

**MINUTES OF THE LANGEBERG MUNICIPAL PLANNING TRIBUNAL MEETING,  
HELD ON 05 JULY 2024 AT 10H00 IN KLAAS VOOGDS (KLEIN PARYS)**

Site inspections were conducted at the following sites prior to the Tribunal meeting:

- ✚ Item 4/2024: Rietvallei 323 Robertson (proposed 35m high cell mast); and
- ✚ Item 1/2024: Joubertsdal 189/4 Swellendam (proposed electric vehicle charging station and solar farm).

**1. Opening**

The Chairperson, Mr Hennie Taljaard, welcomed all present.

**2. Attendance**

Hennie Taljaard	-	Chairperson (External member) - Witzenberg Municipality
Carisa Pieters	-	External member - Breede Valley Municipality
Quinton Balie	-	External member - Cape Winelands District Municipality
Dalene Carstens	-	External member - DEA&DP
Andrew Martinus	-	Town Planner, Langeberg
Amber De Wet	-	Town Planner, Langeberg
Tracy Brunings	-	Manager: Town Planning. Langeberg

The Municipal Manager, Mr. DP Lubbe attended the site inspections.

**3. Applications for Leave of Absence**

Apologies were received from Mrs. Helene Janser who is on leave.

**4. Confirmation of previous Minutes**

**Unanimously Resolved:** that the minutes of a meeting of the Langeberg Municipal Planning Tribunal, held on 03 May 2024 at Montagu (old Council Chambers) be approved and confirmed. Proposed by Mrs. Dalene Carstens, seconded by Mr. Andrew Marthinus

**5. Matters arising from the previous minutes**

An appeal has been lodged against the Tribunal's decision to refuse the proposed amended site development plan for additional camping sites at de Bos in Montagu (Application was for consent use for tourist facility and functions venue and amended site development plan, on erf 5227, Montagu). Four objectors have responded against the appeal. The appeal report must be submitted to the Municipal Manager by 26 July 2024, for forwarding to the Executive Mayor within 14 days thereof. No appeals were lodged against the consent uses which were approved by the Tribunal.

**6. Urgent Matters, Statements & Announcements submitted by the Chairperson**

None.

**7. Consideration of Reports**

The following was noted during the site inspection and discussed further at the meeting: The site location does make sense in terms of demand in this area and the road access is currently not suitable in terms of the standard of the road surface. Market demand would determine whether the facility is developed. The risk of a “white elephant” is minimised by the fact that infrastructure could be removed relatively easily, and the land and buildings converted back for agricultural / residential use. The location of the solar panels would be visible from the R60 but are not deemed to present an adverse visual impact given the alignment of the road and the proposed orientation of the panels. The exact site for the charging station should be reconsidered once the SDP is submitted: considered to be too close to DR1333 and the site is encumbered by Eskom electrical infrastructure; may be better located slightly north of the proposed footprint. The access points required to be closed by the Department of Infrastructure may need to be reconsidered given the possible relocation of the EV charging station point. The visual impact of the proposed canopy structure must be considered at building plan stage, in terms of the aesthetics on the rural area. The conditions of approval must address the aforementioned considerations. A condition of approval must be included which requires that the DR1333 must be upgraded to the satisfaction of the Dept of Infrastructure from the R60 to the access to the facility.

**Unanimously resolved to support the recommendation, proposed by Mr. Q Balie and seconded by Mr. A Marthinus, that:**

The application as depicted on the plans marked JOUBERTSDAL 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 ±52m<sup>2</sup> from Agriculture Zone I to Business Zone II.
- Consent use under the rezoned footprint of ±52m<sup>2</sup> 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 ±8500m<sup>2</sup> area.
- Consent use under Agricultural Zone I to permit a Tourist Facility (restaurant) and Farm Shop of ±348m<sup>2</sup> (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 JOUBERTSDAL 189/4-LBM-TP. The exact site for the charging station must be finalised to the satisfaction of the Manager: Town Planning, suitably set back from the DR1333 and existing electrical infrastructure. The proposed canopy structure must be appropriately scaled and must not be visually intrusive in the rural context and as seen from the R60 which is a scenic tourist route. 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, to their satisfaction, and as may be amended by the said department.
11. The DR1333 must be upgraded to the satisfaction of the Department of Infrastructure from the R60 to the access to the facility.
12. The conditions imposed by the Cape Winelands District Municipality: Environmental Health dated 19/05/2023 (attached) must be complied with.
13. 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.
14. No name or advertising sign may be erected without written approval of the administering authority.
15. 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 buildings.
- 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.

Note: The form of financial provision must be compliant with, *inter alia*, the Municipal Finance Management Act, 56/2003.

**Unanimously resolved to support the recommendation, proposed by Mrs. C Pieters and seconded by Mr. Q Balie, that:**

The application be **approved** in terms of Section 60 of the Langeberg Municipal Land Use Bylaw, 2015, subject to the conditions outlined below in terms of Section 66 of the aforementioned Bylaw:

- Subdivision of Portion 16 ( $\pm 214.37$ ha) of Bosjemans Pad No. 173 into ptn A ( $\pm 75.9$ ha) and R/16/173 ( $\pm 138.47$ ha), as shown on the plan marked BOSJEMANS PAD 3, 4, &16/173 SWE-LBM-OP1.
- Subdivision of Portion 4 ( $\pm 221.8$ ha) of Bosjemans Pad No. 173 into ptn B ( $\pm 53.1$ ha) and R/4/173 ( $\pm 168,7$  ha), as shown on the plan marked BOSJEMANS PAD 3, 4, &16/173 SWE-LBM-OP1.
- Consolidation of ptn A/16/173, ptn B/4/173 and Portion 3/173 to create a new farm of 321.24ha, as shown on the plan marked BOSJEMANS PAD 3, 4, &16/173 SWE-LBM-OP2.
- Registration of four 3m wide water pipeline servitudes marked: yJ to Jz; z 1a 2a 3a; vw; and u a b Y, as shown on plan BOSJEMANS PAD 3, 4, &16/173 SWE-LBM-OP1.
- Registration of a 3m wide water pipeline servitude and reservoir as shown on the plan marked BOSJEMANS PAD 3, 4, &16/173 SWE-LBM-OP3.

Conditions of Approval:

1. Simultaneously with registration of transfer, portion A ( $\pm 75.9$ ha.) and portion B ( $\pm 53.1$ ha.) must be consolidated with Rem of Portion 3 of the Farm Bosjeman's Pad No 173, Swellendam.
2. At least one of the new properties must be registered within 5 years after the date of the approval, failing which the approval will lapse regardless of whether an erf diagram has been approved by the Surveyor-General or not.
3. The subdivision and consolidation plans will only be endorsed in terms of Section 60 of the aforementioned Bylaw after:
  - 3.1. the applicant has accepted these conditions in writing by means of the standard agreement; and
  - 3.2. draft erf diagrams with the new erf numbers have been submitted by a Land Surveyor to the Town Planning Department.
4. Condition 3 of this approval must be complied with before a Certificate may be issued in terms of Section 28 of the aforementioned Bylaw. This certificate must be submitted with the transfer documents before the subdivision will be registered in the Deeds Office.
5. The zoning remains Agricultural zone I. The exercise of the primary land use, including the construction of access roads and the conservation, use and management of land, is subject to all relevant legislation, including the EIA listed activities in terms of the National Environmental Management Act No. 107 of 1998; and the Conservation of Agricultural Resources Act 43 of 1983.
6. Water, sewage disposal and refuse disposal services must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department, and the Department of Water Affairs (BOCMA).
7. The requirements of BOCMA, as specified in their letter dated 24 July 2023, must be complied with.
8. The current water use registration for water users which relates to the current property descriptions, must be adjusted at the Department of Water Affairs within 30 days of obtaining a new Title Deed description/s, so as to reflect the registered water uses on the new property description/s
9. This approval is only in effect where all the above conditions have been complied with. The owner must sign the attached agreement. Where there is any uncertainty regarding the conditions, please contact the Town Planning Department.

It is further recommended that the following road servitude be determined to be exempt in terms of Section 24(1)(f)(iv) of the Langeberg Land Use Planning Bylaw, 2015:

- Registration of a 4m wide road servitude (xy), as shown on the plan marked BOSJEMANS PAD 3, 4, &16/173 SWE-LBM-OP1.

Reasons for decision:

- a) The existing agriculturally productive land will be retained.
- b) There is no impact on existing services or land uses.
- c) No additional cadastral entities are being created.
- d) There is no adverse impact on biodiversity or the natural environment.

3/2024

APPLICATION FOR FBTS: RIETVALLEI 323, ROBERTSON RD

The following was noted during the site inspection, and discussed further at the meeting: The 35m high mast is proposed immediately adjoining existing farm worker accommodation and immediately adjoining the boundary with the neighbour to the SW. There are other areas of the site, further away from the boundary and worker accommodation, which could have been considered. The existing approved FBTS should have been addressed in the application. The existing unauthorised 15m high mast on the application site should be removed. The applicant may choose to apply for consent for this 15m high mast, which has lesser visual impact on the surrounding area and is located further from the worker accommodation and the farm boundary, than the proposed 35m high mast.

**It was unanimously resolved to support the recommendation, proposed by Mrs. D Carstens and seconded by Mr. Q Balie, 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 prior authorisation. The unauthorized 15m mast must be removed.

**Unanimously resolved to support the recommendation, proposed by Mr. A Marthinus and seconded by Mrs. C Pieters, that:**

The application on Erf 390 Robertson be **approved** in terms of Section 60 of said By-Law 2015, subject to conditions of approval, as imposed in terms of section 66 of the said By-law, as set out below:

- Consent 2015 for a guest house (restricted to a maximum of four rooms and eight guests).
- Consent for a second dwelling exceeding 60m<sup>2</sup> (maximum of 150m<sup>2</sup>).
- Permanent departure from the 6,5m height restriction applicable to second dwellings, to allow the extension of the second dwelling to the first-floor level of the existing building that currently has a height of 7,488m.
- Permanent departure from the side building line restriction from 1,5m to 1,15m for the second dwelling.

Conditions of Approval:

1. The position, size and design of the buildings must be substantially in accordance with the site plan marked ROB390-LBM-TP (June 2024),
2. The applicant must submit building plans for all structures to the Municipality in terms of the National Building Regulations. Any irregularities must be rectified to the satisfaction of the Building Control Officer. Building Plans and a Fire Plan must be approved prior to the Guesthouse being permitted to operate.
3. The landscaping, including the agreed planting of Star Jasmine and a minimum of three Water Pear trees, as implemented in May 2024, must be maintained to the satisfaction of the Manager: Town Planning, to minimise the visual impact of the scale of the building on the neighbouring property.
4. A setback of 1,5 meters is applicable to the patio/stoep area above the existing laundry room and suitable screening with a height of at least 1,2m (for example positioning the existing flower box and balustrade to comply with the 1,5m setback), Must be maintained by the owner to the satisfaction of the Manager: Town Planning, to secure the neighbour's privacy.
5. Only low-level outdoor lighting, to the satisfaction of the Manager: Town Planning may be utilised.
6. A minimum of seven (7) on-site parking bays must be provided. A minimum of one parking bay per guest room must be available and accessible for guest parking. No street parking is permitted for guests.
7. The guest house may only be operated from the primary dwelling house. No portion of the second dwelling or any outbuilding may be used for guest accommodation.
8. The owner or manager of the guest house must reside on the property to ensure appropriate management, specifically noise control.
9. Only existing engineering services and the existing accessway may be used.

10. Development Contributions are payable to the Municipality in terms of Council's policy and at rates applicable at the time of payment.
11. No name, advertising sign or board may be erected without written approval of the municipality, other than a sign of a maximum of 0,54m<sup>2</sup> with only the name, logo and contact number of the guesthouse.
12. The conditions imposed by the Cape Winelands District Municipality (Health), in their letter dated 23 August 2023, ref. 23/08/23/01 (attached) must be complied with.
13. The owner must sign the attached agreement with respect to the implementation of all conditions of approval. The conditions of approval must be brought to the attention of all persons (employees, sub-consultants etc.) associated with this activity.

The REASONS for the decision are as follows:

1. The application property is sufficient in size to accommodate the proposed extension of the second dwelling from 60m<sup>2</sup> to 150m<sup>2</sup>.
2. Second dwellings promote densification, without compromising the residential quality of the area.
3. The proposed utilisation of the existing first floor for the extension of the second dwelling comprises an existing building of which the ground floor is already used as a second dwelling.
4. The applicant has implemented the landscaping plan as requested by the objector and made modifications to the lighting, to address the neighbour's objections.

Notes:

- i) The owner must comply with all the development parameters applicable to a guest house as specified in the Langeberg Zoning Scheme By-law, 2018.
- ii) Should alternative energy be used the applicant must take note of the regulations available on the municipal website.
- iii) The restrictions of any law and regulations relating to noise controls are applicable and the owner must ensure that no undue noise nuisance occurs, as described in the Western Cape Noise Control Regulations (PN 200/2013 of June 2013).

## **8. Other Matters**

Membership of the Tribunal: An item has been submitted to Council for approval of Mr Lubbe (Langeberg Municipal Manager) as a third internal member of the Tribunal. Approval to extend the terms of office of existing Tribunal members has also been recommended and letters will be sent out to members in due course to confirm their acceptance of the extended terms of office.

Next meeting: A Teams meeting will be held for the next Tribunal meeting towards the end of July for the following items:

- Rem/Erf 139 Montagu: Cell mast proposed on Montagu Primary School site (site inspection already conducted at Tribunal meeting on 3 May 2024).
- Erf 171 Montagu: Proposed subdivision (site inspection already conducted at Tribunal meeting on 3 May 2024, awaiting Dept Infrastructure)
- Erf 2 Montagu: subdivision of municipal land and consolidation with adjoining erf.

## **9. Conclusion**

The meeting adjourned at 13h30.