

LAND USE PLANNING ASSESSMENT REPORT

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

PORTION 4 OF JOUBERTSDAL NO. 189, SWELLEN DAM: REZONING FROM AGRICULTURAL ZONE I TO BUSINESS ZONE II AND CONSENT FOR SERVICE STATION AND FOR A RENEWABLE ENERGY STRUCTURE (SOLAR FARM), TOURIST FACILITIES AND FARM SHOP

Reference number	15/4/14/5&7	Application submission date: Last comment received:	23/03/2023 03/06/2024	Date report finalised	20/06/2024
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PART A: AUTHOR DETAILS

First name(s) & Surname	Amber De Wet
Job title	Town Planner
SACPLAN registration number	

PART B: PROPERTY DETAILS

Property description (Title Deed)	Portion 4 of the Farm Joubertsdal No. 189, Swellendam				
Physical address	±16.38km West of Swellendam off the R60	Town	Rural – between Bonnievale and Swellendam		
Current zoning	Agricultural Zone I	Extent (m ² /ha)	20.96ha	Are there existing buildings on the property?	☒ Y ☐ N
Applicable zoning scheme	Langeberg IZS, 2018				
Current land use	Agricultural Zone I			Title Deed number & date	T 72886/2014
Any restrictive title conditions applicable	☐ Y ☒ N	If Yes, list condition number(s)	As declared by Town Planner		
Any third-party conditions applicable?	☐ Y ☒ N	If Yes, specify	As declared by Town Planner		
Any unauthorised land use/building work	☐ Y ☒ N	If Yes, explain	As declared by Town Planner		

PART C: APPLICATION DESCRIPTION

Application has been lodged in terms of Section 15(2) (a) & (o) of the Langeberg Land Use Planning Bylaw, PN 264/2015 on Portion 4 of Joubertsdal No. 189, Swellendam (20.96ha), for the following:

- A spot-rezoning of ±52m² from Agriculture Zone I to Business Zone II on Portion 4 of Joubertsdal, No. 189, Swellendam.
- Consent use under the rezoned footprint of ±52m² for a **service station** to permit a charging area for electric cars.
- Consent use under Agricultural Zone I to permit Renewable Energy Structures on a ±8500m² area.
- Consent use under Agricultural Zone I to permit a Tourist Facility (restaurant) and Farm Shop ±348m² (combined).

PART D: BACKGROUND & SUMMARY OF APPLICANTS MOTIVATION

Portion 4 of Farm Joubertsdal No.189, Swellendam is located approximately ±16.38km West of Swellendam. The property is accessed via Divisional Road 1333, which connects directly to the R60.

The property is zoned as Agricultural Zone I and accommodates a primary dwelling and agricultural outbuildings, a second dwelling unit, a stable and agricultural farm sheds. The primary dwelling was built in 1948 and has heritage significance which is taken into consideration in any proposed development plans on the property. The property is made up of unproductive cultivated land which includes lucerne pastures and already disturbed

natural vegetation.

The total area proposed to be covered by solar panels is **±8500m²**. The solar panels will provide electricity to a charging component that will consist of a steel canopy under which four (4) electric cars can park and for the charge. Each parking space will have a charging point at the front of the parking space where the car can be plugged in to charge. Charging will be a "self-help" service and accordingly no attendants will assist with this task. The charging area will measure **±52m²**.

A restaurant and farm shop (**±348m²**) are also proposed and will be located within the existing main dwelling and associated outbuildings which will be used for ablution facilities. The farm shop and restaurant will be a tourist facility for clients and will reinforce the rural feel and character of the farm and surrounding area. The farm shop will sell a combination of locally produced products such as cheeses, jams and breads whilst the restaurant will serve homemade dishes such as sandwiches and pies to cater for the clients waiting between 30 minutes to 1 hour for their vehicles to charge. No external or internal alterations are proposed and therefore the integrity of the building will be kept intact and allow the building to be reused for residential purposes if required to do so.

The property will be accessed via DR 1333 which connects to the R60. The proposed solar panel area (**±8500m²**) will be located south of the road while the charging area, farm shop and restaurant will be located north of the road.

The development will have limited visual impact due to the 200m setback from the R60. Solar panels were chosen instead of wind turbines as the turbines are visually more intrusive, typically reaching 150m + in height, compared to solar panels which are on average between 3m and 5m in height. Trees on found along the R60 as well as crops from adjacent farms will mitigate the potential visual impact of the proposed development.

The estimated lifespan of a typical solar energy facility is approximately 20-25 years.

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)

N/A

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

NAME	DATE RECEIVED	SUMMARY OF COMMENTS	RECOMMENDATION		
Civil Engineering Services	12/05/2023	- The provision of water and sewer services is the responsibility of the owner. - Water provided must comply with SANS 0241 specifications. - A suitable and effective sewage disposal system must be provided for all wastewater.	No objection		
Electrical Engineering Services	23/05/2023	No electrical infrastructure in the vicinity of the proposed development.			No Comment
Department of	07/02/2024	The branch offers no objection to this	No		

Infrastructure		application. - Proposed renewable energy structures may be built on ptn of the land that falls on the Left-Hand Side of DR01333 on ptn 4 of the farm 189 between $\pm 0.22\text{km}$ to $\pm 0.44\text{km}$, provided that it is built atleast 30m from the Road Reserve, taking access off the farm road that connects to DR01333 at ± 0.21 Left-Hand Side. - The renewable energy structures are built in such a way not to cause any obstructions to drivers using DR01333 from possible reflective glares from solar panels. - Access to the proposed service station and tourist facility may be taken from the existing access at $\pm 0.34\text{km}$ Right-Hand Side on DR01333. - Existing access at $\pm 0.27\text{km}$ Right-Hand Side must be closed. - Existing access at $\pm 0.37\text{km}$ Right-Hand Side must be closed. - No access other than the above-mentioned accesses may be created or continue to exist off DR01333. - All the mentioned accesses and all fences along the DR01333 must be constructed in accordance with the standards for a main farm access as specified by the District Roads Engineer – Paarl, or his agent, the Department of Roads CWDM. - All costs must be for the developer's account.	objection		
CapeNature	09/07/2023	- The Solar photovoltaic energy facility is located within a cultivate land and therefore will not impact on natural vegetation. - Based on aerial imagery it is likely that the proposed footprint is disturbed or transformed despite being a CBA. - The development proposal is aligned with the Draft Western Cape Climate Change Response Strategy whereby it aims to facilitate the transition from internal combustion vehicles to through the use of renewable energy which also will have a positive impact on the biodiversity though the reduction of the predicted impacts of climate change. - No natural vegetation is present within the footprint of the proposed vehicle charging facility.	No objection		
Department of Environmental	15/05/2023 (land use)	The development consists of auxiliary land uses, such as the shop, restaurant and farm		Objection	

Affairs & Development Planning		shop could lead to the establishment of undesirable rural nodes along transport routes. - Charging station should be placed in urban areas and when located in a rural environment should be clustered around existing infrastructure. - Only essential installations should be accommodated within the Agricultural SPC... and should not interfere with, or negatively impact on existing or planned production areas or agricultural infrastructure. - The proposed solar panel energy generating area, measuring $\pm 8500\text{m}^2$ is located within planted pastures which is discouraged. - The extent of the energy generating area is a further cause for concern as the proposed site has not been adequately motivated in the planning report – charging stations in the area i.e., Graham Beck Estate (Robertson), the Lab at Rosendal Farm (Robertson), and the Montagu Country Hotel (Montagu) - all operate with rooftop panels measuring $\pm 2000\text{m}^2$ in extent.			
Department of Environmental Affairs & Development Planning	26/01/2023	- The proposed development does not constitute any listed activities in terms of the EIA Regulations, 2014 (as amended). - Environmental Authorization is therefore not required prior to the proposed development.	No objection		
CWDM (Health)	19/05/2023	- If the sale of any food stuff will take place on the premises they must apply for a Certificate of Acceptability for a Food Premises. - The owner must have a smoking policy in place according to the Tobacco Control Act.	No objection		
Department of Agriculture, Western Cape	02/06/2023	The installations should not be located on cultivated land and should not interfere with, or impact negatively on existing or planned production areas or agricultural infrastructure.		Objection	
Breede-Olifants Catchment	17/07/2023	The application is in close proximity of a tributary for the river. As such, stormwater	No objection		

Management Agency for DWAF		management for the facilities and renewable energy structures should avoid direct flow to the tributaries. • The proximity requires a freshwater risk matrix to be conducted to verify the impact risks to the water sources. • Wastewater generated on the property must be mitigated and managed in an environmentally safe manner.			
Heritage Western Cape	11/01/2024	• The proposed development will not impact heritage resources.	No objection		
Ward Councilor for Ward 8	07/05/2023	• No objection	No objection		
Eskom	03/06/2024	• The conditions stipulated on the attached need to be adhered to at all times	No objection		

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

In terms of 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, 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 taken into account.

Assessment:

South Africa is currently recorded as having one of the highest levels of carbon dioxide emissions per capita in the World, and as being the largest emitter of greenhouse gas in Africa. The generation of renewable energy is strongly endorsed in terms of the Western Cape SDF and Rural Land Use Planning and Management Guidelines, as well as the Langeberg IDP. The introduction of a renewable energy source within the Langeberg Municipal Area is therefore a major positive initiative from a planning and environmental point of view and is in accordance with National and Provincial Plans and Policies which aim to reduce greenhouse gas emissions and provide energy for the least cost e.g. NDP, White Paper on Sustainable Energy for the WC, WC Growth & Development Strategy.

The proposed use also represents a positive investment in the economy of the area, with associated positive implications for local job creation.

According to the comments received from Cape Nature, the proposed electric vehicle charging facility falls within a CBA 2 area, and the proposed solar photovoltaic energy facility falls outside a CBA. Although located within a CBA 2 area of the Eastern Rûens Shale Renosterveld which is listed as endangered, the vegetation is already disturbed in the proposed footprint. Cape Nature therefore has no objection to the proposed development.



Figure 1: Map showing the CBA areas on Portion 4 of Joubertsdal No. 189, Swellendam

The proposed solar photovoltaic energy facility (8500m²) is located within cultivated land and therefore the Provincial Department of Agriculture (Elsenburg) has objected to the proposal. According to the Elsenburg, the proposed solar photovoltaic energy facility should not be located on cultivated and should not interfere with, or impact negatively on existing or planned production areas or agricultural infrastructure. According to the response from the applicant to the objection dated 25 August 2023, on-site agricultural production is low, and the farm has remained uncultivated for the past 17 years. The farm measures just over 21ha which falls below the 30ha which means that the subject property cannot be regarded as a sustainable agricultural land unit and therefore the current proposals aims to minimise the impact on productive agricultural land units and promote economic diversification.

Access to the site is off DR1333 at an existing approved access point. The Department of Transport has no objection to the proposal subject to specified conditions for the construction of the new access points as well as the fencing.

The Department of Environmental Affairs and Development Planning (Land Use) has objected to the proposed development. According to DEA&DP, the development consists of auxiliary land uses, such as the shop, restaurant and farm shop could lead to the establishment of undesirable rural nodes along transport and concerns regarding the proposed solar panel energy generating area, which will be located within planted pastures which is discouraged. Additionally, only essential installations should be accommodated within the Agricultural SPC and should not interfere with, or negatively impact on existing or planned production areas or agricultural infrastructure. Lastly, the proposed solar panel energy generating area, measuring ±8500m² is located within planted pastures which is discouraged.

The response from the applicant received on 25 August 2023, argues that the services are aligned with common tourism-related uses which are already permitted in rural areas, such as farms stalls, farm shops and restaurants associated with tourist facilities. According to the Western Cape Guidelines for Rural Areas, tourism-related uses across all SPC's are allowed if they are at an appropriate scale and nature. Lastly, the applicants reiterate that the proposed site has been uncultivated for the past 17 years and no planted pastures are present.

DEA&DP further objects that charging stations should be placed in urban areas and when located in a rural environment should be clustered around existing infrastructure. The applicant argues that by placing the proposed electric vehicle charging station service at a traditional fossil fuel filling station would not align to the sustainable values of the company.

Compliance with the requirements of the various Departments, as above, is included in the recommended conditions of approval.

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

PART J: RECOMMENDATION

That the following application as depicted on the plans marked JOURBERTSDAL 189/4-LBM-TP on Portion 4 of Joubertsdal, No. 189, Swellendam, be approved in terms of Sections 60 of the Langeberg Land Use Planning Bylaw, PN 264/2015, of 30 July 2015 subject to the following conditions in terms of Section 66 of the By-Law:

- A spot-rezoning of $\pm 52\text{m}^2$ from Agriculture Zone I to Business Zone II;
- Consent use under the rezoned footprint of $\pm 52\text{m}^2$ for a **service station** to permit a charging area for electric cars;
- Consent use under Agricultural Zone I to permit Renewable Energy Structures on a $\pm 8500\text{m}^2$ area.
- Consent use under Agricultural Zone I to permit a Tourist Facility (restaurant) and Farm Shop of $\pm 348\text{m}^2$ (combined).

Conditions of Approval:

1. A Site Development Plan and Building Plans, complying with the National Building Regulations (Act No. 103 of 1977) must be submitted to the Langeberg Municipality for approval. The Site Development Plan must be substantially in accordance with the Plan marked **JOURBERTSDAL 189/4-LBM-TP**. No site preparation or development may occur unless and until there is an approved final Site Development Plan and approved Building Plans.
2. The development parameters for Renewable Energy Structures as set out in terms of the Langeberg Integrated Zoning Scheme, 2018 are applicable (**attached**).
3. Prior to the submission of building plans, the following conditions must be met by the owner to the satisfaction of the local authority:
 - 3.1 The total sum required for the decommissioning and rehabilitation purposes shall be determined independently by qualified professionals to the satisfaction of the local authority for the cost of the owner.
 - 3.2 The qualified professionals mentioned above shall declare in writing their independence to the satisfaction of the local authority.
 - 3.3 Surety shall be provided by the owner that the necessary financial provision is made to the satisfaction of the local authority.
4. The local authority shall have full access to the financial provision for the purposes of the rehabilitation/removal of the facility in the event that the owner fails to fulfil his obligation in terms of condition (14).
5. The consent only applies to the applicant and cannot be transferred without the agreement of the local

authority.

6. Water supply, sewage disposal and refuse disposal must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department and the Department of Water Affairs and Forestry (BOCMA).
7. The applicant / operator may not supply electricity to users within the Langeberg Municipality's electricity supply area.
8. The conditions imposed by Eskom (03 June 2024, Ref 14975-24) (**attached**) must be complied with.
9. The conditions imposed by of the Manager: Civil Engineering dated 12/05/2023 (**attached**) must be complied with.
10. The conditions imposed by the Department of Infrastructure dated 07/02/2024 (**attached**) must be complied with.
11. The conditions imposed by the Cape Winelands District Municipality: Environmental Health dated 19/05/2023 (**attached**) must be complied with.
12. The conditions imposed by BOCMA dated 17/07/2023 (**attached**) must be complied with. A copy of the **freshwater risk matrix** as referred to in the conditions of BOCMA must be submitted to the Langeberg Municipality: Town Planning Department and BOCMA 30 days of approval thereof.
13. No name or advertising sign may be erected without written approval of the administering authority.
14. This approval is only valid where all the above conditions have been complied with. The developer must sign the attached agreement (Schedule 1). Where there is any uncertainty regarding the conditions, please contact the Town Planning Department.

Reasons for decision:

- i. The proposed Solar Farm can be accommodated on the farm without adverse impact on the natural environment and surrounding areas.
- ii. Although the site for the proposed Tourist Facility is within an identified CBA and intended as a "no-go" area for built development, the proposed site is already developed and will not negatively impact the area as it will be limited to the footprint of the existing building.
- iii. The development proposal is aligned with the draft Western Cape Climate Change Response Strategy to transition to renewable energy.
- iv. The objections are considered to be adequately addressed and conditions of approval are included to mitigate potential impacts.

Notes: The form of financial provision must be compliant with, (*inter alia*), of the Municipal Finance Act, Act 56 of 2003.

PART K: ANNEXURES

Annexure A	Application and motivation
Annexure B	Site Plan
Annexure C	Objection from Elsenburg
Annexure D	Objection from DEA & DP
Annexure E	Applicant's response to objection
Annexure F	Departmental comments.
Annexure G	Extract from LIZS: Renewable Energy Structures.

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

Author name: Amber De Wet, Town Planner

Date: 20 June 2024

Authorised for submission to Tribunal:



TL BRUNINGS

MANAGER: TOWN PLANNING

20/06/2024

DATE

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

Date of Tribunal Meeting: 05.07.2024

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:

... **July 2024**

PORTION 4 OF JOUBERTSDAL NO. 189, SWELLENDAM: REZONING FROM AGRICULTURAL ZONE I TO BUSINESS ZONE II AND CONSENT FOR SERVICE STATION AND FOR A RENEWABLE ENERGY STRUCTURE (SOLAR FARM), TOURIST FACILITIES AND FARM SHOP

Die aansoeker aanvaar die voorwaardes ten opsigte van bogenoemde goedkeuring en onderneem om toe te sien dat die voorwaardes uitgevoer word.

The applicant accepts the conditions in terms of the abovementioned approval and undertakes to ensure the execution thereof.

Geteken op die / *Signed on the* dag van / *day of* 20.....

te / *at*

.....
Aansoeker / *Applicant*

.....
Datum