

LAND USE PLANNING ASSESSMENT REPORT FOR THE LANGEBERG MUNICIPAL PLANNING TRIBUNAL

(In terms of Sections 56, 65 & 66 of the Langeberg Land Use Planning Bylaw PN 264/2015, 30 July 2015)

FARM RIETVALLEI NO. 323, ROBERTSON RD: APPLICATION FOR CONSENT FOR FREESTANDING BASE TELECOMMUNICATION BASE STATION AND DEPARTURE TO NIL BUILDING LINE

Reference number	15/4/12/5 & 9	Application submission date	23 February 2023 Last Comments: EA 9 May 2024	Date report finalised	30 May 2024
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PART A: AUTHOR DETAILS

First name(s) & Surname	Tracy Brunings.
Job title	Manager: Town Planning
SACPLAN registration number	Pr. Pln A/951/1997

PART B: PROPERTY DETAILS

Property description (Title Deed)	Farm Rietvallei No. 323, Robertson				
Physical address	Klaasvoogds West Road (Divisional Road 1369)	Town	Rural – ±9km east of Robertson.		
Current zoning	Agriculture Zone I	Extent (ha)	15,8770ha	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Langeberg Integrated Zoning Scheme By-law, 2018				
Current land use	Dwelling house, Transport business, 15m high freestanding base telecommunication station.		Title number & date	Deed & TT21491/2022	
Any restrictive title conditions applicable	Y	N	If yes, condition number(s)	Some of the Title Deed conditions are in Dutch. No Conveyancing Certificate was provided. Based on available information, there are no title deed conditions which restrict the proposed development.	
Any third-party conditions applicable?	Y	N	If yes, specify		
Any unauthorised land use/building work	Y	N	If yes, explain	The applicant operates a transport business (Anton Conradie Vervoer) which has non-conforming existing use rights. However, mention is also made in the EIA application of "ACV Shotblasting Services" operating from the premises, which will require further investigation in terms of compliance with the Zoning Scheme. Subsequent to the current application, a 15m high freestanding base telecommunication station has been erected on the property near to the proposed application site – there is no authorisation for this base station.	

PART C: APPLICATION DESCRIPTION

Application is made for consent for a Freestanding Base Telecommunication Station 0.0m from the common boundary (shared with Remainder Portion 6 of the Farm Rietvallei No. 115, Robertson), with a development footprint of 64m².

The application includes the following:

- o Erection of a 35m high lattice mast
- o Installation of 9 triband antennae on the mast
- o Installation of 4 transmission dishes on the mast
- o Construction of 3 x 3.0m (L) x 3.0m (W) concrete plinths and installation of 2 x telecommunications equipment containers measuring 2.4m (L) x 2.8m (W) at ground level
- o 8m (L) x 8m (W) compound enclosed by a 2.4m high palisade fence.

PART D: BACKGROUND & SUMMARY OF APPLICANT'S MOTIVATION

The applicant states that recent research has indicated that whilst there is not necessarily a lack of cellular infrastructure, the aim is to strengthen the coverage for these remote areas to provide optimal and efficient data and voice coverage to the Klaasvoogds community. The need for more optimal coverage is caused by the increase in farming activities in the area. To achieve the optimal data and voice coverage objectives, base stations in this area need to be approximately 500m apart on average, due to the density of the surrounding area as well as geographical and physical features.

The agricultural backdrop will assist in reducing the visual impact of the mast. The erection of a freestanding base telecommunication station will not have an impact on parking, coverage or floor factor as prescribed in the Langeberg Zoning Scheme.

The subject property was identified as a prime position on the following premise:

- o Property offers the optimal position between existing and planned base stations.
- o Surrounding geographical aspects are in line with the requirements.
- o Minimal physical, natural, and visual impact.
- o Ability to reduce the number of base stations in the surrounding area.
- o Ability to provide sufficient security to the equipment.
- o Property position will address the complaints received.
- o There is sufficient space to erect the base station.

The South African Department of Health is satisfied that the health of the public is not being compromised by their exposure to the emissions of cellular base stations. The health of the public will not be endangered by the proposal, as the placement of the antennas on the freestanding base telecommunication station are such that there will be no building within 50m. The proposal is, therefore, in line with both the 5m and 50m Public Exposure Zones.

The erection of the base station does not impact on the current or surrounding land uses and the construction and maintenance phase of the proposal will provide a positive economic and social benefit, through job creation, to the surrounding community.

The erection of a base station and mast will provide an additional passive income to the landowner who in turn can utilise the income to uplift the surrounding area.

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 AND APPLICANT'S RESPONSE

The application was advertised in the required manner on 27 June 2023 and letters were sent to the surrounding property owners and several organs of state. Three comments were submitted from members of the public and are summarised as follows:

Jan Koornneef:

- o No information has been provided with regards timescales; triband frequency, voice, fixed wireless, and data services; and potential/committed service providers.
- o There is no indication in the report that SBA Communications is motivated beyond their own interests, rather than by an intent to provide effective and competitive facilities to the Klaasvoogds population.

Susjan Wentzel (directly opposite the application site, to the East):

- o The application seems acceptable, and it is trusted that the installation will benefit residents of the immediate surroundings.
- o Concerned, however, about the visual impact of the mast.
- o Further measures to mitigate visual impacts should be considered.

Milne Kriel (response in terms of the NEMA application):

- o Will be directly affected by the proposal, as the mast is directly adjacent to our property and will negatively impact on self-catering accommodation on the property.
- o The mast will be an eyesore to the Klaasvoogds community.
- o The proposal will lower the value of our property.

ACE Environmental (the environmental consultant) responded as follows to the comments received:

- o Improved connection may be of benefit to the guesthouse.
- o Perhaps various design alternatives for the mast may be considered to suit the area better.

Highwave Consultants (the planning consultant) responded as follows to the comments received:

- o The applicant acknowledges the concerns over visual impact and suggested a slimline monopole design as a mitigation measure to address said concerns.
- o The mast location is determined not only by the impact it will have visually, but also by its functionality.
- o The base station containers will for the most part be out of sight and implying that it will negatively impact on the surrounding area is unsubstantiated.
- o The applicant aims to provide a collective service (MTN, Vodcom, Cell C and Telkom).
- o The application is by no means a careless act, as health and environmental aspects are taken into consideration.
- o With such a high demand for their products, it follows that service providers are responsible for supplying a high level of network coverage.
- o Visitors to the area, businesses and daily commuters will also benefit by having access to improved communication facilities.
- o Mobile communication has become an important safety and security element in modern society.

PART G: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS (if applicable)

NAME	DATE RECEIVED	SUMMARY OF COMMENTS	RECOMMENDATION
Cape Winelands District Municipality (Health)	29/06/2023	No objection to the proposal from a health perspective.	No objection
Municipal Electrical Engineering Services	05/04/2024	- o The clearance standards for electrical lines should be adhered to at all times. - o Electrical capacity cannot be guaranteed and will be evaluated when an application for connection is received. - o Bulk services contributions will be applicable. - o Alternative generation installations (backup batteries or generator) should be registered with the Municipality.	No objection
Department of Infrastructure (Transport Infrastructure Branch)		No response	No response
CapeNature	28/08/2023	No objection to the application, as the proposed mast is located on a transformed footprint adjacent to a homestead and will therefore not have any impact on biodiversity.	No objection
DEA&DP – Region 2 (Planning)	24/07/2023	No objection. The Municipality may impose development parameters.	No objection
Department of Agriculture, WC	17/07/2023	No objection.	No objection
ESKOM	03/10/2023	No objection subject to conditions.	No objection
Heritage Western Cape		No response	No response

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

With reference to Section 65 of the Langeberg Land Use Planning Bylaw, PN 264/2015 of 30 July 2015, an application is required to be assessed, *inter alia*, in terms of the following:

- desirability of the proposed use (with reference to Province's "Relevant Considerations Guideline").
- compliance with relevant plans (IDP, SDF, and 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 in 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 considered.

In terms of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), administrative processes and decisions taken must be fair, sound, and consistent and in accordance with Section 33 of the Constitution, namely:

- Everyone has the right to administrative action that is lawful, reasonable, and fair.
- Everyone whose rights have been affected by administrative action has the right to be given written reasons for decisions.

Assessment of Land Use application:

1. Socio-economic impact

The community and commuters will potentially enjoy improved network coverage, which will improve electronic communication and access to enhanced safety, emergency, and other public services. However, no evidence is submitted to substantiate the apparent need for improved coverage or the stated increase in demand (agricultural activity) in the area.

The development will create temporary employment opportunities during the construction phases for semi-skilled and unskilled workers. Whilst local contractors and businesses are proposed to be utilised for the necessary resources required for the proposed development, there is no guarantee that this will be the case.

The applicant further provides that the erection of the freestanding telecommunication state will provide the landowner with an additional passive income that he can utilise to uplift the surrounding area. No further details of proposed upliftment projects were, however, provided and the authenticity of this statement is questioned.

2. Compatibility with surrounding land uses

The proposed site is located within the rural area of Klaasvoogds, approximately 400m from the Klaasvoogds West Road and approximately 1,2km from the R60 (as the crow flies).

The proposal is to place the mast and base station on the 0,0m common boundary shared with Remainder Portion 6 of the Farm Rietvallei No. 115, Robertson, directly abutting agricultural buildings and what would appear to be worker's accommodation (i.e. within 50m of the proposed FBTS) and approximately 180m from guest accommodation on the neighbouring farm.

The proposed mast will be located near to a clump of trees, which would appear to be some 10-12m tall, and within proximity of a municipal power line, which runs alongside the access road / farm boundary.

The implication of a nil building line is that development on the adjoining property will be restricted such that no future building may occur within the 5m and 50m Public Exposure Zones, as referred to in the application. This is not deemed to be an acceptable impact / restriction on the neighbouring property. No alternatives were proposed which would be a more acceptable distance from the boundary and the municipal electrical line and preferably in compliance with the 30m building line which applies to the Agricultural Zone I.

3. Impact on External Engineering Services

The proposed use will have no negative impact on municipal civil engineering services. However, electrical capacity is currently in short supply in this area and cannot be guaranteed. Availability of municipal electrical supply can only be evaluated when an application for connection is received. In the context of the current demand for electricity exceeding supply, the additional demand for electrical capacity, although relatively small, can only be justified where a need for the proposed use is established. It is not considered that such need has been convincingly proven.

4. Impact on Safety, Health, and Well-being of the Surrounding Community

According to the applicant, the placement of the antennae on the mast is such that there are currently no habitable structures within the 50m radius public safety zone. However, the proposed FBTS immediately adjoins existing agricultural buildings and worker accommodation. Despite the official WHO position, there is currently conflicting evidence regarding adverse health effects associated with living close to, or working with, cellular technology. Further, the introduction of telecommunication infrastructure increases the need for security to protect such infrastructure, with associated safety implications for the surrounding area. This is particularly of concern given the proposed departure to permit a nil building line, and therefore potential adverse security impacts on the adjoining neighbour.

5. Impact on Heritage

The subject property does not fall within any heritage overlay zone and there will be no impact on any specific heritage resource. However, the Klaas Voogds meander is currently a well-established tourist route, and the draft SDF 2024 proposes to formalize this scenic route. Two of the objectors raise concerns about possible negative impacts in this regard. Refer to the comments below on visual impact.

6. Impact on Biophysical Environment

Cape Nature notes that the proposed freestanding base telecommunication station is located on a transformed footprint and will therefore not have any impact on biodiversity.

7. Traffic, Transport, Parking and Access

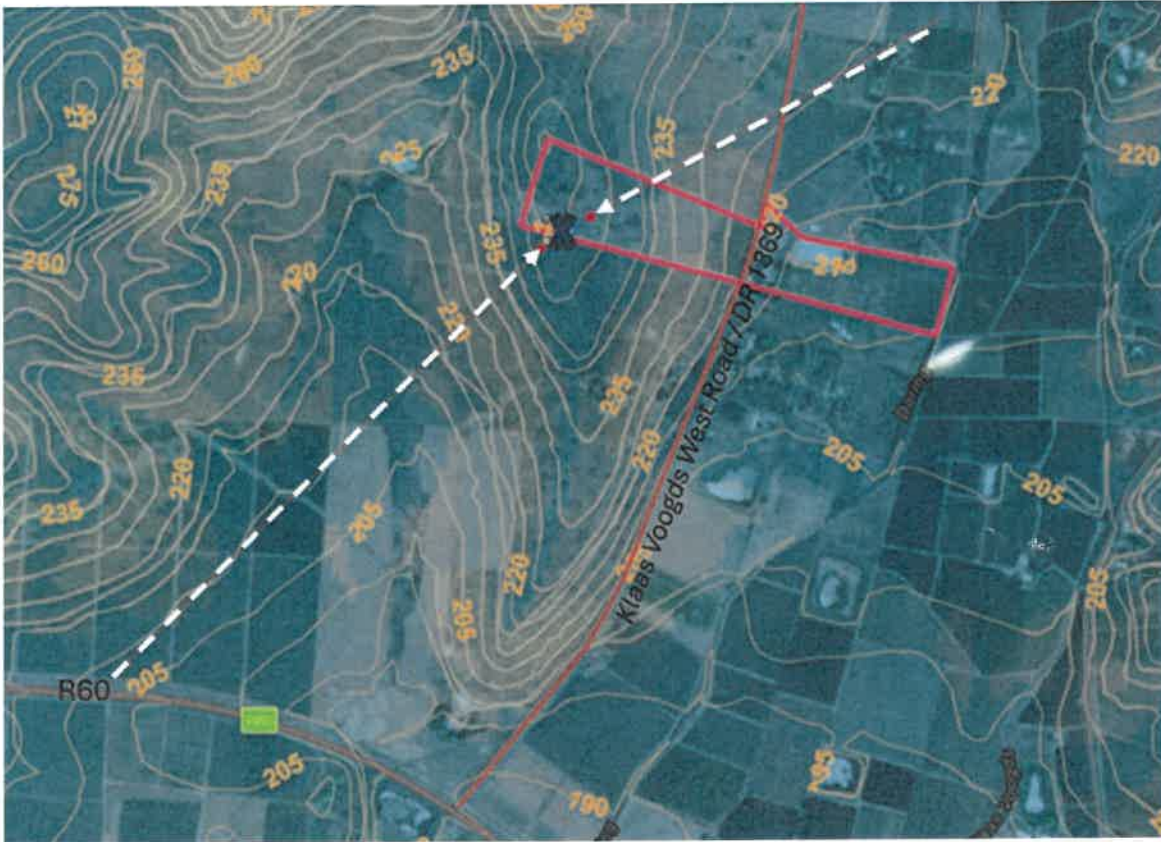
The proposed telecommunication station will have no adverse impact on transport or traffic related considerations. Access to the proposed use will be taken from Klaasvoogds West Road via an existing farm road. No new roads or paths will, therefore, have to be constructed to access the site. No response was received from the Department of Infrastructure.

8. Visual Impact

According to the applicant, the potential visual impact associated with the proposed development will predominantly affect motorists driving on Klaasvoogds Road, as the neighbouring landowners are at least 450m from the proposed site location.

Agricultural buildings and worker accommodation appears to be located immediately adjacent to the proposed development footprint on the subject property and a dwelling on the neighbouring farm is located approximately 180m from the proposed mast site.

Given the topography of the area as shown on the map below, the mast at a height of 35m will be highly visible from the R60 and the Klaasvoogds Road and Klaasvoogds valley, which is a scenic tourist route and areas within the Langeberg Municipal area. This impact will be further exacerbated by the South African Civil Aviation Authority specifications, which require night markers to be placed on top of the mast and that the mast must be painted red and white for visibility.



No additional information was provided by the applicant to indicate why the subject property was chosen and why the specific site was identified bearing in mind the visual impact. Although the applicant's response to one of the objections was that a monopole would be considered, no such amendment was proposed, and the EA approves a lattice mast based on the motivation that a lattice mast would have less visual impact than a monopole design..

9. Environmental Authorisation:

The applicant submitted a Basic Assessment as the site falls outside the urban area and the height of the mast exceeds 15m. The Final Basic Assessment Report was submitted to DEA&DP for consideration on 25 January 2024 and Environmental Authorisation was issued on 9 May 2024. In summary, the following reasons were given for the decision to approve the application:

- The Department is satisfied that the PPP that was followed met the minimum legal requirements.
- Specific alternatives, management and mitigation measures have been considered in this EA and EMP to adequately address the concerns raised.
- The proposed site was identified as the best position to reach optimum network transmission coverage.
- A lattice mast design was considered the preferred alternative since it will have a lower visual impact.
- The development will not have any significant biophysical impacts.

- The development will have positive and negative impacts:
 - Negative visual impact on certain individuals residing around the proposed property, mitigated by the distance from the road and the lattice design.
 - Positive – will improve overall telecommunication service and create temporary employment during construction.

Notwithstanding the above, it is noted that the DEADP did not conduct a site visit and appears to have accepted statements made by the applicant without requesting that those statements be substantiated e.g. improved coverage, optimal site, low visual impact. Of more concern with regard to the public participation process, it is noted that from the beginning of the EIA process, the applicant used the incorrect property description (Ptn 6 Rietvallei 115, as opposed to Rietvallei No 323, Robertson). Despite the Langeberg Town Planning Department pointing out this error to the applicant and DEADP on numerous occasions, this appears to only have been corrected during January 2024. It is therefore unclear whether the public was adequately notified of the specific proposal on the specific site.

10. Spatial Development Framework, 2015

The Langeberg Spatial Development Framework supports the establishment and sensitive location of communication network facilities/ data centres/ telecommunication towers in rural area and on farms in an effort to protect, manage and enhance the cultural landscape and sense of place. The proposed mast is not considered to meet these locational criteria given: objections from surrounding residents, the existence of nearby masts and the location of the site visible from two scenic routes.

11. Western Cape Land Use Planning Guidelines for Rural Areas, 2019

The Guidelines recommend that buildings accommodating land uses ancillary to agriculture, including a freestanding base telecommunication station, should not detract from the functionality and integrity of farming practices and landscapes and should be of an appropriate scale and form. The proposed 35m mast is not considered to be in keeping with the nature of the surrounding area.

12. Report Shortcomings and Inconsistencies

Despite several requests for information on why this particular site was selected, the location of nearby masts and information regarding the alleged coverage problems and congestion experienced by cellular operator customers, the information was not provided by the applicant in respect of either the LLUP By-law or NEMA applications. This information was requested in December 2022, 23 February 2023, 13 March 2023, 7 and 9 June 2023, and 11 October 2023.

The motivation report is also littered with irrelevant considerations, as the applicant further ascribes the lack of coverage to the increase of farming activities in the area on the one hand, and to the density of the surrounding area, as well as the amount of steel and concrete of the buildings in the surrounding area (the 'Fresnaye Effect') on the other, despite the property being located within a sparsely populated rural setting.

According to the applicant, when selecting a site, special consideration is given to geographical aspects to ensure that the cellular infrastructure has been positioned to guarantee optimal functionality and availability and to reduce the number of base telecommunication stations necessary to provide the best possible experience to the end user. No mention was, however, made in the application of the existing (unauthorised) 15m freestanding telecommunication base station located within 100m of the site for the proposed mast or the approval given by Langeberg Municipality on 8 July 2014 for the freestanding base telecommunication stations on Remainder of Farm Klaas Voogds Rivier No. 44, located approximately 2,5km NW of the subject property. Despite the Municipality drawing the existence of these approved masts to the applicant, existing masts are not addressed or even mentioned in the application.

The applicant has failed to provide concrete data and area-specific statistics to explain the lack of coverage and justify the optimal placement of the mast. The failure to consider alternatives was ascribed to the fact that "the first property owner agreed to accommodate such a structure".

The BAR considers the visual impact to be low and quantifies this assessment based on the distance between the mast and the two neighbouring property owners and the distance from the site to Klaasvoogds Road. The mitigation proposed in the report is deemed to be the selection of the site *per se*. No regard has been given to the topography of the site relative to the surrounding area; the fact that the applicant proposes to place the mast on the highest point of the property, and on a nil building line; or existing infrastructure on the neighboring property.

Due to the specific topography of the site, the visual impact of the mast will be the highest on the immediate property owners and the adverse impact of a nil building line is noted in paragraph 2 above "Compatibility with surrounding land uses". It is held that the applicant has failed to provide substantive evidence (possibly by way of a visual impact study and the consideration of alternative sites) to prove that the proposed site is optimal and that impacts can effectively be mitigated.

On the balance of all considerations as contemplated in terms of section 65 of the Langeberg Land Use Planning By-Law, 2015, the proposed development is not regarded as desirable and is, therefore, not supported.

PART I: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS (N/A)

Not applicable.

PART J: RECOMMENDATION

That the application for a consent use and building line departure for the purpose of erecting a Freestanding Base Telecommunication Station 0.0m from the common boundary (shared with Rem/Portion 6 of the Farm Rietvallei No. 115, Robertson), be **refused** in terms of Section 60 of the Langeberg Land Use Planning By-law, PN 264/2015, of 30 July 2015.

Reasons for decision:

1. Notwithstanding requests for additional information, inadequate information has been provided to justify the need for the FBTS and the choice of the subject property in relation to areas requiring improved coverage. In particular, the proximity of the existing approved mast on Rem / Klaas Voogds 44 Robertson, some 2,5km from the proposed site, has not been considered.
2. No motivation has been provided to substantiate the nil building line. The proposed FBTS on a nil building line is not considered to be desirable in terms of the impact on the rights and safety of the immediate neighbour.
3. The visual impact was understated and not adequately addressed by the applicant. The proposed FBTS is not considered to be desirable in terms of the visual impact on the scenic resources of the surrounding area, as viewed from the R60 and the Klaas Voogds West Road.
4. The objector's concerns have not been adequately addressed, and the benefits of a proposed FBTS have not been shown to outweigh these concerns.

Note: The owner of Rietvallei No. 323 has demonstrated a record of non-compliance with the provisions of the Land Use Planning By-law, 2015 and the National Building Regulations, by the erection of a 15m high FBTS without any prior authorisation. The relevant notices in terms of this legislation must be served on the owner in terms of this non-compliance, and the unauthorized 15m mast must be removed.

PART K: ANNEXURES

Annexure A: Motivation Report
Annexure B: Departmental Comments
Annexure C: Objections
Annexure D: Response to Objections
Annexure E: Environmental Authorisation

PART L: SIGNATURES FOR RECOMMENDATION AND RECORD OF DECISION BY TRIBUNAL

Author name: T Brunings

Date: 30 May 2024

Authorised for submission to Tribunal:


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TL BRUNINGS
MANAGER: TOWN PLANNING

07.06.2024
.....
DATE

RECORD OF DECISION BY LANGEBERG MUNICIPAL PLANNING TRIBUNAL – Refer to minutes for Final Decision

Date of Tribunal Meeting:

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

REFUSED