

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 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU: DELETION OF A CONDITION OF EXISTING LAND USE APPROVAL AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

Meeting: JANUARY 2022

Reference number	15/4/13/7	Application submission date	28 September 2020	Date report finalised	25 November 2021
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PART A: AUTHOR DETAILS

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

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Portion 5 (portion of portion2) of the farm Baviaan Krantz No. 145, Montagu				
Physical address	Oubergpas, MR294	Town	Rural - ± 10km east of Montagu		
Current zoning	Agricultural Zone I	Extent (m2 /ha)	285,7798ha.	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Langeberg Integrated Zoning Scheme, 2018				
Current land use	Dwelling house, outbuilding, farming and natural veld.			Title Deed number 0& date	T40974/2019
Any restrictive title conditions applicable	Y N	If Yes, list condition number(s)	Condition D: may only be used as a Private Nature Reserve. Condition E: only one dwelling may be built.		
Any third party conditions applicable?	Y N	If Yes, specify			
Any unauthorised land use/building work	Y N	If Yes, explain	Unauthorised clearing of land and construction of roads by a previous owner – under investigation by DEA&DP.		

PART C: BACKGROUND AND APPLICATION DESCRIPTION

Portion 5/145 was established in terms of the subdivision of Portion 2/145 into Ptn A (now 5/145) and Rem/2/145, in terms of the land use planning legislation applicable at the time (LUPO and Section 8 Zoning Scheme) - refer to [Annexure A](#).

Simultaneously, Ptn 5/145 was rezoned to Open Space III, with the intention of proclaiming a Private Nature Reserve (PNR). The subdivision approval did not specify what conditions must be complied with prior to registration of the new farms. Unfortunately, Portion 5/145 was registered as a separate subdivision prior to the declaration of the PNR. Legislation changes in terms of NEMA, meant that the declaration as a PNR was no longer an option. In terms of the applicable legislation at that time, it was a requirement that in order to secure an Open Space III zoning, the land must be declared as a PNR. As the land was not declared a PNR, the zoning lapsed back to Agricultural Zone I.

Nonetheless, the basis for permitting the subdivision was that the land would not be transformed for agricultural purposes, but would be conserved in its natural state (a use which is also permitted in the Agricultural Zone I), and this intended land use was secured through the following restrictive title deed conditions:

- Condition D, imposed by the National Department of Agriculture, that the land may only be used for nature reserve purposes, and must be rezoned as Open Space III.
- Condition E, imposed by the Langeberg Municipality, that only one dwelling unit may be permitted.

The following application has now been lodged in terms of Section 15 of the LLUPB, 2015:

- Deletion of the following conditions from the letter of land use approval dated 14 November 2003, in terms of Section 15(2)(h):
 - Condition 3 (marked 3.3): Only one dwelling may be built on portion A
 - Condition 3 (marked 3.5): Portion A (and portion of Rem/2/145) must be declared as a private nature reserve.
- Removal of the following restrictive Title Deed conditions from T40974/2019, in terms of Section 15(2)(f):
 - Condition D, imposed by the Department of Agriculture of RSA when granting approval in terms of Act 70/1970, namely that the property “may only be used for purposes of a private nature reserve and ancillary purposes; and also that the property must be rezoned as Open Space Zone III”.
 - Condition E.1, imposed by the then BRW Municipality (now Langeberg), namely that “only one dwelling house may be erected on the subject property, the placing of which must be determined in conjunction with Cape Nature and the Municipality”.

PART D: SUMMARY OF APPLICANTS MOTIVATION

A copy of the applicant's motivation report is attached at [Annexure B](#).

Portion 5 of the farm Baviaan Krantz 145 is 285,7798ha. in extent. The farm is located approximately 10km east of Montagu, on Main Road 294, also known as the Oubergpas. A locality plan and site plans are attached at [Annexure C](#).

The farm currently comprises a main dwelling, a small wooden cabin, an outbuilding (previously used as a chicken house, and now approved as a garage), a lapa, 3,6ha. of cultivated land, and natural vegetation.

The applicant proposes to remove the restrictive conditions so that the property is subject to the same development provisions that apply to surrounding Agricultural Zone I properties. In addition to the main dwelling, the owner proposes to build a farm manager's dwelling, agricultural outbuildings and one worker's cottage. He also proposes to continue to farm the small portion of land adjoining the Langkloof spruit, subject to the relevant legislation in this regard.

The applicant notes that the biodiversity status of the property includes large portions of CBA areas in terms of the Western Cape Biodiversity Spatial Plan, 2017 (WCBSP) and Core 1 SPC in terms of the Langeberg Spatial Development Plan (LSDF). The following biodiversity compatible land uses may be accommodated in Core 1 areas: low-impact eco-tourism activities such as recreation and tourism and visitor overnight accommodation. The applicant argues that the application is desirable and in line with SPULMA, LUPA, WCBSP, and the LSDF, 2015.

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 29 August 2020.

One letter of objection was received from M and M Mitchell who own two farms adjoining the application site: Portions 2 and 7 of Baviaan Krans 145, Montagu. A copy of the objection is attached at [Annexure D](#).

The applicant's response to the objection is attached at [Annexure E](#).

The location of the objector's property relative to the application site, is shown below:



The objection and the applicant's response thereto is summarised in the table below:

Nature of Objection	Applicant's Response to Objection
<p>The primary use of the property over the years has been conservation.</p> <p>The property currently falls within the Gouritz Cluster Biosphere Reserve.</p> <p>The land has not been used for agricultural purposes.</p>	<p>In terms of the zoning, the primary use permitted is agriculture. Only the existing cultivated land (3,6ha.) will be used for agricultural purposes, the remainder of the property (±282ha.) will remain as natural veld. No new agricultural lands will be developed.</p>
<p>The subdivision was authorized on condition that it be used for residential and nature conservation purposes, as it is not suitable for agriculture in terms of the soil, water supply and access.</p>	<p>The primary use will remain residential and nature conservation. It is agreed that the primary use of a second dwelling is not currently possible in terms of the Title Deed restrictions.</p>
<p>Previous land uses, in an identified CBA, were started unlawfully and this has set a precedent. An investigation in terms of NEMA is still underway by DEA&DP (unlawful roads, vegetation removal and building work).</p>	<p>Current unlawful activities are separate matters, which are being addressed.</p>
<p>Development on the site is on a prominent ridge and is therefore highly visible from the Ouberg scenic route. 7/145 has an Anglo Boer war fort (1901) visible from Oubergpas, and of interest to passing tourists.</p>	<p>The main dwelling is already built. There is limited buildable land on the property.</p>
<p>Adverse impact on the value of neighbouring properties, use of property, tourism and heritage and security in terms of agricultural workers and additional built development.</p>	<p>The application is consistent with the LSDF and WCLUP Guidelines for Rural Areas, 2019 and will not negatively impact on neighbours.</p>

PART G: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS (Refer to Annexure F for detailed comments)					
Name	Date received	Summary of comments	Recommendation		
CWDM: Health		No comment.	Positive	Negative	Comment
Department of Transport	29/10/2020	The existing access has limited sight distance in an easterly direction. It cannot be relocated due to a drift to the west and a river course makes alternative access costly. The access is accepted, provided a concealed access sign is erected, at the owner's expense, in advance of the access when traveling in a westerly direction.	Positive	Negative	Comment
Cape Nature	02/09/2021	The application was submitted to Cape Nature's Stewardship Review Committee, which decided as follows: "The site is not a stewardship priority, therefore the committee has agreed that the condition of declaring a PNR may be removed, but not the title deed restrictions in its entirety. It was recommended that further development of the property should be restricted in terms of amending the conditions or title deed. A farm plan is also needed.	Positive	Negative	Comment
DEA&DP – Land Use Planning	15/10/2020	If the rezoning has lapsed, this makes the application for the removal of conditions of approval redundant. No objection subject to restrictions being imposed which restrict agricultural activities and provide for a management plan to identify and prioritise areas in terms of their biodiversity importance and introduce measures to minimize and mitigate the impacts of activity within the CBA.	Positive	Negative	Comment
DEA&DP – Environmental Impact	23/07/2021	The previous owner conducted unauthorized activities which are the subject of a compliance procedure. The owner is required to either submit an acceptable rehabilitation plan or apply for the unauthorized activities in terms of NEMA.	Positive	Negative	Comment
Provincial Department of Agriculture (Elsenburg)	01/10/2020	No objection. The Dept of Agriculture's Land Care Section notes that "this area is known for its brakish water and dependence on groundwater for farming. Natural salts in the subsoil cause further salinity challenges and possible degradation of the soil if not managed properly. If no active farming has taken place in the past 10 years then the owner must apply for a CARA and NEMA permit ... If still within 10 years .. then they are allowed to farm the land without the above approvals".	Positive	Negative	Comment

Breede Gouritz Catchment Management Agency for DWAF	28/05/2021	The applicant was advised to apply for GA for the borehole. The placement of the borehole is limited if within watercourse, boundaries of a wetland etc. The applicant may not alter the flow of water courses. G/A is for abstraction for ground water up to 40 000m³/a. Water use must be monitored at source. Waste water must be managed in accordance with Municipal bylaws.	Positive	Negative	Comment
Eskom	15/10/2020	No objection.	Positive	Negative	Comment
Ward Councilor	07/10/2020	No objection, subject to all legal requirements.	Positive	Negative	Comment

PART H 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 must 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. Section 33(5) of the Langeberg Land Use Planning Bylaw (LLUPB), 2015 specifies additional requirements for evaluating applications to remove restrictive Title Deed conditions - refer to Section I of this assessment report, for this evaluation.

1.3. 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". DEA&DP's investigations into activities by the previous owner and the outcome of this investigation are therefore also of relevance.

- 1.4. Given the above, the following key issues are identified for assessment of the application:
 - Compliance with the relevant legislation, plans and guidelines: Langeberg Integrated Zoning Scheme, 2018; the LSDF, 2015; CWDM SDF (2019-2024); WC Biodiversity Spatial Plan, 2017; DEA&DP's Guideline for the Management of Development on Mountains, Hills & Ridges of the Western Cape, 2002; PSDF, 2014 and the WC Rural Land Use Guidelines, 2019.
 - Desirability of the proposal, particularly in relation to agriculture and the natural environment.
 - The potential impact on the surrounding rural area, both agricultural and conservation land uses, and water rights, and particularly the objectors' properties and their existing rights.
 - Given that the basis for permitting the subdivision was that the land was not going to be used for agriculture, but would be conserved in its natural state, the key question is: "In terms of current legislation, what action will best facilitate the conservation of this land, which was the basis for the establishment of this subdivision?"
2. Existing Land Use approval, Zoning Scheme Requirements and Land Use Definitions:
 - 2.1. The DEA&DP: Development Management, in their letter dated 15 October 2020 (Annexure E) note that "if the zoning lapsed ... the conditions imposed in respect of said rezoning also fall away thus making the application for the removal of said conditions redundant". However, although the zoning lapsed, the subdivision did not lapse and was registered in accordance with the approval. The conditions of the subdivision approval therefore remain applicable to the property in question.
 - 2.2. The application site is zoned Agricultural Zone I in terms of the Langeberg Integrated Zoning Scheme, 2018. In terms of this zone, a dwelling house and a farm manager's house are primary rights. The property currently accommodates a building of some 180m² comprising the primary dwelling and wooden cabin of 13m²; a garage (previously chicken house) of ±75m². The built development was constructed by the previous owner, without prior authorization. Following compliance notices, certain additional structures (shipping containers) were removed from the farm and building plans were submitted for the built development. These building plans were approved on 11 September 2019, and comprise the maximum building work which may take place on this property in terms of the current zoning and title deed restrictions. (Note: The definition of a Dwelling House includes a second dwelling "with a floor area which does not exceed 60m²").
 - 2.3. If Restrictive Condition E (only one dwelling) is removed, the owner could submit building plans for a farm manager's house, and apply for consent for up to three Additional Dwelling Units in terms of the Agricultural zone I. Any such application would be assessed in terms of the relevant considerations listed in 1.1 above and, in particular, an assessment of the scale of development appropriate to the receiving environment.
 - 2.4. In comparison, it is useful to consider what development parameters would have applied if the property had been rezoned to Open Space III. In terms of the Langeberg Integrated Zoning Scheme, 2018, the objective specified for Open Space III (Nature Conservation Area) and Open Space IV (Nature Reserve) is: "conservation of natural resources in order to sustain flora and fauna and protect areas of undeveloped landscapes". Both these zones make provision for application for further development subject to compliance with an environmental conservation / management plan, as indicated in the definitions of Nature Conservation Areas and Nature Reserve on the following page.
 - 2.5. Similarly, if the property had been declared as a PNR in 2003, it would now fall under the definition of a Protected Area in terms of NEM:PAA, and all Protected Areas require the preparation of a Management Plan. The overall purpose of such a management plan is to maintain an area in a natural or near-natural state, with no loss or degradation of natural habitat. More specifically, such plans identify allowable activities that will support the goals and objectives of protected areas such as small-scale ecotourism development, and farming related to sustainable natural resource use.

Definition of Nature Conservation Area in terms of the LIZS, 2018:

“nature conservation area”

Land use description: “*nature conservation area*” means the use and management of land with the objective of preserving the natural biophysical characteristics of that land, including the fauna and flora, but does not include tourist facilities, tourist accommodation or agriculture.

Development parameters:

- (a) The Municipality may require an environmental conservation plan to be submitted for its approval.
- (b) The Municipality must determine the land use restrictions and the development parameters for the property based on the objectives of this zoning, the particular circumstances of the property and, where applicable, in accordance with an approved environmental management plan.
- (c) One dwelling house is allowed if no dwelling house exists on another portion of the land unit zoned for agriculture purposes or if the full extent of the land unit is zoned Open Space III.
- (d) When a consent use to provide tourist facilities in a “nature conservation area” is approved, it is subject to conditions imposed by the Municipality with regard to layout, landscaping and building design.
- (e) A site development plan must be submitted to the Municipality for its approval, clearly indicating the position of all structures, services and internal roads.

Definition of Nature Reserve in terms of the LIZS, 2018:

“nature reserve”

Land use description: “*nature reserve*” means a national park or some other nature area that is owned by an organ of state or remains in private ownership and has been declared as a nature reserve or has a similar status in terms of legislation; it consists of an area that is utilised as a game park or reserve for fauna and flora in their natural habitat and—

- (a) includes environmental facilities and worker accommodation; and
- (b) does not include accommodation facilities for tourists or holiday makers.

Development parameters:

- (a) An environmental management plan must be submitted to the Municipality, SANParks or CapeNature for their approval or to all of them for approval.

- (b) SANParks or CapeNature or both must, in consultation with the Municipality, determine the land use restrictions and the development parameters for the property based on the objectives of this zoning, the particular circumstances of the property, and in accordance with an approved environmental management plan.
- (c) When consent uses to provide tourist facilities or tourist accommodation in a “nature reserve” are approved, conditions must be imposed with regard to density, layout, landscaping, and building design.
- (d) A site development plan must be submitted to the Municipality for its approval, clearly indicating the position of all structures, stands, services and internal roads.

Conclusions:

The current legislation consistently advocates for the preparation of conservation management plans in order to facilitate the conservation of natural vegetation in CBA's, Protected Areas, Nature Reserves and Nature Conservation Areas:

- The preparation of such a plan would achieve the conservation objectives intended by the current restrictions, without necessitating the need to rezone to Open Space III. The removal of the wording “and must be rezoned as Open Space III” from Condition D is therefore supported subject to a condition requiring the preparation of a conservation management plan.
- This would also be more effective than simply limiting built development to one dwelling unit (Condition E), which in effect limits the owner's options for viably conserving the remainder of the property. The removal of condition E is therefore supported subject to a condition requiring the preparation of a conservation management plan.

3. Desirability of the application in terms of the natural environment:

- 3.1. The vegetation status is not identified as a significant relevant consideration. Identified vegetation types on the property are Western Little Karoo and Montagu Shale Renosterveld which are not endangered vegetation types.
- 3.2. Cape Nature notes that the site is not identified as a stewardship priority and therefore they have no objection to the removal of the conditions requiring the registration of a PNR. However, further development should be restricted given that the entire property falls within a Critical Biodiversity Area (CBA) in terms of the WCBSP, 2017.
- 3.3. Notwithstanding the vegetation types, this property comprises a connectivity corridor with other natural areas and Protected Areas (Langeberg West Mountain Catchment Area). This connectivity role is key to this property forming part of a CBA:



Conclusions:

The land use management objectives for CBA's are listed below, and any approval of the application in question must ensure that the above objectives are still achieved, through an appropriately worded condition of approval.

- 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.

4. Compliance with Plans, Policies and Guidelines:

4.1. PSDF, 2014 and CWDM SDF (2019-2024):

Policy R1 in the PSDF, 2014 reads as follows: Protect Biodiversity and Ecosystem Services, CBA mapping must inform land use decisions, and priority areas for conservation must be secured (p41).

The PSDF Policy E2, requires that rural activities outside the urban edge should be sustainable and compatible, of an appropriate scale and form, appropriate in the rural context and which does not compromise the environment".

The CWD SDF (2019-2024) emphasizes the responsibility of Cape Winelands' municipalities to protect the biodiversity of the Cape Floristic Region, as one of the world's greatest biodiversity hotspots (p99). The CWD SDF states that development decisions must consider the WCBSP, and that the impact on Core Areas must be minimized.

4.2. The Western Cape Rural Land Use Guidelines (2019) (WC RLUG) specify the following for land use in the Core 1 SPC:

4.1.2 GUIDELINES ON LAND USE AND ACTIVITIES IN THE CORE 1 SPC

What kinds of activities?

- Essentially Core areas are 'no-go' areas from a development perspective. Accordingly, human impact must be restricted to ensure that there is no further loss of natural habitat.
- Conservation management activities, such as alien clearing, research and environmental education should be encouraged.
- Subject to stringent controls the following biodiversity-compatible land uses (i.e. those of very low impact) may be accommodated in Core 1 areas:

- non-consumptive low impact eco-tourism activities, such as recreation and tourism (e.g. hiking trails, bird and game watching, and visitor overnight accommodation); and
- harvesting of natural resources (e.g. wild flowers for medicinal, culinary or commercial use), subject to a management plan demonstrating the sustainability of harvesting.

The Guidelines recommend that, although development should be limited, built development which is appropriately scaled and located to reinforce rural landscape qualities, may be permitted. The nature and scale of the proposed development must be informed by the carrying capacity of the landscape, and assessed in terms of its appropriateness to the particular context, the extent of the farm and the sensitivity of surrounding uses. The guidelines are consistent with the PSDf in effectively precluding all built development within Core SPCs, except low-key, biodiversity sensitive development.

4.3. DEA&DP's Guideline for the Management of Development on Mountains, Hills & Ridges of the Western Cape, 2002:

These guidelines were developed to assist in defining the decision-making criteria to prevent inappropriate development, and to support the implementation of bioregional planning in the Western Cape. Many of these guidelines have been incorporated into the PSDf, 2014 and the WCBSP, 2017 and the following remain of particular relevance:

- Protection of catchment areas as valuable water sources.
- Protection of sensitive and unique ecosystems.
- Protection of aesthetic and scenic values.
- Maintenance of "wilderness feel" of these remote areas.

Key principles are outlined to guide development, including the following:

- To site facilities in relation to environmental resilience and landscape visual screening.
- To ensure harmonious scale, density and nature of development.

Although the property in question is not part of the main mountain ranges (Langeberg and Wabooms), it does comprise steeply incised valleys and the current built development is located on a ridgeline, in direct view of, and overlooking the objector's property. Any further development must consider the visual and scenic impact on neighbours and the Oubergpas as a tourist route.

- 4.4. LSDF, 2018: With reference to the Spatial Planning Categories (SPCs) in terms of the Langeberg SDF, 2015, the farm comprises "Core 1b: Critical Biodiversity Areas". The LSDF is consistent with the PSDF and the WC RLUG in that Core 1 areas should be maintained in a natural or near natural state and degraded areas must be rehabilitated. For possible land uses, the LSDF refers to the RLUG, which in turn identifies that small-scale, appropriate ecotourism developments can be used as incentives for private land owners to actively conserve CBAs.

Conclusions:

The proposed development, with the removal of the restriction to only one dwelling (Condition E), will be consistent with the PSDF, LSDF and the WC LUPGL: Whilst it would be ideal for no built development to be permitted within CBAs, low impact residential and eco-tourism development on large scale farms, are consistent with the objectives of CBAs and Protected Areas. To ensure consistency with the PSDF and CW SDF, the removal of restrictive conditions must be subject to a condition which ensures the sustainable conservation of the CBA on the property through a Conservation Management Plan. The protection of views and vistas, particularly the ridgeline where the main dwelling is located, must also be addressed in this plan. The current restriction of "only one dwelling" provides a very limited contribution to achieving the conservation objectives.

5. The potential impact on the surrounding agricultural area and particularly the objector's properties and their existing rights:
- 5.1. There was only one objection which relates primarily to the undesirability of using the properties for agricultural purposes.
- 5.2. The neighbor argues that the current restrictive Title Deed conditions relating to "nature reserve" prevent the owner from farming even the small portion which was previously farmed. However, in terms of Cape Farm Mapper and the WC Department of Agriculture's crop census layers (2013 and 2017/18), this area has been used for agricultural purpose in the last 10 years, and therefore may continue to be used as such, subject to due consideration of the following information as provided by R Roscher, Land Care Manager: CWDM:
- This area is known for its brackish water and dependence on groundwater for farming. Natural salts in the subsoil also cause further salinity challenges and possible degradation of the soil if not managed properly.
 - The owner has a responsibility towards the land and water resources and farming practices must not cause any degradation (i.e. erosion, salinization, erosion due to floods etc.).
 - Farming practices must adhere to sound conservation practices regarding buffers to watercourses, proof of water registration and quality of water used etc. Any queries with regard to appropriate farming practices should be addressed to Rudolph Röscher, Land Care Manager (Cape Winelands District), Western Cape Department of Agriculture.
 - CARA and NEMA preclude the conversion of natural veld to agriculture without the required permits.
- 5.3. In contrast, the objector's concerns relating to the undesirability and unsuitability of the use of the majority of the farm for agricultural purposes, are justified and supported by the above comments of the Department of Agriculture. The restrictive Title Deed condition D provides protection against additional areas of natural vegetation on this farm from being cleared for agricultural production. Given the poor soils and limited water, this restriction is desirable and the following portion of Condition D should be retained: "The land may only be used for nature reserve purposes".
- 5.4. Water supply in this area is via boreholes and access to these boreholes must be on the property in question. Where access to boreholes is required across neighbouring properties, rights-of-way must be registered based on an agreement between the respective neighbours.

- 5.5. The applicant is requesting the same rights as currently applicable to surrounding farms – therefore the proposed development will not cause an undesirable precedent or be out of character with the surrounding area.
- 5.6. The development proposed is extremely small-scale in relation to the farm as a whole - the vast majority of the farm's 285+ha. extent is currently being maintained in a natural state, and will remain in its natural state.
- 5.7. The access from oubergpas presents some challenges due to the topography. However, the Department of Transport have no objection to the application, subject to a "concealed access" sign being erected in advance of the access when travelling in a westerly direction (towards Montagu).

In conclusion, the neighbour's existing rights in terms of the use and enjoyment of their properties will not be negatively affected by the removal of Condition E which currently permits only one dwelling, provided an appropriately worded condition of approval is included to address visual impact, access to boreholes and sustainable conservation of the property as a whole. The removal of Condition D that "the land may only be used for nature reserve purposes", is not supported.

6. SPLUMA and LUPA:

- 6.1. 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. In terms of spatial sustainability, the proposed development will contribute to the economic viability of the property.
- 6.2. 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) 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 previous owner in terms of the Langeberg Land Use Planning Bylaw, 2015, for unauthorized building work and clearing of land.

7. Overall Conclusions relating to the Removal of Title Deed Conditions D and E:

- 7.1. Because restrictive condition D ("may only be used as a Nature Reserve") was imposed by the Minister of Agriculture, their comment was requested. The Department has had since March 2020 to comment, and despite a number of reminders, no comment has been received. The LLUP Bylaw, 2015 provides for a 60 day commenting period and the processing of the application cannot be pended indefinitely. If it was proposed to remove this condition, the Department's comments would be essential. However, it is proposed that given that the use of the property as a Nature reserve was the basis for approving the subdivision, this condition should not be removed in its entirety. However, it is considered that the second part of Condition D (must be rezoned to Open Space III) may be removed, as nature conservation purposes are permitted within the Agricultural zone. Further, the zoning of the property is addressed in terms of the land use planning legislation, and a restrictive Title Deed condition relating to zoning is superfluous. Zoning is a municipal competency in terms of SPLUMA and LUPA.
- 7.2. Restrictive condition E (only one dwelling) was imposed by the Municipality, in conjunction with Cape Nature. This property is very similar to a number of other farms in the surrounding area and there is no unique reason why the conditions on this property should be more onerous than other properties in the area of similar size and with similar environmental conditions. The options to consider in this regard include:

Option 1:

Remove Condition E (only one dwelling) subject to a condition of approval requiring the submission of a Conservation Management Plan to guide the scale and location of development.

The condition of approval is considered to be necessary as the owner could apply for a Main dwelling, a farm manager's house, and a labourer house. The Owner would also have the right, in terms of the Agricultural I zoning to apply for consent for up to three Additional Dwelling Units for guest accommodation by consent, as well as other consent uses (Guest House in main dwelling, farm store etc.).

Option 2:

Amend Condition E (only one dwelling) to read: "Development is restricted to that indicated in a Conservation Management Plan as approved by the Langeberg Municipality and Cape Nature".

Procedurally the second option is likely to be seen by the Registrar of Deeds as a new restrictive condition, not just an amendment and therefore reapplication and readvertising would most likely be required. Option1 is therefore preferred.

PART I: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Applications for removal of restrictive Title Deed conditions used to be processed by Province, in terms of the Removal of Restrictions Act 84/1967. This Act was repealed by S59 of SPLUMA 2013, with effect from 1 July 2015. S39 of LUPA gives municipalities the authority to remove, suspend or amend a restrictive condition in terms of their respective Bylaws. The Langeberg Land Use Planning Bylaw came into effect on 7 October 2015.

This application is the first Removal of Restrictions application which the Langeberg Municipality has received in terms of the LLUP, 2015. Section 33(5) of the Langeberg Land Use Planning Bylaw, 2015 requires that an application to remove restrictive conditions be assessed in terms of the following criteria:

Assessment Criteria ito Section 33(5) of LLUPB	Assessment
a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;	The owner does not gain any financial value as a result of the restrictive conditions. The restrictive conditions add value o the property in terms of prospective purchasers looking for properties which are protected from future change in land use from natural vegetation.
b) The personal benefits which accrue to the holder of rights in terms of the restrictive condition;	No personal benefits accrue to the owner in terms of the restrictive conditions.
c) The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is amended, suspended or removed;	The personal benefits which will accrue to the owner if the restrictive conditions are amended, include being able to build a farm manager's house, and the potential to apply for future consent uses.

d) The social benefit of the restrictive condition remaining in place in its existing form;	The social benefit of retaining the restrictive conditions, is the retention of natural veld, and unchanged visual and environmental impact.
e) The social benefit of the removal, suspension, or amendment of the restrictive condition; and	The social dis-benefit of removing the condition is a potential change in character of the area. However, the removal of the restrictive conditions will allow the same uses as adjoining farms, and therefore resulting development could not be considered to be incompatible with the surrounding land uses or adversely impact on the neighbour's use and enjoyment of their property.
f) Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.	The removal will not remove rights, only restrictions.

PART J: RECOMMENDATION

1. That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/201, the Langeberg Municipal Planning Tribunal approves the removal of the following portion of condition D of T40974/2019 (imposed by the Department of Agriculture of RSA when granting previous approval in terms of Act 70/1970): “and also that the property must be rezoned as Open Space Zone III”.

Restrictive Title Deed Condition D must therefore be amended to read: “The property may only be used for purposes of a private nature reserve and ancillary purposes”.

The reasons for the above decision are as follows:

- i. Portion 5 of Baviaan Krantz was created by subdividing 2/145 in 2003. The subdivision was approved on the basis that 5/145 may only be used for conservation purposes. The subdivision has been registered on this basis, and therefore the restrictive condition that the property may only be used as a nature reserve, remains applicable.
- ii. Condition D was imposed by the Minister of Agriculture. No approval has been given by the National Department of Agriculture to remove the restriction on the use of the property.
- iii. The Restrictive Condition D ensures that clearing of new areas of natural vegetation for agricultural production will not occur on soils not suitable for farming, and supports the desired objective of conserving this Critical Biodiversity Area in its natural state.
- iv. The zoning of the property is addressed in terms of the land use planning legislation, and a restrictive Title Deed condition relating to zoning is superfluous. Nature conservation purposes are permitted within the Agricultural zone I.

2. Further, 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:

- 2.1. Deletion of the following conditions from the letter of land use approval dated 14 November 2003, in terms of Section 15(2)(h):
 - 2.1.1. Condition 3 (marked 3.3): Only one dwelling may be built on portion A
 - 2.1.2. Condition 3 (marked 3.5): Portion A (and portion of Rem/2/145) must be declared as a private nature reserve.

2.2. Removal of Condition E1 from T40974/2019, which condition was imposed by the then BRW Municipality (now Langeberg), namely that “only one dwelling house may be erected on the subject property, the placing of which must be determined in conjunction with Cape Nature and the Municipality”.

2.3. The above approval is subject to the following conditions of approval, in terms of Section 66 of the aforementioned Bylaw:

2.3.1. Prior to the submission of building plans, the applicant must submit a Conservation Management Plan approval of the Langeberg Municipality, in consultation with Cape Nature. This plan must identify areas suitable for low impact, biodiversity-sensitive built development, and outline conservation measures to be adopted for the remainder of the property, which shall include, *inter alia*: no-go areas, views and vistas to be conserved, erosion protection of river banks, access to boreholes, rehabilitation of disturbed areas, and fencing.

2.3.2. The requirements of BGCMA, in their letter dated 28 May 2021, must be complied with.

2.3.3. Where access to boreholes is required across neighbouring properties, rights-of-way must be registered based on an agreement between the respective neighbours.

The reasons for the decision are as follows:

1. *The creation of Baviaan Krantz 145/5 was based on the proposal to use the property for conservation purposes. The primary purpose of securing the land for conservation purposes will be better achieved through requiring a Conservation Management Plan for the property, rather than merely restricting development to one dwelling.*
2. *Legislation relating to Private Nature Reserves has changed and the property in question is not identified as a Stewardship priority area by Cape Nature.*
3. *The conservation of the natural veld is a primary right in the Agricultural Zone I. The agricultural zoning offers additional protection in that Act 70/70 applies to agricultural land, and therefore limits future subdivision.*
4. *The resultant permitted development will be the same as that permitted on all neighbouring properties and therefore will be compatible with the surrounding area.*
5. *The proposal is consistent with the LSDF and the WC Rural Development Guidelines, 2019, inter alia.*

3. Further, that the following be noted:

3.1. The exercise of land use rights in terms of the Zoning Scheme is subject to all relevant legislation, including the National Environmental Management Act No. 107 of 1998, and the Conservation of Agricultural Resources Act No 43 of 1983.

3.2. All requirements of Environmental Authorisations and/or directives in terms of NEMA must be complied with, including the rehabilitation of roads constructed without prior approval.

3.3. Notwithstanding the restrictive Title Deed Condition D, the owner is permitted to farm the 3,6ha. portion of land adjoining the Langkloof spruit, subject to CARA and NEMA and with due consideration of the following:

- 3.3.1. This area is known for its brackish water and dependence on groundwater for farming. Natural salts in the subsoil also cause further salinity challenges and possible degradation of the soil if not managed properly.
- 3.3.2. The owner has a responsibility towards the land and water resources and farming practices must not cause any degradation, particularly erosion, salinization and increased flood damage potential.
- 3.3.3. Farming practices must adhere to sound conservation practices regarding buffers to watercourses, proof of water registration, quality of water used, and must minimize impact on downstream users.

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, namely:

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 (the executive mayor in this case) within 21 days of notification of the decision.

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.

PART K: ANNEXURES

Annexure A Letter of Approval in terms of LUPO 15/1985, dated 14 November 2003
Annexure B Motivation Report
Annexure C Plans: Locality and Site Plan
Annexure D Objection
Annexure E Applicant's response to Objection
Annexure F Comments from Departments:
Department of Transport, Cape Nature, DEA&DP:DM, DEA&DP:Enforcement, WC Dept of Agriculture, BGCMA, Eskom

PART L: SIGNATURES FOR DECISIONS BY TRIBUNAL

Author name: Tracy Brunings, Assistant Town and Regional Planner

Date: 25 November 2021

Registered planner name: Tracy Brunings

SACPLAN registration number: Pr. Pln A/951/1997

Date: 25 November 2021

Authorised for submission to Tribunal

.....
JV BRAND
BESTUURDER : STADSBEPLANNING

.....
DATUM

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

.....
DATUM

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

REFUSED

SKEDULE / 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:

.. January 2022

PORTION 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU: DELETION OF A CONDITION OF EXISTING LAND USE APPROVAL AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

Die aansoeker aanvaar die voorwaardes ten opsigte van bogenoemde goedkeuring en onderneem om toe te sien dat die voorwaardes 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 attached to the abovementioned approval and undertakes to ensure compliance with the conditions. 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* 20.....

te / *at*

.....
Aansoeker / *Applicant*

.....
Datum



BREERIVIER WYNLAND "A"

BREEDE RIVER WINELANDS

MUNISIPALITEIT ~ MUNICIPALITY ~ MASIPALA

Privaatsak X2 Private Bag
Ashton
6715

~ MONTAGU ~

023-614 1112
023-614 1841
admin@breeland.gov.za

Ons Verw Nr / Our Ref No 15/4/13/3 en 15/4/13/7
Isalathiso Sethu

Martin Oosthuizen

Navrae / Enquiries
Imibuzo

14 November 2003

Mnr Peter Spronk
Spronk en Medewerkers Ing.
Posbus 729
ROBERTSON
6705

Geagte mnr Spronk

VOORGESTELDE HERSONERING, ONDERVERDELING EN KONSOLIDASIE:- GEDEELTE 2 VAN DIE PLAAS BAVIAAN KRANTZ NR. 145, MONTAGU, GEDEELTES VANAF LANDBOUSONE I NA OOPRUIMTESONE III (PRIVAAT NATUURRESERVAAT)

1. U aansoek gedateer 9 April 2003 het betrekking.
2. Die Raad het ingevolge artikel 16(1) en 25(1) van die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985) met ingang van 11 November 2003, goedkeuring verleen tot die hersonering, onderverdeling en konsolidasie van gedeeltes van Gedeelte 2 van die Plaas Baviaan Krantz Nr. 145, Montagu;

- ❖ Gedeelte A:- ±261 ha, onderverdeel en hersoneer vanaf Landbousone I na Oopruimtesone III (Privaat Natuurreservaat),
- ❖ Gedeelte B:- ±28 ha, onderverdeel en konsolideer met Gedeelte 1 van die Plaas Baviaan Krantz Nr. 145, Montagu,
- ❖ Restant:- ±245 ha, 'n gedeelte van die Restant, groot ±126ha, bo die 360m kontoer word hersoneer vanaf Landbousone I na Oopruimtesone III (Privaat Natuurreservaat),

soos aangetoon op die aangehegte plan.

3. Hierdie hersonering, onderverdeling en konsolidasie sal onderworpe wees aan die volgende voorwaardes opgelê kragtens artikel 42(1) van Ordonnansie 15 van 1985:-
 - 3.1 Geen huishoudelike dienste sal deur die Raad gelewer word nie.
 - 3.2 Voorwaardes soos gestel deur die betrokke instansies moet nagekom word.
 - 3.3 Slegs een woonhuis mag op gedeelte A opgerig word, die spesifieke plasing daarvan moet met personeel van Wes-Kaapse Natuurbewaringsraad se Vrolijkheid kantoor en mnr Martin Oosthuizen van hierdie Raad se Montagu kantoor uitgeklaar word.
 - 3.4 Gedeelte B (groot ±28 ha) moet met Gedeelte 1 van die Plaas Baviaan Krantz Nr. 145, Montagu gekonsolideer word.

- 3.5 Gedeelte A en die gedeelte grond van die Restant bo die 360m kontoer moet ingevolge wetgewing as 'n Privaat Natuurreservaat verklaar word by die Wes-Kaapse Natuurbewaringsraad.
- 3.6 Indien die eienaar van gedeelte A 'n elektriese aansluiting wil laat doen moet hy skriftelik by hierdie Raad aansoek doen waarna die koste bepaal sal word.
- 3.7 Bouplanne voorgelê word, vir goedkeuring alvorens enige toekomstige bouwerk mag begin, in terme van die Wet op Nasionale Bouregulasies en Boustandaarde. Vaste, huishoudelike afval wegdoening behoorlik uitgevoer word.
- 3.8 Indien die grondeienaar verblyfgeriewe vir toeriste of vakansiegangers op die Oopruimtesone III soneerde eiendom wil vestig moet daarvoor aansoek gedoen word by hierdie Raad vir spesifieke grondgebruiksbeperkings en verdere bepalings na gelang van die unieke omstandighede.
4. Die vereistes van die betrokke owerhede soos uiteengesit in die aangehegte korrespondensie moet nagekom word, in sover die vereistes nie strydig is met die regulasies uitgevaardig kragtens Ordonnansie 15 van 1985 nie:-
- Provinsiale Departement van Landbou in sy skrywe gedateer 3 Januarie 2003.
 - Wes-Kaapse Natuurbewaringsraad se Vrolijkheid Natuurreservaat in sy skrywe gedateer 3 September 2003.
 - Departement van Omgewingsake en Ontwikkelingsbeplanning se direktoraat Omgewingsake in sy skrywe gedateer 24 Julie 2003.
 - Departement van Waterwese en Bosbou in sy skrywe gedateer 28 Julie 2003.
 - Distrikspadingenieur in sy skrywe gedateer 3 Julie 2003.
 - Boland Distriksmunisipaliteit se Omgewingsgesondheidspraktisyn in sy skrywe gedateer 30 Junie 2003.
 - Departement van Gesondheid in sy skrywe gedateer 17 Junie 2003.
 - Eskom in sy skrywe gedateer 20 Mei 2003.
5. U aandag word ook gevestig op die volgende:-
- Regulasies 3.5.1 en 3.5.2 van die regulasies uitgevaardig kragtens artikel 47(1) van Ordonnansie 15 van 1985;
 - Artikels 26, 27 en 28 van Ordonnansie 15 van 1985.
6. Daar kan slegs op die Raad se goedkeuring gehandel word nadat die goedkeuring vanaf die Nasionale Departement van Landbou ingevolge die Wet op die Onderverdeling van Landbougrond (Wet 70 van 1970), ontvang is.
7. 'n Afskrif van hierdie skrywe gaan aan die Landmeter-Generaal.
8. Ek vertrou dat u dit so in orde sal vind.

Die uwe



N NEL
MUNISIPALE BESTUURDER
MO/

VOORGESTELDE ONDERVERDELING
EN HERSONERING VAN DIE
PLAAS BAVIAANKRANTZ NO.145

VOORGESTELDE ONDERVERDELING
EN HERSONERING



Skaal
Scale 1:20 000

NOTAS:

Voorgestelde Onderverdeling
Restant = ±245ha
Gedeelte A = ±281ha
Gedeelte B = ±28ha

TOTAAL: ±534ha

Voorgestelde Hersonerings
Gedeelte A word gehersoneer
vanaf Landbou Some I na
Oop Ruimte Some III.
'n Gedeelte van die Restant
suid van die 360m kontoer word
ook gehersoneer na Oop Ruimte
Some II

Gedeelte B word gekonsolideer
met Ged. 1 van die Plaas
Baviaankrantz Nr.145



SPRONK
SURVEILLANCE
ENGINEERING
CONSULTANTS

NOTES:

ALL DISTANCES APPROXIMATE
AND SUBJECT TO SURVEY

DRAWN

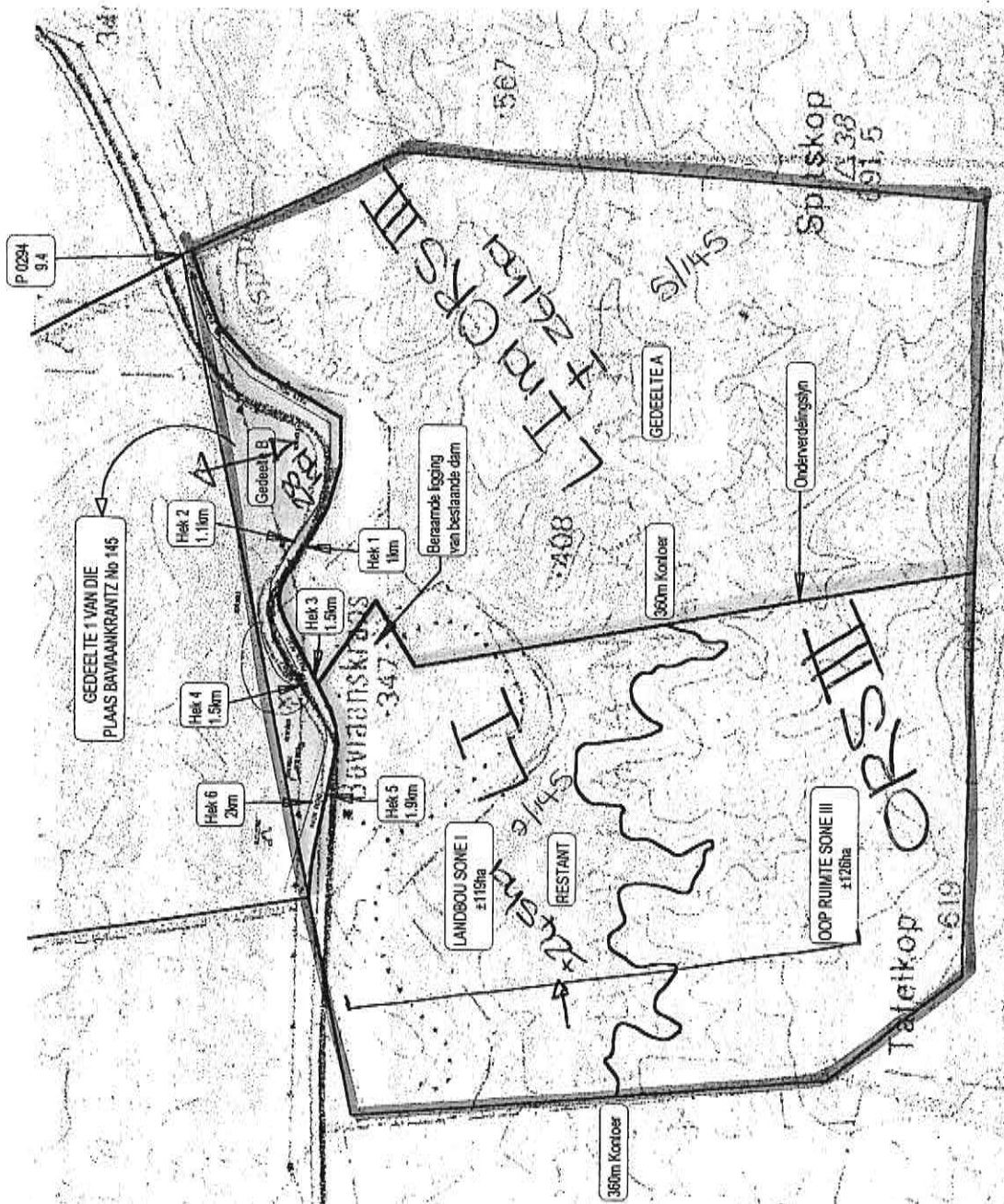
PLAN NR./NO.

P.A

BAVIAANKRANTZ.DRW

DATE:

10/2003



145/2

15/4/13/7

Verwysing :
Reference : 20/9/2/5/3/47
Isalathiso :

Navrae :
Enquiries : HJ Germishuys
Imibuzo :

Breërvier Wynland Munisipaliteit
Posbus 24
MONTAGU
6720

**VOORGESTELDE HERSONERING EN ONDERVERDELING: GEDEELTE 2 VAN
DIE PLAAS BAVIAANSKRANS NR 145, MONTAGU**

Landboukundig word die voorstel van 20 Oktober 2003 ondersteun.


JC VENTER Pr. Ing
DIREKTEUR: LANDBOU-INGENIEURSWESE

03/11/03
DATUM

Afskrifte aan:

Direkteur Landbougrond en Hulpbronbestuur
Nasionale Departement Landbou
Privaatsak X120
PRETORIA
0001

Spronk & Medewerkers
Posbus 729
ROBERTSON
6705



	Afhandel	Inligting	Besprek	Voor Datum
SK				
SS				
ST				
MD				
HGOD				
KP&MD	X			



Privaatsak X1 / Private Bag X1, Elsenburg 7607
Tel: (021) 808 5093 • Faks/Fax: (021) 808 5092 • Webwerf/Website: www.elsenburg.com
LANDBOU-ONTWIKKELINGSENTRA / AGRICULTURAL DEVELOPMENT CENTRES:
ELSENBURG • GEORGE • MOORREESBURG • OUDTSHOORN • VREDENDAL

Wes-Kaapse
Natuur-Bewaringsraad

Landbouers en Landbouers
Landbouers en Landbouers
Landbouers en Landbouers



Wes-Kaapse
Natuur-Bewaringsraad

Landbouers en Landbouers
Landbouers en Landbouers
Landbouers en Landbouers

**Die Bestuurder: Bewaringsdienste
Vrolijkheid Natuurreservaat
Posbus 57, ROBERTSON, 6705
E-pos: claassen@lando.co.za**

**Tel/Phone. : 023-6251621
Faks/Fax : 023-6251674**

Navrae/Enquires : C. CLAASSEN

Breerivier Wynland Munisipaliteit
Posbus 24
Montagu
6720

Vir aandag: Martin Oosthuizen

**The Manager: Conservation Services
Vrolijkheid Nature Reserve
P.O. Box 57, ROBERTSON, 6705
E-mail: claassen@lando.co.za**

**My verw./My ref : WVN 25
U verw./Your ref :**

Datum/Date: 3 September 2003

**Kommentaar: Voorgestelde hersonering en onderverdeling:- Gedeelte 2 van die Plaas
Baviaan Krantz nr. 145, Montagu, Gedeelte vanaf Landbouersone I na oopruimtesone III
(Privaat Natuurreservaat)**

Hierdie kantoor het geen beswaar teen die voorgestelde hersonering en onderverdeling nie.
Oopruimte III sonering van die Restant gedeelte van Baviaan Krantz 145/2, sal beter langtermyn
beskerming bied aan die perseel uit 'n omgewingsbewarings oogpunt.

Daar sal kontak gemaak word met die eienaar, om die moontlikheid te ondersoek vir aansoek om
Private Natuurreservaat status ingevolge die Wes-Kaapse Natuurbewaringsordonansie, 1974 (Ord.
19 van 1974)

Die oprigting van 'n woonhuis op die Restant gedeelte word in die motiveringsverslag van Sponk &
Medewerkers Ing. genoem. (Maart 2003) Die presiese ligging van die beplande woonhuis en
gepaardgaande infrastruktuur sal egter op 'n omgewing sensitiewe wyse moet geskied, om
potensiële impak te beperk.

Langeberg Karoo Bewaringsdienste
C. Claassen

Verwysing
Reference
Isalathiso

E12/2/1-73-FARM 145/2, MONTAGU

Navrae
Enquiries
Imibuzo

ANDREA BOWIE

Datum
Date
Umhla

24 July 2003



*Departement van Omgewingsake en Ontwikkelingsbeplanning
Department of Environmental Affairs and Development Planning
ISebe leMicimbi yeNdalo esiNgqongileyo noCwanciso loPhuhliso*

Breeriver Winelands Municipality
P O Box 24
Montagu
6720

Tel : (023) 614 1112
Fax: (023) 614 1841

Attention: Mr M Oosthuizen

Dear Sir

**APPLICATION: PROPOSED REZONING AND SUBDIVISION FROM AGRICULTURE I TO
OPEN SPACE III: PORTION 2 OF THE FARM BAVIAAN KRANTZ, NR.
145, MONTAGU.**

The above-mentioned correspondence dated 15 July 2003 refers.

This letter serves to inform you that the proposed development does not constitute a listed activity in terms of GN R. 1182 of 5 September 1997, as amended, ("listed activities"). Written authorisation in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) is therefore not required from the relevant authority (as defined in GN No R1183 of 5 September 1997, as amended), prior to the undertaking of the proposed development. This determination is based on the following:

- No physical change in land use from agricultural to any other land use is taking place.

However, should the proposed development involve any other listed activities then an application for authorisation must be submitted to this Department and authorisation obtained before such activity(ies) may commence.

With reference to the proposed subdivision of the above mentioned property, the Directorate: Environmental Management hereby reminds you that as a permitting authority, the Municipality has an obligation in terms of section 24(1) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), ("NEMA") to comply with the requirements of section 24(7) of NEMA where an activity ("the proposed activity") that requires "authorisation or permission by law" may significantly affect the environment. Section 24(7) of NEMA requirements include, inter alia investigation of the environment likely to be significantly affected by the proposed activity as well as investigation of the potential impact, including cumulative effects, of the activity and its alternatives on the environment, socio-economic conditions and cultural heritage, and assessment of the significance of that potential impact. Public participation and independent review also form an integral part of the said requirements.

Department of Environmental Affairs and Development Planning
Chief Directorate: Environmental Affairs

In light of the above, the fact that the subdivision plan is still to be finally approved and the fact that the proposed development may significantly affect the environment, compliance with Section 24 of NEMA is required prior to approval of the subdivision plan.

Furthermore, section 2 of NEMA specifically states that the principles set out in section 2 apply throughout the Republic to the actions of all organs of state that may significantly affect the environment. The above-mentioned principles must therefore be considered and applied by approving body in the taking of the decision to approve the subdivision plan.

This Directorate reserves the right to revise initial comments and request further information from you based on the revised information received.

Yours faithfully

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line.

FOR: CHIEF DIRECTOR: ENVIRONMENTAL AFFAIRS



REPUBLIC OF SOUTH AFRICA : REPUBLIEK VAN SUID AFRIKA
DEPARTMENT OF WATER AFFAIRS AND FORESTRY : DEPARTEMENT VAN WATERWESE EN BOSBOU
WESTERN CAPE REGION : WES-KAAPSTREEK
Private Bag / Privaatsak X16, Sanlamhof, 7532 17 Strand Street / Strandweg 17, Bellville, 7530
Tel: (021) 950 7100 Fax: (021) 946 3666

Enquiries/Navrae: D. Rangolie
Tel: (021) 950 7137
Reference/Verwysing: 16/2/7/H400/A/8
Date/Datum: 28 Julie 2003

Die Munisipale Bestuurder
Breërivier Wynland Munisipaliteit
Posbus 24
MONTAGU
6720



Aandag: Mnr. M. Oosthuizen

Meneer

VOORGESTELDE HERSONERING EN ONDERVERDELING: GEDEELTE 2 VAN DIE PLAAS BAVIAAN KRANTZ NR. 145, MONTAGU, GEDEELTE VANAF LANDBOUSONE 1 NA OOPRUIMTESONE 111 (PRIVAAT NATUURRESERVAAT)

Die aansoek ontvang van Breërivier-Wynland Munisipaliteit (verwysings no.16/1/2/1, datum; 22 April 2003) verwys

Die departement het geen besware teen bogenoemde hersonering en onderverdeling nie mits daar voldoen word aan die volgende voorvereistes met betrekking tot die volgende:

1. Watergebruik

1. WATERGEBRUIK

Die kantoor van die departement wil egter net 'n aanduiding kry met betrekking tot die grootte van die bestaande dam op Gedeelte A van die eiendom ter sprake. Alle watergebruike soos gedefinieer in regulasie No. 1352 van 12 November 1999 uitgevaardig in terme van Artikel 26(1)(c) en soos gedefinieer in artikel 21 soos saamgelees met artikel 69 van die Nasionale Waterwet, 1998 (Wet 36 van 1998) moet geregistreer word. **Dit sluit in opgaring in damme met 'n kapasiteit groter as 10 000 m³. As die dam ter sprake egter 'n kleiner kapasiteit as 10 000 m³ is registrasie egter nie nodig nie.**

In terme van artikel 22(1)(c) van die Nasionale Waterwet 1998, mag 'n persoon slegs water gebruik of stoor sonder 'n lisensie:

- Wanneer die watergebruik toelaatbaar is onder Skedule 1 van die Wet
- Wanneer die watergebruik 'n uitoefening is van 'n bestaande wettige watergebruik
- Wanneer die watergebruik toelaatbaar is in terme van die Algemene Magtigings (Regulasie No. 1191 van 8 Oktober 1999) uitgereik onder Artikel 39 van die Wet.

Die Departement se goedkeuring vir die voorgestelde onderverdeling sal afhang van die aanvaarding van bogenoemde voorvereistes, sowel as alle voorvereistes soos in die Nasionale Waterwet, 1998 (Wet 36 van 1998)

Vir enige verdere navrae kan u met Mnr. Rangolie by bogemelde telefoonnommer skakel.

Die uwe



STREEKDIREKTEUR: WES KAAP

CC: 'N Kopie van die brief sal gestuur word aan Spronk en Medewerkers gemerk vir die aandag van Mnr. Peter F Spronk.

Verwysing
Reference : PR9/29
Isalathiso

Navrae
Enquiries : Mnr JJP du Toit
Imibuzo

Telefoon
Telephone : 023-3470945
Ifowuni



DEPARTEMENT VAN VERVOER &
OPENBARE WERKE

DEPARTMENT OF TRANSPORT &
PUBLIC WORKS

EZOTHUTHO NEMISEBENZI
YAKWARHULUMENTE

Die Munisipale Bestuurder
Breërivier Wynland Munisipaliteit
Posbus 24
MONTAGU
6720

Meneer

VOORGESTELDE HERSONERING EN ONDERVERDELING : GEDEELTE 2 VAN DIE PLAAS BAVIAAN KRANTZ NR.145, MONTAGU, GEDEELTE VANAF LANDBOU-SONE 1 NA OOPRUIMTESONE III (PRIVAAT NATUURRESERVAAT) : WET 21 VAN 1940

1. U skrywe aan die Boland Distriksmunisipaliteit gedateer 22 April 2003 het betrekking.
2. Goedkeuring word verleen vir die voorgestelde onderverdeling in terme van Wet 21 van 1940.
3. Daar is geen beswaar teen die voorgestelde hersonering nie.

Die uwe

nms **CJ DE VILLIERS**
DISTRIKSPADINGENIEUR

Datum : 03/07/2003.

**BOLAND DISTRIKSMUNISIPALITEIT
BOLAND DISTRICT MUNICIPALITY
UMASIPALA WESITHILI SASEBOLAND**

NAVRAE/ENQUIRIES/IMIBUZU:
TELEFOON/TELEPHONE/UMNXEBA:
FAKS/FAX/IFEKSI:
U VERW/YOUR REF/REF YAKHO:
ONS VERW/OUR REF/REF YETHU:

Mnr. G. de Klerk
(023) 614 2380
(023) 626 5059
.....
16/1/2/1

Badstraat 50A Bath Street
Posbus / P.O. Box 36
MONTAGU
6720

Alle korrespondensie moet aan die Munisipale Bestuurder gerig word
All correspondence to be addressed to the Municipal Manager / Yonke imbalelwano mayithunyelwe kuMlawuli kaMasipala

30 Junie 2003

Die Munisipale Bestuurder
Breërivier Wynland Munisipaliteit
Privaatsak X1
ASHTON
6715

VIR AANDAG: Mnr. M. Oosthuizen – Beplanningstegnoloog

Meneer

VOORGESTELDE HERSONERING EN ONDERVERDELING: GEDEELTE 2 VAN DIE PLAAS BAVIAAN KRANTZ NR. 145, MONTAGU – GEDEELTE VANAF LANDBOUSONE I NA OOPRUIMTESONE III (PRIVAAT NATUURRESERVAAT)

1. U eendersgenommerde skrywe insake bogenoemde, gedateer 22 April 2003, het betrekking.

2. Die aansoek word, onderworpe aan die volgende voorwaardes, aanbeveel:

2.1 Lewering van dienste:

Geen huishoudelike dienste (watervoorsiening, vullisverwydering / vullisbeskikking, riolering en elektrisiteitsvoorsiening) sal deur dié Raad aan genoemde perseel verskaf word nie.

2.2 Sanitasie:

Geskikte en voldoende toiletfasiliteite, asook 'n effektiewe beskikkingstelsel, moet te alle tye vir alle rioolafloop wat op die terrein gegenereer mag word voorsien word.

2.3 Vaste-afval-beskikking:

Alle vaste-afval wat op die terrein gegenereer word moet oorlasvry versamel en op 'n goedgekeurde vaste-afval-stortingsterrein, kragtens die bepalings van Artikel 20 van die Wet op Omgewingsbewaring (1989), beskik word. Indien vaste-afval op die aangrensende plaaslike owerheid (bv. Breërivier Wynland Munisipaliteit) se vaste-afval-stortingsterrein beskik word moet die aansoeker 'n skriftelike ooreenkoms met sodanige plaaslike owerheid sluit en aan dié Raad voorlê.

2.4 Afvalwaterbeskikking:

Alle afvalwater vanaf die terrein moet oorlasvry en tot bevrediging van die Departement van Waterwese beskik word; ten einde te verseker dat geen bo- of ondergrondse waterbronne besoedel sal word nie.

2.5 Watervoorsiening:

Genoemde perseel en toekomstige geboue moet te alle tye van 'n konstante en gesondheidsveilige drinkwatervoorraad voorsien wees. Waterkwaliteit moet aan SABS-kode 241 (Uitgawe 5 van 2001) voldoen.

2.6 Boubeheer:

Voordat daar met enige bouwerke op genoemde terrein begin mag word moet bouplanne, wat aan die Nasionale Bouregulasies en Boustandaarde (Wet No. 103 van 1977) voldoen, vir goedkeuring by die Breërivier Wynland Munisipaliteit ingedien word.

U kan my met vrymoedigheid kontak indien u enige verdere kommentaar in dié verband benodig.

Die uwe



G. DE KLERK
OMGEWINGSGESONDHEIDSPRAKTISYN

Nms.:
K. CHETTY
MUNISIPALE BESTUURDER

Navrae:
Enquiries : Mej. S. Koopman
Imibuzo

Telefoon
Telephone : 023 348 1432
Ifowuni

Verwysing
Reference : 19/3/1/R3001
Isalathiso

Datum
Date : 17 Junie 2003
Umhla



Departement van Gesondheid
Department of Health
Isebe IezeMpilo

Die Munisipale Bestuurder
Breërivier Wynland Munisipaliteit
Posbus 24
MONTAGU
6720

Vir aandag: Mnr. M. Oosthuizen

**VOORGESTELDE HERSONERING EN ONDERVERDELING: - GEDEELTE 2 VAN
DIE PLAAS BAVIAAN KRANTZ NR 145, MONTAGU, GEDEELTE VANAF
LANDBOUSONE 1 NA OOPRUIMTESONE 111 [PRIVAAT NATUURRESERVAAT].**

1. U skrywe nr. 16/1/2/1, gedateer 22 April 2003, verwys.
2. Vanuit 'n omgewingsgesondheidsoogpunt is daar geen beswaar teen die voorgestelde onderverdeling nie.
3. Daar moet egter aan die volgende vereistes voldoen word met die oprigting van die beplande wonhuis:
 - 3.1 Water wat vir huishoudelike doeleindes op die perseel voorsien sal word moet voldoen aan die SABS se standaard vir huishoudelike drinkwater [SABS 241]
 - 3.2 Alle vaste afval moet op 'n goedgekeurde stortingsterrein beskik word. Die opberging, vervoer en beskikking van afval moet op so 'n wyse geskied dat geen besoedeling van die omgewing of enige waterbronne sal plaasvind nie.
 - 3.3 Rioolbeskikking moet van so 'n aard wees dat geen besoedeling van bo- of ondergrondse waterbronne sal ontstaan nie.



**DIRECTOR: BOLAND/OVERBERG REGION
DIREKTEUR: BOLAND / OVERBERG STREEK**

DIRECTOR / DIREKTEUR
BOLAND/OVERBERG REGION / BOLAND/OVERBERG STREEK
PRIVATE BAG X3079 PRIVAATSAK X 3079
WORCESTER WORCESTER
6849 6849
TEL.: 023-348 1400 FAX/FAKS: 023-3428501

Date:
2003.05.20

Enquiries:
Mnr AC Williams
Tel: 980-3215

Munisipaliteit Breërivier Wynland
Posbus 24
MONTAGU
6720

Aandag: Mnr M Oosthuizen

Meneer

**VOORGESTELDE HERSONERING EN ONDERVERDELING : GEDEELTE 2 VAN DIE
PLAAS BAVIAAN KRANTZ NR. 145, MONTAGU, GEDEELTE VANAF LANDBOUSONE 1
NA OOPRUIMTESONE 111 (PRIVAAT NA NATUURRESERVAAT)
U VERW: 16/1/2/1
ONS VERW: 00265/03**

U skrywe gedateer 22 April 2003 verwys.

Hiermee wens ek u in kennis te stel dat Eskom geen beswaar het teen die voorgestelde vergunningsgebruik van bogemelde nie, mits aan die volgende voorwaardes waar van toepassing nagekom word:

1. U aandag word daarop gevestig dat geen strukture binne 9 meter vanaf die hartlyn van die kraglyne opgerig mag word sonder die skriftelike toestemming van Eskom nie.
2. Indien enige van Eskom se dienste verskuif moet word, moet daar minstens 3 maande vooraf skriftelik aansoek gedoen word en sal die koste deur die aansoeker gedra word.
3. Eskom se bestaande regte op die eiendom nie geaffekteer sal word nie.

Die uwe



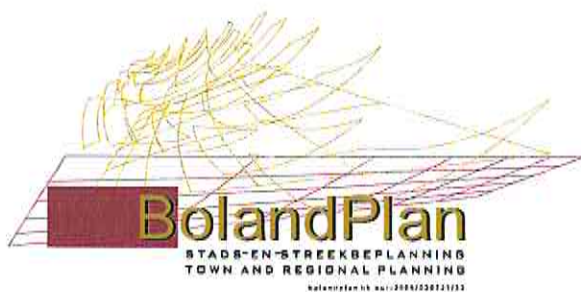
AC WILLIAMS
nms D James
INGENIEURSWESEBESTUURDER

Western Region
Eskom Road Brackenfell PO Box 222 Brackenfell 7561 South Africa
Tel +27 86 003 7566 www.eskom.co.za

Directors: RJ Khoza (Chairman) TS Gcabashe (Chief Executive) MF Baleni Dr BM Count (United Kingdom)
SE Funde LG Josefsson (Sweden) Dr WJ Kok* WE Lucas-Bull PM Makwana JRD Modise V Mohanlal Rowjee
AJ Morgan SA Mpambani TN Msoni SV Zilwa *Executive Director **Company Secretary:** M Adam
Eskom Holdings Limited Reg No 2002/015527/06



**APPLICATION FOR AMENDMENT/DELETION OF CONDITION IN
RESPECT OF AN EXISTING APPROVAL AND REMOVAL OF TITLE
DEED RESTRICTIONS:- PORTION 5 OF THE FARM BAVIAAN
KRANTZ NO. 145, MONTAGU:- ONE DWELLING AND OPEN SPACE
ZONE III RESTRICTION**



Posbus / PO Box 963
Worcester
6849

bolandplan@breede.co.za

MARTIN Oosthuizen:- 082 5655 835

CLIENT:- DUANE PHILIP STEYN

Date:- JUL2020

Verw.:- #MON/1137

DEFINITIONS:-

#MON/1137

"Act"	:-	Langeberg Municipality Land Use Planning By-Law, 2015
"Scheme Regulations"	:-	Langeberg Municipality Integrated Zoning Scheme, 2018 (LIZS)
"Removal of condition"	:-	In terms of section 15(2)(f) of the Langeberg Municipality Land Use Planning By-Law
"Deletion of condition"	:-	In terms of section 15(2)(h) of the Langeberg Municipality Land Use Planning By-Law
"Land owner"	:-	Duane Philip Steyn
"Property"	:-	Portion 5 (a Portion of Portion 2) of the Farm Baviaan Krantz No. 145, Montagu.
"Application"	:-	Application for removal of restrictive Title Deed conditions, and Deletion of conditions in respect of an existing approval.
"Conditions"	:-	In terms of the Langeberg Municipality Land Use Planning By-Law

INTRODUCTION:-

#MON/1137

Motivation report

1. Introduction
2. Purpose
3. The property
 - 3.1 Property description
 - 3.2 Location
 - 3.3 Total extent
 - 3.4 Ownership
4. Existing and surrounding land uses
5. Proposed consent use
6. Title deeds
7. Zoning scheme
8. Location and accessibility of the property
9. Services
 - 9.1 Water
 - 9.2 Refuse disposal
 - 9.3 Electricity
 - 9.4 Sanitation
 - 9.5 Storm water
 - 9.6 Access Road Infrastructure
10. Need and Desirability
11. Opportunities
12. Closure

Plans

- Plan 1:- Regional setting:- 1:250 000
Plan 2:- Locality plan:- 1:50 000
Plan 3:- Site Development plan

Annexure

- Annexure A:- Application form
Annexure B:- Power of Attorney
Annexure C:- Title deed:- T 40974/2019
Annexure D:- LG diagram

MOTIVATION REPORT:-

APPLICATION FOR DELETION OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS:- PORTION 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU:- ONE DWELLING AND OPEN SPACE ZONE III RESTRICTION

#MON/1051

1. INTRODUCTION AND BACKGROUND

Introduction:-

Boland Plan Town and Regional Planning, was appointed during June 2020 by Duane Philip Steyn, the registered land owner of Portion 5 (Portion of Portion 2) of the Farm Baviaan Krantz No. 145, Montagu, to apply for an application for deletion of conditions and removal of Title Deed restrictions on subject property.

Background:-

Breede River Winelands Municipality (now Langeberg Municipality) approved on 11 November 2003 a Rezoning, Subdivision and Consolidation of and on Portion 2 of the Farm Baviaan Krantz No. 145, Montagu, portions from Agricultural zone I to Open Space Zone III (private nature reserve). One of the above mentioned subdivisions, proposed portion A, in this case the subject property now referred to as Portion 5 of the Farm Baviaan Krantz No. 145, Montagu, was rezoned from Agricultural zone I to Open Space Zone III (Private Nature Reserve).

It was a standard condition by Council in the early 2000's;- that all subdivisions where agricultural and mountain land was to be separated that the mountain land be rezoned from Agricultural zone I to Open Space Zone III (Private Nature Reserve). It was later seen that this does come with its own problems due to the fact that a private nature reserve was to be registered as such otherwise the zoning would have lapsed. The property was rezoned to Open Space Zone III, but the zoning lapsed back to Agricultural zone I because the owner did not declare this area as a Private Nature Reserve (the requirement in terms of the applicable legislation at that stage). The problem with acting on an Open Space Zone III was that the definition of the primary use of the zoning indicated in the previous section 8 Zoning Scheme Regulations that the property must be registered as such.

Most of the property is indicated to be within a Critical Biodiversity Area in terms of the Western Cape Biodiversity Spatial Plan, and is identified in the Langeberg Spatial Development Framework as a Core 1 Area where natural veld must be retained, rehabilitated and managed for no further degradation, nature conservation is the primary objective of this property.

Council also put forward a restrictive condition that only one dwelling would be allowed on the portion. This is now not in line with the provisions of the newer applicable Langeberg Municipality Integrated Zoning Scheme, 2018 (LIZS). The restriction of rezoning to a private nature reserve and one dwelling only restriction was also written into the property Title Deed.

Land owner is using ±3,68 ha of existing arable land on the property for agricultural purposes (2 ha of figs, 2 ha of sutherlandia, peppers and buchu) and would like to build an outbuilding with garages (motor cars), workshop (storage), 1 worker cottage and a manager's house (not to be used for farm holiday accommodation purposes).

2. PURPOSE

The purpose of this report is to apply and motivate the need and desirability of an application for deletion of conditions in respect of an existing approval and removal of Title Deed restrictions in terms of Section 15 of the Langeberg Municipality Land Use Planning By-Law, 2015:-

- ❖ **Deletion of conditions** in respect of an existing approval on Portion 5 of the Farm Baviaan Krantz No. 145, Montagu, in terms of Section 15(2)(h), for:-
 - ❖ *Slegs een woonhuis mag op gedeelte A opgerig word / only one dwelling may be built on portion A.*
 - ❖ *Gedeelte A moet as 'n privaat natuurreservaat verklaar word / Portion A must be registered as a private nature reserve.*
- ❖ **Removal of restrictive Title Deed conditions**, as contained in Title Deed T40974/2019 on Portion 5 of the Farm Baviaan Krantz No. 145, Montagu; namely conditions D and E in terms of Sections 15(2)(f) of the Langeberg Municipality Land Use Planning By-law (2015), for:-

- ❖ **Section D:-**

Condition imposed by the Department of Agriculture of the Republic of South Africa when granting its approval in terms of The Subdivision of Agricultural Land Act, Act 70 of 1970, namely that the herein mentioned property may only be used for purposes of a **private nature reserve** and ancillary purposes, and also that the property must be rezoned as Open Space Zone III, as contained in Certificate of Registered Title Number T105674/2004.

- ❖ **Section E:-**

Condition imposed by the Municipality Breederiver/Winlands (now Langeberg Municipality), namely in terms of Section 42(1) of Ordinance Number 15/1985 as contained in Certificate of Registered Title Number T105674/2004:-

'1. Slegs 1 (een) woonhuis mag op die eiendom opgerig word, welke plasing uitgeklaar moet word met die personeel van die Wes-Kaap se Natuurbewaringsraad, asook die Munisipaliteit Breërivier/Wynland (nou Langeberg Munisipaliteit)' / only 1 (one) dwelling/house may be erected on subject property, position thereof must be sorted with officials from CapeNature and Langeberg Municipality.

For municipal processing purposes the application can be described as such:-

APPLICATION FOR DELETION OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS:- PORTION 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU:- ONE DWELLING AND OPEN SPACE ZONE III RESTRICTION

3. THE PROPERTY

3.1. Property description:-

Portion 5 (a Portion of Portion 2) of the Farm Baviaan Krantz No. 145, situated in the Langeberg Municipality, Division Montagu, Province Western Cape.

Applicant title deed T 40974/2019 attached as Annexure C.

3.2. Location:-

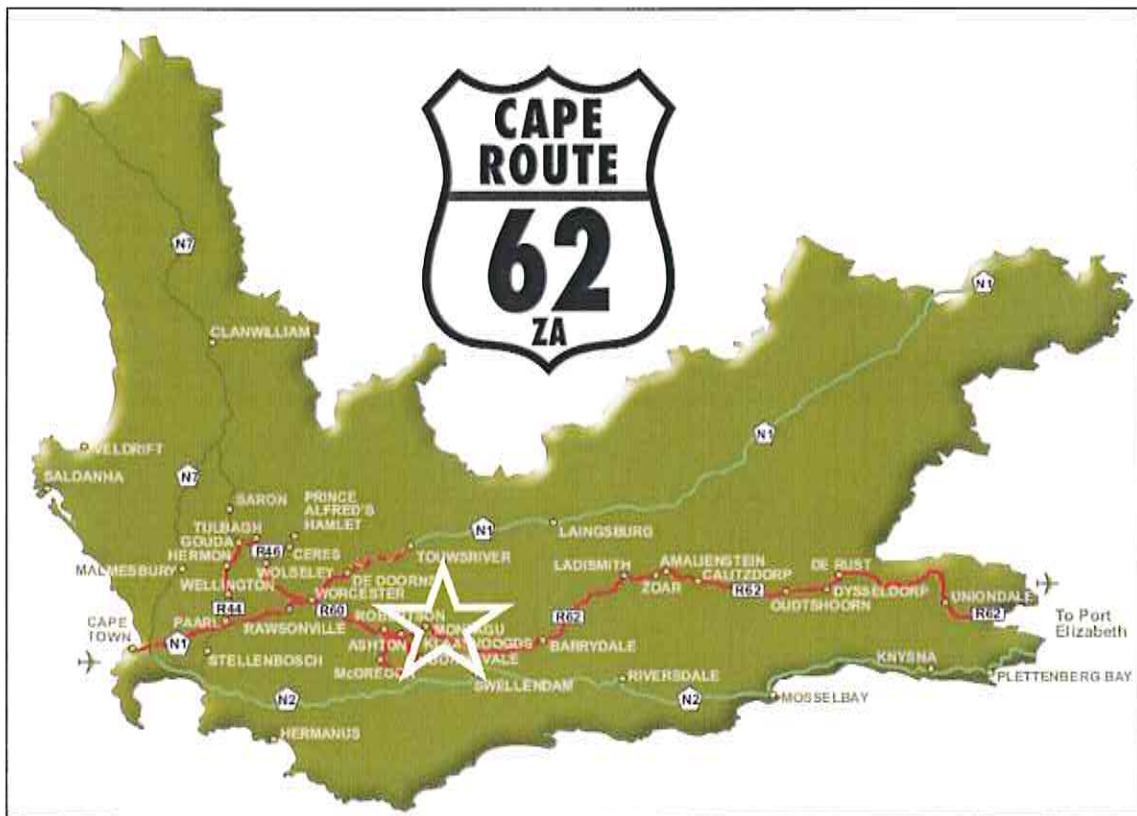
The picturesque site is located ± 10 km East of Montagu town.

Applicant property is in the magisterial district of Montagu, and falls within the administrative jurisdiction of Langeberg Municipality.

Google coordinates:-

❖ 33°46'43.20" S

❖ 20°12'59.51" E



3.3. Total extent:-

Portion 5 (a Portion of Portion 2) of the Farm Baviaan Krantz No. 145, Montagu:- 285,7798 ha.

3.4. Ownership:-

Portion 5 (a Portion of Portion 2) of the Farm Baviaan Krantz No. 145, Montagu belongs to Duane Philip Steyn ID 640218 5111 08 7.

Refer to Annexure C for Title Deed T 40974/2019.



CAPE FARM MAPPER IMAGE OF THE SITE:- FARM 5/145, MONTAGU

4. EXISTING AND SURROUNDING LAND USE

Existing land use:-

The property is zoned as Agricultural zone I.

The primary use on Agricultural zone I is *Agricultural*, which is defined as:-


The cultivation of land for raising of crops and other plants, including plantations, the keeping and breeding of animals, birds or bees, stud farming, game farming, riding school or natural veldt, and – Includes:-

- ❖ *The harvesting, packing, cooling, storing, packing and packaging of agricultural produce grown on that land unit and surrounding farms;*
- ❖ *Harvesting of natural resources limited to living organisms for delivery to the market;*
- ❖ **Agricultural buildings or infrastructure** that are reasonable connected with the main farming activities, including a dwelling house, **one farm manager's dwelling** and **agricultural worker accommodation** at an appropriate scale relating to the proposed farming activity;
- ❖ *Telecommunication and electricity lines;*
- ❖ *Rooftop base telecommunication stations;*
- ❖ *Crèche; and*
- ❖ *Packing store.*

The landowner would like to build an agricultural outbuilding with 1 agricultural worker unit and a manager's house of limited size on the property in line with the provisions of the zoning scheme but this is not in line with the conditions of previous approval and the limitations within the property Title Deed.



CAPE FARM MAPPER PLAN INDICATING THE AREAS FOR DEVELOPMENT OF PRIMARY USES

 Blue lined blocks indicate the existing disturbed footprints not the size of buildings.

No consent uses on Agricultural zone I applicable to this application.

The proposed farm shed:- workshop, storage and garages and labourer unit forms part of the definition of the primary use on the Agricultural zone I.

The proposed manager's house also forms part of the definition of the primary use on the Agricultural zone I.

Surrounding land use in the rural area includes the following:- limited agricultural related activities and mountain land.

5. PROPOSED DEVELOPMENT

The proposed development of agricultural related activities will be on already disturbed portions where activities occurred prior to the time the current land owner bought the property in 2019.

A wooden cabin (outbuilding), covered shed (wood storage) and lapa on the property were demolished.

This disturbed footprint is proposed as the most ideal position for the manager's house.

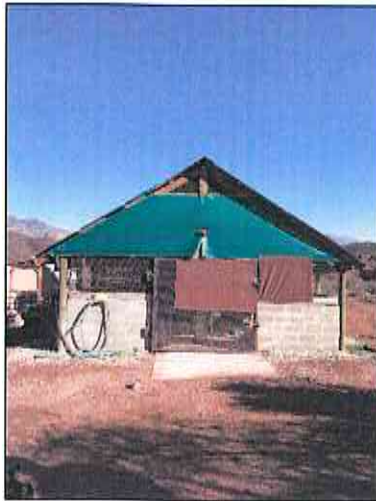
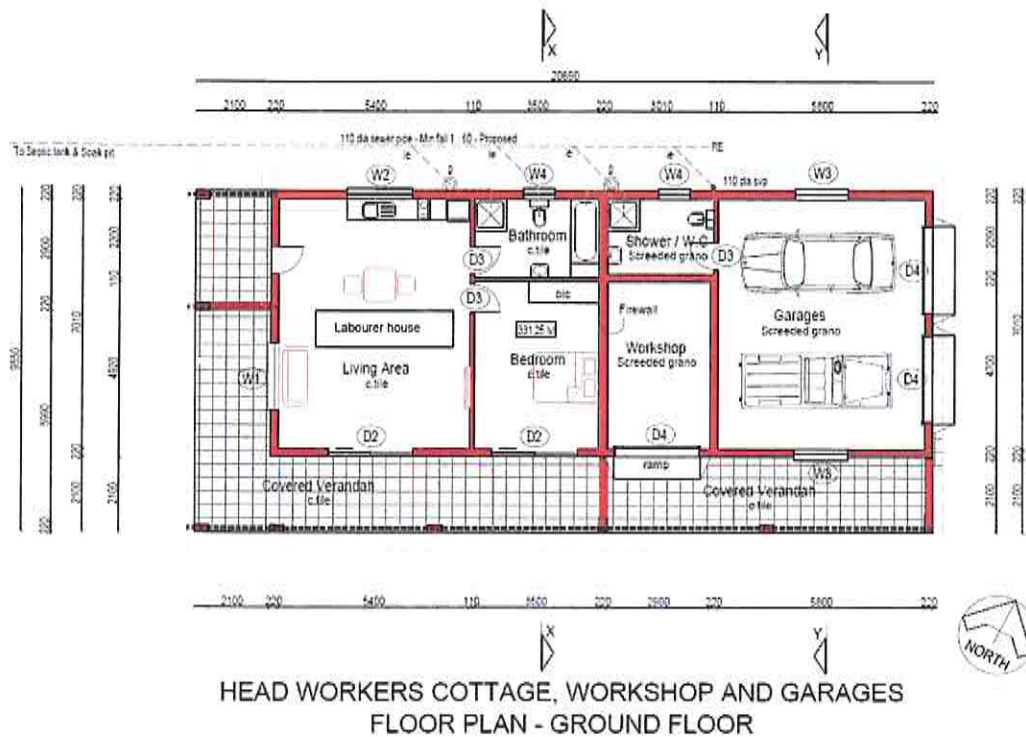
The new outbuilding is proposed adjacent to the main house.

Land owner is thus requesting permission to build the following 2 structures:-

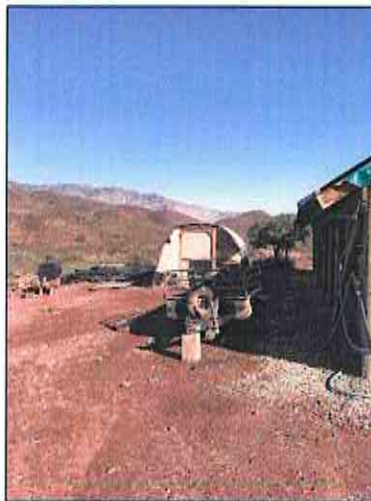
The proposed **farm shed** next to the main house consisting of a workshop, storage, garages and labourer unit.

Sizes:-

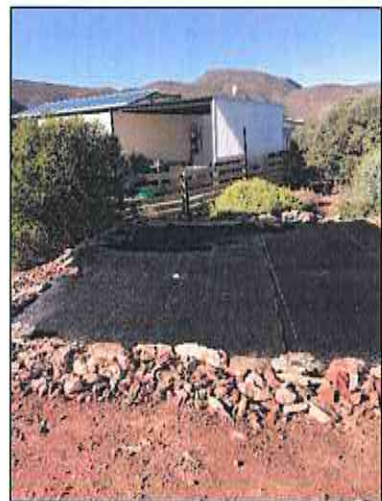
Labourer living unit (worker's cottage)	:- 77,45 m ²
Garages + workshop	:- 60,50 m ²
Covered patio (stoep)	:- 58,90 m ²
Total footprint	:- 196,85 m²



EXISTING SHED / COOLROOM



NEW SHED TO THE LEFT



EXISTING MAIN HOUSE

The proposed **manager's house**:-

The manager's house is proposed on the existing disturbed footprint to south east of the main house.

Size:-

Manager's house :- 123,76 m²

Covered verandah (stoep) :- 78,34 m²

Total footprint :- **202,10 m²** (exceeding the 150 m² maximum)

The manager's house is proposed to consist of the following:-

- Open plan kitchen, dining and living room.
- Two en-suite bedrooms.
- Covered verandah (protection against elements and towards view).

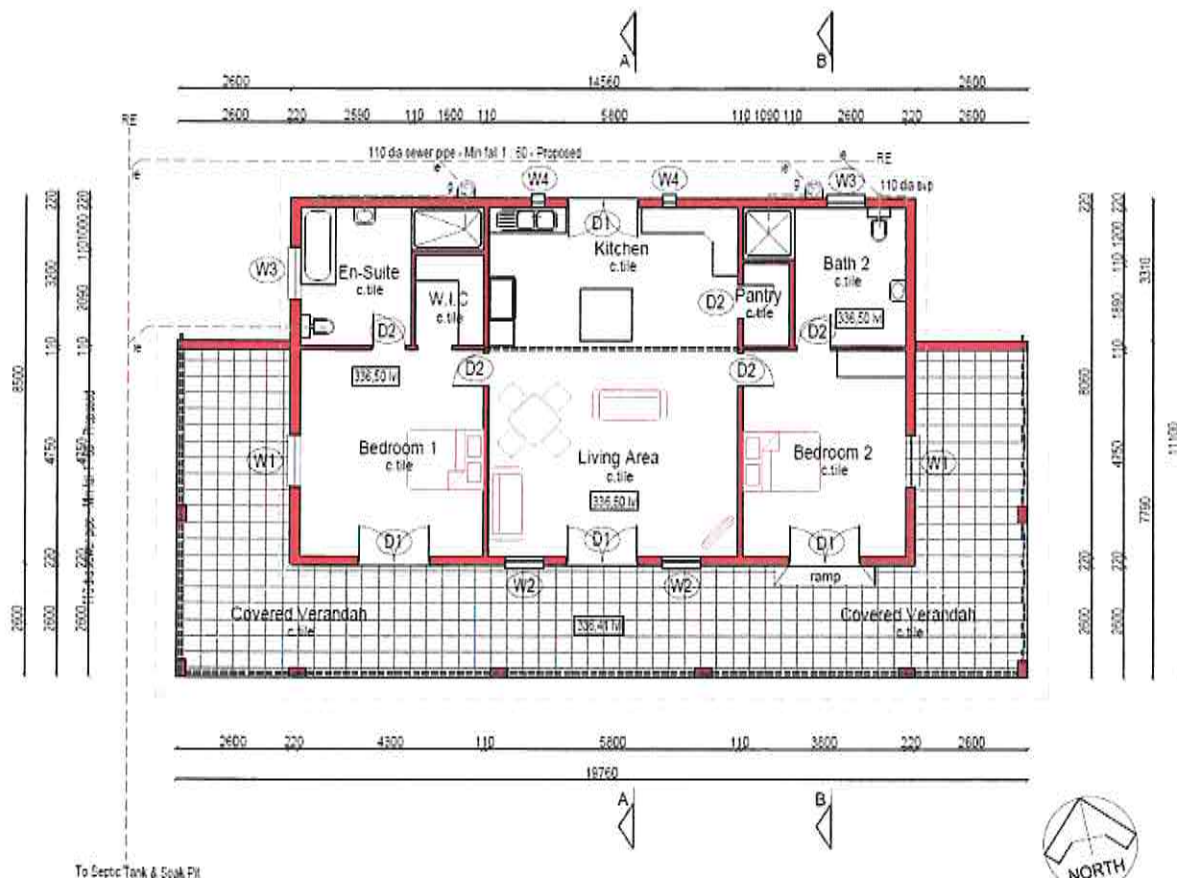


EXISTING DISTURBED FOOTPRINT EARMARKED AS MOST IDEAL SPOT FOR THE MANAGER'S HOUSE

The floor area of a farm manager's dwelling may be larger than 150 m², with motivation:-

In this applications case the house footprint is small at 123,76 m², but land owner would like to add a covered verandah on three sides of the structure to give protection from the elements (wind, sun and to manage temperature).

The unit will be used for farm manager purposes and there is no intention to use any of the structures on the property for farm holiday accommodation purposes.



**FARM MANAGERS DWELLING
FLOOR PLAN - GROUND FLOOR**

Spatial Planning Category:- Conservation status:- CORE 1 – Protected Area

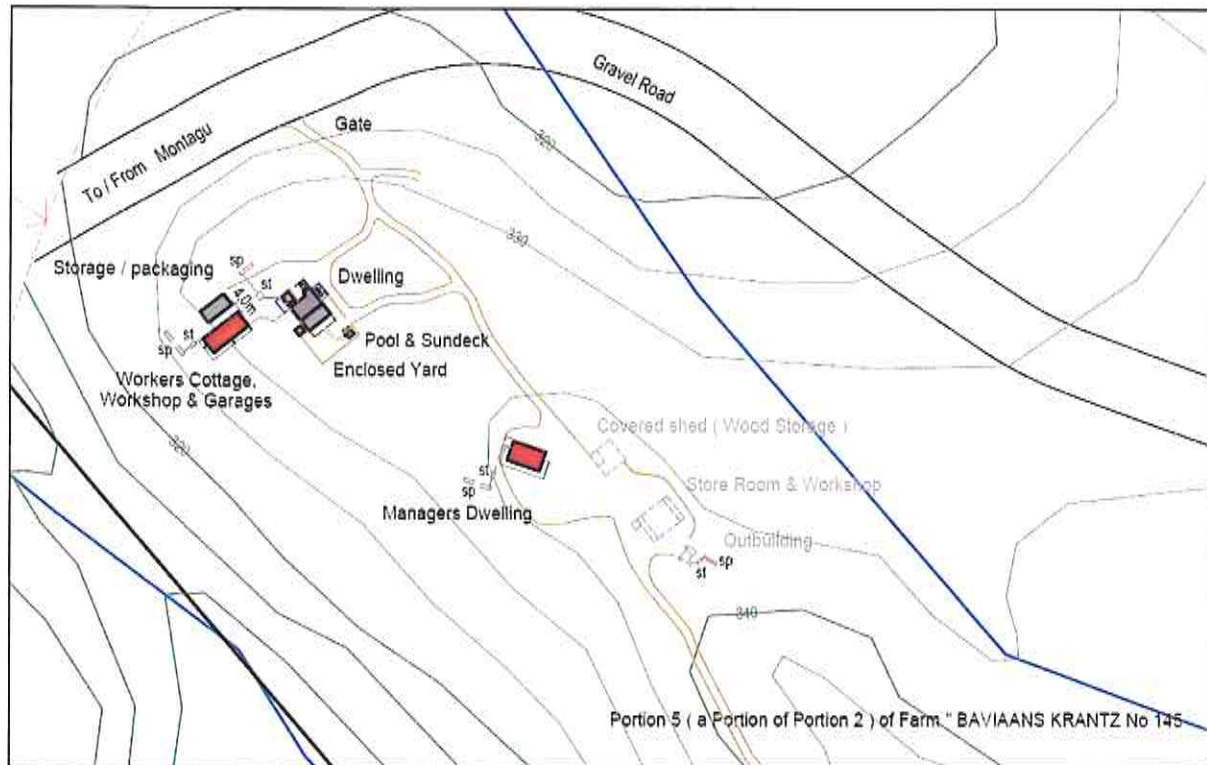
The Biodiversity status of the property means that there are large portions which may not be transformed from natural vegetation. This particular property is identified as part of a Critical Biodiversity Area in terms of the Western Cape Biodiversity Spatial Plan, and is identified in the Langeberg Spatial Development Framework as a Core 1 Area where natural veld must be retained, rehabilitated and managed for no further degradation, nature conservation is the primary objective of this property.

Core 1 is land classified with a high level of biodiversity, normally this is a NO-GO area from a development perspective. Accordingly, human impact must be restricted to ensure that there is no further loss of natural habitat.

Subject to stringent controls the following biodiversity compatible land uses **may be accommodated** in Core 1 areas:-

- Non-consumptive low impact eco-tourism activities, such as recreation and tourism and visitor overnight accommodation; and
- Harvesting of nature resources, subject to a management plan demonstrating the sustainability of harvesting.

- Controlled livestock grazing and game farming must be informed by the habitat type, grazing potential and other site sensitivities. Where Core areas are identified on land that has no formal conservation status (e.g. private farm), no further loss of natural habitat should occur and lower the standard stocking rates are encouraged.
- Power lines may be permissible under certain conditions.
- Given the often high visual or aesthetic value of these landscapes, no large-scale eco-tourism developments to be permitted.
- Land consolidation should be encouraged and subdivision prohibited.



SITE LAYOUT PLAN

Appropriate form and scale:-

Buildings and structures in Core Areas could be justifiable. Environmentally sensitive and sustainable construction principles should be applied to ensure that development is in harmony with the character of the surrounding landscape and to ensure the maintenance of its natural qualities.

The structures proposed are both within already disturbed footprints next to existing jeep tracks and close to infrastructure. The proposal seems to offer the best possible position and no alternative sites are available other than a no-go proposal.

With good management practices, on small low density footprints, appropriate technology and design concepts **could be** encouraged.

Environmental impact:-

- No clearance of indigenous vegetation required:- 300 m² or more in CBA is listed LN(3)(12).
- No tourism or hospitality facilities.
- No new roads.

6. TITLE DEED

Title Deed T 40974/2019 has restrictions limiting to the proposed activities:-

❖ Section D:-

Condition imposed by the Department of Agriculture of the Republic of South Africa when granting its approval in terms of The Subdivision of Agricultural Land Act, Act 70 of 1970, namely that the herein mentioned property may only be used for purposes of a private nature reserve and ancillary purposes, and also that the property must be rezoned to open space zone III, as contained in Certificate of Registered Title Number T105674/2004.

❖ Section E:-

Condition imposed by the Municipality Breederiver/Winlands (now Langeberg Municipality), namely in terms of Section 42(1) of Ordinance Number 15/1985 as contained in Certificate of Registered Title Number T105674/2004:-

'1. Slegs 1 (een) woonhuis mag op die eiendom opgerig word, welke plasing uitgeklaar moet word met die personeel van die Wes-Kaap se Natuurbewaringsraad, asook die Munisipaliteit Breërivier/Wynland (nou Langeberg Munisipaliteit)' / only 1 (one) dwelling/house may be erected on subject property, position thereof must be sorted with officials from CapeNature and Langeberg Municipality.

Both conditions need to be formally deleted in the property's Title Deed in order to permit the proposed new structures relating to the primary use of the property.

7. ZONING SCHEME

Subject property falls within the boundary of Langeberg Municipality as local authority.

The application for deletion of conditions and removal of Title Deed restrictions has no impact on the requirements of the Agricultural zone I as prescribed by the applicable Langeberg Integrated Zoning Scheme.

8. LOCATION AND ACCESSIBILITY OF THE PROPERTY

The proposed facility is accessible for tourists from existing access from MR294.

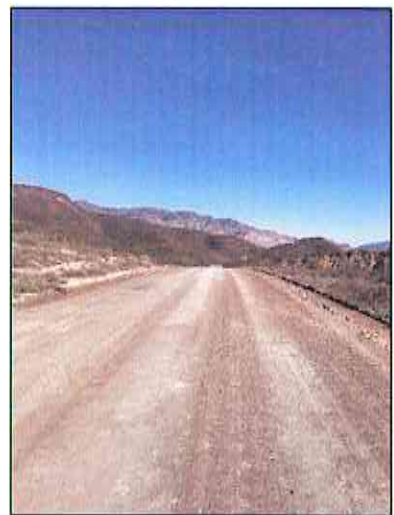
Coordinates for the existing access from MR294.

33°46'43.20" S
20°12'59.51" E

Sight distances in both directions are clear of any obstruction.



EXISTING ENTRANCE AND ON SITE JEEP TRACK:- NO NEW ROADS



EXISTING ENTRANCE AND ROAD SIGHT DISTANCES CLEAR FOR 350 m +

9. SERVICES

9.1. Water:-

Drinking water is being abstracted from a borehole on the farm and pumped to existing JoJo tanks.

9.2. Refuse disposal:-

General waste produced by the development is separated at source into glass, paper, plastic, organic waste and small component of non-recyclable waste and will be delivered to Municipal waste site.

9.3. Electricity Supply:-

Solar and gas.

9.4. Sewage Disposal:-

No waste is to be disposed to land.

Existing and proposed septic tanks, from which the overflow effluent is led to conservancy tanks. The conservancy tank is a water-tight, plastic tank.

The conservancy tanks will be emptied and collected by private contractor and delivered to the sewer works of Langeberg Municipality.

9.5. Storm water:-

Given the small extent of the proposed development, storm water will continue to be allowed to drain naturally into the ground to replenish underground reserves.

9.6. Access Road Infrastructure:-

Existing access with existing Jeep track on the farm.

10. MOTIVATION:- NEED AND DESIRABILITY

The following sections is an assessment of the application in terms of the decision-making criteria listed in Section 68 of the Langeberg Municipality Planning By-Law, 2015, and serves as the motivation for the approval of this application.

10.1:- CONSISTENCY WITH PLANNING LEGISLATION

10.1.1:- SPLUMA (Spatial Planning and Land Use Management Act, 16 of 2013)

Section 42 of SPLUMA stipulates that, in considering and deciding on an application, a Municipal Planning Tribunal must –

- (a) Be guided by the development principles set out in Chapter 2 (of SPLUMA);
- (b) Make a decision which is consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework; and
- (c) Take into count –
 - i. The public interest;
 - ii. The constitutional transformation imperatives and the related duties of state;
 - iii. The facts and circumstances relevant to the application;
 - iv. The respective rights and obligations of all those affected;
 - v. The state and impact of engineering services, social infrastructure and open space requirements; and
 - vi. Any factors that may be prescribed, including timeframes for making decisions.

The application is considered to be in line with the requirements of Section 42 of SPLUMA, due to the following reasons:-

- ❖ The proposed outbuilding with garage (motor cars), workshop (storage), 1 worker cottage and a manager's house contributes positively to the principle of spatial justice as it ensures to improve the use of land.
- ❖ The footprints are not conducive for agricultural activities or conservation.
- ❖ Approval of the application will allow the land to be utilized more efficiently.
- ❖ It contributes positively to the principle of spatial sustainability.
- ❖ The proposed outbuilding with garage (motor cars), workshop (storage), 1 worker cottage and a manager's house as part of the primary use on Agricultural zone I does not negatively affect agricultural activities or unique agricultural land as the footprints is not conducive for agricultural operations.
- ❖ The proposed outbuilding with garage (motor cars), workshop (storage), 1 worker cottage and a manager's house as part of the primary use on Agricultural zone I does not negatively affect natural vegetation as the footprints were previously disturbed.
- ❖ The proposal contributes positively to the principle of efficiency as it optimises the use of existing resources and infrastructure on the property without resulting in negative financial, social, economic or environmental impacts.
- ❖ The proposal supports the principle of spatial resilience as it will ensure flexibility in municipal policies that will ensure economic development and creation of employment opportunities.
- ❖ The application promotes the sustainable use of agricultural zoned land as it allows current existing services infrastructure to be utilised, thereby contributing to the economic viability of the property while also contributing to employment creation.
- ❖ The proposal takes into account and respects public interest and ensures that rights and obligations of affected parties are not affected and does not impact on engineering services, social infrastructure and open space requirements.
- ❖ The application is compliant with all relevant environmental legislation.

10.1.2:- LUPA (Western Cape Land Use Planning Act, 3 of 2014)

Section 59 of LUPA contains a list of land use principles which should guide land use planning. The application adheres to these principles, as stipulated below:-

Spatial justice:-

The proposal contributes to the principle of spatial justice and redressing of past spatial and other development imbalances as it ensures improved utilization of land.

Spatial sustainability:-

The proposal will contribute positively to the economic viability of the property, while it will also promote and stimulate the effective functioning of land markets.

The proposal also does not negatively affect any natural habitat, heritage and tourism resources or ecological corridor and environmentally protected areas.

Efficiency:-

The proposal optimizes the use of existing resources and infrastructure and is in support of existing land uses in the surrounding area.

Spatial Resilience:-

The proposal supports spatial resilience as it will ensure flexibility in municipal policies by promoting economic development and creation of employment opportunities.

10.2: - CONSISTANCY WITH SPATIAL DEVELOPMENT FRAMEWORKS:-

10.2.1:- Western Cape Provincial Spatial Development Framework (PSDF)

The Western Cape Spatial Development Framework (PSDF) was approved by the executive authority in 2014 and endorsed by Provincial Cabinet to replace the previous PSDF. The PSDF's policy framework covers Provincial spatial planning's three interrelated themes, namely:-

- 10.2.1.1:- Sustainable use of the Western Cape's spatial assets,
- 10.2.1.2:- Opening-up opportunities in the Provincial space-economy, and
- 10.2.1.3:- Developing integrated and sustainable settlements.

The proposed land use relates to these themes in the following manner:-

10.2.1.1:- Sustainable use of the Western Cape's assets:-

Sensitive development within the Critical Biodiversity Area to enhance the natural area's contributes.

10.2.1.2:- Opening-up opportunities in Space-economy:-

According to the PSDF, compatible and sustainable 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 its mandate) and of an appropriate scale and form can be accommodated outside of the urban edge.

We are of opinion that the proposed outbuilding with garage (motor cars), workshop (storage), 1 worker cottage and a manager's house would not impact negative and will conform to the PSDF's criteria of compatible and sustainable activities which are permitted outside of the urban edge and will make a positive contribution in terms of creating economic opportunities in the rural space-economy.

10.2.1.3:- Developing Integrated and Sustainable Settlements:-

The PSDF promotes the use of heritage resources to enhance the character of the area, stimulate urban regeneration, encourage investment and create tourism opportunities while ensuring that interventions in these heritage contexts are consistent with local building and landscape typologies, scale, massing, form and architectural idiom.

Although the site and existing buildings on the property are not deemed heritage resources, the surrounding area with its scenic landscape is of cultural significance. The use of the property for its primary use will therefore have no negative impact.

10.2.2:- Langeberg Municipality's Spatial Development Framework:-

The application complies with the Spatial Development Framework of Langeberg Municipality.

The document refers to the following regarding development of facilities within its rural area:-

- ❖ The scale and type of development must compliment the aesthetic qualities of the environment.

- ❖ A balance between conservation and development along scenic routes should be established to ensure sustainability.
- ❖ Incorporate the role of agriculture as an integral part of the Tourism Development Strategy for the municipal area.
- ❖ Value adding should be sensitively sited in terms of landscape view sheds and buildings must be clustered and of a scale and design that relates to local vernacular.
- ❖ No negatively impact on agricultural production and new structures should be placed within the aim to reinforce the farmstead precinct.

10.3. **SITE SPECIFIC REASONS**

- ❖ No remnant vegetation on the specific footprints.
- ❖ No endangered and protected species on the specific footprints.
- ❖ Stable ground conditions.
- ❖ No structures within the 1:100-year flood line.
- ❖ No structures closer than 32 from a water course.
- ❖ Outside the 30 meter side building line on land zoned as Agricultural zone I.

10.4. **DESIRABILITY OF THE PROPOSED USE**

- ❖ **The Proposal will enable the retention of the primary agricultural land use, whilst recognizing the intrinsic value of the property as being conservation friendly**

Land owner farms the 3,68 ha of arable land on the property and has no intention to negatively impact on the CBA on the property.

❖ **Environmental impact**

Although the area is of environmental significance, the area of the property recommended for the development of the primary use structures has largely been disturbed. The structures are being positioned within close proximity to the existing jeep track on the property.

No environmental feature or element will need to be removed to accommodate the proposed structures and the surrounding natural environment and habitat will not be affected in any way.

❖ **Heritage impact**

The property is not of heritage significance and do not contain any proclaimed heritage elements. The proposed development of primary use structures will not have any impact on any heritage resources.

❖ **Impact on existing rights**

It is evident that the proposed primary uses will not have any impact on the existing rights of surrounding property owners.

❖ **Traffic impact**

No traffic impact study was undertaken.

The agricultural use of the property will remain and no tourist facilities are being applied for.

The existing site access off MR294 will be retained. An existing internal road will provide direct access to the proposed new structures.

❖ **The structures would not have a negative impact on the aesthetics**

Ground colour paint on outside walls could be a mitigation matter.
Grey or charcoal roof colour recommended.

❖ **Change in the nature of the area**

The nature of the 2 limited footprints will change;- the land owner will keep the impact and footprints to a minimum.

❖ **Agricultural impact**

It is not conducive for intense farming, only a small portion, 3,68 ha of the property is used for agricultural operations. This is largely due to the CBA on the property.

❖ **Removal of Restrictive Title Deed conditions**

The property's Title Deed contains restrictive conditions which prohibit more than one dwelling on the property.

The concerned conditions were imposed in favor of the natural vegetation on the mountainous property and effectively only permitted one dwelling house on the property where the main purpose of the land would be for nature conservation purposes.

Due to the slope of the property and the CBA only 3,68 of arable land on the property is farmed. Should the concerned conditions remain in place, the property will not derive any financial income and will result in a loss of tax payments to the Municipality.

It is also deemed that the removal of these conditions to permit limited agricultural land uses, while still complying with the zoning regulations, will have a positive impact on the surrounding property values.

Should the restrictive title conditions remain in place, the property will not be able to derive any form of income and would only be able to fulfil a residential function. The concerned restrictive conditions therefor do not have any benefit to the holder.

Removal of the concerned conditions will enable the property owner to efficiently utilize the property and to fulfill its economic potential in order for the property owner to derive an income from the land.

The property will not be able to fulfill any spatial function due to its limited agricultural use and CBA. It will not have any social benefit for the concerned conditions to remain in place.

SUMMARY:-

The removal of the conditions will enable the property to fulfill its spatial and economic potential and will also be beneficial to the local community as it will contribute to local economic growth and employment creation.

It also should be noted that the zoning scheme regulations will remain in place and will sufficiently control land uses and development on the property to prevent any undesirable activities that may have a negative impact on the surrounding environment.

11. OPPORTUNITIES

No opportunities due to this application not being for a tourism related development.

12. CLOSURE

This report has served to motivate the need and desirability of the application for:-

APPLICATION FOR DELETION OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS:- PORTION 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU:- ONE DWELLING AND OPEN SPACE ZONE III RESTRICTION

The proposed structures are compatible with the Langeberg Municipality Spatial Development Framework and the Provincial Government of the Western Cape Land Use Planning Guideline Rural Areas, 2019.

Based on the above it is respectfully requested that Langeberg Municipality resolves to approve the application.

MARTIN Oosthuizen

BolandPlan Town and Regional Planning
Tch.Pln/B/8270/2014
MO/mo-

Michèle Theron Property Attorney and Conveyancer
6 Piet Retief Street, Montagu, 6720
9 Voortrekker Street, Robertson, 6705

Prepared by me


CONVEYANCER
Michele Theron

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R 2 600 000,00	R 1 588,00
Reason for exemption	Category Exemption.....	Exemption I t o, Sec/Reg..... Act/Proc.....

T 000040974 / 2019

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

ELFRIDE VAN STADEN

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

MYNHARDT ENSLIN
Identity Number 690907 5026 08 4
and
OLGA ENSLIN
Identity Number 711103 0082 08 3
Married in community of property to each other

DATA / CAPTURE
07 -10- 2019
LINDA NCAPAI

DATA / VERIFY
08 -10- 2019
TAMARA MASIU

which said Power of Attorney was signed at Montagu on 7 August 2019

And the appearer declared that his/her said principal had, on 19 July 2019, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

DUANE PHILIP STEYN
Identity Number 640218 5111 08 7
Unmarried

his Heirs, Executors, Administrators or Assigns, in full and free property

**PORTION 5 (A PORTION OF PORTION 2) OF THE FARM BAVIAAN
KRANTZ NUMBER 145,
situate in the Langeberg Municipality,
Division Montagu, Province Western Cape**

**IN EXTENT 285,7798 (TWO HUNDRED AND EIGHTY FIVE COMMA SEVEN
SEVEN NINE EIGHT) Hectares**

FIRST REGISTERED by Certificate of Registered Title Number T105674/2004
with Diagram Number 2234/2004 relating thereto and held by Deed of Transfer
Number T18447/2018

- A. **SUBJECT** to the conditions referred to in Deeds of Transfer Numbers T9556/1918, T9557/1918, T9558/1918, T9560/1918, T9561/1918, T10181/1918 and T10182/1918.
- B. **AS** contained in Deed of Transfer Number T14232/1977, the property hereby transferred as well as the property described as the remainder of Portion 1 of the farm Baviaan Krantz Number 145, in extent 227,6220 Hectares, transferred in terms of paragraph 2 of this Deed of Transfer, transferred by the said Deed of Transfer Number T14232/1977, entitled to all water in any currently existing dams on the following property namely:

Portion 1 of the farm Abrikoos Kloof Number 143, situate in the Division of Montagu;

In Extent: 920,2937 (Nine Hindred and Twenty comma Two Nine Three Seven) Hectares;

Which the said Gideon van Zyl Joubert does not want to use on the last mentioned property:

- C. **SUBJECT FURTHER** to the terms of the endorsement dated 18 January 1980 rendered on Deed of Transfer Number T14232/1977, which endorsement reads as follows:

"ENDOSSEMENT KRAGTENS ARTIKEL 31(6) VAN WET 47 VAN 1937
(SOOS GEWYSIG)

"n Gedeelte van die eiendom hierin vermeld groot +- 1 Hektaar is onteien deur die Afdelingsraad van Montagu kragtens Artikel 27 van Pad Ordonnasie 19/76. Vide onteieningskennisgewing Nommer 3/R/8 d.d 9/11/79, geliasseer as onteienings caveal EX 821/79, planne in tweevoud geliasseer T2436/73."

D. **SUBJECT FURTHER** to the following conditions, imposed by the Department of Agriculture of the Republic of South Africa when granting its approval in terms of The Subdivision of Agricultural Land Act, Act 70 of 1970, namely that the hereinmentioned property may only be used for purposes of a private nature reserve and ancillary purposes, and also that the property must be rezoned to open space zone III, as contained in Certificate of Registered Title Number T105674/2004

E. **SUBJECT FURTHER** to the following conditions imposed by the Municipality Breederiver/Winelands (now Langeberg Municipality), namely in terms of Section 42(1) of Ordinance Number 15/1985 as contained in Certificate of Registered Title Number T105674/2004.

- "1. Slegs 1 (een) woonhuis mag op die eiendom opgerig word, welke plasing uitgeklaar moet word met die personeel van die Wes-Kaap se Natuurbewaringsraad, asook die Munisipaliteit Breërivier/Wynland (nou Langeberg Munisipaliteit)."

WHEREFORE the said Appearer, renouncing all rights and title which the said

MYNHARDT ENSLIN and OLGA ENSLIN, Married as aforesaid

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

DUANE PHILIP STEYN, Unmarried

his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R2 600 000,00 (TWO MILLION SIX HUNDRED THOUSAND RAND) .

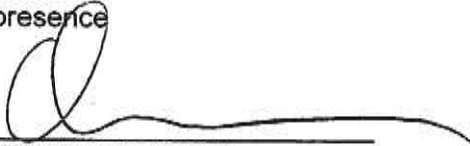
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 2 October 2019



q.q.

In my presence



REGISTRAR OF DEEDS

Tracy Brunings

Subject: FW: BAVIAAN KRANTS 145/5, MONTAGU: DELETION OF CONDITIONS OF APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS
Attachments: AffidavitMynardt.pdf; Field 20 Nov 2017 image.jpg

From: Bolandplan <bolandplan@breede.co.za>
Sent: Thursday, 15 October 2020 11:38
To: Tracy Brunings <tbrunings@langeberg.gov.za>
Cc: 'Van der Walt, Cor' <CorvdW@elsenburg.com>; duanes@iafrica.com
Subject: BAVIAAN KRANTS 145/5, MONTAGU: DELETION OF CONDITIONS OF APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS

Hallo Tracy

APPLICATION FOR DELETION OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS:- PORTION 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU:- ONE DWELLING AND OPEN SPACE ZONE III RESTRICTION

Your email below dated 12 October 2020 and Dept of Agriculture's Land Care Section's comment refers.

Attached please find the following documents as proof that the land in question has been farmed within the last 10 years:-

- Affidavit from the previous land owner, Mynard Enslin confirming that he did conduct farming activities on part of the ±5ha arable land in the years 2017/2018.
- Google image dated 20/11/2017 indicating cultivated land.

Kind regards

Martin
BolandPlan

AFFIDAVIT

Date: 14 July 2020

Country: South Africa

Purpose: Attesting to conducting farming activities on Portion 5, Baviaan Krantz

Mynhardt Enslin personally came and appeared before me, the undersigned member of the

South African Police Force, named _____

Who is a resident of the Western Cape, South Africa, and made this his statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of his knowledge:

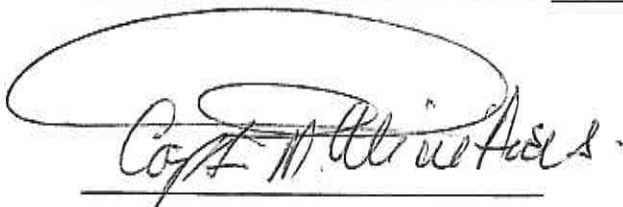
I Mynardt Enslin, the previous owner of Portion 5, Baviaan Krantz, Montagu, did conduct farming activities on part of the approx. 5 ha portion of arable land on the farm in the years 2017/2018.

DATED this the 15 th day of October 2020.



Signature of Maker of Affidavit

Sworn to subscribe before me this the 15 th day of October 2020



Member of the South African Police Force



Field

11 Nov 2017

Legend



Google Earth

Image © 2020 Maxar Technologies


100 m



Michèle Theron Property Attorney and Conveyancer
6 Piet Retief Street, Montagu, 6720
9 Voortrekker Street, Robertson, 6705

Prepared by me


CONVEYANCER
Michele Theron

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R 2 600 000,00	R 1 588,00 
Reason for exemption	Category Exemption.....	Exemption i t o. Sec/Reg..... Act/Proc.....

T 000040974 / 2019

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

ELFRIDE VAN STADEN

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

MYNHARDT ENSLIN

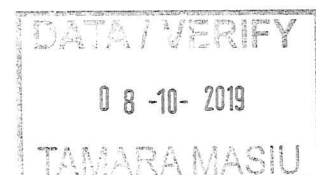
Identity Number 690907 5026 08 4

and

OLGA ENSLIN

Identity Number 711103 0082 08 3

Married in community of property to each other



which said Power of Attorney was signed at Montagu on 7 August 2019

And the appearer declared that his/her said principal had, on 19 July 2019, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

DUANE PHILIP STEYN
Identity Number 640218 5111 08 7
Unmarried

his Heirs, Executors, Administrators or Assigns, in full and free property

**PORTION 5 (A PORTION OF PORTION 2) OF THE FARM BAVIAAN
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situate in the Langeberg Municipality,
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his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R2 600 000,00 (TWO MILLION SIX HUNDRED THOUSAND RAND) .

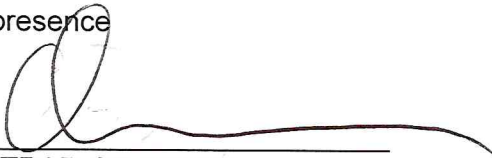
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THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 2 October 2019



q.q.

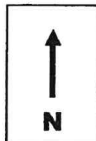
In my presence



REGISTRAR OF DEEDS



ANNEXURE C



BolandPlan

Town and Regional Planning

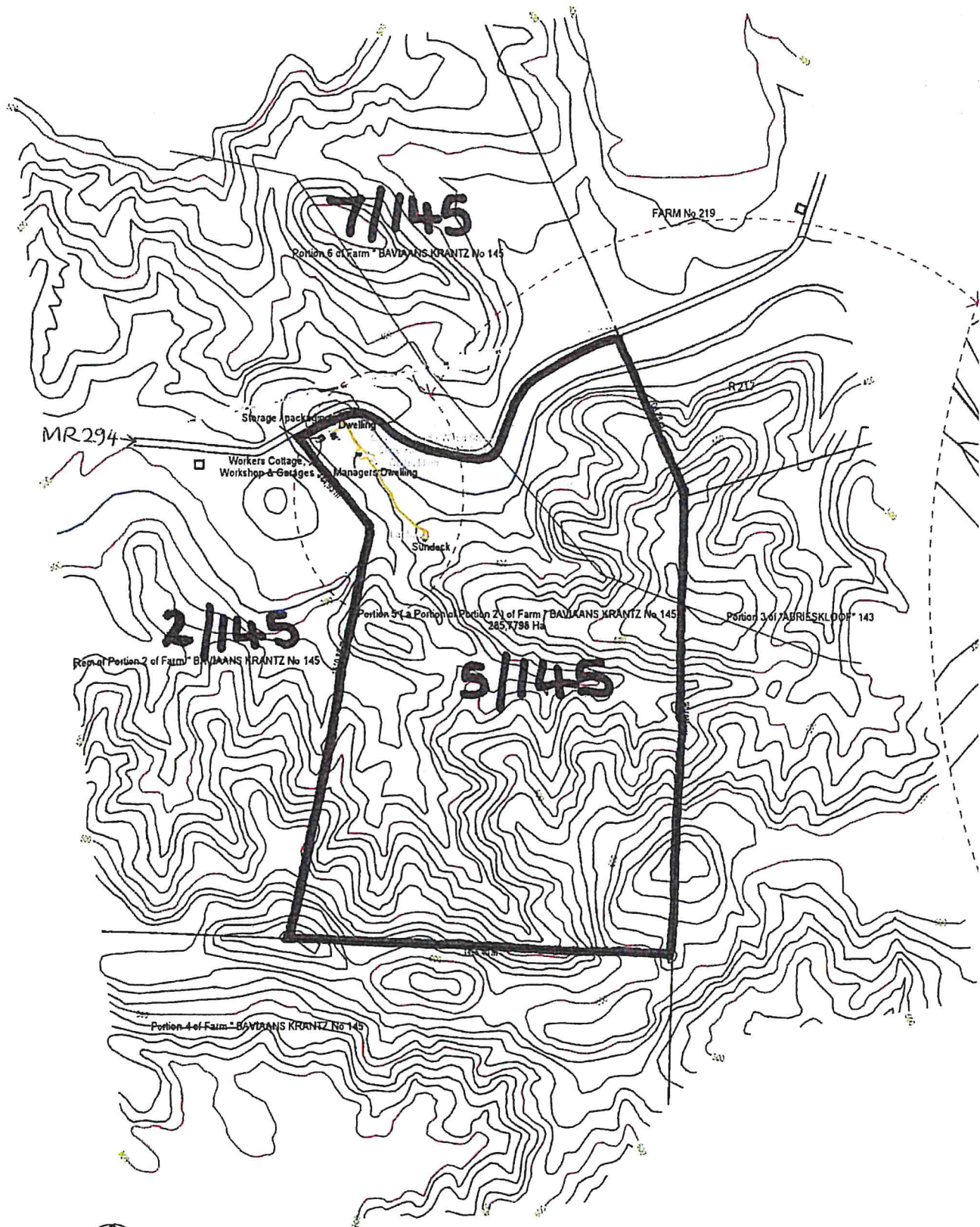
**REGIONAL
PLAN**

1:250 000

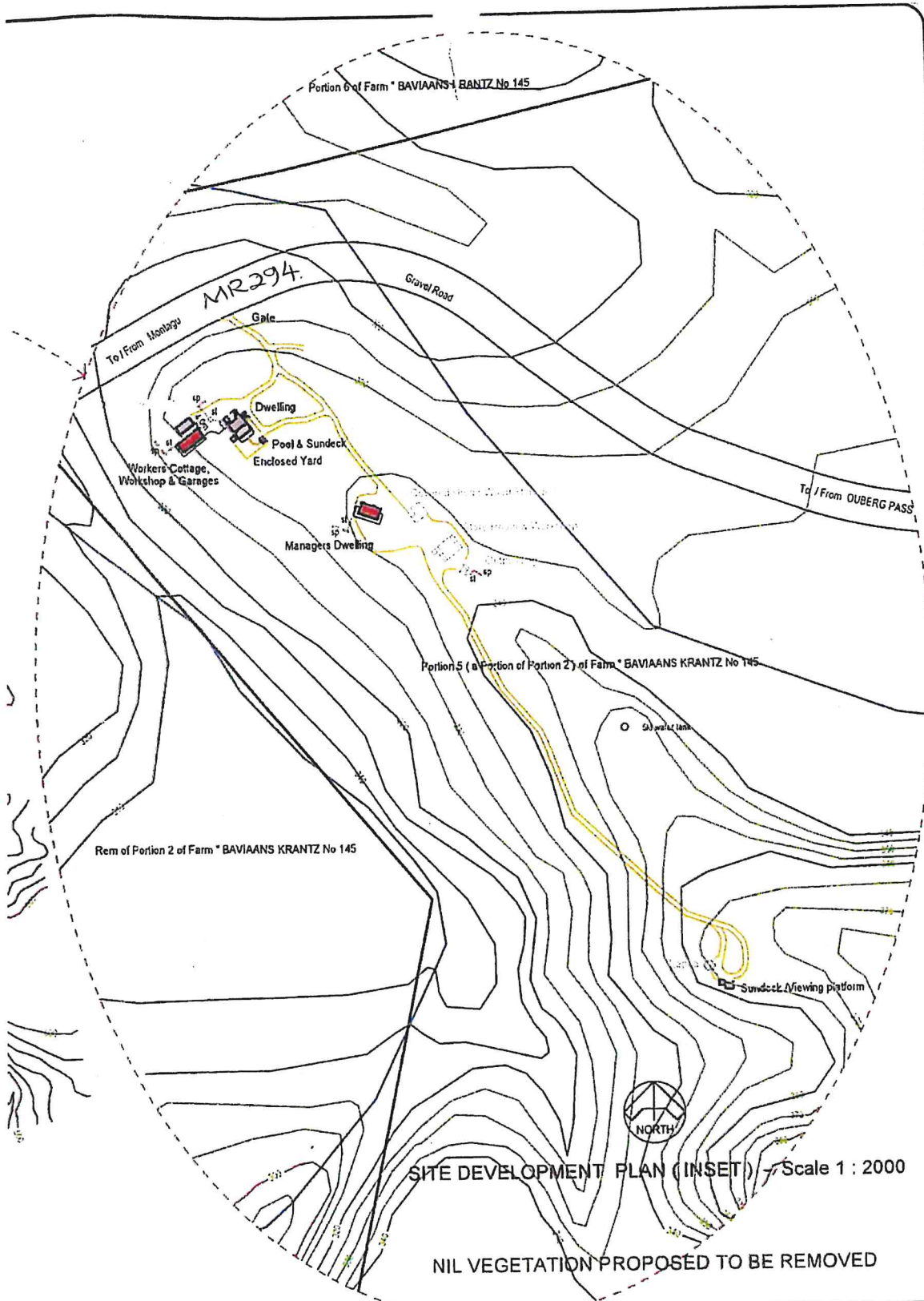
FARM BAVIAAN KRANTZ 5/145, MONTAGU

APPLICATION FOR DELETION OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS:- PORTION 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU:- ONE DWELLING AND OPEN SPACE ZONE III RESTRICTION

#MON/1137



SITE DEVELOPMENT PLAN - Scale 1 : 10000



SITE DEVELOPMENT PLAN (INSET) - Scale 1 : 2000

NIL VEGETATION PROPOSED TO BE REMOVED

PROPERTY ZONING			BUILDING CLASSIFICATION			
OPEN SPACE 3 (Private Nature Reserve)			H4 & J3			
AREA DESCRIPTION (Gross Sq. M.)	EXISTING		PROPOSED		TOTALS	
	F.A.R.	COVERAGE	F.A.R.	COVERAGE	F.A.R.	COVERAGE
Dwelling - Including Paved, Carports etc	175,06	313,32	n/a	n/a	175,06	313,32
Swimming Pool & Sundeck	n/a	15,49	n/a	n/a	n/a	15,49
Garages (How proposed Storage and Packaging)	n/a	73,13	n/a	n/a	n/a	73,13
Pumphouse's 1 & 2	13,94	13,94	n/a	n/a	13,94	13,94
Sundek / Viewing platform	n/a	42,54	n/a	n/a	n/a	42,54
Managers Dwelling	n/a	n/a	123,76	202,10	123,76	202,10
Head Workers Cottage, Workshop & Garages	n/a	n/a	77,45	196,65	77,45	196,65
TOTALS	159,00	458,42	201,21	399,95	399,21	857,37
AREA OF PROPERTY =	2657799 m2 (265,7799 Ha)				0,00014	3,00%

GENERAL NOTE: All works to comply to NATIONAL AND LOCAL AUTHORITY BY-LAWS
 This drawing is prepared on surface examination of the site.
 All boundary beacons to be exposed and demarcated.
 Levels to be checked by the contractor prior to the commencement of works. Work to be figured dimensions only.
 Soil waste piping & fittings to be as specified. Drainage installation to have no-sed traps and to be accessible at F.G.L.
 All bricks to be installed as per necessary requirements.
 Timber framed construction to comply to SANS code 002 28
 Balustrading to comply with regulation D2
 Pool fencing to comply with regulation D4
 Stairway detail - Min 250 tread & Max 200 riser.
 Glazing to comply with regulation H2 (thickness) & H3 (safety glass).
 Entomology (Soil Paving SANS 0124), Roofing Inspector,
 Electrical compliance and Glazing certificates are to be submitted upon completion of the work.

FLOOR / FOUNDATION NOTES.
 Floor to be specified on 100mm concrete surface bed on under floor membrane on well consolidated hardcore and filling.
 Soil under slab to be poisoned (SANS 0124) by specialist.
 Top of finished floor - Min 150 above F.G.L.
 Top of foundation - Min 300mm below F.G.L.
 Brick/pier etc membrane to be installed under all walls & cills.
 Suspended concrete slab, Retaining walls, Sewer & Stormwater drainage etc to be to ENGINEERS DETAIL'S & SPECIFICATIONS.

ROOF CONSTRUCTION NOTES. (Manufactured by specialists)
 x mm battens (Furins) at mm centres on
 x mm joists / rafters at mm centres on
 x mm wallplate strapped down.
 Roof pitch, degrees.
 Roof covering.
 Facia & Rain goods.
 (1000mm concrete surround where not rainwater goods are installed)

A	Submitted for approval.	May 2020
REV.	DESCRIPTION	DATE

PROJECT / JOB DESCRIPTION
 SITE DEVELOPMENT PLAN &
 INSET SITE PLAN.

ADDITION AND ALTERATIONS TO PREVIOUSLY
 APPROVED PLAN No 306/19 Dated 11/08/2019

SITE DESCRIPTION
 PORTION 5 OF FARM BAVIAANS KRANTZ No 145
 MONTAGU

SITE ADDRESS
 * VREDE FARM " OUBERG PASS ROAD
 OWNER
 Mr. D. STEYN

Alfred A. Pugin
 BUILDING DESIGN & CONSULTANCY
 Member S.A. COUNCIL FOR THE ARCHITECTURAL PROFESSION - C.T. 1399
 108 Ardor Place, 8 Montagu Street, MONTAGU, Western Cape, 6125
 TEL (053) 442 6744 E-mail: alfred@pugin.co.za

Drawn: A.G. Pugin	OWNERS SIGNATURE
Date: May 2020	Sheet No. Revision No.
Scale: 1 : 100	220-008 01-03 A
(Or as indicated)	

Objection wrt:

**Application for Amendment /Deletion of Conditions of
Subdivision and deletion / scrapping of title deed conditions iro
Portion 5/145 Baviaankrans Farm, Ouberg Road
(now named Vrede)**

**From:
M.E and M.G. Mitchell
Registered owners of
Portion 2/145 (Parent Farm Portion)
and
Portion 7/145 (Adjacent and across the road)
Baviaankrans Farm, Ouberg Road**

Application Received: 07 October 2020

Date of this document: 03 November 2020

To: Approval Committee

Covering Note Re: Application: Duane Philip Steyn, Re: Vrede Farm, 5/145 Ouberg Rd

We thank you for invitation to peruse this application and to lodge objections as owners of the parent farm and neighbouring portion (2/145) and adjacent portion (7/145) that are most directly affected and impacted by any removal of any existing title conditions and restrictions on the neighbouring property.

These lands primary use has been for conservation, (which is in line with the subdivided portions conditional use); since date of subdivision 2003/4. Since 2013, the parent portion has not been under any cultivation, in order to continue the process of restoration of lands previously under saline irrigation. We are in our 8th year of residence and there has been no agricultural activity in all the years we have been here. The previous owner of 5/145 before 2018, had one dwelling and used the property as a holiday home for years. Our intention is to show that the primary use of portion 5/145 has been conservation since subdivision.

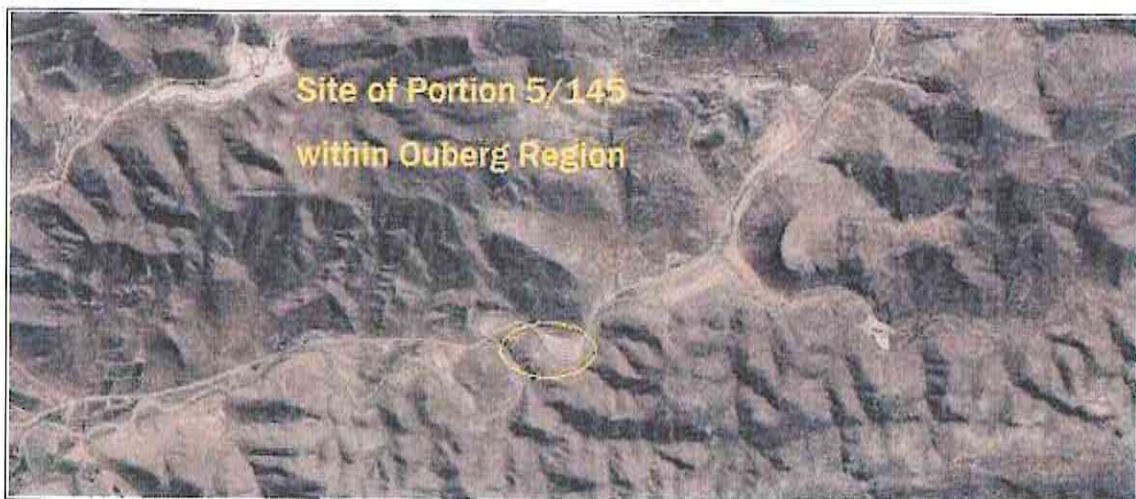
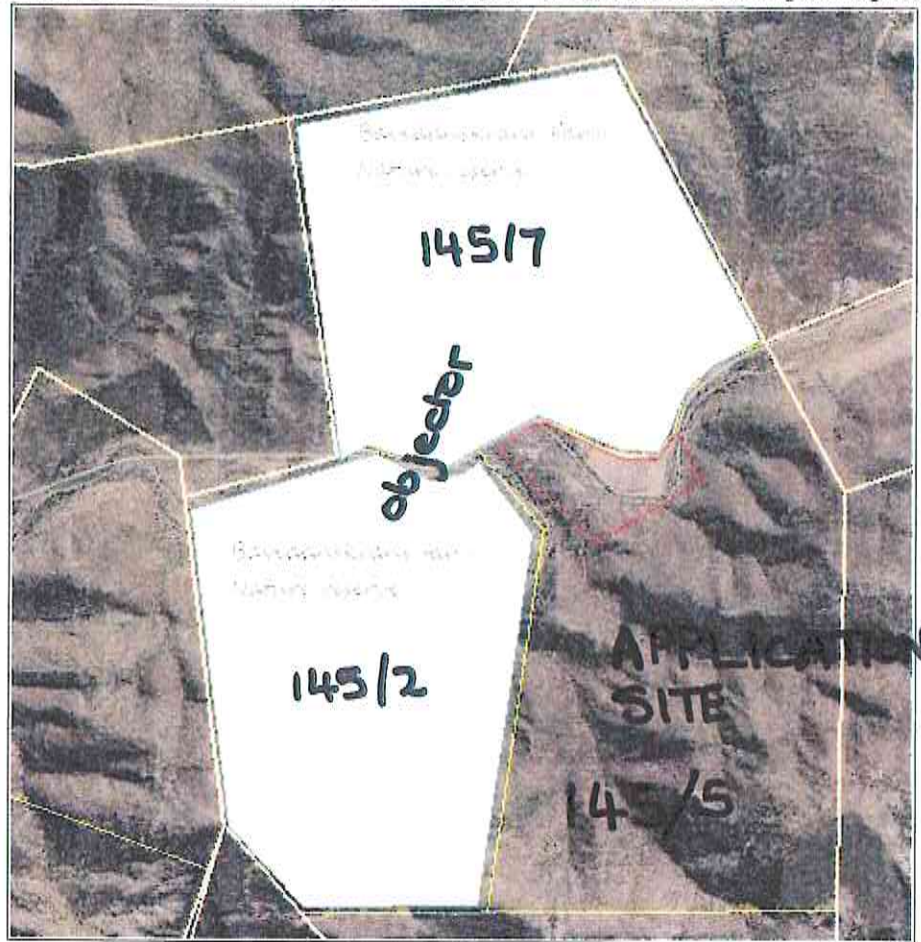
Various forms of commercial agriculture has previously attempted on the parent farm and not been shown to be a sustainable and / or viable use on these portions (for reasons elaborated on in this objection). Because of these factors, these properties were permitted to be subdivided on condition they were used solely for residential and nature conservation purposes that sustains low or no impact to the already water-challenged environment. This had the effect of stimulating a market for holiday homes on private nature reserves; restoring and conserving lands left unusable for agriculture along scenic routes without any cost to the municipality, and retaining benefit of unique biodiverse habitats for the entire community who passes through using the public road. Over the past decade, more people who wish to engage in low impact conservation activities or simply rural residential living, have found these unique Ouberg properties to be in line with their needs. Sensitive applications have been approved while still honouring these restrictions. Established ecotourism operations in the Ouberg region have shown that low carbon footprint, eco-sensitive development of these portions; that retain primary use of conservation; brings beneficial rewards for the town and region as a whole; and these successes also stimulate land sales of the unique habitat that sustains these sought-after low impact eco-lifestyles.

There is always a risk inherent with buying any property with conditional use and title restrictions. In case of this property, several previous owners have respected these conditions, and still retained a good and reasonable return on investment when they chose to sell, so no losses appear to have been incurred as a result of this condition and restriction.

Unfortunately, the previous owners' use from the time he took ownership / occupation in 2018 is of direct relevance, as this current application is based on land uses which he initiated unlawfully and profited from within a short time. This activity is still the subject of an open investigation between the previous owner, Mr Enslin, and the DEA&DP since 2019. The case concerns unlawful roads, vegetation removal and areas that were disturbed without EIA's or permissions. The road and disturbed areas are included as part of this application. Advertising of this property by the seller and his agent from March 2019 (after unlawful activity was initiated) implied arable, agricultural uses and included buildings that had not been applied for at time of publishing the advert, despite the limitations of the title deed conditions and restrictions.

Yours Sincerely,
MG and ME Mitchell

Development Area of portion 5/145 marked in red. This objection iro application to remove all existing title deed conditions and restrictions of 5/145. This relates to bordering portions of Baviaankrans farm, 2/145 and 7/145; which "envelopes" the proposed development portion.



Proposed development and agricultural buildings will be visible from the road. Currently, there is no registered commercial agriculture along the Ouberg Road from Helpmekaar to Oudebrug; nor development above the 330m contour visible on any of the portions along the Ouberg Scenic Route.

Cape Farm Mapper shows this portion and adjoining lands as being on the South African Protected Register Database as a conservation area, and is listed as falling within the Gouritz Cluster Biosphere Reserve.

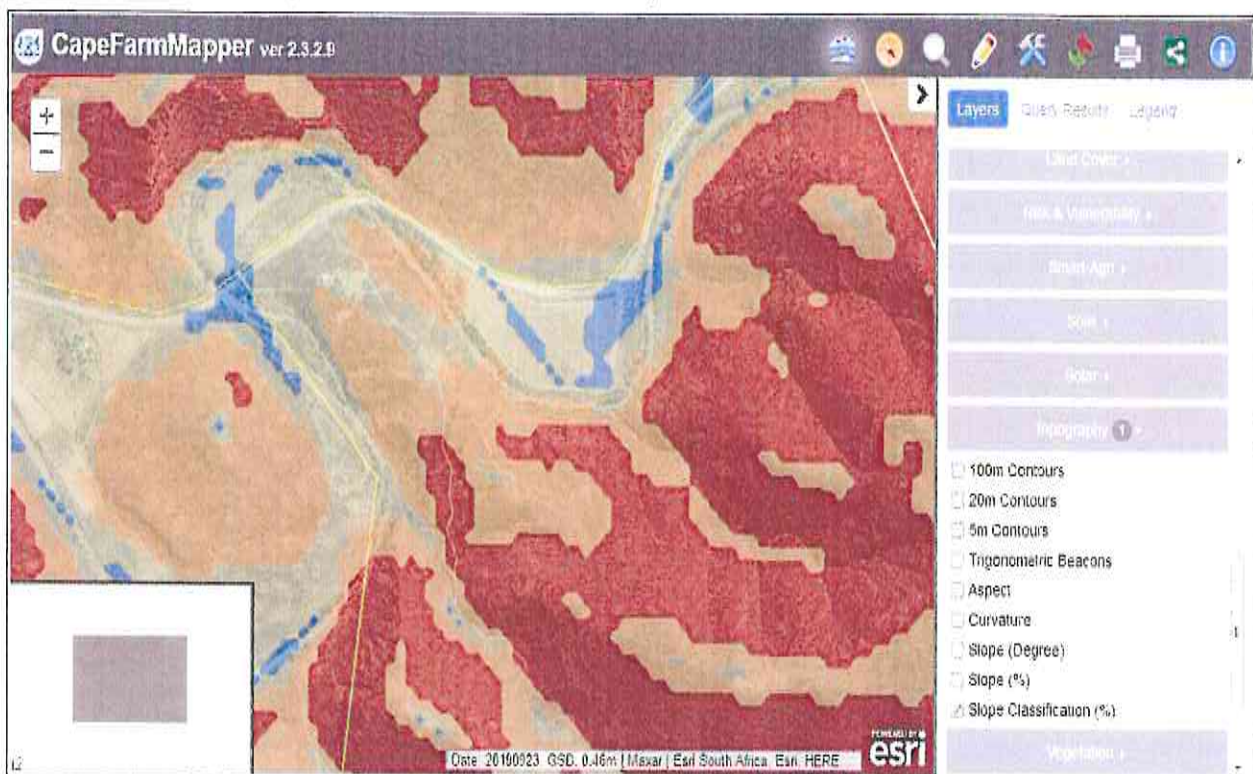


Damage done by the previous owner who took occupation in 2018, occurred within Critical Core 1 Biodiversity Areas. This region is listed on the Vlok vegetation map as being "Montagu Randteveld". The Langeberg Spruit runs all the way around the regions that are proposed for development. Septic Tanks, building activities, access for trucks to maintain septic facilities, saline water conditions and agricultural activities will impact the flora, fauna and any potential archaeological and or heritage sites.

No relevant Environmental Impact Assessments were offered as part of this application. The considerable flora and fauna biodiversity and neighbouring portions were impacted by agricultural activity initiated by previous owner, Mr Enslin, in 2018. A case with Mr Enslin and the DEA&DP is still in progress wrt roads and damaged areas where shipping containers, a cabin, a boma, a viewing platform and goat pens were sited.



The property is on a sloping piece of land which is mostly inaccessible and within critical biodiversity areas. There are few opportunities to build sustainably or sensitively in any part of the property without impacting the ecology, the scenic tourism route and the land itself. Roads put in by Mr Enslin have already eroded the slope towards the river. Air quality is negatively impacted on the Ouberg region as the road is unsurfaced and further loss of vegetation cover contributes to this. This has health impacts for neighbours and road users including the many cyclists who take part in cycle events along this route. The slope of the property ensures that all buildings are visible from the scenic tourism route. This has potential impacts for the region as a whole, as the Ouberg pass is a unique historic area. Our property 7/145 (adjacent across the road) has an Anglo Boer War fort dating to 1901, which is visible from the road and forms part of the scenic route for tourists. The lay-bye to view the historic fort from the road is situated at the far end of the property at 5/145 where there is a farm gate and entrance to the river portion.



Saline ground water and soil conditions contributes to the unsustainability of agriculture within the Ouberg region. At the time of subdivision, Portion 5/145 river boreholes had saline water that was considered too salty for sustainable, financially viable, long term agriculture.

These were some of the reasons given at the time by the Dept of Agriculture for conditional use of subdivision as nature reserve only. The title also states it should remain registered with a relevant nature authority. This implies that there is a requirement to remain registered in order to comply with the conditions of title. When registration "lapses", zoning becomes consistent with that of the parent portion, but in this case, the parent portions current and historic use, is in line with that of the subdivided portion. **The properties 5/145 and 7/145 have not been used for any agricultural activities since subdivision in 2003/4** (see below for historic pictures). Since 2013, the parent portion of historic planted agricultural land has been in restoration; as saline ground water conditions have restricted sustainable agricultural activities.

As this property has conditional title deed restrictions, any activity should have been applied for before initiated. In 2018, the property owner initiated agricultural activity and building, with no applications attempted, no water registration or samples submitted, and no building plans submitted. It was sold at double the 2018 price within a year of marketing, to Mr Steyn who is not from this region. The advertisement published by the agent gave the impression this was a working agricultural holding with agricultural activity and was not title deed restricted for conditional use as

a nature reserve. The agents advert did not change despite our letter advising him of the conditional use and building restrictions limiting to one dwelling. A copy of correspondence was sent to the town planner.

Tel: 027 614 3166 (Work) • Cell: 082 692 0586 (Carol) • Cell: 082 440 1223 (Dries) • info@driesbarnardproperties.com

Dries Barnard Properties

home

farms for sale

commercial

residential

information



R 2,900,000



South in the morning, looking over the hills

Eco-Friendly Lifestyle

This self-sufficient haven, with its own electricity and water, is completely off the "GRID". What more can you hope for? This is the eco-friendly way of living. In the Klein Karoo! This easy living home, with spectacular 360° views, is in the final stages of completion, the main section already occupied. The rest just needs finishing touches!

Make an appointment to see this farm, you will not be sorry! You will definitely enjoy this, and at this price, it's a steal! On Exclusive Sole Mandate especially for YOU! With about 5 Ha of pristine arable land and lots of water, you can plant to your heart's desire. Hidden away from the busy hustle-bustle of everyday life, you will find this piece of mountain paradise with soft rolling hills, allowing cultivation with good drainage. Make the most of the spectacular views over the Klein Karoo. And even better news, a river runs through it!

Different options of small scale farming can be done here, with livestock as an option and on the arable side you can do Huts, Figs, Oats, Corn, Lucerne, Veggies, Herbs and other cash crops. The tractor with necessary implements are included, in good working order. Situated on a good gravel road, not too far from Montagu, but still away from the road noise, with easy access by car.

The infrastructure consist of a spacious 3 bed-roomed homestead, open plan living area and a lovely covered veranda, country living at its best! The house is in the final stages of completion, with the main areas finished already. The Other buildings are a wooden cabin, built for the youngsters in the family, to entertain their friends, away from the house, with its own facilities!

The farm has two boreholes, one serviced with a submersible pump, in good working order. We can recommend solar pumps for the other borehole. Solar pumps are the best eco-friendly investment ever! Please note that the shipping containers are NOT included in the sale. Come see for yourself, the ever popular Klein Karoo is known for the amazing sunsets and breath-taking starlit nights!

The farm has a 'boma' where more than 30 people can sit, enjoy sun-downers, look at the stars and relax around the fire. Being so close to nature, there are many elusive game in the area.

This farm is a must see! Do not delay, this one will not stay on the market for long!

Transfer Duty payable

Listing Details

Price:	R 2,900,000
Property Type:	Farms
Area:	Montagu
Reference Number:	365 myn
Erf Size:	260 Ha
Bedrooms:	3
Bathrooms:	1
Pool:	1
Outbuilding:	2

Contact Details

Office/Fax: +27 23 614 3166

Dries +27 63 440 1223

dries@driesbarnardproperties.com

Carol +27 82 355 6144

carol@driesbarnardproperties.com

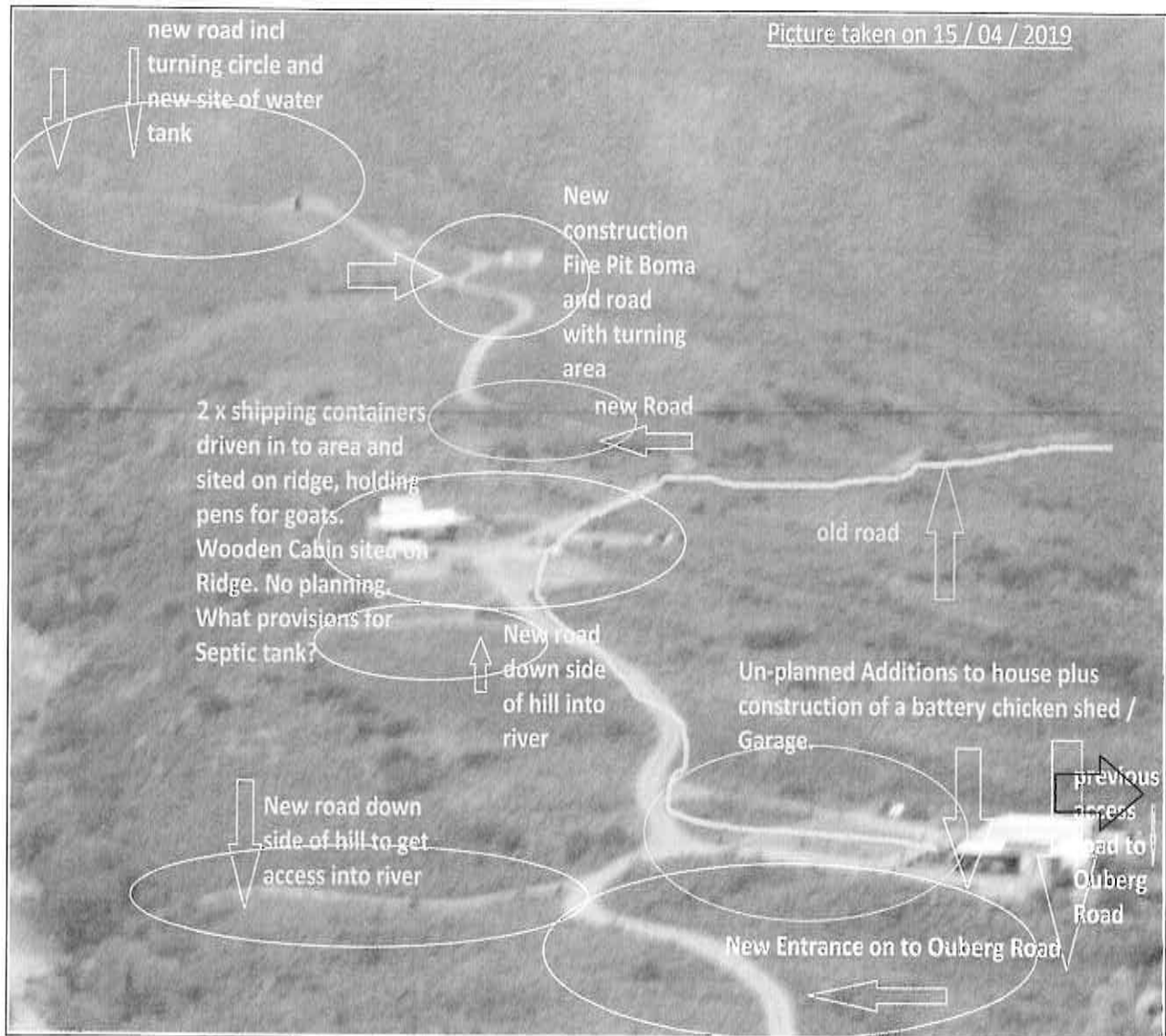
Andrew +27 82 692 0586

andrew@driesbarnardproperties.com

Wording from the advert:

- "you can plant to your hearts desire"
- "5Ha arable land and lots of water"
- "Different options of small scale farming can be done here with livestock as an option"
- "soft rolling hills allowing cultivation with good drainage"
- "On the Arable side you can do nuts, corn, figs, lucerne, veggies, herbs and other cash crops. The tractor and all implements are in good working order"
- "A river runs through it"
- "The farm has a boma where more than 30 people can...relax around the fire".

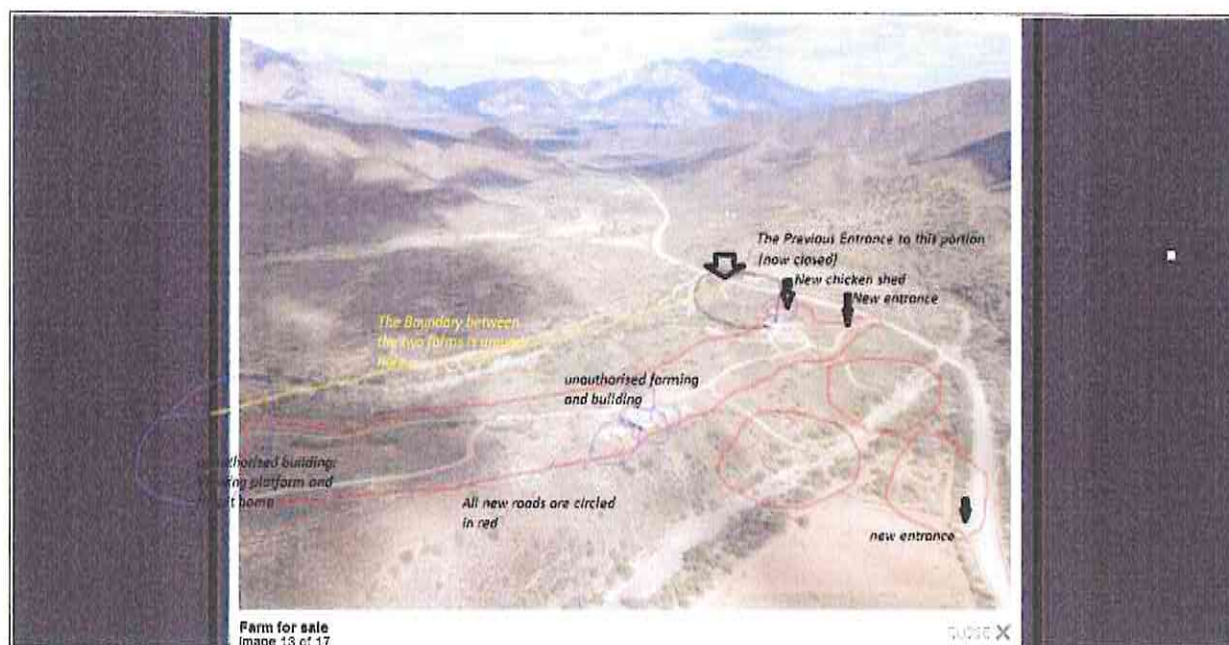
The activity initiated by Mr Enslin in 2018 is pictured here (from our portion 7/145) in April 2019:



The wording of this advert misrepresents the property description as it does not imply any restrictions. According to the Consumer Protection Act, an agent must ensure a property description is advertised as per its current and existing use as described within the title deed.

This picture is a screenshot from the advertisement showing changes with our (unfenced) boundary

between 5/145 and 2/145 marked in yellow:



Mr Steyn and his partner have personally communicated to us that they wish to "build a second dwelling and to use the river portion for vegetables and indigenous plants". This appears contrary to this application.

The use stated does not seem to warrant deletion of conditional use of the remaining +/- 275 ha, nor the scrapping of all title deed conditions. Scrapping all conditions and restrictions would effectively sanction the use of the entire 285ha for agricultural and farm tourism activity later, which would have impacts on the region as a whole.

Tourism is stated as not being the purpose of this application. Yet, paragraph 8 of this application mentions that "the site is accessible for tourists from existing access from MR294". Mr Steyn owns a tourism business (Q2Travel)

We understood that lands falling Gouritz Biosphere Reserve that have not been farmed for over ten years should be applied for with relevant water samples and impact assessments done prior to approvals.

This was not done.

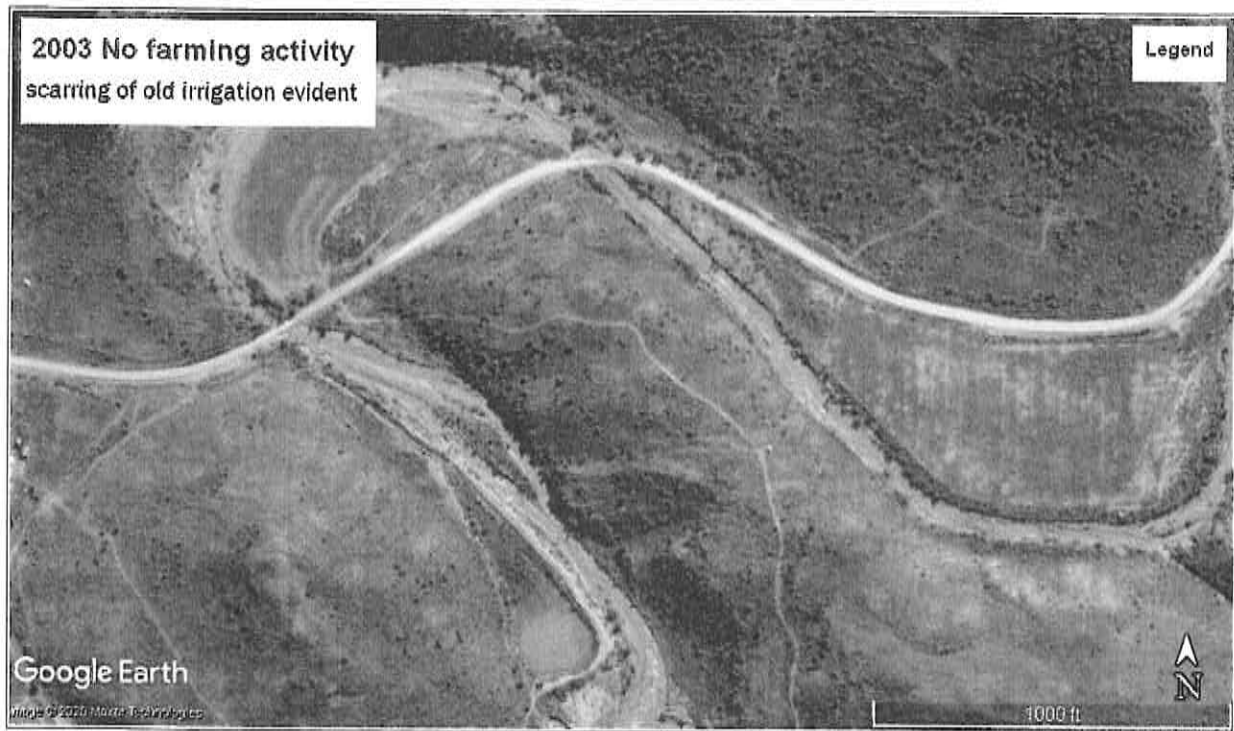
This application states that the current owner, Mr Steyn, has planted crops on the river portion and also on the hill portion alongside the main dwelling.

This agricultural activity is not consistent with the current conditions of subdivision and primary use, and these permissions are usually applied for and approved prior to going ahead.

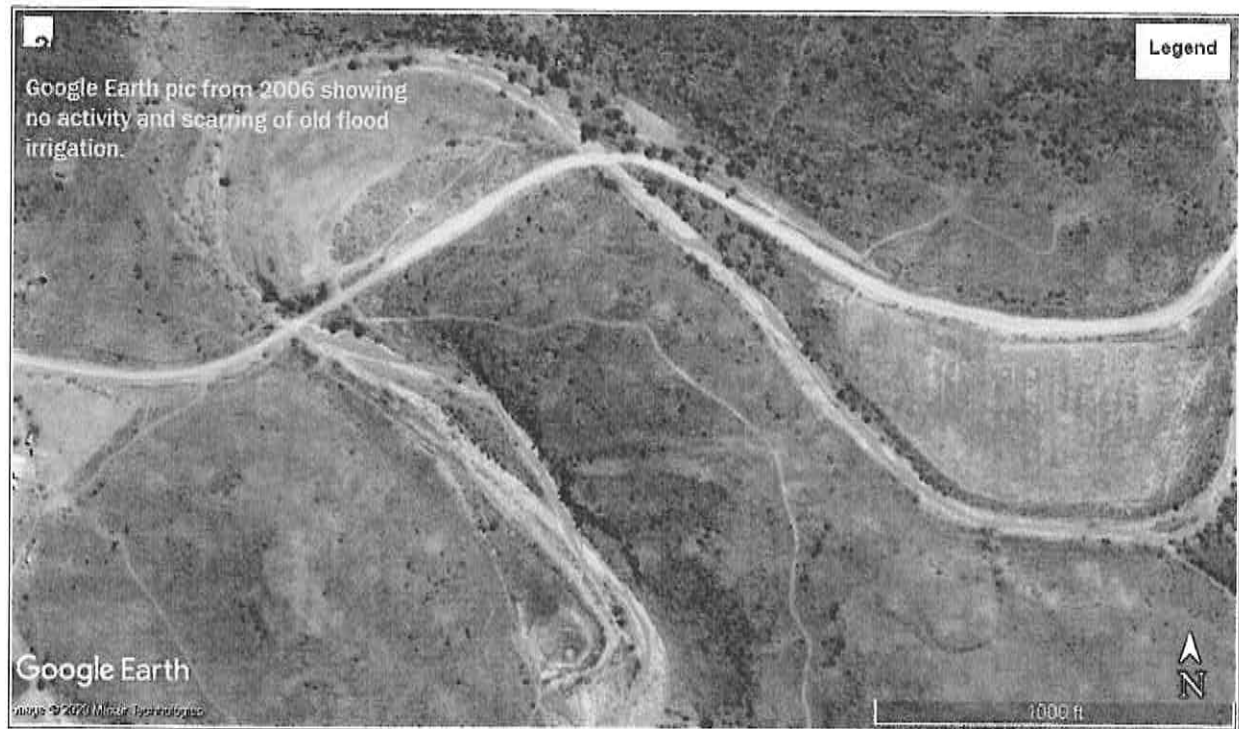
Despite any existing implied Agricultural zoning, this property has not been farmed since subdivision, and the previous four title holders have respected the conditional uses and restrictions.

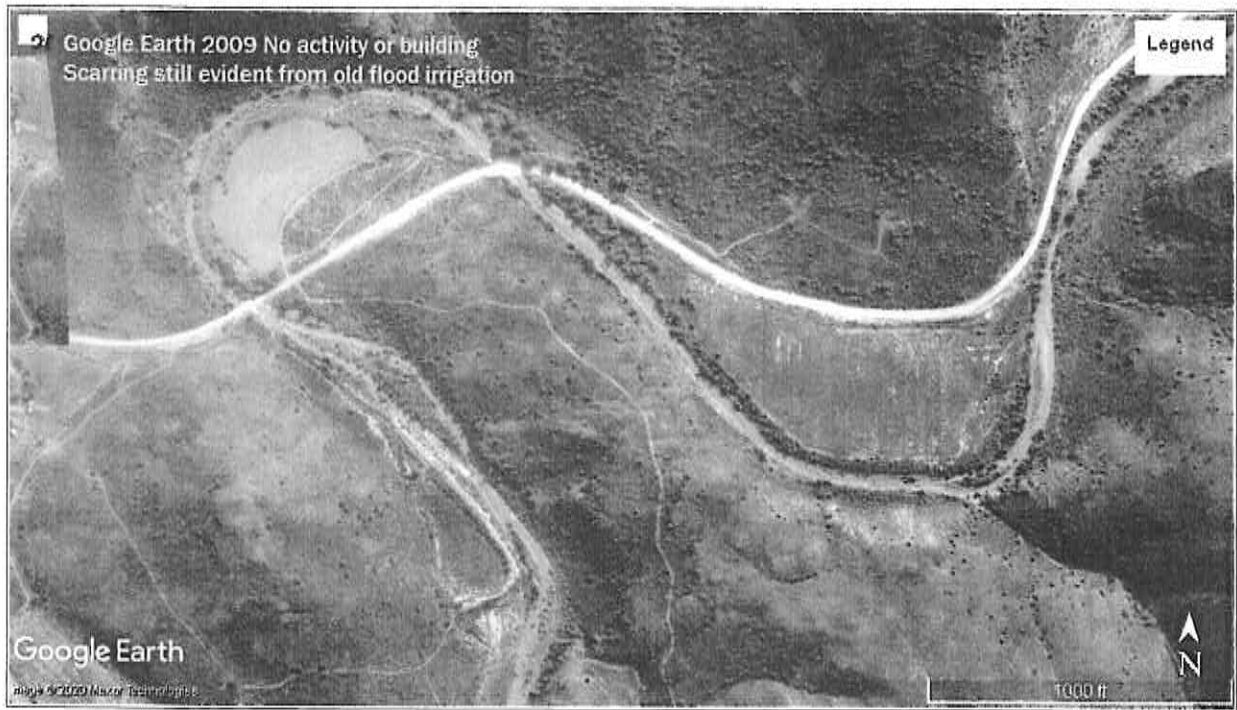
These restrictions have reserved the property's use and despite reneging on Nature Authority registration, these two restrictions have implied the use limitations since 2004. These restrictions have good sound reasons for being in place, due to the extremely sensitive and non-arable nature of this region; the lack of potable or agriculturally viable water and no engineering and sanitation infrastructure provided.

Historic Google Earth Pictures:



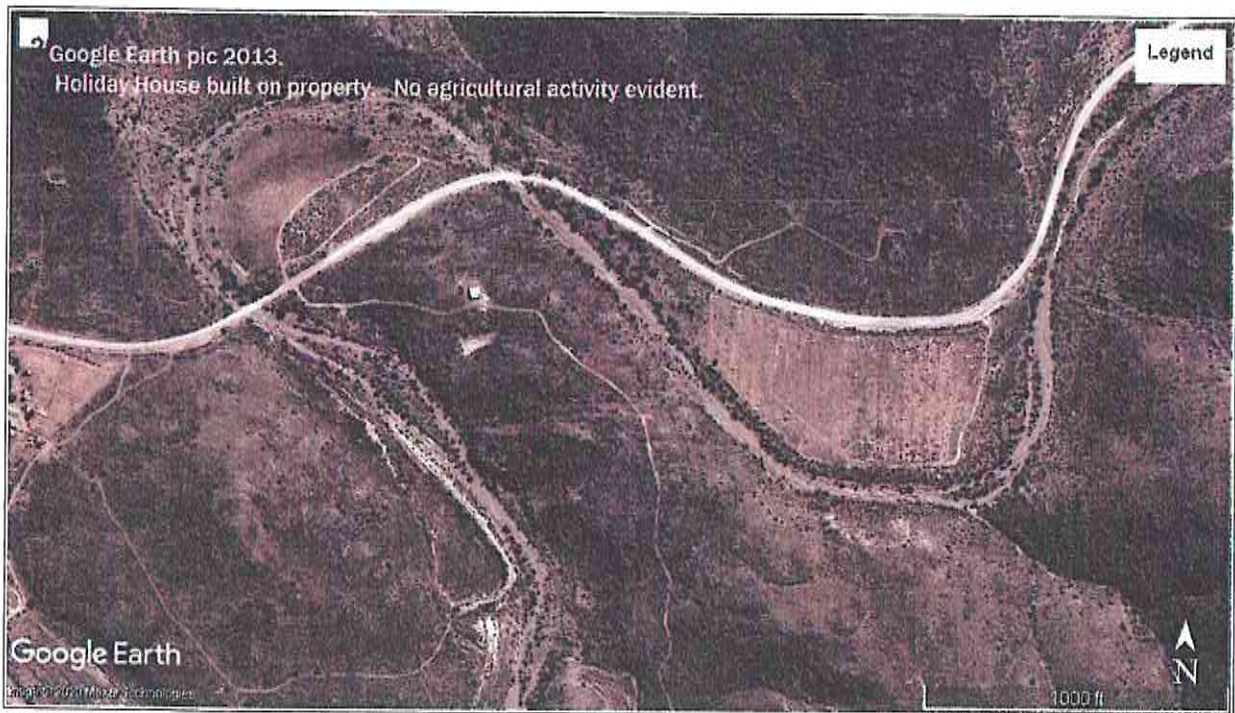
2006 No Agricultural Activity. Flood irrigation scarring evident. Prior to subdivision, this portion received gravity fed water from sources on portion 7. Thicket evident on riversides of both portions. Portion 7 is south east facing and maintains more shade. Portion 5 is North facing. Dust is reduced by ground vegetation. Vegetation cover is sparse, but takes many years to restore due to previous irrigation with saline water sources, as these pictures will attempt to document the slow recovery of almost twenty years in these river flood plains.



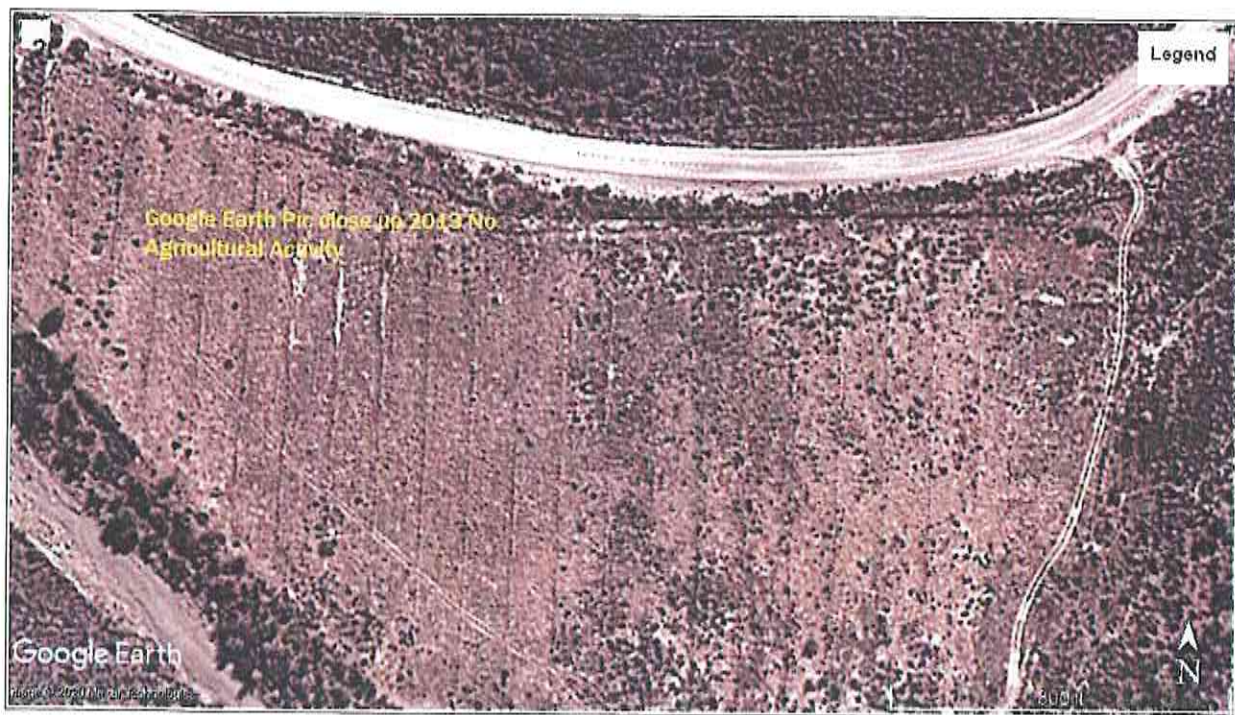


2009 No Agricultural Activity, flood irrigation scarring still evident in overhead photos





2013 No Agricultural Activity. Existing road on ridge is a wagon track dating back to Anglo Boer War. New jeep track around river portion to access borehole for house water supplies. Water tank below 330m contour for gravity fed water supply to residence. Flood irrigation scarring still evident.

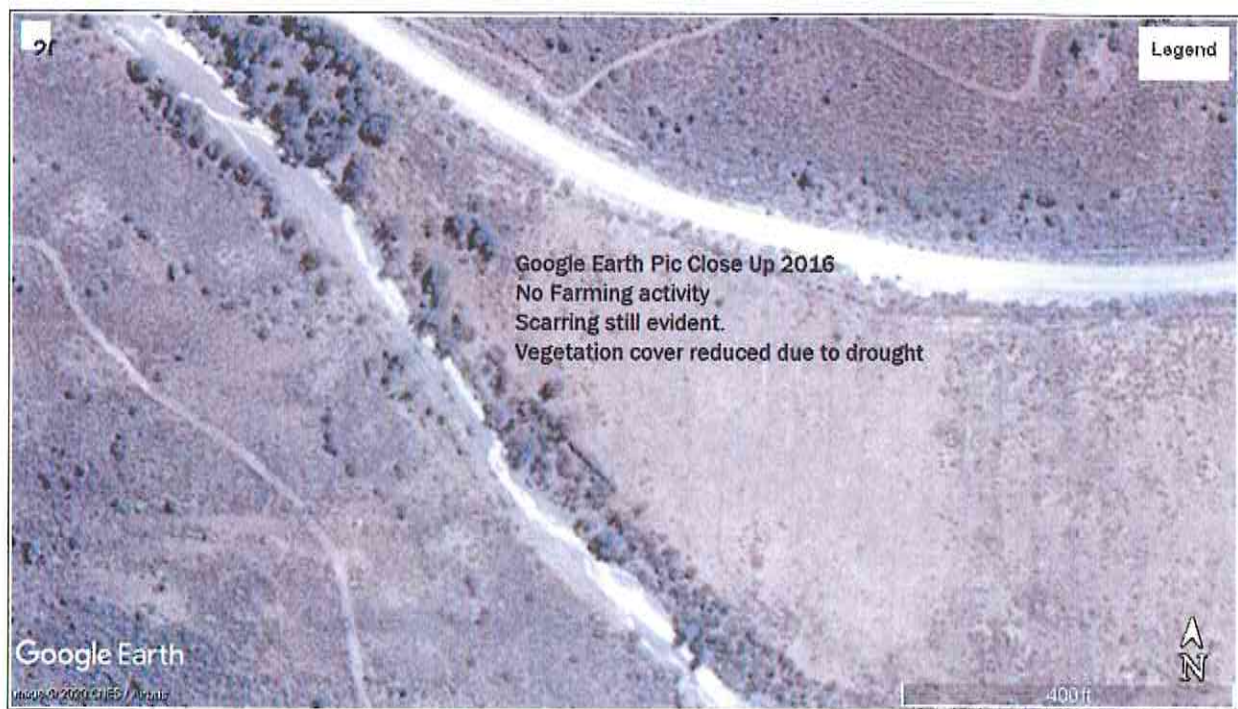


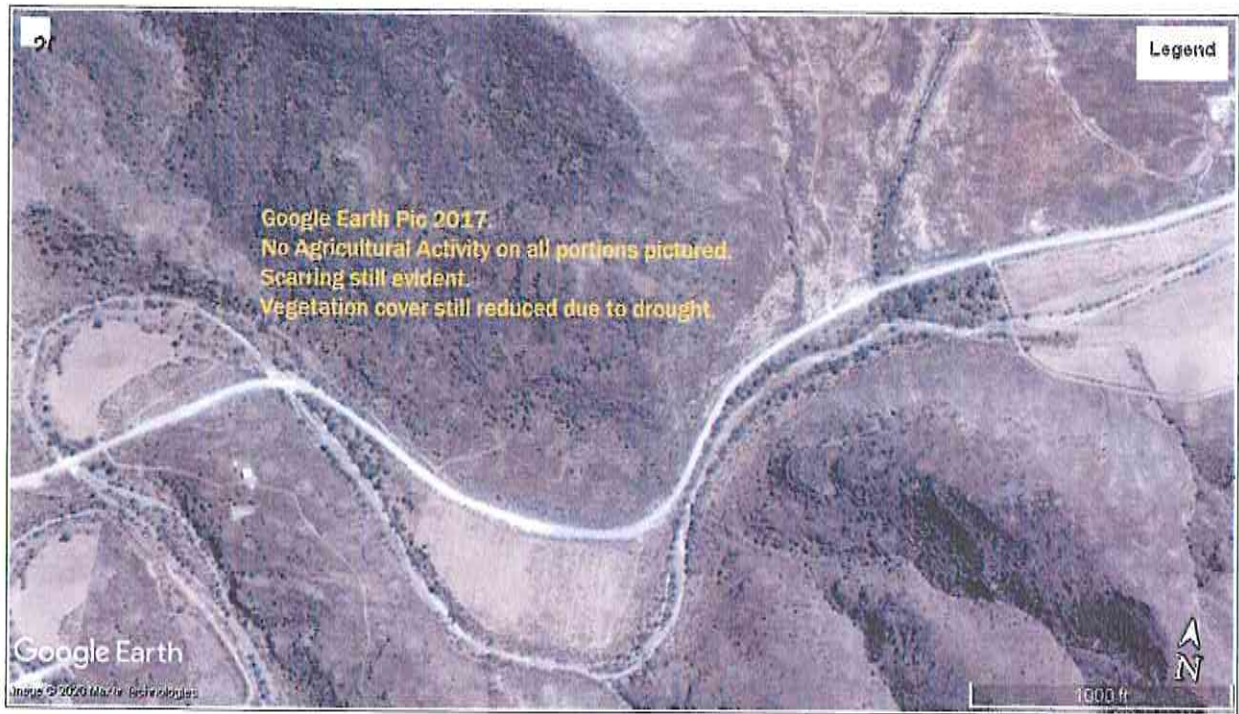
After many years, the vegetation is only just beginning to cover the river flood plain which had previously been irrigated with saline water.

2016 No Agricultural Activity



These pictures were taken after rains. Water is still evident in the river. Flood irrigation scarring still evident on close up.





2017 No Agricultural Activity, but relatively reasonable recovery. Dust conditions are now greatly controlled by adequate ground cover. Flood plain to the north has no scarring due it not being irrigated.

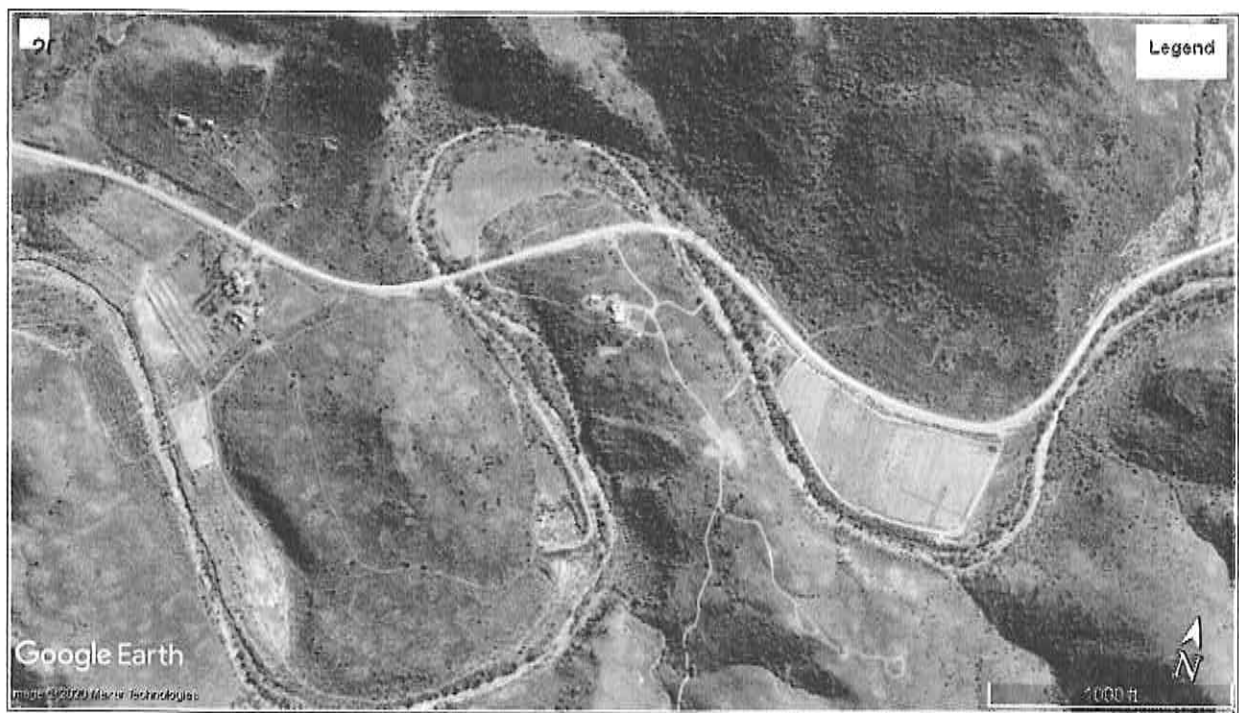




Activity initiated late 2018 By Previous Owner, Mr Enslin



Workshops consisting of shipping containers with zinc roof between them, stock holding pen, cleared vegetation areas. At this point, mountainside areas and kloofs are grazed by rooikopbok (goats) and the green plastic shed near the main dwelling houses several hundred battery hens.



Current Activity July 2020 River Flood Plain ploughed, irrigated and planted. Damaged areas and new road now forming basis of this application are still subject of current DEA&DP investigation. Containers, cabin, goat and holding pen removed. Water tanks currently sited above 340m contour. Ploughing evident from picture below.





Unlawful Road, Viewing platform and boma. These structures were not applied for and are overlooking our property.



This green plastic concrete block and gumpole shed with unpainted metal roof is currently in our view from our home and is visible for 5kms on approach. Another 200m² "garage and workers accommodation" is planned alongside and closer towards our property on a sloping section towards the river, in full view of our home and business areas. Additional Septic tank facilities will be close to river; which situated between our two properties just below the green shed in this pic. Septic facilities will be in both our properties prevailing wind directions. Truck access will be required for regular maintenance, this will likely be in view of our home.

Summary:

1. We did not have an opportunity to formally preview or submit any objection to any activity or building initiated by the previous owner in 2018 which now forms the basis of this application. We have however entered into correspondence regards this activity with the town planner and the owners agent at the time in order to register our objections.

We have not yet seen any plans submitted by the previous owner.

This is the first formal invitation we have been given to explain how the current and proposed development and use impacts our home and business.

The current plans do not show any facade or elevations, so we cannot comment on aesthetic impact.

2. The current portion available to use for cultivation is apparently less than 5% of the total property. This does not seem to warrant such a broad application which seeks to fully delete all conditions in order to permit commercial agriculture and related agricultural buildings. The current primary use is conservation, as stated in the title deed, until an application is approved. Primary use is not agriculture, despite being zoned agriculture. As all properties in this area are zoned as agricultural holdings, and many smaller properties have conditional use restrictions imposed by the Dept of Agriculture, this property is probably not exceptional.

3. Commercial agriculture is not viable and / or sustainable due to:

- water quality
- soil quality
- slope and erosion
- amount of appropriately sited land available
- economic viability of commercial agriculture in saline conditions and over such a small portion
- dust conditions from Ouberg Road and dust creation due to saline irrigation
- rate at which vegetation restores

4. Impacts not mentioned or not mentioned adequately within the application:

- impact on nature areas listed under Gouritz Cluster Biosphere Reserve (which falls under UNESCO) (No EIA)
- agricultural impact on indigenous, endemic and local fauna species (recently sited species include aardvark, porcupine, caracal, black backed jackal, honey badger, bat eared fox, Kudu, leopard, Cape Silver Fox, Klipspringer, Chacma Baboon, Duiker, water mongoose, yellow mongoose, Rooivalk, Eagle Owl, Booted Eagle, Gymnogene, Genet, African Black Footed Cat; Hamerkop, Black Shouldered Kite, Paradise flycatchers, monarch butterfly, yellow pansy butterfly, cape coral shield cobra, etc, etc, etc). (No fauna EIA)
- agricultural impact on flora species, (Montagu Randteveld and Renosterveld) some listed as threatened. (No flora EIA)
- visual impact on scenic tourism route (no consideration given)
- visual and heritage impact on historic areas (Anglo Boer War Fort) that may be used by current owners for tourism in future and is currently visible as a roadside sight-seeing opportunity /attraction en route to the established tourism Game Lodges and Eco Reserves on the ouberg route. (Of heritage and historic relevance, not mentioned.)
- potential impact of increased dust conditions from the unsurfaced road (Air quality for residents, road users and travellers not mentioned)
- erosion, soil salinity, water quality and further degradation of unique habitat not mentioned
- This application does not adequately substantiate spatial justice claims as no persons making this application were previously disadvantaged by the historic land policies. We feel changing the primary use from conservation to agriculture, for what has been historically proven to be an unsustainable region for traditional stock and cultivation, may impact the

local communities constitutional rights to preserve unique conservation habitats, (especially those not deemed able to support sustainable agriculture) for future generations. There are many animal and especially plant species that are considered cumulative, collective local heritage that are found on these lands. Some are endangered and the last census was done over a decade ago, so we cannot accurately tell how threatened these species are currently without a proper impact assessment. Some of these species are featured in the Joubert House Natural Medicine Museum Garden. Several species appear on CITES lists.

5. Because commercial agriculture is not substantiated with evidence to prove it is sustainable or viable within this application, we feel it cannot be accepted at face value that this is a suitable primary use when the primary use has been conservation since subdivision, and the primary use of the parent portion is conservation, and the primary use of the adjacent portion is also conservation. In this application, there has been no feasibility information to motivate for agricultural workers accommodation, managers dwelling, pack store, shed, workshop and additional impacts (as yet unassessed). The applicant cannot guarantee that his new activity will create a sustainable source of income that necessitate additional buildings to house workers in order to farm what amounts to approximately 4 ha, especially considering that the town is approx 6.5kms away and workers are able to cycle to work or drive themselves from their residences in town with ease.

Agricultural viability or sustainability with respect to land care and land use is not supported with evidence in this application as there are no soil samples or water samples or water registrations mentioned. Cultivation with saline water has previously shown to be an unsustainable historic use of these lands necessitating the conditional use of subdivision for conservation purposes.

6. Any additional structures may later be converted to dwellings if restrictions are removed. This has impact for the region as a whole as it potentially creates a small settlement on the hill in view of the scenic route / public road and sets a precedent for such cluster type developments that attract tenants within farm areas. The municipality does not benefit from any additional rates payments in the case of agricultural properties, as rates are levied on hectareage. As the municipality provides no services to the Ouberg region, there cannot be any additional services supplied that would generate additional income for the municipality due to this development.

However, should settlement along the Ouberg region increase, the municipality may eventually be required or obliged to provide services consistent with human rights and healthy settlements, as set out in our constitution. Water, surfaced roads, municipal services such as electricity provision and sanitation may be required if density increases.

7. The proposed 200m² "head workers accommodation" and "double car garage" (which easily converts to further accommodation as the layout appears similar and it has no double garage door but rather two single doors); will be in full view of our home.

This presents huge impact to our property, both financially, visually and for our peaceful, quiet lifestyle. It also presents impact to our current and future earnings, as our complementary health business (in operation in Montagu since 2010) has been sited at Baviaanskrans since 2014. We have intentions to expand on this business eventually, and intend to offer retreat accommodation in our farm cottages on portion 7/145 once we have completed restorations. Workers accommodation in view of our home will negatively impact these few opportunities presented to us, for the continued sustainable use of our two farms and our continued ability to earn a sustainable living from our property.

8. Any building and agricultural activity may reduce air quality due to spraying and dust. Due to reduced vegetation cover and the dust road; increased activity using the public road to access farmed regions in a sensitive area may create more dusty conditions in our immediate vicinity. This region is known for low and no impact activities and is a well used cyclist and motorbiking route. The dust is already a consideration for all who live here, especially when using the roads as visibility is often reduced.

9. Currently, to access the portion used for agriculture from Mr Steyn's property; requires use of the public road. The new entrance to the property is currently sited between two drifts and is on a blind rise. This entrance way was not applied for with the roads dept.

The entrance to Mr Steyn's river portions are only possible via the public road; or access would require crossing the river bed and further eroding the slope. There is a possibility of reduced visibility due to dust, or slower agricultural vehicles accessing the public road regularly in the course of everyday farm activities, which could lead to accidents.

10. Having agricultural workers coming and going on our (currently unfenced) boundary also potentially presents certain security risks. Our properties rely solely on solar infrastructure which has been regularly stolen in the past. The requirements to secure a property from normal activities of workers and / or their visitors is an expense that has not been considered from our point of view in this application.

The considerable reduction of value of our properties, our current business, and our farm security; and social impacts of workers and their visitors and / or tenants living right on our property edge and in full view of our home; is not considered nor mentioned in this application.

11. While an owner's failure to register may have reduced the protected status of the portion, the use restrictions still apply until approvals are granted. Yet activity is going ahead. This is not mentioned as part of the application but stated as if removal of conditional use has been granted already. The same applies to buildings. Stating these buildings are "existing infrastructure" fails to mention that these structures were unlawful and creates a misleading impression of a previously working farm where the primary use has traditionally been agriculture.

12. The property's restrictions have always historically **implied** that there are limitations to owning or buying this title, whether registry was up to date or not. Previous owners were made aware of these conditions and have respected these limitations.

13. These restrictions were not mentioned in advertising by Mr Enslin and his agent when they sold the property. The property was advertised - and subsequently sold - as a working agricultural holding, despite the conditional use and title restrictions of this title deed.

We believe this has created confusion and unpleasantness (and a lot of extra work for the municipal town planning department! To date Ms Brunnings has respectfully answered over fifty emails related to this case!) which could have been avoided had the previous owner and their agent revised the wording of their advert as requested by ourselves and the municipal town planner when we first noticed the advert in 2019.

14. The current use of our two portions (incl parent portion) is in line with that of the conditional use of the subdivided portion, and Nature Conservation has been the primary use of the three properties since subdivision. Any reduction of historic conditional restrictions effectively impacts the current use of the parent farm; as the neighbouring portions surround 5/145 and building on this outlying portion of 5/145 effectively creates impact on three of this property's sides.

15. Since 2018 forced changes without permissions have occurred. This broad application appears to seek to sanction all of those activities and assumes agriculture is the primary activity, yet title restrictions and conditions concludes that the entire primary use of this subdivided portion is for Nature Conservation purposes only. These activities are still under investigation with the DEA&DP.

16. No Environmental Impact Assessments are mentioned or included in this application. None have been completed to date, despite the application noting this is a core I biodiversity area. Before breaking in new ground or ground that has not been farmed in more than a decade, farmers are usually required to make an application that includes relevant environmental impact assessments; water samples and proof of water registrations. None of these steps were taken prior to Mr Steyn's ploughing and planting activities; or prior to Mr Enslin's stock farming and building activities in

2018. We believe he should be made to restore the areas he damaged and remove structures that were not approved nor planned, especially those new structures overlooking our properties and within our view.

17. The fauna of the three portions is at risk when unsanctioned farming activity takes place, as predator animals and birds are seen as a threat to farming activity. The previous owner reduced both the flora and fauna species during his short tenure and discharged his firearms regularly.

Conclusion:

- We believe this application is contradictory, as it is much broader than Mr Steyn's conversation with us in late October regards wanting a second dwelling.
- Permitting building and farming activity would set a precedent.
- Traditional Agriculture has not proved sustainable in the Ouberg Region due to water quality and availability. This does the opposite to what is suggested by this application wrt opening potential land markets, as sustainable employment and income generation require sustainable land, reasonable water sources, arable ground and good, strategic, conservation and management plans. Currently there is an existing, viable land market for private nature reserves, as the many sales of Ouberg subdivisions will currently attest.
- Creating infrastructure that suggests agricultural activities are viable, creates an impression which causes people to potentially invest in less suitable use and unsustainable activity. Contrary to the implied lack of ability to make a living from conservation lands, many people along the Ouberg region prosper with conservation activity which cause no or low impact and is approved correctly.
- We believe the onus is upon the applicant to provide proof of *how* his activities will effectively create sustainable agriculture activity that will stimulate the land economy, grow employment, improve spatial justice and improve payments to the municipality before assuming that all lands are arable, all water is suitable for farming, and all lands can be farmed without impact assessments. There have been no additions or consolidations to the land, and no changes in water supply since subdivision.
- Unfortunately, the applicant has already gone ahead with unsanctioned and unplanned activity and has already continued with activity unlawfully initiated by the previous owner.
- As these activities were not sanctioned nor assessed; we do not believe this application falls in line with the municipal requirements as it cannot show that these activities are in fact sustainable or even viable over the long term.

The current land use and current unlawful buildings impacts our use and our living conditions, impacts our property values, impacts our current business and future business, impacts potential heritage sites, impacts tourism and the scenic route, impacts flora, fauna and potential archaeological sites, impacts neighbours rights to privacy and security, impacts air quality and the ecosystem, and unsustainable practices impacts the region as a whole. There is no proof of sustainability and no feasibility to sustain meaningful employment.

Further impact on our property with no consideration given to current and historic use of the parent farm seems unjustified, especially as these current impacts were not assessed before they commenced and we have had no opportunity until now to make any formal objection.

We respectfully ask that you consider this objection and thank you for your time and patience.

With kind regards,

Melody Mitchell and Malcolm Mitchell

Owners of Portions 2 (parent farm) and portion 7 (neighbouring and adjacent portion) of Bavaiaankrans Farm.

Municipal Reference:- 15/4/13/7
Applicant Reference:- #MON/1137
Contact:- MARTIN Oosthuizen
Tel no:- 082 5655 835
E-mail:- bolandplan@breede.co.za
Date:- 23 November 2020



The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6849

For attention:- Me TRACY Brunings

RESPONSE TO OBJECTION RECEIVED:-

APPLICATION FOR DELETION OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS:- PORTION 5 OF THE FARM BAVIAAN KRANTZ NO. 145, MONTAGU:- ONE DWELLING AND OPEN SPACE ZONE III RESTRICTION

Above mentioned application and your e-mail with the objection dated 9 November 2020 refers.

During Langeberg Municipalities Land Use Planning By-Law public participation process letters were sent out to surrounding land owners and a notice placed in the local newspaper for comment and/or objection.

One (1) objection was received from:- ME and MG Mitchell registered owners of Portions 2 and 7 of the Farm Baviaan Krans No. 145, Montagu, in their letter dated 3 November 2020.

The evaluation of land use applications and the basis of a refusal by Council are set out in Langeberg Municipality:- Land Use By-law, 2015, section 65 indicate that an application shall be refused solely on the basis of a lack of desirability of the contemplated utilization of land concerned including the guideline proposals included in a relevant guidelines issued by the Provincial Minister regarding the desirability of proposed land use. The comments in response to the notice of the application, including comments received from municipal departments. Impact on municipal services, IDP, SDF, applicable structure plans and the PSDF.

We were instructed to respond, on our client's behalf to the objection received from ME and MG Mitchell, and we do so below. Due to the structure of the letter of objection and the fact that it is replete with submissions that are irrelevant for purposes of the decision Council is mandated to take, the different grounds of objections are not easily discernible. With a view not to complicate matters, we followed the order and structure of the objections and used the same headings to make for easier reading.

It is very clear that the objector has a major problem with the impact of the removal of the title deed condition as a restriction on subject property. Clearly they don't understand the technical reasoning behind the application. Their intention is to show and motivate that the primary use of the property is conservation.

Only the existing cultivated land will be used for agricultural purposes the remainder of the property will stay in its natural state because of the CBA.

From a legal perspective **the primary use** of the property is not conservation it is **agriculture**.

Our response to the main issues identified in the objector's letters is summarised and structured as follows:-

1. Contradictory application;
2. Permitted building and farming activity would set a precedent;
3. Agriculture not sustainable due to water quality and availability;
4. Creating infrastructure that suggests agricultural activities are viable creating wrong impression;
5. Provide proof of how the activities will create sustainable agricultural activity;
6. Indicating that the current activities are unlawful; and
7. Application not in line with municipal requirements;

BolandPlan Town and Regional Planning's response to the objection received:-

1. Contradictory application:-

The objector clearly doesn't understand what is being applied for. Most referral is made regarding the primary use of conservation and that the property is not allowed to be farmed.

The property is not a registered nature reserve and not zoned as Open Space Zone III. Biggest portion of the property is indicated as a CBA and would be kept in its natural state.

No cultivation on virgin land is proposed.

2. Permitted building and farming activity would set a precedent:-

The application will not set a precedent. The request is technical in terms of land use planning legislation for primary uses on Agricultural zone I.

The intension is to only farm on the existing cultivated land and this has no negative impact from an agricultural or conservation perspective.

3. Agriculture not sustainable due to water quality and availability:-

The owner is not applying to rezone the property to Agricultural zone I to use the remainder of the portion for agricultural purposes the property is zoned as Agricultural zone I and any additional clearance of land for farming purposes is not the reason for this application. Agricultural activities form part of the primary use of the property but the primary uses referring to a second dwelling/house is not possible due to the restriction in the Title Deed.

4. Creating infrastructure that suggests agricultural activities are viable gives a wrong impression:-

Structures relating to the main agricultural activities on the property is part of the primary use and not a reason for objection. The viability of the portion of land used for agricultural activities is not the purpose of the application.

5. Provide proof of how the activities will create sustainable agricultural activity:-

Land owner as no obligation to reason this point that has nothing to do with the application.

6. Indicating that the current activities are unlawful:-

Clearly evident that the objector doesn't understand the technical reasoning for the application.

7. Application not in line with municipal requirements:-

The application is quite technical and it is understandable that the neighbour is not going to understand the reason there of.

The application is 100% in line with the provisions of the Langeberg Municipality Spatial Development Framework and the Provincial Government of the Western Cape Land Use Planning Guideline Rural Areas, 2019

CONCLUSION

I submit in conclusion that:-

The proposal is entirely compatible with the primary zoning of the property, the Langeberg Municipality Spatial Development Framework and the Provincial Government of the Western Cape Land Use Planning Guideline Rural Areas, 2019 and can't have any negative impact on the objector.

We trust that you will consider our submission positively.

Yours faithfully

MARTIN Oosthuizen

BolandPlan Town and Regional Planning
PO Box 963
WORCESTER
6849
082 5655 835



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: TPW (Job 28012)
ENQUIRIES: Ms GD Swanepoel
DATE: 29 October 2020

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Attention: Ms T Brunings

Dear Madam

PORTION 5 OF FARM BAVIAAN KRANTZ 145, MONTAGU: MAIN ROAD 294: APPLICATION FOR AN ADDITIONAL DWELLING UNIT

1. Your e-mail dated 23 September 2020 refers.
2. The subject property is located 9km east from Montagu and takes access off Main Road 294 at ±km8.07.
3. This application is to amend previous approval conditions and to amend the title deed in order to accommodate an additional dwelling unit and a farm shed.
4. The existing access has very limited sight distance in an easterly direction. It cannot be relocated due to a drift to the west and a river course makes alternative access costly.
5. This Branch is prepared to accept the access, provided a concealed access sign is erected in advance of the access when travelling in a westerly direction (for the account of the Applicant).

6. This Branch offers no objection to the application in terms of the Land Use Planning Act 3 of 2014, subject to the erection of a concealed access sign in advance of the access when travelling in a westerly direction.
7. The Applicant should contact the office of the District Roads Engineer, Paarl (Mr Elroy Smith e-mail: Elroy.Smith@westerncape.gov.za) to make arrangements to have the sign erected.

Yours faithfully



SW CARSTENS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

STEWARDSHIP REVIEW COMMITTEE MEETING

Held virtually on Thursday, 02 September 2021 at 08H30

1. OPENING AND WELCOME

Anita welcomed everyone to the meeting.

2. ATTENDANCE

Full Name	E-mail address
Andrie Brink	abrink@capenature.co.za
Othusitse Mabi	omabi@capenature.co.za
Anita Wheeler	awheeler@capenature.co.za
Keir Lynch (Bionerds)	Keir.lynch@bionerds.co.za
Antoinette Veldtman	aveldtman@capenature.co.za
Marienne De Villiers	mdevilliers@capenature.co.za
Alana Duffell-Canham	aduffell-canham@capenature.co.za
Alan Wheeler	adwheeler@capenature.co.za
Philippa Huntly	phuntly@capenature.co.za
Rhett Smart	rsmart@capenature.co.za
Donnie Malherbe	gmalherbe@capenature.co.za
Arnelle Collison	acollison@capenature.co.za
Lesley-Ann Williams	lawilliams@capenature.co.za
Chanel Rampartab	crampartab@capenature.co.za
Gareth Boothway	GBoothway@wwfsa.org.za
Sarah Hulley	sarah@conservation-outcomes.org
Paul Vorster	Paul.Vorster@sanbona.com
Vicki Hudson	vhudson@capenature.co.za
Cikizwa Mbolambi	Cikizwa.Mbolambi@westerncape.gov.za
Jean-Pierre Le Roux	jeanpierrele@ewt.org.za
Colin Fordham	cfordham@capenature.co.za
Liesl Eichenberger	ecologist@sanbona.com
Mark Botha	mark@ecological.co.za
Ismat Adams	iadams@capenature.co.za
Callum Beattie	cbeattie@capenature.co.za
Jacques vd Merwe	Jacques.VanDerMerwe@capetown.gov.za
Michael Hanson	mhanson@capenature.org.za
Rupert Koopman	R.Koopman@botanicalsociety.org.za
Johan Burger	jburger@capenature.co.za
Steve Gildenhuys	sgildenhuys@capenature.co.za
Annelise Vlok	avlok@capenature.co.za

3. APOLOGIES

Ismat Adams, Tertius Carinus, Coral Birss, Grant Forbes, Kevin McCann, Jan Coetzee, Corne Claassen.

4. SITES FOR REVIEW

<p>Lifting of Title Deed restrictions of PNR's</p> <p>It was supported that future conservation-related title deed restriction applications be brought to stewardship review.</p> <p>A property was meant to be secured as a PNR, but the land use planning application was concurrent with the promulgation of NEM:PAA and therefore once it was approved the site was never declared as a PNR as NEM:PAA was in force. There are however conditions of approval and title deed restrictions which require rezoning to Open Space III (which was prior to SPLUMA/LUPA) and declaration as a PNR. The owner has now applied for the for removal of the title deed restrictions and declaration as PNR. The site is not a stewardship priority, therefore the committee has agreed that the condition of declaring a PNR may be removed, but not the title deed restrictions in its entirety. It was recommended that further development of the property should be restricted in terms of amending the conditions or title deed. A farm plan is also needed.</p>	<p>Rhett Smart</p>
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5. DATE OF NEXT MEETING (S):

Stewardship Review Committee meeting: **10 November 2021** (date change due to Conservation Symposium).

6. CLOSURE

Close meeting at 12:46.



REFERENCE: 15/3/2/12/BL2

DIRECTOR: ENGINEERING SERVICES
Langeberg Municipality
Private Bag X2
ASHTON
6715

FOR ATTENTION: TRACY BRUNNINGS

**REQUEST FOR COMMENT - PROPOSED APPLICATION FOR AMENDMENT/DELETION OF
CONDITION OF APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS ON PORTION 5 OF
FARM BAVIAAN KRANTZ NO 145, MONTAGU**

1. Your request for comment dated 23 September 2020 refers.
2. The purpose of the application at hand is to apply for the deletion of conditions in respect of an existing approval and the removal of Title Deed restrictions in terms of Section 15 of the Langeberg Municipality Land Use Planning By-Law, 2015:
 - ☐ Deletion of conditions in respect of an existing approval on Portion 5 of the Farm Baviaan Krantz No. 145, Montagu, in terms of Section 15(2)(h), for:
 - o Slegs een woonhuis mag op gedeelte A opgerig word / only one dwelling may be built on portion A.
 - o Gedeelte A moet as 'n privaat natuurreservaat verklaar word / Portion A must be registered as a private nature reserve.
 - ☐ Removal of restrictive Title Deed Conditions D and E.1., as contained in Title Deed T40974/2019 in terms of Sections 15(2)(f) of the Langeberg Municipality Land Use Planning By-law (2015), for:

- o Section D:

SUBJECT FURTHER to the following conditions, imposed by the Department of Agriculture of the Republic of South Africa when granting its approval in terms of The Subdivision of Agricultural Land Act, Act 70 of 1970, namely that the hereinmentioned property may only be used for purposes of a private nature reserve and ancillary purposes, and also that the property must be rezoned to Open Space Zone III, as contained in Certificate of Registered Title Number T105674/2004.

- o Section E:

"1. Slegs 1 (een) woonhuis mag op die eiendom opgerig word, welke plasing uitgeklaar moet word met die personeel van die Wes-Kaap se Natuurbewaringsraad, asook die Munisipaliteit Breërivier/Wynland (nou Langeberg Munisipaliteit)."

3. In terms of the background of the application, it is held that the subject property was rezoned from Agricultural Zone I to Open Space Zone III (Private Nature Reserve) in 2003, but the zoning lapsed back to Agricultural Zone I because the owner did not formally declare this area as a Private Nature Reserve (the requirement in terms of the applicable legislation at that stage).
4. If the zoning lapsed, as has been confirmed by the Municipality, the conditions imposed in respect of said rezoning also fall away thus making the application for the removal of said conditions redundant.
5. Given that the greater part of the property is earmarked as a Critical Biodiversity Area (CBA) in terms of the Western Cape Biodiversity Spatial Plan and as Core 1 in terms of the Langeberg SDF, the conservation of the terrestrial habitat on Farm 145/5, Montagu remains paramount and was the basis for the imposition of the rezoning and Title Deed conditions and presumably a prerequisite for the subdivision of Portion 2 of the Farm Baviaan Krantz No. 145 in 2003.
6. Core Areas are essentially 'no-go' areas from a development perspective, with extensive or intensive grazing, intensive agriculture (cultivation) or plantation forestry not being permitted. In terms of the Western Cape Land Use Planning Guidelines: Rural Areas, all land designated as CBAs (public or private) should be protected.

Although not all CBAs are designated for formal protection in terms of NEM:PAA, the Guidelines proposed alternate mechanisms for protection, including Stewardship Agreements, conservation zonings, the imposition of Title Deed restrictions and approval of a Management Plan, amongst other.

7. Agricultural activities on the property, bar the harvesting of natural resources, should be restricted to the ±4ha of land excluded from the CBA, with further activities being regulated by way of the Langeberg Scheme By-law and the approval of a Site Development Plan. A Management Plan, imposed as a condition of approval, can identify and prioritise areas in terms of their biodiversity importance for better management and special protection and introduce measures to minimise and mitigate the impacts of activity within the CBA.
8. Should restrictions be imposed in respect of the above-mentioned, this Directorate has no objection from a provincial planning perspective to the removal of Title Deed Conditions D and E.1.
9. It is, however, requested that comment specifically be obtained from the Department of Agriculture, as Title Deed Condition E.1. was registered in the property's Title Deed at the request of said Department, following an approval granted in terms of the Subdivision of Agricultural Land Act, Act 70 of 1970.
10. Please be advised that this Directorate does reserve the right to revise this comment and request further information based on any additional information that may be received.

Kobus Munro

Digitally signed by Kobus Munro
Date: 2020.10.15 15:41:39 +02'00'

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

Copy: Martin Oosthuizen – Boland Plan

REFERENCE: 14/1/1/E2/1/2/3/0463/19
ENQUIRIES: Mogammad Arshad Holliday

BY EMAIL

Vrede Farm
Ouberg Road
Montagu
6720

Email: groenbergsaagmeule@gmail.com

Attention: Mr Maynard Enslin and Mrs Olga Enslin

Dear Sir and Madam

ALLEGED ILLEGAL CONSTRUCTION OF NEW ROADS, RIVER CROSSINGS AND TOURIST FACILITIES ON FARM PORTION 5/145, VREDE FARM, OUBERG ROAD, MONTAGU

1. The above matter, the Department's Pre-Compliance Notice dated 16 July 2020 and your subsequent Rehabilitation Report ("the Report") dated November 2020, has reference.
2. After careful consideration of the content of your Report by the Directorate: Environmental Law Enforcement and CapeNature for the above-mentioned site, this Directorate is of the view that the Report does not adequately address the

scope of the transgression and thus rejects the Report in light of the reasons outlined below:

- 2.1. The Report has contested the determination that the roads are wider than 4m and therefore did not trigger activity no.4 in Listing Notice 3 of the NEMA EIA Regulations, 2014.
- 2.2. The new access roads developed on the property remains a concern to the Department. There is no indication as to how the extent of these roads will be rehabilitated.
- 2.3. Of concern was the new road to the east and uphill of the water tank as well as a well-worn (but currently blocked-off) road from the second dwelling towards the river and previously cleared areas.
- 2.4. The Report indicates that no rehabilitation is recommended for Areas 1 and 3. The recommendation of no rehabilitation does not fulfil the requirements in terms of addressing the unlawful activity undertaken by reversing the activity.
- 2.5. According to the Department's requirements, activities in terms of the NEMA EIA Regulations of 2014 undertaken prior to an environmental authorisation being issued can only be rectified if that specific activity is undone in its entirety and the site is returned to its previous state.
- 2.6. A road will not passively rehabilitate to its previous state, as it is evident that the road has been gravelled. As a minimum, the compacted gravel will need to be removed and topsoil laid down in order to permit the regrowth of vegetation. The road should have bollards placed at all access points in order to prevent any further usage.

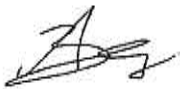
- 2.7. The vegetation type was confirmed to be Least Threatened Western Little Karoo with shale-dominated soils. Several interesting species were located, especially from the genus *Crassula* on the slopes below the fire boma and deck.
 - 2.8. The seedbank of indigenous species on the site is likely to be very low to depleted, which would undermine efforts of restoration. The Report does not make mention of supplementary seed sowing or planting in order to ensure the establishment of representative Western Little Karoo vegetation.
 - 2.9. The new road to the east of the water tank is not well-worn and may recover despite the disturbance to the veld. All the other well-worn roads and previous cleared areas will require active rehabilitation if any cover is to re-establish thereon. This is particularly important in the road leading towards the river (despite its being currently blocked off for use/access) as it is directly down-slope and at high risk of serious erosion in the future if it remains un-vegetated. Any such, active (i.e. planting) rehabilitation must only be done using the same species from the adjacent veld to retain the ecological integrity of the area.
3. In light of the above, you are hereby requested to submit to the Department for approval, **within 21 (twenty-one) calendar days** of receipt of this letter, a revised Report compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must address the concerns outlined in paragraph 2 above, and include the following:
 - 3.1. assessment and evaluation of the impact on the environment;
 - 3.2. identification of proposed remedial and/or mitigation measures;

- 3.3. the removal and rehabilitation of the entire extent of the new roads constructed on the property; and
 - 3.4. an Invasive Species Management Plan to prevent the further infestation of the disturbed area.
4. It must further be ensured that no vehicle access is allowed which will inhibit the rehabilitation of the roads.
5. Furthermore, the natural establishment of vegetation on these roads does not exempt it from being unlawful. This may also create a gap for alien invasive species to dominate as there was no active rehabilitation of the disturbed areas in the hopes that it will restore naturally.
6. Please note, approval of the rehabilitation report by the Department does not remedy the unlawful commencement of the above activity, which remain unlawful in terms of section 49(1) (a) and/or (d) of the NEMA.
7. If the above report as requested in paragraph 3 above, is approved by the Department, you will be obliged to take the necessary remedial/mitigation measures at your own cost.
8. If you wish to continue with the listed activity, you may apply for environmental authorisation by way of a section 24G application. However, such application does not constitute permission to continue with the listed activity, which remains unlawful unless environmental authorisation is granted.
9. Should you choose to apply in terms of s24G on the NEMA, you must submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this letter, a project schedule compiled by a suitably qualified and experience independent environmental assessment practitioner. The project schedule must

clearly stipulate the time frames in terms of the s24G process and by when a s24G application will be submitted to the Sub-Directorate: Rectification.

10. Notwithstanding the section 24G application, the Department may issue a Compliance Notice and/or commence criminal proceedings should circumstances so require.

11. Should you have any further queries, please do not hesitate to contact the person listed under enquiries above.



Achmad Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 23/07/2021

Cc: Ms Tracy Brunnings (Langeberg Municipality) Email: tbrunnings@langeberg.gov.za

Mr Dries Barnard (DB Properties)

Email: info@driesbarnardproperties.com

Siyabulela Lupa (BGCMA)

Email: Lupa@bgcma.co.za

Nolutando Ndlumbini (BGCMA:CME)

Email: nndlumbini@bgcma.co.za

Nicolaas Hanekom (Enviro-EAP)

Email: nicolaas@enviro-eap.co.za

Rhett Smart (CapeNature)

Email: rsmart@capenature.co.za



**Western Cape
Government**

Agriculture

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

OUR REFERENCE : 20/9/2/5/3/200
YOUR REFERENCE : -
ENQUIRIES : Cor van der Walt

Langeberg Municipality
03 Piet Retief Street
MONTAGU
6720

Att: Tracy Brunings

**APPLICATION FOR AMENDMENT/DELETION OF CONDITION IN RESPECT OF AN
EXISTING APPROVAL AND REMOVAL OF TITLE DEED RESTRICTIONS:**

DIVISION MONTAGU

PORTION 5 OF THE FARM BAVIAAN KRANTZ NO 145

Your application of July 2020 has reference.

The Western Cape Department of Agriculture: Land Use Management has no objection against the proposed application.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.

- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely



Mr. G. van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2020-10-01

Copies:

Department of Environmental Affairs & Development Planning
1 Dorp Street
Cape Town
8000

BolandPlan
PO Box 963
WORCESTER
6849

Tracy Brunings

Subject: FW: LAND CARE: MONTAGU

From: Roscher, Rudolph <RudolphR@elsenburg.com>
Sent: Monday, 12 October 2020 08:27
To: Tracy Brunings <tbrunings@langeberg.gov.za>
Cc: Van der Walt, Cor <CorvdW@elsenburg.com>
Subject: RE: LAND CARE: MONTAGU

Good morning Tracy

My apologies, I have missed this email.

It is true that this area is known for its brackish water and dependence on groundwater for farming. Natural salts in the subsoil also cause further salinity challenges and possible degradation of the soil if not managed properly. If no active farming has taken place in the past 10 years then the owner must apply for a CARA and NEMA permit. He/she will also have to provide proof of water registration as part of the WULA process (and quality of water used).

If he/she is still within 10 years (and best would that an official from Cape Nature determines this) then they are allowed to farm the land without the above approvals. However, they still have a responsibility towards the resource and their farming practices cannot cause degradation (i.e. erosion, salinization, erosion due to floods because they are farming within the allowed 32m buffer zone, etc).

Best regards

Rudolph Röscher
LandCare Manager : Cape Winelands District
Program: Sustainable Resource Management
Western Cape Department of Agriculture
P.O. Box 66
Worcester
6849
SOUTH AFRICA
Email : rudolphr@elsenburg.com
Tel : +27 21-8087801
Fax : +27 23-3426779
Cell : +27 83 675 1315
Departmental website : www.elsenburg.com
Provincial website : www.westerncape.gov.za



Be 110% Green. Read from the screen.

From: Tracy Brunings <tbrunings@langeberg.gov.za>
Sent: Monday, October 5, 2020 1:02 PM
To: Roscher, Rudolph <RudolphR@elsenburg.com>
Cc: Van der Walt, Cor <CorvdW@elsenburg.com>
Subject: RE: LAND CARE: MONTAGU

Hello Rudolph,

I received a phone complaint from a neighbour to Ptn 5/145 Annex Helpmekaar, Montagu (also known as Baviaan Kranz). His complaint is that the new owner of 5/145 is planting on a ± 4 ha. portion of the farm (shown below as "weeds"). He argues that this land has not been used for agricultural purposes for more than 20 yrs (don't think he is correct) and that the title deed restricts the use of the property to nature conservation purposes (this is correct, although the zoning is Agricultural zone I, and the area in question is only a small portion of the overall 285ha. farm and has previously been cleared for farming purposes. There is currently an application to remove this restrictive condition, as Cor is aware). From a land care point of view, the neighbour states that the water supply is too brakish to farm anything, as previous owners found out, and that the current activities are negatively impacting on the adjoining Langkloof river (his farm is downstream). Could you offer any insight / advice in this regard?



Your assistance is appreciated.

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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BREDE-GOURITZ

CATCHMENT MANAGEMENT AGENCY

Cnr Mountain Mill & East Lake Road, Worcester 6850, Private Bag X3055 Worcester 6849

Enquiries: Elkerine Rossouw

Tel: +27 23 346 8000

Fax: +27 23 347 2012

E-mail: erossouw@bgcma.co.za

Reference: 4/10/2/H30A/ Baviaankrantz 145 prt 5, Montagu

The Manager: Town Planning
3 Piet Retief Street
MONTAGU
6720

Per email: tbrunnings@langeberg.gov.za and admin@langeberg.gov.za

To whom it may concern,

COMMENT: LAND USE APPLICATION ON PORTION 5 OF BAVIAANKRANTZ NO 145, MONTAGU

The Breede-Gouritz Catchment Management Agency (BGCMA) received your documents for comment, for the abovementioned application, dated 23 September 2020. The following comments and recommendations have been made by BGCMA for this application:

Comments

- The applicant engaged with the BGCMA during October 2020 to get clarity on water uses on various properties. The outcomes of that discussion resulted in being advised to apply for a general authorisation for the property above.
- In February 2021 the applicant was advised to apply for a GA but that there would be strict conditions. The placement of the borehole on the property is limited if it is within a water course, within the boundaries of a wetland and water course etc. This should be clarified when application is made
- The applicant may not alter the flow of water courses without the necessary authorisation.
- The GA is for abstraction for ground water up to a volume of 40 000m³/a as stipulated and related to the General Authorisation notice 40243, gazetted on 2 September 2016. This is still in the process of being finalised, but have been confirmed to continue.
- The applicant should monitor water use (water measurements taken at the source) and reported in terms of Regulations requiring that the taking of water for irrigation purposes be measured, recorded and reported, gazetted on 17 February 2017 in Government Gazette notice 40621 (please see as per attached).

- All development need to comply to relevant regulations stipulated for the National Environmental Management Act No. 107 of 1998.
- The current registration of water needs to be amended in line with new property descriptions once subdivision has been finalised, with the BGCMA offices at Worcester.
- All applicable by-laws of the Langeberg Municipality should be adhered to.
- All water containing waste should be managed according to the by-laws of the Langeberg Municipality. The BGCMA does not support French drains and septic tanks within 100m of a water course or groundwater abstraction points.

The following general conditions remain relevant for this application:

- All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.
- No pollution of surface water or ground water resources may occur.
- Storm water management must be addressed and applied both in terms of flooding and pollution potential.

The BGCMA will gladly comment on any additional information provided for review. The BGCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.

Yours sincerely,

Elkerine
Rossouw

Digitally signed by Elkerine
Rossouw
DN: cn=Elkerine Rossouw,
ou=BGCMA, ou=Breede Unit,
email=erossouw@bgcma.co.za,
c=ZA
Date: 2021.05.28 10:08:25
+02'00'

MR. JAN VAN STADEN

CHIEF EXECUTIVE OFFICER (ACTING)

LANGEBERG MUNICIPALITY

Date: 2020/10/15

Tbrunings@langeberg.gov.za

Enquiries:

WayleavesWesternOU@eskom.co.za

**WAYLEAVE APPLICATION: APPROVAL AND REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS : POR 5 OF 145 : MONTAGU**

YOUR REF: BAVIAAN KRANTZ

ESKOM REF: 02538-20

THIS IS NOT AN APPROVAL TO START CONSTRUCTION

I hereby inform you that Eskom has no objection to the proposed work indicated on your drawing in principle. This approval is valid for **12 months** only, after which reapplication must be made if the work has not been completed.

1. Eskom services are affected by your proposed works and the following must be noted:

- a) Eskom has no objection to the proposed work and include a drawing indicating Eskom 11kV/LV underground services in close proximity.
- b) Please note that underground services indicated are only approximate and the onus is on the applicant to verify its location.
- c) There may be LV overhead services / connections not indicated on this drawing.
- d) The successful contractor must apply for the necessary agreement forms and additional cable information not indicated on included drawing, in order to start construction.

Application for Working Permit must be made to:

Customer Network Centre: Montagu

Collins Ramabulana

023 614 8404

RamabuC@eskom.co.za

Include Eskom Wayleave as-built drawings and all documentation, when applying for Working Permit.

Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost. Application for relocating services must be made to Customer Services on 08600 37566 or customerservices@eskom.co.za

2. Underground Services

The following conditions to be adhered to at all times:

- a) Works will be carried out as indicated on plans.
- b) No mechanical plant to be used within 3.0m of Eskom underground cables.
- c) All services to be verified on site.
- d) Cross trenches to be dug by hand to locate all underground services before construction work commences.
- e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Graham Hector from the Land Development Office to be contacted on 021 980 3551 / HectorG@eskom.co.za, to arrange the capturing of such services.
- f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000mm.
- g) Where proposed services cross underground power cables the separation should be a minimum of **300mm** with protection between services and power cables. (Preferably a concrete slab)
- h) No manholes; catch- pits or any structure to be built on top of existing underground services.
- i) Only walk-behind (2 ton Bomac type) compactors to be used when compacting on top of and 1 metre either side of underground cables.
- j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work.
- k) **No work can take place within the servitude of a 66kV Cable or 13kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Graham Hector on 082 7720 359 or graham.hector@eskom.co.za

3. O.H. Line Services:

- a) The following building and tree restriction on either side of centre line of overhead power line must be observed:

Voltage	Building restriction either side of centre line
11 / 22kV	9.0 m
66kV	11.0 m
132kV	15.5 m

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.
- c) No work or no machinery nearer than the following distances from the conductors:

Voltage	Not closer than:
11 / 22kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.
- e) That a minimum ground clearance of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11 / 22kV	6.3 m
66kV	6.9 m
132kV	7.5 m

- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
 - i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
 - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) Lungile Motsisi MotsisL@eskom.co.za, Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES. NO WORK WITIN THIS SERVITUDE OR UNDERNEATH POWERLINES IS ALLOWED until comment from Eskom Transmission has been obtained.

4. **NOTE**

Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom to be kept on site at all times during construction period.

Yours faithfully

LAND DEVELOPMENT (BRACKENFELL)

