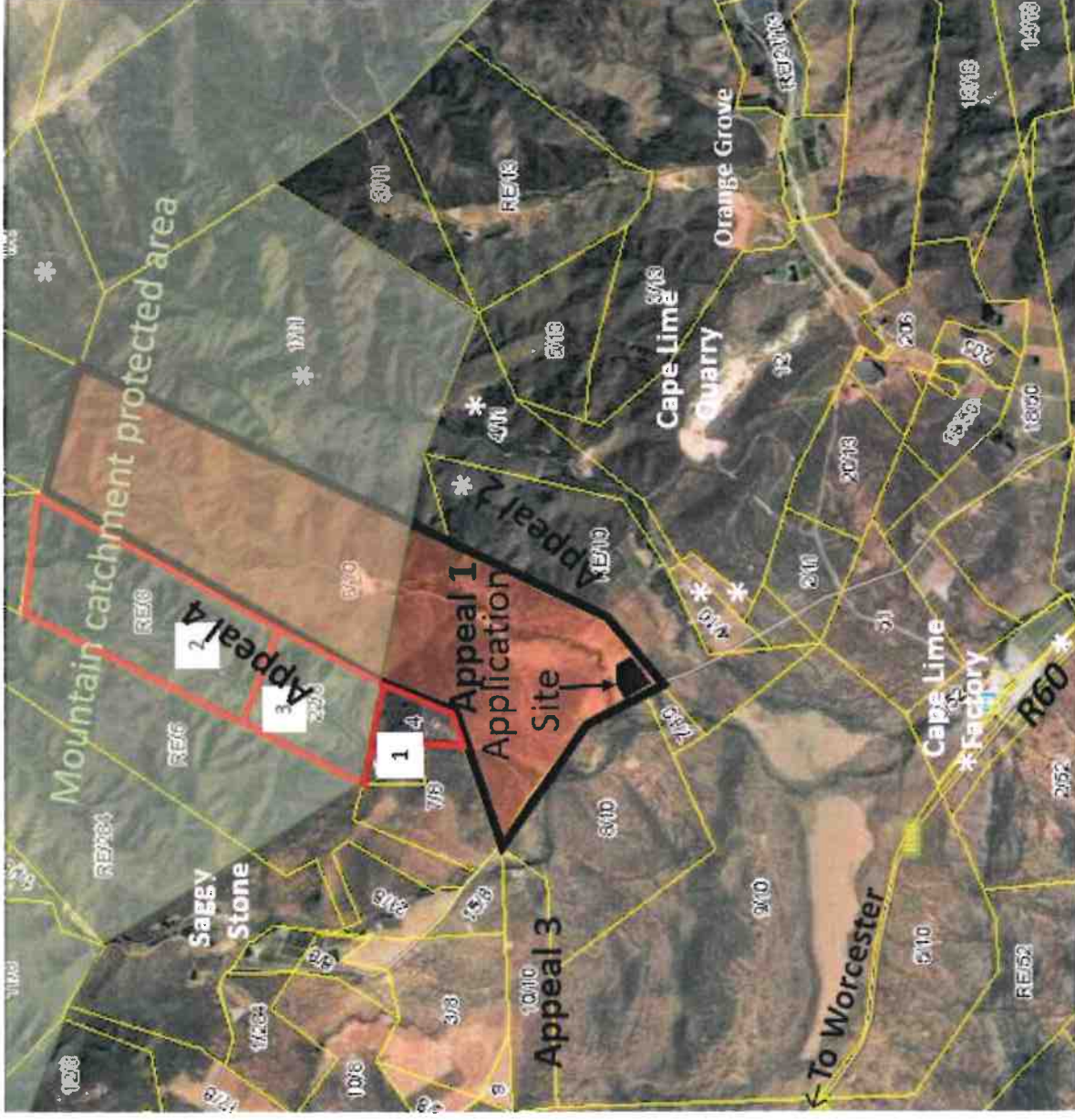
AMENDED SITE PLAN: PTN 6 MIDDELBURG NO 10,
ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA 15.
PLANNING
Town and Regional Planner

SCALE 1:2250





Middelburg 10/6 Robertson: SAFAM

1-3: Objectors in terms of LLUP Bylaw, 2015

Appellants in terms of LLUP Bylaw, 2015

Appeal 1: Applicant Appeal:

Du Bois Attorneys for Reben Trust / SAFAM

Appeal 2: Objector Appeal:

Christo Reeders Attorney

for Johan and le Roux Fourie (Perisseia Pty Ltd)

- all properties owned by Perisseia indicated with *

Appeal 3: Objector Appeal:

P J Gerber

Appeal 4: Objector Appeal:

Ndlovu de Villiers Environmental Law Specialists, for H Jooste and L Jordaan

Annexure 2

Planning Assessment Reports to Langeberg Municipal Planning Tribunal, & Minutes of the meetings:

Annexure 2(1)

Planning Assessment Report
to Langeberg Municipal Planning Tribunal,
& Minutes of meeting:

1 FEBRUARY 2019

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)

**PORTION 6 OF MIDDELBURG 10, ROBERTSON:
APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR
COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)**

Meeting: 1 February 2019

Reference number	15/4/12/ 5 & 7	Application submission date	24 October 2017 BAR: 14 March '18	Date report finalised	18 January 2019
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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)	Portion 6 of the farm Middelburg No.10, Robertson				
Physical address	Off DR 1384 and DR 1377	Town	Rural – 3km N of Cape Lime factory and 14km NW of Robertson		
Current zoning	Agricultural Zone I	Extent (m ² /ha)	758.0308ha.	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Section 8 Zoning Scheme in terms of LUPO No. 15 of 1985				
Current land use	Agriculture, Store/Shed, workers house, kraal and weigh station, dams		Title Deed number & date	T12255/2013	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)		
Any third party conditions applicable?	Y	N	If Yes, specify	Right-of-way across western corner of property.	
Any unauthorised land use/building work	Y	N	If Yes, explain	Store/Shed has been constructed. The compost facility commenced operating in February 2017.	

PART C: APPLICATION DESCRIPTION

The farm is located in the area behind the Cape Lime Factory and at the foothills of the Langeberg Mountains. A locality Plan and Site Plan are attached at Annexure B. Application is made for the following:

- Rezoning a 3,6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning.
- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 6500 lambs) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity).

Application was also made to DEA&DP in terms of Section 53 of LUPA as the land in question was used for agricultural purposes during the past 10 years. On 9 May 2018, the Department of Environment Affairs (DEA&DP) issued provincial approval for the Composting Facility, in terms of Section 53 of the Land Use Planning Act 3/2014. This decision has been appealed by an objector and the outcome of the appeal is pending.

Application has been lodged for Environmental Authorisation as the proposed use triggers listed activities GN 938, LN1:4 (concentration of animals), 8 (agri-industry >2000m²) & 28 (industrial use >1ha. on agric land) and GN921 (Waste Listed Activities). Appeals are also pending with regard to decisions on these applications.

PART D: BACKGROUND & SUMMARY OF APPLICANTS MOTIVATION

The Robertson Abattoir disposed of waste products via the municipal landfill and sewage works until the end of 2016. These products include: stomach contents, intestines, blood and non-infectious condemned trim and carcasses of sheep and cattle. Due to legislative requirements and capacity constraints, the abattoir owners were notified in September 2015 that they would need to investigate alternative options for disposal of abattoir waste. Final notice was given on 2 November 2016 that the Municipality could no longer receive these wastes. As a result, alternative options for waste disposal were considered, including: using a service provider to dispose of by-products, biogas, alkaline hydrolysis and composting. The production of compost using these waste products started on the application site in February 2017.

Application is also made to relocate the existing sheep feedlot on Ptn 47 of the Farm Roodehoogte No 47. The feedlot was approved for 2500 sheep. The current application is for 6500 lambs at any one time (4500 under roofed area and the remainder in open camps), with a floor area of 6000m². Lambs are intensively fed for ± 1 month and then transported to Robertson Abattoir. Feed will be delivered by Meadow Feeds and stored in four silos - 2 on each side of the shed. The manure from the feedlot will be used in the composting process. Wood chips from the Langeberg Municipality (Robertson) are also used in manufacturing the compost.

Access to the site is via the R60 from Robertson, the DR1384 (tarred road from the R60 around the Cape Lime Factory) and the DR1377 (dirt road that runs parallel to the R60 between Rooiberg and the Nuy valley). There are 2 access points onto the site from DR1377: one to the composting site and the other to the proposed feedlot. The applicant indicates the volume of traffic as follows: one tanker truck (blood) per day i.e. 2 truck trips per day; one skip truck (carcasses etal) every ~~send~~ day i.e. 1 truck trip per day; one livestock truck (sheep) per day i.e. 2 truck trips per day. i.e. a total of 5 truck trips per day.

The site currently accommodates: a store, worker's house, kraal and weigh station, dams and 15ha. of grazing. 3,6ha. of previous grazing area has been cleared to accommodate the compost windrows and effluent collection dams.

Windrows of $\pm 1,5$ m high and 2m wide will rotate around the 3,6ha. site as and when compost matures and is ready for sale. The composting process requires regular turning of the windrows. ± 20 m³ of compost will be produced per day. Compost will be sold both in bulk and bagged for sale to farmers.

The application, lodged on 24 October 2017, is attached at Annexure C; and additional information, lodged on 2 October 2018, is attached at Annexure D. The application is motivated as follows:

- The closest residential building is a farmhouse across the DR1377 ± 550 m SW of the application site. The nearest Buitenstekloof guest cottage is $\pm 2,36$ km to the NE of the site. The nearest cultivated lands on neighbouring farms are ± 550 m away.
- The soil study shows the property is not suitable for intensive farming due to high clay and salt content. The drainage system of the composting facility is of importance to ensure run-off water does not enter the underlying soils as no hardened surfaces are proposed for storing raw materials or the compost. Two small dams have been constructed below the compost site to catch stormwater from the farm and collect effluent from the windrows and feedlot. An adjoining borehole will be used to enable quarterly sampling of ground water.
- SAFAM has the following Standard Operating Procedures (SOPs) which will ensure the successful operation of the composting facility: Composting Processing; Removal and Delivery of by-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control.
- The main impacts are flies and odours which will be managed through the use of fly traps, correct management of the composting process and chemical treatment in accordance with SOPs.
- The facility will employ 7 permanent workers: 2 at the compost facility, 4 at the feedlot and 1 farm manager.

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 (if applicable)

The application was advertised on 14 November 2017. Three letters of objection and responses thereto are attached at [Annexures E and F](#) respectively, and summarized below. All three objectors are immediate neighbours on the western boundary of the application property as shown below:



Objection 1: Mr & Mrs Keyser (Vinke Rivier 4)

The Keyzers expressed concern about the process of manufacturing compost from abattoir by-products and the safety of its use in agriculture in relation to pathogens. The management and monitoring of this process is of concern. They enquire as to the skills and qualifications of the employees managing the process and which Departments monitor and verify these processes. They also express concern that the process is new, and long-term impacts have not been established. In addition, the following concerns are raised:

- The number of flies has increased to problematic levels.
- The activities commenced prior to any notification.
- The current fence is inadequate.
- The gravel road will require surfacing or increased grading.

Objection 2: L Jordaan (Vinke Rivier 8: Doornkloof Private Nature Reserve)

Since the composting facility commenced, there has been a tremendous fly problem. A site closer to the source of materials would be preferable for the Composting Facility. There are cost and maintenance implications of transporting the abattoir products, wood chips, staff and finished compost product, particularly in terms of the local road infrastructure. Transport of the sheep and feed will place further pressure on the gravel roads. The report states that one 8-ton skip truck will deliver every second day. An 8-ton skip truck currently delivers twice a day at present. The objector requests access to the site register. The second entrance to the farm is new and badly positioned on a corner. Dept of Transport's consent must be obtained.

The surrounding farmers use boreholes for household water and there are already signs of drought. The Feed farm will put additional strain on this scarce resource. Proof is required of registration of boreholes and dams as referred to in the application.

The disposal of animal by-products in an insufficiently fenced area is problematic and there is no assessment of the long term impact on leopard, rooikat, bushpigs, eagles etc. in the surrounding natural areas. The disposal of condemned carcasses in close proximity to farmed animals to be transported to the abattoir is problematic, particularly in relation to the fly problem and potential health risks.

Objection 3: H Jooste (Vinke River 8/22: Doornkloof Private Nature Reserve)

The objector's main income is from tourism and guest accommodation which depends on the pristine nature of the reserve and its surrounds. The composting facility will have negative impacts in terms of her existing rights to operate a nature reserve and guest accommodation. In particular, the fly situation has worsened considerably and is no longer controllable by natural means (spiders and geckos). The use of fly-traps is ineffective and the use of industrial sprays is not an option in an eco-friendly facility. Guests have complained that the fly situation is the worst they have experienced. It is not possible to eat outside and domestic animals have to be treated to prevent fly nuisance. Star-gazing will be adversely impacted by floodlights from the feedlot.

The existence of Doornkloof Private Nature Reserve and the incompatibility between the composting facility and the nature reserve must be acknowledged. The applicant should consider other sites e.g. move compost facility next to the existing feedlot; partner with the Municipality at existing compost site etc.

Concerns are expressed about certain statements in the application:

- The area cleared for the windrows included natural vegetation and was not all previously used for agriculture as stated in the report.
- The disposal of infectious condemned material, which should be taken to a hazardous waste site is an egregious departure from their SOPs and is a contravention of existing legislation and should be stopped.
- Late deliveries of products often occur in contravention of the stated SOPs and the number of truck trips exceeds that which the applicant states.

Concern is also expressed about who will monitor conditions of approval and the potential increase in fire risk.

Applicant's Response to Objections

Response to Objection 1 (Keyser):

The manufacturing process is managed by David Houghton with a BSc(Hons) in Food Science and Technology and LLM Masters of Law, and a Farm Manager with 6 years of experience in managing compost sites in America. The heat treatment process is in accordance with principles which allow the finished product to be used in direct contact with food products.

Officials from the Departments of DEA&DP (Waste Management), CWDM (Health) and Langeberg Municipality will monitor the site in accordance with conditions of approval and SOPs. Composting is not a new method of recycling and is one of the most effective methods of reducing environmental impacts of organic waste materials.

There is an increase in flies in general in the Robertson area and no evidence that the compost site is responsible for an increase in flies. The farm employs fly traps and pest control in accordance with a SOP. The feedlot will be fully enclosed.

Response to Objection 2 (L Jordaan):

Flies: as above. The applicant acknowledges that there have been more truck trips per day than estimated but that the daily truck trips averaged out over the month, are still within the limit of 6 truck trips per day specified by the Department of Transport. The use of water and amounts drawn will be in accordance with stipulations of DWAF. The second access to the farm has been authorized by DoT, and includes setting the gate away from the road to allow vehicles to stop off the road for the gate to be opened. With regard to wildlife, the applicant's SOP management practices will prevent any adverse impact.

Response to Objection 3 (H Jooste):

Flies: as above. In addition, the Farm Manager lives 400m from the compost site (compared to the objector who lives ± 2 km away) and does not have a fly problem. It is suggested that there are other potential sources of fly problems e.g. renosterbos in drought conditions will generate less sources of food and water causing flies to be attracted to other sources. Fly control procedures such as fly nets for guests at Doornkloof PNR should be considered. The applicant disputes that natural vegetation was cleared – this was all grazing land.

The applicant states that recycling of abattoir waste is the preferred option in terms of the WC Integrated Waste Management Plan rather than sending it to landfill. It was also noted that only infectious condemned material is classified as hazardous, and "as such must be kept below 500Kg per day". The location of a Composting Facility at the existing Roodehoogte Facility is unsuitable in terms of the type of ground and access. Further, compost is proposed to be used on the Middelburg farm. The municipal compost site is too close to a watercourse and not suitable for the compost facility.

PART G: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS (Refer to Annexure G for detailed comments)

Name	Date received	Summary of comments	Recommendation		
Manager: Civil Engineering Services	19.11.17	No objection. No municipal services are affected.	Positive	Negative	Comment
Manager: Electrical Engineering Services	26.04.18	No objection. The applicant is responsible for the costs if the 11kV line must be moved. Compost heaps may not be closer than 3m from the centre line of the 11kV line.	Positive	Negative	Comment

Cape Winelands District Municipality: Health	17.11.17	No household services (water, refuse, sewage disposal, electricity) are supplied by CWDM. Such services must be provided in accordance with the requirements as set out in their letter (attached). All waste water must be managed to the satisfaction of BGCMA to ensure no water pollution. Pest control, odour management and other protocols must be adhered to.	Positive	Negative	Comment
Department of Transport	07.02.18	No objection subject to a maximum of 6 trips per day. Should the number of trips increase, the Department reserves the right to require the landowner to provide a sealed surface of the affected portion of DR1377.	Positive	Negative	Comment
Cape Nature	19.01.18	The western portion of the site is a CBA identified to protect the water course. Management of pests is crucial to prevent adverse impacts on indigenous fauna and flora.	Positive	Negative	Comment
DEA&DP – Land Use Planning	09.05.18	S53 Provincial Application approved – see Section H below.	Positive	Negative	Comment
DEA&DP – Environmental Impact	23.05.18	EIA application was deemed to have lapsed as the prescribed timeframes had not been met. Appeal pending.	Positive	Negative	Comment
DEA&DP - Waste Management	16.08.18	Waste Management License application rejected (administrative/technical errors). Appeal pending.	Positive	Negative	Comment
Provincial Department of Agriculture (Elsenburg)	06.03.18	No objection as the intended land uses are space intensive. Potential water pollution must be avoided. Pest and odours must be controlled. Confirmation must be provided that sufficient registered water is available for the Feedlot. All products used for composting must be registered with the registrar of Act 36 (Farm feeds and Fertilizer).	Positive	Negative	Comment
Breede Gouritz Catchment Management Agency for DWAF	16.01.18	All activities must be carried out in accordance with the NWA 36/1998. Authorisation must be obtained for water use and storage. Application for the dam/s must be submitted for classification (dam safety if wall higher than 5m). An Integrated Waste Management Plan must be prepared including sewage and stormwater management and details of the collection dam.	Positive	Negative	Comment

Eskom	15.12.17	Not in Eskom's area of supply..	Positive	Negative	Comment
Heritage	01.02.17	No application is required in terms of Section 38 of the NHRA 25/1999 for the proposed compost facility (Note: No comment on the feedlot).	Positive	Negative	Comment
Ward Councilor	undated	No objection provided the neighbours have no objection.	Positive	Negative	Comment

PART H: PROVINCIAL APPLICATION AND APPEAL IN TERMS OF LUPA, 2014

Provincial Application:

The current development proposal also requires provincial approval in terms of Section 53(1) of LUPA, 2004, read together with section 10(1)(b) of the Regulations.

This application was approved by Province on 9 May 2018 (refer to Annexure H). The reasons for this decision include the following:

- The site was previously used for pastures.
- The windrows are located on Buffer and Agricultural SPCs in terms of the LSDF.
- In terms of the Management Guidelines composting facilities are often located outside the urban edge and should be on previously disturbed land of low biodiversity or agricultural value.
- In terms of the National Organic Waste Composting Strategy, organic waste should be diverted from landfill sites and composting is one alternative treatment method.
- The WCPSDF (Policy 4) advocates recycling to increase waste disposal sites' lifespan.
- Given the location, topography, distance to Middelstekloof River, soil conditions and availability of services and infrastructure, the location of the composting facility is supported. It has an agricultural feel with no negative visual impacts.

An appeal by an objector, to the Provincial Minister, against this decision, is currently pending.

The following comments with regard to the impact of Provincial appeals on the Tribunal's decision-making process, are noted from legal advice from Carel Hofmeyer, DHM Land Law Specialists, in an email dated 7 September 2018. Although this legal advice related to the 'laas Voogds rock mining application, it is equally applicable here:

"The application to rezone the subject property is regulated by the Langeberg Municipal Land Use Planning By-Law, 2015, and is a separate process from the land development application process that is regulated by the Western Cape Land Use Planning Act, 2014 (Provincial application). Sections 53(5) and (6) of LUPA make it clear that the obtaining of a land development approval under LUPA does not obviate the need for an application under the By-law and similarly an approval under the By-law does not exonerate the aspirant developer from obtaining an appropriate approval under LUPA. Neither the By-law, nor LUPA provides, though, that an application in terms of the one may not be granted before a final approval in terms of the other has been given. The Langeberg Tribunal is therefore at liberty to decide on the application in terms of their Bylaw, despite the LUPA appeal having been lodged and not having been decided yet. The timing of decisions does however have practical considerations e.g. if the rezoning is approved by the Tribunal, and is approved before the LUPA appeal is dismissed (if it is dismissed), the validity period for the rezoning will start to run before the LUPA decision becomes operative. A situation might arise therefore where the LUPA approval is still valid but where the development cannot be implemented because the rezoning approval has lapsed".

PART I MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

1. Criteria for Assessing the Land Use Application:

- 1.1. 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), and
 - 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.
- 1.2. In terms of Section 42(2) of SPLUMA, 2013, "When considering an application affecting the environment, a Municipal Planning Tribunal must ensure compliance with environmental legislation".
- 1.3. The following key issues are identified for assessment of the proposed land uses in terms of the above assessment criteria, with the aim of finding a balance between economic, social and environmental benefits, without compromising the long term economic success of agriculture and tourism or environmental integrity:
- Non-compliance with the Zoning Scheme
 - Zoning Scheme Requirements and land use definitions.
 - Compliance with SDF's and other planning policies and guidelines.
 - The environmental impact on the natural environment (groundwater, surface water and air quality) and human health.
 - Management of nuisances; pests, scavengers, odours, noise, dust and visual impacts, particularly in relation to neighbours.
 - Traffic implications.
 - Socio-economic impact.

The legal opinion obtained for the Klaas Voogds Mining application, noted the following, which is worth repeating here:

Whilst there is an obligation to consider all relevant considerations, the assessing authority may in its discretion decide which considerations are in its opinion more important and which ones should influence most its decision. The decision to attach more weight to one consideration than to another must be motivated, based on rational grounds. In addition, the assessing authority must decide whether it has sufficient information before it to take an informed decision about those requirements in the relevant planning legislation that relate to environmental impacts generally and issues specific to the application (in this case, the objectors' complaints of odour and flies in particular). If the Municipality concludes on a rational basis that the information before it is sufficient to appreciate properly what the environmental impacts of the proposed development would be, in the absence of formal expert assessments and / or final decisions by the DEA&DP, the assessing authority would be at liberty to take a decision in the absence of such assessments.

2. Non-compliance with the Zoning Scheme:

- 2.1. The composting facility commenced operating prior to any application being lodged. Following complaints, a site meeting was held on 15 February 2017 with the owner and various authorities (including Langeberg Municipality, DEADP and CWDW). The owner was advised that he did not have all the required approvals in order to conduct the waste composting facility on the property in question, and that the existing shed had been built without approved building plans. The owner appointed Town Planning and Environmental consultants to conduct the required studies and lodge the necessary applications.
- 2.2. In response to the above unauthorized activities, the following actions were taken: A notice was served on the applicant advising them that no authorized activities may take place. The owner, via a lawyer's submission, argued that the activities which had commenced were not unauthorized as composting is a permitted use in terms of the Agricultural Zone. Nonetheless they agreed to continue with the relevant applications for authorization. A penalty fee was paid as part of the land use application as the use had commenced operating prior to the necessary authorization. It was decided not to take further legal action at this stage, given the pending applications and the lack of an acceptable alternative to treat and dispose of the abattoir waste. The economic implications of closing the abattoir were also taken into consideration.
- 2.3. Given the above, the Town Planning Department has been in on-going contact with the CDWM (Health: Steven McClean) and the DEA&DP (Fahd Said) with regard to monitoring of the composting facility relating to public health and the prevention of any potential environmental and health nuisances. Such monitoring occurs on a regular basis, as well as in response to complaints received. On-going complaints have been received from Objectors 2 and 3. More recent complaints (14 January 2019) have also been received from the neighbour to the east of the site, who also owns the padstal on the R60 adjoining the Cape Lime Factory. He notes his concern relating to odours and flies and the impact on farmworkers and guests. He states that this is having a negative financial impact on his tourism businesses. In contrast, Objector 1 advised on 16 January 2019 that they have nothing to complain about in terms of odours; fly activity has increased but could be from livestock farming and/or due to drought conditions, not necessarily the compost.

3. Zoning Scheme Requirements and Land Use Definitions:

- 3.1. The applicant site is zoned Agricultural Zone I in terms of the Section 8 Zoning Scheme regulations. An Intensive Feed Farm is a consent use in the Agricultural Zone I. Section 4.6.2 of the Section 8 regulations reads: "In considering such applications, regard shall be had to the question whether the use is likely to mar the amenity of the neighbourhood, including marring owing to the emission of smoke, fumes, dust, noise or smells.
- 3.2. A Compost Facility, where the prime purpose is the reuse and recycling of abattoir waste products is determined by the Town Planning Department to be a "noxious trade" which is not permitted in the Agricultural Zone I and for which rezoning to Industrial Zone II is required. The interpretation that the "Compost Facility" falls within the definition of a "noxious trade" has been questioned by the applicant (despite lodging an application accordingly), and is therefore elaborated on below:
 - 3.2.1. Composting is generally a part of agricultural practices within the Agricultural Zone I. This entails composting agricultural products which originate from the farming activities on the farm (e.g. wood from vineyards, spoilt fruit etc.) for re-use on the same farm. The scale of this type of composting facility is determined by the scale of the farming operations and is generally considerably smaller than activities which are listed as requiring a licence. This small-scale form of composting, utilizing non-hazardous organic material from the farm, is considered to form part of conventional agricultural practice.
 - 3.2.2. In contrast, the main input for the proposed composting facility on Rem of Farm Middelburg No 10, Robertson, comprises all the abattoir waste products from the Abattoir located in Robertson's industrial area. These waste products cannot be used in the end-product (meat) produced at the abattoir or butchery and must be discarded / destroyed or recycled. Although the end product is compost, the primary reason for the existence of the composting facility is to treat and "recycle" abattoir waste products.

3.2.3. "Noxious Trade" as defined in the Section 8 Zoning Scheme means "an offensive use or another use which constitutes a nuisance.... and includes the operation of a scheduled process". An abattoir falls within the definition of a noxious trade solely by virtue of the waste-products it produces, not in terms of the animals brought there to be slaughtered or the meat products which leave the abattoir to be sold to butcheries. A composting facility utilizing the same waste products which determine an abattoir to be a noxious trade, cannot be considered to be anything but a "noxious trade" by virtue of the primary input product being abattoir waste.

3.2.4. With reference to the attached extracts of definitions in the NEM: Waste Act 2008 and "The Mini guide to the Management of Abattoir Waste" (DEADP) (refer to Annexure I), the products used clearly constitute "waste" products which can be hazardous to human health and the environment and the proposed composting facility falls under the definition of a "waste management activity" (not an agricultural activity).

3.2.5. Further, the total, future extent of the proposed Composting Facility requires a licence for a listed activity in terms of the NEM: Air Quality Act 39/2004 (which Act replaces the Atmospheric Pollution Prevention Act, 1965) and the NEM: Waste Act, 2008 and therefore qualifies as an "operation of a scheduled process".

In conclusion, an abattoir waste composting facility does not fall under the definition of agriculture. The Zoning Scheme does not specifically define a waste management activity. The definition of a noxious trade is the most applicable definition and therefore application to rezone to Industrial Zone II is required.

4. Compliance with the relevant SDF's and other planning policies and guidelines:

4.1. The **WCPSDF** (2014, p48) notes that the WC State of the Environment report (2103) identifies "increasing waste generation, illegal dumping and shortfalls in hazardous waste facilities" *inter alia*, as key challenges in the Province. Policy R4 of the WCPSDF advocates recycling to increase the lifespan of waste disposal sites. Further, Policy E2 relates to diversifying and strengthening the rural economy and states the following:

DEVELOPMENT OUTSIDE THE URBAN EDGE

4. Compatible and sustainable rural activities (i.e. activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate) and of an appropriate scale and form can be accommodated outside the urban edge

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With reference to the Western Cape Provincial SDF's Rural Land Use Planning and Management Guidelines (2009), the WCPSDF also lists the following criteria, *inter alia*, to be applied in assessing consistency with this policy: Environmental Authorisation; does not compromise farming activities; does not impose real cost or risk to the municipality delivering on their mandate; and does not infringe on the authenticity of rural landscapes.

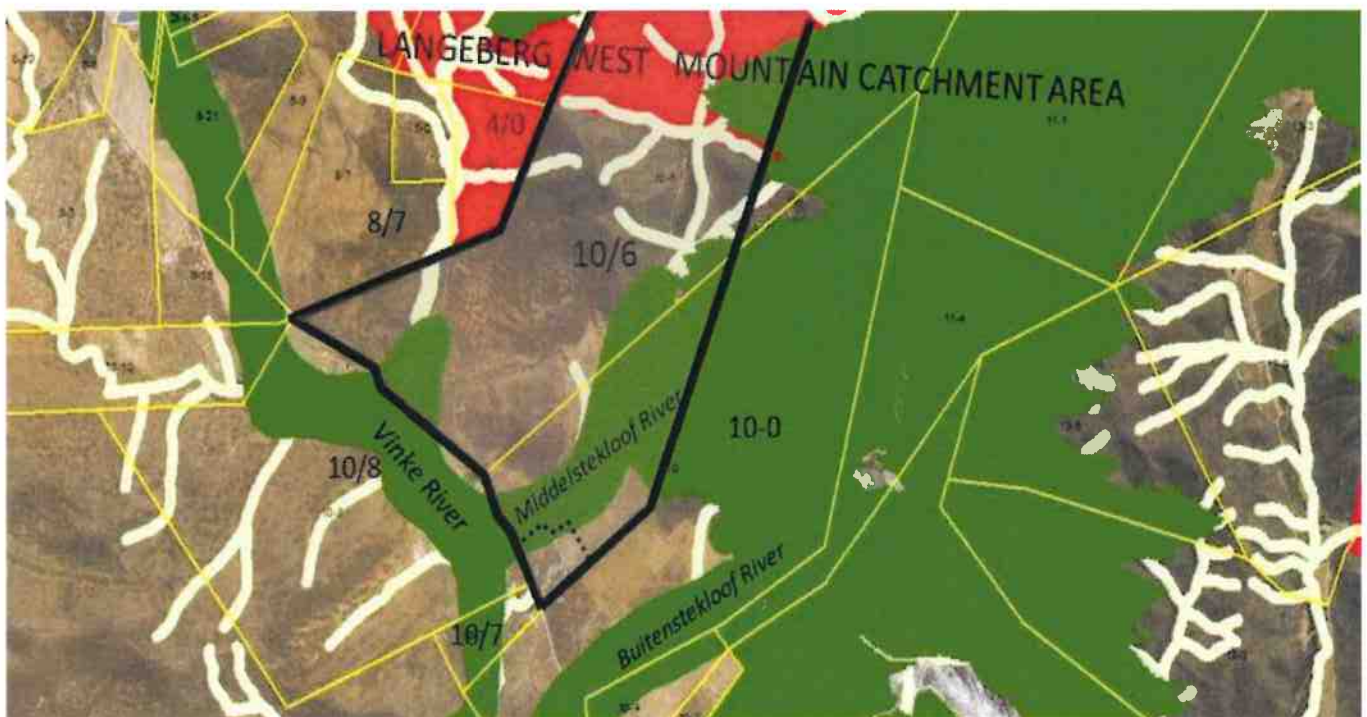
4.2. The **WCPSDF's Rural Land Use Planning and Management Guidelines** (2009) "Agriculture" (Table 3.2) and "Rural Industry" (Table 3.6) outline the following objectives and guidelines for managing rural land use change, which are of relevance to the application in question:

- Protect agriculture as a dominant land use in the rural landscape.
- Accommodate nuisance and space extensive agricultural enterprises (e.g. feedlots) and rural industry in buffer 2 and close to regional routes
- Promote sustainable farming: retain natural corridors and buffers; enforce EIA regulations.
- Rural industry should only be located in the following SPCs – Settlement, Intensive Agriculture and Buffer 2.

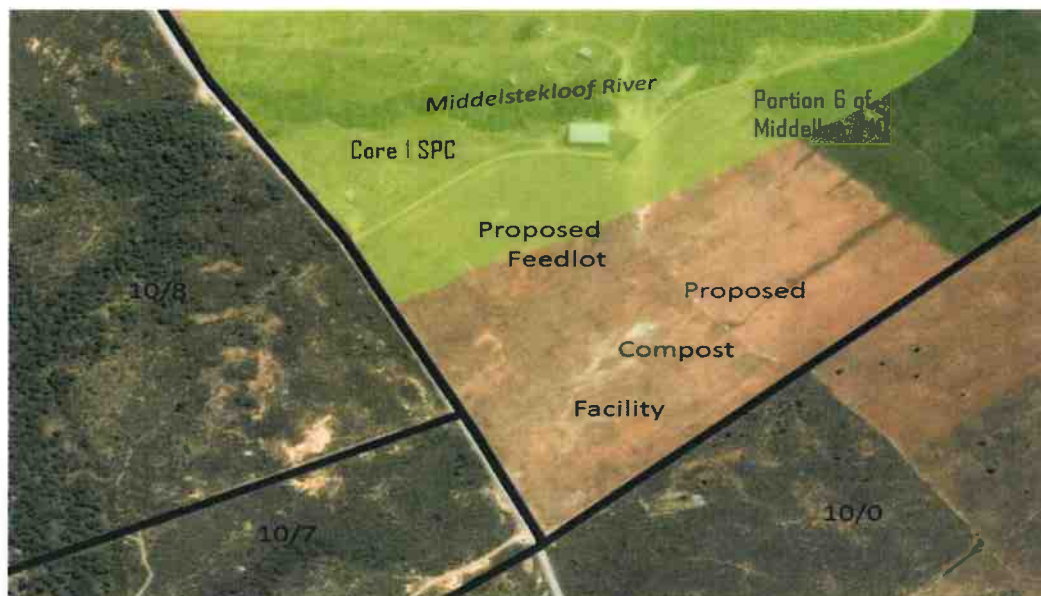
Table 3.10 relates to "Bulk Infrastructure Installation" and notes that such uses have unique locational requirements and are often located outside the urban edge and should be on previously disturbed land of low biodiversity or agricultural value, preferably within Settlement or Buffer 2 SPCs. It also notes the need for: appropriate buffers, landscape screening, and compliance with EMPs to be monitored by the responsible authorities.

- 4.3. With reference to the Spatial Planning Categories (SPCs) in terms of the **Langeberg SDF, 2015**, the proposed development site falls within "Core", "Buffer" and "Transformed" (Agricultural) Spatial Planning Categories. The windrows are located primarily on Buffer 2 and Agricultural SPCs, whilst the proposed Feed Farm is located with Buffer 1 and Core 1 SPCs.

There is no objection to development within the Transformed and Buffer areas subject to the sustainable management of land use activities. Development within the Core 1 area is however not supported. The Desired Management Objectives for the identified "Core" SPC adjoining the Middelstekloof River is to: maintain natural land, rehabilitate degraded land and maintain ecological processes. As shown on the LSDF extract below, this Core SPC forms an integral part of an important north-south environmental link between the Langeberge and the Breede River and connectivity must be maintained.



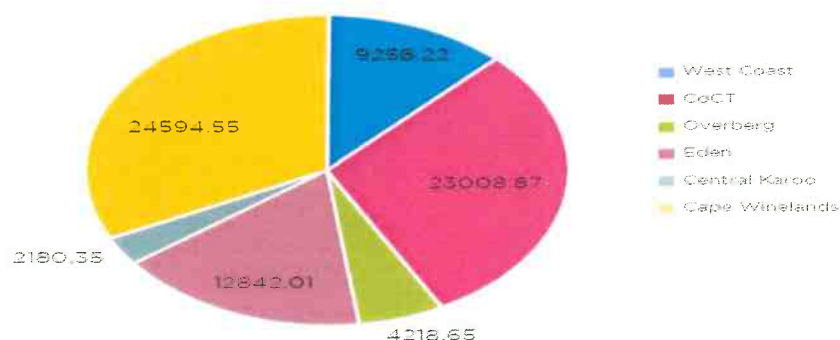
Extract from the Langeberg SDF, 2015 showing existing transformed areas and ecological corridors along drainage lines.



- 4.4. In order to facilitate the implementation of the NEM: Waste Act, 2008, a National Waste Management Strategy was developed in 2011. This Strategy promotes composting as one approach to achieving the waste management objectives. The DEA&DP commissioned Jeffares & Green (Pty) Ltd to prepare the **National Organic Waste Composting Strategy** (NOWCS, April 2013) (extract attached at [Annexure I](#)). In terms of the NOWCS, organic waste should be diverted from landfill sites and composting is one alternative treatment method to minimize waste to landfill and ensure sustainable waste management.
- 4.5. The **mini guide to the Management of Abattoir Waste** (DEA&DP, 2016/17) notes that abattoir waste is considered to be hazardous in terms of potential impacts on the environment and human health (extract attached at [Annexure I](#)). The guideline aims to promote compliance with legislation and presents and assesses options for managing this waste type to protect the environment and human health. The status quo study expresses concern about the current common practice of disposal of abattoir waste at refuse sites and burial on farms. Of significance, the guide identifies the Cape Winelands as the district with the highest volume of waste from slaughters, as shown below, and it is predicted that waste volumes will increase.

2015/16 Waste calculated from slaughters per District

Estimated waste produced for 2015/2016 per District (EKDA, 2016)



The guideline identifies the following current techniques available for the management of abattoir waste: Rendering (heat processing and drying), Composting, Incineration, Anaerobic Digestion (Biogas), Alkaline Hydrolysis (pressure, heat and alkaline solution), Air Curtain burners (type of incineration), Low Pressure Tissue Processing Systems (thermo chemical process), Pyrolysis (kiln – no oxygen), Fly Farming, and Sterilisation (steam). The advantages and disadvantages of each process are identified. Common disadvantages of each process include: odour, smoke, hazardous residue and need for specialist skills. Fly farming is the only technique where no disadvantages are listed. The following advantages and disadvantages of composting are noted:

Advantages of composting:

- Inexpensive if piles are turned every few weeks, to limit the use of equipment.
- Moderate cost.
- Labour intensive.
- Ability to use a front end loader and other generic types of equipment.
- Generally satisfactory quality and marketability of the final product.
- Energy efficient.
- Ideally used for the digestion of partially composted material; use in conjunction with tissue processors.

Disadvantages of composting:

- Space required.
- Preference for a remote site, which can result in higher transportation costs.
- It is also difficult to maintain high rate or "hot" compost conditions, so the compost products from minimal tech methods will likely be lower in quality - they will also be coarser, and when screened will have a larger oversize fraction.
- Less control over issues such as odour, dust, leachate, water contamination, vectors, pests, litter, noise and fire.
- More difficult to achieve consistent results.
- Potential for odours.
- Not successful on raw material such as solid wastes produced by animal production.

Conclusions based on above assessment:

- Abattoir waste is a significant waste stream in the district and needs to be disposed of. All solutions that are able to provide environmentally and financially viable solutions for abattoir waste treatment should be encouraged. The recycling of waste products into compost, a useful product in the agricultural sector, is viewed positively.
- The proposed abattoir waste composting plant is consistent with the WCPSPDF, the WCPSPDF's Rural Land Use Planning and Management Guidelines, and the LSDF: located outside the urban edge, predominantly in Buffer 2 SPC, produces a product which can be used in the agricultural sector, located on previously disturbed land of low ecological and agricultural value, and agricultural activities will still be the main activity on the farm.
- The proposed composting of abattoir waste is compliant with the NOWCS, 2013 and one of the most environmentally friendly ways to process and treat this waste, turning it into a useful input product in the agricultural sector rather than dumping or burying this waste or unnecessary filling up landfill space.
- ✗ The proposed Intensive Feed farm is not consistent with the WCPSPDF, the WCPSPDF's Rural Land Use Planning and Management Guidelines, or the LSDF in terms of its location predominantly within a Core SPC which forms an important ecological corridor.

5. Environmental Impact:

5.1. With regard to compliance with environmental legislation, as referred to in Section 42(2) of SPLUMA, 2013, various applications have been lodged in terms of NEMA 107/1998 for listed activities (Compost Site and Intensive Feed Farm) and waste listed activities (Compost Site) in terms of the EIA regulations. The status of these applications, and related investigations is as follows:

5.1.1. DEA&DP's Directorate: Development Management (Environmental Impact) (D'mitri Mathews) referred the application to DEA&DP's Directorate: Environmental Law Enforcement in April 2018 as composting activities had already commenced; and on 23 May 2018 indicated to the applicant that the EIA application was deemed to have lapsed as the prescribed timeframes had not been met. This decision has been appealed and the outcome is still pending.

5.1.2. There has been no submission of a S24G application to DEA&DP's Directorate: Rectification. Should the above appeal be dismissed, a 24G application will be required, or the composting activity must cease.

5.1.3. DEA&DP's Directorate: Waste Management (Ettienne Roux) rejected (administrative / technical errors) the Waste Management License Application (16/08/2018). This decision has been appealed and the outcome is still pending. Note: Processing and treatment in excess of 10 tons of general waste per day, and more than 500kg of hazardous waste, trigger the need for a waste management licence. According to DEA&DP, the scale of the current operations on the site is less than applied for, and does not trigger the need for a waste management licence.

5.1.4. DEA&DP's Directorate: Environmental Law Enforcement (Fahd Said) is conducting an administrative investigation into the alleged illegal expansion of a dam within the Mountain Catchment Area, and compost facility on the property. The owner has been served a notice. The outcome of this investigation will have implications for the water use licences and registered water rights.

5.2. It must be determined whether, in the absence of finalised NEMA EIA processes, as above, the available studies and assessments are sufficient to be able to assess environmental impact and desirability for the purposes of this land use planning application: A Basic Assessment Report was lodged with DEA&DP in March 2018. The BAR identified potential negative impacts as: Compaction of soil and disturbance of subsurface geological layers, surface and groundwater pollution, increase in stormwater / waste water run-off, air quality (odour), and flies. The following specialist studies were done to assist in assessing these potential impacts (report extracts at Annexure D):

5.2.1. A Freshwater Ecological Impact Assessment was prepared to determine potential impacts on the aquatic ecosystems and to recommend mitigation measures. The report identified that the Middelstekloof Rivier and the Vink Rivier could possibly be impacted on by the proposed feedlot and compost facility. This assessment acknowledges that the Middelstekloof Rivier forms an important ecological corridor and is a major tributary to the Vink Rivier, which is ecologically important to the Breede River. As such, this river and its floodplain must be protected from any further degradation. The following recommendations are made: Retention of a buffer to protect the riparian vegetation and ecological processes; and mitigation measures including: no hydrological changes upstream; no discharge of pollution into surface water; and no contamination of groundwater (p 24, Annexure G1 of the BAR).

The proposed buffers were determined by means of a desk-top buffer using the "Water Research Commission's (WRC) Buffer Tool for the Protection of drainage lines". The calculated and recommended buffers are summarised below:

Phase	Buffer determined using WRC Buffer Tool	Buffer amended by considering site-based factors: Slope, s/w flow direction.	Buffer shown on SDP
Construction Phase	55m	26m	43m (Feedlot) >200m (Compost)
Operational Phase	205m	100m	43m (Feedlot) >200m (Compost)

The compost site is more than 2km from the Langeberg Mountain Catchment Area, more than 200m from the Middelstekloof River and more than 400m from the Buitensstekloof River. As such, there is sufficient buffer between the compost site and the ecological corridors. The compost facility should be fenced to demarcate the extent thereof, assist in compliance monitoring and ensure no adverse longer-term impacts on ecological corridors.

There is only a 5m buffer between the compost windrows and the adjoining farm to the southeast. This 5m wide area comprises an internal road which is used by the trucks to deposit abattoir waste. As such, the compost facility directly adjoins agricultural land which will impact on the neighbour's choice of how to use this land for agricultural purposes in the future. Landscaping along this boundary should be a minimum requirement.

The proposed 43m buffer between the proposed feedlot and the Middelstekloof corridor is not desirable. The WRC buffer tool recommends 205m, and the amended buffer calculated by the EAP is 100m for the operational phase. The proposed feedlot is located 43m from the river banks and the proposed "weigh station / offload" even closer (± 30 m determined from google earth).

In addition, investigations by DEA&DP and BGCMA are in process, into the expansion of the dam in the upper reaches of the Middelstekloof Rivier in the mountain catchment area of this farm. The outcome of these investigations could impact on the determined buffers, particularly given the EAP's recommended mitigating measure that no hydrological changes occur upstream.



2014



2018

There is conflicting information provided in the BAR and LLUP applications regarding scale (4500 sheep vs 6500 sheep). The scale of the proposed 6500 sheep feedlot as shown on the Site Development Plan also shows exactly the same size as the sheep feedlot which was approved for Roodehoogte 47/47 and for which EA was issued for only 2700 sheep. It is therefore likely that the proposed feedlot will be more space extensive than shown on the SDP, which adds to the concerns regarding the proximity to the Middelstekloof river, and the availability of sufficient space to accommodate the proposed use.

- 5.2.2. A soil study was conducted by soil scientists AVS (Nov 2015) which indicates that the soils have a very high clay content which will restrict leaching of nutrients and salts from the soil into the groundwater. Further, the high salinity of the soils combined with the clay content "will lead to crusting on the surface restricting water infiltration and increasing run-off". The Soil Study states that: "The correct implementation of drainage will ensure that the infiltration of run-off water from the composting facility and feeding lot into the underlying soils does not occur". The Soil Study recommends a central stormwater drain, not lined, and a collection dam lined with plastic, concrete or other barrier. Despite the applicant being requested to provide an engineering report to verify the stormwater drainage and management proposals as recommended by the soil scientist, no such assessment has been done. It is also noted that the small collection dams below the windrows are not currently lined, as recommended in the soil report.
- 5.2.3. Proof of water registration was submitted with the application as motivation of sufficient quality and quantity of registered water supply for the development. If the calculations for the water demand are based on 6500 lambs as applied for, then there is insufficient drinking water for the proposed feedlot. Further, the legality of the expansion of a dam on this farm within the Langeberg West MCA, is currently the subject of legal action by DEA&DP against the land owner, as discussed above.

5.2.4. A very generic Environmental Management Programme (EMP) was prepared as part of the BAR process. The Operational Phase of the EMP identifies more specific goals for the following: stormwater management, waste management, noise, flies, odour, pesticides, trucks, site hygiene, monitoring, safety, employment, water pollution, and human/wildlife interactions. These goals include regular inspections and monitoring of stormwater management, correct temperature and pH control, fly traps, covering of abattoir waste products and chemical treatment, and compliance with Standard Operating Procedures (SOPs) and all applicable legislation.

Conclusions based on above assessment:

- Environmental Authorization is required for the Feedlot and the Composting Facility and no such authorisation has been issued. Should the land use application be approved, it must be made clear that EA is still required from DEA&DP.
- The environmental consultant should have submitted a 24G application instead of a BAR, as it was clear from the beginning that the use had already commenced and that listed activities had been triggered.
- The site proposed for the Compost Facility is suitable in terms of slope, and distances from watercourses and from the Langeberg Mountain Catchment Area.
- The site proposed for the feedlot is not desirable in terms of proximity to the Middelstekloof river and to the compost facility.
- LUPA 59(2)(b) requires the sustained protection of the environment with respect to ecological corridors. Given that the BAR has not been assessed by DEA&DP, the long term sustainability of the Middelstekloof river in terms of the potential impacts on groundwater, erosion and stormwater drainage, has not been determined and it cannot be concluded that the feedlot will not infringe on people's "right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution)".
- The only motivation given for the relocation of the feedlot from Roodehoogte in Robertson, is that the manure will be used in the composting process. The pros and cons of transport distances of sheep to the site and the abattoir, transport of feed and access to water supply etc., have not been motivated. The need to relocate the existing feedlot is therefore questionable.
- Compliance with an approved EMP is the most significant condition of approval.

6. Management of Nuisances: Pests, Scavengers, Odour, Noise, Dust and Visual Impacts:

6.1. Visually, the compost windrows have an agricultural appearance, as do the proposed feedlot shed and silos which are not dissimilar to other agricultural infrastructure within rural areas.



- 6.2. With regard to noise, the machinery used (compost turner, front loader and tractor) will not generate more noise than conventional agricultural practices.
- 6.3. The impact on neighbouring uses in terms of odour, flies, noise and dust and the "effect on existing rights" must be determined. In terms of the principles of spatial sustainability and spatial justice, the right of owners to develop land in accordance with current land use rights must be recognised. LUPA 59(1)(g)) and SPLUMA 42(c)(iv) require that decisions must take into account the impact on existing rights.
- 6.4. In terms of NEM: Air Quality Act No 39 of 2004, an Atmospheric Emissions License (AEL) must be applied for if composting activities include the processing of more than 10 tons per month. The owner must take all steps to prevent an offensive odour (i.e. any smell which is considered to be malodorous or a nuisance to a reasonable person) resulting from the composting activities.
- 6.5. Many agricultural practices generate similar adverse impacts e.g. dairies and piggeries. All investigations by officials from DEA&DP, Department of Agriculture and CWDM have determined that the odour and flies from the composting facility are within acceptable limits in terms of the health and environmental legislation. The reports include the following statements: Flies are not excessive; provisions for fly control are in place; no larvae were found; no evidence of "blue fly"; composting site was clean with no strong odours during inspection. DEA&DP confirmed these findings in an email dated 28 November 2018 (Etienne Roux) which notes the following: No major issues relating to flies, smells and other nuisances were experienced.
- 6.6. The location of a feedlot on this site would increase the odours and flies generated from this site and the cumulative impact needs to be considered.
- 6.7. The location of the site is removed from major concentrations of urban development, which prevents the risk of informal scavenging by "waste pickers".
- 6.8. It is noted that Heritage WC issued their approval for the application for the compost facility only and have not commented on the amended application which includes the feedlot. The S53 application to DEA&DP only assessed the compost facility as the feedlot was deemed to be an agricultural use and therefore does not require Provincial approval.

Conclusions based on above assessment:

- Visual impact is determined to be low.
- Compliance with the Noise Regulations and the NEM: Air Quality Act 39/2004, must be included as conditions of approval.
- Immediately adjoining neighbours are likely to be negatively impacted on from time to time by flies and odours. The addition of a feedlot to the existing compost site will compound nuisances. Compliance with an approved EMP and SOPs, particularly site hygiene and the correct management of temperature and PH, and an on-site manager, are essential to minimise impacts in terms of flies and odours.
- Compliance with CWDM's requirements must be included as a condition of approval.
- Reasonable work hours must be specified and monitored.
- Cooperation by the applicant, and where necessary, enforcement of compliance with the conditions of approval will be necessary in order to ensure no negative impact on the residents in the immediate vicinity. Regular monitoring meetings must be held to ensure conditions of approval are complied with.

7. Traffic implications:

- 7.1. The location of the site is central and accessible to the major areas of development within the Langeberg Municipal Area.
- 7.2. The site has good access directly onto the district road infrastructure, with only ± 2 km of dirt road and some 18km from the Robertson abattoir. Access to the site is via the R60 from Robertson, the DR1384 (tarred) and the DR1377 (dirt road) which roads carry very little pedestrian traffic, particularly school children.
- 7.3. There are 2 existing access points from DR1377: one to the composting site and the other to the proposed feedlot.
- 7.4. No new roads or access points need to be constructed.
- 7.5. The Department of Transport (DoT) determined that the existing access points are safe and that the estimated trips are not deemed significant enough to warrant measures to deal with dust control on DR 1377. The Department therefore has no objection "subject to a maximum of 6 trips per day. Should the number of trips increase, this Branch reserves the right to require the landowner to provide a sealed surface on the affected portion of DR1377".
- 7.6. The objectors indicate that the current truck trips exceed the maximum permitted 6 trips per day. The applicant provides traffic records from the abattoir log and notes that the daily trips are compliant when averaged out over a month / year. If the weekends are excluded, 6 truck trips per day x 260 week days per year, would permit a maximum of 1560 truck trips per annum or 130 truck trips per month. The traffic log figures show a total of some 650 trips p.a. and 72 trips p.m. during March 2018. If 2 truck trips per day are added for the feedlot, this would total ± 1220 trips per annum, which is still less than the permitted 1560 truck trips per annum. The number of truck trips per day will inevitably vary, depending on the volume of waste generated by the abattoir.
- 7.7. There is sufficient space for the provision of adequate on-site parking and loading.

Conclusions based on above assessment:

- The location is an easily accessible site with direct access to the public road network, in compliance with LUPA 59(2)(a)(vi) which states that land use planning should promote development in sustainable locations.
- The expected impact of traffic is deemed to be acceptable by the DoT in terms of traffic control and road management.
- No concerns have been raised by the DoT regarding unforeseen financial implications of normal maintenance of the district road. In terms of long term financial implications, the DoT can claim back maintenance costs for excessive usage.
- The current trip generation is within the limit specified by the DoT but the number of trips generated by the ongoing operation of the compost facility will need to be regularly monitored by the DoT.

8. Socio-economic Impact:

- 8.1. The SAFAM group is a large employer in the region (over 200 employees), and the successful treatment of waste products is essential to their continued operation.
- 8.2. The application site is located in the Langeberg foothills in the Vinke Rivier area which includes the tourist uses of: Saggy Stone restaurant, Buitenstekloof mountain cottages, Doornkloof PNR and the Le Roux & Fourie padstal. The Cape Lime quarry and cement plant are also located within the area. As outlined in Section F above, there were three objections to the advertised proposal, which included concerns relating, *inter alia*, to the potential impact on the tourism and hospitality industry. Activities which generate pests and odours adversely impact the attractiveness of an area for tourists and could have a potential adverse impact on the existing small tourism industry in this valley. It is noted that there have been no objections from the immediate neighbours to the W and SW (Portions 7 and 8 of Middelburg No 10.).

Conclusions based on above assessment:

- The Compost Facility represents a positive investment in the agricultural economy of the area, with associated positive implications for job creation and availability of compost for the agricultural sector.
- There is no socio-economic assessment to determine the potential negative impact on tourism and tourism-related employment. However, the potential negative socio-economic impact is dependent on the degree to which the impacts of pests and odour are satisfactorily addressed through the on-going implementation of the SOPs.

9. Other:

- 9.1. In terms of spatial sustainability, LUPA 59(2)(a)(ii) states that land use planning should "ensure that special consideration is given to the protection of prime, unique and high potential agricultural land". The land in question has relatively low agricultural potential. The Provincial Department of Agriculture (Elsenburg) has no objection to the proposal subject to confirmation relating to the registration of water rights.
- 9.2. The desirability of locating a feedlot for live animals on the same site as a compost facility for dead animals (some 30m between the collection dams and proposed feedlot and some 100m between the windrows and the proposed feedlot) has raised ethical concerns. The Department of Agriculture has been asked to comment as to whether or not there is any scientific basis in terms of fear / negative reactions of sheep to smells of abattoir waste and / or any implications in terms of food safety. No comments have yet been received in this regard.
- 9.3. As noted in the NOWCS, "composting is currently the technology most commonly employed in South Africa for the treatment and recycling of organic waste but is not the only technology that needs to be considered when developing strategies and action plans. In the medium to longer term, other technologies may well be preferred e.g. Fly farming. The compost facility site should be monitored in relation to improving technologies to determine possible transition to technologies with reduced impacts in terms of flies and odours.
- 9.4. There are no restrictive conditions of title which prohibit the proposed land uses.
- 9.5. The proposed development will not contribute to nor detract from the constitutional transformation imperatives.
- 9.6. LUPA 59(2)(a)(i) states that land use planning should "promote land development that is ... within the fiscal, institutional and administrative means of the relevant competent authority". LUPA 59(2)(a)(v) specifies that land use planning should "consider all current and future costs to all parties for the provision of infrastructure". The proposed development can be accommodated by existing engineering services and will not have any adverse impacts on the relevant authorities in terms of service delivery. The composting project has a positive impact in terms of achieving the requirements of the NWMS, 2012, to divert compostable organic waste and recyclables from landfill sites.
- 9.7. In terms of the procedural requirements of the Langeberg Land Use Planning process: the right to lawful, reasonable and procedurally fair administrative action (PAJA 2000, and Section 33(1) of the Constitution) has been afforded to all parties; the required advertising process has been correctly followed and relevant time frames have been complied with; and action was taken against the owner in terms of the Langeberg Land Use Planning Bylaw, 2015, for operating without authorization.

PART J: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Not applicable.

PART K: RECOMMENDATION

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the Langeberg Municipal Planning Tribunal **approve** the following application, as depicted on the plans marked MIDDELBURG 10/6 ROB-LBM-LP & TP and subject to the conditions of approval, in terms of Section 66 of the aforementioned Bylaw, as set out in Annexure A:

- Rezoning a 3,6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning.

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the Langeberg Municipal Planning Tribunal **does not approve** the following application, as depicted on the plans marked MIDDELBURG 10/6 ROB-LBM-LP & TP:

- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 6500 lambs) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity).

The reasons for refusal of the Intensive Feed Farm are as follows:

1. With reference to Section 42(2) of SPLUMA No. 16 of 2013, the application for an Intensive Feed farm affects the environment, and the Langeberg Municipal Planning Tribunal is not satisfied that environmental legislation has been complied with.
2. Insufficient information has been provided to conclude that the proposed Intensive Feed Farm will not infringe on the "right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution)", given the following in particular:
 - 2.1. The proposed feedlot falls within a Core 1 SPC.
 - 2.2. The application in terms of NEMA has lapsed and an appeal is pending in this regard.
 - 2.3. Investigations by DEA&DP and BGCMA, into the expansion of the dam are in process, which may impact on desirable buffers to the Middelstekloof River.
 - 2.4. The Water Use licence application is still in process which may impact on access to adequate water for the proposed feedlot.

That, the parties be informed of their right to appeal in terms of Section 79(2) of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015.

PART L: ANNEXURES

Annexure A	Conditions of Approval
Annexure B	Plans: Locality, Objector's properties, Site Plan
Annexure C	Application
Annexure D	Additional Information submitted by Applicant
Annexure E	Objections 1-3
Annexure F	Applicant's Response to Objections
Annexure G	Comments from Departments: Heritage (1/2/17), CWDM (17/11/2017), Department of Transport (7/2/2018), BGCMA (16/1/18), Cape Nature (19/1/18) and Dept of Agriculture (6/3/18)
Annexure H	Provincial approval of LUPA application
Annexure I	Extracts from: NEM: WA 59/2008; The mini guide to the Management of Abattoir Waste (DEA&DP, 2016/17); and The National Organic Waste Composting Strategy (DEA&DP, 2013)

Annexure A

Conditions of Approval

CONDITIONS OF APPROVAL

IN TERMS OF SECTION 66 OF THE LANGEBERG LAND USE PLANNING BYLAW PN 264/2015, 30 July 2015)

PORTION 6 OF MIDDELBURG 10, ROBERTSON:

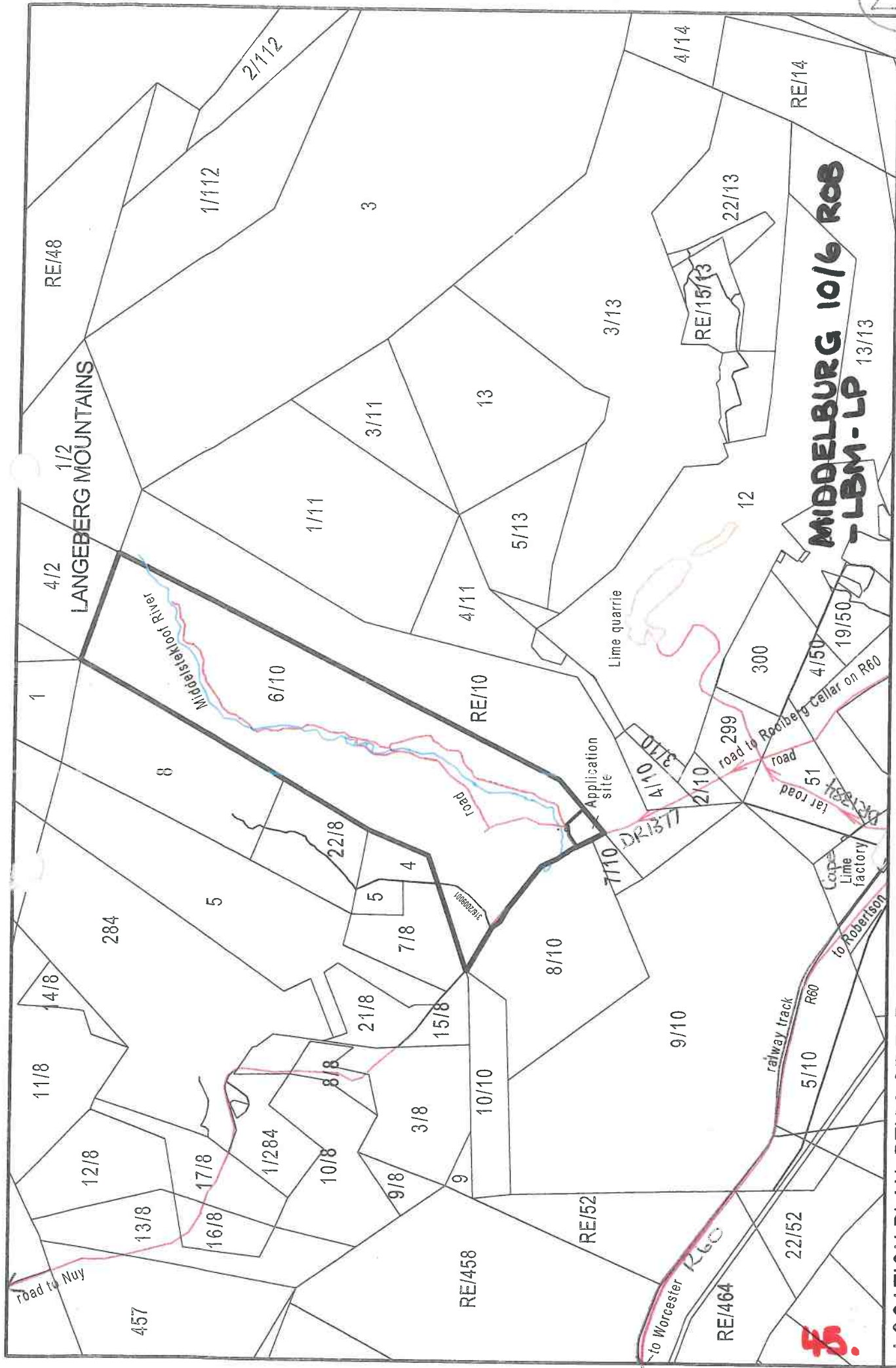
APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY)

1. The development and use of the property and buildings must be substantially in accordance with the Site Development Plan marked MIDDELBURG 10/6-LBM-TP. Strictly NO composting may occur beyond the boundaries of the Compost Facility indicated on the approved Site Development Plan.
2. The approved composting area and the two small wastewater and stormwater collection dams must be suitably enclosed, to the satisfaction of the Manager Town Planning.
3. The Compost Facility must be effectively screened from the DR 1377 and along the common boundary with the directly adjoining farm to the south-east, through the judicious use of indigenous trees and shrubs, to provide a visual screen and assist as a wind break and to minimise dust and odours.
4. The Environmental Management Programme (EMP) (12 March 2018), as prepared for the NEMA EIA process, must be reviewed, and a revised, detailed operational phase EMP must be submitted to the Manager: Town Planning, for approval. The EMP must address the following requirements in particular:
 - 4.1. The manager of the compost facility must reside on-site.
 - 4.2. The occupier of the premises must prioritise the prevention of any offensive odour caused by any activity on the premises, and comply with all requirements of the Air Quality Act 39/2004.
 - 4.3. Priority must be given to the following operational requirements to minimise flies and odours:
 - 4.3.1. The waste products from the Abattoir must be immediately covered after off-loading.
 - 4.3.2. Blood, which is required to dry, must not be left uncovered for more than 60 minutes.
 - 4.3.3. Vehicles must be cleaned at the Robertson Abattoir truck wash facility and not on the application site.
 - 4.4. To mitigate against any potential impact on water sources, on-going management of stormwater in accordance with the recommendations in Soil Report (ACS, Nov 2015) must be implemented.
 - 4.5. Stormwater collected in the dam/s may only be reused and recycled back into the compost windrows. No release of this water into the natural watercourses is permitted.
 - 4.6. Monthly monitoring of test boreholes must be undertaken and results submitted to the Langeberg Municipality, BGCMA and CWDM.
 - 4.7. Infectious organic products may only be used in the compost facility, where authorized by the relevant authorities in accordance with NEM:WA and any other applicable legislative requirements.
 - 4.8. The operation and management of the composting plant must be in strict compliance with SAFAM's Standard Operating Procedures (SOPs), namely: Composting Processing; Removal and Delivery of by-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control. These SOPs must be continuously implemented, and updated where relevant, to the satisfaction of the relevant authorities.
 - 4.9. Business hours for truck trips to and from the site are permitted as follows: Monday to Friday 7:00 - 17:00. No by-products may be received on the farm after 15h30 on any given day to allow for sufficient time for the windrows to be properly treated before shifts end. Saturdays and Sundays - closed.
 - 4.10. The impacts of the Composting plant in terms of flies, odours, truck trips, stormwater management and water quality must be regularly audited to confirm that activities are operating without adverse environmental consequences and within the specified conditions of approval. On-site meetings, convened by the Langeberg Town Planning Department, must be held every 3rd month, from the date of approval, with officials from the Langeberg Town Planning Department, CWDM, BGCMA and DEA&DP. Any requirements of the relevant Departments must be complied with prior to the continuation of composting activities.

5. Before any building work or alterations to existing buildings may be started on the property, building plans, conforming to the National Building Regulations (Act No. 103 of 1977), must be submitted to the Langeberg Municipality for approval.
6. The zoning of the farm surrounding the composting site remains Agricultural zone I. The exercise of the primary land use in terms of the zonings, is subject to all the relevant legislation, including the Environmental Impact Assessment regulations in terms of the NEMA No. 107 of 1998; the regulations in terms of the NEMA: Waste Management Act and Air Quality Act No. 39 of 2004; and the Conservation of Agricultural Resources Act No. 43 of 1983. The owner / operator of the composting facility must be in possession of all approvals required in terms of other legislation, and specifically, a valid Environmental Authorisation (EA) and Waste Licence in terms of NEMA and NEM:WA; and registration of all compost products in terms of the Fertilisers and Farm Feeds Act 36/47.
7. Water supply, sewage disposal and refuse disposal services must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department and the Department of Water Affairs and Forestry.
8. With regard to Municipal Electricity:
 - 8.1. The owner is responsible for the costs associated with any relocation of the existing 11kV line and associated infrastructure, new connections, upgrading or alterations to existing electrical connections or networks, and the associated applicable Bulk Services Levy, at the tariffs which are applicable at that time.
 - 8.2. No structures or compost heaps may be located under or within 3m on each side of the centre line of the 11kV line. This area must be kept open for maintenance purposes.
9. The conditions imposed by the Department of Transport in their letter dated 7 February 2018 (attached) must be complied with.
10. The conditions imposed by the Breede Gouritz Catchment Management Agency (BGCMA) in their letter dated 16 January 2018 (attached) must be complied with.
11. The conditions imposed by Cape Winelands District Municipality: Environmental Health, in their letter dated 17 November 2017, and as responded to in the emailed reply from D Houghton (SAFAM) dated 1 December 2017, (attached) must be complied with.
12. No name or advertising sign may be erected without written approval of the administering authority.
13. The restrictions of any law and regulations relating to noise control are applicable to the property and the owner is obliged to ensure that the operation does not cause any undue noise nuisance.

This approval is only valid where all the above conditions have been complied with. The owner / developer must sign the attached agreement. Where there is any uncertainty regarding the conditions, please contact the Town Planning Department.

Plans:
Locality & Site Plan



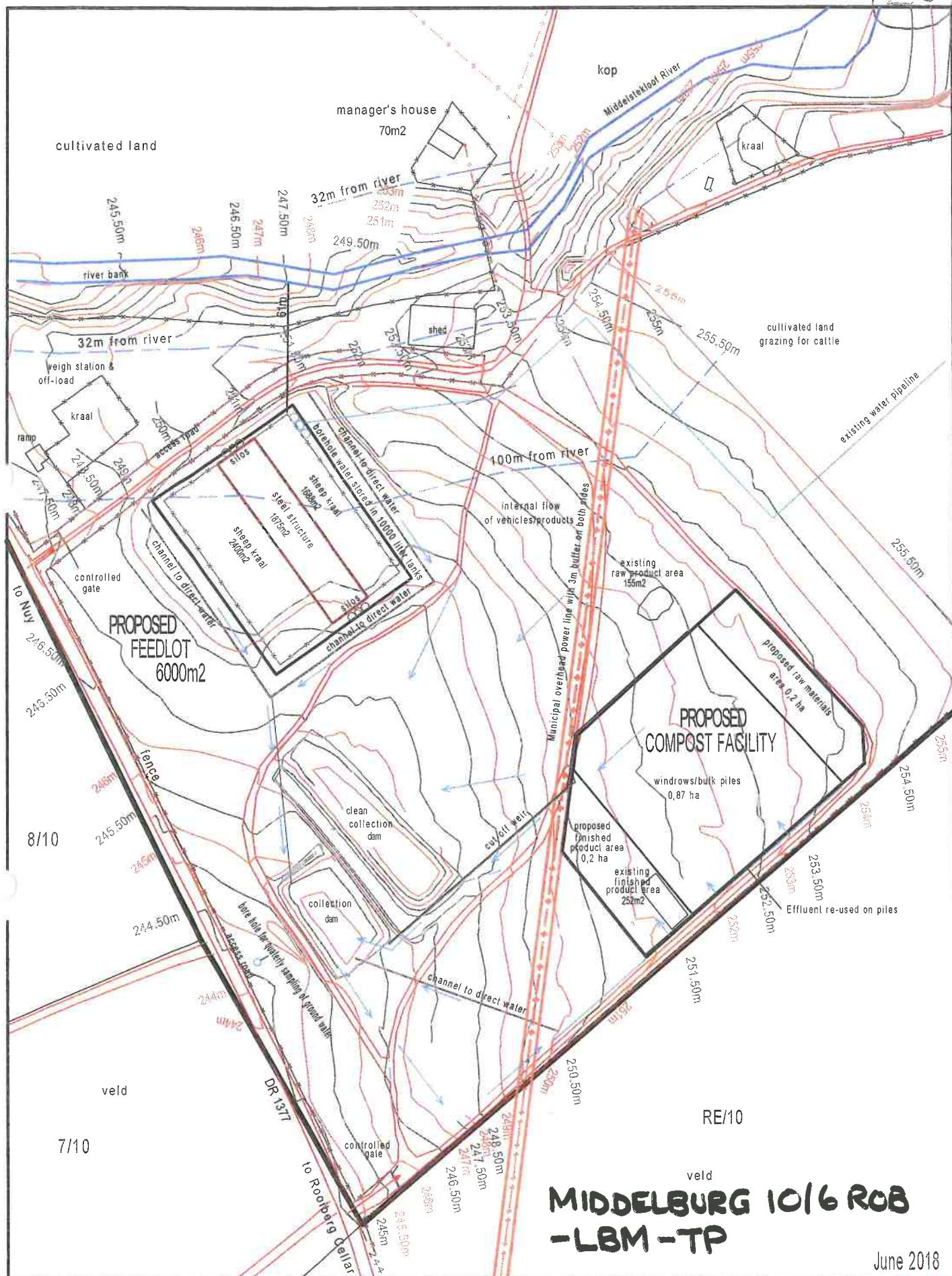
LOCATION PLAN: PTN 6 OF FARM MIDDELBURG NO 10, DISTRICT ROBERTSON

SCALE 1:50000



MIDDELBURG 10/6 ROB
-LBM-LP





MIDDELBURG 10/6 ROB
-LBM-TP

June 2018

AMENDED SITE PLAN: PTN 6 MIDDELBURG NO 10,
ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA 46
Town and Regional Planner

SCALE 1:2250

Annexure C

Application

(24 Oct 2017)

MOTIVATIONAL REPORT

APPLICATION FOR COMPOST FACILITY AND SHEEP FEEDLOT ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT ROBERTSON

1. PURPOSE OF APPLICATION

According to Section 15(1) of the Langeberg Municipal Land Use Planning Bylaw of 2015, no person may commence land development without the approval of the Municipality. According to Section 15(2) the owner of land may apply to the Municipality for, *inter alia*, the rezoning of land as well as consent uses contemplated in the applicable zoning scheme.

Due to the lack of capacity at a Class B municipal waste disposal facility (Ashton), the South African Farm Assured Meat Group CC (SAFAM) Robertson Abattoir, one of the largest employers in the Langeberg Municipal area with over 200 employees, was obliged to manage and dispose of the by-products (i.e. wastes derived from the slaughter process) from the Robertson Abattoir in the most environmental friendly way.

[These are not waste products since it is used as an ingredient to create compost.]

The disposal of the by-products on a portion of Ptn 6 of the farm Middelburg No 10, district Robertson started in February 2017 after consultation with the Langeberg Municipality, Cape Winelands District Municipality as well as the Directorate Waste Management of the Department of Environmental Affairs and Development Planning.

Since the capacity is below 10 tons per day at present and the product is utilized on the same premises, environmental authorization is not required. It is, however, expected that the tonnage will increase in the festive period (December holiday) up to approximately 16,6 tons a day. This facility will be capable of handling all organic general by-products ("pensmis" (mainly water) and "derms", blood, non-infectious condemned trim and non-infectious whole carcasses)) from the Robertson Abattoir and converting it to general use compost.

In addition, it is the intention to move the existing sheep feedlot on the farm Roodehoogte that is located one km north-east of Robertson to the area adjacent to

the proposed compost facility. The capacity of the feedlot is 4500 lambs at any one time.

The manure of the feedlot will be, together with the by-products of the abattoir and wood chips received from the Municipality, an essential raw material in producing compost.

2. LOCALITY AND ACCESS TO APPLICATION SITE

Portion 6 of the farm Middelburg No 10, district Robertson is located 14km north-west of Robertson near the lime factory / quarry between Robertson and Worcester.

It is located to the north of Divisional Road 1377 that connects the Rooiberg Cellar with the Nuy valley.

The lime factory between Worcester and Robertson is located adjacent R60/Main Road 31/1, and gets access at the factory at km 31 from this road. Divisional Road 1384 (tar) connects the factory with the lime quarry further north and closer to the foothills of the Langeberg Mountain.

Road 1384 will be used by the applicant for transporting animal by-products and blood, live sheep and compost.

This road crosses Road 1377 (gravel) between the Rooiberg Cellar and Nuy. The application site is approximately 2km to the west on this road.

Ptn 6/Middelburg No 10 uses two entrances from this road, i.e. one access to the proposed feedlot and remainder of the farm at km 7 and another to the compost plant between km 6 and 7. Both access gates were placed approximately 20m on site to prevent the trucks from stopping in the road to open the gates.

The existing compost plant is located 225m from the side of the Middelstekloof River and the proposed feedlot will be approximately 44 m away.

3. CHARACTERISTICS OF SITE AND SURROUNDING AREA

The area is rural with mainly vineyards, orchards, grazing and natural veld. The gradient is uneven with small hills at the foothill of the Langeberg Mountain. The application's site itself is already disturbed with a fall of 3,2% to the south.

Ptn 6 of the farm Middelburg No 10 belongs to Reben Trust and is 758,0308 hectares in extent according to Title Deed No T12255/2013.

The farm consists of the following:

- Store/shed built on a previous foundation near the Middelstekloof River (within 32m from the river and is addressed in a Basic Assessment Report to DEADP);
 - Workers house ($\pm 70\text{m}^2$);
 - Several dams within the Middelstekloof River that were constructed by previous owners. During the last floods approximately nine years ago, most of the embankments of these dams have been damaged/destroyed. The two top dams are registered with BGCMA for $50\,000\text{m}^3$ or 7 ha water as well as a borehole ($14\,000\text{m}^3$ to be used for proposed sheep feedlot as agricultural use) and water from the mountain/river ($14\,000\text{m}^3$ or 2 ha per year);
- No water is needed for the compost plant;
- ± 15 ha grazing wet by rain water and above-mentioned 9 ha water;
 - Kraal and weight station for individual livestock; and
 - 8,6 ha already transformed, application area consisting of bulk pile/s, windrows and two effluent dams. (This area was previously ploughed and planted with pastures and used for grazing purposes.)

The closest residential building is a farmhouse across the road, situated approximately 550m south-west of the application site. The nearest Buitenstekloof Guest Cottage is located approximately 2,36 km to the north-east of the site.

The nearest cultivated lands on the neighbouring farm are approximately 550m away.

4. SOIL STUDY

AVS conducted a soil study to establish the type of soils underlying the application site.

The soil characteristics provided an indication of the way the drainage system for the composting and feedlot will have to be implemented.

The study indicated that all the soils have a very high clay content (25%) that restrict the movement of water through the profile and therefore leaching of nutrients and salts from the soil into the groundwater will not easily occur.

The high salinity in the soils, coupled with high clay content, will lead to crusting on the surface restricting water infiltration and increasing run-off.

The correct implementation of drainage will ensure that the infiltration of run-off water from the composting facility and feedlot into the underlying soils does not occur.

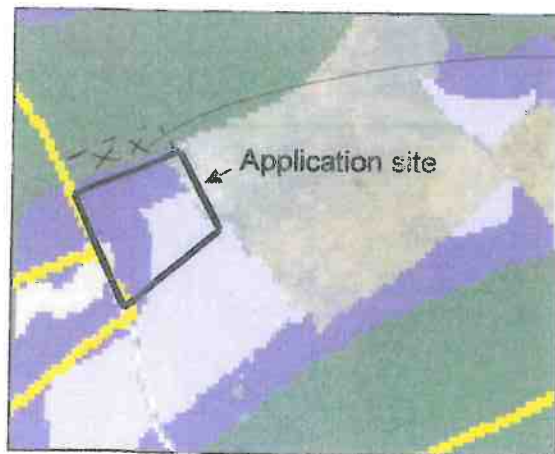
The chemical analyses of the soils indicated that the area is not suitable for intensive agriculture. Even farming with extensive crops e.g. pastures is unlikely to be successful due to the high salt content of the soils, and the inability to leach the salts from the profile.

The low rainfall (277mm/year) together with the high clay content prevent salts from leaching out of the profile.

The compaction of the topsoil would further reduce the likelihood of salts leaching from the profile to contaminate groundwater. The compaction will also prevent the nutrients and salts from the manure and urine to penetrate the soil and contaminate the groundwater.

5. PROTECTED AREAS

According to information received from the Municipality, and according to the Provincial Rural Guidelines of May 2009, the application site falls within different Spatial Planning Categories:



- Green: Core 1 area: Critical biodiversity areas / no-go area to the north of the application site (Middelstekloof River)
- Dark purple: Buffer 1 area: Remnants of natural or near natural vegetation: Extensive agriculture
- Light purple: Buffer 2 Areas: Other natural areas, i.e. livestock production as dominant land use: Activities and uses directly to the primary agricultural enterprise, additional land uses to facilitate diversification and value adding e.g. local product processing, space extensive requirements such as nuisance and buffer requirements such as solid waste disposal sites, feedlots etc.

- Brown: Transformed area / Yellow: Cadastral boundaries (not correct)

The whole application site is already transformed and disturbed and is not consistent with the above.

According to the above guidelines, the compost plant is desirable in this location. Although the feedlot will be located in the area earmarked for "extensive agriculture", it is already disturbed land further than 32m away from the side of the water course and situated between the kraal and compost plant that are all interdependent.

The alignment of the ESKOM line across this area prohibits the feedlot to be located closer to the compost plant.

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6. APPLICATION

Application is made in terms of the new Land Use Planning Bylaw, 2015 through the provincial Section 8 Scheme Regulations, 1988 for the following activities:

- Footprint rezoning from Agriculture Zone 1 to Industrial Zone II (noxious trade) for the development and operation of a compost site in an area of approximately 3,6 ha (including windrows, effluent dam, storage space for raw and finished products, roads, adequate space for off-loading and turning of trucks); and
- Consent use for intensive feed farming (sheep feedlot of maximum 4500 lambs) in an area of 6000m².

Both the above form part of an already disturbed area of approximately 8,6 ha that will be used together and in support of each other.

A noxious trade means an offensive use or another use which constitutes a nuisance as envisaged in regulations which are promulgated from time to time in terms of Sections 33 and 34 of the Health Act, 1977 (Act 63 of 1977).

According to the Health Act, nuisance means, inter alia, any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health.

The applicability of this definition is uncertain. Although the proposed composting facility activity entails the use of sheep offal and manure as part of the process to manufacture compost, it is not the accumulation /build-up/ gathering/ growth/ increase there-of that constitutes a nuisance, it is rather by-products that are re-used/processed to create a useful and needed product to the agricultural environment.

The way these products are used, managed and changed into a high quality compost, cannot be compared with a dumping site or the accumulation of offensive materials that are offensive or dangerous to health. Many farmers develop compost on their farms as part of general practices next to vineyards/orchards, using both carbon (plant material) and nitrogen (animal offal).

7. OTHER LEGISLATION REQUIRED

Eco Impact Legal Consulting (Pty) Ltd is in process of obtaining environmental authorization and a waste license in terms of the National Environmental Management Act, 1998 (Act No 107 of 1998) as well as the National Environmental Management: Waste Act, 2008 (Act No 59 of 2008) (NEM:WA) and relevant regulations. Comments from Heritage Western Cape in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999) has been obtained by Eco Impact.

An application in terms of Section 53 of the Land Use Planning Act may also be applicable as land will be developed that was used for agriculture during the past ten years. The provincial significance is, however, questioned as the compost facility will only serve the Robertson Abattoir and compost will only be produced and used by surrounding and local farmers.

8. SITE PLAN (including run-off storm water plan):

See attached Site Plan.

The Site Plans shows the layout of the existing composting facility consisting of the following:

- Two entrances with gates, one to the existing composting facility and one to the proposed feedlot and remainder of the farm;
- The most southern access road will be used by the honey suckers (blood trucks) (two-way); the skip trucks with by-products and condemned carcasses will use the road to the western side of the windrows (two way).
- The last mentioned road will also be used by trucks off-loading wood chips from the Municipality (already chipped) in the north-eastern corner of the application site, as well as the end product (compost) from the windrows to the storing area on the lowest level, near the gate, for easy distribution. The compost will be put in bags to be sold to farmers or be sold in bulk. Because of the high clay content (25%), no hardened surfaces for the storing of the raw or the end products are necessary.
- The internal roads on the Site Plan were created informally over time by moving around on the application site. This may change when the feedlot is in

operation and the best practices / logistics between the two interdependent facilities are established.

- Several windrows and bulk pile/s (for whole carcasses) of approximate 1,5m high and 2m wide alongside the south-eastern boundary of the farm and 235m away from the Middelstekloof River; These windrows will rotate/move in the 3,6 ha area allocated as and when the compost is ready and removed.
- Two dams were constructed at the lowest point on the terrain. The north-eastern dam is constructed to catch run-off storm water emanating from the lands and area above the dam, whilst the south-western, smaller dam is for the effluent from the windrows and feedlot. Run off water (only in rainy seasons) from the windrows will be caught by the cut-off weir/barrier on the western side of the windrows from where it will flow with gravity in a channel to the lowest dam. Compacted drainage channels around the feedlot will direct run off water also to the lowest dam. [There is no need for a plastic or concrete lining of the drainage canal according to the soil study.]

This water will be re-used when required to wet the windrows on top of the rows.

After 9 months of operation, very little, if any, run off water was visible in the larger, clean dam. There was some collection of rain water into both the clean and "dirty" dam. No running of water from the compost site to the lower dam was visible at any time. The windrows themselves form an effective barrier for run-off water.

A 10 meter deep bore hole will be drilled between the catchment dam and the fence of the property to allow quarterly sampling of the ground water if there is any present.

The whole area including the existing compost facility and the proposed feedlot with dams and area in between is 8,6 ha in extent. This whole area will be used due to the interdependence of the two land uses.

9. ABATTOIR BY-PRODUCTS TO COMPOST

9.1 TYPE OF BY-PRODUCTS

Previously by-products of the Robertson Abattoir such as the "pensmis", derms and blood were removed by the Langeberg Municipality.

Ashton Municipal Dumping Site has, however, reach capacity and /s Robertson's Abattoir waste has not been removed by the Langeberg Municipality as from end January 2017.

At the moment the proposed facility receives approximately 160 tons of green waste per month, i.e. approximately 5,3 tons per day which is under the threshold of 10 tons as stated in in Government Notice 921:

"The treatment of general waste using any form of treatment at a facility that has the capacity to process in excess of 10 tons but less than 100 tons."

Since it is the expectation that up to approx. 500 tons abattoir waste a month, i.e. 16,6 tons per day, may be generated over the festive season, the facility will trigger a waste Management License.

Volumes of raw materials available based on the 2015/2015 outputs are as follows:

Manure:	3m ³ /day
Pensmis:	6m ³ /day
Blood:	0,75m ³ /day
Total:	9,75m³/day (equals 5,3 tons/day)

A bulking agent, i.e. woodchips is used to ensure that a higher volume of compost can be produced. Woodchips are added up to a total of 30m³ per day. After the composting process that involves 30% loss in moisture from the raw material, there will be a final volume of 20m³ of composted product produced per day.

[Although a cost effective composting business will require more than double this volume, the main purpose is to process the by-product of the abattoir.]

Approximate 8 condemned lamb carcasses (and only 2 beef in six months), i.e. waste that is not infectious, but not fit for human consumption, are generated per week. This is also classified as general waste according to NEM:WA.

Carcass are broken down over a 3 months period in a separate bulk row, where-after it is added to the windrows together with the other by-products.

Infectious animal carcasses and animal waste are prohibited from disposal to land with immediate effect, implying that it needs to be treated before disposal. All infectious animals are, however, frozen at the Robertson Abattoir and transported to the Vissershok Hazardous Waste Landfill Site in Cape Town where mortality composting takes place above ground by placing carcasses above ground between layers of soil, wood chippings and horse manure, which catalyze decomposition. The process generates heat, which sterilizes the bodies – breaking down any harmful chemicals and germs.

9.2 ALTERNATIVES INVESTIGATED

During 2016 different options were investigated by SAFAM to dispose of the by-products, i.e:

- Using another service provider to handle the by-products.
- Building and operating a Biogas Plant on site.

- Alkaline Hydrolysis.
- Opening and operating a compost site.

Using another service provider was dismissed mainly due to the fact that SAFAM would be held accountable for any issues caused by their by-products even if it was handed over to a licensed operator.

A biogas plant was almost implemented and basic designs were drawn up, but rejected after news from other abattoirs that their biogas systems experience serious operational and reliability problems.

Alkaline hydrolysis was initially considered as it could possibly handle and process the infectious condemned, but due to a lack of local knowledge and experience this method could not be investigated properly.

The compost route was considered from the very start of this work as a serious contender along with the biogas. Research was carried out in house to establish what the requirements would be in terms of land required, type of land, regulatory requirements, processing methodologies, complexity of process etc.

Around Oct 2016 SAFAM Robertson felt that the composting route was the best option for the treatment of the abattoir by-products in terms of cost effectiveness, sustainability, and ongoing in-house management and control. In addition, this route provides for a needed product that will be used by local farmers.

9.3 WHAT ENTAILS COMPOSTING?

Composting is a managed biological decomposition process that converts organic matter into stable, humus-like material. In the case of mortality composting, the organic matter being converted includes the animal carcass. Composting is a process in which micro-organisms flourish with the proper mixture of bulking agents (e.g. woodchips), animal tissue, water and air.

When done properly, the process consumes tissue, minimizes odours and produces quality finished compost.

The five criteria of a good recipe are:

- Carbon (plant) and Nitrogen (animal) ratios (C:N)
- Moisture Content
- Particle Size
- Oxygen Content
- Temperature
- pH

Carbon and Nitrogen Ratios (C:N)

The proper mix of composting materials requires both carbon and nitrogen at a 15:1 to 20:1 ratio. With the proper C:N mix, odour will be minimal and an environment conducive to the growth of micro-organisms will be obtained.

Animal by-products alone will cause the C:N ratio to be out of balance as it will have too high nitrogen level and the by-products will also tend to be wetter, with a variable particle size. In order to achieve the correct C:N ratio, plant material need to be added such as wood chips (sourced from Langeberg Municipality) and sawdust with a high absorbent nature.

Moisture Content

Moisture content of the compost mixture should be between 50% and 60%. This will vary depending upon the stage of the compost pile/windrow and where in the pile the sample was taken.

Moisture concentrations higher than 60% (when water runs from moisture compost) should be avoided as this can generate odours and increase the chance of leachate from the compost.

Particle Size & Oxygen Concentration

Particle size is critical to ensure adequate aeration of the compost pile. The ideal size is between 2,5mm to 10mm with the larger sizes increasing the porosity of the pile allowing for easier airflow in the pile, maintaining oxygen concentrations to optimize microbial growth. As the composting process progresses, the micro-organisms break down the particles, which causes compacting and reduce the airflow. Regular turning of the compost, introducing oxygen back into the pile, reduces the impact of particle size reduction.

Temperature

Temperature is both a critical parameter and reliable indicator for successful compost production. Optimal composting temperatures range from between 40-60 degrees centigrade, as this is the range where-in the specific bacteria operate. In order to ensure human and plant pathogens are killed, the compost must be at 55 degrees for a minimum of 72 hours. Five cycles of 3 days on 55 degrees are used to ensure the optimal product.

pH

Active composting will only occur within a pH range of 5,5 to 9 as this is the favourable environment of the bacteria. Below a pH of 5,5 the composting process slows down, while a high pH above 8,5 promotes the conversion of nitrogenous compounds to ammonia which is the cause of unfavourable odours. Under normal conditions the pH does not need to be adjusted because of the natural buffering capacity of commonly available components of compost and the normal pH of animal tissue.

9.4 PROCESS

The physical structure of the compost pile is essential in managing the above critical chemical parameters.

The nature of the by-products from the abattoir requires immediately covering after off-loading to avoid flies and minimize odours at the site. However, the blood needs to settle onto a windrow for 1 hour before turning the row to prevent clumping on the windrow turner and possible damage to the gearbox.

[In agriculture, windrow composting is the production of compost by piling organic matter or biodegradable waste, such as animal manure and crop residues, in long rows (windrows). This method is suited to producing large volumes of compost. (Source: Wikipedia)]

As the diagram on Page 12 shows, it is necessary to ensure that all by-products are placed on a dry plant material base, i.e. wood chips to reduce smells and attraction of flies and other pests. These chips are of an ideal size to ensure that initial porosity required is achieved to ensure airflow until the moisture levels within either the windrows or the bulk piles has equalized. The base layer of wood chips also prevents any run off of liquids onto the site. Once the piles have settled down and reduced in height after the first month, the windrow can be turned or the bulk pile added to a windrow.

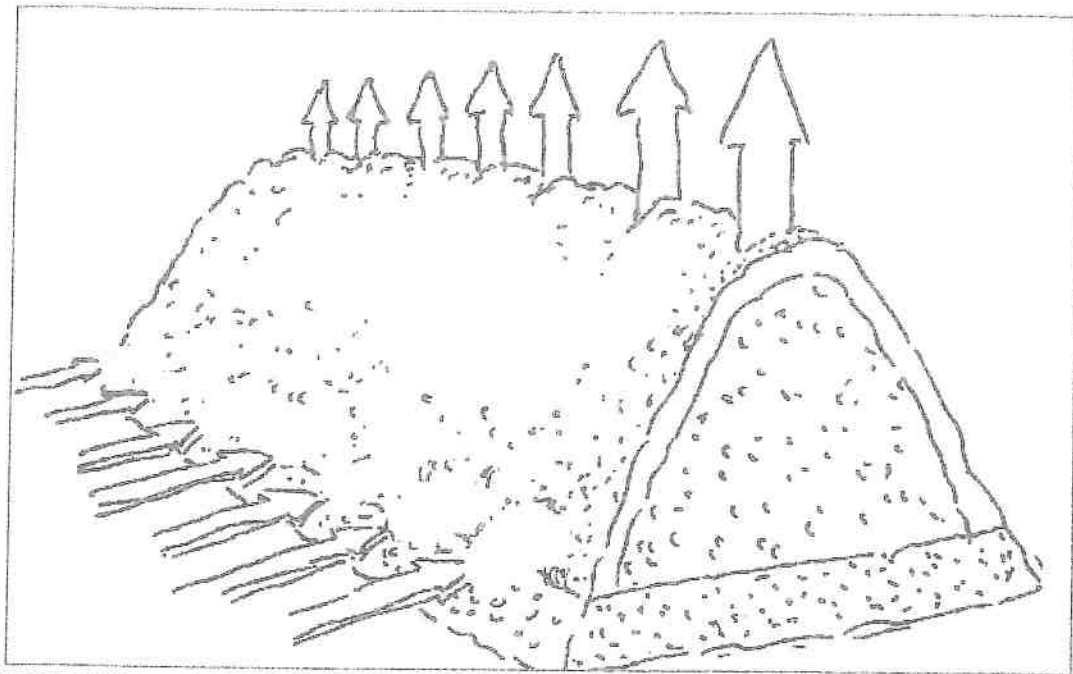
The windrows are turned according to guided frequencies once the initial digestion of the by-products has taken place, taking into account the temperature and moisture levels. The compost has to be turned when the temperature gets to 65°C or above. This is critical to keep the bacteria functioning and also to prevent a fire risk which can occur above 70°C.

If the temperature is too high, moisture will be added (usually blood) and then the row will be turned to incorporate air. This will stabilize the windrow.

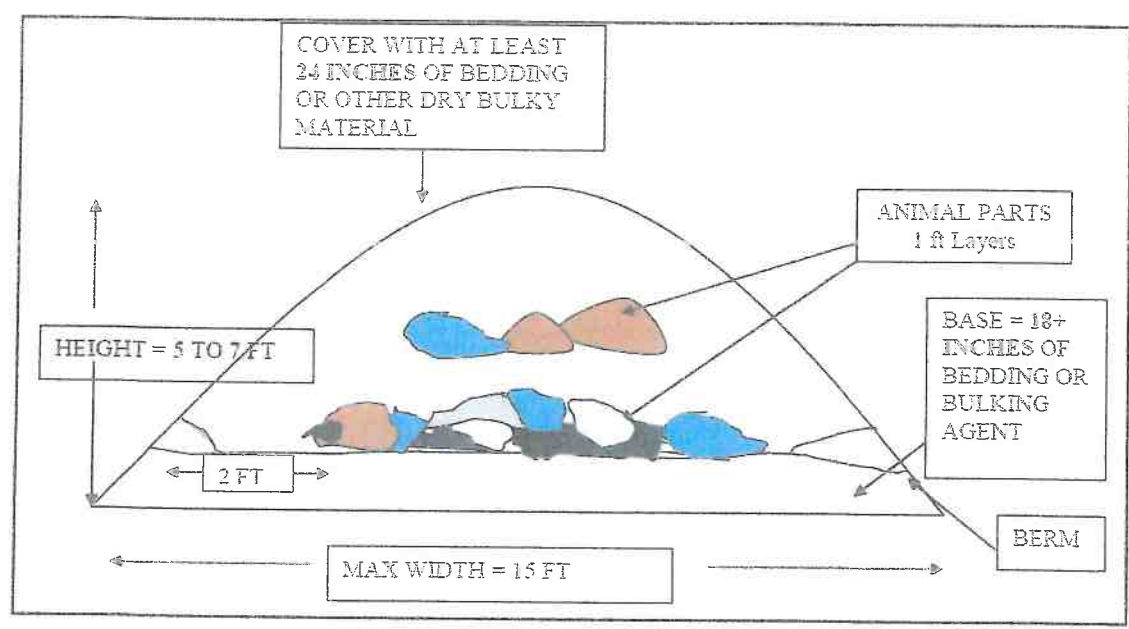
[Blood therefore help with the composting in terms of moisture levels as well as with the adding of needed nutrients.]

Whole animal carcasses adds a level of complexity to the usual process described above which will be in operation for the majority of the by-products.

A whole carcass (condemned) can take up to 3 months to be digested via the composting process and it is critical that during this time the pile is not turned to prevent odours being released and for other health considerations. Carcass/es is/are placed on top on a base of wood chips or wooden pallet and then covered again with the chips. A layer of the compost manufactured on site is added to ensure the pile is inoculated.



In well-built piles with chunky carbon bases, air circulates naturally through the pile.



Cap or Cover:

- insulates and isolates,
- sheds precipitation
- adsorbs gases and odors,
- deters pests

Core Media:

- adsorbs gases and odors,
- separates carcasses and isolates intermediate layers,
- provides C, energy, mass and volume,
- absorbs liquids.

Base: adsorbs liquids, allows air to enter.

9.5 QUALITY OF COMPOST

An analysis of the compost was done by Bemlab in March 2017 and it shows that the compost is of high quality (certificate attached).

9.6 STANDERD OPERATING PROCEDURES / MANAGEMENT

Five Standard Operating Procedures (SOPs) have been developed to monitor the successful operation of the composting site (attached):

- SOP 1: Compost Process Flow / Flow diagram
- SOP 2: Removal and Delivery of By-products
- SOP 3: Site Hygiene
- SOP 4: pH and Temperature Testing and Recording
- SOP 5: Pest Control

These were developed in December 2016 and March 2017 and were updated in May 2017. It is a learning curve in South Africa and the current operation has improved to a large extent over the last few months.

Forms that needed to be completed by the workers throughout the process are also attached.

9.7 PROVISION OF SERVICES APPLICABLE ON COMPOSTING FACILITY

No water is required for the composting facility, as the windrows are moisten with the blood and wet stomach intestines (90% water) when required, together with the run-off water in the lowest dam (see above).

No electricity is required at the composting facility.

10. PROPOSED FEEDLOT

A sheep feedlot for 2500 sheep (building floor area of 2000m² and platform of approx. 6000m²) and 300 cattle (building floor area of approx. 2000m² and platform of approx. 6000m²) was approved by the Langeberg Municipality on 20 January 2014 on Portion 47 of the farm Roodehoogte No 47, district Robertson. The cattle feedlot was never built.

The above structure will be removed to the application site. Since no application is made for the second cattle feedlot, application is made to increase the total number of lambs to a total of 4500. i.e. the capacity in terms of the feeding system.

It will be placed in a NW – SE direction to enable the longest hours for the sun to shine through and for the feedlot to stay dry.

The steel store consist of 9 demarcated areas on each side (18 in total) can accommodate 250 lambs each, therefore a total of 4500 lambs on any one time. One of the camps are left empty to nurse sick lambs.

Feeding is provided constantly, therefore the lambs do not have to eat all at the same time. The 18 demarcated areas are larger than the steel structure and are lengthened to both sides of the roof. The total sheep feedlot is 6000m² in extent.

Lambs are bought mostly during winter months from the local farmers when the natural pastures become less and lambs need supplements. These lambs are fed for approximately one month on an intensive basis in the feedlot under controlling circumstances, where-after they are transported to the Robertson Abattoir to be slaughtered.

The operation of the feedlot will remain unchanged from the existing one and will adhere to the existing strict management and monitoring standards. Each lamb will be marked and monitored, dosed as required and transported subject to the requirements of the abattoir. The operation is audited/monitored on a regularly basis to ensure that the feedlot and abattoir adhere to the required standards.

Feeding pills will be delivered by Meadow Feeds and stored in the four silos (two on each side of the steel structure). The feedlot has a semi-automatic self-feeder system. No animal by-products are allowed as feed according to the regulation of the abattoir.

Drinking water is obtained through a pipeline from a borehole that is registered for 14 000m³ per year (registration certificate attached). Ownership is in process of being transferred to the new owner (see attached proof of application).

This water was analysed in July 2017 and the results are attached.

This amount is adequate for the drinking water of the sheep:

4500 lambs X 8,5 liter water per lamb per day = 38 250 liter per day or 13 961m³ per year.

The water will be stored in three water tanks with 10 000 liter capacity each which flows to the water troughs inside the feedlot.

Each kraal is cleaned after the 30 days of full feed. The surface is hard and the dry manure is easily gathered with a tractor/loader in the middle passage and transported to the sides of the feedlot. The manure will be sprayed with chemicals

such as DeleteX5 and Neporex to kill flies and prohibit the hatching of flies and mowers.

The empty krale will be treated with slaked lime and DeleteX5 to kill any bacteria.

Fly catchers will also be ^{hung} ~~hanged~~ in the steel structure for the further management of flies.

Lambs with ticks and worms are washed with DeleteX5 and sprayed with Necrospray to prevent any further infection.

The only waste product, i.e. manure will be used as a raw product in the composting plant.

No effluent is generated.

Any death lambs (non-infectious) will form part of the composting process.

An ESKOM power line with transformer traverses the site. An employee of ESKOM was on site and indicated that 1m on each side of the line has to be kept open/vacant for maintenance purposes.

The existing windrows that are located underneath the line are temporary and will not be replaced.

Low voltage lights will shine during the night to ensure that the lambs can eat through the night. Floodlights will be used to secure the feedlot during the night.

Provision will be made for an ablution facility with conservancy tanks or other acceptable/alternative sewerage systems on site, at least 100 meters away from the Middelstekloof River when required.

At this stage the farm manager and two workers are on site who make use of the private facility in the existing dwelling house opposite the river.

11. IMPACTS

The application site is located in a rural/agricultural area with very low residential density and few cultivated lands with mainly natural veld/koppe against the foothills of the Langeberg Mountain Range.

The prevailing wind direction is north-west/south-east with the nearest developments in this direction are a store/wine cellar 800m away (SE) and dwelling houses 2km away (NW).

The main impacts of the existing and proposed land uses are:

Flies:

All by-products are covered immediately on delivery which reduces the numbers of flies to a large extent.

The composting process will control the spread of diseases through correct management of temperature and pH. No larva/eggs/worms/bacteria can live in the desirable 55°C within the windrows.

The rows are covered with dry kraal manure from the feedlot that reduce the smell, prevent the attraction of flies and are not favourable for flies to lay eggs as it is too dry and warm for them.

In addition, the rows are also treated with chemicals such as Neoprene from Coopers which is aimed at killing the eggs and larvae of the flies.

Baycidal and Temprid from Bayer are also used to kill the flies and larvae. Quik Bayt is dry crystals which attracts and kills flies on contact and are placed at several points around the site.

The sheep and manure will attract flies that live in the plants/fynbos in the surrounding area, but will be managed by providing fly traps at the feedlot, similar to the 19+ pheromone fly traps hanging on the fence alongside the composting facility. This will be replaced on a regularly basis.

In addition, the sheep and manure will be treated as explained above.

See also SOP5: Pest Control.

Odours:

The balance of PH, temperature, air, moisture are critical parameters to ensure correct fermentation/digestion without causing odour or any other problems in the composting facility. These are monitored by the farm manager on a daily basis. Bemlab results for testing compost samples shows a good quality compost with a desirable C:N ratio.

Any abattoir product that is brought to the site is covered immediately, except for blood that needs to be soaked for 1 hour before turning and covering.

Standard operating procedures have been adapted to ensure that no deliveries leave the abattoir after 15:30 so that it can be received and covered before the end of the shift on the farm.

Blood is brought daily to the application site, in comparison with previously when the tanker was filled before delivery to the application site. The blood is also top up with water at the abattoir that has reduced the smell considerably.

The manager stays on the farm, approximately 120 meters from the application site and monitors the odours on a daily basis.

The nearest residential uses within prevailing wind direction are 2km away and will not be adversely affected.

Three or more official inspections were conducted over the past months by officials from various authorities and none of them have complained about any offensive smells, even though this was one of the aspects they were inspected specifically.

Employment / Security:

The application site have two controlled access gates and no unauthorized persons are allowed on site. A site access register will be kept on site.

Fencing around the facility ensures that no unwanted animals enter the site.

Security lights will improve the security at the feedlot during the evenings.

The facility will employ seven permanent workers (two at compost facility, four at feedlot and remaining farm and one Site/Farm manager) that will maintain and secure the facilities.

Impacts of trucks: dust, noise and obstruction in DR 1377:

The Abattoir by-products (blood, "pensmis", and minimal carcasses) are gathered on the Abattoir property in the industrial area of Robertson.

This is transported in dedicated blood tanks (honey suckers) and skip trucks daily to the application site. The number of trips are/will be:

- Honey suckers with blood: once per day
- 8 ton skip trucks (truck with tank on top): approx. every second day
- No trip on weekends, except in emergency cases
- Sheep will be transported in livestock trucks to/from the site once a day.

Most of the trip length will be on tar road (R60 and DR 1384), with only 2km on DR 1377 (gravel) that will create dust.

The ~~two to three~~ additional trips daily will not have an additional substantial impact if compared to the surrounding environment:

- The R60 carries many trucks between Robertson and Worcester and the railway line runs adjacent to the road;
- DR 1384 (tar road) between the R60 and the lime quarry carries many and much heavier trucks to and from the quarry to the lime industry adjacent to the R60;

- The lime factory/industry itself creates much noise and dust from their 20/25 ton trucks alongside the R60; and
- DR 1377 (gravel road) between Rooiberg Cellar and Nuy carries many trucks from wine farmers, sheep/cattle farmers, and a brewery on a daily basis.

The two gates to the application site were placed approximately 20m inside the boundary of the application site to prevent any obstructions by trucks in road DR 1377.

Other noise impacts on site:

A compost turner, front loader and tractor on site will contribute to noise, but are all agricultural related implements that are associated with buffer areas.

Visual:

The feedlot steel structure (see attached drawing) will be seen from Road R60, similar to the existing stores on Ptn 6 and the neighbouring farm.

The compost facility has an agricultural feel with no negative visual impacts.

Possible water pollution:

The soil study indicated that the high clay content of the site will prevent any nutrient-contained leaching into the soil. The site also flows towards the required run off collection dams. The windrows are more than 235m from the side of the Middelstekloof River.

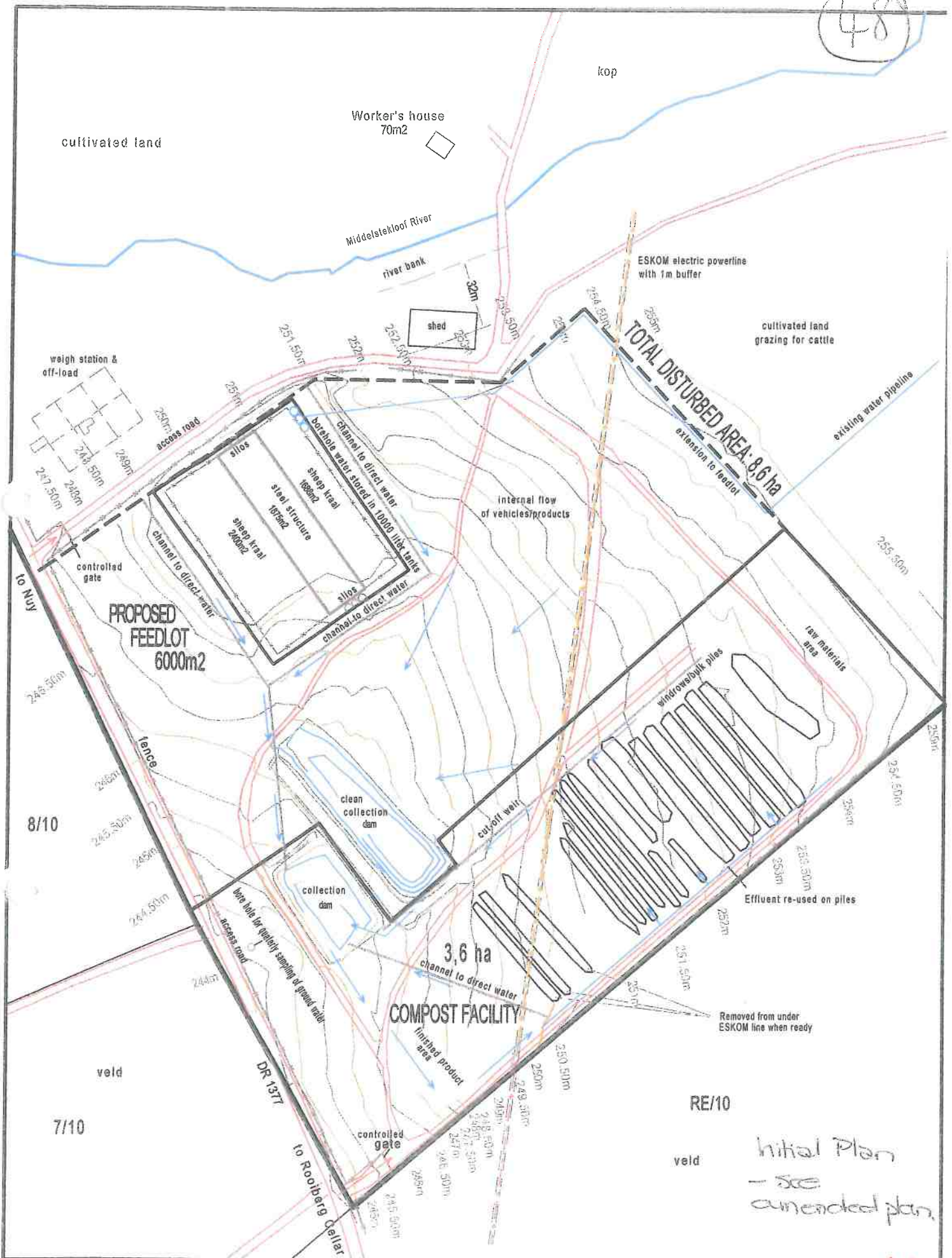
The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot (currently at another location) that will also be applicable in the new location, will mitigate the impacts effectively. These will be monitored regularly. Problems experienced / complaints received will be recorded in a complaints register and addressed when required.

12. SUMMARY / END REMARK

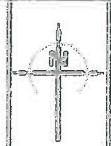
A waste to one industry is an input/essential ingredient for another.

The composting facility on the farm Middelburg offers currently the only solution for the handling of the by-products of Robertson Abattoir, one of the largest employment generators in the Langeberg area.

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SITE PLAN: PTN 6 MIDDELBURG NO 10, ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA
Town and Regional Planner
SCALE 1:2250

Initial Plan
- see amended plan.



Entrance to compost facility with gate approx. 24m inside property and fly traps hanging on fence



Truck from SAFAM Robertson Abattoir on application site



Top storm water dam



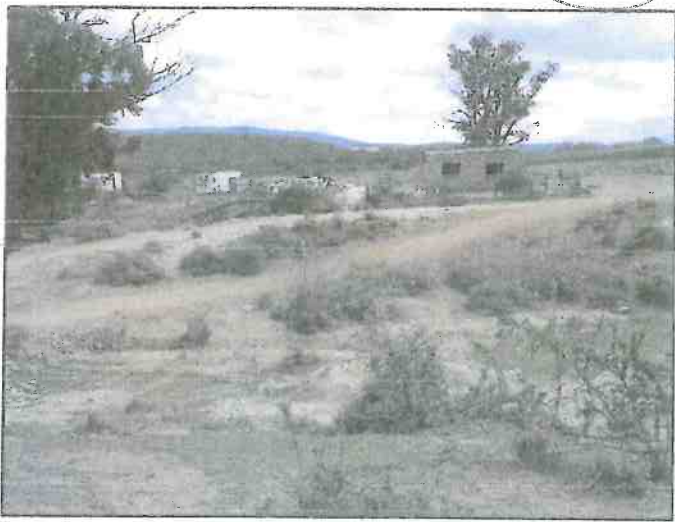
Windrows in front with allocated area for sheep feedlot between windrows and shed



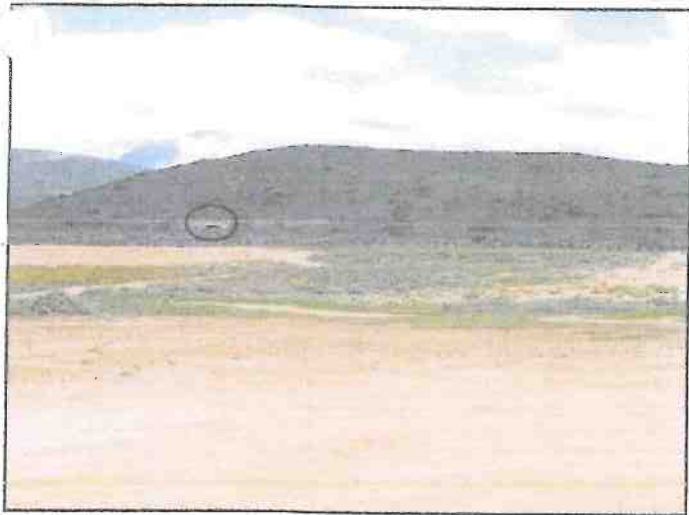
Application site with Telkom line taken from NE to SW with windrows on left and dams in middle of photo



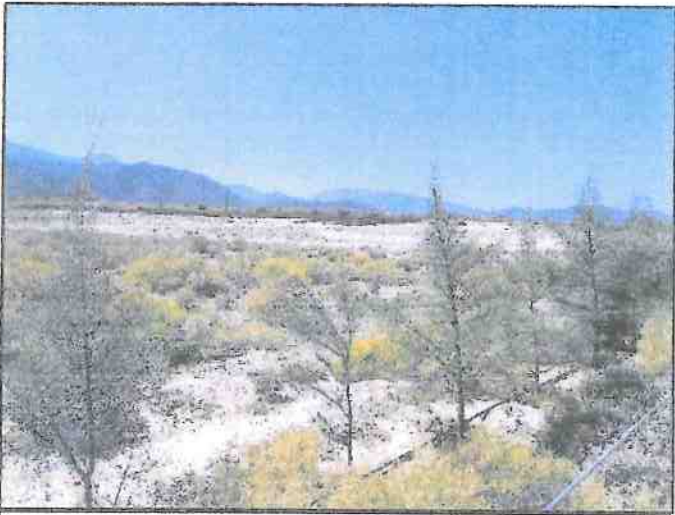
Implements on application site



Middelstekloof River with worker's house on the other side



Taken of area above storm water/effluent dams in SW direction with nearest house against koppie.



Taken from DR1377 to application site with windrows in the back and windbreaks/visual shielding along the road (beef wood trees).



Northern entrance to farm with weigh station/off-load area between road and river (left) & proposed feedlot area to the right on the photo



Taken from east of the shed in SW direction

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SAFAM – ROBERTSON COMPOST – By-Product Removal

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 2	Revision Number:	02

Objective: This document describes the process to be followed for the removal of the by-products from the abattoir to the composting site.

Scope: This SOP covers the removal of all non-infectious by-products from the abattoir to the composting site. The recording of volumes, and other relevant data. How it is to be removed. The recording of the volumes as received at the composting site. This does not cover the receipt of other composting materials from other sources.

Responsibility: Abattoir Quality Manager

Summary: It is necessary to log all relevant data in terms of by-product removal in order to demonstrate that it has been taken to the correct compost site at Middleburg and therefore 'disposed of' or 'removed' from the abattoir in a responsible manner, which complies with the relevant regulations.

Dates, times, by-product type, volumes, vehicle used, driver details and destination need to be recorded.

Authorised individuals can only sign removal documentation: Abattoir Quality Manager, Abattoir General Manager, Security Guard, Group COO, or Group CEO.

Authorised individuals can only sign for receipt documentation at the composting site: Composting Manager, Composting Supervisor, Feedlot / Farm Manager, Abattoir General Manager, Group COO, Group CEO.

Only full loads to be removed from the abattoir, except for blood which must be removed on a daily basis.

Records must be kept on file for a minimum of 5 years.



SAFAM – ROBERTSON COMPOST – Site Hygiene

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 3	Revision Number:	02

STANDARD OPERATING PROCEDURE SOP3: SITE HYGIENE

1. THE SITE MUST BE PREPARED FOR ALL DELIVERIES OF ABATTOIR WASTE SPECIFIC TO THAT KIND OF BY-PRODUCT RECEIVED.
2. No abattoir by product may be placed directly onto the ground. The high liquid content in the by-product, and the high clay content in the land on site will cause the liquid to run off. This will attract flies and generate a smell. The loss of this moisture will also increase the need to spray water onto the compost piles.
3. The site must be prepared to receive a delivery before it arrives. For blood, the windrows it is to be added to must be prepared to receive by forming a channel on top. This channel must stop at least 5m before the end of the windrow to provide a backstop for the blood.
4. The blood must be covered and turned within the hour.
5. The ground must be prepared by laying down a bed of woodchips between 20cm and 30cm deep. The wood chips must be in a clearly demarcated area.
6. Each area must be identifiable and records kept for what has been placed in it.
7. A separate area must be set aside for whole condemned carcasses, as these will need to be covered and undisturbed for up to 3 months.
8. All by products must be covered immediately once the truck has left the area. With the exception of blood, which must be covered or turned within the hour.
9. Any debris, which falls onto the floor or misses the wood chips when being deposited must be removed manually with a shovel (or front loader), placed on the wood chips and covered.
10. The surrounding area between the bulk piles must be free of all debris, including wood chips.
11. There must always be an area with a woodchip base ready for a delivery.
12. The site manager must inspect the site for hygiene issues and standards at least 3 times per day and record it on form SAFAM-CP3



SAFAM – ROBERTSON COMPOST – Site Hygiene

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 3	Revision Number:	02

Objective: This document describes the process and standards to be followed at the composting site to ensure correct site hygiene is maintained.

Scope: This SOP covers the hygiene standards at the composting site only. It does not cover the hygiene levels for other functions at the Middleburg Farm. It does not cover the hygiene of the vehicles used to transport the materials from the abattoir to the site.

Responsibility: Compost Site Manager.

Summary: Due to the nature of the materials the site will be processing via the composting route it is essential that correct site hygiene management is maintained. The nature of the materials, which makes them ideal for composting also has the potential to cause hygiene and environmental issues if not handled correctly.

All of the by-products will have a high protein and water content and be of animal origin. If not handled properly unacceptable smells and pest levels (flies) could be generated. The site must be kept as clean as possible within the context of manufacturing compost.

It has been established on site during the set up phase that all windrows and bulk piles may attract flies if they contain wet, animal by-products that are only covered with the coarse wood chips. The dry fine kraal manure must be used where ever possible to cover / encase the windrows bulk piles. This has been shown to help reduce odours and fly numbers.



SAFAM – ROBERTSON COMPOST - pH & Temp Recording

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 4	Revision Number:	02

STANDARD OPERATING PROCEDURE SOP4: pH and Temperature Testing and Recording

Temperature Monitoring

1. ALL BULK COMPOSTING AREAS AND ALL WINDROWS MUST BE TESTED DAILY, until a standard cycle is established. For instance the temperature changes can be established for each windrow depending upon its phase and whether materials have been recently added and then turned.
2. Each bulk area and windrow must be tested in several places in order to get an accurate picture of the composting process. For windrows test 5 metres from each end, and one test in the middle, along the length. The probe must be inserted into the centre of the windrow in terms of height and width. For bulk areas test from each side, again into the centre of the pile.
3. All temperatures must be recorded on form SAFAM-CP2.
4. If temperatures reach 60 degrees centigrade the rows must be wetted and turned immediately. (Unless being Heat Treated). The windrows should take approximately 3 days to reach 60 degrees if the composition is optimal.
5. If the bulk areas reach 60 degrees centigrade they must be wetted and turned with the front loader.
6. The ideal temperature range for compost is between 45 and 60 degrees centigrade. The temperatures in this range are an indication that the process is working as it is the bacteria that are generating the heat. These temperatures cannot be reached if the moisture, oxygen, C:N ratio and pH levels are not in their optimum ranges. If these temperatures are maintained for 2 to 3 days they also ensure any fly larvae are killed.



SAFAM – ROBERTSON COMPOST - pH & Temp Recording

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Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 4	Revision Number:	02

Objective: This document describes the process and method to be used when testing the compost windrows for pH and Temperatures.

Scope: This SOP covers the testing of critical process parameters of the windrows and bulk storage areas, especially the whole carcass bulk composting area. Only areas that contain abattoir by-products and are being composted need to be tested for pH. All bulk areas, windrows, wood chip storage must be tested for temperature to safe guard against a fire risk.

Responsibility: Compost Site Manager.

Summary: Composting is a natural process of converting by-products or organic waste materials into a usable compost material. It is done via utilising the natural bacteria, which carries out a similar process to fermentation and breaks down the material into its component parts. This process can only operate within relatively tight environmental conditions. The critical conditions are Temperature, pH, moisture and available oxygen. This SOP details how to record the measurable aspects of pH, Temperature and Moisture Levels.

Oxygen is not measured directly but can be estimated via temperature and moisture as well as particle size of the compost. Turning the windrow when indications show that it has dropped can easily increase oxygen.

Compost rows must never reach 70 degrees centigrade for an extended time as this is an indication that there is a risk of fire. If temperatures reach 60 degrees the rows must be wetted down and turned IMMEDIATELY, unless they are being heat treated to ensure the compost does not contain viable plant seeds and the pathogen levels are reduced.

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SAFAM – ROBERTSON COMPOST - pH & Temp Recording

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 4	Revision Number:	02

pH Monitoring

1. It is not critical to monitor pH if the temperatures are within the above desired range. However, if the temperatures are not reached indicating the bacteria are not active, the cause may be a drop in pH due to a poor composting matrix with either too much moisture or incorrect C:N ratio.
2. Only test for pH if the composting process is not proceeding at the expected pace.

Moisture Monitoring

1. The composting process requires water, but in the right amounts. This is dependent upon the oxygen levels, porosity and structure of the windrows. As the windrows break down in terms of particle size the management of moisture levels becomes more critical, as too much moisture can compact the compost and reduce the availability of oxygen.
2. To test for the correct moisture levels, take a handful / sample of the compost from the middle (inside) of the windrow and squeeze it in the hand. If the compost forms a loose ball that breaks open easily then the moisture level is the correct region. If the ball holds its shape then there is too much moisture and the windrow needs to be turned, or dry material added.
3. If the compost does not form a ball then the compost may be too dry, but this also depends on the overall particle size / structure of the compost.



SAFAM – ROBERTSON COMPOST Pest Control

Compiled By: DA Houghton	COO	Compilation Date:	23 March 2017
Approved By: H De Bod	CEO	Last Revision Date:	23 March 2017
Document Number:	SOP 5	Revision Number:	01

Objective: This document describes the management of potential vermin / pests at the Compost Facility at Middleburg Farm Robertson.

Scope: This document covers the composting site only and not the entire farm at Middleburg. It describes the types of potential pests and their controls, if necessary. It describes the documentation required to prove that the business manages pests effectively. This includes prevention, reduction and control.

Responsibility: Composting Manager

Summary: Due to the very nature of the composting process, the site itself, and the types of material to be composted it is highly likely that vermin / pests would become a problem if management practices are not put into place. Correct management practices include monitoring, reporting, treatment of site, and compost production methods

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SAFAM – ROBERTSON COMPOST Pest Control

Compiled By: DA Houghton	COO	Compilation Date:	23 March 2017
Approved By: H De Bod	CEO	Last Revision Date:	23 March 2017
Document Number:	SOP 5	Revision Number:	01

TYPES OF PESTS NOTED AT COMPOSTING SITE:

1. **WILD PIGS.** One complaint has been received with respect to feral (wild) pigs being seen at the compost facility. The Compost Site Manager has been informed of this and along with his staff have kept a look out for signs of pigs. Up to present no sighting of pigs or their spoor / tracks has been noticed on site, so that no action can be taken. The staff will remain vigilant and if pigs are spotted the correct action will be taken. The safest and most human method will be used, which is most likely to include shooting the pigs with a high velocity / large grain rifle. This will only be carried out within the applicable legal parameters.
2. **BABOONS** have been seen on the farm from time to time, however they have not been seen approaching the composting site. In fact, the baboons were present on the farm before the composting facility was commissioned. As such they should not be classified as a pest linked to the composting facility. The baboons tend to be nomadic / transient in nature and when they appear they are chased / scared of by the farm workers and managers.
3. **FLIES** are present in and around the composting site and will pose a problem in the immediate location of the windrows if not controlled properly. However once away from the compost itself the flies are not an issue. Flies were noted not to be an issue within 50 metres of the site on the gravel road. To prevent flies becoming a problem the following actions are to be taken.
 - a. Flies are attracted to the smell and the wet composting material so it is essential that any by-products are covered immediately as per other SOPs. In addition to this, all compost containing the by-products must be covered by the wood chips followed by being sealed off with a layer of fine, dry kraal manure. This has been shown to reduce the smell and prevent the attraction of the flies as they cannot gain access to the by-products. The covering also increases the temperature of the compost so that it kills all the eggs and larvae of the flies. The compost is then turned 3 days later, recovered with the manure and allowed to regain heat. This process is essential in breaking one aspect of the life cycle of flies.
 - b. The site will be treated from time to time with the required chemicals that attacks the adult flies, the eggs and the larvae. This will be done in accordance with the manufacturers guidelines. The approach taken is a multi phased approach to ensure all stages of the flies life cycle are attacked. At present it is recommended that the treatments are spaced 1 week apart. More frequent than this does not increase the chemicals effectiveness.



SAFAM – ROBERTSON COMPOST Pest Control

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Compiled By: DA Houghton	COO	Compilation Date:	23 March 2017
Approved By: H De Bod	CEO	Last Revision Date:	23 March 2017
Document Number:	SOP 5	Revision Number:	01

- c. The chemicals being used are Baycidal, Quickbayt and Temprid to used as a complete site treatment. Neoprex will also be used to add to various rows on an ad hoc basis.
 - d. A general fly spray will also be used on an ad hoc basis in order to knock back any increased fly numbers.
 - e. The treatments should not take place when rain is expected within 2 days of the treatment.
 - f. Ideally the treatment of the rows should take place after they have been turned, but before covering with the manure as this will increase the chemicals effectiveness.
4. Fly traps will also be placed along the border of the compost site in order to attract flies away from the compost and from spreading to neighbouring farms.

(Label for main panel)

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Bayer Environmental Science

Before using this product read the label carefully. / Lees die etiket noukeurig alvorens die produk gebruik word.

BAYCIDAL

Reg. No. L 5256 Act No. 36 of 1947
Namibian Reg. No. N-AR 1045

Reg. Nr. L 5256 Wet Nr. 36 van 1947
Namibiese Reg. Nr. 1045

AN INSECT GROWTH REGULATOR
FOR THE CONTROL OF IMMATURE
COCKROACHES, FISHMOTHS,
FLIES, MOSQUITOES, LITTER
BEETLES AND FLEAS.

'N INSEKSGROEIREGULEERDER VIR
DIE BEHEER VAN ONVOLWASSE
KAKKERLAKKE, VISMOTTE, VLIEË,
MUSKIETE, KLEINMEELWURMS EN
VLOOIE.

ACTIVE INGREDIENT: / AKTIEWE BESTANDDEEL:

Triflumuron (benzoyl phenyl urea) 480 g/l

Triflumuron (bensoïel feniel ureum)

NET CONTENTS: / NETTO INHOUD: 200 ml, 500 ml

REGISTRATION HOLDER/REGISTRASIEHOUER:

Bayer (Pty.) Ltd. / (Edms.) Bpk.
Reg. No. / Nr. 1968/011192/07
P.O. Box / Posbus 143
ISANDO 1600
SOUTH AFRICA / SUID-AFRIKA
TEL: (011) 921 5911

Batch No: / Lotnommer:

Date manufactured: / Datum vervaardig:

BAYCIDAL is a registered trademark of Bayer / is 'n geregistreerde handelsmerk van Bayer

UN No. / VN Nr. 3082



Handwritten signature

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Bayer Environmental Science

QUICKBAYT® SPRAY

Fly Bait / Vlieglokaas

REG. NO. L7802 Act No. 36 of 1947
Namibian Reg. No. N-AR 0766

REG. NR. L7802 Nr. 36 van 1947
Namibiese Reg. Nr. N-AR 0766

AN ATTRACTIVE SPRAY OR PAINT-ON FLY BAIT WITH LONG RESIDUAL ACTION FOR THE CONTROL OF HOUSEFLIES IN AND AROUND ANIMAL HOUSING, REFUSE TIPS, FOOD HANDLING PLANTS AND OUTSIDE DOMESTIC AND INDUSTRIAL PREMISES.

'N AANLOKLIKE SPUIT OF AANVERF VLIEËLOKAAS MET 'N LANG RESIDUELE WERKING VIR DIE BEHEER VAN HUISVLIEË IN EN RONDOM DIERESKUILINGS, AFVALHOPE, VOEDSELVERWERKINGS-PERSELE EN RONDOM HUISHOUDELIKE EN INDUSTRIËLE PERSELE.

ACTIVE INGREDIENTS / AKTIEWE BESTANDDELE:

Imidacloprid	100 g/kg
Tricosene	1 g/kg

Imidaklopried
Trikoseen

NET CONTENTS: / NETTO INHOUD: 125 g, 1 kg

REGISTRATION HOLDER / REGISTRASIEHOUER:

Bayer (Pty.) Ltd. / (Edms.) Bpk.
Reg. No. / Nr. 1968/011192/07
P.O. Box / Posbus 143
ISANDO 1600
SOUTH AFRICA / SUID-AFRIKA
TEL: (011) 921 5911

Batch no. / Lotnommer:

Date manufactured / Datum vervaardig:

QUICKBAYT® is a registered trademark of Bayer / is 'n geregistreerde handelsmerk van Bayer.



SAFAM COMPOST BATCH RECORD LOG

COMPOST BATCH NUMBER:

DATE STARTED:

NUMBER OF WINDROWS:

WINDROW LOCATIONS

A B C

		INITIAL AMOUNTS	WEEK 1 TOTAL	WEEK 2 TOTAL	WEEK 3 TOTAL	WEEK 4 TOTAL	WEEK 5 TOTAL	WEEK 6 TOTAL	WEEK 7 TOTAL	WEEK 8 TOTAL	WEEK 9 TOTAL	WEEK 10 TOTAL	WEEK 11 TOTAL	WEEK 12 TOTAL	TOTAL CUBES USED
RECIPE	CHICKEN LITTER														
	WOOD CHIPS														
	PLANT / GREEN WASTE														
	WINE BY-PRODUCT														
	FRUIT & VEG BY-PRODUCT														
	AB BLOOD														
	AB MANURE														
	AB STOMACH CONTENTS														
	AB NI CONDENSED														
	FEEDLOT MANURE														
	OTHER (PLEASE STATE)														
	OTHER 1														
	OTHER 2														
	OTHER 3														
CHECKS	MONDAY TEMP / PH / MOISTURE														
	TUESDAY TEMP / PH / MOISTURE														
	WEDNESDAY TEMP / PH / MOISTURE														
	THURSDAY TEMP / PH / MOISTURE														
	FRIDAY TEMP / PH / MOISTURE														
	SATURDAY TEMP / PH / MOISTURE														
PROCESS	MONDAY TURNED AM / PM														
	TUESDAY TURNED AM / PM														
	WEDNESDAY TURNED AM / PM														
	THURSDAY TURNED AM / PM														
	FRIDAY TURNED AM / PM														
	SATURDAY TURNED AM / PM														
ANALYSIS	PHYSICAL / CHEMICAL	H2O	DRY	CONDUCT	PH	ASH	C:N	N	C	P	K	Ca	Mg	S	TOTAL USED
	RESULTS	Na	Fe	Cu	Zn	Mn	B								

SIGNED
DATE

TOTAL CUBES PRODUCED

COMPILED BY: DA HOUGHTON
DATE:

FORM: SAFAM-CP2
VERSION 1

ABATTOIR BLOOD REMOVAL RECORD **HONEY SUCKER ROBERTSON TO MIDDLEBURG**

Truck Registration Number:										
	Date	Amount of Blood	Time out Abattoir	Time in Compost	Driver Name	Driver Signature	Compost Site Person's name	Compost Site Person's Signature	Abattoir Person's name	Abattoir Person's Signature
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
NOTES:										

84.

COMPILED BY: JACO DU PLESSIS
 APPROVED BY: DAVID HOUGHTON

REVISION DATE: 31/03/2017

DOC No: SAFAM CP1
 VERSION :2B

70

COMPOST SITE HYGIENE RECORD

WEEK COMMENCING MONDAY:		MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT/SUN
START							
NOTES:							
MIDDAY							
NOTES:							
END							
NOTES:							
ACTIONS TAKEN:							

85.

COMPILED BY: DA HOUGHTON
AUTHORISED BY: DA HOUGHTON

13/06/2017

Doc : SAFAM - CP3
VERSION 1

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**ABATTOIR WASTE REMOVAL RECORD
SKIP TRUCK ROBERTSON TO MIDDLEBURG**

Skip Truck logsheet

Skip Truck logsheet				Truck Registration Number:						
Date	Product Removed	Bin Number	Time out Abattoir	Time in Compost	Driver Name	Driver Signature	Compost Site Person's name	Compost Site Person's Signature	Abattoir Person's name	Abattoir Person's Signature
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
NOTES:										

86.

COMPILED BY: JACO DU PLESSIS
APPROVED BY: DAVID HOUGHTON

REVISION DATE: 31/03/2017

DOC No: SAFAM CP1
VERSION:2A

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Annexure D

Additional Information submitted by Applicant including the following from the BAR in terms of the EIA Regulations:

- Soil Study
- Freshwater Ecological Study
- EMPr

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2 Oct 2018

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Tracy Brunings

PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT ROBERTSON: ADDITIONAL INFORMATION REQUESTED

Your e-mail dated 18 May 2018 refers. Additional information on the application were requested:

- Number of truck trips per month;
- Stormwater Management Plan prepare by a Professional Engineer;
- Rehabilitation and erosion control measures for 32m Middelstekloof River buffer, especially the river crossing;
- Site Development Plan indicating
 - 32m buffer along river,
 - 100m from river,
 - distance between proposed feedlot and river,
 - contours to river,
 - position and use of existing buildings on site,
 - electrical lines shown as municipal lines with 3m buffer, and
 - redefined boundary of proposed composting area and areas for raw and finished products.

Information/response on the above, as received in June 2018, are as follows:

Number of truck trips currently generated per month, calculated according to the records of waste volumes removed from the Robertson Abattoir.

SAFAM believe this request stems from a complaint generated by the owner of the Doornkloof Private Nature Reserve who has complained that the trucks delivering the abattoir by-products disturb her and her guests. This complaint is challenged on the basis of the below facts and object that this complaint is being considered by the Municipality without the Municipality first checking and verifying the facts behind this complaint.

Even a cursory inspection using Google Earth / Maps would confirm that this complaint is completely unfounded and vexatious in nature. Subsequent to an initial check using available resources a site visit would easily have determined that the compost site and compost delivery gate are both out of sight, and between 2km to 2,3km (as the crow flies) away from the residences on the Doornkloof Nature Reserve. It should be noted that the 'Bush House', where the guests and owners stay is 2.3km away and have 3 mountain ridges, and 1 hill between it and the compost site. Again this could very easily be checked using Google Earth as well as a site visit.

The individuals who reside at the property on the Doornkloof Nature Reserve which is 2km away from the compost site have never complained and in fact have confirmed on many occasions that they are not disturbed in any way by the compost facility. They have not complained, because it is a fact that they are so far away and have a hill between them and the compost site.

The abattoir by-product delivery trucks do not even have to travel past the Doornkloof Nature Reserve access gate, (which is a right of servitude access across SAFAMs farm) so it cannot be claimed that the trucks disturb the owner and or guests of Doornkloof once they are in situ in the reserve. This cannot be said for the other vehicles travelling along the gravel road towards the dairy farm, fruit farms and brewery which are located further along the road. Is Doornkloof disturbed by these vehicles as they pass their gate and have they complained about them in the same way they have complained about SAFAM trucks. The Saggy Stone Brewery for instance is also closer to the Doornkloof Reserve than SAFAM's compost facility, as are a number of farms which operate the usual farm machinery / vehicles.

It would therefore stand that if Doornkloof have not complained about the 'other neighbours' mentioned above, who are in fact closer and not as obscured as SAFAMs compost operation is, then their complaints are vexatious in nature and should not be entertained.

SAFAM request that it is placed on record that despite a site visit being carried out on a number of occasions by Langeberg Municipality whereby the substance of the complaint could easily have been investigated (and subsequently been dismissed as unfounded) we are still being asked questions regarding the delivery trucks.

SAFAM have been given approval (7th February 2018) by the Western Province Chief Director – Road Network Management who is the competent authority with regards to the road use, for a maximum of 6 trips per day to the farm. It is concerning that despite Langeberg Municipality being copied in on this approval document SAFAM are still being questioned regarding the delivery trucks by the Municipality. During the site visit carried out on the 16th May the Municipality informed SAFAM that they were not aware of this approval.

The table below shows the analysis carried out by SAFAM with regards the delivery trucks to the compost site. It clearly shows that SAFAM are well below the amount of visits that the competent authority has given them approval for. Attached copies of the delivery logs used by the truck drivers. In short SAFAM are 1609 trips below the amount of deliveries allowed for the

total period from March 2017 to 19th April 2018. For the month of March 2018 SAFAM are 114 below the maximum number of trips allowed.

	BLOOD TRUCK	SKIP TRUCK
1ST DATE OF RECORDS	31ST MARCH 2017	31ST MARCH 2017
LAST DATE OF RECORDS	19TH APRIL 2018	1ST MAY 2018
TOTAL NUMBER OF DAYS	384	396
BLOOD TRIPS	147	
SKIP TRIPS	548	
TOTAL TRIPS	695	
DAYS x 6 (TRIPS PER DAY ALLOWED)	2304	
DIFFERENCE WITH ALLOWANCE	1609	

MARCH HAS 31 DAYS	31
MULTIPLY BY 6 TRIPS ALLOWED	186
BLOOD TRIPS	21
SKIP TRIPS	51
TOTAL	72
DIFFERENCE WITH ALLOWANCE	114

The *stormwater management plan* as indicated on the SDP together with the investigation and recommendations as included in the Soil Study was what Eco Impact included in all of the EIA documents. The Soil study provides recommendations as to the required capacity, surface lining, location of the dams etc. based on their investigations.

This has then informed the stormwater management plan as indicated on the SDP as provided to us. The capacity of the dam takes into account the potential for heavy rainfall conditions. Please refer to Appendix G3 of the BAR for details as referred to above. Please refer to the EMPr in Appendix H of the BAR. Specifically take note of the storm water management objective under Goal 1 of the Operational phase of the EMPr.

Please be advised that the eWULAA application is in phase 2, and the request for technical information will only take place in phase 3 of the application. Please also be advised that BGCMA have requested a site inspection following our phase 1 eWULAA's application, to which Eco Impact have followed up with on more than one occasion but are still awaiting a response thereto.

Rehabilitation and erosion control measures for the 32m buffer along River:

Please refer to the EMPr in Appendix H of the BAR. It is in the EMPr where all recommendations of specialist studies are included under the relevant sections of the EMPr. Please refer to the Operational Section of the EMPr which includes rehabilitation based on the operational activities. Eco Impact would like to specifically point you to Goal 12 under the Operation EMPr which specifically includes the 32m buffer along the drainage line. The goal also includes monitoring and remedial actions for the specific goal. Please also refer to Chapter 10 of the EMPr which specifies rehabilitation specification based on the impacts associated with the activity.

The SDP has been amended as requested – attached.

For your consideration please.

Yours faithfully



Anna-Christa Redelinghuys
Pr.Pln A/1076/1998

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EMP

ENVIRONMENTAL MANAGEMENT PROGRAMME FOR THE COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON

12 March 2018

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		Title: COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON 2nd DRAFT ENVIRONMENTAL MANAGEMENT PROGRAMME		
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**COMMITMENT AND DECLARATION OF UNDERSTANDING BY CONTRACTOR AND
DEVELOPER FOR THE COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM
MIDDELBURG 10, ROBERTSON**

I, the undersigned, as duly authorized by the Contractor, have studied and understand the contents of this document. On behalf of the Contractor, I confirm that the Contractor undertakes to adhere to the conditions as set out herein, unless specifically otherwise agreed to in writing.

Signed at on this Day of20.....

.....
For Contractor

I, the undersigned, as duly authorized by the Developer have studied and approve the contents of this document on behalf of the Developer, for implementation by all Contractors involved at the site.

Signed at on this day of20.....

.....
Developer's Representative

DEFINITIONS

Auditing:	A systematic and objective assessment of an organization's activities and services conducted and documented on a periodic basis based to a (e.g. ISO 19011:2003) standard.
Biodiversity:	The variety of life in an area, including the number of different species, the genetic wealth within each species, and the natural areas where they are found.
Contractor:	An employer, as defined in section 1 of the Occupational Health and Safety Act 85 of 1993, who performs construction work and includes principal contractors.
Environment:	A place where living, non-living and man-made features interact, and where life and diversity is sustained over time.
Evaporation:	The change by which any substance (e.g. water) is converted from a liquid state into and carried off as vapour.
Developer:	One who builds on land or alters the use of an existing building for some new purpose.
Independent:	Is independent and has no interest in any business related to the development site, nor will receive any payment or benefit other than fair remuneration for the task undertaken.
Groundwater:	Subsurface water in the zone in which permeable rocks, and often the overlaying soil, are saturated under pressure equal to or greater than atmospheric.
Landowner:	Holder of the estate in land with considerable rights of ownership or, simply put, an owner of land.
Monitoring:	A systematic and objective observation of an organisation's activities and services conducted and reported on regularly.
Natural vegetation:	All existing vegetation species, indigenous or otherwise, of trees, shrubs, groundcover, grasses and all other plants found growing on a site.
Pollution:	The result of the release into air, water or soil from any process or of any substance, which is capable of causing harm to man or other living organisms supported by the environment.
Protected Plants:	Plant species officially listed under the Threatened or Protected Species regulations as well as on the Protected Plants List (each province has such a list), and which may not be removed or transported without a permit to do so from the relevant provincial authority.
Red Data Species:	Plant and animal species officially listed in the Red Data Lists as being rare, endangered or threatened.
Rehabilitation:	Making the land useful again after a disturbance. It involves the recovery of ecosystem functions and processes in a degraded habitat. Rehabilitation does not necessarily re-establish the pre-disturbance condition, but does involve establishing geological and hydro logically stable landscapes that support the natural ecosystem mosaic.
Site:	Property(s) or area where the proposed development will take place.

ACRONYMS

DEA&DP:	Department of Environmental Affairs and Development Planning
DWS:	Department of Water and Sanitation
ECO:	Environmental Control Officer
EA:	Environmental Authorisation
EIA:	Environmental Impact Assessment
EM:	Environmental Manager
EMP:	Environmental Management Programme
EO:	Environmental Officer
ER:	Engineer's Representative
I&AP:	Interested and Affected Party
IEM:	Integrated Environmental Management
PM:	Project Manager
SANS:	South African National Standards
SAFAM:	South African Farm Assured Meat
SOP:	Standard Operating Procedure

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DEVELOPER'S COMMITMENT

The South African Farm Assured Meat group ("SAFAM") has committed itself to a set of values that include the maintenance of good relations and transparent communications with all stakeholders, and the dynamic engagement of the larger community.

SAFAM undertakes to implement suitable management systems for all the areas and aspects of this operation. This will ensure that development itself and management of the project will comply with legal, technical, environmental and transformation policies and standards.

SAFAM, in drafting this EMP for implementation, intends to enable continuous improvement in legal compliance and the sustainable operation of the site.

The EMP intends to change the way in which the owners, the construction process they have commissioned and the contractor plan for and manage resources to achieve sustainability.

The satisfactory implementation of the EMP on site will require both the full support and commitment of all personnel.

CHAPTER 1

1.1. Executive Summary

This EMP has been prepared principally in compliance with the requirements of section 24N and Section 34 of the National Environmental Management Act 107 of 1998. This document, together with the conditions in the Environmental Authorisation, and the conditions in the Waste Management Licence, must be adhered to.

The EMP must be included as part of all contract documentation for all contractors in the construction and operational phases of the development.

The Author and Eco Impact Legal Consulting (Pty) Ltd ("Eco Impact")

Lauren Abrahams has completed her professional registration in terms of section 20(3) (b) of the Natural Scientific Professions Act, 2003 (Act 27 of 2003) as a Candidate Natural Scientist in the field of practice Biological Science (Registration number 100126/12). She obtained her B Tech in Oceanography at the Cape Peninsula University of Technology in 2010.

Lauren has trained as a Junior Environmental Assessment Practitioner since July 2015 and has been involved in the compilation, coordination and management of Basic Assessment Reports, Environmental Impact Assessments, Environmental Management Programmes, Waste Licence Applications, Water Use Licence Applications and Baseline Biodiversity Surveys for numerous clients.

SAFAM has appointed Eco Impact to prepare an Environmental Management Programme that meets the technical standards as required by DEA&DP.

1.2. Project Description

This section of the report is included in compliance with Section 24N (2) (e) of the National Environmental Management Act, 107 of 1998.

South African Farm Assured Meat Group cc (SAFAM) proposes the following:

Due to the lack of capacity at a Class B municipal waste disposal facility (Ashton), the South African Farm Assured Meat Group CC (SAFAM) Robertson Abattoir, one of the largest employers in the Langeberg Municipal area with over 200 employees, was obliged to manage and dispose of the by-products (i.e. wastes derived from the slaughter process) from the Robertson Abattoir in the most environmental friendly way.

[These are not waste products since ~~it is used as an ingredient to~~ create compost.]

The disposal of the by-products on a portion of Ptn 6 of the farm Middelburg No 10, district Robertson started in February 2017 after consultation with the Langeberg Municipality, Cape Winelands District Municipality as well as the Directorate Waste Management of the Department of

Environmental Affairs and Development Planning.

Since the capacity is below 10 tons per day (at present) and the product is utilized on the same premises, environmental authorization is not required. This facility will be capable of handling all organic general by-products ((“pensmis” (mainly water) and “derms”, blood, non-infectious condemned trim and non-infectious whole carcasses)) from the Robertson Abattoir and converting it to general use compost.

In addition, it is the intention to establish a sheep feedlot adjacent to the compost facility. The capacity of the feedlot is 4500 lambs at any one time. The manure of the feedlot will be, together with the by-products of the abattoir and wood chips received from the Municipality, an essential raw material in producing compost.

Compost Facility:

A compost facility to recycle and treat abattoir by-products and organic waste to produce compost on approximately 3.6ha on Portion 6 of Farm Middelburg 10, Robertson. Construction of storm water cut-off channels and collection dams to contain and store all storm water generated on site for reuse and recycling onto the compost rows as part of the treatment and compost making process.

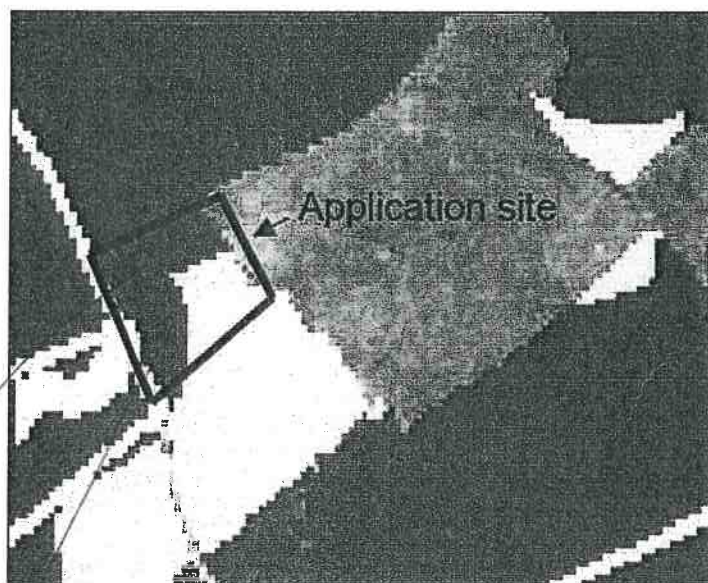
Proposed Feedlot:

The proposal also includes the development of a feedlot for the keeping of animals for commercial production on approximately 6000m² on Portion 6 of Farm Middelburg 10, Robertson. The planned stock levels under the canopy are 4500 lambs at any one time depending upon site and age.

The whole site is currently zoned as Agriculture 1. The site was previously ploughed and planted with pastures and used for grazing purposes. From time to time livestock is placed on the farm to finish it until it reaches slaughter weight. As such the site is completely transformed with no natural area remaining. Vast patches of bare soil are evident in site photographs and aerial images.

According to the Western Cape Biodiversity Spatial Plan 2017 the area identified for the Feedlot has not been identified as a CBA or ESA. However the area identified for the Compost facility has been identified as a Terrestrial CBA. This is however not consistent with the existing state of the site, which has been completely transformed as a result of past and existing activities.

According to information received from the Municipality, and according to the Provincial Rural Guidelines of May 2009, the application site falls within different Spatial Planning Categories:



- Green: Core 1 area: Critical biodiversity areas / no-go area to the north of the application site (Middelstekloof/River)
- Dark purple: Buffer 1 area: Remnants of natural or near natural vegetation: Extensive agriculture

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- Light purple: Buffer 2 Areas: Other natural areas, i.e. livestock production as dominant land use: Activities and uses directly to the primary agricultural enterprise, additional land uses to facilitate diversification and value adding e.g. local product processing, space extensive requirements such as nuisance and buffer requirements such as solid waste disposal sites, feedlots etc.
- Brown: Transformed area / Yellow: Cadastral boundaries (not correct)

The whole application site is already transformed and disturbed and is not consistent with the above.

According to the above guidelines, the compost plant is desirable in this location. Although the feedlot will be located in the area earmarked for "extensive agriculture", it is already disturbed land further than 32m away from the side of the water course and situated between the kraal and compost plant that are all interdependent.

The alignment of the ~~ESKOM~~ line across this area prohibits the feedlot to be located closer to the compost plant.

CHAPTER 2

This section of the report is included in compliance with Section 24N (2) (e) of the National Environmental Management Act 107 of 1998.

It deals with issues relating to the implementation of the EMP.

2.1 Organizational Structure

The organizational structure identifies and defines the responsibilities and authority of the various persons and organizations involved in the project. All instructions and official communications regarding environmental matters must follow the organizational structure.

The Environmental Official (EO), to whom the Engineer's Representative (ER) and/or Environmental Control Officer (ECO) must report and interact, must be the responsible client representative.

The EMP must be an agenda item at the monthly site and operations meetings and the responsible client representative(s) may attend these meetings in order to provide input with respect to compliance with the EMP.

2.2 Responsibilities and Functions of the Environmental Control Officer

The ECO will be responsible for monitoring, reviewing and verifying compliance with the EMP and/or EA by all contractors and site management during site visits.

The ECO duties in this regard will include the following:

With the assistance, where necessary of the ER, to ensure all necessary environmental authorizations and permits have been obtained and are available and visible on site at the ER offices.

- monitor and verify that the EMP and/or EA is adhered to at all times and by taking action if the specifications are not followed;
- monitor and verify that environmental impacts are kept to a minimum;
- review and approve construction method statements, with input as appropriate from the ER;
- assist the contractor in finding environmentally responsible solutions to problems;
- report on the environmental issues at the site meetings and other meetings that may be called regarding environmental matters, if requested by ER;
- inspect the site and surrounding areas regularly with regard to compliance with the EMP and/or EA;
- monitor the environmental awareness training for all personnel coming onto site;
- advise management on the removal of person(s) and/or equipment not complying with the specifications, after collaboration with the ER. Recommendations must be recorded by the ER in a Site Instruction Book;
- ensure that activities on site comply with known legislation of relevance to the environment;
- recommend the issuing of penalties via the developer for contraventions of the EMP and/or EA;
- keep a photographic record of progress on site from an environmental perspective; and
- undertake a continual internal review of the EMP and/or EA and submit a report to the developer and the responsible DEA&DP Environmental Official according to EA conditions.

2.3 Agreed Work Plan and Site Visit Schedule of ECO

After initial construction start-up site visit it is recommended that an ECO site visit be conducted once a month during construction.

Information recording activity on site, and any guidelines or instructions emanating from there will be routinely made available electronically to the developer and applicable contractors and a copy of the report must be available at the site office.

Clearly matters of urgency or immediate action may be channelled appropriately on an urgent basis.

2.4 Site Manager

The site manager will have the following environmental control responsibilities:

- In conjunction with the ECO will present the environmental education programs to all persons employed on site.
- Consult with the ECO, landowner, developer and any contractor to resolve all environmental issues.
- Issue any instructions from the ECO to the management team via a formal site instruction book or appropriate management tool used for the purpose.
- Take responsibility for the penalty system. The ECO and developer recommendations must be considered when deciding whether or not to impose a penalty.
- The engineer will, via the ECO actions, be accountable for the overall implementation of the Environmental Management Programme.
- Keep a site diary and complaints register.

2.5 Contractors

As part of any tender, the tendering contractor must submit a first draft of a contractor's programme, to the developer which must include the environmental considerations to be followed prior to appointment.

The appointed Contractor's representative will have the following responsibilities:

- Ensure that all staff is familiar with the Environmental Management Programme, which explains the environmental policy for the project.
- Allow for sufficient time between surveying the exact locations where services will be intended and actual construction, for the ECO to facilitate and instruct for the removal of plants, seeds and cuttings if necessary.
- The contractor must keep his personnel fully aware of environmental issues and ensure they show adequate consideration to all environmental aspects.
- Establish environmental signs to be erected on the construction site at locations identified by the ECO and approved by the engineer.
- Be responsible for the cost of the restoration of any damage caused, in environmentally sensitive areas, as a result of contractor responsibility regarding negligence. This must be done in accordance with the engineer / ECO's specifications.
- Take responsibility and active steps to avoid any increase in the fire hazard.
- The contractor must take responsibility for implementing all the relevant provisions of the EMP, or if he encounters difficulties with the specifications, he must discuss alternative approaches with the ECO and engineer prior to proceeding.

Failure to comply with the EMP may result in the application of fines as set out, and any reported non-compliance may result in the suspension of work or termination of a contract.

2.6 Record keeping of activities, inclusive of recording of non-compliances and corrective actions

The site must keep a record of all activities relating to environmental matters on site, including:

- meetings attended;
- method statements received and approved;
- issues arising on site;
- cases of non-compliance with the EMP;
- corrective actions taken and penalties issued.

This information will be recorded in an appropriate manner in a site diary, registers, issues/warning book, etc.

2.7 Compliance with other legislation

It is important that all on site staff are aware of other relevant legislation that may relate to the activities taking place on site, especially local authority required compliances.

CHAPTER 3

Applicable Legislation, Policy and Environmental Principles

3.1 Applicable Legislation Identified

1. ADVERTISING ON ROADS AND RIBBON DEVELOPMENT ACT, 21 OF 1940
2. BASIC CONDITIONS OF EMPLOYMENT ACT, 75 OF 1997
3. CAPE WINELANDS DISTRICT MUNICIPALITY: FIRE SAFETY BY-LAW
4. COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 130 OF 1993
5. CONSERVATION OF AGRICULTURAL RESOURCES ACT, 43 OF 1983
6. CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996
7. ENVIRONMENT CONSERVATION ACT, 73 OF 1989, WESTERN CAPE NOISE CONTROL REGULATIONS
8. EMPLOYMENT EQUITY ACT, 55 OF 1998
9. ENVIRONMENT CONSERVATION ACT, 73 OF 1989
10. FENCING ACT, 31 OF 1963
11. HAZARDOUS SUBSTANCES ACT, 15 OF 1973
12. LABOUR RELATIONS ACT, 66 OF 1995
13. LANGEBERG LOCAL MUNICIPALITY: BY-LAW ON THE KEEPING AND CONTROLLING OF DOGS
14. LANGEBERG LOCAL MUNICIPALITY: BY-LAW RELATING TO SEWERAGE AND SANITATION SERVICES
15. LANGEBERG LOCAL MUNICIPALITY: BY-LAW RELATING TO STREETS
16. LANGEBERG LOCAL MUNICIPALITY: BY-LAW RELATING TO THE KEEPING OF ANIMALS
17. LANGEBERG LOCAL MUNICIPALITY: BY-LAW RELATING TO WASTE WATER AND INDUSTRIAL EFFLUENT
18. LANGEBERG LOCAL MUNICIPALITY: ELECTRICITY SUPPLY BY-LAW
19. LANGEBERG LOCAL MUNICIPALITY: IRRIGATION WATER BY-LAW
20. LANGEBERG LOCAL MUNICIPALITY: WATER BY-LAW
21. NATIONAL HEALTH ACT 61 OF 2003
22. NATIONAL HEALTH ACT 61 OF 2003 REGULATIONS RELATING TO THE MANAGEMENT OF HUMAN REMAINS
23. NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT, 103 OF 1977
24. NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998
25. NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 39 OF 2004
26. NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 10 OF 2004
27. NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 59 OF 2008
28. NATIONAL FORESTS ACT, 84 OF 1998
29. NATIONAL HERITAGE RESOURCES ACT, 25 OF 1999
30. NATIONAL VELD AND FOREST FIRE ACT, 101 OF 1998
31. NATIONAL WATER ACT, 36 OF 1998
32. OCCUPATIONAL HEALTH AND SAFETY ACT, 85 OF 1993
33. TOBACCO PRODUCTS CONTROL ACT, 83 OF 1993
34. WATER SERVICES ACT, 108 OF 1997

CHAPTER 4

This section of the report is included in compliance with Section 24N (2) (e) of the National Environmental Management Act, 107 of 1998.

COMPLIANCE

4.1 Monitoring and Auditing

4.1.1 Introduction

In keeping with current environmental and associated legislation, all environmental management procedures and actions must be reviewed and refined on an ongoing basis.

This is in accordance with the dynamic nature of environmental management and allows for the timely identification and mitigation of issues as they come to light.

The process of review and refinement, built into the requirements of the EMP, is known as monitoring and auditing.

4.1.2. Roles and responsibilities

Efficient implementation of the performance specifications, effective monitoring and auditing, as well as clear responsibility and accountability allocation requires that various role-players be defined for the construction implementation project.

Depending on the nature and scale of a project, implementing teams could be composed of any number of role-players, each with their own specified responsibilities.

Therefore, for the purpose of this document, the following role-players are defined, based purely on responsibility and accountability allocation. The actual designation of role-players may vary, but the responsibilities will largely remain as stated.

4.1.2.1. Developer/landowner or custodian of the land

The developer/landowner or custodian of the land is the person or organization with decision making capacity for the land in question, and thus ultimately accountable for what takes place on that land.

4.1.2.2. Contractor

Contractors are appointed to undertake the works as specified in the contract. It is the responsibility of the contractor to do whatever is necessary from their side to ensure that he or an appointed advisor is well versed in environmental studies, so that they may accurately and efficiently carry out the requirements of the environmental specification.

The contractor is liable for any and all remedial work required in terms of the environmental specification, resulting from his environmental negligence, mismanagement and / or non-compliance.

4.1.2.3. Environmental Control Officer

An environmental control officer will manage and undertake monthly environmental inspections for the duration of the construction phase of the project as required.

The contractors or line management are answerable to the ECO for non-compliance. Issues of non-compliance raised by the ECO/EO must be taken up by the project manager, and resolved as per the conditions of his contract.

Decisions regarding environmental procedures, specifications and requirements which have a cost implication (i.e. those that are deemed to be a variation and not allowed for in the performance specification) must be endorsed by the project manager.

4.2 The Monitoring Procedure

Environmental monitoring is the continuous evaluation of the status and condition of environmental elements. Its purpose is to detect change that takes place in the environment over time and involves the measuring and recording of physical, social and economic variables associated with development impacts.

Many techniques for environmental monitoring have been proposed, each detailing a specific protocol. Regardless of which technique is used, the ultimate aim is that each environmental management specification be checked by means of a system in which a score may be allocated for:

- to state compliance,
- partial compliance and
- non-compliance

Completed monitoring reports will be submitted to the project engineer, developer/landowner and the contractor, who will attend to issues. These reports must be kept on file and be made available upon request by any environmental authority requesting such.

All persons employed, the contractor or his sub-contractors, must abide by the requirements of these performance specifications as they apply to the works. Any employees, the contractor or his sub-contractors found to be in breach of any of the environmental specifications, may be ordered to vacate the site forthwith and/or be subject to a disciplinary process.

The order may be given orally or in writing by the ECO. Confirmation of an oral order will be given as soon as practicable, but lack of confirmation in writing must not be a cause for the offender to remain on site, or not be subject to a disciplinary process. Supervisory staff, the contractor or his sub-contractor may not direct any person to undertake any activities which would place such person in contravention of the EMP, legislation and specifications.

The contractor and staff are deemed not to have complied with the performance specifications if:

- There is evidence of wilful or accidental contravention of any specification included in the specification;
- There is evidence of the contractor carrying out activities not permitted in terms of the EMP, contract and / or the specification;
- There is evidence of environmental negligence and / or mismanagement resulting in negative impacts on the environment;
- Has failed to meet with the requirements of the approved schedule.

The contractor and developer/landowner will be informed via ECO monthly reports, as well as by means of direct instruction (if necessary) as to what corrective actions are required in terms of environmental compliance.

Disregard for an instruction, and failure to respond adequately to complaints from the public will be construed as non-compliance. Non-compliance may lead to parties being penalised.

In more serious cases, the ECO may give notice, and halt operations until such a time that the corrective action is taken and the site complies with the performance specifications.

In cases of persistent non-compliance, the contractor or staff may be evicted from site after disciplinary process is followed. Only the developer/landowner may issue such instruction, retaining any costs required to remedy situations perpetuated by environmental negligence, mismanagement and / or non-compliance.

4.3 The Auditing Procedure

Environmental auditing is the process of comparing the impacts predicted with those which have actually occurred during implementation.

An environmental performance audit examines and assesses practices and procedures which, in the event of failure, would cause an environmental impact or result in an environmental risk. During each of the lifecycle phases, various issues will be monitored. The performance audit will ensure that the monitoring was correctly undertaken and that compliance was best achieved.

To these ends the project will be audited versus this EMP for effectiveness. ISO/SANS 19011:2011 auditing standards will be applied.

Audits will be undertaken at completion of the construction phases. Audit reports will be submitted to management, who will attend to all noted issues.

Construction activities must be audited by the ECO on a monthly basis against the relevant conditions of the Waste Management Licence with a summary thereof (i.e. indicating the partial and non-compliance and relevant mitigation measures) submitted to the Department on a monthly basis.

These reports must be kept on record and be made available upon request by the developer/landowner/custodian of the land and any environmental authority or I&AP requesting such.

4.4 Retentions and Penalties

It is recommended that a penalty retention system be combined with the penalty system to both motivate and compel the contractor to adhere to the EMP for the duration of the contract.

In this way incentives may be created to perform (i.e. in the form of the retention amounts that will only be paid to the contractor at the end of the contract), without creating the misunderstanding that adherence to the EMP is optional.

Persistent non-compliance will not only result in the contractor forfeiting any retention amount, but he will also be fined.

Of importance is that the contract specifies exactly how the penalty and retention system will operate, as well as how any funds resultant from retentions and penalties will be utilised.

All such funds must be used to improve environmental conditions on the site in general.

4.4.1. The Retention System

For this system, a percentage value for each of the sections priced for in the environmental bill of quantities is retained until the full completion of the contract works.

If the monitoring process reveals persistent and/or wilful non-compliance with any aspect of the environmental performance specifications, then the full retention associated with that particular item will be withheld.

The project may then apply these retained funds to rectify the problem on site possibly making use of other or alternate resources at his disposal.

At the end of the contract or action, all remaining environmental retention amounts will be paid out to the contractor or staff pending approval by the ECO, after having confirmed full compliance with the relevant performance and rehabilitation specifications.

4.4.2. Penalty System

A system of penalties will be introduced to reinforce environmentally sensitive and prudent behaviour. The maximum penalties that will be fined per incident that may be enforced are listed below. The penalty amount will be determined (inter alia) by the severity of the offence.

Non-compliance	R 5 000.00 (ex VAT) per non-compliant act, per day until compliance is achieved
Casual Litter on site resulting from operation	R250 / offence / day
Disposal of any litter or construction material in non-specified area or by non-compliant means	R5000 / m ³ / per day
Dumping of cement, concrete, fuel or oil in an area or other than that authorised and suitable	R10 000 per offence / day
Failure to use portable / toilets	R100 / observed incident or evidence of human excrement on site

In addition to the above, all costs incurred by the client / developer to remedy any damage will be the responsibility of the offender.

Should the monitoring process reveal acts of persistent and / or wilful non-compliance with the environmental performance specifications, then the contractor or staff member will be fined according to the specified value of that item.

4.5 Method Statements

Contractors must provide written statements for discussion with the ECO on environmentally sensitive aspects of the contract. Environmentally sensitive aspects include by example excavations, work close to sensitive areas, collection and storage of top soil and vegetation, erosion control, wash water control, waste control, etc.

CHAPTER 5

This section of the report is included in compliance with Section 24N (2) (e) of the National Environmental Management Act 107 of 1998.

5.1. Good Housekeeping

The developer/landowner will ensure the maintenance of "good housekeeping" practices during operations.

This will help avoid several disputes regarding responsibility and will allow for the smooth running of the operation as a whole.

Good housekeeping extends beyond the environmentally sensitive construction methods to include the care for and preservation of the surrounding environment.

5.2 Record Keeping

The developer/landowner will ensure that a filing system, identifying all documentation related to the EMP, is established.

A list of reports likely to be generated during the project is set out below.

All applicable documentation must be included in the environmental filing system catalogue or document retrieval index.

- Approved EMP, authorizations, licenses or permits;
- Final design documents and diagrams issued;
- All communications detailing changes of design/scope that may have environmental implications;
- Daily, weekly and monthly site monitoring reports;
- Complaints register;

- Environmental training manual;
- Environmental training attendance registers;
- Incident and accident reports;
- Emergency preparedness and response plans;
- Copies of all relevant environmental legislation;
- Permits and legal documents as part of emergency preparedness teams e.g. fire teams, etc.;
- Material data sheets of all chemicals utilised on site;
- Crisis communication manual;
- Disciplinary procedures;
- Monthly site meeting minutes during construction;
- All relevant permits;
- All method statements for all phases of the project;
- All Standard Operating Procedures developed for implementation during all phases of the project.

All registers and records should be kept on site and must be made available to the department on request.

5.3 Document Control

The developer/landowner will be responsible for establishing a procedure for document control.

The document control procedure must comply with the following requirements:

Documents must be identifiable by organisation, division, function, activity and contact person; Every document must identify the person and their positions, responsible for drafting and compiling the document, for reviewing and recommending approval, and final approval of the document for distribution;

All documents must be dated, provided with a version number and reference number, filed systematically, and retained for a specified period.

The owner will ensure that documents are periodically reviewed and revised where necessary, and that current versions are available at all locations where operations essential to the functioning of the EMP are performed. All documents will be made available to the external auditor.

5.4 Reporting Requirements

All advice and recommendations made by the ECO must with the project engineer/engineers compliance be recorded on site in the site instruction book/ suitable register for his attention.

All spills will need to be documented and reported to DWS and other relevant authorities.

CHAPTER 6

6.1. Public Communication Protocols

This section of the report is included in compliance with Section 24N (2) (e) of the National Environmental Management Act, 107 of 1998.

The developer/landowner must be responsible for regulating public access to information and compliance reporting.

The developer/landowner must respond to third party or public queries and complaints.

The developer/landowner must also be responsible for maintaining the compliance register to record complaints received and action taken. All complaints received by the facility must be documented.

CHAPTER 7

This section of the report is included in compliance with Section 24 N 2 (d - g) and 3 (a - b) of the National Environmental Management Act, 107 of 1998.

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Goal for Planning and Design (PD)

Overall Goal for Planning and Design: Undertake the planning and design phase of the compost facility and feedlot in a way that:

- Ensures that the design of the compost facility and feedlot responds to the identified environmental constraints and opportunities.
- Ensures that pre-construction activities are undertaken in accordance with all relevant legislative requirements.
- Ensures that adequate regard has been taken of any landowner concerns and that these are appropriately addressed through design and planning (where appropriate).
- Ensures that the best environmental options are selected for the project.
- Enables the feedlot construction activities to be undertaken without significant disruption to other land uses in the area.
- In order to meet this goal, the following objectives have been identified, together with necessary actions and monitoring requirements.

OBJECTIVE PD1: PRE-CONDITIONS

The following pre-conditions must be fully met before any construction activities commence.

A site meeting between the contractors and the representatives of the developer must take place at least 5 days prior to commencement of construction work to:

- Demarcate micro construction sites, services routes, access routes, working boundaries and no-go areas;
- Discuss methods of stockpiling (vegetation, topsoil, sub-soil, shell-grit, etc);
- Check required toilets and fire-fighting facilities to be in place;
- Discuss and agree restricted access to construction site;
- Sign the Declaration of Understanding (Contractors);
- Discuss and agree communication channels including contact details;
- Discuss and agree areas of responsibility;
- Discuss and agree the demarcation and control of construction and pipeline route.

Minutes of this site meeting must be kept, and are to be distributed to all parties.

The following equipment must be on every micro or sub site before any construction work is due to start:

- Sufficient and suitable chemical toilet facilities.
- Sufficient refuse bins, which are weather and wind proof, with proper lids.
- 1 x type ABC (all purpose) 12.5 kg fire extinguisher

This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE PD2: LAYOUT PLAN CONTROLS

The contractor must ensure that a copy of the signed approved layout plan is available at the office on site at all times for inspection by the developer or his representative(s). Any variation to the approved layout plan must be submitted to the developer for signed approval and may only be implemented once the approved variation is available to the contractor and available on site at the office. The variation of changes to the layout must be approved by the competent authority as per the EA conditions.

This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE PD3: ADVERTISING

The contractors may place no advertising material on the property unless prior formal written permission has been obtained from the landowner. Any advertising placed on the development site must comply with the relevant local authority legislation.

This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE PD4: ENSURE THE DESIGN AND LAYOUT RESPONDS TO THE IDENTIFIED ENVIRONMENTAL CONSTRAINTS AND OPPORTUNITIES

Project Component/s	Layout of storm water channels and collection dam; Position of feedlot; Laydown; Access.
Potential Impact	Design fails to respond optimally to the environmental consideration.
Activities/Risk Sources	Poor consideration of the natural landscape features.
Mitigation: Target/Objective	- Clearly demarcated laydown area and access roads. - Clearly demarcated no-go areas. - Clearly defined site development plan.

Mitigation: Action/Control	Responsibility	Timeframe
Plan and conduct pre-construction activities in an environmentally acceptable manner.	Developer	Pre-construction
Access roads to be carefully planned to minimise the impacted area and prevent unnecessary over compaction of soil.	Developer	Design phase
As far as possible, existing roads must be used.	Developer	Design phase
Clearly designed storm water cut-off channels and collection dams with alignment for storm water run-off from feedlot and composting site.	Developer	Design Phase
Develop a site specific waste management plan for the construction phase.	Developer	Pre-construction
The holder of an environmental authorisation has the responsibility to notify the competent authority of any alienation, transfer and, change of ownership rights in the property on which the activity is to take place.	Developer	Pre-construction
Fourteen (14) days written notice must be given to the Department that the activity will commence. The notification must include a date on which the activity will commence as well as the reference number.	Developer	Pre-construction
ECO to be appointed prior to the commencement of any authorised activities. Once appointed the name and contact details of the ECO must be submitted to the DEA&DP.	Developer	Pre-construction

Performance indicator	Design meets objectives and does not degrade the environment. Design responds to the mitigation measures and recommendations in the specialist studies and the BA report. Minimal impact on the surrounding land uses.
Monitoring	Ensure that the design implemented meets the objectives and mitigation measures in the specialist studies and BA report through review of the design by the Project Manager, Developer and the Contract or prior to the commencement of construction.

OBJECTIVE PD5: ENSURE EFFECTIVE COMMUNICATION MECHANISMS WITH THE VARIOUS STAKEHOLDERS

On-going communication with affected and surrounding landowners and key departments is important to maintain during the construction and operational phases of the development. Any issues and concerns raised should be addressed as far as possible in as short a timeframe as possible.

Project Component/s	Access roads; Damage to existing infrastructure or private property; Nuisance;
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	Congestion / obstruction of roads.
Potential Impact	Impacts on affected and surrounding landowners and land uses.
Activities/Risk Sources	Construction activities; Delivery of materials to site.
Mitigation: Target/Objective	Effective communication with affected and surrounding landowners; Addressing of any issues and concerns raised as far as possible in as short a timeframe as possible.

Mitigation: Action/Control	Responsibility	Timeframe
Compile and implement a grievance mechanism procedure for the public to be implemented during both the construction and operational phases of the facility. This procedure should include details of the contact person who will be receiving issues raised by interested and affected parties, and the process that will be followed to address issues.	Developer	Pre-construction, construction and operational phase
Performance indicator	Effective communication procedures in place.	
Monitoring	An incident must be reported in the site book and monitored by the ECO.	

CONSTRUCTION AND REHABILITATION PHASE CIVIL CONTRACTOR

Goal for Construction Phase

Overall Goal for Construction (C):

Undertake the construction the development infrastructure in a way that:

- ensures that construction activities are properly managed in respect of environmental aspects and impacts;
- enables construction activities to be undertaken without significant disruption to other land uses in the area, in particular concerning noise impacts, dust, farming practices, traffic and road use, and effects on local residents;
- minimises the impact on the surrounding area;
- minimises impacts on avifauna and other fauna using the site; and
- minimises the impact on the heritage and historical value of the site
- minimise possible health impacts.

Objectives

In order to meet this goal, the following objectives have been identified, together with the necessary actions and monitoring requirements.

OBJECTIVE C1: WORKING HOURS

Civil & Construction Sites	
Mondays to Fridays	06h00 – 19h00
Saturdays & Public Holidays	06h00 – 17h00

Project Component/s	Development site; Access roads.
Potential Impact	Surrounding landowners and residents are exposed to noise; potential traffic congestion; and dust generated from the development site.
Activities/Risk Sources	Nuisance.
Mitigation: Target/Objective	• Effective communication with affected and surrounding landowners; addressing of any issues and concerns raised as far as possible in as short a timeframe as possible. • Construction activities should be restricted to weekday working hours. • Machinery and vehicles should be regularly maintained to prevent excessive noise.

	• All machinery and work activities must adhere to the requirements of the noise regulations. • Implement dust suppression if and when required. • Ensure delivery vehicles do not cause obstructions or delays to other road users through effective scheduling.
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Mitigation: Action/Control	Responsibility	Timeframe
Contractors may only be present on the site during the public time hours.	Developer and contractor.	Construction phase.

Performance indicator	Effective communication and procedures in place.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C2: SAFETY

Project Component/s	Development site; Access roads; Adjacent landowners / users.
Potential Impact	Increased activity in the area may result in safety risks.
Activities/Risk Sources	The proposed development may result in an increase in crime levels.
Mitigation: Target/Objective	To protect all involved from incidents, injury or death.

Mitigation: Action/Control	Responsibility	Timeframe
Telephone numbers of emergency services, including the local fire-fighting services, must be posted conspicuously in the contractor's office and near the telephone. No firearms are permitted on the construction site, other than those authorised by the developer for the property security service provider if needed. Notices should be displayed at all public entrances to the property, warning visitors that they are entering a construction site.	Contractor	Construction phase

Performance indicator	Effective communication and procedures in place.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C3: TRAFFIC / CONGESTION

Project Component/s	Development site; Access roads; Adjacent landowners / users.
Potential Impact	The construction machinery will only have a traffic impact on delivery to, and collection from the development site and are therefore regarded as negligible.
Activities/Risk Sources	The minor increase in traffic volumes at certain times of day will add to the existing traffic volumes. Deterioration of existing road as a result of heavy use by construction vehicles.
Mitigation: Target/Objective	• Avoid peak traffic hours (07h00 – 08h00 and 17h00 – 18h00) as far as possible; • Implementation of strict traffic safety measures and speed limits for all construction / delivery vehicles; • Road condition be monitored and, if need be, repaired to its original condition should any damage occur as a result of the development.

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Mitigation: Action/Control	Responsibility	Timeframe
Implementation of strict traffic safety measures and speed limits for all construction / delivery vehicles. For security and safety reasons the speed limit on the property for all contractors' vehicles is 30 km per hour. The contractor is responsible for ensuring that all his employees, sub-contractors and delivery vehicles adhere to this rule.	Contractor	Construction phase

Performance indicator	Effective communication and procedures in place.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C4: CONTRACTOR'S CAMP

Project Component/s	Laydown area; Access roads.
Potential Impact	Degradation of the natural environment inside/outside of the laydown area.
Activities/Risk Sources	Setting up and operation of the contractor's camp.
Mitigation: Target/Objective	Construction camp must be neatly fenced and construction site must be neat and tidy.

Mitigation: Action/Control	Responsibility	Timeframe
The contractor's camp will be indicated by and to landowner management and the ECO on the site. The final location of the contractor's camp will be authorized by the ECO and landowner.	Developer / Contractor	Construction phase

Performance indicator	ECO in conjunction with the landowner will approve construction camp area.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C5: DEGRADATION / LOSS OF NATURALLY OCCURRING / INDIGENOUS FLORA AND HABITATS

Project Component/s	Loss of sensitive biodiversity areas.
Potential Impact	According to the Western Cape Biodiversity Spatial Plan 2017 the area identified for the Feedlot has not been identified as a CBA or ESA. However the area identified for the Compost facility has been identified as a Terrestrial CBA. This is however not consistent with the existing state of the site, which has been completely transformed as a result of past and existing activities. A non-perennial river is situated on the northern edge of the proposed site. This river is a tributary of the Vink River. The closest point from the development to the river bank is approximately 44m and the widest 109m. In terms of its EIS, the potentially affected reach of the river was rated to be of low/marginal EIS for biotic criteria, but with a low level of confidence due to the absence of biotic data, and of moderate EIS for habitat criteria. The overall EIS rating for the potentially affected reach of the river was that this system is of low-to-moderate ecological importance and sensitivity. Despite the low-to-moderate EIS of the river, it is important to bear in mind that this river forms an important ecological corridor and is a major tributary of the Vink River, which is ecologically important to the Breede River. In addition, the floodplain

	along the river has been recognised as an Aquatic CBA in the WCBPF and the C.A.P.E. Fine Scale Planning initiative for the Upper Breede Valley. This elevates the conservation importance of the river corridor and implies that it should be protected from any further degradation. Pollution of the river system due to the possible risk of contaminated storm water from the feedlot and compost facilities entering the river systems generally result in significant impacts and degradation of the freshwater ecological system and functioning.
Activities/Risk Sources	Loss or degradation of sensitive biodiversity and habitats adjacent to the site.
Mitigation: Target/Objective	Undertake construction activities only in identified and specifically demarcated areas.

Mitigation: Action/Control	Responsibility	Timeframe
Clear demarcation of sensitive and no-go areas prior to the commencement of construction activities.	Contractor	Construction phase
Ensure that disturbance is restricted to the development footprint as defined in the approved site development plan.		

Performance indicator	Construction activities limited to development areas. All possible introduction and spreading of alien invasive plant species are controlled.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C6: WASTE MANAGEMENT

Project Component/s	Development site.
Potential Impact	General construction waste will be generated during the construction phase. Poor waste management practices on site may lead to dumping and windblown litter creating a negative visual impact and nuisance for adjacent landowners / users as well as impacting the natural environment.
Activities/Risk Sources	- Dumping; - Windblown litter causing nuisance; - Pollution / degradation of the natural environment.
Mitigation: Target/Objective	- All waste generated, that is not recycled or re-used, on site shall be collected and disposed of at a registered landfill facility; - All safe disposal certificates and waste manifests from service providers to be kept and maintained; - All staff to receive training on correct waste management practices.

Mitigation: Action/Control	Responsibility	Timeframe
- A contractor appointed by the developer and engineer shall be tasked to ensure that waste management on site is conducted in accordance with NEMWA and applicable Regulations. - No on-site burying, dumping or stockpiling of any weeds and aliens or invasive species shall occur. Such should be removed from the site to a suitable dumping site from which seed cannot escape. - The disposal of waste should be considered as a last resort after having considered the re-use and recycling of waste during the construction phase. - Waste minimisation should be implemented, such as	Contractor	Construction phase

the avoidance, reduction, re-use and recycling of waste during construction, before considering the disposal of such waste.		
Performance indicator	Waste management conducted in accordance with NEMWA and applicable Regulations. Adherence to the National Norms and Standards for the Storage of Waste in terms of Government Notice (GN) No. 926 of 29 November 2013.	
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.	

OBJECTIVE C7: ARCHAEOLOGY AND PALAEOLOGY MANAGEMENT

Project Component/s	Development site.
Potential Impact	The loss of cultural or heritage resources.
Activities/Risk Sources	Destruction of cultural-historical features at the site will contribute to the loss of such features in the general area due to other non-related activities. This can at all times be mitigated to prevent/ minimise the loss of such features.
Mitigation: Target/Objective	To protect and mitigate the potential loss of cultural and heritage resources.

Mitigation: Action/Control	Responsibility	Timeframe
Should any heritage or fossil remains be exposed during any excavation or related activities, these must immediately be reported to the provincial heritage resource authority of the Western Cape, Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No.25 of 1999) via the ECO. Heritage remains uncovered or disturbed during earthworks must not be disturbed until inspection and verified by the professional.	Contractor	Construction phase

Performance indicator	Protection of heritage resources.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C8: VISUAL IMPACTS

Project Component/s	Development site.
Potential Impact	Temporary change in the aesthetic landscape.
Activities/Risk Sources	The construction activities for the proposed development will have a temporary visual impact on the landscape, due to the presence of construction machinery and laydown camp. Unsightly construction camp/s and activities on construction site.
Mitigation: Target/Objective	Proposed construction activities must be limited to development footprint site. Construction camp must be neatly fenced and construction site must be neat and tidy.

Mitigation: Action/Control	Responsibility	Timeframe
Construction material will be stored at the contractor's camp, as well as on the construction site within the demarcated working areas at each construction point. Special permission may be obtained from the ECO/ER to store material on suitable substitute or ancillary locations should the need arise, and as communicated by the project engineer.	Contractor	Construction phase

Performance indicator	To minimise the impact visual on the surrounding landowner / users.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C9: FIRES

Project Component/s	Development site; Laydown / contractors camp.
Potential Impact	Uncontrolled fire on/off site, resulting in damage to the environment, property, injuries/death to personnel on site, or injuries/death to the public.
Activities/Risk Sources	Activities associated with facility construction / contractors camp.
Mitigation: Target/Objective	To protect and mitigate the safety of people, property, and the environment on and off site.

Mitigation: Action/Control	Responsibility	Timeframe
No open fires will be allowed on site and adequate fire fighting equipment should be available on site in good working order at all times as prescribed by the fire management protocols.	Contractor	Construction phase

Performance indicator	No fire occurred to damage the surrounding environment and land uses and management actions are in place should a fire occur.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C10: AN EFFECTIVE MONITORING SYSTEM TO DETECT ANY LEAKAGE OR SPILLAGE OF ALL HAZARDOUS SUBSTANCES DURING THEIR TRANSPORT, HANDLING USAGE AND STORAGE. THIS MUST INCLUDE PRECAUTIONARY MEASURES TO LIMIT THE POSSIBILITY OF OIL AND OTHER TOXIC LIQUIDS FROM ENTERING THE SOIL OR STORM WATER SYSTEMS

Project Component/s	Development site; Access roads.
Potential Impact	Contamination of soil, storm water and ground water resources by hazardous substances.
Activities/Risk Sources	The handling, storage and use of hazardous substances.
Mitigation: Target/Objective	Prevention and mitigation of the environment contaminated as a result of exposure to hazardous substances.

Mitigation: Action/Control	Responsibility	Timeframe
The EA holder, Land Owner, Site Environmental Officer and Environmental Control officer will do daily, weekly and monthly inspections and report and monitor compliance with the management actions included in the EMPr and EA conditions. These monitoring and reporting requirements are recorded in several sections of the EMPr. Monitoring will focus on signs of spillages and procedures during handling and storage of dangerous goods as described in the EMPr. The section on storage and handling of dangerous goods in the EMPr will be enforced.	Contractor	Construction phase

Performance indicator	Impacts on hydrological features minimized and mitigated
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C11: DIESEL FUEL AND LUBRICANT HANDLING PROGRAMME

Project Component/s	Development site; Access roads.
Potential Impact	Contamination of soil, storm and ground water resources as a result of an oil/diesel/lubricant spill/leak.
Activities/Risk Sources	Activities associated with site construction; Activities associated with site operation.
Mitigation: Target/Objective	To protect and mitigate impacts of contaminants on the environment and hydrological features.

Mitigation: Action/Control	Responsibility	Timeframe
Servicing of construction vehicles and machinery to take place of site. All vehicles must be in a good condition with no leakages leading to possible contamination of soil or water supplies. The following conditions related to the temporary fuel tanks must be implemented: The fuel tanks must be designed and installed in accordance with relevant Oil Industry standards and SANS codes where applicable for the aboveground storage tanks. The tanks must be located within a bund (110 % of the tanks capacity) in order to contain potential spills. During fuel tanker delivery, the tanker driver must be present at all times during product offloading. Should an incident occur the supply vehicle emergency cut-off switch must be activated to immediately stop fuel delivery. Flexible hoses with dry-break couplings and emergency isolation must be used. All spillage incidences and actions taken consequent thereto must be reported to the ECO and recorded in the site register. All fuel and flammable liquids should be stored under secure and fenced conditions and in a bunded site with the volume of the bunding capable of holding 110% of the liquid. The applicant must ensure that effective stock inventory monitoring and regular auditing take place for the early identification of possible leaks. The requirements of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), must be adhered to. Within three months of the tanks ceasing to be used the tanks must be removed at the expense of the applicant, and the site, including all associated infrastructure must be rehabilitated to the satisfaction of the relevant authority. Refuelling: Refuelling of equipment must be conducted from the bunded fuel tank and pump at the contractor's camp. Fuel tanks must be bunded and supplied with a concrete apron. The concreted refuelling apron will be constructed with a drain along its extremities to collect any diesel contaminated run-off and channel it to the oil trap where separated oil will be collected and disposed of in the oil recycling container and process. Any spills on the concrete apron or floor below the tank are to be treated with OT8 or Spillsolve or equivalent as per the product instructions. A 500 litre drawn trailer to convey diesel to the equipment for re-fuelling may also be used. Such trailer will be drawn by a	Contractor	Construction phase

specified vehicle and driver, with alternate nominated as approved by the Project Engineer. Such tow vehicle may travel at 20kms per hour maximum at any time, be clearly identifiable as such, and may only tow the diesel cart should the pre requisite drip trays and emergency equipment be on the vehicle at the time. In situ refuelling activity may only take place during a standard specified daily time slot as displayed in the construction office, unless specific per day permission has been given to refuel at any other time by the ECO. This must be pre-recorded in the site record book. Staff will require instruction in the identification of diesel and oil leaks and the use of Spillsolve (or equivalent) products. On-Site emergency repairs: Only small mobile plant and emergency repairs are to take place on site. These will require the provision of drip trays and funnels to ensure that no oil or fuel leakages occur onto the ground. Should such spill take place, then the oil saturated soil is to be placed in suitable containers and disposed of at a hazardous waste disposal site. Any contamination of soil is to be treated with Spillsolve or similar product. Contaminated water as a result of an oil or fuel spillage on the area should similarly be treated in appropriate way, and the polluted water should not be specifically removed and not allowed to merge with run-off water collected in the trap collecting all run offs from the slab. Collection of contaminated spares and waste oils: Contaminated spares, oil filters, gaskets, water, etc. will be collected in separate holders at the designated storage facility for disposal at a licensed H:h site. Staff will require instruction in: • Deleterious effects of oil / fuel on the environment • Identification of oil leaks • Handling of oil / fuel leaks into soil • Location and method in storage of contaminated spares • Fire prevention and emergency drills in case of an accident		
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Performance indicator	Ensure that no spillages occur and if it does occur that it is handled and cleaned up accordingly.
Monitoring	This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C12: APPROPRIATE HANDLING AND STORAGE OF CHEMICALS, HAZARDOUS SUBSTANCES AND WASTE (WASTE MANAGEMENT PLAN)

The construction phase may involve the storage and handling of a variety of chemicals including adhesives, abrasives, oils and lubricants, paints and solvents. The main wastes expected to be generated by the construction of the pipeline will include will include predominantly general solid waste in minimal amounts and potentially liquid waste, which may include hazardous waste.

Project Component/s	Access roads; Construction camp / Laydown area; Storage areas..
Potential Impact	• Release of contaminated water from contact with spilled chemicals. • Generation of contaminated wastes from used chemical containers. • Inefficient use of resources resulting in excessive waste generation. • Litter or contamination of the site or water through poor waste management practices.

	• Pollution of water and soil resources.
Activities/Risk Sources	• Vehicles associated with site preparation and earthworks. • Packaging and other construction wastes. • Hydrocarbon use and storage. • Spoil material from excavation, earthworks and site preparation.
Mitigation: Target/Objective	• To ensure that the storage and handling of chemicals and hydrocarbons on-site does not cause pollution to the environment or harm to persons. • To ensure that the storage and maintenance of machinery on-site does not cause pollution of the environment or harm to persons. • To comply with waste management guidelines. • To minimise production of waste. • To ensure appropriate waste storage and disposal. • To avoid environmental harm from waste disposal.

Mitigation: Action/Control	Responsibility	Timeframe
• Implement a site specific waste management plan during the construction phase. • Spill kits must be made available on-site for the clean-up of spills and leaks of contaminants. • Corrective action must be undertaken immediately if a complaint is received, or potential/actual leak or spill of polluting substance identified. This includes stopping the contaminant from further escaping, cleaning up the affected environment as much as practically possible and implementing preventive measures. • Implement an effective monitoring system to detect any leakage or spillage of all hazardous substances during their transportation, handling, use and storage. This must include precautionary measures to limit the possibility of oil and other toxic liquids from entering the soil or storm water systems. • Leakage of fuels must be avoided at all times and if spillage occurs, it must be remediated immediately. • In the event of a major spill or leak of contaminants, the relevant administering authority must be immediately notified as per the notification of emergencies/incidents. • Spilled cement, fly ash and concrete must be cleaned up as soon as possible and disposed of at a suitably licensed waste disposal site. • Any contaminated/polluted soil removed from the site must be disposed of at a licensed hazardous waste disposal facility. • All stored fuels to be maintained within a sealed bund and on a sealed surface. The bund must be at least 110% of the volume of the total containers. • Adjacent fuelling areas situated around fuel tanks must be provided with an impervious layer or drip trays must be used during refuelling. • Areas around fuel tanks must be appropriately bunded or contained in an appropriate manner as per the requirements of SABS 089:1999 Part 1. • Fuel storage areas must be inspected regularly to ensure bund stability, integrity, and function. • Oily water from bunds at the substations must be removed from site by licensed contractors. • The storage of flammable and combustible liquids	Contractor	Construction phase

such as oils will be in designated areas which are appropriately banded, and stored in compliance with MSDS files. • Any storage and disposal permits/approvals which may be required must be obtained, and the conditions attached to such permits and approvals will be compiled with and copies kept on site in the environmental file. • Transport of all hazardous substances must be in accordance with the relevant legislation and regulations. • Construction sub-contractors must provide specific detailed waste management plans to deal with all waste streams. • Specific areas must be designated on-site for the temporary management of various waste streams, i.e. general refuse, construction waste (wood and metal scrap) and contaminated waste as required. Location of such areas must seek to minimise the potential for impact on the surrounding environment, including prevention of contaminated runoff, seepage and vermin control. • Where practically possible, construction and general wastes on-site must be reused or recycled. Bins and skips must be available on-site for collection, separation, and storage of waste streams (such as wood, metals, general refuse etc.). • Disposal of waste must be in accordance with relevant legislative requirements, including the use of licensed contractors and disposal at appropriately licensed waste disposal sites. • Hydrocarbon waste must be contained and stored in sealed containers within an appropriately banded area. • Waste and surplus dangerous goods must be kept to a minimum and must be transported by approved waste transporters to sites designated for their disposal and copies of the safe disposal slips must be kept in the environment file on site. • Documentation (waste manifest) must be maintained detailing the quantity, nature, and fate of any regulated waste. Waste disposal records must be available for review at any time. • An incident/complaints register must be established and maintained on-site. • The sediment control and water quality structures used on-site must be monitored and maintained in a fully operational state at all times. • An integrated waste management approach that is based on waste minimisation must be used and must incorporate reduction, recycling, re-use and disposal where appropriate • Upon the completion of construction, the area must be cleared of potentially polluting materials. • Dispose of all solid waste collected at an appropriately registered waste disposal site. Waste disposal shall be in accordance with all relevant legislation and under no circumstances may waste be burnt on site. • Where a registered waste site is not available close to		
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the construction site, provide a method statement with regard to waste management.		
The storage of waste must comply with the National Environmental Management: Waste Act, (Act No. 59 of 2008) National Norms and Standards for Storage of Waste, 2013.		

Performance indicator	- Limited chemical spills outside of designated storage areas; - No water or soil contamination by spills; - No complaints received regarding waste on site or indiscriminate dumping; - Internal site audits ensuring that waste segregation, recycling and reuse is occurring appropriately; - Provision of all appropriate waste manifests for all waste streams.
Monitoring	- Observation and supervision of chemical storage and handling practices and vehicle maintenance throughout construction phase; - A complaints register must be maintained, in which any complaints from the community will be logged; - Observation and supervision of waste management practices throughout construction phase; - Waste collection will be monitored on a regular basis; - Waste documentation completed; - A complaints register will be maintained, in which any complaints from the community will be logged; - Complaints will be investigated and, if appropriate, acted upon; - An incident reporting system will be used to record non-conformances to the EMP; This will be monitored by the ECO during site visits and recorded, reported and proof included in the audit report to be submitted once construction is completed.

OBJECTIVE C13: EFFECTIVE MANAGEMENT OF CONCRETE BATCHING AREA

Project Component/s	Concrete batching area.
Potential Impact	- Dust emissions. - Release of contaminated water, pollution of ground water resources. - Ground, soil pollution. - Generation of contaminated wastes from used chemical containers. - Inefficient use of resources resulting in excessive waste generation.
Activities/Risk Sources	- Operation of the batching area. - Packaging and other construction wastes. - Hydrocarbon use and storage. - Spoil material from excavation, earthworks and site preparation.
Mitigation: Target/Objective	To ensure that the operation of the batching area does not cause pollution to the environment or harm to persons.

Mitigation: Action/Control	Responsibility	Timeframe
- Concrete batching areas to be sited such that impacts on the environment or the amenity of the local community from noise, odour or polluting emissions are minimised; - Access and exit routes for heavy transport vehicles should be planned to minimise noise and dust impacts on the environment; - The concrete batching area should demonstrate good maintenance practices, including regular sweeping to	Contractor	Construction phase

	Developer or appointed ECO must monitor indicators listed above to ensure that they have been met for the construction phase.
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OBJECTIVE C14: DUST MANAGEMENT

Project Component/s	General construction activities; Concrete batching area; Transport of materials to and from sites.
Potential Impact	Create a nuisance to property owners / users adjacent to the development.
Activities/Risk Sources	Windblown dust from stockpiles, excavated or cleared areas, and which vehicles may be entrained may affect property owners / users adjacent to the development.
Mitigation: Target/Objective	- Dust suppression by wetting / covering stockpiles; - Limit vehicle speeds for all vehicles.

Mitigation: Action/Control	Responsibility	Timeframe
- Dust suppression by wetting / covering stockpiles; - Limit vehicle speeds for all vehicles. - Ensure compliance with the provisions as set out in the National Environmental Management: Air Quality Act (NEM: AQA), National Dust Control Regulations (Notice 827 of 2013).	Contractor	Construction phase

Performance indicator	No complaints regarding dust.
Monitoring	A complaints register will be maintained, in which any complaints from the community will be logged. Complaints will be investigated and, if appropriate, acted upon. A complaints register will be maintained, in which any complaints from the community will be logged. Complaints will be investigated and, if appropriate, acted upon. Developer or appointed ECO must monitor indicators listed above to ensure that they have been met for the construction phase.

OBJECTIVE C15: NOISE CONTROL

Project Component/s	General construction activities; Concrete batching area; Transport of materials to and from sites.
Potential Impact	Create a nuisance to property owners / users adjacent to the development.
Activities/Risk Sources	Noise from construction vehicles and machinery during construction.
Mitigation: Target/Objective	Ensure construction vehicles and machinery operates in compliance with the Western Cape Noise Control Regulations (P.N. 200/2013).

Mitigation: Action/Control	Responsibility	Timeframe
- Construction and deliveries may only be conducted during working hours as defined in C1 above. - Ensure compliance with the provisions as set out in the Western Cape Noise Control Regulations (P.N. 200/2013).	Contractor	Construction phase

Performance indicator	No complaints regarding dust.
Monitoring	A complaints register will be maintained, in which any complaints from the community will be logged. Complaints will be investigated and, if appropriate, acted upon. A complaints register will be maintained, in which any complaints from the community will be logged. Complaints will be investigated and, if appropriate, acted upon.

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	appropriate, acted upon.
	Developer or appointed ECO must monitor indicators listed above to ensure that they have been met for the construction phase.
OPERATIONAL PHASE	

This following section defines the management programme for each of the identified goals during the operational phase. The programme is presented in the form of a table, which includes the components described. This programme consists of the following components:

Goals

Over-arching environmental goals for the management phase.

Objectives

The objectives are in place in order to meet these goals. These take into account the findings from existing studies and monitoring programmes.

Management Actions

The actions needed to achieve the objectives, taking into consideration factors such as responsibility, methods, frequency, resources required and prioritisation.

Monitoring

Key actions to verify that objectives are being achieved, taking into consideration responsibility, frequency, methods, and reporting.

Criteria/ Targets

The criteria or targets indicate the efficacy of the management programme. The targets should be readily measurable, understandable to the layperson, cost-effective to monitor, and meet legal requirements.

Remedial Actions

Specifies actions needed to be taken if the targets are not met; or if there is an unforeseen event.

Goals

The following are specified goals:

- Goal 1: Storm water management
- Goal 2: Waste Management
- Goal 3: Noise
- Goal 4: Flies
- Goal 5: Odour
- Goal 6: Pesticides
- Goal 7: Trucks
- Goal 8: Site Hygiene
- Goal 9: Monitoring and Control
- Goal 10: Safety Measures and Emergency Procedures
- Goal 11: Employment / Security
- Goal 12: Water Pollution
- Goal 13: Human / Wildlife Interactions

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Goal 1: Storm Water Management

(*)

As referred to in letter from Unisa dated 2 Oct 2018

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Ensure effective storm water management on site.	Infrastructure failure, Pollution into the receiving environment, offensive odours and health risks.	1. Regular inspection and maintenance of storm water cut-off channels; 2. Infrastructure failure reported or identified to be fixed as a priority.	Internal audit of the facility to ensure compliance with relevant legislation.	Storm water management plan in place and implemented.	- If pollution is detected as a result of infrastructure failure immediate action must be taken to contain the pollution. - Within 24hours of detection the ECO must be informed of the incident, where after ECO will conduct a site visit and recommend further rehabilitation methods to be implemented. - Depending on the type and extent of pollution that occurred specialists may be contacted to provide specific recommendations. - An incident report to be compiled and sent to the municipal and relevant governmental authorities. - In the event of a pollution event / incident the Municipality should inform and provide awareness to surrounding property owners / users.

Goal 2: Waste Management

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Waste management practices on site are compliant in terms of relevant legislation.	Poor waste management can result in the following: Nuisance; Windblown litter; Pollution of the receiving environment.	The disposal of waste should be considered as a last resort after having considered the re-use and recycling of waste during the construction phase. Waste minimisation should be implemented, such as the avoidance, reduction, re-use and recycling of waste during operation, before considering the disposal of such waste. All recyclable waste to be composted.	Internal audit of the facility to ensure compliance in terms of relevant legislation. Adherence to the National Norms and Standards for the Storage of Waste in terms of Government Notice (GN) No. 926 of 29 November 2013, if the volumes of waste stored exceeds 80m ³ for hazardous waste and/or 100m ³ for general waste.	On-site waste management procedure for non-recyclable waste for employees is in place and implemented.	- If pollution is detected as a result of infrastructure failure immediate action must be taken to contain the pollution. - Within 24hours of detection the ECO must be informed of the incident, where after ECO will conduct a site visit and recommend further rehabilitation methods to be implemented. - Depending on the type and extent of pollution that occurred specialists may be contacted to provide specific recommendations. - An incident report to be compiled and sent to the municipal and relevant governmental authorities. - In the event of a pollution event / incident the Municipality should inform and provide awareness to surrounding property owners / users.
		The composting area and waste storage area shall be operated in such a manner that no health hazard or nuisance conditions occur, such as noise, odour, vectors and windblown litter. No waste from infectious animals, including blood from infectious animals may be used for composting at the Facility.	Compost facility to be operated in accordance with the <i>Draft National Standards for Organic Waste Composting</i> (Notice 68 of 2014). <i>Waste Minimisation Guideline for Municipalities, 2015 (DEADP:WC).</i>		

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		Development and implementation of an on-site waste management plan. All other waste to be collected in sealed bins and removed to a licenced waste disposal facility weekly or as soon as the bins are full. Provide employees with sound waste management training.		
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Goal 3: Noise

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Noise generated during the operation of the composting facility and feedlot to be maintained.	Nuisance - A compost turner, front loader and tractor on site will contribute to noise, but are all agricultural related implements that are associated with buffer areas.	Ensure that noise generated by machinery used during the general operation of the compost facility and feedlot is in accordance with the Western Cape Noise Control Regulations (P.N. 200/2013).	Internal audit to ensure compliance with the Western Cape Noise Control Regulations (P.N. 200/2013), SOPs and other applicable legislation.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

Goal 4: Flies

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
To mitigate and control the attraction of excessive flies as a result of the compost facility and feedlot.	Nuisance Pests Health risks	- All by-products are covered immediately on delivery which reduces the numbers of flies to a large extent. - The composting process will control the spread of diseases through correct management of temperature and pH. No larva/eggs/worms/bacteri a can live in the desirable 55°C within the windrows. - The rows are covered with dry kraal manure from the feedlot that reduce the smell, prevent the attraction of flies and are not favourable for flies to lay eggs as it is too dry and warm for them. - In addition, the rows are also treated with chemicals such as Neoprene from Coopers which is aimed at killing the eggs and larvae of the flies. Baycidal and Temprid from Bayer are also used to kill the flies and larvae. Quik Bayt is dry crystals which attracts and kills flies on	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems experienced / complaints received will be recorded in a complaints register and addressed when required.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

Goal 6: Pesticides

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
The windrows are treated with chemicals such as Neoprene from Coopers which is aimed at killing the eggs and larvae of the flies. Baycidal and Temprid from Bayer are also used to kill the flies and larvae. Quik Bayt is dry crystals which attracts and kills flies on contact and are placed at several points around the site.	Water contamination Health risk	Pesticide application near rivers, wetlands and other fresh water resources should be minimised and applicable types of pesticides (non-persistent) should be applied. The following procedures will assist in the environmentally safe use of pesticides and chemicals: - Pesticide containers should be stored in a weather-proof and fire resistant building that is maintained in good condition. Pesticide containers should be stored on an impermeable base; - A sump to contain and decant spills during pesticide preparation would be fortuitous; - Unused pesticide and contaminated disposable equipment should be disposed of correctly to ensure reduce risk of environmental contamination; - Empty pesticide containers should not be burned or buried as it could be a risk to human	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems / complaints received will be recorded in a complaints register and addressed when required.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

		❖ DR 1384 (tar road) between the R60 and the lime quarry carries many and much heavier trucks to and from the quarry to the lime industry adjacent to the R60; ❖ The lime factory/industry itself creates much noise and dust from their 20/25 ton trucks alongside the R60; and ❖ DR 1377 (gravel road) between Rooiberg Cellar and Nuy carries many trucks from wine farmers, sheep/cattle farmers, and a brewery on a daily basis. • The two gates to the application site were placed approximately 20m inside the boundary of the application site to prevent any obstructions by trucks in road DR 1377.	200/2013).		
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Goal 8: Site Hygiene

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Site hygiene at the composting facility and feedlot to be maintained.	Nuisance Offensive odours Pests Health risk	Development and implementation of Standard Operating Procedures (SOPs) to mitigate negative impacts resulting from poor site hygiene. See SOPs and SAFAM-CPs in Appendix 1 of this report.	Internal audit to ensure compliance with SOPs and applicable legislation.	SOPs developed, implemented and regularly updated.	• Development and implementation of SOPs to mitigate negative impacts; • Opening of a complaints register and addressing and investigating reported complaints; • Monitoring and recording of processes to ensure consistency.

Goal 9: Monitoring and Control

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Monitoring and control of processes at the facility to ensure that activities do not cause negative impacts.	Nuisance Offensive odours Pests Health risk	Development and implementation of Standard Operating Procedures (SOPs) to mitigate negative impacts resulting from processes at the facility. See SOPs and SAFAM-CPs in Appendix 1 of this report.	Internal audit to ensure compliance with SOPs and applicable legislation.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

Goal 10: Safety Measures and Emergency Procedures

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Ensure that emergency protocol has been developed and is in place for the composting facility and feedlot.	Fire; Disaster; Pollution; Death; Loss of Infrastructure.	Development and implementation of emergency procedures and plans to ensure the safety of employees, business.	Internal audit to ensure compliance with procedures and applicable legislation.	Procedures developed, implemented and regularly updated.	Development and implementation of Emergency Procedures in line with applicable legislation and standards.

Goal 11: Employment / Security

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Ensuring the safety of workers and adjacent landowners.	Crime.	- The application site has two controlled access gates and no unauthorized persons are allowed on site. A site access register will be kept on site. - Fencing around the facility ensures that no unwanted	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems /	Procedures developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

		- animals enter the site. - Security lights will improve the security at the feedlot during the evenings. - The facility will employ seven permanent workers (two at compost facility, four at feedlot and remaining farm and one Site/Farm manager) that will maintain and secure the facilities.	complaints received will be recorded in a complaints register and addressed when required.		
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Goal 12: Water Pollution

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Ensuring that surface, ground water resources, and soil is not contaminated through run-off or leachate.	Pollution; Loss of resources; Habitat destruction.	The soil study indicated that the high clay content of the site will prevent any nutrient contained leaching into the soil. The site also flows towards the required run off collection dams. The windrows are more than 235m from the side of the Middelsteekloof River. In the light of the results generated through the application of the WRC Buffer Tool (Macfarlane <i>et al.</i> 2014) to the drainage line within the proposed impacted	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems experienced / complaints received will be recorded in a complaints register and addressed when required.	SOPs developed, implemented and regularly updated.	- If pollution is detected as a result of infrastructure failure immediate action must be taken to contain the pollution. - Within 24 hours of detection the ECO must be informed of the incident, where after ECO will conduct a site visit and recommend further rehabilitation methods to be implemented. - Depending on the type and extent of pollution that occurred specialists may be contacted to provide

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Goal 13: Human / Wildlife Interactions

		area, the retention of a buffer area of at least 32m in width along the sides of the drainage line is considered to be adequate if the above-mentioned mitigation measures for reducing risk as a result of the operational phase are implemented.		- specific recommendations. - An incident report to be compiled and sent to the municipal and relevant governmental authorities. - In the event of a pollution event / incident the Municipality should inform and provide awareness to surrounding property owners / users.
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Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
Monitoring and control of potential human/wildlife interactions resulting from the attraction of wild animals to the facility.	Nuisance; Destruction of property; Safety.	- Prevent access by erecting a wall or sturdy fence. - Place wildlife-proof refuse bins and manage refuse in a responsible manner. - Never feed wild animals. - Management actions for specific problem animals can be found in Capenature's LANDOWNERS GUIDE: HUMAN-WILDLIFE CONFLICT: Sensible solutions to living with wildlife - Develop and implement a wildlife identification sheet to establish problem animals. - Educate employees in responding to wildlife on the premises.	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems experienced / complaints received will be recorded in a complaints register and addressed when required.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts. - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

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CHAPTER 8

ENVIRONMENTAL REPORTING

In order to ensure that the necessary environmental issues are adequately addressed and recorded, the following environmental reporting shall be undertaken:

- Incident reporting; and
- Compliance reporting

See below for a template of an Incident Report to serve as a guideline for the recording and addressing of emergency incidents as and when they occur.

ENVIRONMENTAL INCIDENT REPORT

DATE:	File Ref:
NAME:	Copy to:
EXACT LOCATION OF INCIDENT:	

SECTION 1 : DESCRIPTION OF INCIDENT

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SECTION 2 : REMEDIAL ACTION REQUIRED

Remedial Action Due Date: _____ Date: _____
Confirmation of implementation: Name: _____

SECTION 3 : RELEVANT DOCUMENTATION

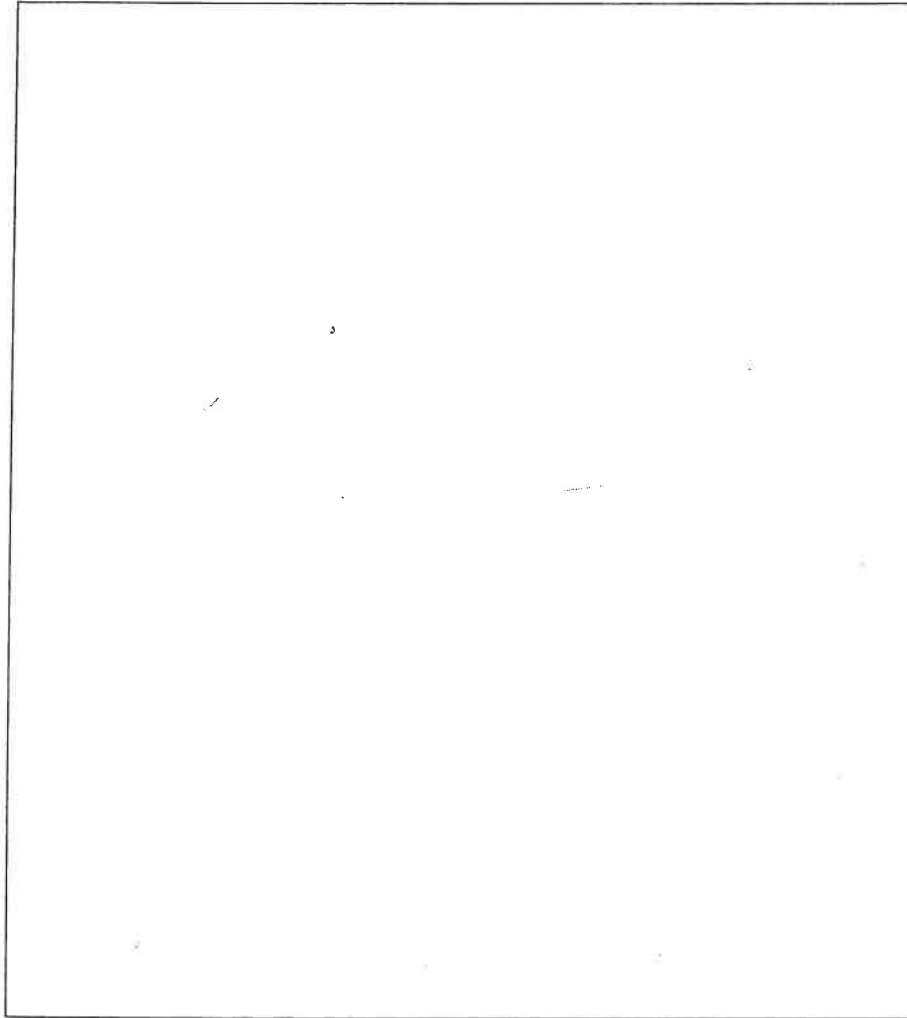
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SECTION 4 : SIGNATURES

Municipal Engineer:	
Name:	
Date:	
ECO:	
Name:	
Date:	

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SECTION 5: DRAWING/SKETCH



CHAPTER 9

DECOMMISSIONING PHASE

As the final phase in the project cycle, decommissioning may present positive environmental opportunities associated with the return of the land for alternative use and the cessation of impacts associated with operational activities. However, depending on the nature of the operational activity, the need to manage risks and potential residual impacts may remain well after operations have ceased.

The decommissioning phase EMP provides specific guidance with respect to the management of the environmental risks associated with the decommissioning stage of a project.

Closure and decommissioning impacts are likely to be similar to the construction phase impacts. The management actions and control under the construction phase EMP need to be implemented to mitigate the negative impacts on the environment and to restore the property to its natural state.

A decommissioning phase is where a structure is removed or otherwise modified to make it incapable for re-use for the original design purpose.

The results of environmental monitoring during the decommissioning phase will be used to assess the impact of the decommissioning on the surrounding environment and demonstrate compliance with regulatory requirements.

The actual scope of the decommissioning environmental monitoring will be established following consultation with the regulatory authorities. The format of decommission management strategy will probably be similar to that of earlier development phases and consist of the following:

- Management Principles
 - Develop monitoring procedures in accordance with standard protocols and the requirements of the environmental legislation.
 - Undertake environmental monitoring during the decommissioning phase as shown below.

Environmental monitoring during the decommission phase will include terrestrial flora rehabilitation monitoring.

CHAPTER 10

REHABILITATION SPECIFICATIONS AND SITE CLEAN-UP

The contractors must ensure that all temporary structures, equipment, materials and facilities used or created on site for, or during construction activities, are removed once the project has been completed. The construction sites must be cleared, and cleaned to the satisfaction of the developer.

Stabilisation and rehabilitation must take place immediately after construction operations have been completed. No vehicles or unauthorised personnel must be allowed onto areas that have been rehabilitated.

The areas impacted during construction must be stabilised and shaped according to the natural surrounding contours. If topsoil was removed during construction the topsoil must be used to stabilise the impacted areas.

The impacted areas must be re-vegetated with indigenous vegetation species within 3 months after completion of construction activities. Rehabilitated areas must be irrigated if required.

If erosion occurred the ECO must be informed immediately who will then recommend erosion mitigation measures to be implemented.

Alien vegetation monitoring of the rehabilitated areas and surrounds must be conducted on an annual basis and if alien vegetation is detected the ECO must be informed immediately who will then recommend eradication methods.

CHAPTER 11

ENVIRONMENTAL AWARENESS INDUCTION COURSE MATERIAL

This section of the report is included in compliance with Section 24N (3) (c) of the National Environmental Management Act 107 of 1998.

WHAT IS THE ENVIRONMENT?

- Soil
- Water
- Plants
- People
- Animals
- Air we breathe

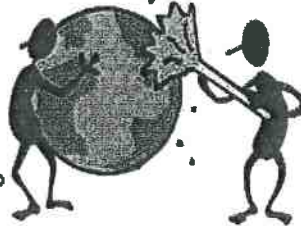


WHY MUST WE LOOK AFTER THE ENVIRONMENT?

- It affects us all as well as future generations
- We have a right to a healthy environment
- A Policy and System will be signed

HOW DO WE LOOK AFTER THE ENVIRONMENT?

- Report problems to your supervisor/ foreman
- Team work
- Follow the rules in the EMP



WORKING AREAS

Workers & equipment must stay inside the site boundaries at all times



RIVERS & STREAMS

- Do not swim in or drink from streams
- Do not throw oil, petrol, diesel, concrete or rubbish in the stream
- Do not work in the stream without direct instruction
- Do not damage the banks or vegetation of the stream



ANIMALS

- Do not injure or kill any animals on the site
- Ask your supervisor or Contract's Manager to remove animals found on site



TREES AND FLOWERS

- Do not damage or cut down any trees or plants without permission
- Do not pick flowers



SMOKING AND FIRE

- Put cigarette butts in a rubbish bin
- Do not smoke near gas, paints or petrol
- Do not light any fires without permission
- Know the positions of fire fighting equipment
- Report all fires
- Do not burn rubbish or vegetation without permission



PETROL, OIL AND DIESEL

- Work with petrol, oil & diesel in marked areas
- Report any petrol, oil & diesel leaks or spills to your supervisor
- Use a drip tray under vehicles & machinery
- Empty drip trays after rain & throw away where instructed



DUST

Try to avoid producing dust



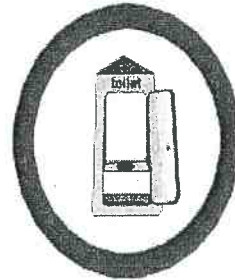
NOISE

- Do not make loud noises around the site, especially near schools and homes
- Report or repair noisy vehicles



TOILETS

- Use the toilets provided
- Report full or leaking toilets



EATING

- Only eat in demarcated eating areas
- Never eat near a river or stream
- Put packaging & leftover food into rubbish bins



RUBBISH

- Do not litter - put all rubbish (especially cement bags) into the bins provided
- Report full bins to your supervisor
- The responsible person should empty bins regularly



TRUCKS AND DRIVING

- Always keep to the speed limit
- Drivers - check & report leaks and vehicles that belch smoke
- Ensure loads are secure & do not spill



EMERGENCY PHONE NUMBERS

Know all the emergency phone numbers:

- Ambulance:
- Fire:
- Police: 10111



FINES AND PENALTIES

- Spot fines of between R20 and R2000
- Your company may be fined
- Removal from site
- Construction may be stopped



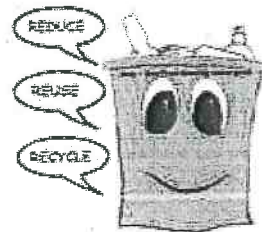
PROBLEMS - WHAT TO DO!

- Report any breaks, floods, fires, leaks and injuries to your supervisor
- Ask questions!



WASTE MANAGEMENT

- Waste minimization
- Reduce, reuse, recycle
- Separation at source



[illegible]

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CHAPTER 12

COMPLIANCE WITH THE ENVIRONMENTAL AUTHORISATION

All conditions of the Environmental Authorisation must be adhered to onsite during the construction-, operational-, decommissioning- and rehabilitation phases of the proposed project. A copy of the Environmental Authorisation must be available on site together with the EMP and all contractors on site must sign the Declaration of Understanding as proof of awareness and understanding of all the conditions to be adhered to on site in terms of the EA and EMP.

CHAPTER 13

UPDATING/ADAPTING THE EMP

Although care has been taken to address all known relevant environmental issues for the development, it will become necessary to add or amend certain procedures or instructions to improve the efficiency of the EMP. Only those additions to, or amendments of, this EMP that will either improve environmental protection or can be proven not to have any negative effects would be considered to be included, and any amendments to the EMP must first be approved by the ECO and competent authority/ies i.e. DEA&DP.

REFERENCES

City of Cape Town (2002) Environmental Management Programme (Version 5) for Civil Engineering Construction Activities.

DEA&DP: Environmental Management Programme. Version 5 (04/2002). Guideline Document for the ECO / ESO and the ER

Department of Water Affairs and Forestry, February 2005. Environmental Best Practice Specifications: Construction Integrated Environmental Management Sub-Series No. IEMS 1.6. Third Edition. Pretoria.

LANDOWNER'S GUIDE: HUMAN-WILDLIFE CONFLICT: Sensible solutions to living with wildlife. CapeNature

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APPENDIX 1

	SAFAM – ROBERTSON COMPOST Flow Diagram		
Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	4 th May 2017
Document Number:	SOP 1	Revision Number:	02

Objective: This document describes the process for converting abattoir by-products into compost using a flow diagram to illustrate the key steps.

Scope: The flow diagram will show the process from start to finish including the abattoir by-products used along with the use of other 'raw materials' used during the composting process. This does not cover condemned infectious materials. A separate protocol will be drawn up for this.

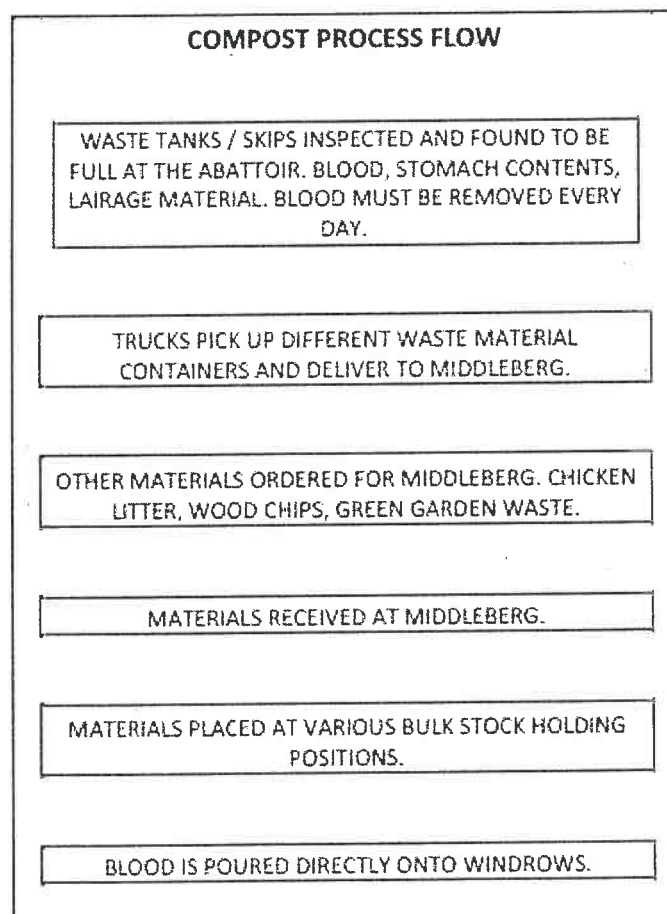
Responsibility: Composting Manager

Summary: Abattoir means SAFAM Robertson Abattoir, Wolhuter Street. Abattoir by-products include all non-infectious materials originating from slaughter processes other than the hides, red and green offal, heads and feet and carcasses. Namely blood, stomach contents, lairage manure and inspection trimmings NFHC (Not Fit for Human Consumption). The composting site is known as Middleburg Farm, which lies approx. 12km from Robertson on the R60. Other materials used will be chicken litter, straw, wood chips from known sources. The compost will be sold in bulk as general compost without any specific claims. There is no intention to bag.

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		SAFAM – ROBERTSON COMPOST Flow Diagram	
Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	4 th May 2017
Document Number:	SOP 1	Revision Number:	02



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SAFAM – ROBERTSON COMPOST Flow Diagram

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	4 th May 2017
Document Number:	SOP 1	Revision Number:	02

VARIOUS RAW MATERIALS FROM BULK ARE PLACED INTO WINDROWS ACCORDING TO 'RECIPE' FOR COMPOST.

WINDROWS ARE TESTED FOR TEMPERATURE, PH, AND MOISTURE CONTENT.

WINDROWS ARE TURNED ACCORDING TO THE TESTS CARRIED OUT.

WINDROWS ASSESSED AS BEING FINISHED / MATURE COMPOST.

FINISHED COMPOST MOVED TO FINISHED PRODUCT COLLECTION DISPATCH AREA. SAMPLES OF FINISHED COMPOST MAY BE COLLECTED AND SENT FOR ANALYSIS.

EMPTY WINDROW IS INSPECTED AND PREPARED FOR NEXT AMOUNT OF COMPOSTABLE MATERIAL.

FINISHED COMPOST IS COLLECTED AND DISPATCHED AS REQUIRED.

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		SAFAM – ROBERTSON COMPOST – By-Product Removal	
Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 2	Revision Number:	02

Objective: This document describes the process to be followed for the removal of the by-products from the abattoir to the composting site.

Scope: This SOP covers the removal of all non-infectious by-products from the abattoir to the composting site. The recording of volumes, and other relevant data. How it is to be removed. The recording of the volumes as received at the composting site. This does not cover the receipt of other composting materials from other sources.

Responsibility: Abattoir Quality Manager

Summary: It is necessary to log all relevant data in terms of by-product removal in order to demonstrate that it has been taken to the correct compost site at Middleburg and therefore 'disposed of' or 'removed' from the abattoir in a responsible manner, which complies with the relevant regulations.

Dates, times, by-product type, volumes, vehicle used, driver details and destination need to be recorded.

Authorised individuals can only sign removal documentation: Abattoir Quality Manager, Abattoir General Manager, Security Guard, Group COO, or Group CEO.

Authorised individuals can only sign for receipt documentation at the composting site: Composting Manager, Composting Supervisor, Feedlot / Farm Manager, Abattoir General Manager, Group COO, Group CEO.

Only full loads to be removed from the abattoir, except for blood which must be removed on a daily basis.

Records must be kept on file for a minimum of 5 years.

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SAFAM – ROBERTSON COMPOST – By-Product Removal

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 2	Revision Number:	02

SOP2 : REMOVAL AND DELIVERY OF BY-PRODUCTS

1. All waste receptacles must be inspected on a daily basis to determine their fill level and if they need to be removed.
2. Only full receptacles to be removed from the abattoir to reduce fuel costs and also to maintain ease of logging of volumes produced and removed. Except Blood.
3. All receptacles to contain / hold a known amount of by-product material. (This can be determined during the first full loads created, via use of a weigh bridge).
4. Capacities must be displayed on the various receptacles in cubic metres and Kg.
5. All information for this process step must be recorded on Form: SAFAM-CP1 Abattoir By-Product Removal to Composting Site Log.
6. Daily inspections by Abattoir Management Team show that the waste receptacles are full and need to be emptied.
7. Driver is informed to bring truck and load by-products onto truck. Blood will be required to be pumped from abattoir collection tank into the dedicated 'honey-sucker'.
8. Driver fills in SAFAM-CP1 with Date, Time, Vehicle Registration, and Amount and gets the form signed by an authorised individual.
9. Driver takes the full load of by-product directly to Middleburg without any deviations along the route.
10. Upon arrival at Middleburg the vehicles arrival time is logged on the same form (SAFAM-CP1) along with the amount.
11. The authorised individual present then signs for this.
12. The driver then empties / places the by-product in the location at the composting site as instructed.
13. Before leaving the abattoir the composting site must be phoned in order to get the tractor and turner or front loader reader for delivery.
14. All abattoir waste / by-products must be placed on and then covered with suitable dry material immediately upon being delivered. This is to prevent / reduce the smell on site and attraction of flies and other pests. Suitable dry material is wood chips, straw, green (chipped) plant waste, dry manure. Blood must be allowed to settle into a windrow for 1 hour and then turned in.
15. If the delivery is placed on an already formed windrow, the amount and type of material must be logged on form SAFAM-CP2

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		SAFAM – ROBERTSON COMPOST – Site Hygiene	
Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 3	Revision Number:	02

Objective: This document describes the process and standards to be followed at the composting site to ensure correct site hygiene is maintained.

Scope: This SOP covers the hygiene standards at the composting site only. It does not cover the hygiene levels for other functions at the Middleburg Farm. It does not cover the hygiene of the vehicles used to transport the materials from the abattoir to the site.

Responsibility: Compost Site Manager.

Summary: Due to the nature of the materials the site will be processing via the composting route it is essential that correct site hygiene management is maintained. The nature of the materials, which makes them ideal for composting also has the potential to cause hygiene and environmental issues if not handled correctly.

All of the by-products will have a high protein and water content and be of animal origin. If not handled properly unacceptable smells and pest levels (flies) could be generated. The site must be kept as clean as possible within the context of manufacturing compost.

It has been established on site during the set up phase that all windrows and bulk piles may attract flies if they contain wet, animal by-products that are only covered with the course wood chips. The dry fine kraal manure must be used where ever possible to cover / encase the windrows bulk piles. This has been shown to help reduce odours and fly numbers.

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		SAFAM – ROBERTSON COMPOST – Site Hygiene	
Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 3	Revision Number:	02

STANDARD OPERATING PROCEDURE SOP3: SITE HYGIENE

1. THE SITE MUST BE PREPARED FOR ALL DELIVERIES OF ABATTOIR WASTE SPECIFIC TO THAT KIND OF BY-PRODUCT RECEIVED.
2. No abattoir by product may be placed directly onto the ground. The high liquid content in the by-product, and the high clay content in the land on site will cause the liquid to run off. This will attract flies and generate a smell. The loss of this moisture will also increase the need to spray water onto the compost piles.
3. The site must be prepared to receive a delivery before it arrives. For blood, the windrows it is to be added to must be prepared to receive by forming a channel on top. This channel must stop at least 5m before the end of the windrow to provide a backstop for the blood.
4. The blood must be covered and turned within the hour.
5. The ground must be prepared by laying down a bed of woodchips between 20cm and 30cm deep. The wood chips must be in a clearly demarcated area.
6. Each area must be identifiable and records kept for what has been placed in it.
7. A separate area must be set aside for whole condemned carcasses, as these will need to be covered and undisturbed for up to 3months.
8. All by products must be covered immediately once the truck has left the area. With the exception of blood, which must be covered or turned within the hour.
9. Any debris, which falls onto the floor or misses the wood chips when being deposited must be removed manually with a shovel (or front loader), placed on the wood chips and covered.
10. The surrounding area between the bulk piles must be free of all debris, including wood chips.
11. There must always be an area with a woodchip base ready for a delivery.
12. The site manager must inspect the site for hygiene issues and standards at least 3 times per day and record it on form SAFAM-CP3



SAFAM – ROBERTSON COMPOST - pH & Temp Recording

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 4	Revision Number:	02

Objective: This document describes the process and method to be used when testing the compost windrows for pH and Temperatures.

Scope: This SOP covers the testing of critical process parameters of the windrows and bulk storage areas, especially the whole carcass bulk composting area. Only areas that contain abattoir by-products and are being composted need to be tested for pH. All bulk areas, windrows, wood chip storage must be tested for temperature to safe guard against a fire risk.

Responsibility: Compost Site Manager.

Summary: Composting is a natural process of converting by-products or organic waste materials into a usable compost material. It is done via utilising the natural bacteria, which carries out a similar process to fermentation and breaks down the material into its component parts. This process can only operate within relatively tight environmental conditions. The critical conditions are Temperature, pH, moisture and available oxygen. This SOP details how to record the measurable aspects of pH, Temperature and Moisture Levels.

Oxygen is not measured directly but can be estimated via temperature and moisture as well as particle size of the compost. Turning the windrow when indications show that it has dropped can easily increase oxygen.

Compost rows must never reach 70 degrees centigrade for an extended time as this is an indication that there is a risk of fire. If temperatures reach 60 degrees the rows must be wetted down and turned IMMEDIATELY, unless they are being heat treated to ensure the compost does not contain viable plant seeds and the pathogen levels are reduced.



SAFAM – ROBERTSON COMPOST - pH & Temp Recording

Compiled By: DA Houghton	COO	Compilation Date:	December 2016
Approved By: H De Bod	CEO	Last Revision Date:	5 th May 2017
Document Number:	SOP 4	Revision Number:	02

STANDARD OPERATING PROCEDURE SOP4: pH and Temperature Testing and Recording

Temperature Monitoring

1. ALL BULK COMPOSTING AREAS AND ALL WINDROWS MUST BE TESTED DAILY, until a standard cycle is established. For instance the temperature changes can be established for each windrow depending upon its phase and whether materials have been recently added and then turned.
2. Each bulk area and windrow must be tested in several places in order to get an accurate picture of the composting process. For windrows test 5 metres from each end, and one test in the middle, along the length. The probe must be inserted into the centre of the windrow in terms of height and width. For bulk areas test from each side, again into the centre of the pile.
3. All temperatures must be recorded on form SAFAM-CP2.
4. If temperatures reach 60 degrees centigrade the rows must be wetted and turned immediately. (Unless being Heat Treated). The windrows should take approximately 3 days to reach 60 degrees if the composition is optimal.
5. If the bulk areas reach 60 degrees centigrade they must be wetted and turned with the front loader.
6. The ideal temperature range for compost is between 45 and 60 degrees centigrade. The temperatures in this range are an indication that the process is working as it is the bacteria that are generating the heat. These temperatures cannot be reached if the moisture, oxygen, C:N ratio and pH levels are not in their optimum ranges. If these temperatures are maintained for 2 to 3 days they also ensure any fly larvae are killed.

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	SAFAM – ROBERTSON COMPOST - pH & Temp Recording	
Compiled By: DA Houghton	COO	Compilation Date: December 2016
Approved By: H De Bod	CEO	Last Revision Date: 5 th May 2017
Document Number:	SOP 4	Revision Number: 02

pH Monitoring

1. It is not critical to monitor pH if the temperatures are within the above desired range. However, if the temperatures are not reached indicating the bacteria are not active, the cause may be a drop in pH due to a poor composting matrix with either too much moisture or incorrect C:N ratio.
2. Only test for pH if the composting process is not proceeding at the expected pace.

Moisture Monitoring

1. The composting process requires water, but in the right amounts. This is dependent upon the oxygen levels, porosity and structure of the windrows. As the windrows break down in terms of particle size the management of moisture levels becomes more critical, as too much moisture can compact the compost and reduce the availability of oxygen.
2. To test for the correct moisture levels, take a handful / sample of the compost from the middle (inside) of the windrow and squeeze it in the hand. If the compost forms a loose ball that breaks open easily then the moisture level is the correct region. If the ball holds its shape then there is too much moisture and the windrow needs to be turned, or dry material added.
3. If the compost does not form a ball then the compost may be too dry, but this also depends on the overall particle size / structure of the compost.

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ABATTOIR WASTE REMOVAL RECORD
SKIP TRUCK ROBERTSON TO MIDDLEBURG

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Skip Truck logsheet				Truck Registration Number:							
	Date	Product Removed	Bin Number	Time out Abattoir	Time in Compost	Driver Name	Driver Signature	Compost Site Person's name	Compost Site Person's Signature	Abattoir Person's name	Abattoir Person's Signature
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20											
21											
22											
23											

NOTES:

COMPILED BY: JACO DU PLESSIS
APPROVED BY: DAVID HOUGHTON

REVISION DATE: 31/03/2017

DOC No: SAFAM CP1
VERSION:2A

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ABATTOIR BLOOD REMOVAL RECORD
HONEY SUCKER ROBERTSON TO MIDDLEBURG

Truck Registration Number:

	Date	Amount of Blood	Time out Abattoir	Time in Compost	Driver Name	Driver Signature	Compost Site Person's name	Compost Site Person's Signature	Abattoir Person's name	Abattoir Person's Signature
1										
2										
3										
4										
5										
6										
7										
8										
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21										
22										
23										
NOTES:										

COMPILED BY: JACO DU PLESSIS
APPROVED BY: DAVID HOUGHTON

REVISION DATE: 31/03/2017

DOC No: SAFAM CP1
VERSION :2B

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COMPOST SITE HYGIENE RECORD

WEEK COMMENCING MONDAY:

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT/SUN
START						
NOTES:						
MIDDAY						
NOTES:						
END						
NOTES:						
ACTIONS TAKEN:						

COMPILED BY: DA HOUGHTON
AUTHORISED BY: DA HOUGHTON

13/06/2017

Doc : SAFAM - CP3
VERSION 1

159.

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FLY TREATMENT RECORD - COMPOST CP5

[illegible]

COMPILED BY: DA HOUGHTON
APPROVED BY: DA HOUGHTON

13/05/2017

Doc: SAFAM - CP5
version 1

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Robertson Farm Assured Meat

Robertson

November 2015

Hennie de Bod

ROBERTSON FARM ASSURED MEAT

PLANNED COMPOSTING PLANT FOR THE RESPONSIBLE DISPOSAL OF ABATTOIR BY-PRODUCTS THROUGH COMPOSTING PROCESS INTO A PRODUCT FOR BENEFICIAL USE

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Addendum A: Environmental Management plan (to be added)

Addendum B: Soil Analysis

Addendum C: Soil classification report by ReSalt

1. Objectives

The overlaying objective of the planned composting facility is to manage 'by-products' that form as a result of the slaughtering processes within the abattoir, in a responsible and sustainable manner in order for the abattoir to have minimal effect on the surrounding environments that could possibly be effected in a negative manner through these 'by-products'. The objective is also to create a product from these 'by-products' which is re-usable in a beneficial and responsible manner.

2. Type of 'by-products'

- Manure (Minimal from abattoir, mainly from feedlot on the same property)
- Blood
- 'Pensmis'
- Rejected Carcasses (minimal)
- 'Dermis'

3. Current Disposal of Abattoir 'by-products'

The 'by-products' as mentioned are currently disposed of as follow:

- Manure: Sold and collected by farmer that utilizes the manure for composting on their own farm
- Blood: Removed by the Local Municipality
- 'Pensmis': Removed by the Local Municipality
- Rejected carcasses
- 'Dermis'

4. Future disposal

The future removal of the abattoir 'by-products' will be done by the abattoir themselves. The 'by-products' will be gathered on the abattoir property in the industrial area of the town of Robertson, as it is currently done. The 'by-products' will then be transported on a daily basis to the composting facility which is 15 km outside of Robertson, on route between Robertson and Worcester (refer to google map on pg.)

Here the 'by-products' will be stored and composted according to the composting process as is set out by a registered agriculturist. This will ensure that the manner in which the compost is made is done in the correct way in order to minimise any negative impacts, the best product is produced and that the product is utilised on the same property in a responsible way. In the instance that the volumes that are composted increases the compost will be sold to neighbouring farmers, etc.

5. Composting facility

5.1 Site Details

The Composting facility will be situated on the farm, Middelburg that is situated 18 km outside of the town of Robertson, off the R 62 towards Worcester.

The co-ordinates for the farm is S33 43 49.3 E019 44 33.5 and the maximum area available for the composting facility is 2.5 Ha. However, about 1 ha is needed for the processing of about 10 ton raw material per day.

The site is more than 100 m away from any water resources, and the slight slope from the feeding lot and the composting facility that will collect any run-off water into a collection dam is in an opposite slope direction from the water resource.

The slope of the site is less than 3%.

There is easy access to the farm via a dirt road with the composting facility and feeding lot situated adjacent to the road on the farm. There are no nearby residential areas. There is only a single farmhouse across the road, situated about 1 km from the barrier fence of the farm.

5.2 Soil study

5.2.1 Soil classification

AVS conducted a soil study to establish the type of soils underlying the area that is to be used for the composting facility and the feeding lot. The main purpose is to establish any physical barriers within the soil profile, the soil texture and soil structure. As these soil characteristics will provide an indication of the way the drainage system for the composting facility and feeding lot will have to be implemented. The correct implementation of drainage will ensure that the infiltration of run-off water from the composting facility and feeding lot into the underlying soils does not occur.

The chemical analysis of the soils was also analysed and studied to determine the agricultural potential of the soils. We wanted to ensure that soils with good agricultural potential were not used for the composting facility and feeding lot, but rather soils with poor potential.

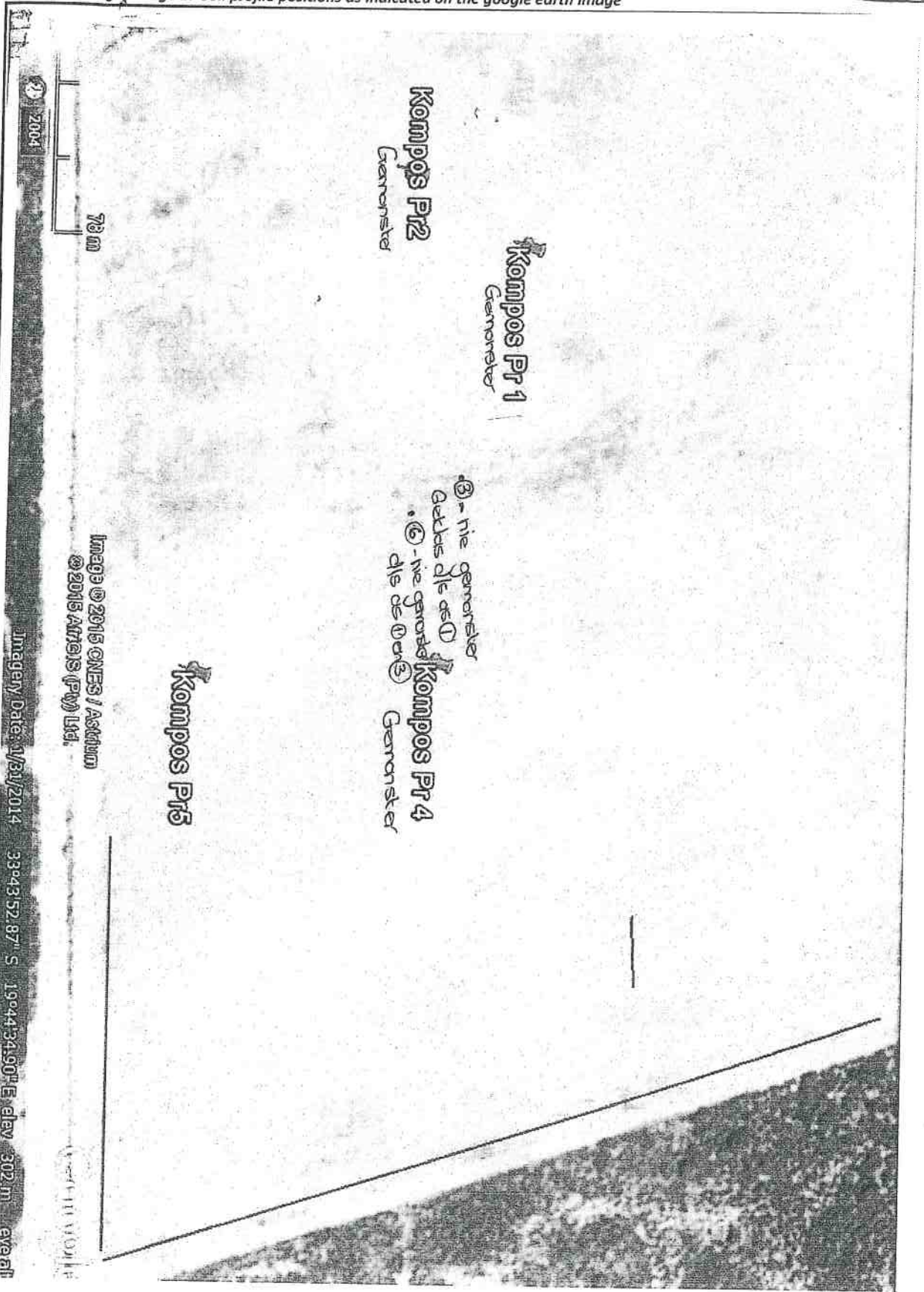
Three profile pits were examined. The slope of the composting and feeding lot area is less than 5%. The profile pits were dug about 200 cm deep.

Table 5-1: Position of the soil samples taken (WGS 84 format) – indicated on google image 1 (below)

Description	Latitude/Longitude	Altitude (HASL)
Soil 1	S33 43 49.3 E019 44 33.5	297 m
Soil 2	S33 43 49.2 E019 44 32.1	298 m
Soil 4	S33 43 53.0 E019 44 34.7	296 m
Soil 5	S33 43 54.0 E019 44 32.5	290 m

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Google Image 1: Soil profile positions as indicated on the google earth image



Soil 1 and Soil 4 were described as Brandvlei soils, i.e. a 15 cm deep Orthic A horizon that overlies a 15-90 cm deep Soft Carbonate horizon. Soil 2 and Soil 5 were described as Shorlands soils, i.e. a 15 cm deep Orthic A horizon that overlies a 15-40 cm deep Red Structured B horizon. The total profile depth was 200 cm for all the soils. The soils 1 - 4 have more than 25% clay in the B-horizon.

Photo 1: Soil 1 and 4

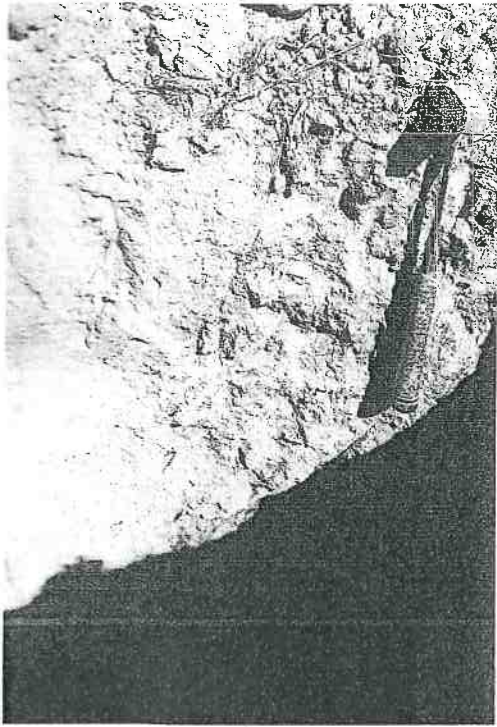
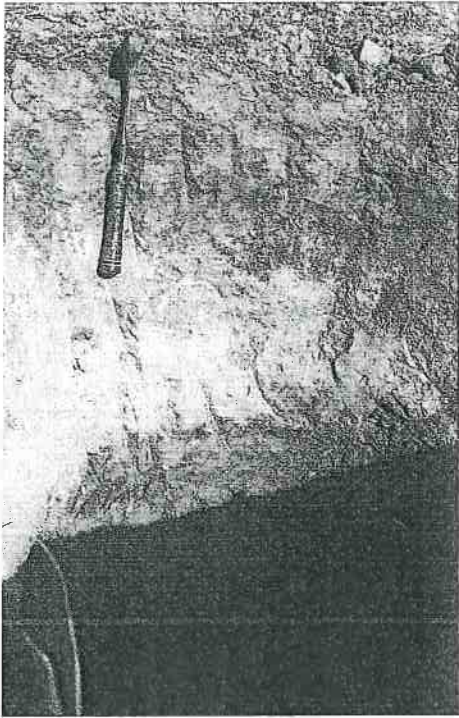


Photo 2: Soil 2 and 5



5.2.2 Soil Analysis

The soils were sampled for chemical analyses at various depths as specified in the tables below. Bemlab conducted the chemical analyses summarised in Tables 5-2 to 5-5. Soil analysis from the Bemlab attached.

Table 5-2: Soil 1 (Feeding lot area – planned)

Soil depth (cm)	Soil texture	pH (KCl)	Resistance (ohm)	Vol. % stone	P (Olsen) (mg/kg)	P (Bray II) (mg/kg)	K (mg/kg)	Exchangeable Cations (cmol/kg)			
								Na	K	Ca	Mg
0 - 15	Clay	7.2	110	1	9	27	187	2.66	0.48	6.10	2.04
15 - 90	Clay	7.8	60	1	1	14	184	5.57	0.47	15.03	5.44

Soil depth (cm)	Micro-elements (mg/kg)				Fe mg/kg	Carbon (%)	Soluble S mg/kg
	Cu	Zn	Mn	B			
0 - 15	2.4	2.7	282.2	0.93	60	0.89	64.93
15 - 90	0.8	0.4	83.0	2.27	8	0.27	891.41

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Table 5-3: Soil 2 – (Feeding lot area – planned)

Soil depth (cm)	Soil texture	pH (KCl)	Resistance (ohm)	Vol. % stone	P (Olsen) (mg/kg)	P (Bray II) (mg/kg)	K (mg/kg)	Exchangeable Cations (cmol/kg)			
								Na	K	Ca	Mg
0 – 15	Clay	7.2	580	1	9	35	144	0.54	0.37	6.97	2.54
15 – 40	Clay	5.2	160	1	-	5	79	2.02	0.20	4.00	5.52
40 – 90	Clay	4.0	90	1	-	3	42	3.44	0.11	1.76	3.75

Soil depth (cm)	Micro-elements (mg/kg)				Fe mg/kg	Carbon (%)	Soluble S mg/kg
	Cu	Zn	Mn	B			
0 – 15	2.5	3.0	308.3	0.60	63	1.01	19.92
15 – 40	1.1	1.2	80.7	0.53	450	1.05	75.06
40 – 90	0.6	0.8	7.9	0.30	31	0.25	176.30

Table 5-4: Soil 4 – (Composting area – planned)

Table 3.1: Soil 4 (Composting area - planned)											
Soil depth (cm)	Soil texture	pH (KCl)	Resistance (ohm)	Vol. % stone	P (Olsen) (mg/kg)	P (Bray II) (mg/kg)	K (mg/kg)	Exchangeable Cations (cmol/kg)			
								Na	K	Ca	Mg
0 - 30	Clay	7.9	1120	1	7	17	364	0.37	0.93	14.67	2.71
30 - 60	Clay	7.3	460	1	2	7	201	0.61	0.52	6.00	3.47
60 - 90	Clay	7.8	80	1	3	11	242	1.94	0.62	4.49	6.43

Soil depth (cm)	Micro-elements (mg/kg)				Fe mg/kg	Carbon (%)	Soluble S mg/kg
	Cu	Zn	Mn	B			
0 – 30	2.1	1.0	45.7	0.56	13	0.84	17.28
30 – 60	3.3	0.7	257.3	0.77	46	0.49	29.90
60 – 90	1.7	0.4	205.1	1.02	40	0.38	151.62

Table 5-5: Soil 5 – (Composting area – planned)

Soil depth (cm)	Soil texture	pH (KCl)	Resistance (ohm)	Vol. % stone	P (Olsen) (mg/kg)	P (Bray II) (mg/kg)	K (mg/kg)	Exchangeable Cations (cmol/kg)			
								Na	K	Ca	Mg
0 – 15	Clay	5.7	100	1	-	20	65	3.10	0.17	2.12	3.52
15 – 50	Clay	3.8	70	1	-	9	73	5.35	0.19	1.67	4.71
50 – 90	Clay	5.4	60	1	-	14	39	5.55	0.10	1.55	5.82

Soil depth (cm)	Micro-elements (mg/kg)				Fe mg/kg	Carbon (%)	Soluble S mg/kg
	Cu	Zn	Mn	B			
0 – 15	1.6	3.5	165.3	0.64	85	0.86	97.56
15 – 50	2.5	1.1	9.3	0.37	461	0.59	258.59
50 – 90	1.3	0.3	318.5	0.54	56	0.43	440.01

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5.2.3 Results and discussions

All the soils have a very high clay content (>25%), thus restricting the movement of water through the profile. Leaching of nutrients and salts from the soil into the groundwater will not easily occur. The high salinity in the soils, coupled with the high clay content, will lead to crusting on the surface restricting water infiltration and increasing run-off.

Soil pH:

The pH of the soils vary greatly over the relatively small area from being alkaline in profiles 1 & 4 to acidic in profiles 2 & 5.

Resistance:

In most of the samples the resistance is <350 ohms, which is used as a threshold norm. Soils with values below 350ohms are considered to contain salt concentrations that will severely restrict plant growth.

Phosphorus (P):

The analyses show that P concentrations are relatively low in the samples.

Potassium (K):

Soil K concentrations of K follow the same pattern as that of pH. K values are high in samples from profiles 1 & 4 and low in the samples from 2 & 5. However, the K saturation % of the CEC never exceeds 5%. This is an indication of the high level of the total concentration of the cations (salt) in the soil. The other cations mainly responsible for this high concentrations are Ca, Mg and Na.

Calcium (Ca):

Calcium is very high in the Brandvlei profiles (1, 4) where free lime is present in the soil. High Ca concentrations such as these will impede the uptake of other nutrients. In the Shortlands profiles the Ca is low to the extent that lime has to be added if crops were to be grown successfully. Big chemical variations such as these over short distances is very problematic for farmers as it is nearly impossible to get uniform crop growth.

Magnesium (Mg):

In some samples the Mg concentration is higher than that of Ca. This is very problematic as plants require much more Ca than Mg for optimal growth. To achieve this, Ca (lime) has to be added and the Mg must be leached from the soil profile. As pointed out before, leaching of Mg or any other salts will be very difficult due to the high clay content.

Sodium (Na):

It is generally accepted that at Na levels > 10% of the CEC, the salinity in the soil will start to restrict root growth of agricultural crops. With the exception of 3 of the samples, the analyses show Na

concentrations of much higher saturation percentages. Leaching Na from the soil presents the same problems as discussed for Mg.

Trace Elements (Zn, Cu, Mn, B):

With the exception of Mn, the analyses show that all the trace elements are deficient.

5.2.4 Recommendation – Soil and drainage

The soil classification and analyses show that the area is not suited for intensive agriculture. Even farming with extensive crops e.g. pastures is unlikely to be successful. The main reason for this is the high salt content of the soils, and the inability to leach the salts from the profile.

Leaching/reclamation of soils can only be done if enough water is available and when there is good drainage, so that the leached salts can be removed from the profile.

The rainfall is low (277 mm/yr) and no water for irrigation is available. Furthermore will the high clay content prevent salts from leaching out of the profile.

Leaching of salts from a profile must be a controlled exercise, to prevent the contamination of the groundwater and of lower lying soils in the landscape.

Compaction of the topsoil as required for the proposed activities would further reduce the likelihood of salts leaching from the profile to contaminate the groundwater.

The run-off from the terrain must be managed and collected in order to prevent possible pollution of lower lying areas.

The compaction will also prevent the nutrients and salts from the manure and urine to penetrate the soil and contaminate the groundwater.

The run-off can be collected in a dam to be constructed at the lowest point on the terrain. From here the water can be recycled and used to wet the composting heaps.

This set of conditions makes the area suitable for the proposed actions.

5.3 Facilities needed and area needed for each facility

The facilities that will be needed for composting are listed in the table below. The primary facilities needed in order to process compost that will only be used on the premises or be sold as bulk to farmers are indicated with an *. The area indicated per facility is calculated for a facility that can process under up to 10 Ton of compost annually, which is the minimum space that will be needed. Should there in future be a need to accommodate additional tonnage of compost to be processed refer to the last column in the table below for the required area needed for a facility that can compost up to 20 tons of compost annually.

Table 5-7: Facilities, surface types required and area needed

Facility	Surface type	Area needed (m ²) (up to 10 Ton)	Area needed (m ²) (up to 20 Ton)
Collection area: Manure* Wood chips* (bulking agent)	Hardened; impenetrable for water	450	900
Green waste collection area (should this be needed)	Soil surface	400 Vary according to amount of greenwaste collected	800 Vary according to amount of greenwaste collected
Chipper area	Hardened surface	12	12
Mixing area for raw materials*	Concrete slab	400	800
Composting wind-rows 25 m row lengths *	Hardened surface	620	1 240
Roofed and Enclosed Storage and sifting area (sifting and packaging)	Concrete	400	800
Offices (enclosed)	Concrete	16	16
Sump – drainage water* (Min Size 6 000 m ³)	Lined/tank	1 600 (calculated on dam depth of 4 m) (calculated for 2 ha)	1 600 (calculated on dam depth of 4 m) (calculated for 2 ha)
Total area needed (excludes open spaces for vehicle movement, etc)	-	3 098	6 196

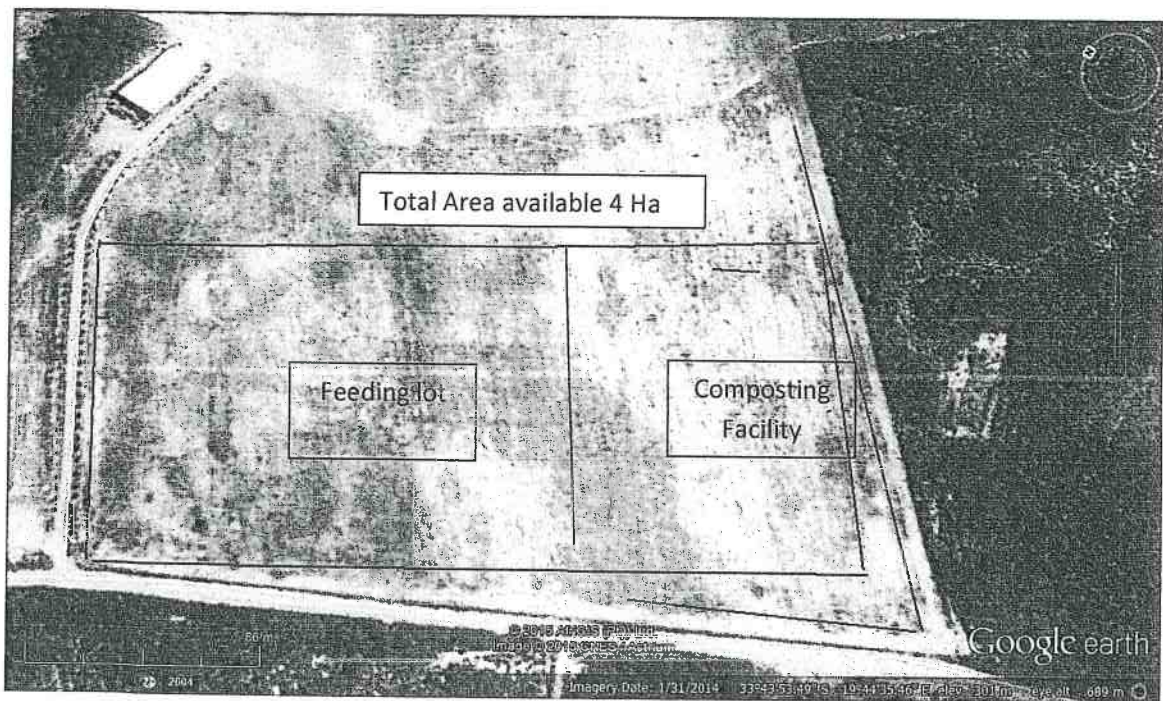
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The area that is available in total for both the feeding lot and the composting facility is about 4 Ha as indicated and the estimated area available for the composting facility is about 2 Ha as indicated on the below google Image 2. Therefore there is sufficient space for the composting facility with enough free space for vehicle movement, etc.

Water and power points:

Please note on the site layout where the water points need to be positioned. The first water point needed is nearby the compost rows and the mixing area. The other water point will be needed at an office point, along with a power point. The power point will be needed for the sifting process as well as in the office.

Google Image 2: Size of composting and feeding lot area available



The size of the collection dam was calculated based on long-term rainfall data for the area. Rainfall annually averages 277mm. Over 2 Ha this amounts to a total volume of $5\,540\text{ m}^3$ per year, rounded $6\,000\text{ m}^3$ ($0.277 \times 100 \times 100 \times 2$), thus 6 000 000 litres of water. Therefore the collection dam will be able to collect all rainfall over the 2Ha that will drain towards the collection dam. The water can then be re-used on the compost rows.

20 m : 16 mm.
1 m : 0.8 mm



5.5 Drainage recommendations

It is recommended that one drainage system must be constructed in order to function simultaneously for the feeding lot and the composting facility.

The system will consist of a central drainage drain that will allow water flow towards the collection drain that is to be installed. The waste water will gravitate from the various surfaces of the feeding lot and the composting facility into the central drain from where it will flow at an angle towards the collection dam. The collection drain is situated closest to the dirt road as is indicated on Google Image 3, pg. 10.

Both the angle of the feeding lot and the composting facility must be angled in such a way that any run-off water is gravitated towards the central drainage canal that will run through the middle of the two facilities, thus ending in the central collection dam.

The drainage canal will have to be compacted but there is no need for a plastic or concrete lining of the drainage canal. The collection dam will be lined with plastic, concrete or any other suitable barrier as the water will be stored for intervals that could lead to water penetration into the underlying soils.

The water collected in the collection dam (this includes run-off water as well as rainwater) will be pumped to be re-used on the composting rows in order to save large amounts of water. The size of the collection dam is estimated based on long-term rainfall for the area. Rainfall annually is 277 mm and over an area of 2 Ha the recommended size for the collection dam is 6 000m³.

6 Raw Materials

The raw materials needed are mainly sourced from the adjacent feeding lot and the abattoir, situated in the town of Robertson.

6.1 Type and volume of raw materials available annually

Table 6-1: Available raw material types and volumes

Raw materials available (volumes based on 2014/2015 outputs)						
	ton/year	ton/month	ton/day	m ³ /year	m ³ /month	m ³ /day
Manure	450.00	37.50	1.50	900.00	75.00	3.00
"Pensmis"	1800.00	150.00	6.00	1800.00	150.00	6.00
Blood	225.00	18.75	0.75	225.00	18.75	0.75
Totals	2475.00	206.25	8.25	2925.00	243.75	9.75

Pensmis – 1 ton = 1m³, as it is mainly water

Blood: Every 1 000L of blood provides 150 kg of dried blood product

The volume of raw material available from the abattoir and feeding lot totals 8.25 ton per year. This is under the 10 ton per year minimum that is allowed before registration is required, with the requirement that the product (compost) must be utilised on the same premises.

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6.2 Type and volume of raw materials needed annually

In order to ensure a potentially profitable composting facility a minimum of 10 000m³ compost must be produced annually. During the composting process about 30% of volume is lost in the form of moisture.

Thus, a minimum of 12 000m³ of raw material is needed annually. This result in raw material required per day estimated at 40m³.

The raw material that will be received from the abattoir and feeding lot totals 9.75 m³ per day. A bulking agent such as woodchips will be needed and be essential to ensure that higher volume of compost can be produced. Refer to Table 6.2 for mixing recommendations.

6.3 Suggested raw material ratio's and procedures for mixing

In accordance to the volume of raw material that is available the ration of raw materials to be mixed for a composted product is suggested in the below table (Table

Table 6-2: Raw material ratio's for composting mix

Compost volumes, mixing and processing	
Raw Material	Volume available and utilised (m ³)/day
Manure, 'pensmis' and blood	9.75
Woodchips (bulking agent)	30.00
Mixture:	Mix volumes as indicated above

The resulting volume of the mixture as indicated in Table 6.2 will result in a final volume of 30m³. After the composting process, that involves 30% loss in moisture from the raw material, there will be a final volume of 20m³ of composted product produced per day.

With 20m³ of composted product produced daily we estimate the production of 100m³ of compost per week and roughly 4 800m³ per year to be produced. Thus, a further 5 600m³ of composted product must be produced in order to make it a profitable stand-alone business. But since the main goal of the compost facility is to process and re-use abattoir 'by-products' this is not essential. The cost that has been going into paying sub-contractors to remove the 'by-products' will be used to establish and run the composting facility.

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We recommend the following steps in processing of the raw material:

- Collect all manure on the hardened surface in a heap indicated for collection area
- Buy in woodchips and store on collection area next to the manure heap
- Make up the mixture of about 10m³ of manure and 30m³ of woodchips on the concrete mixing area. Leave the mixture open and not heaped.
- Wet the mixture overnight till 80% wet
- The daily delivery of 'pensmis' and blood from the abattoir must be placed directly on the spread out mixture of manure and woodchips. This will ensure that the excess water from the blood is dried quickly and will minimise the stence.
- Shortly after adding the 'pensmis' and blood place the mixture in a heap in the first row.
- Row specifications: 2m wide and 1.5 m High. Every meter of compost is thus 3m³. The rows should not be longer than 20 meters. It is for practical reasons the easiest length of rows. There is also a 3 m space needed between rows, in order for machinery to turn.
- After 6-8 weeks the compost should be ready for use.

The composted product can be used directly on pastures, etc. Or can be sifted and bagged to sell commercially.

7 Machinery and other tools needed

List of machinery needed: Immediate and future

Machinery needed immediately:

- Compost turner (various sizes available, buy according to need)
- Front loader
- Spades
- Tractor (Look at kW must have crawler gear)
- Pipes and sprinklers for wetting
- Fencing around the facility

Machinery and facilities needed in future:

- "Rolsif"
- Heatsealer to seal bags
- Hopper and conveyors
- Covered and enclosed barn for sifting and bagging
- Office and staff facilities

Report compiled by:

Anneline van Staden (B.Sc Agric) Pri.Sci.Nat

Bennie Diedericks (B.Sc Agric)

ReSalt

FRESHWATER ECOLOGICAL IMPACT ASSESSMENT

PROPOSED ROBERTSON ABATTOIR COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO 10, ROBERTSON

Prepared for: South African Farm Assured Meat Group cc
P.O. Box 895
Robertson
6705
Tel: 023 626 6320
Fax: 023 626 6040

Prepared by: Mr N Hanekom
Eco Impact Legal Consulting (Pty) Ltd
P.O. Box 45070
Claremont
7735
Tel: 021 671 1660/9976
Email: admin@ecoimpact.co.za

eco
impact
Environmental Health & Safety Legal Consulting

DATE: 15 February 2018

Instead, in line with DEA&DP's (2013) Guideline for Alternatives, the current *status quo* of the sites associated with the "no-go option" has been used as the baseline against which potential impacts were assessed. If the "no-go option" was to be followed and no activities were to be carried out on the proposed sites, it is assumed that the rivers assessed would remain in their present ecological state.

The non-perennial river on the northern boundary and the Vink River located approximately 300m west of the proposed development could possibly be impacted by the proposed feedlot and compost facility.

On the southern bank of the affected river reach, the river is characterised by a steep bank and an elevated area that creates a berm which will result in the water that is flowing in the river being confined to the channel and if it floods the water will overflow towards the north into the flood plain away from the compost and feedlot area. All storm and rain water from the impacted areas flow away from the river as a result of this elevated area. No indigenous vegetation exists between the river bank and the feedlot and compost site. The natural storm water flow is however towards the west and Vink River.

IMPACTS TO THE RIVER

The assessment of the potential impacts on freshwater ecosystems that could result from the proposed activities has been summarised below.

Pollution of the river system due to the possible risk of contaminated storm water from the feedlot and compost facilities entering the river systems generally result in significant impacts and degradation of the freshwater ecological system and functioning.

The encroachment of infrastructure or development activities into a freshwater ecosystem generally results in the permanent loss of the portion of the freshwater ecosystem that is encroached into. This inevitably leads to a number of other, knock-on impacts on the freshwater ecosystem, as a result of the lack of an adequate buffer area between the proposed development area and the remaining portion of the ecosystem.

Placing infrastructure or undertaking development activities close to freshwater ecosystems, without necessarily encroaching directly into the freshwater ecosystems themselves, typically also results in a number of negative impacts on the freshwater ecosystems. As such, it is common practice to recommend "no-go" buffer areas adjacent to the edge of a freshwater ecosystem within which very limited or no development activity should be permitted, to ensure the protection of the freshwater ecosystems. It is important to note that buffer areas, on their own, do not necessarily ensure the protection of a freshwater ecosystem and that they should be used in conjunction with other mitigation measures.

For the current project, as explained previously, the approximate width of the buffer areas required for the protection of the river systems were initially determined using the river component of the "Preliminary Guideline for the Determination of Buffer Zones for Rivers, Wetlands and Estuaries in South Africa" (Macfarlane *et al.* 2014)¹¹, also known as the "WRC Buffer Tool". Using the WRC Buffer tool, the treats of the proposed activity to the freshwater ecological systems is increased nutrient inputs, increased input of toxic organic and heavy metal contaminants, and pathogen inputs.

Buffer zones play an important role in:

Nutrient removal: Riparian vegetation and vegetation in terrestrial buffer zones may

¹¹ Macfarlane DM, Bredin IP, Adams JB, Zungu MM, Bate GC and Dickens CWS (2014). Preliminary guideline for the determination of buffer zones for rivers, wetlands and estuaries. Final Consolidated Report. WRC Report No TT 610/14. Water Research Commission, Pretoria.

(167)

significantly reduce the amount of nutrients (N & P), entering a water body reducing the potential for excessive outbreaks of microalgae that can have an adverse effect on both freshwater and estuarine environments.

Removal of pathogens: By slowing water contaminated with faeces, buffer zones encourage deposition of pathogens, which soon die when exposed to the elements.

Despite the range of functions potentially provided by buffer zones, **buffer zones are far from a "silver bullet" that addresses all water resource related problems.** (Macfarlane et al. 2014). Indeed, buffers can do little to address some impacts such as hydrological changes caused by stream flow reduction activities or changes in flow brought about by abstractions or upstream impoundments. Buffer zones are also not the appropriate tool for militating against point-source discharges (e.g. sewage outflows), which can be more effectively managed by targeting these areas through specific source-directed controls. Contamination or use of groundwater is also not well addressed by buffer zones and requires complementary approaches such as controlling activities in sensitive groundwater zones.

The role that buffers can play must therefore be well understood when applying these guidelines. Despite clear limitations, buffer zones are well suited to perform functions such as sediment trapping and nutrient retention which can significantly reduce the impact of activities taking place adjacent to water resources. **Buffer zones are therefore proposed as a standard mitigation measure to reduce impacts of land uses / activities planned adjacent to water resources.**

These must however be considered in conjunction with other mitigation measures which may be required to address specific impacts for which buffer zones are not well suited to address. The modified fixed-width approach was regarded as most appropriate for the South African context. In this approach, a matrix of factors is typically used to categorize wetlands and / land uses with category specific standard buffer widths being applied to the resource. These widths may however be modified based on relevant on-site factors where more detailed information is available. As a minimum, this requires the maintenance of the water resource, including any riparian habitat.

Delineation and protection of water resources, as defined in South African legislation, including riparian habitat is therefore regarded as mandatory to ensure no direct impacts to these areas. The method developed is therefore designed to ensure that such areas are identified and mapped and included within any recommended setback area. The need for additional management measures, including potential additional management buffers to safeguard intact riparian habitat is also addressed.

The desktop buffer that was generated by the WRC Buffer Tool for the protection of drainage lines within the proposed impacted area itself was a modelled buffer width of 55m for the construction phase and 205m for the operational phase. This buffer width was then refined by applying the site based components of the WRC Buffer Tool, through which a site-specific recommended buffer width of 26m for the construction phase and 100m for the operational phase. The 100m buffer area is to manage the risk of nutrient inputs as a result of the bordering feedlot into the freshwater ecosystem. However, there is an elevated area between the feedlot infrastructure and the non-perennial river and the topography and slope of storm water flow is away from the non-perennial river towards the compost facility.

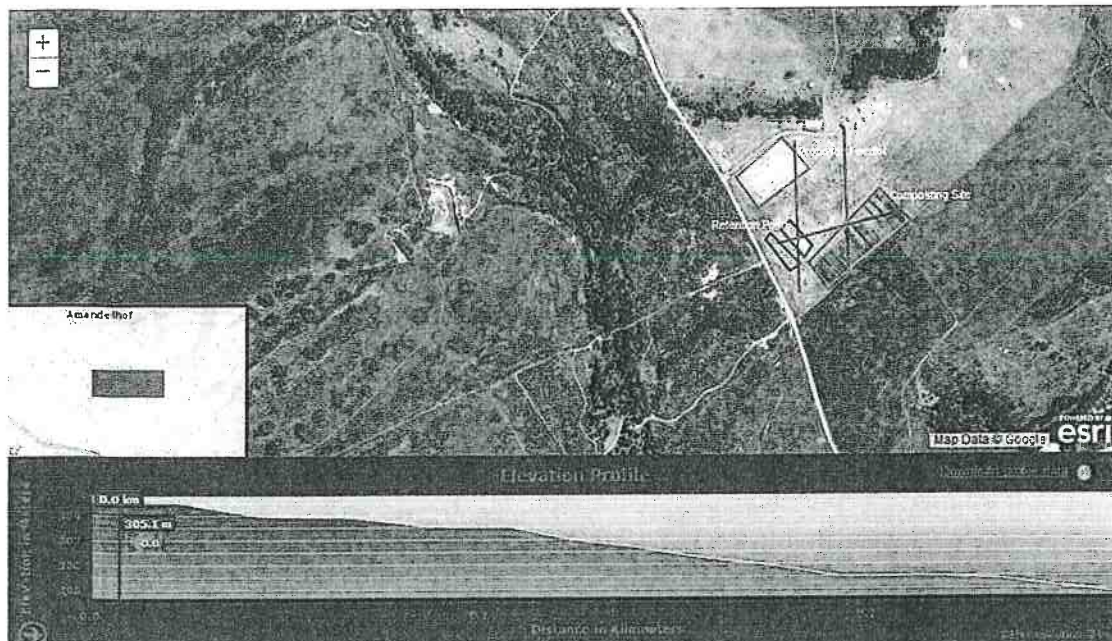


Figure 3: View indicating the elevation profile away from the non-perennial river.

Nutrients from the feedlot will therefore not enter the river and this buffer can be reduced significantly as a result of that. The WRC Tool however does not make provision for a topographical elevation and flow criteria away from the river as part of the calculation.

The buffer between the feedlot and the non-perennial river is 44m. The current desktop buffer of 30m set in the biodiversity planning is therefore a sufficient and appropriate buffer area. Additional mitigation measures to be implemented will further reduce the risk of the possible impacts on the river systems during operations.

The following mitigation measures should be implemented, in addition to the recommended buffer areas, to reduce the risks to the river systems from the proposed operations:

- "Dirty" runoff water that has been in contact with the feedlot and compost area should be kept separate from the "clean" (natural storm water) runoff by means of diversion berms, channels and collection ponds. The clean natural runoff water should be routed around the feedlot and compost facility.
- No stockpiles (manure or any other animal products) should be placed within the recommended "no-go" and buffer area.

Cumulatively, the impacts of the activities undertaken is of a low significance and largely just requires some rehabilitation of the disturbed areas and longer term monitoring and control of the growth of alien invasive plants.

10. CONCLUSIONS AND RECOMMENDATIONS

Following this definition and the standard wetland delineation protocols, no wetlands were identified on or adjacent to the proposed feedlot and compost sites. However, a non-perennial river is situated on the northern edge of the proposed impacted area.

The study area for the proposed development is thus somewhat atypical of the Ecoregion within which it falls, being located in a relatively non-mountainous part of the landscape. The rainfall seasonality and the vegetation types that occur within the Southern Folded Mountains Ecoregion are highly variable. The potentially affected river reach is characterised by a fairly incised single channel, approximately 10 to 20m wide, which has a bed comprising mostly cobbles and sand. *Vachellia karoo* is common and the dominant species

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in the river channel and valleys.

On the northern bank of the river, adjacent to the main channel of the potentially affected reach of the river, there is a floodplain area of approximately 30m in width. This floodplain area is dominated by *Galenia africana*. From the relatively dense growth of shrubs within the floodplain, it is evident that the floodplain does not get inundated nearly as frequently as it would have under natural conditions. The *Galenia africana* is also an indicator species of heavy impact and disturbance most likely as a result of animal grazing and trampling.

On the southern bank of the affected river reach, the river is characterised by a steep bank and an elevated area that creates a berm which will result in the water that is flowing in the river being confined to the channel and if it floods the water will overflow towards the north into the flood plain. All storm and rain water from the impacted areas flow away from the river as a result of this elevated area. No indigenous vegetation exists between the river bank and the feedlot and compost facility.

The overall results were that the relevant reach of the river is in a poor ecological condition, with a PES Category of D ("largely modified") for both the instream and riparian components of the river systems.

163 { In terms of its EIS, the potentially affected reach of the river was rated to be of low/marginal EIS for biotic criteria, but with a low level of confidence due to the absence of biotic data, and of moderate EIS for habitat criteria. The overall EIS rating for the potentially affected reach of the river was that this system is of low-to-moderate ecological importance and sensitivity. Despite the low-to-moderate EIS of the river, it is important to bear in mind that this river forms an important ecological corridor and is a major tributary of the Vink River, which is ecologically important to the Breede River. In addition, the floodplain along the river has been recognised as an Aquatic CBA in the WCBPF and the C.A.P.E. Fine Scale Planning initiative for the Upper Breede Valley. This elevates the conservation importance of the river corridor and implies that it should be protected from any further degradation.

Pollution of the river system due to the possible risk of contaminated storm water from the feedlot and compost facilities entering the river systems generally result in significant impacts and degradation of the freshwater ecological system and functioning.

In the light of the results generated through the application of the WRC Buffer Tool (Macfarlane *et al.* 2014) to the drainage line within the proposed impacted area, the retention of a buffer area of at least 32m in width along the sides of the drainage line is considered to be adequate if the above-mentioned mitigation measures for reducing risk as a result of the operational phase are implemented.

11. REFERENCES

Dallas HF (2007). River Health Programme: South African Scoring System (SASS) Data Interpretation Guidelines. Department of Water Affairs and Forestry, South Africa.

Department of Water Affairs and Forestry (1999). Resource Directed Measures for Protection of Water Resources. Volume 3: River Ecosystems Version 1.0. Resource Directed Measures for Protection of Water Resources, Pretoria, South Africa.

Department of Water Affairs and Forestry (2007). River Ecoclassification: Manual for EcoStatus Determination (Version 2). Water Research Commission Report Number KV 168/05. Pretoria.

Driver, Nel, Snaddon, Murray, Roux, Hill (2011). Implementation Manual for Freshwater Ecosystem Priority Areas. Draft Report for the Water Research Commission.

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Annexure E

Objections 1-3

OBJECTION
- KEYSER

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6 December 2017

Langeberg Municipality
Manager: Town Planning
3 Pieter Retief Street
Montagu
6720

Dear Madam and Sir,

Re.: Proposed rezoning and consent use of portion 6 of the farm Middelburg No 10, Robertson

We refer to your letter dated 14 November 2017 whereby notice is given for the proposed rezoning of portion 6 of the farm Middelburg No 10, Robertson.

One of the reasons for the purpose of application is that there is a lack of capacity at the municipal waste disposal facility for the waste generated at SAFAM/Robertson Abattoir. The abattoir therefore decided to manage and dispose of the by-products derived from the slaughter process by making compost.

It must be noted that a satisfactory process for making compost is dependent on the presence of a high microbial diversity. Changes in environmental conditions in composts such as temperature, pH, moisture, etc. results in stages of exponential growth and phases for different organisms.

Among the concerns regarding the process and the use of the compost for agriculture is the survival and spread of animal, human and plant pathogens. Therefore, it is essential for any compost process to be able to eliminate any health risk that may be present. An improper managed process can induce the dispersion of fungi and bacteria. It must further be noted that although the heat generated during composting results in reduction of microorganism and pathogen numbers it is not sufficient to completely sterilize the end product. The level of pathogenic bacteria remaining at the end of the process are dependent on temperatures reached and the time the temperature was maintained. Who will manage this process and how will it be monitored?

1. What skills and qualifications do the employees have to manage this process?
2. Who is responsible (outside the employees and management of Robertson Abattoir) for monitoring and verification of the processes?
3. The forms as mentioned in the motivation report was not attached. Emphasise is also placed on the fact that it is a cost-effective process with ongoing in-house management and control.
4. The motivation report also makes mention of the fact that this is still a learning curve and it seems that a lot of uncertainty regarding the processes exists which is therefore unsatisfactory to the reader. The process is still fairly new in other parts of the world and the long-term environmental effect has therefore not been established.
5. We have had a definite increase of flies at Farm 4, Vinkrivier, to such an extend that we cannot open any of our windows or even enjoy a day outdoors.

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- We are not aware of any fly traps or pest control initiatives which take place at farm Middelburg and plans and proof are therefore required.
6. We were also not notified by the municipality or the owner of farm Middelburg regarding the current compost activities taking place.
 7. The current fence is not adequate to keep the animals at bay. The goats currently on farm Middelburg gained access to our farm and the main gravel road on numerous occasions. The fence is therefore not adequate for the current stock holding and will most definitely be inadequate for 6000 sheep.
 8. Paragraph 6 on page 5 of the motivation report make reference to: Section 33 and 34 of the Health Act, 1977 (act 63 of 1977). We want to bring to your attention that this act was repealed and replaced with ACT 61 of 2008. The motivation report should therefore be changed accordingly to include the correct references and definitions of the current National Health Act for us to be able to understand or rely on this aspect.
 9. Lastly, the gravel road as rightfully said in your motivation report, already carry many trucks and vehicles. Since the operation started on Farm Middelburg, the quality of the road deteriorated. The road must therefore either be tarred or graded more frequently. In the past when the road was graded the results lasted for a much longer time. The mentioning of 2 to three daily trips are not accurate as we have counted and experienced a lot more trucks coming to and from Farm Middelburg.

Until the issues are addressed and /or explained satisfactorily, we object to the application for rezoning.

Your response and consideration of the above is therefore requested.

Yours truly.

Mr and Mrs Keyser
PO Box 845
Farm 4
Robertson
6705
Tel: 082 579 8592
Email: chanelle3795@gmail.com

NOT SIGNED – ELECTRONICALLY SENT

12 Desember 2017

Die Bestuurder
Stadsbeplanning
Langeberg munisipaliteit



OBJECTION
-JORDAAN

Voorgestelde hersonering en vergunningsgebruik van gedeelte 6 van die plaas Middelburg nr 10 ,
Robertson.

Hiermee wil ek Louis Jordaan woonagtig te Doornkloof Privaat Natuur Reservaat, Vinke rivier no.8
Posbus 471, Robertson, 6705 beswaar aanteken teen voorgestelde hersonering en vergunnings
verbruik.

Ek is direkte buurman en sedert die gebruik van kompos maak van abbatoir afval het ek geweldige
vlieë probleem. Dit is baie duidelik dat die huidige praktyke by die kompos maak nie die vlieë kan
beheer nie. Ons kan eenvoudig nie meer buite sit sonder om geweldig deur vlieë gepla te word.

Moontlike opsies wat oorweeg was vir die kompos projek is ook onvoldoende. Daar is wel ander
opsies ondersoek maar daar word niks melding gemaak of daar ander liggings ondersoek is vir die
kompos fasiliteit. Die material word teen onkoste en teen groot las op die agter vinkrivier grondpad
(Dr1377) vanaf Robertson na die voorgestelde ligging geneem. Asook hout chips wat ook vanaf
Robertson aangery word met ekstra kostes en druk op grond pad. Al die klaar kompos word weer
daar weg gery, weereens met druk op die toestand van die grongpad. Meeste van die werkers word
soggens ook vanaf Robertson aangery weereens met al die nadele op die grond pad en omgewing.
Die pad is nie geskik vir groot voertuie om langs mekaar te kan verby ry asook die ekstra stof wat
veroorsaak word. Die ekstra voertuie op pad gaan meer las op die onderhoud sit en hoe gaan dit
gehanteer word? Enige posisie nader aan die bron sal ekonomies meer sin maak. SAFAM maak geen
melding dat hulle probeer het om met Robertson of Ashton munisipaliteit saam te werk en inskakel
by die huidige munisipale kompos aanleg. Veral gesien in die lig van dat daar melding gemaak word
dat geen water vir die vervaardiging gebruik word dus die logging op ander grond tipes nader aan
Robertson van minder belang is.

Transport na en weg vanaf die voerkraal vir die 4500 vee asook voer wat aangery met groot trokke
sit verdere druk op die grondpad.

Daar word melding gemaak van 8 ton skip trok wat approx elke tweede dag ry. Die trok ry defniteif
tenminste twee keer per dag al vir maande lank. Dit is vals inligting wat aan ons verskaf word op bl.
17. Daar word melding gemaak van "site access register" bl17. N Kopie daarvan behoort dit te
bevestig. Kan die register aangeheg word asseblief.

Ons almal in die omgewing maak gebruik van boorgate vir huishoudelike water gebruik en alreeds
gedurende die einde van 2016 se somer het ons boorgate tekens van opdrooging getoon. As 4500
stuks vee ook nog moet bykom gaan dit die onderwater bron verder onder druk plaas. Aangesien ek
geografies hoër op is kan dit wees dat my onder grondse bronne eerste daaronder sal ly. Indien die
hersonering en vergunning toegestaan word en droogte toestand duur voort soos voorspel het ek
dan geen ander water bron indien my boorgat opdroog.

Ek het ook beswaar teen feit dat diere afval gestort word in area waar nog baie natuurlike wild voorkom. Huidiglik is die area nie voldoende toegespan om die wildediere en voëls weg te hou van die bron van voedsel. Geen melding word gemaak oor wat gedoen is om te bepaal wat die lang termyn effek op bv. Die luiperd , Rooikat, bosvark, witkruis arende ens is nie. Die area is spesiaal as gestig as Privaat Natuur reservaat juis omdat die fauna en flora bedreig word deur kommersieële aktiwiteite. Sien sertifikaat van Natuurbewaring aangeheg.

Die feit dat daar ongeskikte karkasse gestort word en direk langs area is voerkraal vir diere wat terug gaan na waar die karkasse vandaan kom kan net probleem veroorsaak. As vlieë nie eers voldoende beheer kan word hoe gaan die vernietiging van patogene beheer word.

Geen van SOP's is aangeheg in die skrywe van 14 November 2017 soos vermeld op bl.13 en kan dus nie kommentaar daarop lewer.

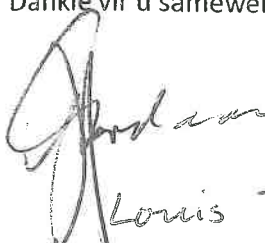
Geen registrasie sertifikaat van boorgat is aangeheg soos verwys na op BI14. Kan nie kommentaar lewer.

Geen water analyses is aangeheg soos verwys na op BI14 is aangeheg. Kan nie komentaar lewer.

Daar word melding gemaak van twee ingange(bl.18) vanaf die DR1377. Die tweede ingang is onlangs geskep. Kan die goedkeuring van die tweede ingang deur pad ingenieur asseblief as bylae aangeheg word. Hoekom ek vra is omdat die ingang reg op draai in pad gemaak is.

Op bl 3 word melding gemaak van twee damme wat by BGCMA geregistreer is. Kan die registrasie setifikaat aangeheg word asseblief. Daar is onlangs groot grondwerke konstruksie by een dam uitgevoer. Volgens BGCMA is hulle nie daaroor ingelig.

Dankie vir u samewerking in die verband.


Louis Jordaan -
14/12/2017



KAAPSE NATUURBEWARING, DEPARTEMENT VAN OMGEWING- EN KULTUURSAKE,
PROVINSIALE ADMINISTRASIE: WES-KAAP

CAPE NATURE CONSERVATION, DEPARTMENT OF ENVIRONMENTAL AND CULTURAL AFFAIRS,
PROVINCIAL ADMINISTRATION: WESTERN CAPE



Sertifikaat Certificate

Toegeken aan: Miss HLINE Schuurman
Awarded to:

op: 29 May 2000
on:

Ter erkenning van u waardevolle
bydrae tot natuurbewaring deur die stigting van die
Private Natuurreservaat hieronder aangedui:

In recognition of your valuable
contribution to nature conservation by establishing
the Private Nature Reserve indicated below:

Doornkloof Private Nature Reserve


PREMIER

185.

From: Hanneré Jooste <hannere@gmail.com>
Sent: 14 December 2017 04:51 PM
To: Kobus Brand; Langeberg Municipality
Subject: PROPOSED REZONING AND CONSENT USE OF PORTION 6 OF THE FARM
MIDDELBURG NO 10, ROBERTSON

Mnr J V Brand
Bestuurder: Stadsbeplanning
Piet Retiefstraat 3
Montagu
6720

Beste Kobus

Hiermee my kommentaar en dringende besware teen bogenoemde hersonering soos aangevra in u brief van 14 November 2017.

Ek bewoon die Doornkloof Privaat Natuurreservaat (Deel 22 van die plaas Vinke Rivier nommer 8) langsaan Middelburg. My skrywe van 17 Julie 2017 aan Eco Impact Legal Consulting gedurende die "pre-permission" stadium van die openbare deelnameproses oor die onderhawige kwessie (proses steeds aan die gang) verskyn aan die einde van my kommentaar aan u en vorm deel van die huidige besware.

OBJECTIONS TO REZONING:

This development will affect the Doornkloof Reserve and my very livelihood profoundly and the rezoning application NEEDS TO BE DENIED. As mentioned, my only income is from guests and utterly dependent on the pristine nature of the reserve and its surrounds.

1. THE FLY SITUATION HAS WORSENERD EXPONENTIALLY

The fly control measures described on page 16 of the Motivational Report are grossly ineffective. The fly plague has become intolerable.

I have been living next door to Middelburg permanently since 2013 and NEVER had flies like this. There used to be small "veld flies" for want of a more scientific term, which could be a nuisance when out walking, and some midges and fruit flies, but NEVER this epidemic of houseflies and blowflies inside and around our homes.

I installed six Red Top flytraps like the ones referred to in the report. They smell extremely bad and they do not significantly reduce the number of flies in and around the houses - there are always more flies. These traps are ineffective.

Commercial insecticides like Doom, Target or Raid DO NOT kill these flies indoors. Only specialised products obtained at increased cost have some effect. Then I have to sweep up dead flies up to the very minute guests arrive.

The kitchen counter:



My guests do not want to stay in an Eco-friendly facility with several automatic insecticide dispensers continuously releasing noxious spray into the interior, which we consequently inhale.

Measures like the industrial poisons employed by SAFAM are not an option in an ecologically aware setup like mine. In keeping with the ethos of the nature reserve I encourage geckos inside the houses and refrain from killing spiders, etc. (The geckos and spiders had always been enough to control the very few flies found indoors.)

The last two sets of guests complained about the flies. They did so to me in private, but it is just a matter of time until someone writes it in an online review.

As things stand I don't see these people coming back even if I invested in mosquito nets to facilitate at least an afternoon nap as suggested by one Cape Town couple who had to fashion a tent over the bed using a top sheet to escape the flies. The Swiss couple who left yesterday morning mentioned that they have never had to swat so many flies in one place and they are seasoned trans-Africa overland travellers.

I practise excellent hygiene

and meticulous rubbish control & recycling
, yet I cannot eat a meal outside on the
verandah

for the flies. The flies are impervious to citronella products. My dogs have to be treated with Quadrupel fly repellent daily.

(178)

If the fly problem is this perilous in the absence of the proposed feedlot and with the existing amount of compost being made, I do not see how *any* measures - definitely not the ones supposedly in use at the moment - could be sufficient if a large feedlot and *more* composting offal were added to the existing problem.

2. INACCURACIES AND NON-COMPLIANCE

2.1 The Motivational Report for the Rezoning Application: page 2 describes the characteristics of the surrounding area as "rural with mainly vineyards, orchards, grazing and natural veld", while the map on page 4 lacks scale and therefore clarity and the bullet points below 5. PROTECTED AREAS omit any reference to the reserve.

Page 5 goes on to assert that, "according to the above guidelines, the compost plant is desirable in this location". The narrow guidelines described cannot possibly be the only ones in operation and the applicant has *again* conveniently not mentioned the Private Nature Reserve right next door.

It is of extreme concern that the applicant continues to negate the fact that the site is situated next to a nature reserve.

I attended a public open day about the proposed compost facility and feedlot on 26 October 2017. Also present were my neighbours, Louis Jordaan and Johan Fourie, and Nicolaas Hanekom (Director and Principal Environmental Assessment Practitioner), David Houghton (Robertson Abattoir) and Anna-Christa Redelinghuys (Town Planning Consultant) on behalf of SAFAM.

During the meeting Mr. Hanekom was made aware of Doornkloof Private Nature Reserve and undertook to re-consult his maps and acknowledge the reserve as being adjacent to the site. The stewardship status of Doornkloof is neither contested nor contestable.

Even if we were to have our *level* of stewardship assessed to aid in altering the process next door our existing status remains intact no matter the outcome of such an assessment.

The applicant should recognise this and acknowledge our proximity accordingly.

2.2 On page 3 of the Motivational Report it is stated that the area transformed by adding the bulk piles, windrows and effluent dams, was "previously ploughed and planted with pastures and used for grazing purposes". This is incorrect. Extensive mechanical clearing of natural vegetation was done to create the present desert.

2.3 The applicant seems to suggest that the noxious trade definition might not apply to their project, using the rationalisation that "many farmers develop compost on their farms as part of general practices next to vineyards/orchards, using both carbon (plant material) and nitrogen (animal offal)". This may or may not be so, but NOT TO THIS EXTENT.

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The extent to which the applicant does/wants to do this renders it a noxious trade and invalidates their attempt at justification.

As for "offensive" and "dangerous to health", I hope I do not have to educate my peers on the offensiveness of feedlots and abattoirs in a progressive society, nor on the health dangers of flies and pathogens, which brings me to my next salient point:

2.4 During the aforementioned meeting both Mr. Hanekom and Mr. Houghton confirmed that they were taking condemned carcasses to the Middelburg site. According to Mr. Houghton, it was because the facility at Viissershok was not accepting their waste either, because it, too, was full. Please compare the gentlemen's admission to the process described in the penultimate paragraph on page 8 of the report, with specific reference to their utilisation of the Viissershok Hazardous Waste Landfill Site.

Surely their failure to use the Viissershok facility constitutes a contravention of existing permissions as well as reason to withhold permission for the rezoning application and any further permits. If they are already departing from their stated SOPs in such an egregious manner surely they should not be allowed to continue, much less expand?

2.5 As for the promised cut-off time for delivery to the site being "leaving the abattoir at 15h30" (page 16), the white skip truck was offloading at 17h45 yesterday when I drove past the site on my way home from Robertson. This late delivery is not an unusual occurrence.

A white skip truck was also offloading this morning at 10h45 when I drove past going into Robertson and again at 12h45 when I returned. Page 17 clearly states the number of trips are/will be: blood tanks once a day and skip trucks approximately every second day. **This is being exceeded.**

Who would monitor the promises made by SAFAM regarding number of trips and quantities of offal offloaded? Please do not put the onus onto us, the neighbours, to have to report their transgressions.

2.6 The application states that the applicant is in the process of obtaining environmental authorisation (p. 6). Please note that in this process, Eco Impact has been neglecting to mention, and continue to neglect to mention, the fact that the site borders onto a nature reserve.

2.7 The fire risk noted on page 11 of the Report is a real danger. Add to this the number of people and vehicles on the site and on the road and the risk of fire increases.

2.8 There is no quality analysis certificate attached under 9.5 QUALITY OF COMPOST (page 13). More importantly, I am unable to comment on any of the Standard Operating Procedures listed under 9.6 as these are not attached either, nor are the "forms that needed to be completed by the workers throughout the process" (page 13). Ditto the borehole registration certificate and proof of application of transfer of ownership (of the borehole?) referred to on page 14.

2.9 One of the natural features that draws my guests here is stargazing. Light pollution caused by feeding animals under floodlights at night will end this. This is why you cannot put an industrial area next to a nature reserve.

2.10 It is asserted on page 16 that "All by-products are covered immediately...", conveniently forgetting about the blood that has to lie uncovered for an hour to safeguard the machine (page 11). During that hour, do the flies do nothing? As stated in my first objection about the flies, the measures detailed on page 16 are categorically not effective.

2.11 The fact that the lime factory creates noise and dust is a serious and separate problem in itself and does NOT make it acceptable to add more noise and dust! The Gannabosch Clay Mine and Brick Making Facility tried to use similar ingenious rationalisations recently and failed. The same goes for the gravel road carrying "many trucks" (page 18).

2.12 As for security (page 17) this is of critical concern to me. I am still relatively safe residing in this secluded kloof. The increase in human traffic brought about by having an industrial area next door, will change this. Let that sink in, please.

2.13 I contend that the location at Middelburg, while desirable to the applicant, is gravely undesirable to the neighbours.

While the option of making compost may be preferable to dumping, this is not a suitable site for an industrial area or special use for feedlot, for the reasons explained above as well as in my letter to Eco Impact below. The applicant has investigated other options; now they need to consider other premises for their chosen option.

What do other abattoirs do with their waste? Could SAFAM not rather move the compost facility to the existing feedlot at Roodehoogte and apply for rezoning of that area? If not, why not?

Or, as another neighbour suggested, utilise the existing compost making facility at the Robertson municipal refuse site on the McGregor road to make compost in partnership with the municipality?

I have no doubt that SAFAM possesses sufficient funds to purchase a suitable property ad hoc. I have only Doornkloof - my livelihood and home.

3. OWNER'S OCCUPATION OF MIDDELBURG FARM

Some time ago we as neighbours were consulted by the municipality regarding plans for Mr. De Bod's house that was going to be built on the farm along with a home for the manager (not the structure in use currently). I had no objection to the plans they submitted. This was before there was any inkling of a compost facility to be established in situ.

(181)

Are these planned dwellings still being built? If not, I would like to know why - is it because they do not wish to live next to a fly-covered heap of blood and guts either? Then why should I have to do so?

Thank you for your time and I trust the matter will enjoy your careful consideration.

Hanneré Jooste

Doornkloof Private Nature Reserve
P O Box 209
Robertson
6705

023 004 0034

17 July 2017

Comment on PROPOSED ROBERTSON ABATTOIR COMPOST FACILITY AND FEEDLOT ON
REMAINDER OF FARM MIDDELBURG 10, ROBERTSON

My property, being Portion 22 of Farm Vinke Rivier Number 8 in the Langeberg Municipality Division of Robertson, Province of the Western Cape, is directly adjacent to the "proposed" compost facility and feedlot in a private nature reserve, where a small Airbnb is my sole source of income. These "proposed" developments are a matter of extreme concern. I use quotation marks because the compost facility is already in use and has been for months. The most salient points of consequence are:

The proposed feedlot where you want to keep 6000+ lambs is DIRECTLY ADJACENT TO A NATURE RESERVE where predators like leopard and caracal roam freely. Not only have you failed to address this potential critical conflict, but you explicitly deny the fact that you are near any nature conservation area.

My very livelihood, being derived from a tourism and hospitality facility inside a nature reserve, is dependent on the pristine nature of the immediate environment *and the wild animals contained in and by it*. The latter includes Cape Leopard (*Panthera pardus*), Caracal (*Caracal caracal*), Large-spotted genet (*Genetta tigrina*) and African bushpig (*Potamochoerus larvatus*).

In fact, Middelburg Farm is sandwiched between two tourism-dependent neighbours, bordered as it is by Buitenstekloof Mountain Cottages on the eastern side and exacerbating the importance of the existing fly-, odour-, noise- and traffic- and aesthetic problems. I am financially dependent on visitors to the reserve being able to do hiking, trail running and birdwatching *in situ* and on the scenic and natural beauty of the environment remaining intact.

(182)

Under item 7. LAND USE CHARACTER OF SURROUNDING AREA on page 15 of the The Pre-application Basic Assessment Report you were supposed to "highlight the current land uses and/or prominent features that occur within +/- 500m radius of the site and neighbouring properties if these are located beyond 500m of the site", yet you crossed out both "Nature conservation area" AND "Tourism & Hospitality facility" among others. **THIS NEEDS TO BE RECTIFIED.** Your statement that "The development site is surrounded by agricultural activities such as cultivation of crops as well as livestock farming." is therefore erroneous. The development site is, in fact, sandwiched between two hospitality facilities and bordering a Nature Reserve. **THIS NEEDS TO BE RECTIFIED.**

Your concern for the proximity of the facility to the watercourse (page 24) is noted and we await the outcome of your Water Use Licence application.

Another cause for legitimate concern is the potential influx of contract workers/job seekers to the site (page 37). Besides the littering foreseen in the report, it causes a safety risk to my person as I live alone.

In attempted mitigation of the noise factor, the report states that "adjacent land users/owners are a considerable distance from the proposed development site and the noise from construction activities may be negligible" (page 38). This is misleading. Sound carries extremely effectively in the quiet of a nature reserve and will be heard by the guests who come here specifically for the quiet and on whom I depend for an income.

Offensive odours (page 41) emanating from the compost site reach the gate to Doornkloof Private Nature Reserve on a regular basis. I - and, more importantly, my guests - have to stop to unlock and re-lock two gates to enter and leave the reserve (automatic gates are not an option), during which time it is often necessary to hold one's breath for the stench. A large proportion of my guests are cyclists, who are affected by the smell when they use the public road that runs past the compost rows.

As for "the attraction of... wild pigs" mentioned on page 42: Doornkloof is home to a family of bushpigs regularly photographed on our trail cameras. As with the leopard and caracal, please explain your management plan for these.

Lastly, the following paragraph (page 41) needs explication too:

Effluent in the form of sludge / compost tea resulting from the composting process will be generated. The effluent is expected to drain into the constructed cut-off storm water channels which will be stored in the collection dam. The effluent collected in the dam will then be reused in the composting process by spraying the effluent onto the windrows / mounds. This process is considered as disposal of waste that could have a detrimental effect on the environment, which an authorisation in terms of section 21 of the NWA would be required.

I therefore urge a public meeting to address issues including, but not limited to, the aforementioned concerns.

Mrs. Hanneré Jooste
Doornkloof Private Nature Reserve
P O Box 209
Robertson
6705

023 004 0034

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Annexure F

Applicant's Response to Objections

2 February 2018

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Jack van Zyl

**PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT
ROBERTSON: REPLY ON OBJECTION RECEIVED**

Your e-mail dated 19 December 2017 as well as on 18 January 2018 regarding the objection received from Mr and Mrs Keyser refer. The d-date for responding was postponed to today, 2 February 2018.

An e-mail was send on 10 January 2018 to the objectors to address their issues and to explain certain procedures with the intention that the issues could be sorted out with them and the objection withdrawn.

A mail was only received on 17 January 2018 (after a reminder) to say that a response can be expected on 23 January 2018.

No response was received by 26 January 2018 and the objector was again requested for their comments. The public participation procedure and timeframes were explained to the objector. It was emphasized that no further comments will be valid after 2 February 2018.

The objector only replied that they are seeking legal opinion regarding my comments and have a meeting the following week (after 2 February 2018).

The comments as written to the objectors on the objections are therefore also the official comments to the municipally (same numbering of points):

1. It should be noted that no compost is actually sterilised, however it does go through a process of heat treatment which is equivalent to a pasteurisation process. This is highly relevant in that a sterilisation process is carried out at much higher temperatures and shorter times than pasteurisation. (Basically the difference is UHT milk is sterilised versus chilled fresh milk is pasteurised). The facility's heat treatment process is based on USDA principles to allow the finished product to be used in direct contact with food

products such as lettuce and other vegetables. They go through a 'finishing' process whereby temperatures are monitored to ensure that it has been held above 55 degrees centigrade for a minimum of 15 days. During this process, no other material may be added to the compost other than water. This has been shown to be sufficient to reduce harmful organisms to acceptable levels.

It should be noted that before the finishing process commences, the compost has been going through months of the composting process whereby the windrows are monitored regularly with temperatures reaching 65 degrees C plus.

This process is managed by David Houghton, the Chief Operating Officer of SA Farm Assured Meat Group CC with a B.Sc (hons) in food science and technology as well as an LL.M Masters of Law, together with the farm manager who has worked on farms in America for 6 years where he was also responsible for managing the compost sites there.

2. The application site was visited various times by officials from Province Directorate Waste Management, Cape Winelands District Municipality (Health) and Langeberg Municipality where no issues have been noted. It is assumed that they will continue to monitor the site.
3. The 5 Standard-Operating-Procedures (SOPs) and log sheets are attached, as well as the compost results. Please let me know whether you need any additional information that have been referred to in the motivational report.
4. Whilst there is still a learning curve involved, this is not regarding the management of the site or the safe processing of the compost. The learning curve is the same for any new aspect of the SAFAM group. This group has a continuous improvement mindset (what was acceptable and best practice 10 years ago is not the case now) that resulted in growth and better practices. With reference to the compost process there is absolutely no uncertainty within the process as can be seen by the SOPs and other forms. This does, however, not mean that these SOPs and forms will never change, absolutely not. SAFAM always look at ways of making the process more effective and efficient and to improve the quality of the end product. This is how any modern, quality orientated business thrives, through a continuous improvement mindset.

The second part of point 4 is inaccurate. Compost is not a new method of recycling and is favoured in most first world countries as a method of minimising the impact of organic / compostable waste on the environment. SAFAM would argue strongly that it is in fact South Africa which is lagging behind other developed nations in managing

organic waste streams. This was proven during a recent visit by David Houghton to the UK where all households had to separate their organic garden and food waste for collection by the municipality for composting purposes. The fact that the Western Cape Government issued their "Guidelines on the Management of Abattoir Waste in the Western Cape - March 2017" and held a seminar on the 26th October 2017 to discuss abattoir waste and by-products, illustrates that the Province is starting to understand that composting is one of the most effective methods of reducing environmental impacts of organic waste materials.

5. There is a definite increase in flies in general in the Robertson area and not just at Farm 4 Vinkrivier. There is no evidence that the compost site is responsible for more flies at Farm 4. The areas around Robertson, Vinkrivier and Worcester are covered in Renosterbos amongst other biospheres which naturally support the fly (Diptera) population. A number of studies have shown that the Diptera specie (true flies) is the specie found to have the greatest number of families present in Renosterbos, with abundance also being one of the highest. As we are all aware, we have had a very mild winter with low rainfall, followed by the usual increase in average daily temperatures during Spring. This year however, we have had late rains during warmer weather and this is the most likely cause of the fly increase, which is nothing new and unusual. The fly population increased in December if compared with June, July and August. But this is no different to any other year.

All official visitors have been made aware of the pest control activities carried out on site and some of them are clearly visible from the main gravel road. Photos of the flytraps have been added to the application. The fence nearest the compost site has between 15 and 19 fly traps which are visible from the gravel road. These traps have been in place for 6 months at least. The site is also sprayed when required with three chemicals which attacks the flies at all of its key life stages; egg, maggot, castor, fly. As per the SOPs submitted for fly control, they also cover the compost rows with kraal manure which helps reduce the 'attraction' of the compost to the flies as it seals in the abattoir by-products. If the flies are attracted to the compost, then these flies would be around the compost site and not at the house on Farm 4 that is approx. 1km away.

6. The daily throughput of waste is below 10 tons per day that is allowed without environmental authorization/land use approval and notification to the neighbours. The purpose of the application has been explained in the motivational report, i.e. for when the demand becomes higher than 10 tons per day (such as during the festive season).
7. The feedlot for the 4500 to 6000 sheep will be fully enclosed in terms of fencing. In order to run a feedlot, each batch of animals must be kept in clearly marked groups

next to food and water. The feedlot animals will not be grazing or roaming freely such as the goats.

8. The old Health Act was mentioned in the application to describe the definition of "noxious" as primary use under Industrial Zone I in the Section 8 Scheme Regulations dated 1988. The new Health Act does not include a definition for noxious trade and could therefore not be used in this specific case.

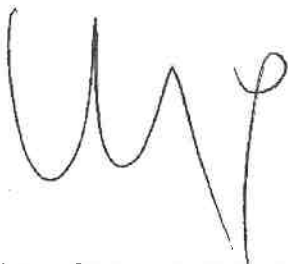
[The CWDM indicated in their comments that the nuisance definition in terms of the Health Act 61 of 2003 as amended, is defined as problematic when accumulation of the various items listed becomes offensive as a result of mismanagement, etc.]

9. The compost site receives daily 1 blood truck and 1 skip truck and on busier days (not every day) an additional skip truck. This can be verified by the records we keep at the abattoir for Elsenburg in terms of recording when the by-products leave the facility and where they go.

There are also other non-agricultural uses (such as a brewery) and/or higher impact agricultural uses (such as a dairy farm) that also use the same road with heavy vehicles. Dept. Roads already commented by saying that the number of trips as indicated in the report is *not deemed significant enough to warrant measures to deal with dust control on Divisional Road 1377.*

In the light of the above, your favourable consideration will be appreciated.

Yours faithfully



Anna-Christa Redelinguys
Pr.Pln A/1076/1998

26 February 2018

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Tracy Brunings

**PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT
ROBERTSON: REPLY ON ADDITIONAL OBJECTIONS RECEIVED**

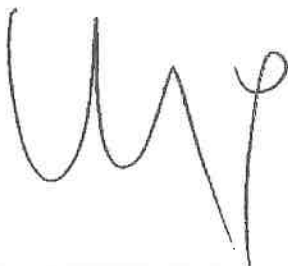
Your e-mail dated 2 February 2018 refers.

Please find attached the response on the objections received from David Houghton, the Chief Operating Officer of South African Farm Assured Meat Group CC together with documents that are being referred to in the document:

- Letter of approval from Dept. of Transport Roads for 6 trucks per day;
- Recent positive site visit report from Steven McLean (CWDM); and
- Older report from Province, confirming that there were no major issues/concerns.

In the light of the above, your favourable consideration will be appreciated.

Yours faithfully



Anna-Christa Redelinghuys
Pr.Pl. A/1076/1998

RESPONSE TO COMMENTS RECEIVED IN TERMS OF REZONING APPLICATION FOR MIDDELBURG FARM, ROBERTSON

Before the actual responses are listed as per below it must be stated and placed on record that the responses from the interested and affected parties were not received by the Municipality within the 30 day period, SAFAM did not then receive these responses until after the deadline of 14 days from the date upon which the Municipality received them. As such we would like to question our statutory or procedural obligation to answer these comments.

However, without prejudice and in the interests of forming a beneficial relationship with the Municipality and our neighbours we have decided to review the comments we have so far received and provide the Municipality with the answers as per below.

1. There is no evidence provided which supports the claim that the use of a portion of the aforementioned farm to produce compost will have a 'profound' effect on the Doornkloof Nature reserve which is 2km from the compost site.
2. Doornkloof Nature Reserve and others claim that that the fly situation has worsened exponentially and that this is due to the compost site. However, there is no evidence to support this whatsoever. In fact, there is evidence to the contrary in the form of the visits carried out by the various authorities to inspect the site after similar complaints were received in terms of the Waste Licence Application process. Most recently Steven McLean from Winelands District carried out an unannounced visit to the site on the 5th February 2018 and found that flies were not an issue. His report is attached. SAFAM would suggest that there is no causal link proven between the compost site and the flies found at Doornkloof Nature reserve. I would also like to refer back to previous responses to comments made on the fly situation.
 - a. The areas around Robertson, Vinkrivier and Worcester are covered in Renosterbos amongst other biospheres which naturally support the fly (Diptera) population. A number of studies have shown that the Diptera specie (true flies) is the specie found to have the greatest number of families present in Renosterbos, with abundance also being one of the highest. As we are all aware, we have had a very mild winter with low rainfall, followed by the usual increase in average daily temperatures during Spring. This year however, we have had late rains during warmer weather and this is the most likely cause of the fly increase, which is nothing new and unusual. The fly population increased in December if compared with June, July and August. But this is no different to any other year.
3. Doornkloof Nature reserve chooses to use Geckos and spiders to control flies inside their property and together with their refusal to use fly nets and insecticides is perhaps the real cause of their problems. The nature reserve as stated earlier is surrounded by Renosterbos which is going through drought and therefore will have lower water and food levels to previous years. This will cause the flies to be attracted to areas where there are other sources of food and water. We would therefore suggest Doornkloof review their own fly control procedures and adapt them to suit the current needs before accusing the compost site.
4. If has been verified by independent inspections that the compost site does not have a fly problem how can this be the cause of Doornkloofs fly problem.

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5. Our farm manager is now living on site in a property which is situated 400m from the compost and this property does not have a fly problem even though only the usual basic domestic precautions are being taken. Doornkloof is a further 1.8Km (plus) away in the same line of sight from the compost and yet it is being argued that flies from the compost are bypassing this house and flying a further 1.8Km (usually) into the prevailing wind to cause a nuisance at Doornkloof.
6. SAFAM have never denied the proximity of Doornkloof Private Nature reserve as it is clearly present on the location maps we have presented in the License to Operate Application. In the LUPA application it was omitted through an administrative error, yet these neighbours have been included in the request for comments so not completely omitted from the LUPA application. It should be noted that what is not clear on the map is that there is a hill between the compost site and the buildings used in the nature reserve and as such the compost site is not visible. It should also be clearly stated that both the compost site and the nature reserve are fenced off.
7. With reference to point 2.2 where it states that the area of land was not previously 'ploughed, planted and used for grazing'. This is completely false and unacceptable that such a false claim is being made without any form of substantive evidence. This portion of land is classed as agricultural and was previously used for grazing cattle. However, the soil quality meant that the grazing quality was in fact very poor, this has been backed up by a report compiled by AVS (previously submitted). The only work carried out was landscaping to ensure the necessary run off required into the dams was ensured. The area of land where the proposed feedlot will be was also levelled. It should be noted that these dams are not intended to be used to store water other than any run off that may occur from the compost site, thus allowing its reuse.
8. With reference to point 2.3. the recycling of waste is more favourable when compared to its disposal as stated in numerous documents issued by Western Province, in particular its Integrated Waste Management Plan / Guideline on The Management of Abattoir Waste in the Western Cape – March 2017. Also see document attached Comment from DEA&DP WM 14072017. Composting is in fact recycling as it converts the by-products into a useable end product. Neither is it a noxious trade as the amended Health Act replaced this term with nuisance, which has the definition of 'problematic when accumulation of the various items becomes offensive as a result of mismanagement. The regular and unannounced visits by the various authorities have shown that the compost site is neither mismanaged nor offensive.
9. With reference to the second paragraph of point 2.3. This is purely an emotional opinion of Ms Hannere Jooste and does not warrant comment other than feedlots and abattoirs are both a legal and necessary part of food production in South Africa.
10. With reference to point 2.4 it is preferred by the Western Province Integrated Waste Management Plan / Guideline on the Management of Abattoir Waste in the Western Cape to recycle abattoir by products rather than send it to landfill. In fact, this is the reason why we were instructed by Langeberg Municipality that they would no longer take our by-products to landfill and that we would have to find our own alternative. An alternative is not to send it to another landfill site such as Vissershok, but to 'reduce, re-use or recycle'. We are therefore recycling. For clarity purposes, condemned material including carcasses, is not classified as hazardous. Only infectious condemned is classified as hazardous material, and as such must be kept below 500Kg per day.

11. Reference point 2.5. We would argue that we have kept to 'our promise' in terms of delivery times and numbers of trips. At the start of this process we had to estimate both volumes and numbers of trips. We stated we would deliver 1 blood truck per day, and a skip truck every other day. Our records show the following: Between 31st March 2017 to 19th January 2018 there were 294 days; which gives the number of trips we estimated at $294 + 147 = 441$. We have actually carried out 476 trips, which is 35 more than what we stated we would a year ago at the start of this process. This equates to being less than 8% over the number of trips. This clearly shows that this is the exception rather than the norm. With respect to late deliveries: Only 77 or 16% were dispatched after 4pm. It takes 30 minutes to arrive at the compost site along with another (Maximum) 30 minutes to offload and cover. The trucks leave immediately and do not need to wait for the covering process to finish. Again this shows that this is the exception and not the norm. It must be born in mind that this is something we have voluntarily put in place in order to consider our neighbours, it is not something which we have been required to do by any authority. It should also be clearly stated that Doornkloof is over 2km away from the compost site with a hill between, so that it is not possible to see and or be disturbed by the deliveries whatever the time. The reason for the late and excess deliveries is that we do not wait for either the blood truck or skip truck to be full, as this would mean that on occasions it would remain at the abattoir overnight. This increases the chance of odours developing that we are unwilling to risk. These total figures as stated above are considerably less than the approved figure of 6 trips per day, as has been approved by Western Cape: Road Network Management. This body is ultimately responsible for the upkeep and management of all Provincial Roads.
12. Reference point 2.6. No one has neglected to mention this agricultural land borders on a nature reserve. It is clearly marked on the maps provided.
13. Reference point 2.7. Fire risk only increases slightly if the compost is allowed to reach 70 degrees centigrade and maintain that temperature for a number of days. We monitor the temperatures frequently to prevent this from happening. The number of people and vehicles on site do not increase fire risk; just as the number of people and vehicles visiting Doornkloof nature reserve do not increase the fire risk there.
14. The documents referred to in point 2.8 are confidential and commercially sensitive. We have provided these documents to the relevant authorities, and will continue to do so when requested upon the agreement that they are not made public. We would argue that it is not for Doornkloof Nature Reserve to comment on our procedures or documentation but the relevant independent authorities. We have not registered a borehole, nor do we need to unless we intend to draw more than the proscribed volume of water. The borehole is intended purely for the testing of any ground water if and when required by the relevant authorities.
15. Reference point 2.9. We have no intention of putting 'an industrial area' next to a private nature reserve. Our intention is to place a feeding lot on agricultural land between 1.5 and 2km away from a private nature reserve, with a hill between. This area already suffers from 'light pollution' from Robertson and Worcester and therefore Doornkloof Nature Reserve is perhaps not the best place for a tourist to go to star gaze.
16. Reference point 2.10. The blood does not have to lie uncovered for an hour, it lies uncovered until it is soaked into the compost, which is a maximum of 1 hour. It is not

done to protect the machines as Doornkloof Nature Reserve suggest, it is done so that when the compost is turned it reduces the risk of blood being spread into the open which would increase the risk of smell and attract flies. This method prevents both smell and flies.

17. Reference 2.11 No comment required other than there is already a heavy industrial area in the vicinity which leads to dust, traffic and light pollution.
18. Reference 2.12 We would like Doornkloof Nature Reserve to clarify why they believe generating the much needed employment will compromise their security. Are they accusing our employees of being criminals? If individuals are provided with employment, then there is no need to turn to crime to provide for themselves or their families. We are not placing an industrial area next to the private nature reserve, we intend to place a feedlot there. It should also be noted that there is no restriction on the number of people we employ on our farm and it is encouraged at National, Provincial and Local level to employ as many people as possible. Also, Doornkloof Nature Reserve is also surrounded by other employers, which currently employ many more people, both seasonally and permanently than we intend to. Will it be a requirement that the dairies, brewery, wine farms and fruit farms dismiss their employees to ease Doornkloof Nature Reserve's concerns about their safety and security. It should also be noted that at a National Strategic level as stated in the National Organic Waste Composting Strategy 2013, Page 13 the Dept Environment is committed to poverty alleviation through promotion of employment in composting.
19. Reference point 2.13. SAFAM believes that this point illustrates the unjustified and negative attitude of the Doornkloof Nature Reserve which we contend is unwarranted. Doornkloof suggests that we move the compost site to Roodehoogte Farm so it is near someone else but not them. Roodehoogte for the record is unsuitable for composting due to the type of ground and access when compared to Middleburg. We also intend to use the compost on our Middleburg farm in order to improve the soil quality to enable better crop yields. We cannot comment on what other abattoirs do other than, what we are doing is what they should also be doing as recommend in the Western Province Integrated Waste Management Plan and the Western Province Guideline on the Management of Abattoir Waste in the Western Cape. We would again state that we are not turning Middleburg into an 'industrial area' and the fact that Doornkloof uses this phrase a number of times is intended to mislead the various authorities. The term is used in relation to planning consent and in fact it is still debateable whether or not composting should be considered as industrial at all. In fact, early communication from Langeberg Municipality at the start of this process illustrates their lack of clarity on this matter. See attached email ref:

Quote 'A composting facility is not specifically defined in the Zoning Scheme. It could be considered to fall under the definition of "noxious trade" and therefore require a footprint rezoning from Agricultural Zone I to Industrial Zone II (Industrial III in terms of the proposed Integrated Zoning Scheme).

As stated earlier, with the amendments made to the Health Act the term Noxious Trade has fallen away and been replaced by nuisance which has the definition of 'problematic when accumulation of the various items becomes offensive as a result of mismanagement. All independent visits have shown that the site is neither a nuisance or mismanaged.

The compost site used by the municipality is too close to a water course and as such, we contend that it should not be in operation.

No comment is required in terms of whether or not we have sufficient funds to purchase another property ad hoc as Doornkloof Nature Reserve states, except that we only have Middleburg which we can use for compost and that more than 200 people's livelihoods as well as their families rely on our ability to use this land for composting. If we are not allowed to compost the by-products, only 2 options would remain: We close the abattoir and dismiss the 200 people or Langeberg Municipality restart taking our waste as per their Constitutional Duty as stated in the National Organic Waste Composting Strategy 2013.

20. Reference point 3. Sometime ago Mr. De Bod did apply for planning to build a house on the site. However, since then we were told by Langeberg Municipality that they would stop taking our by-products and we had to find an alternative solution. This has meant SAFAM has spent in the region of R2million so with regret Mr. De Bod has not been able to fund building a house. However, our farm manager is currently living in a dwelling which was already on site and he has no issues with flies. He manages this through routine household hygiene products and practices.
21. Reference point 3. The site does not contain fly covered heaps of blood and guts as Doornkloof Nature Reserve state. This has been backed up by the numerous visits. The use of such an emotive statement is purposefully misleading and unwarranted.

With reference to Louise Jordaan's comments we believe most of them have already been answered with the above. However, where different concerns have been raised see below:

1. Based on the current number of trips which have been stated above we have received approval from Roads, see the attached approval letter. This independent inspection and authorization body is clearly satisfied that our actions will not lead to problems as stated by the complainants.
2. As all of our records show we have at all times tried to work in collaboration with all the relevant authorities and not just the Municipality.
3. We cannot be held responsible for the continued drought and the state of Mr. Jordaan's bore hole. The use of water and the amounts of any water we draw from a borehole will be in accordance with the amounts as stipulated by the Dept. of Water Affairs.
4. SAFAM have already described how we destroy pathogens in the compost in previous replies. Independent inspections have shown we have kept the flies under control. The compost can also be sent away for analysis to confirm there is no pathogenic issues present. We have already confirmed this with Elsenberg, Department of Agriculture
5. Water analysis and dam information was attached to the LUPA Application and sent to the Municipality.
6. The second entrance was not recently made as was witnessed by Province, Winelands, and the Municipality during their visit in February 2017. We have however recessed the entrance away from the road so that our trucks could pull off the road so as not to block it. This was at the request of those present.
7. This point is completely unfounded, false and misleading and has no supporting evidence. We have already submitted numerous answers in terms of the wildlife. We

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have not seen any evidence of leopards, bush pigs on site which is likely due to the good management practices we employ and the fact that there is staff on site 24/7. We cannot build a fence to keep eagles out, but we do cover any animal by-products with wood chips and kraal manure.

8. The compost next to the kraals will not cause a problem as can be seen at other abattoirs around the country.

A final point which should be noted is that many farmers create compost on their farms with chicken by products, and manure from other farms and this is seen as supportive and part of agricultural use. In addition, the Section 8 Scheme Regulations do not provide a definition or a certain amount of compost that trigger a land use change application.

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ROAD NETWORK MANAGEMENT
Email: RoadNetwork@westerncape.gov.za
Tel: +27 21 480 4669
Rm 335 - 3rd Floor, Cape Town, 8001
PO Box 7603, Cape Town, 8003

REFERENCE: 16/9/6/1-04/141 (Job 25595)

ENQUIRIES: Ms GD Swanepoel

DATE: 7 February 2018

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Attention: Mr JV Brand

Dear Sir

PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON: DIVISIONAL ROAD 1377: PROPOSED REZONING AND CONSENT USE

1. The following refer:
 - 1.1 Your letter dated 14 November 2017 and
 - 1.2 E-mail correspondence between Mr F Fakier and the Applicant on 19 and 21 December 2017 and 15 January 2018.
2. The subject property is located 17 km north-west of Robertson and takes access off Divisional Road 1377.
3. This application is for the following:
 - 3.1 Rezoning of 3.6 ha from Agriculture Zone I to Industrial Zone II (noxious trade) in order to develop a composting site and
 - 3.2 Consent Use for intensive feed farming.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014, subject to the maximum of 6 trips per day.
5. Should the number of trips increase, this Branch reserves the right to require the landowner to provide a sealed surface on the affected portion of Divisional Road 1377.

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6. The subject property also has a right of way servitude registered across it that provides access to farms north of it. The Applicant/Property owner is advised to liaise with the farm owners affected by the right of way with a view to relocating the access onto the Divisional Road 1377 by approximately 100m west in order to improve safety.

Yours faithfully



ML WATTERS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

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CAPE WINELANDS DISTRICT

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FAKS/FAX/IFEKSI:
E-POS/E-MAIL/IE-MAIL:
U VERW/YOUR REF/REF YAKHO:
ONS VERW/OUR REF/REF YETHU:

S McLean
023-614 2384
086 234 0968
smcclean@capewinelandsgov.za
17/1/1/2/2

Van Reenenstraat 40 Street
51
ROBERTSON
6705

05 February 2018

The Manager
Middelburg Farm
Agter Vink Rivier
ROBERTSON

Inspection report feedback: Compost plant

Routine inspection was conducted on 05 February 2018 at the compost plant, Middelburg farm, Robertson.

The following was noted:

- Terrain is enclosed and gates are locked to prevent any unauthorised entrance to the composting area;
- No wild animals found on terrain – no birds on composting heaps at time of inspection;
- Inspection of the composting heaps found no fly larva;
- Terrain is neat and orderly;
- No excessive fly activity found at time of inspection – fly traps are in place and chemical spraying is done on regular basis;
- Slight odours encountered, but only in the immediate vicinity of the compost heaps...no odours could be noted in the public road area at time of inspection;
- No abattoir waste and blood was visible at time of inspection – all covered areas;

No environmental health nuisances could be identified at the time of inspection. Regular routine inspections will continue to monitor the area.

ST McLean
Health Officer
For: Municipal Manager
Mr H Prins

REFERENCE: 19/2/4/2/81/14 FARM MIDDLEBERG

The Board of Directors
SA Farm Assured Meat Group
P.O. BOX 895
ROBERTSON
6705

Tel: (023) 626 6320/ 082 579 5231

Email: david@recab.co.za

For attention: Mr David Houghton

**INVESTIGATION OF A COMPLAINT WITH REGARD TO NUISANCE CONDITIONS AT AN ABATTOIR
COMPOST FACILITY, REMAINDER OF FARM MIDDLEBERG 10, ROBERTSON**

1. To respond to a complaint received on 24 March 2017 with regard to alleged nuisance conditions at the Robertson Abattoir Composting Facility. A site inspection was conducted on 30 March 2017 by an official from the Department, Gary Arendse from the Directorate: Waste Management. Mr David Houghton, the Chief Operating Officer, accompanied the Departmental official at the Facility during the inspection.
2. The following observations were made:
 - 2.1 On the day of the investigation, irregular odours were not noticed at the Facility.
 - 2.2 The Facility, however, had a large amount of flies evident during the inspection, which could create a nuisance.
 - 2.3 In order to track how far outside of the Facility flies were still noticeable, two reference points were selected alongside the dirt road to the Facility, the first reference point approximately 50m and the second approximately 100m down the road from the Facility. It was noticed that at the 50m reference point, the amount of flies were considerably less, while flies were barely noticeable at the 100m reference point.
 - 2.4 The Facility is in the process of applying for a Waste Management Licence (WML), which will have strict conditions to operate the Facility. The Department will ensure that the Facility stay compliant with the operating conditions of their licence, should it be granted, and in so doing, minimize negative impacts on the environment.

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3. The Department recommends the following:

- 3.1 Mitigation measures must immediately be put in place to prevent odour and fly nuisances from becoming concerns in future.
 - 3.2 The Chief Operating Officer must supply the Department with monthly feedback in order to establish whether the implemented mitigation measures are successful.
 - 3.3 Abattoir waste must immediately be covered at the compost facility in order to prevent it attracting vermin and creating odours.
4. On 31 March 2017, Mr David Houghton, reported that 19 (nineteen) fly traps were purchased and will be put up on the boundary of the Facility. They will also meet with Ecolab and Coopers in order to establish which chemical to use to control the flies on the property.
5. In terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended, a person convicted of an offence/charge of unlawfully and intentionally or negligently significantly polluting or degrading or detrimentally affecting the environment in terms of the aforementioned legislation is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
6. The Department reserves the right to revise initial comments and request further information based on new information received.

Yours faithfully,



LANCE MCBAIN-CHARLES

DEPUTY DIRECTOR: WASTE MANAGEMENT LICENSING

DATE: 2017/4/21

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Annexure G

Comments from Departments

REGISTERED POST

Our Ref: HM/ CAPE WINELANDS/BREDE RIVER /ROBERTSON/REMAINDER FARM 10
 Case No.: 16112813HB1205E
 Enquiries: Heidi Boise
 E-mail: heidi.boise@westerncape.gov.za
 Tel: 021 483 9680
 Date: 1 February 2017



South African Farm Assured Meat Group CC
 PO Box 895
 Robertson
 6705
 E-mail: david@robab.co.za

RESPONSE TO NOTIFICATION OF INTENT TO DEVELOP: FINAL

In terms of Section 38(8) of the National Heritage Resources Act (Act 25 of 1999) and the Western Cape

NOTIFICATION OF INTENT TO DEVELOP: PROPOSED COMPOST FACILITY TO RECYCLE & TREAT ABATTOIR & ORGANIC WASTE TO PRODUCE COMPOST CONSTRUCTION OF STORM WATER CUT-OFF CHANNELS & COLLECTION DAM TO CONTAIN & SYRE ALL STORM WATER GENERATED ON SITE FOR REUSE & RECYCLING ONTO THE COMPOST ROWS AS PART OF THE TREATMENT & COMPOST MAKING PROCESS, ON REMAINDER FARM 10, FARM MIDDLEBERG, ROBERTSON, SUBMITTED IN TERMS OF SECTION 38(8) OF THE NATIONAL HERITAGE RESOURCES ACT (ACT 25 OF 1999)

CASE NUMBER: 16112813HB1205E

The matter above has reference.

Heritage Western Cape is in receipt of your application for the above matter received on 05 December 2016. This matter was discussed at the Heritage Officers meeting held on 13 January 2017.

You are hereby notified that, since there is no reason to believe that proposed compost facility to recycle & treat abattoir & organic waste to produce compost on approximately 7.5 ha; construction of storm water cut-off channels & collection dam to contain & syre all storm water generated on site for reuse & recycling onto the compost rows as part of the treatment & compost making process, will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.

However, should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately and Heritage Western Cape must be notified without delay.

This letter does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.

HWC reserves the right to request additional information as required.

Should you have any further queries, please contact the official above and quote the case number.

Mr Mxolisi Dlamuka
 Chief Executive Officer, Heritage Western Cape



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E-POS/E-MAIL/IE-MAIL:
U VERW/YOUR REF/IREF YAKHO:
ONS VERW/OUR REF/IREF YETHU:

ST McLean
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086 234 0968
smcclean@capewinelands.gov.za
15121611

Van Reenensstraat 44 Street
☒ 50
ROBERTSON
6705

17 November 2017

The Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: J.V.Brand
Town Planning Dept.

Sir,

**PROPOSED APPLICATION FOR REZONING & CONSENT USE AND: PORTION 6 OF
THE FARM MIDDELBURG NR 10, ROBERTSON**

Your correspondence dated 14 November 2017 refers:

Comments as follows:

1. Service Delivery:

No basic services (drinking water, sanitation, electrical and refuse removal services) are supplied by CWD M.

2. Waste Management:

Domestic (dwelling/office) must be removed in such a manner so as not to form any environmental health risks \ nuisance.

3. Waste water management \ disposal:

All waste water, including run-off from the composting plant & sheep feedlot, must be carried out nuisance free and to the satisfaction of BOCMA \ Dept. of Water affairs – so as to ensure that any upper and underground water sources are not polluted.

4. Provision of Drinking Water:

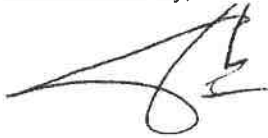
All premises must be provided with a constant flow of drinking water which complies with the provisions of SANS 241. **Note is taken off the submitted water result.**

5. General:

- Approved ablution facilities must be brought about as a matter of urgency;
- Pest control measures as set out are noted;
- Nuisance definition in terms of the **Health Act 61 Of 2003** as amended, is defined as problematic when accumulation of the various items listed **becomes** offensive as a result of mismanagement, etc.; *** **kindly be advised that the Health Act 63 of 1977 has been repealed.**
- Odour management: **needs to be adhered to in the transporting of abattoir waste to and from the composting site – National Environmental Management – Air Quality Act 39 \ 2004**

- Cleaning of vehicles used in the process needs to be clarified;
- Protocol needs to be submitted regarding back-up system in the event of any mechanical failures of vehicles\machinery used in the composting process;
- Protocol needs to be submitted for record purposes with regards to disposal of infectious waste\carcasses – Dept of Agriculture – Food Safety needs to approve system;
- Protocol needs to be submitted regarding procedures in place in the event of abattoir waste build up during inclement weather conditions.
- This office reserves the right to call for additional requirements if deemed necessary at any later stage;

Yours sincerely,



For: Municipal Manager
Mr. M. Mgajo
STM

204

Tracy Brunings

From: Anna-Christa Redelinghuys <annachris@mweb.co.za>
Sent: 01 December 2017 11:31 AM
To: 'ST McLean'; Tracy Brunings
Cc: 'David Houghton'
Subject: FW: Responses to comments from Cape Winelands District
Attachments: image018.jpg; Compost finishing SOP.doc

Hallo Steven/Tracy

Response from SAFAM on the comments received from CWDM on the Middelburg application is below for your consideration.

Nicolaas Hanekom from Eco Impact (EAP) confirmed that they cover the air quality requirements in their application/s.

Thank you,

Anna-Christa Redelinghuys
PrPln A/1076/1998
UMSIZA Planning

No 2 Rose Gate, ROBERTSON
Box 649, ROBERTSON, 6705
Tel: (023) 626 1506
Mobile: 082 825 9891
Fax: 086 617 9318

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

From: David Houghton [mailto:david@robab.co.za]
Sent: 01 December 2017 11:04 AM
To: Lauren Abrahams; Nicolaas Hanekom; Anna-Christa Redelinghuys
Cc: Hennie
Subject: Responses to comments from Cape Winelands District

Good Morning Lauren,

Please find below responses to Steven McLeans letter dated 17th November which he sent to the Municipal Manager, Langeberg, Ref: 15\2\6\1.

I am not sure if I needed to respond as the letter was not addressed to SAFAM.

The responses are numbered as per the letter.

2. We will remove the domestic / office / and dwelling refuse ourselves to be collected at another point where services are provided.
3. Waste water management: As per the soil / land survey we carried out the ground has a high clay content and as such is impervious. The ground has also been landscaped / levelled so that any run off is collected in the lower dam. During the last month when we have had rain it has been visible where the run off actually goes. This has proved that the landscaping and grading of the site works as the minimal run off seen was flowing towards the dam. However it must be noted that no water actually collected in the dam as it was not of sufficient quantity to accumulate. We will, as stated in previous responses build shallow channels and a berm in order to ensure that in

the event of an extensive rain fall the water has a natural channel to ensure the flow is towards the lower dam. Although we feel this is not actually needed we would view it as a fail safe.

4. The dwelling being renovated on the farm will be supplied with its own constant supply of potable water. However we would like it to be noted that we feel the dwelling is outside the scope of this application.

5. We have provided a portable toilet facility on site for the workers currently employed there, either for the farm or the compost. This is cleaned and changed every week by a toilet hire contractor. We are in the process of identifying and providing a permanent ablution facility for the workers on site.

5. We are monitoring the level of fly activity to ensure that it is no worse than the surrounding Renosterbosch levels. We have found that the most effective methods are the fly traps we have positioned on the border; along with covering the piles with kraal manure as this prevents the flies getting to the by-products whilst it is still wet. We have also monitored the site ourselves and instructed the employees to monitor for other 'wild animals' and as of yet we have not witnessed any activity. There are baboons on the farm but these remain in the Kloof and have never approached the compost site.

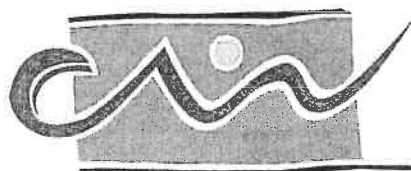
5. Odour management is an ongoing process and forms part of the day to day production of compost. Although the site smells of compost / earth it can not be said to be unpleasant. If we start to notice any ammonia / sulphur type odours we immediately add more wood chips and turn the rows or bulk piles. This has not been an issue from after the first 6 to 8 weeks of operation.

5. We clean the vehicles at the abattoirs truck wash facility.

5. In the event of mechanical failures of machinery we have our own workshop which can maintain and fix most issues. If major work is required the trucks will be sent or worked on site by a fully qualified mechanic for that particular vehicle. The composting process has been set up in such a way that we can still manage the site without any heavy machinery. All that changes is that the actual composting biological process slows down as we do not turn so frequently. As long as there is sufficient plant based material present then no issues would develop. In terms of being without a truck for any period of time we would obviously need to hire one.

5. I have attached our protocol for finishing all of our compost. This protocol has been taken from USDA standards to allow the compost to be used in direct contact with food products and is aimed at killing all pathogens. We will treat all of our compost in the same way irrespective of whether it has infectious material in it or not. This way ensures that batch control and segregation issues do not occur. It also ensures a safe product. I believe I have already forwarded you the response from Eisenberg and that they requested we send our next batch away for micro analysis. We aim to do this after Christmas when the next batch is ready around February. As a point of note we have not processed any infectious material yet on site, although we do process DOAs, which are not classified as infectious only as condemned. If we do have the need to process infectious material it will almost certainly be less than the 500Kg per day allowed. And it will be recorded at the abattoir as being removed to the compost site.

5. During the last year we have not had any issues with regards being unable to deliver the by-products to the site and cover them as necessary, even when we have had the recent storms we have always been able to remove the by-products to prevent a build up at the abattoir. However, and as was the case in the past if the municipality couldn't collect our by-products, once the storage is full at the abattoir we must stop slaughtering.



CAPE WINELANDS DISTRICT

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U VERW/OUR REF/REF YAKHO:
ONS VERW/OUR REF/REF YETHU:

S McLean
023-614 2384
086 234 0968
smcclean@capewinelands.gov.za
17/11/2012

Van Reenenstraat 40 Street
51
ROBERTSON
6705

05 February 2018

The Manager
Middelburg Farm
Agter Vink Rivier
ROBERTSON

Inspection report feedback: Compost plant

Routine inspection was conducted on 05 February 2018 at the compost plant, Middelburg farm, Robertson.

The following was noted:

- Terrain is enclosed and gates are locked to prevent any unauthorised entrance to the composting area;
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- Inspection of the composting heaps found no fly larva;
- Terrain is neat and orderly;
- No excessive fly activity found at time of inspection – fly traps are in place and chemical spraying is done on regular basis;
- Slight odours encountered, but only in the immediate vicinity of the compost heaps....no odours could be noted in the public road area at time of inspection;
- No abattoir waste and blood was visible at time of inspection – all covered areas;

No environmental health nuisances could be identified at the time of inspection. Regular routine inspections will continue to monitor the area.

ST McLean
Health Officer
For: Municipal Manager
Mr H Prins



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: 16/9/6/1-04/141 (Job 25695)

ENQUIRIES: Ms GD Swanepoel

DATE: 7 February 2018

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Attention: Mr JV Brand

Dear Sir

**PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON: DIVISIONAL ROAD 1377: PROPOSED
REZONING AND CONSENT USE**

1. The following refer:
 - 1.1 Your letter dated 14 November 2017 and
 - 1.2 E-mail correspondence between Mr F Fakier and the Applicant on 19 and 21 December 2017 and 15 January 2018.
2. The subject property is located 17 km north-west of Robertson and takes access off Divisional Road 1377.
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4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014, subject to the maximum of 6 trips per day.
5. Should the number of trips increase, this Branch reserves the right to require the landowner to provide a sealed surface on the affected portion of Divisional Road 1377.

208

6. The subject property also has a right of way servitude registered across it that provides access to farms north of it. The Applicant/Property owner is advised to liaise with the farm owners affected by the right of way with a view to relocating the access onto the Divisional Road 1377 by approximately 100m west in order to improve safety.

Yours faithfully



ML WATTERS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

BREEDE-GOURITZ

Catchment Management Agency
Opvanggebied Bestuursagentskap
I-Arhente yolawulo lomMandla nokungqongileyo
51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: N. Feni

Tel: 023-3468000

Fax: 0865156323

E-mail: nfeni@bgcma.co.za

Our Ref:

Date: 16/01/2018

4/10/1/H40L/Middelburg 10/6

Umsiza Planning
P.O.Box 649
Robertson
6705

Attention: Ms Anna-Christa Redelinghuys
Email: annachris@mweb.co.za

**COMMENT: PROPOSED REZONING AND CONSENT USE: PORTION 6 OF FARM
MIDDELBURG NO 10, DISTRICT ROBERTSON, LANGEBURG MUNICIPALITY**

The request for comment on the abovementioned application, dated 17 November 2017, has reference.

The Breede- Gouritz Catchment Management Agency (BGCMA) in principle has no objection on the application, subject to the following conditions

- That all activities on the above properties are carried out in accordance with the requirements of the National Water Act;
- Section 21(a) including drinking water obtained through a pipeline from borehole, (b) and any other water use attached that are not registered on WARM System must be applied for. Should the applicant has an ELU, permit, Enlistment from Water User Association or Licence of the existing dam, the BGCMA request to be provided with that information;
- No additional use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a licence in terms of Section 41 of the National Water Act, 36 of 1998 and/or formal authorisation in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016 , where applicable, thereto;
- The potential use of groundwater and/or increased use may only be permitted where an authorisation thereto exists as stipulated in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016;
- If the dam exceeds 5m high and storage capacity of 50 000 metres, triggers water use authorisation in terms of Section 21(b) of the National Water Act, 1998 and qualifies for dam safety regulation. The applicant is advised to submit an application to a Dam Safety Officer for a dam to be classified;

210

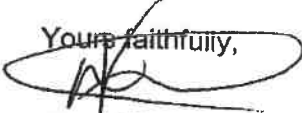
- Any development within 1:100 year floodline or within the riparian habitat constitutes a water use licence in terms of section 21 (c) and (i) of the National Water Act, 1998 (Act 36 of 1998) and will require authorisation before any development may commence.
- The stormwater management plan for the proposed activity must be developed taking into consideration the anticipated ingress of siltation on the water resource and/or any drainage areas within the site. The stormwater management plan should also consider soil erosion impacts and the downstream water users and impacts must be properly identified and mitigated. Measures must be taken to control and mitigate any activity that may detrimentally impact both the surface water resource and downstream water users;
- All reasonable measure must be taken to prevent contaminated stormwater overflowing from any storage dam entering water resource;
- Details of the volume of waste to be disposed, designs and capacity of the collection dam must be provided. Filter trap or screening should be installed to ensure that the capacity of the dam is not compromised by slurry or sludge;
- All information pertaining to the waste management on site, including the existing sewer infrastructure & any proposed facilities must be detailed and taking into account the personnel that will be expected to be on site, its locality to the water resource, proposed designs, and an agreement must be reached with the service provider for any collections, transportation and disposals of sewer contents that may be anticipated;
- Integrated Waste Management Plan must be conducted to explain how waste management (e.g. waste stream, sewage management and storm water) will be managed;
- A concrete slab or bundled area may be appropriate to prevent soil, surface water or groundwater contamination during wet season. Compost should be stored in a protected area where it will not waste down to water resource. Such facility should be located in a regulated area.

Please be advised that no activities may commence without the appropriate approvals/authorizations where needed from the responsible authority. The onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorization for.

This office reserves the right to amend and revise its comments as well as to request any further information.

Please do not hesitate to contact this office if you have any further queries. Please ensure to quote the above reference in doing so.

Yours faithfully,


MR JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (Acting)



C.N
211

SCIENTIFIC SERVICES

postal: Private Bag 25314, Springfield, 2590
physical: Aalweg 541, 5092, Nature Reserve, Londenhoek
website: www.capenature.co.za
enquiries: Philippa Hardy
telephone: +27 (0) 354 5000 fax: +27 (0) 354 1323
email: phorlly@capenature.co.za
reference: SS/114/2017/91110 / Rezoning Middelburg Robertson
date: 19 January 2018

J V Brand
Bestuurder Stadsbeplanning
28 Main Road
Ashton
6715

By email: admin@breeland.gov.za

Dear Mr Brand

RE: Application for Rezoning: Agriculture I to Industrial Zone II (compost facility) and Consent Use for Intensive Feed Farming (sheep feedlot) for portion 6 of farm Middelburg No 10 Robertson

CapeNature would like to thank you for the opportunity to comment on the above application and wish to make the following comments:

1. Part D of the Landuse Planning Application form refers to two pre-consultation meetings held with Tracy Brunings on 20 June 2017 and 17 July 2017. Please forward us the minutes from those meetings.
2. Point 7 on page 6 refers to other legislation required and the Environmental Authorisation process currently underway via EcoImpact is highlighted. CapeNature provided comment on the Pre-Application BAR on 11 July 2017. As noted in those comments the western portion of the site has been determined as a Critical Biodiversity Area (CBA) despite the area being disturbed. One of the reasons for the CBA is water course protection. Linked to this CapeNature's comments of 11 July 2017 requested input from a geohydrologist and it is expected that the next phase of the Environmental Authorisation process will address this recommendation.
3. Given that the operation involves the disposal of wastes derived from the slaughter process and that this operation is expected to expand to in excess of 10 tons per day there is potential for impacts on indigenous fauna and flora off site from pests attracted to the processing site. The Pest Report indicates that flies, baboons and feral pigs are listed as pest animals attracted to the site. Both the management of these animals on-site and the management of their impacts off site is of concern as the operation grows. Populations of feral pigs in the Western Cape have considerable negative impacts on indigenous fauna and flora.

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

Yours sincerely



Philippa Huntly For: Manager (Scientific Services)

Cc: Umsiza Planning, Anna-Christa Redelinghuys, annachris@mweb.co.za

Cc: Tracy Brunings, tbrunings@langeberg.gov.za

DoA (213)



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

OUR REFERENCE : 20/9/2/5/5/314
YOUR REFERENCE : -
ENQUIRIES : Cor van der Walt

Langeberg Municipality
Private Bag X2
ASHTON
6715

15/12/17
K. Brand
T. van der Walt

Att: JV Brand

**PROPOSED REZONING AND CONSENT USE: DIVISION ROBERTSON
PORTION 6 OF THE FARM MIDDELBURG NO 10**

Your application of 14 November 2017 has reference.

The application was circulated to the Western Cape Government; Department of Agriculture; Veterinary Public Health for comment.

In principle the WCDa has no objection as the intended land uses are space intensive. It could be considered as "hindrance uses" and therefore your attention is drawn to certain key points to be suitably addressed.

- a) If borehole water to be used for feedlot, are there any other water sources that could be at risk of contamination? Reference is made to borehole capacity of 14 000 m³, what alternative measures will be implemented in case of emergency? (limited borehole capacity in cases of drought or low water levels).
- b) What are the possibilities of pollution on the river?
- c) The indication of capacity and frequency of collection of septic tanks could be important, including depiction of layout or construction on site.

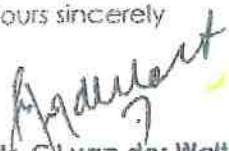
214

- d) It is indicated that water gathered in collection dams will be re-used where possible. Please ensure that water is "clean" for re-use as irrigation or release in river as per standard of the Department of Water and Sanitation.
- e) Risks and hindrance of diseases, flies and odours should be adequately addressed and monitored. Ensure acceptable control measures to be implemented to manage scavengers, migratory and other birds in balance with nature.
- f) Will drinking water be adequate for sheep and does this include consumption needs for 30 day cleaning cycle, drinking or other water consumption needs?
- g) The document provides guidance on what will be done with final product (sold as compost or fertilizer). Please note that all products to be used for composting or fertilizer needs to be registered with the registrar of Act 36 (Farm feeds and fertilizer).

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely


Mr. Cl van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2018-03-06

Copies: Western Cape Department of Agriculture (Veterinary Public Health: Mr. William Jephthas) Private Bag X1 Eisenburg 7607	Department of Environmental Affairs & Development Planning (H Jansen) 1 Dorp Street Cape Town 8000
Department of Environmental Affairs & Development Planning (M Oosthuizen) 1 Dorp Street Cape Town 8000	Department of Water Affairs and Sanitation Private Bag X16 SANLAMHOF BELLVILLE 7532



215

Jannie Swanepoel
Van Arckelstraat 30 Worcester 6050
Epos : jannies@elsenburg.com
Tel : 021 808 5064

VERWYSING : 15/1/5/1

NAVRAE : J A SWANEPOEL

Mnr W J Jephias

Voedselveiligheid

Privaatsak X1

Elsenburg

7607

Komposaanleg - **Roberison** abattoir

Die besoek van Mnr J A Swanepoel en S T Mc Lean, Kaapse Wynland Distriks Munisipaliteit op 6 September 2017 verwys.

Die bestuurder van gemelde aanleg was teenwoordig tydens die besoek.

Bevindinge word hiermee op rekord geplaas.

- Die terrein is omhein, sluitbaar en in 'n ordelike toestand gevind.
- Skedding van besmetlike en nie-besmetlike materiaal geskied by die abattoir.
- Slegs nie-besmetlike afgekeurde materiaal vanaf Roberison abattoir word by die aanleg ontvang en verwerk.
- Besmetlike materiaal word in 'n vrieshouer geberg by die abattoir.
- Tans bestaan onsekerheid met betrekking tot die storting van besmetlike materiaal aangesien Vissershok stortingsterrein nie hierdie materiaal mag ontvang.
- Geen teenwoordigheid van enige diere of voëls is op die terrein gevind.
- Oormatige illegale aktiwiteit is nie aangetref. Plaagbeheer maatreëls is geïmplementeer.
- Geringe reuke was teenwoordig naby kompos hope maar geen waargeneem buite grense van die perseel.

|| NB

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- Geen waterpoele was sigbaar. Dreineringsdamme is aangebring aan die onderkant van die kompos aanleg.



J A SWANEPOEL

VPHO

WORCESTER

Datum.....13.09.2017.....

3 April 2018

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Tracy Brunings

**PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT
ROBERTSON: REPLY ON ELSENBURG'S COMMENTS**

Your e-mail dated 18 March 2018 regarding the comments received from Western Cape
Government: Department of Agriculture: Veterinary Public Health refers.

David Houghton had responded on the points raised in the letter (similar numbering):

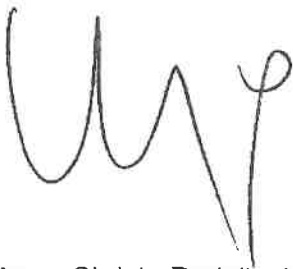
- a) Apart from the borehole water, the farm has a number of dams on the farm which have a capacity of just under 100,000 cubic meters. We will use this water in the event of the borehole levels dropping. It should be noted that this is not a new feedlot, but only a relocation to a more suitable site. We are therefore not removing or requiring any more water to be drawn from the management area concerned. The impact will purely be localised and minimised through our own dams, and in extreme situations we will tanker water in. The last result being the reduction of stock holding of the livestock.
- b) The risk of pollution of the river is minimal and this has been covered in the licence to operate. The actual site has been designed so that any run off from storm water runs into the catchment dams. The soil also has been analysed and shown to have over 25% clay content thus ground water will also not be affected. The location is also outside the 32m boundary of the closest 'river' which is fact a dry river bed.
- c) At present we use a 'portable' toilet facility for the workers which is collected on a weekly basis. If and when the feedlot is relocated to the site the septic tanks required will be placed in a position that does not cause environmental problems or concerns with any water courses located on the site.
- d) The water in the collection dams will not be released into any river. The collection dams are physically separate from any natural water course. It is our intention to use the water for the composting facility. We will not be using the water for irrigation as the ploughed and planted land is uphill from the dams and this would require extensive pipe works to be laid including pumps. This does not make sense as all of our other dams are up hill from the irrigated land.

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- e) Previous visits have shown that we are managing the site in balance with nature and that there are no fly or odour problems. The risk of disease is eradicated due to the actual composting process itself. We ensure any compost produced goes through a heat treatment phase of 15 days held above 55 degrees centigrade or higher; this is in 5 cycles of three days, in between each cycle the compost is turned. During this phase the only thing added, if required, is water.
- f) There will be sufficient drinking water on site through the borehole and the dams. Refer to point a) above.
- g) Comments are noted.

For your consideration please.

Yours faithfully



Anna-Christa Redelinghuys
Pr.Pln A/1076/1998

Tracy Brunings

(219)

From: Van der Walt, Cor <CorvdW@elsenburg.com>
Sent: 23 April 2018 06:10 PM
To: Tracy Brunings
Subject: RE: MIDDELBURG 10/6, ROBERTSON RD Response on letter from Elsenburg

Hi Tracy

I have nothing to add other than; are the water for the dams registered or do they need to be registered?

Groete/Kind regards

Cor van der Walt (Pr.Sci.Nat)

Land Use Management

Department of Agriculture

Western Cape Government

Private Bag X 1

ELSENBURG

7607

GPS Co-ordinates: Elsenburg Head Office -33.845259 18.834722

3rd Floor, Main Building, Elsenburg, Muldersvlei Road

Telephone: (021) 808 5093/9

Contact Persons: Cor vd Walt/Brandon Layman

Email: landuse.elsenburg@elsenburg.com

Departmental Website: www.elsenburg.com

Provincial Website: www.westerncape.gov.za



BETTER TOGETHER.

From: Tracy Brunings [mailto:tbrunings@langeberg.gov.za]
Sent: 23 April 2018 04:37 PM
To: Van der Walt, Cor
Subject: FW: MIDDELBURG 10/6, ROBERTSON RD Response on letter from Elsenburg

Hello Cor,

Did Anna-Christa forward her attached comments to your Department? If not, please could you have a look and provide us with any further comments / questions which you may have.

229.



Western Cape
Government

Agriculture

(220)

Cor Van Der Walt

LandUse Management

Email: LandUse.Elsenburg@elsenburg.com

tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/5/5/314
YOUR REFERENCE : -
ENQUIRIES : Cor van der Walt

Western Cape Department of Agriculture
PO Box 66
WORCESTER
6849

Att: Rudolf Röscher

**COMPOST FACILITY AND FEEDLOT: DIVISION ROBERTSON
PORTION 6 OF THE FARM MIDDELBURG NO 10**

Your email of 11 April 2018 has reference.

This application is currently in a planning and Environmental process to be aligned with applicable legislation.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely

Mr. C. van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2018-05-16

Copies:

Department of Environmental Affairs & Development Planning
1 Dorp Street
Cape Town
8000

Langeberg Municipality
Private Bag X2
ASHTON
6715

221

Annexure H

Provincial approval of LUPA application



**DIRECTORATE: DEVELOPMENT MANAGEMENT:
REGION 2**

Gillian.Williams@westerncape.gov.za
Tel: +27 21 483 4589 Fax: +27 21 483 3633
Private Bag X9086, 1 Dorp Street, Cape Town, 8000
www.westerncape.gov.za/eadp

REFERENCE: 15/3/1/11/B1/14/ Ptn 6 Farm Middelburg No. 10, Robertson
ENQUIRIES: G. Williams

REGISTERED MAIL

Anna-Christa Redelinghuys
Umsiza Planning
P.O. Box 649
Robertson
6705

**APPLICATION FOR LAND DEVELOPMENT ON AGRICULTURAL LAND IN TERMS OF SECTION 53 OF
LUPA: PORTION 6 OF THE FARM MIDDELBURG NO. 10, ROBERTSON**

1. Your application, dated 30 October 2017 and received on 7 November 2017, refers.
2. The Competent Authority has decided to approve, in whole, your land development application on Portion 6 of the Farm Middelburg No. 10, Robertson, in terms of Section 54(1) of the Land Use Planning Act, 2014(Act 3 of 2014), read with Regulations 21(3) (b) of the Western Cape Land Use Planning Regulations, 2015.
3. The reasons for the above decision are as follows:
 - o The land development application specifically entails the development and operation of a compost facility to treat abattoir by-products and organic waste in an area of approximately 3,6ha (comprising windrows, effluent dam, storage space for raw and finished products, road and adequate space for the off-loading and turning of trucks). The property is located outside of the urban edge, is zoned for Agriculture and was previously ploughed and planted with pastures.
 - o Whilst Farm 6/10 Middelburg falls within Spatial Planning Categories Core, Buffer (extensive agriculture/grazing) and Intensive Agriculture, the windrows themselves would appear to be located across the Buffer and Intensive Agriculture categories as per the Langeberg Spatial Development Framework (LSDF).
 - o Composting facilities are coincidentally regarded in the Management Guidelines to be infrastructure installation, which because of their need for extensive space, unique locational requirements or negative impact on surrounding areas, are often located outside the urban edge. Where possible installations should be located on previously disturbed terrain, or land of low biodiversity or agricultural value.

- o The area on which the windrows are located has been determined as a Critical Biodiversity Area (CBA) in terms of Western Cape Biodiversity Spatial Plan. Due to the level of disturbance, the more correct classification would, however, be CBA 2, which acknowledges that the site is degraded but should be rehabilitated.
 - o In terms of the Western Cape Biodiversity Spatial Plan Handbook, 2017 acceptable land uses are those that are least harmful to biodiversity, such as conservation management or extensive livestock or game farming. Large-scale cultivation, mining and urban or industrial development are not appropriate. If, however, small-scale land use change is unavoidable, it must be located and designed to be as biodiversity-sensitive as possible.
 - o In terms of the National Organic Waste Composting Strategy: Draft Guideline Document for Composting, February 2013, the aim for is to ensure (where viable) that organic waste generated within South Africa is diverted from landfill sites for composting, as one alternative treatment method, through integrated and sustainable waste management planning.
 - o The Western Cape Provincial Spatial Development Framework, 2014, further advocates the principle of recycling and recovering waste (Policy R4) as means to increase the lifecycle of current waste disposal sites.
 - o Whilst a composting facility of this nature is best located outside of an urban environment, one recognises that certain challenges will present themselves. The Draft Guideline Document for Composting identifies the common challenges (impacts) associated with operating and managing a composting facility, together with potential mitigation measures in respect of the impact and the source.
 - o The latter Guideline Document recommends a buffer distance of 50m – 150m, based on international experience, although said distance is subjective and largely dependent on the receiving environment and the type of composting method use. In this regard, the closest residential building is a farmhouse situated approximately 550m south-west of the application site, with the nearest guest cottage being ±2km from the site.
 - o The establishment of the composting facility on the respective property is regarded to be a viable location, given the rural character, topography, distance from the windrows to the Middelstekloof River, soil conditions and availability of services and infrastructure. The compost facility has an agricultural feel with no negative visual impacts.
 - o Both the Waste Management Licence and the Environmental Authorisation, should they be granted, will have strict operating conditions to ensure that the facility remains compliant and in doing so, minimizes the negative impact on the environment.
4. In terms of section 56 of LUPA and Regulation 23, any person whose rights are affected by the decision and who submitted comments on the application may appeal the above decision to the Provincial Minister, Western Cape Ministry of Environmental Affairs and Development Planning within 21 days of the date of notification of the decision.

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5. The prescribed Appeal Form is obtainable from the Appeal Authority at Tel. (021) 483 3721 or E-mail Jaap.DeVilliers@westerncape.gov. The Appeal Form and supporting documentation must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Mr Jaap de Villiers (Tel: 021 483 3721)
Room 809, 8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

6. Failure to comply with the above requirements and provisions within section 56 of LUPA and regulation 23 will result in the appeal being ruled invalid

Regards



HENRI FORTUIN

DIRECTOR: DEVELOPMENT MANAGEMENT REGION 2

DATE:

9-5-18

Extracts from:

- NEM:WA 59/2008;
- The mini guide to the Management of Abattoir Waste (DEA&DP. 2016/17); and
- The National Organic Waste Composting Strategy (DEA&DP, 2013)

CHAPTER I

25

INTERPRETATION AND PRINCIPLES

Definitions

1. In this Act, unless the context indicates otherwise—

“**by-product**” means a substance that is produced as part of a process that is primarily intended to produce another substance or product and that has the characteristics of an equivalent virgin product or material;

“**treatment**” means any method, technique or process that is designed to— 20

(a) change the physical, biological or chemical character or composition of a waste; or

(b) remove, separate, concentrate or recover a hazardous or toxic component of a waste; or

(c) destroy or reduce the toxicity of a waste, 25
in order to minimise the impact of the waste on the environment prior to further use or disposal;

“**waste**” means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—

(a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of; 30

(b) which the generator has no further use of for the purposes of production;

(c) that must be treated or disposed of; or

(d) that is identified as a waste by the Minister by notice in the *Gazette*.

and includes waste generated by the mining, medical or other sector, but —

(i) a by-product is not considered waste; and 35

(ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste;

“**waste disposal facility**” means any site or premise used for the accumulation of waste with the purpose of disposing of that waste at that site or on that premise;

“**waste management activity**” means any activity listed in Schedule 1 or 40
published by notice in the *Gazette* under section 19, and includes—

(a) the importation and exportation of waste;

(b) the generation of waste, including the undertaking of any activity or process that is likely to result in the generation of waste;

(c) the accumulation and storage of waste; 45

(d) the collection and handling of waste;

(e) the reduction, re-use, recycling and recovery of waste;

(f) the trading in waste;

(g) the transportation of waste;

(h) the transfer of waste; 50

(i) the treatment of waste; and

(j) the disposal of waste;

“**general waste**” means waste that does not pose an immediate hazard or threat to health or to the environment, and includes—

(a) domestic waste;

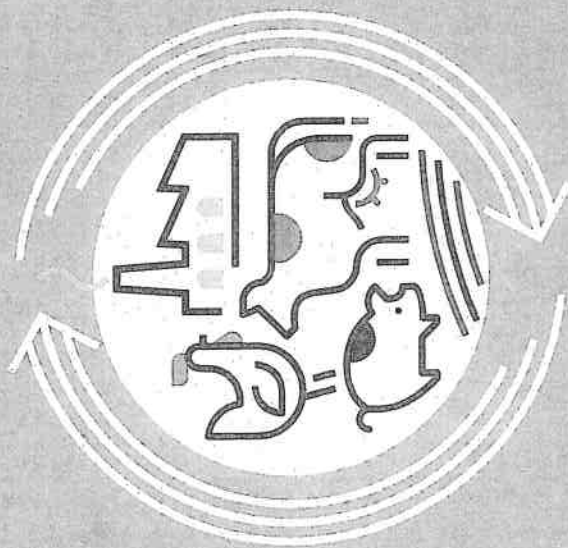
(b) building and demolition waste;

(c) business waste; and 50

(d) inert waste;

“**hazardous waste**” means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological

characteristics of that waste, have a detrimental impact on health and the environment;



The mini guide to the Management of Abattoir Waste



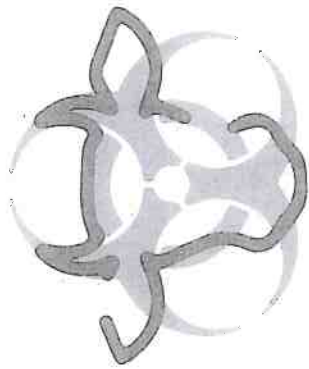
Western Cape
Government
Envisioning the Western Cape
Development Agenda

BETTER TOGETHER

RedTape
Reduction

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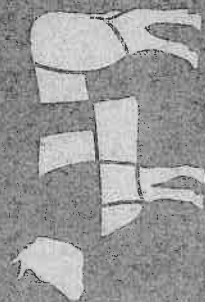
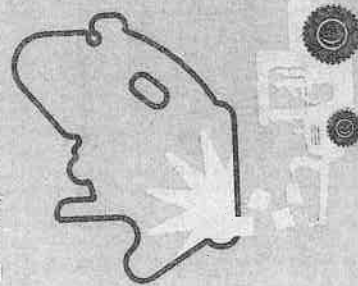
2016/2017



Abattoir waste was identified through numerous reports and studies as being the most problematic food waste type to manage in the Western Cape (WC) due to the hazardous nature of the waste type and its potential impacts on the environment and human health.

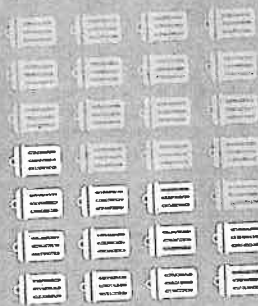
1 The Status Quo of Abattoir Waste in the Western Cape

An estimated 76 102.65 tonnes of abattoir waste was produced in the Western Cape for 2015/2016.

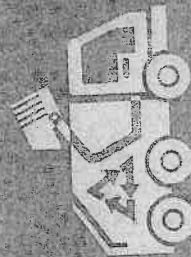


A total of 30% of livestock (including condemnns on farms) is lost during the food supply chain.

This amounts to about 211 940.10 tonnes of waste from an initial 787 307.20 tonnes

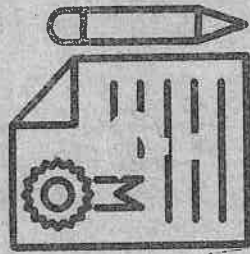
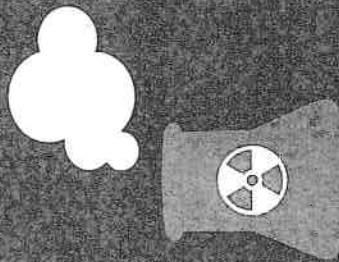


While these statistics might appear small, the methods of waste management are not ideal as established in the study.



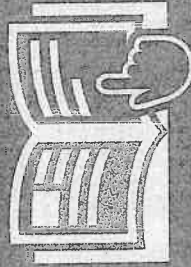
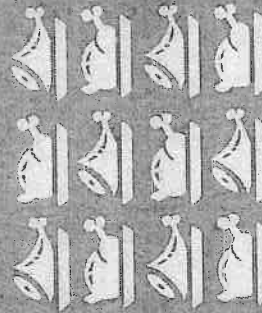
Waste from abattoirs are often disposed of at waste disposal facilities (WDFs) or buried on farms or private land as common practice.

Other practices include incineration, composting, rendering, and anaerobic digestion.



In some instances, the municipality's waste managers indicated that no abattoir waste was allowed on their sites for disposal. It was also evident that due to the uncertainty regarding legislation, interviewees were not willing to disclose information or the disclosure of information provided was limited.

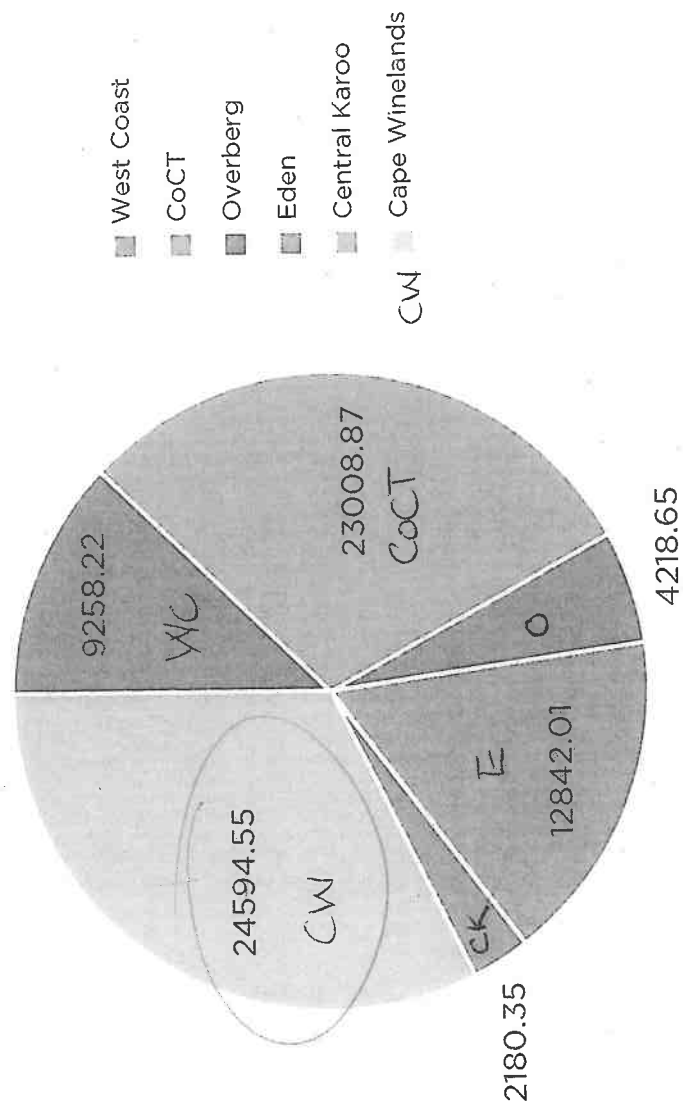
The status quo also predicts an increase in abattoir waste due to an expected increase in meat production and consumption.



The need for alternative treatment and disposal options is placing abattoir operators under additional pressure. Hence, there is a need to standardise the practice of waste management in the abattoir industry and one way would be the development of a guideline for the management of abattoir waste which was one of the recommendations of the WGC status quo.

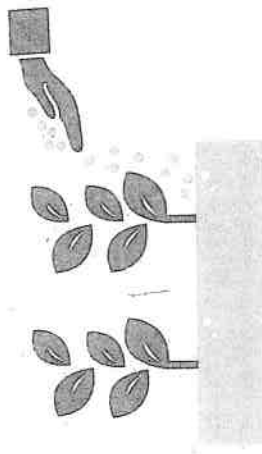
2015/16 Waste calculated from slaughters per District

Estimated waste produced for 2015/2016 per District (DOA, 2016)



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COMPOSTING ABATTOIR WASTE (INCLUDING VERMI-COMPOSTING)



Composting is a controlled biological process in which organic materials are broken down by micro-organisms which produce compost. Compost has a high nutrient value and is used to improve the quality of soil and can be cultivated by using a variety of methods.

The types of abattoir waste that can be added to make compost is paunch content, off cuts of meat, offal and blood mixed with kraal manure. Approximately 5 to 10 tonnes of organic waste can be composted per day. Non infectious condemned material may be composted as a safe disposal option although the heat generated through composting can destroy harmful pathogens, bacteria etc. The type of organic waste material to be added would depend on the system used.

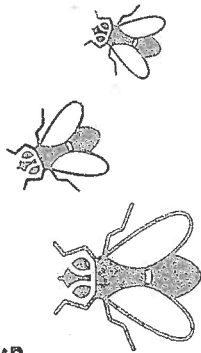
Advantages of composting:

- Inexpensive if piles are turned every few weeks, to limit the use of equipment.
- Moderate cost.
- Labour intensive.
- Ability to use a front end loader and other generic types of equipment.
- Generally satisfactory quality and marketability of the final product.
- Energy efficient.
- Ideally used for the digestion of partially composted material; use in conjunction with tissue processors.

Disadvantages of composting:

- Space required.
- Preference for a remote site, which can result in higher transportation costs.
- It is also difficult to maintain high rate or "hot" compost conditions, so the compost products from minimal tech methods will likely be lower in quality - they will also be coarser, and when screened will have a larger oversize fraction.
- Less control over issues such as odour, dust, leachate, water contamination, vectors, pests, litter, noise and fire.
- More difficult to achieve consistent results.
- Potential for odours.
- Not successful on raw material such as solid wastes produced by animal production.

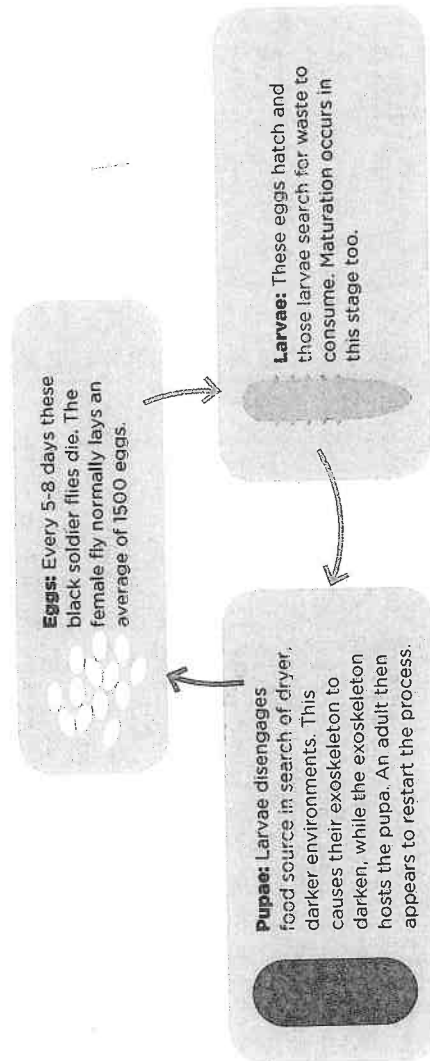
FLY FARMING



Black Soldier Flies (*Hermetia illucens* or BSF) are natural scavengers and they flourish in organic waste material. They often lay eggs in these wastes and the larvae produce many value added outputs which Fly farming focusses on. These flies normally feed on organic wastes such as human excreta, animal manure, food waste and even abattoir wastes.

Fly farming basically requires light, temperature and humidity to ensure that fly breeding can occur. These flies are kept in cages with all the required elements mentioned before. Conditions in these cages are favourable for the female to lay eggs, as if it were to happen in the natural environment. The flies then go through its lifecycle and upon hatchery they are added to the organic waste. This works best if the waste is ground or broken up into smaller pieces.

Lifecycle of the BSF



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The pupae are harvested to be fed to animals as feed or further processed, i.e. pressed, crushed and dried. Oil is extracted and compost processed, all of these for further use. The end products of this process include residue like compost and larvae for feed. In the Western Cape this process is done by a company called Agriprotein situated in Phillippi. Agriprotein receive and treat organic waste to produce protein feed, extruded oil and compost. This is a good example of managing waste in an environmentally sound manner. Fly breeding takes place in an internal sealed room with specially designed fly cages.

Managed as an "above ground organic landfill", Agriprotein processes waste at a per tonnage fee way lower than landfill tariffs.

Advantages:

- Process large amounts of organics in a short time frame.
- Deals with a wide variety of organics.

Authorisation requirements for fly farming:

- Fly farming is viewed as treatment of waste. Treatment in excess of 10 tons of general waste will require a waste management licence (GN No. 921 Category A 3 (6)). Category B 4 (6)), treatment in excess of 500 kg of hazardous waste will require a waste management licence (GN No. 921 Category A 3 (7)). Category B 4 (4)).
- The grinding or chipping of general waste at a facility with an operational area in excess of 1000m² will require a waste management licence (GN No. 921 Category A 3 (2)). Please note that the operational area is inclusive of storage areas. There is no listed activity for the grinding or chipping of hazardous waste; grinding or chipping of hazardous waste should be seen as treatment of hazardous waste, see above.
- The non infectious abattoir waste is viewed as general waste, while infectious abattoir waste is viewed as hazardous waste. Additionally, construction of a facility for these listed activities is listed and requires a waste management licence (GN No. 921 Category A 3 (12)). Category B 4 (10)). Category C listed activities with regard to storage will in all likelihood not be triggered; as the type of waste is not conducive to permanent storage given its nature (permanent storage is longer than 90 days).

DEFINITION OF TERMS

Abattoir waste can be defined as waste or waste water from an abattoir which could consist of pollutants such as animal faeces, blood, fat, animal trimmings, paunch content and urine.

Beneficiation means the use of primary and secondary wastes as valuable, re-usable products.

By products is abattoir waste from the carcass, other than the carcass and edible offal during the slaughter process.

Carcass (Abattoir) means the dressed carcass derived from an animal after the hide or skin (or hair in the case of pigs), the entrails, the pluck, the shank and head (in the case of cattle, sheep, and goats), the tail (in the case of cattle), the diaphragm and lactating udders have been removed.

Condemned material is an animal or parts of an animal inspected and judged, or otherwise determined, to be unacceptable for human and animal consumption and requiring sterilising or destruction.

Contaminated means the presence in or under any land, site, buildings or structures of a substance or micro organism above the concentration that is normally present in or under that land, which substance or micro organism directly or indirectly affects or may affect the quality of soil or the environment adversely.

Inedible materials refer to parts of an animal unsuitable for human consumption but not requiring destruction.

Storage means the accumulation of waste in a manner that does not constitute treatment or disposal of that waste.

Suspended Solids means particles disseminated in and carried by water.

Waste disposal facility means any site or premise used for the accumulation of waste with the purpose of disposing of that waste at that site or on that premise.

Waste management licence means a licence issued in terms of section 49 of the National Environmental Management: Waste Act 59 of 2008.

CONTACT

Directorate Waste Management

Western Cape Government, Department of Environmental Affairs and Development Planning

Executive Building, Old Dock Street, 6305, Hout Bay, 7800

Private Bag 91886, Cape Town, 80180

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ISBN 978-0-621-46275-9



Western Cape
Government
Environmental Affairs and
Development Planning

BETTER

TOGETHER

RedTape
Reduction

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THE NATIONAL ORGANIC WASTE COMPOSTING STRATEGY

FINAL Strategy Report



Compost is **BLACK GOLD** to soil "Dirt, the movie"



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

April 2013

Inherent challenges and gaps	Conceptual thinking/recommendation
	SAWIBR can be an effective tool for this purpose and should be used as such.

2.1.1 Definition of compostable organic waste

In terms of South African legislation there is no common definition for compostable organic waste. This has a restrictive impact on the regulation and management of organic waste and is a major challenge when attempting to prioritise the diversion from landfilling. Organic waste is generally categorised as "garden, food, or wood" and in some instances "putrescible and notifiable (hazardous) waste" (NWIBR, 2012). Arising from stakeholder engagement and in developing the Strategy, it became evident that a broad definition of compostable organic waste needed to be developed, as well as more specific categorisation of organic waste (refer to **Section 2.1.2**).

In this Strategy, the following definition developed and adopted:

'Compostable Organic Waste' referred to in the National Organic Waste Composting Strategy is defined as;

"A material that naturally enhances fertility of soil through a natural degradation process¹⁸ but excludes human made organic chemicals¹⁹ and naturally occurring organic chemicals which have been refined or concentrated by human activity²⁰."

"Compostable Organic Waste" will generally comprise of materials that can be accepted for disposal at a licensed municipal general waste landfill facility (i.e. excludes infectious, poisonous, health-care, chemical and hazardous organic wastes). **Box 3** gives examples of such organic waste that could be

Box 3: Types of organic waste suitable for composting.			
Typical General Waste			
Suitable for Composting	Not Suitable for Composting		
Biodegradable materials	Hazardous material	Residues	Recyclables
Garden Waste	Cleaning products	Soiled PE	Glass
Food Waste	Pesticides	Bones	Metal
Wood Waste	HCRW	Painted woods	Aluminium
Others	Broken glass		Paper
Biosolids	Expired medicines		Plastics
Manures	Batteries		Cardboard
Seed hulls/husks	Treated timber		
Bagasse	Chemicals		
Paper-processing			
Sludge			
Composting Process	Transport to Landfill site		Sell to Recycling Industry

Excerpt from NOWCS Guideline Document for Composting, 2013 – Table 1

¹⁸ natural occurring fertilizer

¹⁹ such as solvents, chemicals and cleansing agents

²⁰ such as oil, petroleum, diesel and tar products

considered for a composting operation and that which is more suited for landfill disposal or recycling.

2.1.2 Categories of organic waste

Currently the National Waste Information Regulations (GNR 625, 2012) categorise organic waste as, “*garden waste, food waste and wood waste.*” The definition is deemed to be too broad and a more detailed categorisation is necessary to better identify risks and opportunities. In addition, based on the need to develop “Norms and Standards” for the treatment and / or management of organic waste which does not pose a potentially significant negative impact to the environment (on the biophysical as well as the social environment), organic waste types have been grouped into one of three categories depending on their potential significance in terms of negatively impacting on the environment. Refer to the **Table 9** for these proposed categories and types.

Category 1 and Category 2 organic wastes, as illustrated in **Table 9**, can form part of the Norms and Standards, whereas Category 3 would still require the necessary licensing approvals, as identified under the NEM:WA. The Norms and Standards must consider limiting the volume or toxicity of Category 2 organic wastes to be undertaken under the “Norms and Standards”.

The priority is to establish the Norms and Standards that will exempt composting activities for Categories 1 and 2 from requiring a Waste Management Licence. However such activities will need to comply with the requirements of the Norms and Standards and register their operations with the DEA.

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Table 9: Categorisation of organic waste

Potential significance in terms of negative environmental impact	Category	Types of organic materials permitted for composting	
		Organic Waste Type	Examples
LOW	Category 1	Garden and landscaping	Grass ¹ , leaves, plants, branches, tree trunks and stumps
		Untreated wood	Sawdust, wood shavings, timber off-cuts, wooden crates and pallets, wood packaging
		Natural organic fibrous organics	Peat, seed husks, straw, bagasse and other natural organic fibrous organics
		Processed fibrous organics	Paper, cardboard, paper-processing sludge, non-synthetic textiles
		Manure	Animal manure, animal droppings
MEDIUM	Category 2	Other natural or processed vegetable organics	Vegetables, fruit and seeds and processing sludges and wastes, winery, brewery and distillery wastes, food organics excluding organics in Category 3.
		Biosolids and manures	Sewage biosolids, animal manure and mixtures of manure and biodegradable animal bedding organics.
HIGH	Category 3	Meat, fish and fatty foods	Carcasses, blood, bone, fish, fatty processing or food.
		Fatty and oily sludges and organics of animal and vegetable origin	Dewatered grease trap, fatty and oily sludges of animal and vegetable origin.
		Mixed residential waste containing putrescible organics	Wastes containing putrescible organics, including household domestic mixed waste and waste from commerce and industry.
		Authorised (and suitable for composting) industrial waste organics	Fish-processing, paper pulp wastes and sludges with high-organic/ nitrogen loads.

Adapted from: *Environmental Guidelines: Composting and Related Organics Processing Facilities*, 2004: 17.

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**Notule van vergadering van die Beplanningstribunaal van Langeberg Munisipaliteit op
1 Februarie 2019 om 10h00 by die Langeberg munisipale kantore, Robertson.**

1. Opening

Mnr van der Westhuizen, heet almal welkom by die vergadering.

2. Bywoning

Isak van der Westhuizen	-	Voorsitter (Interne lid)
Maynard Johnson	-	Adjunk voorsitter (Interne lid)
Kobus Brand	-	Interne lid
Jeremy Benjamin	-	Eksterne lid
Helene Janser	-	Eksterne lid
Hennie Taljaard	-	Eksterne lid
Quinton Balie	-	Eksterne lid
Tracy Brunings	-	Stadsbeplanner (Professionele Beplanner)

3. Aansoeke vir verlof tot afwesigheid

Carissa Pieters	-	Eksterne lid
-----------------	---	--------------

4. Bekragtiging van notule

- 4.1 Die notule van 'n gewone vergadering van die Beplannings Tribunaal van die Langeberg Munisipaliteit wat gehou was op 9 November 2019 in die Raadsaal, Munisipale Kantore, Robertson, word aanvaar.

5. Punte uit vorige notule

Geen

6. Dringende Aangeleenthede, Verklarings en Mededelings deur die Voorsitter

Geen

7. Oorweging van Verslae / Consideration of Reports

1/2019 - REM OF PORTION 1 OF THE FARM CLARENCEWOLD ANNEX NO. 95, ROBERTSON: NOTIFICATION OF APPEAL AUTHORITYS DECISION

- The information contained in the recommendation was noted.

2/2019 - PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

The Tribunal members conducted a site visit, accompanied by Mr D Houghton and Mr J Ludick from SAFAM, on 1 February 2019. The inspection included discussion and visual inspection of the compost windrows, the levelled proposed feedlot site, and the adjoining Middelstekloof river valley.

After the site visit, the Planning Assessment Report was discussed in detail by the Tribunal. The following areas of concern were raised by Tribunal members:

- There was an unpleasant odour on the site – some members considered it similar to other typical farm odours, others considered the smell to be extremely unpleasant.
- Fly activity was low during the inspection, but many flies entered the vehicles on leaving the site.
- There is a need for further assessment and proposals relating to storm water management.
- The incomplete EIA process means that certain information is still lacking – this can be called for separately in terms of the LUPA process or in terms of the EIA process once there is further clarity on the required applications.

The Tribunal's main concern was the lack of information to determine conclusively whether the objectors' complaints about odour and flies were indicative of an unacceptable impact in terms of the Air Quality Act, 2004. Although CWDM indicated that the activity did not trigger the need for an Atmospheric Emissions licence, the Tribunal is entitled to call for further information to assess the impact of flies and odour.

Given the above, the Tribunal did not consider that they were in a position to take a decision at this stage, and unanimously resolved as follows:

With reference to Section 40(7) of SPLUMA No. 16 of 2013, the Langeberg Municipal Planning Tribunal conducted an on-site inspection of the above property on 1 February 2019, and agreed that:

1. Insufficient information is available at this stage to take an informed decision on the above application, in terms of Section 60 of the Langeberg Land Use Planning Bylaw, 2015.
2. With reference to Section 42(2) of SPLUMA No. 16 of 2013, and Sections 65(1) (d) and (f) of the Langeberg Land Use Planning Bylaw, 2015, environmental legislation has not been complied with, and all environmental information is not yet available:
 - 2.1. EIA application has lapsed (23 May 2018).
 - 2.2. Waste Management License application has been rejected (16 August 2018).
 - 2.3. The Water Use license application is still in process.
3. The Langeberg Municipal Planning Tribunal, requests the applicant to provide all outstanding information to the Town Planning Department, for submission to the Tribunal. The following specific information is requested:
 - 3.1. An Atmospheric Impact Report must be prepared with regard to the cumulative impact of the compost facility and feedlot in terms of odours and flies.
 - 3.2. The availability and suitability of Vissershoeck Waste Disposal site, or an alternative site for the disposal of infectious abattoir waste must be confirmed.
 - 3.3. The Soil Study (AVS, Nov 2015) highlighted the importance of the correct implementation of drainage. A Storm Water Management Plan by a PrEng must be prepared, and must take into account the changed position of the composting windrows relative to the small collection dams since the soil study.

3.4. The desirability of the buffer between the proposed Feedlot and the Middelstekloof River, as determined in the Freshwater Impact Assessment (Eco-Impact, 15 Feb 2018), must be substantiated, given the hydrological changes upstream and the investigation by DEA&DP's Environmental Law Enforcement Directorate into the dam in the upper reaches of the Middelstekloof river.

3.5. The calculation of the demand for water for the Feedlot is based on 4500 lambs, whereas the EIA application is for 6500 lambs. The maximum capacity applied for must be clarified and the available water must be proven to be sufficient.

It was further noted that legal action must continue against the illegal continuation of the unauthorized composting activity. The applicant will have to make alternative arrangements to dispose of the Robertson abattoir waste.

8. **Ander Sake**

Geen

9. **Afsluiting**

Vergadering verdaag 14:00.

Annexure 2(2)

Planning Assessment Report
to Langeberg Municipal Planning Tribunal,
& Minutes of meeting:

6 SEPTEMBER 2019

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)

SUPPLEMENTARY INFORMATION IN RELATION TO APPLICATION CONSIDERED BY TRIBUNAL

ON 1 FEBRUARY 2019:

PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Tribunal Meeting of 6 September 2019

Reference number	15/4/12/5 & 7	Application submission date	24 October 2017 BAR: 14.03.18	Submission of Information requested by Tribunal	12 April 2019 & 27 June 2019	Date report finalised	30 August 2019
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PART A: AUTHOR DETAILS

First name(s) & Surname	Tracy Brunings
Job title	Assistant Town and Regional Planner
SACPLAN registration no.	Pr. Pln A/951/1997

PART B: PROPERTY DETAILS

Property description	Portion 6 of the farm Middelburg No.10, Robertson						
Physical address	Off DR 1384 and DR 1377		Town		Rural – 14km NW of Robertson		
Current zoning	Agricultural Zone I	Extent (m2 /ha)	758.0308ha.		Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Section 8 Zoning Scheme in terms of LUPO No. 15 of 1985						
Current land use	Agriculture, Store/Shed, workers house, kraal and weigh station, dams				Title Deed number & date	T12255/2013	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)				
Any third party conditions applicable?	Y	N	If Yes, specify		Right-of-way across western corner of property.		
Any unauthorised land use/building work	Y	N	If Yes, explain		Store/Shed has been constructed. The compost facility commenced operating in February 2017.		

PART C: BACKGROUND AND STATUS QUO OF APPLICATIONS

Langeberg Land Use Planning Bylaw, 2015:

Application has been made for the following:

- Rezoning a 3,6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning.
- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity).

The above application was submitted to the Tribunal on 1 February 2019. The Tribunal members conducted a site visit, accompanied by Mr D Houghton and Mr J Ludick from SAFAM, whereafter a Tribunal meeting was held. The Planning Assessment Report was discussed in detail and the following areas of concern were raised by Tribunal members:

- There was an unpleasant odour on the site – some members considered it similar to other typical farm odours, others considered the smell to be extremely unpleasant.
- Fly activity was low during the inspection, but many flies entered the vehicles on leaving the site.

- There is a need for further assessment and proposals relating to storm water management.
- The incomplete EIA process means that certain information is still lacking – this can be called for separately in terms of the LUPA process or in terms of the EIA process once there is sufficient clarity in this regard.

Given the above, the Tribunal decided as follows:

With reference to Section 40(7) of SPLUMA No. 16 of 2013, the Langeberg Municipal Planning Tribunal conducted an on-site inspection of the above property on 1 February 2019, and agreed that:

1. **Insufficient** information is available at this stage to take an informed decision on the above application, in terms of Section 60 of the Langeberg Land Use Planning Bylaw, 2015.
2. With reference to Section 42(2) of SPLUMA No. 16 of 2013, and Sections 65(1) (d) and (f) of the Langeberg Land Use Planning Bylaw, 2015, environmental legislation has not been complied with, and all environmental information is not yet available:
 - 2.1. EIA application has lapsed (23 May 2018).
 - 2.2. Waste Management License application has been rejected (16 August 2018).
 - 2.3. The Water Use license application is still in process.
3. The Langeberg Municipal Planning Tribunal, requests the applicant to provide all outstanding information to the Town Planning Department, for submission to the Tribunal. The following specific information is requested:
 - 3.1. An Atmospheric Impact Report must be **prepared** with regard to the cumulative impact of the compost facility and feedlot in terms of odours and flies.
 - 3.2. The availability and suitability of **Visser'shoek** Waste Disposal site, or an alternative site for the disposal of infectious abattoir waste must be confirmed.
 - 3.3. The Soil Study (AVS, Nov 2015) highlighted the importance of the correct implementation of drainage. A Storm Water Management Plan by a PrEng must be **prepared**, and must take into account the changed position of the **composting** windrows relative to the small collection dams since the soil study.
 - 3.4. The desirability of the buffer between the proposed Feedlot and the Middelstekloof River, as determined in the Freshwater Impact **Assessment** (Eco-Impact, 15 Feb 2018), must be substantiated, given the hydrological changes **upstream** and the investigation by DEA&DP's Environmental Law **Enforcement** Directorate into the dam in the upper reaches of the Middelstekloof river.
 - 3.5. The calculation of the demand for water for the Feedlot is based on 4500 lambs, whereas the EIA application is for 6500 lambs. The maximum capacity applied for must be clarified and the available water must be proven to be sufficient.

It was further noted that legal action must continue against the illegal continuation of the unauthorized composting activity. The applicant will have to make alternative arrangements to dispose of the Robertson abattoir waste.

Section 53 of LUPA 3/2014

Application was made to DEA&DP in terms of Section 53 of LUPA as the land in question was used for agricultural purposes during the past 10 years. On 9 May 2018, DEA&DP issued approval for the Composting Facility, in terms of Section 53 of LUPA, and this decision was appealed by an objector. Due to changes in the LUPA regulations, the application decision and appeal are considered to be withdrawn.

No approval is required in terms of Section 53 of LUPA.

NEMA 107/1998

Application has been lodged for Environmental Authorisation and a Waste licence as the proposed use triggers listed activities GN 938, LN1:4 (concentration of animals), 8 (agri-industry >2000m²) & 28 (industrial use >1ha. on agric land) and GN921 (Waste Listed Activities).

Appeals were lodged and the applicant has taken DEA&DP decisions on review to the High Court (August 2019).

PART D: LEGAL ACTION AGAINST COMPOST FACILITY AND LEGAL OPINION OBTAINED

In response to the Tribunal's note that legal action must continue against the illegal continuation of the unauthorized composting activity, a second and final notice was served on SAFAM on 25 February 2019 requiring them to make alternative arrangements for the disposal of the abattoir waste products until a decision is finalised on the compost facility.

In response, SAFAM's legal representative, du Bois Attorneys, submitted a response which effectively argues that the existing compost facility falls within the definition of agriculture and does not require approval in terms of the LLUP Bylaw, 2015. Refer to **Annexure A**.

Legal opinion was sought by the Municipality from DHM Attorneys who concurred with the municipal opinion that the compost facility does not fall under the definition of Agriculture; is not an ancillary use and the operation of the compost facility is unlawful – refer to **Annexure B**. It is noted that DHM (para 74) does not express an opinion on what zone the facility should be rezoned to.

Annexure C contains the Town Planning Department's response to du Bois' paragraph 12 accusations relating to the Municipality's processing of this application.

PART E: APPLICANT'S RESPONSE TO TRIBUNAL'S REQUEST FOR ADDITIONAL INFORMATION

Additional information has been submitted by the applicant in response to the Tribunal's request for Additional Information. However, the Municipal Manager, in discussion with the Manager: Town Planning, has recommended that the application in terms of the Langeberg Land Use Planning Bylaw, 2015 be pended, and not re-submitted to the Tribunal for a decision at this stage, given the following:

- environmental considerations are at the core of the decision on the land use planning application; and
- there is a pending High Court action relating to DEA&DP decisions in terms of the EIA regulations, in which the Langeberg Municipality is named as a Second Respondent.

PART H: RECOMMENDATION

That the Langeberg Municipal Planning Tribunal notes that further processing of the following application is pended:

- Rezoning a 3,6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning.
- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity).

Further that the reason for pending further processing of the above application relates to a pending High Court action against DEA&DP decisions in terms of the EIA regulations, in which the Langeberg Municipality is named as a Second Respondent.

PART L: ANNEXURES

Annexure A du Bois Attorney's letter of 4 March 2019 in response to Municipal Notice
Annexure B Legal Opinion from DHM Attorneys dated 17 April 2019
Annexure C PAJA: Town Planning Dept's response to accusations in De Bois' 4 March 2019 letter

PART M: SIGNATURES FOR DECISIONS BY TRIBUNAL

Author name: Tracy Brunings, Assistant Town and Regional Planner

Date: 30 August 2019

Registered planner name: Tracy Brunings

SACPLAN registration number: Pr. Pln A/951/1997

Date: 30 August 2019

Authorised for submission to Tribunal

.....
JV BRAND
BESTUURDER : STADSBEPLANNING

.....
DATUM

.....
ACTING DIRECTOR: ENGINEERING SERVICES
DIREKTEUR: INGENIEURS DIENSTE

.....
DATUM

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

REFUSED



Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGER/ CONVEYANCERS

BTW NR 4770183285

ROBERTSON

POSBUS	466	P O BOX
KERKSTRAAT 23		23 CHURCH STREET
MED-LAW HOUSE		MED-LAW HOUSE
ROBERTSON		ROBERTSON
6705		6705
TELEFOON	+27 23 626-6523/4	TELEPHONE
NA URE	+27 23 347-4693	AFTER HOURS
FAKS	+27 23 626-6577	FAX
SEL	082 8214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	aktes@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/HR0215

YOUR REF : 15/4/12/5 & 7 – K BRAND

DATE : 4 MARCH 2019

THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON

E-mail: kbrand@langeberg.gov.za

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

Dear Sir

APPLICATION FOR REZONING AND CONSENT USE CONTEMPLATED IN THE ZONING SCHEME : PORTION 6 OF THE FARM MIDDELBURG NO. 10 ("PORTION 6")

SECOND NOTICE OF NON-COMPLIANCE ISSUED ON 25 FEBRUARY 2019

As you are aware, we act on behalf of Mr. Hennie De Bod in his capacity as member of the South African Farm Assured Meat Group CC, Robertson. Mr. De Bod is also a trustee of the Reben Trust who is the registered owner of Portion 6.

We refer to your Municipality's Second Notice of Non-Compliance in terms of the Langeberg Land Use Planning Bylaw, 2015 dated 25 February 2019 ("Second Notice") addressed to Mr. De Bod in his capacity as trustee of the Reben Trust.

We have been instructed to reply to the Second Notice.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

In this regard we refer to our previous letters on the same subject addressed by our offices to your Municipality on 14 March 2018 and 3 May 2018, respectively.

That letters were addressed pursuant to the First Notice of Non-Compliance issued by your Municipality addressed to Mr. De Bod on 15 February 2018 ("First Notice").

The contents of our letters of 14 March 2018 and 3 May 2018 must be regarded as incorporated herein. We thus hold instructions to inform you that our client rejects the Second Notice (as he did the first) insofar as it alleges (again) that our client is guilty of utilizing Portion 6 in a manner other than prescribed by the current zoning scheme without the approval of the Municipality.

We however, deem it necessary to make the following submissions in addition to the contents of our previous two letters. The reason for this is that the Integrated Zoning Scheme By-Law of the Langeberg Municipality was promulgated on 18 May 2018. The Provisions of the Fertilizers, Farm Feeds and Remedies Act, Act No. 36 of 1947 as amended ("the Fertilizers Act") and Regulations promulgated under that Act are also relevant to shed light on the concept of compost as a fertilizer.

Langeberg Integrated Zone Scheming By-Law of 18 May 2018 ("Integrated Zoning Scheme"):

1. It is necessary to have regard to the wording and definitions of the Integrated Zoning Scheme:

***"ancillary"** - means a land use, purpose, building, structure or activity which is directly related to, and subservient to, the lawful dominant use of the property.*

***"Industrial Zone II"** – the objective of this zone is to provide for industries that are noxious in respect of smell, product, waste or other objectionable consequence of their operation, or carry a high risk in the event of fire or accident."*

The primary use for Industrial Zone II zoning is noxious trade and industry.

““Industry” – means a property used as a factory and in which an article or part of the article is made, manufactured, produced, built, assembled compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted, etc.” and includes various activities of an industrial nature like for instance a builder’s yard, factory shop, funeral parlour, offices, scrap yard, service station, transport usage, etc.

““factory” – means property containing an industrial assembly plant used for the manufacture of goods.”

““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 –

Includes –

- (i) *The harvesting, packing, cooling, storing, sorting, packing and packaging of agricultural produce grown on that land unit and surrounding farms.” etc.*

Agriculture specifically, does not include aquaculture, intensive horticulture, an abattoir, a farm shop or animal care centre, any mining activity, utility services, etc. By the same token it does not exclude any ancillary use like the production of compost intended to be used as a fertilizer on that land.

““agricultural industry” – means an enterprise for the processing of agricultural products of which the majority of the products is sourced from that land unit and if not produced on that land unit, then from the land units farmed by the owners of the enterprise, with a minority of the product sourced from the surrounding or nearby farms.”

This land use includes a winery, distillery, the bottling of water, a saw mill BUT does not include an abattoir.

“noxious trade” – means an industry that is offensive, poisonous or a potentially harmful use or activity that, because of the fumes, emissions, smell, vibration, noise, waste products, nature of material used, processes employed, or other cause, is considered by the Municipality to be a potential source of danger, nuisance or offence to the general public or persons in the surrounding area and includes –

- (a) An abattoir
- (b) A crematorium
- (c) Rooftop bade telecommunication station etc

The principle often applied to the interpretation of statutes where a list of activities are grouped together, is *inclusio unius (est) exclusio alterius*. In the definitions of agriculture, agricultural industry and noxious trade, the list of offending activities excludes an abattoir and other similar activities, but not the production of compost on the said land from organic waste emanating from an abattoir. The only two factors or elements included in the definition of noxious trade which are or may be attributed to a composting facility like the subject one, is smell (which is almost absent from the current facility as numerous site inspections have shown) and waste product. In the subject case it is common cause that the raw material (as defined below) used, despite emanating from an abattoir, is non-poisonous, non-hazardous, non-offensive, does not carry any objectionable consequences and is harmless to the general public -- also known as green or general waste.

On the contrary, the end product of this process, namely a highly nutritious compost, is not only exceedingly advantageous to the cultivation of crops -- the primary use of agriculture – but simultaneously complies with the desperate need to recycle harmless waste products and heed the call to go green and do away with the disposal of waste by means of harmful, hazardous, offensive and objectionable landfill waste dumps.

2. Apropos of the above definitions contained in the Integrated Zoning Scheme of Langeberg, it is patently clear that the use of a fertilizer like compost for the cultivation of land for raising crops and other plants, is not only a perfectly legal

agricultural activity, but also a normal and standard one applied on many farms in general. It is at least an ancillary use to the cultivation of crops, plants etc. After all, the sole purpose for the production of compost as a fertilizer on agricultural land (like portion 6) is to improve the soil of such land.

3. We sum up: The fact of the matter is that a composting facility as the present one operated on Portion 6, is nowhere excluded from the definition of the land use agriculture and not included per definition or specifically in the land use industrial industry or noxious trade. Noxious trade does not even enter the equation for the same or similar reasons why a pigsty or a cattle barn or pen or a winery or distillery (which are in essence smelly activities and producing waste product in various forms) on a farm can never be a noxious trade simply because they are part and parcel or at least ancillary to the primary land uses agriculture and/or agriculture industry, respectively.

4. The current status of the compost facility on Portion 6 is nothing more than the production of a fertilizer in the form of compost of which the raw materials consist of *inter alia* organic waste emanating from an abattoir. As stated in our previous letters, nothing is stated in any Act or Regulation including the Integrated Zoning Scheme, which stipulates that where raw material for the making of compost emanates from an abattoir, (which is not situated on that property where the compost is produced), suddenly elevates the current composting facility on portion 6 to an agricultural industry or noxious trade for which a zoning of Industrial Zone I or II, respectively is prescribed.

The Fertilizers, Farm Feeds and Remedies Act, No. 36 of 1947 (“Fertilizers Act”):

5. As stated above, it is necessary in order to understand the concept of agriculture and the application of fertilizers, as an ancillary use to enhance/improve the soil, to have regard to the Fertilizers Act and Regulation GNR 732 of 10 September 2012. We will now refer to the wording and definitions contained in the said Regulation and the Fertilizers Act:

*“**compost**” – means a stabilized, homogenous, fully decomposed substance of animal or plant origin to which no plant nutrients have been added and that is free of substances or elements that could be harmful to man, animal, plant or the environment.”*

The above definition complies fully with our client’s current compost facility and the ingredients (raw material) used in the production of compost on Portion 6.

*“**fertilizer**” – means any substance which is intended or offered to be used for improving or maintaining the growth of plants or the productivity of the soil.”*

Compost is therefore clearly defined under the Fertilizers Act and the Regulation as a fertilizer.

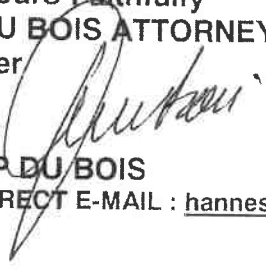
6. In terms of the new Fertilizer Bill which has not been enacted yet, the proposed definitions is interesting as it may also be applied to confirm the meaning of compost as a fertilizer.
7. *“**raw material**” – means organic or inorganic products in a solid or liquid form, including various products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the processing thereof, which are intended for soil fertilization or foliar application.”*
8. The current production of compost on Portion 6 takes place, not as an industry, nor a factory, an abattoir or a noxious trade as defined in the Integrated Zoning Scheme. As stated, it also does not contravene any National Act like the Waste Act or NEMA as long as the production of compost is restricted to a maximum of 10 tons per day and be utilized on Portion 6. The portion of land where the current facility is operated, has in any event been cultivated as early as 1982.
9. Thus, as stated in this letter (and as supplemented by the contents of our previous letters of 14 March 2018 and 3 May 2018, respectively), your Notice of Non-Compliance, has no legal basis and is unlawful.

10. Our instructions therefore are that our client will not heed to that notice or any further Non-Compliance Notice issued and our client will not make alternative arrangements for the disposal of the Robertson Abattoir organic waste, pending the outcome of our client's pending application.
11. Kindly also take notice that should your Municipality take action in the form of the laying of a criminal complaint, such action will naturally be opposed and all the relevant correspondence will be submitted to the prosecutor. Such actions will furthermore be considered to be malicious prosecution and in that regard our client's rights are fully reserved.
12. Should your Municipality furthermore decide to make application to a civil Court for an order against our client to cease the current activity, same will be opposed on *inter alia* the grounds set out in the relevant correspondence. In such a case, a punitive cost order will be applied for against your Municipality due to your continued vexatious disregard of our client's rights. The manner in which your Municipality has handled this matter, from the start, is not only a disgrace but can be viewed as akin to unlawful harassment of our client in its bona fide endeavours to do the right thing. And in the process solving your Municipality's primary obligation to dispose of abattoir waste through objectionable landfill options.
13. You are hereby instructed that should your Municipality apply to Court for an order for the cessation of further production of compost on Portion 6 in the current volumes and manner, pending the outcome of the application for rezoning, the Court papers must be served on our offices. Should your Municipality deem it prudent to bring an urgent application, our client demands that at least 3 days notice of such an application be given before the hearing thereof to enable our client to oppose same.
14. We may advise that an urgent application in these circumstances will in any event be opposed on the basis that the application is clearly not urgent due to the fact that a year has lapsed since the First Notice of Non-Compliance was served on

our client. And more than 2 years since our client commenced with the production of compost on Portion 6 with the full knowledge of your Municipality.

Kindly acknowledge receipt.

Yours Faithfully
DU BOIS ATTORNEYS
Per



JP DU BOIS
DIRECT E-MAIL : hannes@ipdubois.co.za



MEMORANDUM

PREPARED FOR

THE LANGEBERG MUNICIPALITY

**REGARDING THE LAWFULNESS OF A COMPOST FACILITY ON
PORTION 6 OF THE FARM MIDDELBURG NO 10, DISTRICT
ROBERTSON**

Prepared by CAREL HOFMEYR

tel. 021-851-0359 – carel@dhmlaw.co.za

Date: 17 April 2019

Note: Legal Opinion is
confidential document.
Only conclusions on pg 24
are made available to
appellants.

be to render enforceable what the law, be it the common law or statute law, has in the public interest declared to be illegal or invalid".¹⁴ It follows, therefore, that any reliance SAFAMG wishes to place on estoppel, would be misplaced.

CONCLUSION

77. For all of the above reasons we conclude that:

- 77.1. The compost facility does not fall under the definition of "agriculture" and is not permissible on account of it being an intrinsic constituent of a primary use within AZI;
- 77.2. Within AZI ancillary uses are not permissible on account of their status as such, and even if the compost facility did constitute an ancillary use within that zoning, the facility would not have been lawful for that reason.
- 77.3. Assuming ancillary uses were permissible within AZI on account of their status as such, the compost facility would not have been lawful on that basis in any event, as it is not an ancillary use that it is subservient to a lawful dominant use in AZI;
- 77.4. The operation of the compost facility on the Property is unlawful, exposing SAFAMG as operator and Reben Trust as the landowner to the significant criminal penalties and other punitive measures that the LIZS and LLUP Bylaw provide for.
- 77.5. The LLUP Bylaw imposes an obligation on the Consultant to enforce compliance with the provisions of both the LIZS and the LLUP Bylaw through the measures that those enactments place at the Consultant's disposal, which include:

¹⁴ W.A. Joubert et al *The Law of South Africa* 2nd ed (2005) at 423 paragraph 673. See also *City of Tshwane Metropolitan Municipality v RPM Bricks (Pty) Ltd* 2008 (3) SA 1 (SCA) where the SCA held as follows: "*Estoppel cannot, as I have already stated, be used in such a way as to give effect to what is not permitted or recognised by law. Invalidity must therefore follow uniformly as the consequence. That consequence cannot vary from case to case. 'Such transactions are either all invalid or all valid. Their validity cannot depend upon whether or not harshness is discernible in a particular case.'* (Per Marais JA in *Eastern Cape Provincial Government and Others v Contractprops 25 (Pty) Ltd* 2001 (4) SA 142 (SCA) paragraph 9.)"

**PAJA: TOWN PLANNING DEPARTMENT'S RESPONSE TO ACCUSATIONS IN DE BOIS' 4 MARCH 2019 LETTER –
COMMENTS PROVIDED TO DHM ATTORNEYS RE. ESTOPPEL AND MUNICIPALITY'S HANDLING OF THIS MATTER**

1. We are not aware of what conduct the DBA letter is referring to in their paragraph 12. and place on record our strong rejection of the claims that our conduct has been "vexatious", "disregards rights", "disgraceful" and "akin to unlawful harassment". We advise as follows with regard to the efficient and professional handling of this matter:
 - 1.1. The Reben Trust was sent 4 letters from the Langeberg Municipality advising of the impending need to find an alternative means of disposing of abattoir waste: 9 September 2015, 8 July 2016, 29 July 2016 and 2 November 2016. Reben Trust did not respond to the first 3 letters.
 - 1.2. Only on 17 November 2016 did Reben Trust respond - 14 months after the first notification. At this stage Reben Trust did not make it clear where the site was (states "one of our sites").
 - 1.3. In the abovementioned letter from Reben Trust, dated 17 November 2016, it was stated that "we have already handed in the relevant plans and application to both the Langeberg Municipality and other relevant Government Departments".
 - 1.4. However, the pre-application BAR was only received for comment by the Municipality on 15 June 2017 (confirmed by postage proof as submitted by SAFAM) and the application in terms of the LLUP Bylaw was only received by the Municipality on 24 October 2017 (7 months and 11 months, respectively after SAFAM claims to have lodged applications). Both of these applications were lodged well after the on-site meeting on 15 February 2017 referred to in para 20 above.
 - 1.5. Having received the LLUP application on 24 October 2017, the Langeberg Municipality advertised and circulated same for comment during November 2017. Following receipt of comment and objections, additional information was requested from SAFAM on 18 May 2018. SAFAM's response to this request was only received on 2 October 2018. An assessment report was completed by the Municipal Planners in December / January 2019 and submitted to the LMPT on 1 February 2019, whereafter the Reben Trust was notified of the Tribunal's decision.
 - 1.6. In the interim, and in the absence of any approvals having been issued to date, the Municipality is bound by the LLUP Bylaw, to serve the compliance notices in question.
 - 1.7. Given the above, and in the absence of specific details regarding DBA's statements, it is concluded that these allegations are unsubstantiated, untrue and unnecessarily antagonistic. Blame must be laid where it is due and it is misdirected at the Municipality.
 - 1.8. SAFAM cannot have it both ways: accepting the Municipality's willingness to give reasonable time for the correct procedures to be followed, rather than taking immediate enforcement action; and accusing the Municipality of implying that no application was required due to the lapse in time between notices. The fact is that applications had been lodged and were being processed, which would not have been done if the Municipality was of the opinion that no applications were required.

11.03.2019.

Notule van vergadering van die Beplanningstribunaal van Langeberg
Munisipaliteit op 6 September 2019 om 10h00 by die Langeberg munisipale
kantore, Robertson.

1. Opening

Die Voorster, Mnr Maynard Johnson, heet almal welkom by die vergadering.

2. Bywoning

Maynard Johnson	-	Voorster (Interne lid)
Hennie Taljaard	-	Adjunk voorster (Eksterne lid)
Kobus Brand	-	Interne lid
Jeremy Benjamin	-	Eksterne lid
Helene Janser	-	Eksterne lid
Carissa Pieters	-	Eksterne lid
Quinton Balie	-	Eksterne lid
Jack Van Zyl	-	Stadsbeplanner (Professionele Beplanner)

3. Aansoeke vir verlof tot afwesigheid

Geen

4. Bekragtiging van notule

- 4.1 Die notule van 'n gewone vergadering van die Beplannings Tribunaal van die Langeberg Munisipaliteit wat gehou was op 1 Februarie 2019 in die Raadsaal, Munisipale Kantore, Robertson, word aanvaar met die volgende wysigings: Aansoek vir verlof tot afwesigheid is wel deur Helene Janser ingedien.

5. Punte uit vorige notule

Portion 6 of Middelburg 10, Robertson: Application to Rezone from Agricultural Zone I to Industrial Zone II (Abattoir Compost Facility) and Consent for intensive feed farm (sheep).

DIE TRIBUNAAL NEEM KENNIS VAN DIE STATUS VAN DIE AANSOEK, MAAR IS VAN OPINIE DAT 'N BESLUIT NIE UITGESTEL KAN WORD OMDAT DAAR ANDER GOEDKEURINGS INGEVOLGE ANDER WETGEWING UITSTAANDE IS NIE. DIE TRIBUNAAL BEVESTIG DAT ALLE UITSTAANDE INLIGTING WAT MET DIE VORIGE BESLUIT AANGEVRA IS, NIE VERSKAF IS NIE EN DAT DIE AANSOEK NIE OORWEEG KAN WORD VOORDAT AL SODANIGE INLIGTING BESIKBAAR IS NIE.

Die Tribunaal versoek dat hierdie aansoek verwys word na die volgende Tribunaalvergadering vir 'n besluit.



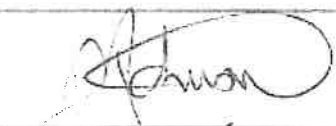
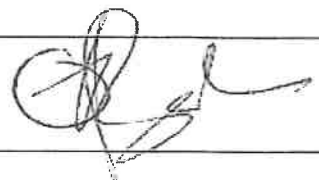
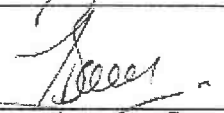
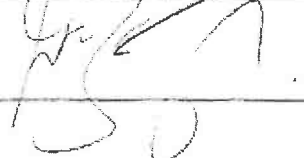
LANGEBERG

MUNISIPALITEIT MUNICIPALITY MASIFALA

BEPLANNINGS TRIBUNAAL

6 September 2019

Teenwoordigheidsregister

Naam & Van	Handtekening
Maynard Johnson (Voorsitter)	
Hennie Taljaard (O/Voorsitter)	
Jeremy Benjamin	
Quinton Balie	
Helene Janser	
Carisa Pieters	
Kobus Brand	
Jack Van Zyl	

Annexure 2(3)

Planning Assessment Report
to Langeberg Municipal Planning Tribunal,
& Minutes of meeting:

18 OCTOBER 2019

1 / 2019

FILE COPY.

①


LANGEBERG
 LOCAL MUNICIPALITY

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)

RESUBMISSION OF APPLICATION CONSIDERED BY THE TRIBUNAL ON 1 FEBRUARY 2019

(WITH SUPPLEMENTARY INFORMATION CONSIDERED BY THE TRIBUNAL ON 6 SEPTEMBER 2019):

PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) & CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Tribunal Meeting of 18 October 2019

Reference number	15/4/12/5 & 7	Application submission date	24 October 2017 BAR: 14.03.18	Submission of Additional Information in response to information requests.	12 April 2019 & 27 June 2019	Date report finalised	20 Sept 2019
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PART A: AUTHOR DETAILS

First name(s) & Surname	Tracy Brunings
Job title	Assistant Town and Regional Planner
SACPLAN registration no.	Pr. PIn A/951/1997

PART B: PROPERTY DETAILS

Property description	Portion 6 of the farm Middelburg No.10, Robertson							
Physical address	Off DR 1384 and DR 1377		Town		Rural – 14km NW of Robertson			
Current zoning	Agricultural Zone I	Extent (m2 /ha)	758.0308ha.		Are there existing buildings on the property?		Y	N
Applicable zoning scheme	Section 8 Zoning Scheme in terms of LUPO No. 15 of 1985							
Current land use	Agriculture, Store/Shed, workers house, kraal and weigh station, dams				Title Deed number & date		T12255/2013	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)					
Any third party conditions applicable?	Y	N	If Yes, specify	Right-of-way across western corner of property.				
Any unauthorised land use/building work	Y	N	If Yes, explain	Store/Shed has been constructed. The compost facility commenced operating in February 2017.				

PART C: BACKGROUND AND STATUS QUO OF APPLICATIONS

Langeberg Land Use Planning Bylaw, 2015:

Application has been made for the following, as shown on the amended Site Plan at **Annexure 1**:

- Rezoning a 1,3ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost facility comprising: waste treatment windrows and storage space for raw and finished products.
- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 sheep) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity to 4500 sheep).

The above application was submitted to the Tribunal on 1 February 2019. The Tribunal members conducted a site visit, accompanied by Mr D Houghton and Mr J Ludick from SAFAM, where after a Tribunal meeting was held and the Planning Assessment Report and Recommendation were discussed in detail. The Tribunal decided as follows:

With reference to Section 40(7) of SPLUMA No. 16 of 2013, the Langeberg Municipal Planning Tribunal conducted an on-site inspection of the above property on 1 February 2019, and agreed that:

1. Insufficient information is available at this stage to take an informed decision on the above application, in terms of Section 60 of the Langeberg Land Use Planning Bylaw, 2015.
2. With reference to Section 42(2) of SPLUMA No. 16 of 2013, and Sections 65(1) (d) and (f) of the Langeberg Land Use Planning Bylaw, 2015, environmental legislation has not been complied with, and all environmental information is not yet available:
 - 2.1. EIA application has lapsed (23 May 2018).
 - 2.2. Waste Management License application has been rejected (16 August 2018).
 - 2.3. The Water Use license application is still in process.
3. The Langeberg Municipal Planning Tribunal, requests the applicant to provide all outstanding information to the Town Planning Department, for submission to the Tribunal. The following specific information is requested:
 - 3.1. An Atmospheric Impact Report must be prepared with regard to the cumulative impact of the compost facility and feedlot in terms of odours and flies.
 - 3.2. The availability and suitability of Vissershoek Waste Disposal site, or an alternative site for the disposal of infectious abattoir waste must be confirmed.
 - 3.3. The Soil Study (AVS, Nov 2015) highlighted the importance of the correct implementation of drainage. A Storm Water Management Plan by a Pr Eng must be prepared, and must take into account the changed position of the composting windrows relative to the small collection dams since the soil study.
 - 3.4. The desirability of the buffer between the proposed Feedlot and the Middelstekloof River, as determined in the Freshwater Impact Assessment (Eco-Impact, 15 Feb 2018), must be substantiated, given the hydrological changes upstream and the investigation by DEA&DP's Environmental Law Enforcement Directorate into the dam in the upper reaches of the Middelstekloof river.
 - 3.5. The calculation of the demand for water for the Feedlot is based on 4500 lambs, whereas the EIA application is for 6500 lambs. The maximum capacity applied for must be clarified and the available water must be proven to be sufficient.

It was further noted that legal action must continue against the illegal continuation of the unauthorized composting activity. The applicant will have to make alternative arrangements to dispose of the Robertson abattoir waste.

Section 53 of LUPA 3/2014

Application was made to DEA&DP in terms of Section 53 of LUPA as the land in question was used for agricultural purposes during the past 10 years. On 9 May 2018, DEA&DP issued approval for the compost facility, in terms of Section 53 of LUPA, and this decision was appealed by an objector. Due to changes in the LUPA regulations, DEA&DP advised per letter dated 2 July 2019 that the application decision and appeal are considered to be withdrawn.

No approval is required in terms of Section 53 of LUPA (July 2019).

NEMA 107/1998

Application has been lodged for Environmental Authorisation and a Waste licence as the proposed use triggers listed activities GN 938, LN1:4 (concentration of animals), 8 (agri-industry >2000m²) & 28 (industrial use >1ha. on agric land) and GN921 (Waste Listed Activities).

Appeals were lodged and the applicant has taken DEA&DP decisions on review to the High Court (August 2019).

PART D: LEGAL ACTION AGAINST COMPOST FACILITY AND LEGAL OPINION OBTAINED

As noted in the supplementary information considered at the Tribunal's meeting of 6 September 2019, a second and final notice was served on SAFAM on 25 February 2019 requiring them to make alternative arrangements for the disposal of the abattoir waste products until a decision is finalised on the compost facility.

SAFAM's legal representative, du Bois Attorneys, submitted a response (4 March 2019) which effectively argues that the existing compost facility falls within the definition of agriculture and does not require approval in terms of the LLUP Bylaw, 2015.

Legal opinion was sought by the Municipality from DHM Attorneys (17 April 2019) who concurred with the municipal opinion that the compost facility does not fall under the definition of Agriculture; is not an ancillary use and the operation of the compost facility is unlawful - an application in terms of the Langeberg Land Use Planning Bylaw is required. Accordingly, on 29 May 2019 SAFAM was advised that "the operation of the compost facility on the Property is unlawful, exposing SAFAMG as operator and Reben Trust as the landowner to the significant penalties and other punitive measures that the LIZS and LLUP Bylaw provide for".

In response, Du Bois Attorneys, on 31 May 2019, referred to previous correspondence in which they indicate that they will not heed such notices and "will not make alternative arrangements for the disposal of the Robertson Abattoir organic waste, pending the outcome of our client's pending application".

Given the above, the Municipality must decide whether or not to take further legal action e.g. apply to the Court for an interdict to direct the operation of the compost facility to cease immediately and rehabilitate the area currently covered by the compost facility. No decision has been taken to take further legal action at this stage.

PART E: APPLICANT'S RESPONSE TO TRIBUNAL'S REQUEST FOR ADDITIONAL INFORMATION

The applicant submitted a response dated 12 April 2019, to the Tribunal's request for Additional Information – refer to Annexure 2. The response to the information request is summarized as follows:

Availability of environmental information:

The applicant argues that all environmental information is available in the Waste Management Licence and EIA applications; and the lack of a complete EIA process relates to "investigations regarding possible illegal uses in terms of Section 24G of NEMA, not because of lacking of adequate information".

The need for an Atmospheric Impact Report:

The applicant has elected not to submit an Atmospheric Impact Report (AIR) in terms of odours and flies, but has rather resubmitted an extract from the draft EMP regarding the implementation of SOPs to mitigate impacts of flies and odours, together with comments from CWDM and DEA&DP which confirm that all matters relating to atmospheric impact have been addressed.

The availability and suitability of Vissershoeck Waste Disposal site, or an alternative site for the disposal of infectious abattoir waste:

The applicant confirms that Vissershoeck is not an option for disposal of "infectious waste", and if infectious waste arises, it will be composted at the Middelburg site. The heat treatment is effective at ensuring that no pathogens can survive. No alternative sites for disposal of infectious waste are identified by the applicant.

The need for a Storm Water Management Plan:

The applicant has not submitted an engineering report on stormwater and again refers to the Soil Study and the provision for cut-off drains, as shown on the Site Development Plan.

The desirability of the buffer between the proposed Feedlot and the Middelstekloof River:

The same information as previously submitted is referred to with respect to the buffer determination and the small collection dams. In addition, the Site Development Plan has been amended to relocate the proposed feedlot a further 40m from the original position, so as to be 100m away from the Middelstekloof river, thereby strengthening the buffer.

Water demand and water source for the Feedlot:

The applicant notes that the borehole has sufficient water for 4500 sheep, and the land use application is accordingly for a maximum of 4500 sheep. The EIA application was for 6500 sheep "to make provision for possible expansion in future".

Subsequent to the legal opinion referred to in Part D above, the applicant was given a final opportunity to supplement the information already submitted. The applicant submitted a letter dated 27 June '19 – refer to **Annexure 3:**

Section 24G of NEMA: SAFAM is of the opinion that the correct environmental process (BAR) has been followed, and that no 24G process was required as no listed activities have been triggered to date.

WULA Applications and dams: A Water Use licence has been submitted and BGCMA is currently processing this application. The investigations into the dams in the catchment area are not relevant to the current LUP application as the feedlot will get water from the borehole, and there is sufficient water for 4500 lambs.

Atmospheric Impact Report: The nature and scale of the impact of flies and odours has been assessed and the competent authority, DEA&DP – Air Quality Management has confirmed in writing that "the applicant has addressed all matters, by including it within the draft EMP" (letter dated 13.04.2018, attached as part of Annexure 3).

Infectious waste disposal: Stormwater Management Plan, Buffer to Middelstekloof river: As per the above response dated 12 April 2019.

PART F: COMMENTS FROM DEA&DP: WASTE MANAGEMENT AND DoA: VETERINARY PUBLIC HEALTH

Attached at **Annexure 4** is CWDM's response to the request to confirm whether or not listed activities are triggered in terms of the Air Quality Act 39/2004. They confirm their opinion that no listed activities are triggered in terms of this legislation. They further note that: "The Langeberg Municipality can address odour complaints under Section 35(2) of the Air Quality Act, which stipulates that the occupier of any premises must take reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises. In addition, the Langeberg Municipality could address the complaints on creating a nuisance, such as flies and odour, under (the) applicable local bylaws".

Attached at **Annexure 5** is DEA&DP's response relating to the definitions and treatment of infectious, condemned and hazardous waste. Paragraphs 4 and 5 note that non-infectious animal waste, including condemned waste and blood, is classified as general waste. Paragraph 10 of the email reads as follows: "GN R 636 specifies that infectious animal carcasses and animal waste are prohibited from disposal to land with immediate effect, implying that it needs to be treated before disposal at a Class B landfill facility". Paragraph 16 further notes that if infectious animal waste and carcasses are mixed with general animal waste, the whole volume of waste will be regarded as hazardous.

The WC Department of Agriculture's Veterinary Services: Veterinary Public Health, provided positive feedback to SAFAM, in which they commend SAFAM for dealing with the disposal of abattoir waste "without causing any pollution concerns and, at the same time, having minimal potential health risks for the workers involved or the general public" as well as for their record-keeping measures and dedicated on-site management to ensure "the elimination of potential microbiological hazards. This is the primary purpose of an abattoir waste disposal facility". They request permission from SAFAM "to use your composting facility as an example to be used in presentations to other abattoirs and even in a national forum". Refer to **Annexure 6**.

PART G MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

1. Assessment and decision-making process:

- 1.1. The Municipal Manager, in discussion with the Manager: Town Planning, recommended that this application in terms of the Langeberg Land Use Planning Bylaw, 2015 be pended from an administrative point of view, and not re-submitted to the Tribunal for a decision at this stage, given the following:
 - environmental considerations are at the core of the decision on the land use planning application; and
 - there is a pending High Court action relating to DEA&DP decisions in terms of the EIA regulations, in which the Langeberg Municipality is named as a Second Respondent.
- 1.2. The above recommendation for noting was submitted to the Tribunal at its meeting of 6 September 2019. The Tribunal members were of the opinion that, notwithstanding the difficulties relating to the NEMA applications, the land use application must be resubmitted to the Tribunal with all currently available information. The Tribunal is entitled to finalise a decision in terms of the Langeberg Land Use Planning Bylaw, notwithstanding the lack of a final outcome in terms of NEMA. The applicant cannot commence operation unless and until he has the full "basket" of land use and environmental approvals.

2. Criteria for Assessing the Land Use Application:

- 2.1. 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), and
 - 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.
- 2.2. In addition, in terms of Section 42(2) of SPLUMA, 2013, "When considering an application affecting the environment, a Municipal Planning Tribunal must ensure compliance with environmental legislation".

3. Assessment:

- 3.1. The Tribunal item dated 18 January 2019, as considered at the Tribunal meeting of 1 February 2019, provided detailed information relating to the following:
 - The background to the need to find an alternative treatment method for the Robertson Abattoir waste products.
 - The applicant's motivation, including environmental studies and SAFAM's Standard Operating Procedures (SOPs).
 - The public participation process including 3 objections, and Departmental comments.
 - Applications in terms of other legislation: Section 53(1) of LUPA, 2004; and NEMA and NEM: WA listed activities.

- 3.2. The above Tribunal item identified the following key issues, and the proposed land uses were comprehensively assessed in terms of these key issues:
- Non-compliance with the Zoning Scheme
 - Zoning Scheme Requirements and land use definitions.
 - Compliance with SDF's and other planning policies and guidelines.
 - The environmental impact on the natural environment (groundwater, surface water and air quality) and human health.
 - Management of nuisances; pests, scavengers, odours, noise, dust and visual impacts, particularly in relation to neighbours.
 - Traffic implications.
 - Socio-economic impact.
- 3.3. The decision reached should find a balance between economic, social and environmental benefits, without compromising the long term economic success of agriculture and tourism or environmental integrity. Based on the information available at that stage, it was recommended that the compost facility be approved, but that the proposed feedlot be refused.
- 3.4. Based on the information received in response to the information requests, and the amended Site Development Plan, the following conclusions are drawn with respect to the additional information submitted by the applicant:

3.4.1. Availability of environmental information:

Despite the absence of a finalised NEMA EIA processes, the following information is deemed to be sufficient to be able to assess environmental impact and desirability for the purposes of the land use planning application: the BAR, specialist studies, EMPr and Standard Operating Procedures (SOPs); read together with the applicant's response to the Tribunal's request for further information, and the comments received from CWDM (Air Quality Officer), DEA&DP: Waste Management and WC Dept. of Agriculture (Veterinary Public Health).

Further, Mr E Hanekom, Director: Waste Management, DEA&DP, confirmed, at the meeting held on 27 February 2018 with SAFAM, DEA&DP and the Municipality, that their Department had sufficient information to take a positive decision on the waste licence application, but procedurally they were prevented from issuing an approval, given other pending investigations by DEA&DP.

With reference to Section 42(2) of SPLUMA No. 16 of 2013, although final decisions have not been issued in terms of NEMA and NEM: WA, environmental legislation has been complied with in the sense that applications have been lodged, specialist reports prepared and public participation undertaken. A decision will be issued in due course in terms of this environmental legislation.

Should the land use application be approved, it must be clearly stated that approval is still required in terms of NEMA and NEM: WA and that the uses are subject to compliance with all relevant legislation, including NEM: Air Quality Act No 39 of 2004. Further, given that the EMPr was prepared in terms of the EIA regulations, in terms of which a decision is outstanding, the EMPr should be reviewed and amended in terms of the land use planning approval taking into consideration the recommended conditions of approval.

3.4.2. The need for an Atmospheric Impact Report:

CWDM's Air Quality Officer has confirmed that the activity does not trigger listed activities in terms of the Air Quality Act 39/2004, and therefore they do not require the submission of an Atmospheric Impact Report. They are satisfied, based on the draft EMPr and SOPs that atmospheric impact has been addressed.

Further, the competent authority, DEA&DP – Air Quality Management has confirmed in writing that “the applicant has addressed all matters, by including it within the draft EMPr” (13.04.2018).

The Town Planning Department has been in on-going contact with the CDWM (Health: Steven McClean) and the DEA&DP (Fahd Said) with regard to monitoring of the compost facility relating to public health and the prevention of any potential environmental and health nuisances. No major environmental impacts have arisen during the last 12 months of operation.

Although two complaints about odour and flies have been received during January and September 2019 (objector and ward committee), all investigations by officials from DEA&DP, Department of Agriculture and CWDM have determined that the odour and flies from the compost facility are within acceptable limits in terms of the health and environmental legislation. The site reports from the various authorities include the following statements: Flies are not excessive; provisions for fly control are in place; no larvae were found; no evidence of “blue fly”; composting site was clean with no strong odours during inspection. DEA&DP confirmed these findings and noted that no major issues relating to flies, smells and other nuisances were experienced.

Notwithstanding the above, it is possible that immediately adjoining neighbours may be negatively impacted on from time to time by flies and odours. Compliance with an approved EMPr and SOPs, particularly site hygiene and the correct management of temperature and PH, and an on-site manager, are essential to minimise impacts in terms of flies and odours. Cooperation by the applicant, and where necessary, enforcement of compliance with the conditions of approval will be necessary in order to ensure no future negative impact on the residents in the immediate vicinity. Regular monitoring meetings would assist in ensuring effective compliance with conditions of approval. Non-compliance would require notification to correct non-compliance or cease operating.

3.4.3. The availability and suitability of Vissershoeck Waste Disposal site, or an alternative site for the disposal of infectious abattoir waste:

It has been confirmed that Vissershoeck is not an option for disposal of “infectious waste”, as was originally proposed by the applicant. The applicant’s response that “if infectious waste arises, it will be composted at the Middelburg site” is not considered to be acceptable, in light of DEA&DP’s response relating to the definitions and treatment of infectious, condemned and hazardous waste (refer to Part F above and Annexure 5).

It is considered too high a risk in an agricultural area that infectious material could become mixed with general waste. Health and safety would rely entirely on the on-going proper management of the facility. A problem in this regard is not something which could be retrospectively rectified through standard monitoring and compliance procedures. It is therefore considered that infectious waste should be prohibited from the compost facility, and that should such waste arise in the future, it should be disposed of at an alternative site as approved by the DEA&DP: Waste Management and WC Department of Agriculture: Veterinary Public Health. This is included in the recommended conditions of approval.

3.4.4. The need for a Storm Water Management Plan:

The applicant’s referral to the storm water management proposals in terms of the Soil Study and the provision for cut-off drains, as shown on the amended Site Development Plan is not considered adequate for the long-term ongoing management of the site, particularly with regard to the feedlot. However, it is technically possible for an appropriate stormwater management system to be designed and implemented, and this can be further addressed prior to the approval of building plans for the feedlot. This is included in the recommended conditions of approval.

3.4.5. The buffer between the proposed Feedlot and the Middelstekloof River:

The same information as previously submitted is referred to by the applicant with respect to the buffer determination and the small collection dams. The detailed calculations are provided which support the conclusions reached and accordingly, the Site Development Plan has been amended to relocate the proposed feedlot a further 40m from the original position, so as to be 100m away from the Middelstekloof river. This strengthens the buffer and is consistent with the calculations and 100m operational buffer determination in the environmental report (Freshwater Impact Report).

The amended Site Development Plan, showing the relocation of the proposed feedlot 100m from the Middelstekloof river, provides an acceptable environmental buffer, which addresses the concerns raised in the Assessment Report which was submitted to the Tribunal's meeting of 1 February 2019.

3.4.6. The calculation of the demand for water for the Feedlot is based on 4500 lambs, whereas the EIA application is for 6500 lambs. The maximum capacity applied for must be clarified and the available water must be proven to be sufficient.

Investigations by DEA&DP and BGCMA, into the expansion of the dams in the Mountain Catchment Area, are in process, which may impact on the availability of adequate water for the proposed feedlot for 6500 lambs, as applied for in terms of the EIA regulations. The environmental consultant specifically states: "We are not aware of any work on the existing dams on this farm as this has not been included in our scope of work for which the EA is applied".

Because of this limitation, approval in terms of the LLUP Bylaw, 2015 is requested for a maximum of 4500 lambs, noting that the existing authorized borehole has sufficient water for 4500 sheep.

4. Additional legal / procedural factors for consideration:

- 4.1. Appeals / Reviews: An applicant / objector may appeal to the Langeberg Appeal Authority, either in terms of Sections 58 and 79(3) (decision not timeous) or Section 79(2) (appeal against decision and / or conditions of approval).

Note: With reference to Sections 58 and 79(3) (Decision not timeous), the Tribunal must take a decision within 120 days of "the last day for the submission of additional information as contemplated in section 55(5)". If the date of the applicant's last information submission is taken as the applicable date (27 June 2019), then the Tribunal must take a decision by 25 October 2019.

- 4.2. In terms of the procedural requirements of the Langeberg Land Use Planning process: the right to lawful, reasonable and procedurally fair administrative action (PAJA 2000, and Section 33(1) of the Constitution) may be reviewed in the High Court.
- 4.3. The legal opinion obtained by the Municipality from DHM Attorneys (17 April 2019) concurred that the compost facility does not fall under the definition of Agriculture and that a land use application is required. It is noted that DHM (para 74) does not express an opinion on what application should be lodged. With retrospect, it may have been preferable to apply for a departure for a "Waste Management/ Treatment Facility" as a use which is not specifically defined in the Zoning Scheme, rather than to rezone to Industrial Zone II. Nonetheless, alternative application options were discussed with the applicant, it was agreed that Industrial II was the most appropriate zone in terms of the applicable Zoning Scheme, and it was the applicant's choice to apply as he did. Further, if an application for departure had been lodged (or even a rezoning to a Special Zone), the same motivation and assessment in terms of the same criteria and with the same public participation process would have applied. To debate the type of application lodged is therefore not considered to have a bearing on the assessment of relevant considerations and the conclusions drawn regarding the proposed land use. What is of significance is that an application is required to be lodged and assessed in terms of the LLUP Bylaw, 2015.

5. The application is recommended for approval given the above, read together with the conclusions in the Assessment Report submitted to the Tribunal on 1 February 2019. The following conclusions are of particular relevance:
- Abattoir waste is a significant waste stream in the district and needs to be disposed of. All solutions that are able to provide environmentally and financially viable solutions for abattoir waste treatment should be encouraged. The recycling of waste products into compost, a useful product in the agricultural sector, is viewed positively rather than dumping or burying this waste, or unnecessary filling up landfill space.
 - The abattoir waste compost facility is consistent with the WCPSTF, the WCPSTF's Rural Land Use Planning and Management Guidelines (2019), the LSDF (2015), 2015 and the National Organic Waste Composting Strategy (2013).
 - The composting project contributes positively to achieving the requirements of the National Waste Management Strategy, 2012, to divert compostable organic waste and recyclables from landfill sites. This has positive implications for the Langeberg Municipality in terms of waste management.
 - Notwithstanding the above, the NOWCS notes that: "composting is currently the technology most commonly employed in South Africa for the treatment and recycling of organic waste but is not the only technology that needs to be considered". In the medium to longer term, other technologies may well be preferred on this site. The compost facility should also be monitored in relation to improving technologies to determine possible transition to technologies with reduced impacts in terms of flies and odours.
 - The SAFAM group is a large employer in the region (over 200 employees), and the successful treatment of waste products is essential to their continued operation. In the absence of a waste treatment facility, the economic implications of closing the abattoir is a real consideration, with widespread dis-benefits. This would magnify the current poor economic conditions and high employment levels in the region.
 - Nonetheless, there is potential for immediately adjoining neighbours to be negatively impacted on from time to time by flies and odours. Compliance with an approved EMP and SOPs, particularly site hygiene and the correct management of temperature and PH, and an on-site manager, are essential to prevent such impacts. Cooperation by the applicant, and where necessary, enforcement of compliance with the conditions of approval will be essential in order to ensure no negative impact on the residents in the immediate vicinity. Regular monitoring meetings must be held to ensure conditions of approval are complied with, and any identified problems are rectified timeously.

PART H: RECOMMENDATION

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the Langeberg Municipal Planning Tribunal **approves** the following application, as depicted on the plan marked MIDDELBURG 10/6 ROB-LBM-TP (March 2019) and subject to the conditions of approval, in terms of Section 66 of the aforementioned Bylaw, as set out in the attached Annexure:

- Rezoning a 1,3ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost facility comprising: windrows, storage space for raw and finished products, and off-loading areas.
- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs) comprising a 6000m² floor area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity).

That, the parties be informed of their right to appeal in terms of Section 79(2) of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015.

PART I: ANNEXURES

- Annexure 1 Amended Site Plan (March 2019).
- Annexure 2 Applicant's Response dated 12 April 2019 to Tribunal's Information Request.
- Annexure 3 Applicant's Response dated 27 June 2019 to final request for comments subsequent to legal opinion.
- Annexure 4 CWDm (Health) comments re. why the activity is not considered listed in terms of NEM: Air Quality Act, 2004.
- Annexure 5 DEA&DP's Response re. definitions of infectious, condemned and hazardous waste.
- Annexure 6 WC Department of Agriculture: Veterinary Public Health comments re. pollution control and public health.
- Annexure 7 Recommended Conditions of Approval.
- Annexure 8 Langeberg Municipal Bylaw for the Prevention and Suppression of Nuisances, 28 May 2010.
- Annexure 9 Departmental Comments: Department of Transport (7 February 2018) and BGCMA (16 January 2018).

PART J: SIGNATURES FOR DECISIONS BY TRIBUNAL

Author name: Tracy Brunings, Assistant Town and Regional Planner

Date: 20 September 2019

Registered planner name: Tracy Brunings

SACPLAN registration number: Pr. Pln A/951/1997

Date: 20 September 2019

Authorised for submission to Tribunal

.....
JV BRAND
BESTUURDER : STADSBEPLANNING

.....
DATUM

.....
ACTING DIRECTOR: ENGINEERING SERVICES
DIREKTEUR: INGENIEURS DIENSTE

.....
DATUM

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

REFUSED



Annexure 1

Amended Site Plan (March 2019)



AMENDED SITE PLAN: PTN 6 MIDDELBURG NO 10,
ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA
PLANNING
Town and Regional Planner

SCALE 1:2250

Annexure 2

Applicant's Response
dated 12 April 2019
to Tribunal's Information Request

(letter dated 22 Feb 2019 - also attached)

12 April 2019

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Tracy Brunings

PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT ROBERTSON: OUTSTANDING INFORMATION REQUESTED

Your letter dated 22 February 2019 refers. *(attached)*

With reference to Item 2 of your letter, the following comments:

The Waste Management License and EIA application have not been approved due to the investigation regarding possible illegal uses in terms of Section 24G of NEMA, and not because of lacking of adequate information.

The matter is currently under appeal with the Western Cape Minister of Environmental Affairs.

No application has been made for a water use licence in relation to the compost facility of feedlot.

As the water use is in limits (< 1000m³ storage of waste water) and conditions as set out in the general authorisation in terms of Section 3.1 of Regulation No 665 of 6 September 2013, the collection dam on the SDP has only been registered in terms as water use Section 21(g) of the National Water Act "*disposing of waste in a manner which may detrimentally impact on a water resource*".

The "*clean collection dam*" on the SDP is merely a clean dam to receive clean storm/run off water with no "*wastewater*" and therefore requires no registration.

With reference to Item 3 of your letter, the following replies on the outstanding information requested are:

- *Atmospheric Impact Report to be prepared in terms of odours and flies*

The Environmental Consultants, Eco Impact, have drafted a draft BAR, October 2017 and EMPR that listed all the possible impacts and how to address these impacts.

An extraction re flies and odours from the draft EMPR is attached as Annexure A, as well as DEADP's Air Quality Management and CWDM comments that all matters have been addressed (Annexures B1 and B2).

- *Availability and suitability of Vissershok Disposal site or an alternative site for the disposal of infectious abattoir waste*

The definition of infectious waste is unclear and it is requested that this be confirmed.

According to Bongani Landu the Vissershok Waste Management Facility (WMF) is unable to accept waste for disposal as there is an absolute prohibition on receiving infectious animal carcasses and animal waste according to Government Notice Regulations (GNR 636).

[Although Vissershok was willing to receive the waste, it is 120km away and not viable to transport waste over such a long distance.]

Infectious waste needs to be treated before disposal to at Class B Waste Disposal Facility. BUT there is no Class B Waste Disposal Facility with capacity in the Langeberg Municipal area.

According to the provincial Waste Management Guidelines, it is acceptable to treat up to 500kg of hazardous waste every day without need for any authorizations.

Up until this day, SAFAM had no need to treat any infectious material at the compost site.

Composting is one of the listed options available and is just as effective at destroying or rendering the pathogens non-viable as any other process. Samples of the compost facility were subject to micro testing for Salmonella and E.coli, which showed zero E.coli. This confirmed that the process is effective at destroying the spores.

The process Safam would follow to treat infectious material, if required, is the same as the current waste as it is heat treated during the composting process as per the Sewerage

Sludge Guidelines from Dept. Water and Sanitation (Option 5) that ensures no pathogens can survive. The thermophilic bacteria and heat destroy also other micro-organisms. The compost is finished at 55 degrees Celcius for 15 days which is higher than the requirements. In addition, it is treated another 6 to 9 months where the temperature gets above the required 45 degrees, not the 14 days as required.

After it is treated, it is compost and is used on the farm.

- *Storm Water Management Plan*

The storm water drainage proposals on the latest Site Development Plan are in accordance to the Soil Study by providing cut-off weirs from the windrows to direct the water with gravity in a channel to the lowest collective dam.

Run-off water from the feedlot will also flow from drainage channels around the feedlot with gravity to the lowest collective dam.

Due to the soil condition, no plastic or concrete lining is needed.

The Soil Study indicated one dam of 6400m³ (40m X 40m X 4m deep) to collect all storm water from the larger, already disturbed and cultivated area to the north of the application site.

The latest SDP have two collection dams, one bigger dam to collect natural run-off water from the farm above the application site of 2528,4m³ (98m x 21,5m x 1,2m deep) and a lower, smaller collection dam of 1504,8m³ (48m x 28,5m x 1,1m deep) to collect effluent from the windrows and feedlot.

This is much lower than the GN 665 maximum limit of 5000m³ of waste water that may be stored for re-use.

A survey of the dams by Glenn Cover is attached as Annexure C.

Effluent from the windrows is very little as the windrows themselves form an effective barrier for run-off water. The compost-making process produces no water, therefore it is minimal water that runs down the weir to the lowest dam.

The Soil Study confirmed the low rainfall (277mm/year). Attached are two pictures of the two dams taken in October 2018, after the rainy winter season, showing NO water in the lower collective compost/feedlot run-off dam and little water in the top clean dam (see photos in Annexure D).

Water in the dams will be re-used to wet the windrows, if available and if required.

- *Buffer between feedlot and river*

According to the Freshwater Ecological Impact Assessment that was prepared by Eco Impact Legal Consulting in 2018, the retention of a buffer area of at least 32m in width along the sides of the drainage line is considered to be adequate if the proposed mitigation measures for reducing risk as a result of the operational phase are implemented.

A Water Use Authorisation Application Risk Matrix and Impact Table were compiled by Eco Impact that address all the risks, impacts and mitigations.

The above documents have been submitted by Eco Impact as part of the Basic Assessment Report.

In addition, the Site Development Plan has been adjusted by moving the proposed feedlot 100m away from the side of the Middelstekloof River to strengthen the buffer (see Annexure E).

A Dam Safety Inspection Report and Operational and Maintenance Manual and Emergency Plan for the Middelburg dam have been compiled by a professional engineer. This report has been accepted by DWAF.

The application for the verification of the Middelburg dam prepared by Hannes du Bois is in process and it is expected to be finalised soon.

- *Number of lambs*

Application was made in the land use application for a feedlot that accommodate 4500 lambs. The EIA included 6500 lambs to make provision for possible expansion in future.

However, the available drinking water from the borehole with capacity of 14000m³ per year is only adequate for 4500 lambs (4500 lambs x 8,5 liter water per day = 38 250 liter water per day or 13 961m³ per year).

For your consideration please.

Yours faithfully



Anna-Christa Redelinghuys
Pr.Pln A/1076/1998

OPERATIONAL PHASE

Goals

The following are specified goals:

- Goal 1: Storm water management
- Goal 2: Waste Management
- Goal 3: Noise
- Goal 4: Flies
- Goal 5: Odour
- Goal 6: Pesticides
- Goal 7: Trucks
- Goal 8: Site Hygiene
- Goal 9: Monitoring and Control
- Goal 10: Safety Measures and Emergency Procedures
- Goal 11: Employment / Security
- Goal 12: Water Pollution
- Goal 13: Human / Wildlife Interactions

Goal 4: Flies

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
To mitigate and control the attraction of excessive flies as a result of the compost facility and feedlot.	Nuisance Pests Health risks	- All by-products are covered immediately on delivery which reduces the numbers of flies to a large extent. - The composting process will control the spread of diseases through correct management of temperature and ph. No larva/eggs/worms/bacteria can live in the desirable 55°C within the windrows. - The rows are covered with dry kraal manure from the feedlot that reduce the smell, prevent	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems experienced / complaints received will be recorded in a complaints register and addressed when required.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

			the attraction of flies and are not favourable for flies to lay eggs as it is too dry and warm for them. • In addition, the rows are also treated with chemicals such as Neoprene from Coopers which is aimed at killing the eggs and larvae of the flies. Baycidal and Temprid from Bayer are also used to kill the flies and larvae. Quik Bayt is dry crystals which attracts and kills flies on contact and are placed at several points around the site. • The sheep and manure will attract flies that live in the plants/fynbos in the surrounding area, but will be managed by providing fly traps at the feedlot, similar to the 19+ pheromone fly traps hanging on the fence alongside the composting facility. • This will be replaced on a regularly basis. In addition, the sheep and manure will be treated as explained above.		
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Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
The balance of PH, temperature, air, moisture are critical parameters to ensure correct fermentation/digestion without causing odour or any other problems in the composting facility.	Nuisance Offensive odours Health risk	- The balance of PH, temperature, air, moisture are critical parameters to ensure correct fermentation/digestion without causing odour or any other problems in the composting facility. These are monitored by the farm manager on a daily basis. Bemblab results for testing compost samples shows a good quality compost with a desirable C:N ratio. - Any abattoir product that is brought to the site is covered immediately, except for blood that needs to be soaked for 1 hour before turning and covering. - Standard operating procedures have been adapted to ensure that no deliveries leave the abattoir after 15:30 so that it can be received and covered before the end of the shift on the farm. - Blood is brought daily to the application site, in comparison with previously when the tanker was filled before delivery to the application site. The blood is also top up with water at the	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems experienced/complaints received will be recorded in a complaints register and addressed when required.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

		abattoir that has reduced the smell considerably. • The manager stays on the farm, approximately 120 meters from the application site and monitors the odours on a daily basis. • The nearest residential uses within prevailing wind direction are 2km away and will not be adversely affected. <u>Passive fence line monitoring:</u> Passive monitoring of hydrogen sulphide and ammonia to be conducted as and when required by the relevant authority. Methodology for the sampling of these pollutants must be carried out in accordance with any nationally or internationally acceptable standard in line with NEMAQA. Methodology that may be conducted: A baseline passive sampling survey (using the Radiello Method) for hydrogen sulphide and ammonia conducted over a 2 week period* on the fence line of the premises in the 4 major wind directions would be sufficient investigation to establish ambient concentrations of these pollutants.	interpretation. To be provided as an when requested by the Local Authority or as per the requirements of the relevant authorisations / permits granted for the facility.	

*please note that exposure durations using the Radiello Method is allowed to vary from 1 hour up to 14 days.



REFERENCE: 19/4/4/1/BL2/ Robertson

DEA&DP REFERENCE 16/3/3/1/B1/14/1004/18

ENQUIRIES: P. Harmse

ECO IMPACT CONSULTING

Tel: 021 671 1660

P.O. BOX 45070

Fax: 021 671 9976

CLAREMONT

Email: admin@ecoimpact.co.za

7735

Attention: Ms NZ Loebenberg

COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT (DBAR) FOR THE PROPOSED ROBERTSON ABATTIOR COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDLEBURG 10, ROBERTSON, WESTERN CAPE.

The DBAR for the above mentioned proposed development of a feedlot and compost facility, received on 15 March 2018 by the Department of Environmental Affairs and Development Planning (DEA&DP), Directorate: Air Quality Management (D: AQM), has reference.

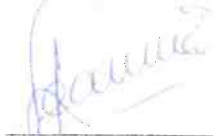
The D: AQM previously reviewed the application and provided comments for consideration by the applicant. After reviewing the above-mentioned official DBAR, and the Comments and Response report, the D: AQM notes that the applicant has addressed all matters, by including it within the draft Environmental Management Programme (EMPr).

The D: AQM would like to draw your attention to Section 28 of the National Environmental Management Act (NEMA), i.e. Duty of Care which states that:

"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."

Kindly be informed that the D: AQM reserves the right to review the above-mentioned comments, should additional information come to light. Please contact Mr Peter Harmse on 021 483 8343 or Peter.Harmse@westerncape.gov.za, should you have any further queries in this regard.

Yours faithfully,



DR. JOY LEANER (PHD)
DIRECTOR: AIR QUALITY MANAGEMENT
DATE: 13.4.2018

Cc: Adri La Meyer (DEA&DP)
Peter Harmse

Email: adri.lameyer@westerncape.gov.za
Email: peter.harmse@westerncape.gov.za

25

182



CAPE WINELANDS DISTRICT

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NAVRAE/ENQUIRIES/IMIBUZO:
TELEFOON/TELEPHONE/UMNXEBA:
FAKS/FAX/IFEKSI:
E-POS/E-MAIL/IE-MAIL:
U VERW/YOUR REF/IREF YAKHO:
ONS VERW/OUR REF/IREF YETHU:

Steven McLean
023 626 8324
023 626 5059
smcclean@capewinelands.co.za
17/11/2012 (8248874)

Van Reenensstraat 40 Street
51
ROBERTSON
6705

2019-01-22

Mr Hennie de Bod
Robertson Abattoir
ROBERTSON

Attention: Mr David Houghton \ Hennie de Bod

INSPECTION CONDUCTED IN TERMS OF SECTION 82 OF THE NATIONAL HEALTH ACT, 2003 (ACT 61 OF 2003);

INSPECTION REPORT, Middelburg Composting Plant:

Inspection party:

Air quality officers of CWDM & Langeberg Municipality;

Veterinary Services – Elsenberg;

Environmental Health Officers - CWDM

During the inspection conducted on the above-mentioned premises on 2019-01-22.

The following was found:

No bad stench experienced at time of inspection – entrance gate and alongside roadway towards composting plant - slight smells encountered between windrows;

No excessive fly activity at time of inspection;

No fly larvae in composting windrows at time of inspection;

Anti - Fly measures in place and operational at time of inspection;

Day temperature - approx. 32 degrees Celsius;

* Time of inspection - 09h30 - 10h30.

Yours faithfully

ST McLean
HEALTH OFFICER
for MUNICIPAL MANAGER



CAPE WINELANDS DISTRICT

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NAVRAE/ENQUIRIES/IMBUZO:
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E-POS/E-MAIL/E-MAIL:
U VERWY/OUR REF/REF YAKHO:
ONS VERW/OUR REF/REF YETHU:

Mr S T McLean
023 626 8324

van Reenensstraat 40 Street
51
ROBERTSON
6705

Attendance register

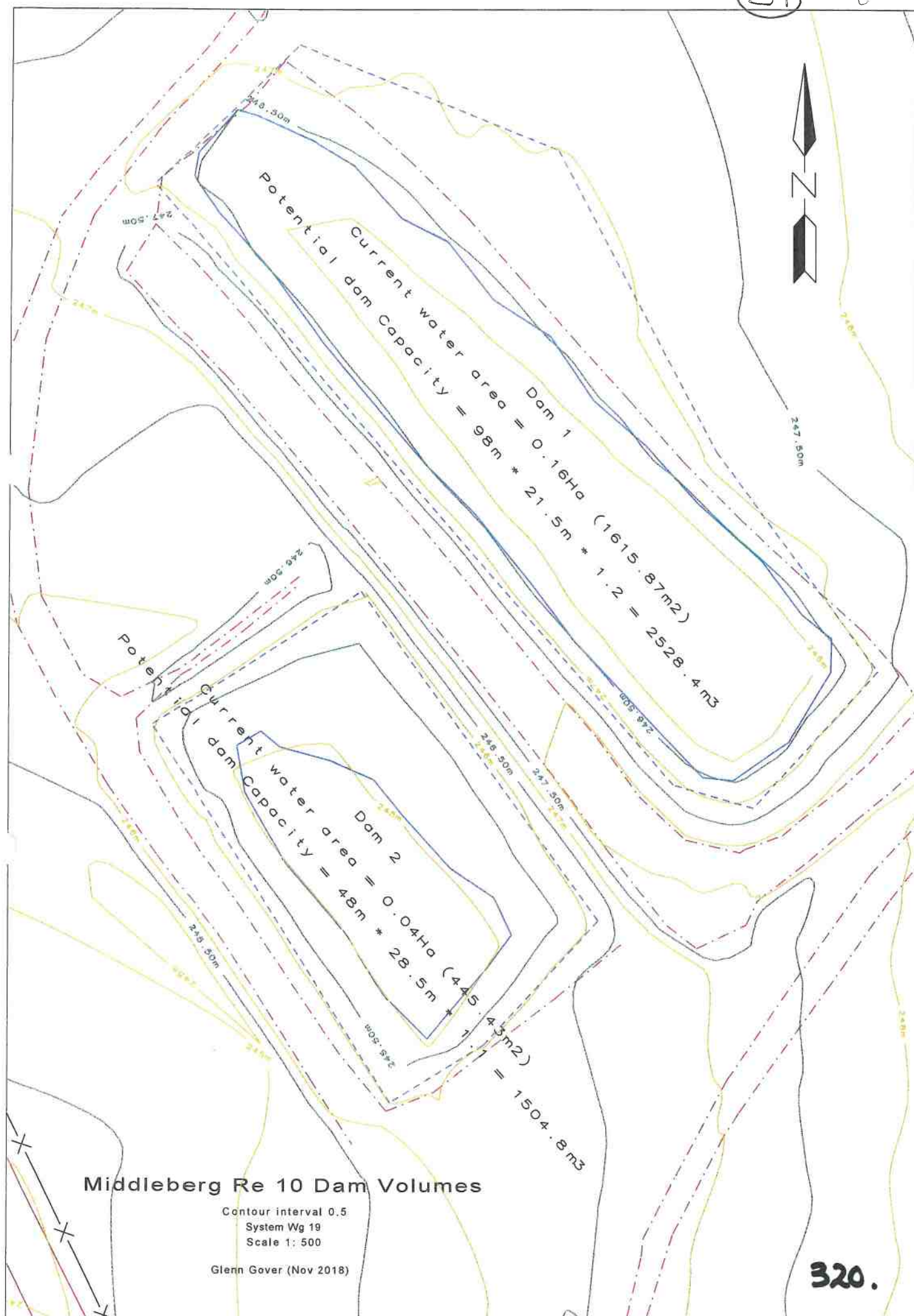
MIDDELBURG COMPOSTING PLANT SITE MEETING 22 JANUARY 2019

Name	Organization represented	email address	contact number	Signature
M. Engelbrecht	CWDM Air Pollution	maruis@capewineland.gov.za	021 888 5311	
ST McLean	CWDM Health	smcclean@capewineland.gov.za	023 626 8324	
J van Zyl	CWDM Health & Air Pollution	jacques@capewineland.gov.za	023 626 8313	
D. van Schaikwyk	Langeberg Mun. Air Pollution	dvanschakwyk@langeberg.gov.za	023 626 8200	
J. Swanepoel	Veterinary Services	jannies@elsenburg.com	082 907 1128	
DA Houghlin	SAPAM	dawide@robark.co.za	082 579 588	
J. Ludick	SAPAM	Voerkraal@robark.co.za	079485098	

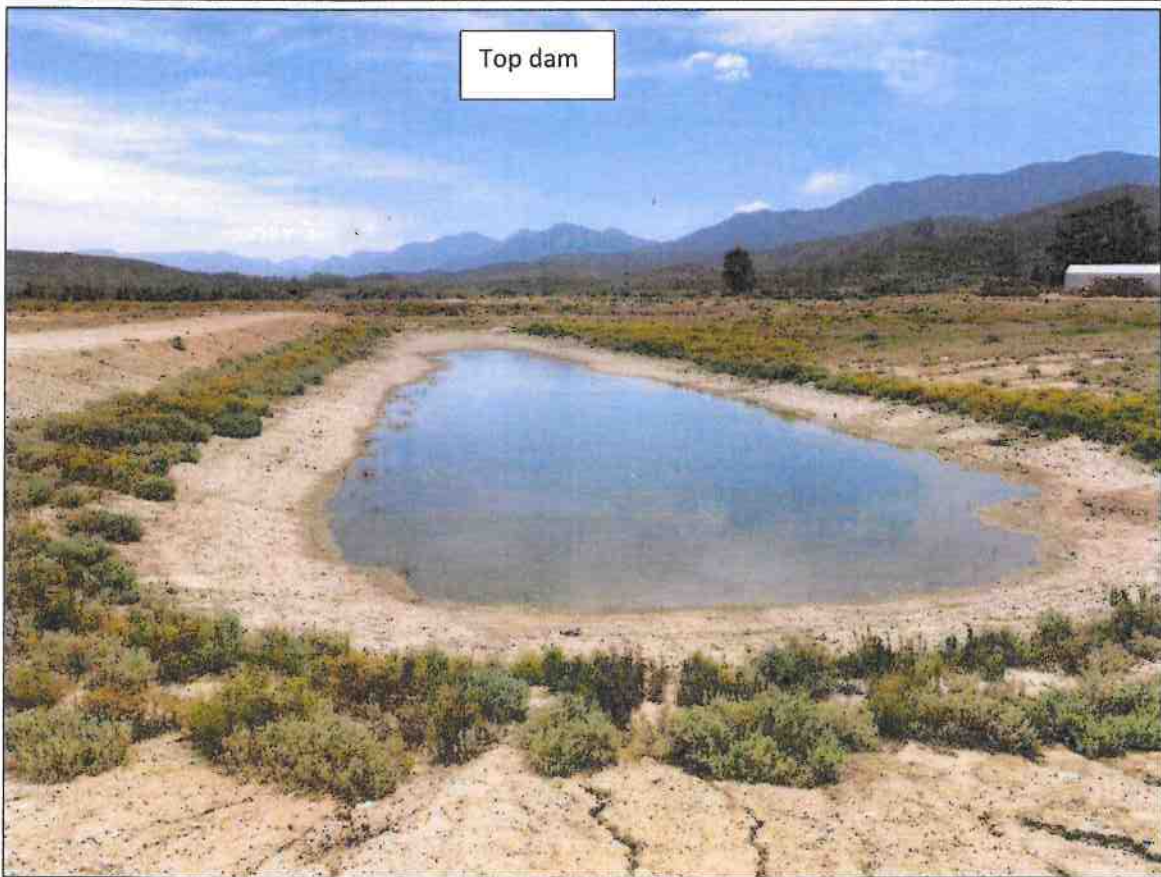
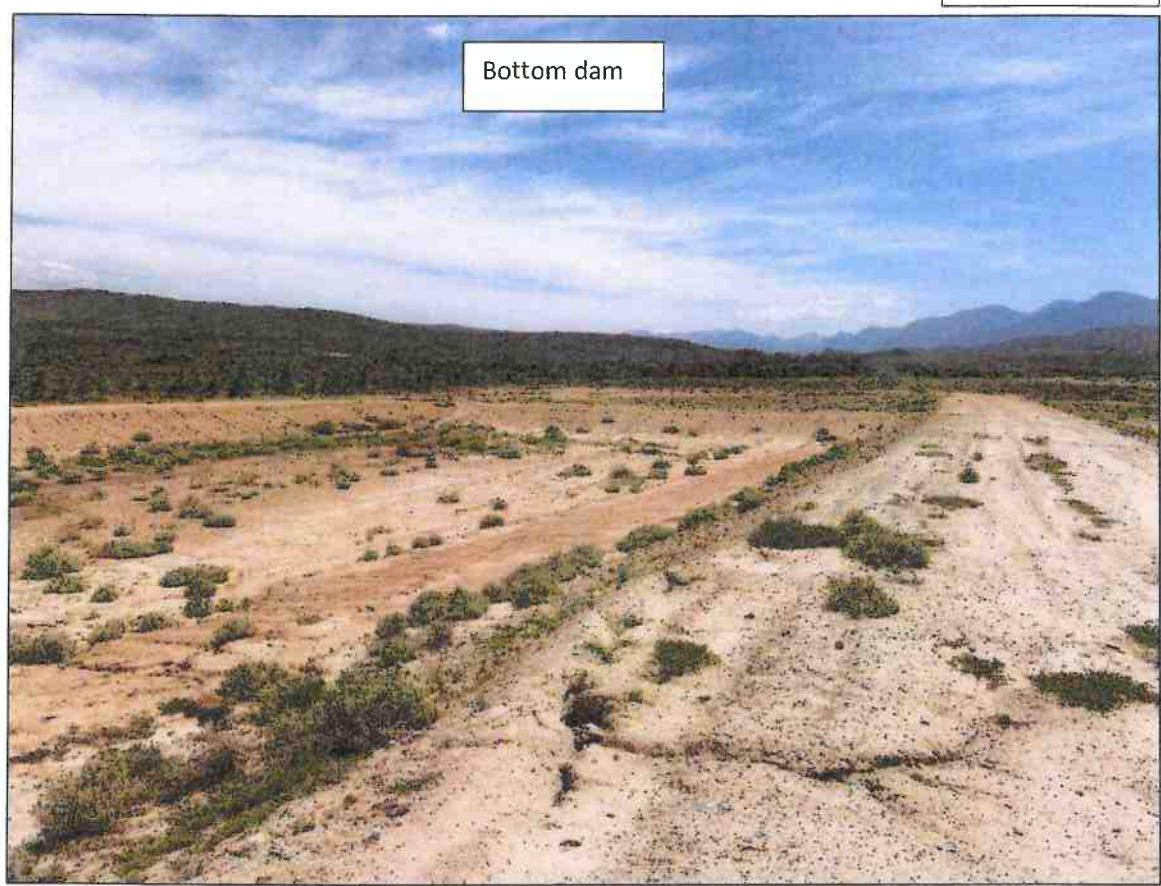
TIME: 09H30 - 10H30

ESTIMATED DAY TEMPERATURE: 32°C

Alle korrespondensie moet aan die Munisipale Bestuurder gerig word/
All correspondence to be addressed to the Municipal Manager/Yonke imbalelwano mayithunyelwe kuMlawuli kaMasipala
Telefoon/Telephone/Umnkeba: 0861 265 263 • E-pos/E-mail/E-mail: admin@capewineland.gov.za • Faks/Fax/IFEksi: 023 342 8442



Date: Oct 2018





SCALE 1:2250

Verw/Ref: 15/4/12/5&2 (Middelburg 10/6)

The Reben Trust
c/o Umsiza
P O Box 649
ROBERTSON
6705

Per email: annachris@mweb.co.za

Dear Sir / Madam

PORTION 6 OF MIDDELBURG NO. 10, ROBERTSON: REZONING FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP FEEDLOT)

I refer to the above application.

With reference to Section 40(7) of SPLUMA No. 16 of 2013, the Langeberg Municipal Planning Tribunal conducted an on-site inspection of the above property on 1 February 2019, and agreed that:

1. Insufficient information is available at this stage to take an informed decision on the above application, in terms of Section 60 of the Langeberg Land Use Planning Bylaw, 2015.
2. With reference to Section 42(2) of SPLUMA No. 16 of 2013, and Sections 65(1) (d) and (f) of the Langeberg Land Use Planning Bylaw, 2015, environmental legislation has not been complied with, and all environmental information is not yet available:
 - 2.1. EIA application has lapsed (23 May 2018).
 - 2.2. Waste Management License application has been rejected (16 August 2018).
 - 2.3. The Water Use license application is still in process.
3. The Langeberg Municipal Planning Tribunal, requests the applicant to provide all outstanding information to the Town Planning Department, for submission to the Tribunal. The following specific information is requested:
 - 3.1. An Atmospheric Impact Report must be prepared with regard to the cumulative impact of the compost facility and feedlot in terms of odours and flies.
 - 3.2. The availability and suitability of Vissershoeck Waste Disposal site, or an alternative site for the disposal of infectious abattoir waste must be confirmed.
 - 3.3. The Soil Study (AVS, Nov 2015) highlighted the importance of the correct implementation of drainage. A Storm Water Management Plan by a PrEng must be prepared, and must take into account the changed position of the composting windrows relative to the small collection dams since the soil study.

ADMINISTRATIVE AND EXECUTIVE OFFICE: ASHTON
ADMINISTRATIEWE EN UITVOERENDE KANTOOR
IOFISI YOLAWULO NEYESIGQEBA
~ TOWN PLANNING DEPARTMENT: MONTAGU ~
3 Piet Retief Street, MONTAGU 6720
T +27 23 614 8001 **F** +27 23 614 1841
E tbrunings@langeberg.gov.za www.langeberg.gov.za

Navrae/Enquiries: T L Brunings

22 February 2019

- 3.4. The desirability of the buffer between the proposed Feedlot and the Middelstekloof River, as determined in the Freshwater Impact Assessment (Eco-Impact, 15 Feb 2018), must be substantiated, given the hydrological changes upstream and the investigation by DEA&DP's Environmental Law Enforcement Directorate into the dam in the upper reaches of the Middelstekloof river.
- 3.5. The calculation of the demand for water for the Feedlot is based on 4500 lambs, whereas the EIA application is for 6500 lambs. The maximum capacity applied for must be clarified and the available water must be proven to be sufficient.

Yours faithfully


SA MOKWENI
MUNICIPAL MANAGER

/tlb

Copies for Information:

Western Cape Department of Agriculture Att: C vd Walt corvdw@elsenburg.com 20/9/25/5/314; 2018-05-16 jannies@elsenburg.com 15/1/5/1; 13.09.2017	Western Cape Government: Transport & Public Works Grace.Swanepoel@westerncape.gov.za 16/9/6/1-04/141 (Job 25595)	Cape Nature phuntlv@capenature.co.za SSD14/2/6/1/9/1/10_6_Rez_Middelburg; 19.01.2018
BGCMA nfeni@bgcma.co.za 4/10/1/H40L/Middelburg10/6; 16/01/2018	CWDM smcclean@capewinelands.gov.za 15/2/6/1; 17.11.2017	Mr & Mrs Keyser, P O Box 845, Robertson 6705 L Jordaan, P O Box 471, Robertson 6705 H Jooste, P O Box 209, Robertson 6705

DEADP

F. Said.

Fahd.Said@westerncape.gov.za

Annexure 3

Applicant's Response
dated 27 June 2019
to final request for comments,
subsequent to legal opinion
(Letter dated 29 May 2019 - also attached)

51
"3"

Tracy Brunings

From: David Houghton <david@safam.co.za>
Sent: 27 June 2019 13:28
To: Tracy Brunings
Cc: Anna-Christa Redelinghuys
Subject: Resposne to letter Dated 29th May 2019 wrt Compost site
Attachments: Response to letter dated 29 May 2019.docx

Hi Tracy,

As discussed please find attached our response with regards to the letter dated 29th May 2019 Ref: 15/4/12/5&2) Middelburg 10/6).

I have also sent hard copies of the letter to yourself and the Municipal Manager which have been dropped off at the Municipal Offices in Church Street Robertson. Included with the hard copies is a disk which includes all of the supporting information as referenced in the letter. (60megs of files)

If you have any further queries please do not hesitate to contact me.

Regards



DAVID HOUGHTON

B.Sc (Hons) LL.M.

CHIEF OPERATING OFFICER

ROBERTSON FARM ASSURED MEAT GROUP LTD

122 ROBERTSON

082 574 5751

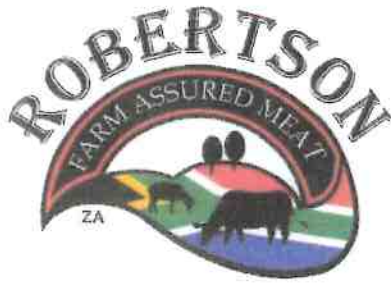
david@safam.co.za

EVERY INDUSTRY HAS ITS LEADER!



D:) > Response Ref 15-4-12-582 : General Information >

File name	Date modified	Type	Size	File folder	Name	Date modified	Type	Size
Response to DEADP Comments								
1.Robertson_Compost_Final_BAR_290418	27/06/2019 11:46	File folder			3.1 DEADPND_AND_APPENDICES_241116	27/06/2019 11:46	File folder	1 KB
APPENDIX_A_LOCALITY_MAP	12/06/2019 09:56	Adobe Acrobat D...	1,100 KB		3.1 FW Abattoir Waste Enquiry Robertson...	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_B1_LAYOUT_ALTERNATIVE1_P...	12/06/2019 09:56	Adobe Acrobat D...	81 KB		3.1 letter to Lang 17/11/2016	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_B2_LAYOUT_ALTERNATIVE2	12/06/2019 09:56	Adobe Acrobat D...	56 KB		3.1 Proof of Postage_15072017	27/06/2019 11:46	Adobe Acrobat D...	1 KB
APPENDIX_B3_FEEDLOT	12/06/2019 09:56	Adobe Acrobat D...	756 KB		3.2 WATER USE LICENCE Acknowledgem...	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_C_SITE_PHOTOGRAPHS	12/06/2019 09:56	Adobe Acrobat D...	10,055 KB		3.3 Dam Approval Portion 6 of the farm...	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_D1_BIODIVERSITY_OVERLAY...	12/06/2019 09:56	PDF File	412 KB		3.4 Air pollution attendance	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_D2_LAND_USE_MAP_2KM	12/06/2019 09:56	Adobe Acrobat D...	1,527 KB		3.4 Annexure B - Comment from DEA...	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_D2_LAND_USE_MAP_5KM_RA...	12/06/2019 09:56	Adobe Acrobat D...	1,566 KB		3.4 Appendix_K6_inspection feedback le...	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_E1_HWC_ROD	12/06/2019 09:56	Adobe Acrobat D...	416 KB		3.5 Batch 5 chem results	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_E2_EXISTING_WUL	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.5 Compost batch 5 micro	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_E3_Acknowledgement_WULA...	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 BUFFER AREA CALCULATION	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_F1_PPP_DRAFT_BAR_120318	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 APPENDIX_K4_CLIMATIC_W...	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_F2_ANNEXURE_1_DRAFT_BAR...	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Robertson_Abattoir_Compos...	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_F3_ROBERTSON_AB_PPP_290...	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
Appendix_F4_290418	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_G1_RIA_FEB2018	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_G2_RISK_ASSESSMENT_MATRIX	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_G3_SOIL_STUDY	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_H_Draft_EMP_3rd_draft_290418	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
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APPENDIX_I_WML_Annexure_A_120318	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_J_IMPACT_TABLES_290418	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_K1_CV_LaurenAbrahams_2017	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_K2_Borehole_Water_Test_Resu...	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_K3_BIO	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
APPENDIX_K4_CLIMATIC_WATER_BALAN...	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
Appendix_K5_Roads	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
Appendix_K6_inspection feedback letter	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB
Appendix_K7_Agriculture	12/06/2019 09:56	Adobe Acrobat D...	1,117 KB		3.6 and 3.7 Letter compost	27/06/2019 11:46	Adobe Acrobat D...	4 KB



SOUTH AFRICAN FARM ASSURED MEAT GROUP

CK97/017299/23

PO BOX 895
ROBERTSON
6705

TEL: 023 626 6320
FAX 023 626 6040

VAT: 4330179096

SAFAM Response to Letter Received from Langeberg Municipality dated 29th May 2019

Ref: 15/4/12/5&2 (Middleburg 10/6)

14th May — sent under cover of email dated 27 June 2019

Copies to

Municipal Manager Langeberg – SA Mokweni
Langeberg Municipality – Planning Officer – Tracy Brunnings

The above letter was received via Umsiza Planning Consultants on the 12th June 2019. Indications are that Umsiza Planning received the letter on the 10th or 11th June 2019.

Comments and Clarification as requested with regards to the relevant points as per the above letter received.

3.1. It is worrying that the Municipality is not clear on the process that was followed and why a section 24G was not followed from the outset. It is stated that you received the pre-BAR on the 15th June 2017, after the compost facility had already been in operation. The letter fails to acknowledge that SAFAM through the EIA Practitioner submitted a notice of intent to DEA:DP on the 2nd December 2016. SAFAM later received an acknowledgment and reply to this Notice of Intent on the 12th December 2016 stating that the process that must be followed was a Basic Assessment. A copy of this letter from the DEA:DP was sent to Langeberg Municipality. If the Municipality was made aware of this route, stated as 'must be followed' by the DEA:DP, why more than 2 years later is the Municipality now stating that a S24G route must be followed. Why was this question not put to both SAFAM and indeed the DEA:DP, 2 years ago, that it was the view of the Municipality that a S24G route be followed? It is the submission of SAFAM that the correct process has been followed at all stages, and that in addition to this SAFAM have communicated in full with all of the relevant authorities their intentions at least 6 months prior to starting the composting. Please find attached the following document [FW Abattoir Waste Enquiry Robertson Composting Facility] dated 12th August 2016 which clearly illustrates that both the DEA:DP and Langeberg Municipality were aware of the 'composting plan' and the specific site. Interestingly this document states that 'composting is not specifically defined in the zoning scheme'.

SAFAM would like to understand, specifically with regards to the Rezoning Application, if the Municipality was aware, at the very latest 12 December (not taking into account SAFAM informed the Municipality in August / September 2016 of their plans), why did they not raise concerns about the possible need to re-zone the site earlier, before the composting started?



SOUTH AFRICAN FARM ASSURED MEAT GROUP CC, CK97/017299/23, VAT: 4330179096,
PO BOX 895, ROBERTSON 6705, TEL: 023 626 6320, FAX 023 626 6040

328.



As per the letter dated the 18th March 2019 (as referred to in point 4 of your letter) SAFAM have been clear all throughout the process that no listed activity has actually taken place. Despite the DEA:DP stating in a letter dated April 2018 that they would investigate whether any listed activities had taken place, as of the date of this letter no such investigation has taken place, 14 months later! It would therefore be reasonable to conclude that no listed activities have taken place and as such a S24G application is not the correct process to follow. SAFAM also have on record that no waste licence is in fact required if the waste or by-products treated at the site remains below the applicable thresholds of 10 tons general waste & 500kg hazardous waste per day. SAFAM would therefore like to remind the Municipality that the waste licence is in fact for the potential future needs of the business and not as it currently stands, or what is actually being composted at the site currently.

3.2 All points are correct. SAFAM are now waiting on the BGCMA to perform the various duties for which they are the recognised competent and duly authorised body. SAFAM have registered as a water user as is required, however due to the various criteria laid down a water use licence is not required, as a General Authorisation is the correct route to follow. The Municipality should also be aware that they have received the whole report previously as it was included in all of the application documents sent to the DEA:DP and the municipality to comment on as an IAP. Attached is the water use licence application acknowledgement.

3.3 The scale of the feedlot does not require water from the dam. The feedlot is for 4500 lambs, which the current borehole can provide sufficient water for and therefore water from the dam is not needed. This information has been provided previously. Please find attached the Approval Letter for both the dam and the amount of Lawful Water Use as received from the BGCMA. This therefore illustrates that there is more than sufficient water for the feedlot.

3.4 The Atmospheric Impact Report will be provided. This report was already provided to the competent authority namely DEA:DP – Air Quality Management. Who stated in their response sent from Dr. Joy Lener (PhD) – Director: Air Quality Management “the applicant has addressed all matters, by including it within the draft Environmental Management Programme”. Copy of this letter is attached. It should also be noted that the Draft BAR was sent to the Municipality as well as CWDM. The Atmospheric information supplied therein was commented on by the CWDM own Air Pollution Officer, but not Langeberg Municipality. **Why was no comment received from Langeberg during the applicable timeframe, via the applicable process?** The Municipality is already aware of the site visit and subsequent report carried out at the site which focused on air pollution concerns; concerns which are shown, by the Municipalities own specialist, in the report to be completely unfounded. Those in attendance were:

1. M. Engelbrecht – CWDM Air Pollution
2. S McLean – CWDM Health
3. D. Van Schalkwyk Langeberg Air Pollution
4. J Swanepoel – Veterinary Services / Elsenberg
5. D Houghton / J Ludick – SAFAM



SAFAM therefore refute the assertion made in point 3.4 there is no assessment of the nature and scale of the impact of flies and odour, as the site has clearly been assessed by 3 air pollution experts, independent of SAFAM, who represent the various enforcement bodies.

3.5 SAFAM are very clear what constitutes Hazardous Waste, however it is concerned that the Municipality does not and therefore the request for clarification. This request from SAFAM for clarification of what the Municipalities understanding of 'hazardous waste' is entirely justified based on the fact that in your letter, you have stated that you have requested clarification from the DEA:DP. Why doesn't the municipality know what hazardous waste is when they have their own waste management department which was and still is handling the various kinds of waste as generated in their municipality? Is the Municipality also aware that there is an allowable limit for hazardous waste, as there is for general waste? General waste limit being 10 tons per day, whilst the hazardous waste is 500kg per day before a waste licence is required. It should be stated that currently no hazardous waste has been sent to the compost site. In the event that it is, it will be treated in such a manner that renders any pathogens inactive, non-viable through the ongoing compost process. To ease the Municipalities concerns please find attached the latest lab results for the compost in terms of micro. In addition to the Microbiological results, SAFAM have also been testing each and every batch for its chemical components both for quality, desirable parameters and undesirable elements such as heavy metals. The results as attached clearly show that the compost produced is of a superior quality and highly desirable due to the level of desirable nutrients and the exceptionally low levels of undesirable elements such as heavy metals.

3.6 A Storm Water Management Plan has been provided as part of the BAR process to the relevant authorities and the interested and affected parties, of which Langeberg Municipality is listed. The competent authority to assess this the is BGCMA who are in the process of conducting their assessment as part of our registering as a water user. All of the water information has already been submitted to the DEA:DP and found to be sufficient. At no point have any of the other bodies requested any further information or raised any concerns. I believe this is because the information supplied has followed the accepted methods and formulas as is required. I have attached further information. The methodology followed has a calculation in it which follows agreed processes; out of this calculation a required buffer area is generated. The specialist (Environmental Practitioner) then works in the topography of the site and has determined that the buffer is sufficient. This now has to be assessed and approved by BGCMA. See attached Excel Spread sheet. It should be noted that by following the proscribed methodologies the acceptable buffer calculation was shown to be sufficient at 30m, whilst the actual original planned buffer was 44m. This is the same methodology and tool which must be used by a PrEng for it to be accepted by the Water Authority instead it was carried out by an equally suitable and qualified Environmental Practitioner. The hydrology of the site, whether it be the buffer or storm water has included the location of the feedlot. Attached is the buffer area calculation and spreadsheet, as well as the documents submitted to the DEA:DP and BGCMA.



3.7 An assessment has been provided to the DEA:DP as part of the BAR, it is also a matter for the BGCMA to assess. SAFAM is very concerned about the use of the term 'ad-hoc' as it displays an automatic negative view of what is being done at the site by SAFAM. What does the Municipality mean by the term ad-hoc? The proposed moving of the site is far from ad-hoc as I have no doubt that anybody with a knowledge of the NEMA / Water Act will be aware of. The proposed move of the feedlot is to ensure that it is located outside of the 100m buffer zone of the Middlestekloof river, despite this being shown not to be necessary according to the buffer calculations using the WRC Buffer Tool. Even after this move no new calculation is required. The buffer width has been determined by using site specific components which has recommended a buffer width of 26m for the construction phase and 100m for the operational phase. This has been calculated using the WRC Buffer Tool. The 100m buffer area is to manage the risk of nutrient inputs as a result of the bordering feedlot into the freshwater ecosystem. However, there is an elevated area between the feedlot infrastructure and the non-perennial river and the topography and slope of storm water flow is away from the non-perennial river towards the compost facility. The calculation therefore stays the same and in fact the local topography clearly shows that a 32m buffer would be sufficient, (thus not requiring the move to the 100m location) therefore making the proposed feedlot which is further than 100m away more than sufficient. This is further supported by the fact that the area is a negative water balance area and does not support leaching or run off irrespective of the nature of the soil, which due to the high clay content as previously shown prevents leaching.

4. I have been informed that the letter as requested is now in the possession of the Municipality.

In order to ensure that the Municipality has as much relevant information as possible I have attached a number of documents that have been supplied to the various competent authorities in relation to the compost site during the process of applying for the the EA, the WML and other relevant applications.

I have also attached a letter of endorsement we have received from DAFF Elsenberg and the state vet which has visited the site.

To ensure that the Municipality is aware of the actual positives behind what we are doing at SAFAM in respect of composting and its positive impacts on the environment whilst assisting the Municipalities OWN targets of reducing organic waste to landfill I have also attached the National Organic Waste Composting Strategy which I hope the Municipality will find useful.

Regards

David A Houghton B.Sc. (Hons) LLM – COO SAFAM



37



REFERENCE: 19/4/4/1/BL2/ Robertson

DEA&DP REFERENCE 16/3/3/1/B1/14/1004/18

ENQUIRIES: P. Harmse

ECO IMPACT CONSULTING

P.O. BOX 45070

CLAREMONT

7735

Tel: 021 671 1660

Fax: 021 671 9976

Email: admin@ecoimpact.co.za

Attention: Ms NZ Loebenberg

COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT (DBAR) FOR THE PROPOSED ROBERTSON ABATTIOR COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDLEBURG 10, ROBERTSON, WESTERN CAPE.

The DBAR for the above mentioned proposed development of a feedlot and compost facility, received on 15 March 2018 by the Department of Environmental Affairs and Development Planning (DEA&DP), Directorate: Air Quality Management (D: AQM), has reference.

The D: AQM previously reviewed the application and provided comments for consideration by the applicant. After reviewing the above-mentioned official DBAR, and the Comments and Response report, the D: AQM notes that the applicant has addressed all matters, by including it within the draft Environmental Management Programme (EMPr).

The D: AQM would like to draw your attention to Section 28 of the National Environmental Management Act (NEMA), i.e. Duty of Care which states that:

"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."

(38)

Kindly be informed that the D: AQM reserves the right to review the above-mentioned comments, should additional information come to light. Please contact Mr Peter Harmse on 021 483 8343 or Peter.Harmse@westerncape.gov.za, should you have any further queries in this regard.

Yours faithfully,



DR. JOY LEANER (PhD)
DIRECTOR: AIR QUALITY MANAGEMENT

DATE: 13.4.2018

Cc: Adri La Meyer (DEA&DP)
Peter Harmse

Email: adri.lameyer@westerncape.gov.za
Email: peter.harmse@westerncape.gov.za

Verw/Ref: 15/4/12/5&2 (Middelburg 10/6)

The Reben Trust
c/o Umsiza
P O Box 649
ROBERTSON
6705

Per email: annachris@mweb.co.za

Dear Sir / Madam

PORTION 6 OF MIDDELBURG NO. 10, ROBERTSON: REZONING FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP FEEDLOT)

1. The following have reference:
 - 1.1. The Langeberg Tribunal's request for additional information dated 22 February 2019.
 - 1.2. Your letter of response dated 12 April 2019.
 - 1.3. The Municipality's letter to Du Bois Attorneys of today's date – copy attached herewith.
2. Please be advised that the information submitted in your letter of 12 April 2019 is considered to be insufficient in relation to the Tribunal's request. You are hereby afforded a further 30 days should you wish to submit additional information and / or clarification, where after the matter will be re-submitted to the Tribunal for a final decision.
3. The following notes are recorded for your consideration and comment / clarification where appropriate:
 - 3.1. It is not clear why application was not lodged in terms of Section 24G of NEMA, 1998, from the beginning: The pre-BAR was received for comment on 15 June 2017, whereas the compost facility had already been in operation since at least 15 February 2017, as evidenced by the site meeting on that date.
 - 3.2. The EIA refers to a Water Use licence application (WULA). BGCMA confirms the submission of a pre-application. Your letter of 12 April 2019 indicates that no WULA has been lodged.
 - 3.3. The work on the dams on the same property, in the Mountain Catchment Area (MCA) has been referred to by the owner as having been investigated by Water Affairs and no problems found. The DEA&DP indicates that it has issued a directive in this regard. The environmental consultant indicates that their brief did not include the dams in the MCA, however the buffer determination is based on no changes in the catchment, and the scale of the feedlot in the NEMA application would require water from this dam/s.
 - 3.4. An Atmospheric Impact Report was requested. This has not been provided. Reference is made to the SOPs and to the reports from CWDM on the current compost facility. There is no assessment of the nature and scale of the impact of flies and odour from the combined land uses of the proposed feedlot plus the compost site, in relation to legislative requirements.

ADMINISTRATIVE AND EXECUTIVE OFFICE: ASHTON
ADMINISTRATIEWE EN UITVOERENDE KANTOOR
IOFISI YOLAWULO NEYESIGQEBA
~ TOWN PLANNING DEPARTMENT: MONTAGU ~
3 Piet Retief Street, MONTAGU 6720
T +27 23 614 8001 **F** +27 23 614 1841
E tbrunings@langeberg.gov.za www.langeberg.gov.za

Navrae/Enquiries: T L Brunings

29 May 2019

- 3.5. Confirmation is provided that Vissershoeek Waste Disposal site is not available for the disposal of infectious abattoir waste, and that, should such waste arise from the Robertson abattoir, that this waste will be composted on site. The statement that "the definition of infectious waste is unclear" is therefore concerning, particularly given the advanced stage of both the EIA and Waste licence applications. Clarification from DEA&DP has nonetheless been requested.
- 3.6. A Storm Water Management Plan by a PrEng was requested. This has not been provided. Instead, reference is made to the soil study which was conducted prior to the relocation of the compost windrows, and without reference to the feedlot.
- 3.7. No assessment is given regarding the desirability of the buffer between the proposed Feedlot and the Middelstekloof River, as determined in the Freshwater Impact Assessment (Eco-Impact, 15 Feb 2018), The Site Development Plan has been amended on an ad-hoc basis to relocate the proposed feedlot further away from the banks, closer to the district road and collection dams.
4. Please provide a copy of the letter from Du Bois Attorneys, dated 18 March 2019, as referred to in various correspondence, relating to the applications and appeals currently with DEA&DP.

Yours faithfully


SA MOKWENI
MUNICIPAL MANAGER

/tlb

Copies:

Du Bois Attorneys

DEA&AP: E Hanekom (Waste Listed Activities)

M Oosthuizen (EIA listed Activities)

Z Toefy (Rectification)

Annexure 4

CWDM (Health) comments re.
why the activity is not considered listed
i.t.o. NEM: Air Quality Act, 2004

Tracy Brunings

From: Marius Engelbrecht <mariuse@capewineland.gov.za>
Sent: 19 February 2019 09:33
To: Tracy Brunings
Cc: Langeberg Municipality; Dave Van Schalkwyk; ST McLean; Surene Grootboom
Subject: RE: MIDDELBURG 10/6, ROBERTSON RD: Waste figures for December
Attachments: Memo Site Visit - Middelburg Farm - Jan 2019.pdf

Dear Tracy

The production of chemical fertilizer as referred to in Subcategory 7.3 referenced in Government Notice No. 893, Gazette No. 37054 dated 22 November 2013, made in terms of section 21(1) (b) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) do not include production of compost using abattoir by-products and organic waste.

With reference to the description of Subcategory 7.3 as provided by yourself it states that facilities whom produce superphosphates, ammonium nitrate, ammonium phosphates and or ammonium sulphate and the processing of these into fertiliser mixtures (NPK mixtures) are considered Section 21 listed activities. In terms of subcategory 7.3 fertilisers are typically produced at facilities by the application of various acids with phosphates and/or ammonia. Some of these reactions may be heated by combustion processes to improve yield and increase production rates. These facilities could differ in production of these fertilizers as NPK fertilizers can be produced in liquid, gaseous, and granular form.

Most common in Subcategory 7.3 processes to produce NPK fertilizer is:

- Superphosphates - Various superphosphates are produced by reacting concentrated sulphuric or phosphoric acid with finely ground phosphate containing rocks to produce superphosphate or triple superphosphate, respectively. The main by-product from the production of superphosphates are calcium sulphate (gypsum).
- Ammonium nitrate - Concentrated nitric acid and anhydrous ammonia are reacted to give aqueous ammonia nitrate which is then concentrated and spray dried. The resulting pellets are then dried further and coated to prevent cracking.
- Ammonium phosphate - Phosphoric acid and ammonia is reacted to form the ammonium phosphate salt in powder form.
- Ammonium sulphate - Sulphuric acid is sprayed into a chamber containing ammonia gas to form ammonium sulphate powder. Alternatively a mixture of ammonia gas and water vapour is introduced into a solution of ammonium sulphate and sulphuric acid.

Subcategory 7.3, listing activities which result in atmospheric emissions which have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage published under Government Notice No. 893, Gazette No. 37054 dated 22 November 2013, in terms of section 21(1) (b) of the National Environmental Management: Air Quality Act, 2004, clearly do not apply to composting through the natural breakdown of abattoir and organic green waste. Hence the Cape Winelands District Municipality Air Quality Officer's response to Draft Basic Assessment Report for the proposed the development of a compost facility to recycle and treat abattoir and organic waste to produce compost on portion 6 of Farm Middelburg 10.

- * As for odour, the Langeberg Municipality can address odour complaints under Section 35(2) of the Air Quality Act, which stipulates that the occupier of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises. In addition the Langeberg Municipality could address the complaints on creating a nuisance, such as flies and odour, under your applicable local bylaws.

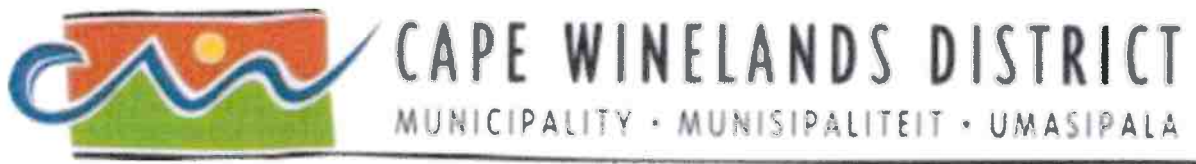
(41)

Attached please find a memo to Mr Steven McLean, Environmental Health Practitioner, on an intergovernmental site visit at the Middelburg Compost facility on the 22nd of January 2019.

Kind regards,

Marius Engelbrecht
Municipal Engineer
Cape Winelands District Municipality

 124 Langebaan and Old Street
Stellenbosch, 7600
 P.O. Box 1040 Stellenbosch, 7600
 021 888 5111
 072 102 8680
 021 887 0385
 mariuse@capewinelands.gov.za
 www.capewinelands.gov.za



From: Tracy Brunings [mailto:tbrunings@langeberg.gov.za]
Sent: Monday, February 18, 2019 2:49 PM
To: Marius Engelbrecht
Cc: Langeberg Municipality; Dave Van Schalkwyk; ST McLean; Surene Grootboom
Subject: RE: MIDDELBURG 10/6, ROBERTSON RD: Waste figures for December

Hello Marius,

Thank you for your prompt response and for the information attached to your email - I will go through it in more detail as soon as possible. The below activity made me question possible listing – although I have not double-checked definitions in terms of chemical fertilizer vs compost etc., so it is possible that this does not apply. The Tribunal's decision will go on appeal either way, hence my "re-looking" at this application from all angles, and "odour" and "flies" are really the key consideration in this decision.

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT

(3) *Subcategory 7.3: Production of Chemical Fertilizer*

Description:	The production of superphosphates and or ammonium sulphate mixtures (NPK mixtures).
Application:	All installations producing and or processing
Substance or mixture of	

Regards,

Tracy Brunings Pr.Plh A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720

Tel: 023 614 8001 Faks: 023 614 1841

✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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From: Marius Engelbrecht [<mailto:mariuse@capewineland.gov.za>]

Sent: 18 February 2019 14:14

To: Tracy Brunings <tbrunings@langeberg.gov.za>

Cc: Dave Van Schalkwyk <DvSchalkwyk@langeberg.gov.za>; ST McLean <smcclean@capewineland.gov.za>; Surene Grootboom <surene@capewineland.gov.za>

Subject: RE: MIDDELBURG 10/6, ROBERTSON RD: Waste figures for December

Ms Tracy Brunings

Could you please reference why this premises might be considered as a listed activity under Government Notice No. 893, Gazette No. 37054 dated 22 November 2013, in terms of section 21(1)(b) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).

The production of compost from abattoir waste are not considered a Category 10 : Animal Matter Processing facility nor a Category 8: Subcategory 8.1 : Thermal Treatment of General and Hazardous Waste.

(43)

The Cape Winelands District Municipality do not consider the manner to which compost is produced from abattoir waste at Middelburg 10/6 as a Section 21 listed activity. The Cape Winelands District Municipality did however respond to the Draft Basic Assessment Report with reference DEA&DP: 16/3/3/1/B1/14/1004/18 on matters relevant to air quality management at this facility.

The increase in the quantity of abattoir waste to this site could constitute to the requirement of a waste license.

Attached please find the Cape Winelands District Municipality Air Quality Officer's response on to Draft Basic Assessment Report as mentioned.

Kind regards,

Marius Engelbrecht
Air Quality Officer
Cape Winelands District Municipality



Old Langerhoven and Bird Street,
Stellenbosch, 7600



P.O. Box 100, Stellenbosch, 7600



021 888 5811



072 122 5680



021 887 9365



mariuse@capewinelands.gov.za



www.capewinelands.gov.za



CAPE WINELANDS DISTRICT
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

From: Tracy Brunings [<mailto:tbrunings@langeberg.gov.za>]

Sent: Monday, February 18, 2019 1:50 PM

To: Marius Engelbrecht

Subject: MIDDELBURG 10/6, ROBERTSON RD: Waste figures for December

Hello Marius,

The land use planning application for the Robertson abattoir compost site is currently being decided on by the Langeberg Municipal Planning Tribunal.

With reference to the attached figures, it would appear to me that the abattoir waste site may trigger the need for an Atmospheric Emissions licence, which we had initially thought would not be required, based on CWD's comments. I am however not very familiar with the relevant legislation and would appreciate your assistance in this regard please, so that I correctly advise the Tribunal.

Many thanks,

Tracy Brunings Pr.Pl. A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT

338.

Annexure 5

DEA&DP's Response re. definitions of:
infectious, condemned and hazardous waste.

hazardous waste that, as a norm, may no longer be disposed of at any waste disposal facility.

4. General waste is defined in Schedule 3 Category B of the NEM:WA as waste that does not pose an immediate hazard or threat to health or to the environment, and includes –
 - (a) domestic waste;
 - (b) building and demolition waste;
 - (c) business waste;
 - (d) inert waste; or
 - (e) any waste classified as non-hazardous waste in terms of the regulations made under section 69, and includes non-hazardous substances, materials or objects within business, domestic, inert, building and demolition wastes.
 5. Schedule 3 of the NEM:WA classifies the non-infectious portion of animal waste as general waste: "Category B 1: Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing, food preparation and processing (b) wastes from the preparation and processing of meat, fish and other foods of animal origin." Blood is included under this definition.
 6. Condemned animal waste is viewed as waste that is non-infectious, but not fit for human consumption. As such, condemned abattoir waste is classified as general waste.
 7. This Department can prohibit the disposal of animal waste at any WDF, should the disposal of such waste cause or pose an unacceptable risk of pollution nuisance conditions or health risks.
 8. Even if the landfill is permitted to accept such animal waste, it remains the prerogative of the Permit/Licence Holder to accept or reject that waste and to limit the amount and type of non-infectious animal waste according to what the landfill can handle without creating nuisance conditions or pose a pollution risk.
 9. GN R 636 also states that: "The classification and containment barrier design of all new landfills, as well as new **working** cells at existing landfills, must be implemented in accordance with section 3(1) and (2) of these Norms and Standards."
- The Departments' interpretation of this section is that non-infectious animal waste and carcasses that are intended for disposal at landfills and new cells constructed after 23 August 2013, may only be disposed of at such landfills and new cells, if they have a containment barrier designed in accordance to the requirements for such a barrier for a **Class B** landfill facility.
10. GN R. 636 further specifies that infectious animal carcasses and animal waste are prohibited from disposal to land with immediate effect, implying that it needs to be treated before disposal at a Class B landfill facility, as under (11) above.
 11. "Treatment" is defined in the NEM:WA as any method, technique or process that is designed to –
 - (a) change the physical, biological or chemical character or composition of a waste; or
 - (b) remove, separate, concentrate or recover a hazardous or toxic component of a waste; or
 - (c) destroy or reduce the toxicity of a waste, in order to minimise the impact of the waste on the environment prior to further use or disposal.
 12. In terms of GN No. 921 of 29 November 2013 (GN No. 921), NEM:WA, 2008 (Act No. 59 of 2008) List of waste management activities that have, or are likely to have, a detrimental effect on the environment, Category A, 3 (6) the treatment of general waste using any form of treatment at a facility that has the capacity to process in excess of 10 tons but less than 100 tons requires a Waste Management Licence (WML).
 13. In terms of GN No. 921 Category A, 3 (7) the treatment of hazardous waste using any form of treatment at a facility that has the capacity to process in excess of 500 kg but less than one ton per day, excluding the treatment of effluent, wastewater or sewage requires a WML. This means that hazardous waste can be treated without a WML if it is less than 500 kg per day.
 14. In terms of GN No. 921 Category B, 4 (4) the treatment of hazardous waste in excess of 1 ton per day calculated as a monthly average; using any form of treatment, excluding the treatment of effluent, wastewater or sewage requires a WML.

From: Tracy Brunings [<mailto:tbrunings@langeberg.gov.za>]

Sent: Thursday, April 25, 2019 9:47 AM

To: Eddie Hanekom <Eddie.Hanekom@westerncape.gov.za>

Cc: Langeberg Municipality <admin@langeberg.gov.za>

Subject: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE MANAGEMENT SITE: COMPOST FACILITY

48

Hello Eddie,

I refer to the emails below and the meeting held on 27 February 2019 in Robertson.

The above application in terms of our Land Use Planning Bylaw, 2015 was submitted to the Langeberg Tribunal on 1 February 2019 and will be resubmitted to the Tribunal Meeting on 24 May 2019 based on the attached response from SAFAM (via Umsiza).

I need to complete my report by 3 May 2019 and your assistance with regard to the following would be much appreciated:

1. Infectious / Hazardous: Could you comment on the question and comments by Umsiza on page 2 of their response, in relation to "what is infectious waste?" and suitable disposal options. Also in this regard, is the statement at p14, 5.1.3 of my first Tribunal item correct (500kg..)? I recall a DEA&DP circular which indicates that if hazardous waste and general waste are mixed, the whole product will be considered as hazardous vs. SAFAM stating that if you mix under a certain amount of hazardous waste with general waste, it is then considered as general waste. Please could you clarify what is permitted and who monitors this.
2. Odours and Flies: In my first report to the Tribunal (pg17, 6.5) I noted that CWD, DEA&DP and Dept Agric were all satisfied with regard to odour and fly impacts, however the Tribunal was not satisfied that this impact had been determined to be within acceptable legislative limits – considering possible appeals against a Tribunal decision, we need to determine whether the objectors' complaints re. odour and flies are valid or not in terms of acceptable standards, rather than merely a subjective judgement. Other than the Air Quality Act, 2004 is there any other waste related legislation which determines such acceptable air quality limits? And, were any specialist studies submitted to or done by your Department in relation to the existing and potential impact of odour and flies, other than the EMP in the BAR report by Eco Impact (14 March 2018)?
3. What is the current status of the appeal to NEMWA? Would it be possible to forward me a draft Waste Management Licence so I can see what we can reasonably expect to see covered should such a licence be issued?

Many thanks,

Tracy Brunings Pr.Pl. A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

PLANNING DEPARTMENT



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341.

Annexure 6

WC Department of Agriculture:
Veterinary Public Health comments
re. pollution control and public health

REFERENCE: 16/1/3/1-7/006

ENQUIRIES: Dr GSM LEASK

South African Farm Assured Meat Group CC

Robertson

Dear Messrs H. de Bod and D. Houghton,

re: Abattoir Composting Facility visit

Firstly I would like to express my gratitude towards you and your personnel for giving me and officials from Veterinary Services: Veterinary Public Health, Western Cape Department of Agriculture and the representative from the DAFF, Pretoria the occasion to visit your abattoir and composting facility on 08 January 2019.

The intention of the visit was to give our colleague from DAFF an insight into the methods of abattoir waste disposal that have been adopted by differing facilities in our province. We are trying to establish "norms and standards" for the various methods of abattoir waste disposal that could be put forward nationally for application by abattoirs throughout the country in light of the imminent ban on waste disposal to landfill sites. Included in these "norms and standards" would be the necessary controls to ensure that the public and workers will not be exposed to any potential health risks during the movement and management of the abattoir waste from the abattoir to, and at, the disposal facility.

From our discussions at previous meetings as well as recently, it is obvious that you have done quite extensive research into the composting process, and have selected the best practices by trial and error. The result is that, in my opinion, the composting facility is effectively dealing with the disposal of your abattoir waste without causing any pollution concerns and, at the same time, having minimal potential health risks for the workers involved or the general public. The controls and record-keeping measures that you have put in place, and the appointment of a person dedicated to the management of the composting facility, greatly contribute to the effective composting that should adequately deal with the elimination of potential microbiological hazards. This is the primary purpose of an abattoir waste disposal facility.

It would be greatly appreciated if you could give me permission to use your composting facility as an example to be used in presentations to other abattoirs and even in a national forum. To this end I would also be grateful if I could be allowed to make some photographic and videographic recordings of the various stages in the composting process, to use in these presentations.

The next step in the whole process which will need to get attention is the registering of the final product under Act 36, 1947 to enable you to commercially dispose of the final product.

Kindest regards,



DR GSM LEASK

STATE VETERINARIAN: VETERINARY PUBLIC HEALTH

DATE: 08/02/2019

Annexure 7

Recommended Conditions of Approval

CONDITIONS OF APPROVAL

IN TERMS OF SECTION 66 OF THE LANGEBERG LAND USE PLANNING BYLAW PN 264/2015, 30 July 2015)

PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

1. The development and use of the property and buildings must be substantially in accordance with the Site Development Plan marked MIDDELBURG 10/6-LBM-TP (March 2019).
2. Strictly **no** composting may occur beyond the boundaries of the Abattoir Waste Compost Facility (hereafter referred to as "Compost Facility"), as indicated on the approved Site Development Plan. A new application must be submitted for any proposed expansion of the Compost Facility and/or Intensive Feed Farm (hereafter "Feedlot"), beyond the approved boundaries.
3. The Environmental Management Programme (EMPr) (12 March 2018), as prepared for the NEMA EIA process, must be reviewed, and a revised, detailed operational phase **EMP** must be submitted to the Manager: Town Planning within **30 days** of the letter of approval of this application. The EMPr must address the following requirements in particular:
 - 3.1. The impacts of the Compost Facility and Feedlot in terms of flies, odours, truck trips, stormwater management and water quality must be regularly audited to confirm that activities are operating without adverse environmental consequences and within the specified conditions of approval: On-site meetings, convened by the Langeberg Town Planning Department, must be held at least every 3rd month, from the date of approval, with officials from the Langeberg Town Planning Department, CWDM, BGCMA and DEA&DP. Any requirements of the relevant Departments must be complied with prior to the continuation of composting activities.
 - 3.2. Priority must be given to the following operational requirements to minimise flies and odours:
 - 3.2.1. The waste products from the abattoir must be immediately covered after off-loading.
 - 3.2.2. Blood, which is required to dry, may not be left uncovered for more than 60 minutes.
 - 3.2.3. Vehicles must be cleaned at the Robertson Abattoir truck wash facility and not on the application site.
 - 3.3. The manager of the Compost Facility must reside on-site.
 - 3.4. Only abattoir waste from the Robertson Abattoir may be composted at the Compost Facility.
 - 3.5. Infectious waste (whether treated or not) may **not** be disposed of to the application site. Such waste must be treated before disposal at an approved landfill facility, in accordance with approval by DEA&DP: Waste Management and WC Department of Agriculture: Veterinary Public Health.
 - 3.6. The operation and management of the Compost Facility and Feedlot must be in strict compliance with SAFAM's Standard Operating Procedures (SOPs), namely: Composting Processing; Removal and Delivery of by-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control. These SOPs must be continuously implemented, and updated where relevant, to the satisfaction of the relevant authorities.
 - 3.7. The volumes of waste received per month and the volume of compost produced per month must be recorded by the manager of the Compost Facility.
 - 3.8. In terms of Section 35(2) of the Air Quality Act 39/2004, the owner and / or occupier of the premises must take all reasonable measures to prevent any offensive odour caused by any activity on the premises.
 - 3.9. In terms of the Municipal "Bylaw for the Prevention and Suppression of Nuisances", 28 May 2010, the owner and / or occupier of the premises must take all reasonable measures to prevent any nuisance to neighbours and / or the public.
 - 3.10. Stormwater in the collection dam may only be reused and recycled back into the compost windrows. No release of this water into the natural watercourses is permitted.
 - 3.11. Bi-annual monitoring of water quality in the test borehole must be undertaken and results submitted to the Langeberg Municipality, BGCMA and CWDM (Health).
 - 3.12. Business hours are permitted as follows:

3.12.1. Monday to Friday: 7h00 – 17h00. No abattoir waste-products may be received on the farm after 15h30 to allow for sufficient time for the windrows to be properly treated before staff shifts end.

3.12.2. Saturdays: 7h00 – 13h00. Sundays: closed.

4. The Compost Facility and Feedlot must be effectively screened, to the satisfaction of the Manager: Town Planning, through the judicious use of indigenous trees and shrubs, to provide a visual screen and wind break and to minimise dust and odours.
5. The exercise of the primary land use in terms of the respective Agricultural zone I and Industrial zone II, is subject to all the relevant legislation, including the Environmental Impact Assessment regulations in terms of NEMA 107/1998; the regulations in terms of NEM:WA 59/2008 and the Air Quality Act 39/2004; and the Conservation of Agricultural Resources Act 43/1983. The owner / operator of the Compost Facility and Intensive Feed Farm, must be in possession of all approvals required in terms of other legislation, and specifically, a valid Environmental Authorisation (EA) and Waste Licence in terms of NEMA and NEM:WA; and registration of all compost products in terms of the Fertilisers and Farm Feeds Act 36/47.
6. Before any building work or alterations to existing buildings may be started on the property, building plans, conforming to the National Building Regulations (Act No. 103 of 1977), must be submitted to the Langeberg Municipality for approval. A Stormwater Management Plan, *inter alia*, **must** be submitted for approval with the building plans..
7. Water supply, sewage disposal, stormwater disposal and refuse disposal services must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department and the Department of Water Affairs and Forestry.
8. The conditions imposed by the Breede Gouritz Catchment Management Agency (BGCMA) in their letter dated 16 January 2018 (attached) must be complied with.
9. With regard to Municipal Electricity:
 - 9.1. The owner is responsible for the costs associated with any relocation of the existing 11kV line and associated infrastructure, new connections, upgrading or alterations to existing electrical connections or networks, and the associated applicable Bulk Services Levy, at the tariffs which are applicable at that time.
 - 9.2. No structures or compost heaps may be located under or within 3m on each side of the centre line of the 11kV line. This area must be kept open for maintenance purposes.
10. The conditions imposed by the Department of Transport in their letter of 7 February 2018 (attached) must be complied with.
11. No name or advertising sign may be erected without written approval of the administering authority.
12. The restrictions of any law and regulations relating to noise control are applicable to the property and the owner is obliged to ensure that the operation does not cause any undue noise nuisance.
13. The owner must indemnify the Municipality against any claims which may be instituted regarding the exercise of this approval and compliance with any condition of approval.
14. The owner must sign the attached indemnity and agreement (Schedule1) with respect to the implementation of all conditions of approval.
15. In order to act on the abovementioned decision, you are required to comply with all conditions of approval. Non-compliance with a condition of approval constitutes an offence in terms of Section 86(1)(a) of the Langeberg Land Use Planning Bylaw, 2015. The compliance notice dated 25 February 2019 requiring you to cease the Compost Facility on the application site, remains applicable until such time as the relevant conditions have been complied with, and all relevant approvals have been obtained.

Schedule 1

Ooreenkoms / Agreement

aangegaan deur / entered into by

.....
Volle name en van / Full name

.....
Identiteitsnommer / Identity number

.....
Adres / Address

(die aansoeker / the applicant)

met die **Langeberg Munisipaliteit** / with the **Langeberg Municipality**

ten opsigte van die volgende ontwikkeling, soos goedgekeur op:
in respect of the following development, as approved on:

.... October 2019

GEDEELTE 6 VAN DIE PLAAS MIDDELBURG 10, ROBERTSON: HERSONERING VANAF LANDBOUSONE I NA NYWERHEID II (ABATTOIR KOMPOS FASILITEIT) EN VERGUNNING VIR INTENSIEWE VOERBOERDERY (SKAPE)
PORTION 6 OF MIDDELBURG 10, ROBERTSON: REZONING FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM

Die aansoeker aanvaar die voorwaardes ten opsigte van bogenoemde goedkeuring en onderneem om toe te sien dat die voorwaardes, soos uiteengesit in Aanhangsel A, uitgevoer word.

The applicant accepts the conditions in terms of the abovementioned approval and undertakes to ensure the execution of the conditions, as stipulated in Annexure A.

Geteken op die / Signed on the dag van / day of 2019

te / at

.....

Aansoeker / Applicant

.....

Datum / Date

Annexure 8

Langeberg Municipal Bylaw
for the Prevention and Suppression
of Nuisances, 28 May 2010

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"8"

97346

868

Provisie Wes Kaap: Provinsiale Koerant 6751

13/11/14

28 Mei 2010

LANGEBERG MUNICIPALITY

BY-LAW FOR THE PREVENTION AND SUPPRESSION OF NUISANCES

Purpose of By-Law

- * To promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality;
- * To provide for procedures, methods and practices to regulate nuisances.

Definitions

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the Afrikaans text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates:—

"premises" means any land, whether vacant, occupied or with buildings thereon.

"municipal area" means the municipal area of Langeberg;

"municipal" means the Municipality of Langeberg in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"objectionable material" means garden litter, rubbish, waste material, grass, vegetation, rubble, manure, scrap metal, article or thing, disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public or which is detrimental to the tidiness of the premises and adjacent property;

"public nuisance" means any act, omission or condition, which is offensive, which materially interferes with the ordinary comfort or convenience, peace or quiet of the public or which adversely affects the safety of the public;

"public place" means any square, building, park, recreation ground or open space which:—

- (a) is vested in the Municipality;
- (b) the public has the right to use, or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the members of even in such township;

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:—

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"township" a group of pieces of land, or subdivisions of a piece of land which are combined with public places and are used mainly for residential, industrial, business or similar purpose, or are intended to be so used;

Enforcement

1. The municipality may, whenever it regards it necessary to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

Behaviour and conduct

3. Notwithstanding the provisions of any other by-law no person shall:

- (i) dump, accumulate or place or cause a permit to be dumped, accumulated or placed objectionable material in or on any premises, or public road, drain, water, furrow, sewer, thoroughfare, or public place except at such place or place as the municipality may from time to time set aside or approve for such purposes, provide however that the municipality may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the municipality;
- (ii) carry on any trade, business or profession on any premises in the municipal area which may in the opinion of the municipality be a source or become a source of discomfort or annoyance to the neighbourhood;
- (iii) allow any premises to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the municipality it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires or cause the premises to be unsightly or objectionable or detrimental to the value of adjacent property;
- (iv) allow any premises to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gases to emanate from such premises;
- (v) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
- (vi) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- (vii) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;

349.

- (viii) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- (ix) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (x) bury to dispose of any dead body in any unauthorised place;
- (xi) permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;
- (xii) cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land;
- (xiii) bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the municipality for any purpose;
- (xiv) cleanse or wash any vehicle or part in any street or public place.

Failure to comply

4. (1) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited, on any premises, or where there is an overgrowth of bush, weeds, grass or vegetation on any premises in contravention of section 3(i), (ii) and (iii) the municipality may serve a notice on—

- The person directly or indirectly responsible for such accumulation or storing; or
- The owner of such material, article or thing, whether or not he is responsible for such accumulation, or storing; or
- The owner of the erf on which such accumulation or storing takes place, whether or not he is responsible therefore; or
- The owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation.

Requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the municipality.

(2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the municipality, the municipality may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any premises at the cost of any one or more of the persons or owners mentioned in subsection (1) (i), (ii), (iii) and (iv).

(3) Where on any premises there is a contravention of section 3 the municipality may at its discretion serve a notice on either the owner or the occupier to abate the nuisance.

Unlawful occupation

5. (1) No person shall, without the permission of the municipality, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the municipality or any other camping or caravan site which conforms with the provisions of the by-laws relating to such caravan parks or camping sites.

(2) The municipality may serve notice on any person who is occupying a caravan, tent or shelter in contravention of subsection (1) to vacate such caravan, tent or shelter within 5 days after the service of such notice, failing which, such person shall be guilty of an offence.

Penalties

6. Any person who contravenes or fails to comply with any provisions of this by-law is guilty of an offence and liable upon conviction to:

- a fine or imprisonment, or either such fine or such imprisonment or both such fine and such imprisonment;
- in the case of a continuing offence, an additional fine or an additional period of imprisonment or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and
- a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention.

LANGEBERG MUNISIPALITEIT

VERORDENING VIR DIE VOORKOMING EN ONDERDRUKKING VAN OORLASTE

Deel van Verordening

- Om die verwesenliking van 'n veilige en gesonde omgewing tot voordeel van inwoners in die regsgebied van die munisipaliteit te bevorder;
- Om voorsiening te maak vir prosedures, metodes en praktyke om oorlaste te reguleer.

Woordenskrywing

1. In hierdie verordening sluit woorde wat die manlike geslag aandui, ook die vroulike geslag in, sluit die enkelvoud die meervoud in en omgekeerd, geniet die Afrikaanse teks voorrang in die geval van 'n teenstrydigheid tussen die verskillende tekste, en tensy dit uit die samehang anders blyk, beteken—

“aanstoondike materiaal” tuinvullis, vuilgoed, afvalmateriaal, gras, plantegroei rommel, mis, afval, yster, voorwerp of ding, in onbruikgemaakte motors, masjinerie of ander voertuie asook die in onbruik gemaakte onderdele daarvan, vullis van enige bouwerkzaamhede, of enige vullis wat op enige grond of perseel gestort kan word, met inbegrip van nuwe of gebruikte boumateriaal wat nie noodwendig nodig is in verband met bona fide boubedrywighede wat werklik op enige grond aan die gang is nie, en omvat dit enige vaste stof, vloeistof of gas wat aanstoondik of gevaarlik of nadelig vir die gesondheid is of kan word, of wat wesenlik inbreuk maak op die gewone gemak of gerief van die publiek of wat afbreuk doen aan die sinderlikheid van die perseel en aanliggende eiendom;

“dorpgebied” 'n groep van stukke grond of onderverdelings van 'n stuk grond wat met openbare oopruimtes verbind is en wat noodsaaklik gebruik word vir woon- industriële besigheids- of dergelike doeleindes of wat bedoel is om aldus gebruik te word;

Annexure 9

Departmental Comments:
Department of Transport (7 February 2018)
and BGCMA (16 January 2018)

"9" (59)

BREEDE-GOURITZ

Catchment Management Agency
Opvanggebied Bestuursagentskap
I-Arhente yolawulo lomMandla nokungqongileyo

51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: N. Feni

Tel: 023-3468000

Fax: 0865156323

E-mail: nfeni@bgcma.co.za

Our Ref:

4/10/1/H40L/Middelburg 10/6

Date: 16/01/2018

Umsiza Planning
P.O.Box 649
Robertson
6705

Attention: Ms Anna-Christa Redelinghuys
Email: annachris@mweb.co.za

**COMMENT: PROPOSED REZONING AND CONSENT USE: PORTION 6 OF FARM
MIDDELBURG NO 10, DISTRICT ROBERTSON, LANGEBURG MUNICIPALITY**

The request for comment on the abovementioned application, dated 17 November 2017, has reference.

The Breede- Gouritz Catchment Management Agency (BGCMA) in principle has no objection on the application, subject to the following conditions

- That all activities on the above properties are carried out in accordance with the requirements of the National Water Act;
- Section 21(a) including drinking water obtained through a pipeline from borehole, (b) and any other water use attached that are not registered on WARM System must be applied for. Should the applicant has an ELU, permit, Enlistment from Water User Association or Licence of the existing dam, the BGCMA request to be provided with that information;
- No additional use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a licence in terms of Section 41 of the National Water Act, 36 of 1998 and/or formal authorisation in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016 , where applicable, thereto;
- The potential use of groundwater and/or increased use may only be permitted where an authorisation thereto exists as stipulated in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016;
- If the dam exceeds 5m high and storage capacity of 50 000 metres, triggers water use authorisation in terms of Section 21(b) of the National Water Act, 1998 and qualifies for dam safety regulation. The applicant is advised to submit an application to a Dam Safety Officer for a dam to be classified;

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- Any development within 1:100 year floodline or within the riparian habitat constitutes a water use licence in terms of section 21 (c) and (i) of the National Water Act, 1998 (Act 36 of 1998) and will require authorisation before any development may commence.
- The stormwater management plan for the proposed activity must be developed taking into consideration the anticipated ingress of siltation on the water resource and/or any drainage areas within the site. The stormwater management plan should also consider soil erosion impacts and the downstream water users and impacts must be properly identified and mitigated. Measures must be taken to control and mitigate any activity that may detrimentally impact both the surface water resource and downstream water users;
- All reasonable measure must be taken to prevent contaminated stormwater overflowing from any storage dam entering water resource;
- Details of the volume of waste to be disposed, designs and capacity of the collection dam must be provided. Filter trap or screening should be installed to ensure that the capacity of the dam is not compromised by slurry or sludge;
- All information pertaining to the waste management on site, including the existing sewer infrastructure & any proposed facilities must be detailed and taking into account the personnel that will be expected to be on site, its locality to the water resource, proposed designs, and an agreement must be reached with the service provider for any collections, transportation and disposals of sewer contents that may be anticipated;
- Integrated Waste Management Plan must be conducted to explain how waste management (e.g. waste stream, sewage management and storm water) will be managed;
- A concrete slab or bundled area may be appropriate to prevent soil, surface water or groundwater contamination during wet season. Compost should be stored in a protected area where it will not waste down to water resource. Such facility should be located in a regulated area.

Please be advised that no activities may commence without the appropriate approvals/authorizations where needed from the responsible authority. The onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorization for.

This office reserves the right to amend and revise its comments as well as to request any further information.

Please do not hesitate to contact this office if you have any further queries. Please ensure to quote the above reference in doing so.

Yours faithfully,


MR JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (Acting)

REFERENCE: 16/9/6/1-04/141 (Job 25595)

ENQUIRIES: Ms GD Swanepoel

DATE: 7 February 2018

The Municipal Manager
Langeberg Municipality
Private Bag X2

ASHTON

6715

Attention: Mr JV Brand

Dear Sir

**PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON: DIVISIONAL ROAD 1377: PROPOSED
REZONING AND CONSENT USE**

1. The following refer:
 - 1.1 Your letter dated 14 November 2017 and
 - 1.2 E-mail correspondence between Mr F Fakier and the Applicant on 19 and 21 December 2017 and 15 January 2018.
2. The subject property is located 17 km north-west of Robertson and takes access off Divisional Road 1377.
3. This application is for the following:
 - 3.1 Rezoning of 3.6 ha from Agriculture Zone I to Industrial Zone II (noxious trade) in order to develop a composting site and
 - 3.2 Consent Use for intensive feed farming.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014, subject to the maximum of 6 trips per day.
5. Should the number of trips increase, this Branch reserves the right to require the landowner to provide a sealed surface on the affected portion of Divisional Road 1377.

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6. The subject property also has a right of way servitude registered across it that provides access to farms north of it. The Applicant/Property owner is advised to liaise with the farm owners affected by the right of way with a view to relocating the access onto the Divisional Road 1377 by approximately 100m west in order to improve safety.

Yours faithfully



ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

**Notule van vergadering van die Beplanningstribunaal van Langeberg Munisipaliteit op
18 Oktober 2019 om 10h00 by die Langeberg munisipale kantore, Montagu.**

1. Opening

Die Voorsitter Mnr Maynard Johnson heet almal welkom by die vergadering.

2. Bywoning

Maynard Johnson	-	Voorsitter (Interne lid)
Hennie Taljaard	-	Adjunk voorsitter (Eksterne lid)
Kobus Brand	-	Interne lid
Jeremy Benjamin	-	Eksterne lid
Helene Janser	-	Eksterne lid
Quinton Balie	-	Eksterne lid
Carissa Pieters	-	Eksterne lid
Jack van Zyl	-	Assistent Bestuurder: Stadsbeplanning (Professionele Beplanner)
Tracy Brunings	-	Stadsbeplanning Tegnikus (Professionele Beplanner)

3. Aansoeke vir verlof tot afwesigheid

Geen

4. Bekragtiging van notule

- 4.1 Die notule van 'n gewone vergadering van die Beplannings Tribunaal van die Langeberg Munisipaliteit wat gehou was op 6 September 2019 in die Ou Raadsaal, Robertson Kantore, Robertson, word aanvaar.

5. Punte uit vorige notule

Geen

6. Dringende Aangeleenthede, Verklarings en Mededelings deur die Voorsitter

Geen

7. Oorweging van Verslae / Consideration of Reports

1/2019 - PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) & CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Mr Kobus Brand and Ms Helene Janser recused themselves from this item and leave the room.

The Tribunal noted that this was the third time this application had been submitted to them. The previous 2 occasions were: 1 February 2019, at which additional information was requested by the Tribunal; and 6 September 2019, at which it was noted that the applicant had taken DEA&DP's NEMA decisions on review to the High Court.

The application is now submitted to the Tribunal for reconsideration, based on all currently available information, and in light of the Tribunal's time deadline of 25 October 2019, with reference to Sections 58 and 79(3) (Decision not timeous) of the LLUP Bylaw, 2015.

It was noted that the applicant had been given two opportunities by the Town Planning Department, to provide additional information. The applicant submitted replies on 12 April 2019 and 27 June 2019 and advised that no further information would be submitted.

In addition to the information contained in the Tribunal agenda item, the following was noted:

- The Ward Committee for the Middelburg area has lodged a recent complaint with regard to odour and flies, and a site visit was held on Rem/Middelburg 10 on 8 October 2019 (neighbour to the compost site). The farm labourers indicated that the odour permeates everything including the air, and foods and drink stored and prepared in neighbouring households. The flies are a pest and require liberal and costly spraying to keep them under control. This was not the case prior to the compost site. The compost site has had an adverse impact on the Buitenstekloof tourism business and is likely to result in job losses. Waste products being transported to the site have fallen off trucks and been found on the public road, which is a hazard to public health and agricultural security.
- Surrounding neighbours who attended the above site visit, emphasized that Provincial guidance must be given to abattoir owners re. the acceptable options for managing abattoir waste at a Regional Level. The mini guide to the Management of Abattoir Waste (DEA&DP, 2016/17) identifies the Cape Winelands as the district with the highest volume of waste from slaughters. The guideline identifies various options for the management of abattoir waste. Those present at the site meeting noted that Fly farming is the only technique where no disadvantages are listed, and it was their opinion that DEA&DP should be advocating this option. This was seen as a better option for the Middelburg site.

The Tribunal agreed that the following areas of concern, as raised previously by Tribunal members, remain: the compost facility does generate an unpleasant odour, which is offensive downwind of the application site, to varying degrees, depending on temperature, wind direction and speed, and the time of day when products are off-loaded. Fly activity is a nuisance and not compatible with tourist uses. The feedlot would result in additional odour and flies. At the same time, there is no immediately available alternative disposal option. The decision is therefore a difficult one which must find a balance between economic, social and environmental benefits, without compromising the long term socio-economic success of agriculture and tourism or environmental integrity.

Hennie Taljaard proposed that the application for the compost facility and feedlot be approved subject to the recommended conditions of approval. Jeremy Benjamin, Carissa Pieters and Quinton Balie supported the approval of the compost facility but not the feedlot. Notwithstanding that Veterinary Public Health has endorsed the compost facility and the Department of Health has confirmed no current health implications, strict conditions must be imposed to address flies and odours. Further, alternative options to composting in the short to medium term should be considered in the Final BAR, and a validity period should be imposed in the land use approval, to allow for proper monitoring and possible change in waste treatment technique.

A cautious, risk averse approach is considered justified given that:

- Cooperation by the applicant, and where necessary, enforcement of compliance with conditions of approval will be necessary in order to ensure no future negative impact on surrounding residents.
- The applicant has ignored all previous legal action by the Municipality, based on sound legal opinions and advice, to cease operating prior to approval.

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, it was unanimously agreed that the Langeberg Municipal Planning Tribunal approves the following application, as depicted on the plan marked MIDDELBURG 10/6 ROB-LBM-TP(a) (March 2019) and subject to the conditions of approval, in terms of Section 66 of the aforementioned Bylaw, as set out in the attached Annexure A:

- Rezoning a 1,3ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost facility comprising: windrows, storage space for raw and finished products, and off-loading areas.

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015 by decision of the majority, it was agreed that the Langeberg Municipal Planning Tribunal **does not approve** the following application, as depicted on the plans marked MIDDELBURG 10/6 ROB-LBM-TP(a):

(Mr Hennie Taljaard supported the application)

- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs).

The reasons for refusal of the Intensive Feed Farm (feedlot) are as follows:

1. Information on water availability is incomplete. Water supply for the feedlot is limited to one borehole and there is no currently available alternative water source in emergency situations such as drought or low water levels. Investigations into the expansion of the dam in the Mountain Catchment Area of the farm are still in process, which may impact on access to adequate water for the proposed feedlot. Alterations to the dam were not included in the scope of work for the BAR.
2. The proposed feedlot is within a CBA area and important ecological corridor as identified in the WC BSP, 2017 and is therefore not consistent with the WCPSP's Rural Land Use Guidelines (March 2019).
3. Insufficient motivation is given regarding the desirability of relocating the feedlot from Roodehoogte in Robertson in terms of transport distance of sheep to the site and to the abattoir and the transport of feed.
4. The applicant has indicated how they intend to minimise flies and odours, but the BAR has not assessed the cumulative impact of odours and flies from the compost facility and feedlot on the health and well-being of residents and tourists, and on the surrounding natural and agricultural environment and the socio-economic impact thereof. The applicant dismissed the Tribunal's request for the compilation of an Atmospheric Impact Report to assess such impact. As such, it is not possible to conclude that the proposed feedlot, in addition to the compost facility, will not infringe on the "right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution)".
5. Given that the compost facility has already drawn complaints in terms of flies and odours, cumulative impacts from an additional land use which also generates flies and odours are not in the public interest; not consistent with existing rights; are inconsistent with the sustainability of agri-tourism businesses; and are inconsistent with the principles of spatial justice and spatial sustainability (Section 59 of LUPA No. 3 of 2014).
6. It would be short-sighted to approve the feed lot, where the prime reason for locating on the application site relates to the provision of manure to the compost site, when there is the possibility that alternatives to composting (which do not require manure) may prove more viable / sustainable on the application site in the foreseeable future.
7. No storm water management plan has been prepared for the feedlot to enable an assessment of the desirability of the proposed location thereof. The applicant dismissed the Tribunal's request for such plan. (Note: The Soil Study (AVS, Nov 2015) was conducted for the compost facility prior to the proposal for the feedlot).

8. Raising live sheep in a feedlot some 100m from a compost facility where dead animals and animal waste is being dumped and treated, with associated flies and odours, is not deemed to be desirable. In addition to ethical concerns, no proof has been provided that this is desirable in terms of the implications for food quality and food safety.

That, the parties be informed of their right to appeal in terms of Section 79(2) of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015.

Annexure A

CONDITIONS OF APPROVAL
IN TERMS OF SECTION 66 OF THE LANGEBERG LAND USE PLANNING BYLAW PN 264/2015, 30 July 2015)
PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY)

1. The development and use of the property and buildings must be substantially in accordance with the Site Development Plan marked MIDDELBURG 10/6-LBM-TP(a) (March 2019).
2. The approved land uses may operate until the end of February 2022, whereafter the approval will lapse, and the zoning of the site will revert back to Agricultural zone I, unless an application for extension of such approval has been lodged and approved. Viable alternative options to composting, with less impact in terms of odour and flies, must be investigated during this time.
3. Strictly no composting, and associated traffic circulation, may occur beyond the boundaries of the Abattoir Waste Compost Facility (hereafter referred to as "Compost Facility"), as indicated on the approved Site Development Plan, and no closer than 10m from the boundary with the farm Middelburg 10/Rem.
4. The Compost Facility must be effectively screened, to the satisfaction of the Manager: Town Planning, through the judicious use of indigenous trees and shrubs, to provide a visual screen and wind break and to minimise dust and odours, particularly along the boundary with the farm Middelburg 10/Rem.
5. The Environmental Management Programme (EMPr) (12 March 2018), as prepared for the NEMA EIA process, must be reviewed, and a revised, detailed operational phase EMP must be submitted to the Manager: Town Planning within 30 days of the letter of approval of this application. The EMPr must address the following requirements in particular:
 - 5.1. The management of the Compost Facility in terms of flies, odours, truck trips, stormwater management and water quality and the periods for auditing these activities to ensure no adverse environmental consequences. On-site meetings, convened by the Langeberg Town Planning Department, must be held at least every 3rd month, from the date of approval, with officials from the Langeberg Town Planning Department, CWDM, BGCMA and DEA&DP. Any requirements of the relevant Departments must be complied with prior to the continuation of composting activities.
 - 5.2. Priority must be given to the following operational requirements to minimise flies and odours:
 - 5.2.1. Abattoir waste products transported to the site must be suitably closed / sealed to prevent any possibility of waste falling onto the public road network and adjoining farms.
 - 5.2.2. The waste products from the abattoir must be immediately covered after off-loading.
 - 5.2.3. Blood, which is required to dry, may not be left uncovered for more than 60 minutes.
 - 5.2.4. Vehicles must be cleaned at the Robertson Abattoir truck wash facility and not on the application site.
 - 5.3. The manager of the Compost Facility must reside on-site.
 - 5.4. Only abattoir waste from the Robertson Abattoir may be composted at the Compost Facility.

- 5.5. Infectious waste (whether treated or not) may not be disposed of to the application site under any circumstances. Such waste must be treated before disposal at an approved landfill facility, in accordance with approval by DEA&DP: Waste Management and WC Department of Agriculture: Veterinary Public Health. The agreed protocol in this regard must be submitted to the Langeberg Town Planning Department.
- 5.6. The operation and management of the Compost Facility must be in strict compliance with SAFAM's Standard Operating Procedures (SOPs), namely: Composting Processing; Removal and Delivery of by-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control. These SOPs must be continuously implemented, and updated where relevant, to the satisfaction of the relevant authorities.
- 5.7. The volumes of waste received per month and the volume of compost produced per month must be recorded by the manager of the Compost Facility.
- 5.8. In terms of Section 35(2) of the Air Quality Act 39/2004, the owner and / or occupier of the premises must take all reasonable measures to prevent any offensive odour caused by any activity on the premises.
- 5.9. In terms of the Municipal "Bylaw for the Prevention and Suppression of Nuisances", 28 May 2010, the owner and / or occupier of the premises must take all reasonable measures to prevent any nuisance to neighbours and / or the public.
- 5.10. Stormwater in the collection dam may only be reused and recycled back into the compost windrows. No release of this water into the natural watercourses is permitted.
- 5.11. Bi-annual monitoring of water quality in an approved test borehole must be undertaken and results submitted to the Langeberg Municipality, BGCMA and CWDM (Health).
- 5.12. Business hours are permitted as follows:
 - 5.12.1. Monday to Friday: 7h00 – 17h00. No abattoir waste-products may be received on the farm after 15h30 to allow for sufficient time for the windrows to be properly treated before staff shifts end.
 - 5.12.2. Saturdays: 7h00 – 13h00. Sundays: closed.
6. The exercise of the primary land use in terms of the respective Agricultural zone I and Industrial zone II, is subject to all the relevant legislation, including the Environmental Impact Assessment regulations in terms of NEMA 107/1998; the regulations in terms of NEM:WA 59/2008 and the Air Quality Act 39/2004; and the Conservation of Agricultural Resources Act 43/1983. The owner / operator of the Compost Facility must be in possession of all approvals required in terms of other legislation, and specifically, a valid Environmental Authorisation (EA) and Waste Licence in terms of NEMA and NEM: WA; and registration of all compost products in terms of the Fertilisers and Farm Feeds Act 36/47.
7. Water supply, sewage disposal, stormwater disposal and refuse disposal services must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department and the Department of Water Affairs and Forestry.
8. The conditions imposed by the Breede Gouritz Catchment Management Agency (BGCMA) in their letter dated 16 January 2018 (attached) must be complied with.
9. With regard to Municipal Electricity:
 - 9.1. The owner is responsible for the costs associated with any relocation of the existing 11kV line and associated infrastructure, new connections, upgrading or alterations to existing electrical connections or networks, and the associated applicable Bulk Services Levy, at the tariffs which are applicable at that time.
 - 9.2. No structures or compost heaps may be located under or within 3m on each side of the centre line of the 11kV line. This area must be kept open for maintenance purposes.
10. The conditions imposed by the Department of Transport in their letter of 7 February 2018 (attached) must be complied with.
11. No name or advertising sign may be erected without written approval of the administering authority.

- [illegible]

Annexure 3

Tribunal Decision Letter

Verw/ Ref: 15/4/12/5&7

Navrae/Enquiries: Ms T L Brunings

Trustees of the Reben Trust
c/o Umsiza
P O Box 649
ROBERTSON 6705

31 October 2019

Dear Madam

PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Your abovementioned application refers.

On 18 October 2019 the Langeberg Municipal Planning Tribunal resolved as follows:

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the following application, as depicted on the plan marked MIDDELBURG 10/6 ROB-LBM-TP(a) (March 2019), be **approved**, subject to the conditions of approval, in terms of Section 66 of the aforementioned Bylaw, as set out in the attached Annexure A:

- Rezoning a 1,3ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost facility comprising: windrows, storage space for raw and finished products, and off-loading areas.

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the following application, as depicted on the plan marked MIDDELBURG 10/6 ROB-LBM-TP(a), be **not approved**:

- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs).

The reasons for refusal of the Intensive Feed Farm (feedlot) are as follows:

1. Information on water availability is incomplete. Water supply for the feedlot is limited to one borehole and there is no currently available alternative water source in emergency situations such as drought or low water levels. Investigations into the expansion of the dam in the Mountain Catchment Area of the farm are still in process, which may impact on access to adequate water for the proposed feedlot. Alterations to the dam were not included in the scope of work for the BAR.
2. The proposed feedlot is within a CBA area and important ecological corridor as identified in the WC BSP, 2017 and is therefore not consistent with the WCPSP's Rural Land Use Guidelines (March 2019).
3. Insufficient motivation is given regarding the desirability of relocating the feedlot from Roodehoogte in Robertson in terms of transport distance of sheep to the site and to the abattoir and the transport of feed.
4. The applicant has indicated how they intend to minimise flies and odours, but the BAR has not assessed the cumulative impact of odours and flies from the compost facility and feedlot on the health and well-being of residents and tourists, and on the surrounding natural and agricultural environment and the socio-economic impact thereof. The applicant dismissed the Tribunal's request for the compilation of an

Atmospheric Impact Report to assess such impact. As such, it is not possible to conclude that the proposed feedlot, in addition to the compost facility, will not infringe on the "right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution)".

5. Given that the compost facility has already drawn complaints in terms of flies and odours, cumulative impacts from an additional land use which also generates flies and odours are not in the public interest; not consistent with existing rights; are inconsistent with the sustainability of agri-tourism businesses; and are inconsistent with the principles of spatial justice and spatial sustainability (Section 59 of LUPA No. 3 of 2014).
6. It would be short-sighted to approve the feedlot, where the prime reason for locating on the application site relates to the provision of manure to the compost site, when there is the possibility that alternatives to composting (which do not require manure) may prove more viable / sustainable on the application site in the foreseeable future.
7. No storm water management plan has been prepared for the feedlot to enable an assessment of the desirability of the proposed location thereof. The applicant dismissed the Tribunal's request for such plan. (Note: The Soil Study (AVS, Nov 2015) was conducted for the compost facility prior to the proposal for the feedlot).
8. Raising live sheep in a feedlot some 100m from a compost facility where dead animals and animal waste is being dumped and treated, with associated flies and odours, is not deemed to be desirable. In addition to ethical concerns, no proof has been provided that this is desirable in terms of the implications for food quality and food safety.

In terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015, a person whose rights are affected by a decision of the Municipal Planning Tribunal, may appeal in writing to the Appeal Authority within 21 days of the date of registration of this decision letter. The objectors will be similarly informed of the decision and of their right of appeal.

An appeal must be served on the Municipal Manager in the prescribed format and accompanied by proof of payment of the appeal fee. Further details may be requested from the Town Planning Department.

In terms of Section 61(4) of the said bylaw, an approval comes into operation only after the expiry of the 21 days appeal period. In terms of Section 61(5) where an appeal is lodged the approval is suspended pending the decision of the Appeal Authority on the appeal.

Yours faithfully


SA MOKWENI
MUNISIPALE BESTUURDER

Copies for Information:

WC Dept of Agriculture Att: C vd Walt corvdw@elsenburg.com 20/9/2/5/5/314; 2018-05-16	WC Dept of Transport & Public Works Grace.Swanepoel@westerncape.gov.za 16/9/6/1-04/141 (Job 25595), 07/02/2018	Cape Nature phuntly@capenature.co.za SSD14/2/6/1/9/1/10_6_Rez_Middelburg; 19.01.2018
BGCMA nfeni@bgcma.co.za 4/10/1/H40L/Middelburg10/6; 16/01/2018	CWDM smcclean@capewineland.gov.za 15/2/6/1; 17.11.2017	DEA&DP Helene.Janser@westerncape.gov.za Eddie.Hanekom@westerncape.gov.za Fahd.Said@westerncape.gov.za

CONDITIONS OF APPROVAL

IN TERMS OF SECTION 66 OF THE LANGEBERG LAND USE PLANNING BYLAW PN 264/2015, 30 July 2015)

PORTION 6 OF MIDDELBURG 10, ROBERTSON:

APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY)

1. The development and use of the property and buildings must be substantially in accordance with the Site Development Plan marked MIDDELBURG 10/6-LBM-TP(a) (March 2019).
2. The approved land uses may operate until the end of February 2022, whereafter the approval will lapse, and the zoning of the site will revert back to Agricultural zone I, unless an application for extension of such approval has been lodged and approved. Viable alternative options to composting, with less impact in terms of odour and flies, must be investigated during this time.
3. Strictly **no** composting, and associated traffic circulation, may occur beyond the boundaries of the Abattoir Waste Compost Facility (hereafter referred to as "Compost Facility"), as indicated on the approved Site Development Plan, and no closer than 10m from the boundary with the farm Middelburg 10/Rem.
4. The Compost Facility must be effectively screened, to the satisfaction of the Manager: Town Planning, through the judicious use of indigenous trees and shrubs, to provide a visual screen and wind break and to minimise dust and odours, particularly along the boundary with the farm Middelburg 10/Rem.
5. The Environmental Management Programme (EMPr) (12 March 2018), as prepared for the NEMA EIA process, must be reviewed, and a revised, detailed operational phase EMP must be submitted to the Manager: Town Planning within 30 days of the letter of approval of this application. The EMPr must address the following requirements in particular:
 - 5.1. The management of the Compost Facility in terms of flies, odours, truck trips, stormwater management and water quality and the periods for auditing these activities to ensure no adverse environmental consequences. On-site meetings, convened by the Langeberg Town Planning Department, must be held at least every 3rd month, from the date of approval, with officials from the Langeberg Town Planning Department, CWD, BGCMA and DEA&DP. Any requirements of the relevant Departments must be complied with prior to the continuation of composting activities.
 - 5.2. Priority must be given to the following operational requirements to minimise flies and odours:
 - 5.2.1. Abattoir waste products transported to the site must be suitably closed / sealed to prevent any possibility of waste falling onto the public road network and adjoining farms.
 - 5.2.2. The waste products from the abattoir must be immediately covered after off-loading.
 - 5.2.3. Blood, which is required to dry, may not be left uncovered for more than 60 minutes.
 - 5.2.4. Vehicles must be cleaned at the Robertson Abattoir truck wash facility and not on the application site.
 - 5.3. The manager of the Compost Facility must reside on-site.
 - 5.4. Only abattoir waste from the Robertson Abattoir may be composted at the Compost Facility.
 - 5.5. Infectious waste (whether treated or not) may **not** be disposed of to the application site under any circumstances. Such waste must be treated before disposal at an approved landfill facility, in accordance with approval by DEA&DP: Waste Management and WC Department of Agriculture: Veterinary Public Health. The agreed protocol in this regard must be submitted to the Langeberg Town Planning Department.
 - 5.6. The operation and management of the Compost Facility must be in strict compliance with SAFAM's Standard Operating Procedures (SOPs), namely: Composting Processing; Removal and Delivery of by-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control. These SOPs must be continuously implemented, and updated where relevant, to the satisfaction of the relevant authorities.
 - 5.7. The volumes of waste received per month and the volume of compost produced per month must be recorded by the manager of the Compost Facility.

- 5.8. In terms of Section 35(2) of the Air Quality Act 39/2004, the owner and / or occupier of the premises must take all reasonable measures to prevent any offensive odour caused by any activity on the premises.
- 5.9. In terms of the Municipal "Bylaw for the Prevention and Suppression of Nuisances", 28 May 2010, the owner and / or occupier of the premises must take all reasonable measures to prevent any nuisance to neighbours and / or the public.
- 5.10. Stormwater in the collection dam may only be reused and recycled back into the compost windrows. No release of this water into the natural watercourses is permitted.
- 5.11. Bi-annual monitoring of water quality in an approved test borehole must be undertaken and results submitted to the Langeberg Municipality, BGCMA and CWDM (Health).
- 5.12. Business hours are permitted as follows:
 - 5.12.1. Monday to Friday: 7h00 – 17h00. No abattoir waste-products may be received on the farm after 15h30 to allow for sufficient time for the windrows to be properly treated before staff shifts end.
 - 5.12.2. Saturdays: 7h00 – 13h00. Sundays: closed.
6. The exercise of the primary land use in terms of the respective Agricultural zone I and Industrial zone II, is subject to all the relevant legislation, including the Environmental Impact Assessment regulations in terms of NEMA 107/1998; the regulations in terms of NEM:WA 59/2008 and the Air Quality Act 39/2004; and the Conservation of Agricultural Resources Act 43/1983. The owner / operator of the Compost Facility must be in possession of all approvals required in terms of other legislation, and specifically, a valid Environmental Authorisation (EA) and Waste Licence in terms of NEMA and NEM: WA; and registration of all compost products in terms of the Fertilisers and Farm Feeds Act 36/47.
7. Water supply, sewage disposal, stormwater disposal and refuse disposal services must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department and the Department of Water Affairs and Forestry.
8. The conditions imposed by the Breede Gouritz Catchment Management Agency (BGCMA) in their letter dated 16 January 2018 (attached) must be complied with.
9. With regard to Municipal Electricity:
 - 9.1. The owner is responsible for the costs associated with any relocation of the existing 11kV line and associated infrastructure, new connections, upgrading or alterations to existing electrical connections or networks, and the associated applicable Bulk Services Levy, at the tariffs which are applicable at that time.
 - 9.2. No structures or compost heaps may be located under or within 3m on each side of the centre line of the 11kV line. This area must be kept open for maintenance purposes.
10. The conditions imposed by the Department of Transport in their letter of 7 February 2018 (attached) must be complied with.
11. No name or advertising sign may be erected without written approval of the administering authority.
12. The restrictions of any law and regulations relating to noise control are applicable to the property and the owner is obliged to ensure that the operation does not cause any undue noise nuisance.
13. The owner must sign the attached indemnity and agreement (Schedule1) with respect to the implementation of all conditions of approval.
14. In order to act on the abovementioned decision, you are required to comply with all conditions of approval. Non-compliance with a condition of approval constitutes an offence in terms of Section 86(1)(a) of the Langeberg Land Use Planning Bylaw, 2015. The compliance notice dated 25 February 2019 requiring you to cease the Compost Facility on the application site, remains applicable until such time as the relevant conditions have been complied with, and all relevant approvals have been obtained.

BREDE-GOURITZ

Catchment Management Agency
Opvanggebied Bestuursagentskap
I-Arhente yolawulo lomMandla nokungqongileyo
51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: N. Feni

Tel: 023-3468000

Fax: 0865156323

E-mail: nfeni@bgcma.co.za

Our Ref:

Date: 16/01/2018

4/10/1/H40L/Middelburg 10/6

Umsiza Planning
P.O.Box 649
Robertson
6705

Attention: Ms Anna-Christa Redelinghuys
Email: annachris@mweb.co.za

COMMENT: PROPOSED REZONING AND CONSENT USE: PORTION 6 OF FARM MIDDELBURG NO 10, DISTRICT ROBERTSON, LANGEBURG MUNICIPALITY

The request for comment on the abovementioned application, dated 17 November 2017, has reference.

The Breede- Gouritz Catchment Management Agency (BGCMA) in principle has no objection on the application, subject to the following conditions

- That all activities on the above properties are carried out in accordance with the requirements of the National Water Act;
- Section 21(a) including drinking water obtained through a pipeline from borehole, (b) and any other water use attached that are not registered on WARM System must be applied for. Should the applicant has an ELU, permit, Enlistment from Water User Association or Licence of the existing dam, the BGCMA request to be provided with that information;
- No additional use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a licence in terms of Section 41 of the National Water Act, 36 of 1998 and/or formal authorisation in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016 , where applicable, thereto;
- The potential use of groundwater and/or increased use may only be permitted where an authorisation thereto exists as stipulated in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016;
- If the dam exceeds 5m high and storage capacity of 50 000 metres, triggers water use authorisation in terms of Section 21(b) of the National Water Act, 1998 and qualifies for dam safety regulation. The applicant is advised to submit an application to a Dam Safety Officer for a dam to be classified;

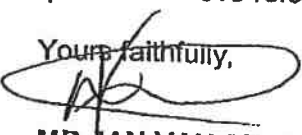
- Any development within 1:100 year floodline or within the riparian habitat constitutes a water use licence in terms of section 21 (c) and (i) of the National Water Act, 1998 (Act 36 of 1998) and will require authorisation before any development may commence.
- The stormwater management plan for the proposed activity must be developed taking into consideration the anticipated ingress of siltation on the water resource and/or any drainage areas within the site. The stormwater management plan should also consider soil erosion impacts and the downstream water users and impacts must be properly identified and mitigated. Measures must be taken to control and mitigate any activity that may detrimentally impact both the surface water resource and downstream water users;
- All reasonable measure must be taken to prevent contaminated stormwater overflowing from any storage dam entering water resource;
- Details of the volume of waste to be disposed, designs and capacity of the collection dam must be provided. Filter trap or screening should be installed to ensure that the capacity of the dam is not compromised by slurry or sludge;
- All information pertaining to the waste management on site, including the existing sewer infrastructure & any proposed facilities must be detailed and taking into account the personnel that will be expected to be on site, its locality to the water resource, proposed designs, and an agreement must be reached with the service provider for any collections, transportation and disposals of sewer contents that may be anticipated;
- Integrated Waste Management Plan must be conducted to explain how waste management (e.g. waste stream, sewage management and storm water) will be managed;
- A concrete slab or bundled area may be appropriate to prevent soil, surface water or groundwater contamination during wet season. Compost should be stored in a protected area where it will not waste down to water resource. Such facility should be located in a regulated area.

Please be advised that no activities may commence without the appropriate approvals/authorizations where needed from the responsible authority. The onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorization for.

This office reserves the right to amend and revise its comments as well as to request any further information.

Please do not hesitate to contact this office if you have any further queries. Please ensure to quote the above reference in doing so.

Yours faithfully,


MR JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (Acting)



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: 16/9/6/1-04/141 (Job 25595)

ENQUIRIES: Ms GD Swanepoel

DATE: 7 February 2018

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Attention: Mr JV Brand

Dear Sir

PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON: DIVISIONAL ROAD 1377: PROPOSED REZONING AND CONSENT USE

1. The following refer:
 - 1.1 Your letter dated 14 November 2017 and
 - 1.2 E-mail correspondence between Mr F Fakier and the Applicant on 19 and 21 December 2017 and 15 January 2018.
2. The subject property is located 17 km north-west of Robertson and takes access off Divisional Road 1377.
3. This application is for the following:
 - 3.1 Rezoning of 3.6 ha from Agriculture Zone I to Industrial Zone II (noxious trade) in order to develop a composting site and
 - 3.2 Consent Use for intensive feed farming.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014, subject to the maximum of 6 trips per day.
5. Should the number of trips increase, this Branch reserves the right to require the landowner to provide a sealed surface on the affected portion of Divisional Road 1377.

6. The subject property also has a right of way servitude registered across it that provides access to farms north of it. The Applicant/Property owner is advised to liaise with the farm owners affected by the right of way with a view to relocating the access onto the Divisional Road 1377 by approximately 100m west in order to improve safety.

Yours faithfully



ML WATTERS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

Schedule 1

Ooreenkoms / Agreement

aangegaan deur / entered into by

.....
Volle name en van / Full name

.....
Identiteitsnommer / Identity number

.....
Adres / Address

(die aansoeker / the applicant)

met die **Langeberg Munisipaliteit** / with the **Langeberg Municipality**

ten opsigte van die volgende ontwikkeling, soos goedgekeur op:
in respect of the following development, as approved on:

18 October 2019

**GEDEELTE 6 VAN DIE PLAAS MIDDELBURG 10, ROBERTSON: HERSONERING VANAF
LANDBOUSONE I NA NYWERHEID II (ABATTOIR KOMPOS FASILITEIT)
PORTION 6 OF MIDDELBURG 10, ROBERTSON: REZONING FROM AGRICULTURAL ZONE I TO
INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY)**

Die aansoeker aanvaar die voorwaardes ten opsigte van bogenoemde goedkeuring en onderneem om toe te sien dat die voorwaardes, soos uiteengesit in Aanhangsel A, nagekom sal word. Die aansoeker vrywaar voorts die Munisipaliteit teen enige eis wat mag voortspruit as gevolg van die uitoefening van gemelde goedkeuring.

The applicant accepts the conditions in terms of the abovementioned approval and undertakes to ensure compliance with the conditions, as stipulated in Annexure A. The applicant furthermore indemnifies the Municipality against any claims which may arise due to the exercise of such approval.

Geteken op die / Signed on the dag van / day of 2019

te / at

.....
Aansoeker / Applicant

.....
Datum / Date

Annexure 4

Section 65 of the Langeberg Land Use Planning Bylaw 2015: Criteria for Consideration of Applications

Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

7461

Thursday, 30 July 2015

Buitengewone Provinsiale Koerant

7461

Donderdag, 30 Julie 2015

Registered at the Post Office as a Newspaper

CONTENTS

(*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Waie Street, Cape Town 8001.)

No.

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PROVINCIAL NOTICE

264 Langeburg Municipality: Land Use Planning ByLaw 2

Errors and omissions

- 63.** (1) The Municipality may at any time correct an error in the wording of its decision if the correction does not change the decision or result in an alteration, insertion, suspension or deletion of a condition of approval.
- (2) The Municipality may, on its own initiative or on application by the applicant or interested party, upon good cause shown, condone an error in a procedure, if the condonation does not have a material adverse effect on, or unreasonably prejudice, any party.

Exemptions to facilitate expedited procedures

- 64** (1) The Municipality may in writing and subject to section 60 of the Land Use Planning Act—
- (a) exempt a development from compliance with a provision of this By-law to reduce the financial or administrative burden of—
- (i) integrated application processes contemplated in section 44;
- (ii) the provision of housing with the assistance of a state subsidy; or
- (iii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law.
- (2) If the Provincial Minister grants an exemption or authorisation to deviate from a provision of the Land Use Planning Act to the Municipality in terms of section 60 of the Land Use Planning Act, the Municipality is exempted from or authorised to deviate from any provision in this By-law that corresponds to the provision of the Land Use Planning Act in respect of which an exemption was granted or deviation was authorised.

CHAPTER V

CRITERIA FOR DECISION-MAKING

General criteria for consideration of applications

- 65.** (1) When the Municipality considers an application, it must have regard to the following:
- (a) the application submitted in terms of this By-law;
- (b) the procedure followed in processing the application;
- (c) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;

- (d) the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;
- (e) the response by the applicant, if any, to the comments referred to in paragraph (d);
- (f) investigations carried out in terms of other laws that are relevant to the consideration of the application;
- (g) a registered planner's written assessment in respect of an application for—
 - (i) a rezoning;
 - (ii) a subdivision of more than 20 cadastral units;
 - (iii) a removal, suspension or amendment of a restrictive condition if it relates to a change of land use;
 - (iv) an amendment, deletion or imposition of additional conditions in respect of an existing use right;
 - (v) an approval of an overlay zone contemplated in the zoning scheme;
 - (vi) a phasing, amendment or cancellation of a subdivision plan or part thereof;
 - (vii) a determination of a zoning;
 - (viii) a closure of a public place or part thereof;
- (h) the impact of the proposed land development on municipal engineering services;
- (i) the integrated development plan, including the municipal spatial development framework;
- (j) the integrated development plan and spatial development framework of the district municipality, where applicable;
- (k) the applicable local spatial development frameworks adopted by the Municipality;
- (l) the applicable structure plans;
- (m) the applicable policies of the Municipality that guide decision-making;
- (n) the provincial spatial development framework;
- (o) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land

- Use Management Act or provincial regional spatial development framework;
- (p) the policies, principles and the planning and development norms and criteria set by the national and provincial government;
 - (q) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;
 - (r) the principles referred to in Chapter VI of the Land Use Planning Act; and
 - (s) the applicable provisions of the zoning scheme.
- (2) Where required in terms of applicable development parameters or conditions of approval, the Municipality must approve a site development plan if the site development plan—
- (a) is consistent with the development rules of the zoning;
 - (b) is consistent with the development rules of an overlay zone, if applicable;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-law.

Conditions of approval

66. (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
- (a) the provision of engineering services and infrastructure;
 - (b) requirements relating to engineering services as contemplated in section 82 and 83;
 - (c) the cession of land or the payment of money;
 - (d) settlement restructuring;
 - (e) agricultural or heritage resource conservation;
 - (f) biodiversity conservation and management;
 - (g) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;

Annexure 5

Appeal 1: Applicant



Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGER / CONVEYANCERS

BTW NR 4770183285

ROBERTSON

POSBUS 466 P O BOX
KERKSTRAAT 23 23 CHURCH STREET
MED-LAW HOUSE MED-LAW HOUSE
ROBERTSON ROBERTSON
6705 6705
TELEFOON +27 23 626-6523/4 TELEPHONE
NA URE +27 23 347-4693 AFTER HOURS
FAKS +27 23 626-6577 FAX
SEL 082 8214 337 CEL
E-POS hannes@jpdubois.co.za E-MAIL
E-POS aktes@jpdubois.co.za E-MAIL

OUR REF : JPDUB/af/HR0219

YOUR REF : 15/4/12/5&7 – Ms TL Brunings

DATE : 22 NOVEMBER 2019

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

BY HAND

THE MUNICIPAL MANAGER
LANGEBOURG MUNICIPALITY
ASHTON
6715

Dear Sirs

PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

APPEAL

We refer to the above matter and file herewith the documents as per the Index of Prescribed documents dated 22 November 2019.

Due to the voluminous nature of these documents, they are bound into a ring binder for ease of reference.

We also refer to Sections 80 to 81 of LLUPB and have instructions to advise the following:

Due to the long delay of this application and the appeal, the Appellant expects that the time limits and time periods stipulated in the above Sections will be strictly complied with by the Municipality as well as the Appeal Authority.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808



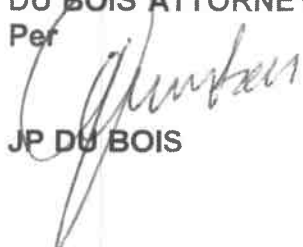
Melanie
21/11/2019
Detekker
on 21/11/2019
379

We hold instructions that if the time limits are not complied with, compliance will be enforced by every available means against the Municipality and/or the Appeal Authority.

We however trust that such measures will not be necessary.

Kindly acknowledge receipt of the Appeal documents contained in the ring binder by signing the copy of this letter.

Yours Faithfully
DU BOIS ATTORNEYS
Per


JP DU BOIS



INDEX OF PRESCRIBED DOCUMENTS AND NOTICES SERVED TOGETHER WITH THE GROUNDS OF APPEAL AND ITS ANNEXURES

22 NOVEMBER 2019

1. Official Appeal Form in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015.
2. Letter dated 31 October 2019 from the Langeberg Municipal Planning Tribunal addressed to Trustees of the Reben Trust (decision letter).
3. Conditions of Approval of the Abattoir compost facility including letter by Breede-Gouritz of 16/01/2018 addressed to Umsiza Planning and letter by the Western Cape Government: Road Network Management addressed to the Municipal Manager dated 7 February 2018.
4. Schedule 1 Agreement (unsigned).
5. Proof of payment of the Appeal fee to the Langeberg Municipality in the amount of R2 950.00.
6. Signed Resolution passed at a meeting of the Trustees of the Reben Trust IT2879/98.
7. Proof of Notice in terms of Section 80(4) of LLUPB, 2015 served on objectors pursuant to Section 35 of LLUPB.
8. Proof of submitting Appeal to the Director: Development Management (Region 2) per e-mail to Helene.janser@westerncape.gov.za
9. Grounds of Appeal (page 1 to 66)
10. Annexures "A1" to "A31" attached to the Grounds of Appeal



APPEAL FORM

(as amended in terms of section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒	N	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	Y	N ☒	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	Y ☒	N	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	Y ☒	N	If Yes, specify in Part E. SEE GROUNDS OF APPEAL
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	Y ☒	N	If Yes, specify in Part E. SEE GROUNDS OF APPEAL
Date of decision	31/10/2019		Date receiving notice of decision
		01/11/2019	
Who took the original decision?	☐ Authorised employee ☒ Tribunal		

PART B: APPELLANT'S DETAILS

First name(s)	N/A		
Surname	N/A		
Company or legal person's name (if applicable)	REBEN TRUST IT2879/98		
Postal address	C/o DU BOIS ATTORNEYS		
	P.O. BOX 466 ROBERTSON	Postal Code	6705
Email	david@safam.co.za / Hannes@ipdubois.co.za		
Tel	023 626 6523/4	Fax	023 626 6577
		Cell	082 821 4337

PART C: APPEAL MOTIVATION AND REASONS			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 6 OF THE FARM MIDDELBURG NO 10, DISTRICT ROBERTSON		
Physical Address	14KM NORTH-WEST OF ROBERTSON, 3KM NORTH OF LIME FACTORY BETWEEN R60 AND THE LANGEBERG MOUNTAINS		
GPS Coordinates	33°43'52.05"S & 19°44'36.65"E	Town/City	ROBERTSON

PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 6 OF THE FARM MIDDELBURG NO 10, DISTRICT ROBERTSON		
Physical Address	14KM NORTH-WEST OF ROBERTSON, 3KM NORTH OF LIME FACTORY BETWEEN R60 AND THE LANGEBERG MOUNTAINS		
GPS Coordinates	33°43'52.05"S & 19°44'36.65"E	Town/City	ROBERTSON

- PART E: APPEAL MOTIVATION AND REASONS**
1. AGAINST THE WHOLE OF THE DECISION OF NOT APPROVING THE APPLICATION FOR A CONSENT USE FOR AN INTENSIVE FEED FARM (SHEEP).
 2. AGAINST THE PARTIAL APPROVAL OF ONLY 1.3HA OF PORTION 6 IN THE APPLICATION TO REZONE 3.6HA OF PORTION 6 FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (COMPOST FACILITY).
 3. THE FOLLOWING CONDITIONS OF APPROVAL IS NOT ACCEPTED AND APPEALED:
1, 2, 3, 5.1, 5.4 (ONLY INSOFAR AS IT PROHIBITS THE USE OF OTHER INGREDIENTS IN THE COMPOSTING PROCESS LIKE MANURE AND WOODEN CHIPS), 5.5, 7, 13 AND 14.

SEE ATTACHED GROUNDS OF APPEAL, MARKED "A"

* Appeal motivation, information and reasons may be attached.

PART F: APPEAL FEE (APPLICANT'S RESPONSIBILITY TO BE PAID BY 01/01/2017)	
Appeal	R2950.00
TOTAL APPEAL FEES*	

* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

BANKING DETAILS	
Name:	Langeberg Municipality
Bank:	ABSA
Branch no.:	33-45-13
Account no.:	105 000 000 8 (Cheque)
Payment reference:	A10 (Farm 10/6, Robertson)

PART C ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

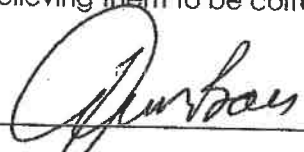
Y ☒	N ☐	Proof of payment of appeal fees (applicant)		Y ☒	N ☐	Proof of serving notice of appeal (applicant)
Y ☒	N ☐	Copy of decision and proof of notification		Y ☒	N ☐	Copy of conditions of approval
Y ☒	N ☐	Motivation and reasons for appeal (GROUNDS OF APPEAL ATTACHED)		Y ☐	N ☒	Other (specify)

SECTION II: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

21/11/2019

Full name:

JOHANNES PETRUS DU BOIS ON BEHALF
OF APPELLANT DULY AUTHORIZED
THERETO

FOR OFFICE USE ONLY

Date received:

Received by:

Municipal Stamp

Verw. Ref: 1574/12/2017

Navrae/Enquiries: Ms T L Brunings

Trustees of the Reben Trust
c/o Umsiza
P O Box 649
ROBERTSON 6705

31 October 2019

Dear Madam:

PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Your abovementioned application refers.

On 18 October 2019 the Langeberg Municipal Planning Tribunal resolved as follows:

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the following application, as depicted on the plan marked MIDDELBURG 10/6 ROB-LBM-TP(a) (March 2019), be approved, subject to the conditions of approval, in terms of Section 66 of the aforementioned Bylaw, as set out in the attached Annexure A:

- Rezoning a 1,3ha portion of Portion 6 of the Farm Middenburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost facility comprising: windrows, storage space for raw and finished products, and off-loading areas.

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the following application, as depicted on the plan marked MIDDELBURG 10/6 ROB-LBM-TP(a), be not approved:

- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs).

The reasons for refusal of the intensive Feed Farm (feedlot) are as follows:

1. Information on water availability is incomplete. Water supply for the feedlot is limited to one borehole and there is no currently available alternative water source in emergency situations such as drought or low water levels. Investigations into the expansion of the dam in the Mountain Catchment Area of the farm are still in process, which may impact on access to adequate water for the proposed feedlot. Alterations to the dam were not included in the scope of work for the BAR.
2. The proposed feedlot is within a CBA area and important ecological corridor as identified in the WC BSP, 2017 and is therefore not consistent with the WCPSDF's Rural Land Use Guidelines (March 2019).
3. Insufficient motivation is given regarding the desirability of relocating the feedlot from Roodehoogte in Robertson in terms of transport distance of sheep to the site and to the abattoir and the transport of feed.
4. The applicant has indicated how they intend to minimise flies and odours, but the BAR has not assessed the cumulative impact of odours and flies from the compost facility and feedlot on the health and well-being of residents and tourists, and on the surrounding natural and agricultural environment and the socio-economic impact thereof. The applicant dismissed the Tribunal's request for the compilation of an

Atmospheric Impact Report to assess such impact. As such, it is not possible to conclude that the proposed feedlot, in addition to the compost facility, will not infringe on the 'right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution)'.

5. Given that the compost facility has already drawn complaints in terms of flies and odours, cumulative impacts from an additional land use which also generates flies and odours are not in the public interest; not consistent with existing rights; are inconsistent with the sustainability of agri-tourism businesses; and are inconsistent with the principles of spatial justice and spatial sustainability (Section 60 of LUPA No. 3 of 2014).
6. It would be short-sighted to approve the feedlot, where the prime reason for locating on the application site relates to the provision of manure to the compost site, when there is the possibility that alternatives to composting (which do not require manure) may prove more viable / sustainable on the application site in the foreseeable future.
7. No storm water management plan has been prepared for the feedlot to enable an assessment of the desirability of the proposed location thereof. The applicant dismissed the Tribunal's request for such plan. (Note: The Soil Study (AVS, Nov 2015) was conducted for the compost facility prior to the proposal for the feedlot).
8. Raising live sheep in a feedlot some 100m from a compost facility where dead animals and animal waste is being dumped and treated, with associated flies and odours, is not deemed to be desirable. In addition to ethical concerns, no proof has been provided that this is desirable in terms of the implications for food quality and food safety.

In terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015, a person whose rights are affected by a decision of the Municipal Planning Tribunal, may appeal in writing to the Appeal Authority within 21 days of the date of registration of this decision letter. The objectors will be similarly informed of the decision and of their right of appeal.

An appeal must be served on the Municipal Manager in the prescribed format and accompanied by proof of payment of the appeal fee. Further details may be requested from the Town Planning Department.

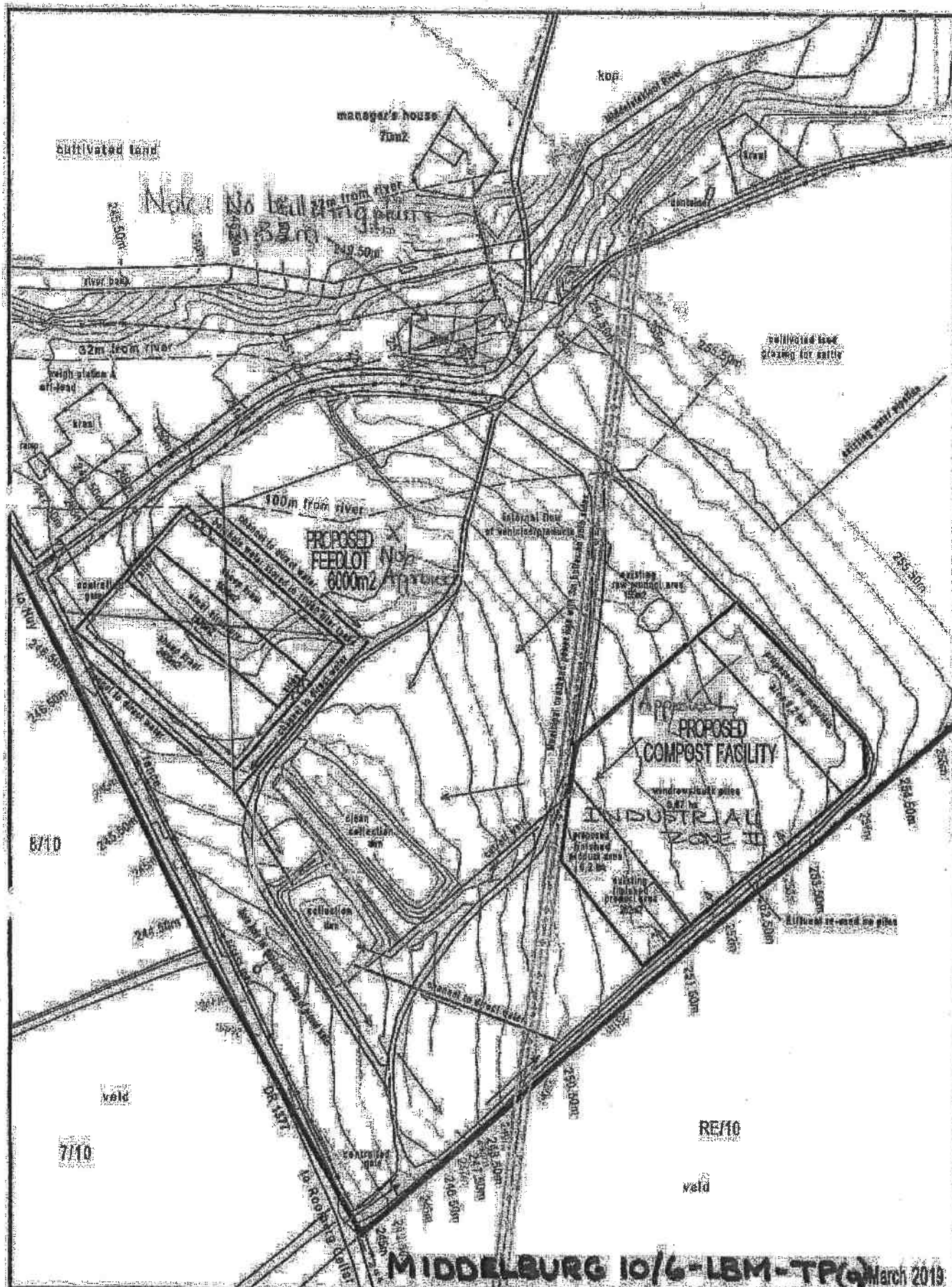
In terms of Section 61(4) of the said bylaw, an approval comes into operation only after the expiry of the 21 days appeal period. In terms of Section 61(5) where an appeal is lodged the approval is suspended pending the decision of the Appeal Authority on the appeal.

Yours faithfully


SA MOKWENI
MUNISIPALE BESTUURDER

Copies for Information:

WC Dept of Agriculture Att: C vd Walt convdw@westerncape.gov.za 20/9/2018 15:31; 2018-05-16	WC Dept of Transport & Public Works Grace Swaneport@westerncape.gov.za 16/9/2018 10:41 (Job 25589); 07/02/2018	Cape Nature phunty@capenature.co.za SSD14/2/6/1/92/110, B. Rez. Middelburg; 19.01.2018
BGCMA nfeni@bgcma.co.za 4/10/17 14:01 Middelburg 10/6; 16/01/2018	CWJDM smc@cwjdm.co.za 15/2/2018; 17.11.2017	DEA&DP Helene.Jansen@westerncape.gov.za Eddie.Hanekom@westerncape.gov.za Fahd.Said@westerncape.gov.za



AMENDED SITE PLAN: PTN 6 MIDDELBURG NO 10,
ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA
Town and Regional Planner

SCALE 1:2250

CONDITIONS OF APPROVAL

IN TERMS OF SECTION 66 OF THE LANGEBERG LAND USE PLANNING BYLAW PN 264/2015, 30 JULY 2015)

PORTION 6 OF MIDDELBURG 10, ROBERTSON

APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY)

1. The development and use of the property and buildings must be substantially in accordance with the Site Development Plan marked MIDDELBURG 10/6-LBM-TP(a) (March 2019).
2. The approved land uses may operate until the end of February 2022, whereafter the approval will lapse, and the zoning of the site will revert back to Agricultural zone I, unless an application for extension of such approval has been lodged and approved. Viable alternative options to composting, with less impact in terms of odour and flies, must be investigated during this time.
3. Strictly no composting, and associated traffic circulation, may occur beyond the boundaries of the Abattoir Waste Compost Facility (hereafter referred to as "Compost Facility"), as indicated on the approved Site Development Plan, and no closer than 10m from the boundary with the farm Middelburg 10/Rem.
4. The Compost Facility must be effectively screened, to the satisfaction of the Manager, Town Planning, through the judicious use of indigenous trees and shrubs, to provide a visual screen and wind break and to minimise dust and odours, particularly along the boundary with the farm Middelburg 10/Rem.
5. The Environmental Management Programme (EMP) (12 March 2018), as prepared for the NEMA EIA process, must be reviewed, and a revised, detailed operational phase EMP must be submitted to the Manager, Town Planning within 30 days of the letter of approval of this application. The EMP must address the following requirements in particular:
 - 5.1. The management of the Compost Facility in terms of flies, odours, truck trips, stormwater management and water quality and the periods for auditing these activities to ensure no adverse environmental consequences. On-site meetings, convened by the Langeberg Town Planning Department, must be held at least every 3rd month, from the date of approval, with officials from the Langeberg Town Planning Department, CWDM, BGCMA and DEA&DP. Any requirements of the relevant Departments must be complied with prior to the continuation of composting activities.
 - 5.2. Priority must be given to the following operational requirements to minimise flies and odours:
 - 5.2.1. Abattoir waste products transported to the site must be suitably closed / sealed to prevent any possibility of waste falling onto the public road network and adjoining farms.
 - 5.2.2. The waste products from the abattoir must be immediately covered after off-loading.
 - 5.2.3. Blood, which is required to dry, may not be left uncovered for more than 60 minutes.
 - 5.2.4. Vehicles must be cleaned at the Robertson Abattoir truck wash facility and not on the application site.
 - 5.3. The manager of the Compost Facility must reside on-site.
 - 5.4. Only abattoir waste from the Robertson Abattoir may be composted at the Compost Facility.
 - 5.5. Infectious waste (whether treated or not) may not be disposed of to the application site under any circumstances. Such waste must be treated before disposal at an approved landfill facility, in accordance with approval by DEA&DP, Waste Management and WC Department of Agriculture, Veterinary Public Health. The agreed protocol in this regard must be submitted to the Langeberg Town Planning Department.
 - 5.6. The operation and management of the Compost Facility must be in strict compliance with SAFAM's Standard Operating Procedures (SOPs), namely: Composting Processing; Removal and Delivery of By-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control. These SOPs must be continuously implemented, and updated where relevant, to the satisfaction of the relevant authorities.
 - 5.7. The volumes of waste received per month and the volume of compost produced per month must be recorded by the manager of the Compost Facility.

- 5.8. In terms of Section 35(2) of the Air Quality Act 39/2004, the owner and / or occupier of the premises must take all reasonable measures to prevent any offensive odour caused by any activity on the premises.
- 5.9. In terms of the Municipal "Bylaw for the Prevention and Suppression of Nuisances", 28 May 2010, the owner and / or occupier of the premises must take all reasonable measures to prevent any nuisance to neighbours and / or the public.
- 5.10. Stormwater in the collection dam may only be reused and recycled back into the compost windrows. No release of this water into the natural watercourses is permitted.
- 5.11. Bi-annual monitoring of water quality in an approved test borehole must be undertaken and results submitted to the Langeberg Municipality, BGCMA and CWDM (Health).
- 5.12. Business hours are permitted as follows:
 - 5.12.1. Monday to Friday: 7h00 – 17h00. No abattoir waste products may be received on the farm after 15h30 to allow for sufficient time for the windrows to be properly treated before staff shifts end.
 - 5.12.2. Saturdays: 7h00 – 13h00. Sundays: closed.
6. The exercise of the primary land use in terms of the respective Agricultural zone I and Industrial zone II, is subject to all the relevant legislation, including the Environmental Impact Assessment regulations in terms of NEMA 107/1998; the regulations in terms of NEM:WA 59/2008 and the Air Quality Act 39/2004; and the Conservation of Agricultural Resources Act 43/1983. The owner / operator of the Compost Facility must be in possession of all approvals required in terms of other legislation, and specifically, a valid Environmental Authorisation (EA) and Waste Licence in terms of NEMA and NEM: WA; and registration of all compost products in terms of the Fertilisers and Farm Feeds Act 36/47.
7. Water supply, sewage disposal, stormwater disposal and refuse disposal services must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department and the Department of Water Affairs and Forestry.
8. The conditions imposed by the Breede Gouritz Catchment Management Agency (BGCMA) in their letter dated 16 January 2018 (attached) must be complied with.
9. With regard to Municipal Electricity:
 - 9.1. The owner is responsible for the costs associated with any relocation of the existing 11kV line and associated infrastructure, new connections, upgrading or alterations to existing electrical connections or networks, and the associated applicable Bulk Services Levy, at the tariffs which are applicable at that time.
 - 9.2. No structures or compost heaps may be located under or within 3m on each side of the centre line of the 11kV line. This area must be kept open for maintenance purposes.
10. The conditions imposed by the Department of Transport in their letter of 7 February 2018 (attached) must be complied with.
11. No name or advertising sign may be erected without written approval of the administering authority.
12. The restrictions of any law and regulations relating to noise control are applicable to the property and the owner is obliged to ensure that the operation does not cause any undue noise nuisance.
13. The owner must sign the attached indemnity and agreement (Schedule 1) with respect to the implementation of all conditions of approval.
14. In order to act on the abovementioned decision, you are required to comply with all conditions of approval. Non-compliance with a condition of approval constitutes an offence in terms of Section 86(1)(a) of the Langeberg Land Use Planning Bylaw, 2015. The compliance notice dated 25 February 2019 requiring you to cease the Compost Facility on the application site, remains applicable until such time as the relevant conditions have been complied with, and all relevant approvals have been obtained.

BREDE-GOURITZ

Catchment Management Agency
Opvanggebied Bestuursagentskap
I-Arhente yotawulo lombandla nokungqongileyo
51 Darling Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: N. Feni

Tel: 023-3468000

Fax: 0865156323

E-mail: nfeni@bgcma.co.za

Our Ref:

Date: 16/01/2018

4/10/1/H40/Middelburg 10/6

Umsiza Planning
P.O.Box 649
Robertson
6705

Attention: Ms Anna-Christa Redelinghuys
Email: annachris@mweb.co.za

COMMENT: PROPOSED REZONING AND CONSENT USE: PORTION 6 OF FARM MIDDELBURG NO 10, DISTRICT ROBERTSON, LANGEBURG MUNICIPALITY

The request for comment on the abovementioned application, dated 17 November 2017, has reference.

The Breede- Gouritz Catchment Management Agency (BGCMA) in principle has no objection on the application, subject to the following conditions:

- That all activities on the above properties are carried out in accordance with the requirements of the National Water Act;
- Section 21(a) including drinking water obtained through a pipeline from borehole, (b) and any other water use attached that are not registered on WARM System must be applied for. Should the applicant has an ELU, permit, Enlistment from Water User Association or Licence of the existing dam, the BGCMA request to be provided with that information;
- No additional use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a licence in terms of Section 41 of the National Water Act, 36 of 1998 and/or formal authorisation in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016, where applicable, thereto;
- The potential use of groundwater and/or increased use may only be permitted where an authorisation thereto exists as stipulated in terms of General Authorisations issued under Section 39 as per Government Notice 538 dated 02 September 2016;
- If the dam exceeds 5m high and storage capacity of 50 000 metres, triggers water use authorisation in terms of Section 21(b) of the National Water Act, 1998 and qualifies for dam safety regulation. The applicant is advised to submit an application to a Dam Safety Officer for a dam to be classified;

4/10/1/H40/Middelburg 10/6

- Any development within 1:100 year floodline or within the riparian habitat constitutes a water use licence in terms of section 21 (c) and (f) of the National Water Act, 1998 (Act 36 of 1998) and will require authorisation before any development may commence.
- The stormwater management plan for the proposed activity must be developed taking into consideration the anticipated ingress of siltation on the water resource and/or any drainage areas within the site. The stormwater management plan should also consider soil erosion impacts and the downstream water users and impacts must be properly identified and mitigated. Measures must be taken to control and mitigate any activity that may detrimentally impact both the surface water resource and downstream water users.
- All reasonable measure must be taken to prevent contaminated stormwater overflowing from any storage dam entering water resource.
- Details of the volume of waste to be disposed, designs and capacity of the collection dam must be provided. Filter trap or screening should be installed to ensure that the capacity of the dam is not compromised by slurry or sludge.
- All information pertaining to the waste management on site, including the existing sewer infrastructure & any proposed facilities must be detailed and taking into account the personnel that will be expected to be on site, its locality to the water resource, proposed designs, and an agreement must be reached with the service provider for any collections, transportation and disposals of sewer contents that may be anticipated.
- Integrated Waste Management Plan must be conducted to explain how waste management (e.g. waste stream, sewage management and storm water) will be managed.
- A concrete slab or bunded area may be appropriate to prevent soil, surface water or groundwater contamination during wet season. Compost should be stored in a protected area where it will not waste down to water resource. Such facility should be located in a regulated area.

Please be advised that no activities may commence without the appropriate approvals/authorizations where needed from the responsible authority. The onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorization for.

This office reserves the right to amend and revise its comments as well as to request any further information.

Please do not hesitate to contact this office if you have any further queries. Please ensure to quote the above reference in doing so.

Yours faithfully,


MR JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (Acting)

REFERENCE: 16/P/4/1-04/141 (Job 25595)

ENQUIRIES: Ms GD Swanepoel

DATE: 7 February 2018

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Attention: Mr JV Brand

Dear Sir

**PORTION 4 OF FARM MIDDELBURG 10, ROBERTSON: DIVISIONAL ROAD 1377: PROPOSED
REZONING AND CONSENT USE**

1. The following refer:
 - 1.1 Your letter dated 14 November 2017 and
 - 1.2 E-mail correspondence between Mr F Fakier and the Applicant on 19 and 21 December 2017 and 15 January 2018.
2. The subject property is located 17 km north-west of Robertson and takes access off Divisional Road 1377.
3. This application is for the following:
 - 3.1 Rezoning of 3,6 ha from Agriculture Zone 1 to Industrial Zone II (noxious trade) in order to develop a composting site and
 - 3.2 Consent Use for intensive feed farming.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014, subject to the maximum of 6 trips per day.
5. Should the number of trips increase, this Branch reserves the right to require the landowner to provide a sealed surface on the affected portion of Divisional Road 1377.

6.

The subject property also has a right of way servitude registered across it that provides access to farms north of it. The Applicant/Property owner is advised to liaise with the farm owners affected by the right of way with a view to relocating the access onto the Divisional Road 1377 by approximately 100m west in order to improve safety.

Yours faithfully



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

Schedule 1

Ooreenkoms / Agreement

aangegaan deur / entered into by

.....
Volle naam en van / Full name

.....
Identifikasienommer / Identity number

.....
Adres / Address

(die aansoeker / the applicant)

met die Langeberg Munisipaliteit / with the Langeberg Municipality

ten opsigte van die volgende ontwikkeling, soos goedgekeur op:
in respect of the following development, as approved on:

18 October 2019

**GEDEELTE 6 VAN DIE PLAAS MIDDELBURG 10, ROBERTSON: HERSONERING VANAF
LANDBOUSONE I NA NYWERHEID II (ABATTOIR KOMPOS FASILITEIT)
PORTION 6 OF MIDDELBURG 10, ROBERTSON: REZONING FROM AGRICULTURAL ZONE I TO
INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY)**

Die aansoeker aanvaar die voorwaardes ten opsigte van bogenoemde goedkeuring en onderneem om toe te sien dat die voorwaardes, soos uiteengesit in Aanhangsel A, nagekom sal word. Die aansoeker vrywaar voorts die Munisipaliteit teen enige eis wat mag voortspruit as gevolg van die uitoefening van gemelde goedkeuring.

The applicant accepts the conditions in terms of the abovementioned approval and undertakes to ensure compliance with the conditions, as stipulated in Annexure A. The applicant furthermore indemnifies the Municipality against any claims which may arise due to the exercise of such approval.

Geteken op die / Signed on the dag van / day of 2019

te / at

.....
Aansoeker / Applicant

.....
Datum / Date

**Thank You!**

Your transaction was successful

22 Nov 2019

Payments From :
Trust
62031158399

Not Categorised - Recipients paid in the last 3 months

Recipient	Ref	Amount	Reason
Langeberg Munisipali	HR0221 Langeberg Mun	R 2,950.00	Your payment was successful
1050000008 - ABSA Bank	A10 FARM10/6 ROBERTS		VODSWZSFN95F
Total		R2,950.00	

**RESOLUTION PASSED AT A MEETING OF
THE TRUSTEES OF THE REBEN TRUST IT 2879/98**

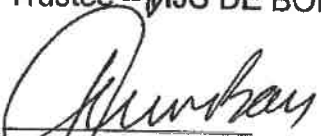
HELD AT ROBERTSON ON 4 NOVEMBER 2019

RESOLVED THAT:

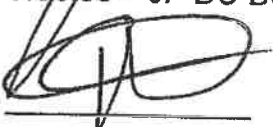
1. The Trustees, in their capacities as the trustees for the time being of the Trust, the owner of Portion 6 of the Farm Middelburg No. 10, launch an Appeal against the decisions of the Langeberg Municipality (Langeberg Municipal Planning Tribunal) dated 31 October 2019 and received on 1 November 2019.
2. The Trust will seek the following relief:
 - 2.1 that the Appeal be upheld;
 - 2.2 The approval of a consent use for Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs) as per attached amended SDP, marked "A31", with reasonable conditions attached to the said approval;
 - 2.3 the approval of the rezoning of 3.6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning as per attached amended SDP ("A31") with accepted conditions 6 to 12 and condition 13 only if the appeal is upheld.
3. JOHANNES PETRUS DU BOIS in his capacity as trustee and legal representative are authorised to draft all necessary Appeal documents in lieu of the above.



Trustee – MJS DE BOD



Trustee – JP DU BOIS



Trustee – DJ VAN STADEN

NOTICE IN TERMS OF SECTION 80(4)

PORTION 6 OF MIDDELBURG 10, ROBERTSON: APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

APPEAL

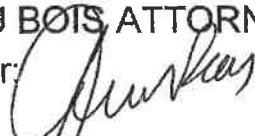
Attached please find official Appeal Form and Index referring to prescribed documents and notices served together with the Grounds of Appeal and its Annexures for your attention.

Kindly take notice that you are hereby invited to comment on the Appeal within **21 (twenty one) days** of being notified of the Appeal.

Any comments may be addressed to Reben Trust c/o Du Bois Attorneys, P.O. Box 466, Robertson, 6705 or at the following two e-mail addresses: david@safam.co.za / hannes@jpdubois.co.za.

DATED ON THIS 22nd DAY OF NOVEMBER 2019

DU BOIS ATTORNEYS

Per: 

JP DU BOIS

23 CHURCH STREET

ROBERTSON

6705

Ref: JPDUB/af/HR0221

GROUNDS OF APPEAL

APPEAL AGAINST THE WHOLE OF THE DECISION OF NOT APPROVING THE APPLICATION FOR A CONSENT USE FOR INTENSIVE FEED FARM (SHEEP) ON PORTION 6 OF THE FARM MIDDELBURG NO. 10 (“*PORTION 6*”) AND AGAINST THE PARTIAL APPROVAL OF ONLY 1.3HA OF PORTION 6 IN THE APPLICATION TO REZONE 3.6HA OF PORTION 6 FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (COMPOST FACILITY) AND CERTAIN CONDITIONS ATTACHED TO THAT PARTIAL APPROVAL

APPELLANT AND APPLICANTS A QUO: REBEN TRUST IT2879/98

[INCLUDING FOR PURPOSES OF THIS APPEAL INsofar AS THE ROBERTSON ABATTOIR IS CONCERNED, ALSO THE SOUTH AFRICAN FARM ASSURED MEAT GROUP CC (SAFAM)]

(hereinafter collectively referred to as “*the Appellant*”)

LANGEBERG MUNICIPAL PLANNING TRIBUNAL OF THE LANGEBERG MUNICIPALITY – REFERENCE: 15/4/12/5&7

(hereinafter referred to as “*the decision-maker and/or the Tribunal*”)

GENERAL BACKGROUND:

1. We refer to the letter of the Langeberg Municipality dated **31 October 2019** addressed to the Appellant c/o Umsiza, Robertson (*hereinafter “decision letter”*).
2. We have been instructed to appeal the decisions of the decision-maker firstly:

- 2.1 to reject/disapprove the application for a consent use for an intensive feed farm (sheep); and secondly
 - 2.2 to partially approve only 1.3ha of Portion 6 from Agricultural Zone I to Industrial Zone II (Abattoir Compost Facility) with accompanying conditions.
3. The above decisions were taken in terms of Section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015 of 30 July 2015 (“LLUPB”).
 4. We deem it incumbent upon ourselves to first and foremost present a short historical perspective pertaining to this matter. To an extent the application for rezoning and consent use overlap with the simultaneous application for environmental authorization and the Waste Management License (“WML”). In some instances the applications are inextricably linked to one another.
 5. After the Langeberg Municipality (“*the Municipality*”) during 2015, announced that they will discontinue removal (as they did in the past) of abattoir organic waste generated by the abattoir at Robertson (“*the abattoir*”) as from the end of 2016, the Appellant was left with no option, but to find its own solution/s in respect of its own organic waste disposal. The Appellant instructed Resalt Agricultural Systems and Strategies (Pty) Ltd (“*Resalt*”) to assess the chemical and physical properties and suitability of a designated area of Portion 6, the property of the Appellant, for the purposes of establishing a composting facility and feedlot. A report in this regard was filed by Resalt on 30 October 2015 (“*the Resalt-report*”), attached hereto marked “**A1**”. The area thus identified at the time, is the South Eastern part (or corner) of Portion 6. This area is depicted in a photograph on page 3 of the report under the heading, “*The area of the proposed feedlot and composting facility*”. It is quite evident from this photograph that the area had been cleared of practically all natural vegetation and only short grass type vegetation, probably alien or types of pioneer grasses which appeared in the wake of the clearing process, covers the area. This area was already cleared

by the Appellant in 2013 for agricultural purposes as will be alluded to below in more detail.

6. It will be noted from the notes and recommendations at the end of the report, that it was found that the soil classification and analysis indicate that the area is not suited for intensive agriculture. Even farming with extensive crops e.g. pastures is unlikely to be successful due to the poor quality of the soil. The report also found that the soil has a high clay content which will reduce the likelihood of salts (also present in abundant quantities in the soil) leaching from the area.
7. As can be gleaned from the report, it is clear that the Appellant already planned a composting facility and feedlot in 2015. At the time it appears that the only feasible and economic option for farming that area of Portion 6, was to utilize it for the above two purposes. It was visualised that the compost thus generated will be utilized to replenish the nutrient-poor soil with fertiliser. Thus animal feeds will be produced on the remainder of Portion 6 so as to provide a sustainable source of fodder/feeds for the feedlot livestock. It all makes perfect economic sense, especially given the fact that the Appellant was furthermore left with very few options regarding the disposal of the abattoir's general or organic waste, after the above announcement of the Municipality.
8. After due consideration and consultations with experts, Local and Provincial Government officials, and bearing in mind the Resalt-report, Appellant decided not to resort to other waste disposal options (including other landfill waste disposal alternatives due to the fact that virtually none nearby was available and due to CO₂ emissions caused by transport), but rather follow the general "green" trend to generate a useful end product in the form of processed compost to be utilized on Portion 6. We will deal in more detail with the so-called other options for waste disposal in a document filed by David Houghton, the Chief Operating Officer of the Appellant. After all, as stated in the Resalt-report, Portion 6 was perfectly suited for the establishment of a compost facility and feedlot. During the 2 years following

the Resalt report, the Appellant consulted with the mentioned officials in the waste industry such as the Directorate of Waste Management Western Cape, the Winelands District Municipality, Elsenburg and Environmental Practitioners. All were very positive regarding the intended operation of a Compost Facility on Portion 6. The Appellant had furthermore expended hundreds of thousands of rand to acquire the necessary transport vehicles, transport skips, a blood tanker, a front loader and new tractor to cater for the intended process, which should prove to be beneficial to all concerned; including the Municipality.

9. Furthermore, it is our instructions that the Municipality, as well as various other officials as mentioned above and below, were informed as early as 10 August 2016, that the Appellant intended to produce/generate compost on Portion 6 from organic by products emanating from the abattoir. No objection to the proposed compost facility was ever received from that day onward (until a year later on 15 February 2018 as will be alluded to below) and neither did the abattoir receive clear instructions/advice at the time from the Municipality that Portion 6 will need to be rezoned for that purpose in terms of the Section 8 Scheme to cater for such a facility/activity/use.
10. The Appellant therefore decided for the above reasons and with the full knowledge of the Municipality, to embark on the simultaneous establishment of a composting facility and feedlot, to a large extent interdependent upon each other, on Portion 6 with meticulous care so as to stay within all applicable legislative provisions.
11. The new site for the compost facility on Portion 6 was prepared and compacted in accordance with the Resalt-report during the latter part of 2016. As stated above, the abattoir thereafter indeed commenced to deliver general waste in the form of by-products at the prepared site on Portion 6, with, as stated, the full knowledge (and co-operation) of the Municipality and other interested parties and role players like Mr S McLain (Environmental Health Practitioner of Cape Winelands District Municipality), Mr G Slingers (Manager of the Department of Solid Waste Management Langeberg

Municipality) and Mr G Arendse (Environmental Officer of the Directorate Waste Management – DEA & DP). The Appellant was also informed by Environmental Officials that to operate a composting facility with a total capacity not exceeding 10 tons per day, will not trigger any environmental legislation and no prior authorisation was thus obligatory. Nothing was said by any official of any Department about the fact that such a facility had to be less than 1 hectare in extent. At the time the Appellant received a document from the Department Environmental Affairs and Development Planning (“DEA”) titled: *Clarification of the Department of Environmental Affairs and Development: Directorate Waste Management’s Implementation of the Requirements for the Treatment and Disposal of Animal Waste*. The document, which was not dated, confirmed the above legal limits to the capacity thereof. Furthermore, the Municipality, again as stated above, never expressly or impliedly indicated at that point in time, that to operate a composting facility below 1 hectare in extent would in any event also trigger a prior rezoning of the relevant area. At the time Tracy Brunings (“Brunings”), a Professional Regional and Town Planner in the employ of the Town Planning Department of the Municipality, was of the speculative view that the definitive status of a compost facility, could be considered to fall under the definition of noxious trade as it is not specifically defined in the zoning scheme. Therefore it may require a footprint rezoning. She expressed this vague opinion in an e-mail of 30 January 2017 to Mr S McLain referred to above. The fact of the matter is that she expressed no clear view regarding the matter until the issue of the first Notice of Non-Compliance on 15 February 2018 as alluded to below.

12. Thus, from the start, the Appellant went out of its way to consult with various officials and experts in the field, including officials in the Departments of the Municipality, in order to obtain all necessary information regarding legislative requirements applicable to the establishment of a composting facility and feedlot. Appellant was informed, as stated above, that a WML was only necessary to operate a composting facility producing in excess of 10 tons per day, but less than 100 tons per day. Appellant however, decided to still

apply for a WML as it may and probably will become necessary to expand the processing of compost to cater for future needs and demands.

13. Hence, the necessary applications were made on behalf of the Appellant by Eco Impact Legal Consulting (Pty) Ltd (*"Eco Impact"*), the environmental consultants of the Appellant and filed with the DEA on 26 January 2018. The Environmental Management Programme (EMPr) with a Site Development Plan, was filed on 26 April 2018. The basic assessment report (BAR) was filed by Eco Impact on 30 April 2018 with the DEA. Anna-Christa Redelinghuys, a local Town and Regional Planner trading as Umsiza Planning (*"Umsiza"*), applied on behalf of the Appellant for the rezoning of Portion 6 from Agricultural Zone I to Industrial Zone II (catering specifically only for an expansion of the facility should that facility process compost in future of more than 10 tons per day) as well as a Consent use for an Intensive Feed Farm. A Site Development Plan (*"SDP"*) was attached to the application to rezone. We attach same hereto marked **"A2"**. The proposed composting site and feedlot are clearly depicted on **"A2"** (as can be gleaned from **"A2"**, the existing windrows of the composting area are also depicted). As stated, the two uses were intended to be inextricably linked to each other as they fulfil interdependent functions. This was already accentuated by Umsiza in her Motivational Report attached to the application. We quote from page 7 of her report: *"The whole area including the existing compost facility and the proposed feedlot with dams and area in between is 8.6ha in extent. This whole area will be used due to the interdependence of the two land uses."* The manure from the feedlot will be utilized as an important ingredient in the compost making process together with organic waste emanating from the slaughtering process at the abattoir. The compost generated will be utilized as a fertilizer to enrich the nutrient poor soil quality on the Remainder of Portion 6, to enhance the production of fodder/feeds for the livestock in the feedlot. When the livestock have reached a certain condition and age, they will in turn be taken to the abattoir to be slaughtered and thus a continuous and sustainable recycling process commences.

14. Apropos of the above, the application for the two land uses were made simultaneously as integrated farming activities and were filed with the Municipality on 24 October 2017. The required further application for approval of the Development on Agricultural Land in terms of Section 53 of the Western Cape Land Use Planning Act, Act 3 of 2014 (*"LUPA"*), was also made by Umsiza and filed with the Directorate: Development Management: Region 2 on 30 October 2017.
15. However and despite the fact that general/organic waste of less than 10 tons per day, was delivered by the abattoir to Portion 6 and converted to compost during the whole of 2017, with the full knowledge of Brunings, the latter (in all probability) caused a Notice of Non-Compliance to be issued to the Appellant on 15 February 2018 (a year after commencement of the operation of the compost facility) (*"the first notice"*). In that notice the Municipality stated (for the first time) that the operation of a composting facility on Portion 6 is in (alleged) contravention of the primary use under Agricultural zone I, for which the property was zoned.
16. At the time we, as the attorneys of the Appellant, were also instructed on its behalf, to comment on the first notice. We attach hereto copy of our representations on behalf of Appellant dated **14 March 2018**, marked **"A3"**. Thereafter no further action was taken by the Municipality although their response was that they did not agree with the contents of our letter of 14 March 2018. We verily believe that the facts and submissions contained in our letter to the Municipality, to a large extent overlap with the facts contained and submissions made in this Appeal. We also deem it necessary as attorneys of the Appellant to bring this under the Appeal Authority's attention. We respectfully submit that our submissions contained in our said letter (**"A3"**) are legally sound.
17. On 13 June 2018 a site meeting between DEA officials and the Appellant took place on Portion 6 to ascertain the extent of the existing compost facility. At that meeting and due to the fact that the exact extent of the composting area was unknown or at least uncertain, the Appellant were

instructed to appoint an independent surveyor to measure the areas included in the compost facility or site to have that issue finally determined. It was clear at the meeting that the extent of the composting site could not be determined from Google earth imagery. Nor could it be gauged by mere physical viewing of the area. That was the reason why a survey by an independent land surveyor was requested by the DEA. The surveyor instructed by the Appellant, conducted a survey of the site on Friday, 22 June 2018. The prior instructions provided by the DEA in respect of exactly what needed to be measured, was sent per e-mail to Etienne Roux (DEA) and Fahd Said (DEA-Law Enforcement) on Friday, **15 June 2018**. We attach this e-mail marked “A4”. “A4” was also forwarded to the Appellant and Eco Impact at the time. The contents of those instructions were clear. The instruction given by the DEA as to what needs to be measured to determine whether the 1 ha has been exceeded or not (in respect of the existing composting site), includes the following:

- the windrows
- raw materials area
- cut-off weir
- collection dam
- finish product area
- the area disturbed under the Escom power lines.

The Appellant viewed, and rightly so, the above list as a *numerus clausus*.

18. It must be noted that the DEA’s own instructions bears testament to the fact that what it perceived to be measured, are those components contained in its instruction letter to the Appellant. The method applied by the surveyor (upon instructions of the DEA) clearly lends support for the notion that only the actual footprint of the existing composting facility should be measured to determine whether a statutory limitation pertaining to an extent has been exceeded. However, the DEA has afterwards rejected the survey as presented to it due to the fact that the areas in between the various components referred to above, were not included in the survey.

19. At this point we must refer to a previous Pre-Compliance Notice of 6 August 2013, issued by the DEA's law enforcement department against the Appellant (Mr Hennie De Bod as the trustee of the Reben Trust and member of SAFAM). In this Pre-Compliance Notice it was stated that the Appellant has allegedly contravened activity 14 on the Government Notice R 546 of 2010. It was also stated that the Appellant (allegedly) "*clear(ed) an area of 5 hectares or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, except where such removal of vegetation is required for purposes of agricultural or forestation ...*" This Pre-Compliance Notice contended that the clearing of an area of natural vegetation was noticed during a site inspection of 1 August 2013.

20. Umsiza was instructed at the time by the Appellant to address the matter and she made representations in that regard to the Directorate: Law Enforcement on **22 August 2013**. We attach herewith copy of that letter (without annexures) of Umsiza, marked "**A5**", in which she specifically addressed the alleged triggering of activity 14 without prior authorisation. She specifically stated on page 2 of her representations that the farm (being Portion 6 of the Farm Middelburg 10, Robertson) had been cultivated in the low lying areas along the Middelkloof in the past. Various photographs were attached showing alien vegetation and the so-called "lay of the land". The land that was at that time being ripped/cultivated/disturbed by the Appellant (during 2013), was thus already used for and cultivated (transformed) with crops such as weed, coriander, soya beans since 1982 up and to 2006 by the previous owner. This information was never placed in dispute nor contested by the Law Enforcement Directorate or any other person since.

21. In fact, a statement by the previous owner, Mr Charl Du Toit was obtained and signed by him on **21 August 2013**. That statement, attached hereto marked "**A6**", was then presented to the said Directorate. As stated the contents of "A6" was not contested by the Law Enforcement Agency at the time, nor ever since. The content of the statement by the said Mr Du Toit

must therefore be regarded as indisputable evidence of the status or state of the existing biodiversity on Portion 6 since at least 2006 and before.

22. This information pertaining to the 2013 Pre-Compliance Notice was in fact presented to the DEA on 14 December 2017 by Eco Impact. It also forms part of the Draft BAR submitted to the DEA on 14 March 2018. That report is not attached hereto as it is too bulky.
23. We contend and have contended on behalf of the Appellant at all relevant times, that the Appellant was simply conducting an ancillary use to agriculture in the production of compost on Portion 6 for agricultural purposes; not commercial purposes. It is conceded that when the capacity of the compost facility should expand to more than 10 tons of compost per day and used for commercial purposes, the undertaking or use will evolve into an industrial use, due to the increased capacity and commercial purpose of the facility. That is the very reason why the Appellant has applied for a WML to cater for future expansion of the processing capacity of more than 10 tons per day. Likewise, that is the reason (and the only reason) why the Appellant applied for the rezoning of Portion 6 to Industrial II to cater for future expansion of the capacity of the compost facility. The existing compost facility as such also cannot and does not constitute a combination of agriculture and industrial uses and therefore a mixed use. As stated repeatedly in the past, the conversion of agricultural by-products or organic waste (obtained from the farm itself or from other sources like the abattoir) into compost in a limited volume (less than 10 tons per day and used as fertilizer on the same farm), can never be regarded as industrial in nature or any use other than agriculture (as long as it is not used for commercial purposes. Which it was not). This was the stance taken by the Appellant and its attorneys at all relevant times and still is.
24. We attach hereto a letter by Du Bois attorneys (ourselves) addressed to the Municipality dated **3 May 2018**, marked “**A7**”, which refers to the definition of agriculture. That letter must be read in conjunction with our previous letter to the Municipality of 14 March 2018 (“**A3**”). These two letters are with

respect, applicable to this Appeal, *albeit* indirectly, in the sense that they provide context and perspective to facts and contentions contained in this Appeal document. These facts and submissions turn on historical events which took place in respect of the compost facility and the feedlot and how it came about that litigation ensued between the Appellant and the DEA regarding the compost facility as such.

25. The area of 3.6ha depicted in the SDP as the compost area, is clearly much larger than the existing footprint of the composting facility *per se*. The 3.6ha area is earmarked to accommodate all ancillary and integrated activities forming part of a fully functional composting process as a whole, including any future expansion thereof, if and when it may become necessary to produce compost at a higher rate than the present maximum limit of 10 tons per day and to dispose of some of it commercially. No other deduction can be made from the BAR and the SDP and any reference made in that report and SDP as to the extent of any area concerned, had to be viewed in that context. The designated composting site will in all probability be expanded in future (within the composting area of 3.6ha), but only once the WML Licence has been obtained.
26. It is also specifically accentuated in the BAR that the capacity of the facility is at present and at all relevant times, 10 tons per day (not more) which will not trigger Environmental authorization. Reference is also made to the adjacent feedlot for which a consent use for intensive farming, was at the time also pending. The BAR specifically states that although the site was identified as a Terrestrial CBA, this is however not consistent with the existing status of the site, which had been completely transformed as a result of legitimate past and existing farming activities as referred to above.
27. Although a large part of the information provided above pertains to historical events/facts and specifically legal issues that culminated in litigation between the Appellant and DEA, we deem it necessary, as stated, to provide a broad perspective of events which have transpired and which also have a bearing, *albeit* indirectly, on the current matter under appeal.

CORRESPONDENCE DURING 2018 BETWEEN THE MUNICIPALITY AND UMSIZA PURSUANT TO FURTHER INFORMATION REQUESTED BY THE MUNICIPALITY:

28. On **18 May 2018** the Municipality addressed a letter to Umsiza following a site visit by the Municipality on 16 May 2018. We attach hereto the said letter, marked “A8”. Information regarding a storm water management plan, a 32m buffer along the Middelstekloof river as well as a re-defined boundary of the “proposed” composting facility had to be submitted.

29. On **2 October 2018** Umsiza responded in writing by submitting the further information as requested in “A8”, copy of which is attached hereto marked “A9”. With regard to the storm water management plan she referred to the soil study and relevant EIA documents already submitted to address this issue fully with regard to capacity and location of the dams as well as information already submitted in terms of the BAR to cater for potential heavy rainfall conditions. Reference is also made to the BAR and EMPr reports filed by Eco Impact which reports addressed all the issues raised by the Municipality in “A8”. An amended SDP was attached to “A9” by Umsiza, depicting the existing compost facility i.e the windrows/bulk piles, the existing finished product area and proposed raw material and finished product area. For some reason the word “*proposed*” was inserted above the words “*compost facility*”. It was probably done simply due to the fact that the application for rezoning was still pending. For reasons which would become clear later, the word “*proposed*” in the decreased area of the compost facility (decreased from 3.6ha to ±1.3ha) on the amended SDP did not confuse Brunings. She at all relevant times up to at least the date of her report, still regarded the original area [depicted in the original SDP (“A2”)] of the proposed compost facility as the 3.6ha (and rightly so) applied for in the application by Umsiza. This much appears from the Land Use Planning Assessment Report compiled by Brunings, referred to and discussed in paragraphs 30 to 48 below. Despite the fact that the “proposed” composting facility was indicated in the amended SDP as consisting of a smaller area

(between $\pm 1\text{ha}$ and $\pm 1.3\text{ha}$) and ostensibly does not include the other necessary components comprising a compost facility, i.e. the collection dam and the channels and cut-off weirs to direct water flowing from the compost facility and the feedlot to the lower collection dam, the latter features were also depicted in the amended SDP attached to “A9”.

LAND USE PLANNING ASSESSMENT REPORT FOR LANGEBERG MUNICIPAL PLANNING TRIBUNAL (DECISION-MAKER) FILED BY BRUNINGS ON 18 JANUARY 2019:

30. We attach herewith copy of a report compiled and submitted by Brunings to the decision-maker on the above date, marked “A10”. We do not know whether Brunings sat as a member of the decision-maker in this matter. However, as we understand her position, she had to fulfil the role of investigating official and was appointed to investigate relevant circumstances surrounding the application for the two land uses and advise the Tribunal as to relevant and important facts and factors to enable the decision-maker to make an informed and unbiased decision. As can be gleaned from this report, it contains a summary of facts, allegations by objectors and assumptions pertaining to the pending application and the Appellant’s motivation in respect of the two relevant land uses applied for. The report was concluded with a recommendation by Brunings to the decision-maker taking into account various factors regarded by Brunings as relevant and important. This report came to our attention after the decision was made not to approve the feedlot.
31. Many important factors are to be noted from this report. We will deal with most of them in turn. Mention is made of the Appellant’s intention to relocate the existing feedlot on Portion 47 of the Farm Roodehoogte No 47 (“Roodehoogte feedlot”) to Portion 6. It is further stated that the manure collected from the feedlot will be used in the composting process together with wood chips obtained from the Municipality. This is of course true.

32. It is furthermore insightful to bear in mind that at the date when the report was compiled by Brunings, she was already in possession of “A9” (letter from Umsiza of 2 October 2018) to which was attached (inter alia) the amended SDP referred to above. Despite the amended SDP, Brunings submitted on p.2 of “A10” as follows and we quote:

“The site currently accommodates: a store, worker’s house, kraal and weigh station, dams and 15ha of grazing. 3.6ha of previous grazing area has been cleared to accommodate the compost windrows and effluent collection dams.”

Windrows of $\pm 1,5\text{m}$ high and 2m wide will rotate around the 3.6ha site as and when compost matures and is ready for sale. The composting process requires regular turning of the windrows. $\pm 20\text{m}^3$ of compost will be produced per day. Compost will be sold both in bulk and bagged for sale to farmers”.
(our underlining)

33. After all, reference is specifically made by Brunings, to additional information lodged on 2 October 2018 which is the letter by Umsiza (“A9”) with the amended SDP “erroneously” referring to the existing composting facility as the “proposed” compost facility.
34. Objections against the Application by three objectors, were referred to and summarized. The objectors mainly raised concerns regarding odour and fly escalation. What is interesting is that, “*Objector 1 advised on 16 January 2019 that they have nothing to complain about in terms of odours; fly activity has increased, but could be from livestock farming and/or due to drought conditions, not necessarily the compost.*” It should be noted that the property of Objector 1 is closest (adjacent to Portion 6) of all the Objectors to the proposed feedlot and composting site. Objector 3 is located more than 2.3km from the site and Objector 2 even further away.
35. In Part G (p.5 of “A10”) a summary is made of comments from various Organs of State and/or Municipal Departments. All 13 of these institutions

replied by way of comments and/or recommendations. Only 2 of those made negative comments namely, the DEA-Environmental Impact and DEA-Waste Management. The negative comments made pertain to the lapse of the EIA application by Eco Impact and the rejection of the WML. As stated below, both these two negative comments have since been addressed and set aside in a review application by the Appellant, resulting in a Court Order obtained by way of settlement. This **Court Order** is conveniently attached hereto, marked “A11”. It must be noted further that at the time of the date of this report by Brunings, the Court Order had not been obtained yet.

36. It will be noted from the report by Brunings that the Provincial application in terms of Section 53(1) of LUPA had been approved by Province on 9 May 2018, prior to the date of the report. The reasons provided by Province pursuant to their approval, are stated as:

- *“The site was previously used for pastures*
- *The windrows are located on buffer and agricultural SPCs in terms of the LSDF.*
- *In terms of the management guidelines compost facilities are often located outside the urban edge and should be on previously disturbed land of low biodiversity or agricultural value.*
- *In terms of the National Organic Waste Composting Strategy, organic waste should be diverted from landfill sites and composting is one alternative treatment method.*
- *The WCPSPDF (Policy 4) advocates recycling to increase waste disposal sites’ lifespan.*
- *Given the location, topography, distance to Middelstekloof river, soil conditions and availability of services and infrastructure, the location of the composting facility is supported. It has an agricultural feel with no negative visual impacts.” (our underlining)*

(It should be pointed out that exactly the same ecological biodiversity state exists at the proposed site of the feedlot.)

37. At the top of p.9 of the report it is stated that during a site meeting held on 15 February 2017 with the owner and various authorities, including officials of the Municipality, the owner (Mr Hennie De Bod of the Appellant) was allegedly advised that he did not have all the required approvals in order to conduct the waste composting facility on the property in question. It is not stated who informed the said "owner" as such. Be that as it may, this statement is blatantly untrue as had been stated previously in the past. We refer to paragraph 4 of "A3" (letter by Du Bois Attorneys addressed to the Municipality on 14 March 2018). In paragraph 2.2 of "A10" reference is made to a notice (first notice) which was served on the Appellant advising them that no (un?) authorized activities may take place. This notice was sent to the Appellant on 15 February 2018, exactly 1 year after the site meeting referred to in this paragraph. Furthermore, the penalty fee referred to in paragraph 2.2 of the report, was specifically paid under protest and simply to speed up the pending applications and not as an acknowledgement of having transgressed any Municipal Bylaws or any other Provincial or National Legislation. Brunings is very aware of the stance taken at the time by the Appellant and his attorney.
38. Importantly Brunings states in paragraph 3.2.5 (p.10 of the report), that and we quote: *"Further, the total future extent of the proposed composting facility requires a license for a listed activity in terms of the NEM:Air Quality Act 39/2004 and the NEM:Waste Act 2008..."* (our underlining).
39. On page 13 of the report Brunings came to the conclusion that the composting facility complies with all relevant Rural Land Use Planning and Management Guidelines and the LSDF. She also finds that the proposed composting of abattoir waste is compliant with NOWCS, 2013 and one of the most environmentally friendly ways to process and treat this waste, turning it into a useful input product in the agricultural sector rather than dumping or burying this waste or unnecessary filling up landfill space.

40. However, in shrill contrast to this finding and most surprisingly, Brunings advised that the proposed intensive feed farm is not consistent with the WCPSPDF and Rural Land Use Guidelines due to the fact that its location is allegedly predominantly within a Core SPC which forms an important ecological corridor. We contest this finding as it militates against the harsh reality and a ground truth evaluation of that specific site, of which Brunings is or should be astutely aware of. Herein below more detail will be submitted in support of this challenge.
41. In paragraph 6.5 of the report Brunings states the following regarding impact of odour, flies and noise on neighbouring uses: *"Many agricultural practises generate similar adverse impacts e.g. dairies and piggeries. All investigations by officials from DEA&DP, Department of Agriculture and CWDM have determined that the odour and flies from the composting facility are within acceptable limits in terms of the health and environmental legislation. The reports include the following statements: Flies are not excessive; provision for fly control are in place; no larvae were found; no evidence of "blue fly"; composting site was clean with no strong odours during inspection. DEA& DP confirmed these findings in an e-mail dated 28 November 2018 which notes the following: No major issues relating to flies, smells and other nuisances were experienced."* (our underlining)
42. However and despite the above conclusion by Brunings, she speculatively contends for the following in paragraph 6.6 of the report: *"The location of a feedlot on this site would increase the odours and flies generated from this site and the cumulative impact needs to be considered."* (our underlining) It must be borne in mind that the compost facility or feedlot for that matter, do not generate in the sense of producing or breeding flies. At most, it may attract flies from the surrounding area.
43. If one should bear in mind that unlike the composting facility which existed from February 2017 to the present (with odour and fly population within acceptable limits) the submission in paragraph 6.6 flies in the face of pure logic and is patently based on pure speculation. The fact of the matter is that

there currently exists no feedlot on Portion 6. The so-called cumulative impact as pointed out by Brunings, must therefore, by necessary implication based on no hard evidence, let alone proof of any such an eventuality.

44. At the bottom of page 18 of the report Brunings at least gives credit to the socio-economic impact of the applications and she specifically states: *"The compost facility represents a positive investment in the agricultural economy of the area, with associated positive implications for job creation and availability of compost for the agricultural sector. There is no socio-economic assessment to determine the potential negative impact on tourism and tourism related employment. However, the potential negative socio-economic impact is dependent on the degree to which the impacts of pests and odour are satisfactorily addressed through the on-going implementation of the SOPs."* (our underlining)

What is patently evident from the above quote, is that it holds true for and equally applies to the proposed feedlot!

45. A different angle of approach by Brunings however, again rears its head in paragraph 9.2 of the report. Here she mentions an aspect which was not canvassed or addressed in any prior correspondence to the Appellant and/or Umsiza. This aspect pertains to so-called ethical concerns resulting from the location of a feedlot for live animals on the same site as a compost facility for dead animals. To prove that this is purely a speculative question raised by Brunings herself, she further comments in the same paragraph that: *"The Department of Agriculture has been asked to comment as to whether or not there is any specific basis in terms of fear/negative reactions of sheep to smells of abattoir waste and/or any implications in terms of food safety. No comments have been received in this regard."* (our underlining)

46. Finally, in Part K of the report she recommended to the decision-maker to approve in terms of Section 60 of the LLUPB PN 264/2015:

- Rezoning a 3.6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning. (our underlining)

47. However and glaringly against most of her own findings of fact and observations, she recommended that the application for the consent of an intensive feed farm not be approved.

48. Interestingly, the reasons advanced for this recommendation re the refusal of the intensive feed farm, were stated by Brunings to be the following (summarized):

- The intensive feed farm affects the environment and the decision-maker is not satisfied that environmental legislation has been complied with.

Comment by the Appellant: this reason has of course since fallen by the wayside in terms of the Court Order referred to above.

- Insufficient information has (allegedly) been provided to enable the decision-maker to conclude that the proposed intensive feed farm will not infringe on the right to an environment which is protected, not harmful or polluted and where natural resources are sustainably used while promoting justifiable, economic and social development given the following. She then refers to the fact that, according to her observations, the proposed feedlot furthermore falls within a Core 1 SPC. She also refers to the lapse of the application in terms of NEMA as well as investigations by DEA and Breede-Gouritz Catchment Management Agency (“BGCMA”) into the expansion of the dam in the upper reaches of the Middelstekloof river, which are still in process and which might impact on desirable buffers to that river (“the Middelburg dam”). Lastly, she refers to the alleged water use license application

which is (allegedly) still in process and which might impact on access to adequate water to the proposed feedlot.

Comment by Appellant: As stated in these appeal grounds, the above reasons, apart from most of them being erased by the Court Order and the fact that the Middelburg dam has since been verified, classified and being certified as an existing lawful water use (as will be alluded to below in more detail), are misguided, glaringly misplaced and militates against the remainder of the contents of her own report. We will when we address the current existing Roodehooqte feedlot (below in paragraphs 75 to 86), present unassailable proof, let alone reliable evidence, that a feedlot does not necessarily evokes fly, odour and other related environmental problems, as contended for by Brunings in her report.

THE SECOND NOTICE OF NON-COMPLIANCE ISSUED BY THE MUNICIPALITY

49. Barely a month after Brunings's recommendation to the decision-maker to approve the rezoning Application pertaining to the compost facility, she (in all probability) caused a Second Notice of Non-Compliance to be issued against the Appellant.
50. This notice dated **25 February 2019** and addressed to Mr H De Bod of the Appellant, (the "*Second Notice*"), is attached hereto marked "**A12**".
51. In the second notice the Appellant is for the second time accused of having illegally continued to operate a compost facility on the site at Portion 6.
52. However this time round the Appellant was instructed to "*immediately make alternative arrangements for the disposal of the Robertson Abattoir waste, and await the outcome of the abovementioned application*".

53. The first notice referred to hereinbefore, was even more stringent. It demanded that the Appellant had to immediately cease operating the compost facility on Portion 6.
54. Both notices threatened that should the Appellant fail to adhere to its demands, further action will be taken by the Municipality, which may include prosecution.
55. We as attorneys of the Appellant were again instructed to reply to the Second Notice, which we did on **4 March 2019**. We attach hereto our reply, marked "**A13**"
56. The Appellant is of the view and was at the time (and since) that the issuing of two notices of Non-Compliance against it in the prevailing circumstances, was to say the least vexatious and akin to harassment of its (the Appellant's) lawful endeavours.
57. Our instructions were at the time to object to these infringements upon the Appellant's rights. In paragraph 12 of "A13", we stated on behalf of the Appellant the following: *"Should your Municipality furthermore decide to make application to a civil Court for an order against our client to cease the current activity, same will be opposed on inter alia the grounds set out in the relevant correspondence. In such a case, a punitive cost order will be applied for against your Municipality due to your continued vexatious disregard of our client's rights. The manner in which your Municipality has handled this matter, from the start, is not only a disgrace but can be viewed as akin to unlawful harassment of our client in its bona fide endeavours to do the right thing. And in the process solving your Municipality's primary obligation to dispose of abattoir waste through objectionable landfill options."*
58. We also pointed out in the same letter that a year has lapsed since the First Notice was issued, and more than two years since our client commenced with the production of compost on Portion 6 with the full knowledge of the Municipality.

59. We attach this Second Notice for a reason. It confirms the Appellant's firm view that the Municipality and specifically Brunings have over the past two years not only delayed the application process unreasonably, but as demonstrated above and below, taken action or delayed action which can only be viewed as vexatious and borders on being malicious towards the Appellant.
60. As will be further demonstrated below, the pending application process and the resultant delay thereof has already cost the Appellant R2 million and the amount keeps rising. Due to the delay in the applications to the DEA as well as the application for the two land uses, the Appellant has been suffering and still suffers losses in the order of R140 000.00 per month.

THE MIDDELBURG DAM:

61. It is important to note the following facts/factors revolving around the lawfulness of the expanded Middelburg dam and the verification thereof as well as the verification of the cultivated lands in terms of Section 35(4) of the National Water Act, Act 36 of 1998 (*"the NWA"*).
62. On **13 May 2019** the Reben Trust applied to BGCMA for the confirmation of an existing lawful water use on the property Portion 6. We attach hereto the said application form with relevant google maps indicating the cultivated lands, during the so-called window period, marked **"A14"**.
63. The Appellant has also, much earlier, applied for the classification of the Middelburg dam by a qualified engineer, which is attached hereto, marked **"A15"**. That application for the classification was already submitted on **10 August 2017** as per official Application form attached hereto marked **"A16"**.
64. On **10 December 2018** the Middelburg dam was classified and the report regarding the alleviation by the Dam Safety Office was accepted by that

office. I attach hereto the said acceptance by Department of Water and Sanitation dated 10 December 2018, marked “A17”.

65. On **17 April 2018** application was made on behalf of Reben Trust to BGCMA by Messrs Du Bois Attorneys for the verification of a water use in terms of Section 35 of the NWA. The application for verification pertains to two water uses being, the taking of water in terms of Section 21(a) of the NWA as well the storing of water in terms of Section 21(b) of the NWA. I attach the said application together with aerial maps and other annexures pertaining to 13 dams in the Middelstekloof river, marked “A18”.
66. The required official application forms were submitted to BGCMA on 13 May 2019 as per their acknowledgement of receipt dated 16 May 2019.
67. On 20 June 2019 the official verification certificate in terms of Section 35(4) of the NWA was received from BGCMA pertaining to the following:
 - the taking of water for irrigation purposes in terms of Section 21(a) of the NWA in a yearly volume of 244 360 cubic metres of surface water; and secondly
 - the storage of water in terms of Section 21(b) of the NWA in a yearly volume of 111 801 cubic metres.
68. Thus, the taking of water from the Middelstekloof river and its catchment area, was legalized and confirmed to be an existing lawful water use in the volumes stated above. Furthermore, the Middelburg dam was verified and confirmed to be a lawful existing structure with a capacity of storing 111 801 cubic metres. I attach hereto the said verification certificate signed by BGCMA on **20 June 2019**, marked “A19”.
69. We assume that the tribunal was aware of the verification of not only the Middelburg dam (to hold a capacity of 111 801 cubic metres of water), but also of the fact that it was classified and cleared as a dam with a safety risk,

which complied with all the safety measures applicable to that dam. If the tribunal and specifically Brunings, was not aware of this development, it is simply due to a lack of proper investigation by Brunings; not a lack of providing that evidence by the Appellant.

70. We have noted that the decision letter was also sent to *inter alia* an employee of BGCMA, one Nfeni. Considering the fact that in her letter of 12 April 2019 Umsiza specifically stated that the application for the verification of the Middelburg dam prepared by Hannes Du Bois was in process and was expected to be finalized soon, one should have expected that the Tribunal and specifically Brunings, would have enquired from Mr/Mrs Nfeni of BGCMA, whether the application for verification was still in progress or whether it has been granted, before they made their decision to reject the proposed feedlot. If Brunings had made one simple telephone call to BGCMA, (as such action falls perfectly well within the ambit of her role as investigating advisor to the Tribunal), the fact of that verification having taken place in June 2019, would have been confirmed to her.

71. However, in ad paragraph 1 of the reasons of the decision letter, a mere assumption was made that the expansion of the dam in the Mountain Catchment Area of the farm (Middelburg Dam) is still in progress and the concern of the decision maker appears to be that this might impact on access to adequate water for the proposed feedlot. We know now that this is not a problem anymore. The dam can currently hold close to 100 000 cubic meters of water, which provides an ample alternative source of water for the feedlot, should that become necessary somewhere in the future. The dam furthermore has been provided with an outlet pipe which runs down Portion 6 to where the current borehole is located which borehole will supply water to the feedlot. This pipe can be connected to the pipe leading from the borehole within minutes. This means that should the borehole for some reason or other not deliver enough water for the feedlot, it can immediately be supplemented by water from the Middelburg dam.

72. The concerns raised pertaining to the water supply to the feedlot, as one of the prime reasons why the consent use for a feedlot has been rejected, have therefore been erased completely. We must add that the reason why the verification certificate has not been submitted to Brunings, was simply the fact that she never requested it. Nor did she request that it be forwarded to her as soon as it is at hand. Thus the Appellant/Umsiza were under the reasonable impression that the decision maker was fully aware of the status of the dam when their rejection decision was made.
73. The environmental investigation regarding the Middelburg dam is indeed still in progress, but nothing can alter the fact that the dam has been verified as an existing lawful dam which may lawfully store 111 000 cubic metres of water. We point out that is patently evident from the letter of 22 February 2019 as confirmed by the contents of the decision letter, that the concerns regarding the Middelburg dam is the fact that it cannot be used as an alternative source of water until it has been legalized. The fact of the matter is that it has now been legalized despite the pending environmental investigation, which is still under consideration, after full written reasons has already been submitted to the Department's Law Enforcement Directorate on 30 May 2018. That investigation concerns the fact whether the dam was expanded with or without environmental authorization, which is totally irrelevant to the question whether the taking of water from and storing of water in the Middelburg dam is a permissible water use in terms of section 21 and 22 of the NWA. The current issue concerns the fact whether an lawful alternative source of water is or will be available, should the borehole prove to deliver inadequate water to the feedlot.
74. Furthermore, if Brunings would have requested Umsiza, after receipt of the latter's letter of 12 April 2019, to kindly inform the former if and when the verification has been finalized, obviously this would have been done.

THE EXISTING ROODEHOOGTE FEEDLOT:

75. We have already referred above in passing to the Roodehoogte feedlot. We however deem it of the utmost importance to provide more detail to the Appeal Authority, pertaining to the approval of that feedlot by the Municipality in 2014.
76. On 20 January 2014 that feedlot was approved by the Municipality (Brunings was also involved in that application and should be aware of all the facts and circumstances pertaining to that approval). The approval provides for a consent use for an intensive feed farm for a maximum of 2500 sheep and an intensive feed farm for 300 cattle, the total area of the “two platforms” to be approximately 1.2 hectares. It must be noted that this feedlot (in its proposed extent) is twice the size of the proposed feedlot at Portion 6.
77. Umsiza was incidentally also involved in that application on behalf of Shalva Trust who is another trust of which Mr Hennie De Bod is a trustee.
78. We have perused the said approval of the Roodehoogte feedlot by the Municipality with the accompanying environmental authorization given by the DEA: Directorate Environmental Governance. The conditions of that approval refer to the site development plan as well as the conditions of authorization as prescribed in the environmental authorization.
79. What is most interesting, however, bearing in mind the locality of that feedlot, is the fact that no atmospheric report pertaining to a possible/potential increase in the fly population which the feedlot may generate, was requested by the Municipality. More surprisingly so, due to the fact that the feedlot is located in close proximity to various households/farmsteads and the outskirts of the Robertson residential area.
80. To confirm the above, we attach herewith, marked “A20”, a google SPC map depicting the feedlot, the biodiversity area in which it is located (so-called ESA-Terrestrial) and its surroundings as well as the approximate

distance from households and the residential area of Robertson. The locations of the referred households and residential area cover all wind directions from the feedlot. As can be gleaned from “A20” the distances vary from approximately 500m to approximately 700m.

81. One should have expected that the Municipality, considering the unwavering stance taken by them in the current matter under appeal, would at least have requested an Atmospheric Report or would have prescribed strict measures to be implemented by the applicant to curtail a possible escalation of the fly population in that area. Yet, no such report or even measures to be implemented by that Applicant, as a condition of the approval, were required or stipulated at the time, to cater for such an eventuality. Inconsistent and irrational behaviour on the part of the Municipality, (Brunings?) in the extreme.
82. However, it was since shown that an Atmospheric Report at Roodehoogte feedlot, was unnecessary as no complaints regarding odour or an escalation in the fly population emerged since the approval of that feedlot. Shalva Trust has not received any such complaints from either inhabitants of the surrounding area or from the Municipality. Thus, this fact alone provides irrefutable evidence that a feedlot run by the Appellant (as in the case of the Roodehoogte feedlot), is or will be managed in such a way as to keep any fly population at bay or at least within acceptable limits.
83. In fact, the Roodehoogte feedlot provides an empirical blueprint of the most reliable source of evidence available – an up and running (existing) fly free (or at least zero evidence of a fly escalation or fly problem) feedlot for the past 5 years by the very same Appellant, albeit a different trust (the Shalva Trust). And furthermore that evidence has been, at all relevant times, readily at hand. And alarmingly, within the knowledge of Brunings. Evidence so much more reliable than reports laden with at least a certain amount of speculative guesswork based on ifs, mights and maybes.

84. After all, reports pertaining to something that will happen in future (like an Atmospheric Report), are in essence and by their very nature, open to at least a certain amount of speculation. Reliable facts do not exist yet. But the Roodehoogte feedlot does! And we know that the atmospheric conditions in respect of a possible escalation in the fly population regarding the existing compost facility at Portion 6, has been satisfactorily addressed by the Appellant. Brunings's own report bears testament to this. So why should a report be filed in respect of the proposed feedlot and its alleged cumulative effect or impact on the fly population or odours, where such a report was in the first place, not deemed necessary in respect of the approval of the existing compost facility at Portion 6? Or for that matter, why was an Atmospheric Report not requested by the Municipality in respect of the Roodehoogte feedlot?
85. As stated, a report which serves to evaluate the chances of some future eventuality happening, inherently presupposes that conclusions have to be drawn upon assumptions made. This of course begs the question: why did Brunings not utilize this available evidence in the form of the existing, for all practical purposes, "fly free" Roodehoogte feedlot to address this very issue by way of comparison and furthermore share it with the decision-maker? No, what she did instead, was rather to advise the decision-maker to reject the proposed feedlot due to inter alia a "missing" Atmospheric Report. Her only comment regarding the EMPr (in respect of Roodehoogte feedlot) was noted to be the following: *"The EMP has not been submitted with the EIR. No assessment has been made of the impact of this development on the natural environment which relate to the construction of the two embankments, the infilling within the natural drainage line and the resultant alteration of storm-water. The quantity and quality of water should also be addressed. The EIR addressed only the existing feedlot, but the impact of the whole development must be assessed as a whole."* It appears as if Brunings did not even refer to the possibility of an escalation of the fly population in the vicinity of various households and farm steads. Furthermore and even more importantly, she seems to have lost sight of the ESA SPC applicable to that site. The explanation for this "oversight" can only lie in the fact that although the

applicable area falls within an ESA: terrestrial (an important ecological biodiversity area), it no longer could be regarded as such due to prior clearing of the area and development thereof. If one should compare her comments and responses to the natural environment of the Roodehoogte feedlot, it differs completely from her stance in the current matter.

86. If she did share the available evidence regarding the Roodehoogte feedlot with the decision-maker, surely this would have (or at least should have) played a role, if not a major one, to sway their decision in favour of the approval of the consent use for the proposed feedlot. Or the decision letter would at least have dealt with it. Bear in mind that nothing was said by Brunings pertaining to the Roodehoogte feedlot, nor did she even refer to the latter feedlot, in her report of January 2019 ("A10"). She rather chose, so it appears from her own report, to intentionally ignore this vital piece of evidence and/or intentionally conceal it to the decision-maker.

CORRESPONDENCE BETWEEN DEA: AIR QUALITY MANAGEMENT ("D:AQM") AND APPELLANT:

87. On **13 April 2018** the D:AQM addressed a letter to Eco Impact, attached hereto marked "**A21**", responding to the Draft BAR which was received by them on 15 March 2018. We quote from paragraph 2 of that letter:

"The D:AQM previously reviewed the application and provided comments for consideration by the applicant. After reviewing the abovementioned official DBAR, and the comments and response report, the D:AQM notes that the applicant has addressed all matters by including it within the Draft Environmental Management Programme (EMPr)." (our underlining)

88. The said letter of D:AQM ("A21"), referred to their previous comments for consideration provided to the applicant on a previous occasion. In that regard they refer to a letter of **12 July 2017** addressed by D:AQM to Eco-Impact. I attach hereto a copy of that letter, marked "**A22**".

89. In "A21" D:AQM stated that they carefully reviewed the application for the proposed Robertson Abattoir compost facility and feedlot and made the following comments for consideration by the appellant. Reference is then made to dust and noise control Regulations and specifically to odour emission impact management.
90. The D:AQM further states that they are aware of the fact that the facility has received complaints regarding alleged excessive odour emissions emanating from the composting plant. They then further referred to the proposed SOPs mentioned in the pre-application BAR and that it should be instituted and maintained in the daily operational production process.
91. These comments were put to the Appellant for consideration and to be addressed. As stated, all the concerns raised by D:AQM regarding odours (and by necessary implication, flies) were in fact addressed to the satisfaction of D:AQM.

APPELLANT'S COMMENTS ON THE REASONS SUBMITTED BY THE DECISION-MAKER FOR THE REFUSAL OF THE INTENSIVE FEED FARM AS CONTAINED IN THE DECISION LETTER:

We will henceforth separately address and comment on each and every reason for its decision to refuse the intensive feed farm, submitted by the decision-maker, as contained in the decision letter of 31 October 2019.

92. AD REASON 1 OF THE DECISION LETTER:

- 92.1 It appears as if this reason plays a major role in the decision not to approve the consent use for the intensive feedlot on Portion 6. It is alleged by the decision-maker that the information provided by the Appellant and its consultants are incomplete. It is further stated that the water supply for the feedlot is limited to one borehole and there is no currently available alternative water source in emergency situations such as drought or low water

levels. Special reference is also made to the fact that investigations into the expansion of the dam in the Mountain Catchment Area of the farm are still pending. Naturally, this may impact, so it is stated, on access to adequate water for the proposed feedlot. Lastly it is stated that alterations to the dam were not included in the scope of work for the BAR.

92.2 From the above it appears that the decision-maker was persuaded by an alleged lack of information regarding the availability of an adequate supply water for the feedlot, especially in emergency situations, due to the presumed fact that water from the Middelburg dam might not be available due to the pending legal investigation. This aspect, according to this reasoning, may or shall then have a negative impact on access to adequate water for the proposed feedlot.

92.3 This aspect is no longer applicable and thus cannot serve as a reason to reject the proposed feedlot as comprehensively submitted under the heading "Middelburg Dam" in paragraphs 61 to 74 above.

92.4 It has become necessary to review correspondence between Brunings and Umsiza during 2019 leading up to the decision letter. On **22 February 2019** the Municipality addressed a letter to Umsiza, attached hereto marked "**A23**", requesting certain information. Umsiza provided the requested information in a letter to the Municipality dated **12 April 2019**, attached hereto marked "**A24**". We deem it necessary to respond separately to the contents of this letter and the response to it by Umsiza.

Ad letter of 22 February 2019 ("A23"):

- 92.4.1 In “A23” reference is made to the fact that the Municipality was at that stage unable to take an informed decision due to “alleged” insufficient information available in terms of Section 60 of LUPA 2015.
- 92.4.2 This “alleged” insufficient information was mentioned in the remainder of “A23” with specific reference to firstly Section 42(2) of SPLUMA regarding compliance with environmental legislation. The Municipality then refers to the EIA Application which has lapsed, the Waste Management License Application which has been rejected and the fact that the Water Use License Application is still in progress.
- 92.4.3 In the response of Umsiza (“A24”) to “A23”, reference is firstly made to the fact that no Water Use License Application was in progress due to the fact that a Water Use License pertaining to the proposed compost facility and feedlot was not necessary, nor a legal prerequisite.
- 92.4.4 Umsiza explained that in terms of Section 3(1) of Regulation 665 of 6 September 2013, the collection dam on the SDP has only been registered (as opposed to having applied for a license) in terms of a general authorization under Section 21(g) of the NWA, pertaining to the disposal/re-use of waste water in a manner which may detrimentally impact on a water resource.
- 92.4.5 In terms of that Regulation a water license is not required where the collection dam of waste water can hold less than 5 000 cubic metres. As the decision-maker should be aware of, the capacity of the waste water collection dam in the SDP, is 1504.8 cubic metres as per diagram of

the dam volumes on Portion 6, attached to the letter of Umsiza dated 2 October 2018 ("A9").

92.4.6 The Regulations only prescribe registration of such a water use if waste water is stored or collected in excess of 1 000 cubic metres. Application for this registration had been done by Eco Impact, the environmental consultant of the Appellant. The registration however, has still to be confirmed by Breede-Gouritz Catchment Management Agency ("BGCMA"). It must be borne in mind that registration of a water use is only an administrative process by which the water use is registered on the so-called WARMS database of the Department of Water Affairs and Sanitation ("DWS"). Registration as such however, is not an entitlement to that water use.

92.4.7 There are only four recognized lawful water uses under Section 22 of the NWA:

- Schedule 1 water use (water for household purposes);
- a water use permissible pursuant to a general authorization (Section 39 of NWA);
- a water use permissible as a continuation of an existing lawful water use (Section 32 read with Sections 34 and 35 of the NWA);
- A water use permissible pursuant to a license in terms of Sections 40/41 of the NWA.

92.4.8 With reference to paragraphs 2.1 and 2.2 of "A23", both are not applicable anymore pursuant to the Court Order in the settled case between the Appellant and the Minister of

Environmental Affairs and the DEA, already submitted to the Municipality on 25 October 2019.

92.4.9 Paragraph 2.3 refers erroneously to a Water Use License application which is allegedly still in progress. This is, as stated above, not the case as it is apparent that the Municipality and/or Brunings is confused between the application for the registration of the general authorization in terms of Section 39 of NWA and an application for a Water Use License *proper* in terms of Section 40 read with Section 41 of the NWA. The only water use that is applicable in this matter is the water use pertaining to waste water under Regulation 665 of 6 September 2013 referred to above. As stated, this is not an application for a water use license, but simply an application for registration of a water use permissible as a general authorization.

92.4.10 With reference to paragraph 3.1 of “A23”, the decision-maker requested an Atmospheric Impact Report which must be prepared with regard to the (alleged) cumulative impact of the compost facility and feedlot in terms of odours and flies.

92.4.11 Umsiza extensively responded to this request in “A24” and referred to the Draft BAR (dated October 2017) and EMPr compiled and filed by Eco Impact, which reports listed all possible impacts and how to address those impacts on the environment. Umsiza attached an extract from the said reports confirming all practical measures to be implemented in curtailing any excessive odour as well as a possible increase in the fly population as a result thereof.

92.4.12 In this regard Umsiza refers on page 4 of her response to the Middelburg dam and that the application for verification of that dam is prepared by Hannes Du Bois, which is in process and expected to be finalized soon. Lastly, she addressed the amount of lambs being 4500 lambs which will need approximately 13 961 cubic metres of water per year. The capacity of the borehole providing water to the feedlot, is indicated as 14 000 cubic metres which is still more than the required water for the feedlot.

92.4.13 It would appear as if the questions asked regarding a Storm Water Management Plan and the desirability of the buffer between the proposed feedlot and the Middelstekloof river, were raised as there appears to be a concern in respect of the lawfulness of the Middelburg dam (in the upper reaches of the Middelstekloof river), which may also cause flooding if not properly regulated.

92.4.14 The availability and suitability of Vissershok Waste Disposal, was requested and fully addressed by Umsiza. The reference to the soil study which allegedly *“highlighted the importance of the correct implementation of drainage”* were referred to as well as a request that the Storm Water Management Plan by an engineer must be prepared, which must and I quote: *“take into account the changed position of the composting windrows relative to the small collection dams since the soil study”*.

92.4.15 This question was fully addressed by Umsiza in her letter of 12 April 2019 (“A24”) and she referred to the SDP which are in accordance with the soil study by providing cut-off weirs from the compost windrows to direct rain water which was in contact with the composting windrows by means of a channel with gravity to the lowest collection

dam. Run-off water from the feedlot will also flow via drainage channels around the feedlot with gravity to the same lowest collection dam.

92.4.16 It should be noted that the location of the proposed feedlot has since the application, been moved further away from the banks of the river and is now further than 100 metres from that river. The new location of the proposed feedlot depicted in the amended SDP (March 2019) attached to the letter by Umsiza of 12 April 2019. It therefore does not fall within the Core SPC or the so-called ecological corridor area, 32 metres from the river. We attach hereto a WCBSP map, marked “A25”, depicting the Core and Buffer areas as well as the CBA areas on Portion 6. The proposed sites of both feedlot and composting area are clearly depicted in “A25”. As can also be gleaned from “A25” the location of both those sites fall in a historically CBA area; not in a Core SPC or ecological corridor SPC.

92.4.17 It should be pointed out that the location of the proposed compost facility depicted in the amended SDP, is in actual fact a depiction of the existing compost facility at the time. It should further be noted that litigation ensued during 2018 between the appellant and the DEA regarding the exact extent of the existing compost facility with reference to certain listing activities under NEMA.

92.4.18 The extent of the existing facility became a major issue between the Appellant and the DEA. So much so, that its extent was eventually surveyed by a land surveyor. The Appellant was informed by the DEA that the compost facility is made up of and should therefore include the

following components: the windrows, the raw materials area, the cut-off weir, the collection dam, the finished product area and the area disturbed under the Eskom power lines.

92.4.19 The DEA contended that the facility has to be regarded as the combination of all the components necessary for the operation of such a facility.

92.4.20 It is important to note that no response to that letter of 12 April 2019 ("A24"), has been received from the Municipality, nor was any further queries received from Brunings in relation to the additional information submitted. It is also important to note that besides the fact that no further information was required since the letter of 22 February 2019, the information supplied in response thereto on 12 April 2019, was also never expressly (or by necessary implication) rejected by Municipality as being insufficient or incomplete.

92.5 On **16 April 2019** Brunings addressed an e-mail to Umsiza thanking her for the information with annexures submitted in terms of the requests by Brunings in her letter of 22 February 2019 ("A23"). We attach a copy of this e-mail hereto, marked "**A26**". It is stated in the first paragraph of "A26" that the application will be resubmitted to the Municipal Tribunal's next meeting based on the information submitted. After this e-mail no further information was requested nor required by Brunings to be submitted by Umsiza.

92.6 From the afore-going it is evident that this reason is based on irrational, misguided, irrelevant and speculative assumptions and should be rejected out of hand.

93. **AD REASON 2 OF THE DECISION LETTER:**

- 93.1 This reason does not keep track with reality. It is only a half-truth considering the fact that although the proposed feedlot is historically located in a CBA it does not fall within an ecological corridor as identified in the WC BSP 2017.
- 93.2 The generally accepted definition of a CBA can be stated as follows: It is an area depicted in a SPC map which is utilized to inform land use planning and make recommendations as to which parts of the landscape should ideally be retained in their natural state and which parts could potentially be transformed to other land uses.
- 93.3 This recommendation is based on the biodiversity sectors and an understanding of what constitutes the desired ecological state or land management objective for different CBA categories. Thus, the CBA map depicts the desired ecological state in which "we would like to keep this biodiversity". However it is also a harsh reality that the desired ecological biodiversity may and often does differ totally from a ground truth evaluation of the relevant area earmarked on the relevant maps for CBAs and other SPCs. It is after all a reality that, in this current matter, the sites for the proposed feedlot and compost facility have been completely transformed from what it historically was 30 to 40 years ago. It certainly is not a CBA an ESA or ONA anymore, but an NNR (no natural remaining).
- 93.4 It is also common cause that there are limitations to a CBA map due to the fact that a desirable ecological biodiversity does not and may not correspond with a ground truth investigation. It has been stated in various environmental studies that the spatial accuracy of the information presented in a CBA map, is inherently limited by the accuracy of the biodiversity data-basis used to develop that map. More importantly it has been stated frequently, that the information

content of the CBA map is limited by the depth of knowledge on the distribution of biodiversity in the district captured in an electronic data-basis.

- 93.5 Thus, a realistic evaluation of a specific area of land can only be validly made by means of a ground truth site inspection. The current state or status of the proposed sites of the two land uses applied for, are that they are devoid of any natural vegetation, let alone being a viable CBA. This is quite evident and has been at all relevant times, when Brunings visited the site on occasions. The proposed sites are not only disturbed and/or degraded, but has been transformed completely by lawful farming activities which left no natural habitat. We repeat what has been stated previously: the clearing of the area for cultivation started as early as 1982 by the previous owner of the farm and was continued by the Appellant during and after 2013. Brunings is completely aware of this state of affairs as this information has been provided to her.
- 93.6 Furthermore the Land Use Enforcement Directorate of Department of Environmental Affairs eventually found (and this is now an undisputed fact) that no unauthorised clearing of the land in question on Portion 6 happened in the past at any relevant time.
- 93.7 The Middelstekloof river and its banks are indeed a Core 1 SPC, which should be kept intact as far as possible. But the proposed feedlot is not located in that area. Neither will its location impact in any way to the current status of the riverine habitat of that river. A buffer of at least 100m between the banks of the river and the nearest point to the feedlot, is overly sufficient to protect the river against any run-off water from the feedlot. Furthermore, the lay of the land is such that the water will rather flow in a southerly direction from the feedlot than in an easterly direction to the river.

- 93.8 Furthermore, cut-off weirs/channels have been proposed and designed to direct any run-off water emanating from the feedlot to flow to the collection dam which was constructed for that very purpose. Similarly water which may emanate from the compost facility (and have been in contact with the windrows) due to rainfall, will also be directed by means of a channel or a cut-off weir in a southerly direction to the collection dam for that very purpose. The collection dam is located at the lowest end of Portion 6 and run-off water will end up in that dam by gravity.
- 93.9 Furthermore, a so-called ecological support area (also referred to as biodiversity ESA), will not be impacted by the location of the feedlot. The biodiversity corridor namely the course of the Middelstekloof river (and its riverine habitat), is intact and will remain intact and not be influenced or impacted on by the operation of the feedlot more than 100m away. No biodiversity corridor will be blocked or impacted upon by the locality of the feedlot or for that matter the composting area. One should therefore note that to apply the Land Use Guidelines the following points should be kept in mind: All data and the information on a CBA map, especially in contentious situations should be verified on the ground, preferably by an ecologist with local experience, before a decision pertaining to a land use is taken.
- 93.10 It has now been proved without a doubt in the case between the Appellant and the DEA that the site earmarked for both the compost facility as well as the feedlot, falls within a so-called Agricultural NNR, Buffer or Agricultural SPC. We refer in this regard to paragraph 36 where this has been confirmed by Province *i.e.* that the windrows are located on buffer and Agricultural SPCs in terms of the LSDF. It is now common cause as stated, that the previous owner of this property cultivated the lands extensively as was now also confirmed by BGCMA as to the fields that were cultivated during

the window period of the NWA. The window period being the period between 1 October 1996 and 30 September 1998.

- 93.13 The fallacy of reason 2 should be put in its true perspective. The true perspective appears from the Land Use Rural Guidelines published by the Department in March 2019. We have submitted above that the area earmarked for the proposed feedlot as well as the composting area, is an Agriculture SPC (or at most a buffer) and not a current CBA or important ecological corridor. We quote from the Land Use Rural Guidelines of March 2019 from paragraph 4.5.1 thereof regarding an Agriculture SPC:

“The Agriculture SPC comprises a consolidation of the existing and potential intensive agricultural footprint (i.e. homogeneous farming areas made up of cultivated land and production support areas). It is those areas in which significant or complete loss of natural habitat and ecological functioning has taken place due to activities such as ploughing, hardening of surfaces, mining, cultivation and other activities that modify natural habitat.”

- 93.14 Agricultural SPC also includes:

- *“Intensive agriculture including Irrigated crop cultivation (annual and perennial).*
- *Dry land crop cultivation including tillage of non-irrigated crops (annual and perennial).*
- *Extensive agriculture including extensive livestock or game farming.”*

- 93.15 From the following, we have to make the comment that it is very surprising that Brunings and (in all probability on her recommendation) the decision-maker considered reason 2 as a valid one for rejecting the proposed feedlot. After all, we have stated above that Brunings has visited the proposed site for the feedlot on

more than one occasion. Thus, she should be in possession of firsthand knowledge of the terrain and the vegetation that still exists there. After all, the Land Use Guidelines for Rural Areas of March 2019 specifically emphasizes that the SDF maps may not be accurate due to various reasons and therefore a ground truth investigation (on site visit) is absolutely necessary to confirm what the current status (not historical) of that specific area of land is.

- 93.16 If reason 2 of the decision letter is taken on the face of it, it presupposes that due to the fact that a portion of land which might have been historically part of a CBA (but is not a CBA anymore due to lawful farming activities), can never be utilized for a farming activity such as a feedlot. The approach of Brunings and the decision-maker is not only simply erroneous, but also a misguided and reckless one, considering the fact that Brunings (and I assume also the Tribunal) visited the site from which it should have been patently evident that no natural habitat remains where the two proposed land uses are located.
- 93.17 We should point out that Brunings in any event on page 11 of her report ("A10") commented as follows: *"There is no objection to development within the transformed and buffer areas subjected to the sustainable management of land use activities"*. As stated above, the proposed site for the intensive feedlot is not located within a Core SPC or ESA, but in a transformed SPC at its new location, 100m from the Middelstekloof river.
- 93.18 From the afore-going this reason is based on irrational, misguided observations and speculative, bordering on reckless assumptions and should be rejected out of hand.

94. AD REASON 3 OF THE DECISION LETTER:

- 94.1 This is a consideration that was never put to the applicant when and after the application for rezoning was made.
- 94.2 Due to the fact that this aspect was never before raised by Brunings as an important issue to be fully motivated by the Appellant, it was understandably never motivated by the latter. Why this aspect should have been motivated in the first place, is incomprehensible. What should rather be evaluated in an application for a consent use for a feedlot, is the merits of that application *per se* pursuant to the Land Use Rural Guideline principles applicable. It is totally irrelevant whether an applicant intends to apply afresh for a rezoning to utilize a feedlot or whether he intends to move an existing feedlot to a new and better suited site.
- 94.3 Despite the above guidelines and principles, the lack of “sufficient motivation” provided by the Appellant, has now been regarded by the decision-maker as a reason for the rejection of the feedlot. This of course, runs against the grain of the most basic principle of natural justice, the well-known legal adagio of *audi alteram partem*. Nevertheless, the following reasons have now been provided by Mr. David Houghton the operating officer of the Appellant. We attach hereto those reasons marked “**A27**”. These reasons would have been provided before, should Brunings have required such.
- 94.4 From the afore-going this reason is based on irrational, unreasonable and speculative assumptions, was never placed before the Appellant to respond thereto and should be rejected out of hand for all of those reasons.

95. AD REASONS 4 AND 5 OF THE DECISION LETTER:

- 95.1 We will respond to both of these reasons simultaneously as they overlap to a large extent.
- 95.2 We have already referred to all the measures that were put in place with regard to flies and odours in the BAR and in the application. These measures have been acknowledged by the decision-maker in reason 4.
- 95.3 The fact of the matter is that a compost facility in principle has already been approved by the decision-maker *albeit* for a limited area of only 1.3ha. The flies or odour problem has therefore already been considered and found not to be such as to prevent the approval of the compost facility. The reason advanced here is the so-called cumulative effect of both the compost facility and the feedlot. The existing feedlot at Roodehoogte as a comparable example has been comprehensively discussed under the heading “Roodehoogte Feedlot” above.
- 95.4 Furthermore, it is common cause that no complaints have been received by either the Appellant or the Municipality over a period of 5 years since the approval of the Roodehoogte feedlot. This fact also addresses the concern raised in reason 4 pertaining to the *“health and well-being of residents and tourist, and on the surrounding natural and agricultural environment and the socio-economic impact thereof”*. On page 18 of the report by Brunings (“A10”) the following is concluded as an assessment by Brunings of the current applications: *“There is no socio-economic assessment to determine the potential negative impact on tourism and tourism-related employment. However the potential negative socio-economic impact is dependent on the degree to which the impacts of pests and odour*

are satisfactorily addressed to the on-going implementation of the SOPs."

- 95.5 Thus, the question begs: how does the decision-maker arrive at a decision that the proposed feedlot will have a cumulative impact on odours and flies in association with the compost facility? This is purely speculation as no evidence exist that this is or even possibly will be the case. The current objections as to the proposed land uses only referred to a vague fly problem, the cause of which could be many other factors not related to the compost facility at all.
- 95.6 A fact which is incomprehensible is that the decision-maker has approved the compost facility despite objections by the relevant objectors, advocating an escalation in the fly population. Opposed to the feedlot the compost facility existed on Portion 6 for a period of more than 2 years. Still the decision-maker approved the compost facility in principle, but rejected the feedlot purely on a vague and speculative assumption pertaining to the unsubstantiated notion of a so-called cumulative impact of the flies (already) at the compost facility with the flies that allegedly will be generated by the feedlot! On the one hand the decision-maker has found that the objections to an escalation in the fly population generated by the compost facility, is within acceptable limits. On the other hand the decision-maker rejected the feedlot on the mere assumption that the feedlot will increase the total fly population of the area beyond acceptable limits. This is evidently a contradiction in terms. What it bears down to is that the decision-maker in essence found that there is only space for one land use on Portion 6 and that is either a compost facility or a feedlot, but not both. This ridiculous assertion is to be found in the incomprehensible assumption that the feedlot will "push" the existing fly population (which was found to be within acceptable limits) over that acceptable limit!

- 95.7 We must point out that the following factor was not even considered by the decision-maker. Again we must reiterate that neither a compost facility and even less so a feedlot, “generate” or “produce” flies. It attracts flies from the surrounding area, especially in times of drought. A concentration of flies in either the compost facility or the feedlot, can potentially harm the meat of the sheep that has to be slaughtered for very particular customers of the Appellant. It is therefore of the utmost importance that the Appellant limit the concentration of flies to the absolute minimum. This is after all the Appellant’s bread and butter due to the fact that the Abattoir is restricted to only slaughter healthy animals for their very choosy and nitpicking clients. Flies lay eggs and eggs produce worms which will infect the very meat which the Appellant sells to its clients. The fly-free Roodehoogte feedlot is after all testament to this.
- 95.8 We respectfully submit that all the circumstances surrounding the proposed feedlot are optimal in terms of location, management, SPCs, available water and a useful development in securing a food source and furthermore provision of work to more than 200 people. As stated, additional workers will be employed to run the feedlot and the compost facility once it has been approved.
- 95.9 After all, the very same five principles applicable to land use planning, are also applicable to the application of a bona fide farmer and business man to utilize a portion of his farm (not only to solve a problem for the Municipality with regard to waste disposal), but an enterprise in line with current green trends, recycling of general waste, not only to produce compost to be used on the farm, but to centralize his interdependent farming activities on one farm. It all makes perfect commercial sense that the three integrated and interdependent activities, namely the feedlot, the compost facility and the production of feeds on the remainder of Portion 6, fertilized by the compost, should be located on the same farm.

- 95.10 Reasons 4 and 5 are thus patently not only irrational and misguided, but based on incomprehensible and speculative assumptions and must be rejected out of hand.

96. **AD REASON 6 OF THE DECISION LETTER:**

- 96.1 This reason borders on ludicrous shortsightedness by the decision-maker. It is common cause that all alternative possibilities to alleviate the problem which the Municipality themselves “dumped” on the Appellant, were indeed investigated before a decision was taken in 2016 to compost the waste produced by the Abattoir and simultaneously apply for a consent use for a feedlot on Portion 6.
- 96.2 We attach hereto a submission by Mr. David Houghton, marked “A28”, pertaining to the alternative possibilities which was investigated besides the composting option, demonstrating the non-viability of such other options compared to the composting one. After all, compost is a by-product in the form of a fertilizer to be utilized by the Appellant on Portion 6 where the feedlot is located. The most viable and economical sustainable solution in the long run, is to produce compost from abattoir waste, to use that compost to replenish nutrient poor soil to produce feed for the livestock in the feedlot.
- 96.3 Again an alarming factor rears its head which runs like a golden thread through most of the reasons advanced by the decision-maker. Nowhere in any prior correspondence did Brunings request or require the Appellant to advance reasons or a motivation why other alternative solutions as opposed to composting, cannot be utilized. This aspect was after all, never on the table and Brunings is well aware of the fact that the composting option was opted for more than 2 years ago, with the full knowledge and even co-operation of the Municipality. Almost 3 years down the line, the Municipality now for

the first time, introduces the aspect of alternative available options opposed to the composting one, as one of the reasons why the feedlot has been rejected.

96.4 This reason can only be regarded as *male fide* and a malicious attempt to sabotage a venture embarked upon by the Appellant with the full knowledge of the Municipality almost 3 years ago. It is also a known fact that more than R2 million has already been expended by the Appellant on this venture and associated ancillary measures which had to be implemented simultaneously. The delay of not only the application for rezoning, but also the application for the WML and associated court applications, are costing the Appellant approximately R140 000.00 per month for losses sustained over the past almost 3 years. Given the background of the long road the Appellant embarked upon with the full knowledge (and blessing) of not only the Municipality, but various other waste departments/officials and the layout of huge costs in the process, only to arrive at a point where the Municipality jeopardizes everything with a single decision dismissing the feedlot, is mind blowing. The delay caused by this appeal will inevitable contribute to the escalation of these losses, a fact of which Brunings and her Tribunal are or should be well aware of.

96.5 From the afore-going this reason is based on irrational, misguided and speculative assumptions to the extent of being *male fide* and should be rejected out of hand.

97. **AD REASON 7 OF THE DECISION LETTER:**

97.1 The accusation made in this reason, is similar to the misguided one made in reason 4 above. It refers to the so-called “dismissal” by the Appellant of requests by the Tribunal to provide reports to substantiate certain issues. It is submitted that the issues referred to

are fictitious and exist only in the minds of Brunings and/or the decision-maker as will be demonstrated below.

- 97.2 We have already advanced comprehensive reasons on behalf of the Appellant, why those reports are not necessary to enable the Tribunal to make an informed decision. We have also stated hereinbefore, that should the additional reasons advanced by Umsiza (when requested by Brunings), be deemed not to be sufficient or be deemed to be incomplete, nothing prevented Brunings to request further or additional reasons. In fact one may expect Brunings as the investigating official/officer, to require further information should the available information submitted be deemed to be incomplete or inadequate.
- 97.3 Reason 7 pertains to the lack of a storm water management plan as requested by Brunings. The soil study referred to in this reason, is not so much concerned with flooding of the area, but to the run-off of waste water, which was in contact with the compost facility or the feedlot and the possibility that such that run-off water may pollute the Middelstekloof river. Flooding of that area can only occur when heavy rains fall in the catchment area upstream from the Middelburg dam and flood water flows downstream and burst the river's banks.
- 97.4 As stated above, the risk of that (flooding) happening again, is next to zero due to the presence of the Middelburg dam continuously referred to in the decision letter as the major "scapegoat" in the whole process. As stated above, that dam has now been verified as a lawful existing water use to store water in a dam classified as safe. The water of that dam will not only be used to supplement water for the feedlot (if necessary), but will prevent any flooding of the proposed sites of both the feedlot as well as the compost facility.
- 97.5 What must be borne in mind first and foremost, is that the decision-maker approved the compost facility (albeit in principle in respect of

only 1.3ha) despite the absence of any storm water management plan. In the SDP, the collection dam as well as cut-off weirs and draining channels and the so-called lay of the land, have been clearly depicted and described. This was regarded as ample evidence to address and comply with any storm water management plan.

97.6 However, to prove that the measures proposed by Umsiza and Eco Impact in their reports, is more than adequate to cater fully for a storm water management plan, we attach hereto marked “A29”, a report compiled by Mr. FPJ Van der Merwe, a civil engineer and former Senior Specialist Engineer of the DWS.

97.7 The report speaks for itself. As can be gleaned from the report, it is significant that Mr. Van Der Merwe concluded as follows: *“From the plan of Umsiza dated March 2019 which was submitted with a previous application, it is evident that adequate provision has been made to safely convey all contaminated storm water from both the compost facility and the proposed feedlot into the collection dam, and to ensure that neither the channels conveying the water nor the collection dam will overflow, even during any worst case extreme rain storms that could be expected in 20 years.”* To reach this conclusion Mr. Van Der Merwe has comprehensively demonstrated and explained why a formal or an official storm water management plan was not needed on top of the measures already proposed in the SDP and the application of Umsiza. Furthermore, Mr. Van Der Merwe also provided an expert opinion regarding the alternative source of water for the feedlot emanating from the Middelburg dam. His report fundamentally addresses all concerns raised revolving around an adequate water supply to the feedlot as well as the absence of a formal storm water management plan.

97.8 Thus, Mr. Van Der Merwe’s report can be regarded as a verification of storm water issues/concerns at the current sites specifically

regarding run-off water emanating from the windrows in the compost facility as well as the proposed feedlot.

97.9 At this juncture, it also needs to be pointed out that the Middelburg dam has a constructed overflow designed by an AAP (a civil engineer in the person of Mr. Jasper Van Breda). When the dam runs full, the excess water will flow downstream via the constructed overflow causing a relative low flow downstream from the dam. This in turn will prevent the river bursting its banks lower down and in the vicinity of the two land uses, especially the proposed feedlot. What it comes down to, is that an official storm water management plan likewise becomes redundant in this respect.

97.10 From the afore-going this reason is based on irrational, unreasonable and unsubstantiated rationale coupled with speculative assumptions and should be rejected out of hand.

98. AD REASON 8 OF THE DECISION LETTER:

98.1 The reason advanced here is again based on pure speculation. No evidence of any valid ethical concerns raised by anybody, were submitted by the Tribunal. This can only be regarded as a fiction of the imagination of either Brunings or the member/s of the Tribunal. Nothing more.

98.2 Furthermore and most importantly, this issue was again never raised by Brunings and presented for comments by the Appellant, before the decision was taken by the Tribunal. If this was a very important aspect to be considered by the Tribunal (as it appears to be due to the fact that it is considered to be a reason to reject the feedlot), one would have expected that they should have placed their concerns before the Appellant to be addressed by the latter. This was not done and despite this fatal flaw by Brunings not to require/request a

response to the above concern, the absence of a response now constitutes a reason for the refusal of the feedlot!

To put it differently: Inconceivably, reasons are now advanced by the Tribunal for the rejection of the feedlot, not based on incomplete or insufficient information submitted, but based on information that was never before requested nor required by Brunings.

98.3 This is again is contrary to the legal concept of *audi alteram partem* as the Appellant was never provided with the opportunity to at least advance its response to such a vague, unexpected and unsubstantiated issue (if it can be regarded as an issue at all).

98.4 The following question must be asked: Does the Tribunal really believe that this aspect has not been considered and tested by the Appellant? In this regard we point out the following:

98.4.1 The decision-maker is not the competent authority to assess if the feedlot being 100m away from the compost site is “desirable” or not. This is the responsibility of DAFF who have no issues with this as it is common practice on all feedlots and most livestock farms. In fact, it is much more environmentally friendly than the other common practice which is allowed, trench burials. In fact, there is an identical operation to the one SAFAM has applied for, also in the Western Province. Despite the visit of Dr GSM Leask, State Veterinarian, to the existing composting site, where it was explained to him what the Appellant envisaged with regard to the pending feedlot and the location of the latter, he had no objections whatsoever regarding firstly the composting facility and secondly any ethical issues of the two facilities being located in close proximity to each other. We attach hereto a letter from Dr Leask dated **8 February 2019**, marked “A30”.

- 98.4.2 The word “desirable” is in any event a subjective term which is used by the decision-maker without any substantiation in terms of fact or evidence to support their assertion.
- 98.4.3 The decision-makers’ assumption when they make the statement “*with associated flies and odours*”, is incorrect and completely misleading, which they are well aware of. As stated previously, the compost facility does not have a problem with flies and odours as independently verified and confirmed by Brunings herself in her report (“A10”).
- 98.4.4 The decision-maker is not an expert on ethical concerns and this comment is purely speculative in nature, made by unqualified individuals without evidence to back this up.
- 98.4.5 SAFAM do have proof that there is no issue in terms of food quality and safety and SAFAM also have proof that the Municipality are well aware of this as they have been provided with the micro-biology and chemical tests carried out on the compost which shows it is clear of all PHE as specified in Act 36/1947 as well as clear of salmonella and E.coli. If the decision-maker genuinely believes this, or is not aware of these test results, then SAFAM hold that this is a clear and negligent failure of Brunings as the investigating official, to provide them with this information.
- 98.4.6 The site has been endorsed by the state vet responsible for the area who wishes to use it as an example for other abattoir compost sites.
- 98.4 Lastly, this reason does not refer to or is not based on any evidence provided by anybody pertaining to the desirability of two such

activities being in close proximity to each other or any ethical concerns attached to such a situation.

98.5 From the afore-going this reason is based on irrational, unreasonable and flawed rationale and speculative assumptions and should be rejected out of hand.

APPROVAL OF THE RESTRICTED COMPOSTING FACILITY (1.3HA):

99. We will first and foremost refer to the approval of the compost facility and specifically to the rezoning of the compost facility restricting it to only 1.3 hectare portion of Portion 6 comprising of the following: *“windrows, storage space for raw and finished products and off-loading areas”*.
100. The restriction of the initially applied area of 3.6 hectares in the original SDP, is rejected by the Appellant. As stated above, the proposed compost facility referred to in the amended SDP, depicts the existing facility at the time. Be that as it may, it must be borne in mind that what has now been rezoned, is only the existing facility, which in any event, does not need a rezoning to be operated. This aspect has been fully canvassed in previous correspondence with the Municipality by ourselves as the attorneys of the Appellant.
101. What is of utmost importance is that the rezoning of only a part of a compost facility, runs against the directions by the DEA regarding the essential components which comprise a compost facility. We have referred above in paragraph 17 to the components (and in paragraph 29 where Brunings accepted that the composting area applied for, notwithstanding the amended SDP, still comprises 3.6ha in extent) of a compost facility as directed by the DEA. All of those components need to be present to be regarded as a fully functional compost facility.
102. What the decision-maker has now caused by restricting the rezoned composting area to only 1.3ha, is to exclude the essential components of a

functional composting facility, namely the collection dam and the cut-off weirs directing waste or contaminating water to that collection dam and the areas in between those components.

103. Furthermore, as has been explained by Umsiza in their motivational report and in associated correspondence, the composting facility will function interdependently with the feedlot. The windrows need to be rotated continuously in terms of the prescribed composting stipulations. These activities need space as the windrows will not remain in the same location throughout the composting process. The finished product needs to be near the entrance gate to be sold or dispatched conveniently by trucks or otherwise. The trucks that off-load raw material and load finished products, need access roads and enough space to turn. The front loaders need space to load and off-load material, the skip and blood truck need roads and space to off-load. Thus, the zoned area of only 1.3ha comprises only the windrows and a small area for finished products. It does not cater for the other activities described above and in the application.
104. Most importantly, Brunings herself has recommended in her report ("A10"), the rezoning of the full 3.6ha applied for, to be operated as a fully functional composting facility comprising of all the essential components and we quote from page 20 of her report: "... for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning." There should thus be no objection from the Tribunal against the rezoning of the applied area of 3.6ha due to the fact that the rezoning of a compost facility has in principle already been granted.
105. The amended SDP in any event specifically depicts the cut-off weirs and the collection dam, but same is now not included in the restricted rezoning area of only 1.3 ha. This would for example mean that water collected in the collection dam cannot be re-used on the windrows by means of a pumping system, should that be necessary, and the collection dam cannot be maintained as advised by Mr. FJ Van der Merwe due to the fact that it is not rezoned for that purpose.

106. The restriction of the compost facility to only 1.3ha as opposed to 3.6ha applied for, is rejected out of hand due to the reasons submitted above.

AD CONDITIONS OF THE APPROVAL OF THE COMPOST FACILITY:

107. Ad condition 1:

Apropos of the above, the development and use of the property and buildings will NOT be substantially in accordance with the site plan as stipulated as the Municipality has utilised the wrong site plan. The site will be used according to the amended SDP attached hereto below ("A31"), which clearly states that the compost area footprint will be 3.6ha in size.

108. Ad condition 2:

SAFAM do not agree to the condition for the need to reapply for rezoning of the compost site in February 2022. For the following reasons:

109.1 Composting itself is not industrial in nature as has been argued by SAFAM all along. Neither is the type of by-products composted industrial in nature or classified as industrial as the Municipality should be aware of if they are familiar with the Waste Classification Regulations. What SAFAM are composting is the same as 'general / agricultural' and therefore any farm can compost this type of waste. What makes the process industrial is SAFAMs aim to be able to sell the compost, and potentially in future process more than 10 tons of waste per day on greater than 1ha.

109.2 The reverting back to Agriculture Zone I after 2 years is an unusual and irrational decision which does not take into account the practicalities and costs of reapplying, does not take into account the costs already incurred by SAFAM to set up the compost operation,

does not take into account the benefits of compost to the local farming industry.

- 109.3 SAFAM have already (as stated fully above) explored other viable alternatives and as per the BAR. Composting was shown to be the best option.
- 109.4 The Municipality is again maliciously claiming that there is an issue with smells and flies. This is clearly not the case for which SAFAM have provided sufficient independent evidence to support.
- 109.5 With the length of time taken to finalise this current application which has not yet been completed it would mean that SAFAM needs to apply NOW, before this first application is concluded.
- 109.6 The Municipality do not practice what they preach as they did not carry out and communicate any assessments on alternatives when they communicated to SAFAM that they would no longer be taking the by-products to the Ashton landfill site.
- 109.7 Other alternatives would still require a compost site to treat the sludge generated.
- 109.8 Other alternatives would require a full EIA to be carried out according to NEMA.
- 109.9 The Municipality have still not clarified what is their reasoning or belief why they insist that the compost site needs to be rezoned to Industrial 2 and not Agricultural 2 which is the case for an identical compost operation within the Western Province.

109. Ad Condition 3:

This point makes no sense and is both completely illogical and unreasonable. How does the Municipality expect SAFAM to get the material to be composted to the site if vehicles cannot circulate around the site? SAFAM have no issue in keeping the composting 10m from the boundary fence. The total area applied for is 3.6ha and this includes every aspect of the operation.

110. Ad Condition 4:

SAFAM have no issue in screening the site, but they do so without prejudice to their interests and believe it is not needed. As stated by Western Province DEA:DP Land Use the operation / site is agricultural in nature and fits with surrounding land uses.

111.1 SAFAM place on record that the Municipality are requesting more severe and restrictive conditions to their operations when compared to a neighbours composting operation which has not been required to screen their operation from neighbour's land or the gravel road.

111.2 SAFAM will only screen as is reasonable and in no way agree to allow the Municipal Manager: Town Planner with a free and unfettered ability to have the final decision on what is judicious.

111. Ad Condition 5:

The Municipality is well aware that they are not the competent authority to pass comment or judgement on the EMPr as prepared for the NEMA EIA process. The authority is the Western Province DEA:DP and Waste Management. SAFAM cannot provide the EMPr or make any revisions until it has been assessed by the DEA:DP and Waste Management. The final EMPr was submitted in early November 2019 and SAFAM are awaiting their

comments. All the EMPr documents have already been provided to the Municipality.

111.1 The EMPr does in fact cover all of the points listed at point 5.1. SAFAM again state that there are no issues with flies and odours as has been verified on numerous occasions.

111.2 SAFAM will comply with their legal obligations in terms of allowing access to the relevant authorities to inspect the site. Only duly appointed and authorised representatives will be allowed on site.

111.3 SAFAM will comply with requirements from the authorities that are reasonable, necessary, legal and do not impact on the safety of the operation or its staff.

111.4 Priority is already given to the operational requirements, and again SAFAM refute the claim made by the Municipality that there is an issue with flies and odours.

111.4.1 The abattoir by-products are already transported in suitable containers which are identical to those which the Municipality used to transport the by-products to the Ashton landfill site and then to the compost site itself.

111.4.2 The waste products are immediately covered.

111.4.3 Blood is not required to dry as stated by the Municipality. It is required to soak into the compost before it is turned. It is covered within 1 hour after being delivered.

111.4.4 The vehicles are cleaned at the abattoir.

- 111.5 The manager will not reside on site and this point is both unreasonable and SAFAM believe to be unenforceable. SAFAM believe that this is not a requirement for any other compost site in South Africa. Currently there is no dwelling available on the site and therefore no amenities such as water, sewerage or electricity. SAFAM do not agree to build such a dwelling on the site with the costs involved. The current farm manager / compost site manager resides on the farm in a house approximately 400m from the compost site.
- 111.6 It is not possible to comply with point 5.4 and make compost in a safe manner. This is because the process requires compostable material from other sources in the form of woodchips, straw or other carbon based material. The Municipality is also aware that manure from the feedlot is also used on the compost site. The condition is both unnecessary and completely unreasonable and illustrates a lack of knowledge on the part of the Municipality of the process of composting.
- 111.7 In terms of Infectious waste SAFAM recommend that the Municipality consult with the DEA:DP and DAFF as they would be able to establish that there is no such facility in the Western Cape that can legally accept such material as stated at point 5.5. If infectious material is generated at the abattoir it will be managed under the guidance of the experts with knowledge of such material, namely the DAFF state veterinary service. SAFAM would like to place on record that the Municipality themselves have been taking such waste as generated by the abattoir to the Ashton site for the last 20 years of operation of the abattoir.
- 111.8 SAFAM are continuously updating and reviewing their procedures and have no issue in supplying them to the relevant and competent authorities that have the required knowledge and expertise in composting abattoir by-products. This information will at all time

remain the intellectual property of SAFAM and may not under any circumstances be shared with anyone that is not specifically dealing with the site whether working for a Public Authority or not, and must not be placed in the public domain without the written consent of SAFAM.

- 111.9 The volume of by-products received each month is recorded. The volume of compost produced each month is not recorded, nor can it be recorded as it is not processed in a manner which allows for this data to be recorded. The amount produced is only known when it has been finished and transported to the fields for ploughing into the land.
- 111.10 No offensive odours are produced as has been confirmed by independent specialists including the Municipalities own Air Pollution Specialist. Therefore, SAFAM are already taking reasonable measures and will continue to do so.
- 111.11 Bi-annual water quality testing will only take place if there is in fact water to test.
- 111.12 The hours of business as stated are unreasonable and in terms of the reasoning unnecessary. SAFAM have already provided data to the Municipal Planning Officer to show the times of delivery. These showed that such times were kept on the vast majority of occasions. However due to unforeseen circumstances at the abattoir later deliveries have occurred in a small minority of cases. In all cases the deliveries were covered and treated as is required before sifts end. No uncovered material is ever left over night. No deliveries occur on a Sunday.

112. Ad Condition 6:

Acceptable.

113. Ad Condition 7:

Acceptable.

114. Ad Condition 8:

Acceptable.

115. Ad Condition 9:

Acceptable.

116. Ad Condition 10:

Acceptable.

117. Ad Condition 11:

Acceptable.

118. Ad Condition 12:

Acceptable.

119. Ad Condition 13:

Only acceptable, if the Appeal is upheld.

120. Ad Condition 14:

Not acceptable as per previous correspondence to the Municipality in that regard.

CONCLUSION:

- 121.** Apropos of the above and all the submissions made and contended for by us on behalf of the Appellant, it is the Appellant's confirmed view that the reasons provided for the rejection/restriction of the applications as they stand, are all misguided, based on either wrong information or inconceivable assumptions and flawed observations, and are irrational to the extent of being malicious and in some instances *male fide*. The reasons submitted by the decision-maker were clearly influenced through the actions of and/or failure to act by the investigating officer/planner, Brunings. Ample evidence of this can be gleaned from these grounds of appeal supplemented by corroborating documents.
- 122.** We point this out specifically as it is our instructions that should this appeal not be upheld, the same procedure will be followed by the Appellant as in the case against the DEA/Minister, where the Appellant applied for the judicial review of the DEA's and the Minister's decisions by the Western Cape High Court. As you are aware the matter was however settled before the review could be heard, resulting in a Court Order whereby both the Minister and the DEA, conceded that the decisions taken by both of them were wrong.
- 123.** They have up till then persistent vigorously and stubbornly in their opposition to the review application, contending that their portrayal of the legal position was correct. They were however advised by a competent advocate to relinquish their opposition and concede to all the claims of the applicant in that matter; virtually on the steps of the Western Cape High Court.

124. Thus, both decisions (including the rejection of the WML by the DEA and the Minister's dismissal of an Appeal against that rejection decision), were reviewed and set aside coupled with a cost order against the Minister and the DEA.
125. On that score: maybe it is time that the Municipality (Brunings) also avail themselves in this matter of the legal services of a competent lawyer, rather to follow their intuition as to what they perceive the legal position to be.
126. The only difference this time around (should this appeal be dismissed) is that a similar process will be followed to have the decisions by the decision-maker/Appeal Authority reviewed and set aside, but a punitive cost order will be applied for against Brunings in her personal capacity *de bonis propriis*, alternatively, against the individual members of the Tribunal. This is not a threat at all. Far from it. It is also not an attempt to sway the Appeal Authority in favour of the upholding of this appeal. It is simply a statement of fact.
127. In the light of the available objective facts presented to/by Brunings and the Tribunal and the fact that no effort was made by Brunings herself to investigate and verify certain key issues properly, points to only one reasonably conclusion: Brunings disregarded/concealed objective evidence presented or available to her at the time and was unduly influenced by objectors (or unknown third parties?) to an extent of losing her objectiveness. It appears from all the evidence surrounding the current matter that her behaviour can only be regarded as blatantly biased, calculated to favour those objectors and in the process she acted against the interest of justice and the deserving interests of the Appellant. A few glaring incidents stand out:
- her failure to enquire from BGCMA regarding the status of the Middelburg dam. Given the fact that her failure in this regard culminated directly in the formation of reason 1, proper action by her would have averted a conclusion by herself and/or the Tribunal which was factually unfounded, irrational and misguided.

- A second instance pertains to reason 2 where she blatantly persists with the notion that the proposed feedlot is within a CBA and important ecological corridor and therefore not consistent with the WCPSDF Guidelines. It has been proven without a sliver of doubt, that this observation (and it can only come from her), is simply wrong to a point of being a blatant lie, in the light of irrefutable objective evidence to the contrary.
- A third instance pertains to her deliberate concealment of most relevant key facts/factors surrounding the Roodehoogte feedlot of which she was astutely aware of.
- to name but a few. . .

128. Lastly, we must point out that Brunings's unbiased attitude was evident from as early as February 2018 when the Municipality (in all probability at the instance of Brunings) issued the first Notice of Non-Compliance against the Appellant and a year later a second Notice of Non-Compliance, threatening the Appellant with prosecution should it not immediately cease to operate the composting plant and later if he did not find other means to dispose of its abattoir waste (knowing full well there existed no alternative for the Appellant). We have quoted on behalf of the Appellant, their strong objection to those actions under the prevailing circumstances at the time, in previous correspondence attached to these appeal grounds, following the issue of those two Notices.

129. We respectfully surmise that the antagonistic approach adopted by Brunings, was probably sparked pursuant to the stance taken by the Appellant in its rejection of two Notices of Non-Compliance as is alluded to in paragraph 57 above.

RELIEF SOUGHT BY THE APPELLANT IN THIS APPEAL:

130. The Appellant seeks the following relief:

130.1 that the Appeal be upheld;

130.2 The approval of a consent use for Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs) as per attached amended SDP, marked “A31”, with reasonable conditions attached to the said approval;

130.3 the approval of the rezoning of 3.6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning as per attached amended SDP (“A31”) with accepted conditions 6 to 12 unconditionally, condition 13 only if the appeal is upheld and all the other conditions conditionally as per paragraphs 107 to 111 above.

DATED AND SIGNED AT ROBERTSON ON THIS 22nd DAY OF NOVEMBER 2019

JP DU BOIS

o.b.o the Appellant

"A1"

	Middelburg Soil study to determine the agricultural potential of an area of the farm and its suitability to be utilized as a feedlot and composting facility	
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30 October 2015

Purpose of the Study and Context
To determine the agricultural potential of the soil in the designated area, and to assess its chemical and physical properties and suitability to be used as a feedlot and composting facility.
Soil Sampling for Analysis
Six profile pits were dug to a depth of 2m, and soil samples were taken from four of the pits. The position of the sampling points are indicated in the Google Image below. Soil samples were taken at various depths and analysed by Bemlab for chemical qualities. The result of the full analysis is attached, while the most critical aspects are highlighted and discussed below.

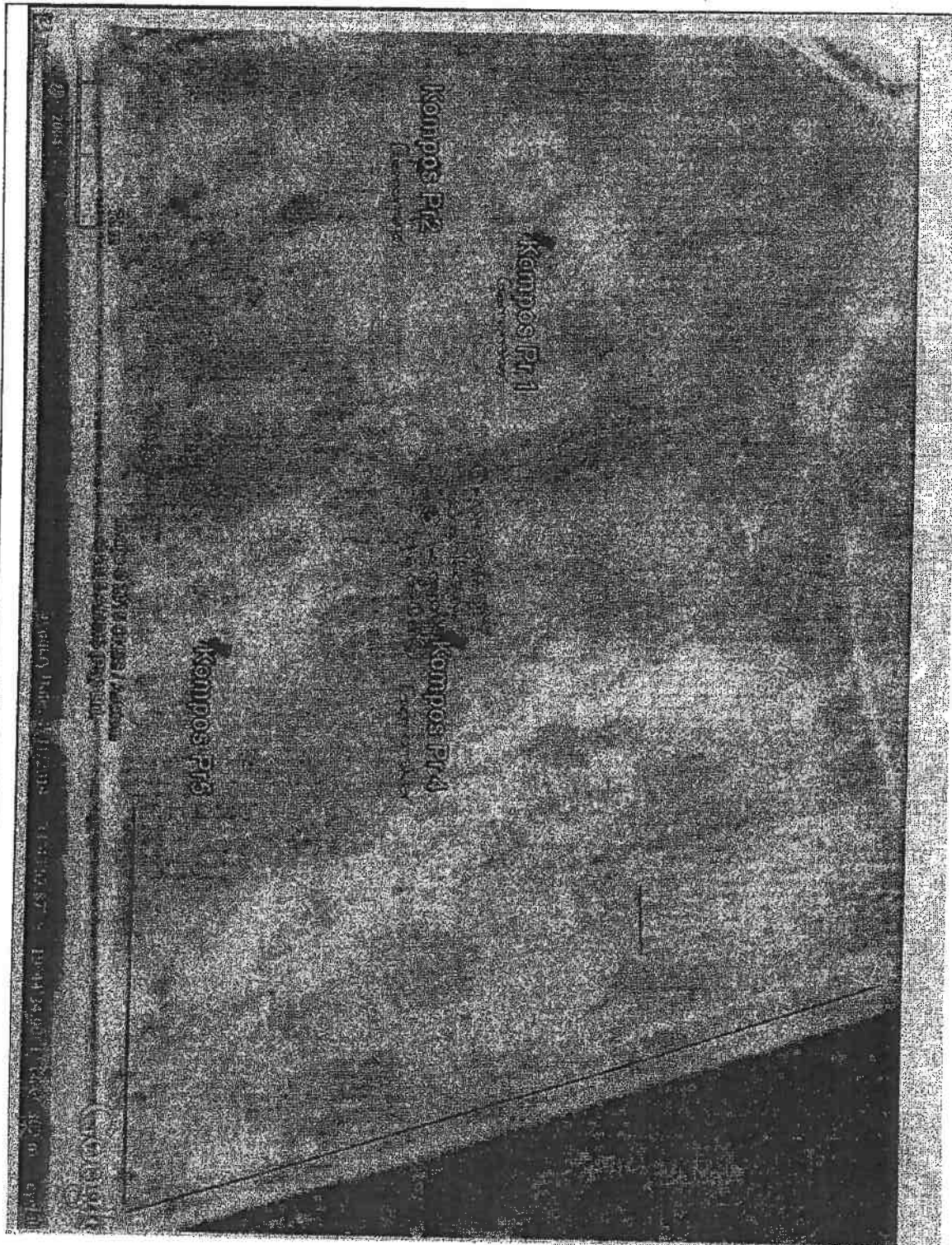
	ReSalt Agricultural Systems and Strategies (Pty) Ltd 2007/010733/07 B.J. Diedericks - bennie@resalt.co.za 0824527263	
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464.



Middelburg

Soil study to determine the agricultural potential of an area of the farm and its suitability to be utilized as a feedlot and composting facility



Resalt Agricultural Systems and Strategies (Pty) Ltd
2007/010733/07

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Middelburg

Soil study to determine the agricultural potential of an area of the farm and its suitability to be utilized as a feedlot and composting facility



The area of the proposed feedlot and composting facility.



Soil Profile Descriptions

	Soil form: Brandvlei (Profiles 1, 4)
	Orthic A 0 - 15cm
	Soft Carbonate horizon 15 - 90cm >25% Clay
Soil form: Shortlands (Profiles 2, 5)	



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Middelburg

Soil study to determine the agricultural potential of an area of the farm and its suitability to be utilized as a feedlot and composting facility



	Orthic A 0-15cm
	Red Structured B 15-40cm > 25% Clay

Results and Discussion

All the soils have a very high clay content (>25%), thus restricting the movement of water through the profile. Leaching of nutrients and salts from the soil into the groundwater will not easily occur. The high salinity in the soils, coupled with the high clay content, will lead to crusting on the surface restricting water infiltration and increasing run-off.

Soil pH: The pH of the soils vary greatly over the relatively small area from being alkaline in profiles 1 & 4 to acidic in profiles 2 & 5.

Resistance: In most of the samples the resistance is <350 ohms, which is used as a threshold norm. Soils with vales below 350ohms are considered to contain salt concentrations that will severely restrict plant growth.

Phosphorus (P): The analyses show that P concentrations are relatively low in the samples.

Potassium (K): Soil K concentrations of K follow the same pattern as that of pH. K values are high in samples from profiles 1 & 4 and low in the samples from 2 & 5. However, the K saturation % of the CEC never exceeds 5%. This is an indication of the high level of the total concentration of the cations (salt) in the soil. The other cations mainly responsible for this high concentrations are Ca, Mg and Na.

Calcium (Ca): Calcium is very high in the Brandvlei profiles (1, 4) where free lime is present in the soil. High Ca concentrations such as these will impede the uptake of other nutrients. In the Shortlands profiles the Ca is low to the extent that lime has to be added if crops were to be grown successfully. Big chemical variations such as these over short distances is very problematic for farmers as it is nearly impossible to get uniform crop growth.

Magnesium (Mg): In some samples the Mg concentration is higher than that of Ca. This is very problematic as plants require much more Ca than Mg for optimal growth. To achieve this, Ca (lime) has to be added and the Mg must be leached from the soil profile. As pointed out before, leaching



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Middelburg

Soil study to determine the agricultural potential of an area of the farm and its suitability to be utilized as a feedlot and composting facility



of Mg or any other salts will be very difficult due to the high clay content.

Sodium (Na): It is generally accepted that at Na levels > 10% of the CEC, the salinity in the soil will start to restrict root growth of agricultural crops. With the exception of 3 of the samples, the analyses show Na concentrations of much higher saturation percentages. Leaching Na from the soil presents the same problems as discussed for Mg.

Trace Elements (Zn, Cu, Mn, B): With the exception of Mn, the analyses show that all the trace elements are deficient.



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Middelburg

Soil study to determine the agricultural potential of an area of the farm and its suitability to be utilized as a feedlot and composting facility



Notes and Recommendations

- The soil classification and analyses show that the area is not suited for intensive agriculture. Even farming with extensive crops e.g. pastures is unlikely to be successful. The main reason for this is the high salt content of the soils, and the inability to leach the salts from the profile.
- Leaching/reclamation of soils can only be done if enough water is available and if good drainage can be achieved, so that the leached salts can be removed from the profile.
- The rainfall is low (mm/yr) and no water for irrigation is available. Furthermore, will the high clay content prevent salts from leaching out of the profile.
- Leaching of salts from a profile must be a controlled exercise, to prevent the contamination of the groundwater and of lower lying soils in the landscape.
- Compacting the topsoil as required for the proposed activities (feedlot, composting), would further reduce the likelihood of salts leaching from the profile to contaminate the groundwater.
- The run-off from the terrain must be managed and collected in order to prevent possible pollution of lower lying areas.
- The compaction will also prevent the nutrients and salts from the manure and urine to penetrate the soil and contaminate the groundwater.
- The run-off can be collected in a dam to be constructed at the lowest point on the terrain. From here the water can be recycled and used to wet the composting heaps.

This set of conditions make the area suitable to be used as feedlot and composting site.

Report Compiled by: BJ Diedericks and Anneline van Staden



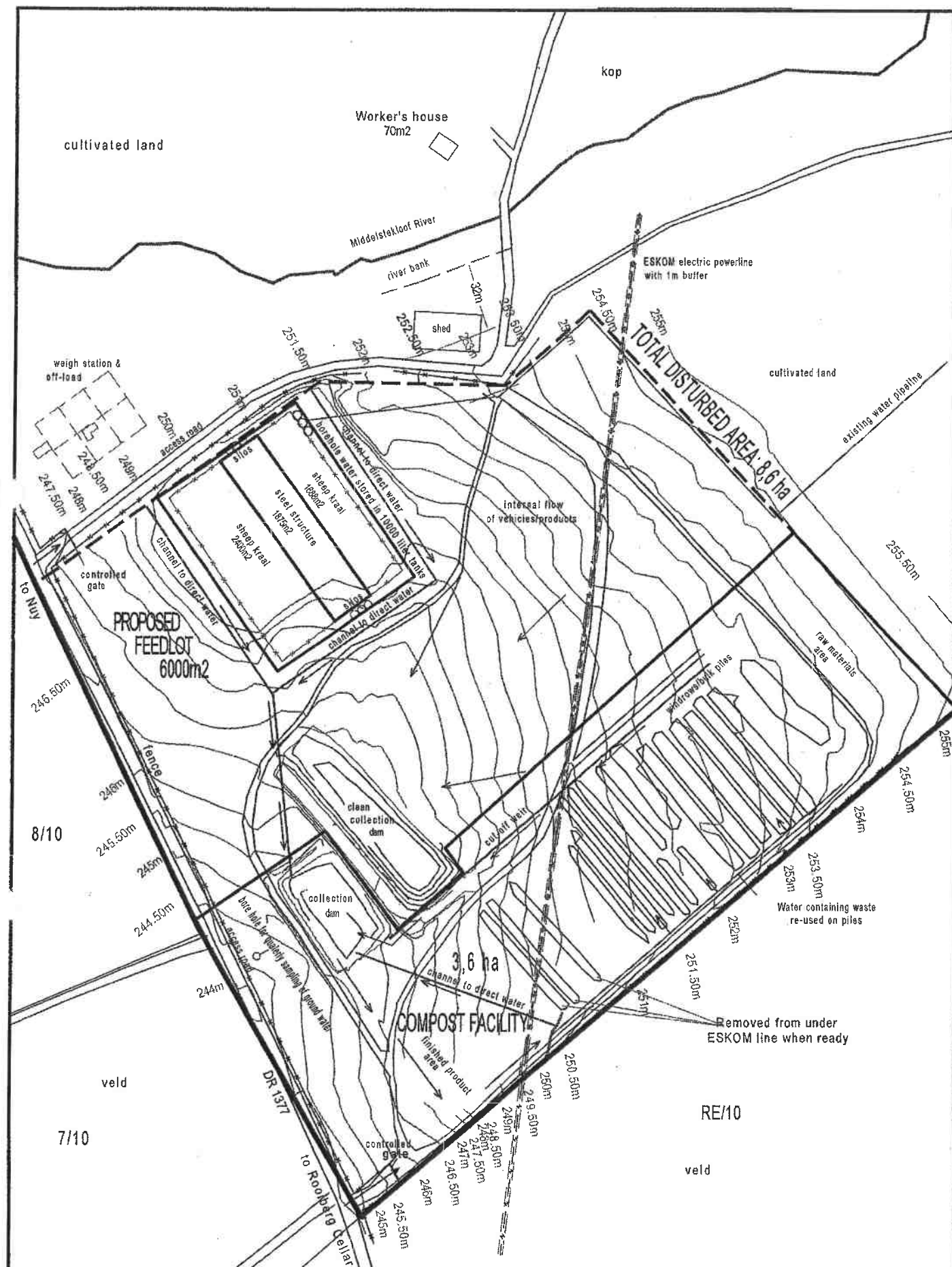
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2007/010733/07

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SITE PLAN: PTN 6 MIDDELBURG NO 10, ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA
PLANNING
Town and Regional Planner

SCALE 1:2250



Since 1984

PROKUREURS/ATTORNEYS AKTESORSGERS/CONVEYANCERS

BTW NR 4770183285

ROBERTSON

POSBUS	466	P O BOX
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MED-LAW HOUSE		MED-LAW HOUSE
ROBERTSON		ROBERTSON
6705		6705
TELEFOON	+27 23 626-6523/4	TELEPHONE
NA'URE	+27 23 347-4693	AFTER HOURS
FAKS	+27 23 626-6577	FAX
SEL	082 8214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	akies@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/ HR0215

YOUR REF : 15/4/12/5 & 7 - K Brand

DATE : 14 MARCH 2018

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON

E-mail: kbrand@langeberg.gov.za / tbrunings@langeberg.gov.za

Dear Sirs

APPLICATION FOR REZONING AND CONSENT USE CONTEMPLATED IN THE
ZONING SCHEME : PORTION 6 OF THE FARM MIDDELBURG NO 10 ("Portion 6")

OUR CLIENT: SOUTH AFRICAN FARM ASSURED MEAT GROUP CC

We act on behalf of Mr. Hennie De Bod in his capacity as member of the South African Farm Assured Meat Group CC, Robertson.

We were placed in possession of your first Notice of Non-Compliance in terms of the Langeberg Land Use Planning Bylaw, 2015 dated 15 February 2018, addressed to Mr. H De Bod of the Reben Trust.

As stated above, the property concerned, although it is owned by the Reben Trust, the entity that is in control of the said property in its capacity as a lessee, is the already mentioned South-African Farm Assured Meat Group CC.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

Be that as it may, we hold instructions to respond on behalf of both the owner of Portion 6 as well as the lessee of that property in respect of the said Notice of alleged Non-Compliance.

1. **The current Zoning Scheme:**

1.1 It is our instructions that the current Zoning Scheme in terms of which the application for rezoning and consent use by our client, pursuant to the Langeberg Land Use Planning Bylaw PN 264/2015 ("LUPB") has been launched, is the Provincial Section 8 Scheme Regulations ("Section 8 Scheme").

1.2 We have noted the contents of specifically the first four paragraphs of your said notice and deny that our client has been or currently is in contravention of any law, including the said LUPB mentioned in your Notice of Non-Compliance.

1.3 We have investigated this matter and as far as we could ascertain, the Abattoir Compost Facility currently in operation on Portion 6 ("the Compost Facility"), is not in contravention of the primary use of Agricultural Zone I.

1.4 Notwithstanding the fact that you do not specify the relevant section of the LUPB or the current Section 8 Scheme, we submit that the Compost Facility as an activity/use resorts to primary use under Agricultural Zone I due to the following:

1.4.1 In terms of GN 921 of 29 November 2013 ("Notice 921") and the schedule to that Government Notice, the type of waste being processed in the Compost Facility, is general waste and the treatment thereof. This can be gleaned from Category B of the schedule of Notice 921.

1.4.2 In terms of a recent clarification (date unknown) note by the Department of Environmental Affairs and Development: Directorate of Waste Management Implementation, it was stated by the said Directorate that, and we quote: "Schedule 3 of the National

*Environmental Management: Waste Act, Act No 59 of 2008, defines the non-infectious portion of animal waste as general waste in terms of Category B1.**

- 1.4.3 In terms of that category which regulates general waste (i.e green or biodegradable waste), it is defined as "Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing, food preparation and processing." Category B1 specifically states that all waste from agriculture, horticulture, aquaculture, forestry, hunting and fishing which are not otherwise specified in Category A, forms part of Category B1.
- 1.4.4 Furthermore, it is specifically stated by the Directorate of Waste Management (Thorsten AAB) that blood is also included under this definition in Category B1.
- 1.4.5 Also included is condemned animal waste which is viewed as general waste that is non-infectious, but not fit for human consumption. As such, condemned abattoir waste is classified as general waste.
- 1.4.6 Therefore it can be safely accepted that the waste management activity which is undertaken in or at the Compost Facility on Portion 6, concerns the management/processing of general or green waste in terms of Category B1 and not hazardous waste in terms of Category A of Schedule 3 of the definition of wastes under the National Environmental Management: Waste Act, Act No 58 of 2008 ("the Waste Act").
- 1.5 Furthermore, Notice 921 contains a list of waste management activities which have or are likely to have a detrimental effect on the environment. Your attention is in this regard referred to Category A in respect of which a Waste Management Licence ("WML") is required pursuant to Section 20(b) of the Waste Act. It

specifically (under the heading treatment of waste) defines this activity, which applies to our client's Compost Facility, as follows:

"Treatment of waste"

the treatment of general waste using any form of treatment at a facility that has the capacity to process in excess of 10 tons but less than 100 tons (of waste)"

- 1.6 Thus, in terms of National Legislation (the Waste Act, 2008 and the National Environmental Management Act, 1998 ("NEMA")) our client is not legally obliged to apply for a WML due to the fact that the current processing of general waste at the Compost Facility does not have the capacity, nor the volumes of waste to be processed and treated in excess of 10 tons of that waste. Our client chooses to refer to this waste as animal by-products which is processed into a highly needed fertilizer in the form of processed compost.
- 1.7 You will have noted that our client did apply for a WML, simply to cater for future expectations if and when the capacity of the Compost Facility should reach a stage when the quantity/volumes of waste to be processed, would exceed 10 tons. This is, as stated (this is also common cause), not the case at present and it is further common cause that our client since it started to operate the Compost Facility during 2017, the volumes of waste processed at the Compost Facility never exceeded the prescribed threshold.
- 1.8 Therefore, you would have noted that in our client's application form in terms of Section 15(2) of the LUPB filed by Umsiza Planning on behalf of our client, it is specifically stated that the current land use is: "Agricultural Zone I and Compost Facility within the limits of DEADP."
- 1.9 Therefore although our client is currently under no obligation to apply for a WML, it was advised to do so, should it become necessary in future to increase the processing and management of animal waste in excess of 10 tons but less than 100 tons. Currently, as stated, our client is well below this restricted limit.

2. Allegation of Contravention of the Langeberg LUPB and/or Section 8 Scheme:

- 2.1 It is common cause that the zoning of Portion 6 in terms of the Section 8 Scheme, which is currently applicable, is Agricultural Zone I. As already stated above, the allegation contained in your Notice of Non-Compliance, cannot therefore refer to or even imply, the contravention of any National Legislation concerning waste management.
- 2.2 Thus, the only other possible contravention which our client allegedly may have committed, concerns the nature and definition of a Compost Facility. As can be gleaned from your Notice of alleged Non-Compliance, our client is allegedly not "permitted" within the existing Agricultural Zone I, to accommodate a Compost Facility whilst the pending application for rezoning is in process. Naturally, the Compost Facility should be viewed in the context of a form of a waste management activity referred to in the Waste Act.
- 2.3 In terms of paragraph 5 of your Notice of Non-Compliance, you make the further allegation that it is an unlawful land use of our client to accommodate "a *Compost Facility which brings in waste products from premises other than the farm itself, including waste products and carcasses from the Robertson Abattoir.*"
- 2.4 It is not clear at all what the legal basis of this statement is. On the one hand, it may seem that the Municipality regards the "bringing in waste products from other premises than the farm", as such, comprises the offending activity. On the other hand, one may also assume that the offending activity refers to the Compost Facility as such, as being the activity that triggers rezoning from Agricultural I to Industrial Zone II.

- 2.5 With regard to the allegation contained in paragraph 5 of your Notice of Non-Compliance, we could not trace any reference in LUPB as well as the quoted National Legislation where such an activity requires or triggers a rezoning application as such. No doubt you will bear in mind that our client does not bring general waste to the farm with the purpose of dumping it by way of landfill. The general waste is being processed and treated as a compost product to be used as a fertilizer on the farm itself. It can thus be compared to a farmer who brings animal or chicken manure collected from another premises, to his farm where that manure will be utilised to fertilize his lands.

3. Noxious Trade:

- 3.1 We have noted that you do not refer in your Notice of Non-Compliance to the so-called "noxious trade" which our client's Compost Facility is or could be compared with. Nevertheless, we will assume that this may be the reason for your allegation that the Compost Facility triggers a rezoning to Industrial Zone II, as the primary use of that Zone in terms of the Section 8 Scheme, caters for noxious trade.
- 3.2 We have, as stated, perused the amended Zoning Scheme in terms of Section 8 of the Land Use Planning Ordinance, 15 of 1985 to ascertain whether the Compost Facility can indeed be regarded as a noxious trade per definition.
- 3.3 In terms of the definition clause in the Section 8 Scheme, "noxious trade" is defined as follows:
"means an offensive use or other use which constitutes a nuisance as envisaged in regulations which are promulgated from time to time in terms of sections 33 and 34 of the Health Act, 1977 (Act 63 of 1977) read with paragraphs (f) and (g) of the definition of "nuisance" in section 1 of the said Act and includes the operation ..."

3.4 As you know the Health Act, No 63 of 1977 ("the Old Health Act") has been repealed with effect from 1 March 2012 by Section 98 of the National Health Act, No 61 of 2003 ("the New Health Act").

3.5 We quote from the definition of "nuisance" in the Old Health Act in respect of paragraphs (f) and (g) thereof:

"(f) Any factory or industrial or business premises not kept in a cleanly state and free from offensive smells arising from any drain, watercloset, earthcloset, urinal or any other source, are not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon.

(g) Any factory or industrial or business premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health."

3.6 On the basis of the above quoted definitions, one must analyze the elements or components referred to in those definitions, to ascertain whether the Compost Facility per se falls under that definition/s. If it should fall under that definition, it goes without saying that it will trigger a rezoning to Industrial Zone II which caters for noxious trade. If not, that activity will not be rendered illegal or unlawful under LUPB.

3.7 We submit that it is crystal clear that the Compost Facility does not conform to a noxious trade use in terms of the definitions quoted above. The reasons for this submission, are manifold:

3.7.1 the Compost Facility on Portion 6 is not a factory nor an industrial or business premises.

3.7.2 The intention of the Legislator in this regard was clearly to cater for the health of people employed in the factory or on the business premises.

which should be kept clean and should not be overcrowded, badly lighted or ventilated so as to be injurious or dangerous to the health of the employees, etc.

3.7.3 The same intention applies to (g).

3.7.4 As stated above, in terms of National Legislation the Compost Facility, restricting the processing of general waste to 10 tons, does not trigger any licence or other pre-condition to be adhered to before such a venture (activity/use) may be embarked upon.

3.7.5 The definition of noxious trade as envisaged in the draft or proposed New Zoning Scheme Regulations which is not operational nor applicable, as it has not been promulgated yet, in any event does not bring the matter any further. In that definition, noxious trade is defined as follows:

"An industry that is offensive, poisonous or a potentially harmful use or activity that, because of the fumes, emissions, smell, vibration, noise, waste products, nature of material used, processes employed or other cause, is considered by the Municipality to be a potential source of danger, nuisance or offense to the general public or persons in the surrounding area and includes-

- (a) an abattoir;
- (b) a crematorium;
- (c) rooftop base telecommunication station; and
- (d) freestanding base telecommunication station."

3.7.6 It is common cause that the Compost Facility is not an Abattoir or any of the other mentioned industries. General Waste (green and biodegradable) is being utilised to process compost.

3.7.7 It is further common cause that in terms of National Legislation, general waste is non-infectious, non-poisonous and non-hazardous although it is not fit for human consumption.

3.7.8 It is furthermore common cause that the only elements of the above definition which is or may be present to some extent, is the smell and the presence of flies. Surely, the Municipality cannot be heard to (and will not) say that the slight intensification of odours and the increase of the fly population in the immediate vicinity of the site of the Compost Facility (for a radius of approximately 50m), will *per se* trigger a rezoning application from Agricultural I to Industrial II. We thought not.

4. Stance of the Municipality prior to the issuing of the Notice of Non-Compliance:

4.1 It should be noted that against the background of the above definitions, the Municipality itself through an official, on 30 January 2017, stated (and rightly so) that a composting facility is not defined in the current Zoning Scheme. In an e-mail by Tracy Brunings of your offices, she wrote to Steven McLean as follows:

"A composting facility is not specifically defined in the Zoning Scheme. It could be considered to fall under the definition of "noxious trade" and therefore require a footprint rezoning from Agricultural Zone I to Industrial Zone II."

In that e-mail she then refers, ostensibly to corroborate her opinion, to "Industrial III in terms of the proposed integrated Zoning Scheme", not yet in operation.

4.2 We submit that Tracy Brunings was correct in her statement that a Composting Facility is not defined in the current Zoning Scheme. As such, one must have regard to the definition in National Legislation to ascertain whether general waste management can be regarded as a use or activity that is or may be a nuisance, is dangerous, is poisonous, is infectious and in general is of a noxious nature. The answer to the above is clearly in the negative.

- 4.3 The possibility of a slight increase in smell and the presence of flies in the immediate vicinity, cannot be regarded as a nuisance in terms of the definition under the Old Health Act. The only reliable yardstick to be applied in this instance, is therefore National Legislation which, as we have repeatedly stated, does not even require a WML to operate a facility where general waste is managed below a certain threshold.
- 4.4 The same Tracy Brunings of your offices also stated the following in an e-mail of 8 February 2018 addressed to one Helene Janser: *"In principle, turning waste products into compost is viewed positively"*. She however, refers to the fact that the applicant *"has commenced prior to any authorization and the fly problem in particular has a lot of people 'up in arms'"*. She then further refers to certain complaints with regard to the pending application for rezoning and a consent use contemplated in the Zoning Scheme. It appears as if Ms Brunings bases her "opinion" (because that is what it is) retroactively due to "complaints" triggered by the Application for rezoning. This is by no means the legal test or yardstick to determine whether the Compost facility is or is not a noxious trade, requiring an Industrial Zone II zoning. We daresay (because it at least appears to be the case) that if the Municipality has not received any complaints from the public, no Notice of Non-Compliance would in all probability have been forthcoming.
- 4.5 It is a fact that the recycling of waste in whatever form, is the way of the future; especially green or general waste. It is after all regarded by National Legislation as non-infectious, non-hazardous, non-poisonous and therefore in general must be regarded as "non-noxious". How then, can an activity which manages and processes non-noxious material and/or waste, be regarded as noxious trade?
- 4.6 Our client has over the past more than 2 years invested large amounts of money to investigate the correct procedures with regard to the processing of waste due to the fact that it was your Municipality which instructed our client, the Robertson Abattoir, on 25 February 2016 that they (Langeberg Municipality) will stop taking/removing any by-products (animal waste) from the end of December

2016. Our client was therefore left with no option, but to find its own solution/s in respect of its own waste disposal. After due consideration and consultations with experts, Local and Provincial Government officials, our client decided not to resort to other landfill waste removal options (as virtually none nearby is available), but rather go with the general trend to generate a useful end product in the form of processed compost. During the past 2 years it consulted with the mentioned officials in the waste business such as the mentioned Directorate of Waste Management Western Cape, the Winelands District Municipality, Eisenburg and Environmental Practitioners. All were very positive regarding the intended operation of a Compost Facility on Portion 6. Our client has further expended hundreds of thousands of rand to acquire the necessary transport vehicles, transport skips, a blood tanker, a front loader and new tractor to cater for the intended process, which should prove to be beneficial to all concerned; including your Municipality.

- 4.7 Furthermore, it is our instructions that the Langeberg Municipality, as well as various other officials as mentioned above, were informed that our client intended to produce/generate compost on Portion 6, as early as 10 August 2016. No objection to the proposed Compost Facility was ever received from that day onward and neither did Robertson Abattoir receive instructions from Langeberg Municipality that Portion 6 will need to be rezoned in terms of the current Section 8 Scheme to cater for such a facility/activity/use.
- 4.8 In fact, the Langeberg Municipality transported the first general waste generated from the Abattoir to the Compost Facility site during the latter part of January/early February 2017.
- 4.9 A site visit was duly conducted on 6 February 2017 (as stated in your Notice of Non-Compliance), and attended by various officials, including your Municipality, where it could be clearly seen that the facility was already in operation. No objection at that stage to the Compost Facility was however received from the Langeberg Municipality until your Notice of Non-Compliance of 15 February 2018 – more than a year later.

4.10 Our client however did receive from your Municipality a statement of account setting out the application fees for the pending application. In that statement mention was made of "unauthorised land use activity already in existence" and a penalty was charged in the amount of R2 589.00. We advised our client, simply in order to speed up the pending application, to pay that amount without prejudice and without admission of liability for that alleged unauthorised land use, which it did on 15 February 2015.

4.11 Furthermore, on the very same day when your Municipality decided to issue the Notice of Non-Compliance on 15 February 2018, our client received an e-mail from Tracy Brunings addressed to our client's David Houghton, stating as follows:

"Thank you David. I appreciate your cooperation and look forward to finalising the land use process in as timeous a manner as possible, and hopefully with solutions acceptable to the various JAPs."

4.12 On that specific date your Tracy Brunings would have been or at least should have been aware of the fact that your Mr Brand is in the process of or has already issued a Notice of Non-Compliance on 15 February 2018 on behalf of the Municipality.

5. Stance of the Western Cape Government on this issue:

5.1 We have in our possession an e-mail by Mr Gary Arendse of the Western Cape Government which he wrote to Mr Slingers of your Municipality on 12 August 2016. It concerns the Robertson Composting Facility. It refers to a telephonic discussion on 10 August 2016 with regard to the proposed composting of Abattoir Waste at Robertson Composting Facility (Portion 6), and Mr Arendse states as follows:

"The Department understands that at the moment the facility receives ± 160 tons of green waste per month. This works out at ± 5.3 tons per day, which is therefore under the threshold of 10 tons as stated in Government Notice 921."

- 5.2. He further states that the Department of Waste Management of the Western Cape was also made aware that composting of ± 500 tons/month (16.6 tons/day) of abattoir waste will also take place at the facility which will trigger the listed activity and therefore required a Waste Management Licence. We have referred to the possibility or even the probability that sometime in future this threshold will be crossed which will only then require a WML.

- 5.3. However, Mr Arendse at the time suggested one of the following two options:

Option 1 - The Robertson Composting Facility will accept 500 tons/month abattoir waste which will lead to the triggering of the listed activity in Government Notice 921 and therefore require a Waste Management Licence. (We have already addressed this option, which they have followed due to future expansion of the waste treated at the Compost Facility).

Thus, they have been advised to apply now for a Waste Management Licence although it is not a legal obligation at all.

In Option 2 suggested by Mr Arendse, the Robertson Compost Facility receives a smaller volume of abattoir waste per month (not exceeding 140 tons/month) and therefore will not trigger the listed activity which requires a Waste Management Licence.

- 5.4. It is however of grave concern that despite the fact that your Municipality and its officials (as well as other health officials of the Province and District Municipality) were fully aware of our client's intention to operate a Compost Facility at Portion 6, your Municipality chose not to inform, nor instruct our client not to operate that facility before an application for rezoning has been embarked upon and finalised. Through your Municipality's inaction in this regard, you have at least

created the impression or the implication that your Municipality does not regard the proposed Compost Facility as requiring a rezoning to Industrial II. Thus, our client may revert to the principle of Estoppel from precluding your Municipality now to assert the contrary.

- 5.5 As stated, acting on your implied impression that our client can proceed with his proposed facility, it expended hundreds of thousands of rand to make the process viable, only now to be informed that he must immediately cease with all activity as per your Notice of Non-Compliance!
- 5.6 Furthermore, it would appear throughout the history of this matter, as can be gleaned from the various e-mails and correspondence between various officials of your Municipality as well as the Department of Environmental Affairs: Western Cape, that everyone regarded the proposed facility as a positive step in the right direction towards a permanent and sustainable solution for waste management. Without having to revert to landfill waste disposal anymore.
- 5.7 The question that now immediately emerges is: Will your Municipality again take up and remove the animal waste from the Abattoir pending the finalization of the rezoning application? We think not.

6. Submission:

- 6.1 It is therefore our convinced submission that our client at no relevant time acted in contravention of any law referred to in your Notice of Non-Compliance. We are also convinced that the Notice was issued retroactively due to complaints received, which is a totally separate matter/issue, not to be applied to determine of status of the Compost Facility. Whatever the reason or motivation for the issuing of your Notice, same is rejected on various grounds set out herein.
- 6.2 You will also bear in mind that should your Municipality respond through any further Notices of Non-Compliance or any other action in terms of the LUPB or any other law, such actions will be vigorously opposed. Furthermore, you will be mindful of the fact that should our client suffer any damages due to unlawful

legal action embarked upon by your Municipality, our client's rights to claim such damages from your Municipality is strictly reserved hereby.

- 6.3 Furthermore, our client's rights are also strictly reserved to re-claim payment of the "penalty" charged by your Municipality as it was paid without admission of any liability, but simply to speed up the process.

Yours faithfully
DU BOIS ATTORNEYS
Per 
J.P. DU BOIS

DIRECT E-MAIL : hannes@jpdubois.co.za

CC:

Mr. S McLain- Environmental Health Practitioner – Cape Winelands District Municipality (smcclean@capewinelands.gov.za)

Mr. G Slingers – Manager – Solid Waste Management – Langeberg Municipality – Gslingers@langeberg.gov.za

Mr. G Arendse – Environmental Officer – Directorate Waste Management, Department of Environmental Affairs and Development Planning – Gary.Arendse@westerncape.gov.za

Mrs. Anna-Christa Redelinghuys – Umsiza Planning – annachris@mweb.co.za

Mr. Hennie De Bod – Robertson Abattoir – hennie@robab.co.za

Mr. David Houghton – Robertson Abattoir – david@robab.co.za

Etienne A Roux

From: Dmitri C Matthews
Sent: Friday, June 15, 2018 10:20 AM
To: Etienne A Roux; Fahd Said
Cc: Eugene Pienaar; Marbe Coetzee; Mare-Liez Oosthuizen
Subject: re: Robertson Compost Facility
Attachments: APPENDIX_B1_LAYOUT_ALTERNATIVE1_PREFERRED.PDF; Robertson Abattoir.doc

Hi Etienne and Fahd

Following the site visit on 13/06/2018, our Directorate has the following comments:

@Etienne A Roux

- After reviewing the site development plan submitted in the draft BAR, it is confirmed that the compost facility site is made up of, and should therefore be included in the survey as:
 - The windrows;
 - Raw materials area;
 - Cut-off weir;
 - Collection dam;
 - Finished product area; and
 - The area disturbed under the Eskom powerlines.
- The "facility" is therefore regarded as the combination of all the components necessary for the operation of such a facility.

@Fahd Said

- Please see attached document that indicates the following:
 - The google Earth aerial imagery (04/01/2010) indicates that the area of the composting facility, feedlot and areas outside of this footprint was previously natural vegetation. This area was cleared between 2010 and 31/01/2014, after which it was planted with Hawer and Lucerne. It is not clear whether this clearance was done lawfully or not and should therefore form part of the investigation regarding the unlawful commencement of activities at the farm.
 - In addition, two dams have been constructed. One is a collection dam for the composting facility and the second one for the feedlot. Confirmation of the whether construction of the collection dam for the feedlot is considered as in furtherance of Activity 4 of GN No. 327 of 7 April 2017 must be confirmed and could possibly form part of the current investigation.

EIA Application history (16/3/3/1/B1/14/1004/18):

- The application was submitted to the Department on 26/01/2018;
- The draft BAR was made available from 14/03/2018 to 16/04/2018;
- This Directorate's comment on the draft BAR questioned the development footprint of the current composting facility and the response received from EAP indicated that the facility is over the 1ha threshold, which meant that the relevant listed activity was commenced with unlawfully;
- Our response to the EAP's information was that since the facility commenced unlawfully, the application would need to be withdrawn and a S24G process would be applicable;
- The deadline for the final BAR to submitted to the Department was on 30/04/2018, however, no final BAR or the 50 day extension to submit the final BAR was submitted to this Directorate before 30/04/2018 and the application then lapsed.

@Etienne A Roux

Since our process is no longer active and your application is still being processed, we cannot send out any correspondences to the applicant. So we need to communicate which areas need to be included in the survey as soon as possible to the applicant, to avoid any back and forth situation.

Regards

D'mitri Matthews (Environmental Officer: Specialised Production)
Development Management: Region 2
Development Planning
Department of Environmental Affairs and Development Planning
Western Cape Government
1 Dorp Street, Cape Town, 8001

Tel: (021) 483 8350

Fax: (021) 483 3633

E-mail: D'mitri.Matthews@westerncape.gov.za

Website: www.westerncape.gov.za



Western Cape
Government

BETTER TOGETHER

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"A5"



Town and Regional Planner

Anna-Christa Redelinghuys
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6730

Tel: (023) 6151461
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or (023) 6151461
Cell: 082 8259891

E-mail: annachris@mweb.co.za

22 August 2013

The Director: Environment Governance
Department of Environmental Affairs and Development Planning
Private Bag X9086
CAPE TOWN
8000

Reference: 14/1/1/DR9/Farm 10/0, Robertson

For attention: Mugammad Saliegh Jacobs

PRE-COMPLIANCE NOTICE: INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF NEMA: REMAINDER OF THE FARM MIDDELBURG NO 10 ROBERTSON

Your letter dated 6 August 2013 refers. Mr de Bod requested Umsiza Planning to address the matter.

We hereby request that a Compliance Notice should not be issued, because of the following reasons:

Activity 18: Removal/depositing material into water course (Middelstekloof River) of more than 5m³:

Background

Six dams had been constructed within the Middelstekloof River drainage area by previous owners of the Remainder and Portion 6 of the farm Middelburg No 10, district Robertson. Most of these dams were used for the storing of drainage/seepage water from the mountain, as well as borehole water for the irrigation of the lower lying areas between the "koppe" of the Langeberg Mountain Range. During the last floods approximately five years ago, most of the embankments of these dams have, however, been damaged / destroyed. The attached photographs show the extent of erosion applicable to the areas above and below these dams, as well as the damage to the embankments.

Current activity

The current owner has cleaned an area of approximately 5m X 5m, i.e. 25m² surrounding the existing, lowest, shallow dam, removing mainly the reeds to make it more accessible for his cattle seeking drinking water.

He also repaired the existing, washed away farm road next to this dam (western side) that provides access from one part of the farm to the other.

Activity 14: Clearance of an area of 5 ha or more of vegetation where 75% or more is indigenous.

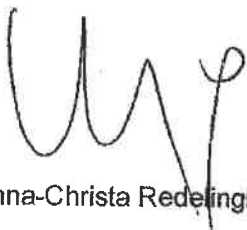
The farms have been cultivated in the low lying areas along the Middelkloof in the past - see photographs showing the alien vegetation (greyish colour). The land that was being ripped by the current owner was already used for crops such as wheat, coriander, soya beans etc. since 1982 up to 2006 by the previous owner. Confirmation from the previous owner and current neighbour are attached. These lands were irrigated by a permanent irrigation system (including electricity) that is visible on the photos attached.

According to the Conservation of Agricultural Resources Act, 1983 (Act No 43 of 1983) (CARA), no user may cultivate virgin soil, i.e. land that has no at no time during the preceding ten years been cultivated. The lands applicable have been lying dormant for only seven years.

The ten years mentioned in the Act are an indication of the time needed for land to be rehabilitated, and therefore it can be argued that the land that was ripped could not have been rehabilitated with 75% or more indigenous vegetation.

In the light of the above, it is proved that neither Activity 18 of Government Notice R544 nor Activity 14 of Government Notice R546 is applicable.

Yours sincerely,



Anna-Christa Redelinghuys

"A6"

To whom it may concern:

I, Charl du Toit, previous owner of the Remainder, Portions 6 and 7 of the farm Middelburg No 10, district Robertson, confirm hereby that the new owner, Mr. Hennie de Bod, has ripped land that was previously cultivated. I planted/grew several crops such as wheat, coriander, soya beans etc. since 1982 up to 2006 on the areas applicable. The lands have a permanent irrigation system since 1982.

Therefore, the areas planted by Mr de Bod did not contain 75% or more indigenous vegetation.



Charl du Toit

Date: 21 August 2013

"A7"



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PROKUREURS/ ATTORNEYS AKTEBESORGER / CONVEYANCERS

BTW NR 4770183285

ROBERTSON

POSBUS	466	P O BOX
KERKSTRAAT 23		23 CHURCH STREET
MED-LAW HOUSE		MED-LAW HOUSE
ROBERTSON		ROBERTSON
6705		6705
TELEFOON	+27 23 626-6523/4	TELEPHONE
NA URE	+27 23 347-4693	AFTER HOURS
FAKS	+27 23 626-6577	FAX
SEL	082 8214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	aktes@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/ HR0215

YOUR REF : 15/4/12/5 & 7 – K Brand

DATE : 3 MAY 2018

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON

E-mail: kbrand@langeberg.gov.za / tbrunings@langeberg.gov.za

Dear Sirs

APPLICATION FOR REZONING AND CONSENT USE CONTEMPLATED IN THE
ZONING SCHEME : PORTION 6 OF THE FARM MIDDELBURG NO 10 ("Portion 6")

OUR CLIENT: SOUTH AFRICAN FARM ASSURED MEAT GROUP CC

1. We refer to previous correspondence and specifically to your letter of 28 March 2018 addressed to our offices. We will now respond to the contents of that letter.

AGRICULTURE – DEFINITION:

2. We have noted the wording of the definition of "Agriculture" contained in the current Zoning Scheme, as amended by Provincial Notice 359 of 2009.
3. We however submit on behalf of our client, that the mere fact that an "Abattoir Compost Facility" is not specifically mentioned in the definition of Agriculture, does not exclude that activity from being exercised on agricultural land.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

491.

4. The definition of Agriculture (with specific reference to cultivation) comprises much more than the use of land for the mere raising of crops, the breeding of animals and game farming.
5. Sustainable Agriculture can only be maintained and improved through a careful rotation of crops and generous amounts of compost and/or green manure and/or other fertilizer. Abattoir Compost comprises nothing more than a variant of green or organic manure to be utilized as fertilizer on a farm.

COMPONENTS OF AGRICULTURE:

6. It is generally accepted that the concept of Agriculture is composed of at least five specialized branches. The five branches are:
 - 6.1 Agronomy which deals with soil management and the growing of crops,
 - 6.2 Horticulture which deals with the cultivation of fruits, vegetables and ornamental crops,
 - 6.3 Agricultural Engineering which involves knowledge of farm machinery and equipment and also deals with developing new systems and practices to address practical problems facing agriculture,
 - 6.4 Agricultural Economics which deals with the business end of farming, and
 - 6.5 Animal Science which deals with the breeding and caring of animal for specific purposes, such as for the meat, milk and/or fur, etc.
7. The above components do not exist independently from and in isolation of each other. The definition of Agriculture cannot thus be viewed and evaluated in isolation. It must always be viewed in its proper context. As can be gleaned from the amended definition of Agriculture, it specifically excludes abattoirs, feed-pen farming, aquaculture or other defined consent uses. The definition does not exclude any of the above five components and rightly so as they are interdependent of each other and jointly form an integral part of the very essence of Agriculture. To exclude for instance Agronomy from the definition, is to exclude fertilizer from the cultivation of crops.
8. Thus, to limit Agriculture as simply the activity of cultivating land by raising of crops or for the breeding of animals or the running of a game farm, is to exclude the inherent components, or some of them, from Agriculture itself. After all, the most essential requirement regarding the cultivation of land, is to manage,

maintain and fertilize the soil with recommended doses of all sorts of nutrients to meet the crop needs. This is exactly what our client endeavours to achieve in respect of the Compost Facility.

9. The test therefore is not to enquire whether the words "compost facility" are included in the definition of Agriculture or not. The true test is what cultivation of land essentially means, seen in context. And what the purpose of the wording are i.e. the intention of the legislature.
10. Agriculture in the true sense of the word, cannot exist without viewing it in its proper context, which is to apply all the components mentioned above. Only when all the components are effectively applied, can sustainable Agriculture in its fullest and broadest context evolve. The intention of the legislator could only have been that the definition of Agriculture should be viewed inclusive of all its inherent and interdependent components. Otherwise it makes no sense at all as will be demonstrated below by way of examples. After all, the rules of interpretation of statutes, prescribe as such. Section 39(2) of the Constitution is a peremptory provision and stipulates as follows: *"When interpreting any legislation and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights"*.

EXAMPLES:

11. The following examples will show that the narrow and restrictive interpretation given by the Municipality to the definition of Agriculture, makes no sense at all and would result in absurd outcomes. Alternatively, it is viewed out of context and does not follow the purposive and contextual approach favoured by the courts:
 - 11.1 It goes without saying that a farmer may lawfully shoot game on his farm zoned for Agriculture 1. This he may do despite the fact that the definition of Agriculture does not specifically state that he is allowed to do so. *Ex facie* the definition of Agriculture, he may only run a game farm on an extensive basis. Shooting of game on a game farm is an essential "given" and the farmer does not need to apply for a rezoning of his farm to achieve that purpose.
 - 11.2 A farmer running a game farm, as standard practice, skins the dear hunted or have it skinned for his or his friends' use. He may make biltong and "droë wors" from the meat by slaughtering the animal and hanging

the meat out to dry in a cool, dry and airy facility. The slaughtering is also done in a clean and hygienic cooling facility almost like a butchery. Surely the skinning and cutting up and the processing of the meat of the animal, hunted in this way, will not trigger a rezoning to Agricultural Zone 11 or even an Industrial Zoning. Keep in mind that nothing is said in the definition of Agriculture of these activities.

- 11.3 Furthermore, a farmer will slaughter sheep for his family and/or his workers' use. Will this trigger a rezoning to Agricultural Zone 11 as well? Surely not, as it forms an integral part of the keeping or breeding of animals on the farm to be utilized by the farmer as he deems fit. The reason for this is that the mere skinning/slaughtering of animals does not suddenly elevate the primary use of Agriculture to Agricultural Industry, (or other zoning) simply because it is not included in the definition of Agriculture.
- 11.4 Similarly, a farmer will be allowed to repair his tractors, vehicles and other implements on the farm when they break down. He needs the tractor or other implement urgently to continue to plough or sow his fields or harvest his crops. He will simply take the broken down tractor or other implement to his oily workshop on the farm and an employee who is mechanically inclined (or even may be a qualified mechanic) will repair that tractor or implement by using all sorts of noisy tools. This component is called Agricultural Engineering. Surely, as in the case of hunting game, the farmer need not apply for the rezoning of his farm in that instance, to e.g. Industrial Zone 1.
- 11.5 As stated in our previous letter of 14 March 2018, a farmer may lawfully produce compost by, for instance, using grape skins and pomace as an organic waste by-product in the wine making process and mix it with other organic material to produce a nutrient rich organic fertilizer for the soil. He may also lawfully buy in animal manure, mix it with wood chips and other nutrient rich organic material, stack the mixture on his farm in heaps or in composting pits and use it when necessary, for the very same purpose. All of these processes are by nature odorous to an extent but they take place almost daily as standard farming practices and as part of the agronomy component --- and is therefore included by necessary implication under the definition of Agriculture.
- 11.6 These example activities not only relate to, but form an integral part of the main farming activity; be it cultivation of crops, keeping and breeding of animals or running a game farm.

- 11.7 The current compost facility (and the organic abattoir waste which is used in the process) is no different to the above and for that reason cannot be excluded from the broad and generally accepted definition of Agriculture, read into its proper context.

INSTRUCTIONS:

12. In view of the above, it is our instructions that the contents of your letter of 28 March 2018, insofar as it contends that the operation of a compost facility within the constraints of National Legislation, is illegal, is rejected out of hand.
13. Our Client's rights remain fully reserved.

Yours faithfully
DU BOIS ATTORNEYS
Per

J P DU BOIS

DIRECT E-MAIL : hannes@jpdubois.co.za

Verw/Ref: 15/4/12/5&2 (Middelburg 10/6)

Umsiza
P O Box 649
ROBERTSON
6705

Per email: annachris@mwweb.co.za

Dear Madam

ADDITIONAL INFORMATION REQUIRED IN TERMS OF SECTION 55(5) OF THE LANGEBERG LAND USE PLANNING BYLAW, 2015

1. I refer to the following application:

Application Type	: Rezoning from Agricultural Zone I to Industrial Zone II (Abattoir Compost Facility) and Consent for Intensive Feed Farm (Sheep)
Property description	: Portion 6 of Middelburg 10, Robertson
Date received by Municipality	: 24 October 2017
Date advertised	: 14 November 2017
Langeberg's reference	: 15/4/12/5&2
2. Further to the site visit on 16 May 2018, please provide this Municipality with the following additional information at your earliest convenience:
 - 2.1. Number of truck trips currently generated per month, calculated according to the records of waste volumes removed from the Robertson Abattoir.
 - 2.2. Stormwater Management Plan prepared by a Professional Engineer. The proposed stormwater management system as shown on the Site Plan must be verified and / or alternative recommendations made relating to: required capacity and surfacing/lining of collection dams; location of dams; filter trap/screening for dams; stormwater cut-off drains / berms for the windrows and feedlot; erosion control upslope of the dams and relating to vehicular accessways; and any contingency measures required for heavy rainfall conditions.
 - 2.3. Proposed rehabilitation and erosion control measures for the 32m recommended buffer adjoining the Middelstekloof River and particularly the river crossing near the existing shed.
3. The Site Development Plan must show the following:
 - 3.1. 32m buffer along the Middelstekloof River.
 - 3.2. 100m from the Middelstekloof River (Ablution facilities will be required for staff and sewer tanks must be located more than 100m from water sources).
 - 3.3. Distances between proposed feedlot and Middelstekloof River.

ADMINISTRATIVE AND EXECUTIVE OFFICE: ASHTON
ADMINISTRATIEWE EN UITVOERENDE KANTOOR
IOFISI YOLAWULO NEYESIGQEBA
~ TOWN PLANNING DEPARTMENT: MONTAGU ~
3 Piet Retief Street, MONTAGU 6720
T +27 23 614 8001 F +27 23 614 1841
E tbrunings@langeberg.gov.za www.langeberg.gov.za

Navrae/Enquiries: T L Brunings

18 May 2018

- 3.4. Contours to the Middelstekloof River.
- 3.5. Position and use of all existing buildings on the site: agricultural shed, manager's house, labourers housing, weigh station.
- 3.6. The electrical lines which are shown on site are incorrectly shown as Eskom lines requiring a 1m buffer. These lines must be shown as municipal lines, with a 3m buffer either side of the lines (no buildings or windrows within the buffer area).
- 3.7. The redefin boundary of the proposed composting area (set further back from the road) and the areas proposed for raw materials and finished product.

Yours faithfully


JV BRAND
MANAGER: TOWN PLANNING

TO: TRACY BRUNINGS
70 pages

**UMSIZA
PLANNING**

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6705

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annachris@mweb.co.za

No 2 Rosegate
ROBERTSON

"A9"

2 Oct 2018

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Tracy Brunings

PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT ROBERTSON: ADDITIONAL INFORMATION REQUESTED

Your e-mail dated 18 May 2018 refers. Additional information on the application were requested:

- Number of truck trips per month;
- Stormwater Management Plan prepare by a Professional Engineer;
- Rehabilitation and erosion control measures for 32m Middelstekloof River buffer, especially the river crossing;
- Site Development Plan indicating
 - 32m buffer along river,
 - 100m from river,
 - distance between proposed feedlot and river,
 - contours to river,
 - position and use of existing buildings on site,
 - electrical lines shown as municipal lines with 3m buffer, and
 - redefined boundary of proposed composting area and areas for raw and finished products.

Information/response on the above, as received in June 2018, are as follows:

Number of truck trips currently generated per month, calculated according to the records of waste volumes removed from the Robertson Abattoir.

SAFAM believe this request stems from a complaint generated by the owner of the Doornkloof Private Nature Reserve who has complained that the trucks delivering the abattoir by-products disturb her and her guests. This complaint is challenged on the basis of the below facts and object that this complaint is being considered by the Municipality without the Municipality first checking and verifying the facts behind this complaint.

Town and Regional Planning &
Environmental Assessments
Company Registration No: 2004/044438/23

Principal: Anna-Christa Redelinghuys
Professional Planner (Pr. Pln A/1076/1998)
B Town and Regional Planning, University of Pretoria,

Even a cursory inspection using Google Earth / Maps would confirm that this complaint is completely unfounded and vexatious in nature. Subsequent to an initial check using available resources a site visit would easily have determined that the compost site and compost delivery gate are both out of sight, and between 2km to 2,3km (as the crow flies) away from the residences on the Doornkloof Nature Reserve. It should be noted that the 'Bush House', where the guests and owners stay is 2.3km away and have 3 mountain ridges, and 1 hill between it and the compost site. Again this could very easily be checked using Google Earth as well as a site visit.

The individuals who reside at the property on the Doornkloof Nature Reserve which is 2km away from the compost site have never complained and in fact have confirmed on many occasions that they are not disturbed in any way by the compost facility. They have not complained, because it is a fact that they are so far away and have a hill between them and the compost site.

The abattoir by-product delivery trucks do not even have to travel past the Doornkloof Nature Reserve access gate, (which is a right of servitude access across SAFAMs farm) so it cannot be claimed that the trucks disturb the owner and or guests of Doornkloof once they are in situ in the reserve. This cannot be said for the other vehicles travelling along the gravel road towards the dairy farm, fruit farms and brewery which are located further along the road. Is Doornkloof disturbed by these vehicles as they pass their gate and have they complained about them in the same way they have complained about SAFAM trucks. The Saggy Stone Brewery for instance is also closer to the Doornkloof Reserve than SAFAM's compost facility, as are a number of farms which operate the usual farm machinery / vehicles.

It would therefore stand that if Doornkloof have not complained about the 'other neighbours' mentioned above, who are in fact closer and not as obscured as SAFAMs compost operation is, then their complaints are vexatious in nature and should not be entertained.

SAFAM request that it is placed on record that despite a site visit being carried out on a number of occasions by Langeberg Municipality whereby the substance of the complaint could easily have been investigated (and subsequently been dismissed as unfounded) we are still being asked questions regarding the delivery trucks.

SAFAM have been given approval (7th February 2018) by the Western Province Chief Director – Road Network Management who is the competent authority with regards to the road use, for a maximum of 6 trips per day to the farm. It is concerning that despite Langeberg Municipality being copied in on this approval document SAFAM are still being questioned regarding the delivery trucks by the Municipality. During the site visit carried out on the 16th May the Municipality informed SAFAM that they were not aware of this approval.

The table below shows the analysis carried out by SAFAM with regards the delivery trucks to the compost site. It clearly shows that SAFAM are well below the amount of visits that the competent authority has given them approval for. Attached copies of the delivery logs used by the truck drivers. In short SAFAM are 1609 trips below the amount of deliveries allowed for the

total period from March 2017 to 19th April 2018. For the month of March 2018 SAFAM are 114 below the maximum number of trips allowed.

	BLOOD TRUCK	SKIP TRUCK
1ST DATE OF RECORDS	31ST MARCH 2017	31ST MARCH 2017
LAST DATE OF RECORDS	19TH APRIL 2018	1ST MAY 2018
TOTAL NUMBER OF DAYS	384	396
BLOOD TRIPS	147	
SKIP TRIPS	548	
DAYS x 6 (TRIPS PER DAY ALLOWED)	2304	
DIFFERENCE WITH ALLOWANCE		

MARCH HAS 31 DAYS	31
MULTIPLY BY 6 TRIPS ALLOWED	186
BLOOD TRIPS	21
SKIP TRIPS	51
DIFFERENCE WITH ALLOWANCE	

The *stormwater management plan* as indicated on the SDP together with the investigation and recommendations as included in the Soil Study was what Eco Impact included in all of the EIA documents. The Soil study provides recommendations as to the required capacity, surface lining, location of the dams etc. based on their investigations.

This has then informed the stormwater management plan as indicated on the SDP as provided to us. The capacity of the dam takes into account the potential for heavy rainfall conditions. Please refer to Appendix G3 of the BAR for details as referred to above. Please refer to the EMP_r in Appendix H of the BAR. Specifically take note of the storm water management objective under Goal 1 of the Operational phase of the EMP_r.

Please be advised that the eWULAA application is in phase 2, and the request for technical information will only take place in phase 3 of the application. Please also be advised that BGCMA have requested a site inspection following our phase 1 eWULAA's application, to which Eco Impact have followed up with on more than one occasion but are still awaiting a response thereto.

Rehabilitation and erosion control measures for the 32m buffer along River:

Please refer to the EMPr in Appendix H of the BAR. It is in the EMPr where all recommendations of specialist studies are included under the relevant sections of the EMPr. Please refer to the Operational Section of the EMPr which includes rehabilitation based on the operational activities. Eco Impact would like to specifically point you to Goal 12 under the Operation EMPr which specifically includes the 32m buffer along the drainage line. The goal also includes monitoring and remedial actions for the specific goal. Please also refer to Chapter 10 of the EMPr which specifies rehabilitation specification based on the impacts associated with the activity.

The SDP has been amended as requested – attached.

For your consideration please.

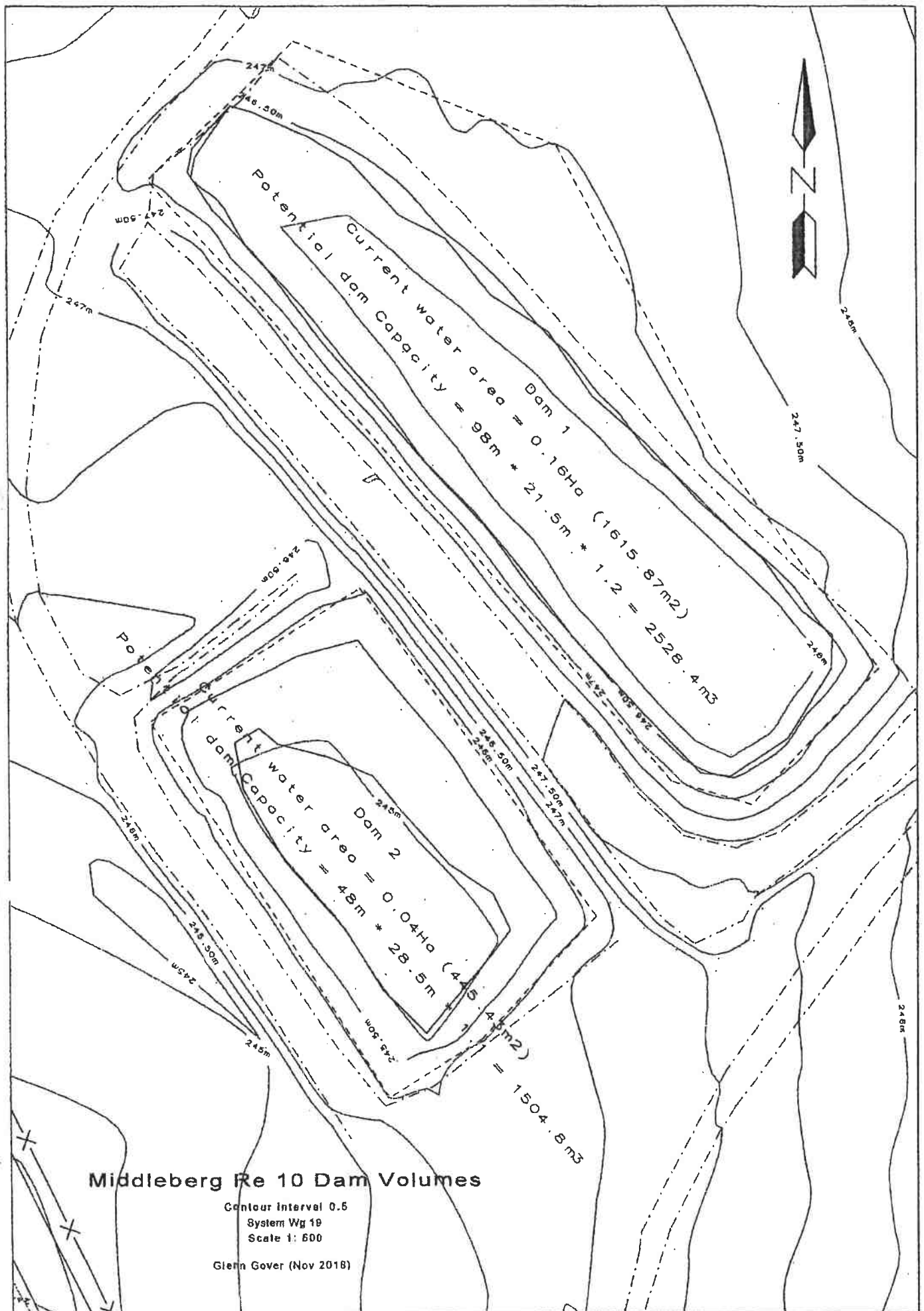
Yours faithfully



Anna-Christa Redelinghuys
Pr.Pln A/1076/1998



SCALE 1:2250



"A10"

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LANGEBERG
 MUNICIPALITY

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)

PORTION 6 OF MIDDELBURG 10, ROBERTSON:
APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Reference number	15/4/12/5 & 7	Application submission date	24 October 2017 BAR: 14 March '18	Date report finalised	18 January 2019
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PART A: AUTHOR DETAILS

First name(s) & Surname	Tracy Brunings
Job title	Assistant Town and Regional Planner
JACPLAN registration number	Pr. PIn A/951/1987

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Portion 6 of the farm Middelburg No. 10, Robertson				
Physical address	Off DR 1384 and DR 1377	Town	Rural – 3km N of Cape Lime factory and 14km NW of Robertson		
Current zoning	Agricultural Zone I	Extent (m ² /ha)	758.0308ha.	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Section 8 Zoning Scheme in terms of LUPO No. 15 of 1985				
Current land use	Agriculture, Store/Shed, workers house, kraal and weigh station, dams			Title Deed number & date	T12255/2013
Any restrictive title conditions applicable	Y N	If Yes, list condition number(s)			
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

The farm is located in the area behind the Cape Lime Factory and at the foothills of the Langeberg Mountains. A locality Plan and Site Plan are attached at Annexure B. Application is made for the following:

- Rezoning a 3,6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning.
- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 6500 lambs) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity).

Application was also made to DEA&DP in terms of Section 53 of LUPA as the land in question was used for agricultural purposes during the past 10 years. On 9 May 2018, the Department of Environment Affairs (DEA&DP) issued provincial approval for the Composting Facility, in terms of Section 53 of the Land Use Planning Act 3/2014. This decision has been appealed by an objector and the outcome of the appeal is pending.

Application has been lodged for Environmental Authorisation as the proposed use triggers listed activities GN 938, LN1:4 (concentration of animals), 8 (agri-industry >2000m²) & 28 (industrial use >1ha. on agric land) and GN921 (Waste Listed Activities). Appeals are also pending with regard to decisions on these applications.

304.

PART D: BACKGROUND & SUMMARY OF APPLICANT'S MOTIVATION

The Robertson Abattoir disposed of waste products via the municipal landfill and sewage works until the end of 2016. These products include: stomach contents, intestines, blood and non-infectious condemned trim and carcasses of sheep and cattle. Due to legislative requirements and capacity constraints, the abattoir owners were notified in September 2016 that they would need to investigate alternative options for disposal of abattoir waste. Final notice was given on 2 November 2016 that the Municipality could no longer receive these wastes. As a result, alternative options for waste disposal were considered, including: using a service provider to dispose of by-products, biogas, alkaline hydrolysis and composting. The production of compost using these waste products started on the application site in February 2017.

Application is also made to relocate the existing sheep feedlot on Ptn 47 of the Farm Roodehoogte No 47. The feedlot was approved for 2500 sheep. The current application is for 6500 lambs at any one time (4500 under roofed area and the remainder in open camps), with a floor area of 6800m². Lambs are intensively fed for ± 1 month and then transported to Robertson Abattoir. Feed will be delivered by Meadow Feeds and stored in four silos - 2 on each side of the shed. The manure from the feedlot will be used in the composting process. Wood chips from the Langeberg Municipality (Robertson) are also used in manufacturing the compost.

Access to the site is via the R60 from Robertson, the DR1384 (tarm road from the R60 around the Cape Lime Factory) and the DR1377 (dirt road that runs parallel to the R60 between Roolberg and the Nuy valley). There are 2 access points onto the site from DR1377: one to the composting site and the other to the proposed feedlot. The applicant indicates the volume of traffic as follows: one tanker truck (blood) per day i.e. 2 truck trips per day; one skip truck (carcasses et al) every second day i.e. 1 truck trip per day; one livestock truck (sheep) per day i.e. 2 truck trips per day. i.e. a total of 5 truck trips per day.

The site currently accommodates: a store, worker's house, kraal and weigh station, dams and 15ha. of grazing. 3,6ha. of previous grazing area has been cleared to accommodate the compost windrows and effluent collection dams.

Windrows of $\pm 1,5$ m high and 2m wide will rotate around the 3,6ha. site as and when compost matures and is ready for sale. The composting process requires regular turning of the windrows. ± 20 m³ of compost will be produced per day. Compost will be sold both in bulk and bagged for sale to farmers.

The application, lodged on 24 October 2017, is attached at Annexure C; and additional information, lodged on 2 October 2018, is attached at Annexure D. The application is motivated as follows:

- The closest residential building is a farmhouse across the DR1377 ± 550 m SW of the application site. The nearest Bultenstekloof guest cottage is $\pm 2,36$ km to the NE of the site. The nearest cultivated lands on neighbouring farms are ± 550 m away.
- The soil study shows the property is not suitable for intensive farming due to high clay and salt content. The drainage system of the composting facility is of importance to ensure run-off water does not enter the underlying soils as no hardened surfaces are proposed for storing raw materials or the compost. Two small dams have been constructed below the compost site to catch stormwater from the farm and collect effluent from the windrows and feedlot. An adjoining borehole will be used to enable quarterly sampling of ground water.
- SAFAM has the following Standard Operating Procedures (SOPs) which will ensure the successful operation of the composting facility: Composting Processing; Removal and Delivery of by-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control.
- The main impacts are flies and odours which will be managed through the use of fly traps, correct management of the composting process and chemical treatment in accordance with SOPs.
- The facility will employ 7 permanent workers: 2 at the compost facility, 4 at the feedlot and 1 farm manager.

PART E: SUMMARY OF PUBLIC PARTICIPATION

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

Where participation is required,
state method of advertising

Press

Notices

Ward Councillor

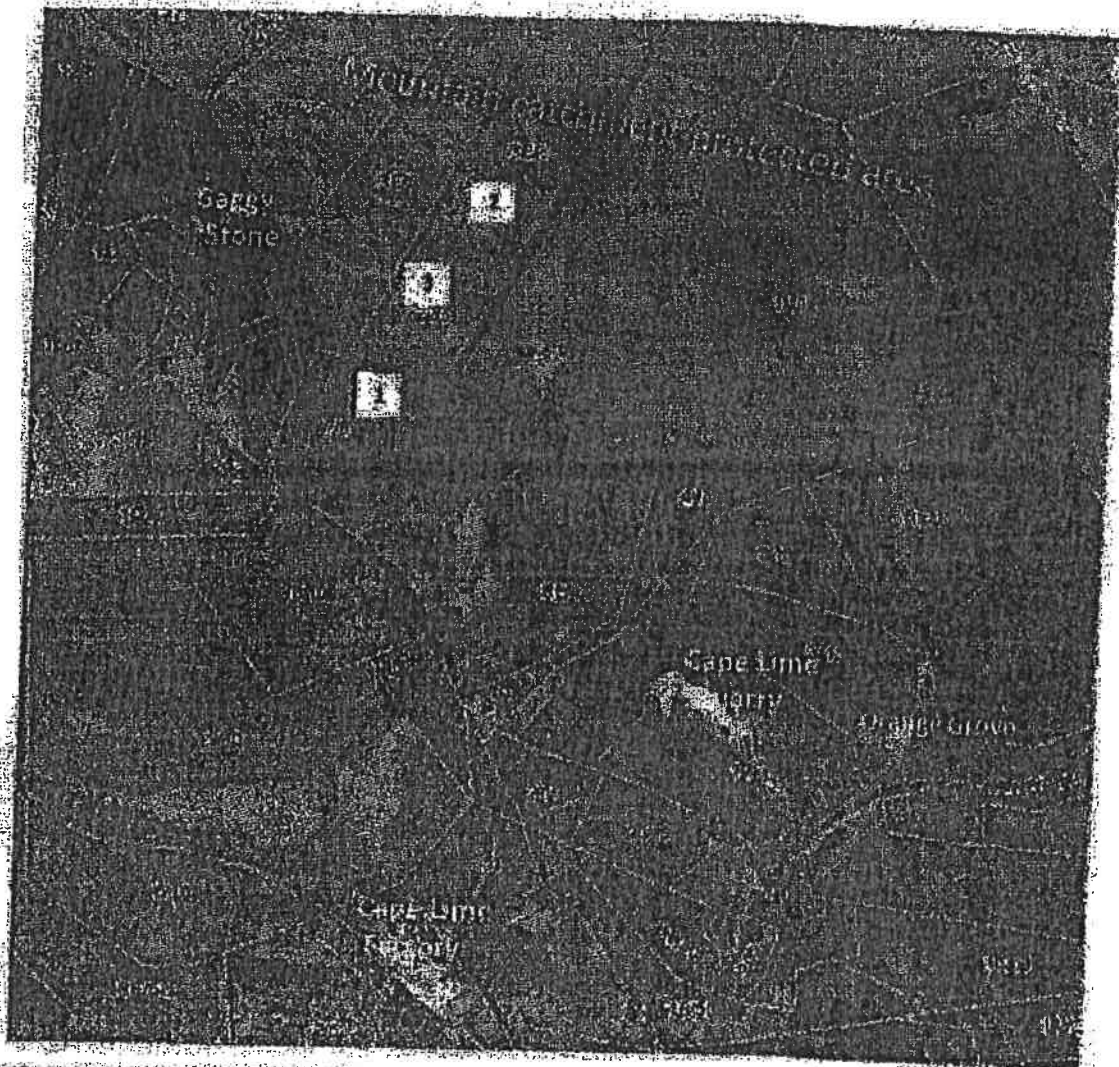
Other

Y

N

PART F: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION (if applicable)

The application was advertised on 14 November 2017. Three letters of objection and responses thereto are attached at Annexures E and F respectively, and summarized below. All three objectors are immediate neighbours on the western boundary of the application property as shown below.



Objection 1: Mr & Mrs Keyser (Vinke River 4)

The Keyserns expressed concern about the process of manufacturing compost from abattoir by-products and the safety of its use in agriculture in relation to pathogens. The management and monitoring of this process is of concern. They enquire as to the skills and qualifications of the employees managing the process and which Departments monitor and verify these processes. They also express concern that the process is new, and long-term impacts have not been established. In addition, the following concerns are raised:

- The number of flies has increased to problematic levels.
- The activities commenced prior to any notification.
- The current fence is inadequate.
- The gravel road will require surfacing or increased grading.

Objection 2: J. Jordaan (Vinke River 8; Doornkloof Private Nature Reserve)

Since the composting facility commenced, there has been a tremendous fly problem. A site closer to the source of materials would be preferable for the Composting Facility. There are cost and maintenance implications of transporting the abattoir products, wood chips, off and finished compost product, particularly in terms of the local road infrastructure. Transport of the sheep and feed will place further pressure on the gravel roads. The report states that one 8-ton skip truck will deliver every second day. An 8-ton skip truck currently delivers twice a day at present. The objector requests access to the site register. The second entrance to the farm is new and badly positioned on a corner. Dept of Transport's consent must be obtained.

The surrounding farmers use boreholes for household water and there are already signs of drought. The Feed farm will put additional strain on this scarce resource. Proof is required of registration of boreholes and dams as referred to in the application.

The disposal of animal by-products in an insufficiently fenced area is problematic and there is no assessment of the long term impact on leopard, rooket, bushbills, eagles etc. in the surrounding natural areas. The disposal of condemned carcasses in close proximity to farmed animals to be transported to the abattoir is problematic, particularly in relation to the fly problem and potential health risks.

Objection 3: H. Jooste (Vinke River 8/22; Doornkloof Private Nature Reserve)

The objector's main income is from tourism and guest accommodation which depends on the pristine nature of the reserve and its surrounds. The composting facility will have negative impacts in terms of her existing rights to operate a nature reserve and guest accommodation. In particular, the fly situation has worsened considerably and is no longer controllable by natural means (spiders and geckos). The use of fly-traps is ineffective and the use of industrial sprays is not an option in an eco-friendly facility. Guests have complained that the fly situation is the worst they have experienced. It is not possible to eat outside and domestic animals have to be gated to prevent fly nuisance. Star-gazing will be adversely impacted by floodlights from the feedlot.

The existence of Doornkloof Private Nature Reserve and the incompatibility between the composting facility and the nature reserve must be acknowledged. The applicant should consider other sites e.g. move compost facility next to the existing feedlot; partner with the Municipality at existing compost site etc.

Concerns are expressed about certain statements in the application:

- The area cleared for the windrows included natural vegetation and was not all previously used for agriculture as stated in the report.
- The disposal of infectious condemned material, which should be taken to a hazardous waste site is an egregious departure from their SOPs and is a contravention of existing legislation and should be stopped.
- Late deliveries of products often occur in contravention of the stated SOPs and the number of truck trips exceeds that which the applicant states.

Concern is also expressed about who will monitor conditions of approval and the potential increase in fire risk.

Applicant's Response to Objections**Response to Objection 1 (Keyser):**

The manufacturing process is managed by David Houghton with a BSc(Hons) in Food Science and Technology and LLM Masters of Law, and a Farm Manager with 6 years of experience in managing compost sites in America. The heat treatment process is in accordance with principles which allow the finished product to be used in direct contact with food products.

Officials from the Departments of DEA&DP (Waste Management), CWDM (Health) and Langeberg Municipality will monitor the site in accordance with conditions of approval and SOPs. Composting is not a new method of recycling and is one of the most effective methods of reducing environmental impacts of organic waste materials.

There is an increase in flies in general in the Robertson area and no evidence that the compost site is responsible for an increase in flies. The farm employs fly traps and pest control in accordance with a SOP. The feedlot will be fully enclosed.

Response to Objection 2 (L. Jordaan):

Flies: as above. The applicant acknowledges that there have been more truck trips per day than estimated but that the daily truck trips averaged out over the month, are still within the limit of 6 truck trips per day specified by the Department of Transport. The use of water and amounts drawn will be in accordance with stipulations of DWAF. The second access to the farm has been authorized by DoT, and includes setting the gate away from the road to allow vehicles to stop off the road for the gate to be opened. With regard to wildlife, the applicant's SOP management practices will prevent any adverse impact.

Response to Objection 3 (H. Jonste):

Flies: as above. In addition, the Farm Manager lives 400m from the compost site (compared to the objector who lives ± 2 km away) and does not have a fly problem. It is suggested that there are other potential sources of fly problems e.g. renosterbos in drought conditions will generate less sources of food and water causing flies to be attracted to other sources. Fly control procedures such as fly nets for guests at Doornkloof PNR should be considered. The applicant disputes that natural vegetation was cleared – this was all grazing land.

The applicant states that recycling of abattoir waste is the preferred option in terms of the WC Integrated Waste Management Plan rather than sending it to landfill. It was also noted that only infectious condemned material is classified as hazardous, and "as such must be kept below 500Kg per day". The location of a Composting Facility at the existing Roodehoodie Facility is unsuitable in terms of the type of ground and access. Further, compost is proposed to be used on the Middelburg farm. The municipal compost site is too close to a watercourse and not suitable for the compost facility.

PART G: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS
(Refer to Annexure G for detailed comments)

Name	Date received	Summary of comments	Recommendation		
Manager: Civil Engineering Services	19.11.17	No objection. No municipal services are affected.	Positive ✓	Negative	Comment
Manager: Electrical Engineering Services	26.04.18	No objection. The applicant is responsible for the costs if the 11kV line must be moved. Compost heaps may not be closer than 3m from the centre line of the 11kV line.	✓ Positive	Negative	Comment

Cape Winelands District Municipality: Health	17.11.17	No household services (water, refuse, sewage disposal, electricity) are supplied by CWDM. Such services must be provided in accordance with the requirements as set out in their letter <u>attached</u> . All waste water must be managed to the satisfaction of BGCMA to ensure no water pollution. Pest control, odour management and other protocols must be adhered to.	✓ Positive	Negative	✓ Comment
Department of Transport	07.02.18	No objection subject to a maximum of 6 trips per day. Should the number of trips increase, the Department reserves the right to require the landowner to provide a sealed surface of the affected portion of DR1377.	Positive	Negative	Comment
Cape Nature	19.01.18	The western portion of the site is a CBA identified to protect the <u>water course</u> . Management of pests is crucial to prevent <u>adverse</u> impacts on indigenous fauna and flora.	Positive	Negative	Comment
DEA&DP - Land Use Planning	09.05.18	S53 Provincial Application <u>approved</u> - see Section A below.	Positive	Negative	Comment
DEA&DP - Environmental Impact	23.05.18	EIA application was deemed to have <u>lapsed</u> as the prescribed timeframes had not been met. <u>Appeal pending.</u>	Positive	Negative	Comment
DEA&DP - Waste Management	16.08.18	Waste Management License application <u>rejected</u> (administrative/technical errors). <u>Appeal pending.</u>	Positive	Negative	Comment
Provincial Department of Agriculture (Eisenburg)	06.03.18	No objection as the intended land uses are space intensive. Potential water pollution must be avoided. Pest and odours must be controlled. Confirmation must be provided that sufficient registered water is available for the Feedlot. All products used for composting must be registered with the registrar of Act 36 (Farm feeds and Fertilizer).	Positive	Negative	Comment
Breede Gouritz Catchment Management Agency for DWAF	16.01.18	All activities must be carried out in accordance with the <u>NWA 36/1998</u> . <u>Authorisation must be obtained for water use and storage.</u> Application for the dam/s must be submitted for classification (dam safety if wall higher than 5m). <u>An Integrated Waste Management Plan must be prepared including sewage and stormwater management and details of the collection dam.</u>	Positive	Negative	Comment

Eskom	15.12.17	Not in Eskom's area of supply..	Positive	Negative	Comment
Heritage	01.02.17	No application is required in terms of Section 38 of the NHRA 25/1999 for the proposed compost facility (Note: No comment on the feedlot).	Positive	Negative	Comment
Ward Councilor	undated	No objection provided the neighbours have no objection.	Positive	Negative	Comment

PART H: PROVINCIAL APPLICATION AND APPEAL IN TERMS OF LUPA, 2014

Provincial Application:

The current development proposal also requires provincial approval in terms of Section 53(1) of LUPA, 2004, read together with section 10(1)(b) of the Regulations.

This application was approved by Province on 9 May 2018 (refer to Annexure H). The reasons for this decision include the following:

- The site was previously used for pastures.
- The windrows are located on Buffer and Agricultural SPCs in terms of the LSDF.
- In terms of the Management Guidelines composting facilities are often located outside the urban edge and should be on previously disturbed land of low biodiversity or agricultural value.
- In terms of the National Organic Waste Composting Strategy, organic waste should be diverted from landfill sites and composting is one alternative treatment method.
- The WCPSDF (Policy 4) advocates recycling to increase waste disposal sites' lifespan.
- Given the location, topography, distance to Middelsteekloof River, soil conditions and availability of services and infrastructure, the location of the composting facility is supported. It has an agricultural feel with no negative visual impacts.

An appeal by an objector, to the Provincial Minister, against this decision, is currently pending.

The following comments with regard to the impact of Provincial appeals on the Tribunal's decision-making process, are noted from legal advice from Carel Hofmeyer, DHM Land Law Specialists, in an email dated 7 September 2018. Although this legal advice related to the Klaas Voogds rock mining application, it is equally applicable here:

The application to rezone the subject property is regulated by the Langeberg Municipal Land Use Planning By-Law, 2015, and is a separate process from the land development application process that is regulated by the Western Cape Land Use Planning Act, 2014 (Provincial application). Sections 53(5) and (6) of LUPA make it clear that the obtaining of a land development approval under LUPA does not obviate the need for an application under the By-law and similarly an approval under the By-law does not exonerate the aspirant developer from obtaining an appropriate approval under LUPA. Neither the By-law, nor LUPA provides, though, that an application in terms of the one may not be granted before a final approval in terms of the other has been given. The Langeberg Tribunal is therefore at liberty to decide on the application in terms of their By-law, despite the LUPA appeal having been lodged and not having been decided yet. The timing of decisions does however have practical considerations e.g. If the rezoning is approved by the Tribunal, and is approved before the LUPA appeal is dismissed (if it is dismissed), the validity period for the rezoning will start to run before the LUPA decision becomes operative. A situation might arise therefore where the LUPA approval is still valid but where the development cannot be implemented because the rezoning approval has lapsed.

PART I MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

1. Criteria for Assessing the Land Use Application:

- 1.1. 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), and
 - 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.
- 1.2. In terms of Section 42(2) of SPLUMA, 2013, "When considering an application affecting the environment, a Municipal Planning Tribunal must ensure compliance with environmental legislation".
- 1.3. The following key issues are identified for assessment of the proposed land uses in terms of the above assessment criteria, with the aim of finding a balance between economic, social and environmental benefits, without compromising the long term economic success of agriculture and tourism or environmental integrity:
 - Non-compliance with the Zoning Scheme
 - Zoning Scheme Requirements and land use definitions.
 - Compliance with SDF's and other planning policies and guidelines.
 - The environmental impact on the natural environment (groundwater, surface water and air quality) and human health.
 - Management of nuisances; pests, scavengers, odours, noise, dust and visual impacts, particularly in relation to neighbours.
 - Traffic Implications.
 - Socio-economic impact.

The legal opinion obtained for the Klaas Voogds Mining application, noted the following, which is worth repeating here: Whilst there is an obligation to consider all relevant considerations, the assessing authority may in its discretion decide which considerations are in its opinion more important and which ones should influence most its decision. The decision to attach more weight to one consideration than to another must be motivated, based on rational grounds. In addition, the assessing authority must decide whether it has sufficient information before it to take an informed decision about those requirements in the relevant planning legislation that relate to environmental impacts generally and issues specific to the application (in this case, the objectors' complaints of odour and flies in particular). If the Municipality concludes on a rational basis that the information before it is sufficient to appreciate properly what the environmental impacts of the proposed development would be, in the absence of formal expert assessments and / or final decisions by the DEA&DP, the assessing authority would be at liberty to take a decision in the absence of such assessments.

2. Non-compliance with the Zoning Scheme:

- 2.1. The composting facility commenced operating prior to any application being lodged. Following complaints, a site meeting was held on 15 February 2017 with the owner and various authorities (including Langeberg Municipality, DEADP and CDDM). The owner was advised that he did not have all the required approvals in order to conduct the waste composting facility on the property in question, and that the existing shed had been built without approved building plans. The owner appointed Town Planning and Environmental consultants to conduct the required studies and lodge the necessary applications.
- 2.2. In response to the above unauthorized activities, the following actions were taken: A notice was served on the applicant advising them that no unauthorized activities may take place. The owner, via a lawyer's submission, argued that the activities which had commenced were not unauthorized as composting is a permitted use in terms of the Agricultural Zone. Nonetheless they agreed to continue with the relevant applications for authorization. A penalty fee was paid as part of the land use application as the use had commenced operating prior to the necessary authorization. It was decided not to take further legal action at this stage, given the pending applications and the lack of an acceptable alternative to treat and dispose of the abattoir waste. The economic implications of closing the abattoir were also taken into consideration.
- 2.3. Given the above, the Town Planning Department has been in on-going contact with the CDDM (Health: Steven McClean) and the DEADP (Fahid Said) with regard to monitoring of the composting facility relating to public health and the prevention of any potential environmental and health nuisances. Such monitoring occurs on a regular basis, as well as in response to complaints received. On-going complaints have been received from Objectors 2 and 3. More recent complaints (14 January 2019) have also been received from the neighbour to the east of the site, who also owns the padstal on the R60 adjoining the Cape Line Factory. He notes his concern relating to odours and flies and the impact on farmworkers and guests. He states that this is having a negative financial impact on his tourism businesses. In contrast, Objector 1 advised on 16 January 2019 that they have nothing to complain about in terms of odours; fly activity has increased but could be from livestock farming and/or due to drought conditions, not necessarily the compost.

3. Zoning Scheme Requirements and Land Use Definitions:

- 3.1. The applicant site is zoned Agricultural Zone I in terms of the Section 8 Zoning Scheme regulations. An Intensive Feed Farm is a consent use in the Agricultural Zone I. Section 4.6.2 of the Section 8 regulations reads: "In considering such applications, regard shall be had to the question whether the use ... is likely to mar the amenity of the neighbourhood, including marling owing to the emission of smoke, fumes, dust, noise or smells."
- 3.2. A Compost Facility, where the prime purpose is the reuse and recycling of abattoir waste products is determined by the Town Planning Department to be a "noxious trade" which is not permitted in the Agricultural Zone I and for which rezoning to Industrial Zone II is required. The interpretation that the "Compost Facility" falls within the definition of a "noxious trade" has been questioned by the applicant (despite lodging an application accordingly), and is therefore elaborated on below:
- 3.2.1. Composting is generally a part of agricultural practices within the Agricultural Zone I. This entails composting agricultural products which originate from the farming activities on the farm (e.g. wood from vineyards, spent fruit etc.) for re-use on the same farm. The scale of this type of composting facility is determined by the scale of the farming operations and is generally considerably smaller than activities which are listed as requiring a licence. This small-scale form of composting, utilizing non-hazardous organic material from the farm, is considered to form part of conventional agricultural practice.
- 3.2.2. In contrast, the main input for the proposed composting facility on Rem of Farm Middelburg No 10, Robertson, comprises all the abattoir waste products from the Abattoir located in Robertson's industrial area. These waste products cannot be used in the end-product (meat) produced at the abattoir or butchery and must be discarded / destroyed or recycled. Although the end product is compost, the primary reason for the existence of the composting facility is to treat and "recycle" abattoir waste products.

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3.2.3. "Noxious Trade" as defined in the Section 8 Zoning Scheme means "an offensive use or another use which constitutes a nuisance.... and includes the operation of a scheduled process". An abattoir falls within the definition of a noxious trade solely by virtue of the waste-products it produces, not in terms of the animals brought there to be slaughtered or the meat products which leave the abattoir to be sold to butcheries. A composting facility utilizing the same waste products which determine an abattoir to be a noxious trade, cannot be considered to be anything but a "noxious trade" by virtue of the primary input product being abattoir waste.

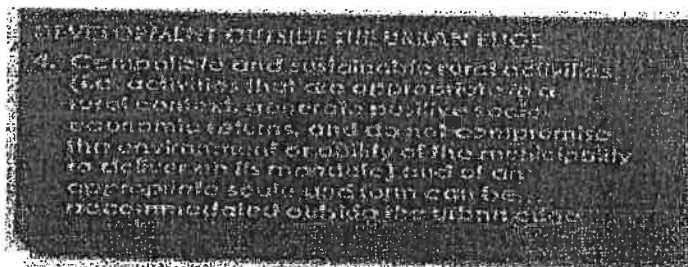
3.2.4. With reference to the attached extracts of definitions in the NEM: Waste Act 2008 and "The Mini guide to the Management of Abattoir Waste" (DEADP) (refer to Annexure I), the products used clearly constitute "waste" products which can be hazardous to human health and the environment and the proposed composting facility falls under the definition of a "waste management activity" (not an agricultural activity).

3.2.5. Further, the total future extent of the proposed Composting Facility requires a licence for a listed activity in terms of the NEM: Air Quality Act 39/2004 (which Act replaces the Atmospheric Pollution Prevention Act, 1965) and the NEM: Waste Act, 2008 and therefore qualifies as an "operation of a scheduled process".

In conclusion, an abattoir waste composting facility does not fall under the definition of agriculture. The Zoning Scheme does not specifically define a waste management activity. The definition of a noxious trade is the most applicable definition and therefore application to rezone to Industrial Zone II is required.

4. Compliance with the relevant SDF's and other planning policies and guidelines:

4.1. The WCPsDF (2014, p48) notes that the WC State of the Environment report (2103) identifies "increasing waste generation, illegal dumping and shortfalls in hazardous waste facilities" *inter alia*, as key challenges in the Province. Policy R4 of the WCPsDF advocates recycling to increase the lifespan of waste disposal sites. Further, Policy E2 relates to diversifying and strengthening the rural economy and states the following:



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With reference to the Western Cape Provincial SDF's Rural Land Use Planning and Management Guidelines (2009), the WCPsDF also lists the following criteria, *inter alia*, to be applied in assessing consistency with this policy: Environmental Authorisation; does not compromise farming activities; does not impose real cost or risk to the municipality delivering on their mandate; and does not infringe on the authenticity of rural landscapes.

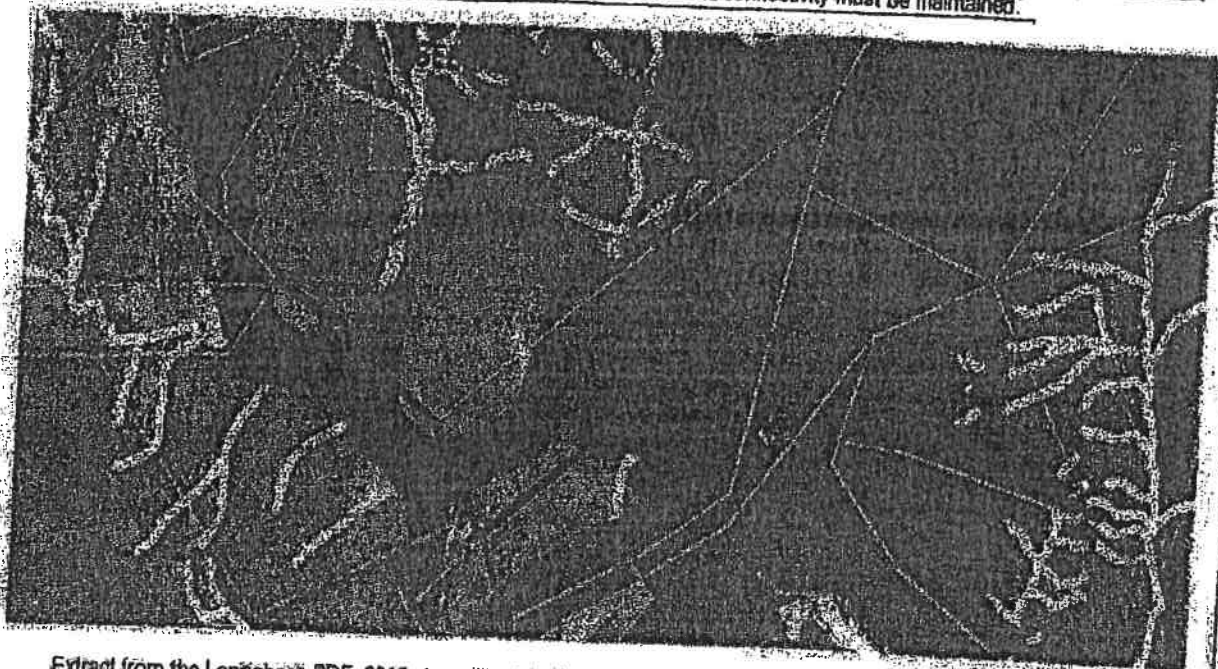
4.2. The WCPsDF's Rural Land Use Planning and Management Guidelines (2009) "Agriculture" (Table 3.2) and "Rural Industry" (Table 3.6) outline the following objectives and guidelines for managing rural land use change, which are of relevance to the application in question:

- Protect agriculture as a dominant land use in the rural landscape.
- Accommodate nuisance and space extensive agricultural enterprises (e.g. feedlots) and rural industry in buffer 2 and close to regional routes
- Promote sustainable farming: retain natural corridors and buffers; enforce EIA regulations.
- Rural industry should only be located in the following SPCs – Settlement, Intensive Agriculture and Buffer 2.

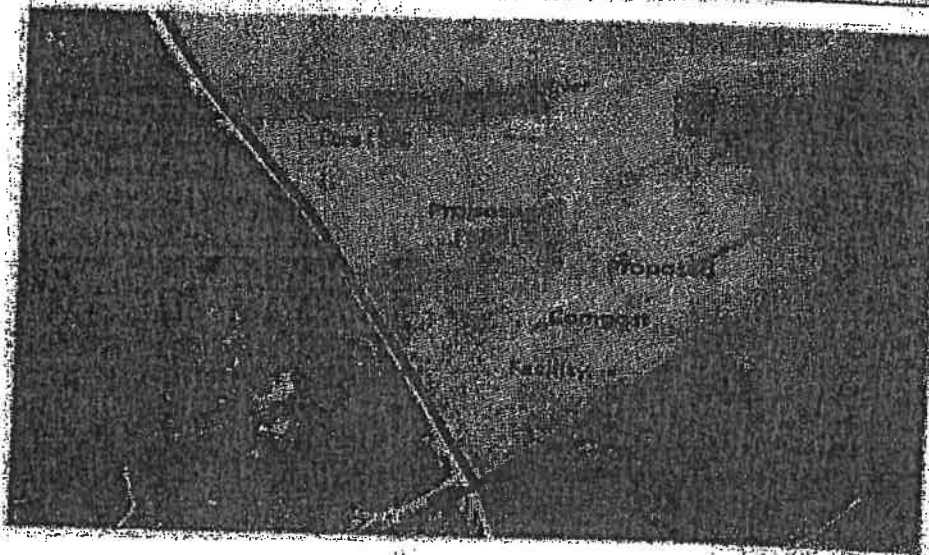
Table 3.10 relates to "Bulk Infrastructure Installation" and notes that such uses have unique locational requirements and are often located outside the urban edge and should be on previously disturbed land of low biodiversity or agricultural value, preferably within Settlement or Buffer 2 SPCs. It also notes the need for: appropriate buffers, landscape screening, and compliance with EMPs to be monitored by the responsible authorities.

- 4.3. With reference to the Spatial Planning Categories (SPCs) in terms of the Langeberg SDF, 2015, the proposed development site falls within "Core", "Buffer" and "Transformed" (Agricultural) Spatial Planning Categories. The windrows are located primarily on Buffer 2 and Agricultural SPCs, whilst the proposed Feed Farm is located with Buffer 1 and Core 1 SPCs.

There is no objection to development within the Transformed and Buffer areas subject to the sustainable management of land use activities. Development within the Core 1 area is however not supported. The Desired Management Objectives for the identified "Core" SPC adjoining the Middelsteekloof River is to: maintain natural land, rehabilitate degraded land and maintain ecological processes. As shown on the LSDF extract below, this Core SPC forms an integral part of an important north-south environmental link between the Langeberge and the Bréele River and connectivity must be maintained.

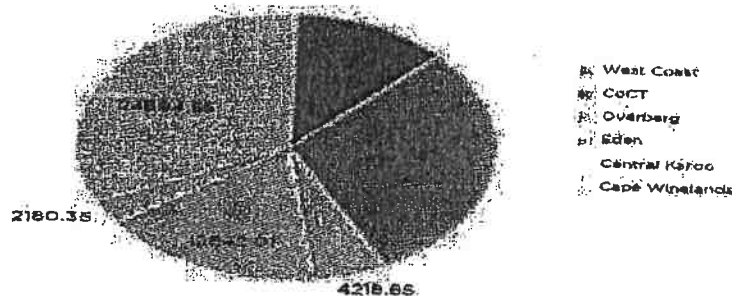


Extract from the Langeberg SDF, 2015 showing existing transformed areas and ecological corridors along drainage lines.



- 4.4. In order to facilitate the implementation of the NEM: Waste Act, 2008, a National Waste Management Strategy was developed in 2011. This Strategy promotes composting as one approach to achieving the waste management objectives. The DEA&DP commissioned Jeffares & Green (Pty) Ltd to prepare the **National Organic Waste Composting Strategy (NOWCS, April 2013)** (extract attached at Annexure I). In terms of the NOWCS, organic waste should be diverted from landfill sites and composting is one alternative treatment method to minimize waste to landfill and ensure sustainable waste management.
- 4.5. The **mini guide to the Management of Abattoir Waste** (DEA&DP, 2016/17) notes that abattoir waste is considered to be hazardous in terms of potential impacts on the environment and human health (extract attached at Annexure I). The guideline aims to promote compliance with legislation and presents and assesses options for managing this waste type to protect the environment and human health. The status quo study expresses concern about the current common practice of disposal of abattoir waste at refuse sites and burial on farms. Of significance, the guide identifies the Cape Winelands as the district with the highest volume of waste from slaughters, as shown below, and it is predicted that waste volumes will increase.

2015/16 Waste calculated from slaughters per District
 Estimated waste produced for 2015/2016 per District (DOA, 2016)



The guideline identifies the following current techniques available for the management of abattoir waste: Rendering (heat processing and drying), Composting, Incineration, Anaerobic Digestion (Biogas), Alkaline Hydrolysis (pressure, heat and alkaline solution), Air Curtain burners (type of incineration), Low Pressure Tissue Processing Systems (thermo chemical process), Pyrolysis (kiln – no oxygen), Fly Farming, and Sterilisation (steam). The advantages and disadvantages of each process are identified. Common disadvantages of each process include: odour, smoke, hazardous residue and need for specialist skills. Fly farming is the only technique where no disadvantages are listed. The following advantages and disadvantages of composting are noted:

Advantages of composting:

- Inexpensive if piles are turned every few weeks, to limit the use of equipment.
- Moderate cost.
- Labour intensive.
- Ability to use a front end loader and other generic types of equipment.
- Generally satisfactory quality and marketability of the final product.
- Energy efficient.
- Ideally used for the digestion of partially composted material; use in conjunction with tissue processors.

Disadvantages of composting:

- Space required.
- Preference for a remote site, which can result in higher transportation costs.
- It is also difficult to maintain high rate of "hot" compost conditions, so the compost products from minimal tech methods will likely be lower in quality - they will also be coarser, and when screened will have a larger oversize fraction.
- Less control over issues such as odour, dust, leachate, water contamination, vectors, pests, litter, noise and fire.
- More difficult to achieve consistent results.
- Potential for odours.
- Not successful on raw material such as solid wastes produced by animal production.

Conclusions based on above assessment:

- Abattoir waste is a significant waste stream in the district and needs to be disposed of. All solutions that are able to provide environmentally and financially viable solutions for abattoir waste treatment should be encouraged. The recycling of waste products into compost, a useful product in the agricultural sector, is viewed positively.
- The proposed abattoir waste composting plant is consistent with the WCPSDF, the WCPSDF's Rural Land Use Planning and Management Guidelines, and the LSDF: located outside the urban edge, predominantly in Buffer 2 SPC, produces a product which can be used in the agricultural sector, located on previously disturbed land of low ecological and agricultural value, and agricultural activities will still be the main activity on the farm.
- The proposed composting of abattoir waste is compliant with the NOWCS, 2013 and one of the most environmentally friendly ways to process and treat this waste, turning it into a useful input product in the agricultural sector rather than dumping or burying this waste or unnecessary filling up landfill space.
- The proposed Intensive Feed Farm is not consistent with the WCPSDF, the WCPSDF's Rural Land Use Planning and Management Guidelines, or the LSDF in terms of its location predominantly within a Core SPC which forms an important ecological corridor.

5. Environmental Impact:

- 5.1. With regard to compliance with environmental legislation, as referred to in Section 42(2) of SPLUMA, 2013, various applications have been lodged in terms of NEMA 107/1998 for listed activities (Compost Site and Intensive Feed Farm) and waste listed activities (Compost Site) in terms of the EIA regulations. The status of these applications, and related investigations is as follows:

- 5.1.1. DEA&DP's Directorate: Development Management (Environmental Impact) (D'mini Mathews) referred the application to DEA&DP's Directorate: Environmental Law Enforcement in April 2018 as composting activities had already commenced, and on 23 May 2018 indicated to the applicant that the EIA application was deemed to have lapsed as the prescribed timeframes had not been met. This decision has been appealed and the outcome is still pending.

5.1.2. There has been no submission of a S24G application to DEA&DP's Directorate: Rectification. Should the above appeal be dismissed, a 24G application will be required, or the composting activity must cease.

5.1.3. DEA&DP's Directorate: Waste Management (Etienne Roux) rejected (administrative / technical errors) the Waste Management License Application (16/08/2018). This decision has been appealed and the outcome is still pending. Note: Processing and treatment in excess of 10 tons of general waste per day, and more than 500kg of hazardous waste, trigger the need for a waste management licence. According to DEA&DP, the scale of the current operations on the site is less than applied for, and does not trigger the need for a waste management licence.

5.1.4. DEA&DP's Directorate: Environmental Law Enforcement (Fahd Said) is conducting an administrative investigation into the alleged illegal expansion of a dam within the Mountain Catchment Area, and compost facility on the property. The owner has been served a notice. The outcome of this investigation will have implications for the water use licences and registered water rights.

5.2. It must be determined whether, in the absence of finalised NEMA EIA processes, as above, the available studies and assessments are sufficient to be able to assess environmental impact and desirability for the purposes of this land use planning application: A Basic Assessment Report was lodged with DEA&DP in March 2018. The BAR identified potential negative impacts as: Compaction of soil and disturbance of subsurface geological layers, surface and groundwater pollution, increase in stormwater / waste water run-off, air quality (odour), and flies. The following specialist studies were done to assist in assessing these potential impacts (report extracts at Annexure D):

5.2.1. A Freshwater Ecological Impact Assessment was prepared to determine potential impacts on the aquatic ecosystems and to recommend mitigation measures. The report identified that the Middelstekloof Rivier and the Vink Rivier could possibly be impacted on by the proposed feedlot and compost facility. This assessment acknowledges that the Middelstekloof Rivier forms an important ecological corridor and is a major tributary to the Vink Rivier, which is ecologically important to the Breëde River. As such, this river and its floodplain must be protected from any further degradation. The following recommendations are made: Retention of a buffer to protect the riparian vegetation and ecological processes; and mitigation measures including: no hydrological changes upstream; no discharge of pollution into surface water; and no contamination of groundwater (p 24, Annexure G1 of the BAR).

The proposed buffers were determined by means of a desk-top buffer using the "Water Research Commission's (WRC) Buffer Tool for the Protection of drainage lines". The calculated and recommended buffers are summarised below:

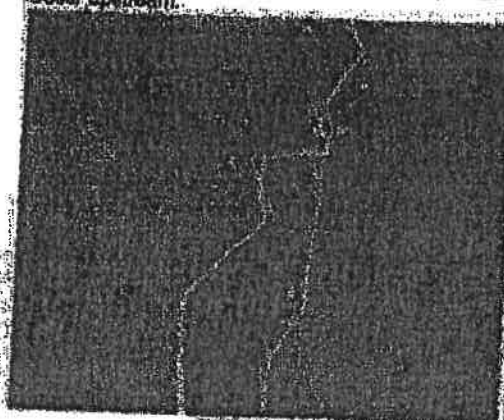
Phase	Buffer determined using WRC Buffer Tool	Buffer amended by considering site-based factors: Slope, s/w flow direction	Buffer shown on SDP
Construction Phase	55m	26m	43m (Feedlot) >200m (Compost)
Operational Phase	205m	100m	43m (Feedlot) >200m (Compost)

The compost site is more than 2km from the Langeberg Mountain Catchment Area, more than 200m from the Middelstekloof River and more than 400m from the Buitensstekloof River. As such, there is sufficient buffer between the compost site and the ecological corridors. The compost facility should be fenced to demarcate the extent thereof, assist in compliance monitoring and ensure no adverse longer-term impacts on ecological corridors.

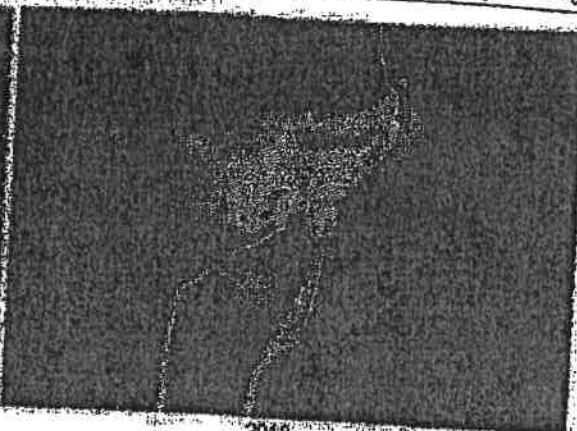
There is only a 5m buffer between the compost windrows and the adjoining farm to the southeast. This 5m wide area comprises an internal road which is used by the trucks to deposit abattoir waste. As such, the compost facility directly adjoins agricultural land which will impact on the neighbour's choice of how to use this land for agricultural purposes in the future. Landscaping along this boundary should be a minimum requirement.

The proposed 43m buffer between the proposed feedlot and the Middelstekloof corridor is not desirable. The WRC buffer tool recommends 205m, and the amended buffer calculated by the EAP is 100m for the operational phase. The proposed feedlot is located 43m from the river banks and the proposed "weigh station / offload" even closer (± 30 m determined from google earth).

In addition, investigations by DEA&DP and BGCMA are in process, into the expansion of the dam in the upper reaches of the Middelstekloof River in the mountain catchment area of this farm. The outcome of these investigations could impact on the determined buffers, particularly given the EAP's recommended mitigating measure that no hydrological changes occur upstream.



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There is conflicting information provided in the BAR and LLUP applications regarding scale (4500 sheep vs 6500 sheep). The scale of the proposed 6500 sheep feedlot as shown on the Site Development Plan also shows exactly the same size as the sheep feedlot which was approved for Rodehoogte 47/47 and for which EA was issued for only 2700 sheep. It is therefore likely that the proposed feedlot will be more space extensive than shown on the SDP, which adds to the concerns regarding the proximity to the Middelstekloof river, and the availability of sufficient space to accommodate the proposed use.

5.2.2. A soil study was conducted by soil scientists AVS (Nov-2015) which indicates that the soils have a very high clay content which will restrict leaching of nutrients and salts from the soil into the groundwater. Further, the high salinity of the soils combined with the clay content "will lead to crusting on the surface restricting water infiltration and increasing run-off". The Soil Study states that: "The correct implementation of drainage will ensure that the infiltration of run-off water from the composting facility and feeding lot into the underlying soils does not occur". The Soil Study recommends a central stormwater drain, not lined, and a collection dam lined with plastic, concrete or other barrier. Despite the applicant being requested to provide an engineering report to verify the stormwater drainage and management proposals as recommended by the soil scientist, no such assessment has been done. It is also noted that the small collection dams below the windrows are not currently lined, as recommended in the soil report.

5.2.3. Proof of water registration was submitted with the application as motivation of sufficient quality and quantity of registered water supply for the development. If the calculations for the water demand are based on 6500 lambs as applied for, then there is insufficient drinking water for the proposed feedlot. Further, the legality of the expansion of a dam on this farm within the Langeberg West MCA, is currently the subject of legal action by DEA&DP against the land owner, as discussed above.

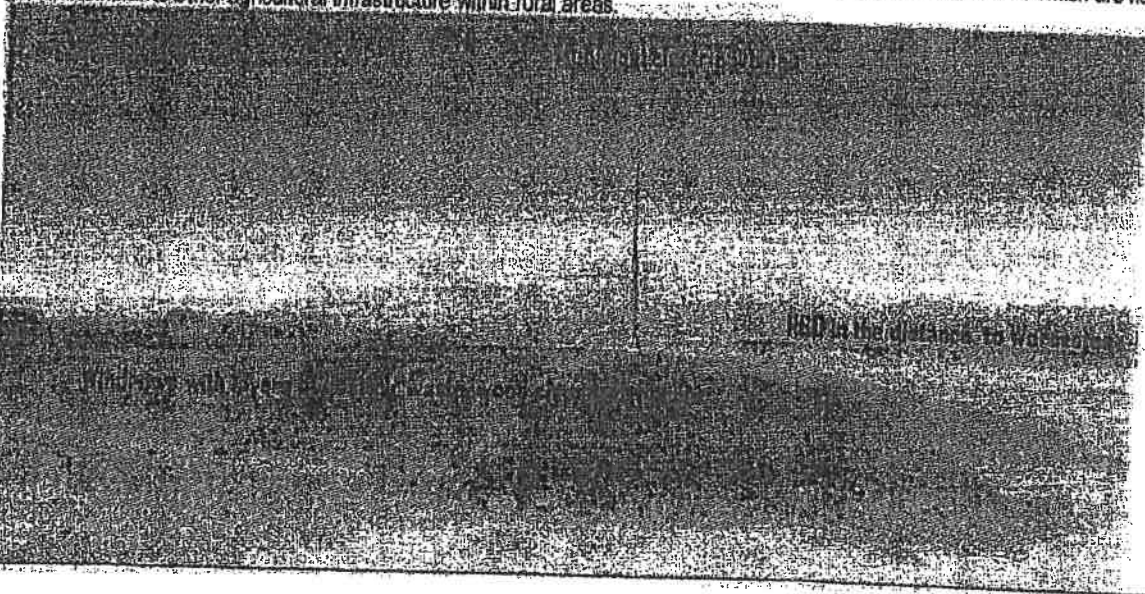
5.2.4. A very generic Environmental Management Programme (EMP) was prepared as part of the BAR process. The Operational Phase of the EMP identifies more specific goals for the following: stormwater management, waste management, noise, flies, odour, pesticides, trucks, site hygiene, monitoring, safety, employment, water pollution, and human/wildlife interactions. These goals include regular inspections and monitoring of stormwater management, correct temperature and pH control, fly traps, covering of abattoir waste products and chemical treatment, and compliance with Standard Operating Procedures (SOPs) and all applicable legislation.

Conclusions based on above assessment:

- Environmental Authorization is required for the Feedlot and the Composting Facility and no such authorisation has been issued. Should the land use application be approved, it must be made clear that EA is still required from DEA&DP.
- The environmental consultant should have submitted a 24G application instead of a BAR, as it was clear from the beginning that the use had already commenced and that listed activities had been triggered.
- The site proposed for the Compost Facility is suitable in terms of slope, and distances from watercourses and from the Langeberg Mountain Catchment Area.
- The site proposed for the feedlot is not desirable in terms of proximity to the Middelstekloof river and to the compost facility.
- LUPA 59(2)(b) requires the sustained protection of the environment with respect to ecological corridors. Given that the BAR has not been assessed by DEA&DP, the long term sustainability of the Middelstekloof river in terms of the potential impacts on groundwater, erosion and stormwater drainage, has not been determined and it cannot be concluded that the feedlot will not infringe on people's right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution).
- The only motivation given for the relocation of the feedlot from Roozehoogte in Robertson, is that the manure will be used in the composting process. The pros and cons of transport distances of sheep to the site and the abattoir, transport of feed and access to water supply etc., have not been motivated. The need to relocate the existing feedlot is therefore questionable.
- Compliance with an approved EMP is the most significant condition of approval.

6. Management of Nuisances: Pests, Scavengers, Odour, Noise, Dust and Visual Impacts:

6.1. Visually, the compost windrows have an agricultural appearance, as do the proposed feedlot shed and silos which are not dissimilar to other agricultural infrastructure within rural areas.



- 6.2. With regard to noise, the machinery used (compost turner, front loader and tractor) will not generate more noise than conventional agricultural practices.
- 6.3. The impact on neighbouring uses in terms of odour, flies, noise and dust and the "effect on existing rights" must be determined. In terms of the principles of spatial sustainability and spatial justice, the right of owners to develop land in accordance with current land use rights must be recognised. LUPA 59(1)(g) and SPLUMA 42(c)(iv) require that decisions must take into account the impact on existing rights.
- 6.4. In terms of NEM: Air Quality Act No 39 of 2004, an Atmospheric Emissions License (AEL) must be applied for if composting activities include the processing of more than 10 tons per month. The owner must take all steps to prevent an offensive odour (i.e. any smell which is considered to be malodorous or a nuisance to a reasonable person) resulting from the composting activities.
- 6.5. Many agricultural practices generate similar adverse impacts e.g. dairies and piggeries. All investigations by officials from DEA&DP, Department of Agriculture and CWDW have determined that the odour and flies from the composting facility are within acceptable limits in terms of the health and environmental legislation. The reports include the following statements: Files are not excessive; provisions for fly control are in place; no larvae were found; no evidence of "blue fly"; composting site was clean with no strong odours during inspection. DEA&DP confirmed these findings in an email dated 28 November 2018 (Etienne Roux) which notes the following: No major issues relating to flies, smells and other nuisances were experienced.
- 6.6. The location of a feedlot on this site would increase the odours and flies generated from this site and the cumulative impact needs to be considered.
- 6.7. The location of the site is removed from major concentrations of urban development, which prevents the risk of informal scavenging by "waste pickers".
- 6.8. It is noted that Heritage WC issued their approval for the application for the compost facility only and have not commented on the amended application which includes the feedlot. The S53 application to DEA&DP only assessed the compost facility as the feedlot was deemed to be an agricultural use and therefore does not require Provincial approval.
- Conclusions based on above assessment:**
- ✓ Visual impact is determined to be low.
 - ✓ Compliance with the Noise Regulations and the NEM: Air Quality Act 39/2004, must be included as conditions of approval. Immediately adjoining neighbours are likely to be negatively impacted on from time to time by flies and odours. The addition of a feedlot to the existing compost site will compound nuisances. Compliance with an approved EMP and SOPs, particularly site hygiene and the correct management of temperature and PH, and an on-site manager, are essential to minimise impacts in terms of flies and odours.
 - ✓ Compliance with CWDW's requirements must be included as a condition of approval.
 - ✓ Reasonable work hours must be specified and monitored.
 - ✓ Cooperation by the applicant, and where necessary, enforcement of compliance with the conditions of approval will be necessary in order to ensure no negative impact on the residents in the immediate vicinity. Regular monitoring meetings must be held to ensure conditions of approval are complied with.

Let's not do it!!

9. Other:

- 9.1. In terms of spatial sustainability, LUPA 59(2)(a)(ii) states that land use planning should "ensure that special consideration is given to the protection of prime, unique and high potential agricultural land". The land in question has relatively low agricultural potential. The Provincial Department of Agriculture (Eisenburg) has no objection to the proposal subject to confirmation relating to the registration of water rights.
- 9.2. The desirability of locating a feedlot for live animals on the same site as a compost facility for dead animals (some 30m between the collection dams and proposed feedlot and some 100m between the windrows and the proposed feedlot) has raised ethical concerns. The Department of Agriculture has been asked to comment as to whether or not there is any scientific basis in terms of fear / negative reactions of sheep to smells of abattoir waste and / or any implications in terms of food safety. No comments have yet been received in this regard.
- 9.3. As noted in the NOWCS, "composting is currently the technology most commonly employed in South Africa for the treatment and recycling of organic waste but is not the only technology that needs to be considered when developing strategies and action plans. In the medium to longer term, other technologies may well be preferred e.g. Fly farming. The compost facility site should be monitored in relation to improving technologies to determine possible transition to technologies with reduced impacts in terms of flies and odours.
- 9.4. There are no restrictive conditions of title which prohibit the proposed land uses.
- 9.5. The proposed development will not contribute to nor detract from the constitutional transformation imperatives.
- 9.6. LUPA 59(2)(a)(i) states that land use planning should "promote land development that is ... within the fiscal, institutional and administrative means of the relevant competent authority". LUPA 59(2)(a)(v) specifies that land use planning should "consider all current and future costs to all parties for the provision of infrastructure". The proposed development can be accommodated by existing engineering services and will not have any adverse impacts on the relevant authorities in terms of service delivery. The composting project has a positive impact in terms of achieving the requirements of the NWMS, 2012, to divert compostable organic waste and recyclables from landfill sites.
- 9.7. In terms of the procedural requirements of the Langeberg Land Use Planning process: the right to lawful, reasonable and procedurally fair administrative action (PAJA 2000, and Section 33(1) of the Constitution) has been afforded to all parties; the required advertising process has been correctly followed and relevant time frames have been complied with; and action was taken against the owner in terms of the Langeberg Land Use Planning Bylaw, 2015, for operating without authorization.

PART J: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Not applicable.

PART V: RECOMMENDATION

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the Langeberg Municipal Planning Tribunal approve the following application, as depicted on the plans marked MIDDELBURG 10/6 ROB-LBM-LP & TP and subject to the conditions of approval in terms of Section 66 of the aforementioned Bylaw, as set out in Annexure A:

- Rezoning a 3,6ha portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for a compost site comprising: windrows, effluent dams, storage space for raw and finished products, roads, off-loading and turning.

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the Langeberg Municipal Planning Tribunal does not approve the following application, as depicted on the plans marked MIDDELBURG 10/6 ROB-LBM-LP & TP:

- Consent for an Intensive Feed Farm (sheep feedlot with a maximum of 6500 lambs) comprising a 6000m² area. (Relocation of existing 2500 sheep feedlot from Roodehoogte, Robertson and expand capacity).

The reasons for refusal of the Intensive Feed Farm are as follows:

1. With reference to Section 42(2) of SPLUMA No. 16 of 2013, the application for an Intensive Feed farm affects the environment, and the Langeberg Municipal Planning Tribunal is not satisfied that environmental legislation has been complied with.
2. Insufficient information has been provided to conclude that the proposed Intensive Feed Farm will not infringe on the "right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution)", given the following in particular:
 - 2.1. The proposed feedlot falls within a Core 1 SPC. use - agricultural SPC
 - 2.2. The application in terms of NEMA has lapsed and an appeal is pending in this regard. use - use in use
 - 2.3. Investigations by DEA&DP and BGCMA, into the expansion of the dam are in process, which may impact on desirable buffers to the Middelstekloof River. use
 - 2.4. The Water Use licence application is still in process which may impact on access to adequate water for the proposed feedlot. use

That, the parties be informed of their right to appeal in terms of Section 79(2) of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015.

PART VI: ANNEXURES

Annexure A	Conditions of Approval
Annexure B	Plans: Locality, Objector's properties, Site Plan
Annexure C	Application
Annexure D	Additional Information submitted by Applicant
Annexure E	Objections 1-3
Annexure F	Applicant's Response to Objections
Annexure G	Comments from Departments: Heritage (1/2/17), CWDM (17/11/2017), Department of Transport (7/2/2018), BGCMA (16/1/18), Cape Nature (19/1/18) and Dept of Agriculture (6/3/18)
Annexure H	Provincial approval of LUPA application
Annexure I	Extracts from: NEM: WA 59/2008; The mini guide to the Management of Abattoir Waste (DEA&DP, 2016/17); and The National Organic Waste Composting Strategy (DEA&DP, 2013)

SPC = spatial Planning category

PART B: SIGNATURES FOR DECISIONS BY TRIBUNAL			
Author name: Tracy Brunings, Assistant Town and Regional Planner			
Date: 18 January 2019			
Registered planner name: Tracy Brunings			
SACPLAN registration number: Pr. Pln A/951/1997			
Date: 18 January 2019			
Authorised for submission to Tribunal			
JV BRAND BESTUURDER: STADSBEPLANNING		DATUM	
I VAN DER WESTHUIZEN DIRECTOR: ENGINEERING SERVICES DIREKTEUR: INGENIEURS DIENSTE		DATUM	
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

Before the Honourable Justice Hlophe (Judge President)

On Friday, 18 October 2019 at CAPE TOWN

CASE NO: 14084/19

In the matter between:

SOUTH AFRICAN FARM ASSURED MEAT GROUP
CC

First Applicant

HENDRIK JOHANNES SWANEPOEL DE BOD N.O.

Second Applicant

JOHANNES PETRUS DU BOIS N.O.

Third Applicant

DANIËL JACOBUS VAN STADEN N.O.

Fourth Applicant

and

MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
& DEVELOPMENT PLANNING (WESTERN CAPE
PROVINCE)

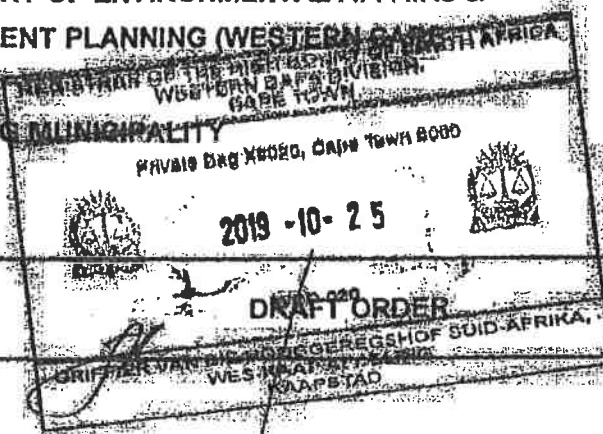
First Respondent

DEPARTMENT OF ENVIRONMENTAL AFFAIRS &
DEVELOPMENT PLANNING (WESTERN CAPE
PROVINCE)

Second Respondent

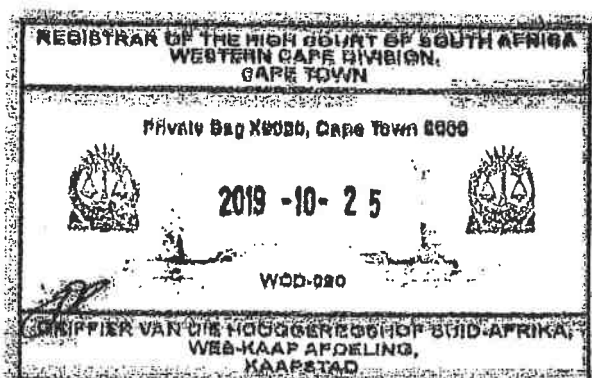
LANGEBERG MUNICIPALITY

Third Respondent



By agreement between the Applicants and the First and Second Respondents, it is ordered as follows:

1. The decision taken by the First Respondent (*"the Minister"*) on 13 June 2019 in respect of the appeal lodged by the Applicants in terms of section 43(6) of National Environmental: Management Act, 107 of 1998 (*"NEMA"*) against the decision referred to in paragraph 2 below is reviewed and set aside.
2. The decision taken by the Director: Waste Management on 16 August 2018 to reject the First Applicant's application for a waste management licence (*"the Waste Management Licence Application"*) in terms of section 49(1)(c) of the National Environmental: Management Waste Act, 59 of 2008 (*"NEM:WA"*) is reviewed, set aside and remitted to the Director: Waste Management in terms of section 8(1)(c)(i) of the Promotion of Administrative Justice Act, Act 3 of 2000, for a determination of the Waste Management Licence Application, with the following directions: -
 - 2.1 the Applicants shall within 5 days of the date of the court order submit such further information as required by the Department pursuant to the Waste Management Licence Application in respect of the land developed for purposes of the composting facility in order to ascertain whether such land is bigger than 1 hectare for purposes of Activity 28 of Listing Notice 1;



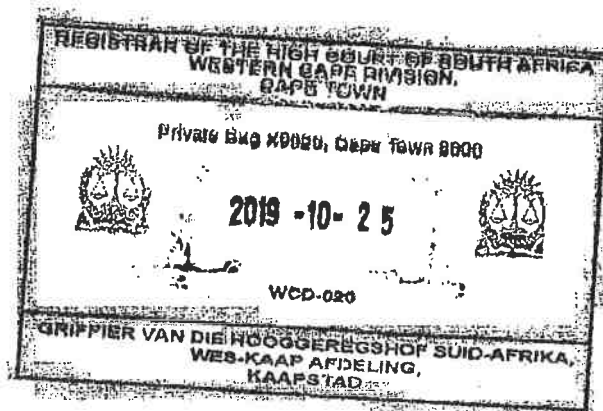
- 2.2 the remainder of the information submitted as part of the Waste Management Licence Application shall suffice and does not need to be resubmitted.
3. It is recorded that, pursuant to the settlement of this application, the Minister has, in terms of section 47C of NEMA, condoned the First Applicant's failure to submit the final Basic Assessment Report for purposes of the First Applicant's application for environmental authorization in terms of the 2014 EIA Regulations for activities 4, 8 and 28 as contained in Listing Notice 1: 2014 (*"the NEMA Application"*), within the time periods required by regulation 19(1) of the 2014 EIA Regulations.
4. The First Applicant shall submit the final NEMA Basic Assessment Report, and the information referred to in paragraph 2.1 above, to the Department within 5 days of the date of the court order.
5. Provided that the First Applicant complies with the time periods in paragraphs 2.1 and 4 above, the decisions in respect of the Waste Management Licence Application and the NEMA Application shall be made by no later than 29 November 2019.
6. Pending the First Applicant obtaining a waste management licence under NEMA:WA, alternatively complying with the National Norms and Standards for Organic Waste Composting, if and when they come into effect, and such environmental authorization under NEMA as may be required,



- 6.1 The Applicants undertake not to treat in excess of ten tons of general waste per day calculated on a monthly average on Portion 6 of Farm Middelburg 10, Robertson (*"the Farm"*) and that the total area within which the composting activities take place on the Farm shall not exceed 1 hectare.
- 6.2 The Department undertakes not to take any further enforcement steps against the Applicants in terms of Chapter 7 of NEMA on the basis that the Applicants have unlawfully commenced with Listed Activity 28 and/or Waste Listed Activity 6, provided that the Applicants comply with the undertaking in 6.1.
7. The Department shall pay the Applicants' party and party costs.

BY ORDER OF THE COURT


COURT REGISTRAR



135 Van der Spuy CAPE TOWN

"AIR"



Our Ref: 15/4/12/6 & 7
Your Ref:

ADMINISTRATIEWE EN UITVOERENDE KANTOOR
ADMINISTRATIVE AND EXECUTIVE OFFICE
IOFISI YOLAWULO NEYESIGORBA

Private Bag X2, ASHTON 6715
28 Main Road, ASHTON 6715
T: 27 23 515 8000 F: 27 23 515 1562

Navres/Enquiries: K Brand
Date: 26 February 2019

Mr H de Bod
Reben Trust
P O Box 695
ROBERTSON 8705

Per hand

SECOND NOTICE OF NON-COMPLIANCE Langeberg Land Use Planning Bylaw, 2015

UNAUTHORISED ACTIVITY ON PORTION 6 OF THE FARM MIDDELBURG NO. 10, ROBERTSON: ABATTOIR COMPOST FACILITY

I refer to the First Notice of Non-Compliance dated 15 February 2018, and subsequent letters to Du Bois Attorneys dated 28 March 2018 and 8 May 2018.

As you are aware, a decision has not yet been taken on your application to rezone a portion of the above farm to Industrial Zone II to accommodate an Abattoir Compost Facility and for Consent for an Intensive Feedlot.

A site visit, conducted on 1 February 2019, confirmed that the Abattoir Compost Facility is still in operation.

Given the above, and the fact that the Abattoir Compost Facility is not permitted within the existing Agricultural Zone I, you are guilty of the following offence(s) in terms of section 86 (1) of the Langeberg Land Use Planning Bylaw PN 264/2015:

(c) Utilising land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;

In terms of Section 85(1)(a) and (b) of the bylaw, the Municipality must enforce compliance with the provisions of the bylaw and of an applicable zoning scheme.

You are hereby instructed in terms of section 87 of the bylaw, to immediately make alternative arrangements for the disposal of the Robertson Abattoir waste, and await the outcome of the abovementioned application.

With reference to Sections 88(1)(g)(i)-(v) and 90 of the bylaw, kindly note that failure to comply with the above request will result in further action being taken against you, which may include prosecution for, and conviction of, an offence contemplated in Section 86 and a penalty. You may also be required by an order of court to cease the activity.

Yours faithfully


J. BRAND
MANAGER: TOWN PLANNING



Since 1984

PROKUREURS/ATTORNEYS AKTEBESORGERE/CONVEYANCERS

BTW NR 4770183285

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SEL 082 6214 537 CEL
E-POS hennie@jpdubois.co.za E-MAIL
E-POS aktes@jpdubois.co.za E-MAIL

OUR REF : JPDUB/at/HR0215

YOUR REF : 15/4/12/5 & 7 - K BRAND

DATE : 4 MARCH 2019

THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON

E-mail: kbrand@langeberg.gov.za

Dear Sir,

APPLICATION FOR REZONING AND CONSENT USE CONTEMPLATED IN THE
ZONING SCHEME : PORTION 6 OF THE FARM MIDDELBURG NO. 10 ("PORTION
6")

SECOND NOTICE OF NON-COMPLIANCE ISSUED ON 25 FEBRUARY 2019

As you are aware, we act on behalf of Mr. Hennie De Bod in his capacity as member of
the South African Farm Assured Meat Group CC, Robertson. Mr. De Bod is also a
trustee of the Reben Trust who is the registered owner of Portion 6.

We refer to your Municipality's Second Notice of Non-Compliance in terms of the
Langeberg Land Use Planning Bylaw, 2015 dated 25 February 2019 ("Second Notice")
addressed to Mr. De Bod in his capacity as trustee of the Reben Trust.

We have been instructed to reply to the Second Notice.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

529.

In this regard we refer to our previous letters on the same subject addressed by our offices to your Municipality on 14 March 2018 and 3 May 2018, respectively.

That letters were addressed pursuant to the First Notice of Non-Compliance issued by your Municipality addressed to Mr. De Bod on 15 February 2018 ("First Notice").

The contents of our letters of 14 March 2018 and 3 May 2018 must be regarded as incorporated herein. We thus hold instructions to inform you that our client rejects the Second Notice (as he did the first) insofar as it alleges (again) that our client is guilty of utilizing Portion 6 in a manner other than prescribed by the current zoning scheme without the approval of the Municipality.

We however deem it necessary to make the following submissions in addition to the contents of our previous two letters. The reason for this is that the Integrated Zoning Scheme By-Law of the Langeberg Municipality was promulgated on 18 May 2018. The Provisions of the Fertilizers, Farm Feeds and Remedies Act, Act No. 36 of 1947 as amended ("the Fertilizers Act") and Regulations promulgated under that Act are also relevant to shed light on the concept of compost as a fertilizer.

Langeberg Integrated Zone Scheming By-Law of 18 May 2018 ("Integrated Zoning Scheme"):

1. It is necessary to have regard to the wording and definitions of the Integrated Zoning Scheme:

"ancillary" - means a land use, purpose, building, structure or activity which is directly related to, and subservient to, the lawful dominant use of the property.

"Industrial Zone II" - the objective of this zone is to provide for industries that are noxious in respect of smell, product, waste or other objectionable consequence of their operation, or carry a high risk in the event of fire or accident.

"noxious trade" – means an industry that is offensive, poisonous or a potentially harmful use or activity that, because of the fumes, emissions, smell, vibration, noise, waste products, nature of material used, processes employed, or other cause, is considered by the Municipality to be a potential source of danger, nuisance or offence to the general public or persons in the surrounding area and includes –

(a) An abattoir

(b) A crematorium

(c) Rooftop based telecommunication station etc

The principle often applied to the interpretation of statutes where a list of activities are grouped together, is inclusio unius (est) exclusio alterius. In the definitions of agriculture, agricultural industry and noxious trade, the list of offending activities excludes an abattoir and other similar activities, but not the production of compost on the said land from organic waste emanating from an abattoir. The only two factors or elements included in the definition of noxious trade which are or may be attributed to a composting facility like the subject one, is smell (which is almost absent from the current facility as numerous site inspections have shown) and waste product. In the subject case it is common cause that the raw material (as defined below) used, despite emanating from an abattoir, is non-poisonous, non-hazardous, non-offensive, does not carry any objectionable consequences and is harmless to the general public – also known as green or general waste.

On the contrary, the end product of this process, namely a highly nutritious compost, is not only exceedingly advantageous to the cultivation of crops – the primary use of agriculture – but simultaneously complies with the desperate need to recycle harmless waste products and heed the call to go green and do away with the disposal of waste by means of harmful, hazardous, offensive and objectionable landfill waste dumps.

2. Apropos of the above definitions contained in the Integrated Zoning Scheme of Langeberg, it is patently clear that the use of a fertilizer like compost for the cultivation of land for raising crops and other plants, is not only a perfectly legal

BRFHOOF/DU BOIS/af

agricultural activity, but also a normal and standard one applied on many farms in general. It is at least an ancillary use to the cultivation of crops, plants etc. After all, the sole purpose for the production of compost as a fertilizer on agricultural land (like portion 6) is to improve the soil of such land.

3. We sum up: The fact of the matter is that a composting facility as the present one operated on Portion 6, is nowhere excluded from the definition of the land use agriculture and not included per definition or specifically in the land use industrial industry or noxious trade. Noxious trade does not even enter the equation for the same or similar reasons why a pigsty or a cattle barn or pen or a winery or distillery (which are in essence smelly activities and producing waste product in various forms) on a farm can never be a noxious trade simply because they are part and parcel or at least ancillary to the primary land uses agriculture and/or agriculture industry, respectively.
4. The current status of the compost facility on Portion 6 is nothing more than the production of a fertilizer in the form of compost of which the raw materials consist of *inter alia* organic waste emanating from an abattoir. As stated in our previous letters, nothing is stated in any Act or Regulation including the Integrated Zoning Scheme, which stipulates that where raw material for the making of compost emanates from an abattoir (which is not situated on that property where the compost is produced), suddenly elevates the current composting facility on portion 6 to an agricultural industry or noxious trade for which a zoning of Industrial Zone I or II, respectively is prescribed.

The Fertilizers, Farm Feeds and Remedies Act, No. 36 of 1947 ("Fertilizers Act"):

5. As stated above, it is necessary in order to understand the concept of agriculture and the application of fertilizers, as an ancillary use to enhance/improve the soil, to have regard to the Fertilizers Act and Regulation GNR 732 of 10 September 2012. We will now refer to the wording and definitions contained in the said Regulation and the Fertilizers Act:

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"compost" – means a stabilized, homogenous, fully decomposed substance of animal or plant origin to which no plant nutrients have been added and that is free of substances or elements that could be harmful to man, animal, plant or the environment."

The above definition complies fully with our client's current compost facility and the ingredients (raw material) used in the production of compost on Portion 6.

"fertilizer" – means any substance which is intended or offered to be used for improving or maintaining the growth of plants or the productivity of the soil."

Compost is therefore clearly defined under the Fertilizers Act and the Regulation as a fertilizer.

6. In terms of the new Fertilizer Bill which has not been enacted yet, the proposed definitions is interesting as it may also be applied to confirm the meaning of compost as a fertilizer.
7. *"raw material" – means organic or inorganic products in a solid or liquid form, including various products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the processing thereof, which are intended for soil fertilization or foliar application."*
8. The current production of compost on Portion 6 takes place, not as an industry, nor a factory, an abattoir or a noxious trade as defined in the Integrated Zoning Scheme. As stated, it also does not contravene any National Act like the Waste Act or NEMA as long as the production of compost is restricted to a maximum of 10 tons per day and be utilized on Portion 6. The portion of land where the current facility is operated, has in any event been cultivated as early as 1982.
9. Thus, as stated in this letter (and as supplemented by the contents of our previous letters of 14 March 2018 and 3 May 2018, respectively), your Notice of Non-Compliance, has no legal basis and is unlawful.

BRFH00F/DU/BOIS/at/6

10. Our instructions therefore are that our client will not heed to that notice or any further Non-Compliance Notice issued and our client will not make alternative arrangements for the disposal of the Robertson Abattoir organic waste, pending the outcome of our client's pending application.
11. Kindly also take notice that should your Municipality take action in the form of the laying of a criminal complaint, such action will naturally be opposed and all the relevant correspondence will be submitted to the prosecutor. Such actions will furthermore be considered to be malicious prosecution and in that regard our client's rights are fully reserved.
12. Should your Municipality furthermore decide to make application to a civil Court for an order against our client to cease the current activity, same will be opposed on *inter alia* the grounds set out in the relevant correspondence. In such a case, a punitive cost order will be applied for against your Municipality due to your continued vexatious disregard of our client's rights. The manner in which your Municipality has handled this matter, from the start, is not only a disgrace but can be viewed as akin to unlawful harassment of our client in its bona fide endeavours to do the right thing. And in the process solving your Municipality's primary obligation to dispose of abattoir waste through objectionable landfill options.
13. You are hereby instructed that should your Municipality apply to Court for an order for the cessation of further production of compost on Portion 6 in the current volumes and manner, pending the outcome of the application for rezoning, the Court papers must be served on our offices. Should your Municipality deem it prudent to bring an urgent application, our client demands that at least 3 days notice of such an application be given before the hearing thereof to enable our client to oppose same.
14. We may advise that an urgent application in these circumstances will in any event be opposed on the basis that the application is clearly not urgent due to the fact that a year has lapsed since the First Notice of Non-Compliance was served on

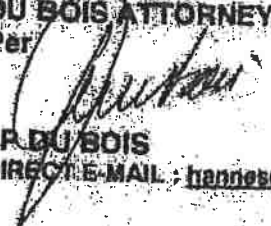
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our client. And more than 2 years since our client commenced with the production of compost on Portion 6 with the full knowledge of your Municipality.

Kindly acknowledge receipt.

Yours Faithfully
DU BOIS ATTORNEYS

Per


JP DU BOIS

DIRECT E-MAIL : hannes@jpdubois.co.za

BRFHOOE/DU BOIS/m/s



Sedert 1984

PROKUREURS/ ATTORNEYS AKTEBESORGERS / CONVEYANCERS

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ONS VERW: JPDUB/af/HR0212

U VERW : ME ELKERINE ROSSOUW

DATUM : 13 MEI 2019

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Bygestaan deur :
ANDREA COETZEE (LL.B.)

PER HAND

MNRE BREEDE-GOURITZ OPVANGGEBIED BESTUURSAGENTSAP
BARINGSTRAAT 51
WORCESTER
6850

Beste Elkerine

AANSOEK OM VERIFIKASIE: GEDEELTE6 MIDDELBURG NR.10
4/5/H40L/Middelburg 10/6

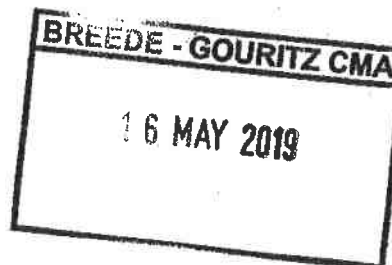
Hierby aangeheg amptelike aansoek om verifikasie per die toepaslike aansoekvorm,
aangevul deur Google lugfoto's en stawende dokumentasie.

Geliewe ontvangs hiervan te erken.

Die uwe
DU BOIS PROKUREURS
Per

JP DU BOIS

DIREKTE E-POS : hannes@jpdubois.co.za



Natasha Jailers.

The Breede-Gouritz
Catchment Management Agency

Private Bag X3065
Worcester 6850

Tel: 023 346 8000 Fax: 023 347 0193

Asook te : Fairbairnstraat 22, Worcester Tel: 023 342 0808

BEVESTIGING VAN BESTAANDE WETTIGE WATERGEBRUIK PER EIENDOM IN DIE J11J KWATINÊRE OPVANGSGEBIED BINNE DIE BREEDE- GOURITZ WATERBESTUURSGEBIED

BESKRYWING VAN EIENDOM: GEDEELTE 6 (MIDDELSTE KLOOF) VAN DIE PLAAS MIDDELBURG NR 10, AFDELING ROBERTSON

EIENAAR: DIE REBEN TRUST MET REGISTRASIENR IT2879/98

Inleiding

Water, is onontbeerlik vir landbou en toerisme in die Breede-Gouritz distrik en moet dus korrek bestuur word. Dit is in lyn met die Nasionale Waterwet (NWW), 1998, wat die gebruik van water in Suid-Afrika reguleer.

Die Breede-Gouritz Opvanggebiedbestuursagentskap (BGCMA) is tans besig met 'n proses om die wettige watergebruik in die J11J kwatinêre opvangsgebied binne die Breede-Gouritz Waterbestuursgebied te bepaal en het vir AECOM SA (Edms) Bpk (AECOM) as Professionele Diensteverkaffer aangestel om die proses namens BGCMA te hanteer.

Die voordele van hierdie proses is onder andere:

- Gemoedsrus dat bestaande watergebruik wettig is.
- Bewys van wettige watergebruik vir verskeie transaksies, bv. verandering van eienaarskap (eiendomsoordragte), bank-finansiering en kontraktuele onderhandelinge met kliënte.
- Wettige watergebruik voeg waarde toe tot 'n eiendom.
- Hulp met die verband tussen werklike watergebruik en rekeninge vir waterbestuurinvorderings wat ontvang word.
- Versekering dat watergebruikers stroomop nie die waterhulpbron onwettig uitput nie.
- Die daarstelling en handhawing van verbeterde kommunikasiekanale met water bestuurinstellings.

Validasie en verifikasie proses

As deel van die bepaling van wettige watergebruik, is BGCMA tans besig om, ingevolge Artikel 21 van die Nasionale Waterwet van 1998 (NWW), die volgende watergebruike in die prioriteitopvanggebiede te bevestig en te verifieer:

- 21(a) – Neem van water vanuit 'n waterhulpbron (bv. onttrekking van water uit 'n rivier of 'n boorgat)
- 21(b) – Opgaar van water
- 21(d) – Deelname aan 'n stroomvloeiverminderingsbedrywigheid (bv. plantasies)

Validasie is die proses om te bevestig of die volume water wat geregistreer is by die Departement van Water en Sanitasie (DWS), inderdaad ooreenstem met die volume water wat elke tipe gewas en/of 'nie-besproeiing' watergebruike in die twee jaar periode, alvorens die implementering van die NWW, benodig het. Hierdie bevestiging word gedoen deur waterregistrasies te vergelyk met lugfotos wat in die jaar 2000 geneem is.

SG code: _____

Daar sal ook gekyk word na huidige watergebruik, en of enige toename in watergebruik vanaf die jaar 2000 gemagtig is. Die huidige watergebruik sal gebaseer word op die lugfotos wat in 2013 geneem is.

Verifikasie is die proses om die wettigheid van die hoeveelheid water wat in terme van vorige wetgewing gebruik is, te bepaal om sodoende die omvang van die Bestaande Wettige Watergebruik te bevestig.

Die NWW bepaal dat alle water wat gedurende die twee jaar voor die implementering van die NWW in 1998 gebruik is, en wat in terme van enige vorige wetgewing wat op daardie tydstip van krag was, as 'n Bestaande Wettige Watergebruik beskou word.

Geregistreerde Watergebruik

In terme van Artikel 3(b) van Regulasie 1352 gedateer 12 November 1999, moet 'n persoon wat water gebruik, soos aangedui in Artikel 21 van die Nasionale Waterwet, 1998 (Wet 36 van 1998), die watergebruik registreer wanneer dit deur die verantwoordelike gesag aangevra word.

Die geregistreerde watergebruik is slegs 'n opname (deur u) van die watergebruik op die eiendom en impliseer nie 'n Bestaande Wettige Watergebruik of 'n aansoek vir 'n watergebruiksreg nie.

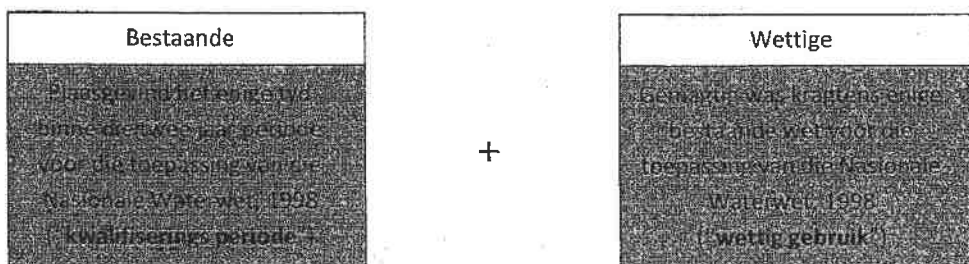
Bestaande Wettige Watergebruik

Om te kwalifiseer as 'n Bestaande Wettige Watergebruik, moet 'n watergebruik aan die volgende kriteria voldoen:

- a) Die water moes fisies gedurende die twee jaar voor die toepassing van die Nasionale Waterwet (Wet 36 van 1998) (NWW), 1998 gebruik gewees het:
1. 1 Oktober 1996 tot 30 September 1998 vir grondwater, bv. water vanaf boorgate;
 2. 1 Oktober 1997 tot 30 September 1999 vir oppervlaktewater, bv. water vanaf damme of riviere.

EN

Die hoeveelheid water wat gebruik was, moes voldoen het aan die bepalings soos aangedui in die Waterwet, 1956 (Wet 54 van 1956).



- b) Die gebruik van water mag ook in terme van Artikel 33 van die NWW as 'n Bestaande Wettige Watergebruik verklaar word indien die verantwoordelike gesag tevrede is dat die watergebruik;

SG code: _____

1. Plaasgevind het meer as twee jaar voor die datum van die inwerkingtreding van die NWW en vir 'n goeie rede beëindig was;
2. Nog nie voor die datum plaasgevind het nie, maar -
 - i) Wettig sou gewees het indien dit wel plaasgevind het, en;
 - ii) Daar, voor die inwerkingtreding van die NWW, in goedertrou stappe geneem is om die gebruik te verwesenlik.

Bevestiging van watergebruik op hierdie eiendom

Die eiendom hierbo beskryf, val binne die bepaalde opvanggebied wat tans ondersoek word. Aangesien die inligting wat verlang word eiendom-spesifiek is, mag u as grondeienaar verskeie van hierdie briewe ontvang vir u onderskeie eiendomme of afsonderlike gedeeltes. Indien u nie hierdie inligting invul nie, sal ons genoodsaak wees om 'n meer algemene benadering te volg in die bepaling van u watergebruik, wat tot u nadeel kan strek.

Die doel van hierdie brief, is soos volg:

- a) Om die resultate van die validasieproses en die stand van watergebruik op bogenoemde eiendom aan te dui. Indien watergebruikers nie saamstem met die inligting nie, word hulle versoek om dokumentasie in te dien ter staving van enige veranderings wat hulle aanvra.
- b) Watergebruikers wat tevrede is met die inligting in hierdie brief, word gevra om formeel aansoek te doen vir die verifikasie van hierdie watergebruik ingevolge die vereistes van Artikel 35(1) van die NWW en sodoende die wettigheid daarvan te bevestig. Dit word gedoen deur die ingeslote **Bylae C** te onderteken. Watergebruikers word nie beperk tot slegs die inligting aangevra in hierdie brief nie en dus kan enige addisionele inligting, ter motivering van die aansoek, ingesluit word.

Belangrikheid van deelname aan die proses aangaande die bevestiging van Bestaande Wettige Watergebruik

Geen persoon van wie vereis was om aansoek te doen vir die bevestiging ten opsigte van 'n Bestaande Wettige Watergebruik in terme van Artikel 35(5)(a) van die (NWW), mag die watergebruik uitoefen indien die persoon nie aansoek gedoen het vir die bevestiging van watergebruik voor die gespesifiseerde datum nie.

'n Voltooide en getekende aansoekvorm word steeds deur BGCMA of AECOM as die aangestelde konsultant in hierdie verband benodig. As u nie 'n voltooide en getekende aansoek vir die betrokke watergebruik indien nie, tree u teenstrydig met Artikel 35(5)(a) van die NWW op deur die voortsetting van watergebruik op die eiendom na die betrokke datum.

Struktuur van hierdie dokument

Vind aangeheg drie bylaes asook 'n kaart van u eiendom:

Bylae A – Informasie wat onbreek of onduidelik is (slegs vir inligting doeleindes)

Bylae A bevat:

- Tabelle wat uitstaande of verkeerde inligting rakende terugvoer wat tot op hede van die watergebruiker ontvang is. Die tabel bevat ook waardes wat deur die watergebruiker voorgestel is maar wat aansienlik verskil van dit wat deur BGCMA bereken is. Alhoewel die watergebruiker die vryheid het om aansoek te doen vir die validasie en verifikasie van watergebruik soos wat hy/sy toepaslik vind, word watergebruikers aangemoedig om bewyse of motivering ter ondersteuning van die voorgestelde waarde voorsien.
- 'n Tabel (as deel van **Bylae A**) wat huidige registrasies in DWS se databasis (bekend as WARMS) aantoon.

Bylae B – Informasie benut vir die bepaling van die Bestaande Wettige Watergebruik (voltooi en/of dateer op)

Die inligting wat gebruik is om u Bestaande Wettige Watergebruik te bepaal word in **Bylae B** aangedui. Bestudeer asseblief hierdie gedeelte baie noukeurig aangesien dit 'n direkte impak op u wettige waterverbruik het. Enige vorige inligting wat van die watergebruiker ontvang is, word in hierdie afdeling getoon, al mag dit verskil van gegewens wat deur BGCMA bereken is. Alle inligting wat tot op hede deur BGCMA en die watergebruiker ingesamel is, sal na die gedelegeerde owerheid aangestuur word wat die finale besluit rakende die aansoek vir die validasie en verifikasie van watergebruik deur watergebruikers sal maak. Watergebruikers word dus aangemoedig om bewyse of motivering te voorsien om hul voorgestelde waardes te ondersteun, veral waar die waardes van BGCMA se berekende waardes verskil. Dit sal die gedelegeerde instansie help om 'n korrekte besluit ten opsigte van die aansoek te maak.

Bylae C – Aansoekvorm vir Validasie en Verifikasie van watergebruik (voltooi, dateer op en teken)

Bylae C bevat die aansoekvorm vir die validasie en verifikasie van watergebruik vir die betrokke eiendom.

Belangrik: **Bylae C** moet onderteken word vir u aansoek om verwerk te word en om u watergebruiksregte formeel te erken.

Die aangehegte kaart toon die besproeide areas en damme in die jaar 2000 wat verkry is deur lugfotos wat in die jaar 2000 geneem was. Die areas wat as besproei op die betrokke eiendom geïdentifiseer is, word in genommerde poligone (polygons) op die lugfoto getoon. Die genommerde poligone stem ooreen met die veld nommers in Tabel 1 in **Bylae B**.

Nadat u deur **Bylae A** gewerk het, voltooi of korrigeer asseblief enige verlangde of verkeerde inligting in **Bylaes B & C** en onderteken Bylae C.

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DETERMINING THE EXISTING LAWFUL WATER USE PER PROPERTY IN QUATERNARY CATCHMENT J11J WITHIN THE BREEDE-GOURITZ WATER MANAGEMENT AREA

PROPERTY DESCRIPTION:

OWNER:

Introduction

Water is the lifeblood of the agricultural and tourist economy in the Breede-Gouritz region and should therefore be managed correctly. This is in line with the National Water Act (NWA), 1998, which regulates the use of water in South Africa.

The Breede-Gouritz Catchment Management Agency (BGCMA) is undertaking a process to determine the legal water use in quaternary catchment J11J within the Breede-Gouritz Water Management Area and has appointed AECOM SA (Pty) Ltd (AECOM) subsequently as Professional Services Provider to undertake this process on their behalf.

Some of the benefits of this process for water users will include:

- Provide peace of mind that the existing water use is legal.
- Provide proof of legal water use for various transactions, e.g. when transferring property ownership, obtaining bank finance and negotiating contracts with customers.
- Legal water adds value to properties.
- Assist in the correlation of actual water used and the accounts received for water management charges.
- Ensure that upstream water users are not illegally depleting the water resource.
- Develop and maintain improved communication channels with water authorities.

Validation and verification process

As part of determining legal water use, BGCMA is undertaking the validation and verification of the following water uses in terms of Section 21 of the National Water Act of 1998 (NWA):

- 21(a) – Taking water from a water resource (e.g. abstracting water from a river or from a borehole for irrigation purposes, etc.)
- 21(b) – Storage of water
- 21(d) – Engaging in a stream flow reduction activity (e.g. forestry)

Validation is the process to confirm whether the volume of water registered with the Department of Water and Sanitation (DWS) coincides with the volume of water required for the various crop types cultivated and/or other non-irrigation water use during the two years prior to the implementation of the National Water Act (NWA). This is done by comparing the water registrations with the aerial photography of the year 2000.

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A check will also be done on the current use of water to ensure that any increase in water use since the year 2000 has been authorised. The current water use will be assessed on the basis of the aerial photography of the year 2013.

Verification is the process to check the lawfulness of the volume of water actually used under previous legislation, so as to certify the extent of Existing Lawful Use (ELU).

In terms of the NWA an ELU is a water use that had taken place at any time during a period of two years before the implementation of the NWA in 1998, and which was authorised by any previous laws in force at that time.

The text box below describes important aspects relating to Registered Water Use and Existing Lawful Water Use for your information. It is important that water users are aware of these aspects in order to provide a full understanding of the water use status related to the property.

Registered Water Use

In terms of regulation Section 3(b) of Regulations 1352 dated 12 November 1999 a person who uses water as contemplated in Section 21 of the National Water Act, 1998 (Act 36 of 1998) must, when called upon by the responsible authority to do so, register the water use.

The registered water use is only a recording (by you) of the water uses on the property and does not imply an Existing Lawful Water Use or an application for a water use entitlement.

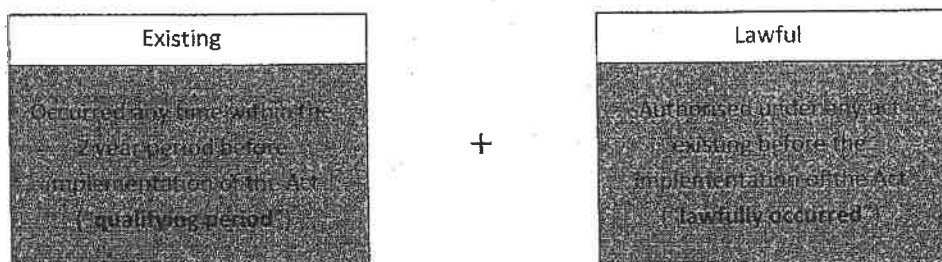
Existing Lawful Water Use

In order to qualify as Existing Lawful Water Use, a water use must meet the following criteria:

- a) The water must have been physically used in the two years before the implementation of the National Water Act (NWA), 1998:
1. 1 October 1996 to 30 September 1998 for groundwater, e.g. water from boreholes
 2. 1 October 1997 to 30 September 1999 for surface water, e.g. water from dams or rivers

AND

The quantity of water used had to meet the limitations as per the Water Act, 1956 (Act 54 of 1956).



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- b) A water use may also be declared an Existing Lawful Water Use in terms of Section 33 of the NWA (Act 36 of 1998) if the responsible authority is satisfied that the water use:
1. Took place more than two years before the date of commencement of the NWA and was discontinued for good reason or;
 2. Had not yet taken place at any time before the date but -
 - i) Would have been lawful had it so taken place; and
 - ii) Steps towards effecting the use had been taken in good faith before the date of commencement of the NWA.

Validation and verification of the water use on property

The property identified in this correspondence falls into the ambit of the catchment under investigation. As the information required is property specific, you may receive a number of these letters. Should you not complete this information, we will have to calculate your water use by using more generalised approaches – which could be to your detriment.

The purpose of this letter is as follows:

- a) To indicate the results of the validation process based on available information and status of water use on the above-mentioned property. Water users are requested to provide additional information and documentation as they may deem necessary to support any proposed changes to the information stated.
- b) Waters users satisfied with the information presented in this letter are requested to formally apply for the verification of your water use in order to confirm the lawfulness and extent thereof as required in terms of Section 35(1) of the NWA by signing **ANNEXURE C** attached hereto. You are not limited to only providing the information requested in the form and you may further motivate your application as you deem necessary.

Importance of compliance with the request to apply for verification of the water use

It is important to note that no person who is required to apply for verification in respect of an Existing Lawful Water Use may in terms of Section 35(5)(a) of the NWA exercise that water use if the person does not apply for verification of water use before the specified date.

A fully completed and signed application form is required by BGCMA or AECOM as the appointed consultant in this regard. If you do not submit a fully completed and signed application for the water use concerned, you act in contradiction of Section 35(5)(a) of the NWA by continuing to use water on the property after the date concerned.

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Structure of this document

There are three Annexures and a map of your property attached to this document:

Annexure A – Missing or unclear information (for information purposes only)

ANNEXURE A contains:

- Tables indicating missing or unclear information with respect to feedback received from the water user. The tables also show values proposed by the water user which differ significantly from that estimated by BGCMA. Note that although the water user is free to apply for the validation and verification of water use as he deems appropriate, water users are encouraged to provide proof or a motivation supporting the proposed value, where it differs from the values estimated by BGCMA.
- A table (at the end of **ANNEXURE A**) which shows current registrations recorded in the DWS database called WARMS.

Annexure B – Information used to determine existing lawful water use (to be updated and completed)

The information used in the calculation of your Existing Lawful Water Use is presented in **ANNEXURE B**. Please study this section carefully as it directly impacts on your legal water use. Any previous information provided by the water user is shown in this section, even where it differs from the information estimated by BGCMA (the latter which have been included in Appendix A). All information compiled to date by BGCMA and the water user will be forwarded to the delegated authority to make a final decision on applications for validation and verification of water use by water users. Therefore water users are encouraged to provide proof or a motivation supporting their proposed value especially where it differs from that estimated by BGCMA, to assist the delegated authority in making a correct decision on the application.

Annexure C – Application form for validation and verification of water use (to be updated / completed and signed)

ANNEXURE C contains the application form for validation and verification of water use on the property concerned.

IMPORTANT : Annexure C needs to be signed in order for your application to be assessed and for your water use rights to be formally recognised.

The map attached to this document illustrates the irrigated areas and dams identified for the year 2000, which were obtained from aerial photography of your property taken in 2000. The fields identified as being cultivated on your property at the time are shown in numbered polygons on the figure. The numbered polygons on each figure correspond to the field number description in **ANNEXURE B, Table 1**.

After referring to **ANNEXURE A**, please update and complete any missing or incorrect information in **ANNEXURES B & C** as necessary, and sign **ANNEXURE C**.

BYLAE A / ANNEXURE A**LYS VAN INLIGTING VOORHEEN INGEDIEN WAT AANDAG KORT
LIST OF INFORMATION PREVIOUSLY SUBMITTED REQUIRING ATTENTION**

Ons dank u vir al die inligting ontvang tot op hede. Hierdie inligting is verwerk. Die volgende gedeeltes van u aansoek benodig egter addisionele aandag en/of heroorweging.

Waar inligting uitstaande of onduidelik is, voltooi asseblief die uitstaande gedeeltes in **Bylae B** (nie in **Aanhangsel A**). Waar voorgestelde waardes van watergebruikers betekenisvol verskil van die berekende waardes van BGCMA, hersien asseblief u voorgestelde waardes om u aansoek te bevestig. Let daarop dat alhoewel die watergebruiker die vryheid het om aansoek te doen vir die validasie en verifikasie van watergebruik soos wat hy/sy toepaslik vind, word watergebruikers aangemoedig om bewyse of motivering ter ondersteuning van die voorgestelde waarde te voorsien. Dit sal die waarskynlikheid verhoog dat die delegerende owerheid die aansoek sal aanvaar.

We thank you for information provided to date, which we have captured. However, we have identified the following parts of the information previously submitted by you that require your attention and review.

*Where information is missing or unclear please complete the missing fields in **Annexure B** (not in **Annexure A**). Where values proposed by the water user differ significantly from that estimated by BGCMA, please review your proposed value to confirm that this is what you wish to apply for. Note that although the water user is free to apply for the validation and verification of water use as he deems appropriate, water users are encouraged to provide proof or a motivation supporting their proposed value. This will ensure a greater probability that the proposed value will be accepted by the delegated authority.*

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Tabel 1: Besproeiingswater wat gedurende die kwalifiserende tydperk gebruik is (bepaal volgens die lugfoto's geneem in die jaar 2000)

Table 1: Irrigation water use during the qualifying period (calculated from 2000 imagery)

1	17.1ha – BESPROEI	BESPROEI	Die 2000 lugfoto dui aan dat die veld nie besproei was nie. Voorsien asseblief bewys dat die veld wel in die jaar 2000 besproei was. <i>The 2000 imagery suggests that the field is non-irrigated. Please provide supporting proof as to why the field should be considered irrigated.</i>
2	5.3ha – BESPROEI	BESPROEI	
3	8.3ha – BESPROEI	BESPROEI	
4	2.1ha – BESPROEI	BESPROEI	
	Totale area besproei 32.8 ha	Soos per Google foto's aangeheg	

HAWER, SOJA BONA, KORIANDER EN VERSKEIE ANDER VOERGEWASSE WAT VIR DIE VOER VAN LEWENDE HAWE GEBRUIK WORD.	Onvoldoende of uitstaande gewastipe. Vul asseblief toepaslike waarde in Bylae B. <i>Crop type missing. Please fill in an appropriate type in Annexure B.</i>

PERMANENTE BESPROEING OP LANDE 1 EN 3 EN BESPROEING DEUR MIDDEL VAN GOUKOPPEL PYPE OP LANDE 2 EN 4	Onvoldoende of uitstaande besproeiingsmetode. Vul asseblief toepaslike waarde in Bylae B. <i>Irrigation method missing. Please fill in an appropriate method in Annexure B.</i>

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1	7450M ³ / ha p/j	7450M ³ / ha p/j	Die kwota vir hierdie veld verskil van die algemene waarde vir hierdie area. Verskaf asseblief bewys dat hierdie kwota gebruik was. <i>The quota for this field is different from the general value accepted for the crop in this area. Please provide supporting proof that a this quota was used.</i>
2	7450M ³ / ha p/j	7450M ³ / ha p/j	
3	7450M ³ / ha p/j	7450M ³ / ha p/j	
4	7450M ³ / ha p/j	7450M ³ / ha p/j	

Table 3: Waterbronne
Tabel 3: Water Sources

Irrigation	244 360m ³ p/j	244 360m ³ p/j	Die totale volume onttrek van bronne verskil betekenisvol van die volume gebruik. Pas asseblief die volumes onttrek of gebruik aan van beskikbare bronne of voeg of verwyder bronne waar toeplaslik in Bylae B. <i>The total volume drawn from sources differs significantly from the volume used. Please adjust the volumes sourced or used from available resources or add or remove resources as necessary in Annexure B.</i>

Table 4: Opgaar van Water
Tabel 4: Water Storage

13 Damme (insluitende Middelburgdam) met totale stoorkapasiteit van 111 801m ³	Voorsien asseblief 'n toepaslike dam naam in Bylae B. <i>Dam name missing. Please fill in an appropriate name in Annexure B.</i>
Die Middelburgdam se stoorkapasiteit was 18 800m ³ gedurende die kwalifiserende periode.	
Die Middelburgdam is intussen vergroot en geklassifiseer as 'n dam met 'n veiligheidsrisiko en stoorvermoë van 92 600m ³ . Hierdie dam is reeds by die damveiligheidsafdeling van Waterwese as sulks geregistreer en goedgekeur.	

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Tabel 4.2: Waterbrons	
Table 4.2: Water sources	
Naamlose takrivier van die Vinkrivier wat op sy beurt 'n takrivier van die Breërivier is	Die bron word nie weergegee nie. Vul asseblief die toepaslike bron in Bylae B. <i>Resource not specified. Please fill in an appropriate resource name in Annexure B.</i>

Tabel 4.3: Dam Permits	
Table 4.3: Dam permits	
Eiendomme met 'n totale opgaring van meer as 250000 m³ moet oor 'n Artikel 9B permit beskik. Voorsien asseblief 'n afskrif van die permit. <i>Properties having total water storage greater than 250000 m³ should have Section 9B permits from DWS. Please provide a copy of the permit for this dam</i>	

Tabel 4.4: Damme met 'n opgaarvermoë van 50000 m ³ of meer	
Table 4.4: Dams with a storage capacity of 50000 m ³ or more	
Middelburgdam – 92 600m ³	Damme met 'n walhoogte van meer as 5m en/of 'n opgaarvermoë van meer as 50000 m³ moet by die Damveiligheidskantoor geregistreer wees. Verskaf asseblief bewys dat die dam wel geregistreer is of korreger die volume in Bylae B. <i>Dams that are 5m high or greater and/or having a storage volume of 50000 m³ or more should be registered with the Dam Safety Office. Please provide proof that it is registered or correct the dam volume in Annexure B.</i>
Damveiligheidsverwysingsnommer: 12/2/H402/BJ – Sien aangehegte aansoek om klassifikasie van vergrote dam en skriftelike bevestiging gedateer 10/12/18 deur damveiligheid dat die damveiligheidsverslag ontvang, oorweeg en aanvaar is deur die damveiligheidskantoor van Waterwese.	
Soos per aangehegte dokumentasie	

BYLAE C: BESONDERHEDE VAN EIENDOM EN EIENAAR
ANNEXURE C: PROPERTY, OWNER AND WATER USER DETAILS

Tabel 4.5: Eiendomme en Eienaars	
Table 4.5: Properties and Owners	
GEDEELTE 6 (MIDDELSTE KLOOF) VAN DIE PLAAS MIDDELBURG NR 10, AFDELING ROBERTSON	Onvoldoende of uitstaande inligting Vul asseblief toepaslike waarde in Bylae C. <i>Unacceptable or missing information. Please fill in an appropriate value in Appendix C</i>
DIE REBEN TRUST (EIENAAR)	

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Bestaande WARMS-Registrasie (slegs vir inligting doeleindes)
Current WARMS Registrations (for information purposes)

Die volgende tabel toon u geregisteerde watergebruik aan soos wat by DWS aangeteken is. Die geregisteerde watergebruik is slegs 'n opname (deur u) van die watergebruik en impliseer nie 'n Bestaande Wettige Watergebruik of 'n aansoek vir 'n watergebruiksreg nie. Hierdie inligting mag verskil van die watergebruikers se rekords en een van die doelwitte van die validasie en verifikasie proses is om 'n hersiende databasis te produseer wat die watergebruiker se inligting sal reflekteer. Die inligting in WARMS kan moontlik foutief of onvolledig wees en sal deur BOCMA aan die einde van die proses gewysig word volgens die Bestaande Wettige Gebruik. Dus is dit belangrik dat die regte inligting weergegee word in **Bylae B & C**.

*The following table shows your registered water uses as recorded by DWS in the WARMS database. Note that the registered water use is only an indication of the water use and does not imply an Existing Lawful Water Use or an application for a water use entitlement. This information may not be the same as that reflected in the water user's records and one of the aims of the validation and verification process is to produce a revised database that correctly reflects user information. At the end of the validation and verification process the WARMS database will be updated with the correct data according to your Existing Lawful Water use, so it is important that the correct information is completed in **Annexures B and C**.*

22068655	Opgaring	Takrivier van Vinkrivier	Middelburgkloof	50 000m ³
22068655	Onttrekking	Grondwater	Boorgat	14 000m ³
22068655	Onttrekking	Rivier	Takrivier van Vinkrivier	14 000m ³

Tabel 1: Besproeiingswater wat gedurende die kwalifiserende tydperk gebruik is (bepaal volgens die lugfoto's geneem in die jaar 2000)

- 1.1 - Veldnommer:** Dit is die veldnommer wat voorkom op die 2000 lugfoto van die eiendom aangeheg tot hierdie brief en wat op die internet beskikbaar is, soos vroeër in die brief aangedui.
- 1.2 - Opgemete oppervlakte (ha):** Dit is die opgemete area (in hektaar) van elke veld in die jaar 2000.
- 1.3 - Besproei / Nie Besproei:** Dit dui aan of die veld gedurende 2000 besproei was, of nie.
- 1.4 - Tipe Gewas:** Dit dui die tipe gewas aan wat in 2000 aangeplant was.
- 1.5 - Besproeiingsmetode:**
- 1.6 - Kwota ($m^3/ha/jaar$):** Dit verwys na die hoeveelheid water wat gewoonlik per eenheid vir die tipe gewas in u gebied gebruik word. Waar geen waardes beskikbaar was nie is die eenheidswatergebruik gebaseer op tipiese watergebruik vir gewasse in u area.
- 1.7 - Totale Volume Gebruik ($m^3/jaar$):** Dit word bereken deur Opgemete oppervlakte (Kolom 1.2) met die Kwota (Kolom 1.6) te vermenigvuldig.

As u nie die water gebruiker van enige van die velde is, dui dit asseblief aan met die kontakbesonderhede van die toepaslike water gebruiker.

Table 1: Irrigation water use during the qualifying period (calculated from 2000 imagery)

- 1.1 - Field Number:** This is the field number that appears on the 2000 imagery of the property, which is attached to this letter and is also available on the internet as indicated earlier in the letter.
- 1.2 - Measured Area (ha):** This is the measured area in hectares of each field in the year 2000.
- 1.3 - Irrigated / Non Irrigated:** This indicates whether the field was irrigated or not in the year 2000.
- 1.4 - Crop Type:** This indicates the type of crop being cultivated in the year 2000.
- 1.5 - Irrigation Method:** This indicates the method used for irrigation of crops in the year 2000.
- 1.6 - Quota ($m^3/ha/annum$):** This refers to the unit water application rate provided by the user. Where no value was provided, the unit water application rate is based on typical usage for crops in your area.
- 1.7 - Total Volume Used ($m^3/annum$):** This is calculated by multiplying Measured Area (Column 1.2) by the Quota (Column 1.6).

If you are not the water user of any of the fields please provide the contact details of the applicable water user.

1	17.1ha	Besproei	Hawer/Soja bone / Koriander en verskeie ander voergewasse	Permanente besproeiing - sprinkelpype	7450m ³	127 395m ³
2	5.3 ha	Besproei	Hawer/Soja bone / Koriander en verskeie ander voergewasse	Goukoppelpyp sisteem	7450m ³	39 485m ³
3	8.3 ha	Besproei	Hawer/Soja bone / Koriander en verskeie ander voergewasse	Permanente besproeiing - sprinkelpype	7450m ³	61 835m ³
4	2.1 ha	Besproei	Hawer/Soja bone / Koriander en verskeie ander voergewasse	Goukoppelpyp sisteem	7450m ³	15 645m ³
Totaal Besproei / Total Irrigated						244 360m ³

[illegible][illegible]

Tabel 2: Nie-besproeiings watergebruik gedurende die kwalifiserende tydperk (vanaf die jaar 2000)

2.1 - Watergebruiksektor: Dit verwys na die gebruiksektor, soos Stedelike Watervoorsiening, Nywerheid (Nie-Stedelik), Bosbou of Voerkrale.
2.2 - Doel waarvoor water gebruik word (2000) (spesifiseer): Voorsien asseblief spesifieke inligting met betrekking tot die gebruik van die water in die jaar 2000, bv. vir die wynbedryf.
2.3 - 2000 Watergebruik (m³/jaar): Dui asseblief aan die volume water aan wat werklik in die jaar 2000 gebruik is.

NOTA: Watergebruik wat nie vir kommersiële doeleindes gebruik word nie (Skedule 1 watergebruik) hoef nie geregistreer te word nie en word nie in hierdie tabel getoon nie. Dit sluit huise, private tuine, huishoudelike gebruik, plaaswerker huise, ens. in.

Urban Water Supply	
Industry (Non-urban)	
Forestry	
Feedlots	
Other	HAWER, SOJA BONA, KORIANDER EN VERSKEIE ANDER VOERGEGWASSE WAT VIR DIE VOER VAN LEWENDE HAWE GEBRUIK WORD.
Total	ONBEKEND

uG code:

Table 2: Non-irrigation water use during the qualifying period (as at year 2000)

2.1 - Water Use Sector: This refers to the sector which could be Water Supply Service, Industry (Non Urban), Forestry or Feedlots.
2.2 - Water Use Purpose (2000) (specify details): Please provide specific information regarding the purpose for which the water is used in the year 2000, e.g. winery.
2.3 - 2000 water use (m³/annum): Please indicate the volume of water actually used in the year 2000.

NOTE: Water use not for commercial purposes (i.e. Schedule 1 use) does not need to be registered and is not shown in this table. This includes households, private gardens, domestic use, farm worker houses, etc.

Tabel 3: Waterbronne

3.1 - Tipe Bron: Vul bykomende rye in, soos benodig. Inligting oor waterbronne is vooraf voltooi, waar dit bekend is.

3.2 - Naam van Bron: Dui asseblief die naam van die rivier, boorgat, Watergebruikersvereniging / Besproeiingsraad aan, vanwaar die water verkry word. Indien water vanaf 'n spesifieke skema binne 'n Watergebruikersvereniging verkry word, moet dit sodanig aangedui word. Winter en Somer water toekennings van Watergebruikersvereniging / Besproeiingsrade moet in aparte lynjies ingevul word.

3.3.3 - Gemagtigde Volume Beschikbaar Vanaf Bron: Dui die volume water wat van elke waterbron onttrek word aan. Hierdie is die volume wat u as Bestaande Wettige Watergebruik wil laat bevestig.

3.4 - Jaarlikse Volume Gebruik: Dui die volume water aan wat vanaf die verskeie water bronne onder die relevante watergebruiksektor gebruik is. Die som van elke kolom in Kolom 3.4 moet gelyk wees aan die totale water gebruik in Tabel 1 (vir besproeiing) en Tabel 2 (vir nie besproeiing).

NOTA: Die geregistreerde watergebruik is slegs 'n opname (deur u) van die watergebruik en impliseer nie 'n Bestaande Wettige Watergebruik of 'n aansoek vir 'n watergebruiksreg nie. Vul asseblief Kolomme 3.3 en 3.4 in ongeag of die volume geregistreer is of nie.

Table 3: Water Sources

3.1 - Resource Type: Fill in additional rows as necessary. Water source information has been pre-populated where it is available.

3.2 - Resource Name: Please indicate the name of river, borehole or Water User Association/Irrigation Board. Where water is obtained from a specific scheme within a Water User Association also note this. Winter and Summer allocations from Water User Associations / Irrigation Boards are to be noted on separate lines.

3.3.3 - Authorised Volume From Resource: Indicate the volume taken from the water resource. This is the volume that you would like to be verified as an Existing Lawful Use.

3.3.4 - Annual Volume Used: Indicate the volume of water used from the various sources under the relevant water use sector. The sum of each column in Column 3.4 must equal the sum of total water use from Table 1 (for irrigation) and Table 2 (for non-irrigation uses).

NOTE: The registered water use is only a recording (by you) of the water use and does not imply an Existing Lawful Water Use or an application for a water use entitlement. Please fill in Columns 3.3 and 3.4 regardless of whether or not the volume is registered.

RIVIER	NAAMLÖSE TAK VAN VINKRIVIER	244 360m ³	244 360m ³						
Totaal / Total									
Groottotaal / Grand total			244 360m³						

Table 4: Water Storage

4.1 - BCCMA Dam ID: This refers to the dam ID number indicated in the 2000 imagery of the property, which is attached to this letter and is also available on the Internet as indicated earlier in the letter.

4.2 - Dam Name: This refers to the dam name.

4.3 - Water Resource: This refers to the primary source of water for the dam, e.g. river name.

4.4.4 - Dam Permit Number: This is the dam permit number for total water storage larger than

250000 m³.

4.4.5 - Dam Safety Registration Number: *(For information purposes only)* This is the registration number provided when the dam has been registered by the Dam Safety Office.

4.4.6 - Dam Safety Registration Volume: (For information purposes only) This refers to the dam volume registered with the Dam Safety Office within the DWS. Bear in mind that all dams

greater than 5 m high and/or having a storage volume of 50000 m³ or more must be registered

14.7 - Registered Volume: *(For information purposes only)* This refers to the dam volume registered as a water use with the DWS. Where total storage on a property is greater than 10000 m³, this volume should have been registered. Please refer to Annexure A for existing registrations.

4.8 - Volume Suggested for Verification: This is the dam volume suggested for verification bearing in mind that this is to be the actual capacity volume in 2000. Please check and correct the dam volume you believe to be correct for each dam.

Please fill in/amend the volume you believe to be correct into Column 4.8, where necessary.

18

SG code:

BYLAE C- BESONDERHEDE VAN EIENDOM EN EIENAAR
ANNEXURE C- PROPERTY, OWNER AND WATER USER DETAILS

Aansoekvorm in terme van Artikel 35(1) van die Nasionale Waterwet, 1998 (Wet 36 van 1998) vir die bevestiging van die wettigheid en omvang van die Bestaande Watergebruik op 'n eiendom
Application form in terms of Section 35(1) of the National Water Act, 1998 (Act 36 of 1998) for the confirmation of the lawfulness and extent of Existing Water Use on a property.

5. Besonderhede van Eiendom / Property Information			
1. Registraars Afdeling / Registration Division	AFDELING ROBERTSON		
2. Plaas nommer / Farm Number	10		
3. Naam van Plaas / Farm Name	MIDDELBURG		
4. Grondte van Eiendom (ha) / Property Extent (ha)	780,9180ha		
5. Departementele Registrasienommer / Departmental Register Number	ONBEKEND		
6. Besonderhede op Titeldiens / Title Deed Information			
6.1. Naam van Eienaar / Name of Owner	DIE REBEN TRUST		
6.2. IT/Bedryfsregistrasienommer / Business Registration No.	IT 2879/98		
6.3. Titeldiensnommer / Title Deed Number	T12255/2013		
6.4. Datum van Sitsing / Date Deed Exec	13 MAART 2013		
7. Watergebruiker Kontakbesonderhede / Water User Detail			
7.1. Naam / Name	DIE REBEN TRUST (HJS DE BOD)		
7.2. Bedryfsregistrasienommer / Business Registration No.	IT 2879/98		
7.3. Posadres / Post address	POSBUS 895 ROBERTSON 6705		
7.4. Wateradres / Physical Address	ROODEHOOGTE PLAAS ROBERTSON		
7.5. Tel. nr. / Tel. no.	023 626 6523/4		
7.6. Faksel / Fax no.	023 626 6577		
7.7. Cel. nr. / Cell no.	082 821 4337		
7.8. E-pos / E-mail	hannes@jpdubois.co.za		
8. Geslag van watergebruiker / Water User Gender			
8.1. Manlik / Male	N.V.T	8.2. Vroulik / Female	
9. BEE Status van watergebruiker / Water User BEE Status			
9.1. Wit / White	N.V.T	9.2. Swart / Black	
9.3. Koring / Coloured		9.4. Indiese / Indian	

***Water-user gender and BEE status:** Where the water user is a consortium such as a company or trust please indicate the percentage distribution for each category.

***Geslag en BEE status van watergebruikers:** Waar die watergebruiker 'n konsortium, soos 'n maatskappy of 'n trust is dui asseblief die persentasie verteenwoordiging van u konsortium in elke kategorie aan.

SG code: _____

Validasie van Bestaande Watergebruik gedurende die kwalifiserende tydperk
Validation of Existing Water Uses during the Qualifying Period

Type Bron Resource Type	Naam van Bron Resource Name	Irrigation	Bestaande Wettige Watergebruik (m ³ /jaar) Existing Lawful Use (m ³ /annum)					Totaal Total
			Urban Water Supply	Industry (Rural Urban)	Forestry	Foodlots	Other	
RIVIER	NAAMLOSE TAK VAN VINKRIVIER	244 360m ³						
Totaal / Total								
Groototaal / Grand Total		244 360m ³						
Storage		111 801m ³						

- Waar watergebruik nie geregistreer is nie, of verkeerdelik geregistreer was, sal die Bestaande Wettige Watergebruik geregistreer word en/of die registrasie gewysig word om die korrekte inligting uit te beeld.
- Indien u enige verandering gemaak het op Bylae B, maak seker dat die verandering gereflekteer word in Bylae C hierbo. Voortooi asseblief hierdie dokument en stuur dit tesame met stawende dokumentasie om die verandering te staaf voor of op die vervaldatum na AECOM. Stawende dokumentasie kan die volgende insluit:
 - Enige permit, waterhofbeslissing, servituut, ooreenkoms of ander wettige bewys wat u toelaat om water op te gaar of te gebruik.
 - Getuienis of bewys van die rede waarom u toegelaat moet word om 'n groter area te besproei of toegelaat moet word om meer as die toelaatbare volume te gebruik/op te gaar, of enige bewys van die magtiging of oordrag van watergebruiksregte (tydelike of permanent).
- Where water use has not been registered, or incorrectly registered the Existing Lawful Water Use will be registered or the registration amended to depict the correct information.
- Should you have changed any of the values in Annexure B, ensure that the impact of the change is reflected in Annexure C above. Please complete this form and submit any supporting documentation to motivate your proposed changes before or on the due date to AECOM. Supporting documentation may include:
 - Any permit, water court decision, servitude, agreement, authorisations or legal proof allowing you to abstract or store water.
 - Evidence or proof of why you should be allowed to irrigate a larger area or may abstract/store more than the allowable volume on the property or any proof of authorisation or transfer of water use entitlements (temporary or permanent).

VERKLARING DEUR AANSOEKER
DECLARATION BY APPLICANT

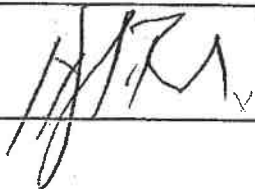
Ek verklaar dat die inligting wat hierin verskyn waar en korrek is, en ek versoek hiermee dat dit gebruik word om die wettigheid van my watergebruik(e) te bevestig.

I declare that the information provided herein is true and correct and I request herewith that it be used to confirm the lawfulness of my water use(s).

Van en Voorletters / Surname and Initials: **HJS DE BOD NAMENS EN TEN BEHOEWE VAN DIE REBEN TRUST**

Hoedanigheid / Position: **IN SY HOEDANIGHEID AS TRUSTEE**

Handtekening / Signature: X



Datum / Date: **07/05/2019**

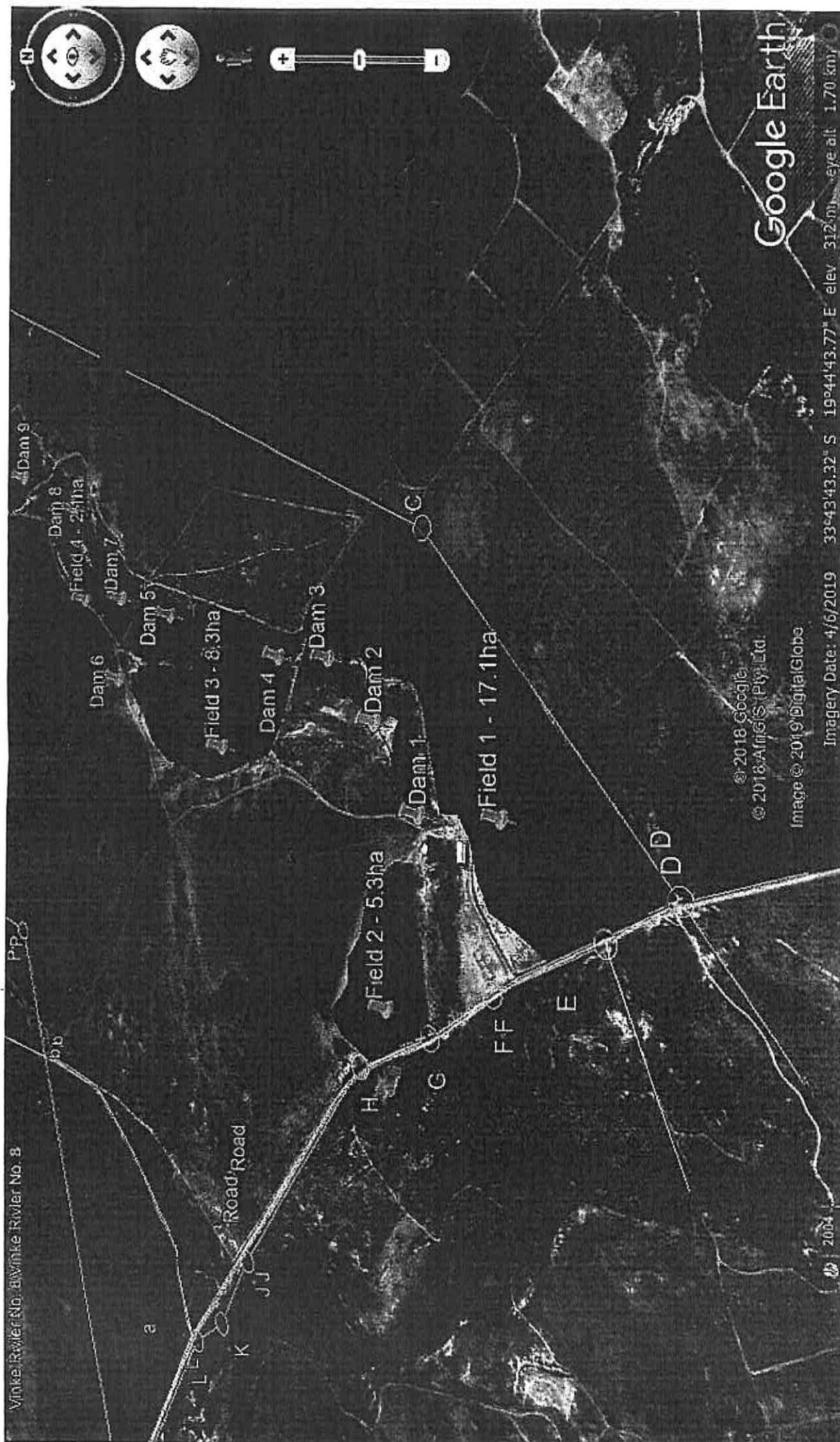
GEDEELTE 6 MIDDELBURG NR 10
 DUIDEL...ER WEERGAWE VAN BESPREEIDE LA... ERYE

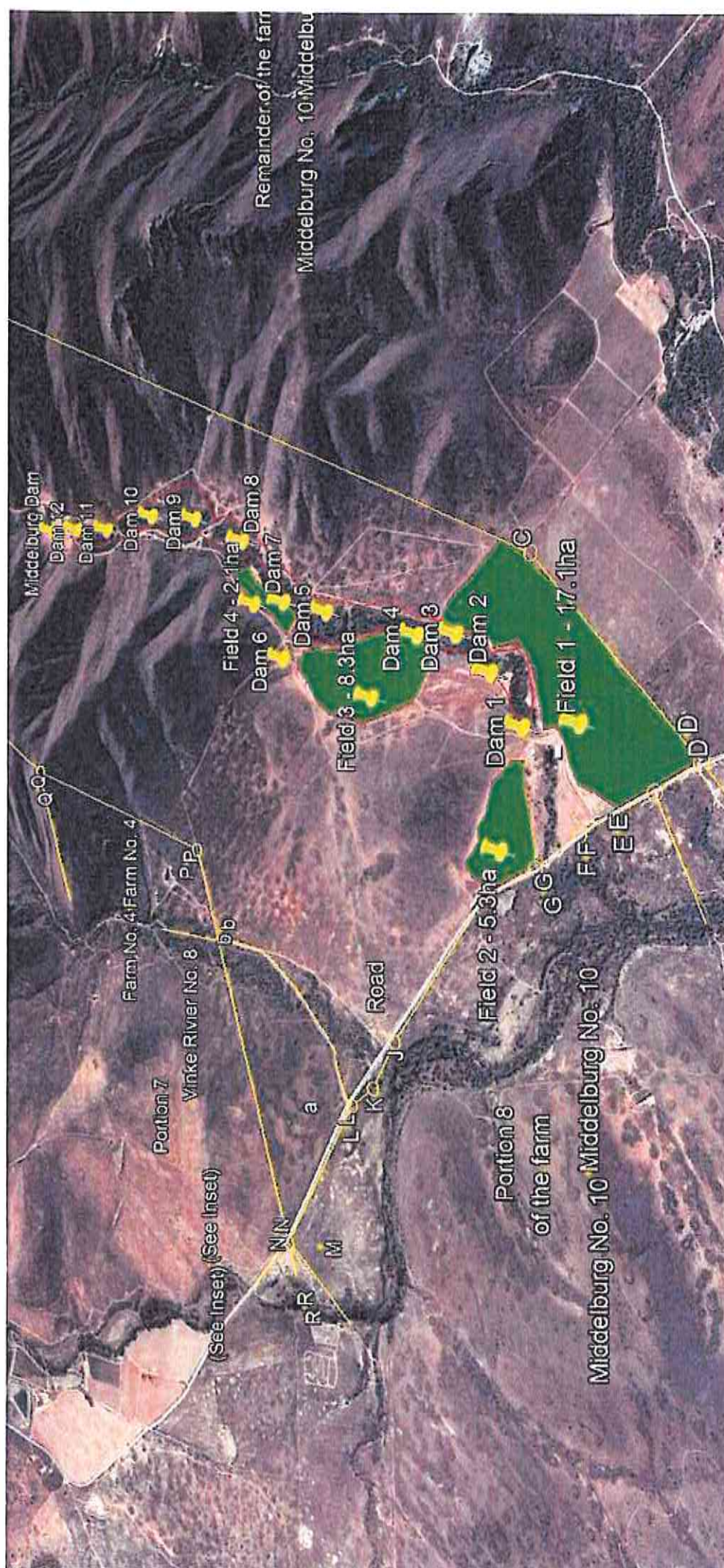


GEDEELTE 6 MIDDELBURG NR 10



GEDEELTE 6 MIDDELBURG NR 10
DUURLIKER WEERGAWE VAN BESPREEDE ANDERIE







water & sanitation
Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

PRIVAAT SAK X313 PRETORIA 0001

**AANSOEK OM KLASSIFIKASIE VAN 'N VOORGESTELDE NUWE DAM
OF VERGROTING OF VERANDERING VAN 'N BESTAANDE DAM**

Slegs van toepassing indien die walhoogte meer is as 5 meter en die bruto opgaarvermoë meer is as 50 000 kubieke meter

1. BESONDERHEDE VAN DIE DAMEIENAAR

- | | | | | | | | | | | | | | | | |
|---|---------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| 1.1. Naam van dame/enaar | REBEN TRUST | | | | | | | | | | | | | | |
| 1.2. Posadres van eenaar | POSBUS 895 | | | | | | | | | | | | | | |
| | ROBERTSON | | | | | | | | | | | | | | |
| | Poskode 6 7 0 5 | | | | | | | | | | | | | | |
| 1.3. Tel. nr. van dame/enaar | 0 2 3 6 2 6 6 3 2 0 | | | | | | | | | | | | | | |
| 1.4. Naam en posadres van persoon in beheer van die dam (indien van toepassing) | HENNIE DE BOD | | | | | | | | | | | | | | |
| | Poskode | | | | | | | | | | | | | | |
| 1.5. Tel. nr. van persoon in beheer van die dam | 0 8 2 8 8 1 3 1 9 1 | | | | | | | | | | | | | | |

2. EIENDOM WAAROP DIE DAM GELEë IS OF SAL WEES EN LOKALITEIT

- 2.1. Beskrywing van eiendom volgens transportakte
- | | | |
|-------|-----|---------------|
| GED 6 | VAN | MIDDELBURG 10 |
| | | |
| | | |
| | | |
| | | |
| | | |
- 2.2. Landdros distrik ROBERTSON
- 2.3. Naaste stad of dorp ROBERTSON
- 2.4. Afstand na naaste stad of dorp 1 6 km
- 2.5. Rigting vanaf naaste stad of dorp NOORD-WES
- 2.6. Nommer van 1:50 000 skaal topografiese kaart * 3 3 1 9 D A
* 'n Afskrif van die relevante deel van die kaart wat die posisie van die dam en die stroomaf gebied duidelik uitwys moet aangeheg word
- 2.7. Posisie van die middel van die damwal akkuraat tot die naaste een sekond
- Breedtegraad: 3 3' 4 2' 3 3.7" Lengtegraad: 1 9' 4 5' 0 10"
- 2.8. Transportakte nommer

Beskryf, met verwysing na 'n 1:50 000 kaart, die aard en situasie van stroom-afontwikkelings wat bedreig kan word indien die dam sou faal. "Ontwikkeling" beteken enige huise, woonplekke, ander geboue, paaie, brue, bewerkte lande, vrugteboorde, kraglymfondasies, ens.

- vir elke meter maksimum walhoogte, ontleed ten minste een kilometer van die vallei stroom-af van die damwal - om die wydte van die strook te bereken, aanvaar die volgende hoogtes bokant die rivierbedding: 2/3 van die maksimum walhoogte vir die eerste stroom-afkilometer en 1/2 van die maksimum walhoogte vir die oorblywende afstand stroom-af.

Afstand stroomaf Volgorde (km)	Doel of gebruik van structuur	Hoogte bo rivier- bed (m)	Afstand vanaf rivier (m)	Aantal inwoners of gebruikers
Vlg 4 10,3km	WOONHUIS	3,0	30	2
Vlg 5 11,1km	WOONHUIS + STOOR	3,5	70	4
Vlg 9 13,6km	WOONHUIS	4,0	95	4

[illegible]

The figure shows a coordinate system with 'Number of nodes (N)' on the horizontal axis and 'Number of links (L)' on the vertical axis. Both axes range from 0 to 10. Two lines are drawn: a solid line representing $L = N - 1$ and a dashed line representing $L = N$. Data points are plotted as small circles at integer coordinates. For $N=1$, there is one point at $L=0$. For $N=2$, there are two points at $L=1$. For $N=3$, there are three points at $L=2$. This pattern continues up to $N=9$, where there are nine points at $L=8$. Additionally, there are points at (N, L) pairs where $L=N$: $(2, 2), (3, 3), \dots, (9, 9)$.

ST = STAALRAAM

Beide aankomsafstande word benodig. Die volgorde van i en II maak nie saak nie.

As die afstand groter of gelyk is aan 1 kilometer, gebruik 999

5.3. Ander ontwikkeling stroomaf van die dam, nie vervat in 5.1 or 5.2

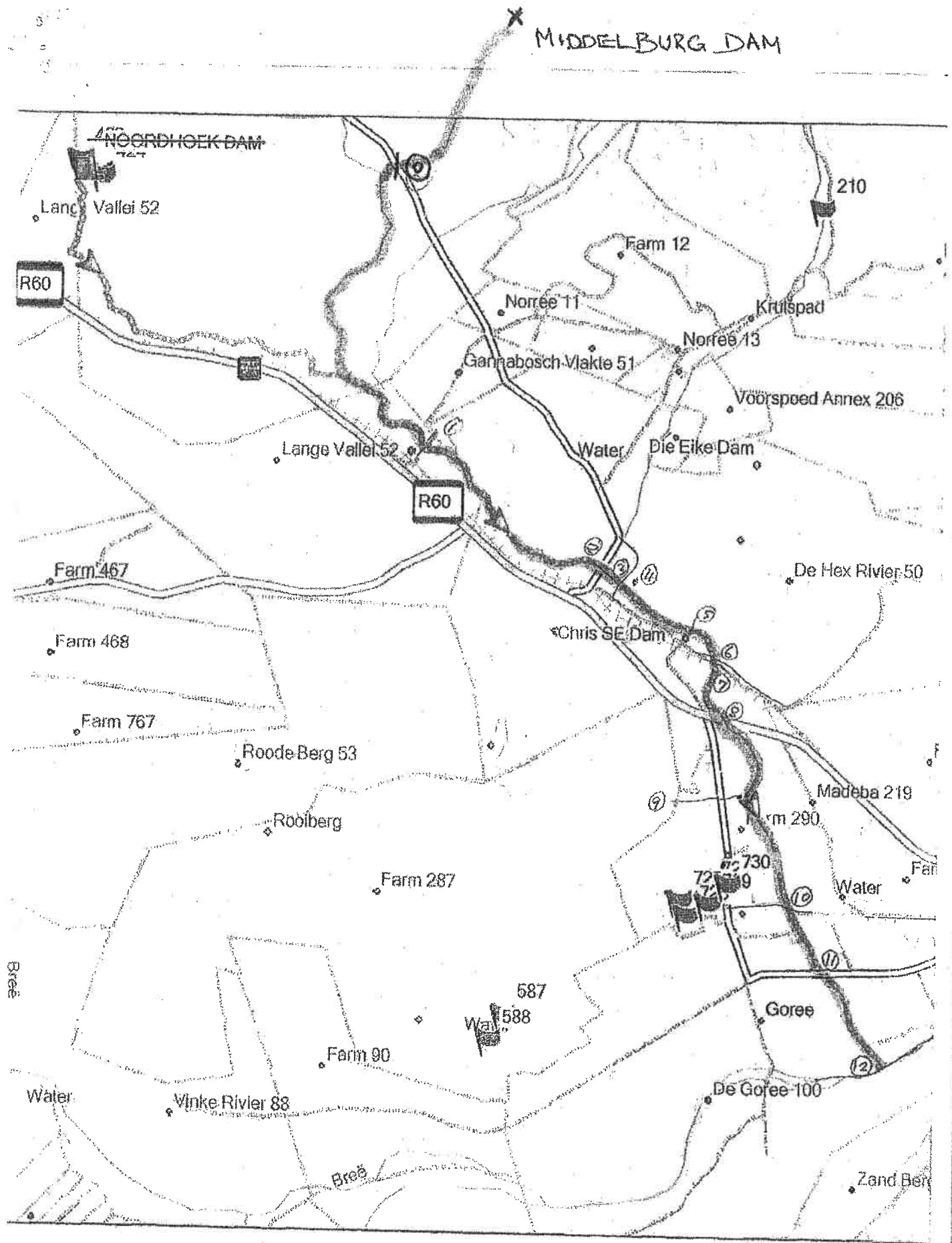
[illegible]

6. VERKLARING DEUR AANSOEKER

Ek verklaar dat die inligting deur my verstrek vir die klassifikasie van die bogenoemde dam waar en juis is.

Handtekening:

Datum: 10 AUGUSTUS 2017



Hannes du Bois

From: Jasper van Breda <jvbreda@mweb.co.za>
Sent: 19 March 2019 12:53
To: 'Hannes du Bois'
Subject: Middelburg Dam: Reuben Trust
Attachments: Middelberg dam Acceptance Letter Dec 18 Van Breda.pdf

Hallo Hannes

Hier is die Damveiligheidskantoor se aanvaardingsbrief 10 Desember 2018.

Groete

Jasper van Breda Pr Eng, B Eng Civil, MSAICE

Van Breda & Associates CC Consulting Engineers

Cell: 083 261 8774

Email: jvbreda@mweb.co.za



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA



L. VAN ZYL
(012) 336-7165
VANZYL2@dwa.gov.za
12/2/H402/BJ

Dam Safety Office, Department of Water and Sanitation, Private Bag X313, Pretoria, 0001

MR DE BOD, H.

REBEN TRUST
P.O. BOX 895
ROBERTSON
6705

E-mail: hennie@robab.co.za

Dear Sir

**MIDDELBERG DAM ON THE FARM MIDDELBERG 10 PTN 6, DIVISION OF ROBERTSON:
DAM SAFETY INSPECTION AND EVALUATION IN TERMS OF THE DAM SAFETY
REGULATIONS IN GOVERNMENT NOTICE R 139 OF 24 FEBRUARY 2012**

Receipt is acknowledged of the 5 yearly dam safety inspection and evaluation report by an Approved Professional Person (APP) dated November 2018, which was submitted by Mr. J van Breda. The report has been evaluated by the Dam Safety Office of the Department and is accepted.

You are kindly requested to report every 12 months on progress made with the implementation of the recommendations until all the recommendations have been addressed. The DW19E form included in the appendix of the report can be used for the progress reports. Submission of the progress reports are compulsory in terms of Regulation 35 1 (d) of the Dam Safety Regulations.

The next dam safety evaluation by an APP should be done in 5 years time by 11 December 2023. A longer interval can be considered if good progress is reported to address the recommendations.

Yours faithfully

L. van Zyl
CANDIDATE CIVIL ENGINEER: DAM SAFETY OFFICE
Date: 10 December 2018

Copies to:

- Mnr. J. Van Breda, Van Breda & Associate, Cestrumweg 6, Durbanville, 7550



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

Private Bag X313, PRETORIA, 0001. Sedibeng Building 185, Francis Baard Street, PRETORIA, 0001.
Tel: +27 12 336 7500 www.dws.gov.za

✉ modisel@dws.gov.za

Trustee
Reben Trust
P O Box 895
ROBERTSON
6705

ATTENTION : MR H DE BOD

Sir

CONFIRMATION OF CLASSIFICATION AND REGISTRATION OF A DAM WITH A SAFETY RISK IN TERMS OF CHAPTER 12 OF THE NATIONAL WATER ACT, 1998 (ACT 36 OF 1998) READ WITH REGULATIONS 2, 3 AND 37 OF THE REGULATIONS PUBLISHED IN GOVERNMENT NOTICE R. 139 OF 24 FEBRUARY 2012: MIDDELBERG DAM SITUATED ON PORTION 6 OF THE FARM MIDDELBURG 10, DIVISION OF ROBERTSON

A. APPLICATION

The application dated 10 August 2017 received from Mr Jasper van Breda of the firm Van Breda & Associates CC Consulting Engineers refers.

B CONFIRMATION OF CLASSIFICATION

1. The classification of **Middelberg Dam** is as follows:

Vertical wall height	12,4 metres
Storage capacity	92 600 cubic metres
Size classification	Small
Hazard potential rating	Significant
Category	II

2. The classification is based on available information. If you have any information on the basis of which you feel the classification is incorrect, you should submit a substantiated application in writing for its revision.

C CONFIRMATION OF REGISTRATION FOR DAM SAFETY PURPOSES

It is hereby confirmed that Middelberg Dam has been registered in 1994 for dam safety purposes in terms of section 120 of the National Water Act, 1998 in your name. A printout reflecting information on the dam as stored on computer database at this Department is attached. Please check the correctness of the information shown and inform the Dam Safety Office of this Department in writing of any errors.



NATIONAL DEVELOPMENT PLAN
Our Future - make it work

12/2/H402/BJ

D. THIS LETTER SHALL NOT BE CONSTRUED AS CONFERRING EXEMPTION FROM COMPLIANCE WITH THE FOLLOWING:

1. The provisions of Chapter 4 of the National Water Act, 1998 pertaining to the lawful water use. Address enquiries and applications in this regard to the following address:

Chief Director: Western Cape
Department of Water and Sanitation
Private Bag X16

SANLAMHOF
7532

Tel: (021) 941 6000

Fax: (021) 941 6100

2. The provisions and regulations of the National Environmental Management Act, 1998 (Act No. 107 of 1998) regarding control over activities which may have a detrimental effect on the environment.

Yours faithfully



Letter signed by: Ms L A Modise

Designation: Senior Admin Clerk: Dam Safety Regulation

Date: 12 SEP 2017

Copy to: Mr Jasper van Breda (jvbreda@mweb.co.za)

Enclosure: Revised Registration information

16 August 2017

Department of Water and Sanitation - Dam Safety Office

Registration Details of a Dam Registered in terms of Dam Safety Legislation of Chapter 12 of the National Water Act (Act No. 36 of 1998)

(Please note that registration for dam safety legislation is not an entitlement for water use in terms of Chapter 4 of the National Water Act)

Departmental File No. : 12/2/	H402/BJ	WARMS Dam ID:	
Water management area	8	Dam Status:	PDN
Name of dam	MIDDELBERG DAM	Drainage Nr:	H40H
Latitude	33 42 32.3	Longitude	19 45 9.9
Town nearest:	ROBERTSON	Lat sec:	32.30
Distance from town (km)	18	Long sec:	9.90
Name of farm	MIDDELBERG 10 PTN 6	WMA	Breede-Gouritz
Magisterial District	ROBERTSON		
Province:	WESTERN CAPE	Water Management Region:	WESTERN CAPE
Date of completion			
Raising or Alteration Date			
River	VINK RIVER TR		
Wall type	EARTHFILL		
Wall height (m)	12.4		
Crest length (m)	135		
Spillway	OPEN CHANNEL		
Capacity (1000 cub. m)	93		
Surface area of water (ha)	2.05	Catchment area (sq km)	
Purpose	IRRIGATION		
Owner	Person in Control (if not the same as the owner)		
TRUSTEE	MR		
REBEN TRUST	DE BOD H.		
P.O. BOX 895	P.O. BOX 895		
ROBERTSON	ROBERTSON		
6705	6705		
Tel no. 023 626 6320	Tel no.		
Cell no. 082 881-3191	Cell no.	082 881-3191	
Email / Fax	Email / Fax		
Designer	Contractor		
UNKNOWN	UNKNOWN		
Registration date:	2017/08/10	Status:	Proposed Dam only - Not Registered
Size	Small	Hazard Rating:	Significant
Classification date:	2013/05/29	Category	2
Date Completion Report:		Date Last DSE	
		Number Last DSE:	0



DAMVEILIGHEIDSKANTOOR

AANSOEK OM KLASSIFIKASIE VAN 'N VOORGESTELDE NUWE DAM OF VERGROTING OF VERANDERING VAN 'N BESTAANDE DAM

Slegs van toepassing indien die walhoogte meer is as 5 meter en die bruto opgaarvermoë meer is as 50 000 kubieke meter

1.1. Naam van dame/enaar	REBEN TRUST									
1.2. Posadres van eenaar	POSBUS 895 ROBERTSON									
	Poskode 6 7 0 5									
1.3. Tel. nr. van dame/enaar	0 2 3 6 2 6 6 3 2 0									
1.4. Naam en posadres van persoon in beheer van die dam (indien van toepassing)	HENNIE DE BOD									
	Poskode									
1.5. Tel. nr. van persoon in beheer van die dam	0 8 2 8 8 1 3 1 9 1									

2.1. Beskrywing van eiendom volgens transportakte

GED 6	VAN	MIDDELBURG 10

2.2. Landdros distrik ROBERTSON

2.3. Naaste stad of dorp ROBERTSON

2.4. Afstand na naaste stad of dorp 1 6 km

2.5. Rigting vanaf naaste stad of dorp NOORD-WES

2.6. Nommer van 1:50 000 skaal topografiese kaart * 3 3 1 9 D A

* 'n Afskrif van die relevante deel van die kaart wat die posisie van die dam en die stroomaf gebied duidelik uitwys moet aangeheg word

2.7. Posisie van die middel van die damwal akkuraat tot die naaste een sekond

Breedtegraad: 3 3' 4 2' 3 3.7" Lengtegraad: 1 9' 4 5' 0 10"

2.8. Transportakte nommer

3.1. Damnaam	MIDDELBURG										
3.2. Naam van waterbaan of bron	NAAMLOSE SYTAK VAN VINKRIVIER										
3.3. Vir skoonwaterdamme , dui aan wat die doel van die dam is (merk <i>alle</i> toepaslike gebruike met X)											
huishoudelik	☐	besproeiing	☒	industriële gebruik	☐						
veesuiping	☐	vissery	☐	ander (spesifiseer)	☐						
Beskryf "ander"											
3.4. Vir afvalwaterdamme , dui aan wat die doel van die dam is (merk <i>alle</i> toepaslike gebruike met X)											
besoedelingsbeheer	☐	afvalwaterwegdoening	☐	industriële uitskot	☐						
oksidasie / verdamping	☐	mynuitskot	☐	ander (spesifiseer)	☐						
Beskryf "ander"											
3.5. Beskryf die tipe en omvang van die voorgestelde veranderings of vergrotings by 'n bestaande dam											
3.6. Beplande aanvangsdatum van konstruksie											
				2	0	1	6				
3.7. Naam en posadres van ontwerper of konsultant (indien beskikbaar)											
3.8. Tel. nr. van ontwerper of konsultant											

(By die vergroting of verandering van 'n bestaande dam, meld die besonderhede van die voltooide struktuur)

- Bladsy 2 van 4

5. BESKRYWING VAN ONTWIKKELING STROOMAF VAN DIE DAM

Beskryf, met verwysing na 'n 1:50 000 kaart, die aard en situasie van stroom-afontwikkelings wat bedreig kan word indien die dam sou faal. "Ontwikkeling" beteken enige huise, woonplekke, ander geboue, paaie, brue, bewerkte lande, vrugteboorde, kraglynfondasies, ens.

Definisie van die stroom-afgebied waarin alle ontwikkeling beskryf moet word:

- vir elke meter maksimum walhoogte, ontleed ten minste een kilometer van die vallei stroom-af van die damwal - om die wydte van die strook te bereken, aanvaar die volgende hoogtes bokant die rivierbedding: 2/3 van die maksimum walhoogte vir die eerste stroom-afkilometer en 1/2 van die maksimum walhoogte vir die oorblywende afstand stroom-af.

5.1. Ontwikkeling stroomaf van die dam (huise, woonplekke en ander soortgelyke strukture)

Afstand stroomaf Volgorde (km)	Doel of gebruik van struktuur	Hoogte bo rivier- bed (m)	Afstand vanaf rivier (m)	Aantal inwoners of gebruikers
Vlg 4 10,3km	WOONHUIS	3,0	30	2
Vlg 5 11,1km	WOONHUIS + STOOR	3,5	70	4
Vlg 9 13,6km	WOONHUIS	4,0	95	4

5.2. Pad- en spoorkruisings stroomaf van die dam

Afstand stroomaf Volgorde (km)	(1) Tipe pad of spoorlyn	Indien 'n pad, is dit geteer? (J/N)	Hoogte van pad / spoor bo rivier- bed (m)	Brug, duiker of pyp openinge				(2) Tipe kruising	(3) Sig afstand (m)	Aantal voertuie per dag
				Wydte (mm)	Hoogte (mm)	Diameter (mm)	Aantal?			
Vlg 0 2,9km	DRD	N	1 ,0			600	3	C	100 100	100
Vlg 1 7km	FRD	N	0 ,85			600	3	C	150 100	30
Vlg 2 10km	DRD	J	4 ,5	6000	2800		1	C	250 150	100
Vlg 3 10,2	FRD	N	1 ,0			750	1	E	200 100	15
Vlg 6 11,7	FRD	N	0 ,9	2500	700		2	C	200 100	10
Vlg 7 11,8	STR		4 ,5	20000	3500		1	ST	300 300	
Vlg 8 12,5	R 60	J	6 ,5	10000	5500		2	B	500 500	500
V10 14,1	FRD	J	3 ,4	10000	3200		1	C	200 200	40
V11 16	DRD	J	0 ,76	880	460		8	C	200 200	100
V12 17,3	Samevloeiing met Breërivier									

(1) Tipe pad of spoorlyn - Gebruik een van die volgende afkortings

NRD = nasionale pad

MRD = hoofpad

SRD = sekondêre pad

DRD = distrikpad

FRD = plaaspad

STR = enkeltrajekspoorlyn

MTR = multi-trajekspoorlyn

Verduidelik ander afkortings

=

(2) Tipe kruisings - Gebruik een van die volgende afkortings

C = duikers of pype omhul in beton

E = duikers of pype begrawe in grondvul of rotsvul

B = betonbrug met pilare

D = drit met selfde hoogte as rivierbed

Verduidelik ander afkortings

ST = STAALRAAM

(3) Sig afstand - Dit is die afstand na 'n brug of kruising vanwaar 'n motoris enige gevaar by die brug of kruising kan waarneem.

Beide aankomsafstande word benodig. Die volgorde van I en II maak nie saak nie.

5.3. Ander ontwikkeling stroomaf van die dam, nie vervat in 5.1 or 5.2

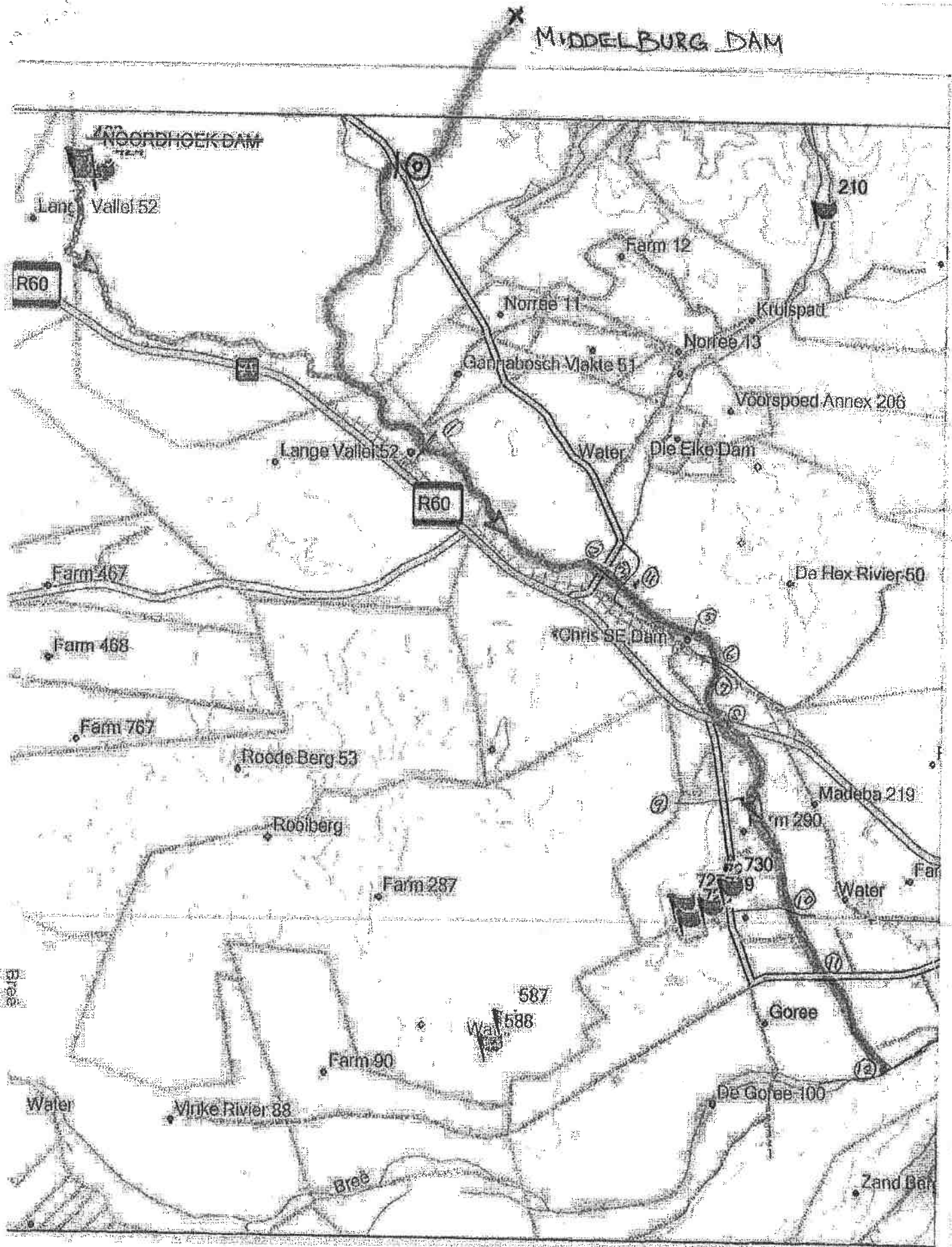
[illegible]

6. VERKLARING DEUR AANSOEKER

Ek verklaar dat die inligting deur my verstrek vir die klassifikasie van die bogenoemde dam waar en juis is.

Handtekening:

Datum: 10 AUGUSTUS 2017



"A 17"



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA



L. VAN ZYL
(012) 336-7165
VANZYL2@dwa.gov.za
12/2/H402/BJ

Dam Safety Office, Department of Water and Sanitation, Private Bag X313, Pretoria, 0001

MR DE BOD, H.

REBEN TRUST
P.O. BOX 895
ROBERTSON
6705

E-mail: hennie@robab.co.za

Dear Sir

**MIDDELBERG DAM ON THE FARM MIDDELBERG 10 PTN 6, DIVISION OF ROBERTSON:
DAM SAFETY INSPECTION AND EVALUATION IN TERMS OF THE DAM SAFETY
REGULATIONS IN GOVERNMENT NOTICE R 139 OF 24 FEBRUARY 2012**

Receipt is acknowledged of the 5 yearly dam safety inspection and evaluation report by an Approved Professional Person (APP) dated November 2018, which was submitted by Mr. J van Breda. The report has been evaluated by the Dam Safety Office of the Department and is accepted.

You are kindly requested to report every 12 months on progress made with the implementation of the recommendations until all the recommendations have been addressed. The DW19E form included in the appendix of the report can be used for the progress reports. Submission of the progress reports are compulsory in terms of Regulation 35 1 (d) of the Dam Safety Regulations.

The next dam safety evaluation by an APP should be done in 5 years time by 11 December 2023. A longer interval can be considered if good progress is reported to address the recommendations.

Yours faithfully

L. van Zyl
CANDIDATE CIVIL ENGINEER: DAM SAFETY OFFICE
Date: 10 December 2018

Copies to:

- Mnr. J. Van Breda, Van Breda & Associate, Cestrumweg 6, Durbanville, 7550

COPY

"A18"

ROBERTSON



DU BOIS

Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORERS / CONVEYANCERS

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 NA URE +27 23 347-4693 AFTER HOURS
 FAKS +27 23 626-6577 FAX
 SEL 082 8214 337 CEL
 E-POS hannes@jpdubois.co.za E-MAIL
 E-POS akles@jpdubois.co.za E-MAIL

JOHANNES PETRUS DU BOIS
 (B.A. LL.B.)

Assisted by:

BREDE - GUANDREA GORITZ (LL.B.)

23-04-2018

OUR REF : JPDUB/af/HR0212

YOUR REF : 12/2/H402/BJ

DATE : 17 APRIL 2018

BREDE-GOURITZ CATCHMENT MANAGEMENT AGENCY
 51 BARING STREET
 WORCESTER
 6850

The Brede-Gouritz
 Catchment Management Agency
 Private Bag X3055
 Worcester 6850

Tel: 023 346 8000 Fax: 023 347 8133

Mr Jan van Staden,

BREDE RIVER CATCHMENT AREA: APPLICATION FOR THE VERIFICATION OF
 A WATER USE IN TERMS OF SECTION 35 OF THE NATIONAL WATER ACT,
 1998: PORTION 6 OF THE FARM MIDDELBURG 10, DISTRICT ROBERTSON

APPLICANT: Reben Trust

PROPERTY: Portion 6 of the farm Middelburg 10, District Robertson

DEED OF TRANSFER: T12255/2013

1. Purpose of this letter:

The purpose of this letter is to apply in terms of section 35 of the National Water Act, 1998, for verification of the existing lawful water use for the water uses as described in section 21 (a) (taking water from a water resource) and 21 (b) (storing water).

The applicable information necessary for the verification is provided herewith.

2. Application for verification in terms of section 35 of existing lawful water use for taking and storing of water:

2.1 Actual water use during the qualifying period:

Firstly, did the water use actually take place during the qualifying period?

2.1.1 Taking water from a water resource, as defined in section 21(a):

During the qualifying period for surface water, which is the period 1 October 1997 to 30 September 1999, irrigation of agricultural crops took place on 32,8 ha on the property.

The attached satellite image (**Figure 1**) shows the areas that have been under irrigation during the qualifying period. Figure 1 is the image taken in 2004 (the oldest Google Earth image available, showing the concerned area). But according to all information available, it also represents the area under irrigation during the qualifying period.

The former quota for water abstracted from the Breede River or its tributaries was 7 450 m³/ha per year. Although this abstraction took place from a nameless tributary of the Vink River which is a tributary of the Breede River, the same quota is used here.

The result is that the total water requirement of 32,8 ha x 7 450 m³/ha per year = **244 360 m³ per year**, which volume is claimed in this letter to be existing lawful water use in terms of section 21(a) for the concerned property.

Water availability from natural run-off in the stream:

An important question is whether that amount of water (244 360 m³ per year) was available in the stream on a regular basis?

The mean annual precipitation (MAP) of the area between Worcester and Robertson according to "Surface Water Resources of South Africa, 1990" by DC Midgley, WV Pitman and BJ Middleton, Water Research Commission 1994, lies in the range of 350 to 595 mm/year of rainfall. With the occurrence of orographic rains against the steep south western slope of the Langeberg Mountains, a rainfall of close to the maximum for this region would expectedly occur annually, and 550 mm/year would be assumed for this site.

Due to the relatively steep slope at which the river flows down from the top of the Langeberg Mountains, the occurrence of flash floods is a strong possibility and this may explain why those dams have been washed away.

The catchment of the uppermost dam (the Middelburg Dam that is now in the process to be rebuilt after it was washed away) of the 13 dams that existed in the qualifying period, entails an area of 561 ha (see **Figure 2** for the detail of the catchment area).

The total catchment area lies against the steep south western slope of the Langeberg Mountains, and the total difference in altitude from the top of the catchment down to the Middelburg Dam is 1 140 m over a distance of 4,9 km, which has the implication that the average slope of the stream is 1 : 4,3. This steep slope indicates amongst others that a relatively high percentage of the MAP will form the run-off, which could easily be as high as 15% but a more conservative figure of 10% has been used here. This calculation then determines the mean annual run-off (MAR) of the catchment to be 280 500 m³ per year.

The MAR of the catchment area is then 115% of the irrigation requirement of the 32,8 ha in the qualifying period (see paragraph 2.1.1 above), and 250% of the storage capacity of the 13 dams, also during the qualifying period (see paragraph 2.1.2 below).

More than enough water was thus annually available to fill the dams more than twice per year and to irrigate the 32,8 ha of land that was under irrigation in the qualifying period.

2.1.2 Storing water, as defined in section 21(b):

Storage existed in the form of 13 earth dams on the property, of which one was an off-channel dam while the other 12 were all built in the same stream on the property. These dams were surveyed recently by Agrico of Bellville and the results are given in **Annexure A**.

The layout of the dams and their capacities as in the qualifying period are given in **Figure 3**. These dams are all situated on the same property, namely Portion 6 of the farm Middelburg 10, district Robertson. The co-ordinates of the centres of each dam wall are also given in Figure 3.

The capacities as surveyed by Agrico, of the 13 dams that were operative during the qualifying period, were as follows (as also given in Figure 3):

<u>Dam number:</u>	<u>Dam capacity (m³):</u>
1	1 090
2	3 485
3	3 953
4	10 778
5	3 967
6	6 068

7	14 743
8	15 480
9	5 399
10	11 480
11	5 398
12	11 161
13	<u>18 800*</u>
Total	
volume:	111 801 m³

The 13 dams had a **total storage capacity of 111 801 m³** in the qualifying period, which is the volume that is claimed to be the existing lawful water use in terms of section 21(b).

* The capacity of the Middelburg Dam (which is now in the process to be rebuilt) during the qualifying period has been determined by Mr Hennie Schoeman of Schoeman en Vennote (see calculation in **Annexure B**), and it was found that the capacity was 18 800 m³ during the qualifying period.

2.1.3 Registration of water uses i.t.o. section 21(a) and 21(b):

The present owner acquired the property in 2014 and was not aware of the fact, which he found out afterwards, that none of the water uses have been registered as it was required in 2001.

The registration documents have now been submitted to the BGCMA.

It is assumed that the outcome of this verification process will eventually be used to adjust the registration of the relevant water uses on the concerned property.

2.2 Lawfulness of water use during the qualifying period:

Secondly, the lawfulness of the water use during the qualifying period is discussed below:

2.2.1 Taking water from a water resource, as defined in section 21(a):

Section 9B of the Water Act (Act 54 of 1956) restricts the abstraction rate of water from public streams on a single property to a maximum of 110 litres/second. To compare this maximum with the real requirement of the 32,8 ha, a reasonable approach would be to assume an absolute maximum irrigation requirement of 10 mm/day and 12 hours of irrigation (say 06:00 to 18:00) per day during the hottest summer time. That would indicate a maximum requirement

of 76 litres/second, which is safely within the limit of 110 litres/second, as required by the Water Act, 1956.

The abstraction of water from a public stream for the irrigation of the 32,8 ha was thus lawful in terms of the Water Act, 1956.

2.2.2 Storing water, as defined in section 21(b):

Section 9B of the Water Act (Act 54 of 1956) also restricts the storage capacity of water in public streams on a single property without a permit from the Minister to a maximum of 250 000 m³. In paragraph 2.1.2 above it is stated that the combined capacity of the 13 dams during the qualifying period was only 111 801 m³, which is safely within the limit as prescribed by the Water Act, 1956.

The storage of 111 801 m³ of water in the 13 dams, individually and combined, was thus lawful in terms of the Water Act, 1956.

3. Summary of claim for existing lawful water use:

On the concerned property, both the actual exercising as well as the lawfulness of water use during the qualifying period have now been proven, and verification in terms of section 35 of the NWA is now respectfully being awaited for the following amounts of water as determined above in paragraphs 2.1.1 and 2.1.2 respectively:

3.1. Taking water from a water resource = 244 360 m³ per year.

3.2. Storing water = 111 801 m³.

Yours faithfully
DU BOIS ATTORNEYS
Per 

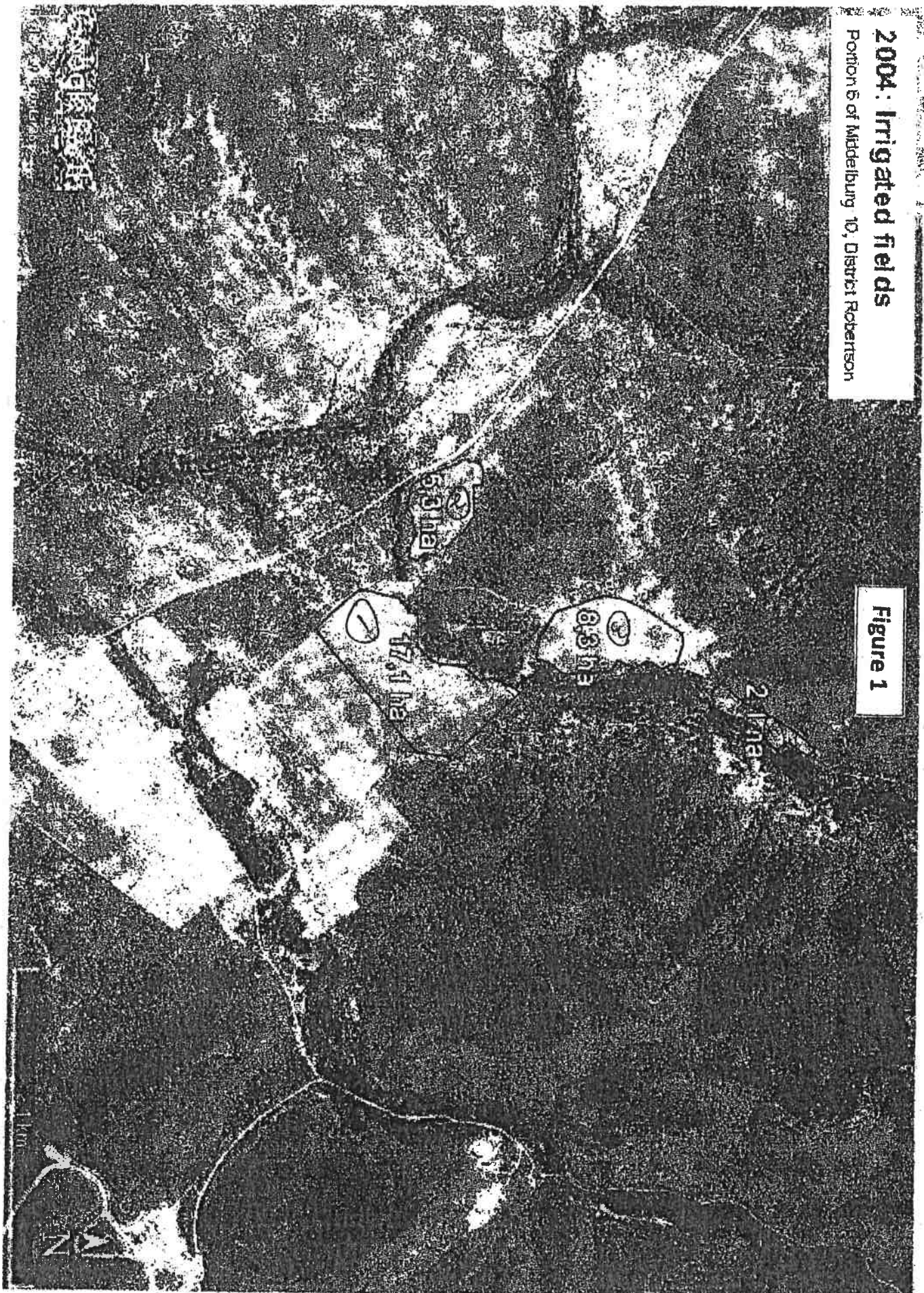
J P DU BOIS

DIRECT EMAIL : hannes@jpdubois.co.za

2004: Irrigated fields

Portion 5 of Middelburg 10, District Robertson

Figure 1



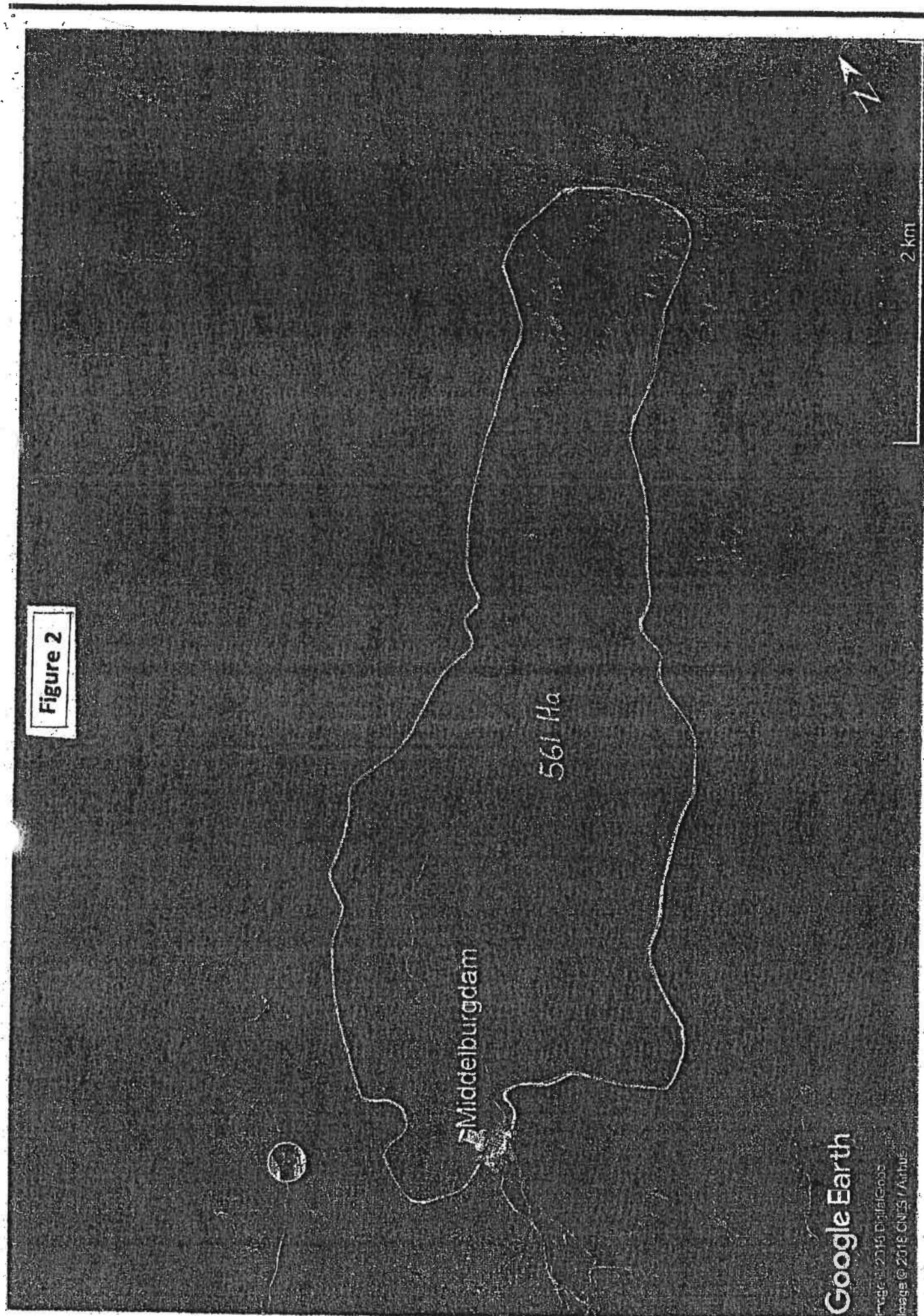


Figure 2

Google Earth

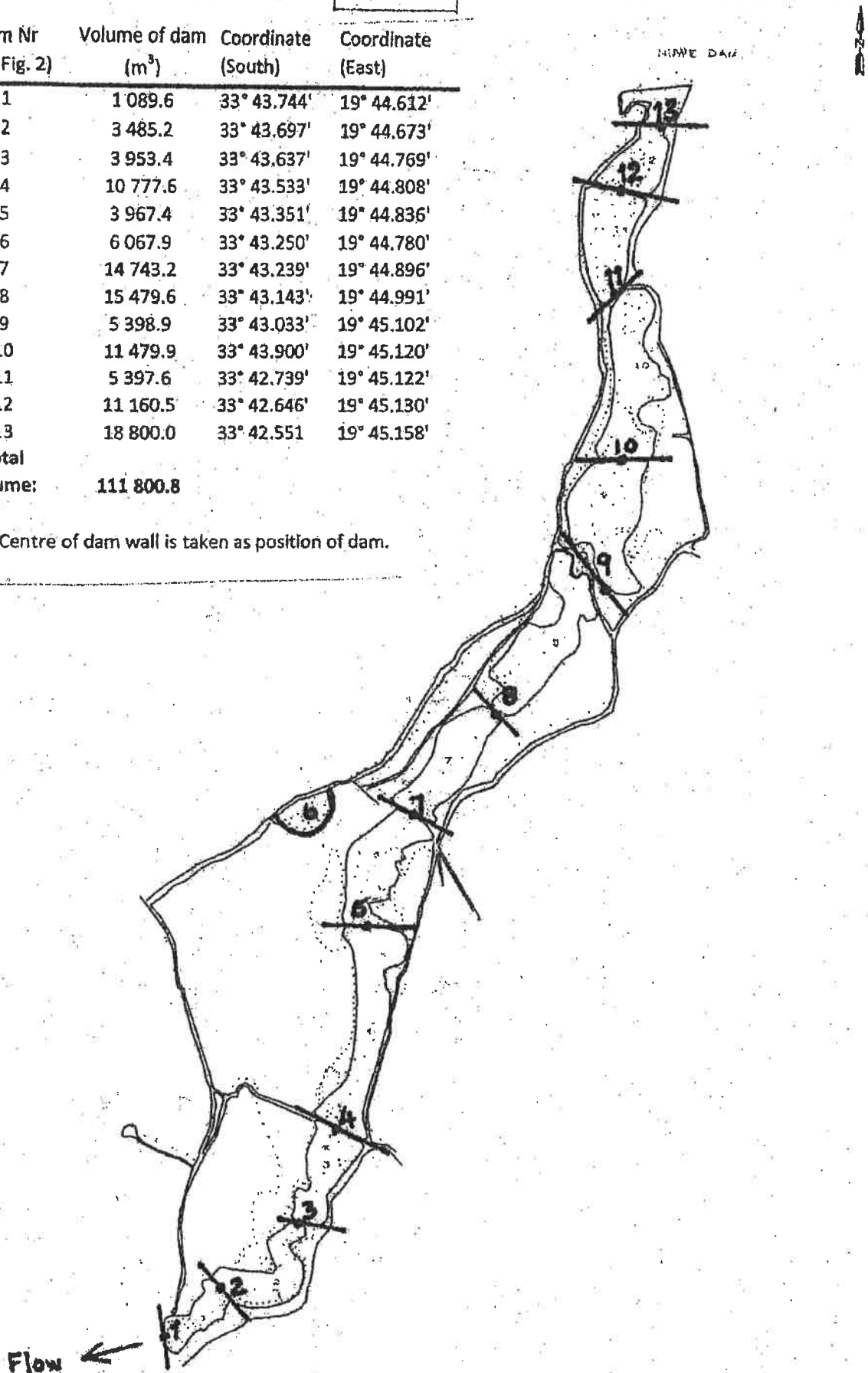
Image © 2015 DigitalGlobe
Images © 2018 CNES / Airbus

Figure 3

Dam Nr (See Fig. 2)	Volume of dam (m ³)	Coordinate (South)	Coordinate (East)
1	1 089.6	33° 43.744'	19° 44.612'
2	3 485.2	33° 43.697'	19° 44.673'
3	3 953.4	33° 43.637'	19° 44.769'
4	10 777.6	33° 43.533'	19° 44.808'
5	3 967.4	33° 43.351'	19° 44.836'
6	6 067.9	33° 43.250'	19° 44.780'
7	14 743.2	33° 43.239'	19° 44.896'
8	15 479.6	33° 43.143'	19° 44.991'
9	5 398.9	33° 43.033'	19° 45.102'
10	11 479.9	33° 43.900'	19° 45.120'
11	5 397.6	33° 42.739'	19° 45.122'
12	11 160.5	33° 42.646'	19° 45.130'
13	18 800.0	33° 42.551	19° 45.158'

**Total
volume: 111 800.8**

Note: Centre of dam wall is taken as position of dam.





364, Bellville, RSA, 7535
 mariana.nel@agrico.co.za
 +27 (0)21 950 4108
 +27 (0)21 950 4215/ 086 8501449
 +27 (0)82 375 3961

Annexure A:

DAMME VOLUME VERSLAG

DATUM 22 / 01 / 2018

DAM 1

Walkruin kontoer: 339m	Waltoon kontoer: 936.42m	Walhoogte : 2.58m	Wallengte : 57m
Oorloop kontoer: 338.13m	Vryboord: 0.87m	Dambodem kontoer: 336.42m	Waterdiepte: 1.71m

DAM 2

Walkruin kontoer: 344m	Waltoon kontoer: 341.09m	Walhoogte : 2.91m	Wallengte : 50m
Oorloop kontoer: 343.12m	Vryboord: 0.88m	Dambodem kontoer: 341.09m	Waterdiepte: 2.03m

DAM 3

Walkruin kontoer: 348.5m	Waltoon kontoer: 344.28m	Walhoogte : 4.22m	Wallengte : 32m
Oorloop kontoer: 347.75m	Vryboord: 0.75m	Dambodem kontoer: 344.28m	Waterdiepte: 3.47m

DAM 4

Walkruin kontoer: 355m	Waltoon kontoer: 350.7m	Walhoogte : 4.3m	Wallengte : 96m
Oorloop kontoer: 353.21m	Vryboord: 1.79m	Dambodem kontoer: 349.21m	Waterdiepte: 4m

Dam Volumes WORD

DIRECTORS/DIREKTEURE: AO Andrag, R Andrag, TA Andrag, WP Andrag
 REG.: Agrico (Pty) Ltd, 1957/004085/07, La Belle Rd, Stikland. VAT # 4950 108 003

DAM 5

Walkruin kontoer: 362m	Waltoon kontoer: 358.2m	Walhoogte : 3.8m	Wallengte : 89m
Oorloop kontoer: 361.40m	Vryboord: 0.6m	Dambodem kontoer: 357.64m	Waterdiepte: 3.76m

DAM 6

Walkruin kontoer: 379m	Waltoon kontoer: 374.2m	Walhoogte : 4.8m	Wallengte : 171m
Oorloop kontoer: 378m	Vryboord: 1.0m	Dambodem kontoer: 374.88m	Waterdiepte: 3.12m

DAM 7

Walkruin kontoer: 374m	Waltoon kontoer: 365.82m	Walhoogte : 8.18m	Wallengte : 78m
Oorloop kontoer: 373.4m	Vryboord: 0.6m	Dambodem kontoer: 365.79m	Waterdiepte: 7.61m

DAM 8

Walkruin kontoer: 379m	Waltoon kontoer: 373.8m	Walhoogte : 5.2 m	Wallengte : 53m
Oorloop kontoer: 378.18m	Vryboord: 0.82m	Dambodem kontoer: 371.28m	Waterdiepte: 6.9m

DAM 9

Walkruin kontoer: 390m	Waltoon kontoer: 384m	Walhoogte : 6.0m	Wallengte : 145m
Oorloop kontoer: 388.92m	Vryboord: 1.08m	Dambodem kontoer: 386.1m	Waterdiepte: 2.82m

DAM 10

Walkruin kontoer: 395.8m	Waltoon kontoer: 393.8m	Walhoogte : 2.0m	Wallengte : 98m
Oorloop kontoer: 395m	Vryboord: 0.8m	Dambodem kontoer: 391.4m	Waterdiepte: 3.6m

DAM 11

Walkruin kontoer: 403m	Waltoon kontoer: 399.52m	Walhoogte : 3.48m	Wallengte : 63m
Oorloop kontoer: 402.21m	Vryboord: 0.79m	Dambodem kontoer: 397.6m	Waterdiepte: 4.61m

DAM 12

Walkruin kontoer: 413.5m	Waltoon kontoer: 410.39m	Walhoogte : 3.11m	Wallengte : 105m
Oorloop kontoer: 412.73m	Vryboord: 0.77m	Dambodem kontoer: 408.29m	Waterdiepte: 4.44m

DAM 13

Walkruin kontoer: 416m	Waltoon kontoer: 413m	Walhoogte : 3m	Wallengte : 49m
Oorloop kontoer: 415.18m	Vryboord: 0.82m	Dambodem kontoer: 413.08m	Waterdiepte: 2.1m

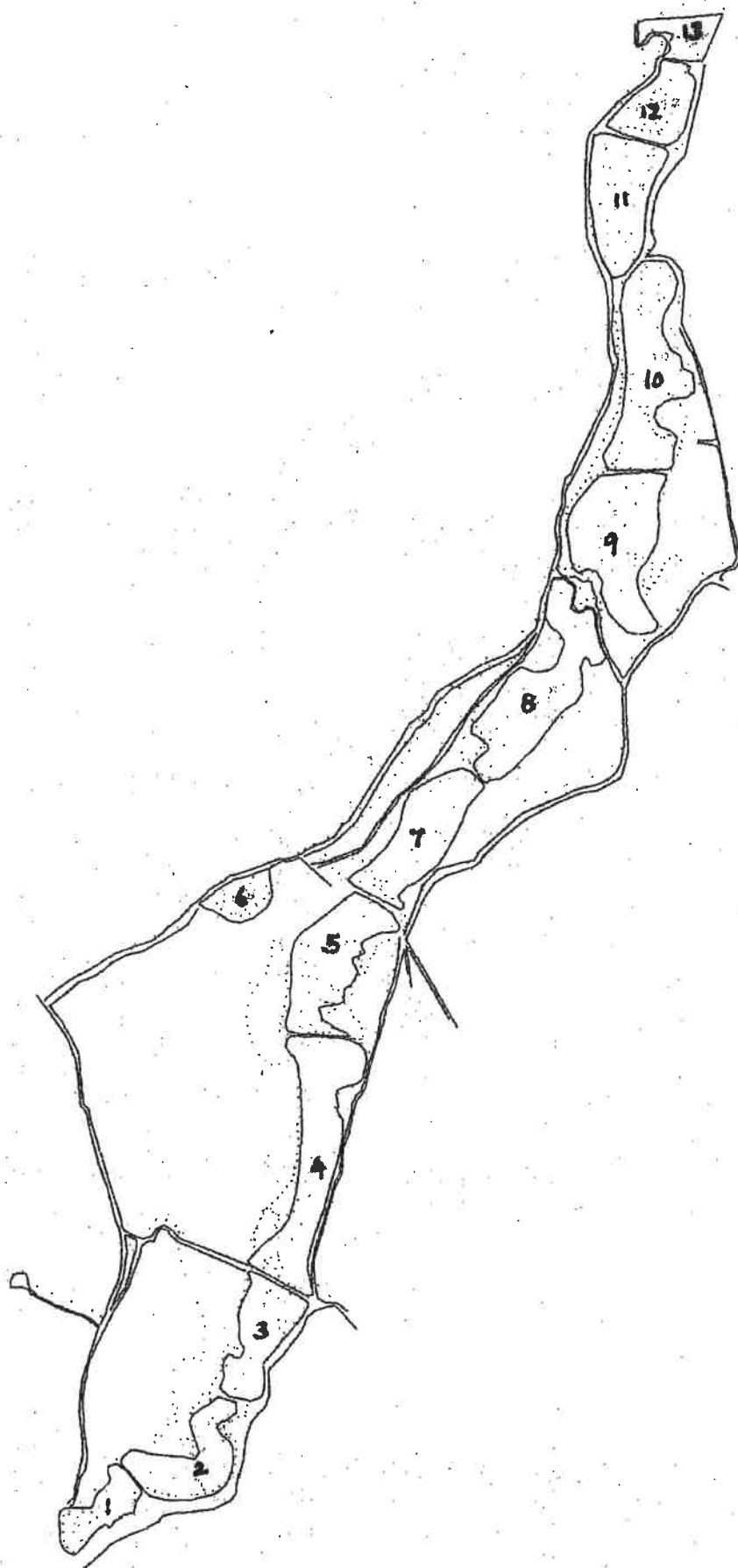
TOTALE VOLUME RESULTAAT

DIJKTEN	DIJKTEN	KONTING	TOTAAL VOLUME	DIJKTEN	DIJKTEN	DIJKTEN
1	1.71	338.13	1 089.6	1408	100	OORLOOP
2	2.03	343.12	3 485.23	3840	100	OORLOOP
3	3.47	347.75	3 953.42	2100	100	OORLOOP
4	4.0	353.21	10 777.57	5200	100	OORLOOP
5	3.76	361.40	3 967.38	3400	100	OORLOOP
6	3.12	378.00	6 067.88	3600	100	OORLOOP
7	7.61	373.40	14 743.18	7200	100	OORLOOP
8	6.90	378.18	15 479.62	5400	100	OORLOOP
9	2.82	388.92	5 398.92	5200	100	OORLOOP
10	3.60	395.00	11 479.85	6400	100	OORLOOP
11	4.61	402.21	5 397.63	3100	100	OORLOOP
12	4.44	412.73	11 160.55	6700	100	OORLOOP
13	2.1	415.18	4 253.14 18 800	1200	100	OORLOOP
TOTAAL			24 253.14	54 748		

See Annexure B for correction.

TOTAAL DAM AREA BY OORLOOP = 54 748 m²

TOTAAL DAM VOLUME BY OORLOOP = ~~24 253.14 m³~~ 111 801 m³



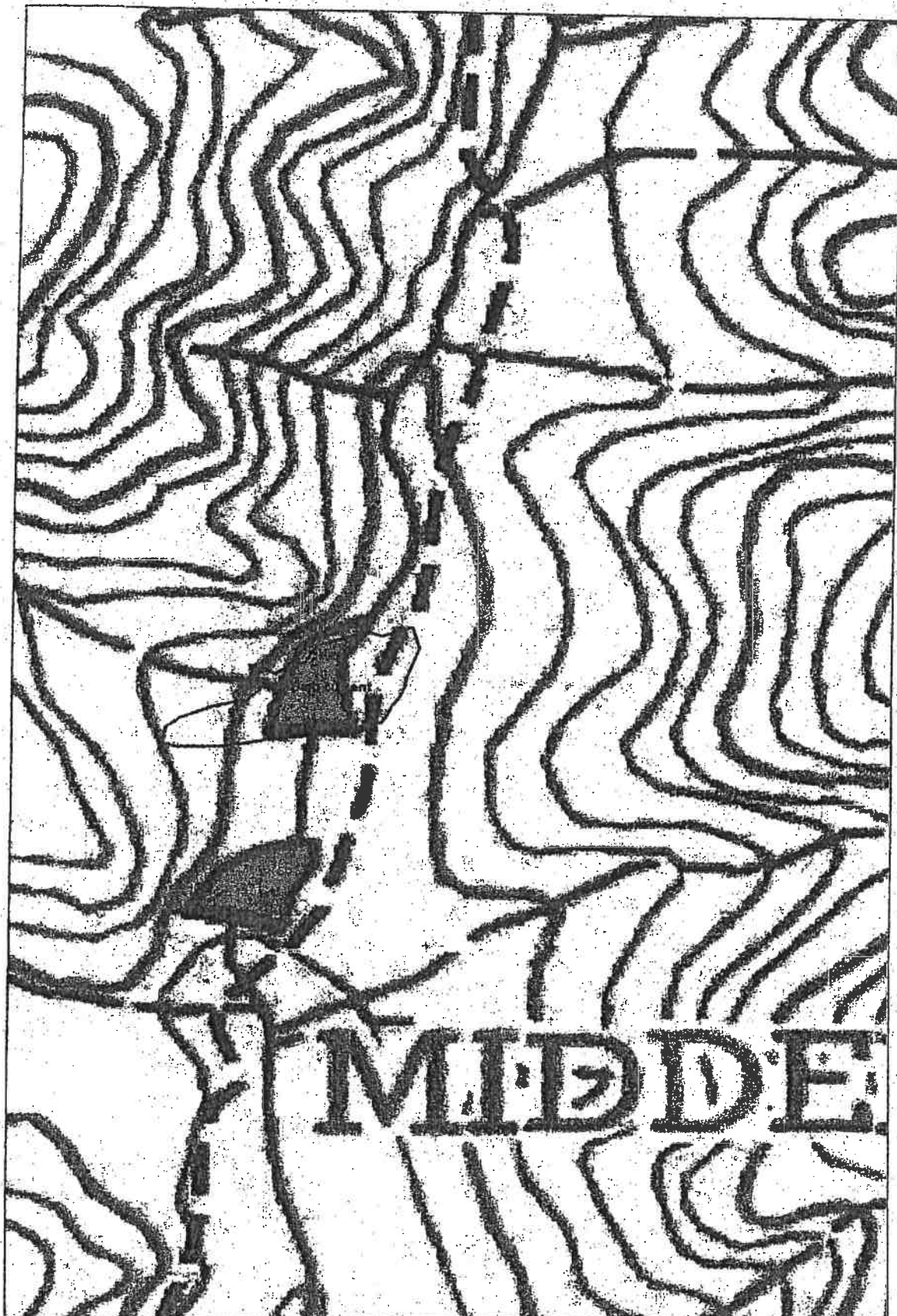
Annexure B

Dam 100-100-2

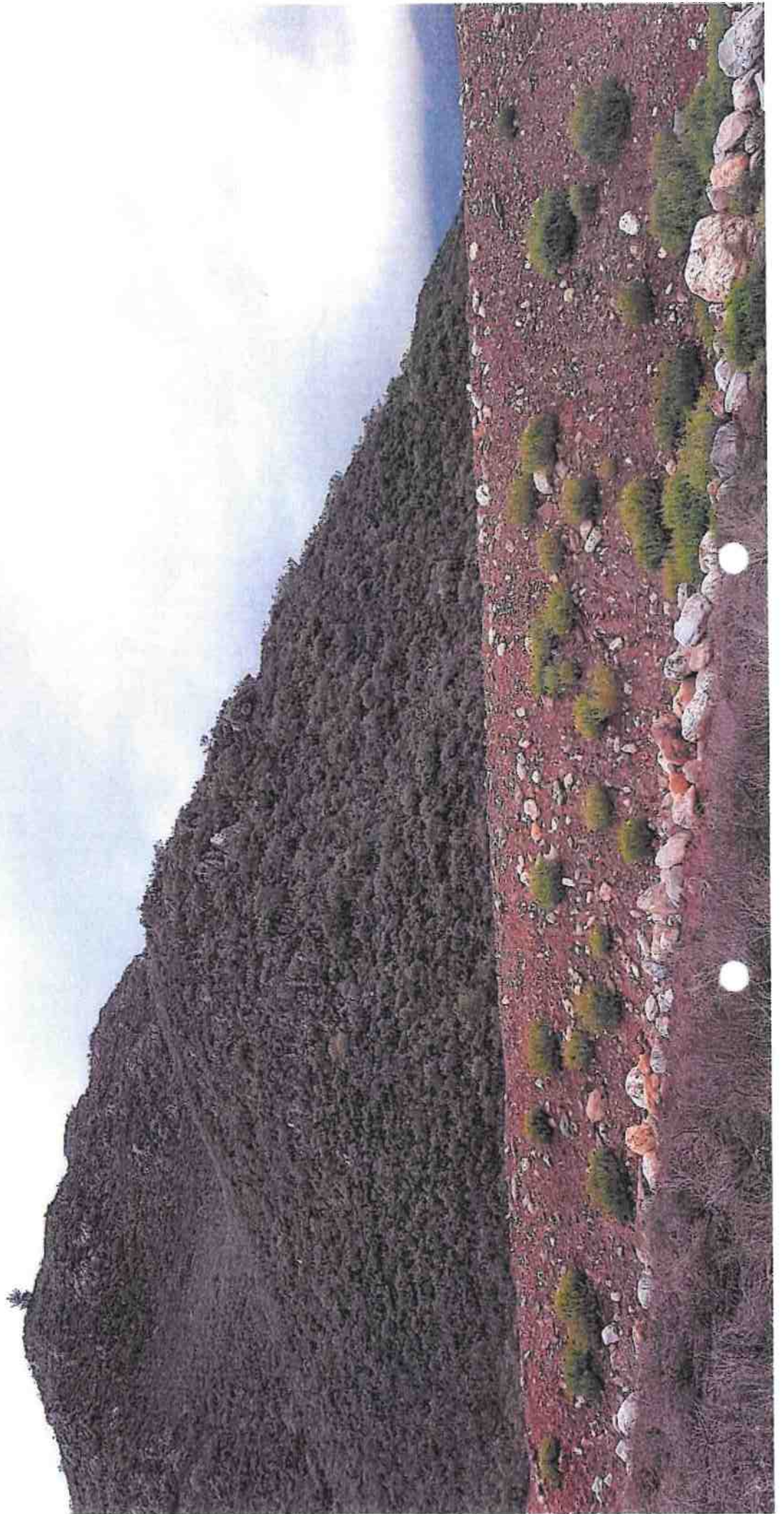
Rivierhelling	6.21%		gemeet vanaf SRTM terreinmodel
Opstoot	131 m		vanaf topokaart 3319DB_1997_ED3
Diepte	8.14 m		bereken
Area	5 767 m ²		afgetas vanaf 3319DB_1997_ED3
Faktor	0.40		eie raming van topografiese eienskappe
Volume	10 650 m ³		bereken volgens formule

Dam soos tans

Rivierhelling	6.21%		gemeet vanaf SRTM terreinmodel
Opstoot	186 m		vanaf 2017 Google Earth kaart
Diepte	12.40 m		vanaf damregistrasie
Area	14 321 m ²		afgetas vanaf Google Earth 2017
Faktor	0.52		raming van topografiese eienskappe
Volume	92 600 m ³		bereken volgens formule en damregistrasie



BUNDLE OF PHOTOGRAPHS "C"





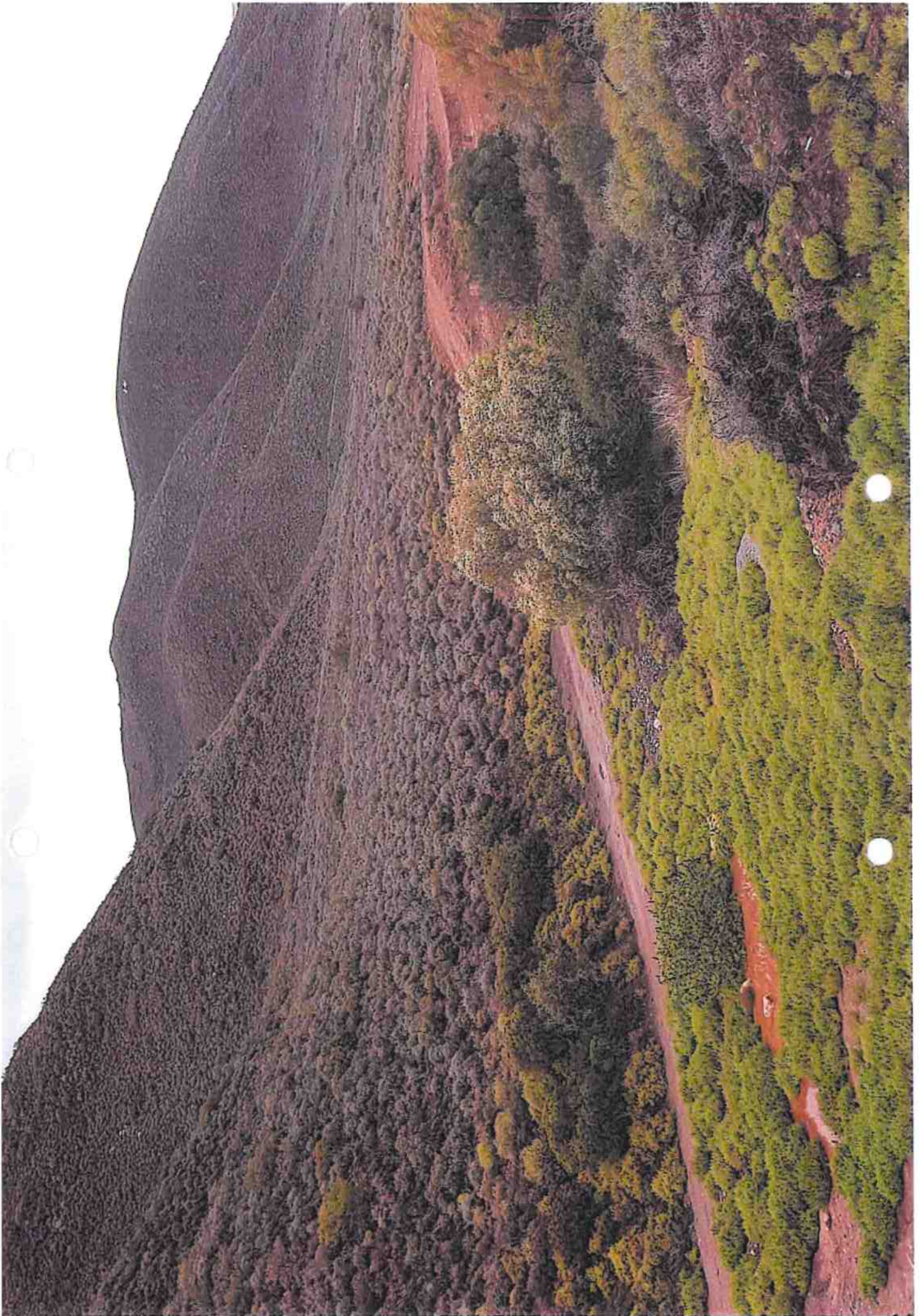
591(b)

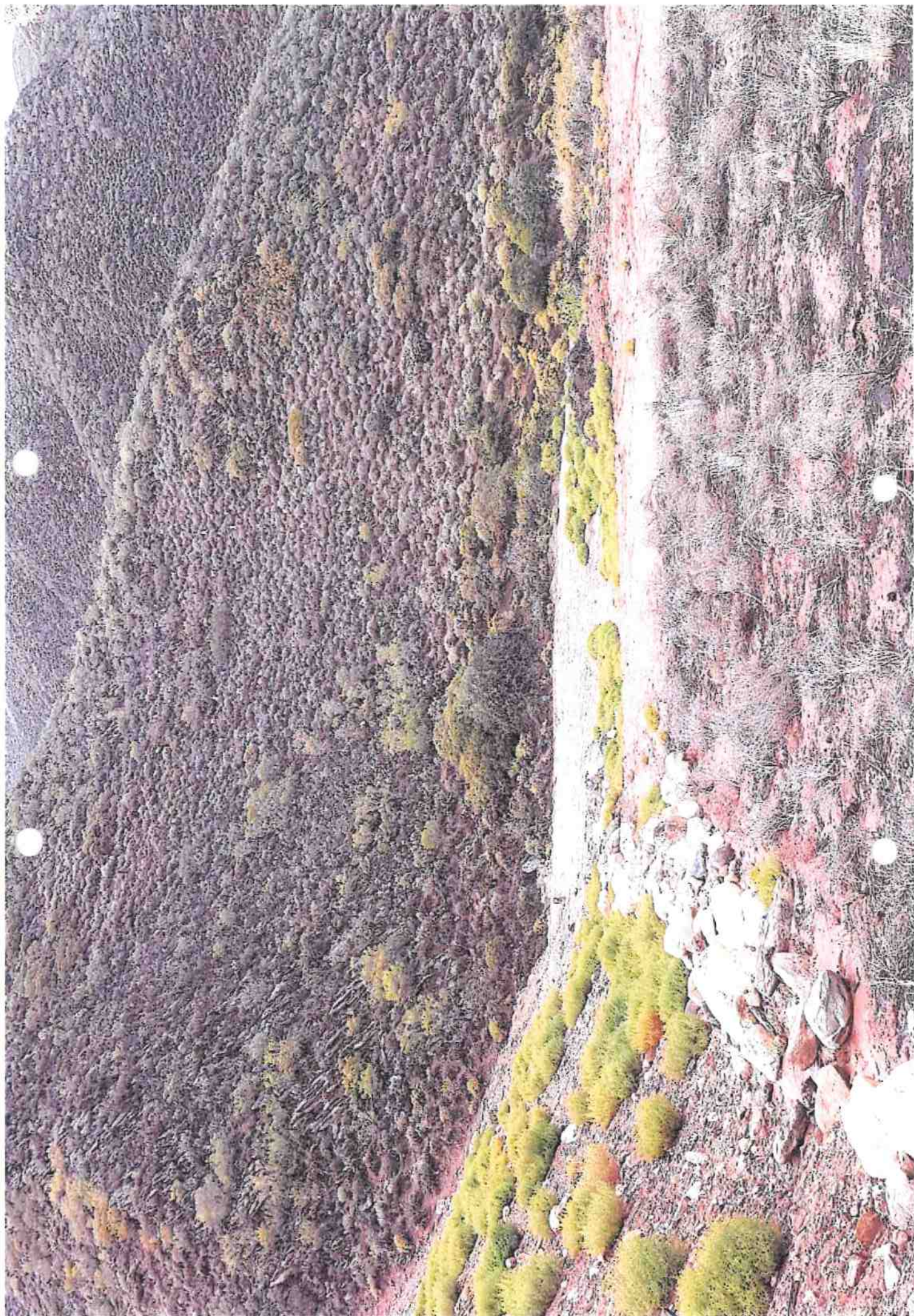


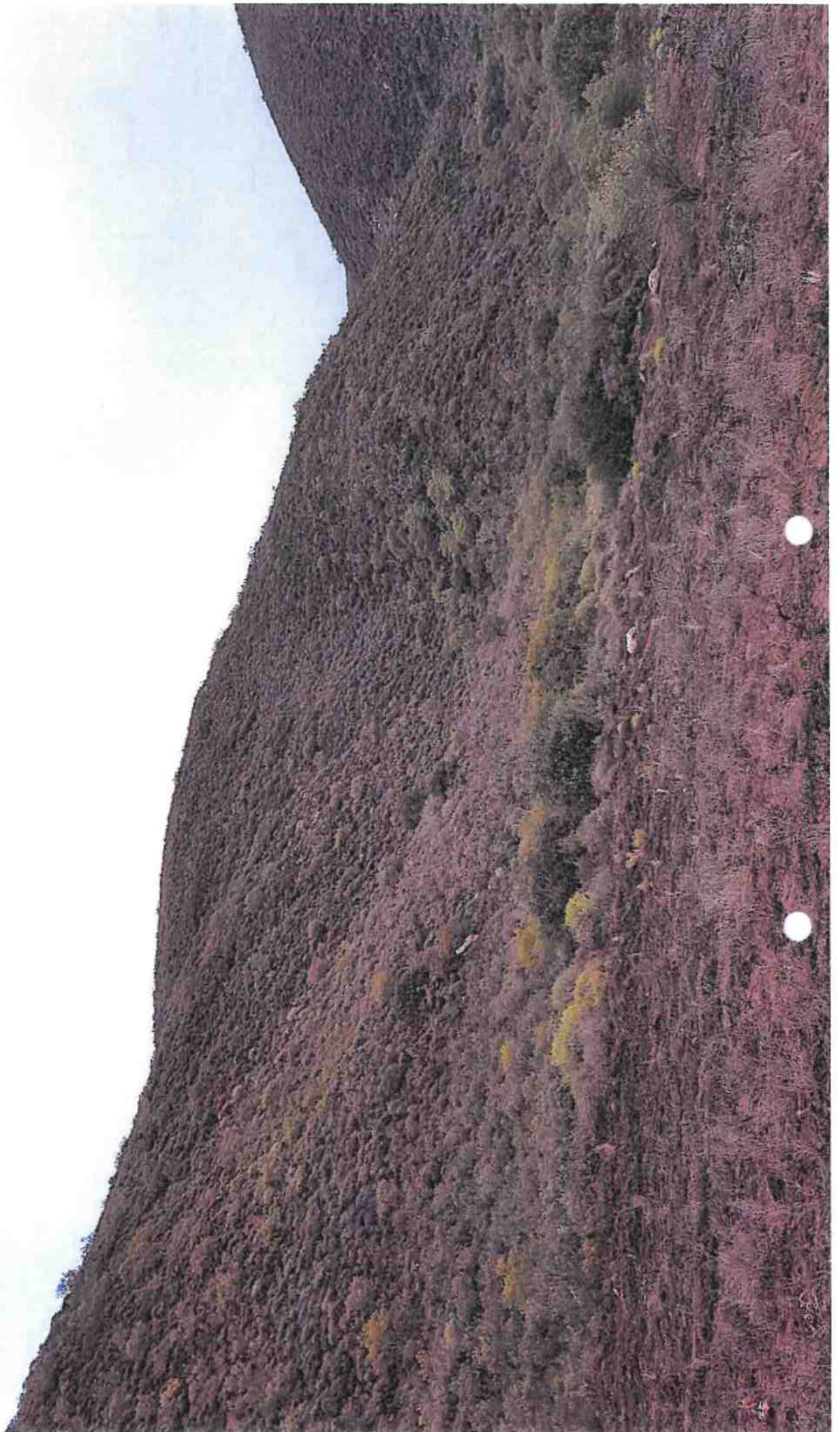
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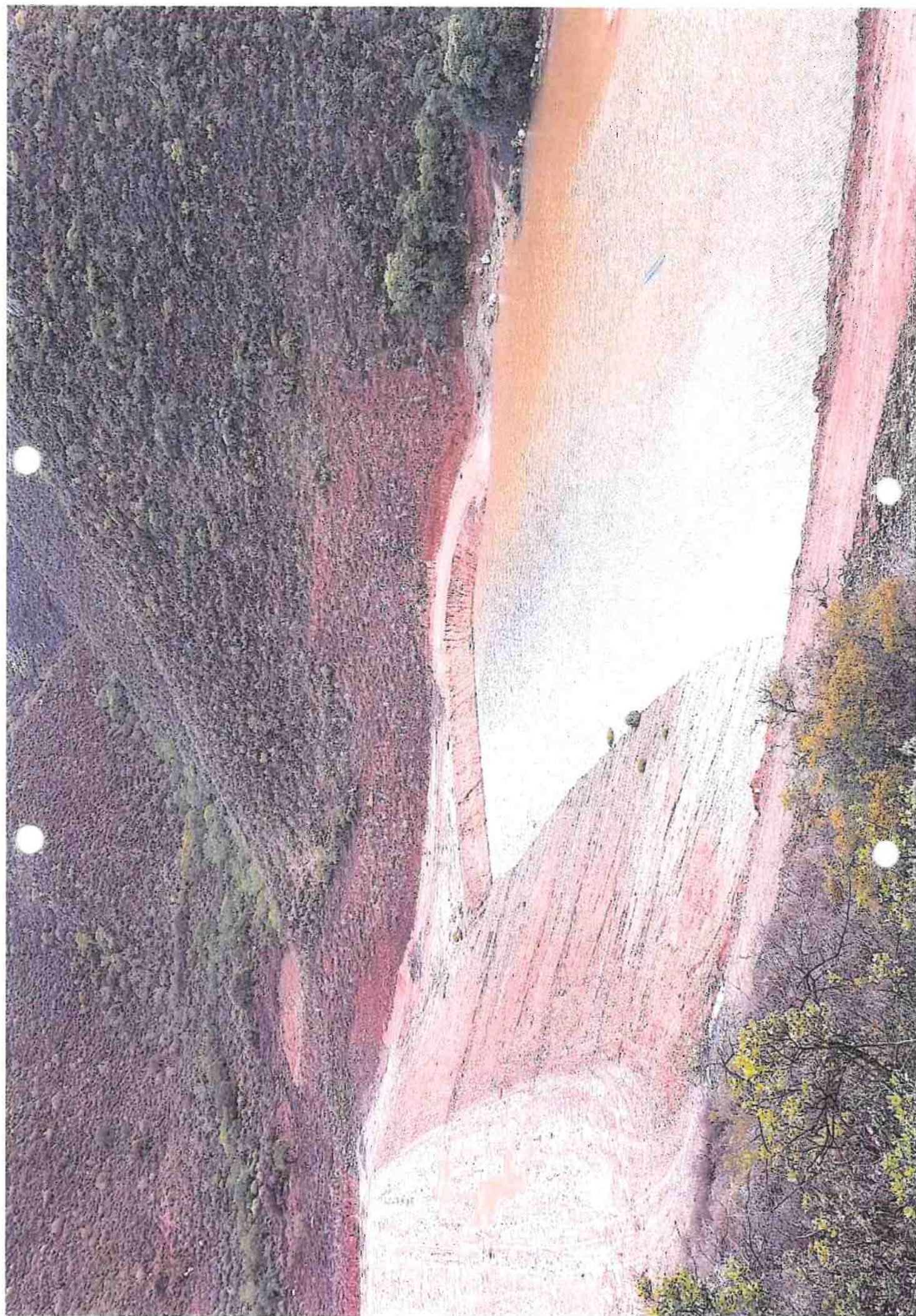


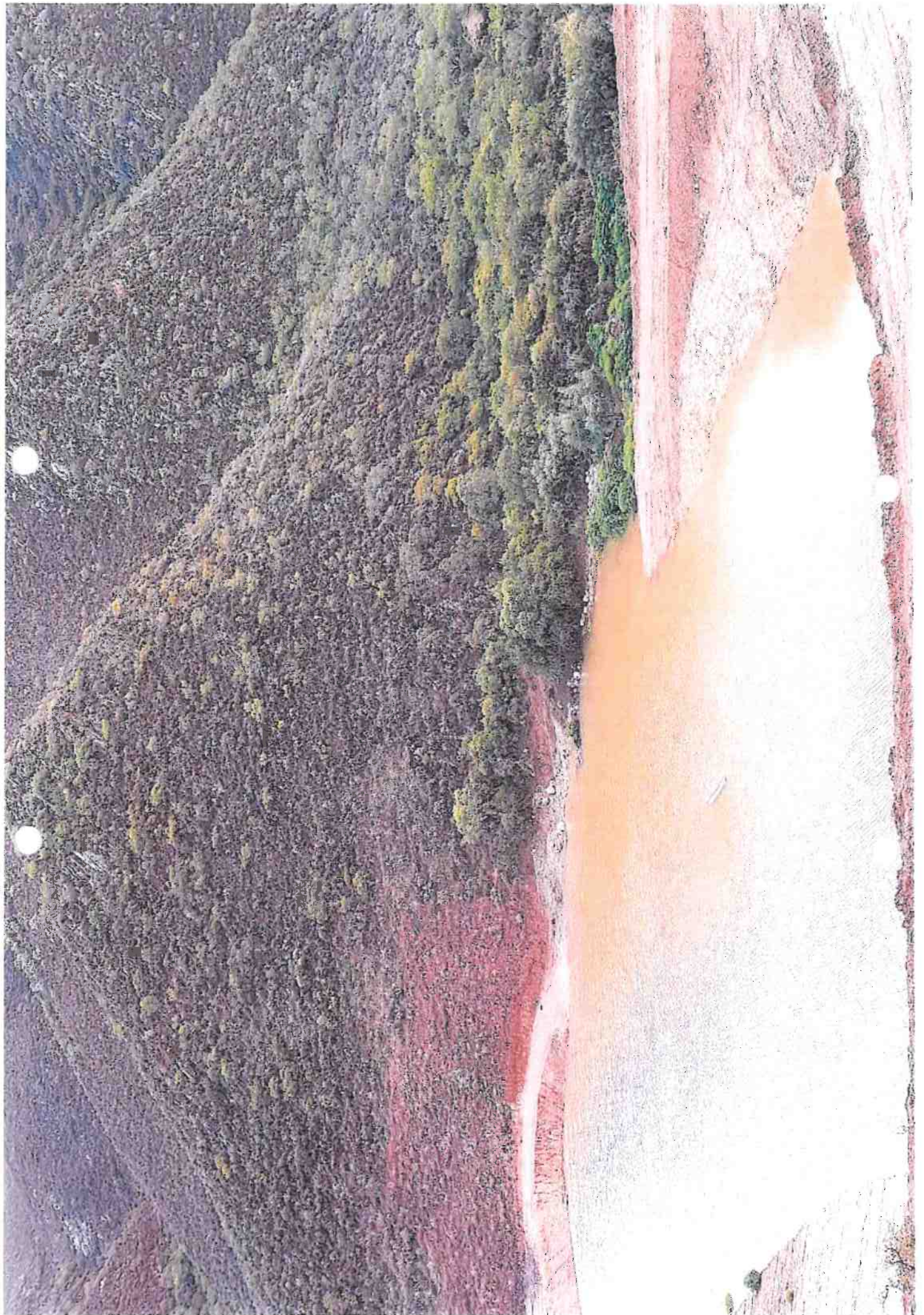




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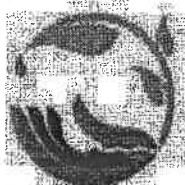








591(1).



BREED-GOURITZ

51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Jan van Staden

(023) 346 8000

4/4/3/C06500000000001000006

Die Reben Trust
PO Box 895
ROBERTSON
6705

Dear Water User

APPLICATION FOR THE VERIFICATION OF EXISTING LAWFUL WATER USE IN TERMS OF THE NATIONAL WATER ACT, 1998 (ACT 36 OF 1998): CONFIRMATION OF EXISTING LAWFUL WATER USE IN TERMS OF SECTION 35(4)

PROPERTY DESCRIPTION: C06500000000001000006, 6/10, 780.918ha.

You are hereby informed that the lawfulness and extent of your water use on the above-mentioned property has been determined by the responsible authority, as delegated by the Minister of Water and Sanitation, in terms of Section 35(4) of the National Water Act, 1998 (Act 36 of 1998) (NWA) as follows:

Section of NWA	Type of Water Use	Existing Lawful Water Use		
		Volume (m ³ /annum)	Source	Irrigation Board or Water User Association Scheme
21 (a)	Taking of water for irrigation purposes	244 360	Surface water	
21 (b)	Storage of water	111 801		

* In the case of Storage of water, the Existing Lawful Water Use is in m³

In terms of Section 35(4) of the NWA, this determination is also the extent of the Existing Lawful Water Use as contemplated in Section 32(1) for this property, which may be continued with under Section 34(1) subject to any existing conditions or obligations related to the water use.

No water use in excess of the Existing Lawful Water Use as set out herein may be used on this property without authorisation by the responsible authority.

In terms of Section 148(1)(e) of the NWA, you may appeal against any decision on the verification of these water use(s) to the Water Tribunal within 30 (thirty) days from the date of this letter. The Registrar of the Water Tribunal is Mr. Robert Mabe and his contact details are:

Postal Address

The Registrar
Water Tribunal
Private Bag X316
Pretoria
0001

Physical Address

Room 322
Waterbron Building
191 Francis Baard Street
Pretoria
0002

Contact

Tel: 012 336 7034
Cell: 082 611 1691
Email: MabeR@dws.gov.za

A copy of the appeal must be submitted to this office.

Your water use registration will be amended to reflect the above details. A new registration certificate will then be issued to you. If an appeal is lodged, your registration certificate may be amended again depending on the outcome of the appeal.

Yours faithfully,



JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)

Date: 20 June 2019

WC BSP MAP--ROODE- HOOGTE FEEDLOT

- Legend**
- BSP ESA**
- ESA Aquatic
 - ESA Terrestrial
- BSP CBA**
- CBA: Terrestrial
 - CBA: Terrestrial (CT)
 - CBA: Forest
 - CBA: River
 - CBA: Estuary
 - CBA: Wetland
 - CBA: Aquatic (CT)



Scale: 1:18 056
Date created: November 11, 2019

Compiled with CapeFarmMapper



Western Cape
Government

Agriculture

"A20"

"A20"

594.

REFERENCE: 19/4/4/1/BL2/ Robertson

DEA&DP REFERENCE 16/3/3/1/B1/14/1004/18

ENQUIRIES: P. Harmse

ECO IMPACT CONSULTING

P.O. BOX 45070

CLAREMONT

7735

Tel: 021 671 1660

Fax: 021 671 9976

Email: admin@ecoimpact.co.za

Attention: Ms NZ Loeberberg

COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT (DBAR) FOR THE PROPOSED ROBERTSON ABATTOR COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDLEBURG 10, ROBERTSON, WESTERN CAPE

The DBAR for the above mentioned proposed development of a feedlot and compost facility, received on 15 March 2018 by the Department of Environmental Affairs and Development Planning (DEA&DP), Directorate: Air Quality Management (D: AQM), has reference.

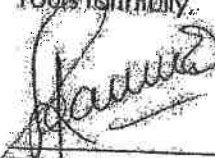
The D: AQM previously reviewed the application and provided comments for consideration by the applicant. After reviewing the above-mentioned official DBAR, and the Comments and Response report, the D: AQM notes that the applicant has addressed all matters, by including it within the draft Environmental Management Programme (EMPr).

The D: AQM would like to draw your attention to Section 28 of the National Environmental Management Act (NEMA), i.e. Duty of Care which states that:

"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."

Kindly be informed that the D: AQM reserves the right to review the above-mentioned comments, should additional information come to light. Please contact Mr Peter Hamse on 021 483 8343 or Peter.Hamse@westerncape.gov.za, should you have any further queries in this regard.

Yours faithfully,


DR. JOY LEANER (PHD)
DIRECTOR: AIR QUALITY MANAGEMENT

DATE 13-4-2018

Cc: Adri La Meyer (DEA&DP)
Peter Hamse

Email: adri.lameyer@westerncape.gov.za
Email: peter.hamse@westerncape.gov.za

"A22"



AIR QUALITY MANAGEMENT

REFERENCE: 19/4/41/DE2/Robertson
BA REFERENCE: 14/3/3/41/DE1/4/13/07/16
ENGINEER: P. J. James

ECO IMPACT CONSULTING
P.O. BOX 45070
CLAREMONT
7735

Tel: 021 471 1610
Fax: 021 471 9976
Email: admin@ecoimpact.co.za

Attention: Mr. NZ. Loubserberg

COMMITTEE ON THE REAFFIRMATION HAS FOR THE PROPOSED ROBERTSON AGRICULTURAL COMPOST FACILITY AND WASTE OIL REFINERY OF FARM WINDMILLING IN ROBERTSON, WESTERN CAPE.

The Pre-Application SAA for the above-mentioned proposed development, dated 15 June 2017, which was received by the Department of Environmental Affairs and Development Planning (DEADP), Directorate: Air Quality Management (D: AQM), has reference.

The D: AQM carefully reviewed the above-mentioned application and has the following comments for consideration by the facility:

1. DUST AND NOISE CONTROL REGULATIONS

- 1.1 Dust and noise may be generated during the construction phase of the project.
- 1.2 In this regard, the operator must comply with the following:
 - National Environmental Management: Air Quality Act (NEMA: AQAA), National Dust Control Regulations (Notice R27 of 2013);
 - Western Cape Noise Control Regulations (P.N. 300/2013).

2. ODOUR EMISSION IMPACT MANAGEMENT

- 2.1 The D: AQM is aware that the composting process generates a certain level of odour, but the Directorate has noted that the facility has received complaints regarding alleged excessive

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page 1 of 2

odour emissions emanating from the composting plant. The facility must investigate best practice measures to minimise or avoid offensive odours.

"In terms of Section 33(2) of the NEMA: AQIA (Act No. 39 of 2004), the occupier of the premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises."

8. ENVIRONMENTAL MANAGEMENT PROGRAMME (EMP)

8.1 The proposed Standard Operating Procedures (SOP's) mentioned in the Pre-Application SAR should be initiated and monitored in the daily operational production process. The EMP should include, but not be limited to the following considerations related to the abovementioned SOP's:

- The composting facility lies 60km away from the Robertson Abattoir, therefore it is important to revise measures to effectively transport abattoir waste to the composting facility as to reduce and/or mitigate spillage.
- Sludg should be removed from the abattoir every day to reduce the potential for odour release.
- High temperatures may pose a fire risk, therefore the windows and bulk storage areas should be monitored for temperature spikes.
- Carbon and nitrogen ratios must be at the required level as to ensure potential odour release.

Should you have any queries regarding the above comments, please do not hesitate to contact Peter Horne on telephone number (021) 483 8343 or email peter.horne@hormecorp.co.za

Yours faithfully,


PETER HORNE (PMD)
DIRECTOR: AIR QUALITY MANAGEMENT
DATE 12.7.2012

page 2 of 2

Verw/Ref: 15/4/12/582 (Middelburg 10/6)

The Reben Trust
c/o Umsiza
P.O. Box 649
ROBERTSON
6705

Per email: annachris@mweb.co.za

Dear Sir / Madam

PORTION 6 OF MIDDELBURG NO. 10, ROBERTSON: REZONING FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP FEEDLOT)

I refer to the above application.

With reference to Section 40(7) of SPLUMA No. 16 of 2013, the Langeberg Municipal Planning Tribunal conducted an on-site inspection of the above property on 1 February 2019, and agreed that:

1. Insufficient information is available at this stage to take an informed decision on the above application, in terms of Section 60 of the Langeberg Land Use Planning Bylaw, 2015.
2. With reference to Section 42(2) of SPLUMA No. 16 of 2013, and Sections 65(1) (d) and (f) of the Langeberg Land Use Planning Bylaw, 2015, environmental legislation has not been complied with, and all environmental information is not yet available:
 - 2.1. EIA application has lapsed (23 May 2018).
 - 2.2. Waste Management License application has been rejected (16 August 2018).
 - 2.3. The Water Use license application is still in process.
3. The Langeberg Municipal Planning Tribunal, requests the applicant to provide all outstanding information to the Town Planning Department, for submission to the Tribunal. The following specific information is requested:
 - 3.1. An Atmospheric Impact Report must be prepared with regard to the cumulative impact of the compost facility and feedlot in terms of odours and flies.
 - 3.2. The availability and suitability of Vissershoeck Waste Disposal site, or an alternative site for the disposal of infectious abattoir waste must be confirmed.
 - 3.3. The Soil Study (AVS, Nov 2015) highlighted the importance of the correct implementation of drainage. A Storm Water Management Plan by a PrEng must be prepared, and must take into account the changed position of the composting windrows relative to the small collection dams since the soil study.

ADMINISTRATIVE AND EXECUTIVE OFFICE: ASHTON
ADMINISTRATIEWE EN UITVOERENDE KANTOOR
IOFISI YOLAWULO NEYESIGQEBA

TOWN PLANNING DEPARTMENT: MONTAGU

3 Piet Retief Street, MONTAGU 6720

T +27 23 614 8001 F +27 23 614 1841

E tbrunings@langeberg.gov.za www.langeberg.gov.za

Navrae/Enquiries: T L Brunings

22 February 2019

- 3.4. The desirability of the buffer between the proposed Feedlot and the Middelstekloof River, as determined in the Freshwater Impact Assessment (Eco-Impact, 15 Feb 2018), must be substantiated, given the hydrological changes upstream and the investigation by DEA&DP's Environmental Law Enforcement Directorate into the dam in the upper reaches of the Middelstekloof river.
- 3.5. The calculation of the demand for water for the Feedlot is based on 4500 lambs, whereas the EIA application is for 6500 lambs. The maximum capacity applied for must be clarified and the available water must be proven to be sufficient.

Yours faithfully


SA MOKWENI
MUNICIPAL MANAGER

/tlb

Copies for Information:

Western Cape Department of Agriculture: Att: C vd Walt corvdw@elisenburg.com 20/9/2015/314; 2018-05-18 jannies@elisenburg.com 15/1/5/1; 13.09.2017	Western Cape Government: Transport & Public Works Grace Swanspoel@westerncape.gov.za 16/9/6/1-04/141 (Job 25595)	Cape Nature phuntly@capenature.co.za SSD14/2/6/1/9/1/10_8 Rez Middelburg; 19/01/2018
BGCMA nferl@bgcma.co.za 4/10/1/H40L/Middelburg10/6; 16/01/2018	CWDM smodean@capewineland.gov.za 15/2/6/1; 17.11.2017	Mr & Mrs Keyser, P.O. Box 845, Robertson 6705 L. Jordaan, P.O. Box 471, Robertson 6705 H. Jooste, P.O. Box 209, Robertson 6705

12 April 2019

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Tracy Brunings

**PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT
ROBERTSON: OUTSTANDING INFORMATION REQUESTED**

Your letter dated 22 February 2019 refers.

With reference to Item 2 of your letter, the following comments:

The Waste Management License and EIA application have not been approved due to the investigation regarding possible illegal uses in terms of Section 24G of NEMA, and not because of lacking of adequate information.

The matter is currently under appeal with the Western Cape Minister of Environmental Affairs.

No application has been made for a water use licence in relation to the compost facility of feedlot.

As the water use is in limits (< 1000m³ storage of waste water) and conditions as set out in the general authorisation in terms of Section 3.1 of Regulation No 665 of 6 September 2013, the collection dam on the SDP has only been registered in terms as water use Section 21(g) of the National Water Act "*disposing of waste in a manner which may detrimentally impact on a water resource*".

The "*clean collection dam*" on the SDP is merely a clean dam to receive clean storm/run off water with no "*wastewater*" and therefore requires no registration.

With reference to Item 3 of your letter, the following replies on the outstanding information requested are:

- *Atmospheric Impact Report to be prepared in terms of odours and flies*

The Environmental Consultants, Eco Impact, have drafted a draft BAR, October 2017 and EMPr that listed all the possible impacts and how to address these impacts.

An extraction re flies and odours from the draft EMPR is attached as Annexure A, as well as DEADP's Air Quality Management and CWDM comments that all matters have been addressed (Annexures B1 and B2).

- *Availability and suitability of Vissershok Disposal site or an alternative site for the disposal of infectious abattoir waste*

The definition of infectious waste is unclear and it is requested that this be confirmed.

According to Bongani Landu the Vissershok Waste Management Facility (WMF) is unable to accept waste for disposal as there is an absolute prohibition on receiving infectious animal carcasses and animal waste according to Government Notice Regulations (GNR 636).

[Although Vissershok was willing to receive the waste, it is 120km away and not viable to transport waste over such a long distance.]

Infectious waste needs to be treated before disposal to at Class B Waste Disposal Facility. BUT there is no Class B Waste Disposal Facility with capacity in the Langeberg Municipal area.

According to the provincial Waste Management Guidelines, it is acceptable to treat up to 500kg of hazardous waste every day without need for any authorizations.

Up until this day, SAFAM had no need to treat any infectious material at the compost site.

Composting is one of the listed options available and is just as effective at destroying or rendering the pathogens non-viable as any other process. Samples of the compost facility were subject to micro testing for Salmonella and E.coli, which showed zero E.coli. This confirmed that the process is effective at destroying the spores.

The process Safam would follow to treat infectious material, if required, is the same as the current waste as it is heat treated during the composting process as per the Sewerage

Sludge Guidelines from Dept. Water and Sanitation (Option 5) that ensures no pathogens can survive. The thermophilic bacteria and heat destroy also other micro-organisms. The compost is finished at 55 degrees Celcius for 15 days which is higher than the requirements. In addition, it is treated another 6 to 9 months where the temperature gets above the required 45 degrees, not the 14 days as required.

After it is treated, it is compost and is used on the farm.

- *Storm Water Management Plan*

The storm water drainage proposals on the latest Site Development Plan are in accordance to the Soil Study by providing cut-off weirs from the windrows to direct the water with gravity in a channel to the lowest collective dam.

Run-off water from the feedlot will also flow from drainage channels around the feedlot with gravity to the lowest collective dam.

Due to the soil condition, no plastic or concrete lining is needed.

The Soil Study indicated one dam of 6400m³ (40m X 40m X 4m deep) to collect all storm water from the larger, already disturbed and cultivated area to the north of the application site.

The latest SDP have two collection dams, one bigger dam to collect natural run-off water from the farm above the application site of 2528,4m³ (98m x 21,5m x 1,2m deep) and a lower, smaller collection dam of 1504,8m³ (48m x 28,5m x 1,1m deep) to collect effluent from the windrows and feedlot.

This is much lower than the GN 665 maximum limit of 5000m³ of waste water that may be stored for re-use.

A survey of the dams by Glenn Cover is attached as Annexure C.

Effluent from the windrows is very little as the windrows themselves form an effective barrier for run-off water. The compost-making process produces no water, therefore it is minimal water that runs down the weir to the lowest dam.

The Soil Study confirmed the low rainfall (277mm/year). Attached are two pictures of the two dams taken in October 2018, after the rainy winter season, showing NO water in the lower collective compost/feedlot run-off dam and little water in the top clean dam (see photos in Annexure D).

Water in the dams will be re-used to wet the windrows, if available and if required.

- *Buffer between feedlot and river*

According to the Freshwater Ecological Impact Assessment that was prepared by Eco Impact Legal Consulting in 2018, the retention of a buffer area of at least 32m in width along the sides of the drainage line is considered to be adequate if the proposed mitigation measures for reducing risk as a result of the operational phase are implemented.

A Water Use Authorisation Application Risk Matrix and Impact Table were compiled by Eco Impact that address all the risks, impacts and mitigations.

The above documents have been submitted by Eco Impact as part of the Basic Assessment Report.

In addition, the Site Development Plan has been adjusted by moving the proposed feedlot 100m away from the side of the Middelstekloof River to strengthen the buffer (see Annexure E).

A Dam Safety Inspection Report and Operational and Maintenance Manual and Emergency Plan for the Middelburg dam have been compiled by a professional engineer. This report has been accepted by DWAF.

The application for the verification of the Middelburg dam prepared by Hannes du Bois is in process and it is expected to be finalised soon.

- *Number of lambs*

Application was made in the land use application for a feedlot that accommodate 4500 lambs. The EIA included 6500 lambs to make provision for possible expansion in future.

However, the available drinking water from the borehole with capacity of 14000m³ per year is only adequate for 4500 lambs (4500 lambs x 8,5 liter water per day = 38 250 liter water per day or 13 961m³ per year).

For your consideration please.

Yours faithfully



Anna-Christa Redelinghuys
Pr.Pln A/1076/1998

OPERATIONAL PHASE

Goals

The following are specified goals:

Goal 1: Storm water management

Goal 2: Waste Management

Goal 3: Noise

Goal 4: Air Quality

Goal 5: Odour

Goal 6: Pesticides

Goal 7: Trucks

Goal 8: Site Hygiene

Goal 9: Monitoring and Control

Goal 10: Safety Measures and Emergency Procedures

Goal 11: Employment / Security

Goal 12: Water Pollution

Goal 13: Human / Wildlife Interactions

Goal 4: Flies

Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
To mitigate and control the attraction of excessive flies as a result of the compost facility and feedlot.	Nuisance Pests Health risks	- All by-products are covered immediately on delivery which reduces the numbers of flies to a large extent. - The composting process will control the spread of diseases through correct management of temperature and ph. No larva/eggs/worms/bacteria can live in the desirable 55°C within the windrows. - The rows are covered with dry kraal manure from the feedlot that reduce the smell, prevent	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems experienced / complaints received will be recorded in a complaints register and addressed when required.	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

		the attraction of flies and are not favourable for flies to lay eggs as it is too dry and warm for them. • In addition, the rows are also treated with chemicals such as Neoprene from Coopers which is aimed at killing the eggs and larvae of the flies. Baycidal and Temprid from Bayer are also used to kill the flies and larvae. Quik Bayt is dry crystals which attracts and kills flies on contact and are placed at several points around the site. • The sheep and manure will attract flies that live in the plants/fynbos in the surrounding area, but will be managed by providing fly traps at the feedlot, similar to the 19+ pheromone fly traps hanging on the fence alongside the composting facility. • This will be replaced on a regular basis. In addition, the sheep and manure will be treated as explained above.			
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Goal 6: Odour

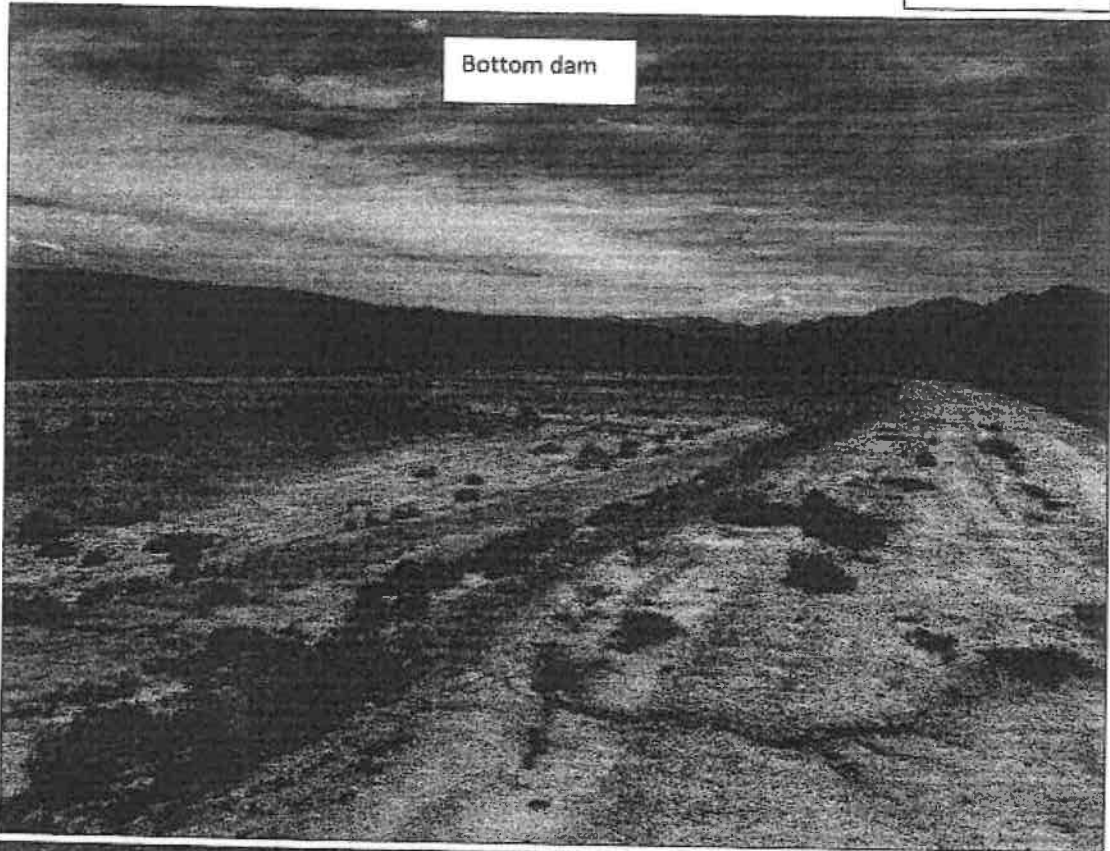
Objectives	Risks	Actions	Monitoring	Criteria/Targets	Remedial Actions
The balance of PH, temperature, air, moisture are critical parameters to ensure correct fermentation/digestion without causing odour or any other problems in the composting facility.	Nuisance Offensive odours Health risk	- The balance of PH, temperature, air, moisture are critical parameters to ensure correct fermentation/digestion without causing odour or any other problems in the composting facility. These are monitored by the farm manager on a daily basis. Bemlab results for testing compost samples shows a good quality compost with a desirable C:N ratio. - Any abattoir product that is brought to the site is covered immediately, except for blood that needs to be soaked for 1 hour before turning and covering. - Standard operating procedures have been adapted to ensure that no deliveries leave the abattoir after 15:30 so that it can be received and covered before the end of the shift on the farm. - Blood is brought daily to the application site, in comparison with previously when the tanker was filled before delivery to the application site. The blood is also top up with water at the	The implementation of the existing Standard Operating Procedures (SOPs) for the composting facility as well as the SOPs of the feedlot will mitigate the impacts effectively. These will be monitored regularly. Problems experienced / complaints received will be recorded in a complaints register and addressed when required. Three or more official inspections were conducted over the past months by officials from various authorities and none of them have complained about any offensive smells, even though this was one of the aspects they were inspected specifically. Passive sampling chemical analysis must be reported to the CWDM (Cape Winelands District Municipality) in a clear, understandable and precise user-friendly format, to assist in	SOPs developed, implemented and regularly updated.	- Development and implementation of SOPs to mitigate negative impacts; - Opening of a complaints register and addressing and investigating reported complaints; - Monitoring and recording of processes to ensure consistency.

		abattoir that has reduced the smell considerably. • The manager stays on the <u>farm</u>, approximately 120 meters from the application site and monitors the odours on a daily basis. • The nearest residential uses within prevailing wind direction are 2km away and will not be adversely affected. <u>Passive fence line monitoring:</u> Passive monitoring of hydrogen sulphide and ammonia to be conducted as and when required by the relevant authority. Methodology for the sampling of these pollutants must be carried out in accordance with any nationally or internationally acceptable standard in line with NEMAQA. Methodology that may be conducted: A baseline passive sampling survey (using the Radiello Method) for hydrogen sulphide and ammonia conducted over a 2 week period* on the fence line of the premises in the 4 major wind directions would be sufficient investigation to establish ambient concentrations of these pollutants.	interpretation. To be provided as an when requested by the Local Authority or as per the requirements of the relevant authorisations / permits granted for the facility.		
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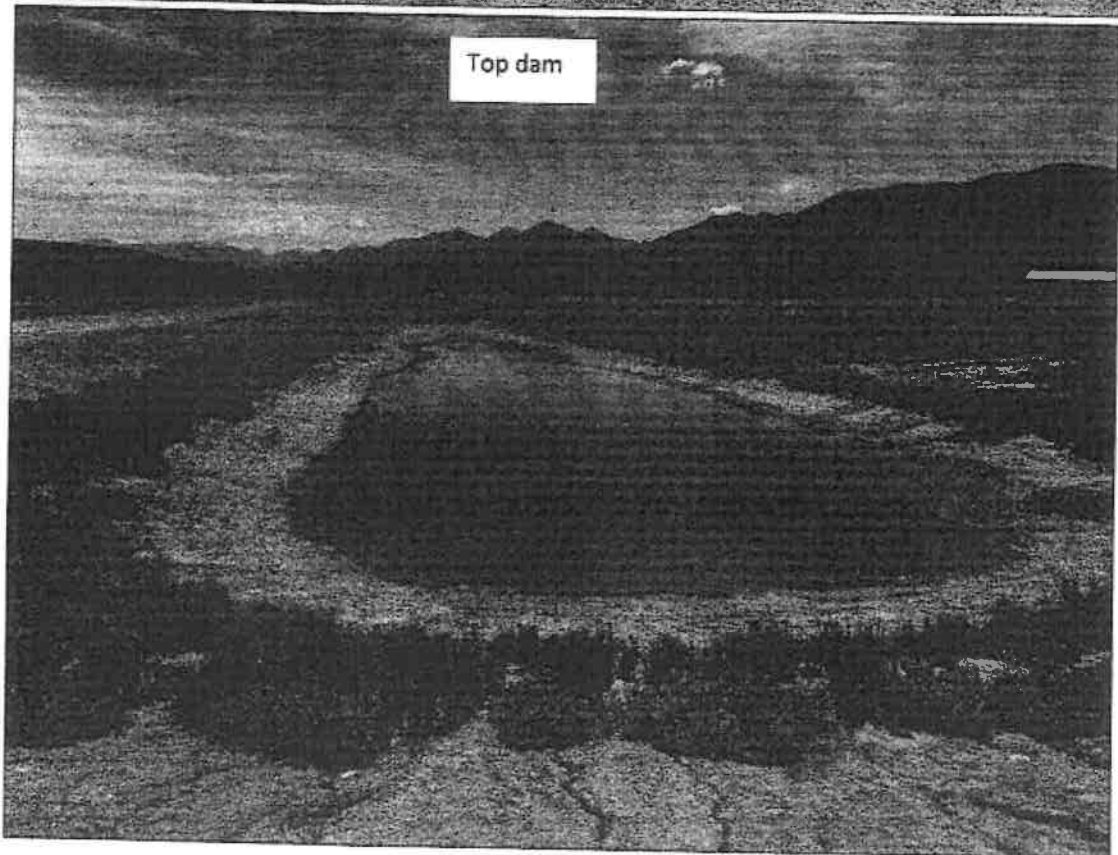
		*please note that exposure durations using the Radiello Method is allowed to vary from 1 hour up to 14 days.			
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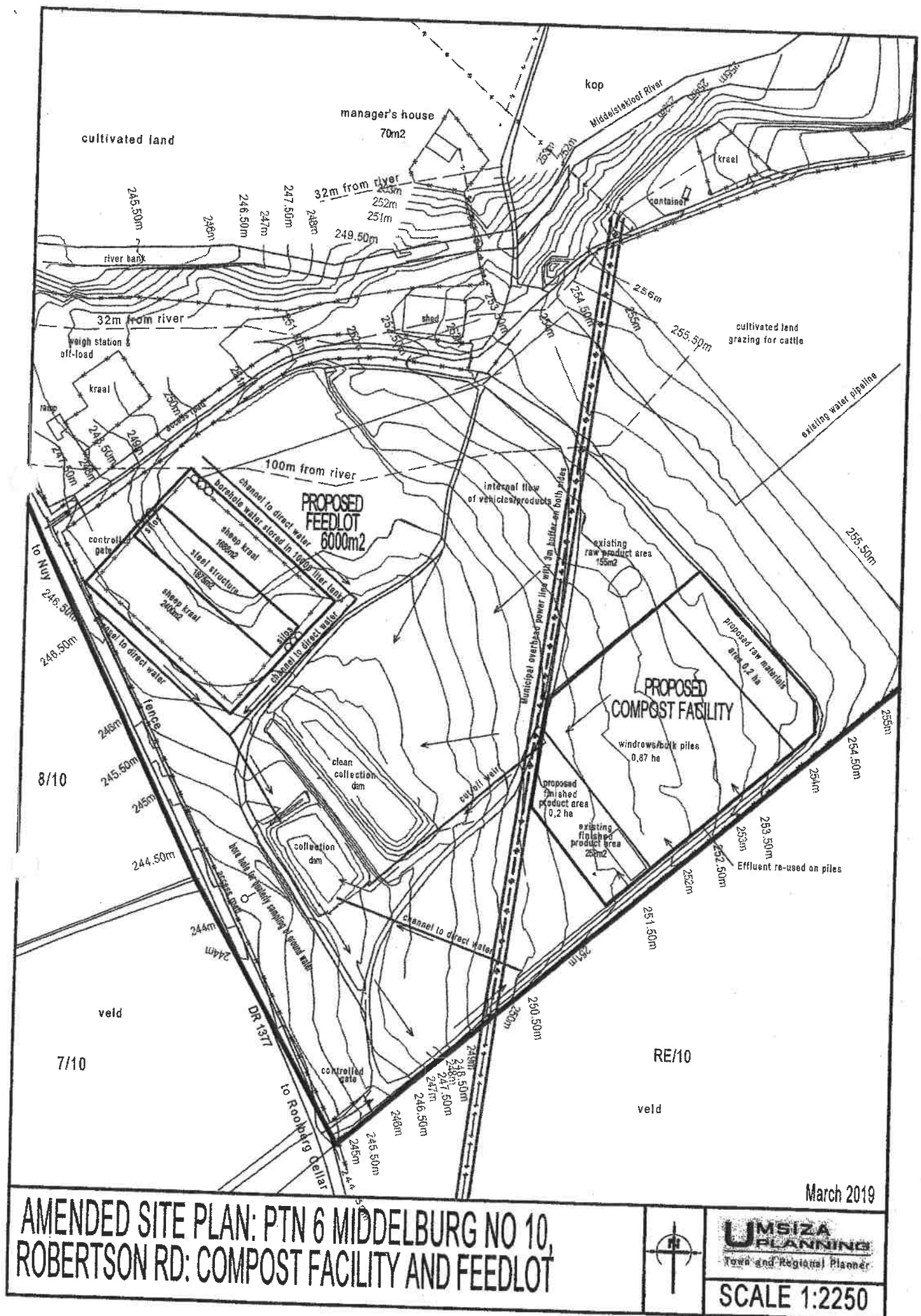
Date: Oct 2018

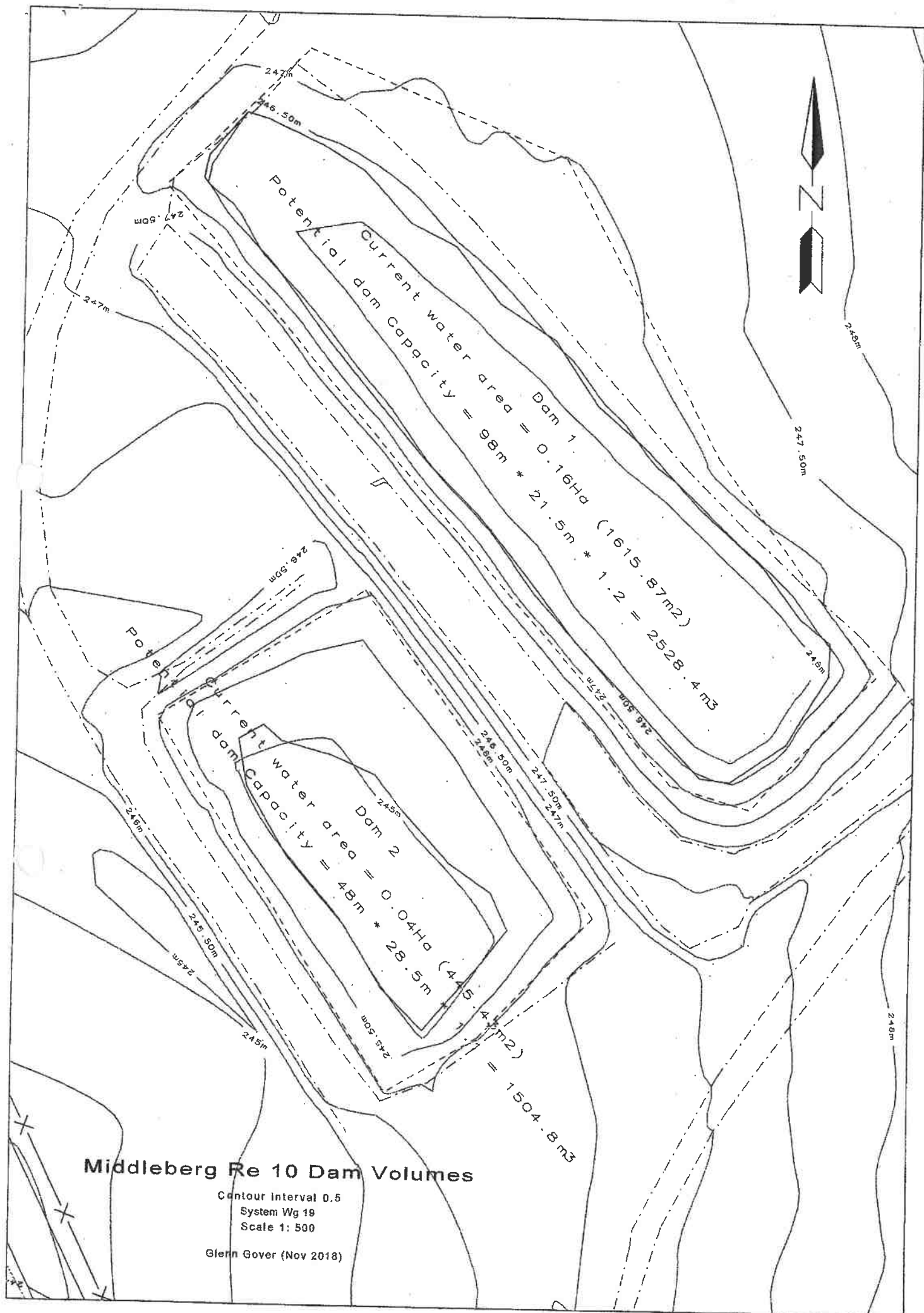
Bottom dam



Top dam







Middleberg Re 10 Dam Volumes

Contour interval 0.5

System Wg 19

Scale 1: 500

Glenn Gover (Nov 2018)

613

Middelburg --WC BSP 2017 MAP

Legend

BSP CBA

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



Scale: 1:18 056

Date created: November 11, 2019

Compiled with CapeFarmMapper

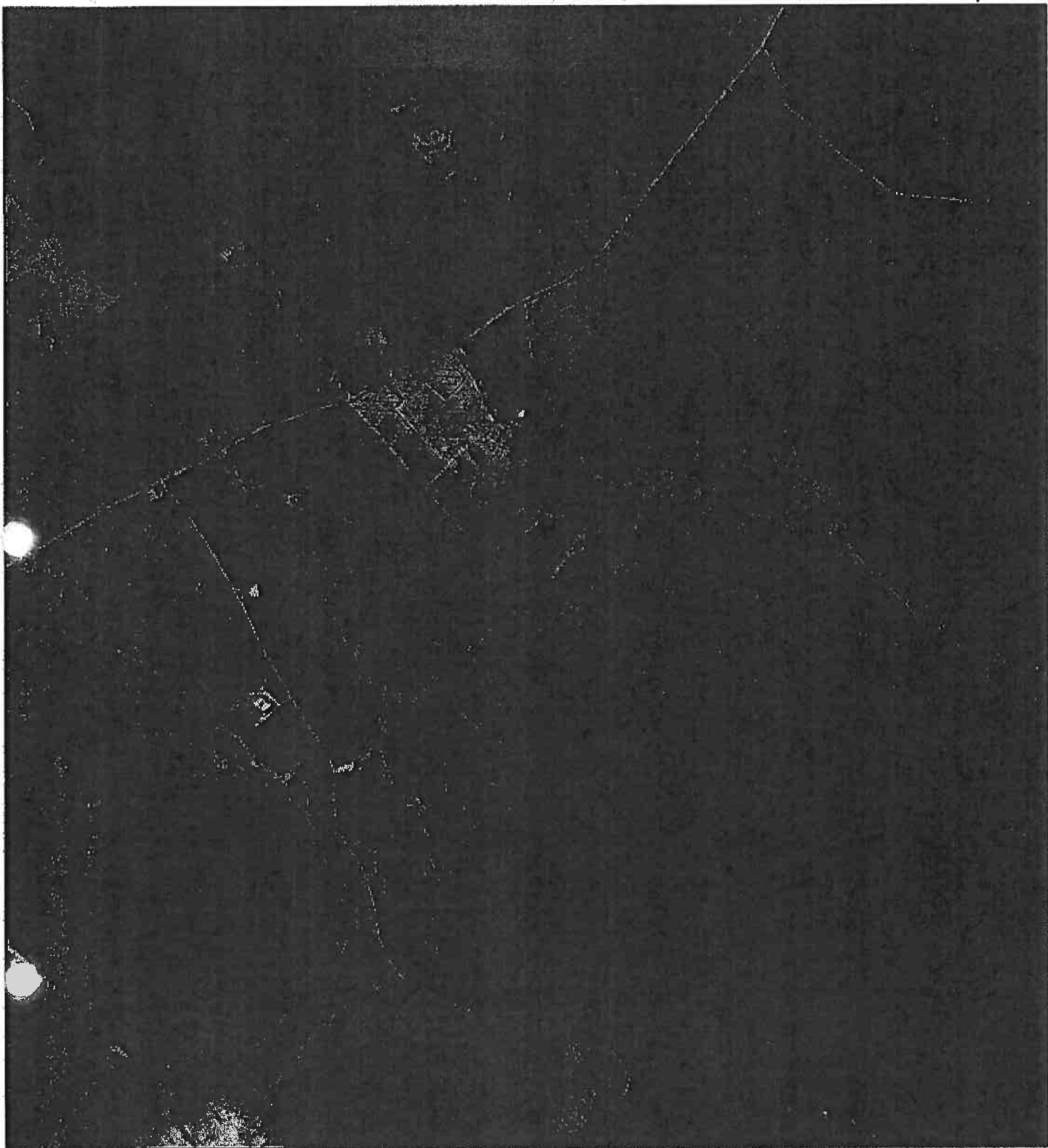


Western Cape
Government

Agriculture

11 A25

612a.



Middelburg --WC BSP 2017 MAP

Legend

BSP CBA

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

Scale: 1:18 056

Date created: November 11, 2019

Compiled with CapeFarmMapper



"A 26"

Hannes du Bois

From: Tracy Brunings <tbrunings@langeberg.gov.za>
Sent: 16 April 2019 11:06
To: Anna-Christa Redelinghuys
Cc: Langeberg Municipality; Kobus Brand; David Houghton (david@robab.co.za); Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za); lauren@ecoimpact.co.za
Subject: RE: Middelburg Application _ Reply on outstanding information
Attachments: image001.png

Hello Anna-Christa,

Thank you for the email below and attachments thereto. The application will be resubmitted to the Langeberg Municipal Tribunal's next meeting to be scheduled towards the end of May 2019, based on the information submitted.

In the interim we are awaiting the legal opinion which we requested in response to SAFAM's (du Bois') response to the notices which were served in terms of our Land Use Planning Bylaw, 2015 (i.e. requiring alternative arrangements to be made until all approvals are in place for the abattoir waste compost site). It is intended that we will schedule a meeting with all parties on receipt of this opinion.

We have also requested a meeting with DEA&DP to resolve some of the problems in the environmental process. Please provide any updates / clarification which you may receive from DEA&DP in the interim.

Regards,

Tracy Brunings Pr.Pln A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720

Tel: 023 614 8001 Faks: 023 614 1841

tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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From: Anna-Christa Redelinghuys [mailto:annachris@mweb.co.za]

Sent: 12 April 2019 16:37

To: Tracy Brunings <tbrunings@langeberg.gov.za>

Cc: 'David Houghton' <david@safam.co.za>; 'Hannes du Bois' <hannes@jpdubois.co.za>; lauren@ecoimpact.co.za

Subject: Middelburg Application _ Reply on outstanding information

Hallo Tracy

Please find attached our reply (letter with separate Annexures) to your letter that requested additional information.

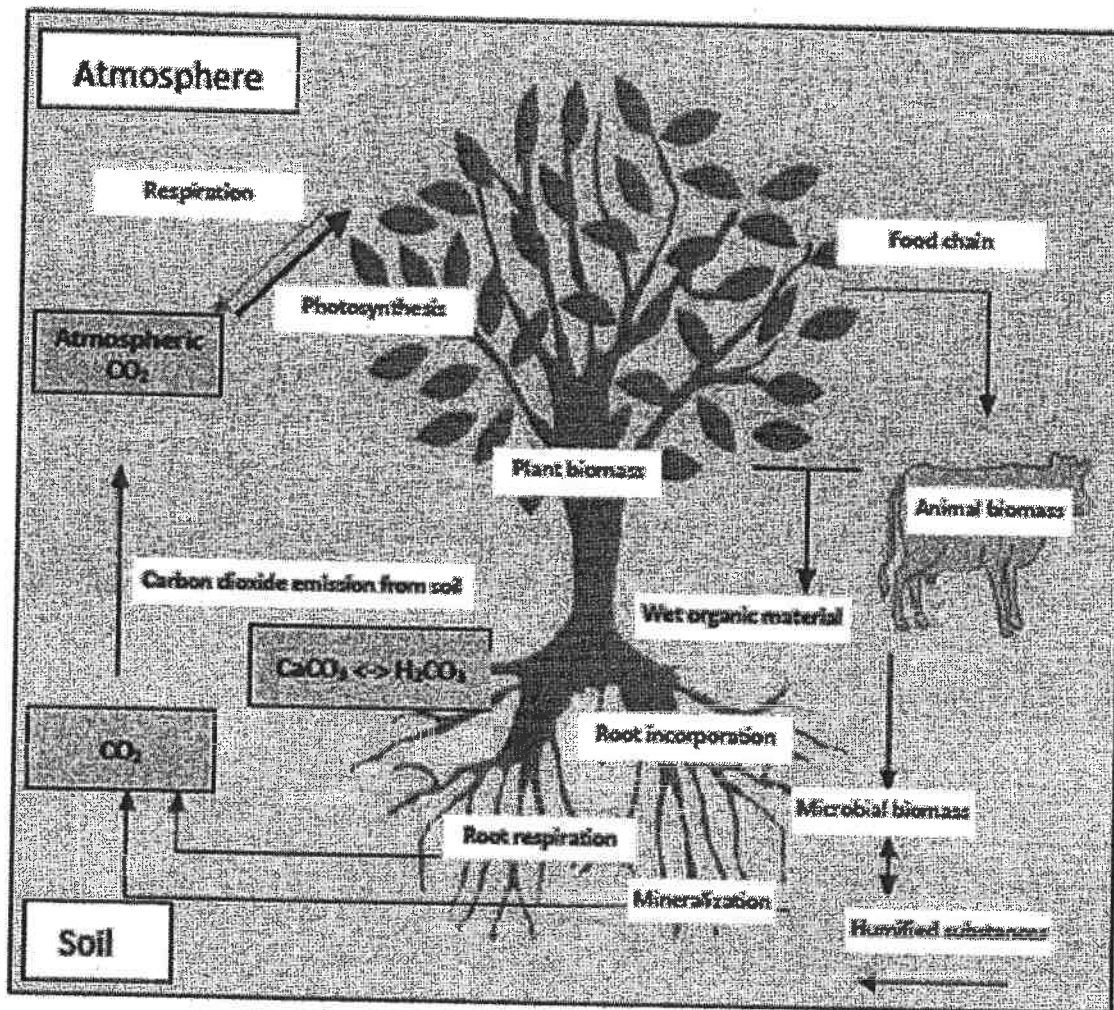
For your consideration please.

Thank you,

LINK BETWEEN FEEDLOT – FARM – COMPOST SITE – ABATTOIR

There are numerous and quite obvious reasons why it makes perfect sense to have the compost site – feedlot – farm situated on the site. This is in both an environmental sense as well as economical. All three aspects are very interdependent and it should be promoted by the authorities as the way to go rather than obstructed. That is unless the authorities are climate change deniers as well lacking rudimentary understanding of how businesses operate.

Carbon Cycle



The above diagram illustrates the carbon cycle which is an essential aspect of maintaining healthy farm land and a plant as a whole.

By placing the compost site, feedlot and farm (grazing and fodder crops) on the same site SAFAM ensure that as much of the essential Biomass is at one location rather than having a need to transport it over numerous Km. The biomass required for composting is both animal and plant in origin. SAFAM have the animal (N) within their company but do require the plant source (carbon) to produce a healthy compost. This means it must be transported from elsewhere. By placing the compost site where it is it reduces this transport

distances required not only of the carbon element required but also right next to where the compost is going to be used. WHAT IS THE POINT OF REDUCING THE CARBON FOOTPRINT AND INCREASING THE CARBON FIXING IN THE SOIL IF THIS IS NEGATED BY EXCESSIVE AND NEEDLESS TRANSPORT?

Moving the feedlot next to the compost site and grazing / fodder also makes sense in terms of the carbon cycle. Firstly, it prevents the need to transport the crops grown on the farm (grown with the compost) approximately 20km to the current feedlot to feed the sheep. Secondly, it prevents the need to transport the manure generated at the feedlot to the compost site, again 20km. The manure is an essential component of the process being used as it provides a form of bio-filter to the compost which reduces the smell, flies as well as forming a crust on the compost windrows thus keeping the temperatures at the desired level. (Not all compost needs manure, but all compost does need some form of animal matter to provide the nitrogen). Thirdly the lambs in the feedlot can also be placed on the fields to graze any stubble left over after harvest, doing so they will turn over the land and add their manure to it. Fourth and final point is that the machinery used at the feedlot and vice versa needs to be transported between them both once every month in order to load the manure from the feedlot onto the delivery trucks to the compost site.

The only possible negative in terms of the carbon cycle and its importance on the environment is that the lambs going to slaughter will now be transported approximately 20km to the abattoir and not 3km as is currently the case. However, this is negated by the very fact that the lambs going to the current feedlot pass Middleburg farm on their way there as they are brought from other farms in the Western Cape.

The current situation costs SAFAM in the region of R140k per month, but it costs the environment considerable more in terms of carbon footprint, which is completely irresponsible by the authorities to enforce this when it can so easily be solved by allowing the feedlot to be placed on Middleberg.

OTHER SOLUTIONS INVESTIGATED TO SOLVE THE PROBLEM CAUSED BY LANGE BERG MUNICIPALITY NO LONGER TAKING THE BY-PRODUCTS / ORGANIC WASTE FROM THE ABATTOIR

When SAFAM were informed by the Municipality sometime during 2015 that they would no longer be taking the abattoir by-products (blood, stomach contents, condemned and DOAs) the immediate and obvious reaction of SAFAM, was; well what are we supposed to do now. This is because the managers and staff at the abattoir are experts in the meat industry chain and not processing or handling waste. They had no experience or knowledge on what they should do, nor were they provided with any help and assistance by the Municipality as to what the possible solutions were. SAFAM were left to themselves to find a solution.

SAFAM then had to spend a lot of time and resources investigating what the options were for them. They did this through their own research, assistance provided by the Red Meat Abattoir Association and even attending Seminars presented by the Provincial DEA: Waste Management. These seminars were in fact concerned with the Provincial Integrated Waste Management Plan. It was at this session that SAFAM became aware of the reason why the Municipality stopped taking their by-products, which was the ZERO Organic Waste to Landfill by 2027 target which the Municipality had to meet. Clearly the Municipalities approach was to target the large businesses and get them to come up with the solutions as they were not capable themselves.

SAFAM realised there were a number of possible solutions which may work. The first and obvious one was to identify another licenced waste management company who could take their by-products and process it themselves. However, SAFAM soon realised this came with one key issue. Even if SAFAM used a fully Licenced Waste Handler, it was SAFAM themselves who were still responsible to ensure it was processed correctly. Even if SAFAM received a 'receipt' for the waste it was in certain legal terms still theirs' until it no longer posed an environmental problem. A secondary reason for SAFAM not choosing this route was that the by-products would still in all likelihood still end up at landfill causing the problem not to be solved but simply moved out of the Municipality. It transpired that the Municipality were OK with this solution as they enquired on a number of occasions if SAFAM could take the by-products to another landfill site, with specific mention of Vissershok near Durbanville. SAFAM had actually enquired about this option with the specific landfill site and received in writing from the site that they could not take any of the by-products produced by SAFAM at Robertson. This was confirmed by DAFF who also confirmed that the only possible site was in Mossel Bay. Irrespective of this SAFAM had bought in to the National Strategy to reduce methane emissions and so could not with good conscience transport their by-products even further (adding carbon emissions from fuel used to transport it) to simply put it in another landfill site. The final reason was that this was not financially viable as well.

Other Solutions Investigated

Alkaline Hydrolysis – This method was mentioned as a possible solution at the yearly abattoir conference by a specialist EAP commissioned by the Red Meat Abattoir Association. SAFAM carried out investigations as to what it was, how it worked, what was required and very quickly understood that this was not a viable option for the following reasons.

- a. Potential cost of implementing and buying the equipment needed.
- b. Space required at the abattoir.
- c. Specialist knowledge was severely lacking within the Western Cape to be able to operate and service the system.
- d. A full EIA including a full Atmospheric assessment was required in order to operate, which must be approved before it could even be initiated.
- e. There would still be waste generated from the process which would require further treatment albeit less than the weight of by-products produced at the abattoir.
- f. Operational costs were excessive in terms of power required.
- g. Not everything could be processed using this method so it did not solve the entire problem. What would SAFAM do with the remaining by-products
- h. No other abattoir had any experience of this as far as SAFAM were aware at the time.

Anaerobic Digestion / Biogas – This process was a method which was seriously considered and investigated by SAFAM, as far back as 2014. At the time it was investigated as a way of producing electricity for the site, whilst solving the by-products problem. Again it was presented at the abattoir conference as well as knowledge gained through SAFAMs own research. SAFAM established that there were a number of units in operation in the Western Cape both at abattoirs and other food producers such as fruit growers and packers. SAFAM even investigated if it was viable (with the help of Green Cape) to send their by-products to Elgin Fruit who had established their own Biogas plant. The transportation proved not to be viable.

SAFAM made contact with a number of 'system providers' for them to present their solutions to them. In particular, SAFAM received a full quote for implementation from iBert. This quote was eye watering and SAFAM could simply not find the finances to progress with option. A summary of the quote received is as follows: The Total CAPEX Cost was R7.9million (Including the ground works for the site). R2.7million of this amount had to be funded by Equity / Cash directly from SAFAM, with the rest (R5.1million) being financed through the IDC at Prime less 1.5% over 8 years. This burdened SAFAM with a monthly repayment of R60-70,000 per month, on top of having to finance the R2.7 equity amount. It was then established that the system did not produce enough electricity for the equipment needed which meant no savings would have been generated. (The amount invested in the compost site would still have been required to compost the sludge, therefore bringing the total cost for this solution up to nearly R10 million.

SAFAM had no choice but to make the reasonable decision that this option was not viable, not only because of the expense involved but also because of the following points:

- a. The cost was prohibitive especially for an option that did not provide a solution for all of the by-products. As per below.
- b. Not all of the by-products could be processed via this system. In particular, the whole dead on arrivals.
- c. The macerator to reduce the particle size to the required dimensions actually required more electricity than what would have been produced by the system therefore not generating any benefit.

- d. The system was very sensitive and could easily go off line if contaminated by any of the strong cleaning chemicals which the abattoir must use to ensure safe meat production.
- e. The system must remain in a fine bio-chemical balance and requires specialist knowledge to operate it. SAFAM did not have such a specialist.
- f. The Environmental Regulations that would need to be complied with were more strenuous than for the compost site, and the system could not operate / be started to be built without full authorisations being acquired. The authorisations would not have been complete before the Municipality stopped to take the by-products and the building work would have taken at least another 6 months if not longer.
- g. The system generates sludge which must then be treated before it can be used as a fertilizer. This sludge is classified as hazardous until treated. The treatment is usually via way of composting.
- h. SAFAM learnt that an abattoir in the Western Cape which had set up the system experienced a shut down because the bacteria within the system 'died'. This shut down not only the system but also the abattoir for 2 weeks as they had no alternative to treat the by-products. SAFAM can not be down for 2 weeks without production as they would lose all of their main clients as well as their suppliers.

It is not required to go into the details of the composting operation as this has been covered many times by SAFAM and communicated ad nauseum to all of the various authorities. What is relevant is that the Municipality were aware of SAFAM's intentions to compost on the very site in question 5 months before any operations started. This was sufficient opportunity for the Municipality to communicate any concerns, objections or requirements before operations commenced, which they failed to take advantage of.

It is also plainly obvious that composting is by far the best option to use considering the region of Robertson whose farming industry relies heavily on vine crops and fruit trees. Such industries need the end product produced by the SAFAM compost site, but at present they transport it from 100kms away therefore adding to the carbon footprint and not reducing it. Compost was the only option which SAFAM could undertake without the need for any form of authorisations as can be clearly inferred by the fact that not one authority told them to stop or cease before they commenced despite having 5 months to do so. In fact it was communicated to SAFAM by the DEA:DP that no licence was required if the amount of by-products processed at the site was less than 10 tons per day.

It should be reiterated that even if SAFAM had chosen one of the other options then they would still have needed to operate a compost site to treat the by-products generated from either the Bio-gas plant or the Alkalyne Hydrolysis.

Finally, it must be placed on record that the Municipality have had over three years to inform SAFAM that another option other than composting should have been used. In fact, they had an official / legal route through the BAR process in which they were listed as IAP to comment during the legally stipulated time frames. Because the Municipality failed to do so during this BAR period SAFAM contend that the Municipality cannot air these concerns once the time frame has expired.

This report is intended to support the case of Reben Trust with respect to the application for consent for an intensive feedlot.

ADDITIONAL COMMENTS WITH RESPECT TO THE APPLICATION FOR PORTION 6 OF MIDDELBURG 10, ROBERTSON TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARMING (SHEEP)

The letter dated 31 October 2019 from Langeberg Municipality refers.

The following comments are hereby submitted in order to respond to matters that were addressed in the above-mentioned letter in terms of

- i) an alternative source for drinkable water to the proposed feedlot; and
- ii) a Storm Water Management Plan for the safe disposal of contaminated storm water from the area of 1,9 ha (the 1,3 ha of already approved compost facility and the 0,6 ha of proposed feedlot). The minimum sizes of firstly the capacity of the collection dam and secondly the channels along which the contaminated storm water will flow into the collection dam, is to be determined.

The following additional information is hereby submitted:

1. Alternative source of water to the feedlot:

At the time of the application referred to here, the legal aspects of the expansion of the dam in the mountain catchment area of the farm were still in process. In the meantime the Breede-Gouritz Catchment Management Agency has on 20 June 2019 approved the storage of 111 801 m³ in the dam and the taking of water for irrigation from the dam to the extent of 244 360 m³ per annum, as an Existing Lawful Water Use in terms of the National Water Act (Act 36 of 1998).

A pipeline has in the meantime been constructed to convey water from the said dam to the lands for irrigation. This pipeline also leads to the borehole which provides water for the feedlot. In a case of emergency the pipe from the dam can be connected to the pipe from the borehole to supply water to the feedlot. Thus, in case of the possible failure of the borehole, an adequate portion of that water will be made available to the feedlot. The water level in the dam will further be managed to secure an adequate amount of water for the feedlot in case of drought.

2. Storm Water Management Plan:

A Storm Water Management Plan is hereby submitted, and the purpose of such plan is to ensure that all contaminated storm water is safely conveyed into a collection dam of adequate capacity to ensure that the dam will not over-top in cases of extreme and prolonged rainfall, and to further ensure that no contaminated water will flow into any stream or other public water resource.

The lay-out of the proposed feedlot and the approved compost facility, with channels to direct all the contaminated run-off water from the respective two areas into the collection dam, are shown on the plan of Umsiza Town and Regional Planners dated March 2019.

The contaminated storm water will be the run-off from 1,9 ha land, which consists of the 1,3 ha of already approved compost facility and the 0,6 ha of the proposed feedlot. The 1,3 ha

of the already approved compost facility should not be confused with the 3,6 ha contained in the application for rezoning from Agricultural Zone I to Industrial Zone II. It should be noted that the 3,6 ha contains two distinct areas, namely the 1,3 ha where the composting windrows of the composting facility are kept, from which the contaminated storm water run-off will flow into the 'collection dam', and 2,3 ha land outside the composting windrows of which the storm water run-off will not be contaminated and will for that reason flow into the 'clean collection dam', as shown on the said plan of Umsiza Town and Regional Planners.

2.1 Capacity of the collection dam:

A critical aspect of the collection dam is its capacity to safely hold the contaminated storm water and which capacity should be big enough to ensure that it will not overflow, even in the case of an extreme prolonged rainfall event.

The depth-duration-frequency of such a critical rainfall event has been simulated for this site and is a rainfall event that will last for 72 hours (three days) without interruption, with a statistical return period of 20 years, for the specific region with the rainfall assumed as high as 500 mm/year. This is a very conservative approach, but the goal is to ensure that there will be no doubt that the capacity of the collection dam will be adequate for its purpose.

The technical report of OJ Gericke and JA du Plessis of the University of Stellenbosch, with the title "Evaluation of critical storm duration rainfall estimates used in flood hydrology in South Africa" which was published in the October 2011 edition of Water SA, has been applied here. It was found that the maximum rainfall over 72 hours to be expected once in 20 years for this area was 67 mm in total for the three days of continuous rainfall. If the storm water so produced will run off from the 1,9 ha of sealed-off area into the collection dam, it will produce a total volume of 1 273 m³. The capacity of the collection dam is 18% more, namely 1 505 m³, which means that it is more than adequate to ensure that no spilling will take place.

2.2 Capacity of the channels that convey the contaminated water to the collection dam:

Using the same report as under 2.1 above, the peak rainfall intensity during a storm of short duration, namely 15 minutes (which is much more intense than for 72 hours), for a 20 year return period and an annual rainfall of 500 mm, is determined. It was found that in an such extreme case, 12 mm of rain could fall in 15 minutes. The hydraulic capacities of the two channels to allow the storm water from this storm to flow to the collection dam without overtopping, are

- (i) for the channel from the compost facility, 173 litres/second, and
- (ii) for the channel from the proposed feedlot, 80 litres/second.

For the specific dimensions and slopes of these two channels (as built), their capacities are found more than adequate to ensure that they will not over-top in an extreme short duration rainstorm as simulated.

2.3 Itemised Storm Water Management Plan:

The Storm Water Management Plan exist of the following procedures:

- 2.3.1 Ensure that the two channels that convey the contaminated water to the collection dam are at all times well maintained and free from any obstruction.
- 2.3.2 Ensure that the walls of the collection dam are always tight, and if any signs of deterioration or leakage are found, the necessary reparations should immediately be undertaken.
- 2.3.3 Completely empty the collection dam as soon as possible after rain, in order to have enough spare capacity for the simulated extreme rainstorm.
- 2.3.4 The capacity of the collection dam must be verified at least every five (5) years in order to ensure that siltation from the run-off water has not reduced the capacity to less than 1 273 m³, in which case the silt should be removed mechanically to restore the capacity to at least 1 273 m³.
- 2.3.5 Additional items should be added in case it becomes clear that any further actions are necessary to maintain the integrity of this Storm Water Management Plan.

2.4 Conclusion:

From the plan of Umsiza Town and Regional Planners dated March 2019, which was submitted with a previous application, it is evident that adequate provision has been made to safely convey all contaminated storm water from both the compost facility and the proposed feedlot into the collection dam, and to ensure that neither the channels conveying the water nor the collection dam will overflow, even during any worst case extreme rainstorms that could be expected in 20 years.

There is to my knowledge and experience no reason why this application should not be approved.

Signed: FPJ VAN DER MERWE

Pr Eng, B Sc, B Eng (Civil Engineering), M Eng (Water Resources Engineering)

Former Senior Specialist Engineer: Department of Water and Sanitation

Report drafted: 15 November 2019

Pretoria.



Western Cape
Government

Agriculture

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REFERENCE: 16/1/3/1-7/006

ENQUIRIES: Dr GSM LEASK

South African Farm Assured Meat Group CC

Robertson

Dear Messrs H. de Bod and D. Houghton,

re: Abattoir Composting Facility visit

Firstly I would like to express my gratitude towards you and your personnel for giving me and officials from Veterinary Services: Veterinary Public Health, Western Cape Department of Agriculture and the representative from the DAFF, Pretoria the occasion to visit your abattoir and composting facility on 08 January 2019.

The intention of the visit was to give our colleague from DAFF an insight into the methods of abattoir waste disposal that have been adopted by differing facilities in our province. We are trying to establish "norms and standards" for the various methods of abattoir waste disposal that could be put forward nationally for application by abattoirs throughout the country in light of the imminent ban on waste disposal to landfill sites. Included in these "norms and standards" would be the necessary controls to ensure that the public and workers will not be exposed to any potential health risks during the movement and management of the abattoir waste from the abattoir to, and at, the disposal facility.

From our discussions at previous meetings as well as recently, it is obvious that you have done quite extensive research into the composting process, and have selected the best practices by trial and error. The result is that, in my opinion, the composting facility is effectively dealing with the disposal of your abattoir waste without causing any pollution concerns and, at the same time, having minimal potential health risks for the workers involved or the general public. The controls and record-keeping measures that you have put in place, and the appointment of a person dedicated to the management of the composting facility, greatly contribute to the effective composting that should adequately deal with the elimination of potential microbiological hazards. This is the primary purpose of an abattoir waste disposal facility.

It would be greatly appreciated if you could give me permission to use your composting facility as an example to be used in presentations to other abattoirs and even in a national forum. To this end I would also be grateful if I could be allowed to make some photographic and videographic recordings of the various stages in the composting process, to use in these presentations.

The next step in the whole process which will need to get attention is the registering of the final product under Act 36, 1947 to enable you to commercially dispose of the final product.

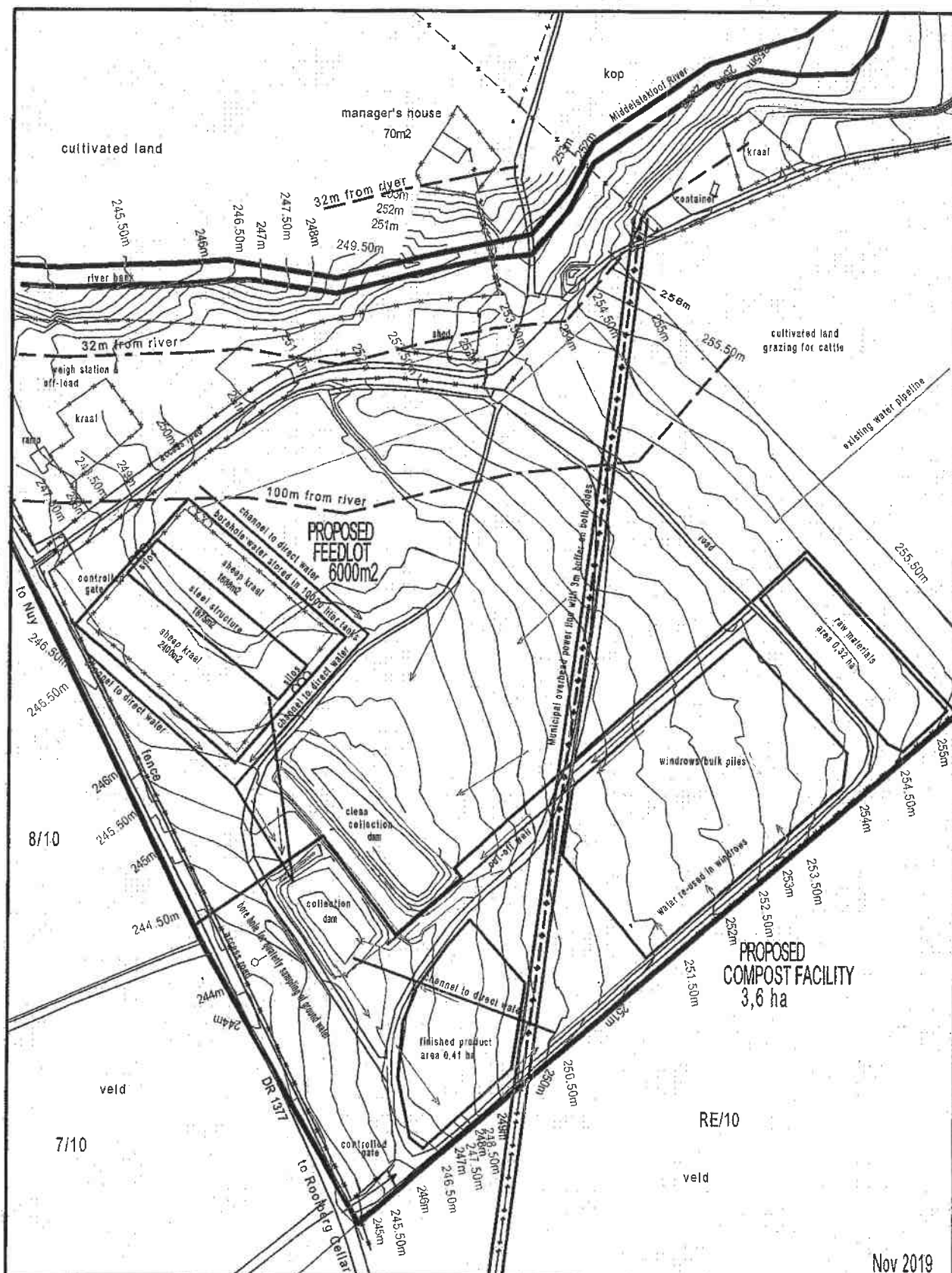
Kindest regards,

DR GSM LEASK

STATE VETERINARIAN: VETERINARY PUBLIC HEALTH

DATE: 08/02/2019

"A31"



AMENDED SITE PLAN: PTN 6 MIDDELBURG NO 10,
ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA
PLANNING
Town and Regional Planner

SCALE 1:2250

Annexure 6

Objectors' response to Applicant's Appeal



Ndlovu de Villiers

Environmental Law Specialists

COMMENT ON THE APPEAL LODGED BY THE REBEN TRUST (IT 2879/98) AGAINST THE WHOLE OF THE DECISION OF NOT APPROVING THE APPLICATION FOR A CONSENT USE FOR INTENSIVE FEED FARM (SHEEP) ON PORTION 6 OF THE FARM MIDDELBURG NO. 10 ("PORTION 6") AND AGAINST THE PARTIAL APPROVAL OF ONLY 1.3 HECTARES WITHIN PORTION 6 IN THE APPLICATION TO REZONE 3.6 HECTARES OF PORTION 6 FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (COMPOST FACILITY) AND CERTAIN CONDITIONS ATTACHED TO THAT PARTIAL APPROVAL

LANGEBERG MUNICIPAL PLANNING TRIBUNAL - REFERENCE NUMBER: 15/4/12/5&7

INTRODUCTION

1. We act for:

1.1. Mrs. Hannerè Jooste; and

1.2. Mr. Louis Jordaan.

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Ndlovu de Villiers Attorneys
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S.O. de Villiers BA LLB

2. The abovementioned are referred to in this document as the "Objectors".
3. On 22 November 2019, the Objectors received an appeal lodged by the Trustees of the Reben Trust (hereinafter referred to as the "Trust") against the decision of the Langeberg Municipal Planning Tribunal (hereinafter referred to as the "Tribunal") made on 18 October 2019. The essence of that decision is:
 - 3.1. To grant the rezoning of a portion of 1.3 hectares in extent within Portion 6 of the Farm Middelburg (hereinafter referred to as "Portion 6") from Agricultural Zone I to Industrial Zone 2 (Noxious Trade) for a compost facility comprising windrows, storage space for raw and finished products and off-loading areas (hereinafter referred to as the "compost facility"); and
 - 3.2. To refuse consent for an Intensive Feed Farm (sheep) feedlot with a maximum of 4500 lambs (hereinafter referred to as the "feedlot").
4. In short, the Tribunal's decision was a partial approval of the Trust's application. In respect of the compost facility, the Trust had applied for the rezoning of a portion of 3.6 hectares within Portion 6. First, only the rezoning aspect was approved. Secondly, in respect of the rezoning itself, the Tribunal granted a partial approval of what was applied for.
5. The Trust seeks to have the (total) approval granted by the Appeal Authority in respect of all the aspects of the application lodged by the Trust initially.
6. This document sets out the Objectors' comment on the Trust's appeal.

OBJECTORS' APPEAL

7. The Executive Mayor of the Langeberg Municipality is the Appeal Authority in respect of decisions of the Tribunal. The point of departure is to draw the attention of the Appeal Authority to the fact that the Objectors also appealed against the Tribunal's decision and their appeal was submitted on 21 November 2019. Hence, as far as we were aware when we commenced the drafting of this document, there were two separate appeals that were lodged with the Municipal Manager during the course of the week which ended on Friday, 22 November 2019. Those appeals were: a joint appeal lodged by the Objectors on 21 November 2019; and an appeal lodged by the Trust on 22 November 2019. It follows that the Objectors and the Trust are all Appellants.
8. The abovementioned appeals relate to the same application, application process and administrative decision. It follows that the Appeal Authority must consider those appeals in a single appeal process and, in the end, the Appeal Authority must make one appeal decision.
9. For the sake of completeness, we request that, in the consideration of this matter, the Appeal Authority must incorporate the Objectors' appeal as fully and effectually as if that appeal is included in this comment.
10. We point out that, on Friday, 6 December 2019, we became aware of the fact that there are other Appellants (namely Perisseia (Pty) Ltd, Mr. Johan Fourie, Mr. Le Roux Fourie and Pierre-Jean Gerber) who also lodged a joint appeal against the partial approval. The first three of those Appellants are represented by Messrs. Christo Reeders Attorneys who submitted a joint appeal dated 21 November 2019. The fourth Appellant is unrepresented and submitted his own appeal dated 21 November 2019. We do not comment on all those appeals in this document. However, we note that there are similarities between all the respective appeals mentioned herein.

EXTENT OF THE AGREEMENT BETWEEN THE OBJECTORS AND THE TRUST

11. The Objectors and the Trust agree that, after considering the appeals before it, the Appeal Authority must set aside the Tribunal's decision and make a new decision. The disagreement between the Objectors and the Trust is on what that decision should be.
12. In our view, the Appeal Authority should refuse the Trust's application outright. On the other hand, the Trust is of the view that the application should be granted.

PROCEDURE TO BE FOLLOWED

13. As a point of departure, we draw the attention of the Appeal Authority to the procedural issues that are of importance in the consideration of this matter. Section 80 of the Langeberg Municipality's By-law on Municipal Land Use Planning, 2015, (hereinafter referred to as the "By-law") regulates the appeal procedure applicable to the appeals before the Appeal Authority. That section imposes certain obligations on the Municipal Manager with respect to preliminary issues.
14. Specifically, section 80(11)(c) provides that the Municipal Manager must, on receipt of an appeal, notify the applicant in writing whether or not the operation of the approval of the application is suspended. In our letter dated 27 November 2019, we requested the Municipal Manager to suspend the operation of the rezoning approval which was granted as part of the Tribunal's decision. We note that, on 6 December 2019, we received a copy of the Municipality's correspondence which informed the Trust that the Tribunal's decision "is

suspended until the appeals have been finalised”.¹ We are satisfied that the first step in the appeal process has been taken.

15. The second step comprises the notification which must be sent to the Provincial Minister. Section 80(11)(b)(iii) provides that the Municipal Manager must notify and request the Provincial Minister within 14 days of the receipt of an appeal to comment on the appeal within 60 days of receipt of the request in respect of appeals relating to an application for “a rezoning of land zoned for agricultural or conservation purposes”.
16. Section 80(11)(b)(iii) is of particular relevance to this appeal process. That is so because the Trust’s application relates to a proposed rezoning of land currently zoned for agricultural purposes. We note that, on 6 December 2019, we received a copy of the Municipality’s notification to the Provincial Minister. Hence, we acknowledge that the second step has also been taken.
17. Section 80(12)(b) of the By-law states that an authorised employee of the Municipality “must draft a report assessing an appeal and must submit it to the Municipal Manager within ... 30 days of the closing date for comments requested in terms of subsection (11).” Hence, the third step will involve the assessment of the appeals by an authorised employee. That step will be concluded by the submission of a report (to the Municipal Manager) on the assessment undertaken.
18. In order to ensure the effectiveness of the steps referred to above, we hereby request that the parties be allowed to make representations on each other’s comments and on the comment received from the Provincial Minister. While the By-law does not specifically grant the parties such right, it is respectfully submitted

¹ Paragraph 5 of the Municipality’s letter dated 5 December 2019.

that the parties' Constitutional right to procedural fairness requires that right to be read into the By-law.

19. In addition, we hereby request that Ms. Tracy Brunings, the Langeberg Municipality's Assistant Town and Regional Planner, be given an opportunity to comment on the appeals before the Appeal Authority. She is the (registered planner) referred to in section 65(1)(g) of the By-law. We request that her comment must be taken into account by the authorised employee when assessing the appeals in terms of section 80(12)(b). At the heart of our request is the belief that the comment from Ms. Tracy Brunings would illuminate some of the issues raised in the appeals. We also point out that she has been unjustifiably and viciously attacked in the Trust's appeal. It is only just that she is given an opportunity to respond.
20. In the event the Appeal Authority finds that all or most of the Trust's attacks directed at Ms. Tracy Brunings' report are valid, we submit that the Appeal Authority would have no option but to reject that report in its entirety. The end result would be that there would be no report by a registered planner to serve before the Appeal authority. Therefore, we submit that, in order for the Appeal Authority to finalise the appeals before it, it would be prudent for the Appeal Authority to commission another registered planner to undertake the necessary assessment of the Trust's application in its entirety.
21. In other words, we emphasise that, the Trust must not be entitled to an approval on the back of what the Trust would have demonstrated to be a flawed assessment report, but the Trust must be given another opportunity to have its application assessed and reported upon by a different registered planner. We base our view on the fact that the Appeal Authority has an obligation to consider a registered planner's written assessment report produced in terms of section 65(1)(g) of the By-law. In this regard we note that, in terms of section 81(10), the

Appeal Authority may appoint a technical advisor to advise or assist it with regard to a matter forming part of an appeal.

MUNICIPALITY'S CONFLICT OF INTEREST

22. On the facts of this matter, the Langeberg Municipality is affected by a conflict of interest. Below, we set out the factual basis relating to the conflict of interest and the applicable legal principles.
23. Since February 2017, the Trust has been in continuous contravention of the By-law. Section 86(1)(b) of the By-law states that:

"A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she –

...

utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality".

24. Section 86(2) provides that:

"An owner who permits his or her land to be used in a manner set out in subsection (1)(b) and who does not cease that use or take reasonable steps to ensure that the use ceases, who permits a person to contravene the zoning scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment."

25. In February 2017, the Trust allowed the commencement of the operation of the compost facility on Portion 6. The negative impact on the neighbouring area was immediate. Hence, some of the affected parties lodged complaints with the Municipality. In her Land Planning Use Assessment Report dated 18 January 2019 (hereinafter referred to as "Ms. Tracy Brunings' report"), Ms. Tracy Brunings recorded that:

"The composting facility commenced operating prior to any application being lodged. Following complaints, a site meeting was held on 15 February 2017 with the owner and various authorities (including Langeberg Municipality, DEADP and CWDM). The owner was advised that he did not have all the required approvals in order to conduct the waste composting facility on the property in question, and that the existing shed had been built without approved building plans."²

26. The above is an indication that, from the Municipality's own records, the Municipality became aware of the Trust's violation of the By-law in February 2017. The Trust has asserted that the Municipality became aware of the intention to commence the operation of the compost facility as early as August 2016. At Paragraph 9 of the Trust's appeal, it is asserted that:

"... the Municipality, as well as various other officials as mentioned above and below, were informed as early as 10 August 2016, that the Appellant intended to produce/generate compost on Portion 6 from organic by products emanating from the abattoir. No objection to the proposed compost facility was ever received from that day onward (until a year later on 15 February 2018 as will be alluded to below) and neither did the abattoir receive clear instructions/advice at the time from the Municipality

² Paragraph 2.1.

that Portion 6 will need to be rezoned for that purpose in terms of the Section 8 Scheme to cater for such a facility/activity/use.”

27. While the Objectors do not have a copy of the *First Notice of Non-compliance* dated 15 February 2018, according to the Trust, in that notice, the Municipality demanded the Trust to immediately cease operating the compost facility on Portion 6. In the *Second Notice of Non-compliance* dated 25 February 2019, the Municipality noted that the compost facility was still in operation and instructed the Trust to “immediately make alternative arrangement for the disposal of the Robertson Abattoir waste and await the outcome of the abovementioned application.”
28. The Trust also states that, in the *Second Notice of Non-compliance*, the Municipality threatened the Trust with further action, including prosecution for the contravention of the provisions of the By-law.
29. Despite the measures taken by the Municipality (the issuing of the abovementioned notices), the operation of the compost facility continued. Instead of complying with the notices issued by the Municipality, the Trust made submissions to the Municipality. However, the Municipality never withdrew or set aside the compliance notices. On the other hand, the Municipality never took further steps.
30. In Ms. Tracy Brunings’ report, the following is recorded as the rationale for the Municipality’s decision not to take further action against the Trust:

“A penalty was paid as part of the land use application as the use had commenced operating prior to the necessary authorisation. It was decided not to take further legal action at this stage, given the pending applications and the lack of an acceptable alternative, to treat and dispose of the

abattoir waste. The economic implication of closing the abattoir were also taken into consideration.³

31. At no point did the Municipality concede that the operating of the compost facility on Portion 6 falls within a permitted use in terms of Agricultural Zone I. This is clear in Paragraph 3.2 of Ms. Tracy Brunings' report where she states that the Municipality's Town Planning Department regards a compost facility as a (Noxious Trade) which is not permitted in the Agricultural Zone I and for which rezoning to Industrial Zone II is required.
32. It is respectfully submitted that the Trust's interest to operate the compost facility (notwithstanding the notices issued by the Municipality) converged with the Municipality's interest to provide an outlet in order "to treat and dispose of the abattoir waste". We make this submission on the basis that the Trust noted that the Municipality announced during 2015 that the Municipality was going to discontinue removal of abattoir organic waste generated by the abattoir at Robertson "as from the end of 2016".⁴ According to the Trust, the Trust was left with no option but to find its own solution/s in respect of its own organic waste disposal. It appears that, given the converging of the Municipality's and the Trust's respective interests, the Municipality "understands" the Trust's continuation of the operation of the compost facility.
33. It is respectfully submitted that the abovementioned understanding constitutes bias in favour of the authorisation of the compost facility. The implications of that bias have already manifested themselves: It is submitted that the report produced by Ms. Tracy Brunings provides clear evidence of that bias. In that report, Ms. Tracy Brunings' objective assessment resulted in the justified conclusion that the

³ Paragraph 2.2.

⁴ Paragraph 5 of the Trust's appeal.

expanded compost facility and the proposed feedlot are neither necessary nor desirable on Portion 6.

34. However, Ms. Tracy Brunings' objective assessment did not extend to the consideration in respect of the existing compost facility. In respect of the compost facility, the bias in favour of the facility took effect, with the result that a partial approval was recommended by Ms. Tracy Brunings. This is not an attack on her professionalism, competence, ethics or *bona fides*.
35. What we respectfully submit is that, being an employee of the Municipality she could not ignore the Municipality's interest in the continuation of the operation of the existing compost facility. That interest practically translated into bias.
36. We submit that the Appeal Authority is in the same boat with Ms. Tracy Brunings. That is so because the Appeal Authority is a functionary of the Municipality in the same way as Ms. Tracy Brunings is in her capacity as a registered planner in the employ of the Municipality. Again, our submission is not designed to question the Appeal Authority's personal attributes, professionalism or *bona fides*. Rather, we respectfully point out that the Appeal Authority may not divorce itself from the Municipality's interest.
37. In essence, our submission is that in respect of the Trust's application for the approval of the existing compost facility, the Municipality has a conflict of interest. Principles relating to such situations are better understood with reference to how the Courts have dealt with those situations: the Courts have held that the question is whether or not a reasonable, objective and informed person would on the correct facts reasonably apprehend that the decision-maker has not or will not bring an

impartial mind to bear on the adjudication of a matter, that is a mind open to persuasion by the evidence and the submissions of the parties?⁵

38. Hence, the question on the conflict of interest relates to whether there is a reasonable apprehension that the decision-maker will not decide the case impartially or without prejudice. It is irrelevant in that question whether the decision-maker will decide the case adversely to one party.
39. It is respectfully submitted that, in this case, the question posed above must be answered in the affirmative in the light of all the relevant facts and factors submitted above. However, in the light of the fact that our submission is that it is the Municipality that has a conflict of interest (as oppose to an official in the Municipality), we appreciate the fact that the Municipality's conflict is unresolvable. Unlike a situation where the conflict of interest affects an individual, in this case the Municipality may not recuse itself from the consideration of the appeals relating to this matter, but that does not remove the Objectors' reasonable apprehension of the Municipality's bias. In the end, this specific issue may very well be resolved by the High Court, on judicial review, after the Appeal Authority has made its decision on this matter.

MS. TRACY BRUNINGS' REPORT DATED 18 JANUARY 2019

40. We find Ms. Tracy Brunings' report to be objectionable in so far as it is influenced by the abovementioned bias. It follows that what we find objectionable are those parts that provide a basis for the motivation for the granting of the partial approval. We have explained above the reasons for our misgivings regarding those parts. Importantly in expressing those misgivings above, we have not levelled any gratuitous attacks on Ms. Tracy Brunings.

⁵ *President of the Republic of South Africa v South African Rugby Football Union & Others* 1999 (4) SA

41. It follows that, with the exclusion of the parts referred to immediately above, the Objectors are satisfied with the rest of Ms. Tracy Brunings' report. We do not have misgivings with respect to the rest of that report as:

41.1. It is credible;

41.2. It displays a reasonable assessment of the Trust's application; and

41.3. It took into account all the relevant factors.

42. We therefore reject the Trust's attacks directed at Ms. Tracy Brunings' report and we point out that, if those attacks succeed, the entire report would have to be disregarded. On the other hand, in our view, only limited parts of the report should be disregarded. Below, we address some of the submissions made by the Trust in the attacks directed at Ms. Tracy Brunings.

43. At Paragraph 37 of the Trust's appeal, the Trust denies that the "owner" of Portion 6 was advised that he did not have all the required approvals in order to conduct the composting facility. In fact, the Trust submitted that Ms. Tracy Brunings' statement (relating to that advice) "is blatantly untrue". But, when one has regard to the context of Ms. Tracy Brunings' report it is clear that collaboration was provided for that statement. Quoted in its proper context, Ms. Tracy Brunings' statement is clearly true as it appears below:

"Following complaints, a site meeting was held on 15 February 2017 with the owner and various authorities (including Langeberg Municipality, DEADP and CWDM). The owner was advised that he did not have all the

required approvals in order to conduct the waste composting facility on the property in question, and that the existing shed had been built without approved building plans. The owner appointed Town Planning and Environmental consultants to conduct the required studies and lodge the necessary applications.”⁶

44. We submit that the appointment of the consultants referred to immediately above could only have been necessitated by the advice that was given during the site visit which pointed out that there are (some) approvals required. It follows that to say Ms. Tracy Brunings’ statement “is blatantly untrue” is unfounded. It is clear that, to Ms. Tracy Brunings’ mind, the Trust’s appointment of the consultants was initiated by the advice at the site meeting held on 15 February 2017.
45. Related to the above, we point out that the Trust does not take its point further by reiterating that the penalty fee (referred to by Ms. Tracy Brunings) was specifically paid under protest and to simply speed up the pending applications and not as an acknowledgement of having transgressed any Municipal By-laws or other laws. Ms. Tracy Brunings is aware of the Trust’s stance and it was not necessary to record that aspect in that part of her report.
46. The Trust attempts to confuse the matter by quoting sub-paragraph 3.2.5 of Ms. Tracy Brunings’ report where it states:

“Further, the total future extent of the proposed Composting Facility requires a licence for a listed activity in terms of the NEM: Air Quality Act 39/2004 ... and the NEM: Waste Act, 2008 ...”.

⁶ Paragraph 2.1

47. We respectfully point out that the Trust attempts to emphasise the quotation set out immediately above without having due regard to its context. First, the quotation represents one of the points considered by Ms. Tracy Brunings in respect of whether or not the compost facility falls under the definition of “agriculture”. It is one of the points that were considered and the others are set out in subparagraphs 3.2.1, 3.2.2, 3.2.3 and 3.2.4. We do not quote these paragraphs but merely draw the attention of the Appeal Authority to them as they provide a proper context.
48. Secondly, we point out that, in its entirety, Paragraph 3 dealt with the question of whether or not the operation of the compost facility qualified as an agricultural use which falls within the zoning of Agricultural Zone I. In the end, Ms Tracy Brunings concluded that:

“In conclusion, an abattoir waste composting facility does not fall under the definition of agriculture. The Zoning Scheme does not specifically define a waste management activity. The definition of a noxious trade is the most applicable definition and therefore application to rezone to Industrial Zone II is required.”⁷

49. At Paragraph 39 of the Trust’s appeal, the Trust points out that, among other conclusions, Ms. Tracy Brunings concluded that the proposed composting of abattoir waste is “one of the most environmentally friendly ways to process and treat this waste, turning it in to a useful input product in the agricultural sector rather than dumping or burying this waste or unnecessary filling up landfill space.”⁸ While the Trust seeks to use those conclusions in order to demonstrate that, in light of those conclusions, Ms. Tracy Brunings should have recommended the

⁷ This conclusion is set out at the end of Paragraph 3, on Page 10 of Ms. Tracy Brunings’ Report.

⁸ Page 13 of Ms. Tracy Brunings’ report.

authorisation of the entire application, we are of the view that, while there is a grain of truth in this specific conclusion, it is coloured by the Municipality's interest discussed above. We emphasise that the view that composting of abattoir waste is "one of the most environmentally friendly ways to process and treat this waste" does not take into account the impact of the composting activities on the neighbours. We submit that the place where this supposedly friendly activity takes place still needs to be suitable for the proposed land use.

50. The Municipality's interest referred to above is clearly visible if one considers the other conclusions as well. The first conclusion reads thus:

"Abattoir waste is a significant waste stream in the district and needs to be disposed of. All solutions that are able to provide environmentally and financially viable solutions for abattoir waste treatment should be encouraged. The recycling of waste products into compost, a useful product in the agricultural sector, is viewed positively.⁹

51. The other conclusions that then follow from the one quoted immediately above appear to be tailored in order to justify the authorisation of the compost facility as it currently exists. The justification is at the heart of the conflict of interest we refer to above. We clarify that those conclusions constitute parts of what we believe should be rejected from Ms. Tracy Brunings' report. It follows that we submit that the Trust's reliance on those parts does not take the matter any further.

THE NOTICES OF NON-COMPLIANCE

52. In its appeal, the Trust submitted that the issuing of two notices of non-compliance against the Trust was vexatious and "akin to harassment" of the Trust's lawful

⁹ Page 13 of Ms. Tracy Brunings' report.

endeavour. We are of the view that there is no basis for that submission. But there is a point that is missed by the Trust. We explain this point below.

53. We respectfully point out that, in as much as the Trust has every right to challenge steps taken by the Municipality, the Trust does not have a right to ignore the notices of non-compliance issued by the Municipality. That is so because the issuing of those notices is an administrative act performed by the Municipality and such an act must be respected by those who are governed by the Municipal laws.
54. In particular, we draw the attention of the Appeal Authority to the importance of ensuring that even notices that the recipients deem as unlawful those notices must still be adhered to. In *Oudekraal Estates (Pty) Ltd v City of Cape Town and Others* 2004 (6) SA 222 (SCA), the Supreme Court of Appeal held that:

“ ... our law has recognised that even an unlawful administrative act is capable of producing legally valid consequences for so long as the unlawful act is not set aside.”¹⁰

55. We emphasise that the Trust has ignored two administrative acts issued by the Municipality. Therefore, we respectfully submit that the Trust comes before the Municipality with unclean hands. Those unclean hands are part of the factors that the Appeal Authority must take into account in making its decision on this matter. In particular, the Appeal Authority must take into account that, while the Trust has been emphatic in enforcing what it believes are its rights, the Trust has ignored its obligation to comply with the notices of non-compliance even if it believes those notices are unlawful.

¹⁰ Paragraph 26 at Page 241.

56. We take note of the fact that the Trust's stance is based on the legal advice received from the Trust's attorneys. In *Khabisi NO and Another v Aquarella Investment 83 (Pty) Ltd and Others (9114/2007) [2007] ZAGPHC 116*, the High Court had this to say to parties (respondents) who had adopted a stance similar to the stance that is adopted by the Trust in this matter:

"It seems to me that either the respondents received wrong legal advice or they laboured under a serious misunderstanding of the law to the extent where they believed that they could appoint themselves as the sole arbiters of the validity and/or otherwise of second applicant's decision to issue compliance notices."¹¹

57. We respectfully submit that the Trust is in the same boat as the respondents in the judgement quoted above. We urge the Appeal Authority to take into account the Trust's unclean hands when considering the Trust's appeal. The Trust is in wilful disregard of the Municipality's authority. We submit that, in all likelihood, the Trust would disregard conditions of authorisation that the Appeal Authority would include (if approval were to be granted) if the Trust is of the view that the condition concerned violated its rights. Why then should the Trust be given an approval in the circumstances?

COURT ORDER REFERRED TO AND INCLUDED IN THE TRUST'S APPEAL

58. The Trust included a copy of the Court Order which was obtained by way of settlement in respect of the Trust's application relating to the environmental authorities' rejection of the Trust's applications for an environmental authorisation and a waste management licence.¹² The Trust correctly noted that, at the time of

¹¹ Paragraph 22.

¹² See Paragraph 39 of the Trust's appeal and the Court Order marked "A11".

the drafting of Ms. Tracy Brunings' report, that Court Order had not been obtained yet. What we point out is that the Appeal Authority must consider that Court Order with caution. That is so because the Court did not issue a reasoned judgement on the rights and responsibilities of the parties that were before the Court. We respectfully submit that the Court Order should not be used as proof of the fact that the Trust and its legal representatives are correct on the legal issues that were raised before the Court regarding the conduct of the environmental authorities.

59. In addition, while at Paragraph 122 of its appeal, the Trust states that the environmental authorities conceded that their decisions were wrong, this is not stated in the Court Order. The Appeal Authority, therefore, is left in the dark with respect to that alleged concession and its extent.
60. The Appeal Authority, therefore, must not allow itself to be pressured by the Trust into granting the approval applied for by the Trust on the basis that the Trust and its legal representatives are always right on the law. The question of the validity of all the legal points raised by the Trust and its legal representatives (on all the aspects relating to this matter) has not been determined.

APPEAL AGAINST THE DECISIONS TO GRANT SAFAM AN ENVIRONMENTAL AUTHORISATION AND WASTE MANAGEMENT LICENSE

61. We draw the Appeal Authority's attention to the recent decisions made by the Western Cape Department of Environmental Affairs and Development Planning (hereinafter referred to as "the Department") to grant the South African Farm Assured Meat Group CC (hereinafter referred to as "SAFAM") an Environmental Authorisation and Waste Management License. The need for the obtaining of those authorisations was part of the "Conditions of Approval" in respect of the rezoning decision.
62. The abovementioned decisions will be challenged by the Objectors through an internal appeal procedure as prescribed in Chapter 2 of the National Appeal Regulations, 2014.

Hence, the Environmental Authorisation, Waste Management License and, consequently, the Rezoning Decision, which is subject to the “Conditions of Approval”, will be suspended until the outcome of the appeal, placing the rights of the parties on hold until such time.

63. The main basis upon which the Objectors are challenging the decision to grant the Environmental Authorisation and Waste Management License relates to the inaccuracy of information submitted to and relied upon by the Competent Authority.
64. To explain, a Survey Diagram was provided to the Competent Authority by SAFAM indicating that the total area used for treatment and storage of the compost is 8433 square metres, thereby proving that 1 hectare had not been transgressed.
65. However, upon requesting the co-ordinates of the surveyed areas from the Land Surveyor, we were able to show that certain infrastructure related to the compost facility had not been included in the Survey Diagram, thereby providing an inaccurate representation of the extent of the facility. For ease, we have provided the image below illustrating the surveyed areas according to the co-ordinates provided:



66. Provision of inaccurate information, such as the information provided by SAFAM, has the ability to completely alter the decision made by the Competent Authority who relies on information submitted by SAFAM.
67. Ultimately, SAFAM has pursued the incorrect process. They have applied for an environmental authorisation authorising them to develop land bigger than 1 hectare, however, as demonstrated above, **development of 1 hectare has already taken place**. Thus, the correct procedure to be followed by SAFAM would be the procedure set out in section 24G of NEMA.
68. Therefore, we are confident the appeal against the decision to grant the Environmental Authorisation and Waste Management License would be upheld.

TRUST'S NIT-PICKING OF THE TRIBUNAL'S DECISION

69. A significant portion of the Trust's appeal is dedicated to the nit-picking of the Tribunal's decision. In our view, notwithstanding that nit-picking exercise, the Trust has not demonstrated that there is need and desirability for the land uses proposed by the Trust on Portion 6. In this regard, we refer the Appeal Authority to the Objectors' appeal, specifically from Paragraph 52 to Paragraph 59, as well as the accompanying annexures. We do so in order not to overburden this document.

ALLEGED UNDUE INFLUENCE BY CERTAIN OBJECTORS

70. At Paragraph 127 of the Trust's appeal, it is stated that Ms. Tracy Brunings "was unduly influenced by objectors (or unknown third parties?) to an extent of losing her objectiveness." First, we deny that the Objectors had any undue influence on Ms Tracy Brunings. Secondly, as we submitted above, it is the Municipality that is biased in favour of authorising the existing compost facility. Thirdly, other than

being involved in this matter in her capacity as the official of the Municipality, Ms. Tracy Brunings has no other interest in this matter.

71. We point out that the Trust's theory of what influenced the Tribunal's decision is fundamentally flawed. The Trust's theory is that Ms. Tracy Brunings' bias played a significant role. That theory disregards the fact that it is the Municipal bias which is at the heart of Ms. Tracy Brunings' report and the Tribunal's decision. By failing to identify such an important factor, the Trust has misdirected itself by submitting a flawed appeal that does not address the most important aspect of this matter.

RELIEF SOUGHT BY THE TRUST

72. We are of the view that there are no grounds for the granting of the relief sought by the Trust. Instead, the Appeal Authority has grounds to reject the Trust's appeal and to refuse the Trust's application in its entirety.
73. Finally, we urge the Municipality to take the necessary legal steps in order to stop the unlawful operation of the compost facility on Portion 6 immediately after the Appeal Authority has issued his decision. To that end, we urge the Appeal Authority to give a clear instruction to the Trust to cease the unlawful utilisation of Portion 6 in the appeal decision forthwith.

Yours faithfully
Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)

Date: 13 December 2019

Annexure 7

Appeal 2: Christo Reederers - Perisseia

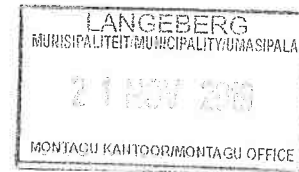


CHRISTO REEDERS ATTORNEYS

ENVIRONMENTAL LAW • MINING LAW • COMMERCIAL LITIGATION

21 November 2019

Appeal Authority
Langeberg Municipality
3 Piet Retief Street
Montagu
6720



By e-mail: admin@langeberg.gov.za
MM@ langeberg.gov.za
tbrunings@ langeberg.gov.za

Copy to:

The Director: Development Management (Region 2)
Department of Environment Affairs and Development Planning (DEA&DP)
Private Bag X9086
Cape Town
8000

By e-mail: Helene.janser@westerncape.gov.za

Dear Sir/Madam,

**APPEAL IN TERMS OF SECTION 79 OF THE LANGEBERG MUNICIPAL LAND
USE PLANNING BYLAW, 2015 AGAINST DECISION TO REZONE FROM
AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II IN RESPECT OF PORTION 6
OF MIDDLEBURG 10, ROBERTSON**

1. We represent Perisseia (Pty) Ltd, a directly neighbouring landowner which is a materially interested and affected party for purposes of the application to rezone from agricultural zone 1 to industrial zone II (abattoir compost facility) and consent for intensive feed farm (sheep) in respect of Portion 6 of the farm Middelburg 10, Robertson ("the application"). We also represent the individual representatives/officer bearers of that company, namely Mr Johan Fourie and Mr Le Roux Fourie (collectively, "our clients").

2. Our clients are persons affected by the decision taken on the application as contemplated in Section 79 of the Langeberg Municipal Land Use Planning Bylaw ("the Bylaw") and are therefore entitled to submit an appeal in terms of the materially relevant provisions, *inter alia*, section 79(2). Accordingly, we have been instructed to submit an appeal on our clients' behalf against the decision taken by the Langeberg Municipal Planning Tribunal ("the Tribunal") to approve the rezoning of 1.3 ha of Portion 6 of the farm Middelburg 10, Robertson from agricultural zone 1 to industrial zone II (noxious trade) for a compost facility on 18 October 2019. A copy of the duly completed prescribed application form as contemplated in the Bylaw and as signed by our clients will be transmitted under separate cover. This document must be read together with this covering letter which provides the detailed grounds of appeal.
3. Please note that inasmuch as our clients support the decision by the Tribunal to reject the application for consent for an intensive feed farm (sheep feedlot with a maximum of 4,500 lambs), our clients do not appeal that portion of the decision.

Procedural Reservations

4. Notwithstanding their direct interest in the application, and in contravention of the prevailing procedural and administrative law obligations, our clients have still not received formal notification of the Tribunal's decision.
5. Since our clients were fortunate enough to have been provided a copy of the Tribunal's decision by a fellow interested and affected party on 1 November 2019, we submit this appeal on their behalf today, within 21-days of provision of a copy of the decision.
6. In addition, it does not appear that our clients were provided adequate notice of the application at the time the application was made. It appears further, that despite Section 53 of the Bylaws and the principles of administrative justice and fairness, the Tribunal (and the municipality) failed to exercise its discretion to require further "public notice". This ought to have been done to ensure proper notification and public participation, particularly given that the activity which is subject to the application is also subject to multiple other approval processes, inclusive of appeals.

7. For ease of reference, we note that that Section provides that:

"The Municipality may require that notice of an application be given again if more than 18 months have elapsed since the first public notice of the application and if the Municipality has not considered the application".

8. Having apparently been submitted during November 2017 but only processed some two (2) years later, the application has not been processed in accordance with the prescribed and mandatory time periods as contemplated in Section 57 of the Bylaws.
9. In addition to the applicant's continued failure to comply with the law in general, we have also noted the applicant's failure to meet reasonable requests for information made by the Tribunal as well as provide information on allegedly viable composting alternatives. Notwithstanding the applicant's refusal to provide this information to the Tribunal (and interested and affected parties), the Tribunal approved the composting facility.

Substantive Grounds of Appeal

10. Our clients' grave reservations continue to be aligned with previous appeals and comments on other applications submitted on our clients' behalf. We attach a copy of the appeal submitted on our clients' behalf on 12 June 2018 for completeness sake.
11. In reaching the decision that it did, the Tribunal has failed to properly consider all relevant factors and criteria including those contemplated in Section 2 of the National Environmental Management Act, 1998 (applicable to any decision which may impact the environment) and the criteria specified in Section 65 of the Bylaws. Without limiting the criteria which must be considered in terms of Section 65, we note specifically the failure to have properly considered the desirability of the proposed utilisation of land; the comments by interested and affected parties and other authorities (including the Department of Environment's Compliance and Enforcement Team) and investigations required to be conducted in terms of other laws.
12. In addition, on a review of the reasons provided for the rejection of the feedlot, the decision to have approved the composting facility is clearly unreasonable, irrational and contrary to the prevailing legal principles for the following reasons:

- 12.1. The applicant's history of recalcitrant non-compliance and clear disregard for the environment and neighbours is a material and relevant consideration under any circumstances. This factor is even more relevant in respect of an application to conduct a noxious and offensive trade which has the very significant potential to impact on the health, wellbeing and businesses of the surrounding community and also the environment. We cannot but point out that despite compliance notices and the absence of the requisite regulatory approvals, the applicant appears to persist in its unlawful conduct without the necessary protections and measures and to the detriment of the environment and neighbours;
 - 12.2. while we note, with respect, the Tribunal's decision only to approve the composting facility, it is submitted that that facility is as much a concern from a health, social and environmental perspective as the proposed (but prudently rejected) feedlot and therefore, it ought also to have been refused;
 - 12.3. moreover, and since the applicant had applied for approval for both a feedlot and a composting facility, there was no information before the Tribunal which confirmed that the composting facility is sustainable and financially viable as a stand-alone component of the proposed activity. Ultimately, this poses and even greater environment, health and social risk since the financial wherewithal to implement the necessary measures to mitigate and curtail these impacts may not be available. This is even more concerning given the applicant's predisposition to taking procedural short-cuts.
13. We note also that the reasons for the refusal of the Intensive Farm (feedlot) ought reasonably and prudently to have applied to a refusal of the proposed composting facility. This is particularly so because there are no reasons provided which might indicate why the contrary may be true. These include the following:
 - 13.1. Information on water availability is incomplete – This information ought also to have been made available for the composting facility;
 - 13.2. The proposed feedlot is within a CBA area and important ecological corridor as identified in the WC BSP, 2017 and is therefore not consistent with the WCPSPDF's Rural Land Use Guidelines (March 2019) – This is equally a concern for the composting facility;

- 13.3. The applicant has indicated how they intend to minimise flies and odours, but the BAR has not assessed the cumulative impact of odours and flies from the compost facility and feedlot on the health and well-being of residents and tourists, and on the surrounding natural and agricultural environment and the socio-economic impact thereof. The applicant dismissed the Tribunal's request for the compilation of an Atmospheric Impact Report to assess such impact. As such, it is not possible to conclude that the proposed feedlot, in addition to the compost facility, will not infringe on the "*right to an environment which is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development (Section 24 of the Constitution)*" – This is equally a concern for the composting facility and demonstrative of an obdurate applicant with little, if any, regard for the environment and the surrounding community;
- 13.4. Given that the compost facility has already drawn complaints in terms of flies and odours, cumulative impacts from an additional land use which also generates flies and odours are not in the public interest; not consistent with existing rights; are inconsistent with the sustainability of agri-tourism businesses; and are inconsistent with the principles of spatial justice and spatial sustainability (Section 59 of LUPA No. 3 of 2014) – This is again equally applicable to the composting facility. It is also demonstrative of an applicant which is unable to manage the impacts of its activities;
- 13.5. It would be short-sighted to approve the feedlot, where the prime reason for locating on the application site relates to the provision of manure to the compost site, when there is the possibility that alternatives to composting (which do not require manure) may prove more viable / sustainable on the application site in the foreseeable future – If these alternatives do not prove viable, there is no longer any business case for the composting facility. Plainly, the two (2) proposed activities cannot proceed in isolation and this decision is apparently premature and made in the absence of material and relevant information. More concerning is the apparent approval of a composting facility without taking cognisance of the proposed composting source and therefore the particular health implications associated with the source to be used. This concern also goes to our concern;
- 13.6. No storm water management plan has been prepared for the feedlot to enable an assessment of the desirability of the proposed location thereof. The applicant dismissed the Tribunal's request for such plan. [Note: The Soil Study

(AVS, Nov. 2015) was conducted for the compost facility prior to the proposal for the feedlot.] – Once again, this is indicative of an applicant with little regard for either the Tribunal or the environment. A storm water management plan is equally essential for a composting facility.

- 13.7. Raising live sheep in a feedlot some 100 m from a compost facility where dead animals and animal waste is being dumped and treated, with the presence of associated flies and odours, is not deemed to be desirable. In addition to ethical concerns, no proof has been provided that this is desirable in terms of the implication for food quality and food safety – This statement clearly indicates that the Tribunal remains concerned about the presence of dead animals, animal waste and associated flies and odours. The question must be asked – why is it considered appropriate for sheep not to be raised in the area, but it is considered appropriate for neighbours and their animals to live in and be affected by these activities? Unless this conundrum is adequately explained, the decision is plainly irrational, amongst other things.
14. Even were our clients not to oppose the application in its entirety, we note that the Tribunal has further failed to apply its mind by failing to incorporate any appropriate conditions aimed at mitigating the significant impacts likely to be suffered by the neighbouring community and the environment. This is notwithstanding the applicant's poor environmental management and associated compliance track record.
15. We submit that in the prudent exercise of its discretion the appeal authority must uphold this appeal. Our clients reserve their right to supplement this appeal should further information become available.

Yours faithfully,



~~CHRISTO REEDERS ATTORNEYS~~

Tracy Brunings

From: Christo Reeders <christo.reeders@crattorneys.co.za>
Sent: Thursday, 21 November 2019 11:53 PM
To: Langeberg Municipality; MM; Tracy Brunings
Cc: Helene.janser@westerncape.gov.za
Subject: APPEAL SUBMITTED ON 12 JUNE 2018
Attachments: SCAN_20180612_191806635.pdf

Importance: High

Dear Sir / Madam,

Attached is the appeal submitted on 12 June 2018 and to which me make reference in and which supports the fresh appeal sent to you moments ago.

Yours faithfully,

Christo Reeders.



CHRISTO REEDERS ATTORNEYS

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CHRISTO REEDERS ATTORNEYS

ENVIRONMENTAL LAW • MINING LAW • COMMERCIAL LITIGATION

12 June 2018

Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning
Private Bag X9186
Cape Town
8000

ATTENTION: MR JAAP DE VILLIERS

By e-mail: Jaap.DeVilliers@westerncape.gov.za

Dear Sirs,

**APPEAL AGAINST DECISION TO APPROVE LAND DEVELOPMENT
APPLICATION: PORTION 6 OF THE FARM MIDDELBURG NO. 10, ROBERTSON**

1. We represent Perisseia (Pty) Ltd, an interested and affected party for purposes of the application for the "*proposed composting facility for the disposal of animal by-products*" on portion 6 of the Farm Middelburg 10, Robertson. We also represent the individual representatives / office bearers of that company, namely Mr. Johan Fourie and Mr. Le Roux Fourie (collectively "our clients").
2. We attach as annexure "A", the duly completed prescribed appeal form as well as the required supporting information including notification of the decision and the decision and reasons for it. As indicated in the appeal form, we include the appeal grounds in this letter, as below.
3. For purposes of part E of annexure "A", we confirm that our clients' interest is in protecting and maintaining their beneficial use and enjoyment of their properties as well as in ensuring that their right to an environment that is not harmful to health and wellbeing is respected and observed.
4. The appeal motivation and reasons as required by Part F of annexure "A" are set out below.

Inadequate notification and access to information

5. Although the Land Use Planning Act, 2014 ("LUPA") empowers parties who submitted comments on land development applications, the appellants noted and/or received no notification of the application and accordingly did not submit any comment on the application. Notification of the application was inadequate and failed to solicit the inputs and comments of interested and affected parties, thus rendering the public participation process patently inadequate and failing to meet its objectives and purpose. It goes without saying that any decision taken in the absence of a public participation process that will pass muster, allied to input and comment from interested and affected parties, falls to be set aside on the bases that it is a wholly procedurally and substantively defective decision which, *inter alia*, failed to take into account all relevant considerations.
6. It is submitted that had the appellants either noted or received notification of the application, they would without fail have submitted objections to the land development as they have done in relation to the environmental authorisation and waste management licence application process. Copies of our clients' objections to that process dated 18 July 2017 and 16 April 2018 respectively are attached to this letter as annexure "B".
7. In our earlier correspondence to the Department of 1 June 2018, we requested a copy of the application. Rather than simply being provided with a copy of the application as might reasonably be expected, given the prevailing access to information- and administrative justice principles, we were directed to the process prescribed in the Promotion of Access to Information Act, 3 / 2000 ("PAJA"). We are curious about the stance adopted under circumstances where the I&AP's were as of right entitled to receive all material / relevant documents in order to exercise and protect their section 24 rights; yet, having not received any such documents, in order to now exercise their rights, they are obliged to follow the PAJA route. This is plainly an irrational stance and one that is highly prejudicial to our clients. We are hardly likely to request these documents if indeed our clients had been placed in possession thereof timeously. Evidently, it is impossible for the appellants to properly exercise their right of appeal in view of the stance you have adopted. We shall therefore shortly be submitting a request in terms of PAJA and we reserve the appellants' rights to supplement this appeal upon receipt of the documents requested. Take note further that we intend drawing attention to this unacceptable imposition in any future proceedings.

8. The Department's refusal to provide a copy of the application to interested and affected parties for purposes of lodging an appeal unless a PAJA request is submitted raises concerns regarding the independence of decision making in this matter.

Application does not meet objectives of LUPA

9. Section 53, as read with section 55 of LUPA requires that a competent authority must consider whether the aspects of a proposed land development application will have an effect on, amongst other things, the general welfare of the inhabitants of a region, the Province or agriculture.
10. Without having received comments from interested and affected parties and further, that the report published in the environmental authorisation- and waste management licence application was not particularly forthcoming in respect of all pertinent information, it would appear that the competent authority failed to consider either sufficiently or at all:
 - 10.1. the previously and ongoing unlawful nuisance and potential health impacts associated with the applicant's activities;
 - 10.2. the applicant's apparent inability to manage the site as has been demonstrated by complaints previously lodged with various departments;
 - 10.3. the likely devastating impact that this single proposed activity (which predominantly benefits only the applicant) will have on surrounding land owners and occupiers' continued beneficial use of their properties; and
 - 10.4. the fact that the National Environmental Management: Waste Act, 2008 no longer contemplates "by-products" as alleged by the applicant. The animal carcasses and remains to be composted in fact and per definition constitute waste products. Essentially, therefore, the competent authority is permitting the erection of a waste facility which may well have adverse health impacts on people and animals in an otherwise rural and pristine natural environment.
11. Significantly none of the above factors have been considered in the reasons for the decision provided to the appellants.

12. The need and desirability of the proposed development within the area in which it is contemplated has not and cannot be demonstrated. This aspect is one of the most important considerations to be taken into account by the decision maker / competent authority. Reliance on the draft guidelines such as the 2013 National Organic Waste Composting Strategy: Draft Guideline Document to support this application is ill-considered, more particularly since that draft has never been finalised and is highly likely to be significantly outdated, in view of the substantial changes in environmental legislation and policy considerations since then.
13. In finding that the composting facility has no "*negative visual impacts*", the competent authority failed to appreciate that it carries a number of other more distressing impacts, including health and odour.
14. It is submitted that in placing reliance on the likely conditions to be imposed in the environmental authorisation and waste management licence, the competent authority contravened section 54(6) of LUPA.

Decision maker misdirected himself

15. On reading the reasons for the decision, it is submitted that the decision maker failed to apply the provisions of the draft guidelines to the context of the application itself. Rather, the decision maker has, on the face of it, simply regurgitated the benefits espoused by the applicant of organic composting and the like. The draft guidelines are not to be applied in a vacuum. Rather the benefits contained therein are to be considered and balanced against the impact of the development on the broader surroundings to which the application pertains.

Concluding remarks

16. In the premises, the decision taken is in contravention of the principles of administrative justice including those set out in PAJA.
17. We confirm your advices that there is no appeal fee due, owing or payable in respect of this appeal. In the event that any fee is or becomes payable for the due processing of this appeal, we tender payment of this fee and we await your further advices in this regards.
18. The supporting documentation attached to the prescribed appeal form includes the published notification which appeared on 22 May 2018. This appeal is therefore submitted within the required 21-day period within which to lodge an

appeal. In order to enable us to do so, we require copies of the application submitted to the Competent Authority, the decision and the reasons for the decision.

19. We await the outcome of the appeal in due course.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Christo Reeder', written over a horizontal line.

CHRISTO REEDERS ATTORNEYS



Western Cape
Government
Environmental Affairs and
Development Planning

"A"

APPEAL FORM

(Section 56 of the Act and regulation 23)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Address of Department (To be completed by an official)			
Reference number (To be completed by an official)			
Complete this form using BLOCK letters and ticking the appropriate boxes.			
Note: An appeal to the Provincial Minister must be submitted within 21 days of the date of notification of the decision.			
PART A: APPEAL			
Are you appealing against the decision of the Head of Department?		☒ Y	☐ N
Are you appealing against a condition of approval imposed by the Head of Department?		☐ Y	☒ N If yes, list condition(s) in Part F
Are you appealing because your rights have been affected by the failure of the Head of Department to decide on your application within the prescribed period?		☐ Y	☒ N
Date of decision	09-06-2018	Date of notification	22-05-2018
PART B: APPELLANT'S DETAILS			
First name(s)	JOHANNES LE ROUX		
Surname	FOURIE		
Company or legal person's name (if applicable)	PERISSEIA (PTY) LTD		
Physical address	11 GLEN EAGLES ROAD, MZINGABI GOLF ESTATE, RICHARDS BAY		
Postal address (if different from physical address)	P.O. Box 374 RICHARDS BAY	Postal code	3900
E-mail	leroux@dmvr.b.co.za		
Tel.	035 7891828	Fax	035 7891892
		Cell.	082454 9191



Western Cape
Government
Environmental Affairs and
Development Planning

APPEAL FORM

(Section 56 of the Act and regulation 23)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

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Are you appealing because your rights have been affected by the failure of the Head of Department to decide on your application within the prescribed period?		☐ Y	☒ N
Date of decision	09/05/2018	Date of notification	22/05/2018
PART B: APPELLANT'S DETAILS			
First name(s)	JAN PETRUS		
Surname	FOURIE		
Company or legal person's name (if applicable)	PERISSEIA (PTY) LTD		
Physical address	BUITENSTEKLOOF FARM ROBERTSON		
Postal address (if different from physical address)	P.O. Box 765 ROBERTSON	Postal code	6705
E-mail	johannie@banvallei.co.za		
Tel.	(023) 6265376	Fax	—
		Cell.	0824681151

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)						
Number(s) of Erf/ Erven/Portion(s) or Farm(s)	MIDDELBURG 10 PORTION 3 & PORTION 4 REMAINDER MIDDELBURG 10; LANGLIEU 52 DEIL 17 NORREE 11 PORTION 1 & PORTION 4 REMAINDER VOETPAGSBURG 2 PORTION 1			Town/City	ROBERTSON	
Physical address	BUITENSTEKLOOF FARM ROBERTSON					
Geographical Coordinates (Degrees, minutes & seconds)	33	44	00	S	19 44 51 E	
PART D: DESCRIPTION OF PROPERTY ON WHICH DEVELOPMENT IS TO TAKE PLACE						
Number(s) of Erf/ Erven/Portion(s) or Farm(s)	PORTION 6 OF THE FARM MIDDELBURG NO. 10, ROBERTSON			Town/City	ROBERTSON	
Physical address						
PART E: APPEAL FROM AFFECTED PERSON(S)						
How were you notified of the decision that you are appealing against?	Newspaper	☒ Y	☐ N	Provincial Gazette	☐ Y ☐ N	Other (specify)
State* why the decision or conditions of approval or both affect your rights:						
SEE COVERING LETTER						
* Statements may be attached.						
PART F: APPEAL MOTIVATION AND REASONS						
SEE COVERING LETTER						
* Appeal motivation and reasons may be attached.						

PART G: APPEAL FEE* (Annexure D)

NIA GAS PER DEPARTMENTAL GUIDANCE

Appeal R0

Total appeal fee R0

EXEMPTION FROM APPEAL FEES* (Annexure D)

The development is a community based project funded by a government grant.

Y

N

The applicant is an organ of state.

Y

N

* The appeal fee does not include the costs for giving notice in terms of regulation 23 because the appellant is liable for the costs of these notices.

** If exempted from paying appeal fees, attach proof.

BANKING DETAILS (to be completed by an official)

Name: Department of Environmental Affairs and Development Planning

Bank:

Branch no.:

Account no.:

*** Fee reference:

(Your specific fee reference number MUST be used as deposit reference when making a payment.)
*** Kindly obtain a specific fee reference number from the Department.

BANKING DETAILS OF APPELLANT (regulation 35)

The appellant must complete his or her banking details below for purposes of a refund of the appeal fees if the appeal is withdrawn and the appeal fees are not forfeited.

Name:

Bank:

Branch no.:

Account no.:

PART H: ATTACHMENTS AND SUPPORTING INFORMATION

Complete the following checklist and attach where applicable.

☒	N/A	Proof of notification of decision
☒	N/A	Copy of decision and conditions of approval
Y	☒ N/A	Proof of payment of fees
Y	N/A	Statements SEE COVERING LETTER
Y	N/A	Motivation and reasons for appeal SEE COVERING LETTER
Y	N/A	Other (specify)

PART I: DECLARATION	
I hereby wish to confirm that— 1. the information contained in this form and accompanying documentation is complete and correct; and 2. I am aware that it is an offense in terms of section 74(1)(b) of the Act to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.	
Appellant's signature	Date 12/06/2018
Full name	JOHANNES LE ROUX FOURIE
FOR OFFICE USE ONLY	
Date received: Received by: Departmental Stamp	

This form must be addressed to the Department at the details provided below:

DEPARTMENTAL DETAILS		
CAPE TOWN OFFICE: REGION 1 (City of Cape Town & West Coast District)	CAPE TOWN OFFICE: REGION 2 (Cape Winelands District & Overberg District)	GEORGE OFFICE: REGION 3 (Central Karoo District & Eden District)
Applications and requests for specific fee reference numbers must be sent to the following details: Department of Environmental Affairs and Development Planning Attention: Directorate: Development Management (Region 1) Private Bag X9086 Cape Town 8000 Registry Office 1st Floor, Utilitas Building 1 Dorp Street Cape Town Queries should be directed to the Directorate: Development Management (Region 1) at: Tel: (021) 483-3638 Fax (021) 483-4372	Applications and requests for specific fee reference numbers must be sent to the following details: Department of Environmental Affairs and Development Planning Attention: Directorate: Development Management (Region 2) Private Bag X9086 Cape Town 8000 Registry Office 1st Floor, Utilitas Building 1 Dorp Street Cape Town Queries should be directed to the Directorate: Development Management (Region 2) at: Tel: (021) 483-2802 Fax (021) 483-3633	Applications and requests for specific fee reference numbers must be sent to the following details: Department of Environmental Affairs and Development Planning Attention: Directorate: Development Management (Region 3) Private Bag X6509 George 6530 Registry Office 4th Floor, York Park Building 93 York Street George Queries should be directed to the Directorate: Development Management (Region 3) at: Tel: (044) 805-8461 Fax (044) 874-2423



CHRISTO REEDERS ATTORNEYS

ENVIRONMENTAL LAW • MINING LAW • COMMERCIAL LITIGATION

18 July 2017

Eco Impact Environmental Health and Safety Legal Consulting
P.O. BOX 45070
Claremont
South Africa
7735

Attention: Ms Lauren Abrahams

By e-mail: lauren@ecoimpact.co.za

Dear Ms Abrahams,

**PROPOSED ROBERTSON ABATTOIR COMPOST FACILITY AND FEEDLOT ON
REMAINDER OF FARM MIDDELBURG 10, ROBERTSON: PRE-APPLICATION
BASIC ASSESSMENT REPORT**

1. We represent Perisseia (Pty) Ltd, which is an interested and affected party for purposes of the application prepared for South African Farm Assured Meat Group CC in respect of the proposed Robertson Abattoir Compost Facility and Feedlot. We also represent the individual representatives of that company, namely Mr Johan Fourie and Mr Le Roux Fourie (collectively "our clients"). Our clients are all interested and affected parties and their concerns regarding your client's application have previously been communicated to you.
2. On behalf of our clients, we summarise the multiple concerns our clients have regarding the application for environmental authorisation and waste management licence for the proposed Robertson Abattoir Compost Facility and Feedlot and the documents to be submitted in support thereof. Based on the information contained below, we believe it would be prudent for you, as the independent environmental assessment practitioner, to propose that the

application be commenced afresh in order to address the numerous short comings that have been identified.

3. Previous complaints demonstrating likely inability of applicant to effect sound environmental management practices

3.1. As evinced by our clients' previous complaints in this regard, there are frequently unsavoury and nauseating smells present in the area; all emanating from rotten meat that occurs from the current activities conducted on the property. These smells occur during various weather conditions, though they are particularly bad during high temperature periods and arise at various times of the day. The smells are particularly prevalent on the farm which is situated directly adjacent to the site (i.e. on the eastern side of the property and on the cycle route which exists on the Van Loveren Farm located South of this property). Our clients have also experienced the smells whilst out walking early in the mornings approximately 1.2 km away from the property.

3.2. Foul odours have also been reported as follows:

3.2.1. by the Cellar Master, Kobus van der Merwe, at the Cellar at various times of the day. These odours were noted as well by Johan Fourie and German wine buyers when visiting the Cellar;

3.2.2. by Kaysha Bucher from America and Barbarah Horsch from Germany in February 2017 whilst using the Cycle Route on the adjacent Van Loveren Farm; and

3.2.3. by our clients' farm labourers at a distance of approximately 1km from the Buitenstekloof Main Entrance which in turn is approximately 800m from the Existing Facility – their accommodation is affected.

3.3. Clearly, the existing activities conducted on the property on which the proposed activity is to take place are poorly managed. To introduce additional activities would, it is submitted, be environmentally irresponsible and clearly result in infringements of our clients' rights to an environment which is not harmful to their health and wellbeing. It is submitted that in considering the application, the Department must consider the applicant's existing activities, impacts and failures. Clearly the applicant is not conducting its activities in a manner which is demonstrative of sound

environmental management practices. On this basis, our clients vehemently object to any further activities being undertaken by the applicant.

3.4. It is noted in Annexure F (the summary of the public participation process) that a site inspection was conducted by the authorities in response to a complaint with regard to alleged nuisance conditions at the Robertson Abattoir Composting Facility. Evidently irregular odours were not detected though flies were noted. It is submitted that further site inspections must be conducted.

3.5. We also refer to our concerns below regarding the very real possibility that the activities which are the subject of the current application have already unlawfully commenced.

4. Inadequate public participation process

4.1. Though we appreciate that a basic assessment contemplates a lesser form of public participation, it is submitted that a public meeting ought to have been held, particularly given the fact that the impact assessment has been so poorly conducted and it is impossible for an interested and affected party to seek the necessary clarification via alternative means.

4.2. By way of explanation regarding the inadequacy of the impact assessment, we refer to the failure to have conducted and / or identified the need for various specialist reports and further, to insufficient information having been made available to interested and affected parties. In this regard, we note, amongst other things, that:

4.2.1. only a portion of the site will be used for the proposed facility. However, there are no layout plans included in the application;

4.2.2. there is insufficient information regarding the composting activities already being conducted on the property.

5. Failure to conduct adequate impact assessment

5.1. It is clear that the proposed activity will have significant impacts on surrounding properties and the environment. We are concerned that there has been an entirely inadequate assessment of these potential, and we believe likely, significant impacts. No specialist investigations have been

conducted. We believe that, at the very least, the following investigations ought reasonably to have been conducted:

5.1.1. Biodiversity Study:

- 5.1.1.1. Proof must be provided of consultation with Cape Nature, as well as their comments on the proposed project, specifically with regards to the site being surrounded by Critical Biodiversity Areas (as per Appendix D provided in the BAR) and in relation to the fact that the area identified for the compost facility has been identified as a terrestrial CBA. No opinion of a biodiversity and aquatic specialist has been included in the application to confirm the status and potential impacts on these sensitive areas and further, it appears that the fact that the area identified for the compost facility has been identified as a terrestrial CBA has simply been disregarded without adequate justification or expert corroboration.

5.1.2. Health Impact Assessment:

- 5.1.2.1. An activity of this nature has the potential to result in significant health, environmental and general nuisance impacts. Rotting meat, offal, blood, carcasses and the like will be the primary source of the compost and if not properly managed, these can cause various health impacts. There are multiple instances in the documentation provided which indicate that materials other than non-infectious materials may be kept on site. For example, page 54 of 62 paragraph 7 states that "a separate area must be set aside for whole condemned carcasses as these will need to be covered and (remain) undisturbed for up to 3 Months". The abattoir by-products for composting referred to on pages 48 of 62 specifically state that it comprises non-infectious materials only being blood, stomach contents, lairage manure, and inspection trimmings not for human consumption. This is apparently contradictory.

- 5.1.2.2. Despite the fact that the basic assessment report lists health impacts as a likely impact associated with the operational phase of the proposed development, no health impact assessment has been conducted. No assessment on the likely increase in flies (and their knock-on impacts) as a consequence of the activity has been conducted.
- 5.1.2.3. Already, the flies experienced as a consequence of the activities conducted on the property are a health hazard. They cannot be controlled and are already a nuisance. If they cannot be controlled under present circumstances, it is not clear how this will be achieved with a bigger operation being in place.
- 5.1.2.4. On page 41 and 42 under "Offensive Odours" it is stated that this impact can be completely mitigated "1- Yes, can be completely mitigated" and again under health risks stated that it could be completely mitigated "1- Yes, *can be completely mitigated*" yet the attraction of flies and wild pigs has not been considered in any acceptable detail at all. Yet in Section D of the Report (page 24) under Needs and Desirability, it states that "*odours and flies from the Facility may become problematic, however, the Facility will have mitigation measures and procedures in place which intends to reduce the impacts on neighbours and members of the public*". This obviously does not mean completely mitigated. It also flies in the face of what is currently the situation at the site.
- 5.1.2.5. Alkaline Hydrolysis on Page 27: "*Alkaline hydrolysis was initially considered as it could possibly handle and process the infectious (materials which would be) condemned. Due to a lack of local knowledge and experience this method was not seriously investigated.*" It is concerning that this was not properly investigated (and begs the question what else has not been properly investigated) since it is known to our clients that this

process is used with good effect at various Abattoir Facilities in KwaZulu Natal.

5.1.3. Traffic Impact Assessment:

5.1.3.1. The existing dirt road running past the Facility is currently used primarily by passenger vehicles and tourists for cycling purposes, hence the road carries a very limited number of heavy vehicles. It is obvious that this Facility would generate a substantial quantity of heavy vehicles when delivering sheep to the feedlot as well as collecting sheep to take to the slaughter facility as well as daily trucks delivering abattoir waste, wood chips and collecting compost for distribution. The only effective mitigating measure would be to tar the road from the existing tar road up to the entrance of the property containing the new Facility.

5.1.4. Air Quality Study:

5.1.4.1. Composting organic waste is an important component of the waste management process and a strategy to reduce waste to landfill. Microbiological activity is fundamental to the composting process, therefore any handling of composting material is likely to make airborne significant quantities of those micro-organisms (referred to as bio-aerosols). Bio-aerosols is a term commonly used to describe viable and non-viable airborne biological particles, such as fungal spores, bacteria, pollen, and viruses and their fragments and by-products, like bacterial endotoxins, mycotoxins, peptidoglycans, and (1-3)-beta-D glucans, which may affect living organisms infectiously, allergically, toxigenically or pharmacologically. Workers mechanically handling compost on these sites may therefore be at risk of considerable exposure to bio-aerosols depending on their work task, their proximity to the bio-aerosol source and the control measures put in place. In addition, because the work is largely done out of doors, there is the potential for bio-aerosols generated

to disperse some distance from the point source. Consequently, there is concern that people living or working in the vicinity of waste composting sites (sensitive receptors) may also be exposed to these bio-aerosols.

- 5.1.4.2. Carcasses from meat processing operations contain concentrated amounts of animal tissue. Typically, organs, flesh, hides, feathers and bones may be included. Handling and composting these materials demand care and special practices to accommodate their challenging properties and to control odours and flies.

5.1.5. Storm water management study:

- 5.1.5.1. There are only basic comments regarding a cut-off drain and holding dam. It appears that no cognisance was taken of proper designs, structural / civil plans nor any storm water management plan that notes the quantities of water that will be generated during normal operation / flood conditions and what control measures need to be instituted. No design drawings of storm water facilities are included, and the potential impact on the drainage line adjacent to the site has not been considered.

5.1.6. Socio-economic impact assessment:

- 5.1.6.1. The proposed activity is considered incompatible with existing land uses. Moreover, the impact on existing agricultural and tourist related activities have not been adequately assessed, if at all.
- 5.1.6.2. It is our understanding that the proposed activity is likely to generate fungus and spores that will be transported by air and wind onto surrounding crops which include vineyards, pomegranates and other orchards. This will result in these crops being negatively impacted as well as increased crops associated with managing these impacts. Equally, it is likely to have a devastating impact

on existing wine making activities conducted at the wine cellar since this activity is highly susceptible to fungus / yeast spore contamination. There has been no investigation into this impact by the applicant or its environmental assessment practitioner whatsoever.

5.1.7. Specialist water investigations:

5.1.7.1. The site is located directly adjacent to a drainage line. Only limited impacts have apparently been identified. It does not appear that there has been an adequate investigation in this regard. Moreover, no buffer zone has been proposed.

5.1.7.2. There is nothing which provides comfort that potential impacts on groundwater have been properly considered and / or mitigation measures proposed.

6. Failure to adequately consider alternatives

6.1. The Basic Assessment Report does not meet the requirements for consideration of alternatives. In various places in the Report reference is made to the area being earmarked for a feedlot and composting facility and that the site is presently "*underutilised agricultural land unsuitable for the cultivation of commercial crops*" yet commercial crops are produced on almost all the adjacent farms in similar conditions. This statement is obviously untrue and misleading to any reader of the Report.

6.2. In the Pre-Application Report, it states on page 13 that the same land where it is claimed that the land is unsuitable for production of crops, "The site was previously ploughed and planted with pastures and used for grazing purposes". Again, in Appendix J the physical and chemical properties of the soil also showed that the land chosen would not be suitable for any kind of farming, as it would be unsuitable for commercial crops to be grown. The facts contradict the last statement, and prove otherwise.

7. Failure to adequately consider mitigation measures / inadequate EMP

7.1. It appears that the main focus of the application and EMP is on the construction impacts, however the potential concern of our clients are the operational impacts, more than the construction impacts. These

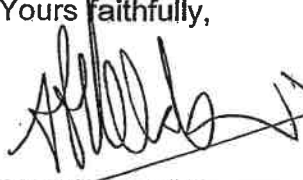
operational impacts must be considered and assessed as part of this application.

8. Regulatory assessment

- 8.1. We do not believe that an adequate regulatory assessment has been conducted. To this end, we draw your attention to subcategory 10 of the listed activities published in terms of the National Environmental Management: Air Quality Act. That Act (as read with the listed activities published in terms thereof) requires an atmospheric emission licence for any installation which processes (including rendering, cooking, drying, dehydrating, digesting, evaporating, or protein concentrating) more than 1 ton of animal matter per day not intended for human consumption. There is no indication that the application of this listed activity has been considered and if not applicable, why this is the case. Instead, it is noted that atmospheric emission activities are marked as being "*not applicable*".
- 8.2. The construction of a storm water dam also appears to be contemplated though there is no indication that there has been due consideration of the application of, amongst others, section 21 of the National Water Act.
- 8.3. More concerning is the fact that it appears to us that the existing activities may not be being lawfully conducted. For example, we believe that at least a waste management licence would have been required for the disposal of animal carcasses activities which has already taken place from time to time on the property and in respect of which our clients have previously raised legitimate concerns.
- 8.4. There is no mention of this activity already having been conducted in the documentation provided, save for reference to a site inspection having been conducted by the authorities following receipt of a nuisance complaint. There is also no mention of any existing authorisations or approvals already held by the facility. All existing approvals should have been made available as part of the process. Instead, Annexure F refers to the fact that the site is in the process of applying for a waste management licence. Since the activity has already commenced (potentially unlawfully, since it is not clear whether or not it holds or was required to hold any environmental approvals), the activity which ought properly to have been applied for is an expansion and not the development of a new activity.

- 8.5. It is also our view that if the existing activities have been unlawfully conducted, at least a section 24G rectification application is required in terms of the National Environmental Management Act.
9. As indicated above, we believe that there are potentially a number of authorisations and / or listed activities which ought to have been applied for but for which application has not been made. To the extent that this is correct, we submit that it will be necessary to withdraw this application and to commence the process afresh.
10. Regardless of the above, kindly provide our clients and us with your responses to all concerns raised in this letter. We reserve our clients' rights to respond either to you or directly to the Department, as the case may be.

Yours faithfully,



CHRISTO REEDEYS ATTORNEYS



CHRISTO REEDERS ATTORNEYS

ENVIRONMENTAL LAW • MINING LAW • COMMERCIAL LITIGATION

16 April 2018

Eco Impact Environmental Health and Safety Legal Consulting

P.O. BOX 45070

Claremont

South Africa

7735

Attention: Ms Lauren Abrahams

By e-mail: lauren@ecoimpact.co.za

Dear Ms Abrahams,

**PROPOSED ROBERTSON ABATTOIR COMPOST FACILITY AND FEEDLOT ON
REMAINDER OF FARM MIDDELBURG 10, ROBERTSON: DRAFT BASIC
ASSESSMENT REPORT**

1. As you know, we represent Perisseia (Pty) Ltd, which is an interested and affected party for purposes of the application prepared for South African Farm Assured Meat Group CC in respect of the proposed Robertson Abattoir Compost Facility and Feedlot. We also represent the individual representatives of that company, namely Mr Johan Fourie and Mr Le Roux Fourie (collectively "our clients"). Our clients are all interested and affected parties and their concerns regarding your client's application have previously been communicated to you.
2. We have reviewed the draft Basic Assessment Report made available for comment and which purports to have considered the comments made by interested and affected parties, including our clients during the pre-application phase.
3. In the main, our clients' concerns remain unaddressed. By way of high level summary only, we reiterate the following concerns:

Lapsing of application

4. Given the extended "pre-application" phase undertaken by the environmental assessment practitioner, it is not possible to determine the application's actual practical submission date. Confirmation of the submission is required to confirm that the application has not in fact lapsed.

Previous complaints demonstrating likely inability of applicant to effect sound environmental management practices and to comply with prevailing regulatory requirements

5. Notwithstanding the applicant's persistent representations that the odours- and flies problems have been resolved and will be managed via the execution of standard operating procedures, our clients (and the broader community) persist in their submission that these issues remain a nuisance and continue to impact on their use and enjoyment of their properties.
6. We note the allegation that there were no flies or odours on the day that officials visited the site. This is certainly not the general and persistent experience, particularly on high temperature days. It is submitted that further random and impromptu site inspections must be conducted. In addition, we require copies of the monthly feedback submissions made to the Department consequent upon the waste management directorate's attendance at the site.
7. It is most alarming that the draft BAR refers to the applicant being "*eager to learn*" and willing to "*strive to operate the compost facility without any detrimental impacts on the environment*". With respect, the Robertson area and its community and businesses are not a "playground" and it can ill-afford to accommodate an experimental project being conducted by a party that has a poor compliance track record, on its own submission appears to lack the prerequisite skill and expertise to conduct the impugned operations and is also apparently unwilling to provide firm commitments in this regard. Had a socio-economic impact assessment been conducted and our client's business activities considered, as requested, this would have been even more apparent.
8. The draft BAR contains multiple references to transgressions of applicable regulatory requirements including the following:
 - 8.1. In an apparent attempt to avoid the potential implications of its prior conduct, the applicant is at pains to insist that the animal waste is "*a by-product*" and not a waste. This argument holds no water particularly

bearing in mind that this waste was apparently previously disposed of at a Class B municipal waste disposal facility. We suggest you reconsider the definition of "waste" as set forth in the National Environmental Management: Waste Act, 59 / 2008 as read with Category B: General Waste under Schedule 3 to the Act. Your client's contentions are inconsistent with and in conflict with the aforementioned provisions.

- 8.2. The draft BAR indicates that no waste management licence was previously triggered because the activity fell below the thresholds contemplated in the Waste Act's listed activities. The applicant may have failed to appreciate that its commencement of the lesser threshold activity must have been foreseen and required for the commencement of the increased threshold activity. In our view the commencement of the lesser threshold activity may have resulted in the "commencement" (as defined in the aforementioned listed activities) of the activity which is now belatedly being applied for. It is not possible to determine this conclusively, particularly given that the extent of any overlapping infrastructure disclosed in the draft BAR provides very little information on the existing waste management activities that are taking place. This appears to be a deliberate omission. Should your client deny as much, then we await full details of incumbent activities by return mail and we reserve our clients' right to supplement these submissions in due course in respect of the belatedly received material. It is recommended that either a formal legal opinion be obtained by the applicant in this regard, or that the competent authority considers this in its decision making.
- 8.3. The Langeberg Municipality: Town Planning Department noted that *"the use of the compost facility has already commenced which is in contravention of the Zoning Scheme and a penalty fee is payable"*.
- 8.4. It is noted that the Summary of the Public Participation Process that *"the Competent Authority has determined that a section 24G application in terms of NEMA would apply in this instance"*. This correspondence must be included as an annexure.
- 8.5. A pre-compliance notice regarding the removal / depositing of material into a water course was received in August 2013 but only responded to on 14 December 2017. Copies of this correspondence are also required to be annexed; and

- 8.6. not all the existing water uses on the property are in compliance with the National Water Act, 1998. In addition, a non-compliance investigation letter was issued on 2 May 2017. This letter, together with the response thereto, must also be annexed.
9. We therefore reiterate that in considering the application, the Department must consider the applicant's existing activities, impacts and failures. In particular, we record that at least in relation to the application for a waste management licence, a competent authority is required to consider whether or not an applicant is a fit and proper person.
10. The regulatory assessment contained in the BAR is inadequate, which indicates a very real possibility that even if approved, the activity will be unlawfully operated. We note the following by way of examples only:
- 10.1. there is no assessment of any applicable bylaws, particularly in relation to noxious activities;
- 10.2. there is no discussion of the applicable regulatory requirements attaching to the transportation of animal waste; and
- 10.3. though the National Water Act is identified, the regulatory review fails to refer to, amongst other things, the requirement that the dams are likely to be required to hold a water use licence.

Inadequate assessment of alternatives

11. The investigation into alternative land uses is plainly inadequate. The draft BAR simply assumes, on the basis of a "soil study", which, in our view, is wholly inadequate as a specialist study, does not properly assess the agricultural potential of the proposed site. It is most peculiar that a conclusion is reached regarding the purported lack of agricultural potential, given that amongst other things, highly successful viticulture activities are taking place on adjacent properties.
12. In addition, the investigation into alternative technology options is plainly inadequate. We note the applicant's dismissal of alkaline hydrolysis notwithstanding that our client previously pointed out that this is being used effectively in KwaZulu Natal. There are also various other solutions which have not been raised and considered. It is concerning that in considering alternatives,

it appears that the applicant is intent on proposing only the cheapest solution. This does not conform to the best practicable environmental option.

Inadequate impact assessment

13. Although our clients pointed out the gaps in the identification of the surrounding properties and the activities conducted thereon which are all within 800 m of the proposed activity, the draft BAR still fails to properly reflect these, which in turn leads to the inevitable conclusion that the impacts on these activities have not been properly considered.
14. Notwithstanding us having raised material concerns regarding the necessity for specialist investigations to be conducted, save for in two isolated instances, the environmental assessment practitioner has apparently elected to consider herself being possessed of sufficient attributes of expert skill, knowledge and experience to prepare the BAR in isolation, without the benefit of independent specialist studies. This is notwithstanding the environmental assessment practitioner not being under the supervision of a registered natural scientist; herself only being registered as a "*candidate natural scientist*" and her qualification being in oceanography.
15. In our view, as a minimum, the following specialist investigations ought to have been conducted:
 - 15.1. A health impact assessment;
 - 15.1.1. It is submitted that this ought to assess, amongst other things, the increased potential for the spread of diseases by flies as well as the impact on community- and adjacent occupiers' health and wellbeing as a consequence of the odours emanating from the site.
 - 15.1.2. The environmental assessment practitioner's response to the request for a health impact assessment is to advise that one will be conducted if the Department of Health: Western Cape requires it. This is not an adequate response.
 - 15.2. An air quality impact assessment;

- 15.3. A groundwater impact assessment, particularly given the historical and apparently unabated historical activities on site and the proposed, unlined effluent dam;
- 15.4. A traffic impact study; and
- 15.5. A biodiversity assessment particularly given the proximity to an adjacent nature reserve and a portion of the site falling within a CBA.
- 15.6. A socio-economic impact assessment ought to be conducted once these specialist reports are obtained to properly consider the impact of the activity on the existing businesses, many of which are tourism related. In this regard, it is noted that another interested and affected party, one Mrs Hanneré Jooste, commented that:

"my very livelihood, being derived from a tourism and hospitality facility inside a nature reserve, is dependent on the pristine nature of the immediate environment. In fact, Middelburg Farm is sandwiched between two tourism-dependent neighbours, bordered as it is by Buitenstekloof Mountain Cottages on the eastern side and exacerbating the importance of the existing fly-, odour-, noise- and traffic- and aesthetic problems. I am financially dependent on visitors being able to do hiking, trail running and bird watching in situ and on the scenic and natural beauty of the environment remaining intact".

Failure to identify listed activities

- 16. We have noted the response in the Summary Report that no atmospheric emission licence is required. We are not satisfied that the explanation is sufficient.
- 17. To the extent that the waste is a *general* waste, it is possible that the collection / effluent dams which will receive effluent and sludge constitute storage of general waste in a lagoon. This is, however, premised on the assumption that the waste is correctly classified as being general waste. There is no discussion on this aspect.

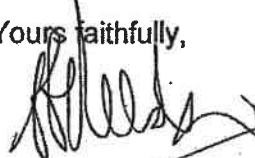
Misleading statements

18. We are concerned that there are instances of misleading information contained in the draft BAR. It is interesting to note the comment of one Mr P.A. Gerber which indicates that *"under item 12, the application is very economical with the truth regarding the impact on the surrounding land users' impact costs"*. With respect, this must still be a valid concern since the impact on surrounding land users has not been properly assessed. Though the environmental assessment practitioner's response is that standard operating procedures have been developed to reduce the potential negative impacts, it is not possible to prepare any procedure in the absence of an assessment of the impacts.
19. By way of example –
 - 19.1. We have referred above to our reservation regarding the applicant's stated opinion that the animal waste is not a waste but a *"by-product"*.
 - 19.2. We would have assumed that since an application for a water use licence is required, this fact would be mentioned with reference to, for instance, the proposed effluent dam. Given that environmental impact assessment and the underlying legal principles support an integrated approach as well as public participation in all decision making, this information ought to have been properly disclosed. Instead, the fact of an application being required to be made to the BGCMA is revealed in response to a comment made by Mr P.A. Gerber.
 - 19.3. The applicant has *already* commenced composting activities. There is very little information presented on those activities, the infrastructure constructed to carry out those activities and the mitigation measures currently in place (which are evidently ineffective).
 - 19.4. There are various instances of transgressions of the law, as indicated above, which are buried within the report's annexures. This is relevant information which must be addressed transparently; and
 - 19.5. The National Health Act, 1977 defines a *"nuisance"* as *"an accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health"*. Notwithstanding that there will be offal, manure and other matter which are odorous and, as yet not confirmed otherwise, injurious or dangerous to health, the applicant insists that the application of the definition is uncertain.

Failure to adequately consider mitigation measures / inadequate EMP

20. The Environmental Management Plan fails to meet the requirements of Appendix 4 of the Environmental Impact Assessment Regulations. For instance, there is no map detailing the requirements of 1c included in the application.
21. It must also be ensured that the Plan applies 24/7.
22. The proposed fence to address the concerns pertaining to wildlife in the area is not an adequate solution. In particular, bush pigs are known to burrow underneath fences.
23. As a general comment, we note that the draft BAR does not include all relevant information which enables interested and affected parties to effectively comment on the proposed activity. In addition to what is mentioned above, we note the failure to have provided multiple information sources as annexures as well as indicate the financial information required to complete Section F (c).
24. Irrespective of the above, kindly provide our clients and us with your responses to all concerns raised in this letter. We reserve our clients' rights to respond either to you or directly to the Department, as the case may be.

Yours faithfully,



CHRISTO REEDERS ATTORNEYS

APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	Y ☒	N ☐	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	Y ☒	N ☐	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	Y ☒	N ☐	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	Y ☒	N ☐	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	Y ☒	N ☐	If Yes, specify in Part E.
Date of decision	18 October 2019		Date receiving notice of decision INFORMALLY INFORMED BY AFFECTED PARTY ON 1 November 2019, ONLY
Who took the original decision?	Y ☐	Authorised employee	Y ☒
			Tribunal

PART B: APPELLANT'S DETAILS

First name(s)	JOHANNES LE ROUX		
Surname	FOURIE		
Company or legal person's name (if applicable)	PERISSEIA (PTY) LTD		
Postal address	POSBUS 765		
	ROBERTSON	Postal Code	6705
Email	leroux@dmvva.co.za		
Tel	035 789 1828	Fax	035 789 1892
		Cell	082 454 9191

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	RESTANT VAN MIDDELBURG 10, GEDEELTE 4 VAN MIDDELBURG 10, GEDEELTE 3 VAN MIDDELBURG 10, GEDEELTE 1 VAN NORREE 11, GEDEELTE 4 VAN NORREE 11, GEDEELTE 17 VAN LANGE VALLEI 52, RESTANT VAN GEDEELTE 1 VAN VOETPAASBERG 2, GEDEELTE 16 VAN LANGE VALLEI 52.		
Physical Address	BLITENSTEKLOOF FARM, ROBERTSON		
GPS Coordinates	33° 44' 01.52" S 19° 44' 58.41" E	Town/City	ROBERTSON
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 6 OF MIDDELBURG 10, ROBERTSON		
Physical Address			
GPS Coordinates	33° 43' 54.17" S 19° 44' 39.75" E	Town/City	ROBERTSON
PART E: APPEAL MOTIVATION AND REASONS*			
SEE ATTACHED MOTIVATION AND REASONS			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
Appeal			R
TOTAL APPEAL FEES*			R642.00
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

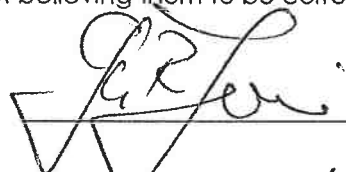
Y	☒	Proof of payment of appeal fees (applicant)		Y	☒	Proof of serving notice of appeal (applicant)
Y	☒	Copy of decision and proof of notification		Y	☒	Copy of conditions of approval
☒	N	Motivation and reasons for appeal		Y	☒	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

21/11/2019

Full name:

JOHANNES LE ROUX FOURIE

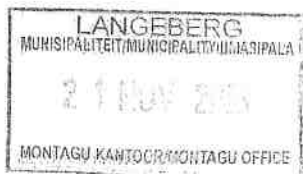
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Date received:

21. 11. 2019

Received by:

TJB go.



Annexure 8

Appeal 3:
P J Gerber

APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	Y ✓	N /	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	Y	N ✓	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	Y ✓	N	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	Y ✓	N	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	Y ✓	N	If Yes, specify in Part E.
Date of decision	18/10/2019		Date receiving notice of decision
		31/10/2019	
Who took the original decision?	✓	Authorised employee	✓ Tribunal

PART B: APPELLANT'S DETAILS

First name(s)	Pizile Jeanne Alexander		
Surname	Gerber		
Company or legal person's name (if applicable)	P. A. GERBER		
Postal address	Box 837		
	WELLINGTON	Postal Code	7654
Email	gerberpa@vodamail.co.za		
Tel	011-8643579	Fax	
		Cell	082-2136120

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Portion 10 of Farm MIDDELBURG NR-10.		
Physical Address	ADJACENT TO SUBJECT PROPERTY.		
GPS Coordinates		Town/City	Villiers ^{Agg}
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 6 OF MIDDELBURG NR-10		
Physical Address			
GPS Coordinates		Town/City	Agg - Villiers
PART E: APPEAL MOTIVATION AND REASONS*			
REASONS ARE ALL CONTAINED IN THE OBJECTION TO THIS APPLICATION IN DOCUMENTATION SENT TO MEC - attached. ✓			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
UNCONSTITUTIONAL FEE		Appeal	R
		TOTAL APPEAL FEES*	R642.00 N/A.
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

☒	N	Proof of payment of appeal fees (applicant) <i>N/A</i>	☐	Y	☒	Proof of serving notice of appeal (applicant)
Y	N	Copy of decision and proof of notification	☐	Y	☒	Copy of conditions of approval
Y	N	Motivation and reasons for appeal	☐	☒	N	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

21/11/2019

Full name:

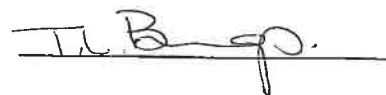
Pieter Jean Alexander Guder

FOR OFFICE USE ONLY

Date received:

21. 11. 2019

Received by:



THE HEAD

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

ATTENTION: DIRECTORATE DEVELOPMENT MANAGEMENT (REGION 2)

PRIVATE BAG X9086

CAPE TOWN

8000

Dear Sir

PROPOSED ROBERTSON ABATTOIR COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM
MIDDELBURG 10, ROBERTSON : PRE-APPLICATION BAR. DEA&DP: 16/3/3/6/7/1/B1/14/1347/16
DEA&DP: WASTE MANAGEMENT REF NO: 19/2/5/7/B1/14/WL0013/17

I refer to the advert in the media, inviting comment/objection/appeal, which deals with the above matter.

From the start, I want to put it on record that I find it totally unacceptable that, as a neighbour, I had to accidentally read about the application in the media. Meanwhile, other neighbours, further away from the application-site, have been consulted and listed as affected parties. I.O.W. the whole process started flawed.

On page 3 of the Basic Assessment Report of the DEAPP under "SUMMARY OF ALTERNATIVES" it is mentioned that this site is the only site available to SAFAM. This is nonsensical as there are many other properties more suitable for sale for the purpose of a compost facility. I also find it devious that the application is actually dual and that it would be wiser to split the application into 2 separate applications. There are hundreds of abattoirs all over SA, so this problem of waste is not unique, and many operators have tried many tricks to bypass rules and regulations.

The owners makes reference of a "NO-GO OPTION" and attempts are made to create the perception that the subject property is "underutilized Agricultural land unsuitable for the cultivation of commercial crops." This is very wrong as the property has excellent agriculture potential, and that it only needs water for irrigation. As there are surplus water in the Breede River and water technology. The pseudo-threat made that if the proposed development did not continue, SAFAM might cease operations, is melodramatic, not acceptable and irrelevant to the land. I.o.w., if other abattoirs don't have their own compost-facilities, they would all cease all over S.A.? "A negative impact on the market," = What market?

There will definitely be storage of compost on the property as it is not a "take-a-way" facility, it needs stock to sell. This is the case at all compost plants and there is no reason why this one would be different.

The matter regarding storage facilities, is also worrying because raw materials will be stockpiled as they are not always available every day.

On page 10, at number 2 , reference is made to the size of the property, being 402,19 hectares. Why then does the applicant want to place the plant next to the road?

The close proximity of the Vinkriver. The proposed plant is dangerously close to this river. We have owned our property for 38 years and over these 4 decades we have seen serious water flooding, which makes the application site totally unacceptable.

On page 12 under "3", there are a few "NO" answers which should be affirmative such as steep slopes, seasonal wet soils, erosion, etc. Furthermore , there is also serious doubt whether the whole site is high in clay content.

On page 15, under number "7", there are a characters of the surrounding area which has been wrongly deleted such as, "UNTRANSFORMED AREA"; " TOURISM & HOSPITALITY FACILITY" ; "SPORT FACILITIES"; "NATURE CONSERVATION AREA"; "MOUNTAIN,KOPPIE OR RIDGE". It was mischievous and misleading to have omitted these "CHARACTERISTICS".

Regarding "TOURISM OPPORTUNITIES", the application-area is alive with tourism such as Mountain bikers every weekend cycling past and over the properties adjacent. This terrible odour will have a very negative effect. The increase in the associated traffic on the road, which is already too narrow for 2 trucks to pass each other, will be very dangerous for cyclists. In april 2018 more than 10 000 cyclists, many foreign, cycled through the Middelburg Farm, and will probably do so again next year.

On page 18, under "10" , regarding "APPLICABLE LEGISLATION", it is stated that the National Health Act, Act 61 of 2003, the Constitution of S.A., 1996 and the National Building Regulations and Building Standards Act 103 of 1977 (NBRBSA) and the relevant regulations are all not applicable. This is totally untrue.

It would also be appreciated if it could be explained which "GUIDELINES ON PUBLIC PARTICIPATION" were used that was responsible for not informing me as a neighbour, but the neighbour on the other side, further away from the subject property?

On page 20 it was answered "YES" at question 1.(iii). This was obviously not the case as I have pointed out.

No public meetings were held regarding this specific application. Only one after the plant started . This is a serious flaw.

Electricity supply will have to be upgraded which is certain if the property is rezoned to "industrial" as other activities will follow. The supplier of electricity there is the Municipality itself. Furthermore, the increase in trucks and other vehicles will cause more road maintenance.

The applicants only concern mentioned is the watercourse, whereas nothing is mentioned about the natural area, etc.

Concerns are raised and mentioned that "Odours and flies may become problematic," yet no details are provided to stop this. The noise increase will also be apparently "during the construction phase.", yet further on in the application mention is made of all the extra traffic that will be generated by farmers bring animals to the feedlot, other loads of compost-components and raw material, etcetera. The visual effect mentioned is only the feedlot, yet the compost facility is right

next to the main road which is increasing daily with tourist, whether by car, horses, cycles, etc. The disastrous effect of the compost plant adjacent to the Slent Road , between Paarl and Klipheuwel, is a classic example.

The application is very economical with the truth regarding the impact on the surrounding land users impact costs.

The only positive impact of the project will be the waste management solution for the abattoir. Nobody else. The fact that farmers can sell their livestock to the feedlot has nothing to do with the disastrous compost facility. The negative impacts are seriously downplayed by referring to the source of nuisance, impact on natural and cultural resources and aquatic environments as ,
POTENTIAL IMPACTS !!!

It is stated that the composting facility is the “best practicable environmental option for the land”. This is such a flawed statement and is rejected with disdain.

The “benefits to society” referred to by the applicants, is only to the abattoir. There are many other buyers for lambs and other livestock.

Regarding the potential of the land, the 6000-6500 animals in the feedlot will be fed “nutritious feed”, which again will generate traffic to the area. These 2 activities, namely the compost facility as well as the feedlot are proposed as the only location available to SAFAM is rejected.

Mention is made that “SAFAM is in the initial stage of composting production.” On inspection of the property it was observed that composting activities was already in production and occurring and there was also signboards indicating as such at the locked gate of the farm. It would also be of importance to know if there are not already abattoir waste being used in the processing. For instance, where are the blood of the abattoir currently being dumped?

The “NO-GO OPTION” , is overplayed by the concealed threat that the abattoir might close. This is disingenuous, as the gaps in the market will always be filled by other operators.

They are already affirming the drainage line feeding into the Vinkriver which is totally too risky. We have owned our property since 1980, i.o.w. 38 years, and we have witnessed various flooding over these decades , making the application site too risky for any such intended composting activities.

The activity will produce emissions into the atmosphere, as both the facilities and the compost facility in particular, will definitely produce stinking emissions, as is the case in all other such facilities.

Regarding “ WATER USE”, they mentioned that only water from a “river, stream, dam ,lake” will be used. It is doubtful , whether the facility could run at 100% without the supplementing of borehole/underground water.

The project will have an enormous impact on traffic, as the road traffic has consistently increased over the past few years and the width of the road is also very problematic.

The noise impact of the project is also worrying as our property is less than a 1000 meters from the site and we hear vehicles, never mind trucks, further away.

The cumulative impacts on adjacent aquatic habitats, have the potential for a catastrophe in times of flooding and other extreme weather events.

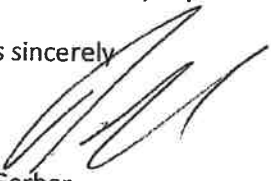
The impact of offensive odours are grossly underplayed and understated. To further try to dilute the effect of this stench with that of an ordinary feedlot, is truly under-estimating the intelligence of all the other affected parties. Bring me one of these composting plants that don't stink and stench. If that was the case, why not put the facility in Robertson, Ashton, McGregor or Montagu? They have huge pieces of industrial land.

The health risks is under-played as there are a lot more animals than wild pigs and flies that will be attracted to this open-air restaurant. No plan developed yet.

The biggest complaint and fear of allowing such a composting facility is confirmed in the applicant's documentation which stipulates that, "Other materials used will be chicken litter,..." This chicken litter could also include dead chickens and Worcester is surrounded by chicken farms. There is no guarantee that the abattoir in Worcester will not start delivering their dead carcasses, blood, etc. and other abattoir waste to this compost facility, as other municipalities are getting much stricter with abattoirs. By allowing this facility will open the floodgates to all other waste from the area.

I therefore hereby express my objection to this application .

Yours sincerely



P.A. Gerber

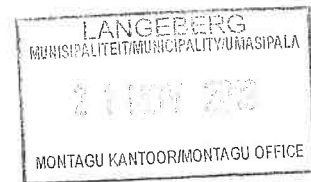
10/6/2018

Annexure 9

Appeal 4:
Ndlovu deVilliers – L Jordaan & H Jooste



Ndlovu de Villiers
Environmental Law Specialists



Mr. S A Mokweni
Municipal Manager
Langeberg Municipality
BY HAND

21 November 2019

Dear Sir

RE: APPEAL AGAINST THE DECISION OF THE LANGEBERG MUNICIPAL PLANNING TRIBUNAL MADE ON 18 OCTOBER 2019 REGARDING THE REZONING OF A 1.3 HECTARE PORTION OF PORTION 6 OF THE FARM MIDDELBURG FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (NOXIOUS TRADE) FOR A COMPOST FACILITY AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)

1. We refer to your letter dated 31 October 2019 in which you communicated the Langeberg Municipal Planning Tribunal's decision made on 18 October 2019 to:

1.1. Grant the rezoning of a 1.3 hectare portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (Noxious Trade) for a compost facility comprising: windrows, storage space for raw and finished products and off-loading areas; and

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Associate:

- 1.2. Refuse the consent for an Intensive Feed Farm (sheep feedlot with a maximum of 4500 lambs).
2. We confirm that we act on behalf of Mrs. Hannerè Jooste and Mr. Louis Jordan (hereinafter referred to as the "Appellants") who are aggrieved by the abovementioned decision.
3. Attached to this letter is the Appellants' appeal submitted in compliance with section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015. In compliance with that section, the attached appeal:
 - 3.1. Sets out the grounds for the appeal;
 - 3.2. Is lodged against the rezoning part of the abovementioned decision in particular and, in general, the whole of that decision;
 - 3.3. Is lodged specifically against the rezoning part of the decision;
 - 3.4. Sets out factual legal findings on which the Appellants rely on;
 - 3.5. Sets out the relief sought by the Appellants; and
 - 3.6. Sets out all the issues that the Appellants wish the Appeal Authority to consider in making the appeal decision.
4. In the event the Appeal Authority decides to hold a hearing as part of the appeal process, the Appellants confirm their availability (together with any of their advisors) to participate in that hearing.
5. We look forward to hearing from you on the outcome of the Appellants' appeal or on the next step in the appeal process.

Yours faithfully
Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)



Ndlovu de Villiers

Environmental Law Specialists

**APPEAL LODGED IN TERMS OF SECTION 79(2) OF THE LANGEBERG
MUNICIPALITY'S BYLAW ON MUNICIPAL LAND USE PLANNING, 2015, AGAINST
THE REZONING PART OF THE DECISION MADE BY THE LANGEBERG MUNICIPAL
PLANNING TRIBUNAL TO APPROVE THE REZONING OF A PORTION OF 1.3
HECTARES (IN EXTENT) WITHIN PORTION 6 OF THE FARM MIDDELBURG FROM
AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (NOXIOUS TRADE) FOR A
COMPOST FACILITY AND TO REFUSE CONSENT FOR INTENSIVE FEED FARM
(SHEEP)**

INTRODUCTION

1. We act for:

1.1. Mrs. Hannerè Jooste; and

1.2. Mr. Louis Jordan.

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2. The abovementioned Appellants are referred to, individually, as the “First Appellant” and the “Second Appellant”, respectively. Together, they are referred to as the Appellants. We confirm that this is a joint appeal.
3. The Appellants are aggrieved by the decision of the Langeberg Municipal Planning Tribunal (hereinafter referred to as the “Tribunal”) issued to the Reben Trust on 18 October 2019. The essence of that decision is:
 - 3.1. To grant the rezoning of a portion of 1.3 hectares in extent within Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (Noxious Trade) for a compost facility comprising windrows, storage space for raw and finished products and off-loading areas (hereinafter referred to as the “compost facility”); and
 - 3.2. To refuse consent for an Intensive Feed Farm (sheep) feedlot with a maximum of 4 500 lambs (hereinafter referred to as the “feedlot”).
4. In this appeal we refer to the abovementioned decision, interchangeably, as the “rezoning decision” or the “impugned decision”. The appeal is directed against the part dealing with the rezoning of the property only but has implications for the rezoning decision in its entirety.
5. The impugned decision was granted in terms of section 60 of the Langeberg Municipality’s Bylaw on Municipal Land Use Planning, 2015 (the “Bylaw”) and was communicated to the Appellants in letters dated 31 October 2019. A copy of the impugned decision communicated to the Third Appellant is attached hereto, marked “A”.

APPELLANTS’ RIGHT TO APPEAL

6. The impugned decision states that:

“In terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015, a person whose rights are affected by a decision of the Municipal Planning Tribunal, may appeal in writing to the Appeal Authority within 21 days of the date of registration of this decision letter.”

7. The above is in line with section 79(2) of the Bylaw which states that a person “whose rights are affected by a decision contemplated in subsection (1) may appeal in writing to the Appeal Authority within 21 days of notification of the decision.”
8. We pause to confirm that:
 - 8.1. The Appellants are some of the persons whose rights are affected by the rezoning decision on the basis that the Doornkloof Private Nature Reserve is situated adjacent to the rezoned property and the First and Second Appellants live on the Second Appellant’s house which is affected by the noxious trade which is undertaken on the compost facility.
 - 8.2. This appeal will be submitted to the Appeal Authority on 21 November 2019, that being the last “date of registration of” the Municipality’s letter dated 31 October 2019.
9. With regard to the procedure relating to the right to appeal, we note that the impugned decision states that an appeal must be served on the Municipal Manager. On the other hand, section 79(1) of the Bylaw stipulates that the Executive Mayor of the Langeberg Municipality is the Appeal Authority in respect of decisions of the Tribunal. Therefore, while this appeal will be submitted to the Municipal Manager, it is directed at the Executive Mayor in his capacity as the Appeal Authority.

NATURE OF THE APPEAL

10. An appeal lodged in terms of section 79 of the Bylaws is a wide appeal, such that the Appeal Authority is obliged to rehear and reconsider the Applicant's application. In other words, this appeal constitutes a complete re-hearing of the Applicant's application and a fresh determination of the merits of the application, with or without additional evidence or information.
11. We submit that the Appeal Authority should, in the exercise of his powers on appeal uphold this appeal and, in doing so, set aside the rezoning decision.

GROUPS OF APPEAL

Introduction

12. The rezoning decision falls to be set aside on account of any one of the grounds of appeal we set out below. Together, all the grounds of appeal demonstrate that the Tribunal violated the Appellants' Constitutional rights to an administrative action which is lawful, reasonable and procedurally fair.
13. What the Appeal Authority must take cognisance of (in its consideration of the grounds of appeal set out herein) is that the rezoning decision allows the undertaking of a noxious trade on a Critical Biodiversity Area (hereinafter referred as "CBA"). Of equal importance is that the Applicant's property is situated next to a nature reserve.

Points in limine

14. As the point of departure, the Appellants raise four *points in limine*. The first *point in limine* relates to the fact that the Tribunal does not have the power to consider the Applicant's application, let alone to issue the rezoning decision. We submit that, in addition to complying with the Bylaw, the Tribunal must comply with the Spatial Planning and Land Use Management Act, 2013, (hereinafter referred to as "SPLUMA").

15. SPLUMA regulates the conduct of a Municipal Planning Tribunal including when to commence its operations. Section 37(4) of SPLUMA provides that:

“Upon the first appointment of members of a Municipal Planning Tribunal and when the Municipal Council is satisfied that the tribunal is in a position to commence its operations, the municipal manager must publish a notice to that effect in the *Provincial Gazette*.”

16. On the other hand, section 37(5) of SPLUMA provides that:

“A Municipal Planning Tribunal may only commence its operations as contemplated in this Act or the applicable provincial legislation after publication of the notice contemplated in subsection (4).”

17. We emphasise that section 37(5) states that a Municipal Planning Tribunal “may only commence its operations ... after publication” of the notice. The Bylaw does not contain provisions that are similar to the provisions set out in section 37(4) and (5) of SPLUMA. We submit that section 37(4) and (5) is applicable to this matter on the basis that, in terms of section 2(1) of SPLUMA, the provisions of SPLUMA apply “to the entire area of the Republic”.

18. Importantly, section 2(2) of SPLUMA provides that:

“Except as provided for in this Act, no legislation not repealed by this Act may prescribe an alternative or parallel mechanism, measure, institution or system on spatial planning, land use, land use management and land development in manner inconsistent with the provisions of this Act.”

19. In the preparations relating to the submission of this appeal, we have searched for a copy of the commencement notice published by the Municipal Manager in the Western

Cape *Provincial Gazette*. However, our search did not find any such notice. We also made enquiries with the officials of the Municipality and those enquiries also did not yield a copy of such a notice.

20. Therefore, it is submitted that, on the face of it, no notice was published by the Municipal Manager as required by section 37(4) of SPLUMA. It follows that the Tribunal which issued the rezoning decision did not commence its operations as required by section 37(5) of SPLUMA. We emphasise that section 37(5) states that a tribunal such as the Tribunal which issued the rezoning decision “may only commence its operations ... after publication of the notice contemplated in section 37(4)”. Put differently, if no such notice has been published, the Tribunal did not commence its operations lawfully. It follows that all the decisions issued by the Tribunal, including the rezoning decision, are unlawful. It is submitted that the Appeal Authority must set aside the rezoning decision on this basis alone.

21. The second *point in limine* is submitted as an alternative to the first *point in limine* in the unlikely event that the Appeal Authority does not set aside the rezoning decision on the strength of the first *point in limine*. At the heart of the second *point in limine* is the submission that, by issuing the rezoning decision, the Tribunal violated section 22 of SPLUMA. Specifically, section 22(1) provides that:

“A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a Municipal Spatial Development Framework.”

22. Notwithstanding the provisions of section 22(1) of SPLUMA, the Tribunal issued the rezoning decision and, effectively, made a decision which is inconsistent with the Langeberg Spatial Development Framework, 2015 (hereinafter referred to as the “SDF”). In the Basic Assessment Report (dated October 2017) prepared for the Applicant, the following is noted:

“In terms of the Langeberg Spatial Development Framework, 2015 (SDF) the proposed development site falls within “Core”, “Buffer” and “Transformed” Spatial Planning Categories. There is no objection to development within the Transformed and Buffer areas subject to sustainable management of land use activities. However, development of the compost facility within the identified “Core” SPS adjoining the Middelstekloof River is not consistent with the Desired Management Objectives for this land, namely: to maintain natural land, rehabilitate degraded land and maintain ecological processes.”¹

23. We submit that the Appeal Authority must set aside the rezoning decision on the basis that it is clear that the Tribunal violated section 22(1) of SPLUMA when it issued the rezoning decision.

24. The third *point in limine* relates to the Tribunal’s failure to provide reasons for the rezoning decision. Section 61(1) of the Bylaw provides that:

“The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the decision of the decision, the reasons for the decision and their right to appeal, if applicable.”

25. Upon a closer look, the rezoning decision comprises two parts: the first part is the granting of the rezoning applied for; and the second part is the refusal of consent for the feedlot. Inexplicably, the only reasons provided by the Tribunal relates to the second part of the decision. In other words, no reasons are provided for the first part of the decision. Instead, what was included in respect of the rezoning part are what are referred to as the “Conditions of Approval”.

¹ Page 36.

26. In light of the above, in the first instance, we submit that the rezoning decision was communicated in a manner that violates section 61(1) of the Bylaw. In the second instance, the rezoning itself is a violation of the Appellants' rights to be given reasons for the rezoning decision. That violation has prejudiced the Appellants' Constitutional rights, including the right to appeal the rezoning decision. In the absence of the reasons for the rezoning decision, the Appellants have been deprived of an opportunity to interrogate those reasons and to lodge an appeal that is informed by that interrogation.
27. The prejudice wrought on the Appellants is substantial. In the absence of reasons for the rezoning part, the Appellants are left in the dark on whether the Tribunal's decision is justifiable. So is the Appeal Authority. It is submitted that the Appeal Authority is equally hamstrung by the absence of reasons for the rezoning part. Simply put, the Appeal Authority is unable to consider this appeal effectively as the Appeal Authority is not in a position to take into account the reasons for the rezoning part as there are no such reasons. It is submitted that the Appeal Authority must set aside the rezoning part on this basis alone.
28. The fourth *point in limine* related to the inclusion of an unlawful condition of approval among the conditions attached to the rezoning decision. Section 66(8) of the Bylaw states that:
- “The Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.”
29. The purpose of section 66(8) of the Bylaw is to ensure that the decision-maker does not pass the buck in respect of the considerations that must inform the decision at hand. In other words, the decision-maker must consider and decide on the relevant factors and not rely on passing the buck to another decision-maker. Notwithstanding section 66(8) of the Bylaw, the Tribunal included condition 6 of the Conditions of Approval which states that:

“The exercise of the primary land use in terms of the respective Agricultural Zone I and Industrial Zone II is subject to all the relevant legislation, including the Environmental Impact Assessment regulations in terms of NEMA 107/1998; the regulations in terms of NEM:WA 59/2008 and the Air Quality Act 39/2004; and the Conservation of Agricultural Resources Act 43/1983. The owner/operator of the Compost Facility must be in possession of all approvals required in terms of other legislation, and specifically, a valid Environmental Authorisation (EA) and Waste Licence in terms of NEMA and NEM:WA; and registration of all compost products in terms of the Fertilisers and Farm Feeds Act 36/47.”

30. It is clear that the Tribunal passed the buck in respect of the concerns relating to the impact of the rezoning on the environment. Section 66(8) of the Bylaw prohibits that. The Tribunal's decision must be set aside on that basis alone.

The Tribunal's decision is unlawful

31. In the event the Appeal Authority does not set aside the rezoning decision on account of any of the *points in limine* discussed above, the Appellants submit that the rezoning decision is unlawful on account of the submissions made below.
32. In the application for the rezoning it is recorded that the Applicant commenced utilising the relevant portion of the property as a compost facility in February 2017. It follows that the effect of the rezoning decision is to regularise the utilisation of the property in a manner that has violated the zoning scheme since February 2017. Importantly, the Municipality gained knowledge of this state of affairs upon the Applicant's submission of its application for the rezoning. That knowledge triggered the application of section 87 of the Bylaw. It is submitted that, in terms of that section, the Municipality has an obligation to issue a compliance notice to the Applicant and has no discretion to decide not to issue a compliance notice. We explain the bases for this submission below.

33. First, section 87(1) provides that:

“The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence in terms of section 86.”

34. The phrase “reasonable grounds to suspect” means that all the Municipality needs is a reasonable suspicion in order to act in terms of section 87(1). On the facts of this matter, by submitting the application in a manner that includes admission that the violation of the zoning scheme commenced in February 2017, the Applicant has established beyond doubt (for the Municipality) that the Applicant is guilty of an offence in terms of section 86. The result is that the Municipality has no option but to serve a compliance notice on the Applicant. We emphasise that section 87(1) states that the “Municipality must serve a compliance notice on a person ... guilty of an offence in terms of section 86.”

35. But what is the Applicant guilty of? Section 86(1)(b) provides that a person is guilty of an offence if that person “utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality”. On the other hand, section 86(2) provides that:

“An owner who permits his or her land to be used in a manner set out in subsection (1)(b) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to contravene the zoning scheme, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment.”

36. The Applicant’s conduct since February 2017 fits perfectly to the scenario described in section 86(2). Therefore, it is beyond dispute that the Applicant is guilty of an offence in terms of section 86(2) read with section 86(1)(b).

37. We reiterate that the Municipality does not have a discretion on whether or not to instruct the Applicant “to cease the unlawful utilisation” of the land concerned. Section 87(2) provides that:

“A compliance notice must instruct the occupier and owner to cease the unlawful utilisation of land or construction activity or both, without delay or within the period determined by the Municipality”.

38. It is clear that, in order to comply with section 87 of the Bylaw, the Municipality should have instructed (in a compliance notice) the Applicant to stop the operation of the compost facility within a reasonable period of time after the Municipality became aware of the Applicant's unlawful conduct. As discussed above, that conduct commenced in February 2017. Instead, the Municipality failed to enforce compliance with the Bylaw and has allowed the Applicant to utilise the relevant portion of the property as a compost facility for a period of almost three years. The Municipality's conduct flew in the face of section 87(2) which states that a compliance notice “must instruct the occupier and the owner to cease the unlawful utilisation of land”.

39. The obligations imposed in section 87 must be understood in the context of section 85 of the Bylaw which states that the Municipality must comply and enforce compliance with:

39.1. The provisions of the Bylaw;

39.2. The provisions of a zoning scheme; and

39.3. Conditions imposed in terms of the Bylaw or previous planning legislation.

40. Section 85(2) simply states that the Municipality “may not do anything that is in conflict with” section 85(1). Again, this emphasises the fact that the Municipality has a clear obligation to enforce the provisions of the Bylaws.

41. The consequence of the obligations imposed on the Municipality in terms of section 87 is that the rights of a landowner who has engaged in an unlawful utilisation of the land concerned flow from section 87(2) of the Bylaw and not from any other provision of the Bylaw. Hence, it is submitted that, such an owner may not submit an application for a change of land use (including the rezoning) in the same manner as an owner who has not engaged in such unlawful use. That submission is based on the proper interpretation of section 87(2) which states that, in the compliance notice, the Municipality may include an instruction “to –
- (a) demolish, remove or alter any building, structure or work unlawfully erected or constructed or to rehabilitate the land or restore the building concerned to its original form or to cease the activity, as the case may be, within the period determined by the Municipal Manager;
 - (b) submit an application for the approval of the utilisation of the land or construction activity in terms of this By-law within 30 days of the service of the compliance notice and to pay the contravention penalty within 30 days after approval of the utilisation; or
 - (c) rectify the contravention of or non-compliance with a condition of approval within a specified period.”
42. It follows that, before a landowner in the position of the Applicant may submit an application for approval “of the utilisation of the land ... in terms of this By-law”, the landowner must be in receipt of a compliance notice which includes an instruction to that landowner to submit an application in terms of section 87(2)(b) of the Bylaw. Put differently, the compliance notice is the gateway to the application process for the land owner concerned.

43. It follows that where a land owner is not in receipt of an instruction contained in a compliance notice to the effect that the landowner concerned must submit an application in terms of section 87(2)(b), such a landowner is not entitled to submit an application for the approval of the utilisation of the land. On the facts of this matter, it is clear that the Applicant is not in receipt of an instruction from the Municipality to submit an application in terms section 87(2)(b) of the Bylaw. Hence, no such application was submitted. Instead, the Applicant submitted an application for the rezoning in terms of section 15(2)(a) of the Bylaw.
44. As indicated above, landowners in the position of the Applicant may only submit application in terms of section 87(2)(b) of the Bylaw. It follows that the Tribunal had no power to decide the application as there was no proper application before it. In so far as the Tribunal made the rezoning decision, that decision is fundamentally flawed on the basis that the Tribunal committed an error of law.
45. Therefore, we submit that the Appeal Authority should set aside the rezoning decision on the basis that the Tribunal granted the rezoning application on an application that was not lodged in compliance with section 87(2)(b) of the Bylaw (where such an application was required in terms of the Bylaw) .

No reasonable decision-maker could have made the rezoning decision

46. The Appellants hereby submit that the rezoning decision is such that no reasonable decision-maker could have made such a decision. First, the reasons for the refusal to grant consent for the feedlot are more applicable to what should have been a refusal of the rezoning applied for. We draw the attention of the Appeal Authority, specifically, to the following reasons for refusal of consent for the feedlot:
- 46.1. "The proposed feedlot is within a CBA area and important ecological corridor as identified in the WC BSP, 2017 and is therefore not consistent with the WCPSPDF's Rural Land Use Guidelines (March 2019)";

- 46.2. "Insufficient motivation is given regarding the desirability of relocating the feedlot from Roodehoogte in Robertson in terms of transport distance of sheep to the site and to the abattoir and the transport of feed";
- 46.3. "The Applicant has indicated how they intend to minimise flies and odours but the BAR has not assessed the cumulative impact of odours and flies from the compost facility and feedlot on the health and well-being of residents and tourists and on the surrounding natural and agricultural environment and socio-economic impact thereof";
- 46.4. "The Applicant dismissed the Tribunal's request for the compilation of an Atmospheric Impact Report to assess" the abovementioned impacts and, therefore "it is not possible to conclude that the proposed feedlot, in addition to the compost facility, will not infringe on the "rights to an environment with is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development"; and
- 46.5. "Given that the compost facility has already drawn complaints in terms of flies and odours, cumulative impacts from an additional land use which also generate flies and odours are not in the public interest; not consistent with existing rights; are inconsistent with the sustainability of agri-tourism businesses; and are inconsistent with the principles of spatial justice and spatial sustainability".
47. It is inconceivable that a decision-maker who has refused to grant consent for the feedlot on account of the reasons that are given (including the specific reasons set out immediately above) would in the same decision grant the rezoning decision. The Tribunal appears to have accepted that placing the proposed feedlot within a CBA and important ecological corridor is not justified. Inexplicably, the same reasoning has not influenced the Tribunal in respect of the rezoning decision.

48. There is more to the fact that the rezoned portion falls within a CBA than what the Tribunal appears to have appreciated. As a matter of fact, the area on which the compost facility is situated has been identified as a Terrestrial CBA. In the Basic Assessment Report dated October 2017 (prepared on behalf of the Applicant) it is recorded that:

“ ... the area identified for the Compost facility has been identified as a Terrestrial CBA. This is however not consistent with the existing state of the site which has been completely transformed as a result of past and existing activities.”²

49. We submit that the quote set out immediately above is relevant, in the first instance, in so far as it shows that the compost facility is located within a Terrestrial CBA. Importantly, the quote is relevant, in the second instance, in so far as it seeks to justify the development of the compost facility on a Terrestrial CBA. The justification is hopelessly inappropriate. Nevertheless, it appears that the Tribunal may have been affected by that justification and, as a result, ignored the Guidelines contained in WC BSP, 2017. Among other things, those guidelines provide the following in respect of what are appropriate land uses within a Terrestrial CBA:

“Permissible land uses are those that are compatible with maintaining the natural vegetation cover of CBAs in a healthy ecological state and that do not result in loss or degradation of natural habitat.

Land uses that should not be located in terrestrial CBAs because they cause loss of natural habitat or ecosystems functionality, include:

- Any form of mining or prospecting;

² Page 22.

- Conversion of natural habitat for intensive agriculture (cultivation) or plantation forestry;
- Buildings or infrastructure associated with residential, commercial or industrial developments;
- Complete-barrier fencing ...;
- Linear infrastructure of any sort that disrupts the connectivity of CBA corridors;
- Extensive or intensive grazing that results in species diversity being lost through selective – or over-grazing.”³

50. We remind the Appeal Authority that, in the Applicant's case, the Applicant has unlawfully changed the use of its property unlawfully notwithstanding that it falls with a CBA. To say that the change has already occurred does not take the matter any further as the Municipality must decide whether the change is appropriate in the first place. For the sake of completeness, we attach the relevant page of TABLE 4.1 of the Guidelines, marked “B”, which indicates that “land use change in CBA should not be permitted.”

51. It is submitted that the Appeal Authority must set aside the rezoning decision on the basis that no reasonable decision-maker could have made the rezoning decision as demonstrated above.

The desirability of the compost facility on the Applicant's property has not been demonstrated

³ Page 69.

52. The Appellants submit that the Tribunal did not find that the desirability of the compost facility (on the relevant portion of the property) had been demonstrated. The Tribunal was not in a position to make that finding in the first place. To begin with, in the Motivational Report which accompanied the Applicant's application, it is submitted that the location of the compost facility is desirable on the basis that the "whole application site is already transformed and disturbed" and, as a result, the site is no longer a CBA.
53. With respect, the Applicant's reasoning is fundamentally flawed. On the facts of this matter that reasoning seeks to reward the Applicant (as the owner of the property) for its decision to construct (or to allow the construction of) the compost facility and to commence the use of that facility (without the necessary rezoning of the property) and, only thereafter, to apply for the necessary rezoning.
54. The reward relates to the fact that, if one follows the reasoning provided, because the compost facility has been built in the CBA, the location of that facility is now desirable where it is on the basis that the relevant portion of the CBA has already been transformed. In the absence of the reasons provided by the Tribunal for the granting of the rezoning, the Appellant is left with no option but to assume that the Tribunal accepted that flawed reasoning.
55. Importantly, what the Motivational Report does not refer to is the fact that the compost facility is located next to the Doornkloof Private Nature Reserve. In other words, in the Motivational Report, it has not been considered that the compost facility is undesirable on the basis that it is located next door to a nature reserve. What is also overlooked is the fact that the compost facility is located on a buffer zone of a nature reserve.
56. The First Appellant drew the attention of the decision-maker to the nature reserve in the comment that the First Appellant submitted in response to the Motivational Report. Specifically, the First Appellant submitted that it "is of extreme concern that the

Applicant continues to negate the fact that the site is situated next to a nature reserve.”⁴
Given that the Tribunal has not demonstrated how it dealt with the First Appellant’s comments, it is justifiably assumed that those comments were ignored. Accordingly, we hereby resubmit those comments and attach them hereto, marked “C”, as if they are specifically mentioned herein. We specifically ask the Appeal Authority to take those comments into account and to set aside the rezoning decision on the strength of those comments.

57. Similarly, the Second Appellant submitted comments dated 12 December 2017. Those comments were also ignored by the Tribunal when it made the rezoning decision. Again, we hereby resubmit those comments and attach them hereto, marked “D”, as if they are specifically mentioned herein.

Only the general need for a compost facility has been demonstrated by the Applicant

58. In the end, it is submitted that, what the Applicant’s application demonstrated is that there is a need for a compost facility in general within the Municipal Area. However, the Applicant failed to demonstrate that there is a need for such a compost facility to be located where the Applicant has already built the compost facility in question. Hence, what the Applicant applied for in an indulgence to be allowed to keep the compost facility on the basis that it has already been built at the present location on the property. The Tribunal had an obligation to reject that request with contempt.
59. However, inexplicably, the Tribunal decided to grant the rezoning applied for by the Applicant. The Tribunal’s conduct is inexplicable if the Appeal Authority considers the fact that the compost facility is a non-place-bound industry. In other words, a compost facility is not bound to be built in a rural area. In terms of the Western Cape Land Use Planning Guidelines Rural Areas March 2019, at page 58, the Applicant has an

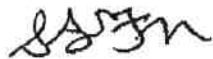
⁴ Paragraph 2.1.

obligation "to illustrate why the industry must be located in the rural area rather than in an industrial area of a town." The Applicant has not succeeded in making that illustration.

RELIEF SOUGHT

60. In light of the above, we submit that the Appeal Authority should set aside the Tribunal's rezoning decision in its entirety on account of any or of all the grounds of appeal submitted herein.

Yours faithfully
Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)

Date: 21 November 2019

The CBA categories also include a CBA 2 (degraded) category which are areas in a degraded or secondary condition that are required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure. These areas should be rehabilitated and only low-impact, biodiversity-sensitive land uses are appropriate.

Guidelines for locating land uses within CBAs are provided in Table 4.1.

TABLE 4.1: Land Use Guidelines for Protected Areas and Critical Biodiversity Areas

Map category	Desired management objective	General guidelines	
Protected Areas	Must be kept in a natural state, with a management plan focused on maintaining or improving the state of biodiversity. A benchmark for biodiversity.	- All operational aspects of managing these areas must be subject to their main purpose, which is to protect and maintain biodiversity and ecological integrity, and should be governed by a formally approved management plan including land use activities that support the primary function of these areas as sites for biodiversity conservation. - The management plan must identify allowable activities, which should be consistent at least with the CBA Irreplaceable category; the location of these allowable activities should be captured in a zonation plan in the management plan. - Activities relating to the construction of roads, administrative or tourism infrastructure and services (such as water reticulation systems, power lines, etc.) that are required to support the primary function of the protected area and its allowable activities, are subject to NEMA authorisation and the protected area management plan. - In the case of Protected Environments, a variety of agricultural land uses may be allowed, such as livestock grazing, plantation forestry and limited cultivation. The location of these land use activities must be informed by the BSP Map, and should be specified in the zonation plan in the management plan for the protected environment. All areas of natural habitat that are zoned for conservation use, should be subject to implementation of the land use guidelines for protected areas, CBAs, and ESAs. - Mountain Catchment Areas are also included in this category, however unlike the other categories, there is no requirement for a management plan which would guide allowable land uses and activities. Therefore, the land use guideline should be aligned with that of Critical Biodiversity Areas, with the primary intention to ensure the steady supply of good quality water to downstream areas.	
Map category	Desired management objective	General guidelines	Specific guidelines
Critical Biodiversity Area 1: Terrestrial & Forest	Maintain in a natural or near-natural state, with no further loss of natural habitat. Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land uses are appropriate.	- Biodiversity loss and land use change in CBAs should not be permitted. Unauthorized land use change or degradation by neglect or ignorance must be monitored as a matter of priority. - Where appropriate and in accordance with the Protected Area Expansion Strategy (and where capacity exists), these areas should be incorporated into the formal Protected Area system through biodiversity stewardship agreements (contract Nature Reserves or Protected Environments). - Ideally, conservation management activities should be the primary land use in all irreplaceable areas, OR they should at least be managed in ways that have no negative impact on species, ecosystems or ecosystem services.	- Ideally, development should be avoided in these areas. If they cannot be avoided it must be shown that the mitigation hierarchy has been applied if there is a proposal within a CBA. If the impact cannot be avoided or reduced to a residual low significance, a biodiversity offset may be considered as a last resort. However, a biodiversity offset should not be offered upfront and will be considered on a case by case basis. - A specialist study must form part of the Scoping and EIA process for all land use applications in these areas, using the services of an experienced and locally knowledgeable biodiversity expert who is registered with SACNASP.

"C"

Mnr J V Brand
Bestuurder: Stadsbeplanning
Piet Retiefstraat 3
Montagu
6720

Beste Kobus

Hiermee my kommentaar en dringende besware teen bogenoemde hersonering soos aangevra in u brief van 14 November 2017.

Ek bewoon die Doornkloof Privaat Natuurreservaat (Deel 22 van die plaas Vinke Rivier nommer 8) langs aan Middelburg. My skrywe van 17 Julie 2017 aan Eco Impact Legal Consulting gedurende die "pre-permission" stadium van die openbare deelnameproses oor die onderhawige kwessie (proses steeds aan die gang) verskyn aan die einde van my kommentaar aan u en vorm deel van die huidige besware.

OBJECTIONS TO REZONING:

This development will affect the Doornkloof Reserve and my very livelihood profoundly and the rezoning application NEEDS TO BE DENIED. As mentioned, my only income is from guests and utterly dependent on the pristine nature of the reserve and its surrounds.

1. THE FLY SITUATION HAS WORSENERD EXPONENTIALLY

The fly control measures described on page 16 of the Motivational Report are grossly ineffective. The fly plague has become intolerable.

I have been living next door to Middelburg permanently since 2013 and NEVER had flies like this. There used to be small "veld flies" for want of a more scientific term, which could be a nuisance when out walking, and some midges and fruit flies, but NEVER this epidemic of houseflies and blowflies inside and around our homes.

I installed six Red Top flytraps like the ones referred to in the report. They smell extremely bad and they do not significantly reduce the number of flies in and around the houses - there are always more flies. These traps are ineffective.

719.

Commercial insecticides like Doom, Target or Raid DO NOT kill these flies indoors. Only specialised products obtained at increased cost have some effect. Then I have to sweep up dead flies up to the very minute guests arrive.

The kitchen counter:



My guests do not want to stay in an Eco-friendly facility with several automatic insecticide dispensers continuously releasing noxious spray into the interior, which we consequently inhale.

Measures like the industrial poisons employed by SAFAM are not an option in an ecologically aware setup like mine. In keeping with the ethos of the nature reserve I encourage geckos inside the houses and refrain from killing spiders, etc. (The geckos and spiders had always been enough to control the very few flies found indoors.)

The last two sets of guests complained about the flies. They did so to me in private, but it is just a matter of time until someone writes it in an online review.

As things stand I don't see these people coming back even if I invested in mosquito nets to facilitate at least an afternoon nap as suggested by one Cape Town couple who had to fashion a tent over the bed using a top sheet to escape the flies. The Swiss couple who left yesterday morning mentioned that they have never had to swat so many flies in one place and they are seasoned trans-Africa overland travellers.

I practise excellent hygien and meticulous rubbish control & recycling, yet I cannot eat a meal outside on the verandah for the flies. The flies are impervious to citronella products. My dogs have to be treated with Quadrapel fly repellent daily.

If the fly problem is this perilous in the absence of the proposed feedlot and with the existing amount of compost being made, I do not see how any measures - definitely not the ones supposedly in use at the moment - could be sufficient if a large feedlot and more composting offal were added to the existing problem.

2. INACCURACIES AND NON-COMPLIANCE

2.1 The Motivational Report for the Rezoning Application: page 2 describes the characteristics of the surrounding area as "rural with mainly vineyards, orchards, grazing and natural veld", while the map on page 4 lacks scale and therefore clarity and the bullet points below 5. PROTECTED AREAS omit any reference to the reserve.

Page 5 goes on to assert that, "according to the above guidelines, the compost plant is desirable in this location". The narrow guidelines described cannot possibly be the only ones in operation and the applicant has again conveniently not mentioned the Private Nature Reserve right next door.

It is of extreme concern that the applicant continues to negate the fact that the site is situated next to a nature reserve.

I attended a public open day about the proposed compost facility and feedlot on 26 October 2017. Also present were my neighbours, Louis Jordaan and Johan Fourie, and Nicolaas Hanekom (Director and Principal Environmental Assessment Practitioner), David Houghton (Robertson Abattoir) and Anna-Christa Redelinghuys

(Town Planning Consultant) on behalf of SAFAM.

During the meeting Mr. Hanekom was made aware of Doornkloof Private Nature Reserve and undertook to re-consult his maps and acknowledge the reserve as being adjacent to the site. The stewardship status of Doornkloof is neither contested nor contestable.

Even if we were to have our level of stewardship assessed to aid in halting the process next door our existing status remains intact no matter the outcome of such an assessment.

The applicant should recognise this and acknowledge our proximity accordingly.

2.2 On page 3 of the Motivational Report it is stated that the area transformed by adding the bulk piles, windrows and effluent dams, was "previously ploughed and planted with pastures and used for grazing purposes". This is incorrect. Extensive mechanical clearing of natural vegetation was done to create the present desert.

2.3 The applicant seems to suggest that the noxious trade definition might not apply to their project, using the rationalisation that "many farmers develop compost on their farms as part of general practices next to vineyards/orchards, using both carbon (plant material) and nitrogen (animal offal)". This may or may not be so, but NOT TO THIS EXTENT.

The extent to which the applicant does/wants to do this renders it a noxious trade and invalidates their attempt at justification.

As for "offensive" and "dangerous to health", I hope I do not have to educate my peers on the offensiveness of feedlots and abattoirs in a progressive society, nor on the health dangers of flies and pathogens, which brings me to my next salient point:

2.4 During the aforementioned meeting both Mr. Hanekom and Mr. Houghton confirmed that they were taking condemned carcasses to the Middelburg site. According to Mr. Houghton, it was because the facility at Vissershok was not accepting their waste either, because it, too, was full. Please compare the gentlemen's admission to the process described in the penultimate paragraph on page 8 of the report, with specific reference to their utilisation of the Vissershok Hazardous Waste Landfill Site.

Surely their failure to use the Vissershok facility constitutes a contravention of existing permissions as well as reason to withhold permission for the rezoning application and any further permits. If they are already departing from their stated SOPs in such an egregious manner surely they should not be allowed to continue, much less expand?

2.5 As for the promised cut-off time for delivery to the site being "leaving the abattoir at 15h30" (page 16), the white skip truck was offloading at 17h45 yesterday when I drove past the site on my way home from Robertson. This late delivery is not an unusual occurrence.

A white skip truck was also offloading this morning at 10h45 when I drove past going into Robertson and again at 12h45 when I returned. Page 17 clearly states the number of trips are/will be: blood tanks once a day and skip trucks approximately every second day. This is being exceeded.

Who would monitor the promises made by SAFAM regarding number of trips and quantities of offal offloaded? Please do not put the onus onto us, the neighbours, to have to report their transgressions.

2.6 The application states that the applicant is in the process of obtaining environmental authorisation (p. 6). Please note that in this process, Eco Impact has been neglecting to mention, and continue to neglect to mention, the fact that the site borders onto a nature reserve.

2.7 The fire risk noted on page 11 of the Report is a real danger. Add to this the number of people and vehicles on the site and on the road and the risk of fire increases.

2.8 There is no quality analysis certificate attached under 9.5 QUALITY OF COMPOST (page 13). More importantly, I am unable to comment on any of the Standard Operating Procedures listed under 9.6 as these are not attached either, nor are the "forms that needed to be completed by the workers throughout the process" (page 13). Ditto the borehole registration certificate and proof of application of transfer of ownership (of the borehole?) referred to on page 14.

2.9 One of the natural features that draws my guests here is stargazing. Light pollution caused by feeding animals under floodlights at night will end this. This is

why you cannot put an industrial area next to a nature reserve.

2.10 It is asserted on page 16 that "All by-products are covered immediately...", conveniently forgetting about the blood that has to lie uncovered for an hour to safeguard the machine (page 11). During that hour, do the flies do nothing? As stated in my first objection about the flies, the measures detailed on page 16 are categorically not effective.

2.11 The fact that the lime factory creates noise and dust is a serious and separate problem in itself and does NOT make it acceptable to add more noise and dust! The Gannabosch Clay Mine and Brick Making Facility tried to use similar ingenious rationalisations recently and failed. The same goes for the gravel road carrying "many trucks" (page 18).

2.12 As for security (page 17) this is of critical concern to me. I am still relatively safe residing in this secluded kloof. The increase in human traffic brought about by having an industrial area next door, will change this. Let that sink in, please.

2.13 I contend that the location at Middelburg, while desirable to the applicant, is gravely undesirable to the neighbours.

While the option of making compost may be preferable to dumping, this is not a suitable site for an industrial area or special use for feedlot, for the reasons explained above as well as in my letter to Eco Impact below. The applicant has investigated other options; now they need to consider other premises for their chosen option.

What do other abattoirs do with their waste? Could SAFAM not rather move the compost facility to the existing feedlot at Roodehoogte and apply for rezoning of that area? If not, why not?

Or, as another neighbour suggested, utilise the existing compost making facility at the Robertson municipal refuse site on the McGregor road to make compost in partnership with the municipality?

I have no doubt that SAFAM possesses sufficient funds to purchase a suitable property ad hoc. I have only Doornkloof - my livelihood and home.

3. OWNER'S OCCUPATION OF MIDDELBURG FARM

Some time ago we as neighbours were consulted by the municipality regarding plans for Mr. De Bod's house that was going to be built on the farm along with a home for the manager (not the structure in use currently). I had no objection to the plans they submitted. This was before there was any inkling of a compost facility to be established in situ.

Are these planned dwellings still being built? If not, I would like to know why - is it because they do not wish to live next to a fly-covered heap of blood and guts either? Then why should I have to do so?

Thank you for your time and I trust the matter will enjoy your careful consideration.

Hanneré Jooste

Doornkloof Private Nature Reserve
P O Box 209
Robertson
6705

023 004 0034

12 Desember 2017

Die Bestuurder
Stadsbeplanning
Langeberg munisipaliteit

Voorgestelde hersonering en vergunningsgebruik van gedeelte 6 van die plaas Middelburg nr 10, Robertson.

Hiermee wil ek Louis Jordaan woonagtig te Doornkloof Privaat Natuur Reservaat, Vinke rivier no.8 Posbus 471, Robertson, 6705 beswaar aanteken teen voorgestelde hersonering en vergunnings verbruik.

Ek is direkte buurman en sedert die gebruik van kompos maak van abbatoir afval het ek geweldige vlieë probleem. Dit is baie duidelik dat die huidige praktyke by die kompos maak nie die vlieë kan beheer nie. Ons kan eenvoudig nie meer buite sit sonder om geweldig deur vlieë gepla te word.

Moontlike opsies wat oorweeg was vir die kompos projek is ook onvoldoende. Daar is wel ander opsies ondersoek maar daar word niks melding gemaak of daar ander liggings ondersoek is vir die kompos fasiliteit. Die material word teen onkoste en teen groot las op die agter vinkrivier grondpad (Dr1377) vanaf Robertson na die voorgestelde ligging geneem. Asook hout chips wat ook vanaf Robertson aangery word met ekstra kostes en druk op grond pad. Al die klaar kompos word weer daar weg gery, weereens met druk op die toestand van die grondpad. Meeste van die werkers word soggens ook vanaf Robertson aangery weereens met al die nadele op die grond pad en omgewing. Die pad is nie geskik vir groot voertuie om langs mekaar te kan verby ry asook die ekstra stof wat veroorsaak word. Die ekstra voertuie op pad gaan meer las op die onderhoud sit en hoe gaan dit gehanteer word? Enige posisie nader aan die bron sal ekonomies meer sin maak. SAFAM maak geen melding dat hulle probeer het om met Robertson of Ashton munisipaliteit saam te werk en inskakel by die huidige munisipale kompos aanleg. Veral gesien in die lig van dat daar melding gemaak word dat geen water vir die vervaardiging gebruik word dus die logging op ander grond tipes nader aan Robertson van minder belang is.

Transport na en weg vanaf die voerkraal vir die 4500 vee asook voer wat aangery met groot trokke sit verdere druk op die grondpad.

Daar word melding gemaak van 8 ton skip trok wat approx elke tweede dag ry. Die trok ry defnitief tenminste twee keer per dag al vir maande lank. Dit is vals inligting wat aan ons verskaf word op bl. 17. Daar word melding gemaak van "site access register" bl17. N Kopie daarvan behoort dit te bevestig. Kan die register aangeheg word asseblief.

Ons almal in die omgewing maak gebruik van boorgate vir huishoudelike water gebruik en alreeds gedurende die einde van 2016 se somer het ons boorgate tekens van opdrooging getoon. As 4500 stuks vee ook nog moet bykom gaan dit die onderwater bron verder onder druk plaas. Aangesien ek geografies hoër op is kan dit wees dat my onder grondse bronne eerste daaronder sal ly. Indien die hersoneering en vergunning toegestaan word en droogte toestand duur voort soos voorspel het ek dan geen ander water bron indien my boorgat opdroog.

Ek het ook beswaar teen feit dat diere afval gestort word in area waar nog baie natuurlike wild voorkom. Huidiglik is die area nie voldoende toegespan om die wildediere en voëls weg te hou van die bron van voedsel. Geen melding word gemaak oor wat gedoen is om te bepaal wat die lang termyn effek op bv. Die luiperd, Rooikat, bosvark, witkruis arende ens is nie. Die area is spesiaal as gestig as Privaat Natuur reservaat juis omdat die fauna en flora bedreig word deur kommersieële aktiwiteite. Sien sertifikaat van Natuurbewaring aangeheg.

Die feit dat daar ongeskikte karkasse gestort word en direk langs area is voerkraal vir diere wat terug gaan na waar die karkasse vandaan kom kan net probleem veroorsaak. As vlieë nie eers voldoende beheer kan word hoe gaan die vernietiging van patogene beheer word.

Geen van SOP's is aangeheg in die skrywe van 14 November 2017 soos vermeld op bl.13 en kan dus nie kommentaar daarop lewer.

Geen registrasie sertifikaat van boorgat is aangeheg soos verwys na op BI14. Kan nie kommentaar lewer.

Geen water analyses is aangeheg soos verwys na op BI14 is aangeheg. Kan nie komentaar lewer.

Daar word melding gemaak van twee ingange(bl.18) vanaf die DR1377. Die tweede ingang is onlangs geskep. Kan die goedkeuring van die tweede ingang deur pad ingenieur asseblief as bylae aangeheg word. Hoekom ek vra is omdat die ingang reg op draai in pad gemaak is.

Op bl 3 word melding gemaak van twee damme wat by BGCMA geregistreer is. Kan die registrasie setifikaat aangeheg word asseblief. Daar is onlangs groot grondwerke konstruksie by een dam uitgevoer. Volgens BGCMA is hulle nie daaroor ingelig.

Dankie vir u samewerking in die verband.

APPEAL MOTIVATION AND REASONS

This Appeal is lodged against the Langeberg Municipal Tribunal's decision to approve the rezoning of Portion 6 of the Farm Middelburg from Agriculture I to Industrial Zone II (Noxious trade) for a Compost Facility adjacent to the Doornkloof Private Nature Reserve.

Reasons for the Appeal include, but are not limited to:

- Procedural irregularity;
- Incompatible land uses, as the Facility is adjacent to a Private Nature Reserve;
- Municipal Tribunal's lack of capacity to make a decision on the application in terms of section 86(1) the Langeberg Municipal By-Laws; and
- Lack of reasons provided by the Municipality in approving the rezoning application.

In light of the abovementioned reasons we submit that the Appeal Authority must set aside the rezoning decision.

Annexure 10

Applicant's Response to Appeals 2, 3 & 4

du Bois
Response to
Appeal 2
(Perisscia)



Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGERS / CONVEYANCERS

BTW NR 4770183285

ROBERTSON

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OUR REF : JPDUB/af/HR0221

YOUR REF : 15/4/12/5&7 – Ms TL Brunings

DATE : 11 DECEMBER 2019

THE MUNICIPAL MANAGER
APPEAL AUTHORITY
LANGEBERG MUNICIPALITY
ASHTON

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

E-mail: tbrunings@langeberg.gov.za; admin@langeberg.gov.za;
mm@langeberg.gov.za

Dear Sirs

APPEAL BY PERISSEIA (PTY) LTD IN TERMS OF SECTION 79 OF THE LANGEBERG MUNICIPAL LAND USE PLANNING BYLAW, 2015 AGAINST DECISION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II IN RESPECT OF PORTION 6 OF MIDDELBURG 10, ROBERTSON -- COMMENTS

PENDING APPEAL BY REBEN TRUST IN TERMS OF SECTION 79 OF THE LANGEBERG MUNICIPAL LAND USE PLANNING BYLAW, 2015 – DATED 22 NOVEMBER 2019

We refer to the pending appeal by Reben Trust lodged by ourselves on behalf of our said client. We confirm the contents thereof as extensively motivated in our appeal documents, including the Grounds of Appeal.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

We will now comment on the appeal by Perisseia (Pty) Ltd ("Perisseia") represented by Christo Reeders Attorneys, which appeal was filed on 21 November 2019.

I will deal *ad seriatim* with the paragraphs of the said appeal of Perisseia. Insofar as Perisseia also deals with or refer to or comment on the reasons advanced by the Tribunal, we will simultaneously address those reasons and comments.

1. **Ad paragraphs 1 to 3 thereof:**

The contents of these paragraphs are noted, but rejected insofar as it is at variance with or contrary to the contents of the appeal documents filed by Reben Trust, corroborated by the reasons advanced for the decisions by the Directorate: Development Management as well as the Directorate: Waste Management, referred to below.

2. **Procedural Reservations: Ad paragraphs 4 to 9 thereof**

It frequently appears in these paragraphs that Reben Trust is accused of an alleged "*continued failure to comply with the law in general*" as well as failure to meet reasonable requests for information by the Tribunal. These aspects have been fully addressed in the pending appeal of Reben Trust and will not be repeated. Reben Trust has in this regard, been fully vindicated by the Western Cape High Court on 18 October 2019. A copy of the Court Order is in possession of the Municipality, but is annexed hereto again, marked "A1".

3. **Substantive Grounds of Appeal: Ad paragraphs 10 to 12 thereof:**

3.1 The contents of these Grounds of Appeal are rejected out of hand pursuant to what had been extensively motivated in the pending appeal documents of Reben Trust.

- 3.2 False accusations as to a so-called history of *“recalcitrant non-compliance and clear disregard for the environment and neighbours”* by Reben Trust are made recklessly without any substantiation. It is patently clear that Perisseia and/or its legal representative, do not have the faintest idea what has transpired since 18 October 2019 when the Court Order was issued, effectively exonerating Reben Trust, at all relevant times, from the contravention of any environmental legislation.
- 3.3 The above allegations by Perriseia therefore falls to be rejected out of hand.

4. Reasons for the refusal of the feedlot by the Municipality: Ad paragraph 13 thereof:

- 4.1 We submit with respect, that what has been set out in this paragraph, is simply a continuous and monotonous repetition of what has already been stated on 31 October 2019 by the Tribunal of the Municipality, rejecting the feedlot and restricting the compost facility to only 1.3 ha.
- 4.2 As stated above, extensive motivation, legally and factually sound, had been provided in the pending appeal of Reben Trust where all the reasons submitted by the Tribunal on 31 October 2019, had been separately and extensively dealt with. The Appeal Grounds submitted by Perisseia contain nothing new.
- 4.3 It is therefore with respect, unnecessary to reiterate and repeat what has already been set out fully in the appeal documents of Reben Trust.

5. Decision by Directorate: Development Management (29 November 2019):

- 5.1 We maintain on behalf of Reben Trust that it has since effectively been confirmed that its opposition to the rejection of the feedlot and the restriction of the compost facility by the Tribunal, had been vindicated fully on 29 November 2019. On that date, the Directorate: Development Management of the Western Cape Government granted the Application for Environmental Authorization in terms of the National Environmental Management Act, with full and extensive reasons why that authorization should be granted. The reasons for their decision are firstly at total variance with and secondly essentially a rejection of the reasons advanced by the Tribunal on 31 October 2019. We must point out that, if ever a person's rights and the reasons therefore, had been comprehensively vindicated, this is such a case. It should be noted that, virtually and in essence, all the reasons advanced by the Tribunal, had been fully addressed and found to be wanting in the light of the decision of the Directorate to grant the Environmental Authorization. One must of course bear in mind that the Directorate: Development Management is the "experts" in this field, pertaining to the principles applicable to and the correct application of such principles within the sphere of the WCPSTF's Rural Land Use Guidelines.
- 5.2 Thus, we on behalf of the Reben Trust, accept the reasons for the Directorate's decisions set out by them. Those reasons are furthermore sound and rational and completely in line with, not only the motivation submitted by the Reben Trust in its appeal, but also with the principles of environmental governance. We attach hereto, for the sake

of completeness, the Environmental Authorization and annexures granted by the Directorate dated 29 November 2019, marked "A2".

6. Decision by Directorate: Waste Management (29 November 2019):

- 6.1 Furthermore, on the same date namely 29 November 2019, the Directorate: Waste Management of the Western Cape Government, also decided to grant a Waste Management Licence ("WML") pertaining to the compost facility for the treatment of general waste on Portion 6 at a facility which has the capacity to process in excess of 10 tons but less than 100 tons of waste. Again, the reasons for the decision set out in annexure 1 of the WML, fully conform to all environmental principles to be considered when the application for the WML was adjudicated upon.
- 6.2 We fully accept and agree with the said reasons for the decision as stated above. After all, again, virtually all of them are at total variance with the reasons provided by the Tribunal on 31 October 2019. It stands to reason that the fact that a separate independent Directorate (Waste Management) has now confirmed that the rights of Reben Trust pertaining to the application for a WML and the application for a composting facility, had been fully vindicated by the granting of the WML. It is common cause that each and every reason of the Tribunal, except maybe for reasons 3 and 8, were fully considered and addressed by the Directorate. We maintain, as we have submitted in our Grounds of Appeal that those two reasons (3 + 8) are based on flawed assumptions and irrelevant speculation.
- 6.3 Nothing that appears in the Grounds of Appeal by Perisseia, can be regarded as reasons with any merit at all. It should be rejected out of

hand in comparison to what has been stated, not only in Reben Trust's Appeal Grounds, but in the reasons for their decisions by the two said Directorates. We attach hereto, for the sake of completeness, the WML and annexures, marked "A3".

- 6.4 With reference to "A2" (Environmental Authorization) specific regard must be had to the site plan annexed as Annexure 2 (site development plan). As can be gleaned from "A2" the compost facility is depicted as an area of 3.6ha and the feedlot is depicted at its new location further away from the river (100m). The area of the compost facility includes (and should include) all the essential components featuring in a fully operational compost facility, including collection dams, cut-off weirs and the like.

7. Tracy Brunings:

- 7.1 We have referred to in paragraphs 121 to 130 of the Grounds of Appeal under the heading "Conclusion", to the role Brunings in all probability has played in this process. We re-confirm this viewpoint on behalf of Reben Trust. Two aspects alluded to below increasingly endorse the above viewpoint.
- 7.2 On 25 October 2019 our offices submitted the Court Order of 18 October 2019 to Brunings. She acknowledged receipt of that e-mail and we quote as follows from her e-mail: *"Thank you for the e-mail below and attached Court Order. We look forward to the decisions from DEA & DP"*.
- 7.3 What was to be expected from Brunings at the time, with respect, was surely to have awaited the outcome of the applications for

Not Brunings' decision. Instructed
by: Manager: TP
Director: ES (as Chair: Trib
rel)

Environmental Authorization and the application for the WML before a decision in respect of the application for a rezoning would be made. The reason being that the three matters overlap almost entirely with regard to environmental and socio-economic principles to be applied in all three of them. Furthermore, it would appear from her said e-mail that this is exactly what she intended to do. Bear in mind that the pending decisions by the two Directorates were imminent. Notwithstanding, Brunings and/or the Tribunal made their decision to reject the feedlot out of hand and to restrict the compost facility to only 1.3ha, within 5 days from the receipt by her of the Court Order. And 30 days before the 2 decisions by the two Directorates were pronounced.

- 7.4 It must also be borne in mind that Brunings had been or should have been aware of the fact that the WML applied for, will enable Reben Trust to expand the current compost facility to enable Reben Trust to treat general waste of more than 10 tons per day, but not more than 100 tons per day. Pure common sense dictates that the authorized WML will be practically of no use at all to the Reben Trust, should the compost facility be restricted to only 1.3ha. The Reben Trust now finds itself in a classic conundrum scenario. It has been granted a WML to treat general waste in the production of compost up to 100 tons per day. The Environmental Authorization has been granted to a compost facility comprising of 3.6ha to enable it to treat such a volume of waste. However, only 1.3ha has been zoned for that very purpose. This type of conundrum is exactly why Brunings and/or the Tribunal should have awaited the outcome of the pending decisions of the Directorates. After all, she should have foreseen that the Tribunal's "premature" decision could necessarily result in a stalemate situation for the Reben Trust.

- 7.5 It is thus inexplicable why Brunings and/or the Tribunal did not await the outcome of the two decisions. This failure to await the decisions is in itself irrational and demonstrates for the umpteenth time the reckless attitude displayed by Brunings throughout this process. This attitude is evidenced by numerous examples (alluded to in the Grounds of Appeal of the Reben Trust), of which the above is but a further one.

8. **Ad Reason 2 of the Tribunal (Referred to in paragraph 13.2 of Perisseia's Appeal):**

- 8.1 We deem it incumbent to provide more details as to only reason 2 submitted by the Tribunal on 31 October 2019. This reason is inter alia referred to in paragraph 13.2 of the Grounds of Appeal under discussion. As stated above, the remainder of the reasons have been fully addressed, not only by Reben Trust in its extensive Grounds of Appeal, but also by the extensive reasons provided by the two Directorates.
- 8.2 Reason 2 is concerned with the "fact" that the proposed feedlot is situated within a CBA and important ecological corridor as identified in the WC BSP 2017 and according to the Tribunal, is therefore not consistent with the WCPSTF's Rural Land Use Guidelines (March 2019).
- 8.3 We have already explained extensively why this reason (and the comments of Perisseia on that and other reasons advanced by the Tribunal) should be rejected out of hand. However, we want to point out that during the past 2 to 3 years an area comprising of 135.3ha of prime and pristine CBA, less than 2km south from the feedlot on Portion 6, were cleared for agricultural purposes by the owner of that

property. The property is Portion 9 of the Farm Middelburg No 10 ("Portion 9"). We annex hereto marked "A4", a Google map depicting 4 areas, comprising in total an area of 135.3ha. This area forms part of the so-called Middelburg development and is located between 700m and 1.9km from the proposed feedlot on Portion 6.

8.4 We must mention immediately that we do not question, nor criticize the clearing of the said area of 135.3ha on Portion 9. We assume that prior authorization was indeed obtained by the owners of that property. The point however is, that pristine CBA was cleared which never had been cleared before, for agricultural or any other purpose. In comparison the feedlot and compost site on Portion 6, comprises of a mere ± 4 ha of previously cultivated and degraded land over the course of a few decades. Furthermore, the feedlot on Portion 6 does not fall in a so-called ecological corridor as has already alluded to in the Grounds of Appeal of the Reben Trust. In comparison, it can be gleaned from "A4", that two ecological corridors in the form of two rivers, are located right in the middle of the developed land on Portion 9. In fact, one of the rivers is the very same river referred to in reason 2 as consisting of *"an important ecological corridor"*.

8.5 Notwithstanding the above and inexplicably the development of 6000m² of historical and degraded CBA, is regarded by the Tribunal as a prime reason why the feedlot should be rejected out of hand. This stance borders on ludicrousness. Surely, the authorities providing authorization for the 135.3ha of land to be cleared on Portion 9, would have applied the WCPSDF's Rural Land Use Guidelines of March 2019 before they approved the development of such prime and pristine CBA in the midst of two ecological corridors? Apparently, they did not

find any compelling reason why this pristine CBA could not and should not be cleared and developed for agricultural purposes.

8.6 The Tribunal on the other hand and probably influenced by Brunings, however, was of the contrary opinion. After all, Brunings recommended the rejection of the feedlot to the Tribunal.

8.7 We humbly submit on behalf of Reben Trust that this behaviour of Brunings constitutes indisputable evidence or at least a clear indication of a biased stance in her recommendation for the rejection of a feedlot of only 6000m². Naturally, one must also borne in mind that Brunings and the Tribunal were or should have been fully aware of the development on Portion 9 at all relevant times. No doubt they would have been aware of this development on the date when they pronounced on the application for rezoning of Portion 6.

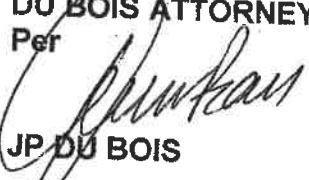
9. Conclusion:

9.1 We can only, with respect, throw our hands up in the air when regard is had to the incomprehensible reasons submitted by the Tribunal (as probably mostly recommended by Brunings) in their letter of 31 October 2019. We have stated fully in the Appeal documents of Reben Trust and we reiterate that the reasons provided by the Tribunal, are either based on irrational, misguided, irrelevant and/or speculative assumptions, bordering on reckless assumptions, misguided observations, flawed rationale, patently based on biased assertions which have in essence now all been rejected and in essence erased by the two Directorates referred to above.

9.2 As stated in our Appeal documents, we maintain that the reasons provided by the Tribunal on 31 October 2019, should be rejected out of

hand. It goes therefore without saying, that the Grounds of Appeal or any other reason submitted by Christo Reeders Attorneys on behalf of Perisseia, should likewise be rejected out of hand for the same reasons submitted in the Grounds of Appeal of Reben Trust and firmly consummated by the reasons provided for the decisions of the two Directorates referred to above.

Yours Faithfully
DU BOIS ATTORNEYS
Per


JP DU BOIS

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"A3"



Western Cape
Government
Environmental Affairs and
Development Planning

DIRECTORATE: WASTE MANAGEMENT
ETIENNE ROUX
Etienne.Roux@westerncape.gov.za

REFERENCE: 19/2/5/1/B1/14/WL0003/18

The Owner/s
South African Farm Assured Meat Group cc
P. O. Box 895
ROBERTSON
6705

Tel.: (023) 626 6320
Fax: (023) 626 6040

Attention: Mr. D. Houghton

Dear Sir

APPLICATION FOR A WASTE MANAGEMENT LICENCE IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008 (ACT NO 59 OF 2008) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON

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

Yours faithfully

MR. EDDIE HANEKOM
DIRECTOR: WASTE MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 28-11-2019

CC: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Peni (BGCMA)
(4) Ms. A. Duffel-Canham (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)

Fax: (021) 671 9976
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Western Cape
Government
Environmental Affairs and
Development Planning

BETTER TOGETHER.

DIRECTORATE: WASTE MANAGEMENT
ETIENNE ROUX
Etienne.Roux@westerncape.gov.za

REFERENCE: 19/2/5/1/B1/14/WL0003/18

The Owner/s
South African Farm Assured Meat Group cc
PO Box 895
ROBERTSON
6705

Tel: (023) 626 6320
Fax: (23) 626 6040
Email: David@robab.co.za

For attention: Mr David Houghton

**WASTE MANAGEMENT LICENCE FOR THE COMPOST FACILITY ON PORTION 6 OF FARM
MIDDELBURG 10, ROBERTSON**

WASTE MANAGEMENT LICENCE

SECTION A: DECISION

I, Eddie Hanekom, in my capacity as the Director: Waste Management of the Department of Environmental Affairs and Development Planning (hereafter "the Department"), in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as amended (NEM:WA), hereby issue this Waste Management Licence (Licence No.: 19/2/5/1/B1/14/WL0003/18) (hereafter "the Licence") to the abovementioned Licence Holder for the operation of a composting facility at South African Farm Assured Compost (hereafter "the Facility") on Portion 6 of Farm Middelburg 10, Robertson.

The granting of this WML is subject to compliance with the conditions set out in Section C below.

LICENCE NUMBER: 19/2/5/1/B1/14/WL0003/18
WASTE APPLICATION: ESTABLISHMENT AND OPERATION OF A COMPOSTING FACILITY
LOCATION: PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON
LICENCE HOLDER: SOUTH AFRICAN FARM ASSURED MEAT GROUP CC
CONTACT PERSON: MR DAVID HOUGHTON
ADDRESS: PO BOX 895, ROBERTSON, 6705

DETAILS OF THE EAP

Eco Impact Legal Consulting (Pty) Ltd

Ms Lauren Abrahams

PO Box 45070

CLAREMONT

7735

Tel: (021) 671 1660

Fax: (021) 671 9976

SECTION B: DESCRIPTION OF THE ACTIVITY:

The proposed development will entail the following:

- A compost facility to treat abattoir by-products and organic waste to produce compost on approximately 3.6ha on Portion 6 of Farm Middelburg 10, Robertson. Construction of storm water cut-off channels will feed into the collection dams to contain and store all storm water generated on site for reuse onto the compost rows as part of the treatment and compost making process.
- The proposal also includes the development of a feedlot for the keeping of animals for commercial production on approximately 6000m² on portion 6 of Farm Middelburg 10, Robertson. The planned stock levels under the canopy are 4500 lambs at any one time depending upon site and age. This activity is not authorised by this Waste Management Licence, but rather by an Environmental Authorisation, to be issued by this Department's Directorate: Land Management

The following activities listed in the NEM:WA "List of waste management activities that have, or are likely to have a detrimental effect on the environment", Government Notice (GN) No. 921 of 29 November 2013, as amended, are hereby authorised:

Category A

- 3 (6) The treatment of general waste using any form of treatment at a facility that has the capacity to process in excess of 10 tons but less than 100 tons.
- 3 (12) The construction of a facility for a waste management activity listed in Category A of this Schedule (not in isolation to associated waste management activity).

Category C

The following waste management activities in Category C may be triggered if the volumes are exceeded.

- 5(1) The storage of general waste at a facility that has the capacity to store in excess of 100m³ of general waste at any one time, excluding the storage of waste in lagoons or temporary storage of such waste.
- 5(2) The storage of hazardous waste at a facility that has the capacity to store in excess of 80m³ of hazardous waste at any one time, excluding the storage of hazardous waste in lagoons or temporary storage of such waste.
- 5(6) The sorting, shredding, grinding, crushing, screening or bailing of general waste at a facility that has an operational area that is 1000m² and more.

Should the above-mentioned threshold storage volumes be exceeded, then it would be required for the applicant to comply with the "NEM:WA National Norms and Standards for Storage of Waste", published as Government Notice No. 926 of 29 November 2013.

Should the Licence Holder intend to sort, shred, grind, crush, screen or bail general waste, the Licence Holder must register in terms of "NEM:WA National Norms and Standards for the Sorting, Shredding, Grinding, Crushing, Screening or Bailing of General Waste", published as Government Notice No. 1093 of 11 October 2017 and adhere to the general Duty of Care as stipulated in section 28 of the National Environmental Management Act, 1998 (Act no. 107 of 1998) "NEMA". If the Facility has an operational area greater than 1000m², the Facility will need to adhere to the above mentioned Norms and Standards.

In this Licence, "Director" means the Director: Waste Management of the Western Cape Department of Environmental Affairs and Development Planning, who may be contacted at the address below:

Director: Waste Management

Department of Environmental Affairs and Development Planning

Private Bag X 9086

CAPE TOWN

8000

In this Licence, "Director: RPW" means the Director: Resource Protection and Waste of the National Department of Water and Sanitation: Western Cape Provincial Operations, who may be contacted at the address below:

Director: Resource Protection and Waste

Department of Water and Sanitation

Private Bag X16

SANLAMHOF

7532

SECTION C: LICENCE CONDITIONS

1 LOCATION

1.1 This Licence authorises the South African Farm Assured Meat Group CC to establish and operate an organic composting Facility on Portion 6 of Farm Middelburg 10, Robertson.

1.2 Location of the property on which the Facility is situated:

Latitude (S)	Longitude (E)
33°43'51.05"	19°44'37.09"

1.3 The footprint of the Facility must be according to co-ordinates indicated on the Waste Management Licence Application Form, dated 26 January 2018, and Waste Management Licence Application Additional Information Annexure, dated 10 January 2018, submitted by the Licence Holder, which is defined as follows:

Corner numbers	Latitude (S)	Longitude (E)
1	33°43'50.41"	19°44'41.61"
2	33°43'52.27"	19°44'43.84"
3	33°43'55.42"	19°44'35.52"
4	33°43'57.01"	19°44'47.27"

1.4 The footprint of the Facility and its associated infrastructure is 36 000 m².

1.5 The Surveyor General 21 digit code of the Facility is: C06500000000001000006.

2 PERMISSIBLE WASTE

2.1 Only non-infectious mortalities, animal manure and other non-hazardous organic waste may be used in the composting process authorised in terms of this Licence.

2.2 The composting capacity of the Facility should not exceed 100 tons.

2.3 Should the Facility wish to compost more than 500kg of hazardous waste per day, the Facility will need to obtain a Waste Management Licence prior to the treatment of these quantities of hazardous waste.

3 APPOINTMENT OF WASTE MANAGEMENT CONTROL OFFICER/ENVIRONMENTAL CONTROL OFFICER

- 3.1 The waste management activities that are authorised by this Licence must be managed by fit and proper persons who are competent in respect of the responsibilities to be undertaken by them.
- 3.2 A Waste Management Control Officer (WMCO)/Environmental Control Officer (ECO) must be appointed, who will monitor and ensure compliance and correct implementation of all mitigation measures and provisions as stipulated in the Licence and Environmental Management Programme (EMPr) dated 26 April 2018, prior to any construction activities being undertaken on the Facility. The WMCO/ECO must:
- 3.2.1 report any non-compliance with Licence conditions or requirements or provisions of the NEM:WA to the Licensing Authority through the means reasonably available;
- 3.2.2 monitor the construction activities and ensure that the construction plans are in accordance with the approved engineering designs; and
- 3.2.3 submit a declaration to the Director upon completion of the construction works that all possible mitigation measures have been put in place and highlight likely deficiencies before commencement of the listed activities.

4 CONSTRUCTION

- 4.1 This Licence must be made binding to the main contractor, as well as individual contractors, and should be included in tender documentation for the construction contract.
- 4.2 The Licence does not negate the Licence Holder's responsibility to comply with any other statutory requirements that may be applicable for the undertaking of the listed activities.
- 4.3 The Facility or any portion thereof may only be used for the composting of permissible waste if the Facility or any such portion has been constructed or developed according to the conditions listed under condition 4 of the Licence.
- 4.4 Construction and further development within the proposed Facility must be carried out under the supervision of a Professional Civil Engineer, registered under the Engineering Profession of South Africa Act, 1990 (Act No. 114 of 1990). The Licence Holder must submit design drawings to the Licensing Authority for approval 90 (ninety) days before commencement of the listed waste management activities.
- 4.5 Should any archaeological artefacts be exposed during excavation, the construction in the vicinity of the finding must be stopped. Under no circumstances shall any artefacts be destroyed. Such an archaeological site must be marked and fenced off, and the South African Heritage Resource Agency must be contacted within 48 hours.

- 4.6 After construction of the Facility or further development within the Facility, the License Holder must notify the Responsible Authority thereof and the person referred to in condition 4.4 must submit a certificate or alternatively a letter to the Responsible Authority that the construction of the Facility or further development within the Facility, as proposed by the License Holder and approved by the Responsible Authority, is in accordance with recognized civil engineering practice and the requirements in this License, before composting may commence at the Facility. If the Responsible Authority is satisfied with the construction of the Facility or any further development within the Facility and has given written permission, the License Holder may use the Facility or any further development within the Facility for the composting of waste.
- 4.7 The composting should take place on an impermeable surface and containment barriers must be risk based and the type of waste to be processed and the immediate receiving environment must be considered to quantify the type of containment barriers to put in place in consultation with the Director.
- 4.8 The composting area should be sloped in such a way to allow liquids to flow to the collection dams.
- 4.9 The Licence Holder must ensure that the site layout and levels of the surface of the Facility is free-draining throughout so that no ponding of leachate/runoff occur on or around the working areas.
- 4.10 A stormwater management system must be installed to divert and drain all runoff water arising on land adjacent to the Facility. This stormwater system must have the capacity to maintain a freeboard of a half a metre in the event of a maximum precipitation during a period of 24 (twenty four) hours with an average frequency of 1:50 (once in fifty) years.
- 5 **ACCESS CONTROL**
- 5.1 Weatherproof, durable and legible notices must be displayed at each entrance to the Facility in at least 3 (three) official languages applicable to the area. These notices must prohibit unauthorised entry, state the hours of operation, include the types of waste permissible, the name, address and telephone number of the Licence Holder and the person responsible for the operation of the Facility.
- 5.2 The Licence Holder must prevent unauthorised access to the Facility, by having the Facility enclosed with a fence and a gate.
- 5.3 The Licence Holder must ensure that there is no illegal access to the Facility.
- 5.4 The Licence Holder shall ensure that all entrance gates are locked outside the hours of operation.
- 5.5 The Licence Holder must prevent the acceptance of any waste not permissible at the Facility.

6 OPERATIONAL MANAGEMENT

- 6.1 The EMPr for the establishment and operation of the Facility dated 26 April 2018 and submitted as part of the final Basic Assessment Report (BAR), is hereby approved and must be implemented together with all the conditions of this Licence.
- 6.2 The EMPr must be included in all contract documentation for all phases of implementation.
- 6.3 The Licence Holder must notify the Licensing Authority immediately of any events or incidents that may cause significant environmental damage or breach the requirements of the EMPr.
- 6.4 An application for the amendment to the EMPr must be submitted to the Licensing Authority if any further amendments are to be made to the EMPr and this may only be implemented once the amended EMPr has been authorised by the Licensing Authority.
- 6.5 Any persons having duties that are or may be affected by the matters set out in this Licence must have convenient access to a copy of it. This must be kept at or near the place where those duties will be carried out.
- 6.6 A copy of this Licence and the EMPr must be kept at the Facility where the waste listed activity will be undertaken. The Licence and EMPr must be produced to any authorised official of the Department who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein, and must be made available for inspection by any employee or agent of the Licence Holder who works or undertakes work at the Facility.
- 6.7 The Licence Holder shall remain responsible for the Facility, and/or any of its impacts arising from the operations on the environment.
- 6.8 The Licence Holder shall retain the responsibility for the Facility, and its monitoring even after decommissioning.
- 6.9 The Licence Holder shall take all reasonable steps to ensure the Facility is operated in a manner which shall prevent the creation of nuisance conditions or health hazards, such as vectors (flies and vermin), exposed waste, dust, obnoxious odours and noise.
- 6.10 Any complaints from the public must be attended to by the Licence Holder, who must take all reasonable and practical steps to alleviate the cause of the complaint within a reasonable timeframe to the satisfaction of the Department and record it in terms of Conditions 14 and 15.
- 6.11 The Licence Holder must maintain and implement an emergency preparedness plan and review it after each emergency and/or major incident and when conducting external audits. The plan must, among others, include:

- 6.11.1 natural disasters such as floods;
- 6.11.2 vehicle/machinery fire or malfunction;
- 6.11.3 facility fires, accidents, spills, explosions, etc;
- 6.11.4 industrial action; and
- 6.11.5 contact details of police, ambulance and any emergency centre in close proximity to the Facility.
- 6.12 Stock piling of animal matter is not allowed on site.
- 6.13 Operational measures must be put in place to immediately blend a carbon source or cover with mature compost, any highly biodegradable organics putrescible waste to minimise offensive odour emissions that may be generated by potentially odorous waste.
- 6.14 Emissions of methane in aerobic processes must be controlled by keeping the organics being processed adequately aerated.
- 6.15 The schedule of turning of the compost must be in-line with the composting method being employed at the facility and must conform to the EMPr.
- 6.16 Facility management must put measures in place to control high concentrations of particulate matter during pre-treatment (shredding and mixing) of dry organics.
- 6.17 The quantities (tonnage or kilograms) of incoming and processed organics must at all times not exceed the design requirements of the storage and processing areas.
- 6.18 Operational measures must be put in place to ensure that the storage times for organics are controlled to minimize emissions of offensive odours.
- 6.19 Dust created by the daily operations of the Facility must be mitigated as far as possible.

7 ENVIRONMENTAL POLLUTION INVESTIGATIONS

- 7.1 If, in the opinion of the Director and/or Director: RPW, any environmental pollution, nuisances or health risks may be or is occurring on the Facility, the Licence Holder must investigate the cause of the problem and take reasonable steps to alleviate the problem in consultation with the Director and/or the Director: RPW.
- 7.2 Should the investigation carried out as per Condition 7.1 above reveal any unacceptable levels of pollution, the Licence Holder must submit a report with mitigation measures to the satisfaction of the Director and/or the Director: RPW.

8 STORMWATER MANAGEMENT

- 8.1 A stormwater management plan must be compiled and submitted to the Department for approval. A copy of the stormwater management plan must be submitted to the Director: RPW, the Breede-Gouritz Catchment Management Agency, as well as the Langeberg Local Municipality, for comment prior to submission to the Director for approval.
- 8.2 The approved stormwater management plan must be implemented.
- 8.3 The stormwater management system must be able to sufficiently and effectively handle run-off water from the Facility.
- 8.4 The collection dams must be designed to cater for a 1:100 year floodline.
- 8.5 Works constructed in compliance with Condition 8 must be of such a capacity as to accommodate:
 - 8.5.1 all stormwater runoff, which could be expected as a result of the estimated maximum precipitation during a period of 24 (twenty four) hours with an average frequency of once in the fifty years; and
 - 8.5.2 all expected leachate.
- 8.6 Works constructed in compliance with Condition 8.1 must, on a continuous basis, be properly maintained.

9 MONITORING

9.1 WATER QUALITY MONITORING

- 9.1.1 The Licence Holder must establish and maintain a ground water monitoring borehole network with at least one upstream and one downstream borehole, so that unobstructed sampling, as required in terms of this Licence, can be undertaken.
- 9.1.2 Monitoring boreholes must be equipped with lockable caps. The Director and the Director: RPW reserve the right to take water samples at any reasonable time and to analyse these samples or have them analysed.
- 9.1.3 The details of the boreholes should be provided to the Director and/or the Director: RPW. This should include the depth, diameter, coordinates, lithological logs (geology), water strikes, groundwater level, construction details, field electrical conductivity, pH, etc.
- 9.1.4 The groundwater monitoring programme should include both the water quality and water level monitoring.
- 9.1.5 Water levels should be measured at least monthly and the readings recorded against time and date.

9.1.6 Runoff water shall comply with the quality requirements as prescribed by the Director together with the Director: RPW which may be determined from time to time and shall be drained from the Facility in a legal manner.

9.1.7 Runoff water that does not comply with the quality requirements and all sporadic leachate from the Facility must:

9.1.7.1 be contained in collection dams;

9.1.7.2 be treated to comply with the aforementioned standard and discharged in a legal manner; or

9.1.7.3 with the written approval of the Director be evaporated in dams and/or be evaporated by spraying over those portions of the Facility which comply with the requirements set in terms of condition 4.

9.1.8 Any development which occurs within the 1:100 (one in one hundred) year flood line and/or within 500 (five hundred) m from the boundary of a wetland would require a Water Use Licence in terms of Section 21 of the National Water Act, 1998 (Act No. 36 of 1998).

9.2 **DETECTION MONITORING**

9.2.1 Monitoring shall be conducted on a biannual (twice per year) basis during late summer and late winter to capture seasonal variation, for the water quality variables as agreed by the Department and the Director: RPW.

9.3 **INVESTIGATIVE MONITORING**

9.3.1 If, in the opinion of the Director and/or the Director: RPW, a water quality variable listed under the detection monitoring programme, as referred to in Condition 9.2, shows an increasing trend, the Licence Holder shall initiate a monthly monitoring programme until such time that the variable is within acceptable limits.

9.4 **FURTHER INVESTIGATION**

9.4.1 If, in the opinion of the Director and/or the Director: RPW, groundwater, surface water and/or air pollution have occurred or may possibly occur, the Licence Holder shall conduct the necessary investigations and implement additional monitoring and rehabilitation measures, which shall be to the satisfaction of the Director and/or the Director: RPW.

10 **ANALYSIS OF SAMPLES**

MONITORING METHODS AND PARAMETERS

10.1 The Licence Holder shall carry out all tests in accordance with methods prescribed by and obtainable from the South African Bureau of Standards (SABS), referred to in the Standards Act,

2008 (Act No. 8 of 2008), to analyse the samples taken under the monitoring programmes specified in Condition 9.

10.2 The Licence Holder may only use another method of analysis if written proof that the method is at least equivalent to the SABS method, is submitted to the Director and the Director: RPW.

10.3 The Licence Holder must put in place a monitoring and measurement plan that must amongst others include:

10.3.1 tonnage composted;

10.3.2 waste types; and

10.3.3 waste sources.

10.4 In the event of contamination/pollution being found, the Director, the Directorate: Pollution and Chemicals Management as well as the Department of Water and Sanitation should be notified as soon as possible and a remediation plan be provided for approval. Potential receptors are to be identified immediately and action taken to ensure that there is no health risk.

10.5 STORMWATER SYSTEM MONITORING

10.5.1 The water quality in the collection dam must be monitored. These monitoring results must be kept in terms of Condition 14.

10.6 AIR QUALITY MONITORING

10.6.1 Passive fence line monitoring of Volatile Organic Compounds (VOCs), ammonia and hydrogen sulphide must be carried out to establish the baseline. The same baseline sampling campaign, with additional locations nearby the proposed composting activities, should be conducted for a minimum of 6 (six) months once the proposed project is completed and thereafter repeated annually. Any unacceptable, adverse impacts (i.e. increased levels of key indicator VOCs) must be mitigated with effective management of the Facility.

10.6.2 The passive fence line monitoring chemical analysis results for the first 6 (six) months, referred to in 10.6.1, must be reported to the Cape Winelands District Municipality and the Director in a clear, understandable, precise and user friendly format to assist in interpretation.

11 AUDITING

11.1 INTERNAL AUDITS

11.1.1 Internal audits must be conducted quarterly (four times per year) by the Licence Holder and on each audit occasion an official report must be compiled by the relevant auditor to report

the findings of the audits, which must be made available to the external auditor specified in Condition 11.2.1 and the Department.

11.2 **EXTERNAL AUDITS**

- 11.2.1 The Licence Holder must appoint an independent external auditor to audit the Facility annually (once a year) and this auditor must compile an audit report documenting the findings of the audit.
- 11.2.2 The audit report must specifically state whether conditions of this Licence are adhered to and must include an interpretation of all available data and test results regarding the operation of the Facility and all its impacts on the environment.
- 11.2.3 The audit report must contain recommendations regarding non-compliances or potential non-compliances with the Licence conditions, and must specify target dates for the implementation of the recommendations by the Licence Holder.
- 11.2.4 The external audit report must be submitted to the Environmental Monitoring Committee (hereinafter referred to as the "Monitoring Committee"), provided in Condition 13 below, within 3 (three) months, from the date on which the external auditor finalised the report.
- 11.2.5 Each external audit must be submitted to the Director within 30 (thirty) days, from the date on which the external auditor finalised the report.
- 11.2.6 Both the internal and external audit reports must be in accordance with the format as prescribed by the Department.

12 **DEPARTMENTAL AUDITS AND INSPECTIONS**

- 12.1 The Department and the Director: RPW reserves the right to audit and/or inspect the Facility at any time and at such a frequency as the Director and Director: RPW may decide, or to have the Facility audited or inspected.
- 12.2 The Licence Holder must make any records or documentation available to the Director and the Director: RPW upon request, as well as any other information the Director and Director: RPW may require.
- 12.3 The findings of these audits or inspections shall be made available to the Licence Holder within 60 (sixty) days of the end of the audit or inspection and shall not be treated as confidential.

13 **MONITORING COMMITTEE**

- 13.1 The Licence Holder must take the necessary steps to establish, maintain and ensure the continued functioning of a Monitoring Committee for the normal operative lifetime of the Facility and for a period of at least 2 (two) years after the closure of the Facility, or such longer period as may be determined by the Director.

- 13.2 The Monitoring Committee shall be representative of relevant interested and affected parties and may consist of at least 3 (three) of the following representatives:
- 13.2.1 Licence Holder and/or his/her appointed consultant(s) or advisor(s);
 - 13.2.2 representative(s) of the Health, Environment and/or Waste Departments of the relevant local authority;
 - 13.2.3 representative(s) of this Department; and
 - 13.2.4 at least 3 (three) persons/parties, their representatives elected by the local residents, or proof of notification of the invitation to attend the Monitoring Committee to interested and affected parties of each meeting.
- 13.3 The Monitoring Committee shall meet at a minimum frequency of once a year and no later than 3 (three) months after the finalisation of the external audit report was conducted in terms of Condition 11.2.1, and submitted in terms of Condition 11.2.4.
- 13.4 The Licence Holder must keep minutes of all meetings of the Monitoring Committee and distribute these minutes to all members of the Monitoring Committee within 30 (thirty) days after the meeting.
- 14 **RECORD KEEPING**
- 14.1 The Licence Holder must keep records of all monitoring results, nuisances and complaints at the Facility.
- 14.2 All records required or resulting from activities required by this Licence must:
- 14.2.1 be legible;
 - 14.2.2 be made available and should form part of any audit report;
 - 14.2.3 if amended, be amended in such a way that the original and any subsequent amendments remain legible and are easily retrievable;
 - 14.2.4 be retained in accordance with documented procedures which are approved by the Department; and
 - 14.2.5 be made available upon the request of the Director and/or the Director: RPW.
- 14.3 The Licence Holder shall record all borehole data and chemical analysis in a format agreed upon in writing between the Director: RPW, the Licence Holder, and a relevant specialist if so required.
- 14.4 The Licence Holder must register and report all waste volumes or masses received, recovered, disposed of or stored to the Department's Integrated Pollutant and Waste Information System

(IPWIS), which can be accessed on the URL: <http://ipwis.pawc.gov.za/ipwis3/public>, as required by the Department.

15 **REPORTING**

- 15.1 The Licence Holder must, within 24 (twenty-four) hours, notify the Director of the occurrence or detection of any incident at the Facility, which has the potential to cause disruption in the normal operation of the Facility, or has caused water pollution, pollution of the environment, health risks or nuisance conditions.
- 15.2 The Licence Holder must, within 14 (fourteen) days, or a shorter period of time, if specified by the Director, from the occurrence or detection of any incident referred to in Condition 15.1, submit an action plan, which must include a detailed time schedule, to the satisfaction of the Director of measures taken to:
- 15.2.1 correct the impact resulting from the incident;
- 15.2.2 prevent the incident from causing any further impact; and
- 15.2.3 prevent a recurrence of a similar incident.
- 15.3 In the event that measures have not been implemented within 21 (twenty-one) days of the incident to address impacts caused by the incident referred to in Condition 15.1, or measures which have been implemented are inadequate, the Director may implement the necessary measures at the cost and risk of the Licence Holder.
- 15.4 The Licence Holder or duly appointed person must keep an incident report and complaints register, which must be made available to the Director and both external and Departmental auditors, for the purpose of their audits
- 15.5 The Department must be notified within 7 (seven) days of any changes to the management of the Facility, including the name of the incoming person, together with evidence that such person has the required technical competence.
- 15.6 The Department must be notified within 14 (fourteen) days of the following changes:
- 15.6.1 Licence Holder's trading name, registered name or registered office address;
- 15.6.2 particulars of the Licence Holder's ultimate holding company (including details of an ultimate holding where a Licence Holder has become a subsidiary); and
- 15.6.3 steps taken with a view to the Licence Holder going into bankruptcy, entering into composition or arrangement with creditors.
- 15.7 The Department must be notified without delay in the case of the following:

- 15.7.1 any malfunction, breakdown or failure of equipment or techniques, accident or fugitive emission which has caused, is causing or may cause significant pollution;
- 15.7.2 the breach of conditions of this licence; and
- 15.7.3 any significant adverse environmental and health effects.
- 15.8 Prior written notification must be given to the Director of the following events and within the specified timeframes:
- 15.8.1 as soon as practicable prior to the permanent cessation of any operational activities;
- 15.8.2 full or partial cessation of the operational activities for a period likely to exceed 3 (three) months; and
- 15.8.3 full or partial resumption of the operation of all or part of the activities after a cessation notified under 15.8.1 above.
- 15.9 All audit reports (internal and external) must be submitted to the Director within 30 (thirty) days from the date on which the auditor finalised the audit.
- 16 **LEASING AND ALIENATION OF THE FACILITY**
- 16.1 Should the Licence Holder want to alienate or lease the Facility, he/she must notify the Director in writing of such an intention at least 120 (one hundred and twenty) days prior to the said transaction. Should the approval be granted, the Licence Holder shall remain liable to compliance with all Licence conditions.
- 17 **TRANSFER OF WASTE MANAGEMENT LICENCE**
- 17.1 Should the Licence Holder want to transfer holdership of this Licence, he/she must apply in terms of Section 52 of the NEM:WA, 2008.
- 17.2 Any subsequent Licence Holder shall be bound by the conditions of this Licence.
- 17.3 The rights granted by this Licence are personal rights (i.e. not attached to a property, but granted to a natural or juristic person). As such, only the Licence Holder may undertake the activities authorised by the Licensing Authority. Permission to transfer the rights and obligations contained herein must be applied for in the following manner:
- 17.3.1 The applicant must submit an originally signed and dated application for an amendment of the Licence to the Licensing Authority stating that he/she wishes the rights and obligations contained herein to be transferred, and including:
- 17.3.1.1 confirmation that the Licence is still in force (i.e. that the validity period has not yet expired or the listed activities were lawfully commenced with);
- 17.3.1.2 the contact details of the person who will be the new Licence Holder;

- 17.3.1.3 the reasons for the transfer; and
- 17.3.1.4 an originally signed letter from the proposed new Licence Holder acknowledging the rights and obligations contained in the Licence and indicating that he/she has the ability to implement the mitigation and management measures and comply with the stipulated conditions.
- 17.4 The Licensing Authority will issue an amendment to the new Licence Holder either by way of a new Licence or an addendum to the existing Licence if the transfer is found to be appropriate.

18 **COMMENCEMENT**

- 18.1 The construction and rehabilitation activities of the licensed activity may not commence within 20 (twenty) days of the date of signature of the Licence.
- 18.2 Should the Licence Holder be notified by the Licensing Authority of a suspension of the Licence pending any appeals decision on the authorised activities, he/she may not commence with the activities until authorised by the Director in writing.
- 18.3 After the 20 (twenty) day appeal period has expired and no good cause to extend the appeal period has been submitted, a written notice must be given to the Department that the activity will commence.
- 18.4 This activity must commence within a 5 (five) year period. If commencement of the activity does not occur within that period, the validity of this Licence lapses and a new application for Licence must be made in order for the activity to be undertaken.
- 18.5 If the proponent anticipates that commencement of the activity would not start before the date stipulated in condition 18.4, he/ she must apply and show good cause for an extension of the commencement date in this Licence 6 (six) months prior to its expiry date.

19 **GENERAL**

- 19.1 This Licence shall not be transferable unless such transfer is subject to Condition 17 above.
- 19.2 This Licence shall not be construed as exempting the Licence Holder from compliance with the provisions of any National and Provincial Legislation and relevant Ordinance, Regulation, By-laws and relevant National Norms and Standards.
- 19.3 Transgression of any condition of this Licence could result in the suspension of the Licence by this Department.
- 19.4 This Licence is valid for 10 (ten) years from the date of this Licence or any period earlier as required by the Director. The Licence can be amended or withdrawn or the validity thereof extended.

- 19.5 Should the Licence Holder want to conduct the waste management activity beyond the 10 (ten) years, the Licence Holder must apply for an amendment 1 (one) year before the expiry date.
- 19.6 Transgression of any condition of this Licence could result in the suspension of the Licence by the Licensing Authority and may render the Licence Holder liable for criminal prosecution or other actions provided for in Section 67(1) of the NEM:WA, 2008.
- 19.7 In terms of section 28 and 30 of the NEMA, and section 19 and 20 of the National Water Act (Act No. 36 of 1998), any costs incurred to remedy environmental damage must be borne by the person responsible for the damage. It is therefore imperative that the Licence Holder reads through and understand the legislative requirements pertaining to the project. It is the Licence Holder's responsibility to take reasonable measures which include informing and educating contractors and employees about environmental risks of their work and training them to operate in an environmental acceptable manner.

SECTION D: APPEAL OF LICENCE

1. Appeals must comply with the provisions contained in the National Appeal Regulations, 2014 (GN No. 993 of 2014), as amended.
2. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date that the notification of the decision was sent to the holder by the Competent Authority:
 - 2.1 submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
 - 2.2 submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date that the notification of the decision was sent to the registered I&APs by the holder:
 - 3.1 submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014, as amended to the Appeal Administrator; and
 - 3.2 submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
4. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
5. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development
Planning

Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By email: DEADP.Appeals@westerncape.gov.za

Note:

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

6.

A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the office of the Minister at: Tel. (021) 483 3721, E-mail Marius.Venter@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadd>.

SECTION E: DISCLAIMER

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

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

Yours faithfully,



EDDIE HANEKOM

DIRECTOR: WASTE MANAGEMENT

DATE OF DECISION: 29-11-2019

Cc: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Feni (BGCMA)
(4) Ms. A. Duffel-Canham (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)
(7) Mr Malise Noe (DWS)

Fax: (021) 671 9976
Fax: (023) 614 1841
Fax: (023) 347 2012
Fax: (021) 866 1523
Fax: (023) 342 6779
Fax: (021) 808 5092
Email: NoeM@dws.gov.za

ANNEXURE I

REASONS FOR THE DECISION

The following information that was available to the Department was taken into account in the Department's consideration of the application:

- (a) The information contained in the Application Form for a Waste Management Licence dated 26 January 2018, compiled by Cape Environmental Assessment Practitioners (Pty) Ltd.
- (b) The Basic Assessment Report (BAR) dated 30 April 2018, compiled by Eco Impact Legal Consulting (Pty) Ltd.
- (c) Comments raised by Interested and Affected Parties (I&AP's) throughout the Public Participation Process and the applicant and the Environmental Assessment Practitioner's responses thereto.
- (d) The site visits conducted by the Department at the premises on 16 May 2018, 13 June 2018 and the latest on 11 November 2019.
- (e) Relevant information contained in the Departmental information database.
- (f) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA.

A summary of the issues, which, in the Department's view were of the most significance, are set out below.

Alternatives

The following alternatives were considered:

(a) Property and location alternatives

No property and site location alternatives have been considered.

The location is desirable due to the rural character, topography, distance to water course, soil conditions and availability to services and infrastructure, and is also supported by the SDF.

(b) Activity Alternatives

The following activity alternatives were considered:

- *The use of a service provider to dispose of the by-products from the abattoir.*
This was dismissed mainly due to the fact that SAFAM could be held accountable for any issues caused by their by-products, even if it was handed over to a licensed operator.
- *The use of a biogas plant*
The biogas plant was not investigated further because after consultation with existing abattoirs using a biogas system, it was found that operational and reliability problems were experienced by them.
- *Alkaline hydrolysis*
This option was dismissed because of a lack of local knowledge and experience with this method.
- *Developing and Operating a compost facility*
This option was preferred because it is more sustainable, cost effective and provides for the ongoing in-house management and control of abattoir by-products.

(c) Design or Lay-out alternatives

Alternative 1

The proposed layout alternative LA1 and stormwater run off plan is favourable for the following reasons:

- Two entrances with gates, one to the existing composting facility and one to the proposed feedlot and remainder of the farm.
- The most southern access road will be used by the honey sucker trucks (Blood trucks) (two-way); the skip trucks with the by-products and condemned carcasses will use the road to the western side of the windrows (two-way).
- The last mentioned road will also be used by trucks off-loading wood chips (already chipped) in the north-eastern corner of the application site, as well as the end product (compost) from the windrow to the storing area on the lowest level, or near the gate, for easy distribution.
- Internal Roads indicated on the site plan were created informally and might change if and when the proposed feedlot is in operation based on best practices/logistics between the two facilities.
- Several windrows and bulk pile/s (for whole carcasses) of approximate 1.5m high and 2m wide will be located alongside the south-eastern boundary of the farm and 235m away from the Middelstekloof River. These windrows will rotate/move in the 3.6ha area allocated as and when the compost is ready and removed.

- Two dams were constructed on the lowest point of the terrain. The north-eastern dam is constructed to catch run-off storm water emanating from the lands and area above the dam, whilst the smaller dam is for effluent from the windrows and the proposed feedlot. Run off water from the windrows will be caught by the cut-off weir/barrier on the western side from where it will flow with gravity in a channel to the lowest dam. Compacted drainage channels around the feedlot will direct runoff water also to the lowest dam. This water will be re-used when required to wet the windrows on top of the rows.

Alternative 2

Although proposed layout LA2 has taken into account the natural landscape, sensitive environments and topography of the site, which has highlighted a number of constraints that would determine and influence the layout of the proposed development. The proposed layout 2 is not the preferred alternative because the application area has a larger impact on the receiving environment, which would create a larger potential impact on the surrounding environment.

(d) Technology alternatives

Technology alternatives considered include:

1. Passively Aerated Static Piles/ Windrows/ Bins
2. Turned windrow composting
3. Forced Aeration
4. In Vessel Composting
5. Bins
6. Rotating Drums

Most of the above require a significant investment and a significant amount of building work.

Passively aerated windrows followed by turned windrows was the preferred method.

(e) Operational Activities

No operational activities have been assessed.

(f) No-Go alternatives

The No-Go option will result in the site remaining as is presently, underutilized Agricultural land.

The uses applicable in this application are both needed and desirable in this location.

Environment

The proposed development is situated at Middelburg Farm, located approximately 14km northwest of Robertson, east of the R60. The area is rural with mainly vineyards, orchards, grazing and natural veld. The site is located at the foot of a mountain ridge, adjacent to a tributary of the Vink River. The gradient is uneven with small hills at the foothills of the Langeberg Mountain. The application site itself is already disturbed with a fall of 3.2%.

Portion 6 of the farm Middelburg No 10 belongs to the Reben Trust and is 758,0308 hectares in extent according to Title Deed No T12255/2013.

The farm consists of the following:

- Store/shed built on a previous foundation near the Middelstekloof River (within 32m from the river).
- Workers House (+/- 70m²).
- Several dams within the Middelstekloof River that were constructed by previous owners. During the last floods most of the embankments of these dams have been damaged or destroyed. The two top dams are registered with BGCMA for 50 000m³ or 7ha water, as well as a borehole.
- Kraal and weight station for individual live stock.
- 8.6ha already transformed, application area consisting of bulk pile/s, windrows, two effluent dams (This area was previously ploughed and planted with pastures and used for grazing purposes).
- The closest residential building is a farmhouse across the road, situated approximately 550m south-west of the application site. The Buitenstekloof Guest Cottage is located approximately 2.36km to the north east of the site.
- The nearest cultivated lands on the neighbouring farm are approximately 550m away.

Public Participation Process (PPP):

The PPP in terms of the 2014 NEMA (EIA) Regulations contained in Government Notice No R. 982 of 4 December 2014 (GN R. 982) comprised of the following:

- Newspaper advertisements notifying the public about the environmental application for the proposed project were placed in Die Burger on 3 March 2017 and the Langeberg Bullitin on the same day.

- An A2-sized site notice was erected in the project area on 16 March 2017. The site notices were placed at the farm.
- Six (6) notices were sent via registered mail on 23 February 2017 and as additional six (6) notices were sent on 13 July 2017 to owners and occupiers of land adjacent to the site where the activity is undertaken.
- A pre-application BAR was made available for review to registered I&APs, as well as to the public from 15 June 2017 – 18 July 2017.
- The draft BAR has been made available for review to registered I&APs, as well as to the public from 14 March 2018 to 16 April 2018.

Authorities Consultation:

The authorities consulted include the following:

- Department of Water and Sanitation
- Breede Gouritz Catchment Management Agency
- Department of Agriculture: Western Cape
- Department of Health: Western Cape
- Cape Nature
- Western Cape: Department of Environmental Affairs and Development Planning
- Langeberg Local Municipality
- Heritage Western Cape
- Western Cape: Transport and Public Works – Road Network Management
- ESKOM: Land Development

The Department has visited the site on at least three occasions and no obnoxious odours or excessive fly activity was noted during any of the inspections. Comments and recommendations provided by the other relevant authorities have been considered in the evaluation of this application. No authorities objected to the commencement of the activity. Where possible and relevant, the conditions imposed by these authorities have been included in the Waste Management Licence.

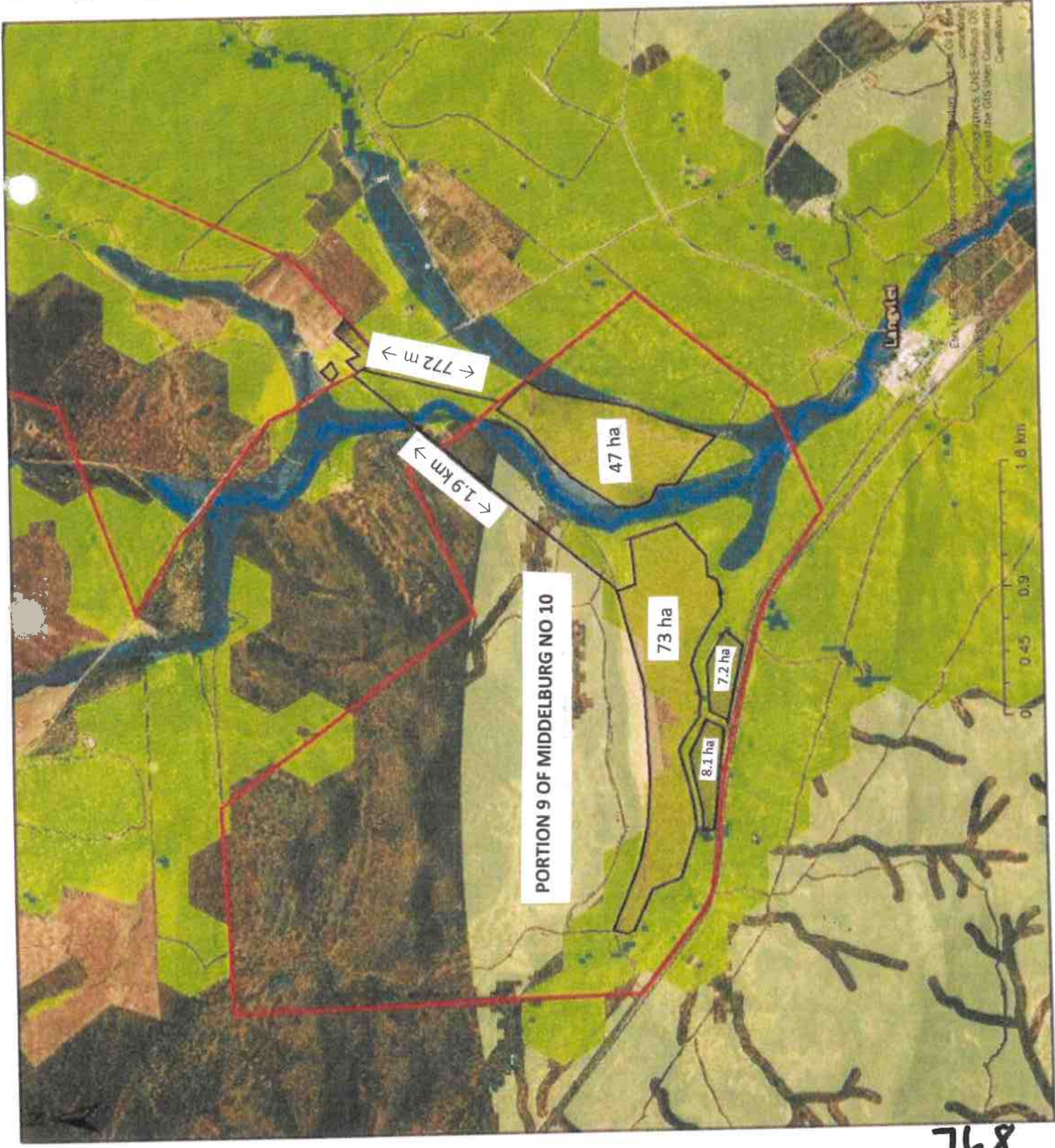
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144

Middelburg Ontwikkeling

Legend

- Other Natural Area
- BSP CBA
- CBA Terrestrial
- CBA Terrestrial (CT)
- CBA Forest
- CBA River
- CBA Estuary
- CBA Wetland
- CBA Aquatic (CT)



Scale: 1:36 112

Date created: November 29, 2019

Compiled with CapesFarmMapper



IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

Before the Honourable Justice Hlophe (Judge President)
On Friday, 18.....October 2019 at CAPE TOWN

CASE NO: 14084/19

In the matter between:

**SOUTH AFRICAN FARM ASSURED MEAT GROUP
CC**

First Applicant

HENDRIK JOHANNES SWANEPOEL DE BOD N.O.

Second Applicant

JOHANNES PETRUS DU BOIS N.O.

Third Applicant

DANIËL JACOBUS VAN STADEN N.O.

Fourth Applicant

and

**MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
& DEVELOPMENT PLANNING (WESTERN CAPE
PROVINCE)**

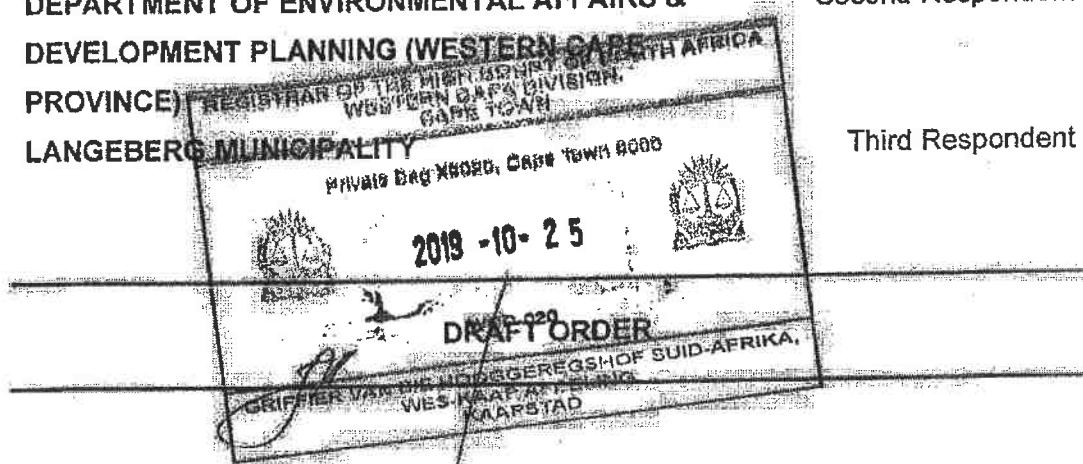
First Respondent

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS &
DEVELOPMENT PLANNING (WESTERN CAPE
PROVINCE)**

Second Respondent

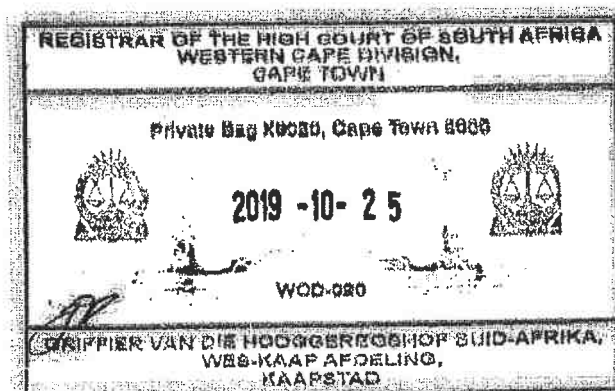
LANGBERG MUNICIPALITY

Third Respondent

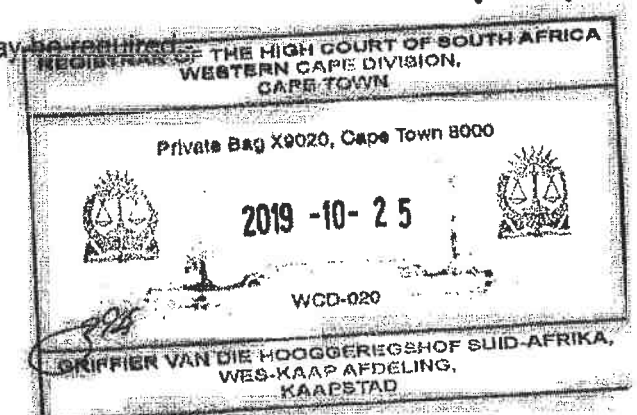


By agreement between the Applicants and the First and Second Respondents, it is ordered as follows:

1. The decision taken by the First Respondent ("*the Minister*") on 13 June 2019 in respect of the appeal lodged by the Applicants in terms of section 43(6) of National Environmental: Management Act, 107 of 1998 ("*NEMA*") against the decision referred to in paragraph 2 below is reviewed and set aside.
2. The decision taken by the Director: Waste Management on 16 August 2018 to reject the First Applicant's application for a waste management licence ("*the Waste Management Licence Application*") in terms of section 49(1)(c) of the National Environmental: Management Waste Act, 59 of 2008 ("*NEM:WA*") is reviewed, set aside and remitted to the Director: Waste Management in terms of section 8(1)(c)(i) of the Promotion of Administrative Justice Act, Act 3 of 2000, for a determination of the Waste Management Licence Application, with the following directions: -
 - 2.1 the Applicants shall within 5 days of the date of the court order submit such further information as required by the Department pursuant to the Waste Management Licence Application in respect of the land developed for purposes of the composting facility in order to ascertain whether such land is bigger than 1 hectare for purposes of Activity 28 of Listing Notice 1;



- 2.2 the remainder of the information submitted as part of the Waste Management Licence Application shall suffice and does not need to be resubmitted.
3. It is recorded that, pursuant to the settlement of this application, the Minister has, in terms of section 47C of NEMA, condoned the First Applicant's failure to submit the final Basic Assessment Report for purposes of the First Applicant's application for environmental authorization in terms of the 2014 EIA Regulations for activities 4, 8 and 28 as contained in Listing Notice 1: 2014 ("the NEMA Application"), within the time periods required by regulation 19(1) of the 2014 EIA Regulations.
4. The First Applicant shall submit the final NEMA Basic Assessment Report, and the information referred to in paragraph 2.1 above, to the Department within 5 days of the date of the court order.
5. Provided that the First Applicant complies with the time periods in paragraphs 2.1 and 4 above, the decisions in respect of the Waste Management Licence Application and the NEMA Application shall be made by no later than 29 November 2019.
6. Pending the First Applicant obtaining a waste management licence under NEMA, alternatively complying with the National Norms and Standards for Organic Waste Composting, if and when they come into effect, and such environmental authorization under NEMA as may be required,



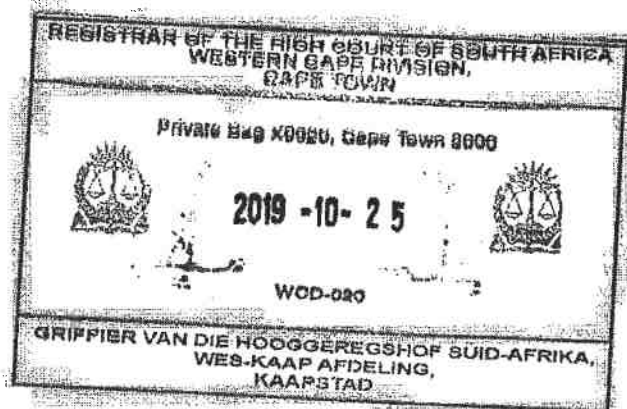
6.1 The Applicants undertake not to treat in excess of ten tons of general waste per day calculated on a monthly average on Portion 6 of Farm Middelburg 10, Robertson (*"the Farm"*) and that the total area within which the composting activities take place on the Farm shall not exceed 1 hectare.

6.2 The Department undertakes not to take any further enforcement steps against the Applicants in terms of Chapter 7 of NEMA on the basis that the Applicants have unlawfully commenced with Listed Activity 28 and/or Waste Listed Activity 6, provided that the Applicants comply with the undertaking in 6.1.

7. The Department shall pay the Applicants' party and party costs.

BY ORDER OF THE COURT


COURT REGISTRAR



135 Van der Spuy CAPE TOWN

"A2"



**Western Cape
Government**
Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 1)

EIA REFERENCE: 16/3/3/1/B1/14/1004/18
NEAS REFERENCE: WCP/EIA/0000356/2018
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 2019-11-29

The Sole Member
South African Farm Assured Meat Group cc
P. O. Box 895
ROBERTSON
6705

Attention: Mr. D. Houghton

Tel.: (023) 626 6320
Fax: (023) 626 6040

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON

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

Yours faithfully

[Signature]
MR. ZAHRIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Feri (BGCMA)
(4) Ms. A. Duffel-Conham (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)

Fax: (021) 671 9976
Fax: (023) 614 1841
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Fax: (021) 866 1523
Fax: (023) 342 6779
Fax: (021) 808 5092

6th Floor, 1 Dorp Street, Cape Town, 8001
Tel: +27 21 483 6350 Fax: +27 21 483 3098
E-mail: D'mitri.Matthews@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eodp

773



Western Cape
Government

Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 1)

EIA REFERENCE: 16/3/3/1/B1/14/1004/18
NEAS REFERENCE: WCP/EIA/0000358/2018
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 2019-11-29

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in Section B below with respect to Layout Alternative 1, described in the Basic Assessment Report ("BAR"), dated 25 October 2019.

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

South African Farm Assured Meat Group cc
% Mr. D. Houghton
P. O. Box 895
ROBERTSON
6705

Tel.: (023) 626 6320
Fax: (023) 626 6040

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

6th Floor, 1 Dorp Street, Cape Town, 8001
Tel: +27 21 483 8350 Fax: +27 21 483 3098
E-mail: D'mitri.Matthews@westerncape.gov.za

Private Bag X7086, Cape Town, 8000
www.westerncape.gov.za/eadp

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B. LIST OF ACTIVITIES AUTHORISED

Listed activities	Activity/Project Description
EIA Regulations Listing Notice 1: Activity Number 4: The development and related operation of facilities or infrastructure for the concentration of animals in densities that exceed— (i) 20 square metres per large stock unit and more than 500 units per facility; (ii) 8 square meters per small stock unit and: a. more than 1 000 units per facility excluding pigs where (b) applies; or b. more than 250 pigs per facility excluding piglets that are not yet weaned; (iii) 30 square metres per crocodile and more than 20 crocodiles per facility; (iv) 3 square metres per rabbit and more than 500 rabbits per facility; or (v) 250 square metres per ostrich or emu and more than 50 ostriches or emus per facility.	The proposal entails the establishment of a feedlot that will accommodate 4500 lambs on an area of approximately 6 000m².
Activity Number 28: Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development: (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.	The proposal will entail the expansion of the existing composting facility to recycle and treat abattoir by-products and organic waste over an area of <u>3,6ha</u>, of which <u>the end product will be sold</u>.

The abovementioned list is hereinafter referred to as "**the listed activities**".

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development:

The proposal entails:

- The establishment of a feedlot to accommodate 4 500 lambs on an area of approximately 6 000m² located north west of the existing composting area;
- The expansion of the existing composting area (approximately 7 600m²) to an area of 3,6ha;
- Stormwater cut-off channels to be established to channel stormwater from the feedlot and composting facility into the existing collection dams, to be reused on the windrows as part of the treatment and composting process.

- Stormwater emanating from the areas above the development will be captured in the existing north-eastern dam.

The proposed development footprint, including the feedlot, composting area and associated infrastructure, will be 8,6ha in extent.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 6 of Farm Middelburg No. 10, Robertson, at the following co-ordinates:

The co-ordinates for the development are:

Latitude (S)	Longitude (E)
33° 43' 51.05"	19° 44' 37.09"

The SG digit code is: C06500000000001000006

Refer to Annexure 1: Locality Map and Annexure 2: Site Development Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Eco Impact Legal Consulting (Pty) Ltd
% Ms. Lauren Abrahams
P. O. Box 45070
CLAREMONT
7735

Tel.: (021) 671 1660

Fax: (021) 671 9976

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with, and restricted to, Layout Alternative 1, as described in the BAR dated 25 October 2019 at the site as described in Section C above.
2. The holder must commence with the listed activities on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **10 years** from the date of commencement of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.

5. Any changes to, or deviations from the scope of the alternative described in Section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information, in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities. The notice must:

- 6.1 make clear reference to the site details and EIA Reference number given above; and
- 6.2 include proof of compliance with the following conditions described herein:

Conditions: 7, 8 and 11

Notification and administration of appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision-

- 7.1 notify all registered Interested and Affected Parties ("I&APs") of -

- 7.1.1 the outcome of the application;
- 7.1.2 the reasons for the decision as included in Annexure 3;
- 7.1.3 the date of the decision; and
- 7.1.4 the date when the decision was issued.

- 7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) detailed in Section G below;

- 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and

- 7.4 provide the registered I&APs with:

- 7.4.1 the name of the holder (entity) of this Environmental Authorisation;
- 7.4.2 name of the responsible person for this Environmental Authorisation;
- 7.4.3 postal address of the holder;
- 7.4.4 telephonic and fax details of the holder;
- 7.4.5 e-mail address, if any, of the holder; and
- 7.4.6 contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).

8. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies the registered I&APs of this decision. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental

Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Management of activity

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

Monitoring

11. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including on a publicly accessible website.
13. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).
 - 14.1 The ECO must conduct fortnightly site audits. Monthly ECO Audit Reports must be submitted to the Competent Authority for the duration of the construction phase.
 - 14.2 Internal audits must be conducted quarterly (four times per year) by the holder and on each audit occasion an official report must be compiled by the relevant auditor to report the findings of the audits, which must be made available to the external auditor specified in Condition 14.3 and the Department.
 - 14.3 The holder must appoint an independent external auditor to audit the Facility annually (once a year) and this auditor must compile an audit report documenting the findings of the audit.
 - 14.4 The audit report must specifically state whether conditions of this Environmental Authorisation are adhered to and must include an interpretation of all available data and test results regarding the operation of the facility and all its impacts on the environment.

- 14.5 The audit report must contain recommendations regarding non-compliances or potential non-compliances with the Environmental Authorisation conditions and must specify target dates for the implementation of the recommendations by the holder.
- 14.6 Each external audit must be submitted to the Director: Development Management within 30 (thirty) days, from the date on which the external auditor finalised the report.
- 14.7 The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

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

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

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
17. Only non-infectious mortalities, animal manure and other non-hazardous organic waste may be used in the composting process authorised in terms of this Environmental Authorisation.
18. No stockpiling of abattoir by-products is allowed within the development footprint of the feedlot and composting area.
19. The composting must take place on an impermeable surface and must be sloped in such a way to allow liquids to flow to the collection dams.
20. The stormwater management plan, once approved by this Department's Directorate: Waste Management must be submitted to this Department's Directorate: Development Management for information purposes.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority, if the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

G. APPEALS

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

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date on which notification of the decision was sent to the holder by the Competent Authority—
 - 1.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date on which the holder of the decision sent notification of the decision to the registered I&APs—
 - 2.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and

- 2.2. submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organs of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organs of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 2659)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 2659, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully


MR. ZAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

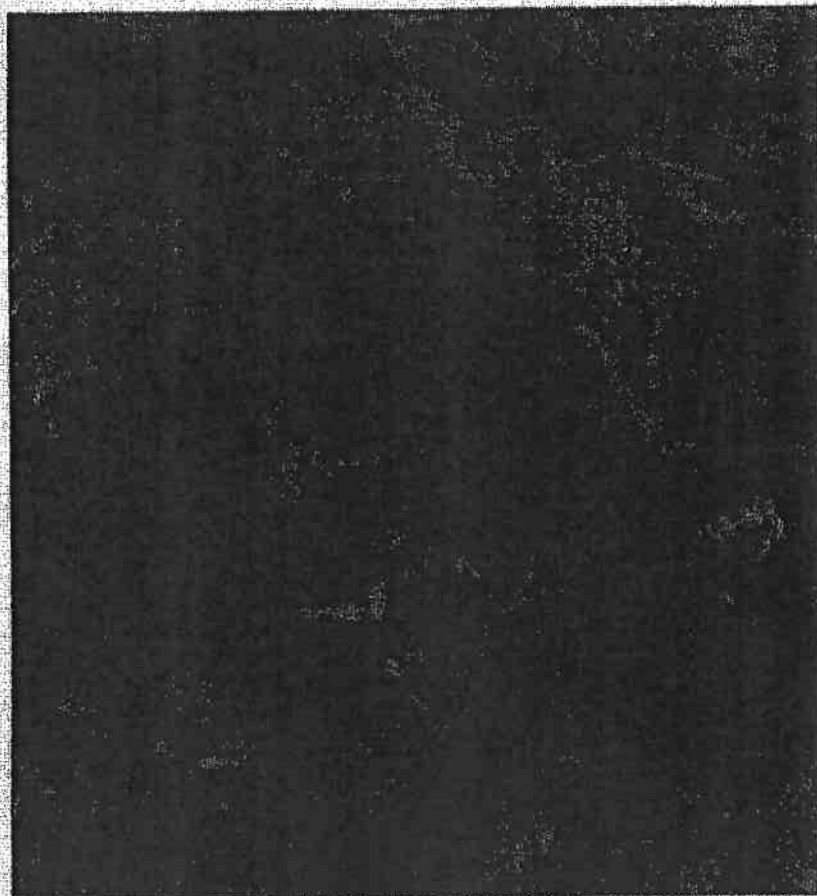
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 29/11/2019

CC: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Ferri (BGCMA)
(4) Ms. A. Duffel-Cankam (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)

Fax: (021) 671 9976
Fax: (023) 614 1841
Fax: (023) 347 2012
Fax: (021) 866 1823
Fax: (023) 342 6779
Fax: (021) 808 5092

ANNEXURE 1: LOCALITY MAP



Locality Map: Portion 6
of Farm Middelburg No.

Scale: 1:144 418

Date created: November 18, 2010

Generated with CapeFarmMapper



Western Cape
Government

Figure 1: Locality map.

ANNEXURE 2: SITE DEVELOPMENT PLAN

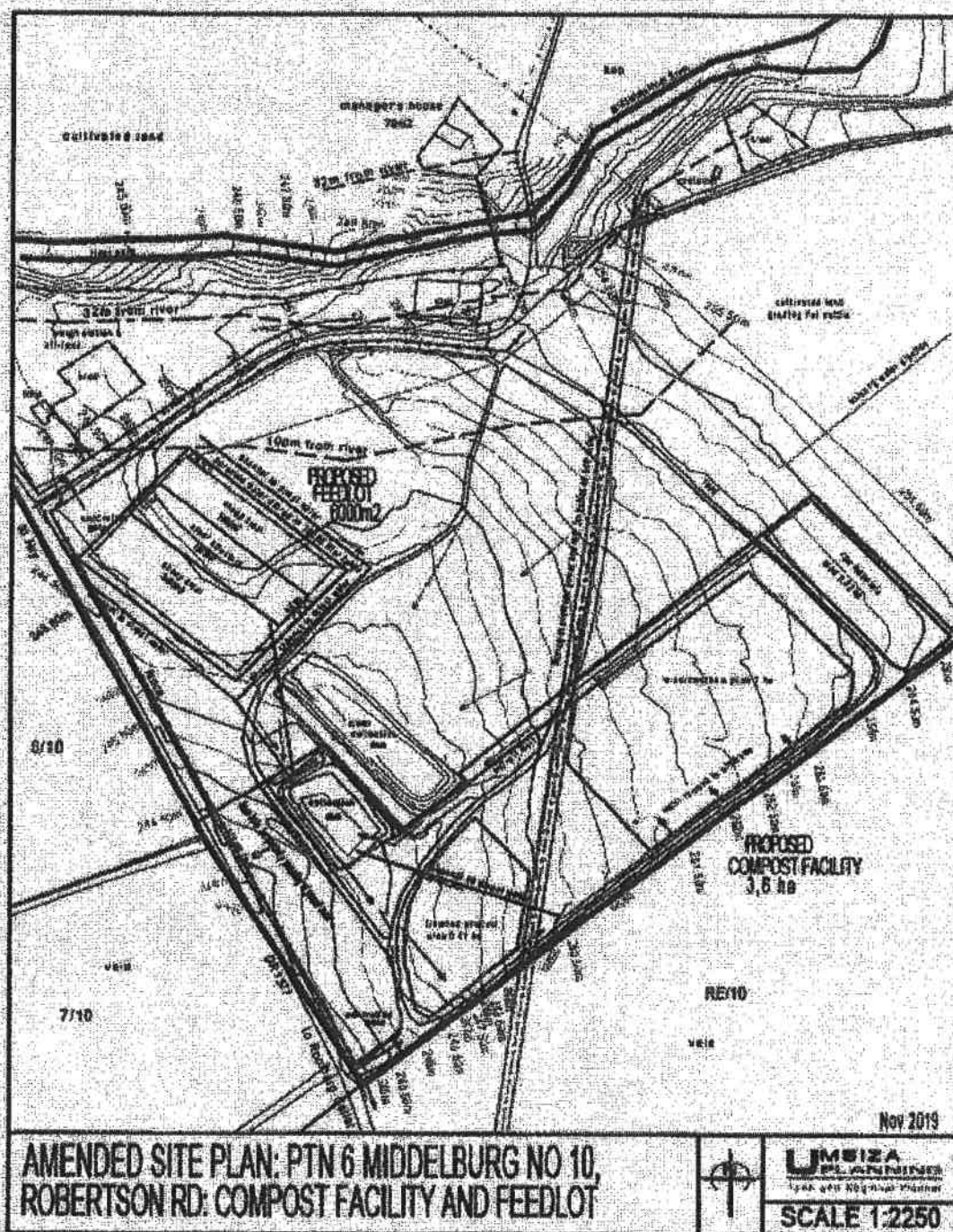


Figure 2: Site development plan.

ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 26 January 2018, the final BAR dated 25 October 2019 and the EMPr submitted together with the final BAR;
- b) The information submitted to the Department on 25 October 2019, in terms of the High Court Order (14084/19) granted by Judge Hlophe on 18 October 2019 in the Western Cape Division of the High Court;
- c) Relevant information contained in the Departmental Information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- d) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of NEMA;
- e) The comments received from I&APs and responses to these, included in the BAR dated 25 October 2019; and
- f) The balancing of negative and positive impacts and proposed mitigation measures.
- g) The site visits were conducted on 13 June 2018 and 11 November 2019;

Attended by various officials of Department of Environmental Affairs and Development Planning ("DEA&DP").

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

1. Public Participation

The public participation process included:

- Identification of and engagement with I&APs;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities, on 23 February 2017, 13 June 2017 and 14 March 2018;
- the placing of a newspaper advertisement in the "Langeberg Bulletin" and "Die Burger" on 3 March 2017;
- fixing notice boards at the site where the listed activities are to be undertaken on 16 March 2017; and
- making the pre-application draft BAR and in-process draft BAR available to I&APs for public review from 15 June 2017 and 14 March 2018.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and all the comments raised and responses thereto were included in the comments and response report.

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

Authorities Consultation:

The authorities consulted include the following:

- Breeds Gouritz Catchment Management Agency
- Department of Agriculture: Western Cape
- Department of Health: Western Cape
- Cape Nature
- Western Cape: Department of Environmental Affairs and Development Planning
- Langeberg Local Municipality
- Heritage Western Cape
- Western Cape: Transport and Public Works – Road Network Management
- ESKOM: Land Development

Comments and recommendations provided by the other relevant authorities have been considered in the evaluation of this application. No authorities objected during the public participation process.

2. Alternatives —**Activity Alternatives:**

The following activity alternatives were considered:

- The use of a service provider to dispose of the by-products from the abattoir.
Using a service provider to dispose of the abattoir by-products, rather than doing it themselves, would be more complex to manage in terms of South African Farm Assured Meat Group's responsibilities regarding the life cycle environmental management principle contained in NEMA.
- The use of a biogas plant
The biogas plant was not investigated further because it was determined in consultation with existing abattoirs using a biogas system, that operational and reliability problems are experienced.
- Alkaline hydrolysis
This option was dismissed because of a lack of local knowledge and experience with this method.
- Developing and Operating a compost facility
This option was preferred because it is more sustainable, cost effective and provides for the ongoing in-house management and control of abattoir by-products.

Technology Alternatives:

The following technology alternatives were considered:

- Passively Aerated Static Piles/ Windrows/ Bins;
- Turned windrow composting;
- Forced Aeration;
- In Vessel Composting;
- Bins; and
- Rotating Drums.

Most of the above require a significant investment and a significant amount of construction work.

Passively aerated windrows followed by turned windrows was the preferred method.

The layout alternatives investigated are described below.

Layout Alternatives:

Layout Alternative 1 (Herewith Authorised):

This alternative entails:

- The establishment of a feedlot to accommodate 4 500 lambs on an area of approximately 6 000m² located north west of the existing composting area;
- The expansion of the existing composting area (approximately 7 600m²) to an area of 3,6ha;
- Stormwater cut-off channels to be established to channel stormwater from the feedlot and composting facility into the existing lower collection dam, to be reused on the windrows as part of the treatment and composting process.
- Stormwater emanating from the areas above the development will be captured in the existing north-eastern dam.
- The proposed development footprint, including the feedlot, composting area and associated infrastructure, will be 8,6ha in extent.

This alternative is preferred because of the rural character, the smaller development footprint, the distance from the non-perennial river compared to Alternative Layout 2, the topography of the site, soil conditions, the availability of services and infrastructure and it is supported by the Langeberg Municipality's Spatial Development Framework.

Alternative 2:

This alternative entails the establishment of a composting facility over an area of approximately 7,5ha, with associated stormwater cut-off channels and a collection dam to contain and store stormwater generated from the site. It also includes a feedlot over an area of approximately 9ha in extent to the north east of the composting facility.

This alternative is not preferred because the application area has a larger impact on the receiving environment, which would create a larger potential impact on the surrounding environment and due to the proximity of the development to the non-perennial river.

"No-Go" Alternative

The "no-go" option to not establish a feedlot and expand the composting area to produce compost for commercial purposes was considered. However, it is not preferred because the municipal waste disposal facility no longer accepts abattoir by-products and therefore the recycling and treatment of the abattoir by-products and organic waste is the only feasible option for the applicant to dispose of abattoir by-products. The costs involved with transporting the abattoir waste to Vissershok landfill site are high and not sustainable. The expansion of the compost facility will enable the finished compost product to be sold commercially to surroundings landowners, whereas the finished product is currently either stockpiled or used on the farm. In addition, the establishment of the feedlot to the north west of the existing compost area will reduce costs incurred for transporting manure from the existing feedlot (close to the urban area of Robertson) to the compost facility, where manure will be used as part of the composting facility.

3. Impact Assessment and Mitigation measures

3.1 Activity Need and Desirability

The by-products produced by the Robertson Abattoir are no longer accepted at the municipal waste disposal facility. Composting of abattoir by-products and organic waste is the most feasible option/alternative for the disposal of such waste. The diversion of this waste stream away from waste disposal sites minimizes a waste stream and extends the life of waste disposal facilities. The establishment of the feedlot on the property will enable a constant supply of manure that will be used as part of the composting process and will reduce costs for transporting the manure from the existing feedlot near Robertson. In addition, the site was previously cultivated, is zoned for agricultural use and located within an agricultural landscape. The high clay content within the area proposed for the expanded compost facility reduces the risk of groundwater contamination. The stormwater cut-off channels to be developed will ensure that runoff will be captured within the existing dams, where after it will be recycled for use on the compost windrows.

3.2 Biodiversity and Biophysical Impacts

According to the Freshwater Ecological Impact Assessment dated 15 February 2018, compiled by Mr Nicolaas Hanekom of Eco Impact Legal Consulting (Pty) Ltd, a non-perennial river is located along the northern edge of the site and is a tributary of the Vink River. On the northern bank of the non-perennial river, there is a floodplain area of approximately 30m wide, which is dominated by Galenia Africana, an indicator species of heavy impact or disturbance. On the southern bank, the river is characterised by a steep bank and an elevated area that creates a berm, which confines the river to the channel of the non-perennial river. Therefore, when the non-perennial river floods, water will flow towards the northern bank. The elevated area on the southern bank causes stormwater and rain to flow away from the river. No indigenous vegetation exists between the river and the proposed feedlot and composting facility, since the site has been previously transformed for agricultural use. The present ecological state of the non-perennial river is described as being largely modified with a low to moderate ecological importance and sensitivity. Through the implementation of the EMP (accepted in Section E, Condition 9) and the stormwater management measures to be implemented, the impacts on the non-perennial river will be mitigated.

The site would have historically been comprised of Breede Alluvium Renosterveld and Robertson Karoo, ecosystems listed as vulnerable and least threatened (respectively) in terms of Section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA"). The site was ploughed and cultivated in the preceding 10 years, with very sparse vegetation currently existing. Therefore, the impact on indigenous vegetation will be minimal.

3.3 Operational nuisances and Health Risks

The composting facility and feedlot may give rise to nuisances such as odour and the proliferation of flies, however, Standard Operating Procedures ("SOP's") have been developed for each anticipated nuisance.

The SOP's include, amongst other measures, the following:

- Immediately covering the by-products when delivered, reducing the attraction of flies.
- The correct management of temperature and pH within the composting process. This ensures an ideal micro environment for larva/eggs/worms/bacteria is not provided.
- The windrows are further covered with kriel manure, which prevents the attraction of flies and because the manure is warm and dry, it is not a suitable environment for flies to lay eggs.

- Chemicals such as Neoprene is used on the windrows to kill fly eggs and larvae, Quik Bolt crystals are placed at various locations around the site to attract and kill flies on contact. Pheromone fly traps are also used along the fence of the farm adjacent to the composting area.
- Blood is allowed to soak into the windrows for an hour before turning the windrows. Previously, blood was not delivered to the site regularly, but only when the tanker at the abattoir was full. However, blood is now transported daily and is topped up with water, which reduces odours significantly.

Through the implementation of the EMP (accepted in Section E, Condition 9) and the SOP's, impacts such as odour and the proliferation of flies will be controlled. These aspects will also be monitored in terms of the auditing requirements contained in this Environmental Authorisation.

An application for a Waste Management Licence ("WML") in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as amended ("NEM:WA") has been submitted to this Department's Directorate: Waste Management, that will assess impacts related to the proposed composting.

The development will result in both negative and positive impacts.

Negative impacts:

- The proposed development will produce odours and attract flies, however, there are SOP's in place to reduce odours and control flies.

Positive impacts:

- The development will divert a waste stream away from the municipal waste disposal facility, which will extend the life of the facility.
- Abattoir by-products will be used together with organic waste to produce compost, that will be sold commercially to farmers.
- Employment opportunities will be created during the construction phase and operational phases.

4. National Environmental Management Act Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;

- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

5. Conclusion

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

-----END-----

Tracy Brunings

du Bois'
Response to
Appeal 3
(Gerber)

From: dubhuis@jpdubois.co.za
Sent: Friday, 20 December 2019 1:27 PM
To: MM; Langeberg Municipality; Tracy Brunings; gerberpa@vodamail.co.za
Subject: Comments on Appeal by PA Gerber against the Rezoning part of decision made by The Langeberg Municipal Planning Tribunal to approve the rezoning of a portion of 1.3 ha within Portion 6 of the farm Middelburg from Agricultural zone 1 to industrial zone 11

Dear Sir

We act as you know for the Reben Trust in the above matter. We have already appealed on behalf of the Reben Trust the rezoning decision by the Tribunal.

We have perused the Appeal form of Mr Gerber and its annexed objection document dated 10/6/2018.

Our clients do not deem it necessary at all, to comment on a written objection already lodged and responded to during the participation process of the application for rezoning.

After all, the contents of the written objection attached to the appeal, contains nothing new, has already been responded to and is in any event rejected insofar as it runs contrary to the Grounds of Appeal filed by the Reben Trust.

Yours Faithfully

JP DU BOIS
OBO The Reben Trust

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du Bois'
Response to
Appeal 4
(Ndlovu)

From: dubhuis@jpdubois.co.za <dubhuis@jpdubois.co.za>

Sent: Sunday, 29 December 2019 08:44

To: mm@langeberg.gov.za; tbrunings@langeberg.gov.za; admin@langeberg.gov.za; Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>

Subject: FW: Appeal in terms of section 79(2) of the Langeberg Municipal bylaw by Ndlovu De Villiers against rezoning part of the decision by the Langeberg Planning Tribunal on behalf of Hannere Jooste and Louis Jordaan

From: dubhuis@jpdubois.co.za <dubhuis@jpdubois.co.za>

Sent: Monday, 23 December 2019 10:49

To: 'mm@langeberg.gov.za' <mm@langeberg.gov.za>; 'tbrunings@langeberg.gov.za' <tbrunings@langeberg.gov.za>; 'admin@langeberg.gov.za' <admin@langeberg.gov.za>; 'ndlovu@ndvlaw.co.za' <ndlovu@ndvlaw.co.za>

Cc: 'hennie@safam.co.za' <hennie@safam.co.za>; 'david@safam.co.za' <david@safam.co.za>

Subject: Appeal in terms of section 79(2) of the Langeberg Municipal bylaw by Ndlovu De Villiers against rezoning part of the decision by the Langeberg Planning Tribunal on behalf of Hannere Jooste and Louis Jordaan

Dear Sirs

1. We refer to the above appeal by Ndlovu De Villiers ("Ndlovu") on behalf of the two Appellants, Hannerie Jooste and Louis Jordaan which appeal we received on 5 December 2019 from the Langeberg Municipality.
2. We have noted that its Grounds of Appeal include no less than 5 points *in limine* based on *inter alia* alleged procedural irregularities and lack of capacity on the part of the Tribunal.
3. We were instructed by the Reben Trust not to comment *ad seriatim* to each and every submission made supporting the so called merits of the Grounds of Appeal. The reason being that we have already addressed most, if not all of those submissions fully and extensively.
4. We have however, noticed the reference by Ndlovu to the so-called Oudekraal principle referred to and applied by Ndlovu in their comments on the Appeal by the Reben Trust. We however submit that the application of that principle by them, is either selectively done with regard to certain selective facts or simply bad in law.
5. Selectively in the sense that, whilst Ndlovu in their submissions, rely heavily on certain alleged invalid acts or actions on the part of the Tribunal in the points *in limine* taken, they ignore the principle completely in those instances. In other instances they apply the principle wrongly and contrary to what the principle pre-supposes. This principle flows from the case of Oudekraal Estates (Pty) Ltd v City of Cape Town and others 2004 (6) SA 222 (SCA) ("Oudekraal")
6. Likewise we will also rely on the Oudekraal principle in properly refuting most of the said points *in limine* raised by Ndlovu.
7. As a point of departure we will first and foremost dissect the Oudekraal principle and scrutinize its proper application in our rule of law.

Oudekraal principle:

- 7.1 In Oudekraal the SCA developed the principle that an unlawful act may produce legally recognizable consequences, commonly known as the Oudekraal principle.
- 7.2 This principle is applied in administrative law parlance culminating in the following: If the validity of consequent acts is dependent on no more than the factual existence of the initial act, then the consequent act will have legal effect for so long

as the initial act is not set aside by a competent court.

7.3 This principle was since afforded judicial imprimatur by the Constitutional Court.

7.4 Thus an invalid administrative action may not simply be ignored, but may/shall be valid and effectual and may continue to have legal consequences, until set aside by proper process.

8. We therefore submit that the first to third points *in limine* raised by Ndlovu pertaining to alleged invalid acts on the part of the Tribunal, in essence due to a lack of capacity/power or acts not fulfilled properly, should be rejected out of hand pursuant to the Oudekraal principle. This is the correct approach to the Oudekraal principle; not the approach followed by Ndlovu in their comments on the Reben Trust Appeal. The alleged submission that the Tribunal's decision is unlawful, is likewise covered by the Oudekraal principle.
9. The fourth point *in limine* should be rejected due to the fact that environmental Authorization has since been granted by the relevant Directorate on 29 November 2019. As simple as that.
10. We have already alluded to the history pertaining to the commencement of the compost facility, not exceeding 10 tons of general waste per day. And not exceeding an area of more than 1 hectare in extent. The accusation that the Reben Trust should have adhered to the compliance notices issued by the Municipality and thus its hands are not clean, respectfully makes no sense at all. The Oudekraal principle is not applicable in such an instance where a Municipality decides to issue a compliance order. The Reben Trust is fully entitled to oppose any civil or criminal action which may be instituted by the Municipality against it. In such an instance the *Audi Alteram Partem* maxim is indeed applicable, ousting any appeal on the Oudekraal principle. The Oudekraal principle cannot erase the *Audi-rule*. It is after all not its purpose. The Reben Trust has furthermore advanced sound reasons in writing, as it was perfectly entitled to do, why it did not accept the stance/reasoning by the Municipality in the issuing of the compliance notices. It was furthermore open to the Municipality to proceed with legal steps against the Trust/SAFAM which the Municipality, for some reason or other, chose not to do. Any such legal steps, should they have been instituted, would in any event have been opposed by the Reben Trust/SAFAM in terms of the Audi-rule. It would appear from the reasoning by Ndlovu that the Oudekraal principle would have prevented the Reben Trust to oppose legal steps in court, should the Municipality have decided to institute such steps. This is of course absurd and a clear indication of the wrong approach followed by Ndlovu in respect of the proper application of the principle. Thus this attack on the Reben Trust also falls to be rejected as being unfounded and without merit at all.
11. Lastly and most importantly, the Appeal Authority is well within its rights and powers to revoke the decision by the Tribunal and replace it with its own decision in line with what the Reben Trust requested in their Appeal. So, even if the Tribunal did not have the power to act or any of its decisions were indeed invalid, (which is not conceded) the Appeal Authority may in any event, in terms of section 81(1)(9) (b,) of the Planning Bylaw, revoke the whole decision of the Tribunal as it stands and replace it "*with any decision it regards necessary*". This is exactly what the Reben Trust requests the Appeal Authority to do. In other words, whether the Tribunal's decision was invalid or *ultra vires* due to lack of powers or authority, its decision (valid or invalid) needs to be revoked *in toto* and replaced by the decision requested by the Reben Trust in their Grounds of Appeal.
12. What remains of Ndlovu's submissions should respectfully be disregarded as being patently opportunistic attempts to "*cloud the issue*" at hand, to coin a phrase. It does not bring anything new to the table. At most, its submissions fall to be rejected insofar as it runs counter to those submitted by the Reben Trust.
13. The Reben Trust thus requests the Appeal Authority, again, to use its powers clothed upon him by section 81(1) and revoke the whole of the decision by the Tribunal and replace it with the decision requested by the Reben Trust. That would not only be the necessary thing to do but also the right and reasonable thing in the light of all the prevailing circumstances.

Yours Faithfully

JP DU BOIS
OBO the Reben Trust

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Tracy Brunings

From: Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>
Sent: Friday, 10 January 2020 1:29 PM
To: dubhuis@jpdubois.co.za; MM; Tracy Brunings; Langeberg Municipality
Cc: Hanneré Jooste; Louis Jordaan
Subject: RE: Appeal in terms of section 79(2) of the Langeberg Municipal bylaw by Ndlovu De Villiers against rezoning part of the decision by the Langeberg Planning Tribunal on behalf of Hannere Jooste and Louis Jordaan

Dear Sirs

1. We are in receipt of an email from Mr. JP du Bois (submitted on behalf of the Reben Trust). We received that email twice: on 23 December 2019; and on 29 December 2019, respectively.
2. We hereby request the Appeal Authority to reject the abovementioned email as it does not assist the Appeal Authority to make its appeal decision. Specifically, we request the Appeal Authority to reject all of the legal submissions made therein on the basis that those legal submissions are bad in law. We respectfully submit that the flaws in those legal submissions are self-evident. However, we are compelled to highlight one fundamental flaw. We do so below.
3. In Paragraph 10 of the abovementioned email, it is suggested that we hold the view that “the Oudekraal principle would have prevented the Reben Trust to oppose legal steps in court, should the Municipality have decided to institute such steps.” We hold no such view. Instead, our view is that the Oudekraal principle required the Reben Trust to comply with the compliance notices issued by the Municipality until those compliance notices are set aside. We accept that, while complying with those compliance notices, the Reben Trust would be free to challenge those compliance notices by way of instituting administrative appeal processes or court proceedings. What we emphasise is that it is not open to the Reben Trust (simply) to ignore the compliance notices as the Reben Trust did in this matter.
4. In the end, this matter calls upon the Appeal Authority to express its view on whether or not it is open to the Reben Trust to ignore the compliance notices issued by the Municipality against the Reben Trust on the basis that the Reben Trust is of the view that the issuing of those compliance notices violated the rights of the Reben Trust. We urge the Appeal Authority to pronounce itself definitively on this matter so that all those who are regulated by the Municipal bylaws have clarity on what is the Municipality’s position on this issue. In other words, the Appeal Authority must clarify whether or not those who are regulated by the Municipal bylaws have a choice on whether or not to comply with compliance notices issued by the Municipality in the event the recipients are of the view that those notices violate their rights.
5. We reiterate our view that, in the light of all the prevailing circumstances, the Reben Trust’s application should be refused by the Appeal Authority after the consideration of the appeals before the Appeal Authority.

Yours sincerely

Sibonelo Ndlovu

BA(Law), LLB, LLM (Marine and Environmental Law)

Managing Partner

Tel: 033 001 7521 Cell: 072 320 0283 Fax 086 2728 793

Email: ndlovu@ndvlaw.co.za Website: www.ndvlaw.co.za

Address: Block A Victoria House, Victoria Country Club Estate (170 Peter Brown Drive), Montrose, PMB.



Ndlovu de Villiers
Environmental Law Specialists

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Annexure 11

Compliance Notices and Applicant's Responses

Our Ref: 15/4/12/5 & 7
Your Ref:

Private Bag X2, ASHTON 6715
28 Main Road, ASHTON 6715
T +27 23 615 8000 F +27 23 615 1563

Navrae/Enquiries: K Brand
Date: 15 February 2018

Mr H de Bod
Reben Trust
P O Box 895
ROBERTSON
6705

Per hand

FIRST NOTICE OF NON-COMPLIANCE
Langeberg Land Use Planning Bylaw, 2015

UNAUTHORISED ACTIVITY ON PORTION 6 OF THE FARM MIDDELBURG NO 10, ROBERTSON: ABATTOIR COMPOST FACILITY

1. I refer to the application dated 10 October 2017, lodged by Umsiza Town Planning Consultants, for rezoning portion of the above farm to Industrial Zone II to accommodate an Abattoir Compost Facility and for Consent for an Intensive Feedlot. This application is still in process.
2. In the interim, a site visit conducted on 6 February 2018 confirmed that the Abattoir Compost Facility is already in operation.
3. The current zoning of the properties in question is: Agricultural Zone I

The primary land use rights are: Agriculture.
4. The Abattoir Compost Facility is not permitted within the existing Agricultural Zone I and you are therefore guilty of the following offence(s) in terms of section 86 (1) of the Langeberg Land Use Planning Bylaw PN 264/2015:
 - (a) Contravening or failing to comply with section 15(1); and
 - (b) Utilising land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;
5. The unlawful land use comprises a Compost Facility which brings in waste products from premises other than the farm itself, including waste products and carcasses from the Robertson Abattoir.
6. In terms of Section 85(1)(a) and (b) of the bylaw, the Municipality must enforce compliance with the provisions of the bylaw and of an applicable zoning scheme.

7. You are hereby instructed in terms of section 87 of the bylaw, to immediately cease the activity referred to in Paragraph 5 above and await the outcome of the abovementioned application
8. Any written representations must be made to the Municipality, within 30 days of receipt of the notice, in terms of section 87 (6) of the bylaw.
9. Kindly note that failure to comply with the above request will result in further action being taken against you in terms of section 88(1)(g)(i)-(v) of the bylaw.

Yours faithfully



JV BRAND
MANAGER : TOWN PLANNING



Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGER / CONVEYANCERS

BTW NR 4770183285

ROBERTSON

POSBUS	466	P O BOX
KERKSTRAAT 23		23 CHURCH STREET
MED-LAW HOUSE		MED-LAW HOUSE
ROBERTSON		ROBERTSON
6705		6705
TELEFOON	+27 23 626-6523/4	TELEPHONE
NA URE	+27 23 347-4693	AFTER HOURS
FAKS	+27 23 626-6577	FAX
SEL	082 6214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	aktes@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/ HR0215

YOUR REF : 15/4/12/5 & 7 – K Brand

DATE : 14 MARCH 2018

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON

E-mail: kbrand@langeberg.gov.za / tbrunings@langeberg.gov.za

Dear Sirs

APPLICATION FOR REZONING AND CONSENT USE CONTEMPLATED IN THE
ZONING SCHEME : PORTION 6 OF THE FARM MIDDELBURG NO 10 ("Portion 6")

OUR CLIENT: SOUTH AFRICAN FARM ASSURED MEAT GROUP CC

We act on behalf of Mr. Hennie De Bod in his capacity as member of the South African
Farm Assured Meat Group CC, Robertson.

We were placed in possession of your first Notice of Non-Compliance in terms of the
Langeberg Land Use Planning Bylaw, 2015 dated 15 February 2018, addressed to Mr.
H De Bod of the Reben Trust.

As stated above, the property concerned, although it is owned by the Reben Trust, the
entity that is in control of the said property in its capacity as a lessee, is the already
mentioned South-African Farm Assured Meat Group CC.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

Be that as it may, we hold instructions to respond on behalf of both the owner of Portion 6 as well as the lessee of that property in respect of the said Notice of alleged Non-Compliance.

1. The current Zoning Scheme:

- 1.1 It is our instructions that the current Zoning Scheme in terms of which the application for rezoning and consent use by our client, pursuant to the Langeberg Land Use Planning Bylaw PN 264/2015 ("LUPB") has been launched, is the Provincial Section 8 Scheme Regulations ("Section 8 Scheme").
- 1.2 We have noted the contents of specifically the first four paragraphs of your said notice and deny that our client has been or currently is in contravention of any law, including the said LUPB mentioned in your Notice of Non-Compliance.
- 1.3 We have investigated this matter and as far as we could ascertain, the Abattoir Compost Facility currently in operation on Portion 6 ("the Compost Facility"), is not in contravention of the primary use of Agricultural Zone I.
- 1.4 Notwithstanding the fact that you do not specify the relevant section of the LUPB or the current Section 8 Scheme, we submit that the Compost Facility as an activity/use resorts to primary use under Agricultural Zone I due to the following:
 - 1.4.1 In terms of GN 921 of 29 November 2013 ("Notice 921") and the schedule to that Government Notice, the type of waste being processed in the Compost Facility, is general waste and the treatment thereof. This can be gleaned from Category B of the schedule of Notice 921.
 - 1.4.2 In terms of a recent clarification (date unknown) note by the Department of Environmental Affairs and Development: Directorate of Waste Management Implementation, it was stated by the said Directorate that, and we quote: "*Schedule 3 of the National*

Environmental Management: Waste Act, Act No 59 of 2008, defines the non-infectious portion of animal waste as general waste in terms of Category B1."

- 1.4.3 In terms of that category which regulates general waste (i.e green or biodegradable waste), it is defined as "*Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing, food preparation and processing.*" Category B1 specifically states that all waste from agriculture, horticulture, aquaculture, forestry, hunting and fishing which are not otherwise specified in Category A, forms part of Category B1.
- 1.4.4 Furthermore, it is specifically stated by the Directorate of Waste Management (Thorsten AAB) that blood is also included under this definition in Category B1.
- 1.4.5 Also included is condemned animal waste which is viewed as general waste that is non-infectious, but not fit for human consumption. As such, condemned abattoir waste is classified as general waste.
- 1.4.6 Therefore it can be safely accepted that the waste management activity which is undertaken in or at the Compost Facility on Portion 6, concerns the management/processing of general or green waste in terms of Category B1 and not hazardous waste in terms of Category A of Schedule 3 of the definition of wastes under the National Environmental Management: Waste Act, Act No 58 of 2008 ("the Waste Act").
- 1.5 Furthermore, Notice 921 contains a list of waste management activities which have or are likely to have a detrimental effect on the environment. Your attention is in this regard referred to Category A in respect of which a Waste Management Licence ("WML") is required pursuant to Section 20(b) of the Waste Act. It

specifically (under the heading treatment of waste) defines this activity, which applies to our client's Compost Facility, as follows:

"Treatment of waste

the treatment of general waste using any form of treatment at a facility that has the capacity to process in excess of 10 tons but less than 100 tons (of waste)"

- 1.6 Thus, in terms of National Legislation (the Waste Act, 2008 and the National Environmental Management Act, 1998 ("NEMA")) our client is not legally obliged to apply for a WML due to the fact that the current processing of general waste at the Compost Facility does not have the capacity, nor the volumes of waste to be processed and treated in excess of 10 tons of that waste. Our client chooses to refer to this waste as animal by-products which is processed into a highly needed fertilizer in the form of processed compost.
- 1.7 You will have noted that our client did apply for a WML, simply to cater for future expectations if and when the capacity of the Compost Facility should reach a stage when the quantity/volumes of waste to be processed, would exceed 10 tons. This is, as stated (this is also common cause), not the case at present and it is further common cause that our client since it started to operate the Compost Facility during 2017, the volumes of waste processed at the Compost Facility never exceeded the prescribed threshold.
- 1.8 Therefore, you would have noted that in our client's application form in terms of Section 15(2) of the LUPB filed by Umsiza Planning on behalf of our client, it is specifically stated that the current land use is: "Agricultural Zone I and Compost Facility within the limits of DEADP."
- 1.9 Therefore although our client is currently under no obligation to apply for a WML, it was advised to do so, should it become necessary in future to increase the processing and management of animal waste in excess of 10 tons but less than 100 tons. Currently, as stated, our client is well below this restricted limit.

2. **Allegation of Contravention of the Langeberg LUPB and/or Section 8 Scheme:**

- 2.1 It is common cause that the zoning of Portion 6 in terms of the Section 8 Scheme, which is currently applicable, is Agricultural Zone I. As already stated above, the allegation contained in your Notice of Non-Compliance, cannot therefore refer to or even imply, the contravention of any National Legislation concerning waste management.
- 2.2 Thus, the only other possible contravention which our client allegedly may have committed, concerns the nature and definition of a Compost Facility. As can be gleaned from your Notice of alleged Non-Compliance, our client is allegedly not "permitted" within the existing Agricultural Zone I, to accommodate a Compost Facility whilst the pending application for rezoning is in process. Naturally, the Compost Facility should be viewed in the context of a form of a waste management activity referred to in the Waste Act.
- 2.3 In terms of paragraph 5 of your Notice of Non-Compliance, you make the further allegation that it is an unlawful land use of our client to accommodate "a *Compost Facility which brings in waste products from premises other than the farm itself, including waste products and carcasses from the Robertson Abattoir.*"
- 2.4 It is not clear at all what the legal basis of this statement is. On the one hand, it may seem that the Municipality regards the "*bringing in waste products from other premises than the farm*", as such, comprises the offending activity. On the other hand, one may also assume that the offending activity refers to the Compost Facility as such, as being the activity that triggers rezoning from Agricultural I to Industrial Zone II.

- 2.5 With regard to the allegation contained in paragraph 5 of your Notice of Non-Compliance, we could not trace any reference in LUPB as well as the quoted National Legislation where such an activity requires or triggers a rezoning application as such. No doubt you will bear in mind that our client does not bring general waste to the farm with the purpose of dumping it by way of landfill. The general waste is being processed and treated as a compost product to be used as a fertilizer on the farm itself. It can thus be compared to a farmer who brings animal or chicken manure collected from another premises, to his farm where that manure will be utilised to fertilize his lands.

3. Noxious Trade:

- 3.1 We have noted that you do not refer in your Notice of Non-Compliance to the so-called "*noxious trade*" which our client's Compost Facility is or could be compared with. Nevertheless, we will assume that this may be the reason for your allegation that the Compost Facility triggers a rezoning to Industrial Zone II, as the primary use of that Zone in terms of the Section 8 Scheme, caters for noxious trade.
- 3.2 We have, as stated, perused the amended Zoning Scheme in terms of Section 8 of the Land Use Planning Ordinance, 15 of 1985 to ascertain whether the Compost Facility can indeed be regarded as a noxious trade per definition.
- 3.3 In terms of the definition clause in the Section 8 Scheme, "noxious trade" is defined as follows:
- "means an offensive use or other use which constitutes a nuisance as envisaged in regulations which are promulgated from time to time in terms of sections 33 and 34 of the Health Act, 1977 (Act 63 of 1977) read with paragraphs (f) and (g) of the definition of "nuisance" in section 1 of the said Act and includes the operation ..."*

- 3.4 As you know the Health Act, No 63 of 1977 ("the Old Health Act") has been repealed with effect from 1 March 2012 by Section 93 of the National Health Act, No 61 of 2003 ("the New Health Act").
- 3.5 We quote from the definition of "nuisance" in the Old Health Act in respect of paragraphs (f) and (g) thereof:

"(f) Any factory or industrial or business premises not kept in a cleanly state and free from offensive smells arising from any drain, watercloset, earthcloset, urinal or any other source, are not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated, as to be injurious or dangerous to the health of those employed therein or thereon.

(g) Any factory or industrial or business premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health."

- 3.6 On the basis of the above quoted definitions, one must analyze the elements or components referred to in those definitions, to ascertain whether the Compost Facility per se falls under that definition/s. If it should fall under that definition, it goes without saying that it will trigger a rezoning to Industrial Zone II which caters for noxious trade. If not, that activity will not be rendered illegal or unlawful under LUPB.
- 3.7 We submit that it is crystal clear that the Compost Facility does not conform to a noxious trade use in terms of the definitions quoted above. The reasons for this submission, are manifold:
- 3.7.1 the Compost Facility on Portion 6 is not a factory nor an industrial or business premises.
- 3.7.2 The intention of the Legislator in this regard was clearly to cater for the health of people employed in the factory or on the business premises

which should be kept clean and should not be overcrowded, badly lighted or ventilated so as to be injurious or dangerous to the health of the employees, etc.

- 3.7.3 The same intention applies to (g).
- 3.7.4 As stated above, in terms of National Legislation the Compost Facility, restricting the processing of general waste to 10 tons, does not trigger any licence or other pre-condition to be adhered to before such a venture (activity/use) may be embarked upon.
- 3.7.5 The definition of noxious trade as envisaged in the draft or proposed New Zoning Scheme Regulations which is not operational nor applicable, as it has not been promulgated yet, in any event does not bring the matter any further. In that definition, noxious trade is defined as follows:
- "An industry that is offensive, poisonous or a potentially harmful use or activity that, because of the fumes, emissions, smell, vibration, noise, waste products, nature of material used, processes employed or other cause, is considered by the Municipality to be a potential source of danger, nuisance or offense to the general public or persons in the surrounding area and includes-*
- (a) an abattoir;*
 - (b) a crematorium;*
 - (c) rooftop base telecommunication station; and*
 - (d) freestanding base telecommunication station."*
- 3.7.6 It is common cause that the Compost Facility is not an Abattoir or any of the other mentioned industries. General Waste (green and biodegradable) is being utilised to process compost.

- 3.7.7 It is further common cause that in terms of National Legislation, general waste is non-infectious, non-poisonous and non-hazardous although it is not fit for human consumption.
- 3.7.8 It is furthermore common cause that the only elements of the above definition which is or may be present to some extent, is the smell and the presence of flies. Surely, the Municipality cannot be heard to (and will not) say that the slight intensification of odours and the increase of the fly population in the immediate vicinity of the site of the Compost Facility (for a radius of approximately 50m), will *per se* trigger a rezoning application from Agricultural I to Industrial II. We thought not.

4. Stance of the Municipality prior to the issuing of the Notice of Non-Compliance:

- 4.1 It should be noted that against the background of the above definitions, the Municipality itself through an official, on 30 January 2017, stated (and rightly so) that a composting facility is not defined in the current Zoning Scheme. In an e-mail by Tracy Brunings of your offices, she wrote to Steven McLean as follows:

"A composting facility is not specifically defined in the Zoning Scheme. It could be considered to fall under the definition of "noxious trade" and therefore require a footprint rezoning from Agricultural Zone I to Industrial Zone II."

In that e-mail she then refers, ostensibly to corroborate her opinion, to *"Industrial III in terms of the proposed integrated Zoning Scheme"*, not yet in operation.

- 4.2 We submit that Tracy Brunings was correct in her statement that a Composting Facility is not defined in the current Zoning Scheme. As such, one must have regard to the definition in National Legislation to ascertain whether general waste management can be regarded as a use or activity that is or may be a nuisance, is dangerous, is poisonous, is infectious and in general is of a noxious nature. The answer to the above is clearly in the negative.

- 4.3 The possibility of a slight increase in smell and the presence of flies in the immediate vicinity, cannot be regarded as a nuisance in terms of the definition under the Old Health Act. The only reliable yardstick to be applied in this instance, is therefore National Legislation which, as we have repeatedly stated, does not even require a WML to operate a facility where general waste is managed below a certain threshold.
- 4.4 The same Tracy Brunings of your offices also stated the following in an e-mail of 8 February 2018 addressed to one Helene Janser: *"In principle, turning waste products into compost is viewed positively"*. She however, refers to the fact that the applicant *"has commenced prior to any authorization and the fly problem in particular has a lot of people "up in arms"."* She then further refers to certain complaints with regard to the pending application for rezoning and a consent use contemplated in the Zoning Scheme. It appears as if Ms Brunings bases her "opinion" (because that is what it is) retroactively due to "complaints" triggered by the Application for rezoning. This is by no means the legal test or yardstick to determine whether the Compost facility is or is not a noxious trade, requiring an Industrial Zone II zoning. We daresay (because it at least appears to be the case) that if the Municipality has not received any complaints from the public, no Notice of Non-Compliance would in all probability have been forthcoming.
- 4.5 It is a fact that the recycling of waste in whatever form, is the way of the future; especially green or general waste. It is after all regarded by National Legislation as non-infectious, non-hazardous, non-poisonous and therefore in general must be regarded as "non-noxious". How then, can an activity which manages and processes non-noxious material and/or waste, be regarded as noxious trade?
- 4.6 Our client has over the past more than 2 years invested large amounts of money to investigate the correct procedures with regard to the processing of waste due to the fact that it was your Municipality which instructed our client, the Robertson Abattoir, on 25 February 2016 that they (Langeberg Municipality) will stop taking/removing any by-products (animal waste) from the end of December

2016. Our client was therefore left with no option, but to find its own solution/s in respect of its own waste disposal. After due consideration and consultations with experts, Local and Provincial Government officials, our client decided not to resort to other landfill waste removal options (as virtually none nearby is available), but rather go with the general trend to generate a useful end product in the form of processed compost. During the past 2 years it consulted with the mentioned officials in the waste business such as the mentioned Directorate of Waste Management Western Cape, the Winelands District Municipality, Elsenburg and Environmental Practitioners. All were very positive regarding the intended operation of a Compost Facility on Portion 6. Our client has further expended hundreds of thousands of rand to acquire the necessary transport vehicles, transport skips, a blood tanker, a front loader and new tractor to cater for the intended process, which should prove to be beneficial to all concerned; including your Municipality.

- 4.7 Furthermore, it is our instructions that the Langeberg Municipality, as well as various other officials as mentioned above, were informed that our client intended to produce/generate compost on Portion 6, as early as 10 August 2016. No objection to the proposed Compost Facility was ever received from that day onward and neither did Robertson Abattoir receive instructions from Langeberg Municipality that Portion 6 will need to be rezoned in terms of the current Section 8 Scheme to cater for such a facility/activity/use.
- 4.8 In fact, the Langeberg Municipality transported the first general waste generated from the Abattoir to the Compost Facility site during the latter part of January/early February 2017.
- 4.9 A site visit was duly conducted on 6 February 2017 (as stated in your Notice of Non-Compliance), and attended by various officials, including your Municipality, where it could be clearly seen that the facility was already in operation. No objection at that stage to the Compost Facility was however received from the Langeberg Municipality until your Notice of Non-Compliance of 15 February 2018 – more than a year later.

- 4.10 Our client however did receive from your Municipality a statement of account setting out the application fees for the pending application. In that statement mention was made of "*unauthorised land use activity already in existence*" and a penalty was charged in the amount of R2 589.00. We advised our client, simply in order to speed up the pending application, to pay that amount without prejudice and without admission of liability for that alleged unauthorised land use, which it did on 15 February 2015..
- 4.11 Furthermore, on the very same day when your Municipality decided to issue the Notice of Non-Compliance on 15 February 2018, our client received an e-mail from Tracy Brunings addressed to our client's David Houghton, stating as follows:
- "Thank you David. I appreciate your cooperation and look forward to finalising the land use process in as timeous a manner as possible, and hopefully with solutions acceptable to the various IAPs."*
- 4.12 On that specific date your Tracy Brunings would have been or at least should have been aware of the fact that your Mr Brand is in the process of or has already issued a Notice of Non-Compliance on 15 February 2018 on behalf of the Municipality.

5. Stance of the Western Cape Government on this issue:

- 5.1 We have in our possession an e-mail by Mr Gary Arendse of the Western Cape Government which he wrote to Mr Slingers of your Municipality on 12 August 2016. It concerns the Robertson Composting Facility. It refers to a telephonic discussion on 10 August 2016 with regard to the proposed composting of Abattoir Waste at Robertson Composting Facility (Portion 6), and Mr Arendse states as follows:

"The Department understands that at the moment the facility receives ± 160 tons of green waste per month. This works out at ± 5.3 tons per day, which is therefore under the threshold of 10 tons as stated in Government Notice 921."

5.2 He further states that the Department of Waste Management of the Western Cape was also made aware that composting of ± 500 tons/month (16.6 tons/day) of abattoir waste will also take place at the facility which will trigger the listed activity and therefore required a Waste Management Licence. We have referred to the possibility or even the probability that sometime in future this threshold will be crossed which will only then require a WML.

5.3 However, Mr Arendse at the time suggested one of the following two options:

Option 1 - The Robertson Composting Facility will accept 500 tons/month abattoir waste which will lead to the triggering of the listed activity in Government Notice 921 and therefore require a Waste Management Licence. (We have already addressed this option, which they have followed due to future expansion of the waste treated at the Compost Facility).

Thus, they have been advised to apply now for a Waste Management Licence although it is not a legal obligation at all.

In Option 2 suggested by Mr Arendse, the Robertson Compost Facility receives a smaller volume of abattoir waste per month (not exceeding 140 tons/month) and therefore will not trigger the listed activity which requires a Waste Management Licence.

5.4 It is however of grave concern that despite the fact that your Municipality and its officials (as well as other health officials of the Province and District Municipality) were fully aware of our client's intention to operate a Compost Facility at Portion 6, your Municipality chose not to inform, nor instruct our client not to operate that facility before an application for rezoning has been embarked upon and finalised. Through your Municipality's inaction in this regard, you have at least

created the impression or the implication that your Municipality does not regard the proposed Compost Facility as requiring a rezoning to Industrial II. Thus, our client may revert to the principle of Estoppel from precluding your Municipality now to assert the contrary.

- 5.5 As stated, acting on your implied impression that our client can proceed with his proposed facility, it expended hundreds of thousands of rand to make the process viable, only now to be informed that he must immediately cease with all activity as per your Notice of Non-Compliance!
- 5.6 Furthermore, it would appear throughout the history of this matter, as can be gleaned from the various e-mails and correspondence between various officials of your Municipality as well as the Department of Environmental Affairs: Western Cape, that everyone regarded the proposed facility as a positive step in the right direction towards a permanent and sustainable solution for waste management. Without having to revert to landfill waste disposal anymore.
- 5.7 The question that now immediately emerges is: Will your Municipality again take up and remove the animal waste from the Abattoir pending the finalization of the rezoning application? We think not.

6. Submission:

- 6.1 It is therefore our convinced submission that our client at no relevant time acted in contravention of any law referred to in your Notice of Non-Compliance. We are also convinced that the Notice was issued retroactively due to complaints received, which is a totally separate matter/issue, not to be applied to determine of status of the Compost Facility. Whatever the reason or motivation for the issuing of your Notice, same is rejected on various grounds set out herein.
- 6.2 You will also bear in mind that should your Municipality respond through any further Notices of Non-Compliance or any other action in terms of the LUPB or any other law, such actions will be vigorously opposed. Furthermore, you will be mindful of the fact that should our client suffer any damages due to unlawful

legal action embarked upon by your Municipality, our client's rights to claim such damages from your Municipality is strictly reserved hereby.

- 6.3 Furthermore, our client's rights are also strictly reserved to re-claim payment of the "penalty" charged by your Municipality as it was paid without admission of any liability, but simply to speed up the process.

Yours faithfully
DU BOIS ATTORNEYS
Per

J P DU BOIS

DIRECT E-MAIL : hannes@dpdubois.co.za

CC:

Mr. S McLain- Environmental Health Practitioner – Cape Winelands District Municipality (smcclean@capewinelands.gov.za)

Mr. G Slingers – Manager – Solid Waste Management – Langeberg Municipality – Gslingers@langeberg.gov.za

Mr. G Arendse – Environmental Officer – Directorate Waste Management, Department of Environmental Affairs and Development Planning – Gary.Arendse@westerncape.gov.za

Mrs. Anna-Christa Redelinghuys – Umsiza Planning – annachris@mweb.co.za

Mr. Hennie De Bod – Robertson Abattoir – hennie@robab.co.za

Mr. David Houghton – Robertson Abattoir – david@robab.co.za

Our Ref: 15/4/12/5 & 7
Your Ref: JPDUB/AF/HR0215

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Navrae/Enquiries: K Brand
Date: 28 March 2018

Mr JP Du Bois
Du Bois Attorneys
P O Box 466
ROBERTSON
6705

Dear Sir,

UNAUTHORISED ACTIVITY ON PORTION 6 OF THE FARM MIDDELBURG NO 10, ROBERTSON: ABATTOIR COMPOST FACILITY

1. I refer to the notice of non-compliance dated 15 February 2018, your letter dated 14 March 2018 and your email dated 16 March 2018.
2. For purposes of clarity, I confirm the following:
 - 2.1. The current zoning of the property in question is Agricultural Zone I within which the primary use permitted is "Agriculture"; and the Abattoir Compost Facility does not fall within the definition of Agriculture.
 - 2.2. An application, in terms of the Langeberg Land Use Planning Bylaw, 2015 to accommodate an Abattoir Compost Facility and for Consent for an Intensive Feedlot on the above property is currently in process.
 - 2.3. An application, as in 2.2. above, has also been submitted for Provincial approval in terms of Section 53 of LUPA 3/2014.
 - 2.4. A Basic Assessment Report, in terms of the EIA Regulations in terms of NEMA 107/1998 has recently been lodged with the Department of Environment Affairs and Development Planning.
3. We request your client's cooperation in finalising the above applications timeously and, in the interim, in ensuring that no activities occur without the required authorisations.
4. The contents of your abovementioned correspondence has been noted and will be taken into account in any decisions which may be taken with regard to possible future actions in terms of Section 88(1)(g)(i)-(v) of the Langeberg Land Use Planning Bylaw, 2015.

Yours faithfully



JV BRAND
MANAGER : TOWN PLANNING



Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGERS / CONVEYANCERS

BTW NR 4770183285

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OUR REF : JPDUB/af/ HR0215

YOUR REF : 15/4/12/5 & 7 – K Brand

DATE : 3 MAY 2018

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON

E-mail: kbrand@langeberg.gov.za / tbrunings@langeberg.gov.za

Dear Sirs

APPLICATION FOR REZONING AND CONSENT USE CONTEMPLATED IN THE
ZONING SCHEME : PORTION 6 OF THE FARM MIDDELBURG NO 10 ("Portion 6")

OUR CLIENT: SOUTH AFRICAN FARM ASSURED MEAT GROUP CC

1. We refer to previous correspondence and specifically to your letter of 28 March 2018 addressed to our offices. We will now respond to the contents of that letter.

AGRICULTURE – DEFINITION:

2. We have noted the wording of the definition of "Agriculture" contained in the current Zoning Scheme, as amended by Provincial Notice 359 of 2009.
3. We however submit on behalf of our client, that the mere fact that an "Abattoir Compost Facility" is not specifically mentioned in the definition of Agriculture, does not exclude that activity from being exercised on agricultural land.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

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4. The definition of Agriculture (with specific reference to cultivation) comprises much more than the use of land for the mere raising of crops, the breeding of animals and game farming.
5. Sustainable Agriculture can only be maintained and improved through a careful rotation of crops and generous amounts of compost and/or green manure and/or other fertilizer. Abattoir Compost comprises nothing more than a variant of green or organic manure to be utilized as fertilizer on a farm.

COMPONENTS OF AGRICULTURE:

6. It is generally accepted that the concept of Agriculture is composed of at least five specialized branches. The five branches are:
 - 6.1 Agronomy which deals with soil management and the growing of crops,
 - 6.2 Horticulture which deals with the cultivation of fruits, vegetables and ornamental crops,
 - 6.3 Agricultural Engineering which involves knowledge of farm machinery and equipment and also deals with developing new systems and practices to address practical problems facing agriculture,
 - 6.4 Agricultural Economics which deals with the business end of farming, and
 - 6.5 Animal Science which deals with the breeding and caring of animal for specific purposes, such as for the meat, milk and/or fur, etc.
7. The above components do not exist independently from and in isolation of each other. The definition of Agriculture cannot thus be viewed and evaluated in isolation. It must always be viewed in its proper context. As can be gleaned from the amended definition of Agriculture, it specifically excludes abattoirs, feed-pen farming, aquaculture or other defined consent uses. The definition does not exclude any of the above five components and rightly so as they are interdependent of each other and jointly form an integral part of the very essence of Agriculture. To exclude for instance Agronomy from the definition, is to exclude fertilizer from the cultivation of crops.
8. Thus, to limit Agriculture as simply the activity of cultivating land by raising of crops or for the breeding of animals or the running of a game farm, is to exclude the inherent components, or some of them, from Agriculture itself. After all, the most essential requirement regarding the cultivation of land, is to manage,

maintain and fertilize the soil with recommended doses of all sorts of nutrients to meet the crop needs. This is exactly what our client endeavours to achieve in respect of the Compost Facility.

9. The test therefore is not to enquire whether the words "compost facility" are included in the definition of Agriculture or not. The true test is what cultivation of land essentially means, seen in context. And what the purpose of the wording are i.e. the intention of the legislature.
10. Agriculture in the true sense of the word, cannot exist without viewing it in its proper context, which is to apply all the components mentioned above. Only when all the components are effectively applied, can sustainable Agriculture in its fullest and broadest context evolve. The intention of the legislator could only have been that the definition of Agriculture should be viewed inclusive of all its inherent and interdependent components. Otherwise it makes no sense at all as will be demonstrated below by way of examples. After all, the rules of interpretation of statutes, prescribe as such. Section 39(2) of the Constitution is a peremptory provision and stipulates as follows: *"When interpreting any legislation and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights"*.

EXAMPLES:

11. The following examples will show that the narrow and restrictive interpretation given by the Municipality to the definition of Agriculture, makes no sense at all and would result in absurd outcomes. Alternatively, it is viewed out of context and does not follow the purposive and contextual approach favoured by the courts:
 - 11.1 It goes without saying that a farmer may lawfully shoot game on his farm zoned for Agriculture 1. This he may do despite the fact that the definition of Agriculture does not specifically state that he is allowed to do so. *Ex facie* the definition of Agriculture, he may only run a game farm on an extensive basis. Shooting of game on a game farm is an essential "given" and the farmer does not need to apply for a rezoning of his farm to achieve that purpose.
 - 11.2 A farmer running a game farm, as standard practice, skins the deer hunted or have it skinned for his or his friends' use. He may make biltong and "droë wors" from the meat by slaughtering the animal and hanging

the meat out to dry in a cool, dry and airy facility. The slaughtering is also done in a clean and hygienic cooling facility almost like a butchery. Surely the skinning and cutting up and the processing of the meat of the animal, hunted in this way, will not trigger a rezoning to Agricultural Zone 11 or even an Industrial Zoning. Keep in mind that nothing is said in the definition of Agriculture of these activities.

- 11.3 Furthermore, a farmer will slaughter sheep for his family and/or his workers' use. Will this trigger a rezoning to Agricultural Zone 11 as well? Surely not, as it forms an integral part of the keeping or breeding of animals on the farm to be utilized by the farmer as he deems fit. The reason for this is that the mere skinning/slaughtering of animals does not suddenly elevate the primary use of Agriculture to Agricultural Industry, (or other zoning) simply because it is not included in the definition of Agriculture.
- 11.4 Similarly, a farmer will be allowed to repair his tractors, vehicles and other implements on the farm when they break down. He needs the tractor or other implement urgently to continue to plough or sow his fields or harvest his crops. He will simply take the broken down tractor or other implement to his oily workshop on the farm and an employee who is mechanically inclined (or even may be a qualified mechanic) will repair that tractor or implement by using all sorts of noisy tools. This component is called Agricultural Engineering. Surely, as in the case of hunting game, the farmer need not apply for the rezoning of his farm in that instance, to e.g. Industrial Zone 1.
- 11.5 As stated in our previous letter of 14 March 2018, a farmer may lawfully produce compost by, for instance, using grape skins and pomace as an organic waste by-product in the wine making process and mix it with other organic material to produce a nutrient rich organic fertilizer for the soil. He may also lawfully buy in animal manure, mix it with wood chips and other nutrient rich organic material, stack the mixture on his farm in heaps or in composting pits and use it when necessary, for the very same purpose. All of these processes are by nature odorous to an extent but they take place almost daily as standard farming practices and as part of the agronomy component --- and is therefore included by necessary implication under the definition of Agriculture.
- 11.6 These example activities not only relate to, but form an integral part of the main farming activity; be it cultivation of crops, keeping and breeding of animals or running a game farm.

- 11.7 The current compost facility (and the organic abattoir waste which is used in the process) is no different to the above and for that reason cannot be excluded from the broad and generally accepted definition of Agriculture, read into its proper context.

INSTRUCTIONS:

12. In view of the above, it is our instructions that the contents of your letter of 28 March 2018, insofar as it contends that the operation of a compost facility within the constraints of National Legislation, is illegal, is rejected out of hand.
13. Our Client's rights remain fully reserved.

Yours faithfully
DU BOIS ATTORNEYS
Per

J P DU BOIS

DIRECT E-MAIL : hannes@jpdubois.co.za

Our Ref: 15/4/12/5 & 7
Your Ref: JPDUB/AF/HR0215

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Navrae/Enquiries: K Brand
Date: 8 May 2018

Mr JP Du Bois
Du Bois Attorneys
P O Box 466
ROBERTSON
6705

Dear Sir,

**UNAUTHORISED ACTIVITY ON PORTION 6 OF THE FARM MIDDELBURG NO 10,
ROBERTSON: ABATTOIR COMPOST FACILITY**

1. I refer to the notice of non-compliance dated 15 February 2018, your letter dated 14 March 2018, your email dated 16 March 2018, our letter dated 28 March 2018 and your subsequent letter dated 3 May 2018.
2. Please note that this office is not in agreement with your interpretation that the Abattoir Composting Facility falls within the definition of Agriculture.
3. The contents of our letter dated 28 March 2018 remain applicable.

Yours faithfully



JV BRAND
MANAGER : TOWN PLANNING

Our Ref: 15/4/12/5 & 7
Your Ref:

Mr H de Bod
Reben Trust
P O Box 895
ROBERTSON 6705

Per hand

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Navrae/Enquiries: K Brand
Date: 25 February 2019

SECOND NOTICE OF NON-COMPLIANCE
Langeberg Land Use Planning Bylaw, 2015

UNAUTHORISED ACTIVITY ON PORTION 6 OF THE FARM MIDDELBURG NO 10, ROBERTSON: ABATTOIR COMPOST FACILITY

I refer to the First Notice of Non-Compliance dated 15 February 2018, and subsequent letters to Du Bois Attorneys dated 28 March 2018 and 8 May 2018.

As you are aware, a decision has not yet been taken on your application to rezone a portion of the above farm to Industrial Zone II to accommodate an Abattoir Compost Facility and for Consent for an Intensive Feedlot.

A site visit, conducted on 1 February 2019, confirmed that the Abattoir Compost Facility is still in operation.

Given the above, and the fact that the Abattoir Compost Facility is not permitted within the existing Agricultural Zone I, you are guilty of the following offence(s) in terms of section 86 (1) of the Langeberg Land Use Planning Bylaw PN 264/2015:

- (c) Utilising land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;

In terms of Section 85(1)(a) and (b) of the bylaw, the Municipality must enforce compliance with the provisions of the bylaw and of an applicable zoning scheme.

You are hereby instructed in terms of section 87 of the bylaw, to immediately make alternative arrangements for the disposal of the Robertson Abattoir waste, and await the outcome of the abovementioned application

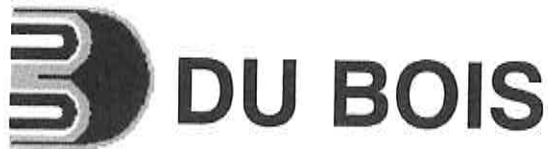
With reference to Sections 88(1)(g)(i)-(v) and 90 of the bylaw, kindly note that failure to comply with the above request will result in further action being taken against you, which may include prosecution for, and conviction of, an offence contemplated in Section 86 and a penalty. You may also be required by an order of court to cease the activity.

Yours faithfully



JV BRAND
MANAGER : TOWN PLANNING

820



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BTW NR 4770183285

OUR REF : JPDUB/af/HR0215

YOUR REF : 15/4/12/5 & 7 – K BRAND

DATE : 4 MARCH 2019

**THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON**

E-mail: kbrand@langeberg.gov.za

**JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)**

Dear Sir

**APPLICATION FOR REZONING AND CONSENT USE CONTEMPLATED IN THE
ZONING SCHEME : PORTION 6 OF THE FARM MIDDELBURG NO. 10 ("PORTION
6")**

SECOND NOTICE OF NON-COMPLIANCE ISSUED ON 25 FEBRUARY 2019

As you are aware, we act on behalf of Mr. Hennie De Bod in his capacity as member of the South African Farm Assured Meat Group CC, Robertson. Mr. De Bod is also a trustee of the Reben Trust who is the registered owner of Portion 6.

We refer to your Municipality's Second Notice of Non-Compliance in terms of the Langeberg Land Use Planning Bylaw, 2015 dated 25 February 2019 ("Second Notice") addressed to Mr. De Bod in his capacity as trustee of the Reben Trust.

We have been instructed to reply to the Second Notice.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

821

In this regard we refer to our previous letters on the same subject addressed by our offices to your Municipality on 14 March 2018 and 3 May 2018, respectively.

That letters were addressed pursuant to the First Notice of Non-Compliance issued by your Municipality addressed to Mr. De Bod on 15 February 2018 ('First Notice').

The contents of our letters of 14 March 2018 and 3 May 2018 must be regarded as incorporated herein. We thus hold instructions to inform you that our client rejects the Second Notice (as he did the first) insofar as it alleges (again) that our client is guilty of utilizing Portion 6 in a manner other than prescribed by the current zoning scheme without the approval of the Municipality.

We however, deem it necessary to make the following submissions in addition to the contents of our previous two letters. The reason for this is that the Integrated Zoning Scheme By-Law of the Langeberg Municipality was promulgated on 18 May 2018. The Provisions of the Fertilizers, Farm Feeds and Remedies Act, Act No. 36 of 1947 as amended ("the Fertilizers Act") and Regulations promulgated under that Act are also relevant to shed light on the concept of compost as a fertilizer.

Langeberg Integrated Zone Scheming By-Law of 18 May 2018 ("Integrated Zoning Scheme"):

1. It is necessary to have regard to the wording and definitions of the Integrated Zoning Scheme:

***"ancillary"** - means a land use, purpose, building, structure or activity which is directly related to, and subservient to, the lawful dominant use of the property.*

***"Industrial Zone II"** – the objective of this zone is to provide for industries that are noxious in respect of smell, product, waste or other objectionable consequence of their operation, or carry a high risk in the event of fire or accident."*

The primary use for Industrial Zone II zoning is noxious trade and industry.

““Industry” – means a property used as a factory and in which an article or part of the article is made, manufactured, produced, built, assembled compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted, etc.” and includes various activities of an industrial nature like for instance a builder's yard, factory shop, funeral parlour, offices, scrap yard, service station, transport usage, etc.

““factory” – means property containing an industrial assembly plant used for the manufacture of goods.”

““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 –

Includes –

- (i) The harvesting, packing, cooling, storing, sorting, packing and packaging of agricultural produce grown on that land unit and surrounding farms.” etc.

Agriculture specifically, does not include aquaculture, intensive horticulture, an abattoir, a farm shop or animal care centre, any mining activity, utility services, etc. By the same token it does not exclude any ancillary use like the production of compost intended to be used as a fertilizer on that land.

““agricultural industry” – means an enterprise for the processing of agricultural products of which the majority of the products is sourced from that land unit and if not produced on that land unit, then from the land units farmed by the owners of the enterprise, with a minority of the product sourced from the surrounding or nearby farms.”

This land use includes a winery, distillery, the bottling of water, a saw mill BUT does not include an abattoir.

“noxious trade” – means an industry that is offensive, poisonous or a potentially harmful use or activity that, because of the fumes, emissions, smell, vibration, noise, waste products, nature of material used, processes employed, or other cause, is considered by the Municipality to be a potential source of danger, nuisance or offence to the general public or persons in the surrounding area and includes –

(a) An abattoir

(b) A crematorium

(c) Rooftop base telecommunication station etc

The principle often applied to the interpretation of statutes where a list of activities are grouped together, is *inclusio unius (est) exclusio alterius*. In the definitions of agriculture, agricultural industry and noxious trade, the list of offending activities excludes an abattoir and other similar activities, but not the production of compost on the said land from organic waste emanating from an abattoir. The only two factors or elements included in the definition of noxious trade which are or may be attributed to a composting facility like the subject one, is smell (which is almost absent from the current facility as numerous site inspections have shown) and waste product. In the subject case it is common cause that the raw material (as defined below) used, despite emanating from an abattoir, is non-poisonous, non-hazardous, non-offensive, does not carry any objectionable consequences and is harmless to the general public -- also known as green or general waste.

On the contrary, the end product of this process, namely a highly nutritious compost, is not only exceedingly advantageous to the cultivation of crops -- the primary use of agriculture – but simultaneously complies with the desperate need to recycle harmless waste products and heed the call to go green and do away with the disposal of waste by means of harmful, hazardous, offensive and objectionable landfill waste dumps.

2. Apropos of the above definitions contained in the Integrated Zoning Scheme of Langeberg, it is patently clear that the use of a fertilizer like compost for the cultivation of land for raising crops and other plants, is not only a perfectly legal

agricultural activity, but also a normal and standard one applied on many farms in general. It is at least an ancillary use to the cultivation of crops, plants etc. After all, the sole purpose for the production of compost as a fertilizer on agricultural land (like portion 6) is to improve the soil of such land.

3. We sum up: The fact of the matter is that a composting facility as the present one operated on Portion 6, is nowhere excluded from the definition of the land use agriculture and not included per definition or specifically in the land use industrial industry or noxious trade. Noxious trade does not even enter the equation for the same or similar reasons why a pigsty or a cattle barn or pen or a winery or distillery (which are in essence smelly activities and producing waste product in various forms) on a farm can never be a noxious trade simply because they are part and parcel or at least ancillary to the primary land uses agriculture and/or agriculture industry, respectively.
4. The current status of the compost facility on Portion 6 is nothing more than the production of a fertilizer in the form of compost of which the raw materials consist of *inter alia* organic waste emanating from an abattoir. As stated in our previous letters, nothing is stated in any Act or Regulation including the Integrated Zoning Scheme, which stipulates that where raw material for the making of compost emanates from an abattoir, (which is not situated on that property where the compost is produced), suddenly elevates the current composting facility on portion 6 to an agricultural industry or noxious trade for which a zoning of Industrial Zone I or II, respectively is prescribed.

The Fertilizers, Farm Feeds and Remedies Act, No. 36 of 1947 ("Fertilizers Act"):

5. As stated above, it is necessary in order to understand the concept of agriculture and the application of fertilizers, as an ancillary use to enhance/improve the soil, to have regard to the Fertilizers Act and Regulation GNR 732 of 10 September 2012. We will now refer to the wording and definitions contained in the said Regulation and the Fertilizers Act:

*“**compost**” – means a stabilized, homogenous, fully decomposed substance of animal or plant origin to which no plant nutrients have been added and that is free of substances or elements that could be harmful to man, animal, plant or the environment.”*

The above definition complies fully with our client's current compost facility and the ingredients (raw material) used in the production of compost on Portion 6.

*“**fertilizer**” – means any substance which is intended or offered to be used for improving or maintaining the growth of plants or the productivity of the soil.”*

Compost is therefore clearly defined under the Fertilizers Act and the Regulation as a fertilizer.

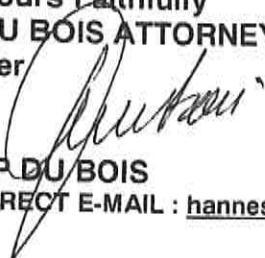
6. In terms of the new Fertilizer Bill which has not been enacted yet, the proposed definitions is interesting as it may also be applied to confirm the meaning of compost as a fertilizer.
7. *“**raw material**” – means organic or inorganic products in a solid or liquid form, including various products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the processing thereof, which are intended for soil fertilization or foliar application.”*
8. The current production of compost on Portion 6 takes place, not as an industry, nor a factory, an abattoir or a noxious trade as defined in the Integrated Zoning Scheme. As stated, it also does not contravene any National Act like the Waste Act or NEMA as long as the production of compost is restricted to a maximum of 10 tons per day and be utilized on Portion 6. The portion of land where the current facility is operated, has in any event been cultivated as early as 1982.
9. Thus, as stated in this letter (and as supplemented by the contents of our previous letters of 14 March 2018 and 3 May 2018, respectively), your Notice of Non-Compliance, has no legal basis and is unlawful.

10. Our instructions therefore are that our client will not heed to that notice or any further Non-Compliance Notice issued and our client will not make alternative arrangements for the disposal of the Robertson Abattoir organic waste, pending the outcome of our client's pending application.
11. Kindly also take notice that should your Municipality take action in the form of the laying of a criminal complaint, such action will naturally be opposed and all the relevant correspondence will be submitted to the prosecutor. Such actions will furthermore be considered to be malicious prosecution and in that regard our client's rights are fully reserved.
12. Should your Municipality furthermore decide to make application to a civil Court for an order against our client to cease the current activity, same will be opposed on *inter alia* the grounds set out in the relevant correspondence. In such a case, a punitive cost order will be applied for against your Municipality due to your continued vexatious disregard of our client's rights. The manner in which your Municipality has handled this matter, from the start, is not only a disgrace but can be viewed as akin to unlawful harassment of our client in its bona fide endeavours to do the right thing. And in the process solving your Municipality's primary obligation to dispose of abattoir waste through objectionable landfill options.
13. You are hereby instructed that should your Municipality apply to Court for an order for the cessation of further production of compost on Portion 6 in the current volumes and manner, pending the outcome of the application for rezoning, the Court papers must be served on our offices. Should your Municipality deem it prudent to bring an urgent application, our client demands that at least 3 days notice of such an application be given before the hearing thereof to enable our client to oppose same.
14. We may advise that an urgent application in these circumstances will in any event be opposed on the basis that the application is clearly not urgent due to the fact that a year has lapsed since the First Notice of Non-Compliance was served on

our client. And more than 2 years since our client commenced with the production of compost on Portion 6 with the full knowledge of your Municipality.

Kindly acknowledge receipt.

Yours Faithfully
DU BOIS ATTORNEYS
Per



JP DU BOIS
DIRECT E-MAIL : hannes@jpdubois.co.za

Our Ref: 15/4/12/5 & 7
Your Ref: JPDUB/af/HR0215

Private Bag X2, ASHTON 6715
28 Main Road, ASHTON 6715
T +27 23 615 8000 F +27 23 615 1563

Navrae/Enquiries: K Brand
Date: 29 May 2019

Mr JP Du Bois
Du Bois Attorneys
P O Box 466
ROBERTSON
6705

Dear Sir

PORTION 6 OF MIDDELBURG NO 10, ROBERTSON: ABATTOIR COMPOST FACILITY: RESPONSE TO SECOND NOTICE OF NON-COMPLIANCE ISSUED ON 25 FEBRUARY 2019

1. I refer to your letter dated 4 March 2019 and this office's letter dated 7 March 2019.
2. Please be advised that legal opinion has been sought from Du Plessis, Hofmeyr, Malan, land law specialists. The full copy of the legal opinion remains confidential, but you are advised of the following conclusions of this opinion:
 - 2.1. *"The compost facility does not fall under the definition of "agriculture" and is not permissible on account of it being an intrinsic constituent of a primary use within the Agricultural zone I (AZI);.*
 - 2.2. *Within AZI ancillary uses are not permissible on account of their status as such, and even if the compost facility did constitute an ancillary use within that zoning, the facility would not have been lawful for that reason.*
 - 2.3. *Assuming ancillary uses were permissible within AZI on account of their status as such, the compost facility would not have been lawful on that basis in any event, as it is not an ancillary use that it is subservient to a lawful dominant use in AZI;*
 - 2.4. *The operation of the compost facility on the Property is unlawful, exposing SAFAMG as operator and Reben Trust as the landowner to the significant criminal penalties and other punitive measures that the LIZS and LLUP Bylaw provide for.*
 - 2.5. *The LLUP Bylaw imposes an obligation on the Municipality to enforce compliance with the provisions of both the LIZS and the LLUP Bylaw through measures ... which include:*
 - 2.5.1 *The institution of criminal proceedings;*
 - 2.5.2 *The issuing of compliance notices;*
 - 2.5.3 *Application to Court for an interdict that could direct SAFAMG and/or Reben Trust inter alia to cease immediately the operation of the compost facility and to rehabilitate the area that is presently covered by the compost facility."*
3. Given the above, in order to avoid further legal proceedings, finalisation of the application in terms of the Langeberg Land Use Planning Use Planning Bylaw, 2015, is deemed to be a priority. A separate letter will be addressed to the applicant in this regard.

Yours faithfully



S A MOKWENI
MUNICIPAL MANAGER



Tracy Brunings

From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Friday, 31 May 2019 11:27 AM
To: Tracy Brunings
Cc: 'Anna-Christa Redelinghuys'; MM; Kobus Brand; Langeberg Municipality
Subject: RE: Portion 6 of Middelburg No 10, Robertson - Abattoir Compost Facility

Good Day Ms Brunings

We acknowledge receipt of your e-mail of 30 May 2019 with attached letter by the Municipal Manager addressed to ourselves dated 29 May 2019, the contents whereof have been noted by us and our clients.

We disagree with the contents of that letter insofar as it is in contradiction with our previous letters of 4 March 2019 and 18 March 2019. You have been copied in to the letter of 18 March 2019 which was addressed to the Western Cape Government.

We and our clients have noted the obligation on your Municipality to enforce compliance with the provisions of the bylaw.

In this regard we refer to our letter of 4 March 2019 and specifically to paragraphs 10 to 14 thereof. Our clients stand by the contents thereof.

With regard to paragraph 3 of the Municipal Manager's said letter, we have also noted that the Langeberg Municipality deems finalization of the application for rezoning as a priority which we find reassuring.

We look forward to the separate letter in this regard that will be addressed to the applicant.

Our clients' rights are fully reserved in this regard.

Yours Faithfully
JP DU BOIS

DU BOIS
PROKUREURS

Audrey Fortuin

Kerkstraat 23, Posbus 466, Robertson 6705
Tel : 023 626 6523 • Faks: 023 626 6577
Epos : hannes@jpdubois.co.za

WORCESTER KANTOOR : 22 FAIRBAIRNSTRAT



PROKUREURS • AKTEBESORGERS • BOEDELBEREDDERS



FRAUD ALERT: Our office will never change or amend our trust account banking details via email or other electronic forum. Please contact our office for formal verification should you receive any correspondence of such nature. You should not act on any email purportedly from us changing our bank details, but kindly inform us immediately.

From: Tracy Brunings [mailto:tbrunings@langeberg.gov.za]
Sent: 30 May 2019 14:52
To: Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za)

830

Cc: Anna-Christa Redelinghuys; MM; Kobus Brand; Langeberg Municipality
Subject: FW: Portion 6 of Middelburg No 10, Robertson - Abattoir Compost Facility

Good day,

Attached please find a reply to your letters of 4 March 2019 and 9 May 2019.

Regards,
Tracy Brunings Pr.Pln A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720
Tel: 023 614 8001 Faks: 023 614 1841

✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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Annexure 12

Environmental Authorisation (EA)

Tracy Brunings

From: Dmitri C Matthews <Dmitri.Matthews@westerncape.gov.za>
Sent: Friday, 29 November 2019 1:56 PM
To: 'David Houghton'; lauren@enviro-eap.co.za; nicolaas@enviro-eap.co.za; Cornelius Van Der Walt; Alana Duffell-Canham; Tracy Brunings; Rudolph Roscher; nfeni@bgcma.co.za
Cc: Etienne A Roux
Subject: re: 16/3/3/1/B1/14/1004/18- COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON
Attachments: 1004-18-EA_Portion 6_Farm_No 10_Robertson.pdf

Good day All

Please find attached the Environmental Authorisation issued on 29/11/2019 for:

1. 16/3/3/1/B1/14/1004/18- **COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON**

Regards

D'mitri Matthews (Environmental Officer: Specialised Production)
Development Management: Region 1
Development Planning
Department of Environmental Affairs and Development Planning
Western Cape Government
1 Dorp Street, Cape Town, 8001

Tel: (021) 483 8350

Fax: (021) 483 3098

E-mail: D'mitri.Matthews@westerncape.gov.za

Website: www.westerncape.gov.za



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EIA REFERENCE: 16/3/3/1/B1/14/1004/18
NEAS REFERENCE: WCP/EIA/0000356/2018
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 2019 -11- 29

The Sole Member
South African Farm Assured Meat Group cc
P. O. Box 895
ROBERTSON
6705

Attention: Mr. D. Houghton

Tel.: (023) 626 6320

Fax: (023) 626 6040

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON

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

Yours faithfully


MR. ZAHIR TOFFEY

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Feni (BGCMA)
(4) Ms. A. Duffel-Conham (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)

Fax: (021) 671 9976
Fax: (023) 614 1841
Fax: (023) 347 2012
Fax: (021) 866 1523
Fax: (023) 342 6779
Fax: (021) 808 5092



EIA REFERENCE: 16/3/3/1/B1/14/1004/18
NEAS REFERENCE: WCP/EIA/0000356/2018
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 2019 -11- 29

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in Section B below with respect to Layout Alternative 1, described in the Basic Assessment Report ("BAR"), dated 25 October 2019.

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

South African Farm Assured Meat Group cc
% Mr. D. Houghton
P. O. Box 895
ROBERTSON
6705

Tel.: (023) 626 6320
Fax: (023) 626 6040

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

6th Floor, 1 Dorp Street, Cape Town, 8001
Tel: +27 21 483 8350 Fax: +27 21 483 3098
E-mail: D'mitri.Matthews@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp

B. LIST OF ACTIVITIES AUTHORISED

Listed activities	Activity/Project Description
EIA Regulations Listing Notice 1: Activity Number 4: The development and related operation of facilities or infrastructure for the concentration of animals in densities that exceed— (i) 20 square metres per large stock unit and more than 500 units per facility; (ii) 8 square meters per small stock unit and; a. more than 1 000 units per facility excluding pigs where (b) applies; or b. more than 250 pigs per facility excluding piglets that are not yet weaned; (iii) 30 square metres per crocodile and more than 20 crocodiles per facility; (iv) 3 square metres per rabbit and more than 500 rabbits per facility; or (v) 250 square metres per ostrich or emu and more than 50 ostriches or emus per facility.	The proposal entails the establishment of a feedlot that will accommodate 4500 lambs on an area of approximately 6 000m².
Activity Number 28: Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development: (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.	The proposal will entail the expansion of the existing composting facility to recycle and treat abattoir by-products and organic waste over an area of 3,6ha, of which the end product will be sold.

The abovementioned list is hereinafter referred to as "**the listed activities**".

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development:

The proposal entails:

- The establishment of a feedlot to accommodate 4 500 lambs on an area of approximately 6 000m² located north west of the existing composting area;
- The expansion of the existing composting area (approximately 7 600m²) to an area of 3,6ha;
- Stormwater cut-off channels to be established to channel stormwater from the feedlot and composting facility into the existing collection dams, to be reused on the windrows as part of the treatment and composting process.

- Stormwater emanating from the areas above the development will be captured in the existing north-eastern dam.

The proposed development footprint, including the feedlot, composting area and associated infrastructure, will be 8,6ha in extent.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 6 of Farm Middelburg No. 10, Robertson, at the following co-ordinates:

The co-ordinates for the development are:

Latitude (S)	Longitude (E)
33° 43' 51.05"	19° 44' 37.09"

The SG digit code is: C06500000000001000006

Refer to Annexure 1: Locality Map and Annexure 2: Site Development Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Eco Impact Legal Consulting (Pty) Ltd
% Ms. Lauren Abrahams
P. O. Box 45070
CLAREMONT
7735

Tel.: (021) 671 1660
Fax: (021) 671 9976

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with, and restricted to, Layout Alternative 1, as described in the BAR dated 25 October 2019 at the site as described in Section C above.
2. The holder must commence with the listed activities on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **10 years** from the date of commencement of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.

5. Any changes to, or deviations from the scope of the alternative described in Section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information, in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities. The notice must:

- 6.1 make clear reference to the site details and EIA Reference number given above; and
- 6.2 include proof of compliance with the following conditions described herein:

Conditions: 7, 8 and 11

Notification and administration of appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1 the outcome of the application;
 - 7.1.2 the reasons for the decision as included in Annexure 3;
 - 7.1.3 the date of the decision; and
 - 7.1.4 the date when the decision was issued.
 - 7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) detailed in Section G below;
 - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
 - 7.4 provide the registered I&APs with:
 - 7.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 7.4.2 name of the responsible person for this Environmental Authorisation;
 - 7.4.3 postal address of the holder;
 - 7.4.4 telephonic and fax details of the holder;
 - 7.4.5 e-mail address, if any, of the holder; and
 - 7.4.6 contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
8. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies the registered I&APs of this decision. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental

Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Management of activity

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

Monitoring

11. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including on a publicly accessible website.
13. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).
 - 14.1 The ECO must conduct fortnightly site audits. Monthly ECO Audit Reports must be submitted to the Competent Authority for the duration of the construction phase.
 - 14.2 Internal audits must be conducted quarterly (four times per year) by the holder and on each audit occasion an official report must be compiled by the relevant auditor to report the findings of the audits, which must be made available to the external auditor specified in Condition 14.3 and the Department.
 - 14.3 The holder must appoint an independent external auditor to audit the Facility annually (once a year) and this auditor must compile an audit report documenting the findings of the audit.
 - 14.4 The audit report must specifically state whether conditions of this Environmental Authorisation are adhered to and must include an interpretation of all available data and test results regarding the operation of the facility and all its impacts on the environment.

- 14.5 The audit report must contain recommendations regarding non-compliances or potential non-compliances with the Environmental Authorisation conditions and must specify target dates for the implementation of the recommendations by the holder.
- 14.6 Each external audit must be submitted to the Director: Development Management within 30 (thirty) days, from the date on which the external auditor finalised the report.
- 14.7 The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

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

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

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
17. Only non-infectious mortalities, animal manure and other non-hazardous organic waste may be used in the composting process authorised in terms of this Environmental Authorisation.
18. No stockpiling of abattoir by-products is allowed within the development footprint of the feedlot and composting area.
19. The composting must take place on an impermeable surface and must be sloped in such a way to allow liquids to flow to the collection dams.
20. The stormwater management plan once approved by this Department's Directorate: Waste Management must be submitted to this Department's Directorate: Development Management for information purposes.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

G. APPEALS

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

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date on which notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date on which the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and

- 2.2. submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organs of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organs of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 2659)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

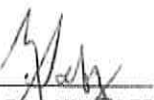
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 2659, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



MR. ZAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 29/11/2019

CC: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Feni (BGCMA)
(4) Ms. A. Duffel-Canham (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)

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Fax: (023) 614 1841
Fax: (023) 347 2012
Fax: (021) 866 1523
Fax: (023) 342 6779
Fax: (021) 808 5092

ANNEXURE 1: LOCALITY MAP



**Locality Map: Portion 6
of Farm Middelburg No.**

Scale: 1:144 448
Date created: November 19, 2019

Compiled with CapeFarmMapper



Figure 1: Locality map.

The site plan illustrates the proposed layout for a feedlot and compost facility. Key features include:

- Proposed Feedlot:** A rectangular area of 6000m², outlined in red, located in the upper left quadrant.
- Proposed Compost Facility:** A larger area of 3,6 ha, outlined in green, located in the lower right quadrant.
- Topography:** Contour lines are drawn across the site, with elevations ranging from 240.50m to 255.50m.
- Infrastructure:** Roads are shown in red, including a main road labeled 'Robertson Rd' and a 'D.R. 137' road. A 'water supply line' is also indicated.
- Existing Features:** A 'manager's house' is located near the top center. 'cultivated land' is shown in the upper left and right. A 'cattle' area is marked near the feedlot.
- Other Labels:** '8/10' and '7/10' are marked on the left side. 'RE/10' is marked on the right side. A 'vaid' label is at the bottom right.
- Orientation and Scale:** A north arrow is located in the bottom right corner. A scale bar indicates a distance of 100m.

Reference No.: 16/3/3/1/B1/14/1004/18

ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 26 January 2018, the final BAR dated 25 October 2019 and the EMPr submitted together with the final BAR;
- b) The information submitted to the Department on 25 October 2019, in terms of the High Court Order (14084/19) granted by Judge Hlophe on 18 October 2019 in the Western Cape Division of the High Court;
- c) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- d) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of NEMA;
- e) The comments received from I&APs and responses to these, included in the BAR dated 25 October 2019; and
- f) The balancing of negative and positive impacts and proposed mitigation measures.
- g) The site visits were conducted on 13 June 2018 and 11 November 2019:

Attended by various officials of Department of Environmental Affairs and Development Planning ("DEA&DP").

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

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities, on 23 February 2017, 13 June 2017 and 14 March 2018;
- the placing of a newspaper advertisement in the "Langeberg Bulletin" and "Die Burger" on 3 March 2017;
- fixing notice boards at the site where the listed activities are to be undertaken on 16 March 2017; and
- making the pre-application draft BAR and in-process draft BAR available to I&APs for public review from 15 June 2017 and 14 March 2018.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and all the comments raised and responses thereto were included in the comments and response report.

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

Authorities Consultation:

The authorities consulted include the following:

- Breede Gouritz Catchment Management Agency
- Department of Agriculture: Western Cape
- Department of Health: Western Cape
- Cape Nature
- Western Cape: Department of Environmental Affairs and Development Planning
- Langeberg Local Municipality
- Heritage Western Cape
- Western Cape: Transport and Public Works – Road Network Management
- ESKOM: Land Development

Comments and recommendations provided by the other relevant authorities have been considered in the evaluation of this application. No authorities objected during the public participation process.

2. Alternatives**Activity Alternatives:**

The following activity alternatives were considered:

- The use of a service provider to dispose of the by-products from the abattoir.
Using a service provider to dispose of the abattoir by-products, rather than doing it themselves, would be more complex to manage in terms of South African Farm Assured Meat Group's responsibilities regarding the life cycle environmental management principle contained in NEMA.
- The use of a biogas plant
The biogas plant was not investigated further because it was determined in consultation with existing abattoirs using a biogas system, that operational and reliability problems are experienced.
- Alkaline hydrolysis
This option was dismissed because of a lack of local knowledge and experience with this method.
- Developing and Operating a compost facility
This option was preferred because it is more sustainable, cost effective and provides for the ongoing in-house management and control of abattoir by-products.

Technology Alternatives:

The following technology alternatives were considered:

- Passively Aerated Static Piles/ Windrows/ Bins;
- Turned windrow composting;
- Forced Aeration;
- In Vessel Composting;
- Bins; and
- Rotating Drums.

Most of the above require a significant investment and a significant amount of construction work.

Passively aerated windrows followed by turned windrows was the preferred method.

The layout alternatives investigated are described below.

Layout Alternatives:

Layout Alternative 1 (Herewith Authorised):

This alternative entails:

- The establishment of a feedlot to accommodate 4 500 lambs on an area of approximately 6 000m² located north west of the existing composting area;
- The expansion of the existing composting area (approximately 7 600m²) to an area of 3,6ha;
- Stormwater cut-off channels to be established to channel stormwater from the feedlot and composting facility into the existing lower collection dam, to be reused on the windrows as part of the treatment and composting process.
- Stormwater emanating from the areas above the development will be captured in the existing north-eastern dam.
- The proposed development footprint, including the feedlot, composting area and associated infrastructure, will be 8,6ha in extent.

This alternative is preferred because of the rural character, the smaller development footprint, the distance from the non-perennial river compared to Alternative Layout 2, the topography of the site, soil conditions, the availability of services and infrastructure and it is supported by the Langeberg Municipality's Spatial Development Framework.

Alternative 2:

This alternative entails the establishment of a composting facility over an area of approximately 7,5ha, with associated stormwater cut-off channels and a collection dam to contain and store stormwater generated from the site. It also includes a feedlot over an area of approximately 9ha in extent to the north east of the composting facility.

This alternative is not preferred because the application area has a larger impact on the receiving environment, which would create a larger potential impact on the surrounding environment and due to the proximity of the development to the non-perennial river.

"No-Go" Alternative

The "no-go" option to not establish a feedlot and expand the composting area to produce compost for commercial purposes was considered. However, it is not preferred because the municipal waste disposal facility no longer accepts abattoir by-products and therefore the recycling and treatment of the abattoir by-products and organic waste is the only feasible option for the applicant to dispose of abattoir by-products. The costs involved with transporting the abattoir waste to Vissershok landfill site are high and not sustainable. The expansion of the compost facility will enable the finished compost product to be sold commercially to surroundings landowners, whereas the finished product is currently either stockpiled or used on the farm. In addition, the establishment of the feedlot to the north west of the existing compost area will reduce costs incurred for transporting manure from the existing feedlot (close to the urban area of Robertson) to the compost facility, where manure will be used as part of the composting facility.

3. Impact Assessment and Mitigation measures

3.1 Activity Need and Desirability

The by-products produced by the Robertson Abattoir are no longer accepted at the municipal waste disposal facility. Composting of abattoir by-products and organic waste is the most feasible option/alternative for the disposal of such waste. The diversion of this waste stream away from waste disposal sites minimizes a waste stream and extends the life of waste disposal facilities. The establishment of the feedlot on the property will enable a constant supply of manure that will be used as part of the composting process and will reduce costs for transporting the manure from the existing feedlot near Robertson. In addition, the site was previously cultivated, is zoned for agricultural use and located within an agricultural landscape. The high clay content within the area proposed for the expanded compost facility reduces the risk of groundwater contamination. The stormwater cut-off channels to be developed will ensure that runoff will be captured within the existing dams, where after it will be recycled for use on the compost windrows.

3.2 Biodiversity and Biophysical Impacts

According to the Freshwater Ecological Impact Assessment dated 15 February 2018, compiled by Mr Nicolaas Hanekom of Eco Impact Legal Consulting (Pty) Ltd, a non-perennial river is located along the northern edge of the site and is a tributary of the Vink River. On the northern bank of the non-perennial river, there is a floodplain area of approximately 30m wide, which is dominated by *Galenia Africana*, an indicator species of heavy impact or disturbance. On the southern bank, the river is characterised by a steep bank and an elevated area that creates a berm, which confines the river to the channel of the non-perennial river. Therefore, when the non-perennial river floods, water will flow towards the northern bank. The elevated area on the southern bank causes stormwater and rain to flow away from the river. No indigenous vegetation exists between the river and the proposed feedlot and composting facility, since the site has been previously transformed for agricultural use. The present ecological state of the non-perennial river is described as being largely modified with a low to moderate ecological importance and sensitivity. Through the implementation of the EMPr (accepted in Section E, Condition 9) and the stormwater management measures to be implemented, the impacts on the non-perennial river will be mitigated.

The site would have historically been comprised of Breede Alluvium Renosterveld and Robertson Karoo, ecosystems listed as vulnerable and least threatened (respectively) in terms of Section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA"). The site was ploughed and cultivated in the preceding 10 years, with very sparse vegetation currently existing. Therefore, the impact on indigenous vegetation will be minimal.

3.3 Operational nuisances and Health Risks

The composting facility and feedlot may give rise to nuisances such as odour and the proliferation of flies, however, Standard Operating Procedures ("SOP's") have been developed for each anticipated nuisance.

The SOP's include, amongst other measures, the following:

- Immediately covering the by-products when delivered, reducing the attraction of flies.
- The correct management of temperature and pH within the composting process. This ensures an ideal micro environment for larva/eggs/worms/bacteria is not provided.
- The windrows are further covered with kraal manure, which prevents the attraction of flies and because the manure is warm and dry, it is not a suitable environment for flies to lay eggs.

- Chemicals such as Neoprene is used on the windrows to kill fly eggs and larvae, Quik Bait crystals are placed at various locations around the site to attract and kill flies on contact. Pheromone fly traps are also used along the fence of the farm adjacent to the composting area.
- Blood is allowed to soak into the windrows for an hour before turning the windrows. Previously, blood was not delivered to the site regularly, but only when the tanker at the abattoir was full. However, blood is now transported daily and is topped up with water, which reduces odours significantly.

Through the implementation of the EMPr (accepted in Section E, Condition 9) and the SOP's, impacts such as odour and the proliferation of flies will be controlled. These aspects will also be monitored in terms of the auditing requirements contained in this Environmental Authorisation.

An application for a Waste Management Licence ("WML") in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as amended ("NEM:WA") has been submitted to this Department's Directorate: Waste Management, that will assess impacts related to the proposed composting.

The development will result in both negative and positive impacts.

Negative Impacts:

- The proposed development will produce odours and attract flies, however, there are SOP's in place to reduce odours and control flies.

Positive Impacts:

- The development will divert a waste stream away from the municipal waste disposal facility, which will extend the life of the facility.
- Abattoir by-products will be used together with organic waste to produce compost, that will be sold commercially to farmers.
- Employment opportunities will be created during the construction phase and operational phases.

4. National Environmental Management Act Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;

- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

5. Conclusion

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

-----END-----

Annexure 13

Waste Management Licence(WML)

Tracy Brunings

From: Etienne A Roux <Etienne.Roux@westerncape.gov.za>
Sent: Friday, 29 November 2019 2:10 PM
To: 'David Houghton'; lauren@enviro-eap.co.za; nicolaas@enviro-eap.co.za; Cornelius Van Der Walt; Alana Duffell-Canham; Tracy Brunings; Rudolph Roscher; nfeni@bgcma.co.za
Cc: Dmitri C Matthews; Eugeune Pienaar; Abdullah Suliman; Eddie Hanekom; Lance Mcbain-Charles
Subject: Compost Facility, Portion 6 of Farm Middelburg - Robertson
Attachments: WML ISSUED.PDF

Good day

Kindly find attached the outcome of the Waste Management Licence application for the Composting Facility on Portion 6 of Farm Middelburg, Robertson. (WML Ref.: 19/2/5/1/B1/14/WL0003/18)

Regards

Etienne Roux
Specialised Environmental Officer
Waste Management Licensing
Directorate: Waste Management
Western Cape Government Environmental Affairs and Development Planning

6th Floor, Property Centre, 3 Dorp Street, Cape Town

Telephone : +27 21 483 8378
Fax : +27 21 483 3186
E-mail : Etienne.Roux@westerncape.gov.za
Website : www.westerncape.gov.za/eadp

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**Western Cape
Government**
Environmental Affairs and
Development Planning

DIRECTORATE: WASTE MANAGEMENT
ETIENNE ROUX
Etienne.Roux@westerncape.gov.za

REFERENCE: 19/2/5/1/B1/14/WL0003/18

The Owner/s
South African Farm Assured Meat Group cc
P. O. Box 895
ROBERTSON
6705

Tel.: (023) 626 6320
Fax: (023) 626 6040

Attention: Mr. D. Houghton

Dear Sir

APPLICATION FOR A WASTE MANAGEMENT LICENCE IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008 (ACT NO 59 OF 2008) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): COMPOST FACILITY AND FEEDLOT ON PORTION 6 OF FARM MIDDELBURG NO. 10, ROBERTSON

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

Yours faithfully

MR. EDDIE HANEKOM
DIRECTOR: WASTE MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 28-11-2019

CC: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Feni (BGCMA)
(4) Ms. A. Duffel-Canham (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)

Fax: (021) 671 9976
Fax: (023) 614 1841
Fax: (023) 347 2012
Fax: (021) 866 1523
Fax: (023) 342 6779
Fax: (021) 808 5092



Western Cape
Government
Environmental Affairs and
Development Planning

BETTER TOGETHER.

DIRECTORATE: WASTE MANAGEMENT
ETIENNE ROUX
Etienne.Roux@westerncape.gov.za

REFERENCE: 19/2/5/1/B1/14/WL0003/18

The Owner/s
South African Farm Assured Meat Group cc
PO Box 895
ROBERTSON
6705

Tel: (023) 626 6320
Fax: (23) 626 6040
Email: David@robab.co.za

For attention: Mr David Houghton

**WASTE MANAGEMENT LICENCE FOR THE COMPOST FACILITY ON PORTION 6 OF FARM
MIDDELBURG 10, ROBERTSON**

WASTE MANAGEMENT LICENCE

SECTION A: DECISION

I, Eddie Hanekom, in my capacity as the Director: Waste Management of the Department of Environmental Affairs and Development Planning (hereafter "the Department"), in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as amended (NEM:WA), hereby issue this Waste Management Licence (Licence No.: 19/2/5/1/B1/14/WL0003/18) (hereafter "the Licence") to the abovementioned Licence Holder for the operation of a composting facility at South African Farm Assured Compost (hereafter "the Facility") on Portion 6 of Farm Middelburg 10, Robertson.

The granting of this WML is subject to compliance with the conditions set out in Section C below.

LICENCE NUMBER: 19/2/5/1/B1/14/WL0003/18
WASTE APPLICATION: ESTABLISHMENT AND OPERATION OF A COMPOSTING FACILITY
LOCATION: PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON
LICENCE HOLDER: SOUTH AFRICAN FARM ASSURED MEAT GROUP CC
CONTACT PERSON: MR DAVID HOUGHTON
ADDRESS: PO BOX 895, ROBERTSON, 6705

DETAILS OF THE EAP

Eco Impact Legal Consulting (Pty) Ltd

Ms Lauren Abrahams

PO Box 45070

CLAREMONT

7735

Tel: (021) 671 1660

Fax: (021) 671 9976

SECTION B: DESCRIPTION OF THE ACTIVITY:

The proposed development will entail the following:

- A compost facility to treat abattoir by-products and organic waste to produce compost on approximately 3.6ha on Portion 6 of Farm Middelburg 10, Robertson. Construction of storm water cut-off channels will feed into the collection dams to contain and store all storm water generated on site for reuse onto the compost rows as part of the treatment and compost making process.
- The proposal also includes the development of a feedlot for the keeping of animals for commercial production on approximately 6000m² on portion 6 of Farm Middelburg 10, Robertson. The planned stock levels under the canopy are 4500 lambs at any one time depending upon site and age. This activity is not authorised by this Waste Management Licence, but rather by an Environmental Authorisation, to be issued by this Department's Directorate: Land Management

The following activities listed in the NEM:WA "*List of waste management activities that have, or are likely to have a detrimental effect on the environment*", Government Notice (GN) No. 921 of 29 November 2013, as amended, are hereby authorised:

Category A

- 3 (6) The treatment of general waste using any form of treatment at a facility that has the capacity to process in excess of 10 tons but less than 100 tons.
- 3 (12) The construction of a facility for a waste management activity listed in Category A of this Schedule (not in isolation to associated waste management activity).

Category C

The following waste management activities in Category C may be triggered if the volumes are exceeded.

- 5(1) The storage of general waste at a facility that has the capacity to store in excess of 100m³ of general waste at any one time, excluding the storage of waste in lagoons or temporary storage of such waste.
- 5(2) The storage of hazardous waste at a facility that has the capacity to store in excess of 80m³ of hazardous waste at any one time, excluding the storage of hazardous waste in lagoons or temporary storage of such waste.
- 5(6) The sorting, shredding, grinding, crushing, screening or bailing of general waste at a facility that has an operational area that is 1000m² and more.

Should the above-mentioned threshold storage volumes be exceeded, then it would be required for the applicant to comply with the "NEM:WA National Norms and Standards for Storage of Waste", published as Government Notice No. 926 of 29 November 2013.

Should the Licence Holder intend to sort, shred, grind, crush, screen or bail general waste, the Licence Holder must register in terms of "NEM:WA National Norms and Standards for the Sorting, Shredding, Grinding, Crushing, Screening or Bailing of General Waste", published as Government Notice No. 1093 of 11 October 2017 and adhere to the general Duty of Care as stipulated in section 28 of the National Environmental Management Act, 1998 (Act no. 107 of 1998) "NEMA". If the Facility has an operational area greater than 1000m², the Facility will need to adhere to the above mentioned Norms and Standards.

In this Licence, "Director" means the Director: Waste Management of the Western Cape Department of Environmental Affairs and Development Planning, who may be contacted at the address below:

Director: Waste Management

Department of Environmental Affairs and Development Planning

Private Bag X 9086

CAPE TOWN

8000

In this Licence, "Director: RPW" means the Director: Resource Protection and Waste of the National Department of Water and Sanitation: Western Cape Provincial Operations, who may be contacted at the address below:

Director: Resource Protection and Waste

Department of Water and Sanitation

Private Bag X16

SANLAMHOF

7532

SECTION C: LICENCE CONDITIONS

1 LOCATION

1.1 This Licence authorises the South African Farm Assured Meat Group CC to establish and operate an organic composting Facility on Portion 6 of Farm Middelburg 10, Robertson.

1.2 Location of the property on which the Facility is situated:

Latitude (S)	Longitude (E)
33°43'51.05"	19°44'37.09"

1.3 The footprint of the Facility must be according to co-ordinates indicated on the Waste Management Licence Application Form, dated 26 January 2018, and Waste Management Licence Application Additional Information Annexure, dated 10 January 2018, submitted by the Licence Holder, which is defined as follows:

Corner numbers	Latitude (S)	Longitude(E)
1	33°43'50.41"	19°44'41.61"
2	33°43'52.27"	19°44'43.84"
3	33°43'55.42"	19°44'35.52"
4	33°43'57.01"	19°44'47.27"

1.4 The footprint of the Facility and its associated infrastructure is 36 000 m².

1.5 The Surveyor General 21 digit code of the Facility is: C06500000000001000006.

2 PERMISSIBLE WASTE

2.1 Only non-infectious mortalities, animal manure and other non-hazardous organic waste may be used in the composting process authorised in terms of this Licence.

2.2 The composting capacity of the Facility should not exceed 100 tons.

2.3 Should the Facility wish to compost more than 500kg of hazardous waste per day, the Facility will need to obtain a Waste Management Licence prior to the treatment of these quantities of hazardous waste.

3 APPOINTMENT OF WASTE MANAGEMENT CONTROL OFFICER/ENVIRONMENTAL CONTROL OFFICER

- 3.1 The waste management activities that are authorised by this Licence must be managed by fit and proper persons who are competent in respect of the responsibilities to be undertaken by them.
- 3.2 A Waste Management Control Officer (WMCO)/Environmental Control Officer (ECO) must be appointed, who will monitor and ensure compliance and correct implementation of all mitigation measures and provisions as stipulated in the Licence and Environmental Management Programme (EMPr) dated 26 April 2018, prior to any construction activities being undertaken on the Facility. The WMCO/ECO must:
- 3.2.1 report any non-compliance with Licence conditions or requirements or provisions of the NEM:WA to the Licensing Authority through the means reasonably available;
- 3.2.2 monitor the construction activities and ensure that the construction plans are in accordance with the approved engineering designs; and
- 3.2.3 submit a declaration to the Director upon completion of the construction works that all possible mitigation measures have been put in place and highlight likely deficiencies before commencement of the listed activities.

4 CONSTRUCTION

- 4.1 This Licence must be made binding to the main contractor, as well as individual contractors, and should be included in tender documentation for the construction contract.
- 4.2 The Licence does not negate the Licence Holder's responsibility to comply with any other statutory requirements that may be applicable for the undertaking of the listed activities.
- 4.3 The Facility or any portion thereof may only be used for the composting of permissible waste if the Facility or any such portion has been constructed or developed according to the conditions listed under condition 4 of the Licence.
- 4.4 Construction and further development within the proposed Facility must be carried out under the supervision of a Professional Civil Engineer, registered under the Engineering Profession of South Africa Act, 1990 (Act No. 114 of 1990). The Licence Holder must submit design drawings to the Licensing Authority for approval 90 (ninety) days before commencement of the listed waste management activities.
- 4.5 Should any archaeological artefacts be exposed during excavation, the construction in the vicinity of the finding must be stopped. Under no circumstances shall any artefacts be destroyed. Such an archaeological site must be marked and fenced off, and the South African Heritage Resource Agency must be contacted within 48 hours.

- 4.6 After construction of the Facility or further development within the Facility, the License Holder must notify the Responsible Authority thereof and the person referred to in condition 4.4 must submit a certificate or alternatively a letter to the Responsible Authority that the construction of the Facility or further development within the Facility, as proposed by the License Holder and approved by the Responsible Authority, is in accordance with recognized civil engineering practice and the requirements in this License, before composting may commence at the Facility. If the Responsible Authority is satisfied with the construction of the Facility or any further development within the Facility and has given written permission, the License Holder may use the Facility or any further development within the Facility for the composting of waste.
- 4.7 The composting should take place on an impermeable surface and containment barriers must be risk based and the type of waste to be processed and the immediate receiving environment must be considered to quantify the type of containment barriers to put in place in consultation with the Director.
- 4.8 The composting area should be sloped in such a way to allow liquids to flow to the collection dams.
- 4.9 The Licence Holder must ensure that the site layout and levels of the surface of the Facility is free-draining throughout so that no ponding of leachate/runoff occur on or around the working areas.
- 4.10 A stormwater management system must be installed to divert and drain all runoff water arising on land adjacent to the Facility. This stormwater system must have the capacity to maintain a freeboard of a half a metre in the event of a maximum precipitation during a period of 24 (twenty four) hours with an average frequency of 1:50 (once in fifty) years.

5 **ACCESS CONTROL**

- 5.1 Weatherproof, durable and legible notices must be displayed at each entrance to the Facility in at least 3 (three) official languages applicable to the area. These notices must prohibit unauthorised entry, state the hours of operation, include the types of waste permissible, the name, address and telephone number of the Licence Holder and the person responsible for the operation of the Facility.
- 5.2 The Licence Holder must prevent unauthorised access to the Facility, by having the Facility enclosed with a fence and a gate.
- 5.3 The Licence Holder must ensure that there is no illegal access to the Facility.
- 5.4 The Licence Holder shall ensure that all entrance gates are locked outside the hours of operation.
- 5.5 The Licence Holder must prevent the acceptance of any waste not permissible at the Facility.

6 OPERATIONAL MANAGEMENT

- 6.1 The EMPr for the establishment and operation of the Facility dated 26 April 2018 and submitted as part of the final Basic Assessment Report (BAR), is hereby approved and must be implemented together with all the conditions of this Licence.
- 6.2 The EMPr must be included in all contract documentation for all phases of implementation.
- 6.3 The Licence Holder must notify the Licensing Authority immediately of any events or incidents that may cause significant environmental damage or breach the requirements of the EMPr.
- 6.4 An application for the amendment to the EMPr must be submitted to the Licensing Authority if any further amendments are to be made to the EMPr and this may only be implemented once the amended EMPr has been authorised by the Licensing Authority.
- 6.5 Any persons having duties that are or may be affected by the matters set out in this Licence must have convenient access to a copy of it. This must be kept at or near the place where those duties will be carried out.
- 6.6 A copy of this Licence and the EMPr must be kept at the Facility where the waste listed activity will be undertaken. The Licence and EMPr must be produced to any authorised official of the Department who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein, and must be made available for inspection by any employee or agent of the Licence Holder who works or undertakes work at the Facility.
- 6.7 The Licence Holder shall remain responsible for the Facility, and/or any of its impacts arising from the operations on the environment.
- 6.8 The Licence Holder shall retain the responsibility for the Facility, and its monitoring even after decommissioning.
- 6.9 The Licence Holder shall take all reasonable steps to ensure the Facility is operated in a manner which shall prevent the creation of nuisance conditions or health hazards, such as vectors (flies and vermin), exposed waste, dust, obnoxious odours and noise.
- 6.10 Any complaints from the public must be attended to by the Licence Holder, who must take all reasonable and practical steps to alleviate the cause of the complaint within a reasonable timeframe to the satisfaction of the Department and record it in terms of Conditions 14 and 15.
- 6.11 The Licence Holder must maintain and implement an emergency preparedness plan and review it after each emergency and/or major incident and when conducting external audits. The plan must, among others, include:

- 6.11.1 natural disasters such as floods;
- 6.11.2 vehicle/machinery fire or malfunction;
- 6.11.3 facility fires, accidents, spills, explosions, etc;
- 6.11.4 industrial action; and
- 6.11.5 contact details of police, ambulance and any emergency centre in close proximity to the Facility.
- 6.12 Stock piling of animal matter is not allowed on site.
- 6.13 Operational measures must be put in place to immediately blend a carbon source or cover with mature compost, any highly biodegradable organics putrescible waste to minimise offensive odour emissions that may be generated by potentially odorous waste.
- 6.14 Emissions of methane in aerobic processes must be controlled by keeping the organics being processed adequately aerated.
- 6.15 The schedule of turning of the compost must be in-line with the composting method being employed at the facility and must conform to the EMPr.
- 6.16 Facility management must put measures in place to control high concentrations of particulate matter during pre-treatment (shredding and mixing) of dry organics.
- 6.17 The quantities (tonnage or kilograms) of incoming and processed organics must at all times not exceed the design requirements of the storage and processing areas.
- 6.18 Operational measures must be put in place to ensure that the storage times for organics are controlled to minimize emissions of offensive odours.
- 6.19 Dust created by the daily operations of the Facility must be mitigated as far as possible.

7 ENVIRONMENTAL POLLUTION INVESTIGATIONS

- 7.1 If, in the opinion of the Director and/or Director: RPW, any environmental pollution, nuisances or health risks may be or is occurring on the Facility, the Licence Holder must investigate the cause of the problem and take reasonable steps to alleviate the problem in consultation with the Director and/or the Director: RPW.
- 7.2 Should the investigation carried out as per Condition 7.1 above reveal any unacceptable levels of pollution, the Licence Holder must submit a report with mitigation measures to the satisfaction of the Director and/or the Director: RPW.

8 STORMWATER MANAGEMENT

- 8.1 A stormwater management plan must be compiled and submitted to the Department for approval. A copy of the stormwater management plan must be submitted to the Director: RPW, the Breede-Gouritz Catchment Management Agency, as well as the Langeberg Local Municipality, for comment prior to submission to the Director for approval.
- 8.2 The approved stormwater management plan must be implemented.
- 8.3 The stormwater management system must be able to sufficiently and effectively handle run-off water from the Facility.
- 8.4 The collection dams must be designed to cater for a 1:100 year floodline.
- 8.5 Works constructed in compliance with Condition 8 must be of such a capacity as to accommodate:
- 8.5.1 all stormwater runoff, which could be expected as a result of the estimated maximum precipitation during a period of 24 (twenty four) hours with an average frequency of once in the fifty years; and
- 8.5.2 all expected leachate.
- 8.6 Works constructed in compliance with Condition 8.1 must, on a continuous basis, be properly maintained.

9 MONITORING

9.1 WATER QUALITY MONITORING

- 9.1.1 The Licence Holder must establish and maintain a ground water monitoring borehole network with at least one upstream and one downstream borehole, so that unobstructed sampling, as required in terms of this Licence, can be undertaken.
- 9.1.2 Monitoring boreholes must be equipped with lockable caps. The Director and the Director: RPW reserve the right to take water samples at any reasonable time and to analyse these samples or have them analysed.
- 9.1.3 The details of the boreholes should be provided to the Director and/or the Director: RPW. This should include the depth, diameter, coordinates, lithological logs (geology), water strikes, groundwater level, construction details, field electrical conductivity, pH, etc.
- 9.1.4 The groundwater monitoring programme should include both the water quality and water level monitoring.
- 9.1.5 Water levels should be measured at least monthly and the readings recorded against time and date.

- 9.1.6 Runoff water shall comply with the quality requirements as prescribed by the Director together with the Director: RPW which may be determined from time to time and shall be drained from the Facility in a legal manner.
- 9.1.7 Runoff water that does not comply with the quality requirements and all sporadic leachate from the Facility must:
- 9.1.7.1 be contained in collection dams;
 - 9.1.7.2 be treated to comply with the aforementioned standard and discharged in a legal manner; or
 - 9.1.7.3 with the written approval of the Director be evaporated in dams and/or be evaporated by spraying over those portions of the Facility which comply with the requirements set in terms of condition 4.
- 9.1.8 Any development which occurs within the 1:100 (one in one hundred) year flood line and/or within 500 (five hundred) m from the boundary of a wetland would require a Water Use Licence in terms of Section 21 of the National Water Act, 1998 (Act No. 36 of 1998).
- 9.2 **DETECTION MONITORING**
- 9.2.1 Monitoring shall be conducted on a biannual (twice per year) basis during late summer and late winter to capture seasonal variation, for the water quality variables as agreed by the Department and the Director: RPW.
- 9.3 **INVESTIGATIVE MONITORING**
- 9.3.1 If, in the opinion of the Director and/or the Director: RPW, a water quality variable listed under the detection monitoring programme, as referred to in Condition 9.2, shows an increasing trend, the Licence Holder shall initiate a monthly monitoring programme until such time that the variable is within acceptable limits.
- 9.4 **FURTHER INVESTIGATION**
- 9.4.1 If, in the opinion of the Director and/or the Director: RPW, groundwater, surface water and/or air pollution have occurred or may possibly occur, the Licence Holder shall conduct the necessary investigations and implement additional monitoring and rehabilitation measures, which shall be to the satisfaction of the Director and/or the Director: RPW.
- 10 **ANALYSIS OF SAMPLES**
- MONITORING METHODS AND PARAMETERS**
- 10.1 The Licence Holder shall carry out all tests in accordance with methods prescribed by and obtainable from the South African Bureau of Standards (SABS), referred to in the Standards Act,

2008 (Act No. 8 of 2008), to analyse the samples taken under the monitoring programmes specified in Condition 9.

- 10.2 The Licence Holder may only use another method of analysis if written proof that the method is at least equivalent to the SABS method, is submitted to the Director and the Director: RPW.
- 10.3 The Licence Holder must put in place a monitoring and measurement plan that must amongst others include:
 - 10.3.1 tonnage composted;
 - 10.3.2 waste types; and
 - 10.3.3 waste sources.
- 10.4 In the event of contamination/pollution being found, the Director, the Directorate: Pollution and Chemicals Management as well as the Department of Water and Sanitation should be notified as soon as possible and a remediation plan be provided for approval. Potential receptors are to be identified immediately and action taken to ensure that there is no health risk.

10.5 STORMWATER SYSTEM MONITORING

- 10.5.1 The water quality in the collection dam must be monitored. These monitoring results must be kept in terms of Condition 14.

10.6 AIR QUALITY MONITORING

- 10.6.1 Passive fence line monitoring of Volatile Organic Compounds (VOCs), ammonia and hydrogen sulphide must be carried out to establish the baseline. The same baseline sampling campaign, with additional locations nearby the proposed composting activities, should be conducted for a minimum of 6 (six) months once the proposed project is completed and thereafter repeated annually. Any unacceptable, adverse impacts (i.e. increased levels of key indicator VOCs) must be mitigated with effective management of the Facility.
- 10.6.2 The passive fence line monitoring chemical analysis results for the first 6 (six) months, referred to in 10.6.1, must be reported to the Cape Winelands District Municipality and the Director in a clear, understandable, precise and user friendly format to assist in interpretation.

11 AUDITING

11.1 INTERNAL AUDITS

- 11.1.1 Internal audits must be conducted quarterly (four times per year) by the Licence Holder and on each audit occasion an official report must be compiled by the relevant auditor to report

the findings of the audits, which must be made available to the external auditor specified in Condition 11.2.1 and the Department.

11.2 EXTERNAL AUDITS

- 11.2.1 The Licence Holder must appoint an independent external auditor to audit the Facility annually (once a year) and this auditor must compile an audit report documenting the findings of the audit.
- 11.2.2 The audit report must specifically state whether conditions of this Licence are adhered to and must include an interpretation of all available data and test results regarding the operation of the Facility and all its impacts on the environment.
- 11.2.3 The audit report must contain recommendations regarding non-compliances or potential non-compliances with the Licence conditions, and must specify target dates for the implementation of the recommendations by the Licence Holder.
- 11.2.4 The external audit report must be submitted to the Environmental Monitoring Committee (hereinafter referred to as the "Monitoring Committee"), provided in Condition 13 below, within 3 (three) months, from the date on which the external auditor finalised the report.
- 11.2.5 Each external audit must be submitted to the Director within 30 (thirty) days, from the date on which the external auditor finalised the report.
- 11.2.6 Both the internal and external audit reports must be in accordance with the format as prescribed by the Department.

12 DEPARTMENTAL AUDITS AND INSPECTIONS

- 12.1 The Department and the Director: RPW reserves the right to audit and/or inspect the Facility at any time and at such a frequency as the Director and Director: RPW may decide, or to have the Facility audited or inspected.
- 12.2 The Licence Holder must make any records or documentation available to the Director and the Director: RPW upon request, as well as any other information the Director and Director: RPW may require.
- 12.3 The findings of these audits or inspections shall be made available to the Licence Holder within 60 (sixty) days of the end of the audit or inspection and shall not be treated as confidential.

13 MONITORING COMMITTEE

- 13.1 The Licence Holder must take the necessary steps to establish, maintain and ensure the continued functioning of a Monitoring Committee for the normal operative lifetime of the Facility and for a period of at least 2 (two) years after the closure of the Facility, or such longer period as may be determined by the Director.

- 13.2 The Monitoring Committee shall be representative of relevant interested and affected parties and may consist of at least 3 (three) of the following representatives:
- 13.2.1 Licence Holder and/or his/her appointed consultant(s) or advisor(s);
- 13.2.2 representative(s) of the Health, Environment and/or Waste Departments of the relevant local authority;
- 13.2.3 representative(s) of this Department; and
- 13.2.4 at least 3 (three) persons/parties, their representatives elected by the local residents, or proof of notification of the invitation to attend the Monitoring Committee to interested and affected parties of each meeting.
- 13.3 The Monitoring Committee shall meet at a minimum frequency of once a year and no later than 3 (three) months after the finalisation of the external audit report was conducted in terms of Condition 11.2.1, and submitted in terms of Condition 11.2.4.
- 13.4 The Licence Holder must keep minutes of all meetings of the Monitoring Committee and distribute these minutes to all members of the Monitoring Committee within 30 (thirty) days after the meeting.
- 14 **RECORD KEEPING**
- 14.1 The Licence Holder must keep records of all monitoring results, nuisances and complaints at the Facility.
- 14.2 All records required or resulting from activities required by this Licence must:
- 14.2.1 be legible;
- 14.2.2 be made available and should form part of any audit report;
- 14.2.3 if amended, be amended in such a way that the original and any subsequent amendments remain legible and are easily retrievable;
- 14.2.4 be retained in accordance with documented procedures which are approved by the Department; and
- 14.2.5 be made available upon the request of the Director and/or the Director: RPW.
- 14.3 The Licence Holder shall record all borehole data and chemical analysis in a format agreed upon in writing between the Director: RPW, the Licence Holder, and a relevant specialist if so required.
- 14.4 The Licence Holder must register and report all waste volumes or masses received, recovered, disposed of or stored to the Department's Integrated Pollutant and Waste Information System

(IPWIS), which can be accessed on the URL: <http://ipwis.pgwc.gov.za/ipwis3/public>, as required by the Department.

15 REPORTING

- 15.1 The Licence Holder must, within 24 (twenty-four) hours, notify the Director of the occurrence or detection of any incident at the Facility, which has the potential to cause disruption in the normal operation of the Facility, or has caused water pollution, pollution of the environment, health risks or nuisance conditions.
- 15.2 The Licence Holder must, within 14 (fourteen) days, or a shorter period of time, if specified by the Director, from the occurrence or detection of any incident referred to in Condition 15.1, submit an action plan, which must include a detailed time schedule, to the satisfaction of the Director of measures taken to:
- 15.2.1 correct the impact resulting from the incident;
- 15.2.2 prevent the incident from causing any further impact; and
- 15.2.3 prevent a recurrence of a similar incident.
- 15.3 In the event that measures have not been implemented within 21 (twenty-one) days of the incident to address impacts caused by the incident referred to in Condition 15.1, or measures which have been implemented are inadequate, the Director may implement the necessary measures at the cost and risk of the Licence Holder.
- 15.4 The Licence Holder or duly appointed person must keep an incident report and complaints register, which must be made available to the Director and both external and Departmental auditors, for the purpose of their audits
- 15.5 The Department must be notified within 7 (seven) days of any changes to the management of the Facility, including the name of the incoming person, together with evidence that such person has the required technical competence.
- 15.6 The Department must be notified within 14 (fourteen) days of the following changes:
- 15.6.1 Licence Holder's trading name, registered name or registered office address;
- 15.6.2 particulars of the Licence Holder's ultimate holding company (including details of an ultimate holding where a Licence Holder has become a subsidiary); and
- 15.6.3 steps taken with a view to the Licence Holder going into bankruptcy, entering into composition or arrangement with creditors.
- 15.7 The Department must be notified without delay in the case of the following:

- 15.7.1 any malfunction, breakdown of failure of equipment or techniques, accident or fugitive emission which has caused, is causing or may cause significant pollution;
- 15.7.2 the breach of conditions of this licence; and
- 15.7.3 any significant adverse environmental and health effects.
- 15.8 Prior written notification must be given to the Director of the following events and within the specified timeframes:
- 15.8.1 as soon as practicable prior to the permanent cessation of any operational activities;
- 15.8.2 full or partial cessation of the operational activities for a period likely to exceed 3 (three) months; and
- 15.8.3 full or partial resumption of the operation of all or part of the activities after a cessation notified under 15.8.1 above.
- 15.9 All audit reports (internal and external) must be submitted to the Director within 30 (thirty) days from the date on which the auditor finalised the audit.
- 16 **LEASING AND ALIENATION OF THE FACILITY**
- 16.1 Should the Licence Holder want to alienate or lease the Facility, he/she must notify the Director in writing of such an intention at least 120 (one hundred and twenty) days prior to the said transaction. Should the approval be granted, the Licence Holder shall remain liable to compliance with all Licence conditions.
- 17 **TRANSFER OF WASTE MANAGEMENT LICENCE**
- 17.1 Should the Licence Holder want to transfer holdership of this Licence, he/she must apply in terms of Section 52 of the NEM:WA, 2008.
- 17.2 Any subsequent Licence Holder shall be bound by the conditions of this Licence.
- 17.3 The rights granted by this Licence are personal rights (i.e. not attached to a property, but granted to a natural or juristic person). As such, only the Licence Holder may undertake the activities authorised by the Licensing Authority. Permission to transfer the rights and obligations contained herein must be applied for in the following manner:
- 17.3.1 The applicant must submit an originally signed and dated application for an amendment of the Licence to the Licensing Authority stating that he/she wishes the rights and obligations contained herein to be transferred, and including:
- 17.3.1.1 confirmation that the Licence is still in force (i.e. that the validity period has not yet expired or the listed activities were lawfully commenced with);
- 17.3.1.2 the contact details of the person who will be the new Licence Holder;

- 17.3.1.3 the reasons for the transfer; and
- 17.3.1.4 an originally signed letter from the proposed new Licence Holder acknowledging the rights and obligations contained in the Licence and indicating that he/she has the ability to implement the mitigation and management measures and comply with the stipulated conditions.
- 17.4 The Licensing Authority will issue an amendment to the new Licence Holder either by way of a new Licence or an addendum to the existing Licence if the transfer is found to be appropriate.

18 **COMMENCEMENT**

- 18.1 The construction and rehabilitation activities of the licensed activity may not commence within 20 (twenty) days of the date of signature of the Licence.
- 18.2 Should the Licence Holder be notified by the Licensing Authority of a suspension of the Licence pending any appeals decision on the authorised activities, he/she may not commence with the activities until authorised by the Director in writing.
- 18.3 After the 20 (twenty) day appeal period has expired and no good cause to extend the appeal period has been submitted, a written notice must be given to the Department that the activity will commence.
- 18.4 This activity must commence within a 5 (five) year period. If commencement of the activity does not occur within that period, the validity of this Licence lapses and a new application for Licence must be made in order for the activity to be undertaken.
- 18.5 If the proponent anticipates that commencement of the activity would not start before the date stipulated in condition 18.4, he/ she must apply and show good cause for an extension of the commencement date in this Licence 6 (six) months prior to its expiry date.

19 **GENERAL**

- 19.1 This Licence shall not be transferable unless such transfer is subject to Condition 17 above.
- 19.2 This Licence shall not be construed as exempting the Licence Holder from compliance with the provisions of any National and Provincial Legislation and relevant Ordinance, Regulation, By-laws and relevant National Norms and Standards.
- 19.3 Transgression of any condition of this Licence could result in the suspension of the Licence by this Department.
- 19.4 This Licence is valid for 10 (ten) years from the date of this Licence or any period earlier as required by the Director. The Licence can be amended or withdrawn or the validity thereof extended.

- 19.5 Should the Licence Holder want to conduct the waste management activity beyond the 10 (ten) years, the Licence Holder must apply for an amendment 1 (one) year before the expiry date.
- 19.6 Transgression of any condition of this Licence could result in the suspension of the Licence by the Licensing Authority and may render the Licence Holder liable for criminal prosecution or other actions provided for in Section 67(1) of the NEM:WA, 2008.
- 19.7 In terms of section 28 and 30 of the NEMA, and section 19 and 20 of the National Water Act (Act No. 36 of 1998), any costs incurred to remedy environmental damage must be borne by the person responsible for the damage. It is therefore imperative that the Licence Holder reads through and understand the legislative requirements pertaining to the project. It is the Licence Holder's responsibility to take reasonable measures which include informing and educating contractors and employees about environmental risks of their work and training them to operate in an environmental acceptable manner.

SECTION D: APPEAL OF LICENCE

1. Appeals must comply with the provisions contained in the National Appeal Regulations, 2014 (GN No. 993 of 2014), as amended.
2. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date that the notification of the decision was sent to the holder by the Competent Authority:
 - 2.1 submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
 - 2.2 submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date that the notification of the decision was sent to the registered I&APs by the holder:
 - 3.1 submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014, as amended to the Appeal Administrator; and
 - 3.2 submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
4. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
5. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning

Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By email: DEADP.Appeals@westerncape.gov.za

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

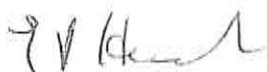
6. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the office of the Minister at: Tel. (021) 483 3721, E-mail Marius.Venter@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

SECTION E: DISCLAIMER

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

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

Yours faithfully,



EDDIE HANEKOM

DIRECTOR: WASTE MANAGEMENT

DATE OF DECISION: 29-11-2019

Cc: (1) Ms L. Abrahams (Eco Impact Legal Consulting (Pty) Ltd)
(2) Ms T. Brunings (Langeberg Municipality)
(3) Ms. N. Feni (BGCMA)
(4) Ms. A. Duffel-Canham (CapeNature)
(5) Mr. R. Roscher (Department of Agriculture)
(6) Mr. C. van der Walt (Department of Agriculture)
(7) Mr Malise Noe (DWS)

Fax: (021) 671 9976
Fax: (023) 614 1841
Fax: (023) 347 2012
Fax: (021) 866 1523
Fax: (023) 342 6779
Fax: (021) 808 5092
Email: NoeM@dws.gov.za

ANNEXURE I
REASONS FOR THE DECISION

The following information that was available to the Department was taken into account in the Department's consideration of the application:

- (a) The information contained in the Application Form for a Waste Management Licence dated 26 January 2018, compiled by Cape Environmental Assessment Practitioners (Pty) Ltd.
- (b) The Basic Assessment Report (BAR) dated 30 April 2018, compiled by Eco Impact Legal Consulting (Pty) Ltd.
- (c) Comments raised by Interested and Affected Parties (I&AP's) throughout the Public Participation Process and the applicant and the Environmental Assessment Practitioner's responses thereto.
- (d) The site visits conducted by the Department at the premises on 16 May 2018, 13 June 2018 and the latest on 11 November 2019.
- (e) Relevant information contained in the Departmental information database.
- (f) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA.

A summary of the issues, which, in the Department's view were of the most significance, are set out below.

Alternatives

The following alternatives were considered:

(a) Property and location alternatives

No property and site location alternatives have been considered.

The location is desirable due to the rural character, topography, distance to water course, soil conditions and availability to services and infrastructure, and is also supported by the SDF.

(b) Activity Alternatives

The following activity alternatives were considered:

- *The use of a service provider to dispose of the by-products from the abattoir.*
This was dismissed mainly due to the fact that SAFAM could be held accountable for any issues caused by their by-products, even if it was handed over to a licensed operator.
- *The use of a biogas plant*
The biogas plant was not investigated further because after consultation with existing abattoirs using a biogas system, it was found that operational and reliability problems were experienced by them.
- *Alkaline hydrolysis*
This option was dismissed because of a lack of local knowledge and experience with this method.
- *Developing and Operating a compost facility*
This option was preferred because it is more sustainable, cost effective and provides for the ongoing in-house management and control of abattoir by-products.

(c) Design or Lay-out alternatives

Alternative 1

The proposed layout alternative LA1 and stormwater run off plan is favourable for the following reasons:

- Two entrances with gates, one to the existing composting facility and one to the proposed feedlot and remainder of the farm.
- The most southern access road will be used by the honey sucker trucks (Blood trucks) (two-way); the skip trucks with the by-products and condemned carcasses will use the road to the western side of the windrows (two-way).
- The last mentioned road will also be used by trucks off-loading wood chips (already chipped) in the north-eastern corner of the application site, as well as the end product (compost) from the windrow to the storing area on the lowest level, or near the gate, for easy distribution.
- Internal Roads indicated on the site plan were created informally and might change if and when the proposed feedlot is in operation based on best practices/logistics between the two facilities.
- Several windrows and bulk pile/s (for whole carcasses) of approximate 1.5m high and 2m wide will be located alongside the south-eastern boundary of the farm and 235m away from the Middelstekloof River. These windrows will rotate/move in the 3.6ha area allocated as and when the compost is ready and removed.

- Two dams were constructed on the lowest point of the terrain. The north-eastern dam is constructed to catch run-off storm water emanating from the lands and area above the dam, whilst the smaller dam is for effluent from the windrows and the proposed feedlot. Run off water from the windrows will be caught by the cut-off weir/barrier on the western side from where it will flow with gravity in a channel to the lowest dam. Compacted drainage channels around the feedlot will direct runoff water also to the lowest dam. This water will be re-used when required to wet the windrows on top of the rows.

Alternative 2

Although proposed layout LA2 has taken into account the natural landscape, sensitive environments and topography of the site, which has highlighted a number of constraints that would determine and influence the layout of the proposed development. The proposed layout 2 is not the preferred alternative because the application area has a larger impact on the receiving environment, which would create a larger potential impact on the surrounding environment.

(d) Technology alternatives

Technology alternatives considered include:

1. Passively Aerated Static Piles/ Windrows/ Bins
2. Turned windrow composting
3. Forced Aeration
4. In Vessel Composting
5. Bins
6. Rotating Drums

Most of the above require a significant investment and a significant amount of building work.

Passively aerated windrows followed by turned windrows was the preferred method.

(e) Operational Activities

No operational activities have been assessed.

(f) No-Go alternatives

The No-Go option will result in the site remaining as is presently, underutilized Agricultural land.

The uses applicable in this application are both needed and desirable in this location.

Environment

The proposed development is situated at Middelburg Farm, located approximately 14km northwest of Robertson, east of the R60. The area is rural with mainly vineyards, orchards, grazing and natural veld. The site is located at the foot of a mountain ridge, adjacent to a tributary of the Vink River. The gradient is uneven with small hills at the foothills of the Langeberg Mountain. The application site itself is already disturbed with a fall of 3.2%.

Portion 6 of the farm Middelburg No 10 belongs to the Reben Trust and is 758,0308 hectares in extent according to Title Deed No T12255/2013.

The farm consists of the following:

- Store/shed built on a previous foundation near the Middelstekloof River (within 32m from the river).
- Workers House (+/- 70m²).
- Several dams within the Middelstekloof River that were constructed by previous owners. During the last floods most of the embankments of these dams have been damaged or destroyed. The two top dams are registered with BGCMA for 50 000m³ or 7ha water, as well as a borehole.
- Kraal and weight station for individual live stock.
- 8.6ha already transformed, application area consisting of bulk pile/s, windrows, two effluent dams (This area was previously ploughed and planted with pastures and used for grazing purposes).
- The closest residential building is a farmhouse across the road, situated approximately 550m south-west of the application site. The Buitenstekloof Guest Cottage is located approximately 2.36km to the north east of the site.
- The nearest cultivated lands on the neighbouring farm are approximately 550m away.

Public Participation Process (PPP):

The PPP in terms of the 2014 NEMA (EIA) Regulations contained in Government Notice No R. 982 of 4 December 2014 (GN R. 982) comprised of the following:

- Newspaper advertisements notifying the public about the environmental application for the proposed project were placed in Die Burger on 3 March 2017 and the Langeberg Bullitin on the same day.

- An A2-sized site notice was erected in the project area on 16 March 2017. The site notices were placed at the farm.
- Six (6) notices were sent via registered mail on 23 February 2017 and as additional six (6) notices were sent on 13 July 2017 to owners and occupiers of land adjacent to the site where the activity is undertaken.
- A pre-application BAR was made available for review to registered I&APs, as well as to the public from 15 June 2017 – 18 July 2017.
- The draft BAR has been made available for review to registered I&APs, as well as to the public from 14 March 2018 to 16 April 2018.

Authorities Consultation:

The authorities consulted include the following:

- Department of Water and Sanitation
- Breede Gouritz Catchment Management Agency
- Department of Agriculture: Western Cape
- Department of Health: Western Cape
- Cape Nature
- Western Cape: Department of Environmental Affairs and Development Planning
- Langeberg Local Municipality
- Heritage Western Cape
- Western Cape: Transport and Public Works – Road Network Management
- ESKOM: Land Development

The Department has visited the site on at least three occasions and no obnoxious odours or excessive fly activity was noted during any of the inspections. Comments and recommendations provided by the other relevant authorities have been considered in the evaluation of this application. No authorities objected to the commencement of the activity. Where possible and relevant, the conditions imposed by these authorities have been included in the Waste Management Licence.

=====END=====

Annexure 14

Municipal Appeals against EA and WML



APPEAL FORM
In terms of the National Appeal Regulations

April 2019

Form Number: AF12/2014

Note that:

1. This appeal must be submitted within **20 days** of being notified of the decision.
 2. This form is current as of **December 2014**. It is the responsibility of the Appellant to ascertain whether subsequent versions of the form have been released by the Appeal Administrator.
 3. This form must be used for appeals submitted in terms of National Appeal Regulations, 2014 in so far as it relates to decisions in terms of the:
 - a. Environment Conservation Act, 1989 (Act No. 73 of 1989);
 - b. National Environmental Management Act, 1998 (Act No. 107 of 1998);
 - c. National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
 - d. National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
 - e. National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); andsubordinate legislation made in terms of these laws.
 4. The required information must be inserted within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The spaces may be expanded where necessary.
 5. Unless protected by law, all information contained in, and attached to this application, will become public information on receipt by the Department.
 6. A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/dept/eadp>.
 7. Please consult the National Appeal Regulations (dated 8 December 2014) and the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations (dated 9 December 2014), and any other relevant regulations.
-

882

A. DECISION BEING APPEALED

1. Reference Number of the Decision being appealed:

16/3/3/1/B1/14/1004/18

2. Type of Decision being appealed (please circle the appropriate option):

Environmental Authorisation	24G Administrative Fine	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Waste Management Licence	Atmospheric Emission Licence	Exemption Notice
Permit in terms of NEM: BA	Administrative Notice/Directive	ECA: OSCA Permit	Other			

3. Brief Description of the Decision:

Authorisation to:

Establish a feedlot for 4500 lambs on an area of ±6 000m²; and

Expansion of an existing composting facility to treat abattoir and organic waste on 3,6ha.

4. Date of the decision being appealed (i.e. date on which the decision was made):

29 November 2019

B. APPELLANT'S INFORMATION

5. Please circle the appropriate option

Applicant	State Department / Organ of State	Interested and Affected Party
-----------	-----------------------------------	-------------------------------

6. Appellant's Information:

Name: The Municipal Manager; Langeberg Municipality

Address: Private Bag X2, Ashton 6715

Tel: 023-6158000 Cell:

Fax: Email: admin@langeberg.gov.za; MM@langeberg.gov.za

C. APPEAL INFORMATION

7. Did you lodge an Appeal submission within 20 days of the notification of the decision being sent to you?

☒ Yes / No (Circle the appropriate response). If "Yes", attach a copy herewith.

8. The following documents must accompany the appeal submission, kindly indicate if they have been attached to the submission:

- 8.1 a statement setting out the grounds of appeal?

☒ Yes / No (Circle the appropriate response) See Section D below.

- 8.2 supporting documentation which is referred to in the appeal submission?

Yes / ☒ No (Circle the appropriate response)

- 8.3 a statement, including supporting documentation, by the appellant that a copy of the appeal was submitted to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from:

- 8.3.1 the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

Yes / No (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent _____

OR

- 8.3.2 the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority.

☒ Yes / No (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent. ____ The applicant and all parties who were copied in to DEA&DP's decision letter, as emailed to the Langeberg Municipality on 29 November 2019, will be copied in to this appeal on the same date as the appeal submission to DEA&DP. DEA&DP is requested to provide a list of any other IAPs who must be notified of this appeal, if so required.

D. GROUNDS OF APPEAL

9. Set out the ground/s of your appeal: Clearly list your appeal issues and provide an explanation of why you list each issue.

This appeal is lodged within the following context:

- The need to dispose of abattoir waste is well understood and any further delays in resolving this matter must be avoided.
- However, decisions issued must be clear and enforceable, and based on accurate and complete information.
- The Langeberg Municipality has not had sight of the Final BAR or EMPr as referred to in the WML.

This appeal is lodged because the EA is not clear in terms of what is approved, nor is the basis for this decision clear. More particularly:

1. The EA, dated 29 November 2019, under section B on pages 3 and 4 refers to areas of 7 600m² (apparent existing composting area); 3,6ha. and 8,6ha. The "Amended Site Plan" dated Nov 2109 is not easily legible from the scanned emailed copy, and does not appear to show these 3 areas. This plan is not the same as the area referred to in the WML. It is therefore not clear which area/s the composting windrows have been authorized to expand onto, and the extent of this new area/s.
 2. On what basis did DEA&DP decide that, contrary to its decision of 13 June 2019, LN 1:28 does not apply and therefore that a 24G application is not required?
 3. Condition E17 states that: "Only non-infectious waste may be used in the composting process". Should infectious waste arise, where may / must it be disposed of?
 4. Condition E19 states that: "The composting must take place on an impermeable surface". Is the current surface considered to be impermeable, as argued by the EAP, or must a hardened surface be constructed? Or is this part of the stormwater management plan required in terms of Condition E20?
 5. In Annexure 3 "Reasons for the Decision" paragraph 3.3, DEA&DP notes that "The composting facility and feedlot may give rise to nuisances such as odour and the proliferation of flies" and "The proposed development will produce odours and attract flies". DEA&DP notes that SOPs are in place to reduce / control these nuisances. What evidence did DEA&DP use to determine that the impact of odour and flies from the proposed feedlot and proposed larger compost facility will be within acceptable limits and not create a nuisance? Please specify the standards, and the applicable legislation which will be used to determine whether any future adverse impact will be decided to be "unacceptable" in terms of monitoring in accordance with the EMPr (Conditions E9 and E11).
- 9.1 Is your appeal based on factors associated with the process that was followed by the applicant/Environmental Assessment Practitioner/Competent Authority in reaching the decision?

☒ Yes

/

☐ No

(Circle the appropriate response). Please provide details.

9.2 Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the Competent Authority?

☒ Yes / ☐ No (Circle the appropriate response). Please provide details.

____The assessment of the impact of flies and odours has been a key deciding factor since the application was lodged. The scale of the expansion of the compost facility approved, must be based on an assessment by the deciding authority as to what scale of development can be accommodated on the site without resulting in unacceptable nuisances.

9.3 Have your appeal issues been raised previously in the public participation process?

☒ Yes / ☐ No (Circle the appropriate response). Please provide details.

9.4 Are you fundamentally opposed to the decision (e.g. to any development activity on the site)?

Yes / ☐ No / ☒ Not applicable (Circle the appropriate response). Please provide details.

____The Langeberg Municipal Planning Tribunal's decision on the land use application in terms of the LLUP Bylaw, 2015, is currently subject to four appeals, therefore no opinion can be expressed in response to this question

9.5 Are you in favour of the decision if your concerns can be remedied by rectifying the process or by mitigating or eliminating an impact/s of the activity/ies?

Yes / ☐ No / ☒ Not applicable (Circle the appropriate response). Please provide details.

____The Langeberg Municipal Planning Tribunal's decision on the land use application in terms of the LLUP Bylaw, 2015, is currently subject to four appeals, therefore no opinion can be expressed in response to this question

9.6 Please indicate what measures you propose to have your concerns remedied.

____Respond to the above grounds of Appeal under Section D above and amend review decision accordingly.

9.7 Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) / or registered I&APs/ or the competent authority prior to the decision?

Yes / No (Circle the appropriate response). If the answer above is "Yes" please explain what this information is and why it should be considered by the Appeal Authority and why it was not made available to the EAP/ or I&AP/ or the competent authority prior to the decision. (Please ensure that the new information is attached hereto.)

E. SUBMISSION ADDRESS

This appeal must be submitted to the Appeal Administrator at the address listed below within 20 days of being notified of the decision:

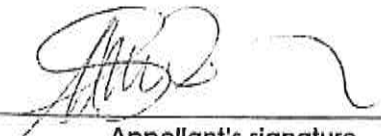
By post: Attention: Marius Venter
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator.


Appellant's signature

20/12/18
Date

S A MOKWENI
MUNICIPAL MANAGER: LANGEBERG MUNICIPALITY

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APPEAL FORM
In terms of the National Appeal Regulations

April 2019

Form Number: AF12/2014

Note that:

1. This appeal must be submitted within **20 days** of being notified of the decision.
2. This form is current as of **December 2014**. It is the responsibility of the Appellant to ascertain whether subsequent versions of the form have been released by the Appeal Administrator.
3. This form must be used for appeals submitted in terms of National Appeal Regulations, 2014 in so far as it relates to decisions in terms of the:
 - a. Environment Conservation Act, 1989 (Act No. 73 of 1989);
 - b. National Environmental Management Act, 1998 (Act No. 107 of 1998);
 - c. National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
 - d. National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
 - e. National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and subordinate legislation made in terms of these laws.
4. The required information must be inserted within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The spaces may be expanded where necessary.
5. Unless protected by law, all information contained in, and attached to this application, will become public information on receipt by the Department.
6. A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/dept/eadp>.
7. Please consult the National Appeal Regulations (dated 8 December 2014) and the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations (dated 9 December 2014), and any other relevant regulations.

888

A. DECISION BEING APPEALED

1. Reference Number of the Decision being appealed:

19/2/5/1/B1/14/WL0003/18

2. Type of Decision being appealed (please circle the appropriate option):

Environmental Authorisation	24G Administrative Fine	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Waste Management Licence	Atmospheric Emission Licence	Exemption Notice
Permit in terms of NEM: BA	Administrative Notice/ Directive	ECA: OSCA Permit	Other			

3. Brief Description of the Decision:

Authorisation to treat abattoir waste, combined with other organic matter to produce compost, with maximum capacity to process in excess of 10 tons but less than 100 tons, on portion of Portion 6 of the Farm Middelburg 10, Robertson.

4. Date of the decision being appealed (i.e. date on which the decision was made):

29 November 2019

B. APPELLANT'S INFORMATION

5. Please circle the appropriate option

Applicant	State Department / Organ of State	Interested and Affected Party
-----------	-----------------------------------	-------------------------------

6. Appellant's information:

Name: The Municipal Manager: Langeberg Municipality

Address: Private Bag X2, Ashton 6715

Tel: 023-6158000 Cell:

Fax: Email: admin@langeberg.gov.za; MM@langeberg.gov.za

C. APPEAL INFORMATION

7. Did you lodge an Appeal submission within 20 days of the notification of the decision being sent to you?

Yes

/

No (Circle the appropriate response). If "Yes", attach a copy herewith.

889

8. The following documents must accompany the appeal submission, kindly indicate if they have been attached to the submission:

8.1 a statement setting out the grounds of appeal?;

☒ Yes

/

☐ No

(Circle the appropriate response) See Section D below.

8.2 supporting documentation which is referred to in the appeal submission?;

☒ Yes

/

☐ No

(Circle the appropriate response) Aerial Photo, with coordinates.

8.3 a statement, including supporting documentation, by the appellant that a copy of the appeal was submitted to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from:

8.3.1 the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

☒ Yes / ☐ No (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent. _____

OR

8.3.2 the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority.

☒ Yes

/

☐ No (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent. The applicant and all parties who were copied in to DEA&DP's decision letter, as emailed to the Langeberg Municipality on 29 November 2019, will be copied in to this appeal, as well as the owner of Rem/Middelburg 10, Robertson (refer to reason 2. In Part D below). All parties to be emailed on the same date as the appeal submission to DEA&DP. DEA&DP is requested to provide a list of any other IAPs who must be notified of this appeal, if so required.

D. GROUNDS OF APPEAL

9. Set out the ground/s of your appeal: Clearly list your appeal issues and provide an explanation of why you list each issue.

This appeal is lodged within the following context:

- The need to dispose of abattoir waste is well understood and any further delays in resolving this matter must be avoided.
- However, decisions issued must be clear and enforceable, and based on accurate and complete information.
- The Langeberg Municipality has not had sight of the Final BAR or EMP as referred to in the WML.

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This appeal is lodged because the WML is not clear in terms of what is approved, nor is the basis for this decision clear. More particularly;

1. The Waste Licence, dated 29 November 2019 in Part B on page 3, approves a 3,6ha. area on which to produce compost. There is no plan showing this 3,6ha. area.
2. Section C: Licence Conditions on page 5, paragraph 1.4, refers to "The footprint of the Facility and its associated infrastructure is 36 000m² " (i.e. 3,6ha.) and paragraph 1.3 states that "the footprint of the facility must be according to coordinates" The coordinates listed are not correct: they show an area of ±2,8ha., at least half of which is on the neighbouring property (Rem of Middelburg 10) – refer to attached plan.
3. Even correcting for the obvious error in coordinate 4, the composting area indicated by the coordinates would comprise ±1,7ha. and excludes areas currently used for composting.
4. Given 1-3 above, the exact area approved for composting in terms of the Waste Management Licence is not clear.
5. Section C: Licence Conditions, on page 5, under the heading "permissible waste", paragraph 2.2 states that: "the composting capacity of the Facility should not exceed 100 tons". Please confirm what size land area is required in order to accommodate a maximum composting capacity of 100 tons. Given 4 above, is the area approved for the composting facility appropriately sized to accommodate this approved capacity of 100 tons?
6. Section C: Licence Conditions, under the heading "permissible waste", paragraph 2.1 states that: "Only non-infectious waste may be used in the composting process" Should infectious waste arise, where may / must it be disposed of?
7. Section C: Licence Conditions, under the heading "permissible waste", paragraph 2.3 states that: "Should the facility wish to compost more than 500kg of hazardous waste per day, the Facility will need to obtain a WML" This seems to imply that less than 500kg may be composted on the application site, which is contrary to condition 2.1 referred to above. Please clarify.
8. In terms of Condition 6, Operational Management, the complaints process to official Departments, must be spelled out in detail. Complainants cannot be expected to complain to the Licence Holder.
9. In terms of Condition 10.6 "Air Quality Monitoring", please specify geographically where the "baseline" must be determined with regard to odour and flies, given that the facility is already operating.
10. DEA&DP notes that "The department has visited the site on at least three occasions and no obnoxious odours or excessive fly activity was noted" from the existing compost facility. But, the WML does not relate to the existing compost site, but to an application to authorize a larger facility which triggers the Waste Listed Activities. What evidence did DEA&DP use to determine that the impact of the proposed larger facility in terms of odour and flies will be within acceptable limits and not create a nuisance? Please specify the standards, and the applicable legislation which will be used to determine whether any future adverse impact will be decided to be "unacceptable" in terms of Condition 10.6.1.

9.1 Is your appeal based on factors associated with the process that was followed by the applicant/Environmental Assessment Practitioner/Competent Authority in reaching the decision?

☒ Yes / ☐ No (Circle the appropriate response). Please provide details. As above.

9.2 Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the Competent Authority?

☒ Yes / ☐ No (Circle the appropriate response). Please provide details.

____The assessment of the impact of flies and odours has been a key deciding factor since the application was lodged. The scale of the waste treatment facility approved, must be based on an assessment by the deciding authority as to what capacity the site can accommodate without creating a nuisance or other adverse environmental impact. _____

9.3 Have your appeal issues been raised previously in the public participation process?

☒ Yes / ☐ No (Circle the appropriate response). Please provide details.

9.4 Are you fundamentally opposed to the decision (e.g. to any development activity on the site)?

Yes / No / ☒ Not applicable (Circle the appropriate response). Please provide details.

____The Langeberg Municipal Planning Tribunal's decision on the land use application in terms of the LLUP Bylaw, 2015, is currently subject to four appeals, therefore no opinion can be expressed in response to this question _____

9.5 Are you in favour of the decision if your concerns can be remedied by rectifying the process or by mitigating or eliminating an impact/s of the activity/ies?

Yes / No / ☒ Not applicable (Circle the appropriate response). Please provide details.

____The Langeberg Municipal Planning Tribunal's decision on the land use application in terms of the LLUP Bylaw, 2015, is currently subject to four appeals, therefore no opinion can be expressed in response to this question _____

9.6 Please indicate what measures you propose to have your concerns remedied.

____Respond to the above grounds of Appeal under Section D above and review / amend the decision as applicable. _____

9.7 Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) / or registered I&APs/ or the competent authority prior to the decision?

Yes / ☒ No (Circle the appropriate response). If the answer above is "Yes" please explain what this information is and why it should be considered by the Appeal Authority

892

and why it was not made available to the EAP/ or I&AP/ or the competent authority prior to the decision. (Please ensure that the new information is attached hereto.)

E. SUBMISSION ADDRESS

This appeal must be submitted to the Appeal Administrator at the address listed below within 20 days of being notified of the decision:

By post: Attention: Marius Venter
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

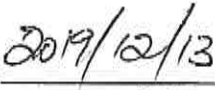
By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

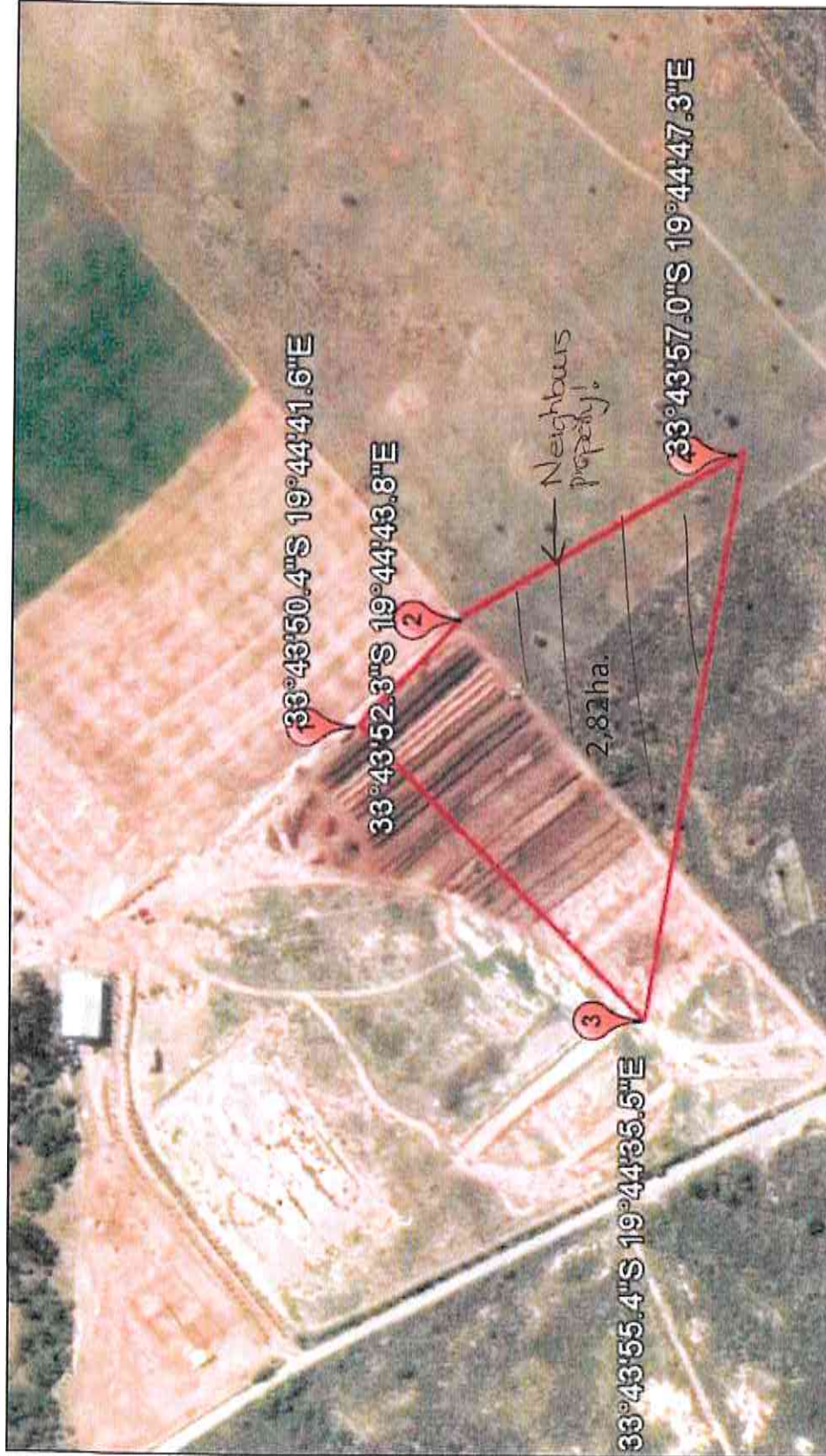
By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator.


Appellant's signature


Date

**S A MOKWENI
MUNICIPAL MANAGER: LANGEBOEG MUNICIPALITY**



PTN 6 OF MIDDELBURG 10, ROBERTSON:

Google Image with Coordinates as referred to in Condition 1.3 of the WML issued by DEA&DP 29/11/2019

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10.12.19
tjb/jvz.

Annexure 15

File Notes re. factual inaccuracies and unsubstantiated allegations in the du Bois appeal.

**COMMENTS BY MRS BRUNINGS ON ALLEGATIONS AND INACCURACIES IN THE
APPEAL WRITTEN BY MR DU BOIS RE. MIDDELBURG 10/6, ROBERTSON**

1. I have studied the appeal lodged by Mr du Bois on behalf of SAFAM and the Reben Trust and have to bring the factual inaccuracies and baseless allegations contained therein to the attention of the Appeal Authority. In the spreadsheet attached, only the relevant allegations are copied with my response thereto.
2. I have to point out that comments made by Mr du Bois are not only untrue, but also harmful to me in my professional capacity as a registered Town and Regional Planner as well as in my capacity as an employee of the Langeberg Municipality. I am a professional registered Town and Regional Planner with a Masters degree in Town and Regional Planning and I have 31 years' experience in the profession at provincial and local government level, as well as in the private sector. I have been advised that the Appeal Authority is not the correct forum to pronounce on this attack on me. I therefore reserve my rights in this regard.
3. The three assessment reports to the Tribunal have been impartial, fair, presented all sides of the application, and all relevant considerations were taken into account, as required by SPLUMA 16/2013, LUPA 3/2014 and the LLUPB, 2015. These reports are attached as Annexures 2(1) – 2(3) of the Appeal Report.
4. All available and relevant information has been submitted to the Tribunal, as required by the legislation. This is a complex matter with opposing views, and a large number of different authorities, departments therein and different legislation have a bearing on this application. There are both negative and positive considerations, which require attention. The focus of the assessment reports has been on the responsibility of determining, in such challenging circumstances, the relative weighting of the respective relevant considerations and the best decision in accordance with the applicable legislation. Reaching a professional conclusion, and/or agreeing or disagreeing with a viewpoint, based on a thorough assessment of relevant considerations, cannot be regarded as bias. This should be understood by any professional person, especially by a lawyer.

5. The Tribunal has made it clear in information requests and in the reasons for refusal of the feedlot, that the following information, *inter alia*, was crucial in properly informing a decision on the application: expert input addressing air quality; finalisation of the Middelburg dam DEA&DP investigation; a proper stormwater plan; trip generation of sheep and feed to the Middelburg vs the Roodehoogte farm; and the implications of the proximity of the feedlot and compost site to each other and to other properties. Unfortunately, no further information with regard to these aspects is submitted in motivation of the appeal.
6. Prior to lodging the appeal, the appellant did not obtain any of the following relevant documents: the third and final Tribunal item, the minutes of any of the three Tribunal meetings, the five land use files, and the EIA files, amongst others. All relevant parties were informed on 12 February 2020 that the information could be obtained at the office and this was not done by Mr du Bois or his clients. Other appellants did make use of this invitation. The appeal by Mr du Bois does not refer to the final report that served before the Tribunal, but to an earlier report. In fact, I recommended the approval of the rezoning of the compost site as well as the consent use for a feedlot in the final Tribunal report, yet I am accused of bias against the application.
7. In the spreadsheet attached, I only deal with some aspects of the du Bois appeal which I deem to be relevant for the consideration of the Appeal Authority. The fact that I do not refer to other aspects must not be construed that I am in agreement therewith.
8. The contents of the annexure hereto will show that allegations of wrongful conduct on my part are unfounded, false, unsubstantiated and of a gross defamatory nature.

Tracy Brunings Pr.Pln A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



FACTS AND SUPPORTING EVIDENCE TO ADDRESS FACTUAL INACCURACIES, INACCURATE ASSUMPTIONS & UNFOUNDED ALLEGATIONS IN THE DU BOIS APPEAL		
Prepared by: TL Brunings Date: 20 February 2020		
Par	Allegation by Appellant	Response & evidence to dispute allegations
9	9. Furthermore, it is our instructions that the Municipality, as well as various other officials as mentioned above and below, were informed as early as 10 August 2016, that the Appellant intended to produce/generate compost on Portion 6 from organic by products emanating from the abattoir. No objection to the proposed compost facility was ever received from that day onward (until a year later on 15 February 2018 as will be alluded to below) and neither did the abattoir receive clear instructions/advice at the time from the Municipality that Portion 6 will need to be rezoned for that purpose in terms of the Section 8 Scheme to cater for such a facility/activity/use.	1. There is no record on the TP files that the Applicant enquired in 2016, or informed the Municipality of the intended use of the site in question. 2. An email was received by TP from ReSalt, 21 August 2015, Annexure "aa" p914, enquiring regarding a composting plant, without any reference to an applicant or a site. 3. I advised on the same day that an application was required in terms of the Land Use Planning legislation for the use described by ReSalt, p915. 4. Par 5 of the appeal confirms that ReSalt was the applicant's consultant; the applicant thus received this instruction/ advice as early as 2015. 5. The earliest written record that Reben Trust informed the Municipality of their intention to produce compost was in their letter dated 17 November 2016, Annexure "bb", p 917-918. Reben Trust explained that they intended to develop a compost facility at "one of our sites close to Robertson". No mention was made of a specific site. 6. The email trail, Annexure "cc", p919-922, shows that Reben Trust was clearly informed by 30 January 2017, of the need for a land use application. 7. The need for an application was further verbally conveyed at a site meeting on 15 February 2017 with the applicant. This is confirmed in par 61 and 64 of the applicant's founding affidavit to the High Court in August 2019 - Annexure "dd", p923-929. 8. It is therefore clear: The applicant was aware of the requirement to rezone long before the date of 15 Feb 2018 alleged by du Bois and any statement to the contrary is false. The appellant started composting long before a land use application had been lodged, and no approvals had been obtained at that stage. The statement that there was 'meticulous care' so as to stay within all applicable legislative provisions, is not borne out by the actions of the applicant. In fact, the applicant still advances an argument that no land use approval is necessary. See <i>inter alia</i>, par 23 of Appeal 1.
10	10. The Appellant therefore decided for the above reasons and with the full knowledge of the Municipality, to embark on the simultaneous establishment of a composting facility and feedlot, to a large extent interdependent upon each other, on Portion 6 with meticulous care so as to stay within all applicable legislative provisions.	

11	capacity thereof. Furthermore, the Municipality, again as stated above, expressly or impliedly indicated at that point in time, that to operate a composting facility below 1 hectare in extent would in any event also trigger a prior rezoning of the relevant area. At the time Tracy Brunings ("Brunings"), a Professional Regional and Town Planner in the employ of the Town Planning Department of the Municipality, was of the speculative view that the definitive status of a compost facility, could be considered to fall under the definition of noxious trade as it is not specifically defined in the zoning scheme. Therefore it may require a footprint rezoning. She expressed this vague opinion in an e-mail of 30 January 2017 to Mr S McLain referred to above. The fact of the matter is that she expressed no clear view regarding the matter until the issue of the first Notice of Non-Compliance on 15 February 2018 as alluded to below.	TP has been consistently clear that the proposed use does not fall under the definition of Agriculture and that a land use application is required, as shown re. par 9. above. The size of the facility is only a relevant consideration regarding the provincial environmental approval. The repeat allegation that no view was expressed, before 15 February 2018, that a rezoning application was necessary, is again false. Even if no advice was given to the applicant, which is not the case here, it is still the duty of the Applicant to comply with the law as ignorance of the law is never an excuse for non-compliance.
15	15. However and despite the fact that general/organic waste of less than 1 per day, was delivered by the abattoir to Portion 6 and converted to compost during the whole of 2017, with the full knowledge of Brunings, the latter (in all probability) caused a Notice of Non-Compliance to be issued to the Appellant on 15 February 2018 (a year after commencement of the operation of the compost facility) ("the first notice"). In that notice the Municipality stated (for the first time) that the operation of a composting facility on Portion 6 is in (alleged) contravention of the primary use under Agricultural zone 1, for which the property was zoned.	As set out in par 9 and 11 above, the notice was not the first time that the owner was informed that the use did not fall under the definition of Agriculture and that a rezoning was necessary. The applicant simply chose to ignore TP and continued with the view, as he still does, that the compost facility is an agricultural use. The notice was served because of the applicant's action in contravening the By-law which the Municipality has to enforce, and not due to the action of an official.

16. At the time we, as the attorneys of the Appellant, were also instructed on its behalf, to comment on the first notice. We attach hereto copy of our representations on behalf of Appellant dated 14 March 2018, marked "A3". Thereafter no further action was taken by the Municipality although their response was that they did not agree with the contents of our letter of 14 March 2018. We verily believe that the facts and submissions contained in our letter to the Municipality, to a large extent overlap with the facts contained and submissions made in this Appeal. We also deem it necessary as attorneys of the Appellant to bring this under the Appeal Authority's attention. We respectfully submit that our submissions contained in our said letter ("A3") are legally sound.	The applicant's attorney in this appeal, du Bois, who also responded to the notices served on the applicant, is aware that the Municipality obtained a legal opinion after receipt of his response, which advised that the activity does indeed not fall under the definition of Agriculture as alleged. Du Bois was informed of the conclusions of the legal opinion, indicating that the continued use is a contravention and that the Municipality has a duty to enforce the By-law and the Zoning Scheme (p829 of the bundle). Du Bois submits that his reasoning is legally sound without reference to the letter he received from the Municipality expressing a differing view.
29 For some reason the word "proposed" was inserted above the words "compost facility". It was probably done simply due to the fact that the application for rezoning was still pending. For reasons which would become clear later, the word "proposed" in the decreased area of the compost facility (decreased from 3.6ha to ±1.3ha) on the amended SDP did not confuse Brunings. She at all relevant times up to at least the date of her report, still regarded the original area depicted in the original SDP ("A2") of the proposed compost facility as the 3.6ha (and rightly so) applied for in the application by Umsiza. This much appears from the Land Use Planning	The reference to 'report' in this paragraph refers to the first report that served before the Tribunal and not the final report in terms of which the decision on appeal was taken. In any case, the word "proposed" was inserted by the applicant's Town Planning consultant. It is standard practice to use the word "proposed" on Site Development Plans when applying for a land use which requires approval. The Applicant applied for 3,6ha. (p13 of the bundle). In subsequent submissions, amended plans were submitted, the last of which being the plan at page 15 of the bundle. Refer also to p307 and 322 of the bundle. This amended Site Plan, dated March 2019 shows 0,87 + 0,2 + 0,2ha = 1,27ha. This is the plan which was submitted to the Tribunal, and the reason why a 1,3ha site was approved for the Compost facility.

30. We attach herewith copy of a report compiled and submitted by Brunings the decision-maker on the above date, marked "A10". We do not know whether Brunings sat as a member of the decision-maker in this matter. However, as we understand her position, she had to fulfil the role of investigating official and was appointed to investigate relevant circumstances surrounding the application for the two land uses and advise the Tribunal as to relevant and important facts and factors to enable the decision-maker to make an informed and unbiased decision. As can be gleaned from this report, it contains a summary of facts, allegations by objectors and assumptions pertaining to the pending application and the Appellant's motivation in respect of the two relevant land uses applied for. The report was concluded with a recommendation by Brunings to the decision-maker taking into account various factors regarded by Brunings as relevant and important. This report came to our attention after the decision was made not to approve the feedlot.

The report at Annexure A10 was the first of 3 reports to the Tribunal. The appellant's critique is levelled at a report which was prepared well before the availability of much of the information which he refers to, and despite the appellant having been given written notice regarding the availability of all documents at the municipal offices (Annexure "ee", p930-932).

32. It is furthermore insightful to bear in mind that at the date when the report was compiled by Brunings, she was already in possession of "A9" (letter from Umsiza of 2 October 2018) to which was attached (inter alia) the amended SDP referred to above. Despite the amended SDP, Brunings submitted on p 2 of "A10" as follows and we quote:

"The site currently accommodates: a store, worker's house, kraal and weigh station, dams and 15ha of grazing. 3.6ha of previous grazing area has been cleared to accommodate the compost windrows and effluent collection dams.

Windrows of ±1.5m high and 2m wide will rotate around the 3.6ha site as and when compost matures and is ready for sale. The composting process requires regular turning of the windrows. ±20m³ of compost will be produced per day. Compost will be sold both in bulk and bagged for sale to farmers."

The section quoted by the appellant is not the official's words - they are a summary from the applicant's report - the heading of this section of the Tribunal report reads: "Part D: Background & Summary of "Applicant's motivation" (my emphasis). Again, this quote is taken from the first of the three Tribunal reports. See p22 of the bundle (appeal report) and p50 of the bundle (motivation report by applicant).

33	13. After all, reference is specifically made by Brunings, to additional information lodged on 2 October 2018 which is the letter by Umsiza ("A9") with the amended SDP "erroneously" referring to the <u>existing</u> composting facility as the "proposed" compost facility.	This is the Applicant's own plan, which they refer to as erroneous.
37	the Municipality, the owner (Mr Hennie De Bod of the Appellant) allegedly advised that he did not have all the required approvals in order to conduct the waste composting facility on the property in question. It is not stated who informed the said "owner" as such. Be that as it may, this statement is blatantly untrue as had been stated previously in the past. We refer to paragraph 4 of "A3" (letter by Du Bois Attorneys addressed to the Municipality on 14 March 2018). In paragraph 2.2 of "A10" reference is made to a notice (first notice) which was served on the Appellant advising them that no (un?) authorized activities may take place. This notice was sent to the Appellant on 15 February 2018, exactly 1 year after the site meeting referred to in this paragraph. Furthermore, the penalty fee referred to in paragraph 2.2 of the report, was specifically paid under protest and simply to speed up the pending applications and not as an acknowledgement of having transgressed any Municipal Bylaws or any other Provincial or National Legislation. Brunings is very aware of the stance taken at the time by the Appellant and his attorney.	The accusation that it is "blatantly untrue" that the owner was not advised that he did not have approval to conduct the waste composting facility is false and contradicts the appellant's own affidavit to the High Court referred to in par 9. above (Annexure "dd" p923-929). The penalty fee was levied on 14 February 2018, in terms of Council's approved annual Tariff of Fees, because "the Abattoir Composting facility has already commenced prior to approval". See Annexure "ff" p933.
38	38. Importantly Brunings states in paragraph 3.2.5 (p. 10 of the report), that and we quote: "Further, the total <u>future extent</u> of the <u>proposed composting facility</u> requires a license for a listed activity in terms of the NEM:Air Quality Act 39/2004 and the NEM:Waste Act 2008..." (our underlining).	Par 38: The quote is correct. Requirements of environmental legislation and land use legislation differ: The NEMA legislation has thresholds, above which applications are required; whereas in terms of the Zoning Scheme, there is no size or capacity threshold – the compost site using abattoir waste products requires a land use application regardless of its size.

40.	However, in shrill contrast to this finding and most surprisingly, Brunings advised that the proposed intensive feed farm is <u>not consistent</u> with the WCPSPDF and Rural Land Use Guidelines due to the fact that its location is allegedly predominantly within a <u>Core SPC</u> which forms an important <u>ecological corridor</u>. We contest this finding as it militates against the harsh reality and a ground truth evaluation of that specific site, of which Brunings is or should be astutely aware of. Herein below more detail will be submitted in support of this challenge.	The original site for the feedlot was within a <u>Core 1 SPC</u> (<u>Langeberg Spatial Development Framework</u>, 2015) which areas should be maintained in, or restored to, a natural state to sustain biodiversity patterns and processes (<u>WCLUPG Rural Areas</u>, 2019, p17). The original site for the feedlot, and the slightly relocated position shown on the applicant's amended Site Plan, are within a terrestrial CBA (<u>WC Biodiversity Spatial Plan</u>, 2017). Refer to <u>Annexure "gg"</u>, p934 for the Biodiversity map which is attached as Appendix D of the applicant's draft BAR, March 2018. And the Applicant's A25 at p612a. The existing and proposed compost facility falls outside the <u>Core 1 SPC</u> (<u>LSDF</u>, 2015) and largely outside / on the edge of the terrestrial CBA (<u>WCBSP</u>, 2017).
41.	In paragraph 6.5 of the report Brunings states the following regarding impact of odour, flies and noise on neighbouring uses: <u>"Many agricultural practices generate similar adverse impacts e.g. dairies and pigeries. All investigations by officials from DEA&DP, Department of Agriculture and CWDm have determined that the odour and flies from the composting facility are within acceptable limits in terms of the health and environmental legislation. The reports include the following statements: Flies are not excessive, provision for fly control are in place; no larvae were found; no evidence of 'blue fly'; composting site was clean with no strong odours during inspection. DEA&DP confirmed these findings in an e-mail dated 28 November 2018 which notes the following: No major issues relating to flies, smells and other nuisances were experienced"</u> (our underlining)	Correct. Refer to Annex 16 of the TP Appeal Report for various official reports on odours and flies as experienced from the current compost facility. Nonetheless, the applicant consistently dismissed requests to submit an Atmospheric Impact Report (AIR) for the full proposed expanded development, and continued to indicate how it intends to control flies and odours, rather than assessing the impact of the full development proposal.
42.	However and despite the above conclusion by Brunings, she speculatively contends for the following in paragraph 6.6 of the report: <u>"The location of a feedlot on this site would increase the odours and flies generated from this site and the cumulative impact needs to be considered"</u> (our underlining) I must be borne in mind that the compost facility or feedlot for that matter, do not generate in the sense of producing or breeding flies. At most, it may attract flies from the surrounding area.	The issue remains: The compost site attracts flies. A feedlot attracts flies. The cumulative impact of these two land uses on one site and in close proximity to one another needs to be assessed. The EIA has not done this.

43. If one should bear in mind that unlike the composting facility which e from February 2017 to the present (with odour and fly population within acceptable limits) the submission in paragraph 6.6 flies in the face of pure logic and is patently based on pure speculation. The fact of the matter is that there currently exists no feedlot on Portion 6. The so-called cumulative impact as pointed out by Brunings, must therefore, by necessary implication based on no hard evidence, let alone proof of any such an eventuality.	The purpose of the EIA is to identify future potential impacts and to determine mitigating measures / alternative options. The EIA did not do this. That is why the Tribunal requested an Atmospheric Impact Report (refer to Annexure "hh" p935 and 936 for an extract from the NEM:AQA, 2004: Regulations Prescribing the format of an AIR). NB: Reference to these regulations is not intended to suggest that an AIR is required in terms of NEM:AQA, but only to assist those unfamiliar with the contents of an AIR, to understand what is required in preparing a report assessing such impacts, as requested by the Tribunal in terms of the LLUPB, 2015. i.e. Regardless of whether an AIR is requested in terms of NEM:AQA or the LLUP Bylaw, this is the type of information anticipated in an AIR.
45. A different angle of approach by Brunings however, again rears its head in paragraph 9.2 of the report. Here she mentions an aspect which was not canvassed or addressed in any prior correspondence to the Appellant and/or Umsiza. This aspect pertains to so-called ethical concerns resulting from the location of a feedlot for live animals on the same site as a compost facility for dead animals. To prove that this is purely a speculative question raised by Brunings herself, she further comments in the same paragraph that: "The Department of Agriculture has been asked to comment as to whether or not there is any specific basis in terms of fear/negative reactions of sheep to smells of abattoir waste and/or any implications in terms of food safety. No comments have been received in this regard." (our underlining)	The ethics aspect was discussed at a meeting on 3 October 2018 with the objectors. The proposal to place a feedlot close to a facility receiving and processing abattoir waste products was deemed to be morally offensive, and undesirable in that sense. Clarification was requested from the Dept. of Agriculture, but this is a potentially contentious matter with divergent views and there appears to be a reluctance on the part of officials to provide written comment. Refer to the three emails at Annexure "ii" (pages 937 - 943) for written replies which were received in response to an email requesting clarity in this regard, subsequent to the Appellant's assertion that this is mere speculation.
49. Barely a month after Brunings's recommendation to the decision-maker to approve the rezoning Application pertaining to the compost facility, she (in all probability) caused a Second Notice of Non-Compliance to be issued against the Appellant.	A notice, signed by the Manager: Town Planning, and delivered by a municipal official was served by the Municipality, following the Tribunal resolution at its meeting of 1 February 2019 - refer to p253 of the bundle. The notice was served because the use was in contravention of the Zoning Scheme and the Municipality has to enforce its Bylaw.

56	56. The Appellant is of the view and was at the time (and since) that the issuing of two notices of Non-Compliance against it in the prevailing circumstances was to say the least vexatious and akin to harassment of its (the Appellant's) lawful endeavours.	The applicant's existing land use is unlawful. Such enforcement can never be described as harassment. In fact, the municipality can be ordered by the High Court to enforce its legislation.
57	57. Our instructions were at the time to object to these infringements upon the Appellant's rights. In paragraph 12 of "A13", we stated on behalf of the Appellant the following: "Should your Municipality furthermore decide to make application to a civil Court for an order against our client to cease the current activity, same will be opposed on inter alia the grounds set out in the relevant correspondence. In such a case, a punitive cost order will be applied for against your Municipality due to your continued vexatious disregard of our client's rights. The manner in which your Municipality has handled this matter, from the start, is not only a disgrace but can be viewed as akin to unlawful harassment of our client in its bona fide endeavours to do the right thing. And in the process solving your Municipality's primary obligation to dispose of abattoir waste through objectionable landfill options."	As above.
59	59. We attach this Second Notice for a reason. It confirms the Appellant's firm view that the Municipality and specifically Brunings have over the past two years not only delayed the application process unreasonably, but as demonstrated above and below, taken action or delayed action which can only be viewed as vexatious and borders on being malicious towards the Appellant.	Par 59: The appellant has only himself to blame for acting in an unlawful manner.

70	70. We have noted that the decision letter was also sent to <i>inter alia</i> an employee of BGCMA, one Nfeni. Considering the fact that in her letter of 12 April 2019 Umsiza specifically stated that the application for the verification of the Middelburg dam prepared by Hannes Du Bois was in process and was expected to be finalized soon, one should have expected that the Tribunal and specifically Brunings, would have enquired from Mr/Mrs Nfeni of BGCMA, whether the application for verification was still in progress or whether it has been granted, before they made their decision to reject the proposed feedlot. If Brunings had made one simple telephone call to BGCMA, (as such action falls perfectly well within the ambit of her role as investigating advisor to the Tribunal), the fact of that verification having taken place in June 2019, would have been confirmed to her.	Official due diligence with BGCMA was carried out. Refer to correspondence with BGCMA and Umsiza (Annexure "jj", p944) and their replies thereto (p945-948) which not only proves that the Municipality requested the necessary information, but also reflects the fact that the applicant has been evasive and/or inconsistent in providing information relating to water, WJULA applications and investigations into the expanded dam (p949 and 950). The purpose of the verification and validation process is to formally confirm and determine an existing lawful water use. Once it has been so determined the water user may continue to use the water in accordance with the determination and otherwise in accordance with the National Water Act 36, 1998. The water use which has been verified relates to irrigation for agricultural purposes, and no mention is made of the use thereof for the purposes of a feedlot.
72	72. The concerns raised pertaining to the water supply to the feedlot, as one of the prime reasons why the consent use for a feedlot has been rejected, have therefore been erased completely. We must add that the reason why the verification certificate has not been submitted to Brunings, was simply the fact that she never requested it. Nor did she request that it be forwarded to her as soon as it is at hand. Thus the Appellant/Umsiza were under the reasonable impression that the decision maker was fully aware of the status of the dam when their rejection decision was made.	The appellant makes the statement that the reason that they did not provide key information to the deciding authority was "simply the fact that she never requested it". The appellant knows that water is of key importance, and should have provided the information, in their own interests. More importantly, the concerns relating to water supply have not been "erased completely": Notwithstanding this verification in terms of the Water Act, it is water rights which are of significance and the authorisation for the dam itself. In the appellants' own words in par 73 (see below), DEA&DP investigations are still underway regarding the Middelburg Dam. In other words, the status of the dam, and therefore the access to the water in it is still not finalised. Further, 3 storage tanks of 10 000lt each are proposed. The demand for water is $\pm 8,5\text{lt/animal/day}$ - therefore 38 250lt per day is required for 4 500 lambs. The provision of 3 storage tanks is marginal and these tanks will require re-filling during each day.
73	73. The environmental investigation regarding the Middelburg dam is indeed still in progress, but nothing can alter the fact that the dam has been verified as an existing lawful dam which may lawfully store 111 000 cubic metres of water. We point out that is patently evident from the letter of 22 February 2019 as confirmed by the contents of the decision letter, that the concerns regarding the Middelburg dam is the fact that it cannot be used as an alternative source of water until it has been legalized. The fact of the matter is that it has now been legalized despite the pending environmental investigation, which is still under consideration, after full written reasons has	The buffers to the Middelstekloof river were determined based on no changes in the catchment – but alterations to the dams in the catchment have occurred and the EIA consultant specifically states: "We are not aware of any work on the existing dams on this farm as this has not been included in our scope of work for which the EA is applied" (refer to Annexure "kk", p951). It is a valid concern that there are environmental investigations which have not yet been concluded. The statement that the alternative source "has now been legalised" begs that proof regarding this aspect be supplied to the Appeal Authority.

81	81. One should have expected that the Municipality, considering the unavailability taken by them in the current matter under appeal, would at least have requested an Atmospheric Report or would have prescribed strict measures to be implemented by the applicant to curtail a possible escalation of the fly population in that area. Yet, no such report or even measures to be implemented by that Applicant, as a condition of the approval, were required or stipulated at the time, to cater for such an eventuality. Inconsistent and irrational behaviour on the part of the Municipality. (Brunings?) in the extreme.	The Roodehoogte application was for a sheep and cattle feedlot in the Agricultural zone, which required an application for consent for an intensive feed farm. There was no abattoir waste treatment facility on this site. There was no CBA on this farm. The Tribunal's request for an AIR with the Middelburg application relates primarily to the waste treatment facility. The practical consideration is that if the odour and fly impact have not been conclusively determined to be within acceptable limits for the waste treatment facility (i.e. in the absence of an AIR), then either the facility should not be approved or conditions must be imposed to allow for monitoring of the impact of the expanded facility, and if necessary, require the facility to cease operating. Under these monitoring conditions, it would be fool-hardy to also permit an additional use which has any potential impact in terms of odour and fly impacts. There is therefore no inconsistent and irrational behaviour by the Municipality.
86	86. If she did share the available evidence regarding the Roodehoogte feedlot with the decision-maker, surely this would have (or at least should have) played a role, if not a major one, to sway their decision in favour of the approval of the consent use for the proposed feedlot. Or the decision letter would at least have dealt with it. Bear in mind that nothing was said by Brunings pertaining to the Roodehoogte feedlot, nor did she even refer to the latter feedlot, in her report of January 2019 ("A10"). She rather chose, so it appears from her own report, to intentionally ignore this vital piece of evidence and/or intentionally conceal it to the decision-maker.	The Tribunal was well aware of the existing feedlot and no information is this regard was concealed. <i>Inter alia</i>, the applicant's full motivation report, including information about the Roodehoogte feedlot, is attached to the first report to the Tribunal (p47-86). What the appellant conceals is the fact that Roodehoogte was built prior to any land use, environmental or building plan approval. The owner paid a fine and submitted a 24G application to DEA&DP and retrospectively applied for land use and building plan approval. Despite this, the applicant makes the same "mistake" with the Middelburg abattoir waste treatment facility - acts first and applies second. And then is argumentative when told to lodge a LLUP application. This shows a total disregard for the legislation and related procedures.
92	92. AD REASON 1 OF THE DECISION LETTER: 92.1 It appears as if this reason plays a major role in the decision not to approve the consent use for the intensive feedlot on Portion 6. It is alleged by the decision-maker that the information provided by the Appellant and its consultants are incomplete. It is further stated that the water supply for the feedlot is limited to one borehole and there is no currently available alternative water source in emergency situations such as drought or low water	Reason 1: Water Availability Refer to the notes above regarding par 70 & 72.

92.4.16	therefore does not fall within the Core SPC or the so-called ecological corridor area, 32 metres from the river. We attach hereto a WCBSP map, marked "A25", depicting the Core and Buffer areas as well as the CBA areas on Portion 6. The proposed sites of both feedlot and composting area are clearly depicted in "A25". As can also be gleaned from "A25" the location of both those sites fall in a historically CBA area; not in a Core SPC or ecological corridor SPC.	92.4.16 Reference to Core SPCs relates to the Langeberg SDF, not the WCBSP. Core SPCs in SDFs do not necessarily exactly mirror the CBA areas identified in the WCBSP. Refer also to Cape Nature's comments at Annex G of 1 Feb 2019 Tribunal item (p221 of bundle).
92.4.20	92.4.20 It is important to note that no response to that letter of 12 April 2019 ("A24"), has been received from the Municipality, nor was any further queries received from Brunings in relation to the additional information submitted. It is also important to note that besides the fact that no further information was required since the letter of 22 February 2019, the information supplied in response thereto on 12 April 2019, was also never expressly (or by necessary implication) rejected by Municipality as being <u>insufficient or incomplete</u>.	The contents of par 92.4.20 are incorrect. Refer to the Information Request dated 29 May 2019, and specifically, par 2. thereof, p332-333.
93	93. <u>AD REASON 2 OF THE DECISION LETTER:</u> 93.1 This reason does not keep track with reality. It is only a half-truth considering the fact that although the proposed feedlot is historically located in a CBA it does not fall within an ecological corridor as identified in the WC BSP 2017.	Reason 2: CBA & Ecological Corridor The proposed feedlot falls within a Terrestrial CBA in terms of the WCBSP 2017 & partially within a Core 1 SPC in terms of the Langeberg SDF. Refer to the comments re. par 40. and 92.4.16 above.

94	94. <u>AD REASON 3 OF THE DECISION LETTER:</u> 94.1 This is a consideration that was never put to the applicant when and after the application for rezoning was made. 94.2 Due to the fact that this aspect was never before raised by Brunings as an important issue to be fully motivated by the Appellant, it was understandably never motivated by the latter. Why this aspect should have been motivated in the first place, is incomprehensible.	Reason 3: Relocation of feedlot: transport of sheep & feed This is an obvious relevant consideration which the applicant should have motivated from the beginning.
95	95. <u>AD REASONS 4 AND 5 OF THE DECISION LETTER:</u> 95.1 We will respond to both of these reasons simultaneously as they overlap to a large extent. 95.2 We have already referred to all the measures that were put in place with regard to flies and odours in the BAR and in the application. These measures have been acknowledged by the decision-maker in reason 4.	Reason 4 & 5: Flies & Odour impacts Refer to the comments above regarding par 41, 42 & 43 of Appeal 1. The only evidence provided in the Applicants' appeal, that odour and flies are not an issue, is contained in the appeal's A21 (p595 & 596), A22 (p597 & 598), A24 (p602), and A30 (p623). None of this evidence comprises an assessment of the anticipated atmospheric impact of the existing compost facility plus the proposed expanded compost facility plus the proposed feedlot. Nor is there any conclusive evidence that these impacts would be acceptable in terms of the relevant standards.

96	96. <u>AD REASON 6 OF THE DECISION LETTER:</u> 96.1 This reason borders on ludicrous shortsightedness by the decision-maker. It is common cause that all alternative possibilities to alleviate the problem which the Municipality themselves "dumped" on the Appellant, were indeed investigated before a decision was taken in 2016 to compost the waste produced by the Abattoir and simultaneously apply for a consent use for a feedlot on Portion 6. 96.2 We attach hereto a submission by Mr. David Houghton, marked "A28", pertaining to the alternative possibilities, which was investigated besides the composting option, demonstrating the non-viability of such other options compared to the composting one. After all, compost is a by-product in the form of a fertilizer to be utilized by the Appellant on Portion 6 where the feedlot is located. The most	Reason 6: Alternatives to Composting The Tribunal or Appeal Authority is well within its rights, based on an assessment of relevant considerations, to conclude that an alternative form of waste disposal will be more desirable in the longer term.
96.4	96.4 This reason can only be regarded as <i>male fide</i> and a malicious attempt to sabotage a venture embarked upon by the Appellant with the full knowledge of the Municipality almost 3 years ago. It is also a known fact that more than R2 million has already been expended by the Appellant on this venture and associated ancillary measures which had to be implemented simultaneously. The delay of not only the application for rezoning, but also the application for the WML and associated court applications, are costing the Appellant approximately R140 000.00 per month for losses sustained over the past almost 3 years. Given the background of the long road the Appellant embarked upon with the full knowledge (and blessing) of not only the Municipality, but various other waste departments/officials and the layout of huge costs in the process.	It was the applicant's choice to commence operating prior to approval. This type of action creates risks.

97	97. AD REASON 7 OF THE DECISION LETTER: 97.1 The accusation made in this reason, is similar to the misguided one made in reason 4 above. It refers to the so-called "dismissal" by the Appellant of requests by the Tribunal to provide reports to substantiate certain issues. It is submitted that the issues referred to are fictitious and exist only in the minds of Brunings and/or the decision-maker as will be demonstrated below. 97.2 We have already advanced comprehensive reasons on behalf of the Appellant, why those reports are not necessary to enable the Tribunal to make an informed decision. We have also stated hereinbefore, that should the additional reasons advanced by Umsiza (when requested by Brunings), be deemed not to be sufficient or be deemed to be incomplete, nothing prevented Brunings to request further or additional reasons. In fact one may expect Brunings as the investigating official/officer, to require further information should the available information submitted be deemed to be incomplete or inadequate.	Reason 7: Storm water Management Plan The applicant did indeed dismiss the Tribunal's request for a storm water management plan. No such plan was submitted up until the Appeal was lodged. The engineering report lodged with the appeal is merely an endorsement that the existing cut-off drains and dams will adequately contain storm water for the existing compost facility and proposed feedlot. The report does not address the proposed expansion of the Composting Facility or the potential need for lining the dam or hard surfacing of areas in terms of the NEM:WA norms and standards for composting sites. More detailed storm water plans would be required for the feedlot with building plan submissions. The Engineering report is unsigned (p622). The applicant consistently dismissed requests to submit an engineering report on storm water and continued to refer to the Soil Study which was done by a soil scientist and conducted prior to the windrows locating higher up the site (to avoid the municipal electricity lines) and prior to the feedlot proposal. The applicant simply stated that such plan was not necessary. This is interpreted as dismissing the Tribunal's request.
98	98. AD REASON 8 OF THE DECISION LETTER: 98.1 The reason advanced here is again based on pure speculation. No evidence of any valid ethical concerns raised by anybody, were submitted by the Tribunal. This can only be regarded as a fiction of the imagination of either Brunings or the member/s of the Tribunal. Nothing more. 98.2 Furthermore and most importantly, this issue was <u>again</u> never raised by Brunings and presented for comments by the Appellant, before the decision was taken by the Tribunal. If this was a very important	Reason 8: Ethical and Food Safety Concerns: Refer to the comments regarding par 45 above.

98.4.1	also in the Western Province. Despite the visit of Dr GSM Leask, State Veterinarian, to the existing composting site, where it was explained to him what the Appellant envisaged with regard to the pending feedlot and the location of the latter, he had no objections whatsoever regarding firstly the composting facility and secondly any ethical issues of the two facilities being located in close proximity to each other. We attach hereto a letter from Dr Leask dated 8 February 2019, marked "A30".	There is NO opinion in A30, p623, regarding the feedlot or the proximity of the two uses.
107	107. Ad condition 1: Apropos of the above, the development and use of the property and buildings will NOT be substantially in accordance with the site plan as stipulated as the Municipality has utilised the wrong site plan. The site will be used according to the amended SDP attached hereto below ("A31"), which clearly states that the compost area footprint will be 3 6ha in size.	The plan at the appellant's A31 was not submitted to the Municipality as part of the application. The plan at A31 is dated November 2019 which is after the Tribunal's meeting on 18 October 2019 at which the decision was reached. The first time the plan at A31 is submitted, is as part of this appeal to the Langeberg Appeal Authority. It is also noted that the extent of the windrows appears to have been deleted from this plan. In contrast, the plan submitted to, and approved by the Tribunal, was the most recently amended applicant's plan (dated March 2019), as submitted by Umsiza under cover of letter dated 12 April 2019. Refer to pages 307 and 322 of the bundle.
111.5	111.5 The manager will not reside on site and this point is both unreasonable and SAFAM believe to be unenforceable. SAFAM believe that this is not a requirement for any other compost site in South Africa. Currently there is no dwelling available on the site and therefore no amenities such as water, sewerage or electricity. SAFAM do not agree to build such a dwelling on the site with the costs involved. The current farm manager / compost site manager resides on the farm in a house approximately 400m from the compost site.	The words "on site" refer to the farm in question (including the existing manager's house), and not the waste disposal site itself. The purpose of this condition is two-fold: to ensure on-site management of the facility e.g. locking of gates, control of pests; and to instil self-regulation of odour and fly prevention by the operators of the facility. If the Appeal Authority approves the application with this condition the wording should be amended to prevent confusion.

111.5	111.6 It is not possible to comply with point 5.4 and make compost in a safe manner. This is because the process requires compostable material from other sources in the form of woodchips, straw or other carbon based material. The Municipality is also aware that manure from the feedlot is also used on the compost site. The condition is both unnecessary and completely unreasonable and illustrates a lack of knowledge on the part of the Municipality of the process of composting.	The intention of this condition is to restrict the source of abattoir waste used in the composting process to that of the Robertson abattoir and from no other abattoir or farm. The need for other materials as an integral part of the composting process is clearly understood, and this condition does not exclude such materials. This condition could be reworded for clarity if the Appeal Authority approves the application with this condition.
111.10	111.10 No offensive odours are produced as has been confirmed by independent specialists including the Municipalities own Air Pollution Specialist. Therefore, SAFAM are already taking reasonable measures and will continue to do so. 111.11 Bi-annual water quality testing will only take place if there is in fact water to test. 111.12 The hours of business as stated are unreasonable and in terms of the reasoning unnecessary. SAFAM have already provided data to	111.10 The Municipality has an air pollution officer, but no air pollution specialist or monitoring equipment. The CWDM assists in this regard. 111.11 It is the applicant's own proposal (in the Soil Report) that a test borehole be sunk. The position of this borehole is shown on the applicant's plan at A31. This condition of Approval merely endorses what the applicant applied for. 111.12 The hours of operation are reasonable and based on what was applied for. The appellant makes no motivated proposal for alternative hours.

Tracy Brunings

Subject: FW: Compost plant - Info for Appeal response

From: Anneline Van Staden [<mailto:anneline@resalt.co.za>]
Sent: 21 August 2015 08:35 AM
To: Tracy Brunings
Subject: Compost plant

Hi Tracy,

Thank you for the assistance.

Can you please send me information with regard to requirements for the zoning of a composting plant on a farm. We do not have a specific farm as yet. Just need the general information. – what must be in place, what can you and what may you not do, etc.

Will be making use of manure, wood chips, etc. and also looking at using abattoir waste – drying bloodwater and using the 'pensmis'. Will possibly also look into using waste from the cellars – doppe, stingels, etc.

One specific thing that I would need to know – when I you required by law to zone for a compost plant... is there a certain minimum amount of compost that you can make without needing to zone or register, etc.

I am not sure how all of these processes work, so any information would be helpful.

Thank you

Groete

Anneline van Staden
B.Sc Agric Soil/Hort

(s) 082 964 2233
(f) 023 626 4501



Tracy Brunings

Subject:

FW: Compost plant - Info for Appeal response

From: Tracy Brunings

Sent: 21 August 2015 09:36 AM

To: 'Anneline Van Staden'

Subject: RE: Compost plant

Hello Anneline,

The zoning of farms is generally Agricultural Zone I, within which "Agriculture" is the primary use permitted. Agriculture is defined as:

"(a) the cultivation of land, or

(b) the breeding of animals, ..., or

(c) natural veld, and comprises only those activities and buildings that directly relate to the main farming activities on the farm, but does not include abattoirs, feedpen farming, aquaculture or other defined consent uses".

The proposed composting plant (particularly in so far as it requires products, including abattoir waste, to be brought onto a farm) is therefore not a land use which fits within the definition of agriculture. Unfortunately a composting facility is not specifically defined and does not fit neatly into any of the given definitions from a land use planning point of view. It could be argued to be Agricultural Industry / Industry or Noxious Industry depending on the specific details and scale of the use. In any event, the implication is that we would require an application in terms of the Land Use Planning legislation (rezoning or departure) which we would circulate to the various Departments for their prior comment (e.g. Roads Branch, Water Affairs and Health). Key issues would include: proximity to water courses and other potential impacts on the natural environment, health implications, visibility and visual impact, potential impact on neighbours, and impact on road infrastructure.

Other legislation which may be applicable, depending on the specific nature and scale of the use and the specific nature of the site, includes:

- EIA regulations in terms of NEMA 107/1998
- Waste listed activities in terms of NEM:WA 59/2008 (animal by-products)

Re. your specific query: Composting on a farm using products from the farm to produce compost for agricultural production on the same farm is permitted without any application. Application is required as soon as products need to be purchased and used as a component in the production of compost which is manufactured for commercial purposes – scale and the type of products used are key deciding factors.

Regards,

Tracy Brunings Pr.Pl. A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



"People at the centre of Development"

3 Piet Retief Street, MONTAGU 6720

Tel: 023 614 8001 Faks: 023 614 1841

✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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BEFORE PRINTING THIS E-MAIL
please consider the environment

From: Anneline Van Staden [<mailto:anneline@resalt.co.za>]

Sent: 21 August 2015 08:35 AM

To: Tracy Brunings

Subject: Compost plant

Hi Tracy,

Thank you for the assistance.

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I am not sure how all of these processes work, so any information would be helpful.

Thank you

Groete

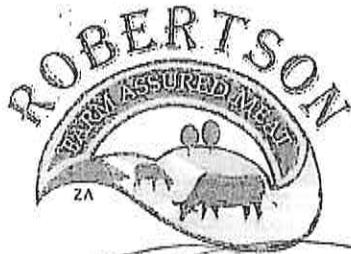
Anneline van Staden

B.Sc Agric Soil/Hort

(s) 082 964 2233

(f) 023 626 4501





SOUTH AFRICAN FARM
ASSURED MEAT
GROUP CC

CK97/017299/23

PO BOX 895
ROBERTSON
6705

TEL: 023 626 6320
FAX 023 626 6040

VAT: 4330179096

17th November 2016

Your Ref: 17/11R

Mr IAB Van Der Westhuizen
Director of Engineering Works
Administrative and Executive Office
Langeberg Municipality
Private Bag X2
Ashton 6715

Dear Sir,

Thank you for letter dated 2nd November 2016' which we received yesterday on the 16th November concerning our proposals for the handling of blood and other abattoir by-products in the future.

Our plan for the handling of the above-mentioned by-products is that we intend to develop our own composting facility at one of our sites close to Robertson. This facility will be capable of handling all organic general by-products from the abattoir and converting it into general use compost.

We have already handed in the relevant plans and applications to both the Langeberg Municipality and other relevant Government Departments and hope that these receive favourable consideration.

We have applied to the Provincial Government Department for them to determine the fees which will be applicable for this process. As part of this we have prepared the attached document which will be submitted when we receive a response in terms of the fees from the Province.

We fully support the Dept. Of Environment, Province and Municipalities move away from using landfill sites, especially for organic materials like our by-products, which can be handled in a much more efficient and environmentally friendly way such as converting to compost and it is our intention to develop this facility into one we can be proud of. We hope that in the future the Municipality may be able to utilize this facility for some of there own organic wastes which would compliment the waste types we will be converting on site. Material of plant / vegetation origin would be of interest to us.

I would like to thank the Municipality for the help they have given us in the past in handling the above mentioned by products and the transportation of products to the site mentioned above whilst we await our own transport solutions. Jaco Van Staden, our General Manager has informed me that your colleagues have been very helpful in this regard. We hope that

this relationship can continue into the future, as we would appreciate being given the opportunity to support Langeberg over the next 20 years as you have done throughout our first 20 years of being in operation.

Regards

David A Houghton
COO - SAFAM



david@robab.co.za
Cell: 0834486838

Handwritten text at the bottom of the page, possibly a date or reference number, which is mostly illegible due to fading.

Tracy Brunings

From: Tracy Brunings
Sent: Monday, 30 January 2017 16:39
To: 'David Houghton'
Cc: 'ST McLean'
Subject: RE: ROBERTSON ABATTOIR WASTE
Attachments: Middelburg 10-6_Mtn Catchment Area.bmp

Hello David,

Please provide my contact details below to Nicholas. It would also be advisable to include our Engineering Section (given implications for accepting waste until composting facility approved and operational) – refer website details below for contact details for Maynard Johnson (Manager: Civil Engineering – re. sewer works) and Glen Slingers (Manager: Solid Waste – re. landfill sites).

A representative from Breede Gouritz Catchment Management Agency and the relevant Water Users' Association would be advisable (if the site is Middelburg 10-6, a large portion of this farm falls within the Langeberg West Mtn Catchment Area – as shown on the attached plan). Other Departments who would be included in commenting on this type of application would be: Dept of Agriculture (Elsenburg), Cape Nature and Dept of Transport (District Roads).

A Town Planning consultant should be appointed sooner than later, to work in conjunction with the Environmental Practitioner – it may be possible to run the EIA and land use process simultaneously. Our Land Use Planning Bylaws are also available on our website, under "Municipal Documents → Bylaws → Land Use Planning Bylaw, 2015".

Regards,

Tracy Brunings Pr.Plñ A/951/1997
 PROFESSIONAL TOWN AND REGIONAL PLANNER
 TOWN PLANNING DEPARTMENT



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From: David Houghton [mailto:david@robab.co.za]
Sent: 30 January 2017 02:57 PM
To: ST McLean; Nicholaas Hanekom Inpakstudie
Cc: Surene Grootboom; Jacques van Zyl; Tracy Brunings
Subject: Re: ROBERTSON ABATTOIR WASTE

Good Afternoon Steven,

Thanks for phoning me back just now. As discussed with you and Nicholaas Hanekom we feel it would be better if all parties could meet to discuss the best way forward regarding your questions surrounding the

composting of the abattoir by-products. From SAFAM's side we feel it would be better to have this meeting sooner rather than later in order to agree the best way forward for all parties.

Nicholaas will be in contact with you all ASAP in order to set up the meeting and ensure the correct individuals from Langerberg, Winelands and Province are all invited.

FYI Nicholaas is the Licensed Environmental Practitioner who SAFAM have contracted in order to help us through the licensing process.

Regards



DAVID HOUGHTON B.SC.(Hons), LL.M.
CHIEF OPERATING OFFICER

SOUTH AFRICAN FARM ASSURED MEAT GROUP CC
TEL: 023 626 6320
CELL: 082 579 5231
FAX: 023 626 6040
E-mail: david@robab.co.za

EVERY INDUSTRY HAS ITS LEADER!

On 27 Jan 2017, at 08:11, ST McLean <smcclean@capewinelands.gov.za> wrote:

David,

When do you intend starting the process?

I noted that the Assessment process is documented at 12 December 2016.....this process normally takes quite a while to be approved.....rezoning applications still to be processed as well.....so I gather you will be only starting once all paperwork has been approved? Have you attained extension of time from Langeberg Municipality to still accept your waste in the interim period?

From: David Houghton [<mailto:david@robab.co.za>]

Sent: 26 January 2017 03:42 PM

To: ST McLean

Subject: Re: ROBERTSON ABATTOIR WASTE

Hi Steven,

Apologies I forgot to attached this document as well.

On 26 Jan 2017, at 15:34, David Houghton <david@robab.co.za> wrote:

Good Afternoon Steven,

Please find the answers to your questions below. I have tried to answer them as fully as possible, for now. We are at the very start of the process, and a process that as a business we are having to learn ourselves. I can assure we are

doing this as responsible as possible bearing in mind the short time scales we have had to work with.

We have employed a Licensed Environmental Practitioner to help us with the licensing process, as this is very complex, and we have also had a site inspection which we have included in our initial application. Along with this we have probably invested around R2M for the plant and equipment required to do a professional job.

I have also attached some of our control documents we are in the process of developing and using as the process starts. These may change over time as the process becomes routine and stabilised.

Please contact me if you require any further information.

Regards

<PastedGraphic-5.tiff>

On 26 Jan 2017, at 14:27, ST McLean
<smcclean@capewinelandsgov.za> wrote:

David.....as discussed....would be appreciated if you could bring me up to speed on the pointers mentioned below.

Thanks

From: ST McLean
Sent: 26 January 2017 11:09 AM
To: eddie.hanekom@pgwc.gov.za
Cc: Surene Grootboom; 'Tracy Brunings'; Rufus Swangaza (rufus@capewinelandsgov.za)
Subject: ROBERTSON ABATTOIR WASTE

Hi Eddie,

It has come to my attention that Robertson Abattoir's abattoir waste will not be removed by Langeberg Municipality as from end of January 2017. I understand that they have a tract of land near to Cape Lime, just outside Robertson town – approx. 15km, which they intend to use as a composting plant for the waste.

I also understand that they have been in contact with your Department regarding this intended process. Please correct me if I am wrong.

I have a few questions in this regard:

- Which process will they be using? (Windrow method?); WE WILL BE USING THE WINDROW METHOD
- How will the process be monitored to maintain an effective and stabilized composting process, without causing odours through lack of oxygen? PLEASE SEE ATTACHED DOCUMENTS. WE DO UNDERSTAND THAT THE BALANCE OF PH, TEMPERATURE, AIR, MOISTURE ARE CRITICAL PARAMETERS TO ENSURE CORRECT FERMENTATION /

DIGESTION WITHOUT CAUSING ODOR OR OTHER PROBLEMS.

- Ph level monitoring? SEE ATTACHED
- Temperature controlling to ensure proper stabilization to promote maximum activity? SEE ATTACHED DOCUMENTS
- Bulking – will they be using wood chips? WOOD CHIPS AND SOMETIMES CHICKEN LITTER (TO HELP AS A STARTER)
- Disposal of blood? BLOOD WILL BE COMPOSTED AS WELL, AS WE WILL ENSURE THAT ANY SUSPECTED INFECTIOUS ANIMALS ARE NOT BLED INTO THE SAME BLOOD COLLECTION TANK. BLOOD WILL HELP WITH THE COMPOSTING IN TERMS OF MOISTURE LEVELS AND SUSPENDED NUTRIENTS. IT WILL BE PLACED ONTO BULK DRY MATTER OR THE WINDROWS THEMSELVES AND THEN COVERED WITHIN 1 HOUR.
- The question of transmission of diseases at the site? THE COMPOSTING PROCESS WILL CONTROL THE SPREAD OF DISEASES THROUGH CORRECT MANAGEMENT OF TEMPERATURE AND PH. AFFECTIVE HEALTH INSPECTION AT THE ABATTOIR. CONTROLLED ACCESS ON SITE.
- Transport of the waste? WE HAVE OUR OWN BLOOD TANKS AND SKIP TRUCKS TO TRANSPORT THE WASTE IN DEDICATED VEHICLES / CONTAINERS.
- Fly control WE ARE INVESTIGATING THIS AND THE USE OF FENDONA WHICH IS USED AT OTHER COMPOSTING SITES
- Possible water pollution (underground sources) WE HAVE HAD A GROUND SURVEY CARRIED OUT WHICH SHOWS THE HIGH CLAY CONTENT OF THE SITE TO PREVENT LEACHING INTO THE SOIL. THE SITE ALSO FLOWS TOWARDS THE RUN OFF COLLECTION DAMS WHICH ARE REQUIRED.
- Rezoning of the tract of land? THIS IS PART OF THE LICENSING PROCESS IF REQUIRED.

Would be appreciated if your Dept. has been dealing with the above matter to bring me up to date on the process.

Steven McLean

Steven McLean
Environmental Health Practitioner
Cape Winelands District Municipality



40 Van Reenen Street, Robertson, 6705,



023 626 8324



086 234 0968



smcclean@capewinelands.gov.za



www.capewinelands.gov.za

<Acknowledge of Application WP.pdf>

<compost SOP.doc>

<compost SOP2 by product collection.doc>

**IN THE HIGH COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)**

Case No: 14084/19

In the matter between:

SOUTH AFRICAN FARM ASSURED MEAT GROUP CC First Applicant

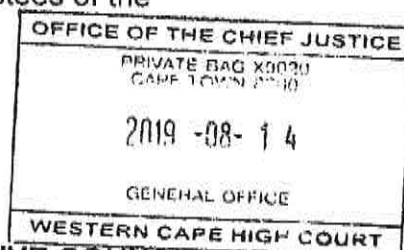
HENDRIK JOHANNES SWANEPOEL DE BOD N.O Second Applicant

JOHANNES PETRUS DU BOIS N.O Third Applicant

DANIËL JACOBUS VAN STADEN N.O. Fourth Applicant

(In their capacities as co-trustees of the
Reben Trust)

and



**MEMBER OF THE EXECUTIVE COUNCIL FOR
LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS
& DEVELOPMENT PLANNING (WESTERN CAPE
PROVINCE)** First Respondent

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS &
DEVELOPMENT PLANNING (WESTERN CAPE
PROVINCE)** Second Respondent

LANGEBERG MUNICIPALITY Third Respondent

NOTICE OF MOTION

60. At that stage the composting facility consisted of 3 windrows. Please see attached **Annexure DH16**, a general plan of the composting processing area surveyed by land surveyor Glen Gover, referred to below in more detail, showing the location and extent (depicted in green) of the composting facility as at February 2017.
61. A site visit was arranged to the Farm by the EAP and was held on 15 February 2017 with myself, the EAP and officials from the Cape Winelands Municipality, as well as officials from the Second and Third Respondents. I attach a report that I prepared and handed to the aforesaid officials marked **Annexure DH17**.
62. At this site visit, I was informed by the Third Respondent's Professional Town and Regional Planner, Tracy Brunings, that the portion of the composting facility located under an Eskom powerline, had to be relocated. The First Applicant duly complied but took about 6 to 7 months to do so. This was due to the fact that one shouldn't uncover the compost or disturb the windrow until it has gone through the process (except in exceptional circumstances), due to technical and chemical issues, as the windrow is in balance which ensures that composting is in process and not rotting. Moving it prematurely could have caused odour problems.
63. As the Honourable Court will notice further below in **Annexure DH33**, the relocation of the existing composting facility was clearly acknowledged by the Second Respondent's Directorate: Environmental

924.

Law Enforcement under the photo on page 5 thereof where it states "[a]n area on the property where the compost was initially processed before being moved to a different location", and further under the photo on page 6, "[t]he new location where the processing of composting is taking place". (Own emphasis)

64. At the same site visit Tracy Brunings also informed me that although a composting facility was not specifically defined in the Scheme Regulations in terms of Section 8 of the Land Use Planning Ordinance, 1985 that applied at the time, that the composting facility could not be considered to be a primary use under the Agricultural I zoning. She advised that the Second Applicant would need to apply either for a departure, or rezoning to Industrial Zone II if the composting facility could be considered to fall under the definition of "*noxious trade*", or for a special zoning. In this regard I have been advised by the EAP, in particularly Nicolaas Hanekom, that other comparable abattoirs that are composting their abattoir waste in a similar manner in other municipal jurisdictions, were either required to apply for a departure from Agriculture I or rezone to Agriculture II and not required to rezone to Industrial Zone II.
65. On 30 March 2017 I attended a site inspection at the Identified Area with Mr. Gary Arendse of the Second Respondent's Directorate: Waste Management in response to a complaint received on 24 March 2017 alleging nuisance conditions at the composting facility. Following this site inspection, the Second Respondent's Directorate: Waste



A costs order against the First and Second Respondents on an attorney client scale

193. In the circumstances, it is my respectful submission that the conduct of the Respondents as set out above, is unacceptable and severely prejudicial to the Applicants, and on the face of it also appears to be *mala fide* or alternatively, grossly negligent, and that it would be in the interests of justice if a punitive costs order were made against the Respondents, which would hopefully deter them from acting in a similar fashion in the consideration of other applications and appeals in terms of NEMA and NEM:WA.

CONCLUSION

194. For the reasons set out above, I respectfully submit that the Applicants have established their entitlement to the relief set out in the Notice of Motion to which this affidavit is annexed.



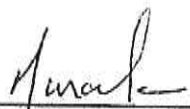
DAVID ALEXANDER HOUGHTON

I certify that the deponent has acknowledged to me that she knows and understands the contents of the Declaration, has no objection to taking the prescribed oath and considers the prescribed oath to be binding on her conscience. The deponent uttered the following words: "I swear that the contents of this Declaration are true, so help me God". I certify further that the


926.

provisions of Regulation 1258 of 21 July 1972, (as amended) have been complied with.

Signed and sworn to before me at ROBERTSON on this the 1ST day of AUGUST 2019.



COMMISSIONER OF OATHS

Pieter Stephanus Malan
Ex Officio Commissioner of Oaths
Chartered Accountant (SA)
21 Church Street / P.O Box 650
Robertson, 6705
023 626 5920

**RESOLUTION BY THE MEMBER OF SOUTH AFRICAN
FARM ASSURED MEAT GROUP CC with Registration
Number 1997/017299/23**

RESOLVED THAT:

1. The CC, the owner of the Robertson Abattoir, launch an urgent application as the First Applicant for the urgent review, jointly with the Reben Trust as Second Applicant, in the Western Cape High Court, against the member of the Executive Council for Local Government, Environmental Affairs and Development Planning as First Respondent and the Department of Environmental Affairs and Development Planning as Second Respondent and the Langeberg Municipality as Third Respondent.
2. DAVID ALEXANDER HOUGHTON in his capacity as Chief Operating Officer of SAFAM, is authorised to depose to an Founding Affidavit on behalf of the Close Corporation.



HJS DE BOD
SOLE MEMBER

**RESOLUTION PASSED AT A MEETING OF
THE TRUSTEES OF THE REBEN TRUST IT 2879/98**

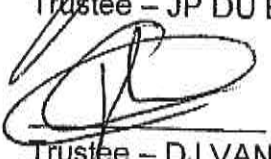
HELD AT ROBERTSON ON 22 July 2019

RESOLVED THAT:

1. The Trustees, in their capacities as the trustees for the time being of the Trust, the owner of Portion 6 of the Farm Middelburg No. 10, launch an urgent application as the Second Applicant for the urgent review, jointly with South African Farm Assured Meat Group CC, in the Western Cape High Court, against the member of the Executive Council for Local Government, Environmental Affairs and Development Planning as First Respondent and the Department of Environmental Affairs and Development Planning as Second Respondent and the Langeberg Municipality as Third Respondent.
2. The Trust will seek an order reviewing and setting aside the rejection of the WML Application taken by the Second Respondent and the following appeal decision, taken by the First Respondent, dismissing the Appeal by the Trust and SAFAM.
3. DAVID ALEXANDER HOUGHTON in his capacity as the authorised agent of the Trust, acting on behalf of the Second to Fourth Applicants, in the above Review Application, is authorised to depose to a Founding Affidavit on behalf of the Trust.


Trustee – HJS DE BOD


Trustee – JP DU BOIS


Trustee – DJ VAN STADEN

Tracy Brunings

From: Tracy Brunings
Sent: Wednesday, 12 February 2020 3:13 PM
To: Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za); 'christo.reeders@crattorneys.co.za'; 'gerberpa@vodamail.co.za'; 'gerberl@vodamail.co.za'; 'Ndlovu@ndvlaw.co.za'
Cc: Langeberg Municipality; Kobus Brand; Maynard Johnson; Joliza Swanepoel; MM
Subject: DOCUMENTS AVAILABLE RE: APPEALS: PTN 6 OF THE FARM MIDDELBURG 10, ROBERTSON
Attachments: Standard Procedure for Access to Documentation for Appeals_79 LLUP_2015.docx

Good day,

Further to the emails below, please be advised that no Provincial comments have been received within the 60 day commenting period.

In terms of Section 81(6) of the Langeberg Land Use Planning Bylaw, 2015 you are hereby advised that all files relating to the above land use application are available at the Langeberg Municipal offices in Montagu, for inspection and final comment, if any, within 14 days from the date of your receipt of this email.

Please contact me should you have any queries in this regard.

Regards,

Tracy Brunings Pr.Pl. A/951/1997
 PROFESSIONAL TOWN AND REGIONAL PLANNER
 TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720
 Tel: 023 614 8001 Faks: 023 614 1841

tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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From: Tracy Brunings
Sent: Tuesday, 14 January 2020 4:42 PM
To: Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za) <hannes@jpdubois.co.za>; 'Christo Reeders' <christo.reeders@crattorneys.co.za>; 'gerberpa@vodamail.co.za' <gerberpa@vodamail.co.za>; 'gerberl@vodamail.co.za' <gerberl@vodamail.co.za>; 'Sibonelo Ndlovu' <Ndlovu@ndvlaw.co.za>
Cc: Langeberg Municipality <admin@langeberg.gov.za>
Subject: FW: APPEAL: LAND USE PLANNING DECISION IN RESPECT OF PTN 6 OF THE FARM MIDDELBURG, ROBERTSON

Good day,

Below please find a copy of an email sent on 20 December 2019, which may not have reached all recipients due to technical problems with the municipal server on 20 December 2019.

Regards,

Tracy Brunings

From: Tracy Brunings

Sent: Friday, 20 December 2019 12:47 PM

To: Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za) <hannes@jpdubois.co.za>; 'Christo Reeders' <christo.reeders@crattorneys.co.za>; 'gerberpa@vodamail.co.za' <gerberpa@vodamail.co.za>;

'gerberl@vodamail.co.za' <gerberl@vodamail.co.za>; 'Sibonelo Ndlovu' <Ndlovu@ndvlaw.co.za>

Cc: Langeberg Municipality <admin@langeberg.gov.za>; Kobus Brand <KBrand@langeberg.gov.za>; Maynard Johnson <MJohnson@langeberg.gov.za>

Subject: FW: APPEAL: LAND USE PLANNING DECISION IN RESPECT OF PTN 6 OF THE FARM MIDDELBURG, ROBERTSON

Good day,

Your appeal has reference.

Attached herewith please find information relating to the standard procedure followed in terms of making documentation available to all parties. Please note that the Municipality has requested comment from the Provincial Minister. In terms of Section 81(6) of the Langeberg Land Use Planning Bylaw, you will be notified as soon as all relevant documentation is available. Such documentation, including all reports to the Tribunal relating to this application, will then be made available at the Langeberg Municipal offices for inspection and comment, if any. 

Please be advised that the Langeberg Municipal offices close at 13h00 on 20 December 2019, and re-open on Monday 6 January 2020.

Regards,

Tracy Brunings Pr.Pl. A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



"People at the centre of Development"

3 Piet Retief Street, MONTAGU 6720

Tel: 023 614 8001 Faks: 023 614 1841

 tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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Tracy Brunings

From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Wednesday, 12 February 2020 3:22 PM
To: Tracy Brunings
Subject: Read: DOCUMENTS AVAILABLE RE: APPEALS: PTN 6 OF THE FARM MIDDELBURG
10, ROBERTSON
Attachments: ATT00001

From: Tracy Brunings
Sent: 14 February 2018 04:12 PM
To: 'Anna-Christa Redelinghuys'
Subject: REQUEST FOR FURTHER FEES IN TERMS OF THE LANGBERG LAND USE PLANNING BYLAW, 2015
Attachments: APPLICATION FEES AND BANK DETAILS 2017_2018.pdf

Hello Anna-Christa

1. I refer to your application with regard to the following:

Application Type	: Rezoning to Industrial II (Abattoir Compost Facility)
Property description	: Ptn 6 of the farm Middelburg 10, Robertson RD
Application dated	: 10 October 2017
Date received by Municipality	: 24 October 2017
Applicant's reference	:
Langeberg's reference	: 15/4/12/5 & 7 Middelburg 10, Rob Rd

2. Based on a site visit on 6 February 2018, it is noted that the Abattoir Composting Facility has already commenced prior to approval. Accordingly, this Municipality requires the following penalty fee to be submitted within 30 days of the date of this letter:

Penalty Fee of R2589.00 given that the Abattoir Composting Facility has already commenced prior to approval.

3. Arrangements can be made, prior to the 30 days lapsing, for a further period agreed upon with the Municipality for the submission of the required additional fee.
4. Kindly note that your application will not be further considered until such fee has been paid.
5. Further, please note that the lodging of the application, and the payment of the penalty fee does not grant the right to commence or continue with the activity.

Regards

Tracy Brunings Pr.PlN A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



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3 Piet Retief Street, MONTAGU 6720
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BIODIVERSITY MAP: FARM 6/10 MIDDELBURG

"gg"



Legend

BSP ESA: Restore

- ESA2: Restore from plantation or high density IAP
- ESA2: Restore from other land use
- ESA2: Restore where appropriate (CT)

BSP ESA

- ESA: Aquatic
- ESA: Terrestrial

BSP CBA: Degraded

- CBA2: Aquatic
- CBA2: Terrestrial

BSP CBA

- CBA: Terrestrial

CBA: Terrestrial (CT)

- CBA: Forest
- CBA: River
- CBA: Estuary
- CBA: Wetland
- CBA: Aquatic (CT)
- Other Natural Area

BSP Protected Areas

0 0.035 0.07 0.14 km

Scale: 1:2 117

Date created: February 23, 2018

934.



Western Cape Government

Agriculture

Legislative Provisions: "hh"
Assessment of impact of flies & colour

STAATSKOERANT, 11 OKTOBER 2013

No. 36904 9

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. 747

11 October 2013

**NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004
(ACT NO. 39 OF 2004)**

REGULATIONS PRESCRIBING THE FORMAT OF THE ATMOSPHERIC IMPACT REPORT

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby publish the Regulations prescribing the format of the Atmospheric Impact Report, in terms of section 53(o) read with section 30 of the National Environmental Management : Air Quality Act, 2004 (Act No. 39 of 2004), set out in the Schedule hereto.


BOMO EDITH EDNA MOLEWA
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

5 IMPACT OF ENTERPRISE ON THE RECEIVING ENVIRONMENT

5.1 Analysis of Emissions' Impact on Human Health

In order to assess the atmospheric impact of the facility on human health a dispersion modelling exercise must be undertaken. Any dispersion modelling study undertaken as part of an Atmospheric Impact Report must be done in accordance with the National Air Quality Modelling Guidelines specified for regulatory purposes – developed in terms of section 53 of AQA. The impact assessment should take the emissions of the facility under consideration as well as prevailing ambient air concentrations into account during this assessment. A compliance assessment must be undertaken using the national ambient air quality standards, specifically in residential areas and other areas where human exposure could occur.

5.2 Analysis of Emissions' Impact on the Environment

In order to assess the atmospheric impact of the facility on the environment a dispersion modelling exercise may be undertaken at the discretion of an Air Quality Officer. Any dispersion modelling study undertaken as part of an Atmospheric Impact Report must be done in accordance with the national air quality modelling guidelines specified for regulatory purposes. The impact assessment should take the emissions of the facility under consideration into account as well as prevailing ambient air concentrations during this assessment. An environmental assessment may include but is not limited to the following aspects:

- (a) Soil;
- (b) Water Bodies (rivers, dams, lakes); and
- (c) Commercial Agriculture Operations

6 COMPLAINTS

Provide details on any complaints the plant has received in respect of air pollution in the last 2 years. The summary of complaints must detail the frequency, nature and source of the complaint as well as all measures taken in response to these complaints.

Tracy Brunings

" i i "

①

Subject: FW: FW: ABATTOIR COMPOSTING FACILITY BETWEEN WORCESTER AND ROBERTSON: PTN 6 OF MIDDELBURG 10, ROBERTSON

From: Les Mitchell [mailto:les@peacecaravan.co.za]

Sent: Sunday, 23 February 2020 8:57 PM

To: Tracy Brunings <tbrunings@langeberg.gov.za>

Subject: Re: FW: ABATTOIR COMPOSTING FACILITY BETWEEN WORCESTER AND ROBERTSON: PTN 6 OF MIDDELBURG 10, ROBERTSON

Hi Tracy,

The whole story of using the body parts from animals for various things is a cause for concern. A number of diseases may be transmitted and ones which are extremely worrying are those caused by prions such as BSE, scrapie and CJD.

"Scrapie is a transmissible spongiform encephalopathy (TSE) affecting sheep and goats (1), as is Creutzfeldt-Jakob disease (CJD) in humans or bovine spongiform encephalopathy (BSE) in cattle. Moreover, scrapie is contagious in natural conditions (2). Though genetic determinism is a major feature of scrapie, the infectious agent is nonetheless needed for the disease to develop (3,4)."

"In sheep infected with scrapie, the infectious agent is widely distributed in the organism. In particular, the gut-associated lymphoid tissues and the placenta are considered highly important in spreading the disease (8) and can contaminate the environment (9). Because feed is considered to be the main, if not the only, contamination source of BSE in cattle (10,11), it can also be presumed to be a potential risk factor for scrapie in sheep."

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3320489/>

Given that this feedlot is a mere 100m away from the composting operation (?outdoors) it is hardly likely that it will remain uncontaminated by the products of the facility. This being the case I would say there are real causes for concern in regards to the possibility of infection of the sheep and then possibly of humans.

In addition the composting process will not be able to eradicate any of those possible pathogens mentioned above and so how will it be safe for humans to use.

This is a public health matter and I think the relevant public health inspectors might be called upon. I would be extremely concerned if the products from the slaughterhouse are not treated to make them completely safe (not an easy thing to do)

This article gives a comprehensive overview <https://en.wikipedia.org/wiki/Scrapie>

Let me know if you need more info

Stay well,

Les

Dr Les Mitchell

Hunterstoun Research Fellow, University of Fort Hare

Fellow of the Oxford Centre for Animal Ethics

On 21/02/2020 10:20, Tracy Brunings wrote:

Good day,

937.

I would appreciate your opinions or reference to relevant literature with regard to the following matter:

The Langeberg Municipal Planning Tribunal recently refused an application for a sheep feedlot on a farm between Worcester and Robertson, which farm is also being used as an abattoir waste treatment facility which produces compost. The composting process involves the use of all products from the Robertson abattoir (see attached waste figures), including whole animals in some instances, together with wood chips. Attached is the decision letter and plan showing the development which is proposed. One of the reasons given for the refusal of the feedlot is:

8. Raising live sheep in a feedlot some 100m from a compost facility where dead animals and animal waste is being dumped and treated, with associated flies and odours, is not deemed to be desirable. In addition to ethical concerns, no proof has been provided that this is desirable in terms of the implications for food quality and food safety.

The applicant has appealed this decision and *inter alia*, has argued that there is no evidence to support the view that it is undesirable to place a feedlot near the abattoir waste treatment site.

One key question which we need to answer is: does the above concern have any scientific basis in terms of fear / negative reactions of sheep to smells of blood / abattoir waste?

Many thanks,

Tracy Brunings Pr.Pl. A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720

Tel: 023 614 8001 Faks: 023 614 1841

✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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

From: Montagu [<mailto:scans@langeberg.gov.za>]

Sent: 17 January 2019 11:32 AM

To: Tracy Brunings <tbrunings@langeberg.gov.za>

Subject:

Scanned from MFP12069158

Date: 17/01/2019 09:31

Pages: 2

Resolution: 200x200 DPI

Montagu Town Planning 1

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From: Aliza Le Roux <LeRouxA3@ufs.ac.za>
Sent: Tuesday, 25 February 2020 5:42 AM
To: Tracy Brunings
Subject: Re: ABATTOIR COMPOSTING FACILITY BETWEEN WORCESTER AND ROBERTSON: PTN 6 OF MIDDELBURG 10, ROBERTSON
Attachments: Abattoir Waste Management Guide_A5 Mini Guide_Web.pdf; Review of abattoir waste management.pdf

Dear Tracy,

Sorry for the empty reply just now.

I've had a look at some information on abattoir waste and animal responses but unfortunately could not find any research showing a link between the smells of waste/blood and fear response. I have to say, from a cognitive standpoint, it makes sense – there is no intrinsic reason to be afraid of blood; fear is a learned response in this case. So, it depends on the past experience of the animals in question. If they have been exposed to the sound of fear/distress coupled with the smells of blood/ meat, they will quickly learn to associate the two things and become stressed themselves when exposed to the same smells. So, if they are close to a slaughterhouse themselves and can hear/see what's going on, they will learn to associate the by-products with threat. And they could become chronically stressed. But not without prior associations being formed and reinforced first.

I can point out that waste management has to be done properly for reasons of general hygiene and environmental health, but if the composting facility meets all the standards (attached), I'm not sure there is much you can say against it.

Best wishes,
 Aliza

Aliza le Roux (PhD)

*Assistant Dean: Natural and Agricultural Sciences
 Associate Professor: Zoology and Entomology
 University of the Free State – Qwaqwa
 Ph: +27 58 718 5327
 mail: lerouxa3@ufs.ac.za / leroux.aliza@gmail.com
 Twitter: @alizaLR*

From: Tracy Brunings <tbrunings@langeberg.gov.za>
Date: Friday, 21 February 2020 at 10:27
To: "avoice@yebo.co.za" <avoice@yebo.co.za>, Aliza Le Roux <LeRouxA3@ufs.ac.za>, "les@peacecaravan.co.za" <les@peacecaravan.co.za>
Subject: FW: ABATTOIR COMPOSTING FACILITY BETWEEN WORCESTER AND ROBERTSON: PTN 6 OF MIDDELBURG 10, ROBERTSON

Good day,

I have been given your contact details
 literature with regard to the following matter:

I would appreciate your opinions or reference to relevant

The Langeberg Municipal Planning Tribunal recently refused an application for a sheep feedlot on a farm between Worcester and Robertson, which farm is also being used as an abattoir waste treatment facility which produces compost. The composting process involves the use of all products from the Robertson abattoir (see attached waste

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One key question which we need to answer is: does the above concern have any scientific basis in terms of fear / negative reactions of sheep to smells of blood / abattoir waste?

Many thanks,

Tracy Brunings Pr.Pl. A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720

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To: Tracy Brunings <tbrunings@langeberg.gov.za>

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The mini guide to the Management of Abattoir Waste



BETTER TOGETHER.

RedTape
Reduction

Tracy Brunings

Subject: FW: ABATTOIR COMPOSTING FACILITY BETWEEN WORCESTER AND ROBERTSON: PTN 6 OF MIDDELBURG 10, ROBERTSON

From: Louise van der Merwe [<mailto:avoice@yebo.co.za>]
Sent: Sunday, 23 February 2020 12:34 PM
To: Tracy Brunings <tbrunings@langeberg.gov.za>
Subject: RE: ABATTOIR COMPOSTING FACILITY BETWEEN WORCESTER AND ROBERTSON: PTN 6 OF MIDDELBURG 10, ROBERTSON

Dear Tracy,

My own experience is that animals smell blood – even if it is out of sight and some distance away - and the smell of blood disturbs them. They become wary, fearful, agitated, and stop eating, looking all around, sniffing the air, as if preparing to bolt if necessary, and it takes them several hours to settle down after the smell has gone.

As Compassion in World Farming's representative in South Africa, I dispute the claim that there is no evidence to say it is undesirable to place a feedlot next to an abattoir waste treatment site. If there are dead animals being processed right next to a feedlot, there is no guarantee that the waste from the processing plant will **not** get into the feedlot and endanger animal health and welfare. If the wind blows from the processing plant to the feedlot, contamination will surely be unavoidable?

I believe the onus should be on the applicant to provide proof that the waste poses no risk to the animals in the feedlot – not to their health and not to their welfare.

I hope this helps.

Kind regards,

Louise

Louise van der Merwe

SA Representative: Compassion in World Farming

Cell: 082 457 9177



CARING
CLASSROOMS



COMPASSION
in world farming



The Humane Education Trust is a registered charitable trust

P O Box 825, Somerset West, 7129, South Africa

Tel: (021) 852 8160 Email: avoice@yebo.co.za; Cell: 082 457 9177

Websites: www.caringclassrooms.co.za; <http://animalvoiceacademy.org/>; www.animalvoice.org

From: Tracy Brunings [<mailto:tbrunings@langeberg.gov.za>]

Sent: Friday, 21 February 2020 10:20

To: avoice@yebo.co.za; leroux3@ufs.ac.za; les@peacecaravan.co.za

Subject: FW: ABATTOIR COMPOSTING FACILITY BETWEEN WORCESTER AND ROBERTSON: PTN 6 OF MIDDELBURG 10, ROBERTSON

Good day,

I would appreciate your opinions or reference to relevant literature with regard to the following matter:

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Many thanks,

Tracy Brunings Pr.Pl. A/951/1997

PROFESSIONAL TOWN AND REGIONAL PLANNER

TOWN PLANNING DEPARTMENT



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Montagu Town Planning 1

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Tracy Brunings

(WULA) & DAMS.

From: Tracy Brunings
Sent: Monday, 06 May 2019 10:36 AM
To: Elkerine Rossouw (erossouw@bgcma.co.za)
Subject: FW: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE MANAGEMENT SITE: COMPOST FACILITY
Attachments: SAFAM response to Tribunal's Info Request_April 2019.pdf

Hello Elkerine,

Re. the attached reply from SAFAM to the Langeberg Mun Planning Tribunal, could you assist in clarifying whether or not there are water use applications with BGCMA for the above property. The EIA referred to a WULA. But the attached letter states that no WULA has been made?

Also, is BGCMA involved in DEA&DP's investigations ^(see attached emails) into the alterations of the 2 dams in the MCA on this farm?

Please advise if I must address these questions to someone else.

Many thanks,

Tracy Brunings Pr.Pl. A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720
Tel: 023 614 8001 Faks: 023 614 1841

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Tracy Brunings

Subject: FW: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE MANAGEMENT SITE: COMPOST FACILITY

From: Elkerine Rossouw [mailto:erossouw@bgcma.co.za]
Sent: Thursday, 09 May 2019 8:56 AM
To: Coreen Rautenbach <CRautenbach@bgcma.co.za>; Tracy Brunings <tbrunings@langeberg.gov.za>
Subject: RE: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE MANAGEMENT SITE: COMPOST FACILITY

Hi Tracy,
So the email below just indicates that they are in the process of uploading the initial information on the system. I am not sure if the increase in capacity of the dams will be included at this stage. We will request some detail as to where additional water is coming from and if in-stream a freshwater specialist comment. I will ask the person specifically in this case to request comment from the Municipality.

Kind Regards,

Elkerine Rossouw

Water Use Specialist
Email: erossouw@bgcma.co.za
Tel: 023 3468000



BREED-GOURITZ
CATCHMENT MANAGEMENT AGENCY

From: Coreen Rautenbach
Sent: 07 May 2019 03:35 PM
To: Elkerine Rossouw
Cc: Tracy Brunings
Subject: RE: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE MANAGEMENT SITE: COMPOST FACILITY

Elkerine,

Application on e-WULAAS:

South African Farm Assured Meat
Group cc - Compost Facility -
Robertson

Region: Breede Gouritz Ref No: WU11365
- Worcester
Current Official/Cilent: Filing No:
Mrs Lauren Abrahams

**Capture
Status: Pending**

**Current status: Applicant : Prepares
Application for Submission (Phase
1)**

164.151.129.107/ewulasprod/...
 Not secure | 164.151.129.107/ewulasprod/MasterPageInternalUser.aspx
 Mrs Coreen Rautenbach (WUA/WUAAAC Administrator) - DWS
 Reports Applications Logout
 e-WULAAS - Water Use Licence Application
 South African Farm Assured Meat Group cc Compost Facility - Robertson Applicant: Prepares Application for Submission (Phase 1) Mrs Lauren Abrahams
 Your Signature ROR WUL Guideline User Manual Policies WARMS Data
 1 - Verify / Capture Application Info 2 - Site Inspection & Tech. Report Requirements 3 - Assess Tech. Report 4 - Finalise Tools / Scans / Uploads
 Status Assessor Internal Docs Signed Copies e-Mails / SMS Record Map Request for Extension Validate Registration Forms Warms Export Status Warms Integration User Manual
 APPROVAL STATUS
 Current Status: Applicant: Prepares Application for Submission (Phase 1)
 Duration: Day 0 of 300
 Days Overdue: -300 Days
 Select the new Status Update Status

Description	Updated By	Days Allocated	Duration in Days	Days Overdue	From Date	To Date
Applicant: Prepares Application for Submission (Phase 1)	Mrs Elkerine Rossouw	1	76	0	Feb 20 2019 10:36AM	May 7 2019 3:35PM
Pre-Application - Assessor - Authorisation Process to be determined	Mr John Sibanyoni	1	17	0	Feb 3 2019 8:37PM	Feb 20 2019 10:36AM
Submitted - Applicant: Pre-Application - WUL Manager - Assign Assessor	Mrs Lauren Abrahams	1	4	0	Jan 30 2019 10:17AM	Feb 3 2019 8:37PM
Applicant: Prepares Pre-Application Enquiry for Submission	Mrs Lauren Abrahams	0	1	0	Jan 29 2019 11:40AM	Jan 30 2019 10:17AM

Regards 

Coreen

From: Elkerine Rossouw
Sent: 07 May 2019 01:47 PM
To: Coreen Rautenbach
Cc: Tracy Brunings
Subject: FW: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE MANAGEMENT SITE: COMPOST FACILITY

Coreen
 Can you see on ewulas if there is an licence application in process?

Kind Regards,

Elkerine Rossouw
 Water Use Specialist
 Email: erossouw@bgcma.co.za
 Tel: 023 3468000

12 April 2019

Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON
6715

For attention: Tracy Brunings

**PROPOSED REZONING AND CONSENT USE ON PTN 6 OF THE FARM MIDDELBURG NO 10, DISTRICT
ROBERTSON: OUTSTANDING INFORMATION REQUESTED**

Your letter dated 22 February 2019 refers.

With reference to Item 2 of your letter, the following comments:

The Waste Management License and EIA application have not been approved due to the investigation regarding possible illegal uses in terms of Section 24G of NEMA, and not because of lacking of adequate information.

The matter is currently under appeal with the Western Cape Minister of Environmental Affairs.

No application has been made for a water use licence in relation to the compost facility of feedlot.

As the water use is in limits (< 1000m³ storage of waste water) and conditions as set out in the general authorisation in terms of Section 3.1 of Regulation No 665 of 6 September 2013, the collection dam on the SDP has only been registered in terms as water use Section 21(g) of the National Water Act "*disposing of waste in a manner which may detrimentally impact on a water resource*".

The "*clean collection dam*" on the SDP is merely a clean dam to receive clean storm/run off water with no "*wastewater*" and therefore requires no registration.

Tracy Brunings

From: Anna-Christa Redelinghuys <annachris@mweb.co.za>
Sent: Tuesday, 02 October 2018 11:46 AM
To: Tracy Brunings
Subject: FW: Middelburg
Attachments: letter to Mun re additional info required.pdf; SITE PLAN 28 Sept 2018.pdf

Hi Tracy

I have just spoken to Lauren from Eco Impact – she says the status of the WULA is still the same.

Regards

Anna-Christa

From: Anna-Christa Redelinghuys [mailto:annachris@mweb.co.za]
Sent: 02 October 2018 10:12 AM
To: 'Tracy Brunings'
Subject: Middelburg

Hallo Tracy

Please see attached.

Regards,

Anna-Christa Redelinghuys
PrPln A/1076/1998
UMSIZA Planning

No 2 Rose Gate, ROBERTSON
Box 649, ROBERTSON, 6705
Tel: (023) 626 1506
Mobile: 082 825 9891
Fax: 086 617 9318

Tracy Brunings

DEADP - Investigation of
dam i.t.o. NEMA

From: Fahd Said <Fahd.Said@westerncape.gov.za>
Sent: 24 May 2018 02:36 PM
To: Tracy Brunings
Cc: Elkerine Rossouw (erossouw@bgcma.co.za); Etienne A Roux; Dmitri C Matthews
Subject: RE: Unauthorised dam at Middelburg Farm, Robertson

Afternoon Tracy

We are dealing with the complaint regarding the alleged illegal expansion of a dam.

Our Directorate has issued the alleged offender (Reben Trust) with a Compliance Notice and Directive for the expansion of the dam on the property.

It was only recently brought to my attention by Mr Matthews (Cc'd in this email) that an application for a composting facility had been submitted to the Department. However it would seem as though the composting facility has exceed the threshold in terms of the NEMA. Further information was requested which was not forthcoming. As a result the time on the application lapsed and the application is or will be withdrawn (Mr Matthews can correct me if I'm wrong).

This is the first time I hear about a feedlot also wanting to be established. Mr Matthews is busy scheduling a site inspection for next month where we will look at the new alleged illegal activities.

I will keep you updated on the progress of this case.

Regards
Fahd Said

From: Tracy Brunings [mailto:tbrunings@langeberg.gov.za]
Sent: Thursday, 24 May 2018 14:15
To: Fahd Said <Fahd.Said@westerncape.gov.za>
Cc: Elkerine Rossouw (erossouw@bgcma.co.za) <erossouw@bgcma.co.za>; Etienne A Roux <Etienne.Roux@westerncape.gov.za>
Subject: FW: Unauthorised dam at Middelburg Farm, Robertson

Hello Fahd,

I refer to the email correspondence below. Please could you copy us in to correspondence regarding this matter. We are currently processing an application on the same farm for a feedlot and composting facility. Water supply for these land uses, and therefore the status of the dams, is a relevant consideration in our assessment of this application.

Many thanks,
Tracy Brunings Pr.Pl. A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



"People at the centre of Development"

3 Piet Retief Street, MONTAGU 6720

Tel: 023 614 8001 Faks: 023 614 1841

✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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From: Hanneré Jooste [<mailto:hannere@gmail.com>]

Sent: 23 May 2018 01:12 PM

To: RudolphR@elsenburg.com; Tracy Brunings; tertia@netactive.co.za; Boothway, Gareth; jacquesm@netactive.co.za; gerberl@vodamail.co.za; 308win@hotmail.co.za; Christo Reeders; Bobby Jordan; Bev Havenga; Jackie; Mossie Basson; Le Roux Fourie; Johan & Marié Fourie; cclaassen@capenature.co.za; gmortimer@capenature.co.za; Nellis Grobbelaar; Ernst Botha; Johan Du Preez

Subject: Fwd: Unauthorised dam at Middelburg Farm, Robertson

----- Forwarded message -----

From: Fahd Said <Fahd.Said@westerncape.gov.za>

Date: Wed, 23 May 2018 at 12:46

Subject: Unauthorised dam at Middelburg Farm, Robertson

To: hannere@gmail.com <hannere@gmail.com>

Afternoon Mrs Jooste

I'm the administrative investigator from the Department of Environmental Affairs and Development Planning that is dealing with the expansion of a dam on Farm Middleburg.

Our Department has issued the alleged offender with letters indicating that the activities are regarded as being illegal.

If the alleged offender fails to respond to our letters I will refer this matter to our criminal unit to proceed with a criminal investigation which may result in the matter being handed over to the National Prosecuting Authority for possible prosecution.

If you have any other question please feel free to contact me.

Regards

Fahd Said

Senior Administrative Investigator

"kk"

Tracy Brunings

Subject: FW: Enquiry: MIDDELBURG FARM
Attachments: FW: Farm Middelburg 10_0 Robertson; FW: Farm Middelburg 10_0 Robertson

From: Anna-Christa Redelinghuys [mailto:annachris@mweb.co.za]
Sent: 14 February 2018 04:58 PM
To: Tracy Brunings
Subject: FW: Enquiry: MIDDELBURG FARM

Hallo Tracy

Jou mail onder verwys, spesifiek na die damme op die plaas Middelburg (in geel gemerk).

Ek het in 2013 navrae beantwoord na Dept Waterwese oor die damme op die plaas Middelburg – sien aangeheg.

Geen verdere reaksie is tot op hede op hierdie e-posse ontvang nie.

Sien ook onder vanaf Lauren asb.

Groete

Anna-Christa

From: Lauren Abrahams [mailto:lauren@ecoimpact.co.za]
Sent: 14 February 2018 04:15 PM
To: 'Anna-Christa Redelinghuys'
Subject: RE: Enquiry: MIDDELBURG FARM

Hi Anna-Christa,

My apologies for the late reply.

We are not aware of any work on the existing dams on this farm as this has not been included in our scope of work for which the Environmental Authorisation is applied for.

We have received feedback from BGCMA – however we have responded to their queries with the information that you provided to us by yourself (attached for reference).

I hope that this helps.

Kind regards,

Lauren Abrahams

eco
impact

Eco Impact Legal Consulting (Pty) Ltd

Reg: 2010/015546/07

P.O. Box 45070

Claremont

South Africa

7735

Office: +27 (0) 21 671 1660

Fax: +27 (0) 21 671 9976

Email: lauren@ecoimpact.co.za

Web: www.ecoimpact.co.za

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951.

Annexure 16

Reports on flies and odours: Site Inspections
by Departmental officials (DEA&DP,
CWDDM, VPH).

Annelize Mohammed

From: Tracy Brunings
Sent: 29 January 2019 10:20
To: Annelize Mohammed
Subject: FW: FW: Compost Facility
Attachments: FW: MIDDELBURG KOMPOSTERING AANLEG - BYWONINGS REGISTER \\
COMPOSTING PLANT - ATTENDANCE REGISTER; FW: MIDDELBURG
KOMPOSTERING AANLEG

From: ST McLean [mailto:smcclean@capewinelands.gov.za]
Sent: 25 January 2019 10:38
To: Najah Ben Jeddou <Najah.BenJeddou@westerncape.gov.za>
Cc: Tracy Brunings <tbrunings@langeberg.gov.za>; Fahd Said <Fahd.Said@westerncape.gov.za>; Surene Grootboom <surene@capewinelands.gov.za>; Jacques van Zyl <jacques@capewinelands.gov.za>
Subject: RE: FW: Compost Facility

Good morning Najah,

Attached for your information.

From: Najah Ben Jeddou <Najah.BenJeddou@westerncape.gov.za>
Sent: Wednesday, 16 January 2019 15:11
To: ST McLean <smcclean@capewinelands.gov.za>
Subject: FW: FW: Compost Facility

Hi Steven, I received these docs today. It might be useful to read.

From: Najah Ben Jeddou DEAD P
Sent: Wednesday, 16 January 2019 14:47
To: ST McLean <smcclean@capewinelands.gov.za>
Subject: RE: FW: Compost Facility

Hi Steven, I wouldn't classify the flies to be excessive. It seems normal for a composting facility, especially from where I stood close to the composting activities.

For the odours, I personally think is bad. But I see the workers on site weren't wearing a masks. I guess it depends from a person to another.

From: ST McLean [mailto:smcclean@capewinelands.gov.za]
Sent: Wednesday, 16 January 2019 14:15
To: Najah Ben Jeddou <Najah.BenJeddou@westerncape.gov.za>
Subject: RE: FW: Compost Facility

Thank you for your notes as below Najah, hope to meet you next time round

Do you categorise the flies as excessive?

Odours as abhorrent or manageable as per your perception during the inspection.

From: Najah Ben Jeddou <Najah.BenJeddou@westerncape.gov.za>
Sent: Wednesday, 16 January 2019 12:30
To: ST McLean <smcclean@capewinelandsgov.za>; Fahd Said <Fahd.Said@westerncape.gov.za>
Cc: Tracy Brunings <tbrunings@langeberg.gov.za>
Subject: RE: FW: Compost Facility

Good day everyone

Thanks Steven for the below information and for visiting the site yesterday, and apologies I have missed you on site.

Just an update on our findings of the site inspection conducted at Middelburg Composting Plant.

There were flies inside the facility by the shed and, there was more as we moved closer to the composting area by the windrows. Bad smell was also experienced inside the facility, and as we went closer to the composting activities and windrow.

I have attached photos of the area where we stood and experience flies and bad odour, and photo of one of the employees with some flies on.

Steven, as you have suggested yesterday, it would be best if the air quality guys from the municipality go to the facility and do their assessment /measurements of the air inside to determine whether the odour is above or under the acceptable level. As I have explained, we don't deal with air quality issues.

Kind regards
Najah

From: ST McLean [<mailto:smcclean@capewinelandsgov.za>]
Sent: Wednesday, 16 January 2019 09:14
To: Fahd Said <Fahd.Said@westerncape.gov.za>
Cc: Tracy Brunings <tbrunings@langeberg.gov.za>; Najah Ben Jeddou <Najah.BenJeddou@westerncape.gov.za>
Subject: FW: FW: Compost Facility

Good morning,

MIDDELBURG COMPOSTING PLANT - VINKRIVIER - ROBERTSON

For your attention and notice please. Comments from adjacent farm to the composting plant.

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

From: Chanelle.KEYSER@actom.co.za <Chanelle.KEYSER@actom.co.za>
Sent: Wednesday, 16 January 2019 08:57
To: ST McLean <smcclean@capewinelandsgov.za>
Cc: Jacques van Zyl <jacques@capewinelandsgov.za>; Surene Grootboom <surene@capewinelandsgov.za>
Subject: RE: FW: Compost Facility

Good morning,

The conditions have not changed and there is nothing to complain about from our side.

Thanks
Chanelle

From: ST McLean <smcclean@capewinelandsgov.za>
To: "Chanelle.KEYSER@actom.co.za" <Chanelle.KEYSER@actom.co.za>
Cc: Surene Grootboom <surene@capewinelandsgov.za>, Jacques van Zyl <jacques@capewinelandsgov.za>
Date: 2019/01/09 08:44 AM
Subject: RE: FW: Compost Facility

Good morning,

Just a follow up on conditions as below would be appreciated. Status quo?

From: Chanelle.KEYSER@actom.co.za <Chanelle.KEYSER@actom.co.za>
Sent: Monday, 19 November 2018 15:35
To: ST McLean <smcclean@capewinelandsgov.za>
Subject: Re: FW: Compost Facility

Good day,

We are the closest neighbours to the compost facility and can honestly say that we do not experience any bad smells or odours from the compost facility. The last couple of months we have noticed an increase of fly activity, however when we spoke with the locals we came to realise that it is quite common for flies to increase during drought stricken months and higher temperatures. Also bear in mind that there are live stock on the farm which is also contributing to flies and not necessarily the compost which they are making. It is therefore a difficult thing to answer.

Should the situation ever change we will come in contact with you.

Regards,
[redacted] n and Chanelle Keyser
082 579 8592
083 455 3968

From: ST McLean <smcclean@capewinelandsgov.za <<mailto:smcclean@capewinelandsgov.za>> >
To: "Chanelle.KEYSER@actom.co.za" <<mailto:Chanelle.KEYSER@actom.co.za>> " <Chanelle.KEYSER@actom.co.za>
<<mailto:Chanelle.KEYSER@actom.co.za>> >
Date: 2018/11/19 01:52 PM
Subject: FW: Compost Facility

Good afternoon Mr & Ms Keyser,

This Department is currently investigating a complaint received regarding excessive fly activity and odours\ stench in the area. It would be appreciated if you have any problems relating to the said problems, to bring it to our attention and to what scale the nuisance(s) currently are being experienced.

Steven McLean
Environmental Health Practitioner
Cape Winelands District Municipality

G 40 Van Reenen Street, Robertson, 6705,
* 023 626 8324
*
* 086 234 0968
* smcclean@capewinelands.gov.za <<mailto:smcclean@capewinelands.gov.za>>
* www.capewinelands.gov.za <<http://www.capewinelands.gov.za/>>

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Steven McLean
Environmental Health Practitioner
Cape Winelands District Municipality

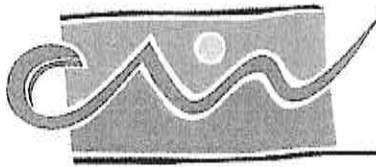
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U VERW/OUR REF/REF YAKHO:
ONS VERW/OUR REF/REF YETHU:

Mr S T McLean
023 626 8324

van Reenensstraat 40 Street
51
ROBERTSON
6705

Attendance register

MIDDELBURG COMPOSTING PLANT SITE MEETING 22 JANUARY 2019

Name	Organization represented	email address	contact number	Signature
M. Engelbrecht	CWDM Air Pollution	marula@capewineland.gov.za	021 888 5811	
ST McLean	CWDM Health	smcclean@capewineland.gov.za	023 626 8324	
J van Zyl	CWDM Health & Air Pollution	jacques@capewineland.gov.za	023 626 8313	
D. van Schalkwyk	Langeberg Mun. Air Pollution	dvanschalkwyk@langeberg.gov.za	023 626 8200	
J. Swanepoel	Veterinary Services	jannies@elsenburg.com	082 907 1128	
DA Houghlen	SAFAM	dawide@robah.co.za	082 579 583	
J. Ludick	SAFAM	Voerkwaal@robah.co.za	0794850986	

TIME: 09H30 - 10H30

ESTIMATED DAY TEMPERATURE: 32°C.

Alle korrespondensie moet aan die Munisipale Bestuurder gerig word/
All correspondence to be addressed to the Municipal Manager/Yonke imbalelwano mayithunyelwe kuMlawuli kaMasipala
Telefoon/Telephone/Umnxeba: 0861 265 263 • E-pos/E-mail/E-mail: admin@capewineland.gov.za • Faks/Fax/IFEKSI: 023 342 8442

Annelize Mohammed

From: Dave Van Schalkwyk
Sent: 22 January 2019 11:33
To: ST McLean
Subject: FW: MIDDELBURG KOMPOSTERING AANLEG - BYWONINGS REGISTER \\
COMPOSTING PLANT - ATTENDANCE REGISTER

From: Dave Van Schalkwyk <DvSchalkwyk@langeberg.gov.za>
Sent: Tuesday, 22 January 2019 11:24
To: ST McLean <smcclean@capewinelands.gov.za>
Subject: RE: MIDDELBURG KOMPOSTERING AANLEG - BYWONINGS REGISTER \\
COMPOSTING PLANT - ATTENDANCE REGISTER

Hi Steven

Inspection carried out with other individuals as per attendance register, on the 22 January 2019, from approximately 09h30 to 10h30, refers.

During the period at the compost site the following was encountered;

- No odours were smelt.
- Minimal fly activity, if fact no flies were observed in some of the fly traps placed on the boundary fence.
- The site was operated in a clean and orderly fashion with no objectionable material visible.
- Wind rows were dry with no evidence of fly breeding

Thanks

Dave

From: ST McLean [<mailto:smcclean@capewinelands.gov.za>]
Sent: 22 January 2019 11:12
To: Marius Engelbrecht <mariuse@capewinelands.gov.za>
Cc: Dave Van Schalkwyk <DvSchalkwyk@langeberg.gov.za>; David Houghton <david@robab.co.za>; Swanepoel, Jannie <JannieS@elsenburg.com>; Jacques van Zyl <jacques@capewinelands.gov.za>; Surene Grootboom <surene@capewinelands.gov.za>
Subject: FW:MIDDELBURG KOMPOSTERING AANLEG - BYWONINGS REGISTER \\
ATTENDANCE REGISTER

Steven McLean
Environmental Health Practitioner
Cape Winelands District Municipality



40 Van Reenen Street, Robertson, 6705,



023 626 8324



086 234 0968

Subject:

FW: MIDDELBURG KOMPOSTERING AANLEG

Wie dit mag aangaan.

Tydens die inspeksie soos gehou op 22 Januarie 2019 om 10h30 is die volgende gevind op Middelburg Kompostering Terrein nl.

1. Tydens my inspeksie kon daar geen vliëe larwes in die kompos hope waargeneem word nie (die nuwe sowel as die ouer rye).
2. Daar was geen reuke teenwoordig van verder as 50 meter en nader tussen die rye was daar 'n ligte reuk van mis maar geen agresiewe stank kon waargeneem word nie.
3. Daar was bietjie vliëe teenwoordig maar niks uitermatig en die temperatuur was bo 30 grade selsuis.
4. Al die vliëe vangers was gevul met lokaas en was ook nie oorvol van vliëe.
5. Daar is rekord houdig van 'n spuit program wat daaglik 3 keer per dag plaasvind.

dit bleik te wees dat goeie bestuurs praktyk op die perseel toegepas word en alles moontlik gedoen word om oorlaste te beperk.

Die uwe

Jacques van Zyl

Omgewingsgesondheids Praktisyn/

Enviromental Health Practitioner

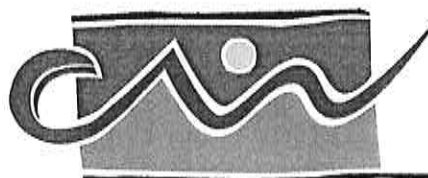
CWDM

Tel. 023 626 8313

Fax. 086 5553340

Sel. 082 920 9858

E – Mail jacques@capewineland.gov.za



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Steven McLean
023 626 8324
023 626 5059
smcclean@capewinelands.co.za
17/1/1/2/2 (8245829)

van Reenenstraat 40 Street
51
ROBERTSON
6705

2019-01-22

Chief Environmental Health Practitioner
Langeberg Region
Van Reenen Street,
ROBERTSON

Attention: Me Surene Grootboom

INSPECTION CONDUCTED IN TERMS OF SECTION 82 OF THE NATIONAL HEALTH ACT, 2003 (ACT 61 OF 2003);

INSPECTION REPORT, Middelburg Composting Plant, Agter Vink River, Robertson

~~During an inspection conducted on the above mentioned premises on 2019-01-22.~~

The following was found:

Complaint received regarding odours and excessive fly activity.

Inspection together with:

D. van Schalkwyk - Langeberg Municipality - Air quality officer;

M. Engelbrecht - CWDM - Air Pollution officer

J. van Zyl - CWDM - EHP - Incumbent snr EHP & Air Pollution officer;

J Swanepoel – Dept. of Veterinary Services

D Houghton - Abattoir

960.

J Ludick - composting plant manager.

* No excessive fly breeding \ activity on site at time of inspection (09h30 - 10h30) - 32 degrees C.

* Fly catching bags - half full and some empty;

* Fly spraying at time of inspection taking place;

* No odours experienced at entrance gate - approx. 50 m from site;

* Slight odours in rows - compost site - no stench;

Complaint unfounded at time of inspection.

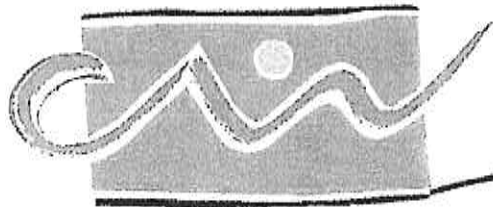
Awaiting reports from officials as mentioned in report to substantiate findings.

Yours faithfully



ST McLean
HEALTH OFFICER
for MUNICIPAL MANAGER

961.



CAPE WINELANDS DISTRICT

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MEMORANDUM TO : ENVIRONMENTAL HEALTH PRACTITIONER
MR STEVEN MCLEAN

OFFICIAL : AIR QUALITY OFFICER
MR M ENGELBRECHT 072 - 122 5680 .

REFERENCE NO. : 17/1/1/2/3 OR
021 - 8885811 .
(Stellenbosch)

DATE : 25 JANUARY 2019

COMMENTS ON THE SITE VISIT AT THE COMPOST FACILITY ON PORTION 6 OF FARM MIDDELBURG 10, ROBERTSON, LANGEBOEG MUNICIPALITY

With regards to a site visit at the Middelburg Compost facility on the 22nd of January 2019, refers.

A brief description on the utilisation of a portion of the Farm Middelburg was done by Mr. David Houghton. The facility was created to manage and dispose of the by-products from the Robertson Abattoir, as the municipal refuse facility no longer accept these by-products. The abattoir by-products are combined with green garden waste and kraal manure and stockpiled in low windrows, which, through a biological decomposition process converts the organic matter to provide a good quality compost. Temperature are monitored during the process of producing of compost these windrows to ensure the optimum breakdown of abattoir by-products are maintained. The process of producing compost were referred to as a dry process as no water are added during the process. The final product is sold to surrounding farmers as compost.

Abattoir by-products and wood chips are transported in skips and abattoir blood in a honey sucker to the facility. A fly control program was followed with the spraying of insecticides and the placement of flytraps. Mr Ludick is the full time site manager at this facility and are responsible for the receipt of the abattoir by-products, green waste and kraal manure, the forming of windrows and the management of these windrows to generate good quality compost.

Currently the facility handles a capacity below 10 tons per day and therefor do not require a waste license in terms of the Waste Act. The facility did however apply for Environmental Authorisation to obtain a waste license but DEA DP had not granted them with a license. The applicant will nevertheless continue with the process to obtain such a license in order to enlarge the current operation.

A site walk-about followed where windrows and opened to check for any breeding of flies.

The following was found on the portion of farm utilised as compost facility: -

- Stockpile of compost
- Stockpile of kraal manure
- Stockpile of what seemed to be off-gut wood strips
- Several windrows of compost in different stages of the composting process
- Vehicle used to turn the windrows
- Flytraps on the fence line nearest to the windrows

In terms of the Air Quality Act this facility is not considered a listed activity and therefore do not require an Atmospheric Emission License.

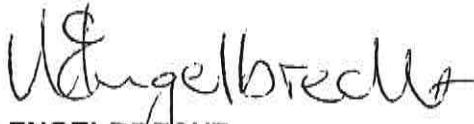
At the time of the site visit and walk-about was establish: -

- A slight odour observed but it was not considered to be obnoxious or a nuisance.
- No fugitive dust observed although no wind was blowing during site visit.
- Onsite gravel roads seem of such a nature that it would create limited fugitive dust.
- Minimal fly activity re: - the abattoir by-products being composted.
- Windrows inspected did not show any fly larvae.
- Seemingly the operation is well organised.

Possible external contributor: -

- All vehicle's use a public gravel road as an access road to Middelburg farm. On the day of the site visit, this road produced some fugitive dust.

Yours faithfully



M ENGELBRECHT
AIR QUALITY OFFICER



REFERENCE: 19/4/4/1/BL2/Robertson

EIA REFERENCE: 16/3/3/6/1/BL/14/1347/16

ENQUIRIES: P. Hamse

ECO IMPACT CONSULTING

P.O. BOX 45070

CLAREMONT

7735

Tel: 021 671 1660

Fax: 021 671 9976

Email: admin@ecoimpact.co.za

Attention: Ms NZ Loeberberg

COMMENT ON THE PRE-APPLICATION BAR FOR THE PROPOSED ROBERTSON ABATTOR COMPOST FACILITY AND FEEDLOT ON REMAINDER OF FARM MIDDLEBURG 10, ROBERTSON, WESTERN CAPE.

The Pre-Application BAR for the above-mentioned proposed development, dated 15 June 2017, which was received by the Department of Environmental Affairs and Development Planning (DEA&DP) Directorate: Air Quality Management (D: AQM) has reference

the D: AQM carefully reviewed the above-mentioned application and has the following comments for consideration by the facility:

1. DUST AND NOISE CONTROL REGULATIONS

- 1.1 Dust and noise may be generated during the construction phase of the project.
- 1.2 In this regard, the operation must comply with the following:
 - National Environmental Management: Air Quality Act (NEMA: AQA) National Dust Control Regulations (Notice B27 of 2013);
 - Western Cape Noise Control Regulations (P.N. 200/2013).

2. ODOUR EMISSION IMPACT MANAGEMENT

- 2.1 The D: AQM is aware that the composting process generates a certain level of odour, but the Directorate has noted that the facility has received complaints regarding alleged excessive

odour emissions emanating from the composting plant, the facility must investigate best practice measures to minimise or avoid offensive odours.

"In terms of Section 35 (2) of the NEM: AQA (Act No. 39 of 2004), the occupier of the premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises."

3 ENVIRONMENTAL MANAGEMENT PROGRAMME (EMP)

3.1 The proposed Standard Operating Procedures (SOP's) mentioned in the Pre-Application BAR should be instituted and maintained in the daily operational production process. The EMP should include, but not be limited to the following considerations related to the abovementioned SOP's:

- The composting facility lies 60km away from the Robertson Abattoir, therefore it is important to revise measures to effectively transport abattoir waste to the composting facility as to reduce and or mitigate spillage.
- Good should be removed from the abattoir every day to reduce the potential for odour release.
- High temperatures may pose a fire risk, therefore the windrows and bulk storage areas should be monitored for temperature spikes.
- Carbon and nitrogen ratios must be at the required level as to abate potential odour release.

Should you have any queries regarding the above comments, please do not hesitate to contact Peter Hornise on telephone number (021) 483 8343 or email: peter.hornise@wvwater.co.za

Yours faithfully


DR. JOY LEANER (PhD)
DIRECTOR: AIR QUALITY MANAGEMENT

DATE: 12.7.2012



REFERENCE: 16/1/3/1-7/006

ENQUIRIES: Dr GSM LEASK

South African Farm Assured Meat Group CC

Robertson

Dear Messrs H. de Bod and D. Houghton,

re: Abattoir Composting Facility visit

Firstly I would like to express my gratitude towards you and your personnel for giving me and officials from Veterinary Services: Veterinary Public Health, Western Cape Department of Agriculture and the representative from the DAFF, Pretoria the occasion to visit your abattoir and composting facility on 08 January 2019.

The intention of the visit was to give our colleague from DAFF an insight into the methods of abattoir waste disposal that have been adopted by differing facilities in our province. We are trying to establish "norms and standards" for the various methods of abattoir waste disposal that could be put forward nationally for application by abattoirs throughout the country in light of the imminent ban on waste disposal to landfill sites. Included in these "norms and standards" would be the necessary controls to ensure that the public and workers will not be exposed to any potential health risks during the movement and management of the abattoir waste from the abattoir to, and at, the disposal facility.

From our discussions at previous meetings as well as recently, it is obvious that you have done quite extensive research into the composting process, and have selected the best practices by trial and error. The result is that, in my opinion, the composting facility is effectively dealing with the disposal of your abattoir waste without causing any pollution concerns and, at the same time, having minimal potential health risks for the workers involved or the general public. The controls and record-keeping measures that you have put in place, and the appointment of a person dedicated to the management of the composting facility, greatly contribute to the effective composting that should adequately deal with the elimination of potential microbiological hazards. This is the primary purpose of an abattoir waste disposal facility.

It would be greatly appreciated if you could give me permission to use your composting facility as an example to be used in presentations to other abattoirs and even in a national forum. To this end I would also be grateful if I could be allowed to make some photographic and videographic recordings of the various stages in the composting process, to use in these presentations.

The next step in the whole process which will need to get attention is the registering of the final product under Act 36, 1947 to enable you to commercially dispose of the final product.

Kindest regards,



DR GSM LEASK

STATE VETERINARIAN: VETERINARY PUBLIC HEALTH

DATE: 08/02/2019



CAPE WINELANDS DISTRICT

MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

NAVRAE/ENQUIRIES/IMIBUZO:

O Pili

Van Reenensstraat 44 Street

TELEFOON/TELEPHONE/UMNXEBA:

023 626 8325

FAKS/FAX/IFEKSI:

-

✉ 50

E-POS/E-MAIL/IE-MAIL:

olwethup@capewinelands.gov.za

ROBERTSON

U VERW/YOUR REF/IREF YAKHO:

ONS VERW/OUR REF/IREF YETHU:

15\2\6\1

6705

REPORT:

Visit: Investigation inspection

Date: 04 December 2019

Venue: Middelburg Compost Facility

Time: 12:10

An inspection was done on 4 December 2019, following up on a complaint of flies and bad odors by a neighboring resident.

Persons accompanying the inspection:

1. Miss O.Pili – Environmental Health Practitioner
2. Mr L. Rongo – Environmental Health Practitioner
3. Mr J. Ludick – Site manager

Findings

- Flies were present in and around the composting site, especially at the first windrow where the compost is still wet and in a decomposing stage. No fly larvae showing the breeding of flies were found during the inspection.
- There is a bad odor around the first windrow wet compost site, which can be attributed to the freshness of the turnaround stage of decomposition;
- There were fly traps placed along the border fence as deterrent method;
- The wood chips and a layer of fine, dry kraal manure is used to cover compost and in accordance with the SOP is turned as per prescribed method
- Odors became less pronounced as sections of the windrows became drier, so also fly activity

Recommendations: (See photos)

There is a guideline document (SOP) in place for management of potential vermin / pests at the Compost Facility.

However, it is recommended that the site should be sprayed continuously, especially during the hot season, to ensure good fly control.

In a verbal telephonic communication between Mr. McLean and Mr. Jacques Ludick at 14:30, he cited that the spraying was going to be done in the afternoon.

The compost facility will be regularly monitored regarding the fly control measures and odors.

O Pili

Environmental Health Practitioner
for Municipal Manager

967.



Figure 1: Fly trap along the border fence as deterrent method



Figure 2: No fly larvae on the compost

O Pili
Environmental Health Practitioner
for Municipal Manager



Figure 3: Compost covered with wood chips



Figure 4: Decomposed compost

O Pili
Environmental Health Practitioner
for Municipal Manager

969.



CAPE WINELANDS DISTRICT

MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

NAVRAE/ENQUIRIES/IMIBUZO:

O Pili

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ONS VERW/OUR REF/IREF YETHU:

15121611

✉ 50

ROBERTSON

6705

REPORT:

Visit: Inspection

Date: 13 December 2019

Venue: Middelburg Compost Facility

Time: 11:10

Following up an inspection done on 4 December 2019, an unplanned visit was paid at the Middelburg Compost Facility on 13 December 2019.

Persons accompanying the inspection:

1. Miss O.Pili – Environmental Health Practitioner
2. Mrs A. Fuzani – Environmental Health Practitioner
3. Mr J. Ludick – Site manager

Findings (See photos)

- Spraying for flies was taking place during the time of the visit. The spraying is done twice a week.
- Again no-fly larvae showing the breeding of flies were found as per the last inspection visit. The site manager explained that it is because of the abattoir matter used at the 1st windrow being very hot (as experienced on site) it is not suitable for the breeding of flies

O Pili

Environmental Health Practitioner
for Municipal Manager

970.



Figure 1: No fly larva as per the previous visit



Figure 2: Abattoir waste during the process of covering – at end of inspection area was properly covered.

O Pili
Environmental Health Practitioner
for Municipal Manager



Figure 3: Wood chips used to cover waste



Figure 4: Control measure apparatus used for fly control

[Handwritten signature]

O Pili
Environmental Health Practitioner
for Municipal Manager

From: Tracy Brunings
Sent: Tuesday, 15 October 2019 1:20 PM
To: AB Bronn
Cc: Langeberg Municipality; Kobus Brand; Dave Van Schalkwyk; 'ST McLean'
Subject: FW: NOTULE WYK 6 AGENDA ITEM 6.5: PORTION 6 OF MIDDELBURG 10, ROBERTSON RD: FEEDBACK

Hello Mr Bronn,

I refer to the emails below and provide the following feedback:

A site meeting was held on Rem of Middelburg 10, Robertson on 8 October 2019, at 12h00, and attended by myself, Mr Olkkers (Ward Committee), a farm worker from Rem/Middelburg 10, and three farm owners from the surrounding area. The site meeting was held ±15 meters from the boundary with the compost facility. There was a strong and gusting wind blowing from the compost site towards Rem/Middelburg 10. There was a relatively strong and unpleasant odour, and there were numerous flies (had to wave away flies every few minutes). The following matters were discussed:

Impact on residents:

The odour permeates everything including the air, and foods and drink stored and prepared in neighbouring households. This has resulted in unpleasant living conditions for farm workers on the adjoining farms. The flies are a pest and require liberal and costly spraying to keep them under control. Guests who have stayed at Buitenstekloof cottages are no longer returning due to the unpleasant odour and the large number of flies. The compost site has had an adverse impact on this tourism business and is likely to result in job losses. Waste products being transported to the site have fallen off trucks and been found on the public road (photo shown) – although the truck has a lid it is not always securely fastened. This is a hazard to public health and agricultural security.

Where did Robertson Abattoir previously dispose of waste?

The Robertson Abattoir disposed of waste products via the municipal landfill and sewage works until the end of 2016. Due to legislative requirements and capacity constraints, the abattoir owners were required to investigate alternative options for disposal of abattoir waste.

The Need to manage abattoir waste at Regional Level: Provincial guidance required:

The mini guide to the Management of Abattoir Waste (DEA&DP, 2016/17) identifies the Cape Winelands as the district with the highest volume of waste from slaughters. The guideline identifies various options for the management of abattoir waste. Common disadvantages of each process include: odour, smoke, hazardous residue and need for specialist skills. The owners present at the site meeting noted that Fly farming is the only technique where no disadvantages are listed, and it was their opinion that the Compost Facility application should be refused and the owners should be required to investigate the alternative option of Fly farming within a closed structure. The DEA&DP should be advocating this option.

Environmental Application and High Court Action:

Applications were lodged with DEA&DP for Environmental Authorisation and a Waste licence. DEA&DPs decisions were appealed and the applicant has taken the appeal decisions on review to the High Court (August 2019 - pending).

Land Use Planning Application:

A decision has not yet been taken. The application will be discussed at the next Tribunal meeting in October 2019. The recent complaints from the Ward Committee members will be noted at this meeting.

Regards,

Tracy Brunings Pr.Pln A/951/1997

Annexure 17

Time line: progress of LLUP application

ABBREVIATED TIME LINE:**APPLICATION FOR REZONING FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (ABATTOIR COMPOST FACILITY) AND CONSENT FOR INTENSIVE FEED FARM (SHEEP)**

PROPERTY: PTN 6 OF MIDDELBURG NO. 10, ROBERTSON

PRE-APPLICATION: Following complaints about odour, a site meeting was held on 15 February 2017 with LM:TP, owner, owner's lawyer, compost-site manager, CWDM and DEA&DP.

DATE APPLICATION RECEIVED: 24 OCTOBER 2017, from Umsiza.

APPLICATION ADVERTISED: 14 NOVEMBER 2017.

OBJECTIONS: Three objections were received before the closing date of 15 December 2017 and submitted to Umsiza. Umsiza submitted responses to objections on 2 and 26 February 2018, in line with an **extension of time granted to the applicant** for such responses.

DEPARTMENTAL COMMENTS:

The application was circulated to the following Departments, who commented on the dates indicated:

DEPARTMENT	COMMENT
Manager: Civil Eng	19.11.17
Manager: Elec Eng	26.04.18
CWDM	17.11.17
Roads	07.02.18
Cape Nature	23.01.18 *
DEA&DP	26.04.18 * Investigation i.t.o unlawful commencement to be completed prior to a decision on BAR.
Agric (Elsenburg)	23.04.18 *
BGCMA	16.01.18 Received 24.04.18 *
Eskom	15.12.17
Heritage	01.02.17 – only refers to compost facility, not feedlot.
Ward Councillor	No comment received.

ASSESSMENT PROCESS:

02.05.2018	Progress report to applicant: Assessment of the development proposal raised issues which required further information in terms of Section 55(5). Meeting requested to clarify issues relating to comments received (*).
16.05.2018	Site Inspection with DEA&DP, owner, Houghton, Umsiza & LM:TP.
18.05.2018	Information request to Umsiza from L TP Dept.
22.05.2018	Email to CWDM re. monitoring of unauthorized compost facility i.t.o. health implications.
24.05.2018	Progress report to MM.
2.10.2018	Umsiza response to 18.5.2018 info request.
3.10.2018	Site Meeting: LM:TP & Objectors.
Nov/Dec 2018	Research: Policies: NOWCS, Mini Guideline for Abattoir Waste; Legislation: NEMA, NEM:WA, NEM:AQA & regs; Information: Buffers, CBAs, waste statistics.
21.12.2018	DEA&DP advised that NEMA appeal was still pending.

18 January 2019	TP Assessment Report Complete.
01.02.2019	Tribunal Meeting.
22.02.2019	Tribunal Letter – Additional information requested.
27.02.2019	Meeting in Robertson and on site with DEA&DP, applicant and LM to resolve delays re. EA and WML.
12.04.19	Umsiza response to Tribunal's 22 Feb 2019 letter.
17.04.19	Legal Opinion from DHM
30.04.19	Progress report to Manager: TP – awaiting info from DEA&DP.
May 2019	Meeting requested between LM and DEA&DP: not held.
29.05.19	Final information request to applicant
10.06.19	Information from DEA&DP re. waste legislation, hazardous vs infectious waste etc.
27.06.19	Applicant's (D Houghton) response to final information request dated 29.05.19.
02.07.19	DEA&DP advises Provincial LUPA decision and appeal withdrawn.
30.08.19	Second Tribunal item complete.
06.09.19	Tribunal Meeting – legal opinion, court order etc.
20.09.19	Third Tribunal item complete.
18.10.19	Tribunal meeting – decision to approve compost facility with conditions and refuse feedlot.
31.10.19	Tribunal decision letters to applicant and objectors.
21 & 22.11.19	Four Appeals received.
Other interwoven processes not documented above: Compliance Notices, EA, WML, on-going health monitoring and liaison with CWDM, Court Order.	

T L Brunings

TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720

Tel: 023 614 8001

Faks: 023 614 1841

tbrunings@langeberg.gov.za

Annexure 18

Section 81 of the Langeberg Land Use
Planning Bylaw 2015: Consideration by
Appeal Authority

- (iv) proceedings of the Appeal Authority; and
 - (v) keep records by any means as the Appeal Authority may deem expedient.
- (15) An appellant may, at any time before the Appeal Authority makes a decision on an appeal submitted by the appellant, withdraw the appeal by giving written notice of the withdrawal to the Municipal Manager.
- (16) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney given to his or her former agent and confirm whether he or she will personally proceed with the appeal.

Consideration by Appeal Authority

81. (1) An appeal may be considered by the Appeal Authority by means of—
- (c) the consideration of the written appeal and comments; or
 - (d) an oral hearing.
- (2) The appeal may be considered in terms of subsection (1)(a) if it appears to the Appeal Authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.
- (3) An oral hearing may be held—
- (c) if it appears to the Appeal Authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
 - (d) if such hearing would assist in the expeditious and fair disposal of the appeal.
- (4) If appropriate in the circumstances, the oral hearing may be held by electronic means.
- (5) If the Appeal Authority decides to hold an oral hearing, any party to the appeal proceedings may appear in person or may be represented by another person.
- (6) The Appeal Authority must ensure that every party to a proceeding before the Appeal Authority is given an opportunity to present his or her case, whether in writing or orally as contemplated in subsections (2) and (3) and, in particular, to inspect any documents to which the

appeal authority proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.

- (7) The Appeal Authority must—
- (a) consider and determine all appeals lawfully submitted to it;
 - (b) confirm, vary or revoke the decision of the Tribunal or authorised employee;
 - (c) provide reasons for any decision made by it;
 - (d) give directions relevant to its functions to the Municipality;
 - (e) keep a record of all its proceedings; and
 - (f) determine whether the appeal falls within its jurisdiction.
- (8) Subject to subsection (12), the Appeal Authority must decide on an appeal within 60 days of receipt of the assessment report contemplated in section 80(13)
- (9) If the Appeal Authority revokes a decision of the Tribunal or authorised employee it may—
- (a) remit the matter to the Tribunal or authorised employee—
 - (i) if there was an error in the process which is unfair and which cannot be corrected by the Appeal Authority; and
 - (ii) with instructions regarding the correction of the error; or
 - (b) replace the decision with any decision it regards necessary.
- (10) The Appeal Authority may appoint a technical adviser to advise or assist it with regard to a matter forming part of the appeal.
- (11) The Appeal Authority must within 21 days from the date of its decision notify the parties to an appeal in writing of—
- (a) the decision and the reasons therefor; and
 - (b) if the decision on an appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.

- (12) The Appeal Authority may extend the period contemplated in subsection (8) in exceptional circumstances including the following:
- (a) if an interested person has submitted a petition for intervener status;
 - (b) if an oral hearing is to be held.

CHAPTER VIII

PROVISION OF ENGINEERING SERVICES

Responsibility for provision of engineering services

82. (1) An applicant is responsible for the provision, installation and costs of internal engineering services required for a development once an application is approved.
- (2) The Municipality is responsible for the provision and installation of external engineering services.
- (3) If the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service.
- (4) The Municipality may enter into a written agreement with an applicant to provide that—
- (a) the applicant is responsible for the provision, installation and costs of external engineering service instead of paying the applicable development charges; or
 - (b) the applicant is responsible for the provision, installation and costs of external engineering service and that the fair and reasonable costs of the external engineering service may be set off against the development charges payable by the applicant.

Development charges

83. (1) The applicant must pay development charges to the Municipality in respect of the provision and installation of external engineering services.
- (2) These external engineering services for which development charges are payable must be set out in a policy adopted and annually reviewed by the Municipality.

Annexure 19

Appellants' Heads of Argument

Tracy Brunings

From: Joliza Swanepoel
Sent: Thursday, 27 August 2020 09:27
To: Rdl.Schalk Van Eeden; Soyisile Mokweni; Jan Koekemoer; Carel Hofmeyr
Cc: Anton Everson; Tracy Brunings; Riaan de Jong
Subject: FW: Appeal Hearing: Middelburg 10/6 Robertson: Abattoir Waste Treatment Site and Feedlot - 28 Aug 2020
Attachments: Heads of Argument_Final.pdf

Good Morning, All

Attached, please find *Head of Argument* from Ndlovu de Villiers Environmental Law Specialists for your further attention.

Yours faithfully

Joliza Swanepoel
 Executive Personal Assistant (MM)

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From: Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>
Sent: Thursday, 27 August 2020 09:14
To: Joliza Swanepoel <JSwanepoel@langeberg.gov.za>
Cc: Samantha de Villiers <samantha@ndvlaw.co.za>
Subject: RE: Appeal Hearing: Middelburg 10/6 Robertson: Abattoir Waste Treatment Site and Feedlot - 28 Aug 2020

Dear Ms Swanepoel

Herewith the Heads of Argument for the appeal hearing to be held tomorrow.

I confirm that my partner (Ms Samantha de Villiers) will attend the proceedings and participate on my behalf. This arrangement is designed to ensure that our clients are not prejudiced by non-availability for the sessions that will precede our allocated slot.

Please acknowledge receipt of this email.

Kind regards.

Sibonelo Ndlovu
 BA(Law), LLB, LLM (Marine and Environmental Law)
 Attorney/Notary Public
 Tel: 033 001 7521 Cell: 072 320 0283 Fax 086 2728 793
 Email: ndlovu@ndvlaw.co.za Website: www.ndvlaw.co.za



Ndlovu de Villiers

Environmental Law Specialists

APPEAL LODGED IN TERMS OF SECTION 79(2) OF THE LANGEBERG MUNICIPALITY'S BYLAW ON MUNICIPAL LAND USE PLANNING, 2015, AGAINST THE REZONING PART OF THE DECISION MADE BY THE LANGEBERG MUNICIPAL PLANNING TRIBUNAL TO APPROVE THE REZONING OF A PORTION OF 1.3 HECTARES (IN EXTENT) WITHIN PORTION 6 OF THE FARM MIDDELBURG FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II (NOXIOUS TRADE) FOR A COMPOST FACILITY AND TO REFUSE CONSENT FOR INTENSIVE FEED FARM (SHEEP)

HEADS OF ARGUMENT

INTRODUCTION

1. The Appellants are Mrs. Hannerè Jooste and Mr. Louis Jordaan. They are referred to, respectively, as the First Appellant and the Second Appellant.
2. The Applicant is the Reben Trust IT2879/98.

IMPUGNED DECISION

3. The Appellants are aggrieved by the decision of the Langeberg Municipal Planning Tribunal (hereinafter referred to as the "Tribunal") issued to the Reben Trust on 18 October 2019. The essence of that decision was:

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Victoria Country Club Estate
Pietermaritzburg, 3201
South Africa
Tel: +27 (0)33 001 7521 Email: ndlovu@ndvlaw.co.za
Cell: +27 (0)72 320 0283 Fax: +27(0)86 272 8791

Ndlovu de Villiers Attorneys
Partners: S.I.F. Ndlovu BA (Law) LLB LLM (Marine & Environmental Law)
S.O. de Villiers BA LLB

- 3.1. To grant the rezoning of a portion of 1.3 hectares in extent within Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (Noxious Trade) for a compost facility comprising windrows, storage space for raw and finished products and off-loading areas (hereinafter referred to as the "compost facility"); and
- 3.2. To refuse consent for an Intensive Feed Farm (sheep) feedlot with a maximum of 4 500 lambs (hereinafter referred to as the "feedlot").
4. The Applicant is also aggrieved by the impugned decision. The Applicant has also sought to have the impugned decision to be set aside.

ISSUE BEFORE THE APPEAL AUTHORITY

5. At issue is whether the Applicant's application should be granted or refused. The Appeal Authority has an obligation to conduct a rehearing of the Applicant's application and to make an appropriate appeal decision. The Appellants and the Applicant differ on what should be the outcome of the Appeal Authority's consideration of the application. The Appellants are of the view that the Appeal Authority must dismiss the application while the Applicant is of the view that its application must be granted in its entirety.

APPELLANT'S RIGHT TO APPEAL

6. The Applicant has questioned whether the Appellants have a right to participate in this appeal process. and be part of the consideration of this matter. The Appeal Authority's consideration of that question is, therefore, the point of departure.

7. The Appellants submit that the Appeal Authority should dismiss the abovementioned question with contempt. The impugned decision was granted in terms of section 60 of the Langeberg Municipality's Bylaw on Municipal Land Use Planning, 2015 (the "Bylaw"). The Appellants' appeal is lodged in terms of section 79(2) of the Bylaw which states that a person "whose rights are affected by a decision contemplated in subsection (1) may appeal in writing to the Appeal Authority".
8. The Appellants are some of the persons whose rights are affected by the impugned decision on the basis that the Doornkloof Private Nature Reserve is situated adjacent to the rezoned property and the Appellants live on Second Appellant's house which is affected by noxious trade which is undertaken on the compost facility.

NATURE OF THE APPEAL

9. In considering the appeals before it, the Appeal Authority must appreciate the nature of the appeals before the Appeal Authority.
10. An appeal lodged in terms of section 79 of the Bylaws is a wide appeal, such that the Appeal Authority is obliged to rehear and reconsider the Applicant's application. In other words, this appeal constitutes a complete re-hearing of the Applicant's application and a fresh determination of the merits of the application, with or without additional evidence or information.

CONSIDERATION OF THE APPEALS/APPLICANT'S APPLICATION

Rezoning decision

11. The rezoning decision falls to be set aside on account of the basis that the Tribunal violated the Appellant's Constitutional right to an administrative action which is lawful, reasonable and procedurally fair.

12. In their appeal, the Appellants raise four *points in limine* against the rezoning decision. Those *points in limine* relate to the fact that the Tribunal does not have the power to issue the rezoning decision. We submit that, in addition to complying with the Bylaw, the Tribunal must comply with the Spatial Planning and Land Use Management Act, 2013, (hereinafter referred to as "SPLUMA").
13. We persist with the *points in limine raised* in the Appellants' appeal. In our view, the rezoning decision must be set aside on the strength of any of those *points in limine*. In the alternative, that decision must be set aside on the basis of the other grounds of appeal raised in the Appellants' appeal.

The Applicant's appeal is self-defeating

14. In its appeal the Applicant attacked the integrity of the Ms. Tracy Brunings, the Municipality's Assistant Town and Regional Planner. Her assessment reports are the only reports on which the Appeal Authority will decide this matter. The Appeal Authority must make a determination on whether the attacks made by the Applicant have merit. If the Appeal Authority finds that any of the attacks has merit, the Appeal Authority will not be in a position to grant the application. It is submitted that the Applicant would not be entitled to an approval on the back of what the Applicant would have demonstrated to be flawed reports.
15. On the other hand, if the Appeal Authority finds that the Applicant's attacks on Ms. Brunings are unjustified, the Appeal Authority must reject the Applicant's application. That is so because in the absence of justification of the Applicant's attack on Ms. Brunings, the Applicant's appeal has no merit.
16. We request the Appeal Authority to appreciate the fact that, in contrast, the Appellants did not level any gratuitous attacks on Ms. Brunings. All that the Appellants reject in her reports are those parts that deal with the existing compost facility insofar as there is a suggestion that the operation of that facility should be approved. We object to those

parts because, in our view, they are affected by the Municipality's bias in favour of the existing compost facility.

The Applicant comes to the Appeal Authority with dirty hands

17. We submit that, in making the determination of whether the Applicant's attacks on Ms. Brunings have merit, the Appeal Authority must take into account the fact that the Applicant comes before the Appeal Authority with dirty hands.
18. The Applicant commenced utilising the relevant portion of the property as a compost facility in February 2017. It follows that the effect of the Appeal Authority's decision would be to regularise the utilisation of the property as, to date, the Applicant has violated the zoning scheme since February 2017.
19. To date, the Municipality has issued two separate compliance notices. The Applicant has ignored those notices.
20. On the other hand, Ms Brunings comes to before the Appeal Authority with clean hands. She is a public servant who was tasked with assisting the Municipality to make a difficult decision. It is the Municipality's bias (as discussed in the Appellants' appeal) which posed an additional challenge for her.

The granting of the application would be unreasonable

21. The Appellants hereby submit that, on the facts of this matter, the granting of the Applicant's application would be unreasonable. First, it is not possible for the Appeal Authority to disregard the Tribunal's reasons for the refusal to grant consent for the feedlot. Those reasons are persuasive to the Appeal Authority as considerations that the Appeal Authority must take into account in its decision-making.

22. We draw the attention of the Appeal Authority, specifically, to the following reasons for refusal of consent for the feedlot:

- 22.1. "The proposed feedlot is within a CBA area and important ecological corridor as identified in the WC BSP, 2017 and is therefore not consistent with the WCPSPDF's Rural Land Use Guidelines (March 2019)";
- 22.2. "Insufficient motivation is given regarding the desirability of relocating the feedlot from Roodehoogte in Robertson in terms of transport distance of sheep to the site and to the abattoir and the transport of feed";
- 22.3. "The Applicant has indicated how they intend to minimise flies and odours but the BAR has not assessed the cumulative impact of odours and flies from the compost facility and feedlot on the health and well-being of residents and tourists and on the surrounding natural and agricultural environment and socio-economic impact thereof";
- 22.4. "The Applicant dismissed the Tribunal's request for the compilation of an Atmospheric Impact Report to assess" the abovementioned impacts and, therefore "it is not possible to conclude that the proposed feedlot, in addition to the compost facility, will not infringe on the "rights to an environment with is protected, not harmful or polluted, and where natural resources are sustainably used while promoting justifiable economic and social development"; and
- 22.5. "Given that the compost facility has already drawn complaints in terms of flies and odours, cumulative impacts from an additional land use which also generate flies and odours are not in the public interest; not consistent with existing rights; are inconsistent with the sustainability of agri-tourism businesses; and are inconsistent with the principles of spatial justice and spatial sustainability".

23. While it is appreciated that the Appeal Authority must make its own determination/s on the matters enumerated immediately above, it is submitted that, as a point of departure, the Appeal Authority has to have regard to the Tribunal's determination. We specifically submit that, on the facts of before the Appeal Authority, the Appeal Authority does not have a basis for making a different determination to that made by the Tribunal on those matters.

24. We draw the attention of the Appeal Authority to the fact that the area on which the compost facility is situated has been identified as a Terrestrial CBA. In the Basic Assessment Report dated October 2017 (prepared on behalf of the Applicant) it is recorded that:

"... the area identified for the Compost facility has been identified as a Terrestrial CBA. This is however not consistent with the existing state of the site which has been completely transformed as a result of past and existing activities."¹

25. In addition, the Appeal Authority must take into account the Guidelines contained in WC BSP, 2017. Among other things, those guidelines provide the following in respect of what are appropriate land uses within a Terrestrial CBA:

"Permissible land uses are those that are compatible with maintaining the natural vegetation cover of CBAs in a healthy ecological state and that do not result in loss or degradation of natural habitat.

Land uses that should not be located in terrestrial CBAs because they cause loss of natural habitat or ecosystems functionality, include:

¹ Page 22.

- Any form of mining or prospecting;
- Conversion of natural habitat for intensive agriculture (cultivation) or plantation forestry;
- Buildings or infrastructure associated with residential, commercial or industrial developments;
- Complete-barrier fencing ...;
- Linear infrastructure of any sort that disrupts the connectivity of CBA corridors;
- Extensive or intensive grazing that results in species diversity being lost through selective – or over-grazing.”²

26. We remind the Appeal Authority that, in the Applicant’s case, the Applicant has changed the use of its property unlawfully notwithstanding that it falls with a CBA. To say that the change has already occurred does not take the matter any further as the Municipality must decide whether the change is appropriate in the first place.

27. It is submitted that the Appeal Authority must refuse the Applicant’s application on the basis that granting the application would be unreasonable as demonstrated above.

The desirability of the compost facility on the Applicant’s property has not been demonstrated

28. The Appellants submit that the desirability of the compost facility (on the relevant portion of the property) has not been demonstrated. To begin with, in the Motivational

² Page 69.

Report which accompanied the Applicant's application, it is submitted that the location of the compost facility is desirable on the basis that the "whole application site is already transformed and disturbed" and, as a result, the site is no longer a CBA.

29. With respect, the Applicant's reasoning is fundamentally flawed. On the facts of this matter that reasoning seeks to obtain a reward for the Applicant (as the owner of the property) for its decision to construct (or to allow the construction of) the compost facility and to commence the use of that facility (without the necessary rezoning of the property) and, only thereafter, to apply for the necessary rezoning.
30. The reward relates to the fact that, if one follows the reasoning provided, because the compost facility has been built in the CBA, the location of that facility is now desirable where it is on the basis that the relevant portion of the CBA has already been transformed. The Appeal Authority is urged to reject that flawed reasoning.
31. Importantly, what the Motivational Report does not refer to is the fact that the compost facility is located next to the Doornkloof Private Nature Reserve. In other words, in the Motivational Report, it has not been considered that the compost facility is undesirable on the basis that it is located next door to a nature reserve. What is also overlooked is the fact that the compost facility is located on a buffer zone of a nature reserve.

Only the general need for a compost facility has been demonstrated by the Applicant

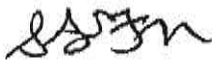
32. In the end, it is submitted that, what the Applicant demonstrated is that there is a need for a compost facility within the Municipal Area. However, the Applicant failed to demonstrate that there is a need for such a compost facility to be located where the Applicant has already built the compost facility in question. Instead, what the Applicant applied for is an indulgence to be allowed to keep the compost facility on the basis that it has already been built at the present location on the property. The Appeal Authority has an obligation to reject that request with contempt.

33. In terms of the *Western Cape Land Use Planning Guidelines Rural Areas March 2019*, at page 58, the Applicant has an obligation "to illustrate why the industry must be located in the rural area rather than in an industrial area of a town." The Applicant has not succeeded in making that illustration.

RELIEF SOUGHT

34. In light of the above, the Appellants submit that the Appeal Authority should:
- 34.1. set aside the Tribunal's rezoning decision in its entirety; and
- 34.2. refuse the Applicant's application.

Yours faithfully
Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)

Date: 27 August 2020

Tracy Brunings

From: Joliza Swanepoel
Sent: Thursday, 27 August 2020 14:07
To: Rdl.Schalk Van Eeden; Soyisile Mokweni; Jan Koekemoer; Carel Hofmeyr
Cc: Anton Everson; Tracy Brunings; Riaan de Jong
Subject: FW: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: image001.jpg was removed from this message; annexure RT2_0001.pdf was removed from this message; annexure RT1.pdf was removed from this message; Heads of Argument - Reben Trust .pdf was removed from this message

Good day All

Attached, please find *Head of Argument* from Hannes du Bois Attorney for your further attention.

Yours faithfully

Joliza Swanepoel
Executive Personal Assistant (MM)

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From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Thursday, 27 August 2020 13:59
To: Joliza Swanepoel <JSwanepoel@langeberg.gov.za>
Subject: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT

Dear Ms Swanepoel

Attached please find concise Heads of Argument with two annexures ("RT1" and "RT2") of Reben Trust / SAFAM as promised.

Kindly acknowledge receipt.

Yours Faithfully
JP DU BOIS

**IN THE APPEAL PURSUANT TO SECTION 79 OF LLUPB, 2015 AGAINST
THE DECISION OF LANGEBERG MUNICIPAL PLANNING TRIBUNAL OF
THE LANGEBERG MUNICIPALITY TAKEN ON 31 OCTOBER 2019 WITH
REGARD TO AN APPLICATION TO REZONE AND CONSENT FOR
INTENSIVE FEED FARM IN RESPECT OF PORTION 6 OF THE FARM
MIDDELBURG NO 10 ROBERTSON**

REBEN TRUST

APPELLANT

AND

**LANGEBERG MUNICIPAL PLANNING TRIBUNAL
OF THE LANGEBERG MUNICIPALITY**

RESPONDENT

APPELLANT'S CONCISE HEADS OF ARGUMENT

1. We refer in this regard to the detailed Grounds of Appeal together with annexures A1 to A31 served on 22 November 2019 on the Municipal Manager of the Langeberg Municipality. We will now proceed to deal in a concise manner with the reasons presented by the Langeberg Municipality on 31 October 2019 approving only in part, the rezoning of 1.3ha of Portion 6 of the Farm Middelburg No 10 Robertson ("Portion 6") from Agricultural Zone I to Industrial Zone II and the non-approval or refusal of the application for a consent use for intensive feed farm also on Portion 6 ("the decision").
2. First and foremost we deem it important to explain to the Appeal Authority the process followed by the appellant from the time when it initially decided to embark upon compost making as the most

appropriate method or option of dealing with general abattoir waste on Portion 6 by the South African Farm Assured Meat Group CC ("SAFAM"). To this end we attach herewith a pamphlet assembled by SAFAM, titled "Farm Assured Compost", marked "RT1" describing the process from its very start

3. What is explained in the pamphlet is in essence how it came about that compost was being produced from general waste emanating from Robertson Abattoir, on Portion 6 by SAFAM, and how the Appellant and SAFAM went about conducting the process. The scientifically orchestrated method of producing the compost, is also explained in detail with reference also to environmental and chemical components surrounding the process. From this pamphlet it can be gleaned that Appellant/SAFAM went out of their way, so to speak, to investigate the process in a highly professional way, to firstly decide whether the making of compost is the appropriate method to cope with the general waste of the Robertson Abattoir, due to the fact that the Langeberg Municipality advised them in 2016 that the Municipality could not take or handle the abattoir waste/by-products as in the past. After all this issue of how it came about that the option of compost making was followed or chosen by Appellant, plays at least some part (if not an integral part) in the taking of their decision by the Respondent.
4. The major part of this pamphlet will also be helpful to the appeal panel to judge not only how and when it was decided to embark on the composting option of dealing with abattoir waste, but also to judge the highly scientific manner in which compost will and is currently treated/produced on Portion 6. (on 1 ha of land and not in excess of 10 tons of general waste per day --- see paragraph 6.1 of annexure "A11", the court order)

5. With regard to the reasons proffered by the Langeberg Municipality in their letter of 31 October 2019, we will now succinctly deal with their 8 reasons submitted as to why the decision was taken on 18 October 2019. We will do so *ad seriatim*:

6. **Ad Reason 1:**

6.1.1 This reason refers to and deals with information regarding water availability which presumably is incomplete. The allegation is also made that there is no current available alternative water source apart from the existing borehole to cater for emergency situations such as drought or low water level. Reservations are also expressed re the legality of the Mountain Catchment dam ("Middelburg dam") which may allegedly impact on the access to water for the proposed feedlot.

6.1.2 In paragraph 92 of the Grounds of Appeal (p 30) this reason was fully addressed with reference to various fallacies referred to in the reason. Relevant documentation have been attached regarding the National Water Act, Act 36 of 1936 ("the Water Act") including the verification of not only the Middelburg dam, but also the water use in terms of Section 21(a) of the Water Act. (See also paragraph 61 to 74 of the grounds of appeal regarding the Middelburg Dam). Every single statement made as part of this reason is comprehensively refuted by facts corroborated by legal documentation. This detailed information is referred to in annexures "A18" to "A26" to the grounds of appeal. It should be noted that "A18" and "A19" refer to the application for verification and the issued verification certificate for the taking of 244 360 m³ of surface water for irrigation

purposes and the storing of 111 801m³ water in the Middelburg dam. It at least appears as if this reason plays a major role in the rejection by the Tribunal of the consent use for the feedlot. After all, and understandably so, water plays a crucial role where feedlots are concerned.

6.1.3 It must be noted that in the application by the appellant's Town and Regional Planner, Umsiza Planning ("Umsiza"), full information was provided pertaining to an existing borehole on the property, which was conclusively shown to supply ample water for all the animals in the proposed feedlot. At no time did Tracy Brunings, Town and Regional Planner in the employ of the Langeberg Municipality ("Brunings") informed Umsiza that they needed to provide further information regarding alternative water sources available on Portion 6 in times of emergencies. It at least appeared as if the Municipality and specifically Brunings accepted the borehole as an ample source of water supply for the proposed feedlot. Only when the decision was made and the feedlot rejected, a prime reason for that rejection appears to be the allegation that the appellant and Umsiza did not supply enough information regarding alternative water sources apart from the borehole. This of course came as a quite a surprise as Umsiza were never informed that the borehole is considered by the Municipality as firstly an unreliable source and secondly an inadequate source to fulfil in the needs of the proposed feedlot, especially in times of emergencies.

6.1.4 Thus, what is simply incomprehensible is the fact that despite apparent in depth investigation by the Tribunal and specifically Brunings (as its investigating officer), into the water availability

aspects of the application, the above information regarding specifically alternative water sources and the availability of stored water in the Middelburg dam, was simply overlooked. This oversight becomes even more incomprehensible if regard is to be had to paragraph 70 of the Grounds of Appeal. In that paragraph specific mention is made of the fact that Umsiza Planning pointed out to Brunings that Hannes Du Bois was busy with the application for verification of the Middelburg Dam at the time and same is expected to be finalized soon. This was said in April 2019 but still no enquires was made as to the status of that application with BGCMA or Hannes Du Bois himself as at 31 October 2019, before the decision was taken. Should that had been done, reason 1 would never have seen the light of day, due to the irrefutable fact that there exists more than ample sources of water (including alternative sources) available to replenish the existing borehole in times of emergencies.

- 6.1.5 Thus there is no question that reason 1 falls by the wayside and is simply irrelevant. It is respectfully submitted that this type of sloppy investigation, is reminiscent of most, if not all of the reasons presented by the Tribunal and runs like a golden thread through the investigative process.

7. Ad Reason 2:

- 7.1 The fact that the proposed feedlot is located in a traditional CBA area has also been fully addressed in para 93 of the Grounds of Appeal (p 38).

- 7.2 On 11 December 2019 we also commented on behalf of the appellant on the appeal by Perisseia (Christo Reeder's Attorneys). Those comments covered this reason and provided additional information. In this regard we want to point out and have pointed out that during the past 2 to 3 years an area comprising of 135.3 ha of prime and pristine CBA, less than 2km south from the feedlot on Portion 6, were cleared for agricultural purposes by the owner of that property. The property in question is Portion 9 of the Farm Middelburg No 10 ("Portion 9"). We annex hereto marked "RT2", a Google map depicting 4 areas, comprising in total an area of 135.3 ha. This area forms part of the so-called Middelburg development and is located between 700m and 1.9km from the proposed feedlot on Portion 6.
- 7.3 We must mention immediately that we do not question, nor criticize the clearing of the said area of 135.3 ha on Portion 9. We assume that prior authorization was indeed obtained by the owners of Portion 9. The point however is, that pristine CBA was cleared which never had been cleared before, for agricultural or any other purpose. In comparison the feedlot and compost site on Portion 6, comprises of a mere ± 4 ha of previously cultivated and degraded land over the course of a few decades. Furthermore, the feedlot on Portion 6 does not fall in a so-called ecological corridor as has already alluded to in the Grounds of Appeal of the Reben Trust. In comparison, it can be gleaned from "RT2", that two ecological corridors in the form of two rivers, are located right in the middle of the developed land on Portion 9. In fact, one of the rivers is the very same river referred to in reason 2 as consisting of "*an important ecological corridor*".
- 7.4 Notwithstanding the above and inexplicably the development of 6000m² of historical and degraded CBA, is regarded by the Tribunal as a prime reason why the feedlot should be rejected out of hand. This stance

borders on ludicrousness. Surely, the authorities providing authorization for the 135.3 ha of land to be cleared on Portion 9, would have applied the WCPSTDF's Rural Land Use Guidelines of March 2019 before they approved the development of such prime and pristine CBA in the midst of two ecological corridors? Apparently, they did not find any compelling reason why this pristine CBA could not and should not be cleared and developed for agricultural purposes. Apparently the Tribunal came to a different conclusion on incomprehensible reasons.

- 7.5 It is respectfully submitted that reason 2 is an irrational and unreasonable one based on misguided observations and speculation bordering in reckless assumptions and should be rejected out of hand.

8. **Ad Reason 3:**

- 8.1 Likewise reason 3 is fully addressed in para 94 of the Grounds of Appeal (p 43).
- 8.2 An alarming aspect however reared its head in this reason. Notice must be taken of the fact that this consideration was never put to the appellant when and after the application for rezoning was made and before the decision was taken by the Tribunal. Thus, the appellant was not provided an opportunity to at least present an answer and "put his case" in terms of the trite legal principle of *audi alteram partem*.
- 8.3 In the case in the High Court of South Africa Eastern Cape Division between *Freedom Stationary (Pty) Ltd and Another and The Member of Executive Council for Education, Eastern Cape and 4 Others* case number 59/2011 ("the Freedom Stationary case") (involving a tender process and the rejection of the applicant's tender), it was found by the Honourable Judge Revelas in para 20 of that judgment as follows:

"In Du Bois v Stompdrift-Kamanassie Besproelingsraad 2002 (5) SA 186 (C), the applicant had been hiring a camping and picnic site from the respondent when the latter decided to put the lease out to tender."

"The applicant successfully applied for a review of the respondent's decision. The decision not to accept the applicant's tender was set aside on the basis that it was procedurally unfair, as the applicant (a) had not been informed of the information obtained by the respondent who relied on it to make an adverse conclusion against him, and (b) had not been given an opportunity at least to respond to that information."

- 8.4 In his judgment in Du Bois, judge Griesel J adhered to the *audi alteram partem* doctrine, as also expressed in PAJA. The judge quoted the following extract from an all England report in this regard:

"[5] Fairness will often require that a person who may be adversely affected by the decision will have an opportunity to make representations on his own behalf either before the decision is taken with a view to producing a favourable result, or after it is taken, with a view to procuring its modification, or both."

[6] Since the person affected usually cannot make worthwhile representations without knowing what factors may weigh against his interests, fairness will very often require that he is informed of the gist of the case which he has to answer." (our underlining)

- 8.5 Furthermore, it is very strange that Brunings apparently did not consider this aspect as important enough to be put to the appellant beforehand in order to extract a motivation from its side.

- 8.6 Due to the fact that the appellant did not present a motivation, he has now been penalised for providing insufficient motivation with regard to the desirability of relocating the feedlot to Portion 6.
- 8.7 However, comprehensive reasons have since in any event been presented as part of the Grounds of Appeal in annexure "A27" which contains a detailed motivation of the most logic reasons why the feedlot should be moved from the outskirts of the town of Robertson to an agricultural environment. This respectfully in essence speaks for itself.
- 8.8 Again this reason was based on irrational, unreasonable and speculative assumptions, was never placed before the appellant to respond thereto and should be rejected out of hand.

9. **Ad Reasons 4 and 5:**

- 9.1 Full and detailed reasons were provided in para 95 of the Grounds of Appeal (p 44).
- 9.2 Apropos of the so-called fly problem which will allegedly escalate and have already drawn complaints, reference is again made to the existing Roodehoogte feedlot which has been in existence for more than 5 years on the very outskirts of the town of Robertson. Despite that location, no complaints whatsoever had been received with regard to an escalation of flies emanating from that feedlot.
- 9.3 The interesting fact of the matter is that a compost facility albeit in extent only 1.3 ha (and not 3.6 ha as applied for), has already been approved by the decision-maker. The fly and odour problem has therefore already been considered and found not to be such as to prevent the approval in principle of a compost facility. The reason

advanced however, for rejecting the feedlot, is the so-called cumulative effect of both the compost facility and the proposed feedlot on Portion 6. The existing feedlot at Roodehoogte should have been taken into account as a comparable example why this deduction cannot validly be made and has already been comprehensively discussed under the separate heading "The Existing Roodehoogte Feedlot" on p 26 of the Grounds of Appeal.

- 9.4 As stated above and stands out from the existing Roodehoogte Feedlot is that no complaints whatsoever has been received since the approval of the Roodehoogte Feedlot. This fact simultaneously also addresses the concern raised in Reason 4 pertaining to the *"health and well-being of residence and tourists, and on the surrounding natural and agricultural environment and the socio economic impact thereof"*.
- 9.5 Brunings herself in her report to the Tribunal, attached as "A10" to the Grounds of Appeal, surmised *"There is no socio-economic assessment to determine the potential negative impact on tourism and tourism-related employment. However the potential negative socio-economic impact is dependent on the degree to which the impacts of pests and odour are satisfactorily addressed to the on-going implementation of the SOPs."*
- 9.6 Thus it can be accepted as a fact that the alleged cumulative impact by the presence of a feedlot on odours and flies in association with the compost facility, is mere speculation and based on no hard or any evidence at all.
- 9.7 Reasons 4 and 5 are thus patently not only irrational and misguided, but based on incomprehensible and speculative assumptions and must be rejected out of hand.

10. **Ad Reason 6:**

- 10.1 Full and extensive reasons has been provided in para 96 of the Grounds of Appeal (p 47).
- 10.2 It is respectfully submitted that this reason borders on ludicrous shortsightedness by the decision-maker. Full reasons have been submitted why this is deemed to be so.
- 10.3 It must be remembered that the alternative options to alleviate the abattoir's waste problem, was in the first place "dumped" by the Municipality themselves on the appellant, due to national legislation veering away from landfill sites to alternative green waste disposal options.
- 10.4 Furthermore, we refer the Appeal Authority to the pamphlet ("RT1") where the whole process of how it came about that the appellant embarked on the compost making method, is explained. The Municipality was in any event at all relevant times fully aware of the fact that the composting of abattoir general waste, was in the pipeline as far back as 2016 and thoroughly investigated by the appellant before it eventually was being decided upon.
- 10.5 In annexure "A28" attached to the Grounds of Appeal, full reasons are in any event provided by Mr David Houghton with regard to the various options which was indeed investigated apart from the composting option.
- 10.6 Again the same alarming factor rears its head which runs like a golden thread through most of the reasons advanced by the decision-maker. Nowhere in any prior correspondence did Brunings request or require

the Appellant to advance reasons or a motivation why other alternative solutions as opposed to composting, cannot be utilized. This aspect was after all, never on the table and Brunings is well aware of the fact that the composting option was opted for more than 3 years ago, with the full knowledge and even co-operation of the Municipality. Almost 4 years down the line, the Municipality now for the first time, introduces the aspect of alternative available options opposed to the composting one, as one of the reasons why the feedlot has been rejected.

10.7 The Freedom Stationary case referred to above, is a direct case in point as to Brunings' failure to inform the appellant and Umsiza that unless they provide a full motivation why the compost option was opted for and not other waste disposal solutions, it will or at least may result in a negative conjecture by the Tribunal.

10.8 Thus, this reason is fatally flawed and in any event based on irrational, misguided and speculative assumptions to the extent of being male fide and should be rejected out of hand.

11. Ad Reason 7:

11.1 Again full reasons are submitted in para 97 of the Grounds of Appeal (p48). It concerns the storm water plan and the alleged failure to provide a storm water management plan.

11.2 Apart from the fact that a storm water plan was provided and regarded as sufficient information to make an informed decision, this information is still regarded by the Tribunal as not sufficient and an alleged dismissal of the Tribunal's request for such a plan.

- 11.3 Be that as it may, a professional engineer in the person of Mr FPJ Van Der Merwe provided a detailed report addressing all water management issues on Portion 6, fully and scientifically. This report provides confirmation that a formal so-called storm water management plan is not necessary at all.
- 11.4 He also addressed the so-called alternative source of water to the feedlot properly and comprehensively and confirms what we have stated above under Ad Reason 1. In essence his report confirms that a storm water management plan consist of the following procedures, which in essence includes proper maintenance of the existing two channels, the walls of the collection dam, the emptying of the collection dam as soon as possible after rain to create enough spare capacity, the verification of the collection dam at least every 5 years and additional measures which might become necessary to maintain the integrity of the storm water management plan.
- 11.5 He concluded his report with the following conclusion: *"From the plan of Umsiza Town and Regional Planners dated March 2019, which was submitted with the previous application, it is evident that adequate provision has been made to safely convey all contaminated storm water from both the compost facility and the proposed feedlot into the collection dam, and to ensure that neither the channels conveying the water nor the collection dam will overflow, even during any worse case extreme rainstorms that could be expected once in 20 years."*
- 11.6 From the afore-going this reason is based on unreasonable and unnecessary information and unsubstantiated rationale based largely on speculation and should be rejected out of hand.

12. **Ad Reason 8:**

- 12.1 This reason is addressed in para 98 of the Grounds of Appeal (p 51). Again, this reason is based upon pure speculation and conjecture and no evidence is provided by the Tribunal to substantiate this so-called ethical concern.
- 12.2 Likewise, this issue was never raised by Brunings and presented for comments to the appellant prior to the decision being taken by the Tribunal. For that reason alone it should be rejected pursuant to the *audi alteram* principle.
- 12.3 Furthermore, the question arises: if this issue was a very important aspect to be considered by the Tribunal, one should surely have expected that the concerns of the Tribunal should have been presented to the appellant to comment thereon? It was not.
- 12.4 This reason should be rejected out of hand for obvious reasons.

13. **Approval in part of compost facility in extent of 1.3 ha:**

- 13.1 It must be pointed out that the approved portion of the applied-for land to be utilised as a composting facility, does not include all the components forming part of a fully functional composting facility.
- 13.2 According to Department of Environmental Affairs a fully functional compost facility consist of various components including at least the windrows, raw material area, finished product area, cut-off weirs the collection dam, turning points for vehicles, etc.

13.3 The 1.3 ha is totally inadequate to cater for a fully functional compost facility, including those components. As can be gleaned from the diagram attached to the decision letter, the collection dam as well as the channels or weirs leading runoff water from the proposed compost facility to that dam, is not included in the rezoned area of 1.3 ha. Furthermore, the proposed finished product area is in extent totally inadequate to cater for a WML License to treat raw material up to 100 tons per day. The inadequacy of the proposed composting area renders the WML practically inoperative, ineffectual and at the very least uneconomical to operate.

14. **Conditions of approval:**

With regard to the conditions of approval of the limited portion of the composting facility, we deem it unnecessary to comment on each and every one of them. We have already commented on behalf of the appellant fully and in detail in paras 107 to 120 of the Grounds of Appeal (p 56 to 63). We abide by those comments.

15. **Conclusion:**

15.1 We again conclude that the reasons provided for the taking of the decision, are in general not only unreasonable in the extreme, but also based on either speculative and irrational conjecture and some of those issues raised in the reasons were never put to the appellant before the decision was taken, to enable it to comment thereon. As it turns out and notwithstanding the failure to present to the appellant the opportunity to comment on these considerations, the appellant fully and adequately addressed those reasons presented by the Tribunal and they should be rejected out of hand.

15.2 It is respectfully submitted that the Appeal Authority should bear in mind the following crucial considerations in deciding this appeal:

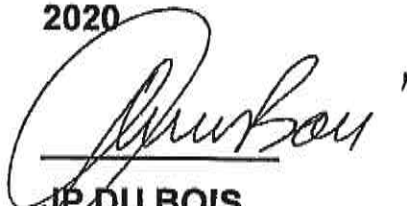
- 15.2.1 Full and detailed submissions and proper reasons were provided by the appellant in their Grounds of Appeal why the reasons of the Tribunal should be rejected out of hand.
- 15.2.2 Furthermore, the history of this matter and the financial constraints it has already placed on the appellant, is a cumulative factor that should not be disregarded.
- 15.2.3 It is furthermore submitted with respect, that every rule in the book was followed by the appellant and its advisors and when the application for an EIA with the relevant provincial department and the application for a WML were rejected by the relevant two departments, the appellant immediately applied to the Western Cape High Court to have their decision reviewed. It was indeed reviewed and a Court Order was handed down, followed by the granting of an EIA and WML on 29 November 2019 with adequate conditions for the proper operation of a compost facility on an area of 3.6 ha and a feedlot. Full and adequate reasons were indeed provided by those two departments why these two land uses should be granted.
- 15.2.4 Despite those environmental experts granting consent for the operation of a compost facility by means of a WML and a feedlot, the Municipality in its wisdom, decided against it, for inadequate reasons as have been fully motivated.
- 15.2.5 Furthermore, as can be gleaned from the reasons provided by the Tribunal on 31 October 2019, most of the reasons are

environmentally related. Despite the handing down of the Court Order on 25 October 2019, rejecting the case of the two departments, the Municipality still proceeded, without waiting for the outcome of the applications for the WML and feedlot, to take the decision to reject the feedlot out of hand and restrict the compost facility to an inadequate area of only 1.3 ha.

- 15.2.6 Understandably so, the appellant was shocked with not only the decision and the contents thereof, but even more so with the inadequate and lame reasons proffered why that decision was taken.
- 15.2.7 The fact of the matter is, as stated above, that the appellant are now in possession of a WML and an EIA (albeit under appeal with the Minister) with regard to the feedlot and the compost facility, but in practice it is of little or no use to them. They have already, as stated before, expended millions of rand in the course of these proceedings over a period of more than 3 years.
- 15.2.8 In the meantime the Langeberg Municipality cannot alleviate the waste problem emanating from the Robertson Abattoir, but it at least appears through their actions or failures to act as if they went out of their way to prevent the appellant and SAFAM to utilise a perfectly practical and acceptable method of dealing with the abattoir waste by producing a high quality compost, perfectly in line with national legislation, policies and trends of how to dispose of general waste.
- 15.2.9 We make an urgent call on this Appeal Panel to grant the relief sought by the appellant in this appeal set out in para 130 of the

Grounds of Appeal (p 66) as it is with respect, simply the right thing to do.

**DATED AND SIGNED AT ROBERTSON ON THIS 26TH DAY OF AUGUST
2020**


JP DU BOIS
o.b.o the Appellant



FARM ASSURED COMPOST

SOUTH AFRICAN FARM ASSURED MEAT GROUP CC

Technical queries: david@safam.co.za

Jacques 071 485 0956
voerkraal@safam.co.za

SOUTH AFRICAN FARM ASSURED MEAT GROUP (SAFAM)

COMPOST

1. BACKGROUND

The process detailed below shows how SAFAM have been able to turn an abattoir waste product which went to land fill at a significant financial and environmental cost into a by-product which is used as part of a process to produce a valuable end product – COMPOST.

SAFAM (Robertson) Abattoir needed to develop their own by-product handling solution due to changes in legislation at local, provincial and national level whereby landfill sites can no longer accept organic materials. Municipalities can no longer take the abattoir by-products and must handle them in other ways.

SAFAM Robertson spent a whole year investigating the best method of dealing with the by-products generated during the normal operation of the abattoir. During this time the following options were investigated.

- a) Using another service provider to handle the by-products.
- b) Building and operating a Biogas Plant on site.
- c) Alkaline Hydrolysis.
- d) Opening and operating a compost site.



During this process SAFAM gained a greater understanding of their environmental impacts and how to lessen these. SAFAM ultimately chose to open and operate a compost site.

After the first full year of operation, the chemical analysis showed that the compost being produced was world class.

2. SUMMARY OF THE PROCESS USED AND THE END PRODUCT.

The production of a quality compost depends heavily on the raw materials used to make the product. As composting is often seen as a way of utilizing waste products the process and ingredients can often become a free for all, with anything being added. THIS IS NOT THE CASE AT SAFAM.

At the start of the process SAFAM wanted to understand what made a good compost (or a bad one) and to ensure the process could be repeated time after time.

To this end SAFAM use only 3 raw materials to produce the compost

- a) Cattle and Sheep Manure
- b) Abattoir By-Products
- c) Quality Wood Chips

No other ingredients are used or needed, apart from Time, allowing nature to do its work and turn unwanted organic materials into a highly desirable product.

The manufacturing of the compost follows a very simple and repeatable 4 step process which is monitored on a regular basis from start to finish. The total length of time can take between 6 to 12 months and is only completed when the results show the compost is of the desired quality.

4 Step Process

- a) Bulk Static Piles – 2 to 3 months
- b) Turned / Aerated Windrows 3 – 6 months
- c) Finishing – Heat treated for 20 to 30 days
- d) Maturation (if required)

After the final step the compost can be sieved / graded through a 12mm mesh if required by the customer.



3. ANALYTICAL RESULTS OF THE FINISHED PRODUCT

a. MICROBIOLOGY

SAFAM have taken the finished compost to an accredited laboratory in order to have it tested for pathogens of concern. The results gained show that the process is working as it should as the compost was free from Salmonella species as well as E.Coli. (Results will be provided upon request). This indicates that the heat treatment process is working.

b. CHEMICAL ANALYSIS

SAFAM test for numerous chemical elements as required not only by South African Regulations but also International Standards. SAFAM have extensive results which show that their compost contains high levels of the desired macro nutrients such as Carbon, Nitrogen, Phosphorous and Potassium as well as High levels of desired micro nutrients.

Just as important SAFAM can show that their compost is well below both local and international levels for the undesirable pollutants and heavy metals which can cause environmental problems through build up.

	pH KCL	MOIST%	N% & Kg/M3	P% & Kg/M3	K% & Kg/M3	CARBON%	ASH%
QUANTITY / VALUE	6.5	25.5	1.76 & 6.77	0.49 & 1.87	1.15 & 4.3	21	57

	CA% & Kg/M3	Mg% & Kg/M3	Na mg/Kg	Mn mg/Kg	Cu mg/Kg	Fe mg/Kg	Zn mg/Kg
QUANTITY / VALUE	1.77 & 7.13	0.51 & 1.9	3401	429	40	14151	305

	B mg/Kg	Cd mg/Kg	Pb mg/Kg	Cr mg/Kg	As mg/Kg	Hg mg/Kg	Mo mg/Kg
QUANTITY / VALUE	29	0.06	6.1	8.2	0.8	0.1	1031

	F mg/Kg	Se mg/Kg	Co mg/Kg	Ni mg/Kg
QUANTITY / VALUE	0.03	0.5	6.2	2.5

c. SEED GERMINATION

SAFAM commissioned an independent and accredited laboratory to carry out seed germination trials in accordance with Act 36 Registration requirements.

According to the data from this trial SAFAM's compost had statistically higher plant emergence for maize at 5 DAP than the untreated control and numerically higher than the registered standard. In addition, SAFAM's compost had numerically higher average wet weight for maize than both the registered standard and the untreated control at 28 DAP.



SAFAM's compost had numerically higher percentage plant emergence at 4 DAP for soybeans than both the registered standard and the untreated control.

SAFAM's compost had numerically heavier average wet weight for soybeans than both the registered standard and the untreated control at 28 DAP.

4. CONCLUSIONS



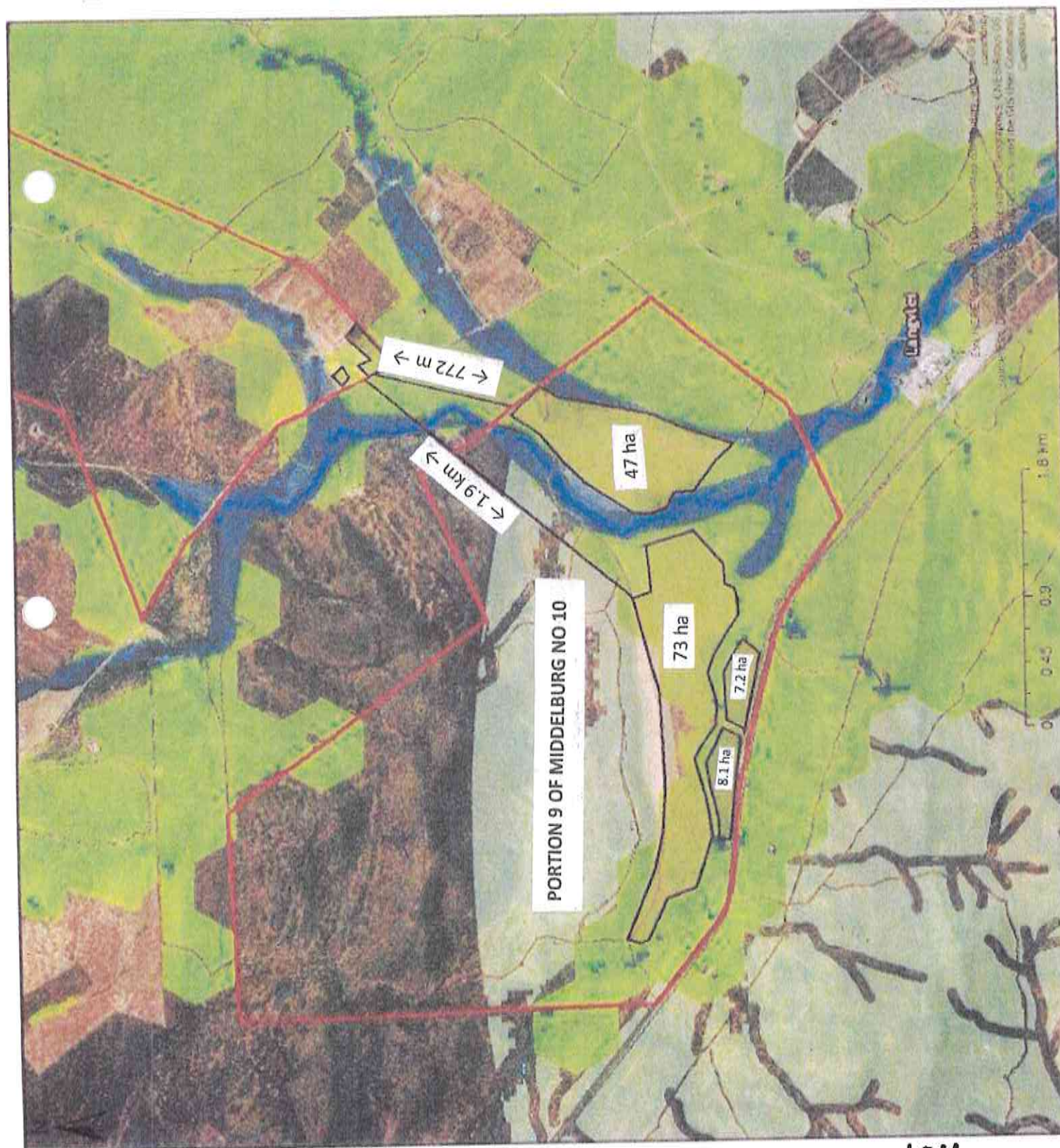
SAFAM is confident that the above information highlights the quality of the compost and how beneficial the product would be to any farms operation with its addition to the soil.

For further information including pricing and availability please do not hesitate to contact the SAFAM team.

Middelburg Ontwikkeling

Legend

- Other Natural Area
- BSP CBA
- CBA: Terrestrial
 - CBA: Terrestrial (CT)
 - CBA: Forest
 - CBA: River
 - CBA: Estuary
 - CBA: Wetland
 - CBA: Aquatic (CT)



"RT2"

Scale: 1:36 112

Date created: November 29, 2019

Compiled with CapeFarmMapper



Western Cape
Government
Agriculture

Annexure 20

Applicant's Submission to the High Court re. DEA&DP decisions:

Application and Founding affidavit available at the following link:
<https://www.dropbox.com/sh/6tjwcrqfeiw4r0s/AADf0Jq1WpppCxxKFTyDTIF-a?dl=0>

Annexure 21

Appellants' submissions:

Compliance and enforcement procedures relating to
the current composting activities

Tracy Brunings

Subject: FW: SAFAM CC & 3 OTHERS // MEMBERS OF THE EXECUTIVE COUNCIL FOR LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING, DEPARTMENT OF ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING AND LANGEBERG MUNICIPALITY - CASE NO 14084/2019

Attachments: Tribunal Decision Suspended_Dec 2019.pdf

Importance: High

From: Samantha de Villiers <samantha@ndvlaw.co.za>

Sent: Monday, 31 August 2020 12:53

To: Christo Reeders <christo.reeders@crattorneys.co.za>; Hannes du Bois <hannes@jpdubois.co.za>; Joliza Swanepoel <JSwanepoel@langeberg.gov.za>; Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>

Cc: Rdl.Schalk Van Eeden <Schalk@langeberg.gov.za>; Soyisile Mokweni <smokweni@langeberg.gov.za>; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Anton Everson <AEverson@langeberg.gov.za>; Tracy Brunings <tbrunings@langeberg.gov.za>; Justine Sweet <jsw@crattorneys.co.za>; Madre Deetlefs <madre.deetlefs@crattorneys.co.za>

Subject: RE: SAFAM CC & 3 OTHERS // MEMBERS OF THE EXECUTIVE COUNCIL FOR LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING, DEPARTMENT OF ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING AND LANGEBERG MUNICIPALITY - CASE NO 14084/2019

Importance: High

Dear All

I refer to my final question relating to whether the Applicant has duly suspended all activities on site as a result of the directive from the Municipality to do so.

I attach hereto correspondence, dated 5 December 2019, wherein the Municipality itself took the decision to **suspend** the operation of the approval relating to the 1.3ha composting facility. Please refer to paragraph 5 of the attached for the suspension clause. This suspension was issued pursuant to a request made by our clients on 27 November 2019 and was taken by the Municipal Manager in terms of section 80(11)(c) of the By-Laws. ***It follows that the Applicant was and is still prohibited by the Municipality from undertaking ANY composting activities on any part of the project site, since 5 December 2019.***

This is a direct result of the Appeals being lodged and as such, is most relevant to this Appeal process. Further, the Municipality itself suspended the operation of any activities on site and thus, the Applicant is bound to comply with such suspension until the outcome of this Appeal process. Given that the Appeal Authority is considering postponing the hearing of the Appeal, it is vital to confirm at this stage, that the Applicant has recognised and continues to recognise the authority of the Municipality by complying with such directive and suspending such activities during the Appeal process.

Following our questions asking for confirmation that the activities have indeed ceased since 5 December 2019, we noted that the Applicant's attorney did not answer in the affirmative.

Furthermore, it has come to our attention that activities have **not** suspended on site and have continued unabated, notwithstanding the Municipality's clear directive on 5 December 2019. Our clients' numerous formal Complaints to date serve as proof of such non-compliance with the Municipality's directive. The Municipality is accordingly requested to immediately direct the Applicant to cease any and all activities on the site until the outcome of the Appeal, so as to protect our clients' rights and to preserve the Appeal Process. We further request that the Appeal Authority take into consideration the decision by the Applicant to ignore a clear directive from the Municipality.

Finally, please note that Mr Sibonelo Ndlovu is handling this matter from Ndlovu de Villiers Attorneys. I availed myself on a temporary basis for the hearing due to his unavailability. Please copy Mr Ndlovu in future correspondence for this matter going forward.

Please confirm receipt of this correspondence.

Kind regards

Samantha de Villiers

BA(Law) LLB

Partner

Tel: 033 001 7521 Cell: 074 447 8446 Fax: 086 272 8790

Email: samantha@ndvlaw.co.za Website: www.ndvlaw.co.za

Address: Block A Victoria House, Victoria Country Club Estate (170 Peter Brown Drive), PMB.



Ndlovu de Villiers

Environmental Law Specialists

Our Ref: 15/4/12/9

Navrae/Enquiries: J V Brand

Trustees of the Reben Trust
c/o Du Bois
Posbus 466
ROBERTSON 6705

5 December 2019

Per email: hannes@jpdubois.co.za

APPLICANT TO COMMENT ON APPEALS IN TERMS OF THE LANGEBERG LAND USE PLANNING BYLAW, 2015

Dear Sir,

**NOTIFICATION OF APPEALS AGAINST THE DECISION OF THE LANGEBERG MUNICIPAL PLANNING TRIBUNAL
RELATING TO PORTION 6 OF THE FARM MIDDELBURG NO. 10, ROBERTSON**

1. I refer to the letter of decision dated 31 October 2019 relating to the above property, and I acknowledge receipt of your appeal in this regard.
2. Please be advised that, in addition to your appeal (referred to for administrative purposes as Appeal 1), three additional appeals have been lodged against the above decision. Copies of the following appeals are attached for your information:
 - 2.1. Appeal 2: Christo Reeders Attorneys, for Johan and le Roux Fourie: Perisseia Trust.
 - 2.2. Appeal 3: P J Gerber.
 - 2.3. Appeal 4: Ndlovu de Villiers Environmental Law Specialists, for H. Jooste and L. Jordaan.
3. You are hereby afforded the opportunity to comment on the appeals within 21 days of receiving this notification.
4. In the light of the above appeals, with reference to Section 80(4) of the Langeberg Land Use Planning Bylaw, 2015, please also notify the following parties of your appeal:
 - 4.1. Perisseia Trust at leroux@dmvrb.co.za, johanrie@barvallei.co.za and christo.reeders@crattorneys.co.za; and
 - 4.2. P J Gerber at gerberpa@vodamail.co.za
5. Please note that in terms of section 61(5) of the Langeberg Municipal Land Use Planning Bylaw, 2015, the Tribunal's decision is suspended until the appeals have been finalised and you have been advised accordingly.

Yours faithfully



M JOHNSON
DIRECTOR: ENGINEERING SERVICES

c.c. C Reeders Attorneys: leroux@dmvrb.co.za, johanrie@barvallei.co.za and christo.reeders@crattorneys.co.za
P J Gerber: gerberpa@vodamail.co.za
Ndlovu de Villiers: Ndlovu@ndvlaw.co.za, Louis@grahmbeckenterprises.co.za, hannere@gmail.com

Tracy Brunings

From: Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>
Sent: Monday, 07 September 2020 14:56
To: Christo Reeders; Rdl.Schalk Van Eeden; 'Soyisile Mokweni'; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Anton Everson; Riaan de Jong; Tracy Brunings; Joliza Swanepoel; MM; Hannes du Bois; gerberpa@vodamail.co.za
Cc: Justine Sweet; Jacolette Adam; LeRoux Fourie
Subject: RE: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: Letter to Appeals Authority.pdf

Good afternoon,

Herewith further correspondence addressed to the Appeal Authority.

Kind regards.

Sibonelo Ndlovu

BA(Law), LLB, LLM (Marine and Environmental Law)

Attorney/Notary Public

Tel: 033 001 7521 Cell: 072 320 0283 Fax 086 2728 793

Email: ndlovu@ndvlaw.co.za Website: www.ndvlaw.co.za

Address: Block A Victoria House, Victoria Country Club Estate (170 Peter Brown Drive), PMB.



Ndlovu de Villiers
Environmental Law Specialists

From: Sibonelo Ndlovu

Sent: Thursday, 03 September 2020 09:56

To: Christo Reeders <christo.reeders@crattorneys.co.za>; schalk@langeberg.gov.za; 'Soyisile Mokweni' <smokweni@langeberg.gov.za>; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; AEverson@langeberg.gov.za; Riaan de Jong <rdejong@langeberg.gov.za>; 'Tracy Brunings' <tbrunings@langeberg.gov.za>; Joliza Swanepoel <JSwanepoel@langeberg.gov.za>; MM <mm@langeberg.gov.za>; Iannes du Bois <hannes@jpdubois.co.za>; gerberpa@vodamail.co.za

Cc: Justine Sweet <jsw@crattorneys.co.za>; Jacolette Adam <jacolette@exigent.co.za>; LeRoux Fourie <leroux@dmvrb.co.za>

Subject: RE: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT

Good morning

Herewith correspondence addressed to the Appeal Authority.

Kind regards.

Sibonelo Ndlovu

BA(Law), LLB, LLM (Marine and Environmental Law)

Attorney/Notary Public

Tel: 033 001 7521 Cell: 072 320 0283 Fax 086 2728 793

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Address: Block A Victoria House, Victoria Country Club Estate (170 Peter Brown Drive), PMB.



Ndlovu de Villiers
Environmental Law Specialists



Ndlovu de Villiers

Environmental Law Specialists

Langeberg Municipality

Attention: Mr. A S W van Eeden
Executive Mayor

Per e-mail: jswanepoel@langeberg.gov.za

Ref:	15/4/12/5&7
Date:	7 September 2020

Dear Sir

RE: REQUEST OF A COPY OF THE MUNICIPALITY'S DIRECTIVE ISSUED AGAINST THE APPLICANT

1. We refer to our latest correspondence dated 3 September 2020 which we addressed to the Appeal Authority.
2. In that correspondence we drew the attention of the Appeal Authority to Paragraph 5 of the Municipality's letter dated 5 December 2019. In that Paragraph, the Municipality informed Mr. du Bois and the Applicant that:

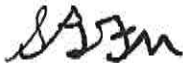
"Please note that in terms of section 61(5) of the Langeberg Municipal Land Use Planning Bylaw, 2015, the Tribunal's decision is suspended until the appeals have been finalised and you have been advised accordingly,".

Block A Victoria House (170 Peter Brown Drive)
Victoria Country Club Estate
Pietermaritzburg, 3201
South Africa
Tel: +27 (0)33 001 7521 Email: ndlovu@ndvlaw.co.za
Cell: +27 (0)72 320 0283 Fax: +27(0)86 272 8791

Ndlovu de Villiers Attorneys
Partners: S.J.F. Ndlovu BA (Law) LLB LLM (Mining & Environmental Law)
S.O. de Villiers BA LLB

3. We further advised the Appeal Authority that the Applicant had ignored the Municipality's advice quoted directly above. As a result, we requested the Appeal Authority to direct the Applicant to cease, forthwith, any and all activities on the site until the outcome of the Appeal.
4. In light of the above, we hereby request the Appeal Authority to furnish us with a copy of the directive that the Appeal Authority has since issued to the Applicant. In the event that the Appeal Authority has not issued the directive to the Applicant, we hereby request the Appeal Authority to furnish us with reason/s for the failure to issue the directive.
5. All our clients' rights are reserved.

Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)

Tracy Brunings

From: Joliza Swanepoel
Sent: Tuesday, 08 September 2020 11:07
To: Anton Everson; Maynard Johnson; Kobus Brand; Tracy Brunings
Cc: Langeberg Municipality
Subject: FW: REQUEST BY NDLOVU DE VILLIERS FOR THE DIRECTIVE ISSUED AGAINST THE APPLICANT
Attachments: Reben Trust - letter to Ndlovu De Villiers 08.09.20.pdf; Reben Trust - letter to Langeberg Municipality 08.09.20.pdf

From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Tuesday, 08 September 2020 11:03
To: Joliza Swanepoel <JSwanepoel@langeberg.gov.za>
Cc: ANDRE LA GRANGE <advlag@mweb.co.za>
Subject: REQUEST BY NDLOVU DE VILLIERS FOR THE DIRECTIVE ISSUED AGAINST THE APPLICANT

Dear Sirs

Attached herewith please find letter with annexure for your attention.

Yours Faithfully
 JP DU BOIS

DU BOIS
 PROKUREURS

Audrey Fortuin

Kerkstraat 23, Posbus 466, Robertson 6705
 Tel : 023 626 6523 • Faks: 023 626 6577
 Epos : hannes@jpdubois.co.za

WORCESTER KANTOOR : 22 FAIRBAIRNSTRAAT



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FRAUD ALERT: Our office will never change or amend our trust account banking details via email or other electronic forum. Please contact our office for formal verification should you receive any correspondence of such nature. You should not act on any email purportedly from us changing our bank details, but kindly inform us immediately.



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PROKUREURS/ ATTORNEYS AKTEBESORGER / CONVEYANCERS

BTW NR 4770183285

ROBERTSON

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ROBERTSON		ROBERTSON
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NA URE	+27 23 347-4693	AFTER HOURS
FAKS	+27 23 626-6577	FAX
SEL	082 8214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	aktes@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/HR0219

YOUR REF : 15/4/12/5&7

DATE : 8 SEPTEMBER 2020

MR ASW VAN EEDEN
EXECUTIVE MAYOR
LANGEBERG MUNICIPALITY

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

E-mail: jswanepoel@langeberg.gov.za

Dear Sir

REQUEST BY NDLOVU DE VILLIERS FOR THE DIRECTIVE ISSUED AGAINST THE APPLICANT

We refer to the above letter addressed to the Langeberg Municipality on 7 September 2020 by Ndlovu De Villiers.

We attach herewith our response to that letter of Ndlovu De Villiers.

You will kindly bear in mind that the Applicants are in possession of a Court Order issued by the Western Cape High Court on 18 October 2019, whereby they are allowed to treat general waste on 1 ha on Portion 6 and not in excess of 10 tons per day.

Yours Faithfully
DU BOIS ATTORNEYS

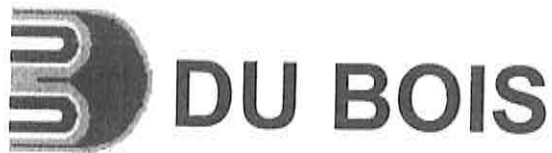
Per

JP DU BOIS

DIRECT E-MAIL : hannes@jpdubois.co.za

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

1026.



Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGER / CONVEYANCERS

BTW NR 4770183285

ROBERTSON

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FAKS	+27 23 626-6577	FAX
SEL	082 8214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	akles@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/HR0219

YOUR REF : Sibonelo Ndlovu

DATE : 8 SEPTEMBER 2020

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

MESSRS NDLOVU DE VILLIERS ATTORNEYS
PIETERMARITZBURG

E-mail: ndlovu@ndvlaw.co.za

Dear Sirs

**APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON – ABATTOIR WASTE
TREATMENT SITE AND FEEDLOT**

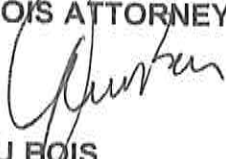
We refer to your letter of 7 September 2020 addressed to the Langeberg Municipality.

May we kindly refer you to annexure "A11" of our Grounds of Appeal. "A11" is the Court Order issued by the Western Cape High Court on 18 October 2019. We refer you to paragraph 6 of that Court Order.

You may also find it informative to have regard to annexure "A13" of our Grounds of Appeal.

We confirm that our clients are operating the compost facility pursuant to and within the dimensions prescribed by paragraph 6.1 of the Court Order (not pursuant to the 1.3ha granted by the Tribunal) and they will continue to do so pending the current appeal in terms of their rezoning application.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

Yours Faithfully
DU BOIS ATTORNEYS
Per 

JP DU BOIS
DIRECT EMAIL : hannes@jpdubois.co.za

Tracy Brunings

From: Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>
Sent: Thursday, 10 September 2020 09:55
To: Christo Reeders; Rdl.Schalk Van Eeden; 'Soyisile Mokweni'; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Anton Everson; Riaan de Jong; Tracy Brunings; Joliza Swanepoel; MM; Hannes du Bois; gerberpa@vodamail.co.za
Cc: Justine Sweet; Jacolette Adam; LeRoux Fourie
Subject: RE: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: Reben Trust - letter to Ndlovu De Villiers 08.09.20.pdf; Letter to Mr. J P Du Bois 10092020.pdf

Good morning

We refer to our correspondence (dated 7 September 2020) addressed to the Appeal Authority.

While we are still waiting for the response from the Appeal Authority, the Applicant's attorneys have provided us its response.

We attach herewith the response from the Applicant's attorneys and our reply.

We request the Appeal Authority to attend to our correspondence urgently.

Sibonelo Ndlovu

BA(Law), LLB, LLM (Marine and Environmental Law)

Attorney/Notary Public

Tel: 033 001 7521 Cell: 072 320 0283 Fax 086 2728 793

Email: ndlovu@ndvlaw.co.za Website: www.ndvlaw.co.za

Address: Block A Victoria House, Victoria Country Club Estate (170 Peter Brown Drive), PMB.



Ndlovu de Villiers
 Environmental Law Specialists

From: Sibonelo Ndlovu

Sent: Monday, 07 September 2020 14:56

To: Christo Reeders <christo.reeders@crattorneys.co.za>; schalk@langeberg.gov.za; 'Soyisile Mokweni' <smokweni@langeberg.gov.za>; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; AEversson@langeberg.gov.za; Riaan de Jong <rdejong@langeberg.gov.za>; 'Tracy Brunings' <tbrunings@langeberg.gov.za>; Joliza Swanepoel <JSwanepoel@langeberg.gov.za>; MM <mm@langeberg.gov.za>; Hannes du Bois <hannes@jpdubois.co.za>; gerberpa@vodamail.co.za
Cc: Justine Sweet <jsw@crattorneys.co.za>; Jacolette Adam <jacolette@exigent.co.za>; LeRoux Fourie <leroux@dmvrb.co.za>

Subject: RE: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT

Good afternoon,

Herewith further correspondence addressed to the Appeal Authority.

Kind regards.

Sibonelo Ndlovu

BA(Law), LLB, LLM (Marine and Environmental Law)



Ndlovu de Villiers

Environmental Law Specialists

DU BOIS ATTORNEYS

Attention: Mr. J P Du Bois

Per e-mail: hannes@jpdubois.co.za

Your Ref	JPDUB/AF/HR0219
Our Ref	J01-001
Date:	10 September 2020

Dear Sir

RE: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON – ABATTOIR WASTE TREATMENT SITE AND FEEDLOT

1. We acknowledge receipt of your letter dated 8 September 2020.
2. Your letter is neither helpful nor informative. It is an exercise in obfuscation. First, your reference to the Court Order issued by the Western Cape High Court on 18 October 2019 is misplaced. That Court Order is nothing more than an agreement between your clients and the Environmental Authorities (i.e. the MEC and the Department of Local Government, Environmental Affairs and Development Planning in the Western Cape Province). The Langeberg Municipality is not a party to that agreement and,

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Pietermaritzburg, 3201
South Africa
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Ndlovu de Villiers Attorneys
Partners: S.J.F. Ndlovu BA (Law) LL.B LL.M (Marine & Environmental Law)
S.O. de Villiers BA LL.B

accordingly, it is not a party to the Court Order. Therefore, we are confused regarding your reasons for drawing our attention to that Court Order.

3. Secondly, we are aware of your letter dated 4 March 2019 addressed to the Langeberg Municipality. Hence, drawing our attention to that letter does not take this matter any further. Suffice to state that the legal argument advanced in that letter is hopelessly flawed. In any event, that legal argument has been rejected by the Langeberg Municipality. You are aware of the Langeberg Municipality's view as same is contained in the Assistant Town and Regional Planner's Reports.
4. In the final analysis, what your letter under reply conveys to us is your clients' defiance of the Langeberg Municipality.

Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)

Tracy Brunings

From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Thursday, 10 September 2020 13:12
To: Joliza Swanepoel
Cc: MM; Rdl.Schalk Van Eeden; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Anton Everson; Tracy Brunings
Subject: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: Reben Trust - letter to Ndlovu De Villiers - 10.09.20.pdf

Dear Sirs

Attached please find letter addressed to Ndlovu De Villiers Attorneys in response to the latter's letter dated 10 September 2020.

Yours Faithfully
 'P DU BOIS

DU BOIS
 PROKUREURS

Audrey Fortuin

Kerkstraat 23, Posbus 466, Robertson 6705
 Tel : 023 626 6523 • Faks: 023 626 6577
 Epos : hannes@jpdubois.co.za

WORCESTER KANTOOR : 22 FAIRBAIRNSTRAAT



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E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	aktes@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/HR0219

YOUR REF : Sibonelo Ndlovu

DATE : 10 SEPTEMBER 2020

MESSRS NDLOVU DE VILLIERS ATTORNEYS
PIETERMARITZBURG

E-mail: ndlovu@ndvlaw.co.za

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

Dear Sirs

**APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON – ABATTOIR WASTE
TREATMENT SITE AND FEEDLOT**

We acknowledge receipt of your letter of 10 September 2020.

In retrospect, it has become clear (from the contents of your above letter) that our letter must have appeared extremely obfuscating to you.

The reason being that from the contents of your letter, it appears that you are Environmental Law Specialists and in all probability not litigation specialists.

We therefore apologize for not recognizing that difference when we addressed our letter to you of 8 September 2020.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

1033.

We will explain:

1. The fundamental error in your reasoning is that it approaches the matter from a contractual angle – i.e. on the assumption that there is a mere compromise agreement in place between our clients and the Environmental Authorities and therefore the Court Order only applies to them.
2. You have in this regard also lost sight of the fact that the Langeberg Municipality is indeed a party to that Court Order.
3. By so doing you fell into the proverbial trap warned against in *Moraitis Investments (Pty) Ltd and Others v Montic Dairy (Pty) Ltd 2017 (5) SA 508 SCA* where Wallis JA had the following to say about a similar agreement:

"Its defect lies in approaching the question from the direction of the agreement instead of from the direction from the judgment. The latter is the correct approach, because the judgment operates as res judicata and precludes a claim based on the agreement. Unless and until the judgment has been set aside there can be no question of attacking the compromise agreement. It follows that the necessary starting point for the enquiry (as to what parties are bound by the Court Order) must be whether there are grounds upon which to seek rescission of the court order."

4. Once a settlement agreement is made an Order of Court, as has happened in this instance, it is interpreted in the same way as any judgment or order and affects parties' rights in the same way. Madlanga J in *Eke v Parsons 2016 (3) SA 37 (CC)* put the matter as follows:

"The effect of a settlement offer is to change the status of the rights and obligations between the parties. Save for litigation that may be consequent upon the nature of the particular order, the order brings finality to the lis between the parties, the lis becomes res judicata (literally a matter judged). It changes the terms of the settlement agreement to an enforceable court order."

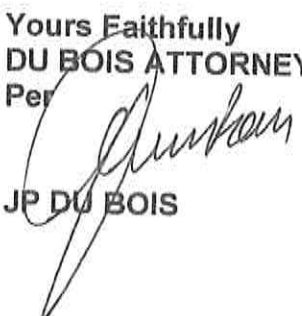
5. The fact of the matter is that when parties to a court case (including the Langeberg Municipality and notwithstanding the fact that the Langeberg Municipality as such did not become involved in the lis between our clients and the Environmental Authorities) resolve the dispute that is before the Court, the Court may then make the settlement agreement an Order of Court. Such an Order of Court becomes an Order of Court "like any other" – there is no difference in law between an Order granted in the case of a default judgment; an order pursuant to a settlement prior to the conclusion of opposed proceedings; or the order in a judgment pronounced at the end of a trial or opposed application.
6. What is of utmost importance for present purposes, is that the effect of such an Order is to finally determine the status of the rights and obligations between the parties and the issues covered by any dispute between them.
7. As there is no right of review from the decision of a Judge of the Supreme Court, either by statute or at common law, this avenue is also not at the disposal of the Langeberg Municipality or for that matter any other party.
 - 7.1 After all the law in this regard is trite: unless a Court Order has been set aside or has been rescinded, such an Order remains valid and binding on all the parties (including the Langeberg Municipality). In *Moraitis* this elementary and long-standing principle was explained thus:

"For so long as the Order stood it could not be disregarded ... The Constitutional Court has repeatedly said that Court Orders may not be ignored. To do so is inconsistent with s 165(5) of the Constitution, which provides that an order issued by a Court binds all people to whom it applies."
 - 7.2 Thus your contention that due to the fact that the Langeberg Municipality was not a party to a settlement order (between two of the parties to the same Court Order) made an Order of Court where the Langeberg Municipality was in fact the 3rd Respondent, runs counter to

trite law. As it has been explained in *Moraitis*, your ill-fated contention simply departs from the wrong premise – the fatal error being that it approaches the question from the direction of the agreement instead of from the direction of the judgment (as all the parties are in law obliged to do).

8. I sincerely hope that this exposition of the current law as it stands, was informative.
9. May we also suggest that you refrain from using words like obfuscation/hopelessly flawed and similar degrading words in letters addressed to your colleagues, before you have investigated your subject/topic thoroughly.
10. Lastly, we must point out (as you clearly did not take cognizance of this fact) that our letter of 4 March 2019 was drafted more than 7 months prior to the handing down of the judgment order on 25 October 2019. It is therefore clear that our letter of 4 March 2019 (although we still deem the contents as the correct interpretation of the law) has since become merely an academic opinion.
11. Lastly, you would have realized by now that you and your colleague, Mr Reeders's, appeals against the WML and EA, have been dismissed by Minister Bredell on 31 August 2020 and rightly so. Thus, similar verbal and technical attacks by way of an array of *points in limine*, by you aimed at our clients and their alleged wrong doings (by fabricating evidence and misleading officials) as well as attacks against the alleged misdoings of the relevant Environmental Authorities, were likewise swept off the table.
12. Maybe it is time that you and your colleague, Mr Reeders, seriously consider to cease your continuous opposition to the last outstanding appeal before the Langeberg Municipality. It is designed to fail somewhere along the line; if not at this juncture, then in a Court of Law.

Yours Faithfully
DU BOIS ATTORNEYS
Per


JP DU BOIS

Extract from letter from Ndlovu de Villiers dated 29 Sept 2020
- for full letter refer to Annexure 24(6).

29-Sep-20

9

August 2020 has not changed the issues that the Appeal Authority has to decide in respect of this matter. The only thing that has changed is Mr. du Bois' view on whether a hearing is necessary.

24. In the unlikely event that the Appeal Authority finds that the Provincial Minister's appeal decision has changed the issues before the Appeal Authority (as suggested in the letter under reply), we respectfully request the Appeal Authority to record that finding, clearly, in its appeal decision.

25. Our instructions are to request the Appeal Authority to set aside the Langeberg Municipality Tribunal's rezoning decision in its entirety and to dismiss the Applicant's application in its entirety.

Mr. du Bois' letter dated 10 September 2020

26. For the sake of completeness, we attach, herewith, a copy of Mr. du Bois' letter dated 10 September 2020 addressed to the writer hereof. We have not responded to that letter as we regarded it as not taking this matter any further. Our instructions are to address the contents of that letter briefly in the event the Appeal Authority takes that letter seriously.

27. In the letter dated 10 September 2020, Mr. du Bois provides a detailed explanation of why, in his view, it is proper for the Langeberg Municipality to be bound by the Court Order issued by the Western Cape High Court on 18 October 2019. The explanation that he provides (therein) is irrelevant as it flies in the face of our letter dated 7 September 2020 addressed to Appeal Authority.

28. For the sake of clarity, we set out below the relevant parts of our letter dated 7 September 2020:

- “2. In that correspondence we drew the attention of the Appeal Authority to Paragraph 5 of the Municipality's letter dated 5 December 2019. In that Paragraph, the Municipality informed Mr. du Bois and the Applicant that:

“Please note that in terms of section 61(5) of the Langeberg Municipal Land Use Planning Bylaw, 2015, the Tribunal's decision is suspended until the appeals have been finalised and you have been advised accordingly.”.

3. We further advised the Appeal Authority that the Applicant had ignored the Municipality's advice quoted directly above. As a result, we requested the Appeal Authority to direct the Applicant to cease, forthwith, any and all activities on the site until the outcome of the Appeal.
4. In light of the above, we hereby request the Appeal Authority to furnish us with a copy of the directive that the Appeal Authority has since issued to the Applicant. In the event that the Appeal Authority has not issued the directive to the Applicant, we hereby request the Appeal Authority to furnish us with reason/s for the failure to issue the directive.”

29. In the context of the above quoted paragraphs of our letter dated 7 September 2020, any discussion (by Mr. du Bois) relating to the Court Order is a fundamental misdirection which is not reconcilable with the discussion at hand. At hand is the fact that the Applicant requires a rezoning approval in order to undertake the activities that are being currently undertaken on the Applicant's property. In the absence of that approval, and the fact that the Langeberg Municipality Tribunal's decision “is suspended until the appeals have been finalised”, the Appeal Authority should have directed the Applicant to cease, forthwith, any and all activities on the property until the outcome of the appeals before the Appeals Authority. Mr. du Bois' lengthy discussion does not add anything to the issue at hand.

30. It is not clear to us whether the Appeal Authority shares Mr. du Bois' views. What we know is that the Appeal Authority has sat on its hands while the Applicant continues to violate the Bylaw. The Appeal Authority has not furnished us with any reasons on why the Appeal Authority has not issued a directive to the Applicant.
31. In the event the Appeal Authority fails to provide us with reasons for its failure to issue a directive against the Applicant (as requested in our letter dated 7 September 2020), we will assume that there are/ were no valid reasons for not issuing a directive to the Applicant.

Conclusion

32. We urge the Appeal Authority to proceed with caution in the event the Appeal Authority considers to grant the Applicant's application in its appeal decision. We do so because, in order to support the Applicant's application, Mr. du Bois has resorted to throwing insults directed at almost everyone who is involved in this matter, except the Applicant. Any application that is buttressed by such insults must be considered with caution. An insult is no substitute for a sound legal argument.
33. Our clients' rights are reserved.

Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)

Annexure 22

DEA&DP Appeal decision on the
Environmental Authorisation and
Waste Management Licences
in terms of NEMA

Tracy Brunings

From: MM
Sent: Thursday, 03 September 2020 09:20
To: Anton Everson; Maynard Johnson; Kobus Brand; Tracy Brunings
Cc: Langeberg Municipality
Subject: FW: Decision: Appeals lodged: WML & EA: Composting Facility and Feedlot on Portion 6 of the Farm Middelburg 10, Robertson
Attachments: Langeberg Letter.pdf; SAFAMG Letter.pdf

From: DEADP Appeals <DEADP.Appeals@westerncape.gov.za>
Sent: Thursday, 03 September 2020 09:09
To: **Langeberg Municipality** <admin@langeberg.gov.za>; **MM** <mm@langeberg.gov.za>
Cc: Eddie Hanekom <Eddie.Hanekom@westerncape.gov.za>; Lance McBain-Charles <Lance.McBain-Charles@westerncape.gov.za>; Zaahir Toefy <Zaahir.Toefy@westerncape.gov.za>; Mare-Liez Oosthuizen <Mare-Liez.Oosthuizen@westerncape.gov.za>
Subject: Decision: Appeals lodged: WML & EA: Composting Facility and Feedlot on Portion 6 of the Farm Middelburg 10, Robertson

Dear Mr Mokweni,

Attached please find the decision regarding the above mentioned matter made by Mr Anton Bredell, Provincial Minister of Local Government, Environmental Affairs and Development Planning.

The original will be posted.

Kind regards,
 Marius Venter Pr.Sci.Nat
 Deputy Director
 Environmental and Planning Appeals Coordinator
 Department of Environmental Affairs and Development Planning

3rd Floor, Utilitas Buidling, 1 Dorp Street, Cape Town

Tel: 021 483 3721/2659
 E-mail: Marius.Venter@westerncape.gov.za
 Website: www.westerncape.gov.za/eadp



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EA APPEAL REFERENCE: 14/3/1/B1/14/0451/20
WML APPEAL REFERENCE: 14/3/2/B1/14/0452/20

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Email: admin@langeberg.gov.za
MM@langeberg.gov.za

Dear Sir/Madam

APPEALS LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE WASTE MANAGEMENT LICENSE AND ENVIRONMENTAL AUTHORISATION ISSUED FOR A COMPOSTING FACILITY AND FEEDLOT ON PORTION 6 OF THE FARM MIDDELBURG 10, ROBERTSON

Your Appeal lodged in terms of section 43(2) of the *National Environmental Management Act, 1998* (Act No. 107 of 1998) ("NEMA") against the Waste Management License ("WML") issued for a composting facility and feedlot on Portion 6 of the Farm Middelburg 10, Robertson, refer.

After careful consideration of all the Appeals, as well as supporting documentation received, in terms of section 43(2) of the NEMA and regulation 7(3) of the 2014 National Appeal Regulations, I have decided to dismiss your Appeal against the WML and confirm the abovementioned WML.

Please find attached the correspondence issued to the Applicant containing the abovementioned amendments and the reasons for my appeal decision.

I have discharged my decision-making powers when making this decision and I am thus *functus officio* in this regard. My decision is final and your only recourse, should you still be aggrieved by my decision, is to apply to the Western Cape High Court to review my decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

ANTON BREDELL
MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 31/8/2020

Copied to:

1. Mr. E. Hanekom Director: Waste Management
2. Mr. L. McBain-Charles Directorate: Waste Management
3. Mr. Z. Toefy Director (Development Management Region 1)
4. Ms. M. Oosthuizen Directorate: Development Management (Region1)

email: eddie.hanekom@westerncape.gov.za
email: lance.mcbain-charles@westerncape.gov.za
email: zaahir.toefy@westerncape.gov.za
email: marellez.oosthuizen@westerncape.gov.za



EA APPEAL REFERENCE: 14/3/1/B1/14/0451/20
WML APPEAL REFERENCE: 14/3/2/B1/14/0452/20

Mr David Houghton
South African Farm Assured Meat Group cc
P.O. Box 895
ROBERTSON
6705

Tel.: 023 626 6320
Fax.: 023 626 6040
E-mail: david@robab.co.za

Dear Mr Houghton

APPEALS LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE WASTE MANAGEMENT LICENSE AND ENVIRONMENTAL AUTHORISATION ISSUED FOR A COMPOSTING FACILITY AND FEEDLOT ON PORTION 6 OF THE FARM MIDDELBURG 10, ROBERTSON

1. The Appeals lodged in terms of section 43(2) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") against the Waste Management License ("WML") and the Environmental Authorisation ("EA") issued for a composting facility and feedlot on Portion 6 of the Farm Middelburg 10, Robertson, refer.
2. **EMPOWERING PROVISIONS:**
 - 2.1. In terms of regulation 10(2) of the National Appeals Regulations (Government Notice No. R. 993 of 8 December 2014):
"An appeal lodged after the commencement of the Environmental Impact Assessment Regulations, 2014 must be submitted, processed and considered in terms of these Regulations."
 - 2.2. In terms of section 43(6) of the NEMA:
"The Minister or an MEC may, after considering such an appeal, confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant, or any part thereof, be refunded."
3. After a careful consideration of all the Appeals, all information presented by the Directorate: Waste Management (WML); and the Directorate: Development Management Region 1 (EA), I have decided to dismiss the Appeals and confirm the WML and the EA in terms of section 43(6) of the NEMA.

4. **AMENDMENTS TO THE WASTE MANAGEMENT LICENCE**

- 4.1. The abovementioned WML must be complied with and the following amendments must be implemented:

"SECTION C: LICENCE CONDITIONS

1. LOCATION

- 1.3 The footprint of the Facility must be according to co-ordinates indicated on the Waste Management Licence Application Form, dated 26 January 2018, and Waste Management Licence Application Additional Information Annexure, dated 10 January 2018, submitted by the Licence Holder, which are as follows:

Corner Number	Latitude (S)	Longitude (E)
1	33° 43' 50.41"	19° 44' 41.61"
2	33° 43' 52.27"	19° 44' 43.84"
3	33° 43' 55.42"	19° 44' 35.52"
4	33° 43' 57.01"	19° 44' 37.27"

18 COMMENCEMENT

This activity must commence within a 5 (five) year period from the date of this appeal Waste Management Licence. If commencement of the activity does not occur within that period, the validity of this Licence lapses and a new application for Licence must be made in order for the activity to be undertaken.

19 GENERAL

- 19.4 This Licence is valid for 10 years from the date of this Appeal decision or any period earlier as required by the Director. The Licence can be amended or withdrawn or the validity thereof extended."

- 4.2. The following additional Licence Condition must be implemented and complied with:

Condition 20:

"The holder of the Appeal Waste Management License must in writing, within 14 (fourteen) days of the date of the appeal decision notify all registered interested and affected parties ("I&AP's")–

20.1The outcome of the appeal;

20.2The reasons for the appeal decision; and

20.3 The date of the decision."

- 4.3. SECTION D: APPEAL OF LICENCE" is excluded from the Waste Management Licence.

5. **AMENDMENTS TO THE ENVIRONMENTAL AUTHORISATION**

- 5.1. Condition E8 and Section G of the abovementioned EA are excluded from this authorisation.

- 5.2. The abovementioned EA must be complied with and the following amendments must be implemented:

"Section E: Conditions of Authorisation

Condition E2:

The holder must commence with the listed activities on the site within a period of **five (5) years** from the date of this Appeal Environmental Authorisation.

Condition E7:

The holder of the Appeal Environmental Authorisation must in writing, within 14 (fourteen) days of the date of the appeal decision notify all registered interested and affected parties ("I&AP's") about–

7.1 The outcome of the appeal;

7.2 The reasons for the appeal decision; and

7.3 The date of the decision."

6. REASONS FOR THIS APPEAL DECISION:

6.1. The reasons outlined in the original EA and WML are applicable to the Appeal Decision and the following are additional reasons in response to the Appeals:

6.1.1. Background to the applications for the WML and EA

The Rejection of the WML Application dated 16 August 2018 relates to the Application for a WML for who the Delegated Competent Authority is the Director: Waste Management and not the Director: Development Management (Region 1) as cited by the Appellant.

SAFAM appealed the Rejection of the Application for a WML. The Appeal decision was issued on 13 June 2019.

SAFAM and three other parties took the Appeal Decision dated 13 June 2019 on review in the High Court of South Africa (Western Cape Division), Case No. 14084/19 and the Court Order dated 18 October 2019 was issued. The court ordered as follows:

"1. The decision taken by the First Respondent ("the Minister") on 13 June 2019 in respect of the appeal lodged by the Applicants in terms of section 43(6) of the National Environmental Management Act, 107 of 1998 ("NEMA") against the decision referred to in paragraph 2 below is reviewed and set aside.

2. The decision taken by the Director: Waste Management on 16 August 2018 to reject the First Applicant's application for a waste management licence ("the Waste Management Licence Application") in terms of section 49(1)(c) of the NEM:WA is reviewed, set aside and remitted to the Director: Waste Management in terms of section 8(1)(c)(i) of the Promotion of Administrative Justice Act, Act 3 of 2000, for a determination of the Waste Management Licence Application, with the following directions: -

2.1 the Applicants shall within 5 days of the date of the court order submit such further information as required by the Department pursuant to the WML Application in respect of the land developed for purposes of the composting facility in order to ascertain whether such land is bigger than 1 hectare for purposes of Activity 28 of Listing Notice 1;

2.2 the remainder of the information submitted as part of the WML Application shall suffice and does not need to be resubmitted.

3. It is recorded that, pursuant to the settlement of this application, the Minister has, in terms of section 47C of NEMA, condoned the First Applicant's failure to submit the final Basic Assessment Report for purposes of the First Applicant's application for environmental authorization in terms of the 2014 EIA Regulations for activities 4,

- 8 and 28 as contained in Listing Notice 1: 2014 ("the NEMA Application"), within the time periods required by regulation 19(1) of the 2014 EIA Regulations.
4. The First Applicant shall submit the final NEMA Basic Assessment Report, and the information referred to in paragraph 2.1 above, to the Department within 5 days of the date of the court order.
 5. Provided that the First Applicant complies with the time periods in paragraphs 2.1 and 4 above, the decisions in respect of the Waste Management Licence Application and the NEMA Application shall be made by no later than 29 November 2019."

The Applications for the WML and EA related to the same development and in terms of the Court Order, the decisions for both had to be made by 29 November 2019. It must be noted that the information that informed the EA and WML was subject to a Public Participation Process that complied with the EIA Regulations, 2014. No new information was generated or submitted by the applicant to the Delegated Competent Authorities, i.e. Directorate: Development Management (Region 1) for the EA and the Directorate: Waste Management for the WML.

Accordingly, I conclude that the adjudication of the information on which the EA and WML were based on, served in the public domain.

6.1.2. Lapsing of Application

The timelines for the EIA application are as follows:

- The EIA application was submitted on 26 January 2018 to the Directorate: Development Management (Region 1).
- The Draft BAR was submitted on 14 March 2018 to the Directorate: Development Management (Region 1).
- The Directorate: Development Management (Region 1) requested clarity on 16 April 2018 regarding the development size of the facility to ascertain whether Listed Activity 28 was triggered.
- The EAP submitted, on 25 April 2018, a response to the Directorate: Development Management's (Region 1) letter dated 16 April 2018.
- The Directorate: Development Management (Region 1) responded to the EAP's submission dated 25 April 2018, on 26 April 2018.
- On 23 May 2018, the Directorate: Development Management (Region 1) informed the Applicant that, in terms of Regulation 45 of the EIA Regulations, 2014 (as amended), the Application has lapsed due to the fact that the Final BAR was not submitted within the stipulated timeframes of the EIA Regulations 2014.

Numerous interactions between the Directorate: Development Management (Region 1) and the EAP took place between the submission date of the Application form on 26 January 2018 and the Directorate: Development Management (Region 1)'s letter dated 23 May 2018. Furthermore, the Court Order recorded that the Minister to condone the late submission of the Final BAR to the Directorate: Development Management (Region 1).

I conclude that the failure by the EAP and the Applicant to not submit the Final BAR, within 90 days from 26 January 2018, to the Directorate: Development Management (Region 1) was not as a result of no action or progress on the EIA Application but due to the issue that the current composting facility's footprint was deemed to exceed the threshold of 1 ha.

6.1.3. Unlawful commencement of listed activities

I condoned the late submission of the Final BAR to the Directorate: Development Management (Region 1), which was received on 25 October 2019. The submission of the Final BAR adhered to the timeframes stipulated by the Court Order, i.e. within 5 days from the Court Order date of 18 October 2019.

Numerous interactions between the Directorate: Development Management (Region 1) and the EAP took place between the submission date of the Application form on 26 January 2018 and the Directorate: Development Management (Region 1)'s letter dated 23 May 2018 due to the fact that the Directorate: Development Management (Region 1) deemed that the NEMA EIA Regulations, 2014 Listing Notice 1, Activity Number 28, as contained in GN No. R. 983 of 4 December 2014, was commenced with without the requisite EA, and states as follow:

"Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:

(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or

(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;

excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes".

In terms of the Court Order the area in question was surveyed and it was confirmed that the area disturbed by the current composting facility is less than 1 ha. The area surveyed included the composting area, the run-off collection dam, as well as storage areas. Thus, the threshold of 1 ha was not exceeded for the current composting facility, and Listed Activity 28 was not triggered and the requirement to follow the Rectification, i.e. Section 24G process, was no longer necessary.

The decision to reject the WML Application on 16 August 2018 was based on the understanding that some EIA listed activities were unlawfully commenced with, was reviewed, set aside and remitted back to Directorate: Waste Management for a decision as per the Court Order.

Please note, that no additional Final BAR was submitted to the Directorate: Waste Management. The only additional information the Directorate: Waste Management received was confirmation from the Applicant that the activities at the current composting facility did not unlawfully trigger a listed activity in terms of the NEMA.

The Appeal issue related to the zoning to allow for the operation of a composting facility to fall within the ambit of the Langeberg Municipality and the nuisance issues associated with the facility are administered by the Cape Winelands District Municipality.

I am satisfied that no listed activities were commenced with without the requisite authorisations.

6.1.4. Persistent failure to have regard to the rights of Interested and Affected Parties ("I&AP's")

As mentioned above all the allegations related to the footprint size of the current composting facility were investigated and it was confirmed that the composting facility is under the 1 ha threshold and had thus not unlawfully commenced with any EIA Listed Activities and Waste Management Activities.

The WML and EIA Applications, submitted on 26 January 2018, complied with NEMA and the relevant Waste Management and EIA Regulations pertaining to public participation.

As per the Court Order, the Applicant submitted the outcome, of the survey of the current composting facility, to the Delegated Competent Authorities, Waste Management and EIA, where it was confirmed that the area disturbed by the activities of the current composting facility measures 8433m² in extent, which is less than 1 ha. T

The Final BAR submitted on 25 October 2019, in terms of the EIA application was materially the same as the Draft BAR that was submitted on 14 March 2018.

The Directorate: Waste Management did not receive a second Final BAR. The information contained in the Final BAR submitted on 30 April 2018 was sufficient for the Directorate: Waste Management to decide on the WML Application.

It is not mandatory in terms of the EIA or Waste Management Regulations that the Final BAR, if it is the same as the Draft BAR, must be made available to I&AP's prior to submission for a decision.

I conclude that the information served before the Delegated Competent Authorities in terms of the WML and EIA Applications was not new information but information required for confirmation in terms of the footprint size of the current composting facility, and that the public participation process undertaken in each process complied with the NEMA and EIA Regulations and the *Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)*. The Appeal Administrator is also satisfied that none of the rights of the I&AP's, i.e. to make representations on the Final BAR, were limited as there was no second Final BAR.

6.1.5. SAFAM's inability to manage the environmental impacts of its activities

The current composting facility has been visited on numerous occasions by officials from the Department, both prearranged and unannounced during the course of the WML and EIA application processes. On no occasion has any official indicated that the facility is poorly managed.

In addition, the Environmental Health Practitioner from the Cape Winelands District Municipality, after he had visited the current composting facility, reported that he was satisfied with management of the facility and there were no flies nor offensive odours emanating from it.

It should also be noted that composting is a common practice associated with agricultural practices and prevents organic waste from going to landfill. It is a means

of beneficiating and treating a waste stream that could otherwise have detrimental impacts on the environment.

The Environmental Management Programme ("EMP") submitted as part of the Draft and Final BAR includes measures to manage the proposed composting facility and has been included as a condition in the WML and EA, respectively to further mitigate the impacts. Non-compliance with the conditions of the EA and WML will result in the matter being referred to the Directorate: Environmental Law Enforcement to enforce compliance with the conditions of the WML and EA.

I am satisfied that the current composting facility is sufficiently managing any potential nuisance emanating from the site and that the proposed composting facility as authorised by the WML and EA will also be sufficiently managed as long as it complies with the WML and EA.

6.1.6. Failure to conduct an adequate impact assessment / Failure by the Delegated Competent Authority to independently apply its mind

The decision-making process commences when an application, in terms of the EIA Regulations and/or NEM:WA is submitted to the Delegated Competent Authorities' for a response to the application form ; the comment on the draft reports; acceptance of the final reports and culminates in the issuance of the EA and or WML.

Following the Court Order, no new or additional information was submitted to the Delegated Competent Authorities, i.e. the Directorate: Waste Management and the Directorate: Development Management (Region 1), but merely information that confirmed that the composting facility did not engage in the unlawful commencement of any listed activities.

The Final BAR that was submitted 25 October 2019 to the Directorate: Development Management (Region 1), was materially the same as the Draft BAR that was submitted on 14 March 2018.

The Directorate: Waste Management did not receive a second Final BAR. The information contained in the Final BAR submitted on 30 April 2018 was sufficient for the Directorate: Waste Management to decide on the application.

It is not mandatory in terms of the EIA or Waste Management Regulations that the Final BAR, if it is the same as the Draft BAR, be made available to &AP's prior to submission for a decision. As noted previously, the Applicant had 5 days in which to submit the Final BAR to the Directorate: Development Management (Region 1) for the EA, as recorded in the Court Order.

The evaluation of potential specialist input for the composting facility concluded that:

- Biodiversity - CapeNature provided comment on the Applications and did not indicate the need for a biodiversity study. Furthermore, the area has been used for agricultural activities for more than 10 years and was thus already/previously transformed, thus not virgin soil.
- Health Impact Study - No health impact study was required by the Delegated Competent Authorities (Waste Management and EIA) as predominantly non-infectious material will be composted at the Facility. Furthermore, the study would be a desktop study that would not take into consideration the effectiveness of the

composting facility through their composting process to mitigate odours and other nuisances.

- Traffic Impact Study - No traffic impact study was required as the area is in a rural area. The composting facility, operating at the authorised capacity, is anticipated to generate two to three trips on a daily basis.
- Air quality — Inputs were received from the Department's Sub-directorate: Air Quality Management as well as the Cape Winelands District Municipality. Neither indicated the need for an air quality impact assessment.
- Socio-economic — The representations made by the Applicant were deemed sufficient, and no socio-economic impact was required.
- Storm water management study - A storm water management plan was submitted as part of the Final BAR.
- Specialist water study - The Breede Gouritz Catchment Management Agency ("BGCMA") were approached and their comments were incorporated in the BAR. Furthermore, a Freshwater Ecological Impact Assessment and the Risk Assessment Matrix were included in the Final BAR.

The suite of information that the EA and WML were based on comprised of existing information that has been part of the EIA and WML applications since 2018. Thus, sufficient information served before the Delegated Competent Authorities, i.e. the Directorate: Waste Management and the Directorate: Development Management (Region 1).

I conclude that no new information served before the Delegated Competent Authorities in terms of the WML and EIA Applications, the public participation process undertaken complied with the NEMA and EIA Regulations and that none of the rights of the I&APs, i.e. to make representations on the BAR, was limited as there was no second Final BAR.

6.1.7. The approval of the application was unlawful as the Competent Authority can only consider an application made under Section 24G of NEMA

In terms of the Court Order, the area in question was surveyed and it was confirmed that the area disturbed by the composting activities were less than 1 ha. Thus, Listed Activity 28 of the EIA Regulations, 2014 was not commenced with without a requisite EA and the requirement to follow the NEMA Rectification (Section 24G) process was no longer necessary.

I am satisfied that no listed activities were commenced with without a WML and or an EA.

6.1.8. The Competent Authority failed to take into account the unauthorised continuation by the Applicant of Listed Activity 8 of Listing Notice 1 of the EIA Regulations, 2014

Zoning is a technique of land-use management used by municipalities. Thus, the zoning of the Farm Middelburg falls within the ambit of the Langeberg Municipality and is beyond the scope of NEMA and EIA Regulations, 2014.

Listed Activity 8, in Listing Notice 1 of the EIA Regulations, 2014 states –

"The development and related operation of hatcheries or agri-industrial facilities outside industrial complexes where the development footprint covers an area of 2 000 square metres or more."

The Final BAR only refers to a feedlot (Listed Activity 4 in Listing Notice 1 of the EIA Regulations, 2014); dams, access roads, the composting facility and associated infrastructure (Listed Activity 28 in Listing Notice 1 of the EIA Regulations, 2014).

Furthermore, composting does not fall within the ambit of beneficiation and thus Listed Activity 8 in Listing Notice 1 of the EIA Regulations, 2014 was not deemed to be applicable.

The current composting facility was surveyed, and it was confirmed that the footprint of the current composting area disturbed by the activities was less than 1 ha. Thus, Listed Activity 28 was found to not have been commenced with and the requirement to follow the NEMA Rectification (Section 24G) process was no longer appropriate.

I conclude that the establishment of the composting facility does not trigger Listed Activity 8 of the EIA Regulations, 2014, thus it was not included in the Application Form, the BAR or included in the EA.

6.1.9. The administrative action is procedurally unfair as a material procedure prescribed by the EIA Regulations was not complied with

The Final BAR submitted in terms of the EIA Application on 25 October 2019 was materially the same as the Draft BAR that was submitted to the Directorate: Development Management (Region 1) on 14 March 2018. As recorded in the Court Order, the Final BAR had to be submitted to the Directorate: Development Management (Region 1) with 5 days from the date of the Court Order, i.e. 18 October 2019. It must be noted that the information that informed the EA and WML was subject to a Public Participation Process that complied with NEMA and the EIA Regulations, 2014.

Furthermore, as recorded in the Court Order, the site was surveyed, and it was confirmed that the area disturbed by the current composting activities on site amounts to less than 1 ha. Thus, the Listed Activity 28 was found to not have been commenced with without a requisite EA and the requirement to follow the NEMA Rectification (Section 24G) process was no longer necessary.

I conclude that no new information served before the Delegated Competent Authorities in terms of the Waste and EIA applications and the public participation process undertaken complied with the EIA.

6.1.10. Notification of the Decisions

Regulation 3 of the EIA Regulations, 2014 (GN R. No. R. 983 of 4 December 2014), states –

- "(2) For any action contemplated in terms of these Regulations for which a timeframe is prescribed, the period of 15 December to 5 January must be excluded in the reckoning of days.*
- (3) Unless justified by exceptional circumstances, as agreed to by the competent authority, the proponent and applicant must refrain from conducting any public participation process during the period of 15 December to 5 January."*

The period between 15 December to 5 January of a given calendar year is automatically excluded from the timeframes. The calculation of the applicable deadlines was calculated from 2 December 2019, when I&AP's were notified of the

EA and WML until 15 December 2019 and recommenced on 6 January 2020. The deadline to submit an Appeal was calculated to be 13 January 2020.

Any aggrieved party could also apply in terms of Section 47C of NEMA, requesting the Minister to extend the period to submit an Appeal or condone the late filing of an Appeal. It is noted that no such requests were received.

I am satisfied that no right to submit an Appeal was limited by the issuance of the EA and WML on 29 November 2019.

6.1.11. The decision to approve the EA was materially influenced by an error of law wherein the Competent Authority failed to correctly consider the requirements relating to commencement of a listed activity

The Court Order required that the Applicant provide information to ascertain whether the footprint of the current composting facility is bigger than 1 ha. The area in question was surveyed and it was confirmed that the area disturbed by the activities measures 8433 m². Thus, the threshold of 1 ha was not exceeded, and Listed Activity 28 was not triggered and the requirement to follow the NEMA Rectification (Section 24G) process was no longer necessary.

I am satisfied that no listed activities were commenced without the requisite authorisations.

6.1.12. The decision to approve the WML was materially influenced by an error of law wherein the Delegated Competent Authority failed to correctly consider the requirements relating to commencement of a waste management listed activity / The approval of the waste application was unlawful as the Competent Authority may only process an application to approve unlawfully commenced activities by way of a Section 24G of NEMA process.

The application for a WML was submitted on 26 January 2018 and the Final BAR was submitted on 30 April 2018.

The decision to reject the WML application was based on the interpretation that Listed Activity 28 was deemed to have been commenced without an EA, was reviewed and set aside. Furthermore, the area covered by the current composting facility was surveyed and it confirmed that the footprint of the current composting facility is less than 1 ha. Thus, the Listed Activity 28 was found not to have been triggered and the requirement to follow the NEMA Rectification (Section 24G), process was no longer necessary.

Furthermore, the Court Order recorded that "*The Applicants undertake not to treat in excess of ten tons of general waste per day calculated on a monthly average on Portion 6 of Farm Middelburg 10, Robertson ("the Farm") and that the total area within which the composting activities take place on the Farm shall not exceed 1 hectare.*" Insofar as the thresholds recorded in the Court Order, the current composted facility is deemed not have commenced with any Waste Management Activities or EIA Listed Activities.

The current composting facility is below the threshold of 10 tons and 1 ha respectively.

The approval of a proposed composting facility that exceeds the threshold stated in Category A Waste Management Activity 3(6), i.e. 10 tons is what the Applicant applied and was granted a WML for. The Waste Management Activity 3(6) does not relate to the area occupied by the composting facility, but rather the amount of waste that the facility processes. It is important to note that as soon as waste is composted, it ceases to be waste. Therefore, the finished compost does not fit into the definition of waste as defined in the NEM:WA.

The windrows that fall outside the approved footprint will be consolidated and moved to within the footprint of the proposed composting facility, as indicated by the coordinates in the WML. Although some of the composting rows were beyond the boundaries, this does not trigger a listed activity in terms of the NEM:WA.

The Department (Directorate: Waste Management and Directorate: Development Management (Region 1)) performed a site visit on 11 November 2019 to verify the measurements and footprint size of the current composting facility as indicated in the Sketch Plan, i.e. 8433 m². The activities observed at the current composting facility by the Departmental officials were in line with the information provided in the Sketch Plan.

The inclusion of a registered engineer for the establishment of the proposed composting facility, i.e. a composting facility that has the capacity to treat more than 10 tons of general waste, is to ensure the plans that are submitted, and the construction of the larger composting facility itself, meet the requirements as set out by the Engineering Council of South Africa.

I am satisfied that no listed activities have been commenced without the requisite authorisations and the NEMA Rectification (Section 24G) process is not required.

6.1.13. The Final BAR for the WML

The Draft BAR was made available to the I&AP's and the public between 14 March 2018 and 16 April 2018, and the Final BAR was submitted 30 April 2018 to the Directorate: Waste Management.

The Draft and Final BARs were materially the same, thus all I&AP's and specifically the Langeberg Municipality were notified of the Draft and Final BARs and all its contents. Thus, all I&AP's had sight of all the information that served before the Delegated Competent Authorities for the WML and EA.

Furthermore, the Langeberg Municipality is the Competent Authority for all land use management applications in the area and adjudicated on the rezoning application for the composting facility.

Section B of the WML provides a description of the development and the list of Waste Management Activities that are authorised. Annexure 1 of the WML contains the reasons for the decision and includes a discussion of the Alternatives (Property and location; activity; design/layout; technology; operation activities and the no-go), environment and the public participation process.

I am satisfied that the Draft and Final BARs were materially the same, it served in the public domain before it was submitted to the Delegated Competent Authorities for

a WML and EA. In addition, the WML adequately describes the development, the list of authorised Waste Management Activities and provides sufficient reasons for the decision.

6.1.14. The Site/Footprint

The Site Layout Plan for the proposed composting facility was included in the Draft and Final BARs for the WML and can be found as Appendix A of the Draft and Final BARs.

The proposed composting facility will comprise of areas for the composting rows and 1 associate infrastructure, such as the collection dams and storage areas.

It is noted that the coordinates stated in the WML are incorrect.

I conclude that the WML clearly indicate the area for the composting rows and associated infrastructure and that the error with the coordinates be rectified in the Appeal Decision.

6.1.15. Treatment of Waste

The WML includes Waste Management Activity 3(6) in Category A of the NEM:WA, which relates to the mass of general waste to be treated, and not an area to be used for this purpose, i.e. *"The treatment of general waste using any form of treatment at a facility that has the capacity to process in excess 10 tons but less than 100 tons"*.

The thresholds related to the footprint of the proposed composting facility are imposed with Listed Activity 28 of the EIA Regulations, 2014. This Listed Activity was assessed in terms of the EIA Application.

I am satisfied that correct Waste Management Activity was applied for and subsequently included in the WML.

6.1.16. Permissible Waste

Infectious waste may not directly be disposed of to land and must be treated prior to disposal. Treatment methods include incineration, composting, rendering, etc. Condition 2.3 of the WML states *"Should the Facility wish to compost more than 500kg of hazardous waste per day, the Facility will need to obtain a Waste Management License prior to the treatment of these quantities of hazardous waste."*

I conclude that the proposed composting facility will be authorised to treat up to 100 tons of general waste and less than 500kg of infectious waste (hazardous waste) per day, as stated in Condition 2.3 of the WML.

6.1.17. Conditions in the WML/EA relating to Complaints

A complaints register will be kept at the composting facility. This will allow the Department and Applicant to be aware of complaints and assess how the operations at the composting facility are affecting people in the vicinity.

The complaints register will also form part of the record for internal, external and departmental audits, and will be evaluated. Furthermore, the complainants may still complain to the Environmental Health Practitioner of the District Municipality in the area, the Local Municipality or the Directorate: Waste Management at the DEA&DP.

Condition 6.10 of the WML further requires that all complaints must be attended to and addressed timeously. Non-compliance with any of the conditions of the WML will result in the matter being referred to the Directorate: Environmental Law Enforcement to enforce compliance with the conditions of the decisions.

I am satisfied that adequate measures are included in the WML and will be implemented to deal with complaints at the proposed composting facility. Failure will result in the matter being referred to the Directorate: Environmental Law Enforcement to enforce compliance with the conditions of the decisions.

6.1.18. Conditions relating to Odours/Flies

The baseline for the monitoring of odours and flies will be established upwind from the proposed composting facility, with detection sampling occurring nearby and downwind of the composting facility.

The current operations are effectively managing the flies and odours as the composting facility. Odours are earthy and typical of agricultural areas.

The Environmental Health Practitioner from the Cape Winelands District Municipality, after he had visited the current composting facility, reported that he was satisfied with management of the facility and there were no flies nor offensive odours emanating from it.

The Applicant has demonstrated that they have established an effective composting methodology that can control flies and odour, due to the fact that the heaps of compost are kept at the optimum temperature (55 °C) which kills pathogens as well as fly larvae. Furthermore, the Application, WML, EA and EMP contains mitigation measures for fly and odour control, temperature regulation, as well as noise, and has included 5 Standard Operating Procedures ("SOPs"), namely:

- SOP 1: Compost Process Flow/ Flow diagram;
- SOP 2: Removal and Delivery of By-products;
- SOP 3: Site Hygiene;
- SOP 4: pH and Temperature Testing and Recording; and
- SOP 5: Pest Control.

I am satisfied that these SOPs, as well as the history of the Applicants operating the current composting facility in a manner that does not lead to the proliferation of nuisance conditions, provided the assurance that the expansion of the current composting operations will not lead to uncontrolled, nuisance conditions.

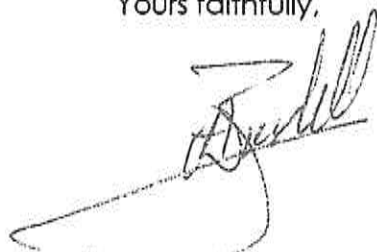
The Delegated Competent Authorities will appropriately respond to the complaints received from the public and investigate the matters accordingly. The proposed composting facility will be audited by the Department on a regular basis as stipulated in the WML conditions.

Non-compliance with the conditions of the EA and WML will result in the matter being referred to the Directorate: Environmental Law Enforcement to enforce compliance with the conditions of the decision.

Section 49A(1)(c) of the NEMA states that it is an offence to fail to comply with or to contravene a condition of an EA granted for a listed activity or specified activity or an approved environmental management programme.

7. The National Environmental Management Principles (set out in section 2 of the NEMA) which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment. In terms of the NEMA Principles, the effects of decisions on all aspects of the environment are to be taken into account. As such, the consideration, assessment and evaluation of the impacts of activities (disadvantages and benefits) must be undertaken, and decisions are to be appropriate in the light of such consideration and assessment.
8. I am satisfied that the development is the best practicable environmental option that will use abattoir by-products/waste together with organic waste to produce compost, which diverts waste stream away from the municipal waste disposal facility, thereby extending the life of the waste facility, providing compost to the farm and for resale commercially to farmers, and providing employment opportunities during the construction phase and operational phases.
9. In view of the above, the NEMA principles, compliance with the conditions stipulated in the EA and WML, and compliance with the conditions of the EMP, the proposed development will not be in conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and any potentially detrimental environmental impacts resulting from the proposed development can be mitigated to acceptable levels.
10. I have discharged my decision-making powers when making this decision and I am thus *functus officio* in this regard. My decision is final and your only recourse, should you still be aggrieved by my decision, is to apply to the Western Cape High Court to review my decision.

Yours faithfully,



ANTON BREDELL

**WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 31/5/2020

Copied to:

- | | |
|--------------------------|---|
| 1. J.P. du Bois | Du Bois Prokureurs |
| 2. L. Abrahams | Eco Impact |
| 3. Mr. E. Hanekom | Director (Waste Management) |
| 4. Mr. L. McBain-Charles | Directorate: Waste Management |
| 5. Mr. Z. Toefy | Director (Development Management Region 1) |
| 6. Ms. M. Oosthuizen | Directorate: Development Management (Region1) |

email: hannes@jpdubois.co.za
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email: eddie.hanekom@westerncape.gov.za
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email: marellez.oosthuizen@westerncape.gov.za

Middelburg Dam:
Feedback from DEA&DP
and Environmental Consultant

Tracy Brunings

Subject: FW: Unauthorised dam at Middelburg Farm, Robertson

From: Fahd Said <Fahd.Said@westerncape.gov.za>
Sent: Wednesday, 02 September 2020 09:32
To: Tracy Brunings <tbrunings@langeberg.gov.za>
Cc: Achmad Bassier <Achmad.Bassier@westerncape.gov.za>; Langeberg Municipality <admin@langeberg.gov.za>
Subject: RE: Unauthorised dam at Middelburg Farm, Robertson

Morning Tracy

Hope this email finds you in good health and spirit.

Apologies for the delayed response.
 I was part of joint operation last week and missed this email.

The last action on this matter is the meeting that I had with the EAP that will be submitting a s24G. This has not happened as yet following the Appeal on the compost issues. I will follow-up with an email and inform the alleged offender that if they don't make their intentions clear that I will refer this case to our criminal component for possible prosecution.

Regards
 Fahd Said

From: Tracy Brunings [<mailto:tbrunings@langeberg.gov.za>]
Sent: Thursday, 27 August 2020 14:35
To: Fahd Said <Fahd.Said@westerncape.gov.za>
Cc: Achmad Bassier <Achmad.Bassier@westerncape.gov.za>; Langeberg Municipality <admin@langeberg.gov.za>
Subject: FW: Unauthorised dam at Middelburg Farm, Robertson

Hello Fahd,

Please could you give me a brief update re. the matter below. I have an appeal hearing tomorrow at 10am relating to the land use application on this farm, and I would like to have the most up to date information relating to other applications / processes on this farm.

Many thanks,
 Tracy Brunings Pr.Pl. A/951/1997
 PROFESSIONAL TOWN AND REGIONAL PLANNER
 TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720
 Tel: 023 614 8001 Faks: 023 614 1841

✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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From: Tracy Brunings
Sent: Thursday, 27 February 2020 15:19
To: Fahd Said (Fahd.Said@westerncape.gov.za) <Fahd.Said@westerncape.gov.za>
Cc: Langeberg Municipality <admin@langeberg.gov.za>
Subject: FW: Unauthorised dam at Middelburg Farm, Robertson

Hello Fahd,

Please could you update us with the status quo regarding the investigation into the alleged illegal expansion of the Middelburg dam.

Many thanks,
Tracy Brunings Pr.Pl. A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



3 Piet Retief Street, MONTAGU 6720
Tel: 023 614 8001 Faks: 023 614 1841

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From: Fahd Said [<mailto:Fahd.Said@westerncape.gov.za>]
Sent: Thursday, 24 May 2018 2:36 PM
To: Tracy Brunings <tbrunings@langeberg.gov.za>
Cc: Elkerine Rossouw (erossouw@bgcma.co.za) <erossouw@bgcma.co.za>; Etienne A Roux <Etienne.Roux@westerncape.gov.za>; Dmitri C Matthews <Dmitri.Matthews@westerncape.gov.za>
Subject: RE: Unauthorised dam at Middelburg Farm, Robertson

Afternoon Tracy

We are dealing with the complaint regarding the alleged illegal expansion of a dam.

Our Directorate has issued the alleged offender (Reben Trust) with a Compliance Notice and Directive for the expansion of the dam on the property.

It was only recently brought to my attention by Mr Matthews (Cc'd in this email) that an application for a composting facility had been submitted to the Department. However it would seem as though the composting facility has exceed the threshold in terms of the NEMA. Further information was requested which was not forthcoming. As a result the time on the application lapsed and the application is or will be withdrawn (Mr Matthews can correct me if I'm wrong).

This is the first time I hear about a feedlot also wanting to be established. Mr Matthews is busy scheduling a site inspection for next month where we will look at the new alleged illegal activities.

I will keep you updated on the progress of this case.

Regards
Fahd Said

From: Tracy Brunings [<mailto:tbrunings@langeberg.gov.za>]
Sent: Thursday, 24 May 2018 14:15
To: Fahd Said <Fahd.Said@westerncape.gov.za>
Cc: Elkerine Rossouw (erossouw@bgcma.co.za) <erossouw@bgcma.co.za>; Etienne A Roux <Etienne.Roux@westerncape.gov.za>
Subject: FW: Unauthorised dam at Middelburg Farm, Robertson

Hello Fahd,

I refer to the email correspondence below. Please could you copy us in to correspondence regarding this matter. We are currently processing an application on the same farm for a feedlot and composting facility. Water supply for these land uses, and therefore the status of the dams, is a relevant consideration in our assessment of this application.

Many thanks,
Tracy Brunings Pr.PlIn A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



"People at the centre of Development"

3 Piet Retief Street, MONTAGU 6720
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✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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Tracy Brunings

From: Fahd Said <Fahd.Said@westerncape.gov.za>
Sent: Monday, 07 September 2020 09:24
To: Tracy Brunings
Subject: FW: Portion 6 of the Farm Middelburg No 10, Robertson: Dam Expansion

FYI

From: nicolaas@enviro-eap.co.za [mailto:nicolaas@enviro-eap.co.za]
Sent: Sunday, 06 September 2020 06:02
To: Fahd Said <Fahd.Said@westerncape.gov.za>
Cc: 'Hannes du Bois' <hannes@jpdubois.co.za>
Subject: RE: Portion 6 of the Farm Middelburg No 10, Robertson: Dam Expansion

Good morning Fahd

I refer to the email below. I will revert back to you after discussions with the client by end of next week 11 September 2020. Please remove the nicolaas@ecoimpact.co.za email address from your emails and only use my new email address. I was waiting for the finalization of the waste license and EA for the compost facility as per our last meeting. That was now finally concluded last week. During previous correspondence and the meeting, the intention and indication was to do the s24G application, but I need to confirm that which I will do by not later than 11 September 2020 as per your email.

Please don't hesitate to contact me should there be anything else.

Take note of our consultancy name and contact details changes. Please send any future correspondence to nicolaas@enviro-eap.co.za as my Eco Impact address nicolaas@ecoimpact.co.za is no longer active.

Vriendelike Groete / Kind regards

Nicolaas Hanekom
 Director, Enviro-EAP
 Pri Sci Nat (Ecology) 400274/11
 Registered Environmental Assessment Practitioner: 2020/1146

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Annexure 24

Appellants' submissions requesting
postponement of hearing

Tracy Brunings

From: Christo Reeders <christo.reeders@crattorneys.co.za>
Sent: Thursday, 27 August 2020 21:29
To: Rdl.Schalk Van Eeden; Soyisile Mokweni; Jan Koekemoer; Carel Hofmeyr; Anton Everson; Riaan de Jong; Tracy Brunings; Joliza Swanepoel; Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za); gerberpa@vodamail.co.za; Sibonelo Ndlovu; sibonelovalley@gmail.com
Cc: Justine Sweet; Madre Deetlefs; Jacolette Adam; LeRoux Fourie
Subject: PROPOSED APPEAL HEARING ON 28 AUGUST 2020: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: SCAN_20200827_212248784.pdf
Importance: High

Dear Sir / Madam,

Please see the attached letter.



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27 August 2020

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And to:

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And to:

Mr PJ Gerber

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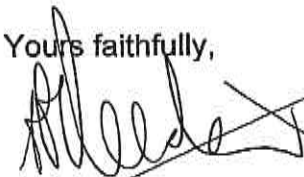
Dear Sir/Madam,

**APPEAL HEARING: MIDDELBURG 10/6 ROBERTSON: ABATTOIR WASTE
TREATMENT SITE AND FEEDLOT – 28 AUGUST 2020**

1. We refer to the abovementioned matter in which we received formal notification only on 25 August 2020 that the appeal herein would proceed on 28 August 2020; the notification which contained a demand that Heads of Argument be submitted by no later than close of business on 26 August 2020 – a scant twenty-four hours later.
2. We submit (and we shall in due course argue as much) that the appeal is not ripe for hearing for, *inter alia*, the following reasons:
 - 2.1. a number of factual disputes exist which can only be resolved by means of *viva voce* evidence and appropriate cross-examination. One example is whether the proposed activity generates unacceptable smells and general nuisance;
 - 2.2. an e-mail from the local authority received during December and that purported to set out the "Standard Procedure for Access to Documentation for Appeals" failed to inform the parties that an indexed and paginated bundle of documents of approximately one thousand (1,000) pages exists. We became aware of this reality earlier today when we queried the possible existence of an index and a list of documents in order to enable us to ensure that all documents relevant to the appeal hearing were at hand. The index is a single page and could and ought to have been made available to the parties to the appeal at the earliest opportunity so that material documents could be identified and requested. Quite clearly the parties have now been taken by surprise and proceeding with the appeal will be prejudicial;
 - 2.3. certain of the documents apparent from the bundle reveal the adverse views in respect of the proposed project of suitably qualified and experienced experts. To ensure a fair and transparent appeal process, these experts should be allowed to testify at a hearing, moreover since their evidence is not addressed in the appeal papers for the simple reason that the parties were not informed of the availability of this body of evidence;

- 2.4. the Applicant relies substantially on the purported outcome of the High Court review proceedings under case number 14084/2019. The Applicant's attorney contends that the papers in that matter comprises some three thousand (3,000) pages. It is common cause that not only were interested and affected parties (including the Municipality) not cited as Respondents in that matter, the papers were not even served upon them. Inasmuch as the entire application, on the Applicant's version, is germane to the appeal, the latter cannot proceed until and unless all parties have been privy to the application;
 - 2.5. a veritable barrage of *ad hominem* attacks on Municipal officials, notably Ms Tracy Brunings, appear throughout the Applicant's appeal documents. In the interests of fairness and transparency, these allegations ought to be fully explored (including but not limited to recommendations that have been made to the competent authority) in the course of *viva voce* evidence and subjected to appropriate cross-examination, where necessary;
 - 2.6. there is a material risk that the Tribunal's involvement in the matter, given its composition, constitutes the Municipality being judge, jury and executioner in its own cause. Consequently, the matter ought to be referred, not only to evidence, but that evidence ought to be presented before an external Tribunal that ought to comprise at least an expert in the field of waste management;
 - 2.7. the entire indexed and paginated bundle of documents that is before the Tribunal ought to be made available to the parties to the appeal and they ought to be afforded sufficient time in which to study these documents, not only for purposes of preparing evidence in argument, but also formulate appropriate questions.
3. We intend addressing you further on the abovementioned aspects at the commencement of the hearing of the matter.

Yours faithfully,



CHRISTO REEDERS ATTORNEYS

Tracy Brunings

From: Joliza Swanepoel
Sent: Friday, 28 August 2020 08:58
To: Soyisile Mokweni; Jan Koekemoer; Carel Hofmeyr; Anton Everson; Tracy Brunings; Rdl.Schalk Van Eeden
Subject: FW: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON- ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Importance: High

For your attention, please.

From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Friday, 28 August 2020 08:53
To: Joliza Swanepoel <JSwanepoel@langeberg.gov.za>
Subject: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON- ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Importance: High

Dear Ms Swanepoel

We refer to the e-mail of Messrs Christo Reeders Attorneys which came to our attention this morning after it was dispatched last night at 21h29.

We would like to receive as a matter of urgency the Appeal Authority's decision as to the hearing of the appeal this morning.

Although we are ready and prepared to argue the appeal, we would not oppose a postponement of the hearing for the purpose of viva voce evidence and to have the appeal heard by an external panel or tribunal.

The matter of discovery of documents in other matters is something that the appeal authority has no jurisdiction over and any appellant cannot be instructed to discover certain documents which the other appellant request to peruse.

All the relevant documents pertaining to the Grounds of Appeal, attachments and the like have already been filed by all the appellants and those are the documents which will form the basis of the appeals.

Kindly therefore decide the matter urgently and make your decision known to us before 10h00 this morning as we have made arrangements at 11h00 for the teams meeting with outside persons.

I must inform them of the continuation of the appeal hearing as soon as possible.

Thanking you in advance.

Yours Faithfully
JP DU BOIS

DU BOIS

PROKUREURS

Audrey Fortuin

Kerkstraat 23, Posbus 466, Robertson 6705
Tel : 023 626 6523 • Faks: 023 626 6577
Epos : hannes@jpdubois.co.za

WORCESTER KANTOOR : 22 FAIRBAIRNSTRAAT



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Tracy Brunings

From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Monday, 31 August 2020 12:52
To: Joliza Swanepoel; MM
Cc: christo.reeders@crattorneys.co.za; samantha@ndvlaw.co.za; jordyn@ndvlaw.co.za; Rdl.Schalk Van Eeden; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Anton Everson; Tracy Brunings
Subject: APPEAL HERAING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: 31.08.20 Reben Trust letter to Appeal Authority.pdf
Importance: High

Dear Sirs

Please find attached letter for your urgent attention.

Kindly acknowledge receipt.

Yours Faithfully
JP DU BOIS

DU BOIS
PROKUREURS

Audrey Fortuin

Kerkstraat 23, Posbus 466, Robertson 6705
Tel : 023 626 6523 • Faks: 023 626 6577
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OUR REF : JPDUB/af/HR0221

YOUR REF : 15/4/12/5&7

DATE : 31 AUGUST 2020

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

THE APPEAL AUTHORITY
LANGE BERG MUNICIPALITY
ASHTON

E-mail: mm@langeberg.gov.za / JSwanepoel@langeberg.gov.za

Dear Sirs

APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON – ABATTOIR WASTE
TREATMENT SITE AND FEEDLOT

POSTPONEMENT *SINE DIE* OF VIRTUAL APPEAL HEARING ON 28 AUGUST
2020

1. We have taken the liberty of addressing this letter to the Appeal Authority and its members due to inter alia the following:
 - 1.1 The belated plea by Mr. Christo Reeders on behalf of Perisseia (which came to writer's attention less than 2 hours before the time set for the appeal hearing) for a postponement of the oral hearing on the basis that

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

the Appeal is allegedly not ripe for hearing referring to 7 reasons why this is so.

- 1.2 The audio quality of the virtual meeting rendered most of what was said by the parties, virtually inaudible to a large extent. That this is so appears inter alia from an e-mail addressed by Mr. Reeder to writer hereof shortly after the teams meeting had been concluded on Friday to which writer has already responded to.
 - 1.3 At the virtual meeting writer indeed did not oppose a postponement of the continuation of the meeting within a date to be set as soon as possible, principally by reason of paragraph 2.2 of Mr Reeder's letter.
 - 1.4 Writer also did not in principle oppose *viva voce* evidence to be presented at the continuation of the meeting by the parties and the opportunity for cross examination of such witnesses called by those parties, if and only if such a procedure is authorized as a lawful form of conducting an appeal. It is also not clear (from Mr. Rheeder's letter) whether the *viva voce* testimony of such witnesses is limited to the parties themselves or if it may include third parties witnesses as well as additional expert testimony called by such party or having only been referred to by the Tribunal or the Appeal Authority. To our mind it does not make a difference.
2. Writer's stance at the meeting was that if a bundle of indexed documents as alleged by Mr. Reeder, indeed exists, naturally those documents should be provided to the appellants if it forms part of the appeal in terms of section 81(6) of LLUPB referred to below. Furthermore, writer did not in principle oppose *viva voce* testimony being allowed, only if such a form of an appeal hearing is authorized by the LLUPB.

3. Since the virtual meeting was concluded on Friday, 28 August 2020, writer had the time to investigate the above questions thoroughly pursuant to the contents of Sections 79, 80 and 81 of LLUPB. What is clear from these applicable sections, with respect, are the following:

"80(1) An appeal is invalid if –

- (a) In the case of an appeal contemplated in section 79(2) it is not lodged within the period referred to in that section; and*
- (b) It does not comply with this section*

80(2) An appeal must set out the following –

- (a) the grounds of the appeal which may include the following grounds:*
 - (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act 2000, Act 3 of 2000;*
 - (ii) grounds relating to the merits of the land development or land use application on which the appellant believes the Tribunal or authorized employee erred in coming to the conclusion that the Tribunal did, as the case may be;*

81(1) An appeal may be considered by the Appeal Authority by means of –

- (a) the consideration of the written appeal and comments; or*
- (b) an oral hearing.*

81(5) if the Appeal Authority decides to hold an oral hearing, any party to the appeal proceedings may appear in person or may be represented by another person.

81(6) the Appeal Authority must ensure that every party to a proceeding before the Appeal Authority is given an opportunity to present his or her case, whether in writing or orally as contemplated in subsections (2) and (3) and, in particular, to inspect any documents to which the Appeal Authority proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents." (our underlining)

Interpretation of the above Sections of LLUPB:

4. To our mind it is therefore clear that an Appeal Authority is restricted to only two forms of appeal proceedings pursuant to Section 81(1) read with 81(5) above. An oral hearing simply means an opportunity afforded to an appellant to either appear in person or be represented by another person to present his or her case.
5. Furthermore, it appears that no party may present *viva voce* testimony through third party witnesses or expert witnesses which testimony does not already form part and parcel of the Grounds of Appeal of that party.
6. After all, an appeal is invalid if the full Grounds of Appeal are not lodged within the relevant time period set in Section 79(2) of LLUPB (within 21 days of notification of the decision).
7. Thus, to present further or additional evidence apart from the Grounds of Appeal already lodged, in the form of *viva voce* testimony by either the party himself or 3rd party witnesses including expert witnesses, is invalid and unlawful. If this should be allowed, it means that that party will have a "second bite at the cherry" so to speak, by supplementing his Grounds of Appeal after the deadline set by Section 79(2).

8. Furthermore, no express provision is made for the cross examination of any party itself or that party's witnesses and understandably so as that party is not allowed to present supplementary or additional evidence by means of *viva voce* testimony by third party witnesses, including expert witnesses to whom the Tribunal had access, or not. It makes no difference to our mind whether such witnesses or expert witnesses are called by the parties themselves or have been referred to by the Tribunal or the Appeal Authority.
9. The form of the oral hearing proposed by Mr. Reeders, would necessarily evolve into a fully blown court case at the appeal stage, which never could have been the intention of LLUPB. If such was the case, it would be expected from the Appeal Panel to act as judges and to make conclusions and deductions from *inter alia* the demeanor of witnesses and to weigh the various witnesses' testimony against each other and to apply a burden of proof (of some sort) to make a decision regarding the merits of each party's case. Initially (and due to insufficient time to properly consider the belated plea for a postponement) when writer considered this aspect, it appeared to be in accordance with the format of an oral hearing, but after thorough reconsideration, it is now clear to our mind that an oral hearing is simply what it is – an oral presentation by the parties or their representatives of each party's case as contained in their respective Grounds of Appeal and nothing more.
10. Thus, only reason 2.2 of Mr. Reeders's letter holds merit pursuant to Section 81(6). That Section specifically provides an opportunity for a party to "*inspect any documents to which the Appeal Authority proposes to have regard in reaching a decision ...*". Therefore, if the documents indeed exist as Mr. Reeders wants the Appeal Authority and the other appellants to believe (our office did not receive a letter in December 2019 from the local authorities to which paragraph 2.2 presumably refers), those documents must, to our mind, be

made available to the parties by the Appeal Authority as soon as possible and enough time must be granted to the parties to study such documents.

11. If however, those documents do exist, but only in the sense that they consist of merely a compilation of the various appeal grounds lodged by the appellants, and thus are already in the parties' possession, Section 81(6) is with respect, not applicable. In such a case the continuation of the hearing should be enrolled in the shortest possible time at a date which suits all the appellants.
12. Furthermore, the form of the continued oral hearing must exactly be the same form of oral hearing as provided for in Section 81(1)(b) read with Section 81(3), (4) and (5).
13. Lastly, although writer did not object to a so-called "outside" Appeal Panel to hear this appeal, it is clear to our mind that an appellant cannot prescribe to the Appeal Authority how to assemble its members. After all Section 65 of LLUPB prescribes exactly the principles to be applied by the Appeal Authority when hearing an appeal.
14. We trust that you will receive this letter simply as an attempt to address the issues raised by Mr. Reeder at a most belated time which issues could, due to an almost inaudible communication, not be properly ventilated.
15. Naturally, the other appellants should likewise, with respect, be afforded an opportunity to address only the postponement of this matter and the form of the appeal hearing at the continuation thereof and nothing more. This will hopefully also contribute to enable the Appeal Authority to make a decision which is lawful, fair and transparent with regard to the appeal hearing.

Yours Faithfully
DU BOIS ATTORNEYS
Per

JP DU BOIS

DIRECT E-MAIL : hannes@jpdubois.co.za

CC: christo.reeders@crattorneys.co.za; Samantha@ndvlaw.co.za; jordyn@ndvlaw.co.za;
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Tracy Brunings

From: Christo Reeders <christo.reeders@crattorneys.co.za>
Sent: Tuesday, 01 September 2020 19:57
To: Rdl.Schalk Van Eeden; 'Soyisile Mokweni'; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Anton Everson; Riaan de Jong; Tracy Brunings; Joliza Swanepoel; MM; Hannes du Bois; gerberpa@vodamail.co.za
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Subject: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: SCAN_20200901_195017391.pdf
Importance: High

Dear Sir / Madam,

Please see the attached letter.



CHRISTO REEDERS ATTORNEYS

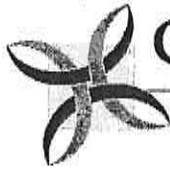
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CHRISTO REEDERS ATTORNEYS

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1 September 2020

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By e-mail: ndlovu@ndvlaw.co.za
sibonelovalley@gmail.com

Dear Sir / Madam,

**APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON: ABATTOIR WASTE
TREATMENT SITE AND FEEDLOT
POSTPONEMENT *SINE DIE* OF VIRTUAL APPEAL HEARING ON
28 AUGUST 2020**

1. We refer to the applicant's attorney's letter to you dated 31 August 2020. Our response thereto is set out below.

Ad paragraph 1:

2. We take note of Mr Du Bois' allegation that from his perspective, several critical aspects of the proceedings on 28 August 2020 were inaudible. Tellingly, at no stage during the proceedings did Mr Du Bois proclaim his inability to audibly follow the proceedings or for that matter, request any party to reiterate any statement he claims not to have heard.
3. Whatever the reasons for the postponement, it is common cause that the legal representatives of all the parties to the appeal were *ad idem* that the matter ought to be postponed and it was indeed so postponed.

Ad paragraph 2:

4. Annexure "A" hereto is the index to the bundle of documents prepared by the Municipality and which has not been made available to the parties.
5. Annexure "B" is a copy of the e-mail dated 20 December 2019 dispatched by Ms Tracy Brunings of the Municipality to the parties. *Prima facie* it appears that the applicant's attorney is the first addressee / recipient of that e-mail.
6. Annexure "C" is an e-mail dated 14 January 2020, again from Ms Tracy Brunings of the Municipality, whereby she retransmitted her e-mail of 20 December 2019 to the parties, including to the applicant's attorney.
7. While Ms Brunings' e-mails aforementioned describe the process for accessing documents, at no stage did the Municipality / Tribunal / Appeal Authority disclose the existence or extent of the bundle of documents as set out in annexure "A". These are all relevant and material documents that must be considered by the

Appeal Authority and which must therefore form part of the bundle to be disclosed to the parties.

8. Mr Du Bois has helpfully clarified that the review application under case number 14084/2019 was served also on the Municipality. There is no doubt that the Appellants are entitled to the same information that is in possession of the applicant and the Municipality / Tribunal / Appeal Authority. To hold otherwise would be highly prejudicial to the Appellants and would constitute a material irregularity; hence, the application papers ought to form part of the overall bundle of documents that must be made available to the parties irrespective of the weight the applicant might attach thereto or the applicant's reliance on these papers. .

Ad paragraph 3:

9. We concur with the contents of the legislative provisions set out herein.

Ad paragraphs 4 to 6:

10. We disagree with the applicant's attorney's interpretation. We reiterate our submission in the course of the proceedings on 28 August 2020 that Section 3 of the Promotion of Administrative Justice Act, 3 of 2000 ("PAJA") (the latter being the overarching legislation) governs the proceedings set forth in the LLUPB. The following provisions of Section 3 are material:

"(3) In order to give effect to the right to procedurally fair administrative action, an administrator may, in his or her or its discretion, also give a person referred to in subsection (1) an opportunity to –

- (a) obtain assistance and, in serious or complex cases, legal representation;
 - (b) present and dispute information and arguments; and
 - (c) appear in person.
- (4) (a) If it is reasonable and justifiable in the circumstances, an administrator may depart from any of the requirements referred to in subsection (2).
- (b) In determining whether a departure as contemplated in paragraph.(a) is reasonable and justifiable, an administrator must take into account all relevant factors, including –

- (i) the objects of the empowering provision;
- (ii) the nature and purpose of, and the need to take, the administrative action;
- (iii) the likely effect of the administrative action;
- (iv) the urgency of taking the administrative action or the urgency of the matter; and
- (v) the need to promote an efficient administration and good governance.

(5) Where an administrator is empowered by any empowering provision to follow a procedure which is fair but different from the provisions of subsection (2), the administrator may act in accordance with that different procedure."

11. The abovementioned matter is of course not only of interest to the applicant's immediate neighbours, but indeed to the public as a general body of interested and possibly affected parties. Hence, Section 4 of PAJA is equally applicable and provides as follows:

"(1) In cases where an administrative action materially and adversely affects the rights of the public, an administrator, in order to give effect to the right to procedurally fair administrative action, must decide whether –

- (a) to hold a public inquiry in terms of subsection (2);
- (b) to follow a notice and comment procedure in terms of subsection (3);
- (c) to follow the procedures in both subsections (2) and (3);
- (d) where the administrator is empowered by any empowering provisions to follow a procedure which is fair but different, to follow that procedure; or
- (e) to follow another appropriate procedure which gives effect to section 3.

(2) If an administrator decides to hold a public inquiry –

- (a) the administrator must conduct the public inquiry or appoint a suitably qualified person or panel of persons to do so; and

- (b) the administrator or the person or panel referred to in paragraph (a) must –
 - (i) determine the procedure for the public inquiry, which must –
 - (aa) include a public hearing; and
 - (bb) comply with the procedures to be followed in connection with public inquiries, as prescribed;
 - (ii) conduct the inquiry in accordance with that procedure;
 - (iii) compile a written report on the inquiry and give reasons for any administrative action taken or recommended; and
 - (iv) as soon as possible thereafter –
 - (aa) publish in English and in at least one of the other official languages in the Gazette or relevant provincial Gazette a notice containing a concise summary of any report and the particulars of the places and times at which the report may be inspected and copied; and
 - (bb) convey by such other means of communication which the administrator considers effective, the information referred to in item (a) to the public concerned.
- (3) If an administrator decides to follow a notice and comment procedure, the administrator must –
- (a) take appropriate steps to communicate the administrative action to those likely to be materially and adversely affected by it and call for comments from them;
 - (b) consider any comments received;
 - (c) decide whether or not to take the administrative action, with or without changes; and
 - (d) comply with the procedures to be followed in connection with notice and comment procedures, as prescribed.

- (4) (a) If it is reasonable and justifiable in the circumstances, an administrator may depart from the requirements referred to in subsections (1)(a) to (e), (2) and (3).
 - (b) In determining whether a departure as contemplated in paragraph (a) is reasonable and justifiable, an administrator must take into account all relevant factors, including –
 - (i) the objects of the empowering provision;
 - (ii) the nature and purpose of, and the need to take, the administrative action;
 - (iii) the likely effect of the administrative action;
 - (iv) the urgency of taking the administrative action or the urgency of the matter; and
 - (v) the need to promote an efficient administration and good governance." (Emphasis added.)
12. It is clear that the provisions of Sections 3 and 4 of PAJA allow the administrator to depart from the procedures set out in the LLUPB. In fact, any election not to follow PAJA under the circumstances may well result in decisions taken by the Appeal Authority being reviewed and set aside.
13. Our views are fortified by the following provisions of the LLUPB which have not been raised by the applicant's attorney:
- 13.1. Section 81(3) – "An oral hearing may be held –
- (c) if it appears to the Appeal Authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
 - (d) if such hearing would assist in the expeditious and fair disposal of the appeal".
- 13.2. Section 81(7) – "The Appeal Authority must –

- (a) consider and determine all appeals lawfully submitted to it;
- (b) confirm, vary or revoke the decision of the Tribunal or authorised employee;
- (c) provide reasons for any decision made by it;
- (d) give directions relevant to its functions to the Municipality;
- (e) keep a record of all its proceedings; and
- (f) determine whether the appeal falls within its jurisdiction".

13.3. Section 81(9) – "If the Appeal Authority revokes a decision of the Tribunal or authorised employee it may -

- (a) remit the matter to the Tribunal or authorised employee
 - (i) if there was an error in the process which is unfair and which cannot be corrected by the Appeal Authority; and
 - (ii) with instructions regarding the correction of the error; or
- (b) replace the decision with any decision it regards necessary".

13.4. Section 81(10) – "The Appeal Authority may appoint a technical advisor to advise or to assist it with regard to a matter forming part of the appeal".

Ad paragraph 7:

14. The applicant's attorney's submission is fundamentally flawed. By its very nature, the incumbent appeal is "wide". A wide appeal involves "a complete rehearing of and fresh determination on the merits of, the matter with or without additional evidence or information¹". The governing principles emerge fully from the

¹ Baxter – Administrative Law pg. 256 - 257

locus classicus, being the matter of Tikly v Johannes N.O.² and the subsequent authorities that followed and adopted these principles.

15. The effect of a wide appeal, bearing in mind the hitherto undisclosed information, is indeed that the Appellants will have a "second bite at the cherry", entirely in conflict with the applicant's attorney's assertions to the contrary.
16. In order to assist the Tribunal, we point out that an "ordinary" appeal (as distinguishable from a wide appeal) involves "a rehearing on the merits but limited to the evidence or information on which the decision under appeal was given, and in which the only determination is whether that decision was right or wrong³". For obvious reasons, we submit, it is clear that the incumbent appeal is indeed "wide" as opposed to "ordinary"; since, *inter alia*, the documents that have emerged subsequent to the impugned decision simply did not exist when the decision was taken.
17. Bearing in mind the distinction between ordinary and wide appeals, it is clear that the Appeal Authority's powers as set out in Section 81(9) of the LLUPB point at a wide appeal.

Ad paragraphs 8 and 9:

18. The applicant's attorney's misapprehension that the appeal procedure would transmogrify into a "fully blown court case" is without foundation.
19. We are aware that the indexed and paginated record comprises submissions made to the Tribunal by members of the public who profess to having certain attributes of expert skill and knowledge in a variety of fields, including but not limited to waste management and animal health. The provisions of both Sections 3 and 4 of PAJA make it clear that these experts, inasmuch as they are also members of the public with a material interest in the outcome of this matter, ought to be entertained by the Appeal Authority in order for the latter to take cognisance of and consider their views. The appellants intend supplementing their appeal grounds, as they are entitled to do, in terms of, *inter alia*, these comments. The supplemented grounds of appeal, duly informed by whichever evidence these experts may present, will in due course be before the Appeal Authority, howsoever comprised, that will ultimately become seized with the matter. The

² 1963 (2) SA 588 (T)

³ Baxter – Administrative Law pg. 256

applicant's attorney thereafter remains at liberty to deal with this evidence as he sees fit.

Ad paragraphs 10 and 11:

20. The annexures hereto place this issue beyond dispute and we look forward to the Appeal Authority making available all the documents referred to at its earliest convenience.

Ad paragraph 12:

21. In view of the provisions of Sections 3 and 4 of PAJA, the submissions herein are without substance.

Ad paragraphs 13 to 15:

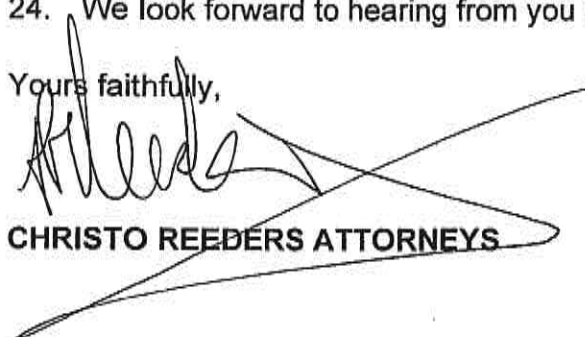
22. We note the allegations herein. We have not at all deigned to be prescriptive to the Appeal Authority as to the composition of its members. It is quite apparent that the subject matter of the appeal is complex; hence, we merely suggested that at least one of the members ought to be an expert in the field of waste management / disposal. Not only does Section 81(10) of the LLUPB allow the appointment of a technical advisor, it is quite evident from Sections 3 and 4 of PAJA that the Appeal Authority could co-opt such a person as a member. The reasonableness or not is an aspect that may well in due course be ventilated in a review application when the Appeal Authority's decision is measured against the provisions of Sections 3 and 4 of PAJA as read with Section 6.
23. To the extent that the applicant's attorney's concluding remark for the Appeal Authority to make a decision which is "lawful, fair and transparent" broadly accords with the concept of "procedurally fair administrative action" as set out in PAJA, we support the submission. For the avoidance of doubt, without binding the Appeal Authority's discretion, we propose that the following aspects (which are not meant to be exhaustive) would contribute to an administrative action that is procedurally fair:
- 23.1. the Appeal Authority is to appoint an external panel; alternatively, co-opt appropriately qualified experts in at least legal matters and waste management to assist the Appeal Authority;
 - 23.2. allow a fair and reasonable opportunity for the parties to study the full record and supplement the various appeals;

23.3. arrange a face to face hearing in terms of Section 81(3) of the LLUPB as read with Section 4 of PAJA;

23.4. at the hearing, allow the oral evidence of expert- and ordinary witnesses.

24. We look forward to hearing from you in due course.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Christo Reeders', is written over the typed name. The signature is stylized with a large, sweeping flourish that extends to the right and then loops back down.

CHRISTO REEDERS ATTORNEYS

11

~ MEMORANDUM ~			
AAN / TO	Mr SA Mokweni Municipal Manager	VAN / FROM	TL Brunings Assistant Town and Regional Planner
VERW / REF	15/4/12/7_Middelburg 10/6 Robertson	DATUM / DATE	5 March 2020
ONDERWERP SUBJECT	APPEAL ASSESSMENT REPORT FOR SUBMISSION TO THE LANGEBERG APPEAL AUTHORITY: PROPOSED ABATTOIR COMPOSTING FACILITY AND FEEDLOT ON PTN 6 OF THE FARM MIDDELBURG 10, ROBERTSON		

Dear Sir,

Attached herewith please find an Appeal Assessment Report comprising pages 1-9, with Annexures comprising pages 10 - 980, as indicated below:

Annexure	Documentation (Note: pages are numbered in the bottom right-hand corner)	Page No's
1	Plans: Locality, Site Plan & Amended Site Plans, Aerial Photo: Application Site and Objectors	10 - 18
2	Planning Assessment Reports to Langeberg Municipal Planning Tribunal, with Annexures as indicated	19
(1)	1 February 2019 (18.01.19): Tribunal Agenda item Annexure A Recommended Conditions of Approval Annexure B Plans: Locality, Objector's properties, Site Plan Annexure C Application Annexure D Additional Information submitted by Applicant Annexure E Objections 1-3 Annexure F Applicant's Response to Objections Annexure G Comments from Departments: Heritage (1/2/17), CWDM (17/11/17), Department of Transport (7/2/18), 8GCMA (16/1/18), Cape Nature (19/1/18), Dept of Agriculture (6/3/18) Annexure H Provincial approval of LUPA application Annexure I Extracts from: NEM: WA 59/2008: The mini guide to the Management of Abattoir Waste (DEA&DP, 2016/17); and The National Organic Waste Composting Strategy (DEA&DP, 2013) 1 February 2019: Tribunal Meeting Minutes	20 - 40 41 - 43 44 - 46 47 - 86 87 - 179 180 - 192 193 - 209 210 - 230 231 - 234 235 - 250 251 - 253
(2)	6 September 2019 (30.08.19): Tribunal Agenda item Annexure A du Bois Attorney's letter of 4 March 2019 in response to Municipal Notice Annexure B Legal Opinion from DHM Attorneys dated 17 April 2019 (Note: The Legal Opinion is Confidential: The applicant and objectors only have a copy of the conclusions of this legal opinion) Annexure C PAJA: Town Planning Dept's response to accusations in De Bois' 4 March 2019 letter 6 September: Tribunal Meeting Minutes	254 - 258 259 - 266 267 - 289 290 291 - 292
(3)	18 October 2019 (20.09.19): Tribunal Agenda item Annexure 1 Amended Site Plan (March 2019). Annexure 2 Applicant's Response dated 12 April 2019 to Tribunal's Information Request (22 February 2019). Annexure 3 Applicant's Response dated 27 June 2019 to final request for comments (29 May 2019) subsequent to legal opinion. Annexure 4 CWDM (Health) comments re. why the activity is not considered listed in terms of NEM: Air Quality Act, 2004. Annexure 5 DEA&DP's Response re. definitions of infectious, condemned and hazardous waste. Annexure 6 WC Department of Agriculture: Veterinary Public Health comments re. pollution control and public health. Annexure 7 Recommended Conditions of Approval. Annexure 8 Langeberg Municipal Bylaw for the Prevention and Suppression of Nuisances, 28 May 2010. Annexure 9 Departmental Comments: Department of Transport	293 - 303 304 - 305 306 - 324 325 - 333 334 - 338 339 - 341 342 - 343 344 - 347 348 - 350 351 - 355

	(7 Feb 2018) and BGCMA (16 January 2018). 18 October 2019: Tribunal Meeting Minutes	356 - 361
3	Tribunal Decision Letter	362 - 372
4	Section 65 of the Langeberg Land Use Planning Bylaw 2015	373 - 377
5	Appeal 1: Applicant	378 - 624
6	Objectors' Response to Applicant's Appeal (Appeal 1)	625 - 647
7	Appeal 2: Christo Reedeers - Perisseia	648 - 686
8	Appeal 3: P J Gerber	687 - 694
9	Appeal 4: Ndlovu de Villiers – L Jordaan & H Jooste	695 - 728
10	Applicant's Response to Appeals 2-4	729 - 794
11	Compliance Notices and Applicant's Responses	795 - 831
12	Environmental Authorisation (EA)	832 - 851
13	Waste Management Licence (WML)	852 - 880
14	Municipal Appeals against EA and WML	881 - 894
15	File Notes re. factual inaccuracies and unsubstantiated allegations in the du Bois appeal.	895 - 951
16	Reports on flies and odours: Site Inspections by Departmental officials (DEA&DP, CWDDM, VPH).	952 - 973
17	Time line: progress of LLUP application	974 - 976
18	Section 81 of the Langeberg Land Use Planning Bylaw 2015: Consideration by Appeal Authority	977 - 980

Note: Copy of DHM Legal Opinion attached to Sept Tribunal item: Annexure 2(2) (pg. 267)
Copy of DEA&DP Court Order attached to Appeal 1: Annexure "A11" (pg. 524).
Other documents on file (not attached herewith) include: BAR i.t.o. EIA regulations; and Objectors' Appeals against WML i.t.o. NEMA.

Yours faithfully

T L BRUNINGS
ASSISTANT TOWN AND REGIONAL PLANNER

n B n

Christo Reeders

From: Tracy Brunings <tbrunings@langeberg.gov.za>
Sent: Friday, 20 December 2019 12:49
To: Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za); Christo Reeders; gerberpa@vodamail.co.za; 'gerberl@vodamail.co.za'; Sibonelo Ndlovu
Cc: Langeberg Municipality; Kobus Brand; Maynard Johnson
Subject: FW: APPEAL: LAND USE PLANNING DECISION IN RESPECT OF PTN 6 OF THE FARM MIDDELBURG, ROBERTSON
Attachments: Standard Procedure for Access to Documentation for Appeals_79 LLUP_2015.docx
Categories: Billed

Good day,

Your appeal has reference.

Attached herewith please find information relating to the standard procedure followed in terms of making documentation available to all parties. Please note that the Municipality has requested comment from the Provincial Minister. In terms of Section 81(6) of the Langeberg Land Use Planning Bylaw, you will be notified as soon as all relevant documentation is available. Such documentation, including all reports to the Tribunal relating to this application, will then be made available at the Langeberg Municipal offices for inspection and comment, if any.

Please be advised that the Langeberg Municipal offices close at 13h00 on 20 December 2019, and re-open on Monday 6 January 2020.

Regards,
Tracy Brunings Pr.Pl. A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



"People at the centre of Development"

3 Piet Retief Street, MONTAGU 6720
Tel: 023 614 8001 Faks: 023 614 1841

tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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11 C 11

Christo Reeders

From: Tracy Brunings <tbrunings@langeberg.gov.za>
Sent: Tuesday, 14 January 2020 16:42
To: Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za); Christo Reeders; gerberpa@vodamail.co.za; 'gerberl@vodamail.co.za'; 'Sibonelo Ndlovu'
Cc: Langeberg Municipality
Subject: FW: APPEAL: LAND USE PLANNING DECISION IN RESPECT OF PTN 6 OF THE FARM MIDDELBURG, ROBERTSON
Attachments: Standard Procedure for Access to Documentation for Appeals_79 LLUP_2015.docx
Categories: Not billed

Good day,

Below please find a copy of an email sent on 20 December 2019, which may not have reached all recipients due to technical problems with the municipal server on 20 December 2019.

Regards,
Tracy Brunings

From: Tracy Brunings
Sent: Friday, 20 December 2019 12:47 PM
To: Du Bois de Vries de Wet & Krouwkam (hannes@jpdubois.co.za) <hannes@jpdubois.co.za>; 'Christo Reeders' <christo.reeders@crattorneys.co.za>; 'gerberpa@vodamail.co.za' <gerberpa@vodamail.co.za>; 'gerberl@vodamail.co.za' <gerberl@vodamail.co.za>; 'Sibonelo Ndlovu' <Ndlovu@ndvlaw.co.za>
Cc: Langeberg Municipality <admin@langeberg.gov.za>; Kobus Brand <KBrand@langeberg.gov.za>; Maynard Johnson <MJohnson@langeberg.gov.za>
Subject: FW: APPEAL: LAND USE PLANNING DECISION IN RESPECT OF PTN 6 OF THE FARM MIDDELBURG, ROBERTSON

Good day,

Your appeal has reference.

Attached herewith please find information relating to the standard procedure followed in terms of making documentation available to all parties. Please note that the Municipality has requested comment from the Provincial Minister. In terms of Section 81(6) of the Langeberg Land Use Planning Bylaw, you will be notified as soon as all relevant documentation is available. Such documentation, including all reports to the Tribunal relating to this application, will then be made available at the Langeberg Municipal offices for inspection and comment, if any.

Please be advised that the Langeberg Municipal offices close at 13h00 on 20 December 2019, and re-open on Monday 6 January 2020.

Regards,
Tracy Brunings Pr.Pl. A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



"People at the centre of Development"

3 Piet Retief Street, MONTAGU 6720

Tracy Brunings

From: Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>
Sent: Thursday, 03 September 2020 09:56
To: Christo Reeder; Rdl.Schalk Van Eeden; 'Soyisile Mokweni'; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Anton Everson; Riaan de Jong; Tracy Brunings; Joliza Swanepoel; MM; Hannes du Bois; gerberpa@vodamail.co.za
Cc: Justine Sweet; Jacolette Adam; LeRoux Fourie
Subject: RE: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: Letter to Langeberg Municipal Manager 03092020.pdf

Good morning

Herewith correspondence addressed to the Appeal Authority.

Kind regards.

Sibonelo Ndlovu

BA(Law), LLB, LLM (Marine and Environmental Law)

Attorney/Notary Public

Tel: 033 001 7521 Cell: 072 320 0283 Fax 086 2728 793

Email: ndlovu@ndvlaw.co.za Website: www.ndvlaw.co.za

Address: Block A Victoria House, Victoria Country Club Estate (170 Peter Brown Drive), PMB.



Ndlovu de Villiers
 Environmental Law Specialists

From: Christo Reeder <christo.reeders@crattorneys.co.za>
Sent: Tuesday, 01 September 2020 19:57
To: schalk@langeberg.gov.za; 'Soyisile Mokweni' <smokweni@langeberg.gov.za>; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; AEverson@langeberg.gov.za; Riaan de Jong <rdejong@langeberg.gov.za>; 'Tracy Brunings' <tbrunings@langeberg.gov.za>; Joliza Swanepoel <JSwanepoel@langeberg.gov.za>; MM <mm@langeberg.gov.za>; Hannes du Bois <hannes@jpdubois.co.za>; gerberpa@vodamail.co.za
Cc: Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>; sibonelovalley@gmail.com; Samantha de Villiers <samantha@ndvlaw.co.za>; Justine Sweet <jsw@crattorneys.co.za>; Jacolette Adam <jacolette@exigent.co.za>; LeRoux Fourie <leroux@dmvrb.co.za>
Subject: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Importance: High

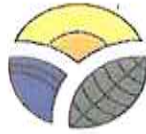
Dear Sir / Madam,

Please see the attached letter.



CHRISTO REEDERS ATTORNEYS

ENVIRONMENTAL LAW • MINING LAW • COMMERCIAL LITIGATION



Ndlovu de Villiers

Environmental Law Specialists

Langeberg Municipality

Attention: Mr. A S W van Eeden
Executive Mayor

Per e-mail: iswanepoel@langeberg.gov.za

Ref:	15/4/12/5&7
Date:	3 September 2020

Dear Sir

RE: RESPONSE TO THE APPLICANT'S ATTORNEYS' LETTER DATED 31 AUGUST 2020

Introduction

1. The purpose of this letter is to respond to the letter dated 31 August 2020 submitted by Mr. J P du Bois (on behalf of the Applicant) to the Appeal Authority of Langeberg Municipality.
2. Our focus is on those parts that affect our clients' appeal and its consideration.

Further or additional evidence

Block A Victoria House (170 Peter Brown Drive)
Victoria Country Club Estate
Pietermaritzburg, 3201
South Africa
Tel: +27 (0)33 001 7521 Email: ndlovu@ndvlaw.co.za
Cell: +27 (0)72 320 0283 Fax: +27(0)86 272 8791

Ndlovu de Villiers Attorneys
Partners: S.J.F. Ndlovu BA (Law) LLB LLM (Marine & Environmental Law)
S.O. de Villiers BA LLB

3. We confirm that, at the next hearing of the appeals, we do not intend to present further or additional evidence apart from the grounds of appeal we have already lodged on behalf of our clients.
4. However, we take issue with Mr. du Bois' submission (at Paragraph 7 of his letter) that "to present further or additional evidence apart from the Grounds of Appeal already lodged ... is invalid and unlawful." In order to finalise the appeal process, the Appeal Authority may lawfully call for further or additional evidence. That is so because an appeal lodged in terms of section 79 of the *By-law of Municipal Land Use Planning, 2015*, (hereinafter referred to as the "By-law") is a wide appeal, such that the Appeal Authority is obliged to rehear and reconsider the Applicant's application.
5. Specifically, what Mr. du Bois appears to have lost sight of is the implication of section 79(5)(a) of the By-law. That section provides that:

"When the Appeal Authority considers an appeal, it must have regard to –

(a) The provisions of section 65(1), read with the necessary changes".

6. For the purposes of our clients' appeal, section 65(1)(g) of the By-law is of particular importance. That section provides that, when the Municipality considers an application, it must have regard to "a registered planner's written assessment in respect of an application for ... a rezoning". In this matter, the "registered planner" is Ms. Tracy Brunings who is the Municipality's Assistant Town Regional Planner. Given the submissions made by Mr. du Bois regarding Ms. Brunings (in the Applicant's appeal), the Appeal Authority has no choice but to make a determination on her credibility. In the event that the Appeal Authority decides to hear *viva voce* testimony from Ms. Brunings, the Appeal Authority would have to allow her cross-examination by any party to the appeal process. Such cross-examination may result in supplementary or additional evidence being admitted in the appeal process, as long as such evidence is relevant for the purposes of determining Ms. Brunings credibility.

7. Notwithstanding the above, we are not fixated on the Appeal Authority making provision for the hearing of *viva voce* testimony. The Appeal Authority may determine any other appropriate manner of discharging its duties in the context of the appeal hearing.

Appeal Authority's discretion on how it should be constituted

8. We agree with Mr. du Bois that the provisions of the By-laws do not allow an appellant to prescribe to the Appeal Authority on how to assemble its members. However, the point that we make is that the Municipality *itself* has a conflict of interest. In the light of that conflict, we suggest that the appeals be heard by a body outside of the Municipality. It must be borne in mind that the *Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015* provide for a body outside of a municipality to assume obligations of an appeal authority. Regulation 27(1) provides that:

"Body or institution outside of the municipality assumes obligations of appeal authority

- (1) If the municipality authorises a body or institution to assume the obligations of the appeal authority, it must publish notice of the authorisation establishment in the *Provincial Gazette* and one newspaper in circulation in the municipal area."

9. It is submitted that the abovementioned Regulations apply alongside the By-laws. Our submission is based on the fact that the Spatial Planning and Land Use Management Act No. 16 of 2003 (in terms of which the abovementioned Regulations were promulgated) apply side by side with the By-laws. It follows that, in taking this appeal process forward, the Appeal Authority must consider whether or not it is appropriate for the Municipality to invoke Regulation 27 quoted above.

Documents before the Appeal Authority

10. We are in agreement with Mr. du Bois that all the documents before the Appeal Authority must be made available to all the parties as soon as possible and that enough time must be granted to the parties to peruse those documents. In addition, all the parties must be given an opportunity to comment on the documents that are made available.

The Appeal hearing must be convened as soon as possible

11. Our instructions are to demand that the appeal hearing be convened as soon as possible in order to conclude the appeal process without undue delays.

Request for the Municipality to ensure compliance with the Municipality's letter dated 5 December 2019

12. The attention of the Appeal Authority is drawn to Paragraph 5 of the Municipality's letter dated 5 Decemeber2019. In that Paragraph, the Municipality informed Mr. du Bois and the Applicant that:

"Please note that in terms of section 61(5) of the Langeberg Municipal Land Use Planning Bylaw, 2015, the Tribunal's decision is suspended until the appeals have been finalised and you have been advised accordingly,"

13. The Applicant has ignored the Municipality's advice as evidenced by our clients' numerous formal complaints to date. Therefore, we request the Municipality to direct the Applicant cease, forthwith, any and all activities on the site until the outcome of the Appeal.

3-Sep-20

5

Kind regards.

Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)



DU BOIS

Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGER / CONVEYANCERS

BTW NR 4770183285

ROBERTSON

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MED-LAW HOUSE		MED-LAW HOUSE
ROBERTSON		ROBERTSON
6705		6705
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NA URE	+27 23 347-4693	AFTER HOURS
FAKS	+27 23 626-6577	FAX
SEL	082 8214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	aktes@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/HR0221

YOUR REF : 15/4/12/5&7

DATE : 11 SEPTEMBER 2020

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

MR ASW VAN EEDEN
EXECUTIVE MAYOR
LANGE BERG MUNICIPALITY

E-mail: jswanepoel@langeberg.gov.za / mm@langeberg.gov.za

Dear Sir

**APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON – ABATTOIR WASTE
TREATMENT SITE AND FEEDLOT**

REBEN TRUST (“Applicant”)

As you are all aware, we act on behalf of the Applicant in this matter.

We refer to the e-mail of Christo Reeders dated 27 August 2020 addressed to the Appeal Authority.

We also refer to the correspondence exchanged between the parties' legal representatives from the date of the postponement of the oral hearing.

It is incumbent that we must respond to a variety of aspects which we consider to be necessary in order to conclude the pending appeal.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

1. As at the date of the oral hearing at the virtual meeting held on 28 August 2020, the issues under appeal, were still relevant. Since the appeal decision was taken by the Minister in respect of the EA and WML 31 August 2020, that scenario has, however, changed completely -- to such an extent that every one of the 8 reasons provided by the Langeberg Municipality Tribunal ("the Tribunal") in their decision letter of 31 October 2019, had been effectively rendered obsolete. Thus it follows that virtually nothing remains of their decision that needs to be adjudicated under the current appeal.
2. For the sake of clarity and completeness we will, however, simply as a matter of courtesy, still address certain aspects raised in the correspondence of our two colleagues, despite the fact that we deem such aspects, issues and arguments to have simultaneously become irrelevant and obsolete. Thus, they can have no bearing on the outcome of this appeal anymore, as they are now simply moot points or issues of pure academic value.
3. Where we refer to submissions made by our colleagues or where we specifically refer to Mr.Reeders' correspondence, we simultaneously refer to correspondence of Mr. Ndlovu insofar as the latter in such correspondence, supports the view of the former.

WIDE APPEAL AND VIVA VOCE EVIDENCE

INTERPRETATION OF PAJA

4. We submit that the current appeal falls to be dealt with, not by *viva voce* evidence, but in the manner prescribed by the provisions of the relevant statutes and regulations promulgated under those statutes read in combination with the LLUPB.

5. PAJA indeed makes provision whereby an Appeal Authority may deviate from prescribed procedures of PAJA, but only in exceptional circumstances which are reasonable and justifiable.
6. In order to fulfill the duty of ensuring fairness, an administrator must as a minimum comply with the provisions of Section 3(2)(b). In addition the administrator has a discretion to apply the injunctions of Section 3(3). In essence, through these two sub-sections, Section 3 seeks to apply the *audi rule*. However, its division into mandatory and discretionary components differs from the common law in which the content of the duty was a matter of law and not of discretion.
7. Section 3(4), allowing for a departure from the right to be heard as provided in Section 3(2)(b) is distinguishable from Section 3(5) in that it allows for a departure from the core, minimum procedure in those instances where no procedure is specified – which is usually the case – and where, for instance, proper and acceptable grounds exist for a hearing to be given after, rather than before, the administrative action is taken. It seeks to provide a formula for determining when the right to be heard must bow to a value or end of greater importance in the circumstances, but is not a license to opportunistically or expediently depart from agreed or prescribed procedures that otherwise bind the decision-maker.
8. In view of the *audi rule* requiring a hearing to take place prior to a decision being taken, the question is whether *ex post facto* hearings could qualify as fair. Situations in which justification may be sought (for a hearing to be held after a decision had already been taken) could be those involving urgency, practical considerations and the further consideration that a prior hearing will defeat the purpose of the enabling statute. It all depends on the circumstances. None of those circumstances however, exist in the current appeal.

9. Therefore, it is our convinced opinion that nothing prevalent in the current circumstances, merit the constituting of a hearing as demanded by our colleagues under the auspices of a so-called wide appeal in the sense of a complete re-hearing of the whole matter and issues at stake, as opposed to a normal or more restricted one.

LLUPB AND SPLUMA

10. LLUPB does not prescribe a procedure whereby witnesses may be subpoenaed and sworn in to be questioned and cross-questioned by the parties; nor does SPLUMA and its regulations. Furthermore, the manner in which expert testimony is to be adduced and presented (if it may be presented at an oral hearing) is not prescribed or provided for at all. This immediately begs the question; must the party who requires testimony by an expert, provide a written statement of such expert's proposed testimony beforehand to the other parties as prescribed by the rules of Court? If such be the case, other parties may then naturally call their own opposing experts to contradict or discredit such expert's testimony.
11. As stated, the above practical issues and procedures to cater for that eventualities, are not provided for in any of the above legislation. From a practical point of view, if witnesses including expert witnesses should be allowed to be called by the parties, it will no doubt extend the hearing considerably, possibly even for months, depending on the availability of those witnesses, the availability of the appeal panel and the parties, lengthy cross-examination and the like. Inevitably, such hearings will at regular intervals have to be postponed, more often than not, depending entirely on the above factors.
12. The above practicalities, let alone unnecessary lapse of time due to the fact that fair administrative action in the current matter, does not merit the calling of viva voce evidence. After all, it is submitted that all relevant and necessary information needed by the Appeal Authority to enable the latter to come to an

informed and fair decision, have already been provided to the Municipality and all the appellants.

13. After all, fair administrative action is achievable without the presentation of any *viva voce* testimony. The parties were provided ample opportunity to present their respective "cases" and have done so by means of written representations, written grounds of appeal, objections filed during the public participation process following the application, written comments filed, etc.
14. Abundant information have been provided to the Municipality over the past more than three years, containing a myriad of contentions, allegations, facts, assumptions, legal points and the like to enable the Appeal Authority to discern amongst those in order to hand down a fair and justifiable adjudication. In the process the *audi rule* as the most basic rule of natural justice, was applied throughout the application process.
15. The essence of PAJA is simply to provide a procedure whereby effect is given to fair administrative action, procedurally and substantively by adhering to the principles set out in Section 3 thereof. We submit that the core procedure required by PAJA, has been complied with by the Tribunal during the application process.
16. Furthermore, the Tribunal has already taken their decision to call for an expeditious oral hearing (providing each appellant only 30 minutes to address the Appeal panel orally), following due process in terms of fair administrative procedures. On that score alone the assumption can be made that the Appeal Authority did not regard the oral hearing as a hearing where witnesses, including expert witnesses could be called to testify and be cross-examined. [We will below discuss the difference between a so-called wide appeal as opposed to a restricted appeal.] We, on behalf of the Applicant, do not maintain that the administrative decision under appeal, was not procedurally fair. It was simply substantively wrong and without substance. We have given full reasons in our

written Grounds of Appeal why all of the reasons for the decision taken by the Tribunal, should be regarded as a combination of irrational, unreasonable, unsubstantiated, based on flawed rationale, speculative assumptions, misguided facts to the extent of being *male fide* and the like. Thus, we contested on behalf of the Applicant, the merits of the Tribunal's decision in terms of Section 80(2)(a)(ii). Nothing however, prevented our learned colleagues to have requested or even demanded (as they now do from the Appeal Authority) to be allowed to present oral expert testimony to the Tribunal at the application stage. Regulation 12 of the SPLUMA regulations, makes specific provision for the Tribunal to allow for oral representations by parties to an application. Surely, if our learned colleagues are serious in maintaining that an oral hearing or oral representations in terms of the empowering Legislation, allow them to present *viva voce* testimony to the Tribunal before the latter has taken a decision, surely they would or should have pursued that route at the application stage? They did not and the question immediately arises – why not? A decision has however since been taken by the Tribunal and we are now at the appeal stage of that decision. Mr. Reeders belatedly (as stated before) and for the first time on 28 August 2020, applied for an oral hearing in the so-called wide format and at which hearing they proposed to be allowed to adduce afresh additional testimony in the form of viva voce evidence of experts and the like (this is at least how we understand the proposal advanced by our colleagues when the oral hearing was postponed). This cannot be allowed for the reasons already set out in our previous correspondence.

17. This saga has now dragged on for the better part of three years and our clients have already expended literally millions of rand, which amount keeps rising for every week this matter continues to drag on. All the parties' appeal documents had been submitted on 22 November 2019 followed by written responses and comments. The Appeal would initially have been heard by means of an oral hearing on 3 April 2020 (in a restricted form). That date had to be postponed due to the lockdown regulations. It needs to be pointed out that our learned colleagues did not at any time before 3 April 2019, demand an oral hearing (in

the form of a wide appeal enabling them to supplement their case by adducing further oral testimony) from the Appeal Authority. No request in that regard was ever made prior to the belated attempt by Mr. Reeder referred to above.

18. It must also be borne in mind (as stated above) that the Appeal Authority has already decided to hear the appeal by means of an oral hearing and the parties were so informed. We have in previous correspondence presented argument as to precisely what an oral hearing entails. We abide by those arguments. In this regard we also refer to Section 81(3)(d) of LLUPB stipulating that an oral hearing may be held, "*if such hearing would assist in the expeditious and fair disposal of the appeal*". Clearly the wording used intended a form of hearing that will be expeditious or speedy, which will undeniably, as stated above, not be the case should a format of an appeal hearing as contended for by our learned colleagues, be allowed.
19. If regard is had to the provisions of Section 51 of SPLUMA and its Regulations 20, 21, 23, 24, 25 and 26, the intention of the Legislator is, with respect, crystal clear. Section 25 makes specific provision for the inspection of documents which were not placed before the parties and to provide the parties the opportunity to inspect any of those documents and to make submissions in relation thereto. This conforms with Regulation 81(6) LLUPB as referred to above. This was the only reason why we had consented to the postponement as long as the postponement was for the shortest possible duration.
20. There is also the question of some thousand pages of documents, which may have a bearing on this appeal, allegedly in the possession of the Municipality, but not provided to the parties in terms of Section 81(6) of LLUPB. We will refer below to the relevance, if any, of these alleged "missing" documents.

POSITIVE LAW

21. Mr. Reeder in his letter of 1 September 2020 (attached to an e-mail of his) referred to the wording in Sections 81(7) and 81(9) of LLUPB. These two sections contain the wording "*confirm, vary or revoke the decision of the Tribunal or authorized employee*". From that wording Mr. Reeder maintained that it is "clear" that it points to a wide appeal. We disagree. Apart from the fact that even a wide appeal may be narrowed down to a limited form of "not so wide an appeal" to restrict the issues at hand to evidence on which the decision on the appeal was taken. The empowering provisions referred to above, points to a restricted form of appeal where the only determination is whether that decision was right or wrong. To support our submission in this regard, we refer to the case of Groenewald NO and Others v M5 Developments (Cape) (Pty) Ltd [2011] 1 All SA 17 (SCA). The facts of that matter turns on Municipal tenders and whether the correct procedure was followed to award a tender to a certain tenderer. On page 24 (para 23) Leach JA surmised as follows: "*Counsel for M5 conceded that Section 62 involved an appeal in the wide sense and, for present purposes, I intend to accept that he was correct in doing so. But that does not mean that such an appeal requires the re-evaluation of each submitted tender. If that were so, administrative anarchy would result. In a simple case such as this involving the re-consideration of but three tenders, the appeal process took nine months and I shudder to think how long it would have taken had it been necessary to deal with, say, 50 tenders just because one unsuccessful tenderer had decided to appeal.*"

The obvious fallacy in the appellants' argument is found on an examination of the section under which the appeal authority is empowered to act. Section 62(1) allows a person to appeal by giving "written notice of the appeal and reasons" to the Municipal manager who, under section 62(2) has then to submit "the appeal" – obviously the notice of appeal and the reasons lodged therewith under section 62(1) – to the appeal authority for it to consider "the appeal" under section 62(3).

(It must be noted that the wording of the first three sub paragraphs of section 51 of SPLUMA, under the heading "Internal Appeals", contains similar wording as Section 62 (1),(2) and (3) referred to in this case)

"Although in terms of this latter sub-section the appeal authority is empowered to "confirm, vary or revoke the decision", it exercises that power in the context of hearing "the appeal" viz the appeal and the reasons lodged by the aggrieved person under section 62(1). That defines the ambit of the appeal, the sole issue being whether that aggrieved person should succeed for the reasons it has advanced. It is not for the appeal authority to reconsider all the tenders that had been submitted. If that had been the Legislator's intention, it would have said so. It did not, and for obvious reasons. There is a need in matters of this nature for decisions to be made without unreasonable delay. If each and every tender had to be revisited it could easily become an administrative nightmare with the appeal authority having to hear representations from all parties who tendered, some of whom might have no realistic prospect of success, in regard to a myriad of issues, many of which might in due course be proved to be wholly irrelevant. This could never have been the Legislator's intention. It is inconsistent with the requirement that a person aggrieved must file a notice of appeal with reasons within a fairly short period.

Thus while I accept that the appeal is a wide one in the sense of a re-hearing, it is a re-hearing related to the limited issue of whether the party appealing should have been successful. In the context of a municipal tender, an appeal by a person whose tender was unsuccessful therefore does not entitle the appeal authority to reconsider all the tenders that were lodged and to decide whether the committee (in our case the Tribunal) which adjudicated upon the tender ought to have awarded the contract to a person whose tender was not accepted ... In the present case the appeal related solely to whether the contract should have been awarded to Blue Whale rather than M5"

(our insertion in brackets and underlining)

22. Mr. Reeders also referred to the case of Tikly and others v Johannes NO and Others 1963 3 ALL SA 91 (T). His interpretation of that case as being supportive of his view expressed in the current matter (wide appeal), is however entirely ill-conceived. The facts of the Tikly-case, are both factually and legally quite distinguishable from the facts of our current appeal. We will show why. The above case merely refers to a classical comment made by Judge Trollip when he discerned between three different connotations which can be applied to the word "Appeal". That case however does not support Mr. Reeders' contentions with regard to whether the current issues under appeal should be dealt with by means of a wide appeal in the sense contended for by him or an appeal restricted in the sense as referred to as a restricted appeal or even a narrowed down "wide appeal" as the one in the Groenewald-case supra. The Groenewald-case conforms to a restricted form of a wide appeal in the sense described by the judge although the judge was prepared to accept that it can be regarded as a wide appeal. Interestingly, the judge never referred to any additional evidence to be submitted by the tenderer by means of *viva voce* evidence or in any other form at the hearing or re-hearing of such "wide appeal".
23. It is important to have regard to the context of the facts of the Tikly-case. The crux of the dispute turns on the correct construction of Section 19(5) of Act 81 of 1959, since repealed. That section read: "*An appeal lodged in terms of subsection 4 shall be heard by a revision Court consisting of a Magistrate or a retired Magistrate and two assessors appointed by the Minister which shall determine the basic value of the affected property and its determination shall be final." (our underlining)*
24. Judge Trollip then explained his classic comment regarding the three connotations of the word "appeal". Following on that, he stated that: "*The sense in which "appeal" was used in the section must be determined from its context in the Act.*" We have already submitted above our submissions with regard to the

Legislator's intentions when it comes to internal appeals and the process to be followed in such instances.

25. The judge elaborates further on the purpose of the said section of that Act and came to the conclusion that the Board (the Tribunal in our appeal) must determine the basic value of the relevant properties. He stressed the considerable importance to the owner and the Board of the determination of the basic value of the property. He reflects on page 95 of the court as follows: *"Consequently, elaborate provision is made in section 19 and the regulations for determining the basic value. The Act provides that this value is first provisionally made by a valuator or valuers appointed by the Minister. They then notify the Board, owner and mortgagee thereof and call for written objections. If no objections are lodged, the provisional basic value becomes final. If objections are duly lodged, the valuers after considering them, must then make a final determination. Any final determination made after considering objections, is subject to appeal which has to be lodged with the Minister, otherwise it remains final."*

26. Judge Trollip after discussing the contents and context of and the purpose for which the evaluations had to be determined, comes to the following conclusion: *"I think that those provisions of the Act indicate clearly that "appeal" in that context is used in a wide sense as described in (i) above, that is, a complete re-hearing and re-determination by the revision Court of the basic value. The reasons for that conclusion are as follows:*
 1. According to Section 19(4) the appeal is against such determination by the valuers; and on that appeal Section 19(5) requires that the revision Court *"shall determine the basic value of the affected property"*. That language is clear and unambiguous. In other words the appellant by his appeal submits that the valuers' determination is incorrect and in consequence, the revision Court has itself to determine the correct value and not merely to ascertain whether the valuers exercised their powers of discretion honestly

and properly. That effectively eliminates the appeal being a review in the sense set out in (iii) above.

2. Although the valuers are obliged to receive and consider written objections, their duties and functions are in essence those of a valuation and not of a judicial or semi-judicial proceeding. In particular Section 19 does not obliged them to hear evidence, to hear any party orally, to give any reasons for their determination or to keep any record of their proceedings. Those functions alone militate completely against the "appeal" being an appeal in the strict sense as described in (ii) above.
 3. As there is no record of the valuers' proceedings, the revision Court must itself receive all relevant information or evidence tendered in respect of the basic value. That such a procedure was envisaged is also borne out by the reference to the Tribunal as a Court, the appointment of a Magistrate or ex magistrate as chairman and the duty imposed on the court to "hear" the appeal and having heard it to determine the basic value itself. That shows that the appeal is a complete re-hearing in the sense described in (i) above.
27. Judge Trollip also referred to the regulations promulgated by the Minister to expressly regulate the powers, functions and duties of valuers and the procedure relating to the determination of the basic value as well as the procedure governing hearings and determinations by the revision Court. He concludes on p.96 of the Court record as follows: "On the other hand the regulations do confirm decisively that the appeal to the revision Court is an appeal in the wider sense described in para (i) above. For example reg. 20 provides that the parties may appear by counsel or attorneys; that:
- "unless otherwise agreed ... the appellant shall first adduce evidence and thereafter the other parties to the appeal may adduce evidence"*

and their addresses to the court shall also be in that order; that with the revision Court's leave further evidence can be adduced at any time before the appeal is determined and that generally

"the law of procedure in civil proceedings in a Magistrate's Court shall mutatis mutandis apply in respect of all proceedings of a revision Court"

That elaborate procedure for a trial hearing of an essentially judicial character could not have been designed merely for an appeal or a review stricto sensu."

28. From the above quotations from the Tikly-case, it is abundantly clear that the context of the regulations promulgated, determines whether an appeal in terms of such regulated procedure carries the connotation of a wide appeal or not.
29. It is furthermore abundantly clear that the context of Section 51 of SPLUMA, its regulations and the context of LLUPB, differ entirely from the applicable Section 19 and its regulations in the Tikly-case. The revision Court refer to in Section 19 of Act 81 of 1959 is a judicial or semi-judicial tribunal and has the powers conveyed upon it by the Minister to determine the valuation itself and must not simply review the appeal and objections lodged by interested parties (in a similar way as we maintain the process in our matter should be applied *i.e.* a restricted appeal). Specific provision in Section 19 is also made for a procedure in the form of a judicial hearing where evidence may be adduced by the parties in a specific manner and where the law of procedure in civil proceedings in a Magistrates Court shall apply in respect of all proceedings in a revision Court.
30. Entirely the opposite context must be adduced from SPLUMA, its regulations and LLUPB. Nothing in that legislation indicates any type of hearing to be held by the Appeal Authority which can even remotely be compared with the powers of the revision Court provided by the regulations referred to in the Tikly-case. It is our submission that the mere fact that Section 81 of LLUPB and regulation 23 of SPLUMA make provision for a written hearing, indicates that in that context,

a wide appeal is not intended, nor envisaged at all. Furthermore, the Appeal Authority referred to under SPLUMA is not an independent and impartial Tribunal established by National Legislation for the purpose of judicially reviewing an administrative action in terms of the provisions of PAJA. Thus, the revision Court referred to in the Tikly-case constitutes a Tribunal as referred to and described in the definition clause of PAJA. The Tikly-case therefore provides no authority for the fact that the current appeal is one that must be clothed with the widest possible connotation described by Judge Trollip. To the contrary, it is exactly the opposite. Section 23 of the SPLUMA regulations read with Section 30 of the SPLUMA regulations indicate clearly that a written hearing (as referred to above) may be held if it appears to the Appeal Authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it. Thus, it is clear that to hear an appeal in a form of a written hearing, presupposes an available record which record alone should be evaluated and considered, without an oral hearing where additional evidence in the form of *viva voce* testimony or additional documentation, may be presented.

31. The wording relied on by Mr. Reeders for his contention that a wide appeal is envisaged in the current proceedings, namely that the Appeal Authority must: "*confirm, vary or revoke the decision of the Tribunal*", is based on a misinterpretation of the relevant legislation. This is so due to the fact that the Appeal Authority may also, having regard to the record alone, (i.e. the written appeal and grounds thereof, written responses and comments), already available to them, make the same decision; the record being "*all the documents or other material lodged with or provided by the parties to the Appeal Authority*." (see Regulation 23(2) of SPLUMA)
32. Lastly, Regulation 21 of SPLUMA prescribes the appeal procedures to be determined by a Municipality, which must include 12 basic requirements. Thus, if a Municipality deems it necessary (pursuant to what they may regard as fair

and just administrative procedure), it not only should, but must provide for a format where *viva voce* evidence could be presented. No procedure of this kind, however, was adopted by the Langeberg Municipality.

EXAMINATION OF TRACY BRUNINGS?

33. We have noted our colleagues' concerns in this regard. They proposed that the manner to address this issue (if it can be called one) is by providing Brunings the opportunity to give *viva voce* testimony in response to writer's referral to her in the grounds of appeal as being either biased, speculative, influencing the Tribunal with her negative views, failing to provide the tribunal with proper facts and generally provided inadequate service to the point of being downright incompetent whilst she was the investigative official of the Tribunal. We assume that what our colleagues have in mind is that she must be given an opportunity in this forum to clear her name, so to speak.
34. Let us clarify this issue immediately. This Appeal is not a disciplinary hearing of Ms. Brunings. The correctness or not of our allegations as to her competency, or not, during the application process conducted by the Tribunal, is totally irrelevant towards the outcome of this appeal. The fact that all fingers may point to her (as we are convinced they do) or not, for a poor performance in general by the Tribunal, is not an issue that is under appeal. The prime purpose of the Appeal Authority is to ascertain whether the Tribunal, not Tracy Brunings, correctly rejected the consent use for the feedlot and the granting of a limited rezoning status for the compost. I for one, have no desire to cross-examine her at this juncture or at any other for that matter. We are focused on what is at hand and that is the appeal of a decision by the Tribunal that should, to our mind, be rejected out of hand by the Appeal Authority. Nothing more.
35. Any evidence she may provide as to how it came about that the Tribunal's decision should, or should not, be rejected as such, is of no consequence and our learned colleagues are well aware of this. We suspect that this is simply a

way of delaying the matter further. It is not her opinion which is at stake, but that of the Tribunal.

LETTER BY CHRISTO REEDERS ATTORNEYS DATED 27 AUGUST 2020

36. We would like to make a final comment on the belated attempt by our learned colleague (Mr. Reeders) to postpone the oral hearing on various grounds contained in his above letter. In paragraph 2.4 of that letter he maintains that it is common cause that not only were interested and affected parties (including the Municipality) not cited as respondents in that matter, but the court papers were not even served upon them.
37. We have since in our responding e-mail of 28 August 2020, shown that his above allegation is without foundation. Furthermore, a copy of the founding affidavit in that case before the High Court, was not only served on the Langeberg Municipality (as the third respondent), but also on Mr. Reeders himself as well as Mr. Ndlovu on behalf of the other two appellants in the WML and EA appeals.
38. This was done by means of an e-mail of 17 February 2020 addressed by us to the Western Cape Minister of Local Government by way of a response to the Grounds of Appeal lodged by Ndlovu De Villiers on behalf of Hannere Jooste and Louis Jordaan. Mr. Reeders' office was incorporated in that e-mail. Thus, the contents of paragraph 2.4 of Mr. Reeders' letter simply reveals the fact that Mr. Reeders failed to properly peruse documents filed in the appeal before the Minister. It is of grave concern that an attorney representing appellants in an appeal before the Minister, did not take cognizance of a very important document (as he portrays it) filed in that appeal. Apart from that, he then proceed to make wild and untrue allegations, as he did in para 2.4 of his letter, that it is common cause that the said document have not been served on the Municipality, nor on any other interested and affected party.

39. The only aspect which is indeed "common cause" in this scenario, is that Mr. Reeders did not read important documents filed in the appeal before the Minister. At a later stage he even goes further and requires the current appeal to be postponed due to inter alia the alleged failure of the applicant (Reben Trust) to serve those very court papers on him as an interested and affected party as he wrongly alleges that he had not been privy to that court application.
40. Lastly, the question also remains why our learned colleagues did not avail themselves of the opportunity to request the Minister, pending the two appeals before him, that they may adduce additional evidence or at least expert evidence as part of a wide appeal approach as propagated by Mr. Reeders and Mr. Ndlovu. After all, that was the opportune time to adduce expert evidence before the Minister and to demand a re-hearing (as they do now in this forum), as the Minister was in the process of dealing with appeal issues germane to the granting of the WML and an EA. That was after all the appropriate forum where expert evidence (should the Minister have decided to hear such evidence as part of a wide appeal as is propagated now by our learned colleagues), should have been adduced to influence the Appeal Authority's decision. After all, the Minister sitting as the Appeal Authority in that matter, has at his disposal all the experts in the Waste Management and Environmental fields and expert evidence adduced by our learned colleagues on behalf of their clients, may have tested the expertise available to the Minister, which opposing expert testimony may well have swayed the Minister to uphold their appeals! The fact remains that they did not avail themselves of that opportunity (which they maintain exists), but rather waited until the Minister has pronounced on their appeal, dismissing it, to only then approach the current Appeal Authority (at a belated stage) for a re-hearing as part of a so-called wide appeal. We would term their actions or failure to act in this regard, as with respect, incredulously opportunistic.
41. We will now leave these academic debates behind and turn to the Minister's Appeal decision handed down on 31 August 2020, but received by us on 3 September 2020.

APPEAL DECISION BY MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (the "Minister")

42. The above rationale in the form of arguments and debating of the issues under appeal and whether the current appeal may be converted into a full blown re-hearing as part of a wide appeal as propagated by our learned colleagues, have however since been invalidated and neutralized. The reason being that the Minister on 31 August 2020 dismissed both the Appeals in writing ("appeal dismissal") of our learned colleagues and their clients against the granting of the Environmental Authorization by the Directorate: Development Management and the Waste Management License by the Directorate: Waste Management ("the Authorities or the relevant Authorities") respectively both on 29 November 2019.
43. In the process an array of grounds of appeal as to the merits of the issues at hand and legal points of law raised by our two learned colleagues against the granting of the two authorizations, have been swept off the table, so to speak. Many of those (if not most) contains similar contentions as have since been raised in the current appeal.
44. What is important to note, is that the reasons provided by the Minister for the dismissal of the said two appeals before him, overlap almost entirely with the reasons provided by the Tribunal for the rejection of the feedlot. In essence, this means that the Minister has also dismissed/rejected by necessary implication, albeit indirectly, those reasons.
45. Thus, the Applicant has been fully vindicated in every sense of the word against the continuous barrage of objections, accusations and attacks by the other appellants, culminating in the appeals they have lodged with the Minister, which have now been dismissed. Full reasons were also provided by the Minister for these appeal dismissals. These reasons conform in almost every respect to

what the Applicant has maintained all along and since it commenced with the composting facility on Portion 6 in 2017. Simultaneously the appeal dismissal in essence, as stated, primarily nullified each and every reason provided by the Tribunal in the rezoning application. It makes no difference that the Tribunal is a Land Use Planning Body, primarily dealing with land use applications in terms of the LLUPB. The fact of the matter is that the reasons provided by the Tribunal was almost exclusively, environmentally inclined, which reasons have now been effectively rendered obsolete by the reasons provided by the Minister in his appeal dismissal.

46. In this regard we refer the Appeal Authority to paragraph 6 of the appeal dismissal. In paragraph 6.1.1 a full background pertaining to the applications for the WML and EA, was provided by the Minister. Reasons were also provided for the condonation of the lapsed application by the applicant, the alleged unlawful commencement of listed activities, the alleged persistent failure to have regard to the rights of interested and affected parties, SAFAM's alleged inability to manage the environmental impact of its activities (including, but not limited to flies, odours, health impacts and other alleged nuisances). With regard to the primary objection raised and maintained throughout by the other appellants, it is specifically stated by the Minister in paragraph 6.1.5 as follows: *"The current composting facility has been visited on numerous occasions by officials from the department, both pre-arranged and unannounced during the course of the WML and EIA application processes. On no occasion has any official indicated that the facility is poorly managed. In addition, the environmental Health Practitioner from the Cape Winelands District Municipality, after he had visited the current composting facility, reported that he was satisfied with management of the facility and there were no flies, nor offensive odours emanating from it. It should also be noted that composting is a common practice associated with agricultural practices and prevents organic waste from going to landfill. It is a means of beneficiating and treating a waste stream that could otherwise have detrimental impacts on the environment."*

47. The Minister have also accentuated the fact that an array of conditions have been included in the WML and EA, respectively, to further mitigate any negative impacts which might arise in future. He was satisfied by means of detailed information sourced by officials and experts in the environmental and waste management fields that any potential nuisance emanating from the site in future as authorized by the WML and EA, will also be sufficiently managed as long as it complies with the WML and EA.
48. In paragraph 6.1.6 the Minister stressed the fact that information supplied to him and his Directorates were sufficient and were made available by means of inter alia the draft and final BAR to all affected persons prior to submission for a decision.
49. The Minister also accentuated that the evaluation of potential specialist inputs for the composting facility indicated no need for a Biodiversity Study, specifically due to the fact that the area has been used for agricultural activities for more than 10 years and was thus already/previously transformed, thus not virgin soil. He also stated that no Health Impact Study was required by the delegated competent authorities as predominantly non-infectious material will be composted at the facility. Air quality reports in the form of inputs by the Department Sub-Directorate as well as the Cape Winelands District Municipality were received. Neither indicated the need for an Air Quality Impact Assessment. The storm water plan submitted was regarded as sufficient as well as the socio-economic inputs provided by the Applicant.
50. The Minister referred to the voluminous extent of information forming part of the EA and WML applications, which information was based on or comprised of existing information forming part of the EIA and WML applications since 2018. This of course includes the inputs by the other appellants throughout the application process until the adjudication of the appeal by the Minister.

51. The Minister concluded that no new information served before the competent authorities in terms of the WML and EIA applications. The public participation process undertaken complied with the NEMA and EIA Regulations and that none of the rights of the I and AP's *i.e.* to make representations on the BAR was limited as there was no second final BAR.
52. The Minister furthermore rejected the allegation by the appellants that the approval of the application was unlawful due to the fact that the competent authority can only consider an application made under Section 24G of NEMA.
53. He further stressed in paragraph 6.1.7 that the area disturbed by the composting activities, was less than 1 hectare. Thus, no listed activities and specifically activity 28 has been commenced with without a requisite EA. The allegation by the appellants that the competent authority failed to take into account the unauthorized continuation by the Applicant of listed activity 8 of listing Notice 1 of the EA Regulations 2014, did not trigger that listed activity.
54. In paragraph 6.1.9 the Minister rejected the allegation that the administrative action is procedurally unfair and stated his reasons fully and in detail.
55. In paragraph 6.1.11 and 6.1.12 the legal points of law which was raised by the appellants, were rejected explaining in full why. He refers to the Court Order and specifically the fact that the Court Order recorded that: *"The applicants undertake not to treat in excess of 10 tons of general waste per day calculated on a monthly average on Portion 6 of Farm Middelburg 10, Robertson and that the total area within which the composting activities take place shall not exceed 1 hectare."* The Minister then concluded that the current composting facility is deemed not to have commenced with any waste management activities or EIA listed activities. The thresholds stated in Category A Waste Management Activity was approved as well as a Waste Management Activity of between 10 tons and 100 tons per day.

56. The Minister importantly pointed out that: *"It is important to note that as soon as waste is composted, it ceases to be waste. Therefore, the finish product does not fit into the definition of waste as defined in the NEM-WA."*
57. In paragraph 6.1.13 the Minister stressed that the draft BAR was made available to all I and AP's and the public between 14 March 2018 and 16 April 2018 and a final BAR was submitted on 30 April 2018 to the Directorate: Waste Management. That BAR and the final BAR were materially the same. Thus, all I and AP's and specifically the Langeberg Municipality were notified of the draft and final BAR and its contents.
58. In paragraph 6.1.14 to 6.1.18 the Minister dealt with the footprint of the site layout plan of the proposed composting facility as well as the treatment of waste, the permissible waste used and the conditions in the WML and EA relating to possible complaints. A complaints register will be kept for this purpose.
59. In paragraph 6.1.18 the Minister dealt specifically with the conditions relating to odour/flies. He concluded that the current Standard Operation Procedures established by the Applicant, was an effective composting methodology which can control flies and odour. He stressed that complaints will be monitored by the Department on a regular basis and that non-compliance of the conditions of the EA and the WML will result in the matter being referred to the Directorate: Environmental Law Enforcement to enforce compliance with the conditions of the decision.
60. The Minister finally concluded that he was satisfied that the development (compost facility and feedlot) are the best practicable environmental option that will use abattoir by-products/waste together with organic waste to produce compost, which diverts waste stream away from the Municipal Waste Disposal Facility, thereby extending the life of the waste facility, providing compost to the farm and for resale commercially to farmers and furthermore providing

employment opportunities during the construction phase and operational phases.

61. With regard to the above reasons stated by the Minister, he was of the view that compliance with the conditions stipulated in the EA and WML, and compliance with the condition of the EMP, the proposed development will not be in conflict with the general objectives of integrated environmental management stipulated in chapter 5 of the NEMA and any potentially detrimental environmental impacts resulting from the proposed development can be mitigated to acceptable levels.
62. The reasons provided by the two relevant environmental authorities who granted the EA and WML, respectively, must also be taken into account in combination with the Minister's reasons in his appeal dismissal. Those reasons also overlap virtually in its entirety and are inextricably linked to the reasons provided by the two authorizations granted on 29 November 2019. After all, by the dismissal of the two appeals, the Minister has sanctioned the authorizations already granted. He thus officially rubberstamped the reasons provided by the said authorities.
63. Various conditions, as stated above, were also incorporated in the two authorizations adequately mitigate every possible negative impacts, which might arose in future. The reasons provided in the two authorizations in combination with the reasons provided in the appeal dismissal, effectively renders the environmental inclined reasons provided by the Tribunal for its contrary decision, obsolete, to such an extent that no reasons remain to be adjudicated upon by the current appeal authority. Unless of course the Appeal Authority is prepared to overrule the Minister and the relevant Authorities' decision and their reasons for their decisions taken whilst they acted under the empowering legislation in that domain? In this regard notice must be taken of the fact that the Tribunal acted at all relevant times primarily as only a Land Use Planning Body and thus not as knowledgeable as the expert officials of the said Authorities specifically on environmentally inclined issues.

64. We have referred to in paragraph 20 above to the missing documents referred to in paragraph 2.2 of Mr. Reeders' letter of 27 August 2020. Due to the above reasons, we deem the so-called missing documents not to be relevant anymore, notwithstanding what information it may contain. The fact of the matter is that its contents cannot change the appeal decision of the Minister as well as the reasons provided by the Tribunal in their decision letter of 31 October 2019. Thus, the existence or not of the said documents and its contents, have since been rendered obsolete in the sense that it cannot in any way influence the decision of this Appeal Authority. Consequently, we are not interested in the existence nor the contents of those documents anymore, for the above reasons.

CONCLUSION

65. Apropos of the change in the judicial landscape extensively elaborated above, since the appeal dismissal and for the reasons provided by the Minister and the relevant Authorities acting in that domain and due to the fact that this matter has now been dragging along tediously well past its expected duration, we have received instructions from the Applicant to inform the Appeal Authority as follows:

65.1 in the light of the dismissal of the appeals by the Minister as the Higher Authority in the Environmental domain, thereby effectively nullifying and neutralizing the environmentally inclined reasons provided by the Tribunal, the Appeal Authority is called upon:

65.1.1 to **make** its appeal decision **within 21 days** from the date of receipt of this letter pursuant to Section 81(1)(a) read with Section 81(2) without an oral hearing of any kind; and

65.1.2 to **uphold** the appeal of the Applicant (Reben Trust) by approving of the consent use for intensive Feed Farm (sheep

feedlot with a maximum of 4500 lambs) as per attached amended SDP, marked "A31" with similar conditions as contained in the WML and EA authorizations; and

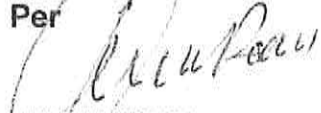
65.1.3 to **approve** the rezoning of 3.6ha Portion of Portion 6 of the Farm Middelburg from Agricultural Zone I to Industrial Zone II (noxious trade) for the compost site comprising of: windrows, effluent dam, storage space for raw and finished products, roads, off-loading and turning as per attached SDP ("A31") with similar conditions as contained in the WML and EA authorizations; and

65.1.4 to simultaneously **dismiss** the appeals of the three other appellants in their entirety.

65.2 Alternatively, and only if the Appeal Authority should decide, despite the contents of this letter, to issue a directive convening a further hearing where the parties will be allowed to call and examine witnesses including expert witnesses, pursuant to a procedure commonly described as a wide appeal in the form of a re-hearing afresh, such action will be regarded by the Applicant as not authorized by the empowering provision and the Applicant will in such a case immediately withdraw from those proceedings, with its rights fully reserved to institute legal action in the form of a judicial review of the above action of, or failure to act by the Appeal Authority, pursuant to Section 6(2) of PAJA.

66. Kindly acknowledge receipt.

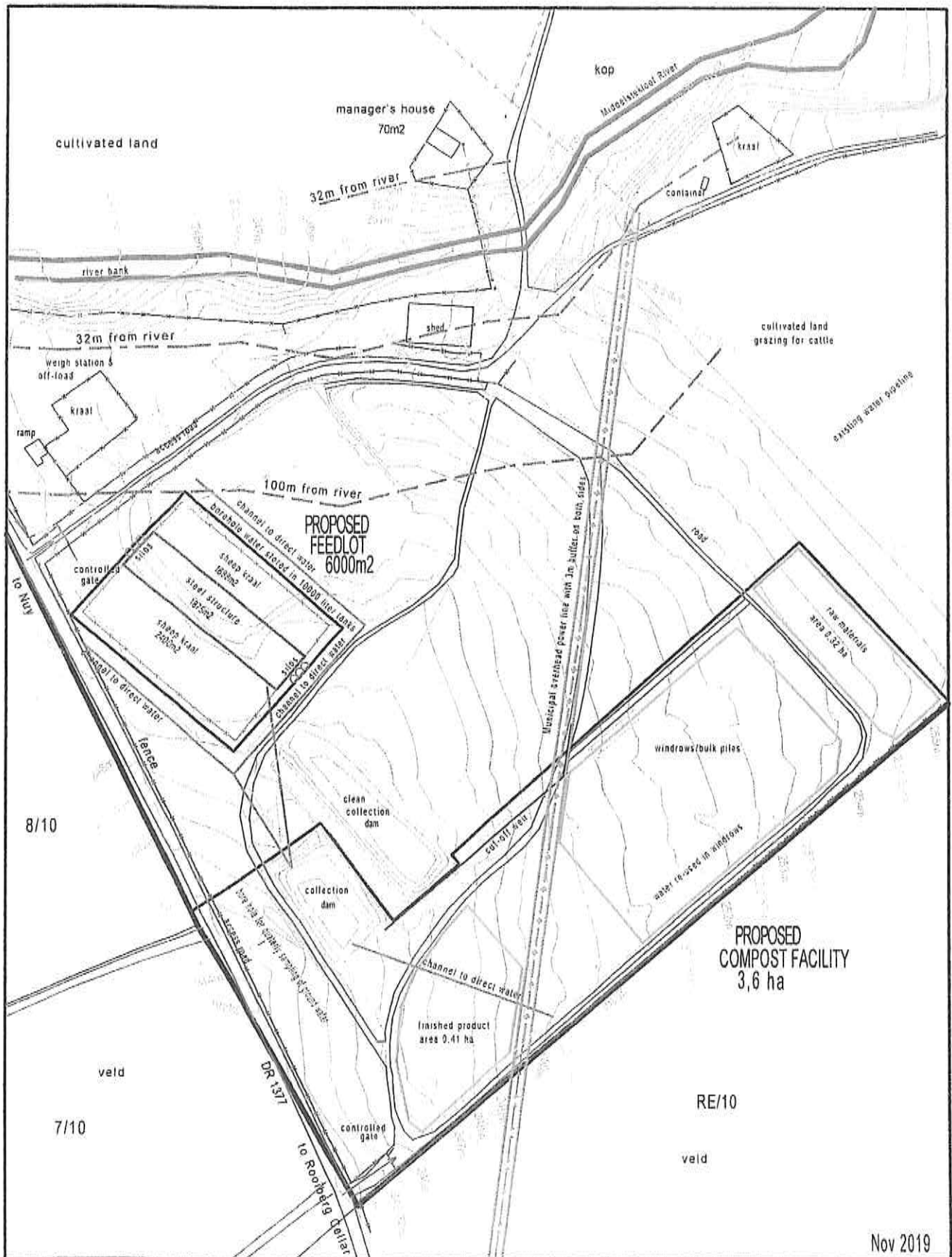
Yours Faithfully
DU BOIS ATTORNEYS
Per



JP DU BOIS

DIRECT E-MAIL : hannes@jpdubois.co.za

CC: christo.reeders@crattorneys.co.za; ndlovu@ndvlaw.co.za;
schalk@langeberg.gov.za; jan.koekemoer03@gmail.com;
carel@hofmeyrlaw.co.za; AEverson@langeberg.gov.za;
rdejong@langeberg.gov.za



Nov 2019

AMENDED SITE PLAN: PTN 6 MIDDELBURG NO 10,
ROBERTSON RD: COMPOST FACILITY AND FEEDLOT



UMSIZA
PLANNING
Town and Regional Planner

SCALE 1:2250

Tracy Brunings

From: MM
Sent: Tuesday, 29 September 2020 12:32
To: Langeberg Municipality
Cc: Maynard Johnson; Kobus Brand; Tracy Brunings
Subject: FW: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Attachments: Letter to the Langeberg Executive Mayor 290920.pdf; Reben Trust - letter to Ndlovu De Villiers - 10.09.20 (003).pdf

From: Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>
Sent: Tuesday, 29 September 2020 12:14
To: MM <mm@langeberg.gov.za>; Joliza Swanepoel <JSwanepoel@langeberg.gov.za>
Cc: christo.reeders@crattorneys.co.za; Anton Everson <AEverson@langeberg.gov.za>; Rdl.Schalk Van Eeden <Schalk@langeberg.gov.za>; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; Riaan de Jong <rdejong@langeberg.gov.za>; Hannes du Bois <hannes@jpdubois.co.za>
Subject: RE: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT

Good morning,

We submit, herewith, our response to Mr. du Bois' letter dated 11 September 2020.

We also attach a copy of the letter dated 10 September 2020 from Mr. du Bois (which letter he addressed to the writer hereof). We make references to that letter in our response.

Thank you.

Sibonelo Ndlovu

BA(Law), LLB, LLM (Marine and Environmental Law)

Attorney/Notary Public

Tel: 033 001 7521 Cell: 072 320 0283 Fax 086 2728 793

Email: ndlovu@ndvlaw.co.za Website: www.ndvlaw.co.za

Address: Block A Victoria House, Victoria Country Club Estate (170 Peter Brown Drive), PMB.



Ndlovu de Villiers
 Environmental Law Specialists

From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: Friday, 18 September 2020 12:55
To: mm@langeberg.gov.za; Joliza Swanepoel <JSwanepoel@langeberg.gov.za>
Cc: christo.reeders@crattorneys.co.za; Sibonelo Ndlovu <Ndlovu@ndvlaw.co.za>; AEverson@langeberg.gov.za; schalk@langeberg.gov.za; jan.koekemoer03@gmail.com; carel@hofmeyrlaw.co.za; rdejong@langeberg.gov.za
Subject: APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON - ABATTOIR WASTE TREATMENT SITE AND FEEDLOT
Importance: High

Dear Sirs

Please find attached letter with annexure for your urgent attention.

Yours Faithfully
 JP DU BOIS

DU BOIS

PROKUREURS

Audrey Fortuin

Kerkstraat 23, Posbus 466, Robertson 6705

Tel : 023 626 6523 • Faks: 023 626 6577

Epos : hannes@jpdubois.co.za

WORCESTER KANTOOR : 22 FAIRBAIRNSTRAAT



PROKUREURS • AKTEBESORGERS • BOEDELBEREDDE

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Ndlovu de Villiers

Environmental Law Specialists

Letter to Langeberg Executive Mayor

Attention: Mr. A S W van Eeden
Executive Mayor

Per e-mail: jswanepoel@langeberg.gov.za

Your Ref:	15/4/12/5&7
Our Ref:	J01-001
Date:	29 September 2020

Dear Sir

**RE: RESPONSE TO DU BOIS ATTORNEYS' LETTER DATED 11 SEPTEMBER 2020
ADDRESSED TO THE APPEAL AUTHORITY OF THE LANGEBERG MUNICIPALITY**

Introduction

1. We refer to Messrs du Bois Attorneys' letter dated 11 September 2020 (hereinafter referred to as the "letter under reply").
2. At the outset, kindly note that, our purpose is not to respond to every submission made in the letter under reply. Our instructions are to respond to some of those submissions

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Ndlovu de Villiers Attorneys
Partners: S.I.F. Ndlovu BA (Law) LL.M. LL.M. (Marine & Environmental Law)
S.O. de Villiers BA LLB

to provide clarity to you in your capacity as the Appeal Authority in respect of this matter.

The objective of the letter under reply

3. We draw the attention of the Appeal Authority to the fact that Mr. du Bois' objective is to exclude our clients (and other interested and affected parties) from participation in this appeal process. Mr. du Bois first revealed his objective in his letter dated 27 February 2020 in which he submitted that our clients' appeal is invalid and must be ignored out of hand. He argued that his submission is based on his conclusion that the Langeberg Municipality Tribunal falls within the ambit of "a political structure, political office bearer, councillor or staff member" of the Langeberg Municipality. In our letter dated 4 March 2020, we demonstrated the flaws of that submission by showing that Mr. du Bois' arguments in that letter were bad in law. Mr. du Bois has since abandoned his ill-conceived arguments in the letter under reply.
4. We submit that the letter under reply is yet another attempt by Mr. du Bois to have our clients' appeal ignored or dismissed out of hand. In this regard he seeks to invoke a decision made in another forum so that the Appeal Authority in this matter must not apply its own mind on our clients' appeal (and all the other appeals before the Appeal Authority). We submit that if the Appeal Authority were to accept Mr. du Bois' submission (that our clients' appeal has become irrelevant), the Appeal Authority would make an appeal decision which is unlawful. Such a decision would be open to a judicial review.

Ad Paragraphs 1 and 2

5. Paragraphs 1 and 2 of the letter under reply comprise the essence of Mr. du Bois' main submission to the Appeal Authority. In those paragraphs, Mr. du Bois makes the following assertions:

- 5.1. On 31 August 2020, the Minister for Western Cape Local Government, Environmental Affairs and Development Planning (hereinafter referred to as the "Provincial Minister") issued an appeal decision in respect of appeals lodged against the environmental authorisation and the Waste Management Licence for the listed activities and waste management activities to be undertaken in the context of the proposed compost facility;
- 5.2. By issuing the appeal decision mentioned immediately above, the Provincial Minister has effectively rendered obsolete "every one of the 8 reasons provided by the Langeberg Municipality Tribunal ... in their decision letter of 31 October 2019"; and
- 5.3. "virtually nothing remains" of the Langeberg Municipality Tribunal's decision "that needs to be adjudicated under the current appeal."
6. We reject the contents of paragraphs 1 and 2 of the letter under reply. Below, we clarify our view on why those paragraphs must be dismissed out of hand.
7. First, the contents of paragraphs 1 and 2 of the letter under reply reflect confusion on the interplay between environmental laws and planning laws. We clarify that confusion as follows:
 - 7.1. The powers that the Provincial Minister exercised (when he issued the appeal decision concerned) flow from the National Environmental Management Act 107 of 1998 (hereinafter referred to as "NEMA") and the National Environmental Management: Waste Act 59 of 2008 (hereinafter referred to as the "Waste Act").
 - 7.2. On the other hand, the powers that the Langeberg Municipality Tribunal exercised flow from the Langeberg Municipal Land Use Planning Bylaw, 2015 (hereinafter referred to as the "Bylaw") and the Spatial Planning and Land Use Management Act 16 of 2013 (hereinafter referred to as "SPLUMA"). Put differently, the

Provincial Minister exercised powers in terms of environmental laws and the Langeberg Municipality Tribunal exercised powers in terms of planning laws. Importantly, on the facts of this matter, the respective powers were exercised independently by the decision-maker concerned.

- 7.3. The fact of the matter is that the Provincial Minister's exercise of his powers in terms of NEMA and the Waste Act may not have any effect on the Langeberg Municipality Tribunal's exercise of its powers in terms of the Bylaw and SPLUMA. It is a fact that was recognised by each of the decision-makers when the Provincial Minister or the Langeberg Municipality Tribunal made a decision which is independent of the decision made by the other. It is also a fact that the Appeal Authority must recognise in making its appeal decision.
8. Secondly, we draw the attention of the Appeal Authority to the fact that the Provincial Minister and the Langeberg Municipality Tribunal are located within different spheres of government. The Provincial Minister is located within the provincial sphere of government while the Langeberg Municipality Tribunal is located within the local government sphere. Specifically, the role of the local government sphere is protected by the Constitution of the Republic of South Africa, 1996, (hereinafter referred to as the "Constitution"). Mr. du Bois' assertions undermine the role of the Langeberg Municipality as the local sphere of government. Those assertions seek to curtail the powers, duties and functions of the Langeberg Municipality while, simultaneously, extending the powers, duties and functions of the Provincial Minister.
9. In the current Constitutional dispensation the Langeberg Municipality Tribunal is a fully-fledged organ of state within the local sphere of government. If the Provincial Minister's decision (specifically the appeal decision issued on 31 August 2020) were to render obsolete a decision issued by the Langeberg Municipality Tribunal (or specifically, reasons for that decision), that would have the effect of the Provincial Minister encroaching on the functioning and integrity of the Langeberg Municipality Tribunal. Section 41(1)(g) of the Constitution requires the Provincial Minister to

exercise his powers and perform his functions "in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere". The Provincial Minister is also required to "respect the constitutional status, institutions, powers and functions of government in the other spheres".¹

10. Therefore, we submit that the assertion that "virtually nothing remains" of the Langeberg Municipality Tribunal's decision is based on a fundamental misunderstanding of the Constitutional role of the local government sphere and the limits relating to the Provincial Minister's role and powers. We request the Appeal Authority to reject Mr. du Bois' assertion on that basis.

Ad Paragraphs 4 – 32

11. In these paragraphs, Mr. du Bois provides a lengthy argument on why, in his view, the appeal envisaged in SPLUMA and the Bylaw is a narrow appeal. Mr. du Bois concludes that the Appeal Authority's powers are limited to the consideration of the "available record" of the application process to date. He says:

"Thus, it is clear that to hear an appeal in a form of a written hearing, presupposes an available record which record alone should be evaluated and considered, without an oral hearing where additional evidence in the form of *viva voce* testimony or additional documentation, may be presented."²

12. We have made our submissions (in our previous correspondence) regarding the question of whether or not the current appeal is a wide appeal. Therefore, we do not find it necessary to repeat those submissions except to reiterate our view that the

¹ Section 41(1)(e).

² Paragraph 30 of the letter under reply.

appeal before the Appeal Authority is, indeed, a wide appeal. Below, we set out additional submissions in support of our view.

13. First, taken to its logical conclusion, Mr. du Bois' argument emasculates the Appeal Authority. In fact, Mr. du Bois suggests that the Appeal Authority has a scope (of powers) that is narrower than that of the Langeberg Municipality Tribunal. That suggestion is absurd.
14. Secondly, in the unlikely event that the Appeal Authority were to accept that it has narrow powers in an appeal process (under SPLUMA and the Bylaw) the Appeal Authority would be bound by that determination in respect of future appeals. It follows that the question of whether the Appeal Authority has wide or narrow powers is a matter that requires careful consideration.

Ad Paragraphs 33 - 35

15. We accept Mr. du Bois' point that the appeal process "is not a disciplinary hearing of Ms. Brunings".³ However, we reject Mr. du Bois' assertion that:

"The correctness or not of our allegations as to her competency, or not, during the application process conducted by the Tribunal, is totally irrelevant towards the outcome of this appeal. The fact that all fingers may point to her (as we are convinced they do) or not, for a poor performance in general by the Tribunal, is not an issue that is under appeal."⁴

16. Ms. Brunings' reports played a critical role in the Langeberg Municipality Tribunal's decision-making process. As we have submitted all along, if Mr. du Bois' attacks on

³ Paragraph 34 of the letter under reply.

⁴ Paragraph 34 of the letter under reply

Ms. Brunings' integrity were to succeed (on appeal), her entire reports would have to be disregarded by the Appeal Authority. It follows that the Appeal Authority would have no option but to set aside the decision of the Langeberg Municipality Tribunal in its entirety. However, the end result would not be a case for the granting of the application, the end result would be the case for ensuring that another registered planner undertakes a written assessment in respect of the application. This is the point that Mr. du Bois misses completely. To his mind, the rejection of Ms. Brunings' reports opens a space for the Appeal Authority to consider the Applicant's application without any reference to a registered planner's written assessment.

17. Furthermore, it is our understanding that Ms. Brunings has also been involved in the appeal process relating to this matter. Specifically, we understand that Ms. Brunings is the Langeberg Municipality's "authorised employee" referred to in section 80(12) of the Bylaw. That section reads thus:

"An authorised employee must draft a report assessing an appeal and must submit it to the Municipal Manager within—

- (a) 30 days of the closing date for comment requested in terms of subsection (6) and (9), if no comment was requested in terms of subsection (11); or
- (b) 30 days of the closing date for comments requested in terms of subsection (11)."

18. We clarify that we do not object to Ms. Brunings' role as an authorised employee as contemplated in section 80(12) of the Bylaw, provided that the Appeal Authority does not make any adverse findings regarding her competence and/or integrity in its appeal decision. In the unlikely event that the Appeal Authority were to make any such findings, we submit that it would follow that the Appeal Authority would not base a decision to grant the approval (applied for) on any of her reports.

Ad Paragraph 36 - 41

19. We note the contents of these paragraphs. However, given that Mr. du Bois regards the contents thereof as part of his "academic debates", we do not wish to engage him on them.

Ad Paragraphs 42 - 64

20. We draw the attention of the Appeal Authority that our instructions are to institute a High Court review of the Provincial Minister's appeal decision issued on 31 August 2020. We do not find it necessary to set out (in this letter) the grounds of review, save to indicate that, in our respectful view it would be prudent for anyone to await the outcome of the High Court review process before placing any reliance on the Provincial Minister's appeal decision.

21. We respectfully request the Appeal Authority to indicate clearly in its appeal decision how it took into account the Provincial Minister's appeal decision in the Appeal Authority's own appeal decision. This aspect will, in all likelihood, be part of the grounds of review that we would place before the High Court in the event the Appeal Authority were to give effect to the Provincial Minister's appeal decision instead of the Appeal Authority making its own independent appeal decision.

Ad Paragraphs 65 and 66

22. The contents of these Paragraphs are noted. We leave it to the discretion of the Appeal Authority regarding whether to convene a further hearing relating to this matter.
23. We respectfully point out that, since the last hearing, nothing has changed. We understand that the Appeal Authority convened the last hearing in order to clarify the issues relating to this matter. The Provincial Minister's appeal decision issued on 31

August 2020 has not changed the issues that the Appeal Authority has to decide in respect of this matter. The only thing that has changed is Mr. du Bois' view on whether a hearing is necessary.

24. In the unlikely event that the Appeal Authority finds that the Provincial Minister's appeal decision has changed the issues before the Appeal Authority (as suggested in the letter under reply), we respectfully request the Appeal Authority to record that finding, clearly, in its appeal decision.
25. Our instructions are to request the Appeal Authority to set aside the Langeberg Municipality Tribunal's rezoning decision in its entirety and to dismiss the Applicant's application in its entirety.

Mr. du Bois' letter dated 10 September 2020

26. For the sake of completeness, we attach, herewith, a copy of Mr. du Bois' letter dated 10 September 2020 addressed to the writer hereof. We have not responded to that letter as we regarded it as not taking this matter any further. Our instructions are to address the contents of that letter briefly in the event the Appeal Authority takes that letter seriously.
27. In the letter dated 10 September 2020, Mr. du Bois provides a detailed explanation of why, in his view, it is proper for the Langeberg Municipality to be bound by the Court Order issued by the Western Cape High Court on 18 October 2019. The explanation that he provides (therein) is irrelevant as it flies in the face of our letter dated 7 September 2020 addressed to Appeal Authority.
28. For the sake of clarity, we set out below the relevant parts of our letter dated 7 September 2020:

- "2. In that correspondence we drew the attention of the Appeal Authority to Paragraph 5 of the Municipality's letter dated 5 December 2019. In that Paragraph, the Municipality informed Mr. du Bois and the Applicant that:

"Please note that in terms of section 61(5) of the Langeberg Municipal Land Use Planning Bylaw, 2015, the Tribunal's decision is suspended until the appeals have been finalised and you have been advised accordingly,".

3. We further advised the Appeal Authority that the Applicant had ignored the Municipality's advice quoted directly above. As a result, we requested the Appeal Authority to direct the Applicant to cease, forthwith, any and all activities on the site until the outcome of the Appeal.
4. In light of the above, we hereby request the Appeal Authority to furnish us with a copy of the directive that the Appeal Authority has since issued to the Applicant. In the event that the Appeal Authority has not issued the directive to the Applicant, we hereby request the Appeal Authority to furnish us with reason/s for the failure to issue the directive."

29. In the context of the above quoted paragraphs of our letter dated 7 September 2020, any discussion (by Mr. du Bois) relating to the Court Order is a fundamental misdirection which is not reconcilable with the discussion at hand. At hand is the fact that the Applicant requires a rezoning approval in order to undertake the activities that are being currently undertaken on the Applicant's property. In the absence of that approval, and the fact that the Langeberg Municipality Tribunal's decision "is suspended until the appeals have been finalised", the Appeal Authority should have directed the Applicant to cease, forthwith, any and all activities on the property until the outcome of the appeals before the Appeals Authority. Mr. du Bois' lengthy discussion does not add anything to the issue at hand.

30. It is not clear to us whether the Appeal Authority shares Mr. du Bois' views. What we know is that the Appeal Authority has sat on its hands while the Applicant continues to violate the Bylaw. The Appeal Authority has not furnished us with any reasons on why the Appeal Authority has not issued a directive to the Applicant.
31. In the event the Appeal Authority fails to provide us with reasons for its failure to issue a directive against the Applicant (as requested in our letter dated 7 September 2020), we will assume that there are/ were no valid reasons for not issuing a directive to the Applicant.

Conclusion

32. We urge the Appeal Authority to proceed with caution in the event the Appeal Authority considers to grant the Applicant's application in its appeal decision. We do so because, in order to support the Applicant's application, Mr. du Bois has resorted to throwing insults directed at almost everyone who is involved in this matter, except the Applicant. Any application that is buttressed by such insults must be considered with caution. An insult is no substitute for a sound legal argument.
33. Our clients' rights are reserved.

Ndlovu de Villiers Attorneys



Per: Sibonelo Ndlovu
(Managing Partner)



DU BOIS

Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGERS / CONVEYANCERS

BTW NR 4770183285

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OUR REF : JPDUB/af/HR0219

YOUR REF : Sibonelo Ndlovu

DATE : 10 SEPTEMBER 2020

MESSRS NDLOVU DE VILLIERS ATTORNEYS
PIETERMARITZBURG

E-mail: ndlovu@ndvlaw.co.za

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

Dear Sirs

**APPEAL HEARING: MIDDELBURG 6/10 ROBERTSON – ABATTOIR WASTE
TREATMENT SITE AND FEEDLOT**

We acknowledge receipt of your letter of 10 September 2020.

In retrospect, it has become clear (from the contents of your above letter) that our letter must have appeared extremely obfuscating to you.

The reason being that from the contents of your letter, it appears that you are Environmental Law Specialists and in all probability not litigation specialists.

We therefore apologize for not recognizing that difference when we addressed our letter to you of 8 September 2020.

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

We will explain:

1. The fundamental error in your reasoning is that it approaches the matter from a contractual angle – i.e. on the assumption that there is a mere compromise agreement in place between our clients and the Environmental Authorities and therefore the Court Order only applies to them.
2. You have in this regard also lost sight of the fact that the Langeberg Municipality is indeed a party to that Court Order.
3. By so doing you fell into the proverbial trap warned against in *Moraitis Investments (Pty) Ltd and Others v Montic Dairy (Pty) Ltd 2017 (5) SA 508 SCA* where Wallis JA had the following to say about a similar agreement:

"Its defect lies in approaching the question from the direction of the agreement instead of from the direction from the judgment. The latter is the correct approach, because the judgment operates as res judicata and precludes a claim based on the agreement. Unless and until the judgment has been set aside there can be no question of attacking the compromise agreement. It follows that the necessary starting point for the enquiry (as to what parties are bound by the Court Order) must be whether there are grounds upon which to seek rescission of the court order."

4. Once a settlement agreement is made an Order of Court, as has happened in this instance, it is interpreted in the same way as any judgment or order and affects parties' rights in the same way. Madlanga J in *Eke v Parsons 2016 (3) SA 37 (CC)* put the matter as follows:

"The effect of a settlement offer is to change the status of the rights and obligations between the parties. Save for litigation that may be consequent upon the nature of the particular order, the order brings finality to the lis between the parties, the lis becomes res judicata (literally a matter judged). It changes the terms of the settlement agreement to an enforceable court order."

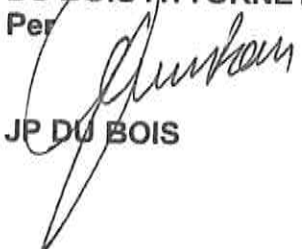
5. The fact of the matter is that when parties to a court case (including the Langeberg Municipality and notwithstanding the fact that the Langeberg Municipality as such did not become involved in the lis between our clients and the Environmental Authorities) resolve the dispute that is before the Court, the Court may then make the settlement agreement an Order of Court. Such an Order of Court becomes an Order of Court "like any other" – there is no difference in law between an Order granted in the case of a default judgment; an order pursuant to a settlement prior to the conclusion of opposed proceedings; or the order in a judgment pronounced at the end of a trial or opposed application.
6. What is of utmost importance for present purposes, is that the effect of such an Order is to finally determine the status of the rights and obligations between the parties and the issues covered by any dispute between them.
7. As there is no right of review from the decision of a Judge of the Supreme Court, either by statute or at common law, this avenue is also not at the disposal of the Langeberg Municipality or for that matter any other party.
 - 7.1 After all the law in this regard is trite: unless a Court Order has been set aside or has been rescinded, such an Order remains valid and binding on all the parties (including the Langeberg Municipality). In *Moraitis* this elementary and long-standing principle was explained thus:

"For so long as the Order stood it could not be disregarded ... The Constitutional Court has repeatedly said that Court Orders may not be ignored. To do so is inconsistent with s 165(5) of the Constitution, which provides that an order issued by a Court binds all people to whom it applies."
 - 7.2 Thus your contention that due to the fact that the Langeberg Municipality was not a party to a settlement order (between two of the parties to the same Court Order) made an Order of Court where the Langeberg Municipality was in fact the 3rd Respondent, runs counter to

trite law. As it has been explained in *Moraitis*, your ill-fated contention simply departs from the wrong premise – the fatal error being that it approaches the question from the direction of the agreement instead of from the direction of the judgment (as all the parties are in law obliged to do).

8. I sincerely hope that this exposition of the current law as it stands, was informative.
9. May we also suggest that you refrain from using words like obfuscation/hopelessly flawed and similar degrading words in letters addressed to your colleagues, before you have investigated your subject/topic thoroughly.
10. Lastly, we must point out (as you clearly did not take cognizance of this fact) that our letter of 4 March 2019 was drafted more than 7 months prior to the handing down of the judgment order on 25 October 2019. It is therefore clear that our letter of 4 March 2019 (although we still deem the contents as the correct interpretation of the law) has since become merely an academic opinion.
11. Lastly, you would have realized by now that you and your colleague, Mr Reeder's, appeals against the WML and EA, have been dismissed by Minister Bredell on 31 August 2020 and rightly so. Thus, similar verbal and technical attacks by way of an array of *points in limine*, by you aimed at our clients and their alleged wrong doings (by fabricating evidence and misleading officials) as well as attacks against the alleged misdoings of the relevant Environmental Authorities, were likewise swept off the table.
12. Maybe it is time that you and your colleague, Mr Reeder, seriously consider to cease your continuous opposition to the last outstanding appeal before the Langeberg Municipality. It is designed to fail somewhere along the line; if not at this juncture, then in a Court of Law.

Yours Faithfully
DU BOIS ATTORNEYS
Per


JP DU BOIS

BRFHOOOF/DU BOIS/af/5

Annexure 25

Supplementary Appeal Assessment Report

SUPPLEMENTARY APPEAL ASSESSMENT REPORT

PORTION 6 OF THE FARM MIDDELBURG NO. 10, ROBERTSON:
APPLICATION TO REZONE FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE II
(ABATTOIR COMPOST FACILITY) & CONSENT FOR INTENSIVE FEED FARM (SHEEP)

Appeal reference number	15/4/12/ 5 & 7 Appeal Middelburg	Appeal report date:	21-01-2021
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PART A: AUTHOR DETAILS

First name(s)	Jack
Surname	Van Zyl
Job title	Assistant Manager Town Planning
SACPLAN registration number	A/1170/2000
Directorate/ Department	Engineering Services / Town Planning
Contact details	023 614 8038

INTRODUCTION

The Appeal Authority decided to request a supplementary assessment of the appeal by a registered Professional Planner employed by the Langeberg Municipality, other than Ms Tracy Brunings, who has been involved in the land use management process from inception. This assessment is to be included in the final consideration of the appeal.

The main appeal report (dated 5 March 2020) to which this assessment is attached, covers the background of the rezoning and consent use application and related public participation and objections, original planning assessment and decision making processes. The main appeal report, with all its appendices will be referred to in this assessment as “the bundle” and reference to documents in the bundle will indicate the page numbers of the bundle.

The aim of this supplementary assessment is to assess the appeals in terms of the key issues raised therein.

APPEALS: SUMMARY AND KEY ISSUES IDENTIFIED

The appeals are summarised in the main appeal report (pp4-6 of the bundle) and attached as appendices to it (pp378-624 and pp648-728 of the bundle). The various responses from the appellants to the others parties' appeals are also attached in the bundle (pp625-647 and pp729-794).

Further to the summary in the main appeal report, I have found it necessary to summarise the appeals in more detail in order to extract the key issues that need to be assessed. Whilst this document contains summaries of the various appeals, I have considered and assessed each appeal in its entirety, and advise the appeal

authority to have regard to the entire bundle, and not this assessment and the summaries contained therein only.

Appeal 1: Applicant's appeal: du Bois Attorneys (for Reben Trust / SAFAM) [pp378 to 624 of the bundle]

In Part A of the appeal form (refer to p382 to p384 of the bundle), the appellant indicates in that the appeal is against the Tribunal's decision and the conditions of approval and that the appeal is primarily based on and concerned with both i) the process followed prior to the decision and ii) the merits of the application insofar as it is believed that the Tribunal erred in coming to a decision. This is further set out in Part E of the appeal form, where the appellant indicates that appeal is specifically against the following:

- The decision not to approve the Consent use: Intensive feed farm (sheep)
- The decision to approve the rezoning from Agricultural zone I to Industrial zone II for the compost facility on an area of 1.3ha only.
- Certain conditions of approval, namely 1, 2, 3, 5.1, 5.4, 5.5, 7, 13, and 14.

The appeal complies with the requirements of the Langeberg Municipality: Land Use Planning By-law, 2015 and is therefore regarded as a valid appeal.

The appellant refers in Part E of the appeal form to the grounds of the appeal as set out in a separate document titled Grounds of Appeal. This document appears on p398 to p463 of the bundle and its attachments A1 to A31 with supporting documents appears on p464 to p624 of the bundle.

Despite having listed specific conditions against which the appeal is lodged (in Part E of the appeal form), the appellant addresses all the conditions of approval in the Grounds of Appeal, accepting some, expressing reservations about some and refuting or dismissing others.

The appeal deals extensively with the history of the application (from the applicant's point of view) and with the first of three town planning assessment reports submitted to the Tribunal during the course of the decision making process. No reference is made to the subsequent two Town Planning reports. The statements and accusations made by the appellant with regards to the history of the application and the Town Planning report are dealt with in the original appeal report dated 5 March 2020 and also specifically in Annexure 15 of the said report ("Notes re factual inaccuracies and unsubstantiated allegations in the Du Bois appeal") and will not be the focus of this assessment.

Below is a summary of the applicant's grounds of appeal, which is believed to encompass the main issues that should be evaluated in this appeal.

APPEAL AGAINST THE REJECTION OF THE FEEDLOT – RELATED TO REASONS FOR REJECTION

The appellant's comments on the reasons for refusal of the consent use application for Intensive feed farming, as set out in the Tribunal Decision letter on p 364 and 365 of the bundle, address the main grounds of the appeal and are summarised below:

Reason 1:

(Incomplete information on water availability).

Appellant's comment:

No longer applicable, as the availability of water from the Middelburg dam has been confirmed.

No Water Use License application is required, because the wastewater storage dam's capacity of 1508.4m³ is less than the 5000m³ threshold for such a license set in the applicable regulations. Application for the Registration of the Wastewater dam in terms of the General Authorisation for water use as stipulated in the regulations has been lodged and confirmation by BGCMA is pending.

The appellant also provided a (unsigned) report from a Professional Civil Engineer, Mr FPJ van der Merwe – dated 15 November 2019 - in which the alternative water source to the feedlot is addressed.

Key issue:

Is there enough water available and secured to be used for the feedlot?

Reason 2:

(Feedlot proposed within a CBA and important ecological corridor, therefore inconsistent with WCPSDF rural land use guidelines).

Appellant's comment:

CBA (Critical Biodiversity Area) is an area depicted on a SPC (Spatial Planning Category) map which is utilised to inform land use planning and make recommendations as to which part of the landscape should ideally be retained in their natural state and which could be potentially transformed to other uses. The CBA map only depicts the desired ecological state or land management objective for different CBA categories. In reality the designation may and often does differ from a ground truth evaluation of the area involved, both in terms of its actual state and the accuracy of the delineation. In this case the affected sites have already been completely transformed (from its natural state) by lawful farming activities and should not be regarded as CBA (Critical Biodiversity Areas), ESA (Ecological Support Areas) or ONA (Other Natural Areas).

Key issue:

Should land that has been transformed from its natural state, but demarcated as a CBA or ESA still be considered in terms of the biodiversity classification and rural land use guidelines?

Reason 3:

(Insufficient motivation regarding the desirability of relocation the feedlot from Roodehoogte in terms of transport considerations)

Appellant's comment:

This consideration was never put to the applicant when and after the application for rezoning was made and therefore never motivated by the applicant. Such motivation is provided with the appeal (see appendix "A27" to the Grounds of Appeal).

Key issue:

Transport impact of a feedlot as proposed on the subject property.

Reasons 4 and 5:

(Cumulative impact of flies and odours not having been assessed, applicant's refusal to compile an Atmospheric Impact Assessment, not in the public interest, not consistent with existing rights, inconsistent with the sustainability of agri-tourism and inconsistent with the principles of spatial justice and spatial sustainability).

Appellant's comment:

Measures have been put in place with regard to flies and odours.

Approval of 1.3 ha compost facility indicates that the flies and odour problem have already been considered and found not to be such as to prevent approval of the compost facility. Based on the example of the existing Roodehoogte feedlot, there is no evidence and no basis for the decision that the cumulative impact of the compost facility and feedlot will be unacceptable.

Decision maker did not consider that neither the compost facility nor the feedlot can “produce” flies, but can only attract flies from the surrounding area. Because it can be harmful to the meat that will be produced on the property, it is in the interest of the applicant to limit the concentration of flies.

Reasons 4 and 5 is irrational and based on incomprehensible and speculative assumptions.

Key issue

Are flies and odours a potential problem and have the Tribunal had all relevant information available to take a decision?

Reason 6:

(Prime reason for locating the feedlot on the site being to provide manure to the compost facility, but while there is a possibility that alternatives to composting, which do not require manure, may prove to be more viable / sustainable in future).

Appellant's comment:

All alternatives have already been investigated before the current option was chosen. The appellant provided a submission from the manager of the operation in this regard (see appendix “A28” to the Grounds of Appeal).

The municipality never asked for motivation with regards to other solutions alternative to composting.

Key issue:

Is composting the best option to do away with abattoir waste? Is it a relevant consideration in the context of this application / appeal?

Reason 7:

(No storm water management plan for the feedlot to enable an assessment of the location).

Appellant's comment:

The issues to which the Tribunal's request for substantiating reports refer, are fictitious. The applicant has already given reasons why those reports are not necessary (these reasons are reiterated in the appeal document).

The appellant now included a report from a Professional Civil Engineer, Mr FPJ van der Merwe, dated 15 November 2019, to motivate adequacy of the stormwater system and which also includes an itemised storm water management plan.

Key issue

Has adequate provision been made for storm water management?

Reason 8:

(Ethical and food quality and – safety considerations of raising sheep in a feedlot located some 100m from the compost facility where dead animals and animal waste is being dumped and treated).

Appellant's comment:

There is no evidence of any ethical concerns raised by anybody.

The applicant was not asked to address this issue prior to the Tribunal's consideration of the application. The decision maker is not the competent authority to assess if the feedlot being 100m away from the compost site is desirable or not, but National Department of Agriculture, Forestry and Fisheries (DAFF) is. The latter have no issues with this. A letter from Dr Leask, State Veterinarian: Veterinary Public Health, Western Cape Department of Agriculture, dated 8 February 2019 is included to support the appellant's view. The decision maker is not an expert on ethical concerns. SAFAM have proof that there is no issue in terms of food quality and safety. The municipality have been provided with results of micro biology and chemical tests on the compost to prove this.

Key issues:

Are ethical concerns a relevant consideration and if they are, do they justify the refusal of approval for both the feedlot and the compost facility?

Do food safety concerns have merit, and do they justify refusal to approve the feedlot as well as the compost facility?

APPEAL AGAINST CONDITIONS OF APPROVAL OF THE COMPOST FACILITY

The main grounds for the applicant's appeal against the conditions of approval of the rezoning to Industrial zone II for the composting facility are the following:

Condition 1:

1. *The development and use of the property and buildings must be substantially in accordance with the Site Development Plan marked MIDDELBURG 10/6-LBM-TP(a) (March 2019) (see p16 of the bundle).*

Appellant's comment:

The decision was based on the wrong Site Development Plan (SDP). On it, the applicant erroneously indicated an area of 1.3 Ha as the proposed composting site, while the applicant's motivation report refer to 3.6 Ha total area. The appellant included an amended site plan dated November 2019 as the correct plan according to which the composting site will be 3.6Ha (see p624 of the bundle).

Key issue:

Assuming approval is given for the rezoning of a portion of the property, in respect of what area should such approval be given?

Condition 2

2. *The approved land uses may operate until the end of February 2022, whereafter the approval will lapse, and the zoning of the site will revert back to Agricultural zone I, unless an application for extension of such approval has been lodged and approved. Viable alternative options to composting, with less impact in terms of odour and flies, must be investigated during this time.*

Appellant's comment:

The appellant maintains that there is no need for rezoning of the existing composting site as it is not regarded as an industrial use and that the existing facility may continue to operate lawfully within the Agricultural I zoning. Rezoning would only be required if the compost is sold, if more than 10 tons per day are produced and if the area is bigger than 1 Ha.

The condition does not take into account the high cost and lengthy procedure to re-apply for rezoning.

Other alternatives have already been explored and composting was shown to be the best option.

Key issue:

Is the municipality authorised to impose Condition 2?

Condition 3

3. *Strictly **no** composting, and associated traffic circulation, may occur beyond the boundaries of the Abattoir Waste Compost Facility (hereafter referred to as “Compost Facility”), as indicated on the approved Site Development Plan, and no closer than 10m from the boundary with the farm Middelburg 10/Rem.*

Appellant's comment:

Condition is illogical. There must be space for vehicle circulation. The 3.6 Ha include all aspects of the compost facility.

Key issue:

Assuming approval is given for the rezoning of a portion of the property, in respect of what area should such approval be given?

Condition 4

4. *The Compost Facility must be effectively screened, to the satisfaction of the Manager: Town Planning, through the judicious use of indigenous trees and shrubs, to provide a visual screen and wind break and to minimise dust and odours, particularly along the boundary with the farm Middelburg 10/Rem.*

Appellant's comment:

No issue with screening, but will only do what they regard as reasonable and do not accept that The Manager Town Planning will have the final decision in this regard.

Key issue:

Can the Municipality be authorised by a condition of approval to judge the adequacy of the screening?

Condition 5

5. *The Environmental Management Programme (EMPr) (12 March 2018), as prepared for the NEMA EIA process, must be reviewed, and a revised, detailed operational phase EMP must be submitted to the Manager: Town Planning within 30 days of the letter of approval of this application. The EMPr must address the following requirements in particular:*

Appellant's comment:

Municipality is not the competent authority on the EMPr, DEADP is. Appellant cannot provide EMPr or make revisions until it has been assessed by DEADP and Waste Management. It was only submitted in November 2019 and comments are still awaited. The EMPr documents have been provided to the municipality.

Key issue:

Is the Municipality entitled to impose a condition that the applicant prepare, review, revise and submit an EMP to the Municipality dealing with specific matters?

Condition 5.1

- 5.1. *The management of the Compost Facility in terms of flies, odours, truck trips, stormwater management and water quality and the periods for auditing these activities to ensure no adverse environmental consequences. On-site meetings, convened by the Langeberg Town Planning Department, must be held*

at least every 3rd month, from the date of approval, with officials from the Langeberg Town Planning Department, CWDM, BGCMA and DEA&DP. Any requirements of the relevant Departments must be complied with prior to the continuation of composting activities.

Appellants comment:

EMPr already covers the items listed in Condition 5.1. SAFAM will comply with their legal obligations re allowing access by duly appointed and authorised representatives and will comply with requirements from authorities that are (in their opinion) reasonable, necessary, legal and do not impact on the safety of the operation or staff

Key issue:

Is the municipality entitled to impose a condition pursuant to which it would have the oversight function as set out in condition 5.1.?

Condition 5.2

5.2. Priority must be given to the following operational requirements to minimise flies and odours:

- 5.2.1. Abattoir waste products transported to the site must be suitably closed / sealed to prevent any possibility of waste falling onto the public road network and adjoining farms.*
- 5.2.2. The waste products from the abattoir must be immediately covered after off-loading.*
- 5.2.3. Blood, which is required to dry, may not be left uncovered for more than 60 minutes.*
- 5.2.4. Vehicles must be cleaned at the Robertson Abattoir truck wash facility and not on the application site.*

Appellant's comment:

Refute the Municipality's claim that there is an issue with flies and odours.

Priority is already given to operational requirements.

Correction of Condition 5.2.3: Blood is not required to dry, but to soak into the compost before it is covered within 1 hour.

Key issue:

The appellant confirms that the conditions are already being adhered to in terms of existing operational procedures and points out an error in the wording of condition 5.2.3. It is proposed that, if the rezoning is approved, the correction as suggested by Appellant 1 is made.

Condition 5.3

5.3 The manager of the Compost Facility must reside on-site.

Appellant's comment:

Unreasonable. Manager resides in the existing farm house ±400m away.

Key issue:

The appellant apparently misunderstood the condition. What the condition sought to convey was that the manager must reside on the same farm or cadastral land unit as the one on which the compost facility is located. The existing dwelling on the farm, where the manager currently resides, as confirmed by the appellant, is on the same cadastral unit and therefore the condition is already being complied with.

Condition 5.4

5.4 Only abattoir waste from the Robertson Abattoir may be composted at the Compost Facility.

Appellant's comment:

Not possible. Other compostable material such as woodchips, straw, manure is also required to make compost safely, not just blood.

Key issue:

The appellant apparently misunderstood the condition. The intention of the condition is not to prohibit the use of other compostable materials, but to stipulate that the abattoir waste component may only come from the Robertson abattoir and not also from other abattoirs. If the Tribunal's approval is upheld, the condition should be rephrased to make this clear.

Condition 5.5

*5.5 Infectious waste (whether treated or not) may **not** be disposed of to the application site under any circumstances. Such waste must be treated before disposal at an approved landfill facility, in accordance with approval by DEA&DP: Waste Management and WC Department of Agriculture: Veterinary Public Health. The agreed protocol in this regard must be submitted to the Langeberg Town Planning Department.*

Appellant's comment:

There is no facility in the Western Cape that can legally accept such material. Infectious waste at the abattoir will be managed under guidance of DAFF State Veterinary Services.

Key issue:

Is the municipality entitled to impose a condition that no infectious waste may be disposed of at the composting facility?

Is the Municipality entitled to impose a condition relating to the disposal of the abattoir waste at other facilities (i.e. facilities other than the compost facility)?

Condition 5.6

5.6 The operation and management of the Compost Facility must be in strict compliance with SAFAM's Standard Operating Procedures (SOPs), namely: Composting Processing; Removal and Delivery of by-products; Site Hygiene; pH and Temperature Testing and Recording; and Pest Control. These SOPs must be continuously implemented, and updated where relevant, to the satisfaction of the relevant authorities.

Appellant's comment:

SAFAM will only supply their procedures to the relevant and competent authorities that have the required knowledge and expertise in composting abattoir by-products.

Key issue:

The intention of the condition was to ensure that the compost facility will be operated according to the SOP's as provided by the applicant. The reference to the "relevant authorities" that must be satisfied with the implementation and updating of the SOP's is a general one and makes provision for authorities that have a specific function with regards to the various processes in the composting process. The appellant does not appear to take issue with this condition.

Condition 5.7

5.7 The volumes of waste received per month and the volume of compost produced per month must be recorded by the manager of the Compost Facility.

Appellant's comment:

Only the volumes of by-products received is recorded, but not the volume of compost produced, as the latter is not processed in a manner which allows for data to be recorded. The amount produced is only known when it has been finished and transported to the fields.

Key issue:

Is it a lawful and reasonable condition that the volume of compost produced must be recorded?

Condition 5.8

5.8 In terms of Section 35(2) of the Air Quality Act 39/2004, the owner and / or occupier of the premises must take all reasonable measures to prevent any offensive odour caused by any activity on the premises.

Appellant's comment:

No offensive odours are produced as confirmed by independent specialists.

Key issue:

Condition 5.8 is a statement of the law and need not be imposed as a condition of approval. It can therefore be omitted from the approval.

Condition 5.11

5.11 Bi-annual monitoring of water quality in an approved test borehole must be undertaken and results submitted to the Langeberg Municipality, BGCMA and CWDM (Health).

Appellant's comment:

Testing will only take place if there is water to test.

Key issue:

If there is no water in the 10 metre deep borehole that the applicant has to sink for testing of groundwater, there can be no testing. The Appellant therefore appears not to take issue with this condition.

Condition 5.12

5.12 Business hours are permitted as follows:

- 5.12.1 Monday to Friday: 7h00 – 17h00. No abattoir waste-products may be received on the farm after 15h30 to allow for sufficient time for the windrows to be properly treated before staff shifts end.*
- 5.12.2 Saturdays: 7h00 – 13h00. Sundays: closed.*

Appellant's comment:

Unreasonable. Data provided to the Municipality show that these times were kept on the vast majority of cases and later deliveries due to unforeseen circumstances have been a small minority.

Key issue:

Is the Municipality entitled to impose a condition to regulate the opening hours of the composting facility and to regulate the times when waste products may be received at the facility?

Condition 14

14. *In order to act on the abovementioned decision, you are required to comply with all conditions of approval. Non-compliance with a condition of approval constitutes an offence in terms of Section 86(1)(a) of the Langeberg Land Use Planning Bylaw, 2015. The compliance notice dated 25 February 2019 requiring you to cease the Compost Facility on the application site, remains applicable until such time as the relevant conditions have been complied with, and all relevant approvals have been obtained.*

Appellant's comment:

Not acceptable as per previous correspondence with the Municipality.

Key issue:

This is a statement of the law, and it is not necessary for a condition to this effect to be imposed.

Appeal 2: Christo Reeders Attorneys (on behalf of Perisseia and its individual representatives: J Fourie and Le R Fourie) [pp648 to 686 of the bundle]:

Perisseia (its representatives) are the direct neighbours to the south east of the compost site (on the Robertson side), and own a number of other properties in the area. The appellant indicated in the appeal form (P684 of the bundle) that the appeal is against the Tribunal's decision, against the failure of the Tribunal to make a decision within the prescribed period and against the conditions of approval. He also indicated that the appeal is based on and primarily concerned with both the process followed and the merits of the application.

The appeal against the Tribunal's decision is particularly against the approval of the rezoning of 1.3Ha of the applicant property to Industrial zone II for a compost facility.

The appeal against the conditions is based on the appellants opinion that the Tribunal failed to incorporate appropriate conditions to mitigate impacts (of the approved part of the application) on the neighbouring community and environment.

The appeal complies with the requirements of Section 80 and is therefore regarded as a valid appeal.

The appellant submits that the reasons for refusal of the feedlot apply equally to the compost facility and that in approving the compost facility, the Tribunal has not properly considered all relevant factors contemplated in NEMA and specified in the LLUP Bylaw, specifically: desirability of the proposed land use, comments by IAPs and other authorities and investigations required in terms of other laws. The approval of the composting facility is regarded as unreasonable, irrational and contrary to prevailing legal principles for the following reasons:

- The applicant's history of non-compliance and disregard for the environment and neighbours is a material and relevant consideration under any circumstances, but even more so in respect of a noxious and offensive trade.
- The compost facility is as much of a concern from a health, social and environmental perspective as the (rejected) feedlot.
- Since the application was for both a feedlot and compost facility, there is no information that the compost facility on its own will be sustainable and financially viable. If it proves not to be, there is a risk that necessary mitigation measures will not be implemented.
- The reasons for refusing the feedlot apply equally to the composting facility, including the following:
 - Incomplete information on water availability,
 - Location within a CBA
 - Impact of flies and odours, particularly the combined impact from the compost facility and the feedlot, on the wellbeing of residents and tourists and on natural and agricultural environment, which was not

properly assessed. Presence of dead animals, animal waste and associated flies and odours is a concern and deemed equally inappropriate for the neighbours and their animals as for sheep in the feedlot. No proof has been provided that this is desirable in terms of the implication for food quality and food safety.

- If alternative options of composting (which do not require manure) do not prove to be viable, there is no business case for the compost facility. The compost facility and feedlot cannot proceed in isolation. Approval of the compost facility did not take cognisance of the proposed composting source and the particular health implications associated with it.
 - No storm water management plan was provided as per the Tribunal's request.
- The Tribunal has failed to incorporate any appropriate conditions to mitigate the significant impacts likely to be suffered by the neighbouring community and the environment.

Key issues:

- Was the desirability of compost facility considered.
- Health, social and environmental concerns of compost facility
- Water availability
- Location in CBA
- Impact of odours and flies
- Non-viability of compost facility in isolation from feedlot, increasing risk of non-compliance with mitigating measures
- Interdependence of composting facility and the feedlot (as composting source) and its health implications.
- Storm water management
- No mitigating conditions imposed

Appeal 3: P A Gerber

The appellant indicated in the appeal form (P688 of the bundle) that the appeal is against the Tribunal's decision, and against the conditions of approval. He also indicated that the appeal is based on and primarily concerned with both the process followed and the merits of the application.

Section 80(1)(b) of the Langeberg Municipality Land Use Planning By-law-2015 determines that an appeal is invalid if it does not comply with Section 80. Section 80 (2) determines amongst others that an appeal must set out:

- whether an appeal is against the whole or a part of a decision (sub-section b.);
- if the appeal is lodged against the a condition of approval, a description of the condition (sub-section d.);
- the relief sought by the appellant (sub-section f.).

The appellant however did not indicate (as also requested in Part A of the appeal form) against which part of the decision the appeal is, nor against which conditions of approval. The appellant also did not expressly specify in what way the appeal is primarily concerned with the process and/or the merits of the land use application, as requested in Part A of the appeal form, nor did he indicate what relief is sought. The appeal is therefore regarded as invalid. Should the Appeal Authority concur with this conclusion, the appeal should be disregarded. In the case of the Appeal Authority not agreeing with my conclusion, I include a summary of the appeal and its key issues below.

The appellant only stated that the "reasons (for the appeal) are all contained in the objection sent to M.E.C." The "objection to the M.E.C." refers to a letter of objection sent to DEA&DP on 10/6/2018 (see letter on pp691

to 694 of the bundle). This letter had been compiled and sent before the Tribunal decision was taken and does therefore not address the Tribunal's decision. The points of objection held forth in the letter are summarised below:

- There are alternative properties more suitable for the purpose of a compost facility.
- The threat that SAFAM would close without the facility is melodramatic – other abattoirs operate without their own composting facilities.
- Location of composting facility close to the public road, while there is enough space on the 402ha farm to locate it away from the road.
- Proximity to the Vinkriver and storm water is a concern.
- The tourism opportunities in the surrounding area will be negatively affected.
- There was no public participation process prior to the compost facility starting to operate.
- The increase in trucks will negatively impact the road network which is narrow and unsuitable for the resultant traffic.
- Odours, flies and noise are not adequately addressed. The use will cause odours.
- The application is “very economical with the truth regarding the impact on the surrounding land users’ impact cost”.
- The only benefit will accrue to the abattoir, nobody else.
- There is no guarantee that other abattoirs in the district will not also use this facility, resulting in waste from other areas being processed at the site.

Key issues:

- Availability of alternative, suitable sites and the relevance thereof
- Possibility of other abattoir waste disposal options and the relevance thereof
- Storm water management
- Impact on surrounding land, from the perspective of permanent occupants and owners and tourist related activities
- Traffic impact
- Agricultural potential
- Odours
- Flies
- Noise
- Possibility of other abattoirs also using the site

Appeal 4: Ndlovu de Villiers Environmental Law Specialists (on behalf of H Jooste and L Jordaan):

The appellant indicated in the covering letter with the appeal (pp 696 to 698 of the bundle) that the appeal is particularly against the rezoning part of the Tribunal's decision. The appellant requires the Appeal Authority to set aside the rezoning decision.

The appeal complies with the requirements of the Langeberg Municipality: Land Use Planning By-law, 2015 and is therefore regarded as a valid appeal.

The grounds of appeal are set out in the appellant's submission attached in Annexure 9 of the bundle, and specifically on pp702 to 717 of the bundle. H Jooste and L Jordaan are direct neighbours to the north-west of the application site (on the Worcester side of the site). The appeal is based on the following:

- Point in limine: The Tribunal did not have the power to consider the application and issue an approval, based on the assumption that the appointment of the tribunal members had not been published in the Provincial Gazette as required in Section 37(4) of SPLUMA.
- Point in limine: A tribunal may not make a decision which is inconsistent with the Municipal Spatial Development Framework. In this case allowing the compost facility within the Core spatial planning category as indicated in the MSDF is inconsistent with the MSDF.
- Point in limine: The Tribunal failed to provide reasons for the decision, thereby violating section 61(1) of the Bylaw and prejudicing the appellant's rights, including the right to appeal and to make an informed appeal.
- Point in limine: The Tribunal included an unlawful condition of approval, that is Condition 6, which states that execution of the land uses is subject to other legislation.
- The Tribunal's decision is unlawful because the Municipality failed to meet its obligation in terms of Section 87 of the Bylaw to issue a compliance notice to the land owner (the applicant) to cease the unlawful activity on the land. The land owner was therefore not entitled to submit an application for compost facility in terms of Section 15 (2)(a) of the Bylaw.
- No reasonable decision-maker could have made the rezoning decision, firstly because the reasons for refusing the feedlot apply even more to the rezoning (compost facility). The following aspects were highlighted in particular:
 - Reason 2: Feedlot proposed within a CBA and important ecological corridor, therefore inconsistent with WCPSDF rural land use guidelines. (The appellant elaborates on the reasons why the location in a CBA is an important consideration).
 - Reason 3: Insufficient motivation regarding the desirability of relocation the feedlot from Roodehoogte in terms of transport considerations
 - Reason 4 part 1: Cumulative impact of odours and flies not assessed.
 - Reason 4 part 2: Applicant dismissed request for an Atmospheric Impact Assessment therefore it was not possible to conclude that the proposed feedlot in addition to the compost facility will not infringe on the rights to an environment that is protected, not harmful or polluted and where natural resources are sustainably used, while promoting justifiable economic and social development.
 - Reason 5: Compost facility having drawn complaints of flies and odours, cumulative impacts of an additional use will not be in the public interest, not consistent with existing rights, inconsistent with the sustainability of agri-tourism and inconsistent with the principles of spatial justice and spatial sustainability).
- The desirability of the compost facility on the applicant property has not been demonstrated. The following aspects were highlighted in particular:
 - The motivation that the location of the compost facility is desirable because the site is no longer in a CBA is flawed, because the applicant/land owner caused the transformation of the CBA by establishing the compost facility there unlawfully.
 - The location of the compost facility next to a declared private nature reserve has not been taken into account, nor were the comments of the appellants Ms H Jooste and Mr L Jordaan, on the matter (these comments are included on pp719 to 727 of the bundle).
- Only the general need for a compost facility has been demonstrated, but not the need to have it in the existing location. Since the compost facility is a non-place-bound industry, in terms of the WC Land Use

Planning Guidelines Rural Areas March 2019, the applicant has an obligation to illustrate why it must be located in the rural area rather than in an industrial area of a town, but failed to do so.

Key issues:

- Location of compost facility in Terrestrial CBA
- Consistency of rezoning with Municipal SDF, specifically with regards to location in Core SPC
- Location of compost facility next to Nature Reserve
- Need for compost facility on specific site not demonstrated.
- Cumulative impact of odours and flies
- Transport impact
- Did Tribunal provide reasons for approval of rezoning?
- Does condition 6 constitute a contravention of section 66(8) of the Bylaw, i.e. did the Municipality approve the rezoning subject to a condition that approval in terms of other legislation is required?
- Was the Tribunal properly established and did it have the required power to take a decision?

ASSESSMENT OF RELEVANT CONSIDERATIONS

The relevant considerations raised by the appellants and identified below, and the merits of these considerations are assessed below:

1. Water supply and authorisation

The key issue is whether there is enough (secured) water available for the feedlot.

According to the applicant, the water requirement for the feedlot is 38.23m³ per day, that is 13 961m³ per year for 4500 lambs. The claimed registered capacity of the borehole to supply the feedlot, is 14 000m³ per year. In this regard the applicant submitted (with the initial application) a registration certificate in the name of the previous owner for authorised extraction of 14 000m³ groundwater from a borehole (co-ordinates 33°43'35"South and 19°45'0"East), together with a copy of the notification to Dept. of Water Affairs of the transfer of the property ownership to the applicant. On average there should be enough water to supply the feedlot, provided that there are adequate water yields at any given time and that enough storage capacity is available to ensure a constant supply. The proposal is to erect storage tanks with a capacity of 30m³ (3 x 10 KI tanks) to which water will be pumped from the borehole to supply the feedlot with a constant water supply. The authorisation for this water use is however questioned, as will be explained more fully further below.

The Tribunal's main concern in this regard was that there is no alternative source in case of emergency situations or droughts. The availability of other water sources, including the Middelburg dam as alternative source is therefore an important relevant consideration.

To this end, the following is noted:

10 August 2017: Application for classification of new dam / expansion of existing dam (where dam wall higher than 5m and storage capacity more than 50 000m³), to Department of Water Affairs and Sanitation (DWAS): Dam Safety Office with regards to the Middelburg Dam. Capacity applied for: 92 600m³.

10 September 2017: DWAS safety-approval for Middelburg dam with capacity 92 600m³. The approval was specifically for dam safety purposes and clearly states *“This letter shall not be construed as conferring exemption from compliance with the following: The provisions of Chapter 4 of the National Water Act, 1998 pertaining to the lawful water use.”*

17 April 2018: A request was put to DWAS for verification of the existing water use (in terms of the Section 35 of the National Water Act). The qualifying period for verification was the 2 years from 1/10/1997 to 30/9/1999. Application was made for taking of 244 360m³ water per year for irrigation of feed crop on 32.8 Ha and storage of 111 801m³ water. The latter was based on the total storage capacity of the 13 dams on the property, of which the Middelburg dam made up 18 800m³ (refer to information in Table 4 on p547 of the bundle, as well as pp588-590 of the bundle).

13 May 2019: The abovementioned request was followed up with a formal application (on DWAS's form) for verification of the existing water use. In this application it was indicated that the previous registered volumes of water use in DWAS's records were: 50 000m³ storage; 14 000m³ extraction from borehole and 14 000m² surface water extraction (from the river). The application was for the same volumes as mentioned in the 17 April 2018 request.

20 June 2019: Breede Gouritz Catchment Management Agency (GCMA) - on behalf of DWAS – approved the last mentioned application, confirming the existing lawful water use on the property as i) taking of 244 360m³ surface water per year for irrigation purposes and ii) storage of 111 801m³ water. The approval specified that no water use in excess of the Existing Lawful Water Use as set out in the approval is allowed without proper authorisation (see p592 of the bundle). It is noted that the employment of the 3 x 10 Kl tanks to supply water to the feedlot will seemingly create an additional 30m³ water storage capacity, over and above the 111 801m³ that DWAS has verified. However, as the capacity of these tanks is less than the expected daily water need of the feedlot, it is evident that they will constantly have to be replenished from the borehole and will therefore function as part of the water supply system to the feedlot rather than a water storage facility.

Although taking of water from a borehole is included under Section 21 (a) of the National Water Act, 1998 (NWA) i.e. “taking water from a water resource” and is indicated as such in for example DWAS's application form for verification of an existing lawful water use (refer to p541 of the bundle) and in a comments letter from BGCMA to the applicant dated 16-1-2018, the borehole was not included in the verification application of 13 May 2019, nor described or specified in BGCMA's approval.

Insofar as Appellant 1 claims that the extraction of water from the borehole is permissible in terms of General Authorisation published under GN 538 in GG 40243 of 2 September 2016 ('the taking General Authorisation'), it needs to be pointed out that that authorisation does not apply to extraction of water within 500 metres from the boundary of a wetland. According to CapeFarmMapper (an online mapping tool produced by the Western Cape Department of Agriculture, designed to assist with spatial information queries and decision-making in the fields of agriculture and environmental management), there is a wetland ± 200m of the abovementioned borehole location (see image below)



[Demarcation of wetlands on CapeFarmMapper is according to the SA National Biodiversity Assessment 2018: Technical Report. Volume 2a: South African Inventory of Inland Aquatic Ecosystems (SAIIAE). Version 3, final released on 3 October 2019; (CSIR) and South African National Biodiversity Institute (SANBI): Pretoria, South Africa. Report No. CSIR/NRE/ECOS/IR/2018/0001/A; SANBI report No <http://hdl.handle.net/20.500.12143/5847>].

If the borehole is indeed within 500m from a wetland, extraction from the borehole will not be permitted under the taking General Authorisation, and the water to be extracted from it, cannot be taken into account when assessing the availability of water to the feedlot.

If extraction from the borehole is not permissible under the General Authorisation or some other authorisation in terms of the National Water Act, the feedlot should either not be approved, or the approval should be made subject to the condition that Appellant 1 is entitled, on the date of the approval, to extract water from the borehole. A condition may not be approved, though, in terms whereof the Appellant must in future obtain the necessary authorisation for extraction from the borehole, as such condition would contravene section 66(8) of the Langeberg Municipality Land Use Planning By-Law, 2015.

The Middelburg dam has been approved in terms of dam safety for an increased storage from 18 800m³ to 92 600m³, that is an increase of 73 800m³. This additional capacity was however not included in the Existing Lawful Use as determined by the applicant and approved by BGCMA. The appellant's claim that the Middelburg dam was approved as a lawful existing structure with capacity of 111 801m³ is therefore incorrect. DEA&DP is in the process of investigations into the expansion of the dam, the outcome of which is not yet known. The expansion of the Middelburg dam can therefore not be taken into account for this assessment.

The question is, then, whether the water that may be stored lawfully in the Middelburg dam, or any of the other water in respect of which Appellant 1 has an existing lawful water use to take from the surface resources and store in one or more of the 13 dams, may be used in case of emergency situations such as periods of drought and instance where the borehole fails, as also confirmed in the engineer's report dated 15 November 2019 (commissioned by the appellant after the Tribunal decision) (refer to p620 of the bundle).

Seeing that the 244 360m³ surface water that Appellant 1 may take, may be taken for irrigation purposes only, and assuming that the 111 801m³ that may be stored in the 13 dams will come from the surface water so taken, a proper basis has not been laid for the use of the said water in the feedlot, even in emergency situations.

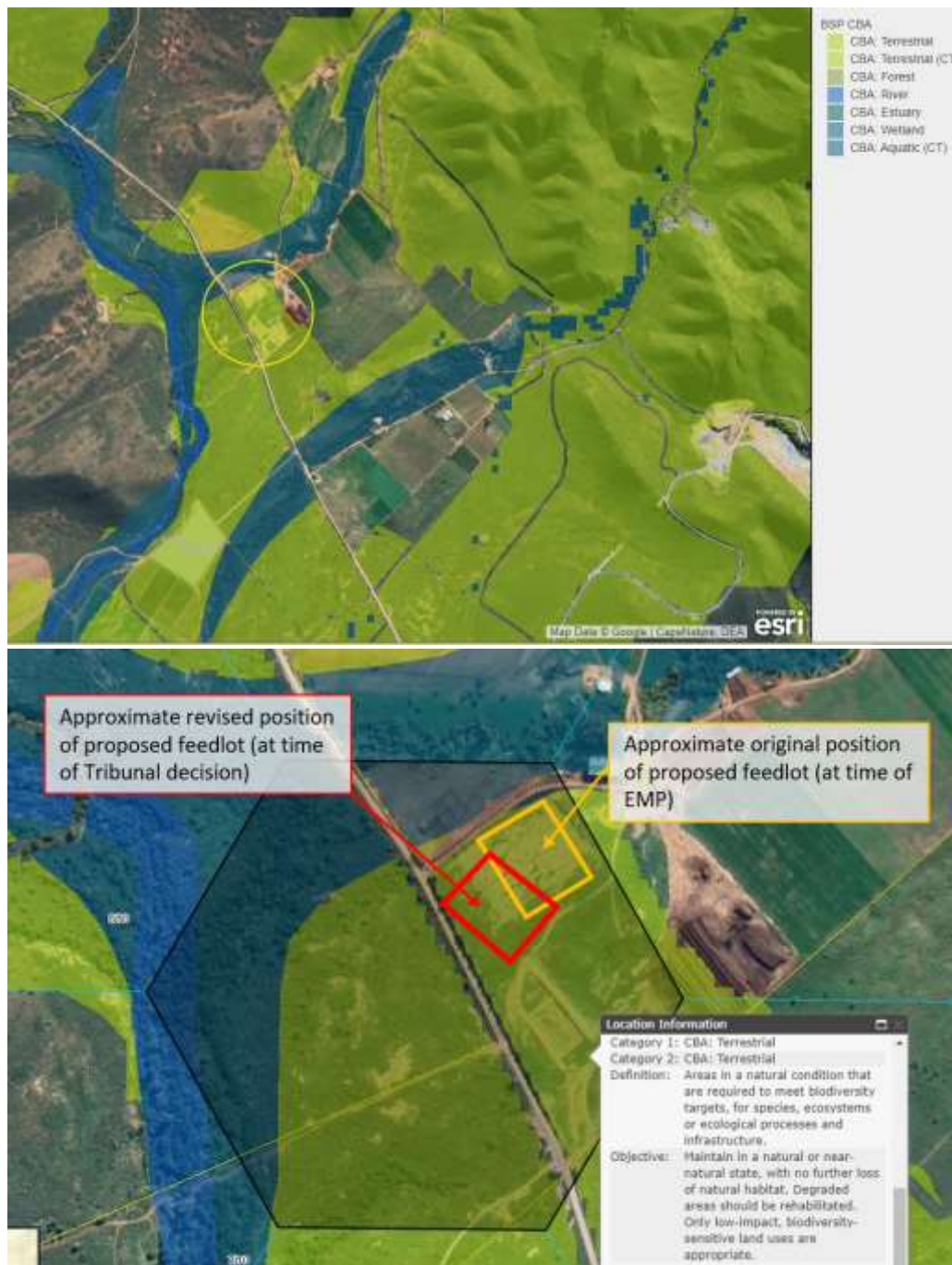
Conclusion

Evidence has not been placed before the Municipality to show that Appellant 1 has lawful access to sufficient water to cater for the feedlot's water requirements. Given the prevailing uncertainty in this regard, the feedlot should either not be approved, or if an approval is given, it should be made subject to the condition that Appellant 1 has an entitlement, on the day of the approval, to sufficient water to cater for the feedlot's needs in the normal course and in emergency situations. A condition may not be imposed, though, in terms whereof the Appellant can in future obtain the necessary authorisation to use water from the Middelburg Dam (or another source), and that the feedlot approval is suspended pending such authorisation, as such condition would contravene section 66(8) of the Langeberg Municipality Land Use Planning By-Law, 2015.

2. Consideration of biodiversity classification:

The proposed feedlot lies in a Terrestrial Critical Biodiversity Area as indicated in the Western Cape Biodiversity Spatial Plan 2017 (WCBSP).

It is noted that in the Environmental Management Programme of 12 March 2018 it is stated that the proposed feedlot does not fall in a CBA or ESA (refer to p99 of the bundle, see the third paragraph under the heading: Proposed Feedlot). This statement is incorrect, as can be seen on the following extract from CapeFarmMapper indicating the CBA delineations from the WCBSP.



CBA's are determined on the basis of a number of criteria, of which land cover is but one consideration and have a broader application than merely conserving remaining natural vegetation on a particular portion of land.

The WCBSP is the product of a systematic biodiversity planning assessment that delineates Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) which require safeguarding to ensure the continued existence and functioning of species and ecosystems, including the delivery of ecosystem services, across terrestrial and freshwater realms. The objective of the designation of this area as CBA as stated in WCBSP is to maintain the area in natural or near natural state, to prevent further natural habitat loss and that degraded areas should be rehabilitated. Only low impact, biodiversity sensitive land uses are deemed appropriate.

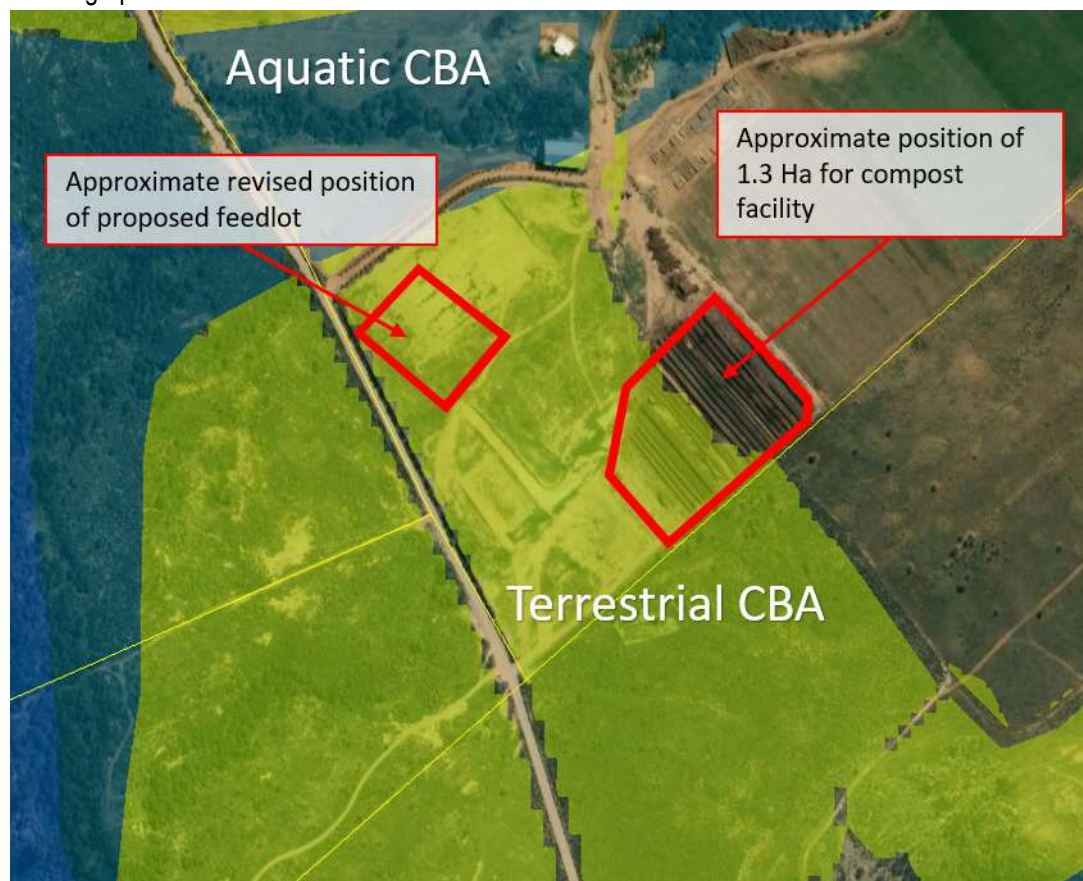
According to the SA National Biodiversity Institute (SANBI) a CBA Map is a spatial plan for ecological sustainability that shows the places that are priorities for conserving species and ecosystems, and for maintaining natural ecological processes. The network of protected areas, Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) is designed to ensure that a viable sample of all ecosystem types and species is conserved and to maximise connectivity of natural areas. This supports landscape-level ecological functioning as well as the ability of ecosystems and species to adapt to climate change. Developments that will prevent natural ecological processes from occurring should not be authorised in CBAs or ESAs.

According to SANBI, in addition to land cover, the most important spatial input layers for a biodiversity assessment include:

- Spatial information on biodiversity pattern (ecosystems and species); for example vegetation types, river types, wetlands, estuaries, and species distributions for endemic and threatened taxa.
- Spatial components of ecological processes; for example high-yield water areas and riverine corridors.
- Existing protected areas.
- Current and future land-use pressures.

(Reference: <http://biodiversityadvisor.sanbi.org/>)

It is noted that the proposed composting facility is only partially located in the Terrestrial CBA, as depicted on the graphic below.



Conclusion:

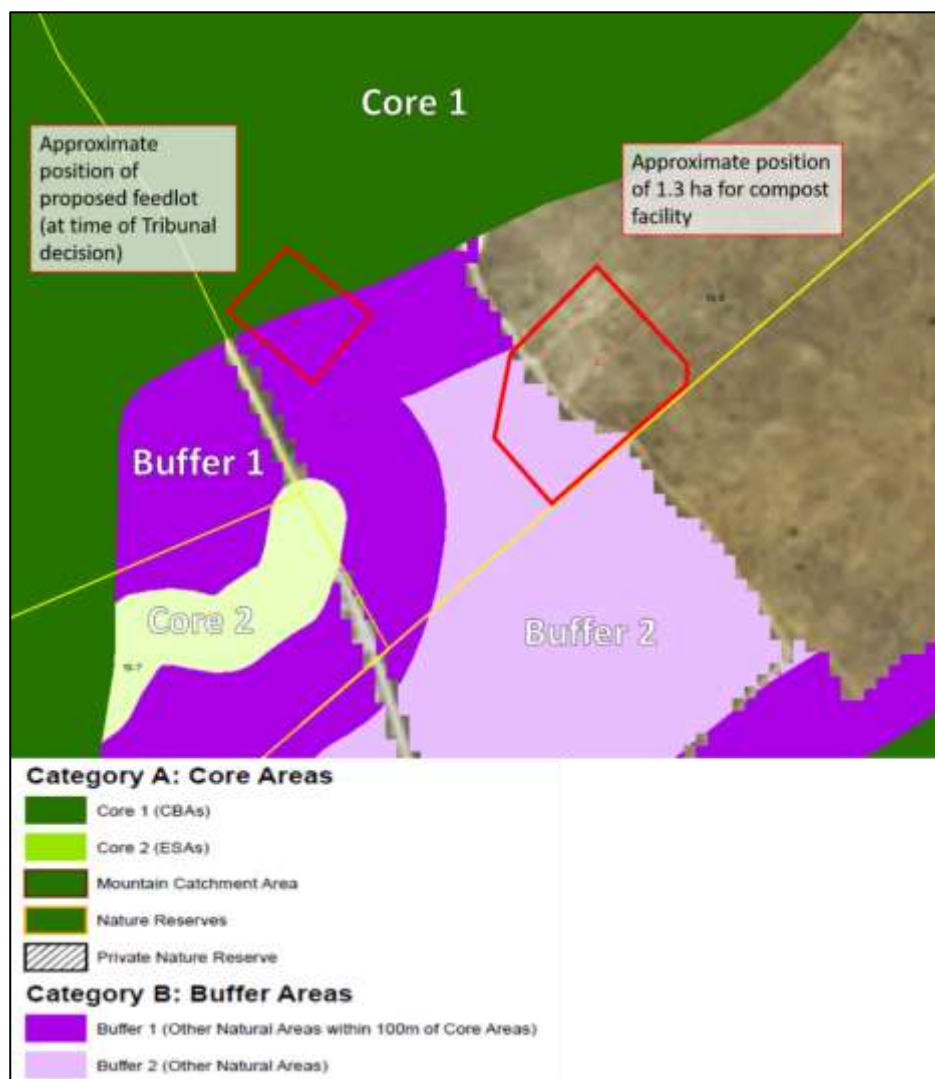
In view of the above, appellant 1's claim that, because the land was used for cultivation in the past, it should not be regarded as CBA, cannot be accepted. The fact that the feedlot lies entirely within a demarcated CBA, is a relevant reason for rejecting the application for the feedlot.

3. Consistency of rezoning with Municipal SDF, specifically with regards to Core SPC

Appellant 4's contention that the decision to approve the rezoning is inconsistent with the Municipal Spatial Development Framework, because it allows the compost facility within the Core spatial planning category, is not correct. The area approved for the compost facility falls entirely outside the Core 1 and Core 2 spatial planning categories (SPC's) as demarcated in the municipal SDF. It falls partly in the Buffer 2 SPC and partly in the Transformed (Agricultural) SPC, as indicated below. The original land use planning assessment report dated 18 January 2019 deals specifically with this consideration, particularly under the heading "Compliance with the relevant SDF's and other planning policies and guidelines" (see pp30 to 33 of the bundle), which assessment is supported: For ease of reference, par 4.3 of the 18 January 2019 report, reads as follows:

With reference to the Spatial Planning Categories (SPCs) in terms of the Langeberg SDF, 2015, the proposed development site falls within "Core", "Buffer" and "Transformed" (Agricultural) Spatial Planning Categories. The windrows are located primarily on Buffer 2 and Agricultural SPCs, whilst the proposed Feed Farm is located with Buffer 1 and Core 1 SPCs.

There is no objection to development within the Transformed and Buffer areas subject to the sustainable management of land use activities. Development within the Core 1 area is however not supported. The Desired Management Objectives for the identified "Core" SPC adjoining the Middelstekloof River is to: maintain natural land, rehabilitate degraded land and maintain ecological processes. As shown on the LSDF extract below, this Core SPC forms an integral part of an important north-south environmental link between the Langeberge and the Breede River and connectivity must be maintained.



Conclusion:

The decision to approve the rezoning of a part of the applicant property that falls entirely within the Buffer 2 – and Transformed (Agricultural) SPC's as indicated in the SDF, is consistent with the Langeberg SDF, 2015

4. Odours and Flies

Based on the original objections and the appeals of Appellants 2 – 4, the possible impact of flies and odours are relevant considerations.

There were various inspections, reports and opinions by the Cape Winelands District Municipality (CWDM): Environmental Health officials and officials responsible for Air Quality Control at CWDM, DEA&DP and Langeberg Municipality, which express varied opinions on the level of odour and flies from the current compost facility (Annexure 16 of the bundle, pp953 to 972). Their comments and conclusions relate to the existing compost facility only and could not have taken into account the likely impact of the compost facility in combination with the feedlot, as no assessment has been done in this regard.

With regards to flies:

Appellant 1 insists that i) there is no fly problem with the current composting nor will there be when the feedlot is also in operation, because of the effective pest control implemented by the operator; ii) that the compost facility and feedlot do not produce or generate flies, but merely attract them from the surrounding area and iii) that the marked increase in fly population in the area was a natural occurrence caused by unusual weather conditions.

With regards to the first point, it is accepted that the correct and continuous execution of pest control measures and - procedures as stipulated in the proposed standard operating procedures (SOP) for pest control as per the applicant's document number SOP5 dated 23 March 2017 (see pp 78 to 80 of the bundle) could reduce the presence of flies caused by the composting facility. Evidence and feedback from those who have inspected the property, show that the present situation does not give rise to any nuisance or unreasonable impacts on surrounding properties, and the measures proposed in the SOP will further mitigate any impacts that the facility may have in this regard.

However, the feedlot's potential contribution to the presence of flies (on its own or in combination with the compost facility) has not been addressed. The SOP for pest control also only addresses the control of flies at the composting facility and not for the feedlot.

The second point is nonsensical, especially because Appellant 1 also states elsewhere that "flies lay eggs and eggs produce worms which will infect the very meat the Appellant sells to its clients" (refer to p443 of the bundle, par 95.7) which clearly refers to the process of flies breeding and multiplying on the site. The applicant's Compost Pest Control management document also refers to the control of fly eggs and larvae. It stands to reason that if the facility attracts flies from the surrounding natural veld, it will contain a higher than normal (naturally occurring) concentration of flies on that site and that the breeding and multiplying of flies will also be significantly higher in that area than in the natural veld, if not controlled .

The 3rd point is inconclusive and not corroborated by any scientific proof. The applicant refers to the fly "species" Diptera of which a large number of "families" are naturally found in "Renosterbos" (p196 of the bundle, par.5). Diptera is in fact an order, with many families and species. It is not clear which of the species are present on the site and the surrounding natural veld, or which species have been causing the problems mentioned by the objectors/appellants 2-4.

Based on the abovementioned findings of the officials, the presence and activity of flies at the existing compost facility was deemed to be acceptable, provided that all the required control measures are maintained and properly monitored.

With regards to odours:

Differing views have been expressed as far as odours from the existing compost facility are concerned. On the one hand, some objectors have reported offensive odours from the existing compost facility. On the other hand, environmental and health and air quality control officials from DEA&DP and the CWDM, and at least one neighbour, have indicated that the odours from the compost facility was not offensive or a nuisance. Given the reports from various objective officials and a neighbour who has nothing to gain from underplaying the nature and extent of the odours, it can be concluded that whatever odours emanate from the present compost facility cannot be so significant that they qualify as a nuisance or will impact on the well-being, comfort or convenience of a reasonable neighbour.

Conclusion:

The responsible officials from CWDM and DEADP were able to physically assess the impact of the existing facility in terms of flies and odours and came to the conclusion that both were at a sufficiently low level to allow the compost facility to continue operating. Because the effective control of flies and odours depends heavily on the correct operating procedures and control measures, it is imperative that the operation of the compost facility be properly monitored by external agents as required in the conditions of approval.

However, it is expected that the addition of a feedlot in close proximity to the compost facility may increase the impact of flies and odours beyond the current levels to such an extent that it may become a nuisance and offensive. In the absence of a scientific assessment in this regard, which the applicant refused to provide despite repeated requests for one, the potential impact must be regarded as too high a risk and therefore the feedlot should not be allowed in addition to the compost facility.

5. Stormwater management

Up to the Tribunal meeting and – decision, the applicant has refused to provide a proposed stormwater management plan by a qualified Professional Engineer as requested. The Tribunal was therefore correct to cite the lack of information in this regard as one of the reasons for rejecting the feedlot application.

Appellant 1 has now finally provided an Engineers report and proposed stormwater management plan (SWMP) (refer to p620 – 622 of the bundle). Appellant 1 must be requested to provide the appeal authority with a signed copy of the stormwater management plan. The report confirms that the capacity of the collection dams and the two channels from the compost facility and the proposed feedlot will be adequate to accommodate stormwater discharge from the affected area during periods of extreme rainfall. The management plan revolves around keeping the channels and the dams open and empty. It includes that the capacity of the dam must be verified every 5 years and if needed, that silt be mechanically removed.

The SWMP does not address the requirement in the soil report that the stormwater collection dam for wastewater must be lined. This aspect will have to be addressed in the conditions of approval, should the approval of the compost facility be confirmed.

Conclusion:

Stormwater has been adequately addressed in the SWMP provided at the appeal stage, save for the requirements regarding the lining of the wastewater collection dam. If the rezoning and/or the consent use is approved, an updated SWMP can be required by means of a condition of approval to include this aspect.

6. **Extent of compost facility**

(Assuming approval is given for the rezoning of a portion of the property, in respect of what area should such approval be given?)

The application that was originally submitted by Appellant 1 was accompanied by a site development plan, depicting an area of 3,6ha as 'Compost Facility' (see p 13 of the bundle) ('the original SDP'). It depicted within the 3.6ha 'Compost Facility' a number of components, namely a 'raw materials area' in the east, an area designated 'windrows / bulk piles' in the centre, a 'cut-off weir' running to the north and the west of the windrows, a 'channel to direct water' to a 'collection dam' the west of the windrows, and a 'finished product area' to the west of the said channel. None of these individual components were clearly delineated, and it was not stated how large an area would be required for each.

Following the initial consideration of the application, including the original SDP, the town planning department requested an amended site development plan. The request was set out in a letter from the town planning department to Appellant 1's town planning consultant, Umsiza Planning ('Umsiza') dated 18 May 2018 (see p 496 to 497 of the bundle). The town planning department required certain specific amendments to the plan, including:

"3.7 The redefined boundary of the proposed composting area (set further back from the road) and the areas proposed for raw materials and finished product." (emphasis added)"

It was in response to this request that Umsiza submitted an amended SDP to the Municipality, under cover of a letter, dated 2 October 2018 (see p 498 of the bundle) ('the 2 October 2018 SDP'). In the cover letter Umsiza confirmed that the amended SDP depicted, amongst other things *'the redefined boundary of the proposed composting area and areas for raw materials and finished product'* (emphasis added). This amended SDP indicated the following:

- A proposed compost facility, covering an area of 0.87ha;
- A proposed raw materials area, covering an area of 0.2ha;
- A proposed finished product area, covering an area of 0.2ha;
- An existing finished product area, covering an area of 252m²

The total area for the proposed compost facility (which ostensibly comprised the existing facility with proposed amended dimensions for some of its various components), therefore comprised 12,952m² (1,2952 ha). In addition to the abovementioned areas, the 2 October 2018 SDP also showed an area of 155m² in extent, marked 'existing raw product area' outside the 1.3ha area.

On 12 April 2019 a further amended SDP ('the 12 April 2019 SDP') was submitted to the Municipality. The amendments on this plan related to the position of the proposed feedlot only, and the proposal in respect of the compost facility as such remained as it was on the 2 October 2018 SDP.

It is the 12 April 2019 SDP that served before the Tribunal on 18 October 2019, and the Tribunal's approval in respect of the compost facility was based on that plan.

Against the above backdrop, Appellant 1's submission that the annotation on the 2 October 2018- and the 12 April 2019 SDP, which designated an area of 1.3 Ha as the proposed compost facility, did so in error, and that the intention actually was to indicate the location of the existing facility only, appears implausible.

It is noted that, based on the information on the volumes of raw materials input, finished product output, composting process and layout of the windrows obtained from Appellant 1's rezoning motivation report

and the soil study (pp161 to 174 of the bundle), an area of 1.3Ha should comfortably be enough to accept all the animal waste from the Robertson abattoir and maintain a continuous composting process.

The SDP that Appellant 1 submitted with its appeal (plan dated November 2019 – see p 624 of the bundle, referred to further herein as ‘the Appeal SDP’) has not been presented to the municipality for consideration. It does resemble the original SDP, though, at least as far as the extent and position of the composting area is concerned. The approval of the Appeal SDP would be problematic because it includes a portion of the existing public road (DR1377) and it does not show to what use the areas between the areas designated for raw materials, windrows / bulk pile and finished product will be put.

It is noted that the Waste Management License (WML) issued by DEADP on 28 November 2019 (refer to p854 of the bundle) does not include a site development plan on which the compost facility is shown. The WML states under its conditions that the footprint of the compost facility and associated infrastructure is 36 000m² (3.6Ha) and that the footprint of the facility must be according to certain co-ordinates as listed in that condition. Initially these co-ordinates were incorrect, depicting an area of some 2.8Ha of which 1.4Ha was on the adjoining property. This error was one of the grounds for the Langeberg Municipality’s appeal against the WML. The appeal was dismissed on 31 August 2020, but the error with the co-ordinates was corrected. The WML therefore authorises an area of about 1.6Ha on the applicant property for the compost facility. Although the WML location does not correspond exactly with the location of the area already in use and approved by the Tribunal, the extent of the approved area corresponds closely with the 1.3Ha approved by the Tribunal, especially when the electrical line with its buffer area of some 1400 m² across the WML area is accounted for.



Conclusion:

The approved area of 1.3Ha for rezoning to Industrial Zone II for the compost facility, makes adequate provision for the main elements of the composting operation, namely the areas for raw materials, windrows/bulk piles and finished product area. This approval was in line with Appellant 1’s own amended SDP with regards to the extent and location of the components mentioned. However, the rezoned area excludes space for the wastewater collection system (dam, cut-off weirs and channels) and related vehicle movement outside the boundaries of the 1.3Ha, such as access and movement of delivery and collection vehicles.

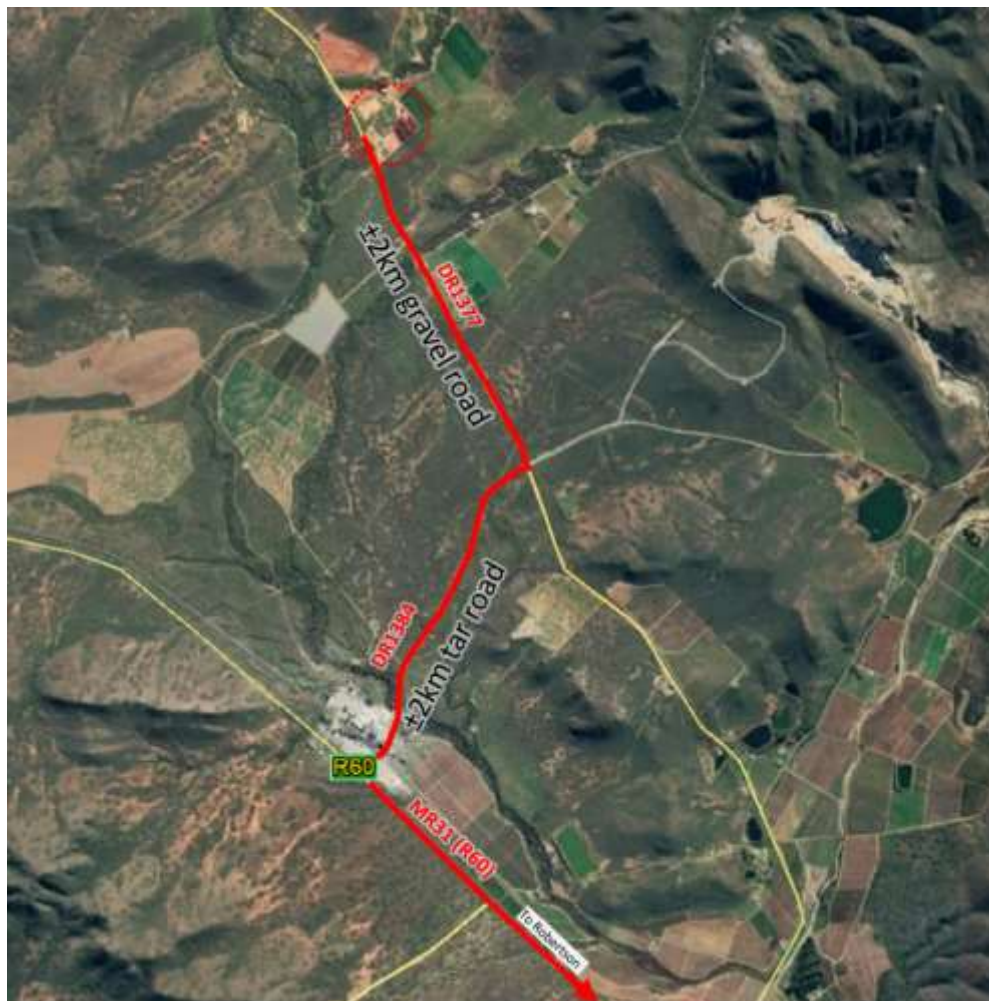
In the event that the Appeal Authority rejects the appeals against the rezoning in principle, the area to be rezoned should be determined with the above in mind. This could be achieved by rezoning an area covering the full extent of the composting facility, including the 1.3Ha as approved by the Tribunal and indicated on plan marked MIDDELBURG10/6ROB-LMB-TP - covering the areas for raw product receipt and storage ,

windrows/bulk piles and finished product storage - as well as the areas required for the wastewater system (collection dam, cut-off weirs and channels) and related vehicular access roads. Such approval should be subject to a condition that a SDP be submitted for approval, which restricts the uses to which certain parts of the area may be put. Permissible uses on areas to which particular uses have been allocated on the SDP approved by the MPT could be restricted to those uses, and the remainder of the area on the SDP could be designated for the other essential uses, such as the waste water collection system (including dam, cut-off weirs and channels) and circulation areas for delivery and collection vehicles, while any unused areas should be designated as such.

7. Transport / Traffic impact

Appellants 2 and 3 raised the issue of an increase in trucks due to the operation of the compost facility and feedlot. The submission is that the increase in trucks will negatively impact the road network, which is narrow, gravel roads, mostly used by motor cars and cycles and is unsuitable for the resultant traffic.

The access to the site from the main road (R60) is along 4km divisional roads DR1384 (tarred) and DR1377 (gravel):



The applicant initially indicated that the expected truck trips to and from the feedlot and compost facility will be $\pm 2 - 3$ per day (1 blood tanker and 1 livestock truck per day and 1 8 ton skip truck every second day). In response to the Municipality's request for information of 18 May 2018, the applicant on 2

October 2018 provided records of actual trips (to the unauthorised compost facility) for the period from 31 March 2017 to 19 April 2018 (refer to p90 of the bundle). According to that information, 695 trips were made in a period of 384 days, i.e. 1.8 trips per day. If weekends are discounted, the actual trips on the corresponding 274 weekdays were 2.5 trips per day. The records for March 2018 showed an average number of 3.3 trips per weekday. Adding the expected one trip per day for transport of sheep to and from the feedlot, an average number of 3.5 to 4.3 trips per day is therefore expected for the compost facility and feedlot combined.

Other trips that are not specifically addressed in the application, are:

- the transport of woodchips to the compost facility [at 30m³ per day, equalling 2 truck loads per day],
- transport of compost from the facility to buyers [the volumes are unknown, but a rough calculation indicates that of the 20m³ of compost produced per day, i.e. 7300m³ per year, about 5000m³ could realistically be used on the property itself (calculated at 150m³ per hectare per year, for 32.8Ha under irrigation), leaving about 2300m³ of compost per year to be transported off the property, i.e. 10m³ or 1 trip per weekday];

which will realistically add 3 more trips per day, to bring the number of trips to **5.5 to 6.3 per weekday**

The WC Department of Transport and Public Works (WCDoT) supported the proposal per letter of 7 February 2018 (see p205 of the bundle), subject to a maximum of **6 truck trips** to the facility per day. (The applicant incorrectly stated that WCDoT have given approval for the trips, while they actually only commented on the land development application).

Conclusion:

In view of the relative low expected number of trips, which will be in line with the maximum accepted by WCDoT, as well as the short travel distance (4km) from the main road – of which only 2km is in a gravel road - the expected traffic impact is considered to be acceptable.

8. Ethical Concerns

Appellant 1 is not correct in saying that the ethical question was never raised. Appellant 4 (H Jooste) raised this issue in correspondence with her neighbours and others between 11 April and 7 May 2018, forwarded to the municipality on 9 May 2018. It was however not raised in Appellant 4's objection or appeal. Appellant 2 did refer to it in their appeal.

The ethical concerns relate to the keeping of sheep (feedlot) close to the area where animal (mostly sheep) blood and other waste are deposited. The question is whether the smell of blood and other waste will cause the live animals undue distress and if so, whether this is a relevant consideration for refusing the feedlot.

Very little scientific research on this issue could be found. The only relevant research that could be found (by Anil et al. in 1996) was with regards to whether the witnessing of killing and slaughter of sheep causes distress in sheep. The study concluded that no behavioural change could be detected in such sheep.

Enquiries made to various authorities (see pp937 to 943 of the bundle) yielded varied answers, one claiming that sheep do show signs of distress at the smell of blood, while another is of the opinion they don't unless they have a prior negative association with the smell.

Conclusion

Based on the above inputs, indications are that the close proximity of the feedlot to the compost facility where abattoir waste is dumped, will not cause distress in the sheep in the feedlot. Under the circumstances, the ethical considerations that have been raised, are viewed as not so substantial that they justify the refusal of permission for the feedlot.

9. Food quality and - safety concerns

This issue was raised during the initial objection stage by Appellant 4 as well as other objectors (Mr & Ms Keyser) and again at the appeal stage by Appellant 2. The key question is whether the composting of animal matter could contaminate the sheep in the feedlot some 100m away and even livestock on adjacent farms.

Appellant 1 argues that only the National Department of Agriculture, Forestry and Fisheries (DAFF) is the competent authority to assess if the feedlot being 100m away from the compost site is desirable or not. Appellant 1 stated that DAFF had no problem with it and attached a letter from Dr Leask, State Veterinarian: Veterinary Public Health, Western Cape Department of Agriculture, dated 8 February 2019 as proof (refer to p623 of the bundle) . However, this letter only addresses the existing compost facility and does not refer in any way to the proposed feedlot close by. The letter can therefore not be accepted as DAFF's opinion on – or support for the feedlot near the compost facility.

The objectors / appellant 4's concerns in this regard is supported by the view of a specialist (Dr Les Mitchell – p937 of the bundle) who was asked for comment on this particular condition, namely that there is a valid concern that certain pathogens in the animal waste may not be destroyed in the composting process and can contaminate sheep in the feedlot only 100m away. Dr Mitchell refers specifically to contagious diseases which are caused by prions such as BSE, scrapie and CJD. Scrapie is a transmissible spongiform encephalopathy diseases (TSEs) affecting sheep and goats, as is Creutzfeldt-Jakob disease (CJD) in humans and bovine spongiform encephalopathy (BSE) in cattle. Prions do not appear to be destroyed or inactivated by most disposal methods that kill or inactivate other pathogens and they can likely survive for extended periods of time in soil.

Appellant 1 also offers the micro-biological and chemical tests results on the compost that have been provided to the municipality as proof that there is no issue in terms of food quality and safety. The chemical analysis results (by bemlab on 27-07-2017) show the characteristics (e.g. pH, moisture content, density) and chemical composition of the compost samples provided by the applicant. The microbiological analysis (by microchem on 21-03-2018) tested for ecoli and salmonella only. There is no indication that the analysis included testing for pathogens such as prions as mentioned above. The tests provided by the appellant therefore do not provide proof that the compost is free from harmful pathogens that can contaminate the sheep in a feedlot close by.

Conclusion:

This issue speaks to the welfare of the broader community and is therefore a very relevant issue.

Appellant 1 has not provided adequate evidence that the composting facility cannot cause a food safety risk with regards to the feedlot located in close proximity. On the evidence of the specialist it is concluded that there is a likely risk of the compost facility contaminating the feedlot. This possible risk to food quality and food safety is considered to be a contributing reason to reject the feedlot application.

10. Availability of alternative, suitable sites and the relevance thereof

Appellant 3 is of the opinion that there are more suitable sites available where the facility could have been established.

A rezoning application is made for the rezoning of a particular land unit, and the assessment has to be done in respect of that land. The Municipality may not refuse an application based on the consideration that there is another site that is more suitable for the proposed use. In terms of the land use planning legislation, there is no obligation on the applicant to consider alternative sites.

Conclusion:

The availability of other sites that may also be suitable or more suitable for a composting facility, is not relevant to this particular application and cannot be considered in assessing the desirability of the proposal.

11. Is composting the best option to do away with abattoir waste? Is it a relevant issue?

There are a number of alternative options other than composting to do away with abattoir waste, a number of which the applicant says he has considered, but discarded for various reasons. The application before the Tribunal was for the composting option only and they could only consider what was before them. The desirability of the specific proposal on the particular property had to be considered.

Conclusion:

The availability or not of alternative options does not have a direct bearing on the desirability of the proposal in itself. Condition 2 of the approval that viable alternative options to composting, with less impact in terms of odour and flies, must be investigated before the end of February 2022, is therefore not supported.

12. Location next to Nature Reserve not considered

The fact that the applicant site is next to a declared Nature Reserve is a relevant consideration, in that the desirability of a proposal very much depends on inter alia:

- i) whether the proposal is compatible with the surrounding land uses and
- ii) whether it supports the existing character of the area. (Provincial support document on Relevant, Sept. 2015, published by DEADP)

The location of the Nature Reserve (property of Appellant 4) in relation to the application site is shown below:



The compost site is 1.6km from the nearest boundary of the Doornkloof Nature reserve and out of direct sight from it. However, the access road to the nature reserve runs directly past the compost facility. In general the formally declared nature reserve areas are along the mountainous area of the Langeberg range, while the foothills and flood plain are characterised by a variety of land uses, the most of which consist of agricultural activities and scattered agricultural buildings, interspersed with natural veld, as well as various tourist facilities, commercial wine cellar and the lime mine (quarry and plant). The compost facility is in appearance not very different from agricultural activities and is therefore deemed to be compatible with the surrounding land uses and broad character of the area. The conditions relating to screening of the facility and other mitigation measures, should also minimise the visual impact from the access road to the nature reserve.

Conclusion:

The presence of the compost facility is not expected to have a negative impact on the viability and functionality of the declared Doornkloof Nature Reserve, especially given the mitigating measures imposed as conditions of approval.

13. Tribunal's authority to decide on the application

Appellant 4's contention that the Tribunal did not have the power to consider the application and issue an approval is incorrect. The appointment of the tribunal members was published in the Provincial Gazette on 29 April 2016 (Notice MN13/2016) and on 6 December 2019 (Notice MN86/2019). The Tribunal was therefore legally constituted and had the power to decide on the application.

14. Municipality's authority to impose conditions and reasonableness of conditions

Appellants 1 and 4 take issue with the validity and reasonableness of some of the conditions of approval imposed by the Tribunal in approving the rezoning for the compost facility. In considering the validity and reasonableness of the various conditions, cognisance should also be taken of the legal basis for imposing these conditions. Section 60 of the Langeberg Municipality: Land Use Planning By-law, 2015, authorises

the Municipality to, “upon approval of an application, impose conditions in terms of section 66. “ Section 66 determines that the municipality may “approve an application subject to reasonable conditions that arise from the approval of the proposed utilisation of the land.”

Section 66(2) lists types of conditions that may be included. This list included amongst others, conditions relating to:

- (a) provision of engineering services and infrastructure
- (e) agricultural or heritage resource conservation
- (f) biodiversity conservation and management
- (h) energy efficiency
- (r) requirements of other organs of state
- (s) submission of a construction management plan
- (v) the delimitation of development parameters or land uses that are set for a particular zoning

Section 66(8) prohibits the Municipality from approving an application subject to a condition that approval in terms of other legislation is required.

Section 66(9) determines that conditions requiring a standard to be met, must specifically refer to an approved or published standard

Section 66(10) determines that no conditions may be imposed that rely on a third party for fulfilment.

The individual conditions highlighted in the appeals are further discussed below (the wording of each condition is repeated in brackets below the heading for ease of reference):

14.1 Is the municipality authorised to impose Condition 2 and is it a reasonable condition?

[2. The approved land uses may operate until the end of February 2022, whereafter the approval will lapse, and the zoning of the site will revert back to Agricultural zone I, unless an application for extension of such approval has been lodged and approved. Viable alternative options to composting, with less impact in terms of odour and flies, must be investigated during this time.]

The condition does not compel the applicant to re-apply for rezoning, but to apply for extension of the rezoning approval. The reason for this condition seem to be to compel the applicant to investigate viable alternative options (of treating abattoir waste) than composting, with the aim of reducing the impact of flies and odours. The condition does not indicate any other reasons for setting a particular validity period.

The Municipality does not agree with Appellant 1's contention that the existing compost facility may be continued with under the subject property's current zoning. A compost facility such as the present one does not constitute an agricultural use, and may only be undertaken if the relevant area is appropriately rezoned.

The availability or not of alternative options does not have a direct bearing on the desirability of the proposal in itself. The application for rezoning was for the composting option only. Therefore the desirability of the specific proposal on the particular property has to be considered.

If the impact of the composting facility with regard to flies and odours is considered to be unacceptable, the rezoning should not be approved at all. However, insofar as the impact is adjudged to be sufficiently low and manageable to warrant an approval subject to conditions to ensure that mitigation measures will be implemented, it would not be reasonable to also limit the validity period and compel the applicant to apply for extension.

Conclusion:

The objective of this condition is regarded as irrelevant to the desirability of the specific proposal, and as such it is deemed unreasonable and impermissible. The condition is therefore not supported.

14.2 May Condition 4 afford the Municipality the power to judge the adequacy of the screening?

[4. The Compost Facility must be effectively screened, to the satisfaction of the Manager: Town Planning, through the judicious use of indigenous trees and shrubs, to provide a visual screen and wind break and to minimise dust and odours, particularly along the boundary with the farm Middelburg 10/Rem.]

The condition is aimed at mitigating the visual impact as well as providing a windbreak to lessen the impact of dust and odours, particularly along the common boundary with Appellant 2's property. The condition does "arise from the proposed utilisation of the land" as required in the Land Use Planning By-law mentioned above. As the applicant did not provide any detail of proposed landscaping/tree planting that could have been approved along with the rezoning, there needs to be a control built into the conditions to ensure that the extent and location of the required screening are determined and that it will meet the purpose.

Section 25 of the Langeberg Municipality Integrated Zoning Scheme By-law, 2018 determines that the Municipality may require screening in accordance with certain provisions, one of which is that "any part of a land unit that is used for the storage of loading of goods must be enclosed with a suitable wall or landscape screening or both, ...". The development parameters for industry" in Schedule 2 of the zoning scheme by-law requires that a site development plan must be submitted to the Municipality for its approval. The said by-law further determines that the Municipality may require that the site development plan amongst others depict:

- general landscaping proposals, including vegetation to be planted and
- typical details of fencing around the perimeter of the land unit.

In terms of Section 23(7)(e) of the Zoning Scheme By-law, when the site development plan is approved by the Municipality, it sets additional development parameters for the particular land use, which must be complied with.

Conclusion:

Condition 4 is a necessary condition to mitigate against the impact of the compost facility. The condition may and does afford the Municipality the power to judge the adequacy of the screening. The condition should be linked to the zoning scheme requirements, whereby the screening must be indicated on a site development plan, for approval by the Municipality and which will then in effect become an additional development parameter for the industrial use in terms of the zoning scheme and the Land Use Planning By-law. If the rezoning is approved, the condition that a revised Site Development Plan (SDP-) must be submitted, as suggested in the conclusion under Part 6: *Extent of the Compost Facility* above, should also include a requirement that a screening plan and program for the compost facility must be included with the revised SDP for approval.

14.3 Is the Municipality entitled to impose a condition that the applicant prepare, review, revise and submit an EMP to the Municipality dealing with specific matters?

[5. The Environmental Management Programme (EMPr) (12 March 2018), as prepared for the NEMA EIA process, must be reviewed, and a revised, detailed operational phase EMP must

be submitted to the Manager: Town Planning within 30 days of the letter of approval of this application.]

At the time of the Tribunal decision, DEADP have not yet issued an Environmental Authorisation and therefore there was no approved EMP in place. The condition was intended to ensure that the applicant produce a detailed operational EMP and that the necessary control measures will be in place to mitigate against negative environmental impacts.

The Municipality has the right to require an EMP with operational control measures as well as participation in monitoring and control activities. Sections 66(2)(e) and (f) of the Langeberg Municipality Land Use Planning Bylaw, 2015 specifically include among the conditions that may be imposed by a Municipality upon approval of an application, conditions relating to agricultural resource management and biodiversity conservation and management, while Section 66(2)(r) allows for conditions related to "requirements of other organs of state". Furthermore, it has been established through various court cases (Constitutional Court case: Johannesburg Metropolitan Municipality v Gauteng Development Tribunal and Others, 2010; Constitutional Court case: Maccsand v City of Cape Town and KwaZulu-Natal High Court case: Le Sueur and Another v Ethekwini Municipality and Others, 2013) that:

- i) "Municipal planning" as listed in Part B of Schedule 4 of the Constitution, refers to the control and regulation of land use and includes the zoning of land;
- ii) Municipal planning (including land use control, in accordance with i) above) will inevitably overlap with functions of other (national and/or provincial) spheres of government and that when this happens, neither sphere is intruding into the functional area of another;
- iii) Municipal planning cannot be separated from environmental and conservation concerns in town planning and that municipalities are entitled to regulate environmental matters from micro level for the protection of the environment.

Conclusion:

Appellant 1's submission that the Municipality cannot require an EMP to be submitted to them, because DEA&DP is the competent authority in that regard, is wrong and should not be accepted. The Municipality is entitled to impose such a condition. Having said that, the EMP that has now been approved by DEA&DP addresses the Municipality's requirements to a large extent, and a condition that records that the approved EMP must be adhered to and can be enforced by the Municipality should be sufficient from the Municipality's perspective.

An amended condition of approval could read: The Environmental Management Program approved by the Western Cape Department of Environmental Affairs and Development Planning as part of the Environmental Authorisation issued by it, must be adhered to, and must be read as incorporated in this approval.

14.4 Is the municipality entitled to impose a condition pursuant to which it would have the oversight function as set out in condition 5.1.?

[5.1. The management of the Compost Facility in terms of flies, odours, truck trips, stormwater management and water quality and the periods for auditing these activities to ensure no adverse environmental consequences. On-site meetings, convened by the Langeberg Town Planning Department, must be held at least every 3rd month, from the date of approval, with officials from the Langeberg Town Planning Department, CWDM, BGCMA and DEA&DP. Any requirements of the relevant Departments must be complied with prior to the continuation of composting activities.]

The condition is a practical control measure, aimed at co-ordinating the functions and efforts of the various departments involved. The Municipality has the right to require an EMP with operational control measures as well as participation in monitoring and control activities. Sections 66(2)(e) and (f) of the Langeberg Municipality Land Use Planning Bylaw, 2015 specifically include among the conditions that may be imposed by a Municipality upon approval of an application, conditions relating to agricultural resource management and biodiversity conservation and management, while Section 66(2)(r) allows for conditions related to "requirements of other organs of state".

The condition in its current form may however be considered to encroach on the functional terrain of other organs of state where their involvement in control measures is set as a mandatory requirement. It is recommended that the condition be amended to address this consideration, while retaining the Municipality's oversight and control function.'

Conclusion:

The Municipality is entitled to impose Condition 5.1 in order to oversee that the mitigating measures and conditions of approval of the compost facility are being implemented, as long as it does not cause the municipality to encroach on the functional terrain of other organs of state where their involvement in control measures is set as a mandatory requirement. It is recommended that, if the rezoning approval is upheld, condition 5.1. be amended so as to afford the Municipality the power to schedule on-site meetings to assess compliance with this approval, the conditions of approval in particular.'

The condition itself can be amended to read as follows: *'On-site meetings, may be convened by the Langeberg Municipality's town planning department every third month, calculated from the date of this approval or at such shorter intervals as the Municipality may determine, to assess compliance with the conditions subject to which the approval was granted. The meeting shall be attended by officials from the Langeberg Municipality and a written invitation must be sent to the Applicant to send a representative / representatives to the meeting. Officials from other organs of state with an interest in the facility / facilities hereby approved will also be entitled to attend the meeting. The applicant will comply with all reasonable requests by officials from the Municipality and other organs of state in order to enable them to perform their assessment.'*

14.5 Is the municipality entitled to impose a condition that no infectious waste may be disposed of at the composting facility, is it a reasonable condition and is the municipality entitled to impose a condition relating to the disposal of the abattoir waste at other facilities (i.e. facilities other than the compost facility)?

[5.5 *Infectious waste (whether treated or not) may not be disposed of to the application site under any circumstances. Such waste must be treated before disposal at an approved landfill facility, in accordance with approval by DEA&DP: Waste Management and WC Department of Agriculture: Veterinary Public Health. The agreed protocol in this regard must be submitted to the Langeberg Town Planning Department.]*

The condition is directly related to the approved land use and is aimed at preventing a health hazard, therefore the Municipality is entitled to impose such a condition. The condition also corresponds to the conditions of the Waste Management License which determine that only non-infectious mortalities, animal manure and other non-hazardous organic waste may be used at the facility (see par.2.1 on p859 of the bundle) and is therefore regarded as reasonable.

The second and third sentences of the condition seek to regulate the disposal of infectious waste at sites other than the subject property. Since the need to impose conditions relating to the disposal of infectious waste at sites other than the subject property does not arise from the land use proposed in this application, it is not a condition that may be validly imposed.

Conclusion:

The part of the condition that prohibits the disposal of infectious waste at the compost site is valid and reasonable. If the compost facility is approved, the second and third sentences of the condition in its present form should be omitted.

14.6 Is the Municipality entitled to impose a condition that the volume of compost produced must be recorded and is it a reasonable condition?

[5.7 The volumes of waste received per month and the volume of compost produced per month must be recorded by the manager of the Compost Facility.]

Appellant 1's claim that information on the monthly volume of compost produced cannot be recorded because the manner in which raw materials are processed does not allow for data to be recorded, cannot be accepted.

The applicant stated that 20m³ of compost will be produced per day (see P55 of bundle, 3rd paragraph). The "Compost Flow Diagram" submitted by SAFAM with the application also refers to the "finished compost being moved to the product collection dispatch area" and to "compost being sold in bulk." From this information it is clear that there is a definite stage where the finished compost is collected from the windrows and deposited to the finished product area. It should be possible to measure the volume at this point, either by tallying the number of loads moved to the finish product area or calculating the volumes from stacks of finished compost in the finished product area.

Conclusion

The condition of approval according to which the volume of compost produced per month must be recorded by the manager of the Compost Facility, is therefore considered to be fair and easily achievable in terms of a standard operating procedure.

14.7 Is the Municipality entitled to impose a condition to regulate the opening hours of the composting facility and to regulate the times when waste products may be received at the facility?

[5.12 Business hours are permitted as follows:

5.12.1 Monday to Friday: 7h00 – 17h00. No abattoir waste-products may be received on the farm after 15h30 to allow for sufficient time for the windrows to be properly treated before staff shifts end.

5.12.2 Saturdays: 7h00 – 13h00. Sundays: closed.]

The purpose of prescribing the operating times and cut-off time for receipt of waste products in the condition appears to be to prevent operational activities outside normal business hours and to allow for sufficient time for proper treatment of the raw waste-products during normal working hours, so as to prevent a situation where blood and other animal products are left uncovered overnight or over the weekend, causing odours and infestation of flies.

The prescribed business hours is based on information on hours of operation as supplied by the applicant. It stands to reason that, operation of machinery on the site and traffic to and from it after hours and over weekends will not fit in with the normal farming activities that may be expected in the area. The restriction of the business hours is therefore essentially to mitigate against the impact of the compost facility on the character of the surrounding area. However, as pointed out by Appellant 1, there may be unforeseen or special circumstances where some work has to be done outside of these hours, very much the same as could be expected from any farming operation in the vicinity. It would therefore be unreasonable impose an absolute restriction on the business hours.

The cut-off time for deliveries is based on the applicant's information that blood must be left for up to one hour to soak into the compost before it is covered. The restriction in the condition leaves 1½ hours for this purpose, including time to cover the compost after the blood has sunk in. It is noted that no cut-off time for deliveries is set for Saturdays, presumably because the abattoir does not deliver waste on Saturdays. In the event of deliveries on Saturdays, a similar cut-off time should be determined in the condition, if the rezoning is approved and this condition is retained.

Conclusion:

The purpose of the condition is considered to be necessary and reasonable in order to mitigate against the impacts caused by the approved land use. The municipality is therefore entitled to impose such a condition. However, it is unreasonable not to provide for unforeseen circumstances that may require operation of the facility and deliveries outside of the prescribed business hours.

If the rezoning is approved, the condition should be retained but amended to include provision for unforeseen circumstances. In dealing with the latter, the condition should also include a stipulation that all animal waste material delivered to the compost facility must be covered and treated in accordance with the EMP and other conditions of approval before the end of every day, and no material may be left uncovered overnight or for more than 1 hour after delivery.

14.8 Does condition 6 constitute a contravention of section 66(8) of the Bylaw, i.e. did the Municipality approve the rezoning subject to a condition that approval in terms of other legislation is required?

The effect of condition 6 was not to make the rezoning approval subject to the obtaining of an approval in terms of other legislation. It merely stated the law, namely that the exercising of the primary land use on the subject property is subject to other legislation as well. This is not a condition in the true sense of the word, and it can be omitted from the approval.