

~ MEMORANDUM ~

<u>AAN / TO</u>	Mr AWJ Everson Acting Municipal Manager	<u>VAN / FROM</u>	TL Brunings Assistant Town and Regional Planner
<u>VERW / REF</u>	15/4/12/9_Klaas Voogds Rivier 37/49 Robertson	<u>DATUM / DATE</u>	29 October 2020
<u>ONDERWERP SUBJECT</u>	APPEAL ASSESSMENT REPORT FOR SUBMISSION TO THE LANGEBERG APPEAL AUTHORITY: KLAAS VOOGDS RIVIER NO 37, ROBERTSON		

Dear Sir,

Attached herewith please find an Appeal Assessment Report comprising pages 1-10, with Annexures comprising pages 11 - 462, as indicated below:

Annexure	Documentation (Note: pages are numbered in the bottom right-hand corner)	Page No's
1	Plans	11 – 15
2	Planning Assessment Report to Langeberg Municipal Planning Tribunal, with Annexures A-H as below	16 – 29
	A Application (including EA, mining permit, EIA, noise report, traffic report)	30 – 150
	B Plans: Locality Plan, Crushing Plant Site Plan, Location of objectors, Photos of Crushing Plant.	151 – 157
	C LMP Tribunal Decision on previous Mining & Crushing application.	158 – 160
	D Langeberg Appeal Authority's decision on Appeal against Tribunal decision.	161 – 163
	E Comments & Objections.	164 – 202
	F Response to Objections, (26 March 2020; 1 May 2020) – includes dust monitoring report.	203 – 230
	G Comments from Departments: CWDM, Department of Transport, BGCMA, Cape Nature, DEA&DP.	231 – 269
	H WC Noise Regulations PN 200/2013, SANS 10103:2008 (Measurement & Rating of Environmental Noise, SANS 10328 (Noise Impact Assessment Methods)	270 – 296
	I Conditions of Approval and Schedule 1.	297 – 300
3	Tribunal Decision	301 – 317
4	Minutes of Tribunal meeting: 17 July 2020	318 – 322
5	Section 65 of the Langeberg Land Use Planning Bylaw 2015: Criteria for Consideration of Applications	323 – 327
6	Appeal 1: Barnard, C (Objector)	328 – 332
7	Appeal 2: de Wet (Objector)	335 – 336
8	Appeal 3: van Wassenhove (Objector)	337 – 345
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11	Appeal 6: Balk /The Lab (Objector)	355 – 359
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17	Applicant's Response to Appeals 1-10	420 – 454
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19	Section 81 of the Langeberg Land Use Planning Bylaw 2015: Consideration by Appeal Authority	459 – 462

Yours faithfully



T L BRUNINGS
ASSISTANT TOWN AND REGIONAL PLANNER

APPEAL REPORT
PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37 ROBERTSON:
APPLICATION FOR TEMPORARY DEPARTURE FOR CRUSHING OF ROCK IN AGRICULTURAL ZONE I

Appeal reference number	15/4/12/9 Appeal		Appeal report date:	29 October 2020	
Application reference number	15/4/12/9	Application submission date	20 November 2019	Application decision date	17 June 2020

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

Y

N

PART A: AUTHOR DETAILS

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

PART B: APPLICANT DETAILS

First name(s)	Freda Marie				
Surname	Terblanche				
Company name	T-Plan				
SACPLAN registration number	C/5732/2002				
Registered owner(s)	Altus Malherbe Trust				
Is the applicant the appellant	Y	N	The applicant and objectors have lodged appeals		

PART C: APPELLANT(S) DETAILS

Name(s)	Representing	Property description	Contact details	Valid?
C Barnard		Farm 251	pbnsqs@gmail.com	Y
P de Wet		Klaas Voodgs Rivier 40/11 & 12	paul@deeenay.com	Y
G van Wassenhove		Concordia 40/13 & 44/1	info@olivegardencountrylodge.com	Y
M E Botes		Wildepaaardekloof 297	wildeperdehoek@gmail.com	Y
T W de Jongh		Wildepaaardekloof 33/10	theunis@khk.co.za	Y
J M Balk		Klaas Voogds Rivier 40/11, 23 & Rem & KVR 35/R	robertson@thelab.africa	Y
M Schwegmann		Rietvallei 115/57	sheilam@lando.co.za	Y
S Busch		Klaas Voogds Rivier 40/14	stephan@patbusch.co.za	Y
J Barnard		Farm 251	jane@klaasvoogdscottage.co.za	Y

Natural Resources Law	Papesch, Stolberg, Coetsee, Heymans	4 farms in Klaas Voogds East	clarissa@naturalresourcelaw.co.za		Y
C P Concrete		Application Site	cpconcrete@barvallei.co.za		Y
Total valid appeals	Eleven (one appellant representing 4 objectors)				
PART D: APPLICATION PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Portion 49 of the Farm Klaas Voodgs Rivier No 37, Robertson				
Physical address	Klaas Voogds Rivier East, off DR1366 & MR6035	Town/City	Rural		
Current zoning	Agricultural Zone I	Extent (m ² /ha)	60,7569ha.	Are there existing buildings on the property	Y N
Applicable zoning scheme	Langeberg Integrated Zoning Scheme, 2018				
Current land use	Agricultural pastures, natural vegetation, dam			Title Deed number & date	T/2704/2016
Any unauthorised land use/building work	Y N	If Yes, explain			
PART E: SUMMARY OF PUBLIC PARTICIPATION					
Total valid comments	Thirteen			Total invalid comments and petitions	
Valid petition(s)	Y N	If yes, number of signatures			
Community organisation(s) response	Y N	N/A	Ward councillor response	Y N	N/A
Was public participation undertaken in accordance with section 45- 49 of the Langeberg Land Use Planning Bylaw?				Y	N
Was the Provincial Minister afforded the opportunity to comment on the appeal ?				Y	N
If the proposal triggered an application for land development in terms of section 10 of the Western Cape Land Use Planning Regulations, 2015, was the Provincial Minister afforded the opportunity to comment on the appeal?				N/A	N
PART F: APPLICATION					
The application site is located in Klaas Voogds East. A locality plan, site plan, and aerial photographs are attached at Annexure 1. An application was lodged in terms of the Langeberg Land Use Planning Bylaw, 2015, for temporary departure to crush rock on a 4,9ha. site within the Agricultural zone I, and to stockpile and dispose of the crushed material. Refer to Part D of the 10 June 2020 Tribunal item, at Annexure 2, for the background to this application, previous applications and appeals, and a summary of the applicant's motivation.					

PART G: MUNICIPAL TOWN PLANNING DEPARTMENT'S EVALUATION OF APPLICATION	
Part I of the 10 June 2020 Tribunal Report (Annexure 2) provides a detailed evaluation of the application for temporary departure for a crushing plant on a 4,9ha. site within Portion 49 of the Farm Klaas Voodgs Rivier No 37, Robertson.	

PART H: DECISION ON APPLICATION

The Tribunal's letter of decision is attached at [Annexure 3](#). The temporary departure for the crushing plant was approved with conditions.

The minutes of the Tribunal meeting are attached as [Annexure 4](#).

A copy of Section 65 of the Land Use Planning Bylaw, 2015 (Criteria for consideration of applications) is attached at [Annexure 5](#).

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

PART I: TYPE OF APPEALS

First name(s)	Type of appeal		
The 10 objector appellants are appealing the decision and the conclusion of the Tribunal regarding the merits of the application. The Applicant is appealing the conditions of approval relating to hours of operation and volumes of material to be crushed.	Appealing the decision	Y	N
	Appealing the failure of the decision maker to make a decision within the period permitted	Y	N
	Appealing a condition(s) of approval	Y	N
	Appealing the process followed	Y	N
	Appealing the conclusion of the decision maker regarding the merits of the land development application	Y	N

PART J: OBJECTOR'S APPEALS

Ten appeals were lodged by residents in the Klaas Voogds area. One of these appeals represent 4 appellants in the area. Full copies of these appeals are attached at [Annexures 6-15](#).

It is noted that the objectors did not respond to the applicant's appeal.

PART K: APPLICANT'S APPEAL AND RESPONSE TO OBJECTOR'S APPEAL

The applicant lodged an appeal, a copy of which is attached at [Annexure 16](#).

The applicant's response to Appeals 1-10 is attached at [Annexure 17](#).

PART L: MUNICIPAL PLANNING COMMENT AND EVALUATION OF THE APPEALS

The objectors' appeals (Appeals 1-10) argue that the Tribunal should have refused the application for the crushing plant, for the same reasons as those given for refusing the previous application for rezoning for mining and a crushing plant. The appellants therefore argue that the Appeal Authority should dismiss the applicant's appeal and uphold the objectors' appeals by replacing the Tribunal's decision with a refusal of the application in total.

The applicant's appeal (Appeal 11) argues that the Tribunal should dismiss the objectors' appeals and uphold the Tribunal's decision with the amendment of three of the conditions of approval.

The appeals and an assessment thereof, are outlined below:

Appeals 1-9: (Annexures 6 - 14)

Appellant's 1-9 request the Appeal Authority to revoke the Tribunal's decision, and refuse the application for temporary departure.

Appellant's 1-9 motivate their appeals, on the following grounds, *inter alia*:

- The Department of Transport approved the transport of 50m³ of stone per day. The Tribunal approved the transport of 200m³ with no reasons given to support the approved 200m³. This is an arbitrary and inappropriate decision, permitting a four-fold increase in heavy vehicle traffic beyond what had been assessed as acceptable by the Department of Transport.
- The proposed crushing plant is out of character with, and detrimental to the predominantly agricultural and tourism uses in the Klaas Voogds valley, and the related job opportunities. The Tribunal has not acknowledged this impact as a relevant consideration.
- The crushing plant will have negative traffic and safety implications for road users, pedestrians, tourists and wildlife: the resultant truck traffic on the relatively quiet rural roads will be hazardous and noisy; the intersection of the R60 and Klaas Voogds East Road is a dangerous intersection for slow, loaded vehicles to be entering. This will also add to the wear and tear on the Klaas Voogds East road, which was tarred at the community's combined expense.
- Dust will negatively impact neighbours, road users, and the natural environment. The Department of Transport's requirement that the road be paved has no specifications.
- Conditions imposed are not enforceable given staff and other constraints to enforcement. The applicant has previously not complied with all legislation.
- No noise assessment has been undertaken.
- The stone for the crushing constitutes mining for which there is no approval, and is not financially viable and will set a precedent for further industrial activity.

Assessment:

The decision to authorise the crushing and transportation of 200m³ of stone per day exceeds what the applicant has applied for and is not consistent with the recommendations or with the Traffic Impact Assessment and the Department of Transport's (DoT) conditions.

The Traffic Impact Assessment (BVI Consulting Engineers, May 2018)¹ was based on an assessment of vehicles removing 50m³ per day. The Traffic Impact Assessment (TIA) concluded that the road network could adequately accommodate the transport of this volume per day. There is no assessment of the impact of transporting more than 50m³ per day.

The approval to crush and transport 200m³ of stone per day represents a four-fold increase beyond that approved by the DoT, effectively 1 truckload every 15 minutes, instead of 1 per hour. This could place a potential future financial burden on the Municipality if the additional 150m³ per day as approved, is deemed to cause additional wear and tear on the district road, beyond that authorised by the DoT.

Consequently, it is proposed that Condition 3.4 be amended to permit only 50m³ to be transported per day. It is also proposed to amend condition 6, to require compliance with the DoT letter dated 21 January 2020.

¹ Refer to Annexure 2 (Tribunal item) and Annexure A thereof – the Traffic Impact Assessment Report is attached at the end of Annexure A.

It is noted that the following conditions of approval (refer to Annexure 3), will mitigate potential impacts raised by Appellants 1 -9 in relation to the agricultural character of the area, removal of rock in compliance with the definition of “agriculture”, noise, dust and traffic safety: Conditions 1.2, 3.1, 4 - 4.3, 5, 6, 7 and 14.

Whilst there may be challenges in terms of law enforcement capacity, this is not a reason to disallow a use. The conditions of approval should however be practical to monitor and enforce. For example, limiting hours of operation from 8am to 2pm is relatively easy to monitor, and is related to the limitations on the volumes of material crushed. In comparison, amending the conditions to permit crushing over a 9 hour day, as requested by the applicant (Appeal 11), is open to more than 80m³ being crushed per day (given that 30-40m³ can be crushed per hour) which is difficult to monitor in terms of compliance, and will inevitably result in extended hours of noise.

Appeal 10: Objector Appeal by NRL, on behalf of 4 land owners (Annexure 15):

Appellant 10 provides the following grounds of appeal in support of the request that the Appeal Authority revoke the Tribunal's decision, and refuse the application for temporary departure:

- The Approval is based on misleading information provided by the applicant in relation to the Environmental Authorisation (EA), mining permit and the source of the rock material for the crushing plant.
- *Res judicata* principle: The current application is substantially similar to a previous application which was refused by the Tribunal and Appeal Authority.
- There will be unacceptable noise impacts, which are incapable of mitigation. Fraai Uitzicht 1978 is the closest neighbor to the crushing plant and will suffer significant negative impacts in terms of tourism ratings and non-returning guests due to noise and traffic.
- Traffic impacts have not been properly assessed in relation to four times the amount supported by the DoT.
- There is no factual basis on which to conclude that the use will not impact on surrounding landowners and their businesses/livelihoods. The use is wholly incompatible with tourism.
- Reasons why the rezoning and departure are not similar are not stated. No reasons are given for the 5-year validity of the approval.

Assessment:

Conditions 1.2 and 3.1 of the approval require an approved agricultural plan, and only areas to be planted in terms of the agricultural plan may have rock removed and supplied to the crushing plant. These conditions address the appellant's concern that the primary use is mining not agriculture. The approval also notes that all other approvals are required in terms of the relevant legislation.

It is agreed that the EA and mining permit process appear to be flawed: the public advert in terms of the EIA process referred to “no crushing”; and the date for the extension of validity of the mining permit is not consecutive with the lapsing of the original permit. These application processes fall under the jurisdiction of the Department of Mineral Resources (DMR). Consequently, the land use approval notes the requirement for a valid mining permit and Environmental Authorisation and the Town Planning Department has contacted the DMR to ensure that the validity of these approvals is verified. Condition 14 also requires regular on-site monitoring meetings with relevant Departments, including the DMR.

The principle of *res judicata* is addressed in par 3.3 on page 10 of the Tribunal Assessment Report (Annexure 2). It is considered that there are significant differences in terms of use, scale and impact, to enable a consideration of the new application.

Although there is no independent assessment of the noise impact on the surrounding area, the crushing plant is well within the farm boundaries and the closest residence is the applicant's own dwelling at ±330m from the crushing plant, which will therefore be the most affected. In contrast, the appellant's properties are all more than 1,1km from the crushing plant. Conditions 4.2, 5.1, 14 (refer to Annexure 3) and the proposed amended condition 2 (refer to 2.4 in the recommendation below) address the minimisation of potential noise impact, the monitoring thereof and the potential to require the crushing plant to cease should a noise nuisance eventuate in terms of the WC Noise Regulations. In addition, p94 of the Environmental Management Programme (EMPr), as approved in terms of the Environmental Authorisation, requires that "a noise impact study has to be conducted by a qualified specialist" should complaints be received regarding boundary noise.

As already noted above, it is agreed that there is no assessment of the impact of transporting more than 50m³ per day, as supported by the DoT, and the condition of approval No. 3.4 must be amended accordingly (refer to 2.2 and 2.4 in the recommendation below).

Any potential socio-economic impact is dependent on the degree to which the impacts of noise, dust and traffic are satisfactorily addressed. As discussed above, it is considered that the approval contains appropriate conditions to achieve satisfactory mitigation of such potential impacts, to ensure no adverse socio-economic impact in terms of agriculture or tourism. The economic benefits of the proposed use are also a relevant consideration, which must be acknowledged.

One of the key differences between the rezoning application for mining, which was refused, and the current application, is the smaller scale and therefore lesser impact of the current proposal. The conditions relating to crushing of rock only from agricultural fields on Ptns 47 and 49 of Klaas Voogds Rivier 37, the maximum volumes of rock to be crushed and transported daily, and the limited hours of operation are specifically aimed at ensuring that the resultant activity remains small-scale with minimal impact.

In recognition of the appellant's comments relating to the period of approval, it is recommended that the condition of approval No. 2 be amended so as to limit the approval to 2 years, renewable annually up to 5 years, as recommended in the Planning Assessment report to the Tribunal. This serves 2 main purposes: The applicant is more likely to be compliant where he is aware that non-compliance will lead to non-renewal of approval; and this provides more security that the use will be required to cease, where the land use is creating any adverse impacts. This is also consistent with the mining permit which is issued for 2 years renewable annually up to 5 years; it being noted that some 3 years of the issued mining permit has already passed.

Appeal 11: Applicant's Appeal (Annexure 16)

Appellant 11 (applicant) reiterates that the proposed development will have a significant positive impact on the area in terms of job security and opportunities in the current economic situation of widespread job scarcity.

The appellant argues that the Tribunal is not bound by the comments of the Department of Transport and proposes that 80m³ of stone be permitted to be crushed and transported per day.

The appellant also argues that the limit on the crushing time from 8am to 2pm limits production times and makes employing staff for 6 hours a day difficult. The appellant agrees to no transporting of rock after 2pm, but proposes that crushing be permitted from 8am to 5pm Monday to Friday.

Given the above, the appellant requests that the Appeal Authority uphold the Tribunal decision, with the following variations:

- Condition 3.3 to permit 80m³ of stone to be crushed per day (not 200m³).
- Conditions 3.4 to permit 80m³ of stone to be transported off the site per day (not 200m³).
- Condition 5.1 to allow for crushing activities from 8h00 to 17h00 Monday to Friday (not 8h00 to 14h00).

The applicant's response to Appeals 1 – 10 is attached at Annexure 17.

Assessment:

The applicant applied for crushing of $\pm 100 \text{ m}^3$ of rock per day, and no objections were received from the various commenting authorities in relation to this scale of crushing. The request that condition 3.3 be amended from 200 m^3 to permit only 80 m^3 of rock to be crushed per day is therefore within the limit applied for in the application.

Whilst the assessment is not necessarily bound by the comments of DoT, traffic implications are a relevant consideration, and DoT acts in an advisory capacity in this regard. Transporting 50 m^3 per day formed the basis for the Traffic Impact Assessment, on which DoT based their comments. The conclusions of the TIA that the development would have an acceptable impact relates to the transport of no more than 50 m^3 per day.

The implications of the transportation of any amounts greater than this per day has not been assessed and there is therefore no basis for approving more than 50 m^3 per day. Further, the appellant was aware of the 50 m^3 per day transportation limit referred to by DoT, since January 2020 and has raised no objection, even confirming in an email dated 8 June 2020, that the applicant will “adhere to the DoT’s conditions”.

With regard to the hours of operation, if the crushing plant can crush $30\text{--}40 \text{ m}^3$ per hour, then $\pm 80 \text{ m}^3$ can be crushed in 2 to 3hrs. It is therefore not needed to be able to crush from 8am to 5pm. A 6hr period from 8am to 2pm provides more than sufficient flexibility in relation to the amount of time required for the proposed crushing, as applied for.

Further, in the absence of a Noise Impact report, the recommended restricted hours of operation from 8am to 2pm are considered reasonable and appropriate. The limited hours will facilitate monitoring of compliance with the limit on the volumes which may be crushed per day, and reduce the potential for adverse noise impacts.

The following points of clarification are noted for the Appeal Authority with regard to the difference in volume between rock crushed and rock transported:

- The implication of being able to crush more stone per day (condition 3.3) than is removed (condition 3.4) is simply that stockpiles are built up for future removal on days when no crushing is occurring. This is in line with what the applicant motivates as a small-scale operation which crushes material removed at intervals during normal agricultural activities (in comparison to a full-scale industrial activity where rock is continually mined and supplied to a crushing plant for uninterrupted crushing)..
- By permitting the crushing and removal of the same amount per day, the implication is that no stockpiles are necessary and therefore only a $\pm 1,8 \text{ ha}$. site would be required, and the decision to approve a $4,9 \text{ ha}$. site cannot be justified.

In conclusion, the planning assessment report comprehensively evaluates the relevant considerations, and the recommended conditions of approval mitigate the concerns raised by the appellants. The appeal submissions do not serve to alter the assessment of this proposed land use or the recommended conditions. The decision to vary certain of the proposed conditions of approval in relation to volume of material crushed and transported, and the length of validity of the approval cannot be supported, given the reasons outlined above. Consequently, the decision is supported, but with variations to the conditions of approval.

Time line for processing the Application

The time taken to process the application is within the time frames as permitted within Langeberg Land Use Planning Bylaw, 2015, as is evident from the control sheets on the application and appeal files.

PART M: PROVINCIAL MINISTER'S COMMENT ON THE APPEAL

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

Provincial comments were received and are attached at [Annexure 18](#). Province states that:

- The planning assessment report to the Tribunal dated 10 June 2020 addresses the key issues and makes a recommendation informed by all relevant departments.
- The changes made by the Tribunal to the recommended conditions 3.3 and 3.4 are not rationally connected to the information before the Tribunal, and potentially reviewable in terms of PAJA.
- The changes made by the Tribunal to the recommended condition 3.4 is inconsistent with the conditions imposed by the Department of Transport, based on a Traffic Impact Assessment.
- No clarification is provided by the Tribunal for the approved volume of 200m³ to be crushed and transported.
- The Appeal Authority must be satisfied that the current application is significantly different from the previous application, to permit a decision on this application and appeal.

PART N: RECOMMENDATION

1. That the Appeal Authority note the following:
 - 1.1. There are 11 appeals, which require one decision.
 - 1.2. The Appeal Authority's decision (minutes) must refer to the legislation (Section 81 of LLUP Bylaw, 2015) in terms of which they are taking a decision.
 - 1.3. The Appeal Authority must state whether they "confirm, vary or revoke" the Tribunal's decision, as referred to in the Bylaw.
 - 1.4. The minutes of the Appeal Authority hearing must record the reasons for its decision.
2. That, with reference to Section 81 of the LLUP Bylaw, 2015 ([Annexure 19](#)), it is recommended that the Appeal Authority:
 - 2.1. Dismisses the objectors' appeals (Appeals 1-10) to refuse the application in its entirety.
 - 2.2. Confirms the Tribunal decision, with variations to conditions 2, 3.4 and 6 as follows:

	Tribunal Condition	Condition of Appeal Authority Approval
2	The approval applies for a maximum period of 5 years from the date of approval	<i>The approval applies for a maximum period of 2 years from the date of approval, renewable annually up to a maximum of 5 years.</i>
3.4	No more than 200m ³ of aggregate may be transported off the site per day.	<i>No more than 50m³ of aggregate may be transported off the site per day.</i>
6.	The conditions (excluding condition 5.3) imposed by the Department of Transport in their letter dated 21 January 2020 (attached) must be complied with.	<i>The conditions imposed by the Department of Transport in their letter dated 21 January 2020 (attached) must be complied with, excluding the following wording in condition 5.3: "and the transportation thereof is restricted to weekday work hours (8am to 5pm)".</i>

2.3. Upholds the applicant's appeal (Appeal 11) to vary condition 3.3 as follows:

	Tribunal Condition	Condition of Appeal Authority Approval
3.3	A maximum of 200m ³ of stone may be crushed per day.	<i>A maximum of 80m³ of stone may be crushed per day.</i>

2.4. Dismisses the applicant's appeal (Appeal 11) to vary condition 3.4 (request 80m³ of aggregate to be transported per day) and condition 5.1 (requests hours of operation to be 8h00 to 17h00 Mondays to Fridays).

	Tribunal Condition	Condition of Appeal Authority Approval
3.4	No more than 200m ³ of aggregate may be transported off the site per day.	<i>No more than 50m³ of aggregate may be transported off the site per day (Varied from Tribunal, as above).</i>
5.1	No crushing activities or transporting of rock / crushed material may occur: Before 8h00 and after 14h00 on Mondays to Fridays.	<i>No crushing activities or transporting of rock / crushed material may occur: Before 8h00 and after 14h00 on Mondays to Fridays. (confirmed to remain unchanged as per Tribunal decision)</i>

PART O: REASONS FOR RECOMMENDATION

The primary reasons for the above recommendation are:

1. All relevant considerations, including the objections, have been taken into account and appropriate mitigation measures in relation to noise, dust and traffic are provided for in the conditions of approval of this land use application and the Environmental Authorisation and Environmental Management Programme in terms of NEMA.
2. With reference to the Buitenverwacht Soil Study (ReSalt), the removal of rock will increase the agricultural potential of the soils. Agriculture is the primary use in the Agricultural Zone I in accordance with the Langeberg Integrated Zoning Scheme, 2018 and the Langeberg SDF, 2015
3. Natural resources will be optimally and sustainably used while promoting economic development and job creation.
4. There is no objection to the operation of the crushing plant from any of the relevant Departments, namely: CWDM, BGCMA, Department of Transport, Department of Agriculture, DEA&DP and Cape Nature.
5. The Traffic Impact Assessment (BVI Consulting Engineers) is based on the transportation of 50m³ per day. There is no assessment of the impact of transporting more than 50m³ per day and therefore this is the maximum that can be approved.
6. The conditions of approval relating to the validity period, volumes of material to be transported and hours of operation, are all rationally connected to what the applicant motivates as a small-scale operation which will crush rock removed at intervals during normal agricultural activities in preparing fields for planting.

The Appeal Authority has considered the assessment in par 3.3. of the Planning Assessment report to the Tribunal, dated 10 June 2020, and deems the current application to be significantly different to the previous application,

The Appeal Authority has considered the applicability of the reasons given for the previous decisions of the Tribunal and Appeal Authority, as assessed in par 3.4. of the Planning Assessment report to the Tribunal, dated 10 June 2020, and determined that the reasons given for the previous decisions are not applicable to the application for temporary departure for a crushing plant.

PART P: ANNEXURES

Annexure 1	Plans: Locality, Site, Aerial: Application Site and Objectors
Annexure 2	Planning Assessment Report to Langeberg Municipal Planning Tribunal: 10 June 2020 Note: Annexure 2 includes <i>inter alia</i> the EA, EMPr, Noise Report and Traffic Report
Annexure 3	Tribunal Decision Letter: 29 June 2020
Annexure 4	Minutes of Tribunal meeting: 17 July 2020
Annexure 5	Section 65 of the Langeberg Land Use Planning Bylaw 2015: Criteria for Consideration of Applications
Annexure 6	Appeal 1: Barnard, C (Objector)

Annexure 7	Appeal 2: de Wet (Objector)
Annexure 8	Appeal 3: van Wassenhove (Objector)
Annexure 9	Appeal 4: Botes (Objector)
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Annexure 13	Appeal 8: Busch (Objector)
Annexure 14	Appeal 9: Barnard, J (Objector)
Annexure 15	Appeal 10: Natural Resources Law (Objector)
Annexure 16	Appeal 11: Applicant's Appeal: CP Concrete
Annexure 17	Applicant's Response to Appeals 1-10
Annexure 18	Provincial Comments
Annexure 19	Section 81 of the Langeberg Land Use Planning Bylaw 2015: Consideration by Appeal Authority

PART Q: SIGNATURES

Author name: T L Brunings

Date: 29 October 2020

Kommentaar:

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

.....
DATUM

Kommentaar:

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

.....
DATUM

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

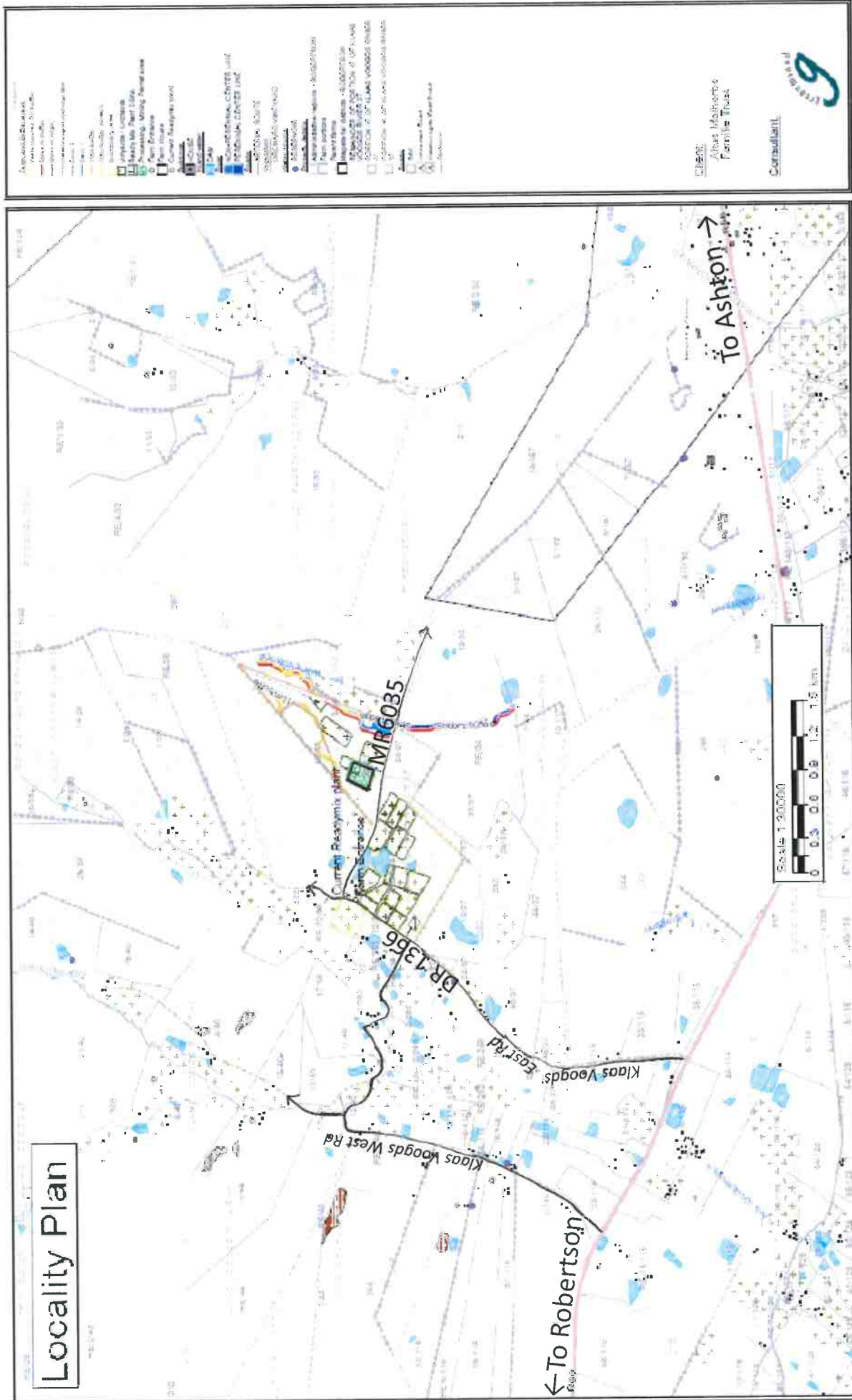
REFUSED

APPEAL AUTHORITY

Date

Annexure 1

Plans



Legend

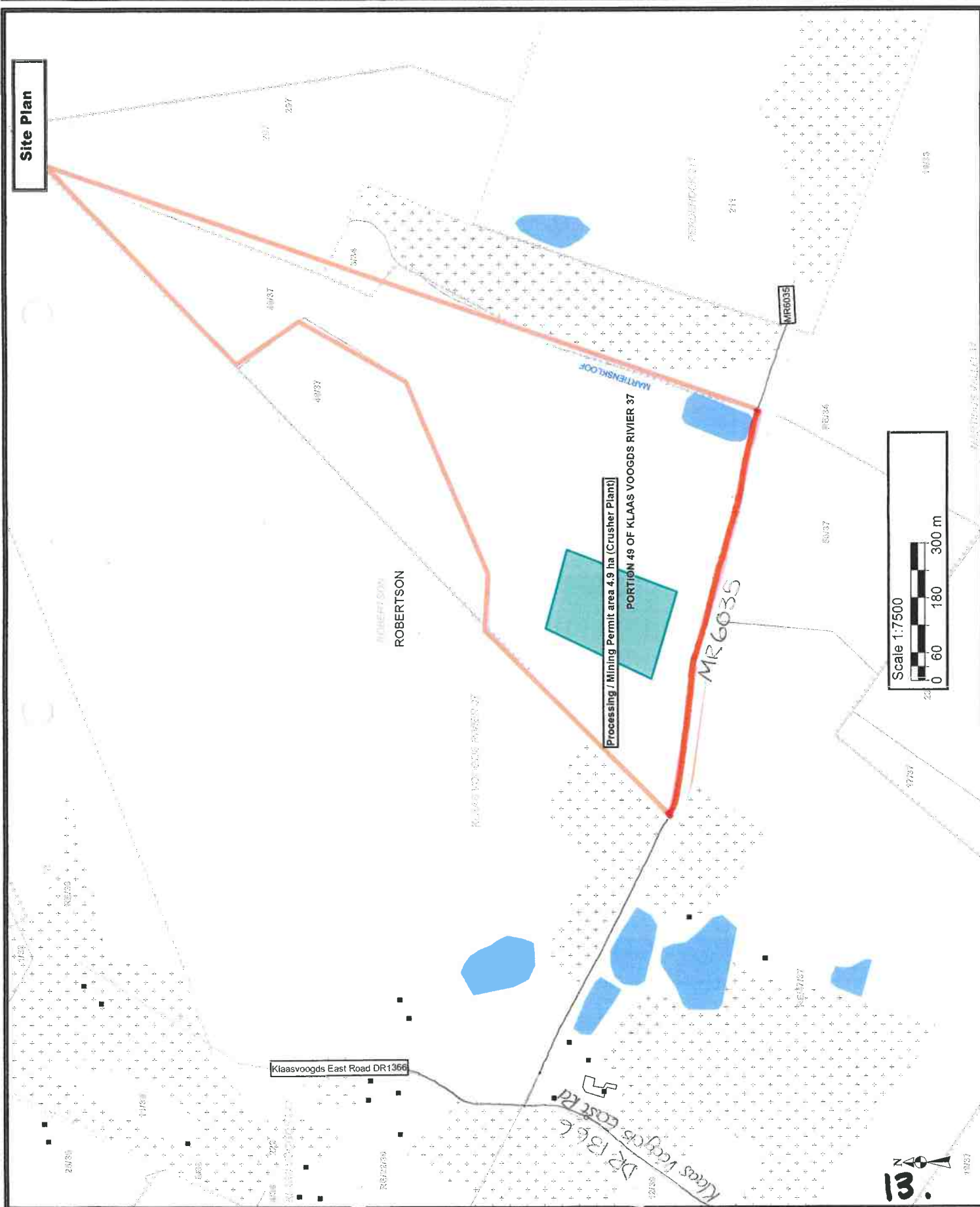
Farm and Buffer areas

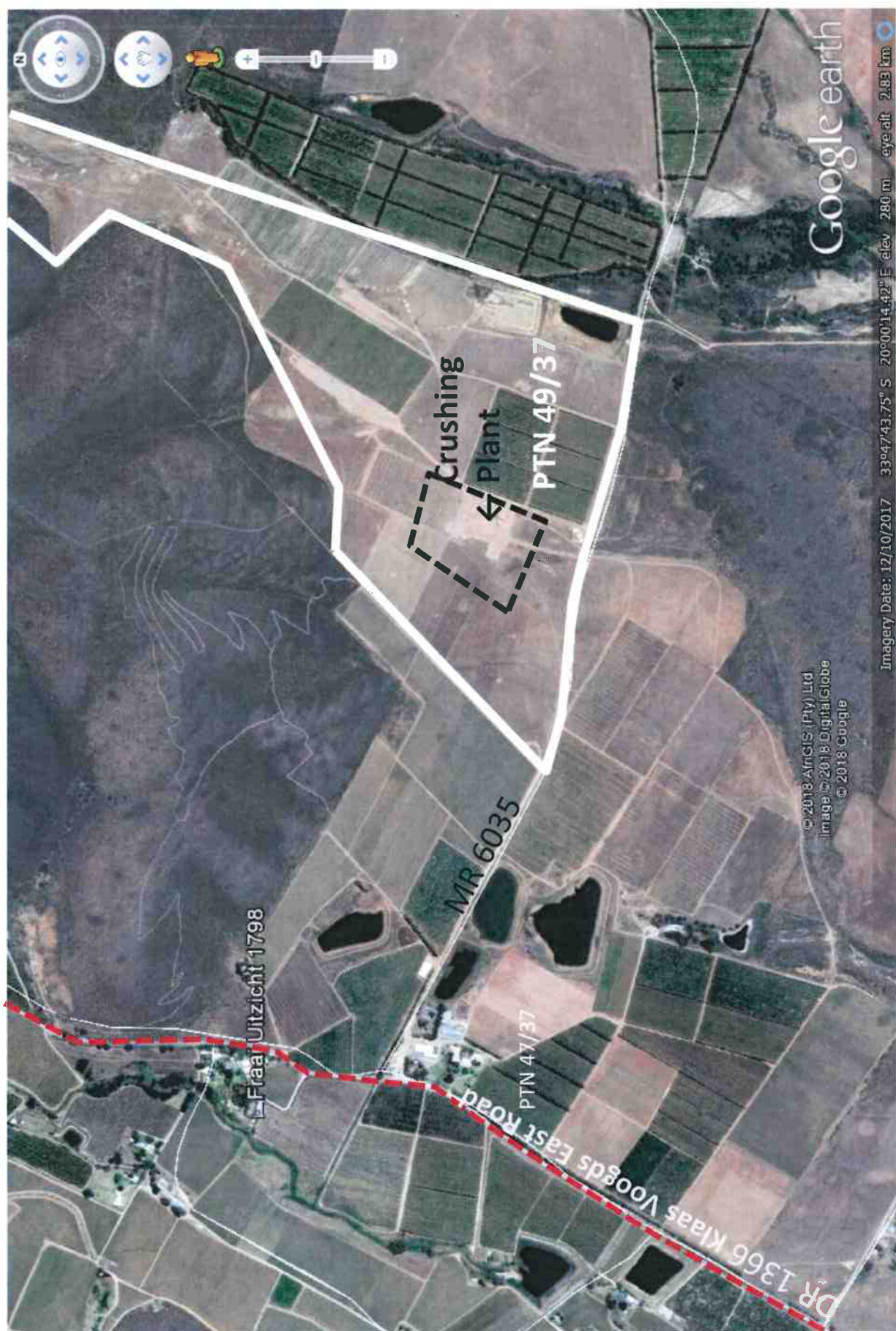
- Processing / Mining Permit area (4.9 ha)
- Farm Entrance
- Farm House
- Buildings
- HOUSE
- Indoor water
- DAM
- Rust
- NON-PERENNIAL CENTER LINE
- PERENNIAL CENTER LINE
- Roads
- ARTERIAL ROUTE
- Vegetation
- ORCHARD VINEYARD
- Water source
- RESERVOIR
- Produce/Legality
- Administrative regions - ROBERTSON
- Farm portions
- Parent farms
- Magisterial districts - ROBERTSON
- PORTION 47 OF KLAAS VOOGDS RIVER 37
- R60
- Klaasvoogds East Road

KLAAS VOOGDS RIVER 37/478 49 - LBM - TP(a) (JUNE 2020)

Client: CP Concrete

Consultant:





tlb



Annexure 2

Planning Assessment Report to Langeberg Municipal Planning Tribunal

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 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37 ROBERTSON:
APPLICATION FOR TEMPORARY DEPARTURE FOR CRUSHING OF ROCK IN AGRICULTURAL ZONE I**

Meeting Date: 17 June 2020

Reference number	15/4/12/9	Application submission date	20 November 2019	Date report finalised	10 June 2020
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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 49 of the Farm Klaas Voogds Rivier No 37, Robertson				
Physical address	Klaas Voogds Rivier East, off DR1366 & MR6035	Town	Rural – Klaas Voogds Rivier East		
Current zoning	Agricultural Zone I	Extent (m2 /ha)	60,7569ha.	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Langeberg Integrated Zoning Scheme, 2018				
Current land use	Agricultural		Title Deed number & date	T/2704/2016	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)		
Any third party conditions applicable?	Y	N	If Yes, specify		
Any unauthorised land use/building work	Y	N	If Yes, explain	Crushing Plant established – ceased operating following notices served.	

PART C: APPLICATION DESCRIPTION

Application has been lodged for temporary departure to crush stone and rock on a 4,9ha. site within the Agricultural zone I, and to stockpile and dispose of the crushed material.

A copy of the application, Environmental Authorisation and other specialist reports are attached at Annexure A.

PART D: BACKGROUND & SUMMARY OF APPLICANTS MOTIVATION

The application site is located in the Langeberg foothills in the Klaas Voogds East area, some 12km east of Robertson, and within the Klaas Voogds tourism meander route. A locality plan, and site plan are attached at Annexure B.

The application site is Portions 49 of Klaas Voogds Rivier No. 37 (also referred to as part of the farm “Buitenverwacht”) and comprises agricultural lands (peaches, apricots, plums, tomatoes), and a dam.

Access to the farm is obtained via the Klaas Voogds East Rd (DR1366) which has both tarred and gravel sections, and directly off Minor Road 6035 which is a gravel road.

Environmental Authorisation (EA) in terms of the EIA Regulations:

On 6 December 2016, EA was issued for "*crushing and screening of stockpiled rocks/stones within the approved 4,9ha. The stones / rocks will be collected from the remainder of the farm as indicated in the EMPR*". A copy of the EA is attached as part of the application at Annexure A.

A mining permit was issued by DMR, in terms of the MPRD 28/2002, on 14 February 2017, valid until 13 February 2019. The mining permit validity was extended on 8 October 2019 to 8 October 2020. Refer to Annexure A.

Previous Applications in terms of the Langeberg Land Use Planning Bylaw, 2015:

The applicant previously applied to rezone 5 areas comprising a total of 25,6ha. from Agricultural zone I to Industrial zone III for mining purposes to remove rocks from agricultural land, down to a depth of 5m in places. After mining, the agricultural lands would have the topsoil replaced and be cultivated as farmland. Application was also made to rezone 4,9ha. from Agricultural zone I to Industrial zone I for a crushing plant.

This application was refused by the Langeberg Municipal Planning Tribunal on 9 November 2018 (Refer to Annexure C).

Following an appeal lodged by some of the objectors against the Tribunal's decision, the Langeberg Appeal Authority, on 27 May 2019, upheld the Tribunal's decision, with additional reasons noted (Refer to Annexure D).

Current application in terms of the Langeberg Land Use Planning Bylaw, 2015:

The current application is for a temporary departure to operate a crushing plant on Ptn 49/KVR 37 Robertson, to crush rock removed from agricultural fields which are to be planted.

The applicant motivates as follows:

- In order to farm productively, it is common practice to remove excess rock from the lands.
- There is EA and a mining permit for the site in question.
- The activity will generate employment during the crushing phase and afterwards in the continued agricultural activities.
- There will be no permanent infrastructure established.
- The limited duration of the operation will ensure that the land remains sustainable for agricultural use in the long term.
- The removed rock, rather than merely being stockpiled on the farm, can be used as a resource input to the building industry. This will optimize the use of available resources and create sustainable job opportunities.
- The environmental impact will be minimal and compliance with mitigation measures recommended in the ecological report will minimize any potential negative impact.
- Accordingly, the proposed development will be compliant with the principles of spatial sustainability, efficiency and spatial resilience.
- There is an approved EMP in terms of the EA and other conditions to mitigate impacts.
- Dust monitoring will ensure the management of fall-out dust and no crushing will occur in windy conditions.
- A noise study was conducted which supports the proposed development.
- There will be 5-6 truck loads per day and some days no trucks.

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

In response to the advertisement and notice to neighbours, one letter of support was received and 12 objections were received - copies are attached at Annexure E. The location of the objectors' properties is shown at Annexure B3.

The letter of support states that the removal and crushing of stone in the process of improving the agricultural potential of the land, is a credible proposal and will support agricultural development which is the primary land use in this area.

The objections relate to the following:

- A previous similar application was declined by the Tribunal. The applicant cannot apply for the same activity again. The legal principle of *res judicata* applies.
- The findings of the noise report are questioned.
- The application contains factually inaccurate / misleading information e.g. The stone will be sold and this constitutes mining.
- The operation will escalate well beyond the stated purpose as this is the only way it makes economic sense (based on objector's given calculations).
- Monitoring compliance is limited by the capacity and funds of the relevant authorities.
- Present permits for mining operations in the area are questioned – dust is a problem and no water is being applied. Similar problems are anticipated with the application site.
- Clearing of stone to 1,5m is not necessary for successful agricultural land use.
- Crushing, with associated pollution implications (noise, dust, truck traffic and visual), will have an adverse impact on the Klaas Voogds area, which is a prime tourism area, linked to the beautiful scenery and tranquility.
- Concerns relating to dust; noise; air pollution; health implications; financial viability of existing businesses; negative impact on property values.
- The development will undo the benefits which have arisen since the Klaas Voogds Road was tarred in 2014 and will cause wear and surface damage to Klaas Voogds East tarred road, which was designed for a maximum of 5 ton vehicles.
- There will be an adverse impact on the access road to Wildepaardehoek and Kleinhoekkloof farms.
- Adverse visual impact from the farms on the northern side (Langeberg Mountain foothills) and Marbrin to the south.
- The operation of heavy vehicles collecting crushed stone will have adverse safety implications for school children and farm workers who walk along the Klaas Voogds Roads.
- Community members along the recently tarred Klaas Voogds Road all contributed financially towards the tarring, and the road will deteriorate with increased truck traffic.

The applicant's response to the objections is attached at Annexure F and is summarized as follows:

- The new temporary departure application is not the same as the previous rezoning application. It is considerably reduced in scale and duration, and is only for the crushing plant, no mining is proposed.
- The proposed use will not lead to industrialization of the Klaas Voogds Valley. No large scale industrial mining operations are proposed. The intention is to improve crop yields and at the same time maximize resources available on the farm by crushing excess rock as an input to other processes.
- The application is for limited period of time and the activity cannot "escalate". The area will remain agricultural in nature.
- The impact on agricultural land will be positive, as outlined in the specialist soil report: water retention, enhancement of nutrients and soil stability will be improved.
- The noise report indicates a high noise level at the machine and need for PPE for workers. However, the ambient noise level was not "sufficient enough to warrant concern due to the distance and location of neighbours and other residences." The distances to nearby residences is sufficiently far such that they will not be adversely impacted on by any noise more than conventional farming noises.
- The applicant is farming export crops immediately surrounding the proposed crushing plant with no negative impacts from dust fall-out or air emissions. Dust monitoring will be implemented and monitored.

- Visual impact is minimized by existing avenues of trees, orchards and the undulating topography; and stockpiles will be limited to 3m in height.
- The number of truck trips with the crushing will be less than the number of truck trips generated by the previous cement plant. The revised TIA conducted in May 2018 concludes that the proposed crushing can be supported from a traffic perspective and the applicant will comply with the Department of Transport's conditions relating to the upkeep of the road and speed limits. The owner contributed "over and above what was required for the tarring of the Klaas Voogds road".
- Agricultural activities will still be the main activity on the farm and there will not be any adverse impact on property values, tourism potential and socio-economic conditions as the agricultural, rural nature of the area will remain intact.

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

Name	Date received	Summary of comments	Recommendation		
Manager: Electrical Engineering Services	23.03.18 (as per previous application)	The owner is responsible for the costs of any changes and upgrading which may be required. A bulk services levy is payable at the tariff applicable at the time. The connection is subject to any restrictive measures which the National Government may require in relation to saving electricity.	Positive	Negative	Comment
Cape Winelands District Municipality: Health	28.01.20 (Environ. Health) 14.01.20 (Air Quality Officer)	Environmental Health: No household services will be provided by CWDM. No objection subject to dust and noise control. All recommendations of the Air Quality Officer (AQO) must be included. The AQO commented: - The activity is not listed under the NEM: AQA Act 39/2004. - The applicant must comply with the reporting requirements of regulations in terms of the National Atmospheric Emission Reporting Regulations in terms of NEM: AQA - The Langeberg Municipality has a statutory obligation to secure an environment that is not harmful to the health and well-being of people. - The proposed development must comply with the National Dust Control Regulations. A baseline for dust fall must be determined prior to commencement of activities. - The EMP must cover compliance with the Noise Regulations PN 200 of 20 June 2013 and control of incidents - No objection if all the relevant environmental legislation is adhered to.	Positive	Negative	Comment

Breede Gouritz Catchment Management Agency for DWAF	15.01.20	Should agricultural water be used within the industrial process the applicant must first obtain written approval from BGCMA and / or KV WUA for the temporary transfer of water. No objection subject to conditions: - All activities must be carried out in accordance with the NWA 36/1998. - No pollution of any surface or groundwater shall take place. - Stormwater Management must be addressed.	Positive	Negative	Comment
Department of Transport	21.01.20	No objection subject to: - Either: the neighbours must sign accepting watering of gravel roads, - Or: Provision of a sealed hard-surface on the affected portion of Minor Road 6035; & Provision of a sealed hard-surface on DR 1366 from $\pm$km3.42 until the intersection with MR6035; - The volume of aggregate that may be transported off site is limited to 50 m³ per day and transportation thereof is restricted to weekday work hours (8am to 5pm) and - The applicant to liaise with DRE, Paarl for the necessary signage – heavy goods vehicles. - Detail design plans for the road improvements to be sent to DoT's Design Directorate. - The applicant must seek approval from DoT to increase daily truck trips using the public roads.	Positive	Negative	Comment
Provincial Department of Agriculture (Elsenburg)	21.02.20	No objection to the removal of rock up to 1,5m and temporary departure for the crushing plant.	Positive	Negative	Comment
DEA&DP (EIA)	30.01.20	Listed Activities have already received EA from DMR.	Positive	Negative	Comment
DEA&DP (Land Use)	-	Refer to Part H of this report – Provincial Application.			
Cape Nature	07.05.18 (as per previous application)	Support the reduction in size and therefore impact. Specialist studies confirm that Ptns 47 & 49 have been extensively transformed. Vegetation type is Breede Shale Renosterveld which is not listed as threatened. Recommend conditions of approval, including: – Stormwater management and soil erosion prevention measures must be implemented. – Speed control on site to protect indigenous fauna species. – Rehabilitation must occur.	Positive	Negative	Comment

Heritage Western Cape	-	No comment received.			
Eskom	04.04.18	Not in Eskom area of supply.	Positive	Negative	Comment
Ward Councilor	-	No comment received.			

PART H: PROVINCIAL APPLICATION

Provincial Application:

The current development proposal does not require provincial approval in terms of Section 53(1) of LUPA, 2004, read together with section 10(1)(b) of the Regulations, as the size of the area is below the 5ha. threshold specified in the amended regulations.

Note: The previous development proposal did require provincial approval in terms of Section 53(1) of LUPA, 2004, read together with section 10(1)(b) of the Regulations. This application was approved by Province on 2 August 2018. This decision was appealed. The appeal was dismissed and the decision to approve the application was upheld. It is noted that, at that stage, Province also recommended that approval in terms of the Langeberg Land Use Planning Bylaw, 2015 should rather be granted for a temporary departure than a rezoning.

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

Criteria for Assessing the Land Use Application:

The applicable Zoning Scheme is the Langeberg Integrated Zoning Scheme, 2018. The property in question is zoned Agricultural Zone I.

In terms of Section 65 of the Langeberg Land Use Planning Bylaw, PN 264/2015, of 30 July 2015 a land use application is required to be assessed in terms of the following:

- Desirability of the proposed use (with reference to Province's "Relevant Considerations Guideline").
- Compliance with relevant plans (IDP, SDF, PSDF): The proposal must be consistent with the forward planning vision for the application area. Only in exceptional circumstances should deviation from these policies and/or plans be considered.
- Compliance with relevant policies and principles.
- Compliance with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014): In terms of section 49 of LUPA consideration must be given to applicable spatial development frameworks and structure plans, and the desirability of the proposal must be determined. In addition, the proposal must be consistent with the land use planning principles referred to section 59 (spatial justice, spatial sustainability, efficiency and good administration).
- 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 of application for crushing plant:

1. Zoning Scheme provisions:

- 1.1. The previous application was processed in terms of the old "Section 8 Zoning Scheme", in terms of which the crushing plant was considered to fall under the definition of industry. In terms of the Langeberg Integrated Zoning Scheme, 2018, the proposed crushing plant is not specifically defined, but has components of the definition of "Industry", as copied below, namely "processing" and "breaking up" of rock, despite not being a "factory":

"industry"

Land use description: "industry" means a property used as a factory and in which an article or part of the article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage; and—
(a) includes—

1.2. The proposal is to crush rock removed from agricultural land, on a temporary basis, and not exceeding 5 years. The activity will relate only to rock removed from the farm and not from elsewhere. Application for temporary departure for a crushing plant within the Agricultural Zone I is therefore considered to be the correct application to lodge.

2. Desirability & Compliance with plans, policies, principles and guidelines:

The operation of the crushing plant has already been assessed in terms of the above criteria, as part of the previous application which included both the crushing plant as well as 26,5ha. of mining. The key issues identified for consideration related to the following: The environmental impact on the natural environment and surrounding; agricultural sustainability; traffic implications; visual, noise and dust impacts; socio-economic impact; and compliance with the relevant SDF's. The previous assessment and conclusions drawn in relation to the crushing plant are summarised below:

2.1. Environmental Impact:

The environmental consultant, Green Mined, submitted an EIA for the 4,9ha. crushing site, and an Environmental Authorisation was issued on 6 December 2016. The following studies were also conducted as part of the previous application: Buitenverwacht Soil Study (B. Diedericks and N. Wasserfall; 2017) and Ecological Impact Assessment Report (P J du Preez; September 2017).

Conclusions:

- Environmental Authorisation issued by DMR (6.12.17) for the crushing plant is defective, given the nature of the wording on the advertisement during the EIA process, which clearly states that there will be no crushing.
- If the land use application is approved, it must be made clear that a valid mining permit and EA are still required.
- A site inspection shows no drainage line/s across the crushing plant site.
- The site for the crushing plant is in a severely degraded state due to impacts by previous and present agricultural activities and infrastructure and there will be no adverse impact on the natural environment.

2.2. Agricultural Sustainability:

The amount of rock within the soils on the application site is fairly typical of the surrounding area, as confirmed by the Provincial Department of Agriculture, which Department has no objection to the application. The Buitenverwacht Soil Study (B. Diedericks and N. Wasserfall; 2017) concludes that the proposed removal of rock holds no threat to the farming operations and if correctly rehabilitated "the resultant soils will have a higher agricultural potential than before".

Conclusions:

- The crushing plant is well within the farm boundaries and the major impact will be on the applicant's own existing farming operation and the owner's son's house on the adjoining farm (KVR37/50). The applicant is highly unlikely to contemplate a development proposal which would negatively impact on himself and his existing successful farming operations.
- The option of improving soil potential and simultaneously maximising resources on the farm by crushing excess rock as an input to other processes is consistent with the principle of efficiency and is an economically sound proposal.

2.3. Traffic implications:

The revised TIA by BVI Consulting Engineers, May 2018, evaluated the function and capacity of the existing road network, including the R60/DR1366 and DR1366/MR6035 intersections, and the proposed access to the crushing plant. Based on 50m³ of stone transported per day, five 10m³ trucks will travel on the abovementioned roads through the two intersections (i.e. 10 daily truck trips). The report concludes that the current traffic volumes are moderate and the intersections are operating at acceptable levels. The Department of Transport has no objection to the proposed crushing subject to specified conditions.

Conclusions:

- The TIA indicates that the impact of the proposed crushing plant is acceptable in terms of traffic control and road management.
- No concerns have been raised by either the TIA or the Department of Transport regarding unforeseen financial implications of normal maintenance of the tarred DR1366, the cost of which was shared amongst surrounding residents.
- It is agreed with the objectors that the TIA is silent on the impact of traffic on pedestrians and cyclists in terms of safety and dust. The Department of Transport has made recommendations to mitigate any potential impacts.
- In terms of long term financial implications, the Department of Transport may claim back maintenance costs for excessive usage.

2.4. Visual, Noise and Dust Impacts:

Crushing activities will generate noise, dust, truck traffic and visual impact and the impact on the surrounding area must be considered. The crusher plant comprises movable machinery, and therefore impacts will not be permanent.

Conclusions:

- There is no noise impact assessment in terms of the WC Noise Regulations.
- Compliance with the Noise Regulations must be included as a condition of approval.
- Compliance with CWD's requirements relating to dust control must be included as a condition of approval.
- There has been no specialist assessment of visual impact of the proposed development. Due to the topography of the area, visual impact is determined to be low. The crusher is not visible from most of the objectors' properties. Marbrin Olive Tasting venue (Objector 6) has views of the crushing plant but this view is softened by the distance of some 1,65km.
- The EMP recommends a maximum height of 3m for stockpiles.

2.5. Socio-economic Impact:

The Klaas Voogds Tourism route is a significant local economic contributor and activities which generate noise, dust and visual eyesores adversely impact the attractiveness of an area for tourists and could have a potential adverse impact on the tourism industry given that it markets itself largely on the quiet rural nature of the area and the scenic qualities of the mountains and farmlands.

Conclusions:

- There is no socio-economic assessment to determine the potential negative impact on the area and on tourism and tourism-related employment in particular.
- Socio-economic impact must be considered in terms of NEMA's principles relating to the protection of the environment and Chapter 2 of the Constitution in relation to "the State's responsibility to respect, protect, promote and fulfil the social and economic rights".
- **The potential negative socio-economic impact is dependent on the degree to which the above impacts of noise, dust and visual impact are satisfactorily addressed.**
- Mineral resources are required for the construction industry and the economic advantage of access to locally sourced building materials in the greater Robertson / Ashton area is self-explanatory.

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

In terms of the Langeberg Spatial Development Framework, the farm in question are intended for agricultural purposes. Virtually the entire farm is classified as "Transformed SPC", with narrow areas of "Core 2 SPCs" along the drainage lines. The proposed use of the property for agricultural purposes is in line with the Provincial SDF and the Langeberg SDF.

In terms of the principles of spatial sustainability and spatial justice, the right of owners to develop land in accordance with current land use rights must be recognised (LUPA 59(1)(g)) and SPLUMA 42(c)(iv) requires that decisions must take into account the impact on existing rights). Existing land use rights may be impacted on by the crushing plant.

In terms of spatial sustainability, LUPA 59(2)(a)(ii) states that land use planning should "ensure that special consideration is given to the protection of prime, unique and high potential agricultural land". The proposal complies with this principle.

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 will not have any adverse impacts on the relevant authorities in terms of service delivery.

LUPA 59(2)(a)(vi) states that land use planning should promote development in sustainable locations. The location is an easily accessible site with direct access to the public road network. However, given the unique mix of agricultural and tourist uses on small farms within the Klaas Voogds area, mitigating measures and ongoing monitoring must be implemented to ensure that the sustainability of tourism is not compromised.

LUPA 59(2)(b) requires the "sustained protection of the environment with respect to ecological corridors and areas with high biodiversity importance. The crushing plant lies outside the sensitive areas and buffers recommended within the ecological report.

LUPA 59(2)(g)(i) states that development should be principle driven and should prioritise long-term social, economic and environmental benefit over short-term benefits.

Conclusions:

- The reduced scale of development is considered to achieve a balance between economic, social and environmental benefits and the removal and crushing of rock can be undertaken whilst simultaneously enhancing long term agricultural land use.
- Agricultural activities will still be the main activity on the farm.
- In terms of the LLUP 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 and the required advertising process has been correctly followed and relevant time frames complied with.

3. In addition to the above assessment, the following are relevant considerations:

3.1. Noise Report submitted with the current application:

An "Occupational Noise Monitoring Survey" (J Snyders, November 2019) was submitted with the current application (attached as part of Annexure A). This noise report focusses exclusively on the occupational health and safety of workers in relation to noise exposure limits of 85dB in terms of "TWA standards" (namely, the measure of a worker's daily exposure to occupational noise). Based on this noise monitoring survey, the applicant concludes that: "As the operational noise level is below the set standard of 85dB", the noise levels are acceptable; and "the ambient noise of the machine was not sufficient to warrant concern due to the distance and location of the neighbours".

However, there is no assessment of the noise impact at neighbouring receptors, or whether the crushing plant will comprise a disturbing noise or comply with the WC Noise Regulations (Refer to Annexure H), with or without any mitigating measures. Based on the noise levels recorded in the Occupational Noise Monitoring Survey, read in conjunction with the WC Noise Regulation, there is room for concern that noise levels will not comply, and will potentially create a noise nuisance:

- a) The operational noise level is given as 79,7dB; and the non-operational noise at 64,2dB (i.e. crusher adds 15,5dB).
- b) The Noise Regulations refer to a disturbing noise as noise exceeding the rating level by 7dB; and Table 2 of SANS 10103:2008 gives a typical day-time noise rating for rural areas as 45dB. I.e. more than 52dB would be a "disturbing noise".
- c) The Noise regulations and Table 5 of SANS 10103:2008 indicate that if the increase in average noise level exceeds the ambient level by 10dB this is perceived as "twice as loud" and strong community response is likely in relation to nuisance.
- d) The Noise regulations and SANS 10103:2008 indicate that the WHO guideline for industrial noise is 70dB.

Given the distances to nearby residences (972m to the closest farm labourer houses and 1100m to the closest tourist accommodation) and the location of the crushing plant on the other side of Donkerkop from the majority of objectors, the applicant's unsubstantiated **opinion** that there will not be a noise or dust impact on the objectors' properties is plausible. In addition, the owner owns two buildings which are closer than the above buildings, namely dwelling houses at 330m and 1000m from the crushing plant, and therefore he will be more directly impacted than the objectors.

Nonetheless, the extent to which distance minimises this impact has not been determined in terms of the WC Noise Regulations, and there is also no assessment of the noise impact of the truck traffic.

3.2. Extended Mine Permit:

The mining permit issued by DMR was valid from 14/02/2017 to 13/02/2019. An extended mining permit with validity from 8/10/2019 to 8/10/ 2020 was submitted as proof of a currently valid mining permit. The applicant states they don't know why the date of extension was given from October 2019, instead of February 2019, as "the inner working of DMR are unbeknownst to us". The Town Planning Department has requested this information from the DMR but have not received a reply to date.

3.3. Res judicata legal principle:

The *Res judicata* legal principle relates to the finality of decisions and not being able to decide again on the same matter. The applicant cannot have "2 bites at the same cherry".

The Tribunal must be satisfied that the current application is significantly different to the previous application, such that the Tribunal can receive and take a decision on this new application. In terms of the assessment below, it is considered that there are significant differences in terms of use, scale and impact, to enable a consideration of the new application:

Previous Application	Current Application
Rezoning 25,6ha. for mining, down to depths of 5m.	No rezoning is proposed. No mining is proposed.
Crushing Plant on 4,9ha. to operate for 30years, receiving material from the 25,6ha mined areas to be rezoned to Industrial Zone I.	Crushing Plant on 4,9ha. to operate for a maximum of 5 years receiving material from conventional agricultural practices which are a primary right in the Agricultural zone I.
Cement Batching Plant was initially proposed to remain on the farm and storage silos were proposed.	No other industrial activities are proposed: Cement Batching Plant has relocated to the Robertson Industrial area. No storage silos are proposed.

For the record, other changes since the previous application include:

- 2019 Rural Development Guidelines, replaced the 2009 guidelines in terms of the PSDF.
- The LIZS, 2018 in terms of LUPA 3/2014, replaced the Section 8 Zoning Scheme in terms of LUPO 15/1985.

3.4. Applicability or otherwise of reasons given for the previous decisions:

The current application for the crushing plant must also be assessed in terms of the applicability or otherwise of the reasons given by the Tribunal for the refusal of the previous rezoning application for mining and the crushing plant; and the reasons given by the Langeberg Appeal Authority in upholding the Tribunal's decision. The Tribunal must assess whether any of the reasons given for refusing the previous application apply equally to the current crushing plant application. The following table outlines the reasons and an assessment of their applicability or not to the current crushing plant application:

*Where: TR = Langeberg Municipal Planning Tribunal; and AA=Langeberg Appeal Authority

	Reason	Reason given by*	Assessment of Applicability to current application for Temporary Departure for Crushing Plant
1.	With reference to S42(2) of SPLUMA, the application effects the environment and the LMPT is not satisfied that environmental legislation has been complied with.	TR & AA	This reason remains applicable with reference to 1a) below. However, the applicant has lodged the necessary environmental applications and the DMR, as the competent Authority, indicates that environmental legislation has been complied with. Mining to depths of 5m with proximity to sensitive riverine areas and potential impact on downstream users, was a major concern in this regard. This is no longer proposed. The location of the crushing plant will not impact on the groundwater, topography, erosion, stormwater drainage or long term sustainability of the Martiensvlei river.
a	The EA (for the 4,9ha. crushing plant site) is considered to be defective, given the nature of the wording on the advertisement during the EIA process which clearly states that there will be no crushing.	AA	Remains applicable as a reason for refusal of the crushing plant, or alternatively further liaison with DMR, to ensure full compliance with environmental legislation.
b	The applicant is incorrect in stating that no EA is required for the removal of rock from the proposed 26,5ha. as the mining of these areas triggers LN1:21:....	AA	Not applicable to the temporary departure application for the crushing plant. The current application does not include mining of rock as previously proposed. The rock for the crushing plant will come from conventional agricultural practices on the farm, which DMR does not deem to be mining.
c	Given that the mined material is disposed of to a third party, the applicant is incorrect in stating that the application is exempt i.t.o. S106 of the MPRDA.	AA	As b. above. In addition, applications have been lodged and DMR has issued an EA and a mining permit for the crushing plant in order to crush rock generated by farming activities on the farm.
d	There is no EMP & Rehabilitation Plan for concurrent rehabilitation.	AA	As b. above. The EA for the crushing plant approves the submitted EMP.
2.	The proposed land use is considered out of character in the surrounding area, will adversely impact on the amenity of the area and be inconsistent with the principles of	TR & AA	Not applicable to the temporary departure application for the crushing plant. Mining to depths of 5m with proximity to sensitive riverine areas within a productive agricultural area was the main cause for considering the previous application would be out of character with the area. Mining is no longer proposed. Crushing plants do operate within agricultural areas and crushed material is used in agricultural activities. The distance of the

	spatial justice and spatial sustainability (S59 of LUPA 2/2014).		crusher from existing surrounding land uses and limited visibility, will result in limited impact on the agricultural character of the area. There is another crushing plant in KV East which has been operating for decades and has never given rise to complaints relating to noise, dust or other impact on amenities. (Note: Objector 10 alludes to dust problems at this existing open cast mine).
3.	The approval of the proposed land use would create an undesirable precedent in the area. Cumulative impacts would be inconsistent with the sustainable use of agricultural land.	TR & AA	Not applicable to the temporary departure application for the crushing plant. The large scale use of agricultural land to rather generate mineral resources (particularly open cast mines) was the undesirable precedent for which there was a concern, particularly in relation to the long term sustainable agricultural land use. The crushing plant will not adversely impact on the sustainable use of agricultural land and is unlikely to create a precedent. The surrounding farms are all productively farmed and minerals are not a scarce resource. The applicant's situation is unique in the sense that he owns a cement business which requires gravel as an input product, and at the same time he owns a farm where rock is being removed in order to plant fields. In this context the proposal makes economic sense, and is unique and not precedent-setting.

PART J: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Not applicable.

PART K: RECOMMENDATION

That the Tribunal determines that there is insufficient information on which to make an informed decision and instructs the applicant to provide a Noise Impact Assessment in accordance with the Western Cape Noise Control Regulations (PN 200/2013 of 20 June 2013) and SANS 10328, which includes recommended mitigating measures, where necessary, in order to comply with the said regulations.

Alternatively, that if the Tribunal determines that it has sufficient information before it to take an informed decision in relation to socio-economic and environmental impacts generally, and noise impacts specifically, the Tribunal resolves as follows:

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 temporary departure for a crushing plant on a 4,9ha. of Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson, as depicted on the plan marked KLAAS VOOGDS RIVIER 37/47&49-LBM-TPa (June 2020) and subject to the conditions of approval, in terms of Section 66 of the aforementioned Bylaw, as set out in Annexure H.

The Tribunal must list its reasons for Approval, which could include:

- i. All relevant considerations, including the objections, have been taken into account and appropriate mitigation measures, in relation to noise, dust and traffic, are provided for in the EA, EMP and the conditions of approval of this land use application.
- ii. With reference to the soil study, the removal of rock will increase the agricultural potential of the soils, and Agriculture is the primary use in the Agricultural Zone I in accordance with the Langeberg Integrated Zoning Scheme, 2018 and the Langeberg SDF, 2015.
- iii. Natural resources will be optimally and sustainably used while promoting economic development and job creation.
- iv. There is no objection to the operation of the crushing plant from any of the relevant Departments, namely: CWDM, BGCMA, Department of Transport, Dept. of Agriculture, DEA&DP and Cape Nature.

The Tribunal could also note, in its decision, that:

- The current application is deemed to be significantly different to the previous application, such that the Tribunal can receive and take a decision on this new application
- The previous reasons given by the Tribunal for the refusal of the previous rezoning application for mining and the crushing plant; and the reasons given by the Langeberg Appeal Authority in upholding the Tribunal's decision, are not deemed to be applicable to the application for temporary departure for a crushing plant.

PART L: ANNEXURES

Annexure A Application (including EA, mining permit, EIA, noise report, traffic report)
 Annexure B Plans: Locality Plan, Crushing Plant Site Plan, Location of objectors, Photos of Crushing Plant.
 Annexure C: LMP Tribunal Decision on previous Mining & Crushing application.
 Annexure D Langeberg Appeal Authority's decision on Appeal against Tribunal decision.
 Annexure E: Comments & Objections.
 Annexure F: Response to Objections, (26 March 2020; 1 May 2020) – includes dust monitoring report.
 Annexure G: Comments from Departments: CWDM, Department of Transport, BGCMA, Cape Nature, DEA&DP.
 Annexure H: WC Noise Regulations PN 200/2013, SANS 10103:2008 (Measurement & Rating of Environmental Noise, SANS 10328 (Noise Impact Assessment Methods)
 Annexure I: Conditions of Approval and Schedule 1.

PART M: SIGNATURES FOR DECISIONS BY TRIBUNAL

Author name: Tracy Brunings, Assistant Town and Regional Planner
 Date: 10 June 2020

Registered planner name: Tracy Brunings
 SACPLAN registration number: Pr. Pln A/951/1997
 Date: 10 June 2020

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

LANGEBERG MUNICIPAL PLANNING TRIBUNAL

Date:

Annexure A

Application
(including EA and Specialist reports)

MOTIVATIONAL REPORT

APPLICATION FOR TEMPORARY DEPARTURE
FOR A 4,9HA PORTION OF PORTION 49 OF THE
FARM KLAAS VOOGDS RIVIER 37, IN THE ROBERTSON DISTRICT,
WESTERN CAPE PROVINCE.



INTRODUCTION

This report serves as motivation for the application of a temporary departure to be submitted to the Municipality. The report has been structured around the specifications as set out by Sections 15, 18 and Chapter 5 of the Municipal By-Law (7461/2015) and the Integrated Zoning Scheme By-Law (7929/2018) of the area, also taking into account Chapter 6, Section 59 of the Western Cape Land Use Planning Act (Act 3 of 2014).

Any and all information presented here was compiled with the Landowners consent and discussed in detail with the Municipality before submission of the final, completed application.

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1. The Applicant

The Landowner is the Altus Malherbe Familie Trust (IT 4254/97) as indicated by the Title Deed (T2706/2016) of the property. A copy of the Title deed and Surveyor General **Diagram** are hereto attached as Annexure D. They are herewith applying for a temporary departure on a 4,9ha portion of Portion 49 of the farm Klaas Voogds Rivier 37. The temporary departure being applied for, is for 3 years, renewable annually, to a total period of 5 years. This is to accommodate the processing plant that has been established on the property for crushing of excess rock stockpiled and further cleared from agricultural activities on Portions 47 and 49 on the farm. The Application document and proof of payment is attached hereto in Annexure A. A Conveyancer Certificate has also been attached as Annexure C. By virtue of Section 53 of the Mining Titles Registration Amendment Act, Act 24 of 2003, no restrictive conditions exist in the Title Deed that would hinder the application process.

C P Concrete (Pty) Ltd currently holds the Mining Permit for the processing area on the property. A copy of the mine permit and Environmental Authorisation has been attached under Annexure D.

The Landowner has signed a Power of Attorney which allows for TPlan to apply for the Land Use application on their behalf. A copy of the POA is attached hereto in Annexure B, along with the Trust Document, and the Bond holders Letter.

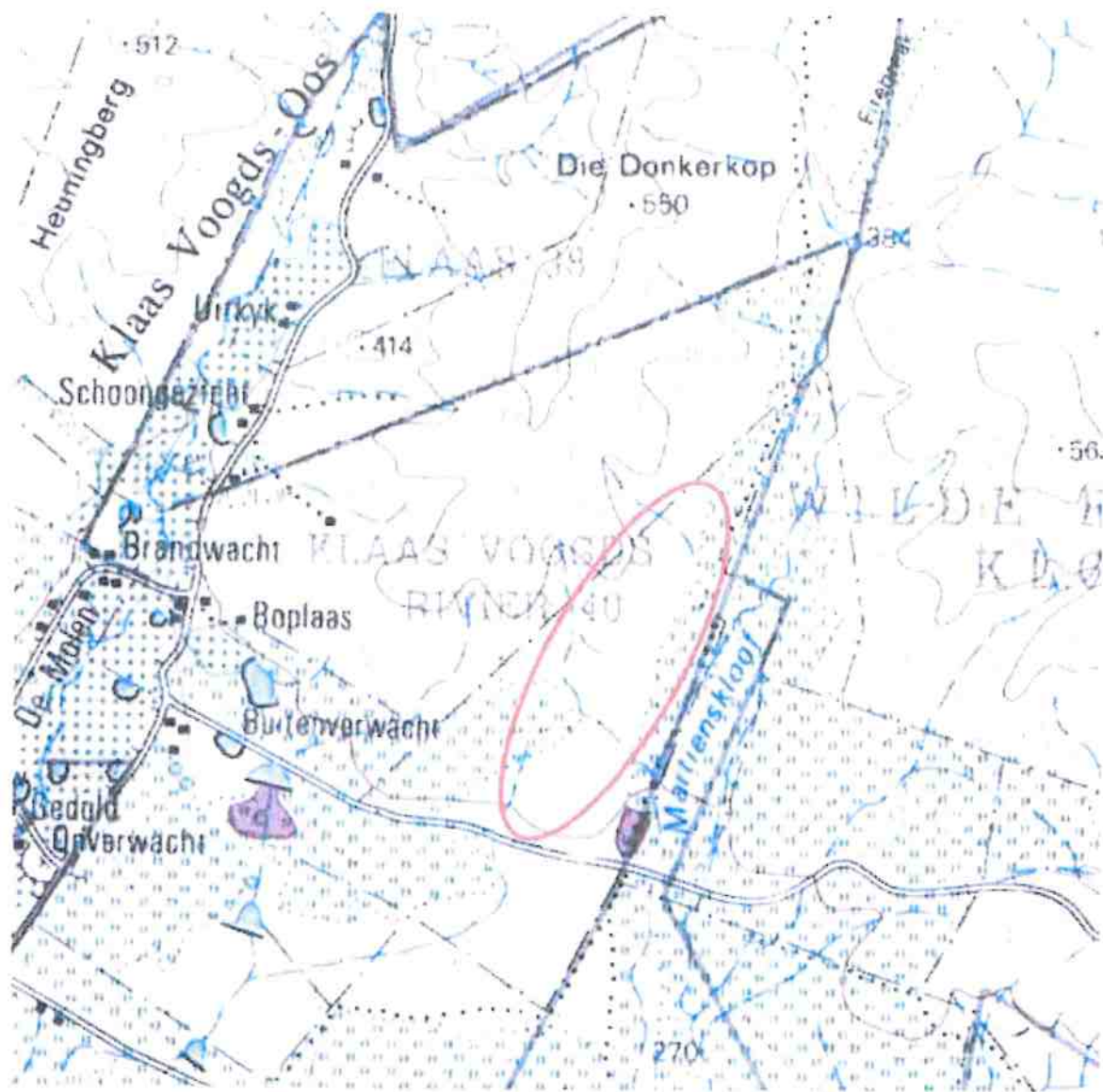
1.1 Area Description

The area earmarked for the proposed application is situated on Portion **49** of the farm Klaas Voogds Rivier 37 and can be found on the Klaas Voogds East Road at the foothills of the Langeberg Mountain range. Access to the area is via the Klaas Voogds East road on both the tar and gravel sections.

The current zoning of the area is Agriculture.

The following is a picture of the area.





Annexure F holds the Maps as required, indicating the proposed area for the temporary **departure** application.

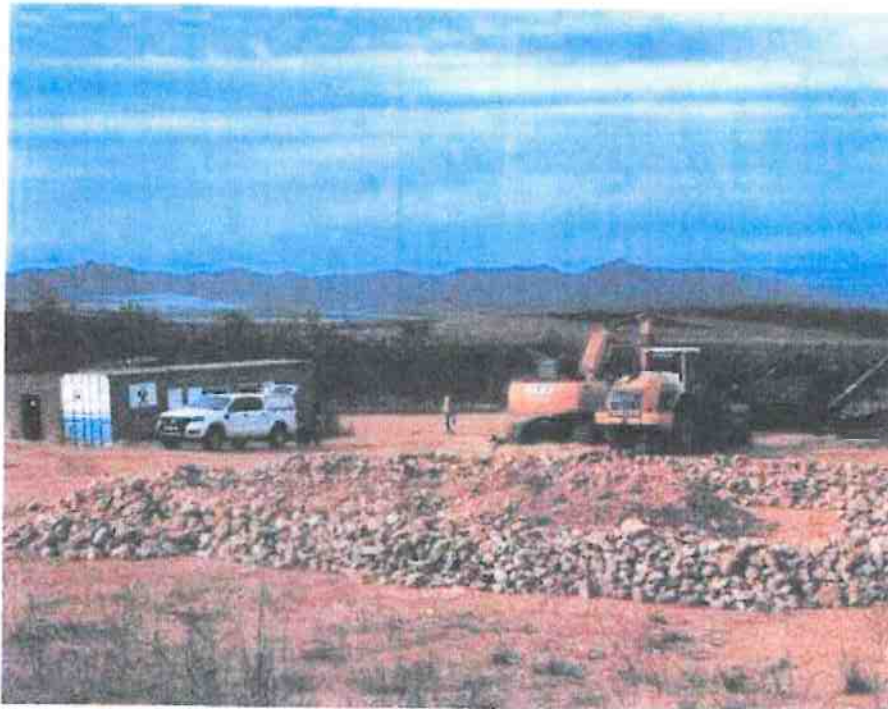
1.2 Reason for application

The applicant wants to make use of the vast amount of rock currently in his pastures to clean the soil for further agricultural purposes.

During normal agricultural activities such as clearing fields and preparing for replanting, underlying rock is lifted to the surface and then it is common practice to remove either via manual labour or the use of machinery. It is common practice to **remove** rock from fields to enhance the viability of the soil. The rock that has been removed through this process is either stockpiled for repurposing in the agricultural fields or further reworked by the crusher for smaller rock.

The smaller rock is further used for roadworks, water channels, enhancing **water** retention in agricultural fields or in this instance supplied to C P Concrete at no cost for use in their ready-mix plant situated in Robertson. All rock that is **collected** from the agricultural fields are stockpiled either next to the field being cleared or within the 4,9ha area **where** the processing plant(crusher) is currently **situated**. The applicant has also confirmed, in lieu of the concern that the rock removal might be **construed** as "mining", to **ensure** no rock removal practices deeper than 1,5m, for this will fall within the ambit of normal agricultural practice.

The following are **images** of the stockpiled rock on the farm as well as the processing plant and the rock stockpiled on the 4,9ha area.



The following table is **representative** of the average amount of rock than can be processed per day. Taking into account that **70%** of the crushed rock will leave the farm and **30%** will be reworked into the agricultural fields.

Average rock crushed per day

m ³ /pd	Tons
100	130

Crushed Material - 70%

m ³ /pd	Tons	Truck loads/pd
70m ³	91	4-6 Trucks(15m ³ Truck)

Repurposed Material - 30%

m ³ /pd	Tons	Application
30m ³	39	Reworked in agricultural practices.



These pictures indicate the rock stockpiled along fields that has currently been cleared for further planting of various crops.



The following pictures **represent** further **stockpiled** rock along the roads of the farm as well as the amount of loose rock that can currently be found within the fields that have not been cleared as yet.



The 4,9ha area has an existing permit from the Department of Mineral Resources to process the rock, and a granted Environmental **Authorisation** that addresses the stockpiling, rehabilitation and closure conditions regarding the 4,9ha mine permit area.

Due to the previously mentioned activity of the processing plant (crusher) situated on an agricultural zoned area, an application to the Langeberg Municipality is warranted. Application will thus be made for a temporary departure over the identified 4,9ha area where the crusher has been established. A mine permit has been obtained from the Department of **Mineral Resources** for the processing plant (crusher) area and is attached in Annexure D.

1.3 Pre-Submission Consultation and Report

A pre-submission consultation was had with the Langeberg Local Municipality on the 11th of September 2019. A meeting was had with Mrs Tracy Brunings of the Langeberg Local Municipality, Louhan Malherbe, Bruwer Feuth and Michael Marson from Klaas Voogds Rivier 37 and Marie Terblanche of Tplan.

A copy of the **pre-submission** document can be seen in Annexure E. All information as outlined in the attached document was discussed and represented within this motivational report.

2. Interested and Affected parties

2.1 Landowner and Neighbours

Consultation was had with the landowners regarding the proposed application and details were discussed pertaining to the application and procedures to be followed. A signed POA also serves as proof of consultation had and can be seen attached in Annexure B.

2.2 Notice to Interested and Affected Parties

As confirmed with Mrs Brunings at the Municipality, notice of the proposed rezoning application will be given via notice letters from Langeberg Local Municipality that will be sent to the surrounding landowners.

An advertisement will also be placed in the local newspaper. All correspondence received will be submitted to the Langeberg Municipality. Mrs Brunings will also provide all comments and response received.

The application will also be sent for comments to the various Government Departments for comments within their respective fields.

2.3 Motivation in terms of Legislation

2.3.1 Motivation in terms of the Land Use Planning Act 3 of 2014 – Chapter 6, Land Use Principles

Section 42 of the Spatial Planning and Land Use Management Act 16 of 2013 states that the Municipal Planning Tribunal must take the development principles stipulated in Chapter 6 of the Land Use Planning Act 3 of 2014 into account when deciding an application.

- **The principle of spatial justice.**

The property in respect of which the applicant is applying is privately owned. The land is currently zoned for agricultural use. The applicant is applying for a temporary departure for the processing plant on the 4,9ha portion of land over which there is a mine permit and Environmental Authorisation. In the circumstances it is respectfully submitted that the land does not form part of areas previously excluded, municipal land, a disadvantaged area, informal area, or homeland which requires development imbalances and access to land by disadvantaged communities and persons to be redressed nor the upgrading of informal areas.

- **The principle of spatial sustainability.**

The proposed application will help to contribute to the local GDP and the construction industry. The farm employs 14 permanent workers (and houses their families) that make a living from the cultivation of the mentioned crops. These employees spend their income in the surrounding towns and directly contribute to the local economy. The provision of excess rock to C P concrete's ready-mix plant for the production of ready mix and aggregates further contributes to the industrial and construction sector of the local community. The primary purpose of the land remains producing crops in the form of soft fruit like peaches and pears, production of grapes and other vegetables such as tomatoes. The removal of the rock through normal agricultural activities will enhance the production of these crops. No permanent infrastructure will be erected and there will be no change in the nature of the property. There will be very little equipment on site and in the circumstances the operation will have virtually no effect on social services and the provision of infrastructure. Municipal engineering services will also not be heavily impacted upon. The limited duration of the operation will ensure that the land remains sustainable for agricultural use in the long term and will limit urban sprawl.

- **The principle of efficiency.**

The removal of the rock from the agricultural land will allow for the maximum optimisation of the available resources on the property in the sense that the property land use can be diversified to include processing of raw materials in addition to agriculture. Furthermore, no permanent infrastructure will be required. As stated above the removal of the rock will inadvertently contribute to the economic climate. There will be no negative social impact, rather the operation will allow for the current workers to remain and earn a living of the farm and a further 5 possible employment positions could open up with the processing of the removed rock. Decision making procedures by the relevant authorities in relation to environmental impacts ensure that proper mitigation measures are in place to avoid and minimise potential impacts.

- **The principle of spatial resilience.**

The implementation of mitigation measures prescribed by the Environmental Authorisation , granted for the 4,9ha portion of land, coupled with environmental control inspections will guard against possible environmental shocks. In any event the proposed rock removal operation is deemed to have impacts of a low significance, since the rock removal is done through normal agricultural processes. Having regard to the relevant facts and circumstances pertaining to the property and the proposed land use it is unlikely that there will be a negative effect on surrounding communities as a result of an environmental shock.

- **The principle of good administration.**

The applicant will comply with legislative and other relevant requirements applicable to the land use and land development and also the legislation applicable to environmental management to ensure that the proposed operation is conducted with good governance.

3. Zoning

3.1 Current Zoning

The current zoning is Agriculture.

“agriculture” – Agricultural Zone I

Land use description: “agriculture” means the cultivation of land for raising crops and other plants, including plantations, the keeping and breeding of animals, birds or bees, stud farming, game farming, a riding school or natural veld, and—

(a) includes—

- (i) the harvesting, packing, cooling, storing, sorting, packing and packaging of agricultural produce grown on that land unit and surrounding farms;
- (ii) harvesting of natural resources limited to living organisms for delivery to the market;
- (iii) agricultural buildings or infrastructure that are reasonably 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.
- (iv) telecommunication and electricity transmission lines;
- (v) rooftop base telecommunication stations;
- (vi) a crèche;
- (vii) a packing store; and

(b) does not include aquaculture; intensive horticulture; an abattoir, a farm shop, an animal care centre, any mining activity, utility services and renewable energy structures for commercial purposes.

3.2 Temporary Departure

Due to the proposed use of the 4,9ha portion for processing rock, and the temporary nature of the activity, it does not fall within any of the listed consent uses under Agricultural Zone I. The activity also does not constitute an Agricultural Industry as per the description in the Integrated Zoning Scheme by-law, and also cannot be seen as mining. We are there for applying for a Temporary Departure.

Temporary departures are described as follows in Section 15 2(c) of the Langeberg Land Use Planning By-Law of 2015:

“(2) The owner of land or his or her agent may apply to the Municipality in terms of this Chapter and Chapter IV for the following in relation to the development of the land concerned:

(c) a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;”

This land use does not have any other consent uses.

3.3 Impact on Spatial Development Framework / Integrated Development Plan – Langeberg Municipality

Both the Integrated Development Plan and the Spatial Development framework of the Langeberg Municipality focus on the enhancement of agricultural potential and the sustainability of development in the Robertson area.

The environmental impact assessment also addresses the socio economics of the area. A copy of excerpts from the EIA has been attached in Annexure G of this document.

The nature of this application is to address agricultural activities and enhance crop and yield delivery. Due to the fact that the removal of the rock from the agricultural lands are focussed on enhancing the soil quality and reworking of precious topsoil into these fields the applicant is not deviating from the Langeberg Municipality's said directives, but rather supporting them.

The reworking of the extra rock via the processing plant is also contributing to the creation of job opportunities, this in it-self also speaks to the job creation directive of the Municipality.

4. Mining Permit and Environmental Impact Assessment Report

4.1 Mining Permit

A mining permit was granted over the 4,9ha area of land over which the applicant is applying for a temporary departure. The Mining Permit allows for the processing of rock that has been collected from agricultural fields during the common practice of clearing and preparing for planting. The rock is then stockpiled within the 4,9ha area. The Mining Permit copy can be seen in Annexure D. The permit has been granted for a period of 5 years, and the applicant needs to renew the permit every year with the Department of Mineral Resources.

The Department of Mineral Resources has also been charged with the monitoring and compliance of the mine permit as well as the Environmental Authorisation granted with the permit. This will ensure compliance with not only the permit conditions, but with the conditions as set by the Environmental Authorisation granted over the activity. The Municipality also has the allowance to regularly inspect the operation and records and may at any time request a meeting with the Depart of Mineral Resources and the Landowner regarding the activities on the 4,9ha.

4.2 Environmental Authorisation

An Environmental Authorisation was obtained from the Department of Environmental Affairs due to the fact that the processing of rock constitutes an activity that requires a mining permit under the Mineral and Petroleum Resources Development Act (28 of 2002). This is stipulated under Listed Activity 21 of the National Environmental Management Act, 1998 (Act No. 107 Of 1998), Listing Notice 1: List Of Activities And Competent Authorities Identified In Terms Of Sections 24(2) And 24d, EIA Regulations R.983 of 2014, and states as follows:

Activity 21 - "Any activity including the operation of that activity which requires a mining permit in terms of section 27 of Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002), including associated infrastructure, structures and earthworks, directly related to extraction of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral Resources Development Act 2002 (Act No 28 of 2002)"

Further to this, EIA Regulations R.984 of 2014, Listed activity 21 stipulates:

Activity 21- "Any activity including the operation of that activity associated with the primary processing of a mineral resource including winning, reduction, extraction, classifying, concentrating, crushing, screening and washing but excluding the smelting, beneficiation, refining, calcining, or gasification of the mineral resource in which activity 6 in this Notice applies"

(As taken from Environmental Authorisation document)

The Environmental Authorisation was granted and approved specifically to address the processing of the rock that is collected from the farm portions and then stockpiled on the 4,9ha. The Environmental Management Programme underwrites the conditions of the Environmental Authorisation and serves as a guide to the management of impacts and processes within the 4,9ha, along with guidelines pertaining to where the rock is sourced. See excerpt from Environmental Authorisation on following page.

The granting of this EA is subject to the conditions set out below (site specific) and in Annexure 2 (departmental standard conditions) The Environmental Management Programme (EMPr) attached as part of the reports for the above development submitted as part of the application for an EA complies with section 24N of NEMA, Appendix 4 of the EIA Regulations, 2014 and is hereby approved and must be adhered to throughout the life cycle of the operation

Please refer to attached document in Annexure D for details on site specific conditions and standard conditions.

To ensure further compliance regular site visits by the DMR, Municipality and even the Department of Environmental Affairs are welcomed by the landowner. This will ensure adherence to the mine permit conditions as per the Environmental Management Programme, but also the conditions as set by the Environmental Authorisation and the Municipality. A copy of the Environmental Authorisation can be viewed in Annexure D.

4.3 Environmental Impact Assessment Report – Environmental Impacts

The following are impacts as listed in the Environmental Management Programme (EMP). The EMP has site specific conditions set out therein that will address and mediate these impacts. The full EIAR and EMP can be viewed in Annexure G, Compact Disk.

1. **Visual** – Stockpiling of rock could cause visual impact.
Buffers and height restrictions for up to 3 meters as suggested by the EMP will however minimise and address this perceived impact.
2. **Water** – No watercourses are found with in the 4,9ha area, and run off water will be managed via existing drainage channels.
3. **Impact on Fauna and Flora** – The area has been previously disturbed by extensive agricultural activities, there for the impact is deemed to be low. Monitoring of Fauna in the area will be done on a continuous basis.
4. **Dust** – Dust monitoring will ensure the management of fall- out dust. Monitoring has indicated no to low impact in this respect, due to the distance from the neighbours. In the instance of heavy winds, it is undertaken not to process any rock . This will ensure no dust pollution to the surrounding neighbours.
5. **Noise** – The processing plant (crusher) will inevitably be a source of noise, but due to the nature of the area and the various other agricultural machinery and activities taking place, the noise impact of the proposed activity is expected to be representative of noise generated by agricultural activities on the farm. The nearest residence is that of the landowner and applicant (±800m) with the houses of the bordering resident being more than 1km away from the proposed processing area. The significance of noise on the surrounding environment is therefor deemed to be of low significance.
Noise will be managed through keeping to regular working hours of 8:00 to 17:00 with no crushing over weekends.

A noise assessment was done through Jacques Snyders of DRV Occupational Health and Safety. The report has been attached in Annexure H. As the operational noise level is well below the **set** standard of **85 dB**, it is recommended that the area need not be declared a Noise Area. The noise levels are thus acceptable within this area.

6. **Soil** - The area has been previously disturbed by extensive agricultural activities, there for the impact is deemed to be low. Topsoil that was present on the 4,9ha area has been stockpiled and stored for replacement in the rehabilitation process. Any comments and conditions regarding soil or the management of agricultural potential from the Department of Agriculture, will also be considered and adhered to.
7. **Waste** - Waste removal will take place on a daily basis. Bins will be provided if necessary.
8. **Roads** - The access road has been maintained by the landowner and surrounding neighbours due to the fact that existing agricultural truck traffic make use of the road. Due to the nature of the activity, it could be perceived that truck traffic would increase on the road. This is however not the case if one considers the limited working hours, contracts and availability of stone. The proposed processing plant **will** on average only contribute to the traffic by 5-6 loads per day. One also has to keep in mind however that some days there will be no trucks.

Truck traffic will also decrease due to the fact that no rock will be transported to the farm for crushing and **all** rock that **will** be crushed will come directly from the farm. Further to this, the previous ready mix plant that was situated on the farm was moved to another location and therefor no ready mix trucks **will** make use of the road as was previously the case. Again, confirming that the amount of truck traffic on the road will be less than previously perceived.

The landowner has confirmed that upkeep of the road will be done if damage is caused by the processing plants traffic. Any further conditions set out by the Department of Roads will also be adhered to.

Trucks and vehicles collecting stone **will** also have to adhere to the weight prescriptions, speed limits and necessary coverage applicable to collecting stone as prescribed by the Department of Transport.

9. **Working hours** - The working hours of the processing plant will also be limited to normal workday hours from **8:00** to 17:00, 8:00 to 14:00 on Fridays and no work on weekends, to further limit any possible nuisance.

The above impacts have been further addressed in more detail in the Environmental Management Programme as mentioned above. The impacts mentioned will also be addressed and guided by the conditions as set out by the Environmental Authorisation. Further conditions can also be formulated by the Langeberg Municipality when the application is granted. This would further ensure the management and rehabilitation of the mining operation.

5. Conclusion

The following is in short, a summary of this report and the conclusions made.

- This report is to apply for a temporary departure over a 4,9ha piece of land situated on Portion 49 of the Farm Klaas Voogds Rivier 37.
- Application is being made to address the processing plant(crusher) that has been established on the farm within the 4,9ha area, where rocks from agricultural clearing and practises has been stockpiled for further processing.
- All information, comments, consultation has been included in this motivational report to the application. Through inclusion of this information we address the major concerns beforehand so as to enable the decision makers to have the necessary information at their disposal.
- **Pre-Submission** consultations was had with the Langeberg Local Municipality.
- The motivational report was compiled in terms of the Langeberg Local Municipality By-Law as well as the Spatial Planning and Land Use Act (16 of 2013) and the Land Use Planning Act (3 of 2014).
- **Zoning** – The current zoning is agriculture.
- **Temporary Departure** – Application is made to address the processing area (crusher) situated on the farm.
- **Mine Permit** – The 4,9ha has an existing mine permit, granted by the Department of mineral Resources for the processing of stockpiled rock as collected from agricultural fields and everyday agricultural activities.
- **Environmental Authorisation** – The Environmental Authorisation addresses the stockpiling, rehabilitation and closure conditions regarding the 4,9ha mine permit area. Monitoring and compliance are done by the Department of Mineral Resources in line with the conditions as set out in the Environmental Authorisation, and further applicable conditions that may come forth from this application by the Municipality and other Government Departments.
- **Environmental impacts** – As discussed in Section 4 of this document.

Due to the fact that the portion over which the application is lodged is a relatively small area, there is a pre-existing mine permit as well as Environmental Authorisation in place and the short-term nature of the proposed activity, we believe that the impact of the proposed activity on the environment and neighbours will be minimal. The processing plant will also create sustainable job opportunities and promote agricultural production by soil enhancing soil viability.

In conclusion, the proposed activity of rock removal from agricultural fields, which is viewed as a common agricultural practice, and the processing of that rock by the plant will not have any direct negative impacts on the surrounding areas or neighbours. We ask for your careful consideration and unbiased processing of the application and are hopeful for a positive outcome.



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

Private Bag X 09, Roggebaai, 8012, Tel: 021 427 1000, Fax: 021 427 1000
Atterbury House, 09 Riebeeck Street, Cape Town, 8001

Enquiries: Mr. T.P. Monyai **Ref:** WC 30/5/1/3/2/10100MP **E-Mail Address:**
Tuwani.Monyai@dmr.gov.za
Sub-Directorate: Mine Environmental Management

BY HAND

CP Concrete (Pty) Ltd
P.O. Box 339
Robertson
6705

Attention : Mr. L Malherbe
Tel : 023 626 2014
Cell : 084 767 9988
Fax : 086 546 0579
Email : awmalherbe@mweb.co.za


12-12-2016

ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (NEMA) AS AMENDED, AND THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS, 2014 FOR MINING PERMIT ON PORTION 3 OF THE FARM KLAAS VOODGS RIVIER 37 IN MAGISTERIAL DISTRICT OF ROBERTSON: WESTERN CAPE REGION

With reference to the above mentioned application, please be advised that the department has decided to grant environmental authorisation in terms of the National Environmental Management Act (Act 107 of 1998). The environmental authorisation and reasons for the decision are attached herewith.

In terms of regulation 4 (2) of the Environmental Impact Assessment Regulations of 2014, you are instructed to notify all registered interested and affected parties, in writing within 14 (Fourteen) calendar days, from the date of the department's decision in respect of your application and the relevant provisions regarding the lodgement of appeal must be provided for in terms of the National Appeal Regulations of 2014.

Should you wish to appeal any aspect of the decision, you must submit the appeal to the Minister of Environmental Affairs and a copy of such appeal to the Department of Mineral Resources (Western Cape Regional Office), within 20 days from the date of notification, and such appeal must be lodged as prescribed in by Chapter 2 of the National Appeal Regulations of 2014, by means of the methods as prescribed below:

Appeal to the **Department of Environmental Affairs**

Attention : Directorate Appeals and Legal Review
Email : appealsdirector@environment.gov.za
By post : Private Bag X 447, **PRETORIA**, 0001
By hand : Environmental House, Corner Steve Biko and Soutpansberg Street,
Arcadia, Pretoria, 0083

Copy of the lodged appeal to the Department of **Mineral Resources**

Attention : Regional Manager: Western Cape Region
By facsimile : (021) 427 1046
E-mail : Duduzile.Kunene@dmr.gov.za
By post : Private Bag X 09, **Roggebaai**, 8012
By hand : 9th floor Atterbury House, 9 Riebeeck Street, **Cape Town**, 8001

Should you decide to appeal, you must comply with the National Appeal Regulation of 2014 in relation to notification of all **registered** interested and **affected**, and a copy of the **official** appeal form can be obtained from the Department of Environmental Affairs.

Kind Regards,



REGIONAL MANAGER: MINERAL REGULATION
WESTERN CAPE REGIONAL OFFICE

DATE: 2016/12/06



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

Private Bag X 09, Roggebaai, 8012, Tel: 021 427 1000, Fax: 021 427 1046
Atterbury House, 09 Riebeeck Street, Cape Town, 8001

ENVIRONMENTAL AUTHORISATION

Reference number: WC30/5/1/3/2/10100MP
Last amended: First issue
Holder of authorisation: CP Concrete (Pty) Ltd
Location of activity: Portion 03, Farm Klaas Voogds Rivier 37,
Malmesbury

DECISION

ACRONYMS

NEMA	: The National Environmental Management Act, 1998(Act 107 of 1998), as amended
DEPARTMENT	: Department of Mineral Resources
EA	: Environmental Authorisation
EMPr	: Environmental Management Programme
BAR	: Basic Assessment Report
I&AP	: Interested and Affected Parties
ECO	: Environmental Control Officer
HWC	: Heritage Western Cape
SAHRA	: South African Heritage Resources Agency
EIA REGULATIONS	: EIA Regulations, 2014
MPRDA	: Mineral and Petroleum Resources Development Act, 2002(Act 28 of 2002), as amended
NEMWA	: National Environmental Management: Waste Act, 2008 (Act 59 of 2008)
EIA	: Environmental Impact Assessment

The department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake NEMA EIA listed activities specified below. Details regarding the basis on which the department reached this granting decision are set out in Annexure "1" and 2 of this environmental authorisation.

ACTIVITY APPLIED FOR

By virtue of the powers conferred on it by NEMA, the Department of Mineral Resources hereby Grants an Environmental Authorisation (EA) to CP Concrete (Pty) Ltd with the following contact details –

CP Concrete (Pty) Ltd
PO Box 399
Robertson
6705

Attention : Mr. L. Malherbe
Tel : 023 626 3939
Cell : 084 767 9988
Fax : 086 546 0579
Email : awmalherbe@mweb.co.za

to undertake the following activities listed in the NEMA EIA Regulations.

NEMA: LISTED ACTIVITIES:

Listed in the EIA Regulations R. 983 of 2014 as:-

Activity 21 - "Any activity including the operation of that activity which requires a mining permit in terms of section 27 of Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002), including associated infrastructure, structures and earthworks, directly related to extraction of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral Resources Development Act, 2002 (Act No.28 of 2002)".

Activity 22- "The decommissioning of any activity requiring- (i) a closure certificate in terms of section 43 of Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), or (ii) a prospecting right, mining right, mining permit, production or exploration right, where the throughput of the activity has reduced by 90% or more over a period of 5 years excluding where the competent authority has in writing agreed that such reduction in throughput does not constitute closure".

Activity 28- "Residential, mixed, retail, industrial, or institutional developments where such land was used for agriculture or afforestation on or after 01 April 1998 and where such developments: (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares, or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare, excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes".

Listed in the EIA Regulations R. 984 of 2014 as:-

Activity 21- "Any activity including the operation of that activity associated with the primary processing of a mineral resource including winning, reduction, extraction, classifying, concentrating, crushing, screening and washing but excluding the smelting, beneficiation, refining, calcining, or gasification of the mineral resource in which activity 6 in this Notice applies".

The proposed activity will entail crushing and screening of the stockpiled rocks/stones within the approved 4.9ha. The stones/rocks will be collected from the remainder of the farm as indicated in the EMPr and stockpiled within the 4.9 hectares. The stockpiled materials will be screened, crushed and stockpiled within the 4.9 hectares of land and then transported to the ready mix plant situated out of the crushing area. The area under application has been disturbed by agricultural activities taking place on the farm. Mining activities will not take place within the 4.9 hectares of land under application and the site will be used for screening and crushing only. The upper 500mm of topsoil will be stripped from the stockpile area and crusher area and stockpiled within the 4.9 hectares as indicated in the EMPr. Existing access tracks will be used to gain entrance to the site. The equipment to be used onsite will entail the following: Mobile crusher, screening plant, chemical toilet, excavator and trucks for the transport of the aggregate.

Detailed specifications of the activity are as follows:

Proposed Borrow pit details are as follows:	
Area to be transformed – 4.9 hectares	
Coordinates of the proposed site:	
Latitude (S)	Longitude (E)
-33 47 51.551	20 0 59.173
-33 47 53.351	20 1 03.493
-33 48 02.38	20 0 57.442
-33 48 00.18	20 0 50.933
500mm of top soil will be stripped and stockpiled for use during rehabilitation.	
The entire 4.9 hectares of land will be cleared of vegetation.	
The existing tracks leading to the site will be used as access road during mining.	
Waste management on site will be in compliance with NEMWA (Act 59 of 2008).	
The entire 4.9 hectares of land will be demarcated prior processing of stone/rock.	
Storm water control system will be put in place to prevent damming of water in mining area.	

The granting of this EA is subject to the conditions set out below (site specific) and in **Annexure 2** (departmental standard conditions). The Environmental Management Programme (EMPr) attached as part of the reports for the above development submitted as part of the application for an EA complies with section 24N of NEMA, Appendix 4 of the EIA Regulations, 2014 and is hereby approved and must be adhered to throughout the life cycle of the operation.

EA SITE SPECIFIC CONDITIONS

1. Processing of stone/rock must be conducted in accordance to the approved Environmental Management Programme and the attached mine layout plan.
2. Rehabilitation of the processing area must be conducted in accordance to the approved EMPr.
3. Visible semi-permanent markers must be placed along the boundaries of the processing area before any mining activity commences.
4. At least 500 mm of top soil must be stripped and stockpiled to be used during rehabilitation of the processing area. Management of top soil must be done in terms of the approved EMPr and this EA.
5. Topsoil stripping must be restricted to the area to be disturbed by the processing activity.
6. The holder of the EA must control dust from the processing area, crushing plant, screening plant and access road to such an extent that dust will not cause a nuisance or health hazard to the adjacent community.
7. The processing area must be accessed through an existing track as depicted on the mine layout plan. No new access road must be constructed.
8. Dust suppression measures must be implemented during processing activities and this may include spraying with water or an environmentally friendly dust-allaying agent.
9. Water or mist sprays must be incorporated into the screening and crushing plant for dust control purpose.
10. Storm water must be diverted around processing and stockpile areas to prevent erosion.
11. Dirty water must be prevented from spilling or seeping into clean water system. Storm water management must apply for the entire life cycle of the processing activities.
12. All crushing and screening activities must be limited to daylight hours, and no crushing and screening may be done on Sundays.
13. Berms around the processing area must be constructed to reduce visual impacts.
14. A surface slope must be maintained across the processing area in the drainage direction, so that excavation is freely drained.
15. A cover crop must be planted and established immediately after spreading of top soil to stabilize the soil and protect it from erosion.
16. The rehabilitated area must be monitored for erosion and stabilised if any erosion occurs.
17. Alien vegetation must be cleared on an ongoing basis and rehabilitation must be done in such a way that the area returns to its natural state.

ANNEXURE 1: REASONS FOR THE DECISION

1. Background

CP Concrete (Pty) Ltd submitted an application for EA for activities listed in the 2014 EIA Regulations as:

Listed in the EIA Regulations R. 983 of 2014 as:-

Activity 21 - "Any activity including the operation of that activity which requires a mining permit in terms of section 27 of Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002), including associated infrastructure, structures and earthworks, directly related to extraction of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral Resources Development Act, 2002 (Act No.28 of 2002)".

Activity 22- "The decommissioning of any activity requiring- (i) a closure certificate in terms of section 43 of Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), or (ii) a prospecting right, mining right, mining permit, production or exploration right, where the throughput of the activity has reduced by 90% or more over a period of 5 years excluding where the competent authority has in writing agreed that such reduction in throughput does not constitute closure".

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CP Concrete (Pty) Ltd appointed Greenmined Environmental Consulting to undertake the Environmental Impact Assessment process as required by the 2014 EIA Regulations. Basic assessment process as contemplated on Regulation 19 of the 2014 EIA Regulations was followed.

2. Information considered in making the decision

In reaching its decision, the department took, *inter alia*, the following into consideration -

- a) The information contained in the application form received by the department on 04 December 2015;

- b) The information contained in the BAR received by the department on 25 July 2016;
- c) The objectives and requirements of the applicable and relevant legislation, policies and guidelines and the EIA Regulations of 2014;
- d) Public Participation Process (PPP) report attached as appendix F of the BAR;
- e) Closure plan attached as appendix K of the Bar;
- f) The Environmental Management Programme in the BAR; and,
- g) The findings of site inspection conducted by T.P. Monyai and R.S. Matsila of this department in the presence of Mr. L. Malherbe of CP Concrete (Pty) Ltd, on 15 March 2016.

3. Key factors considered in making the decision

All the information presented to the department was taken into account during the department's consideration of the application. A summary of the issues which, in the department's view, were of the most significance are set out below.

- a) Sufficient Public Participation Process (PPP) was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations GNR 982 of 2014 for public involvement;
- b) The environmental impacts associated with the proposed activity will be addressed by the implementation of proposed mitigation measures outlined in the EMP attached to the BAR compiled by Christine Fouche of Greenmined Environmental (Pty) Ltd;
- c) The results of public participation process undertaken for the proposed mining of rock/stone project was found to be in compliance with Chapter 6 of the 2014 EIA Regulations;
- d) Mitigation measures and rehabilitation plan outlined in the BAR compiled by Christine Fouche of Greenmined Environmental (Pty) Ltd will sufficiently address the potential impacts of the proposed activity and;
- e) The applicant complied with Section 24P of the National Environmental Management Act, 1998 (Act 107 of 1998) and paid financial provision in form of bank guarantee for the management of environmental impacts.

4. Findings

After consideration of the information and factors listed above, the department made the following findings –

- a) The potential impacts on the proposed site were clearly investigated and mitigation measures were outline

- b) The findings of site inspection conducted by Mr. T.P. Monyai and Ms. R.S. Matsila of this department in the presence of Mr. L. Malherbe of CP Concrete (Pty) Ltd, on 15 March 2016 were **as follows:**
- The site is **accessed** through an existing access track,
 - The land is used for Agricultural Purposes,
 - **Alien plants were noted** on the proposed mining area,
 - The proposed mining area is not close to **drainage** lines,
 - No heritage features were observed on site.
- c) Public Participation Process complied with Chapter 6 of the 2014 EIA Regulations R.982. The PPP included, *inter-alia*, the following:
- A newspaper advertisement was placed in the local newspaper "Breederivier Gazette" on 18 August 2015;
 - Notices were placed at the project site and the take-away outlet and fisheries in Robertson;
 - Notices were sent to all key stakeholders and the registered interested and affected parties via registered letters;
 - Objections and concerns of the interested and affected parties were sufficiently addressed;
 - The landowner was notified of the proposed project; and;
 - A register of interested and affected parties was opened.

ANNEXURE 2: DEPARTMENTAL STANDARD CONDITIONS

1 SCOPE OF AUTHORISATION

- 1.1 The **holder** of EA must be **responsible** for ensuring compliance with the **conditions** contained in the EA. This **includes** any **person acting** on the **holder's behalf**, including but not limited to an agent, **servant, contractor, subcontractor, employee, consultant** or any person rendering a **service** to the holder of EA.
- 1.2 Any **changes** to, or **deviation** from the project description set out in this EA must be **approved** in writing by this department before such **changes** or **deviation** may be **effected**. In assessing whether to grant **such approval** or not, the **department** may request **such information as is deemed necessary** to evaluate the **significance and impacts** of such **changes** or **deviation** and it may be **necessary** for the holder of the EA to apply for further authorisation in terms of the EIA Regulations.
- 1.3 The **activities, which** are authorised, must only be carried out at the property indicated in the EA and or on the **approved EMPr**.
- 1.4 When **any** of the **holder of the EA** **contact details** change including name of the responsible person, physical or postal **address/ or telephonic details**, the **holder** of the EA must notify the **department as soon as** the new **details** become known to the holder of the EA.
- 1.5 The EA does not **negate** the responsibility of the holder to comply with any other statutory requirements that may be **applicable** to the undertaking of such activity (ies).
- 1.6 The holder of EA must ensure that all areas where the **authorised activities** occur have **controlled access** to ensure **safety of people and animals**.

2 APPEAL OF AUTHORISATION

- 2.1 The **holder of EA** must in writing, within 14 (fourteen) **calendar days** from the **date** of this **decision** and in **accordance** with EIA **Regulation 4(2)** do the following:
- 2.2 Notify all registered I&APs of –
 - 2.2.1 The **outcome of the application**;
 - 2.2.2 The **date of the decision**;
 - 2.2.3 The **date of issue of the decision** and;
 - 2.2.4 The **reasons for the decision as** included in Annexure 1 and **Departmental Standard Conditions** in Annexure 2.
- 2.3 Draw the attention of **all registered I&APs** to the fact that an **appeal may be** lodged against the decision in terms of the **National Appeals Regulations**.
- 2.4 Draw the attention of all registered I&APs to the manner in which they may **access** the **decision**.

2.5 Provide the registered I&APs with:

- 2.5.1 Name of the holder (entity) of this EA
- 2.5.2 Name of the responsible person for this EA
- 2.5.3 Postal address of the holder;
- 2.5.4 Telephonic and fax details of the holder and
- 2.5.5 E-mail address of the holder if any.

3 COMMENCEMENT OF THE ACTIVITY (IES)

- 3.1 In order to ensure safety, all employees must be given the necessary personnel protective equipment (PPE) and any employee without PPE must not be allowed on site.
- 3.2 This EA must be provided to the site operator and the requirements thereof must be made fully known to him or her.
- 3.3 Hauling routes for construction vehicles and machinery must be clearly marked and appropriate signalling must be posted to that effect. Furthermore, movement of construction vehicles and machinery must be restricted to the approved processing area.
- 3.4 Appropriate notification sign must be erected at the processing site, warning the public (residents, visitors etc.) about the hazard around the processing site and presence of heavy vehicles and machinery.
- 3.5 Processing activities must include design measures that allows surface and subsurface movement of water and must also prevent damming up of water in the mining area.
- 3.6 Vegetation clearance must be limited to the actual processing footprint in accordance to the approved layout plan, and mitigation measures must be implemented to reduce the risk of erosion and alien species invasion.
- 3.7 Topsoil stripped from the processing area must be protected from erosion, contamination and/or pollution and stockpiling of topsoil must not take place in the drainage lines or areas where it will impede water runoff.
- 3.8 If any soil contamination is noted at any phase of the proposed activity (ies), the contaminated soil must be removed to a licensed waste disposal facility designed for such waste and the site must be rehabilitated immediately. The opportunity for the onsite remediation and re-use of contaminated soil must be investigated prior to the disposal and this department must be informed in this regard.
- 3.9 An integrated waste management approach that is based on waste minimization (waste management hierarchy) must be implemented and must incorporate avoidance, reduction, recycling, treat, reuse and disposal where appropriate. Ensure that no refuse generated on the processing area is placed, buried, dumped or deposited on the adjacent properties or public places and open space.
- 3.14 Uncontaminated storm water must be prevented from coming into contact with the waste and must be diverted away from the storage site and the processing area.

- 3.10 The **waste generated** during processing activities must **be stored** in animal proof **containers**, and must be **removed from site** and **disposed of** at a registered disposal facility. Proof of **disposal** at a **registered disposal facility** must **be kept** and produced to any **official** of this department on **request**.
- 3.11 In terms of **sections 28 and 30 of NEMA**, any costs incurred to remedy environmental **damage** must **be borne** by the **person responsible** for the damage. It is **therefore** imperative that the **holder** of the EA reads **through** and **understand** the **legislative** requirements pertaining to **the project**. It is the **holder** of EA **responsibility** to take reasonable **measures** which **include** informing and **educating contractors** and **employees** **about environmental risks** of **their work** and training them to operate in an **environmentally acceptable** manner.
- 3.12 Construction vehicle must be **serviced and maintained** in the manner whereby **excessive smokes and noise production** is **reduced to acceptable levels**, and to prevent oil **leaks**. Servicing of machinery and vehicles must not take place on site.
- 3.13 **Residents** (if **any**) on the property and surrounding areas must be informed if any unusual noise activities are planned.
- 3.15 **Dust suppression measures** must be implemented on all exposed surface and **access road** to minimize and **control airborne dust**.
- 3.16 Should any **heritage** remains be **exposed** during operation or any actions on the site, these must immediately be **reported** to the South African **Heritage Resource Agency (SAHRA)** and/or **Heritage Western Cape (HWC)** (in accordance with the applicable legislation). Heritage remains **uncovered** or **disturbed** during **earthworks** must not be further **disturbed** until the **necessary approval** has been **obtained** from the **South African Heritage Resource Agency (SAHRA)** and or **Heritage Western Cape (HWC)**.
- 3.17 **Care must be taken** to ensure that material and topsoil required for **rehabilitation of the processing area** is **free of contamination** from hydrocarbons.
- 3.18 **Refueling of machinery and construction vehicles** must **be done** through a mobile bowser. Should any spills **occur** it must be **cleaned immediately** by **removing spillage together with the polluted soil** and **dispose it** at **authorised disposal site permitted for the disposal of such waste**. The **regional office** of the Department of Mineral Resources must be notified within 24 hours of an incident that may pollute surface and ground **water resources**.
- 3.19 **Chemical sanitation facilities** or system such as **toilets** that do not rely on the **seepage** of liquids must **be provided** with a **ratio of 1 for every 15 workers**. These must be placed such that they prevent spills or leaks to the environment and must be **maintained according to the operating instructions** and the content thereof must be disposed of **at an authorized waste water treatment works**. Proof of disposal must be kept on site and be produced upon **request**.
- 3.20 This EA **does not purport to absolve** the holder of EA from its common law obligations towards **the owner** of the **surface** of land affected.
- 3.21 The holder of EA must **ensure** that **rehabilitation** of the **disturbed areas** caused by operation at all times comply with the approved EMPr.

- 3.22 This EA may be **amended** or withdrawn at any **stage** for non-compliance and provides no relief from the provisions of any other relevant **statutory** or **contractual obligations**.
- 3.23 The **holder** of EA must **note** that in terms of Section 20 of the **National Environmental Management: Waste Act, 2008 (Act No.59 of 2008)**, no person may **commence, undertake** or conduct a **waste management** activity, except in **accordance**, with the **requirements** of norms and **standards** determined in terms of Section 19 (3) for that activity or a **waste management licence** is issued in respect of that activity if **license** is required.
- 3.24 An **appeal** under **Section 43 (7)** of the **National Environmental Management Act (NEMA), Act 107 of 1998 (as amended)** **suspend an EA** or exemption or any **provisions** of conditions attached hereto, or any **directive** unless the **Minister** directs otherwise.
- 3.25 Should you **be notified** by the Minister of a **suspension** of the authorisation pending appeal procedure, you may not **commence** with the activity (**ies**) until such time that the Minister allows you to **commence** with such activity (**ies**) in writing.
- 3.26 The department **reserves** the right to audit **and/or** inspect the activity (**ies**) without **prior notification** at any **reasonable time** and at such frequency **as may** be determined by the **Regional Manager**.
- 3.27 Subject to **the** commencement and **duration requirements** of the **MPRDA** and **NEMA** for the listed Mining **activity**, the EA is valid for the period for which the aforesaid mining permit is granted provided that this activity **must commence** within 10 years. If the **commencement** of the proposed activity **does not** occur within the specified period, the EA lapses and a **new** application for EA in terms of the NEMA and the EIA Regulations **must be made** for the activity to be undertaken.
- 3.28 This EA will only **be effective** on the event that a **corresponding** mining permit is **issued** in terms of **MPRDA as amended** and **none of the activities listed** in this EA may **commence** without a mining permit.
- 3.29 The listed **activity** (**ies**), including site **preparation**, must not **commence** within 20 (twenty) calendar days of the date of the **notification** of the decision being **sent** to the registered **I&APs**. In the **event** that an **appeal** is lodged with the **appeal administrator**, the **effect** of this environmental authorisation is **suspended** until such time **as the appeal is decided**.
- 3.30 Should there be any **conflicting conditions** **between this EA** and **other** approval granted by **other authorities**, it is upon the **holder of EA** to bring it to the **attention** of the department for **resolution**.

4 MANAGEMENT OF ACTIVITY (IES)

- 4.1 A copy of the EA and EMPr must **be kept** at the property or on site office where the **activities** will be undertaken. The EA and EMPr must be produced to any authorised **officials** of the department who **request** to see it and must be **made** available for inspection by any **employee** or agent of the holder of the EA who works or **undertakes** work at the property (**ies**).

- 4.2 The contents of the EMPr and its objectives must be made known to all contractors, subcontractors, agent and any other people working on the site, and any updates or amendments to the EMPr must be submitted to the department for approval.
- 4.3 Any complaint received from the I&AP during all phases of the operation must be attended to as soon as possible and addressed to the satisfaction of all concerned interested and affected parties.
- 4.4 The holder of the EA must prevent nuisance conditions or health hazards, or the potential creation of nuisance conditions or health hazards.
- 4.5 The holder of the EA must ensure that all non-recyclable waste are disposed of at waste management facilities licensed to handle such wastes and all recyclable waste are collected by licenced waste management facilities for recycling, reuse or treatment.
- 4.6 In order to prevent nuisance conditions, the holder of the EA must ensure that all storage skips and bins are not overfilled. The holder of the EA must also make sure that littering of waste within the processing area is prohibited.
- 4.7 Non-compliance with any condition of this EA or the approved EMPr is an offence in terms of section 49A(1)(c) of NEMA and may result in criminal proceedings and issuing of a directive in terms of section 28 and or a compliance notice in terms of section 31L of NEMA.
- 4.8 Only listed activity (ies) that are expressly specified in the BAR that forms part of this EA must be undertaken, and additional or new activities not specified herein must be applied for by the holder and authorised by the competent authority in the form of an amendment of the EA and the EMPr before such activities may be commenced with. This condition is also applicable in the case of the amendment, addition, substitution, correction, and removal or updating of any detail in the aforesaid EA and EMPr.
- 4.9 Rehabilitation of the disturbed surface caused by operation must comply with the approved EMPr.
- 4.10 The Holder of EA must appoint the ECO before commencement of processing activities and ensure that the name and contact details of the ECO is made available to the Regional Manager of the Department of Mineral Resources: Western Cape Region within 30 days of commencement. The holder of EA must also ensure that an ECO is always available on site to ensure that activities at all times comply with the issued EA and approved EMPr.
- 4.11 The ECO must:
 - 4.11.1 Keep and maintain a detailed incidents register (including any spillages of fuels, chemicals or any other material).
 - 4.11.2 Keep a complaint register on site indicating the complaint and how the issues were addressed, what measures were taken and what the preventative measures were implemented to avoid re-occurrence of complaints.
 - 4.11.3 Keep records relating to monitoring and auditing on site and avail them for inspection to any relevant authorised officials.

- 4.11.4 Keep copies of all environmental reports submitted to the department.
- 4.11.5 Keep the records of all permits, licences and authorisations required by the operation.
- 4.11.6 Compile a monthly monitoring report and make it available to the department if requested.
- 4.12 The duties and responsibility of the ECO must not be seen as exempting the holder of the EA from the legal obligations in terms of the NEMA.
- 4.13 The footprint of the activities must be limited on the areas authorised for the actual processing works and operational activities and all areas outside of the footprint must be regarded as a "no go" areas.

5 REPORTING TO THE DEPARTMENT

5.1 The holder of EA must:

- 5.1.1 Submit an Environmental Audit Report to this department annually and such report must be done by an independent Environmental Assessment Practitioner and the audit report must specify whether conditions of this environmental authorisation and EMP/closure plan are adhered to;
- 5.1.2 The audit report must be in accordance to appendix 7 of the 2014 EIA regulations;
- 5.1.3 Identify and assess any new impacts and risks as a result of undertaking the activities, if applicable
- 5.1.4 identify shortcomings in the EMP/closure plan, if applicable;
- 5.1.5 identify the need, if any, for any changes to the management, avoidance and mitigation measures provided for in the EMP;
- 5.1.6 if applicable, specify that the corrective action/s taken for the previous audit's non-conformities, was adequate; and,
- 5.1.7 Be submitted by the holder to the competent authority within 30 days from the date on which the auditor finalised the audit.
- 5.2 Should any shortcomings in terms of Regulation 34(4) be identified, the holder must submit recommendation to amend the EMP/closure plan in order to rectify any shortcomings identified with the aforementioned audit report.
- 5.3 The holder of the EA must annually assess the environmental liabilities of the operation and financial provision submitted in terms of section 24P of NEMA by using the master rates in line with the applicable Consumer Price Index (CPI) at the time.
- 5.4 The holder of the EA must, within 24 hours of any incidents occurring, notify the Competent Authority of the occurrence or detection of any incident on the site, or incidental to the operation of the site, which has the potential to cause, or has caused pollution of the environment, health risks, nuisance conditions or water pollution.
- 5.5 The holder of the EA must, within 14 days, or a shorter period of time, if specified by the Competent Authority from the occurrence or detection of any incident referred to

in condition 5.4, submit an action plan, which must include a detailed time schedule, and resource allocation signed off by top management, to the satisfaction of the Competent Authority of measures taken to –

- 5.5.1 Correct the impact resulting from the incident;
- 5.5.2 Prevent the incident from causing any further impact; and
- 5.5.3 Prevent a recurrence of a similar incident.
- 5.5.4 In the event that measures have not been implemented within 21 days of the incident referred to in condition 5.4, or measures which have been implemented are inadequate, the Competent Authority may implement the necessary measures at the cost of the holder of the EA.

6 SITE SECURITY AND ACCESS CONTROL

- 6.1 The holder of the EA must ensure effective access control to the site to reasonably prevent unauthorised entry. Signs indicating the risks involved in unauthorised entry must be displayed at the entrance.
- 6.2 The processing area must be fenced off and lockable gates must be installed to restrict unauthorised access to the mining site.
- 6.3 Weather proof, durable and legible notices in at least three official languages applicable in the area must be displayed at the entrance to the Site. These notices must prohibit unauthorised entry and state the hours of operation, the name, address and telephone number of the holder of the EA and the person responsible for the operation of the site.

7 EMERGENCY PREPAREDNESS PLAN

- 7.1 The holder of the EA must draft, maintain and implement an emergency preparedness plan and review it annually when conducting audit and after each emergency and or major accident. The plan must, amongst others, include:
 - 7.1.1 Site Fire
 - 7.1.2 Spillage
 - 7.1.3 Natural disasters such as floods
 - 7.1.4 Industrial action
 - 7.1.5 Contact details of police, ambulances and any emergency centre closer to the site.
- 7.2 The holder of EA must ensure that an up to date emergency register is kept during all phases of the operation. This register must be made available upon request by the department.

8 INVESTIGATIONS

- 8.1 If, in the opinion of the Competent Authority, nuisances or health risks may be or is occurring on the site, the holder of the EA must initiate an investigation into the cause of the problem or suspected problem.

- 8.2 If, in the opinion of the Competent Authority, pollution may be or is occurring, the holder of the EA must initiate an investigation into the cause of the problem or suspected problem. Such investigation must include the monitoring of the water quality variables and air quality, at those monitoring points and such frequency as may be specified by the Competent Authority.
- 8.3 Investigations carried out in terms of conditions 8.1 and 8.2 above must include the monitoring of the relevant environmental pollution and/or degradation, nuisance and health risk variables, at those monitoring points and such frequency to be determined in consultation with the Competent Authority.
- 8.4 Should the investigation carried out as per conditions 8.1 and 8.2 above reveal any unacceptable levels of pollution, the holder of the EA must submit mitigation measures to the satisfaction of the Competent Authority.
- 8.5 The holder of the EA must comply with Section 28 of the NEMA and conduct processing activities in an environmentally friendly manner.

9 COMMISSIONING AND DECOMMISSIONING

- 9.1 The commissioning and decommissioning of individual activity within the overall listed Mining activities must take place within the phases and timeframes as set out in EMPr.

10 SITE CLOSURE

- 10.1 The holder of EA must apply for a closure certificate in terms of Section 43 of Mineral and Petroleum Resources Development Act (Act 28 of 2002), as amended within 180 days of occurrence of lapsing, abandonment, cancellation, cessation, relinquishment and completion of development.
- 10.2 The application for closure indicated above must be submitted together with all relevant documents as indicated in Section 43 of Mineral and Petroleum Resources Development Act (Act 28 of 2002), as amended.
- 10.3 No exotic but, only indigenous plants must be utilized for rehabilitation purposes.
- 10.4 The holder of EA remains responsible for any environmental liability, pollution or ecological degradation, the pumping and treatment of extraneous water, compliance with the conditions of EA and the management and sustainable closure thereof until the Minister has issued a Closure Certificate in terms of Section 43 of Mineral and Petroleum Resources Development Act (Act 28 of 2002). Where necessary the Minister may retain certain portion of financial provision for residual, health or environmental impacts that might be known in future.

11 NEMA PRINCIPLES

The NEMA Principles (set out in Section 2 of NEMA, which apply to the actions of all Organs of State, serve as guidelines by reference to which any Organ of State must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the **effects** of decisions on all aspects of the **environment** to be taken into **account**;
- the consideration, **assessment** and evaluation of **the social, economic and environmental impacts of activities (disadvantages and benefits)**, and for decisions to be appropriate in the light of such consideration and **assessment**;
- the co-ordination and **harmonisation of policies, legislation and actions relating to the environment**;
- the resolving of actual or potential conflicts of **interest between Organs of State** through conflict **resolution procedures**; and
- the **selection of the best practicable environmental option**.

12 DISCLAIMER

The Department of Mineral **Resources** in terms of **the conditions of this environmental authorisation** shall **not be** responsible for any damages or **losses suffered** by the holder, developer or his/her **successor** in any instance where **construction or operation subsequent to construction** is temporarily or permanently **stopped** for reasons of **non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision**.

13 RECOMMENDATIONS

In view of **the above, the NEMA principles, compliance with the conditions stipulated in this EA, and compliance with the EMP/closure plan, the competent authority is satisfied that the proposed listed activities will not conflict with the general objectives of Integrated Environmental Management stipulated in Chapter 5 of NEMA, and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels. The authorisation is accordingly granted.**

Your **interest** in the future of our environment is appreciated.

Kind Regards



.....
REGIONAL MANAGER: MINERAL REGULATION
WESTERN CAPE REGIONAL OFFICE
DATE: 2016/12/06



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

MINING PERMIT

[issued in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)]



Permit No. Region
Office reference

Permission is hereby granted under and subject to the provisions of the Mineral and Petroleum Resources Development Act,

2002 to [full name]

Identity number in case of a natural person

In the case of a person other than a natural person please indicate:

Co ☒ Cc ☐ Partnership/Joint venture ☐ Other * ☐

* If other, specify

Registration number of Co. or Cc.

To mine for [name of mineral]

On [full name of farm and subdivision, registration division and no.]

as indicated on the attached plan No. signed by the Regional Manager on

Unless this permit is suspended, cancelled, abandoned or lapses, it shall be valid for a period (not more than two years) which shall extend from the date of issuing to and may be renewed for three periods each which may not exceed one year.

This permit does not exempt the holder from the requirements of any provision of any other law or from any restrictive provisions or conditions contained in the title deed of the land concerned, nor does it encroach upon the rights of any person who may have an interest in the land concerned.

Signed at this day of 2017

MINISTER OF MINERAL RESOURCES

[2]

RENEWALS



First renewal approved for the period from 09/10/2019 to 08/10/2020 [not more than one year].

AS WITNESSES

1. [Signature]
(Signature)

2. [Signature]
(Signature)

[Signature]
MINISTER OF MINERAL RESOURCES

DATE: 9/10/2019



Second renewal approved for the period to [not more than one year].

AS WITNESSES

1. _____
(Signature)

2. _____
(Signature)

MINISTER OF MINERAL RESOURCES

DATE: _____



Third renewal approved for the period to [not more than one year].

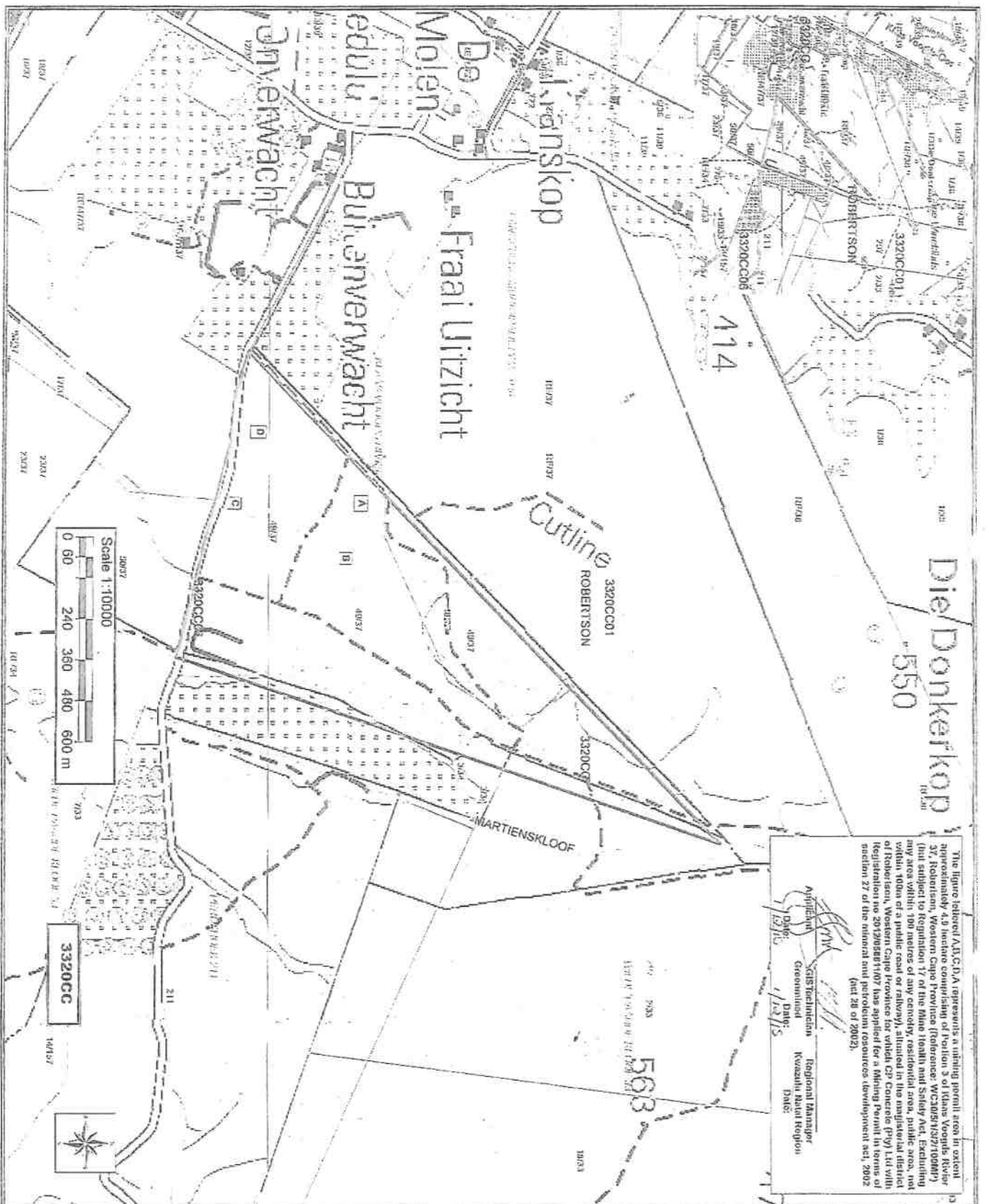
AS WITNESSES

1. _____
(Signature)

2. _____

MINISTER OF MINERAL RESOURCES

DATE: _____



1. copy

☒ Buildings

☒ Intersecting roads

☒ Dam

☒ River

☒ Non-perennial ec

☒ Property Boundary,

☒ New Mining Area

no (lines)

Stuane

20/10/21/4

Proposed mining area

Coordinates:

A33°47'51.561"S; 20°05'9.173"E

B33°47'53.351"S; 20°13.401"E

C33°48'2.38"S; 20°05'7.402"E

D33°48'0.18"S; 20°05'0.533"E

A33°47'51.591"S; 20°05'9.173"E

A33°49'65.3"S; 20°01'6.637"E

B33°49'51.53"S; 20°01'7.637"E

C33°50'06.1"S; 20°01'5.955"E

D33°50'06.5"S; 20°01'41.40"E

A33°49'65.3"S; 20°01'6.637"E

Mining application area:

4.9 ha

Contract Code:

C065000000003700001

Client:

CP CONCRETE PTY LTD

Consultant:



FAUNA

No resident fauna were noticed within the boundaries of the proposed processing area as it has previously been used as a field. The proposed processing of stockpiled rock/stone within the area will not affect the fauna of the surrounding area, as they will be able to move away or through the work area without being harmed. The proposed processing area will not have any deep excavations in which fauna may be stuck or injured.

HUMAN ENVIRONMENT

CULTURAL AND HERITAGE ENVIRONMENT

According to discussions with the landowner the property has been farmed for numerous years. The particular area earmarked for the processing area was transformed from Renosterveld to fields and used for crop production.

During a desktop study of the surrounding area it was found that the Robertson area was established in 1853 within an area that fell in the boundaries of the Swellendam district. The names of the original farms, used for sheep farming, are still used e.g. Roodezant, Le Chasseur, Retreat, Noree, Gores, Klaarwoods, Goudmyn, Vloëheid. With completion of the railway line from Worcester to the coastal regions in 1887, the trading post Roodezant became a railway station. Shortly afterwards it was renamed Ashton, in honour of Job Ashton, director and railway engineer. Ashton gained municipal status in 1956. The areas between these two towns were historically extensively used for agricultural activities including sheep- and ostrich farming as well as crop and wind production.

No area or artefact of cultural or heritage importance could be identified within 100 m of the proposed processing area, nor will the activity entail any below surface disturbances. However, should any evidence of archaeological importance be discovered during the operational phase of the project, all work will immediately be stopped immediately and HWC will be notified immediately.

SOCIO-ECONOMIC ENVIRONMENT

The proposed processing area is situated within the Cape Winelands District under the Langeberg Local Municipality. According to the 2014/2015 IDP, the municipal area has a population of 97 714 people with Robertson contributing 27 715 and Ashton 13 325 to the total.

Robertson is described as the western gateway to The Horn of Route 62. Robertson is one of the largest wine-producing regions in South Africa. Ashton is smaller and situated between Robertson and Swellendam hosting the Administrative Head Office of the Langeberg Municipality.

The IDP shows that the number of people employed in Ward 4 increased from 2001 to 2011 while people who were unemployed and not economically active decreased from 370 to 322 and 1 754 to 1916 respectively in the same period. Monthly household income was found to have slightly decreased while there is a high increase of households with a monthly income between R1 601 – R3 200. Agriculture is the main economic activity in the District forming about 38% of the GGP.

The waste rock/stones to be processed at the area will be used in the ready mix plant of the applicant. Due to an increase in building and infrastructure development in the municipal area the need for ready mixed concrete increased in correspondence. By using the waste rock of the property the applicant will be able to obtain reasonable priced material that can be used in the ready mix production process. The applicant will also assist the landowner in removing unwanted waste rock from the perimeter of his fields. Rock that does not comply with size specifications for ready mix will be sold as base course or other material to contractors in the surrounding area.

The proposed activity will not only assist the applicant and landowner but also indirectly contribute to the economy of the immediate municipal area and infrastructure development. The proposed activity will generate approximately five work opportunities that will be available to local residents.

(b) Description of the current land uses

Portion 3 of the farm Klaar Voogds River 37 is situated in an agricultural setting between Robertson and Ashton, to the north of the R60. The land use of the property comprise the following:

- Agriculture – Mainly for cultivation of export vegetables and fruit. Upon closure of the proposed processing area the site will be returned to agricultural use.
- Light Industrial – CP Concrete operates a ready mix plant (±500 m away). The plant is of small scale and comprise of a Weight Bin into which the sand, cement (bagged cement – no silo necessary) and aggregate is fed by a Loader. From the Weight Bin the mix is fed via conveyor belt into the waiting Concrete Truck where it is mixed during transport to the client. Water is added directly into the Concrete Truck. The approximate output of the Ready Mix plant is ±1 000 – 1 500m³ concrete / month. The activity has been operational for the last 7 – 8 years.

The plant is situated on a concreted area at the back of the packing warehouses.

- 4. Transport – Minor roads 6035 and 6036 pass the processing area to the south. These roads are public roads used by residents of the area.

The land use of the surrounding properties comprise of the following:

- 4. Agriculture – Grazing, Orchards and Vineyards.
- 4. Tourism & Recreation – Fraai Uitzicht 1798 (Pty) Ltd operates a 4 star guest house, restaurant and wine cellar (±1 km away).
- 4. Transport – The Klaarvoogs (East) road pass the property to the west (±950 m) with the R60 passing the property to the south (±4 km).
- 4. Mining – Crushing and screening of waste rock is already done on some of the surrounding properties.

It is expected that the proposed processing activity will have a very low impact on the surrounding environment as activities will be contained within the boundaries of the site and will entail the use of the waste rock/stone stockpiled on the property. The proposed footprint area will not require the building of any permanent structures. The proposed production of aggregate on the property will also reduce the amount of trucks delivering aggregate, from outside sources, to the ready-mix plant by approximately 100 trucks per month. This will have a direct positive impact on the traffic volumes of the surrounding roads.

Langbosberg Local Municipality (LLM) confirmed that Portion 3 of the farm Klaarvoogs River 37 is zoned Agricultural Zone 1 in terms of the Section 8 Zoning Scheme Regulations. Agricultural zone 1 has agriculture as primary use. LLM stated that the proposed activities do not fall within the above definition and an application must be submitted for a temporary departure from the zoning provisions.

Klaarvoogds River Irrigation Board confirmed that no drainage line pass through the proposed study area

- 4 CapeNature added that storm water management and erosion prevention measures must be implemented on-site
- 4 Upon review of the DEIAR & EMRR BGCMA commented that the activities do not occur within the extent of a water course and are therefore not regarded as Water Use in terms of Section 21(c) & (i) of the National Water Act, 1998. No water use authorisation is therefore required.

Cultural and Heritage Environment

- 4 No area or artefact of cultural or heritage importance could be identified within 100 m of the proposed processing area, nor will the activity entail any below surface disturbance

Socio-Economic Environment

- 4 The waste rock/stone to be processed at the area will be used in the ready mix plant of the applicant. Due to an increase in building and infrastructure development in the municipal area the need for ready mixed concrete increased in correspondence. By using the waste rock of the property the applicant will be able to obtain reasonable priced material that can be used in the ready mix production process. The applicant will also assist the landowner in removing unwanted waste rock from the perimeter of his fields. Rock that does not comply with size specifications for ready mix will be sold as base course or other material to contractors in the surrounding area
- 4 The proposed activity will not only assist the applicant and landowner but also indirectly contribute to the economy of the immediate municipal area and infrastructure development. The proposed activity will generate approximately five work opportunities that will be available to local residents.

Existing Infrastructure

- 4 It is expected that the proposed processing activity will have a very low impact on the surrounding environment as activities will be contained within the boundaries of the site and will entail the use of the waste rock/stone stockpiled on the property. The proposed footprint area will not require the building of any permanent structures. The proposed production of aggregate on the property will also reduce the amount of trucks delivering aggregate, from outside sources, to the ready-mix plant by approximately 100 trucks per month. This will have a direct positive impact on the traffic volumes of the surrounding roads.



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

ENVIRONMENTAL IMPACT ASSESSMENT REPORT And ENVIRONMENTAL MANAGEMENT PROGRAMME REPORT

SUBMITTED FOR ENVIRONMENTAL AUTHORIZATIONS IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 AND THE NATIONAL ENVIRONMENTAL MANAGEMENT WASTE ACT, 2008 IN RESPECT OF LISTED ACTIVITIES THAT HAVE BEEN TRIGGERED BY APPLICATIONS IN TERMS OF THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT, 2002 (MPRDA) (AS AMENDED).

NAME OF APPLICANT: CP Concrete Pty Ltd
TEL NO: 023 626 2014
FAX NO: None
POSTAL ADDRESS: P.O. Box 339, Robertson, 6705
PHYSICAL ADDRESS: Buitenverwacht Farm, Robertson
FILE REFERENCE NUMBER SAMRAD: WC 30/5/1/3/2/10100MP

PART B

ENVIRONMENTAL MANAGEMENT PROGRAMME REPORT

1) Draft environmental management programme.

- a) Details of the EAP,** (Confirm that the requirement for the provision of the details and expertise of the EAP are already included in PART A, section 1(a) herein as required).

The details and expertise of Christine Fouche of Greenmined Environmental that acts as EAP on this project has been included in Part A Section 1(a) as well as Appendix M as required.

- b) Description of the Aspects of the Activity** (Confirm that the requirement to describe the aspects of the activity that are covered by the draft environmental management programme is already included in PART A, section (1)(h) herein as required)

The aspects of the activity that are covered by the draft environmental management programme has been described and included in Part A, section (1)(h).

c) Composite Map

(Provide a map (**Attached as an Appendix**) at an appropriate scale, which superimposes the proposed activity, its associated structures, and infrastructure on the environmental sensitivities of the preferred site, indicating any areas that should be avoided, including buffers)

As mentioned under Part A Section (1) (L) (ii) this map has been compiled and is attached as Appendix B to this document.

d) Description of Impact management objectives including management statements

- i) Determination of closure objectives.** (ensure that the closure objectives are informed by the type of environment described in 2.4 herein)

The following closure objectives are proposed with regard to rehabilitation of the processing area:

1. Upon closure of the site all infrastructure and stockpiled material must be removed,
2. To ensure minimum impact on drainage, it is important that no depressions be left on the footprint area. A surface slope (even if minimal) must be maintained across the processing floor in the drainage direction, so that it will be free draining,
3. The stockpiled topsoil must then be evenly spread over the entire disturbed area to a depth of 500 mm. The depth must be monitored during spreading to ensure that coverage is adequate and even.
4. Topsoil spreading may only be done at a time of year when vegetation cover can be established as quickly as possible afterwards, so that erosion of returned topsoil by both rain and wind, before vegetation is established, is minimized. The best time of year is the

end of the rainy season, when there is moisture in the soil for vegetation establishment and the risk of heavy rainfall events is minimal.

5. A cover crop must be planted and established immediately after spreading of topsoil to stabilize the soil and protect it from erosion. The cover crop must be fertilized for optimum production. It is important that rehabilitation be taken up to the point of crop stabilization. Rehabilitation cannot be considered complete until the first cover crop is well established.
6. The rehabilitated area must be monitored for erosion, and appropriately stabilized if any erosion occurs.
7. On-going alien vegetation control must keep the area free of alien vegetation after mining

Final rehabilitation must entail the removal of all infrastructure and equipment from the site. Control of weeds and alien invasive plant species is an important aspect after topsoil replacement and seeding has been done in an area. Site management must implement an alien invasive plant management plan during the 12 months aftercare period to address germination of problem plants in the area.

The applicant will also comply with the minimum closure objectives as prescribed by DMR and detailed below:

- ✦ Rehabilitation of the surface area shall entail landscaping, levelling, top dressing, land preparation, seeding (if required) and maintenance, and weed / alien clearing.
- ✦ All infrastructure, equipment, temporary equipment and other items used during the operational phase will be removed from the site (section 44 of the MPRDA).
- ✦ Waste material of any description, including receptacles, scrap, rubble and tires, will be removed entirely from the processing area and disposed of at a recognized landfill facility. It will not be permitted to be buried or burned on the site.
- ✦ Weed / Alien clearing will be done in a sporadic manner during the life of the activities.
- ✦ Species regarded as Category 1 weeds according to CARA (Conservation of Agricultural Recourses Act, 1983 – Act 43; Regulations 15 & 16 (as amended in March 2001) need to be eradicated from the site.
- ✦ Final rehabilitation shall be completed within a period specified by the Regional Manager.

ii) The process for managing any environmental damage, pollution, pumping and treatment of extraneous water or ecological degradation as a result of undertaking a listed activity.

Due to the nature of the proposed processing activity, it is believed that the risk of environmental damage or pollution is of low significance. If site management implement the mitigation measures as prescribed in this document, it is believed that the impact on the receiving environment can be adequately controlled.

iii) Potential risk of Acid Mine Drainage. (Indicate whether or not the mining can result in acid mine drainage).

N/A

iv) Steps taken to investigate, assess, and evaluate the impact of acid mine drainage.

N/A

v) Engineering or mine design solutions to be implemented to avoid or remedy acid mine drainage.

N/A

vi) Measures that will be put in place to remedy any residual or cumulative impact that may result from acid mine drainage.

N/A

vii) Volumes and rate of water use required for the mining, trenching or bulk sampling operation.

N/A

viii) Has a water use license been applied for?

The proposed project does not trigger the National Water Act and no water use license is required. The process water, needed during the operational phase, will be obtained from the existing water sources of the landowner (to be agreed upon by the applicant and landowner).

ix) Impacts to be mitigated in their respective phases

Measures to rehabilitate the environment affected by the undertaking of any listed activity

ACTIVITIES	PHASE	SIZE AND SCALE of disturbance (volumes, tonnages and hectares or m ²)	MITIGATION MEASURES	COMPLIANCE WITH STANDARDS	TIME PERIOD FOR IMPLEMENTATION
(as listed in 2.11.1)	of operation in which activity will take place. State; Planning and design, Pre-Construction, Operational, Rehabilitation, Closure, Post closure		(describe how each of the recommendations herein will remedy the cause of pollution or degradation and migration of pollutants)	(A description of how each of the recommendations herein will comply with any prescribed environmental management standards or practices that have been identified by Competent Authorities)	Describe the time period when the measures in the environmental management programme must be implemented. Measures must be implemented when required. With regard to Rehabilitation specifically this must take place at the earliest opportunity. With regard to Rehabilitation, therefore state either – Upon cessation of the individual activity or Upon the cessation of mining, bulk sampling or alluvial diamond prospecting as the case may be.
Demarcation of site with visible beacons	Construction / Site Establishment phase	4.9 ha	Demarcation of the site will ensure that all employees are aware of the boundaries of the processing area and that work stay within approved area.	Processing of the waste rock/stone is only allowed within the boundaries of the approved processing area. ↓ MHSA, 1996 ↓ OHSA, 1993	Beacons need to be in place throughout the life of the activity.
Establishment of mobile crusher and ablation infrastructure within boundaries of site.	Construction / Site Establishment phase	18 m ²	Site management must ensure that infrastructure is erected within the boundaries of the approved processing area.	Compliance to standards stipulated in the: ↓ MPRDA, 2008 ↓ OHSA, 1993	Throughout operational phase
STRIPPING AND STOCKPILING OF TOPSOIL &	Operational phase	4.9 ha	Visual Mitigation: ↓ The site must have a neat appearance and be kept in good condition at all times. ↓ The height of the stockpiles must be limited to 3 m to manage the visual impact on the surrounding environment.	Land use zoning: ↓ Western Cape LUPA, 2014 ↓ Langeberg Municipality: Land Use Planning Bylaws, 2015 ↓ The property is zoned for agriculture as primary use.	Throughout operational phase

CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE			↓ Upon rehabilitation of the processing area all infrastructure must be removed and the area must be returned to its prior status.		
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & LOADING AND TRANSPORTING & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Operational phase & Decommissioning phase	4.9 ha	Dust Handling: ↓ The liberation of dust into the surrounding environment must be effectively controlled by the use of, inter alia, water spraying and/or other dust-allaying agents. ↓ Water sprayers must be added to the crushing infrastructure to control dust emissions from the conveyor belts. ↓ During periods of high winds, the stockpiles must be dampened to control dust emission. ↓ The site manager must ensure continuous assessment of all dust suppression equipment to confirm its effectiveness in addressing dust suppression. ↓ Speed on the access roads must be limited to 40km/h to prevent the generation of excess dust. ↓ Gravel roads must be sprayed with water or an environmentally friendly dust-allaying agent that contains no PCB's (e.g. DAS products) if dust is generated above acceptable limits. ↓ Fallout dust monitoring must be implemented in order to ensure compliance of the site with the fallout dust standards from the National Dust Control Regulations, 2013.	Dust Handling: ↓ NEM:AQA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013	Throughout operational and decommissioning phases
STRIPPING AND STOCKPILING OF TOPSOIL &	Operational phase & Decommissioning phase	4.9 ha	Noise Handling: ↓ All crushing and screening activities must be limited to daylight hours, and no crushing or screening allowed on Sundays. ↓ The applicant must ensure that employees and staff conduct themselves in an acceptable manner while on site.	Noise Handling: ↓ NEM:AQA, 2004 Regulation 6(1) ↓ All project related vehicles must be in a road worthy condition in terms of the Road Transport Act, 1987	Throughout operational and decommissioning phases

CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA			↓ No loud music may be permitted at the processing area. ↓ All project-associated vehicles must be equipped with silencers and maintained in a road worthy condition in terms of the Road Transport Act. ↓ Should the permit holder receive complaints with regard to boundary noise a noise impact study has to be conducted by a qualified specialist.	</
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			↓ Topsoil heaps must be stockpiled along the northern and western boundaries of the study area to divert runoff water away from the processing area. Site management must weekly monitor the stockpiles and should any signs of erosion become apparent soil erosion protection measures must be implemented. ↓ The effectiveness of the storm water infrastructure needs to be continuously monitored. ↓ The activity must be conducted in accordance with the Best Practice Guideline for small scale mining that relates to storm water management, erosion and sediment control and waste management, developed by the Department of Water and Sanitation (DWS), and any other conditions which that Department of Mineral Resources may impose: ▪ Clean water (e.g. rainwater) must be kept clean and be routed to a natural watercourse by a system separate from the dirty water system. You must prevent clean water from running or spilling into dirty water systems. ▪ Dirty water must be collected and contained in a system separate from the clean water system. ▪ Dirty water must be prevented from spilling or seeping into clean water systems. ▪ Storm water management must apply for the entire life cycle of the site and over different hydrological cycles (rainfall patterns). ▪ The statutory requirements of various regulatory agencies and the interests of stakeholders must be considered and incorporated into the storm water management.	↓ The replacement of the topsoil is of utmost importance to ensure the effective future use of the area for agricultural purposes.	
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STRIPPING AND STOCKPILING OF TOPSOIL	Operational phase	4.9 ha	<u>Loss of natural vegetation (Site Alternative 1):</u> ↓ All activities must be contained within the boundaries of the approved processing area. ↓ A 20 m buffer area needs to be demarcated; sign posted and managed as no-go area between the processing activities and areas with natural vegetation. ↓ No cleared vegetation, alien species or other, may be dumped in areas containing indigenous vegetation.	<u>Negative impact on biodiversity of the area (Site Alternative 1):</u> ↓ NEM:BA, 2004	Throughout operational phase
STRIPPING AND STOCKPILING OF TOPSOIL	Operational phase	4.9 ha	<u>Loss of natural vegetation (Site Alternative 2):</u> ↓ The risk of the proposed processing activities of S2 having a negative impact on the natural vegetation of the footprint area cannot be reduced and is deemed to be of medium.	<u>Negative impact on biodiversity of the area (Site Alternative 2):</u> ↓ NEM:BA, 2004	Throughout operational phase
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & LOADING AND TRANSPORTING	Operational phase	4.9 ha	<u>Negative impact on fauna that may enter the area:</u> ↓ The site manager must ensure that no fauna is caught, killed, harmed, sold or played with. ↓ Workers must be instructed to report any animals that may be trapped in the working area. ↓ No snares may be set or nests raided for eggs or young.	<u>Negative impact on fauna that may enter the area:</u> ↓ NEM:BA, 2004 ↓ Site management has to strive to eliminate the impact on fauna in the surrounding environment for the duration of the processing activities.	Throughout operational phase
STRIPPING AND STOCKPILING OF TOPSOIL	Operational phase &	4.9 ha	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u>	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u>	Throughout operational and decommissioning phases

& CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & LOADING AND TRANSPORTING & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Decommissioning phase		↓ No pollution of surface water or ground water resources may occur due to any activity. ↓ No storm water runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. Polluted storm water must be contained. ↓ Regular vehicle maintenance may only take place at the existing workshop on the farm. If emergency repairs is needed on equipment not able to move to the workshop, drip trays must be present. All waste products must be disposed of in a 200 liter closed container/bin to be removed from the emergency service area to the formal workshop in order to ensure proper disposal. ↓ Any effluents containing oil, grease or other industrial substances must be collected in a suitable receptacle and removed from the site, either for resale or for appropriate disposal at a recognized facility. ↓ Spills must be cleaned up immediately to the satisfaction of the Regional Manager of DMR by removing the spillage together with the polluted soil and by disposing it at a recognized facility. Proof must be filed. ↓ Suitable covered receptacles must be available at all times and conveniently placed for the disposal of waste. ↓ Non-biodegradable refuse such as glass bottles, plastic bags, metal scrap, etc., must be stored in a container with a closable lid at a collecting point, collected on a weekly basis, and disposed of at a recognized landfill site. Specific precautions must be taken to prevent refuse from being dumped on or near the processing area. ↓ Biodegradable refuse generated must be handled as indicated above.	↓ NWA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.	
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LOADING AND TRANSPORTING	Operational phase	Access road	<u>Impact on the access roads:</u> - Storm water must be diverted around the access roads to prevent erosion. - Vehicular movement must be restricted to existing access routes to prevent crisscrossing of tracks through undisturbed areas. - The applicant must repair rutting and erosion of the access road caused because of the processing activities.	<u>Degradation of the gravel access road:</u> - NRTA, 1996 - The gravel access road needs to be monitored for signs of degradation. Should any signs become apparent immediate rectification action must be done.	Throughout operational phase
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Decommissioning phase	4.9 ha	<u>Erosion of returned topsoil after rehabilitation:</u> - Storm water must be controlled via temporary banks to prevent run-off causing down-slope erosion. - Topsoil spreading may only be done at a time of year when vegetation cover can be established as quickly as possible. This will minimize erosion of returned topsoil by both rain and wind. The best time of year is at the end of the rainy season, when there is moisture in the soil for vegetation establishment and the risk of heavy rainfall events is minimal. - A cover crop must be planted and established immediately after spreading of topsoil, to stabilize the soil and protect it from erosion. The cover crop must be fertilized for optimum production. It is important that rehabilitation be taken up to the point of cover crop stabilization. Rehabilitation cannot be considered complete until the first cover crop is well established. - The rehabilitated area must be monitored for erosion, and appropriately stabilized should any erosion occurs.	<u>Erosion of returned topsoil after rehabilitation:</u> - CARA, 1983 - NEM:BA, 2004 - MPRDA, 2008 - The replacement of the topsoil and sloping of the area is of utmost importance to ensure the effective future use of the area for agricultural purposes. - Rehabilitation cannot be considered complete until the first cover crop is well established.	Throughout decommissioning phase

FINAL REHABILITATION	Decommissioning phase	4.9 ha	Final rehabilitation: ↓ Rehabilitation of the surface area shall entail landscaping, levelling, top dressing, land preparation, seeding (if required) and maintenance, and weed / alien clearing. ↓ All infrastructure, equipment, temporary equipment and other items used during the operational phase will be removed from the site (section 44 of the MPRDA). ↓ Waste material of any description, including receptacles, scrap, rubble and tires, will be removed entirely from the area and disposed of at a recognized landfill facility. It will not be permitted to be buried or burned on the site. ↓ Weed / Alien clearing will be done in a sporadic manner during the operational phase. ↓ Species regarded as Category 1 weeds according to CARA (Conservation of Agricultural Recourses Act, 1983 – Act 43; Regulations 15 & 16 (as amended in March 2001) need to be eradicated from the site. ↓ Final rehabilitation shall be completed within a period specified by the Regional Manager.	Final Rehabilitation: ↓ MPRDA, 2008 ↓ Western Cape LUPA, 2014 ↓ Langeberg Municipality: Land Use Planning Bylaws, 2015 ↓ Final rehabilitation needs to be done within a period specified by the Regional Manager of DMR.	Throughout decommissioning phase
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e) Impact Management Outcomes

(A description of impact management outcomes, identifying the standard of impact management required for the aspects contemplated in paragraph ());

ACTIVITY whether listed or not listed	POTENTIAL IMPACT	ASPECTS AFFECTED	PHASE In which impact is anticipated	MITIGATION TYPE	STANDARD TO BE ACHIEVED
(E.g. Excavations, blasting, stockpiles, discard dumps or dams, Loading, hauling and transport, Water supply dams and boreholes, accommodation, offices, ablution, stores, workshops, processing plant, storm water control, berms, roads, pipelines, power lines, conveyors, etc...etc...etc.)	(e.g. dust, noise, drainage surface disturbance, fly rock, surface water contamination, groundwater contamination, air pollution etc...etc..)		(e.g. Construction, commissioning, operational Decommissioning, closure, post-closure))	(modify, remedy, control, or stop) through (e.g. noise control measures, storm-water control, dust control, rehabilitation, design measures, blasting controls, avoidance, relocation, alternative activity etc...etc..) E.g. • Modify through alternative method. • Control through noise control • Control through management and monitoring • Remedy through rehabilitation.	(Impact avoided, noise levels, dust levels, rehabilitation standards, end use objectives) etc.
Demarcation of site with visible beacons	No impact could be identified other than the beacons being outside the boundaries of the approved processing area.	N/A	Construction / Site Establishment phase	Control through management and monitoring	Processing of the waste rock/stone is only allowed within the boundaries of the approved processing area. ↓ MHSA, 1996 ↓ OHSA, 1993
Establishment of mobile crusher and ablution infrastructure within boundaries of site.	If the infrastructure is established within the boundaries of the approved processing area no impact could be identified.	N/A	Construction / Site Establishment phase	Control through management and monitoring	Compliance to standards stipulated in the: ↓ MPRDA, 2008 ↓ OHSA, 1993 ↓ The infrastructure needs to be within the boundaries of the approved area. ↓ The ablution facilities need to be kept clean and in working order. The supplier need to

						service the ablution facilities weekly.
STRIPPING AND STOCKPILING OF TOPSOIL	Visual impact due to removal of topsoil	The visual impact may affect the aesthetics of the landscape.	Operational phase		<u>Control:</u> Implementation of proper housekeeping <u>Land use zoning:</u> ↓ Western Cape LUPA, 2014 ↓ Langeberg Municipality: Land Use Planning Bylaws, 2015 ↓ The property is zoned for agriculture as primary use.	
STRIPPING AND STOCKPILING OF TOPSOIL	Loss of natural vegetation (Site Alternative 1)	The loss of natural vegetation may affect the biodiversity of the surrounding environment.	Operational phase		<u>Negative impact on biodiversity of the area (Site Alternative 1):</u> ↓ NEM:BA, 2004	
STRIPPING AND STOCKPILING OF TOPSOIL	Loss of natural vegetation (Site Alternative 2)	The loss of natural vegetation may affect the biodiversity of the surrounding environment.	Operational phase		<u>Negative impact on biodiversity of the area (Site Alternative 2):</u> ↓ NEM:BA, 2004	
STRIPPING AND STOCKPILING OF TOPSOIL	Dust nuisance caused by the disturbance of soil.	Dust will be contained within the property boundaries and will therefore affect only the landowner.	Operational phase		<u>Dust Handling:</u> ↓ NEM:AQA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013	
STRIPPING AND STOCKPILING OF TOPSOIL	Noise nuisance caused by machinery stripping the topsoil.	The noise impact should be contained within the boundaries of the property and will represent the	Operational phase		<u>Noise Handling:</u> ↓ NEM:AQA, 2004 Regulation 6(1) ↓ All project related vehicles must be in a road worthy condition in terms of the Road Transport Act, 1987	

		current noise levels of the site.			
STRIPPING AND STOCKPILING OF TOPSOIL	Infestation of the topsoil heaps by weeds and invader plants.	Biodiversity	Operational phase	Control & Remedy: Implementation of weed control and the weed/invader plant management plan	<u>Management of weed- or invader plants:</u> ↓ CARA, 1983 ↓ All species regarded as Category 1 weeds according to CARA need to be eradicated from site.
STRIPPING AND STOCKPILING OF TOPSOIL	Loss of topsoil due to incorrect storm water management.	Loss of topsoil will affect the rehabilitation of the processing area and the future agricultural potential of the site.	Operational phase	Control: Storm water management	<u>Loss of topsoil due to incorrect storm water management:</u> ↓ CARA, 1983 ↓ NEMA, 1998 ↓ NWA, 1998 ↓ The replacement of the topsoil is of utmost importance to ensure the effective future use of the area for agricultural purposes.
STRIPPING AND STOCKPILING OF TOPSOIL	Contamination of area with hazardous waste materials	Contamination may cause surface or ground water pollution if not addressed	Operational phase	Control: Waste management	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u> ↓ NWA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Visual impact associated with the crushing and screening activities	The visual impact may affect the	Operational phase	Control: Implementation of proper housekeeping	<u>Land use zoning:</u> ↓ Western Cape LUPA, 2014 ↓ Langeberg Municipality: Land Use Planning Bylaws, 2015

		aesthetics of the landscape.			↓ The property is zoned for agriculture as primary use.
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Dust nuisance due to crushing activities	Dust will be contained within the property boundaries and will therefore affect only the landowner.	Operational phase	Control: Dust suppression	<u>Dust Handling:</u> ↓ NEM: AQA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Noise generated by crushing activities	The noise impact should be contained within the boundaries of the property, and will relate to the existing equipment operating on-site.	Operational phase	Control: Noise management	<u>Noise Handling:</u> ↓ NEM: AQA, 2004 Regulation 6(1) ↓ All project related vehicles must be in a road worthy condition in terms of the Road Transport Act, 1987
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Contamination of area with hazardous waste materials	Contamination may cause surface or ground water pollution if not addressed	Operational phase	Control: Waste management	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u> ↓ NWA, 1998 ↓ NEM: WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Weeds and invader plant infestation of the area	Biodiversity	Operational phase	Control & Remedy: Implementation of weed control	<u>Management of weed- or invader plants:</u> ↓ CARA, 1983 ↓ All species regarded as Category 1 weeds according to CARA need to be eradicated from site.

LOADING AND TRANSPORTING	Dust nuisance due to loading and transportation of the material	Should dust levels become excessive it may have an impact on surrounding landowners.	Operational phase	Control: Dust suppression	<u>Dust Handling:</u> ↓ NEM:AQA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013
LOADING AND TRANSPORTING	Impact on the access roads	All road users will be affected	Operational phase	Control & Remedy: Road management	<u>Degradation of the gravel access road:</u> ↓ NRTA, 1996 ↓ The gravel access road needs to be monitored for signs of degradation. Should any signs become apparent immediate rectification actions must be implemented.
LOADING AND TRANSPORTING	Contamination of area with hazardous waste materials	Contamination may cause surface or ground water pollution if not addressed	Operational phase	Control: Waste management	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u> ↓ NWA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Erosion of returned topsoil after rehabilitation	Soil erosion, may affect the agricultural potential of the site after closure of the mine.	Decommissioning phase	Control: Soil management	<u>Erosion of returned topsoil after rehabilitation:</u> ↓ CARA, 1983 ↓ NEM:BA, 2004 ↓ MPRDA, 2008 ↓ The replacement of the topsoil and sloping of the area is of utmost importance to ensure the effective future use of the area for agricultural purposes.

					↓ Rehabilitation cannot be considered complete until the first cover crop is well established.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Dust nuisance caused during landscaping activities	Should dust levels become excessive it may have an impact on surrounding landowners.	Decommissioning phase	Control: Dust suppression	Dust Handling: ↓ NEM:AOA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Noise nuisance caused by machinery	Should noise levels become excessive it may have an impact on surrounding landowners.	Decommissioning phase	Control: Noise management	Noise Handling: ↓ NEM:AOA, 2004 Regulation 6(1) ↓ All project related vehicles must be in a road worthy condition in terms of the Road Transport Act, 1987
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Contamination of area with hazardous waste materials	Contamination may cause surface or ground water pollution if not addressed	Decommissioning phase	Control: Waste management	Contamination of surface or groundwater due to hazardous spills not cleaned: ↓ NWVA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Loss of reinstated topsoil due to the absence of vegetation	Loss of topsoil will affect the rehabilitation of the processing area and the future agricultural potential of the site.	Decommissioning phase	Control: Storm water management	Erosion of returned topsoil after rehabilitation: ↓ CARA, 1983 ↓ NEM:BA, 2004 ↓ MPRDA, 2008 ↓ The replacement of the topsoil and sloping of the area is of

					utmost importance to ensure the effective future use of the area for agricultural purposes. ↓ Rehabilitation cannot be considered complete until the first cover crop is well established.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Weeds and invader plant infestation of the area	Biodiversity	Decommissioning phase	Control & Remedy: Implementation of weed control	<u>Management of weed- or invader plants:</u> ↓ CARA, 1983 ↓ All species regarded as Category 1 weeds according to CARA need to be eradicated from site.

f) Impact Management Actions

(A description of impact management actions, identifying the manner in which the impact management objectives and outcomes contemplated in paragraphs (c) and (d) will be achieved).

ACTIVITY whether listed or not listed	POTENTIAL IMPACT	MITIGATION TYPE	TIME PERIOD FOR IMPLEMENTATION	COMPLIANCE STANDARDS	WITH
(E.g. Excavations, blasting, stockpiles, discard dumps or dams, Loading, hauling and transport, Water supply dams and boreholes, offices, accommodation, stores, workshops, ablation, plant, storm processing, water control, berms, roads, pipelines, power lines, conveyors, etc....etc..)	(e.g. dust, noise, drainage surface disturbance, fly rock, surface water contamination, groundwater contamination, air pollution etc....etc..)	(modify, remedy, control, or stop) through (e.g. noise control measures, storm-water control, dust control, rehabilitation, design measures, blasting controls, avoidance, relocation, alternative activity etc....etc..) E.g. • Modify through alternative method. • Control through noise control • Control through management and monitoring • Remedy through rehabilitation.	Describe the time period when the measures in the environmental management programme must be implemented. Measures must be implemented when required. With regard to Rehabilitation specifically this must take place at the earliest opportunity. With regard to Rehabilitation, therefore state either: Upon cessation of the individual activity Or Upon the cessation of mining bulk sampling or alluvial diamond prospecting as the case may be.	(A description of how each of the recommendations in 2.11.6 read with 2.12 and 2.15.2 herein will comply with any prescribed environmental management standards or practices that have been identified by Competent Authorities)	
Demarcation of site with visible beacons	No impact could be identified other than the beacons being outside the boundaries of the approved processing area.	Control through management and monitoring	Beacons need to be in place throughout the life of the mine.	Processing of the waste rock/stone is only allowed within the boundaries of the approved processing area. ↓ MHSA, 1996 ↓ OHSA, 1993	
Establishment of mobile crusher and ablation infrastructure within boundaries of site.	If the infrastructure is established within the boundaries of the approved processing area no impact could be identified.	Control through management and monitoring	Site establishment and operational phase	Compliance to standards stipulated in the: ↓ MPRDA, 2008 ↓ OHSA, 1993	

STRIPPING AND STOCKPILING OF TOPSOIL	Visual impact due to removal of topsoil.	<u>Control:</u> Implementation of proper housekeeping	Throughout operational phase	<u>Land use zoning:</u> - Western Cape LUPA, 2014 - Langeberg Municipality: Land Use Planning Bylaws, 2015 - The property is zoned for agriculture as primary use.
STRIPPING AND STOCKPILING OF TOPSOIL	Loss of natural vegetation (Site Alternative 1)	<u>Control:</u> Management of buffer areas and demarcation of work areas	Throughout operational phase	<u>Negative impact on biodiversity of the area (Site Alternative 1):</u> NEM:BA, 2004
STRIPPING AND STOCKPILING OF TOPSOIL	Loss of natural vegetation (Site Alternative 2)	<u>Modify:</u> Consider use of a less sensitive area	Throughout operational phase	<u>Negative impact on biodiversity of the area (Site Alternative 2):</u> NEM:BA, 2004
STRIPPING AND STOCKPILING OF TOPSOIL	Dust nuisance caused by the disturbance of soil.	<u>Control:</u> Dust suppression	Throughout operational phase	<u>Dust Handling:</u> - NEM:AQA, 2004 Regulation 6(1) - National Dust Control Regulations, 2013
STRIPPING AND STOCKPILING OF TOPSOIL	Noise nuisance caused by machinery stripping and stockpiling the topsoil	<u>Control:</u> Noise control measures	Throughout operational phase	<u>Noise Handling:</u> - NEM:AQA, 2004 Regulation 6(1) - All project related vehicles must be in a road worthy condition in terms of the Road Transport Act, 1987
STRIPPING AND STOCKPILING OF TOPSOIL	Infestation of the topsoil heaps by weeds and invader plants.	<u>Control & Remedy:</u> Implementation of weed control and weed/invader plant management plan	Throughout operational phase	<u>Management of weed- or invader plants:</u> - CARA, 1983 - All species regarded as Category 1 weeds according to CARA need to be eradicated from site.

STRIPPING AND STOCKPILING OF TOPSOIL	Loss of topsoil due to incorrect storm water management	<u>Control:</u> Storm water management	Throughout operational phase	<u>Loss of topsoil due to incorrect storm water management:</u> ↓ CARA, 1983 ↓ NEMA, 1998 ↓ NWA, 1998 ↓ The replacement of the topsoil is of utmost importance to ensure the effective future use of the area for agricultural purposes
STRIPPING AND STOCKPILING OF TOPSOIL	Contamination of area with hazardous waste materials	<u>Control:</u> Waste management	Throughout operational phase	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u> ↓ NWA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Visual impact associated with the crushing and screening activities	<u>Control:</u> Implementation of proper housekeeping	Throughout operational phase	<u>Land use zoning:</u> ↓ Western Cape LUPA, 2014 ↓ Langeberg Municipality: Land Use Planning Bylaws, 2015 ↓ The property is zoned for agriculture as primary use.
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Dust nuisance from denuded areas	<u>Control:</u> Dust suppression	Throughout operational phase	<u>Dust Handling:</u> ↓ NEM:AQA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Noise nuisance generated by crushing activities	<u>Control:</u> Noise management	Throughout operational phase	<u>Noise Handling:</u> ↓ NEM:AQA, 2004 Regulation 6(1) ↓ All project related vehicles must be in a road worthy condition in

				terms of the Road Transport Act, 1987
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Contamination of area with hazardous waste materials	<u>Control</u> : Waste management	Throughout operational phase	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u> ↓ NWA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent groundwater contamination. The precautionary principal must apply.
CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Weeds and invader infestation of the area	<u>Control & Remedy</u> : Implementation of weed control	Throughout operational phase	<u>Management of weed- or invader plants:</u> ↓ CARA, 1983 ↓ All species regarded as Category 1 weeds according to CARA need to be eradicated from site.
LOADING AND TRANSPORTING	Dust nuisance due to loading and transportation of the material	<u>Control</u> : Dust suppression	Throughout operational phase	<u>Dust Handling:</u> ↓ NEM:QA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013
LOADING AND TRANSPORTING	Impact on the access roads	<u>Control & Remedy</u> : Road management	Throughout operational phase	<u>Degradation of the gravel access road:</u> ↓ NRTA, 1996 ↓ The gravel access road needs to be monitored for signs of degradation. Should any signs become apparent immediate rectification actions must be implemented.

LOADING AND TRANSPORTING	Contamination of area with hazardous waste materials	<u>Control:</u> Waste management	Throughout operational phase	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u> ↓ NWA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Erosion of returned topsoil after rehabilitation	<u>Control:</u> Soil management	Throughout decommissioning phase	<u>Erosion of returned topsoil after rehabilitation:</u> ↓ CARA, 1983 ↓ NEM:BA, 2004 ↓ MPRDA, 2008 ↓ The replacement of the topsoil and sloping of the area is of utmost importance to ensure the effective future use of the area for agricultural purposes. ↓ Rehabilitation cannot be considered complete until the first cover crop is well established.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Dust nuisance caused during landscaping activities	<u>Control:</u> Dust suppression	Throughout decommissioning phase	<u>Dust Handling:</u> ↓ NEM:AQA, 2004 Regulation 6(1) ↓ National Dust Control Regulations, 2013
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Noise nuisance caused by machinery	<u>Control:</u> Noise management	Throughout decommissioning phase	<u>Noise Handling:</u> ↓ NEM:AQA, 2004 Regulation 6(1) ↓ All project related vehicles must be in a road worthy condition in terms of the Road Transport Act, 1987.

SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Contamination of area with hazardous waste materials	Control: Waste management	Throughout decommissioning phase	<u>Contamination of surface or groundwater due to hazardous spills not cleaned:</u> ↓ NWA, 1998 ↓ NEM:WA, 2008 ↓ Every precaution must be taken to prevent contamination. The precautionary principal must apply.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Loss of reinstated topsoil due to the absence of vegetation	Control: Storm water management	Throughout decommissioning phase	<u>Erosion of returned topsoil after rehabilitation:</u> ↓ CARA, 1983 ↓ NEM:BA, 2004 ↓ MPRDA, 2008 ↓ The replacement of the topsoil and sloping of the area is of utmost importance to ensure the effective future use of the area for agricultural purposes. ↓ Rehabilitation cannot be considered complete until the first cover crop is well established.
SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Weeds and invader infestation of the area	Control & Remedy: Implementation of weed control	Throughout decommissioning phase	<u>Management of weed- or invader plants:</u> ↓ CARA, 1983 ↓ All species regarded as Category 1 weeds according to CARA need to be eradicated from site.

i) Financial Provision

(1) Determination of the amount of Financial Provision.

- (a) Describe the closure objectives and the extent to which they have been aligned to the baseline environment described under Regulation 22 (2) (d) as described in 2.4 herein.**

The closure objectives entail the landscaping and replacement of the topsoil over the processing area in order to rehabilitate the disturbance. The stockpiled topsoil will be spread over the disturbed area to a depth of at least 500 mm.

Final rehabilitation will entail the removal of all infrastructure and equipment from the site. Final landscaping, levelling and top dressing will be done on all areas. Control of weeds and alien invasive plant species is an important aspect after topsoil replacement and seeding has been done in an area. Site management will implement an alien invasive plant management plan during the 12 months aftercare period to address germination of problem plants in the area. The applicant will comply with the minimum closure objectives as prescribed by DMR.

- (b) Confirm specifically that the environmental objectives in relation to closure have been consulted with landowner and interested and affected parties**

This report, the Final EIAR & EMPR, includes all the environmental objectives in relation to closure and has been available for perusal by the landowner, I&AP's and stakeholders. All the comments received on the draft reports (DSR and DEIAR & EMPR) has been incorporated into the Final EIAR & EMPR.

- (c) Provide a rehabilitation plan that describes and shows the scale and aerial extent of the main mining activities, including the anticipated mining area at the time of closure.**

The requested rehabilitation plan is attached as Appendix D.

(d) Explain why it can be confirmed that the rehabilitation plan is compatible with the closure objectives.

The decommissioning phase will entail the final rehabilitation of the processing site. Final landscaping, levelling and top dressing will be done on all areas not yet rehabilitated. The rehabilitation of the processing area as indicated on the rehabilitation plan attached as Appendix D will comply with the minimum closure objectives as prescribed by DMR and detailed below, and therefore is deemed to be compatible:

1. Upon closure of the site all infrastructure and stockpiled material must be removed,
2. To ensure minimum impact on drainage, it is important that no depressions be left on the footprint area. A surface slope (even if minimal) must be maintained across the processing floor in the drainage direction, so that it will be free draining,
3. The stockpiled topsoil must then be evenly spread over the entire disturbed area to a depth of 500 mm. The depth must be monitored during spreading to ensure that coverage is adequate and even.
4. Topsoil spreading may only be done at a time of year when vegetation cover can be established as quickly as possible afterwards, so that erosion of returned topsoil by both rain and wind, before vegetation is established, is minimized. The best time of year is the end of the rainy season, when there is moisture in the soil for vegetation establishment and the risk of heavy rainfall events is minimal.
5. A cover crop must be planted and established immediately after spreading of topsoil to stabilize the soil and protect it from erosion. The cover crop must be fertilized for optimum production. It is important that rehabilitation be taken up to the point of crop stabilization. Rehabilitation cannot be considered complete until the first cover crop is well established.
6. The rehabilitated area must be monitored for erosion, and appropriately stabilized if any erosion occurs.
7. On-going alien vegetation control must keep the area free of alien vegetation after mining
8. Rehabilitation of the surface area shall entail landscaping, levelling, top dressing, land preparation, seeding (if required) and maintenance, and weed / alien clearing.

9. All infrastructure, equipment, temporary equipment and other items used during the operational phase will be removed from the site (section 44 of the MPRDA).
10. Waste material of any description, including receptacles, scrap, rubble and tires, will be removed entirely from the processing area and disposed of at a recognized landfill facility. It will not be permitted to be buried or burned on the site.
11. Weed / Alien clearing will be done in a sporadic manner during operational phase.
12. Species regarded as Category 1 weeds according to CARA (Conservation of Agricultural Recourses Act, 1983 – Act 43; Regulations 15 & 16 (as amended in March 2001) need to be eradicated from the site.
13. Final rehabilitation shall be completed within a period specified by the Regional Manager.

(e) Calculate and state the quantum of the financial provision required to manage and rehabilitate the environment in accordance with the applicable guideline.

The calculation of the quantum for financial provision was according to Section B of the working manual.

Mine type and saleable mineral by-product

According to Tables B.12, B.13 and B.14

Mine type	Rock/Stone
Saleable mineral by-product	None

Risk ranking

According to Tables B.12, B.13 and B.14

Primary risk ranking (either Table B.12 or B.13)	C (Low risk)
Revised risk ranking (B.14)	N/A

Environmental sensitivity of the mine area

According to Table B.4

Environmental sensitivity of the mine area	Low
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Level of information

According to Step 4.2:

Level of information available	Extensive
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Identify closure components

According to Table B.5 and site-specific conditions

Component No.	Main description	Applicability of closure components (Circle Yes or No)	
1	Dismantling of processing plant and related structures (including overland conveyors and power lines)		NO
2(A)	Demolition of steel buildings and structures		NO
2(B)	Demolition of reinforced concrete buildings and structures		NO
3	Rehabilitation of access roads		NO
4(A)	Demolition and rehabilitation of electrified railway lines		NO
4(B)	Demolition and rehabilitation of non-electrified railway lines		NO
5	Demolition of housing and facilities		NO
6	Opencast rehabilitation including final voids and ramps		NO
7	Sealing of shafts, adits and inclines		NO
8(A)	Rehabilitation of overburden and spoils		NO
8(B)	Rehabilitation of processing waste deposits and evaporation ponds (basic, salt-producing)		NO
8(C)	Rehabilitation of processing waste deposits and evaporation ponds (acidic, metal-rich)		NO
9	Rehabilitation of subsided areas		NO
10	General surface rehabilitation, including grassing of all denuded areas	YES	
11	River diversions		NO
12	Fencing		NO
13	Water management (Separating clean and dirty water, managing polluted water and managing the impact on groundwater)		NO
14	2 to 3 years of maintenance and aftercare		NO

Unit rates for closure components

According to Table B.6, master rates and multiplication factors for applicable closure components.

Component No.	Main description	Master rate	Multiplication factor
1	Dismantling of processing plant and related structures (including overland conveyors and power lines)		
2(A)	Demolition of steel buildings and structures		
2(B)	Demolition of reinforced concrete buildings and structures		
3	Rehabilitation of access roads		
4(A)	Demolition and rehabilitation of electrified railway lines		
4(B)	Demolition and rehabilitation of non-electrified railway lines		
5	Demolition of housing and facilities		
6	Opencast rehabilitation including final voids and ramps		
7	Sealing of shafts, adits and inclines		
8(A)	Rehabilitation of overburden and spoils		
8(B)	Rehabilitation of processing waste deposits and evaporation ponds (basic, salt-producing)		
8(C)	Rehabilitation of processing waste deposits and evaporation ponds (acidic, metal-rich)		
9	Rehabilitation of subsidied areas		
10	General surface rehabilitation , including grassing of all denuded areas	105 842	1
11	River diversions		
12	Fencing		
13	Water management (Separating clean and dirty water, managing polluted water and managing the impact on groundwater)		
14	2 to 3 years of maintenance and aftercare		

Determine weighting factors

According to Tables B.7 and B.8

Weighting factor 1: Nature of terrain/accessibility	1.00
Weighting factor 2: Proximity to urban area where goods and services are to be supplied	1.05

Calculation of closure costs

Table B.10 Template for Level 2: "Rules-based" assessment of the quantum for financial provision

CALCULATION OF THE QUANTUM									
Mine:	Portion 3 of the farm Klaas Voogds Rivier 37				Location:		Robertson		
Evaluators:	C Fouche				Date:		2016-05-07		
No	Description	Unit	A Quantity	B Master rate	C Multiplication factor	D Weighting factor 1	E=A *B*C*D Amount (Rand)		
			Step 4.5	Step 4.3	Step 4.3	Step 4.4			
1	Dismantling of processing plant and related structures (including overland conveyors and power lines)	m ³	0	14	1	1	R 0.00		
2(A)	Demolition of steel buildings and structures	m ²	0	191	1	1	R 0.00		
2(B)	Demolition of reinforced concrete buildings and structures	m ²	0	282	1	1	R 0.00		
3	Rehabilitation of access roads	m ²	0	34	1	1	R 0.00		
4(A)	Demolition and rehabilitation of electrified railway lines	m	0	332	1	1	R 0.00		
4(B)	Demolition and rehabilitations of non-electrified railway lines	m	0	181	1	1	R 0.00		
5	Demolition of housing and/or administration facilities	m ²	0	383	1	1	R 0.00		
6	Opencast rehabilitation including final voids and ramps	ha	0	200 415	0.04	1	R 0.00		
7	Sealing of shaft, audits and inclines	m ³	0	103	1	1	R 0.00		
8(A)	Rehabilitation of overburden and spoils	ha	0	133 610	1	1	R 0.00		
8(B)	Rehabilitation of processing waste deposits and evaporation ponds (basic, salt-producing waste)	ha	0	166 408	1	1	R 0.00		
8(C)	Rehabilitation of processing waste deposits and evaporation ponds (acidic, metal-rich waste)	ha	0	483 329	0.51	1	R 0.00		
9	Rehabilitation of subsided areas	ha	0	111 878	1	1	R 0.00		
10	General surface rehabilitation	ha	4.9	105 842	1	1	R 518 625.80		
11	River diversions	ha	0	105 842	1	1	R 0.00		

12	Fencing	m	0	121	1	1	R 0.00
13	Water Management	ha	0	40 244	0.17	1	R 0.00
14	2 to 3 years of maintenance and aftercare	ha	0	14 085	1	1	R 0.00
15(A)	Specialists study	Sum	0				R 0.00
15(B)	Specialists study	Sum	0				R 0.00
Sum of items 1 to 15 above							
Multiply Sum of 1-15 by Weighting factor 2 (Step 4.4)		1.05		R 518 625.80	Sub Total 1		R 544 557.09

1	Preliminary and General	6% of Subtotal 1 if Subtotal 1 < R100 000 000.00	R 32 673.43
2	Contingency	12% of Subtotal 1 if Subtotal 1 > R100 000 000.00	-
		10.0% of Subtotal 1	R 54 455.71
	Sub Total 2		
		(Subtotal 1 plus management and contingency)	R 631 686.22
		Vat (14%)	R 88 436.07
	GRAND TOTAL		
		(Subtotal 3 plus VAT)	R 720 122.30

The amount that will be necessary for the rehabilitation of damages caused by the operation, both sudden closures during the normal operation of the project and at final, planned closure gives a sum total of R 720 122.30.

(f) Confirm that the financial provision will be provided as determined.

Herewith I, the person, whose name is stated below confirm that I am the person authorised to act as representative of the applicant in terms of the resolution submitted with the application. I herewith confirm that the company will provide the amount that will be determined by the Regional Manager in accordance with the prescribed guidelines.

Mechanisms for monitoring compliance with and performance assessment the environmental management programme and reporting thereon, including

- g) Monitoring of Impact Management Actions
- h) Monitoring and reporting frequency
- i) Responsible persons
- j) Time period for implementing impact management actions
- k) Mechanism for monitoring compliance

SOURCE ACTIVITY	IMPACTS REQUIRING MONITORING PROGRAMMES	FUNCTIONAL REQUIREMENTS FOR MONITORING	ROLES AND RESPONSIBILITIES (FOR THE EXECUTION OF THE MONITORING PROGRAMMES)	MONITORING AND REPORTING FREQUENCY and TIME PERIODS FOR IMPLEMENTING IMPACT MANAGEMENT ACTIONS
Demarcation of site with visible beacons	Maintenance of beacons	↓ Visible beacons need to be established at the corners of the processing area. ↓ A 20 m buffer area (if applicable) from any natural areas need to be demarcated. ↓ A 30 m buffer area from a watercourse needs to be demarcated if applicable.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer. Role: ↓ Ensure beacons are in place throughout the life of the activity.	Throughout Operational Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.
Establishment of mobile crusher and ablation infrastructure within boundaries of site.	↓ All infrastructure to be established inside the boundaries of the processing area. ↓ Waste monitoring programme to be implemented	↓ Crushing infrastructure and chemical toilet to be placed inside the boundaries of the approved area. ↓ Waste disposal spreadsheets to be completed throughout operational phase and proof of safe disposal filed for auditing purposes.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer.	Throughout Construction Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.

			Role: ↓ Contain all activities to the approved boundaries of the area. ↓ Ensure proper waste management at the site.	
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Monitoring of visual impacts	↓ Ensure that the site have a neat appearance and is kept in good condition at all times. ↓ Limit the height of the stockpiles to 3 m to minimize the visual impact on the surrounding environment. ↓ Remove all infrastructure upon rehabilitation of the processing area and return the area to its prior status.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer. Role: ↓ Minimize the visual impact of the activity on the surrounding environment.	Throughout Operational Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & LOADING AND TRANSPORTING & SLOPING, LANDSCAPING AND REPLACEMENT OF	Dust Monitoring: ↓ The dust generated by the processing activities must be continuously monitored, and addressed by the implementation of dust suppression methods.	Dust Handling and Monitoring: ↓ Dust suppression equipment such as a water car and water dispenser. The applicant already has this equipment available.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer. Role: ↓ Control the liberation of dust into the surrounding environment by the use of; inter alia, water spraying and/or other dust-allaying agents. ↓ Add water sprayers to the crushing infrastructure to control dust emissions from conveyor belts. ↓ Dampen the stockpiles during periods of high wind spells. ↓ Assess effectiveness of dust suppression equipment.	Throughout Construction, Operational and Decommissioning Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.

TOPSOIL OVER DISTURBED AREA			- Limit speed on the access roads to 40km/h to prevent the generation of excess dust. - Spray gravel roads with water or an environmentally friendly dust-allaying agent that contains no PCB's (e.g. DAS products) if dust is generated above acceptable limits. - Implement fallout dust monitoring to ensure compliance with the National Dust Control Regulations, 2013.	
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Noise Monitoring The noise impact should be contained within the boundaries of the property, as it will represent the current activities.	Noise Handling and Monitoring: - Site manager to ensure that the vehicles are equipped with silencers and maintained in a road worthy condition. - Compliance with the appropriate legislation with respect to noise will be mandatory.	Responsibility: - Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. - Compliance to be monitored by the Environmental Control Officer. Role: - Limit all crushing and screening activities to daylight hours. - No crushing or screening allowed over Sundays. - Ensure that employees and staff conduct themselves in an acceptable manner while on site. - No loud music may be permitted at the processing area. - Ensure that all project related vehicles are equipped with silencers and maintained in a road worthy condition in terms of the Road Transport Act. - Conduct a noise impact study if complaints with regard to boundary noise are received.	Throughout Construction, Operational and Decommissioning Phase - Daily compliance monitoring by site management. - Annual compliance monitoring of site by an Environmental Control Officer.

STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Management of weed or invader plants ↓ The presence of weed and/or invader plants must be continuously monitored, and any unwanted plants must be removed.	Management of weed or invader plants: ↓ Removal of weeds must be manually or by the use of an approved herbicide.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer. Role: ↓ Implement a weed and invader plant management plan. ↓ Control declared invader or exotic species on the rehabilitated areas. ↓ Keep the temporary topsoil stockpiles free of weeds.	Throughout Decommissioning Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.
STRIPPING AND STOCKPILING OF TOPSOIL & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Topsoil management	Topsoil Handling: ↓ Excavating equipment to remove the first 500 mm of topsoil from the proposed work areas. The applicant already has this equipment available. ↓ Berms to be made to direct storm- and runoff water around the stockpiled topsoil area.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer. Role: ↓ Strip and stockpile the upper 500 mm of the soil and protect as topsoil. ↓ Remove topsoil at right angles to the slope to slow down surface runoff and prevent erosion. ↓ Conduct topsoil stripping, stockpiling and re-spreading in a systematic way. ↓ Ensure topsoil is stockpiled for the minimum possible time. ↓ Protect topsoil stockpiles against losses by water and wind erosion through the establishment of plants on the stockpiles.	Throughout Construction, Operational and Decommissioning Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.

			- Topsoil heaps may not exceed 1.5 m in order to preserve microorganism within the topsoil. - Conduct the activity in accordance with the Best Practice Guideline for small-scale mining as stipulated by DWS.	- Throughout Construction, Operational and Decommissioning Phase - Daily compliance monitoring by site management. - Annual compliance monitoring of site by an Environmental Control Officer.
STRIPPING AND STOCKPILING OF TOPSOIL	Loss of natural vegetation	Management of buffer areas: Site management has to ensure the use of visible beacons to demarcate the boundaries of the approved area.	Responsibility: - Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. - Compliance to be monitored by the Environmental Control Officer. Role: - Contain all activities within the boundaries of the approved processing area. - Demarcate, signpost and manage the 20 m buffer area as no-go area around areas with natural vegetation. - Do not dump any cleared vegetation, alien species or other in areas containing indigenous vegetation.	Throughout Construction, Operational and Decommissioning Phase - Daily compliance monitoring by site management. - Annual compliance monitoring of site by an Environmental Control Officer.
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & LOADING AND TRANSPORTING	Protection of fauna	Protection of fauna: Site management has to protect fauna that enters the processing area.	Responsibility: - Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. - Compliance to be monitored by the Environmental Control Officer. Role: - Ensure no fauna is caught, killed, harmed, sold or played with. - Instruct workers to report any animals that may be trapped in the working area.	Throughout Construction, Operational and Decommissioning Phase - Daily compliance monitoring by site management. - Annual compliance monitoring of site by an Environmental Control Officer.

STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & LOADING AND TRANSPORTING & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Waste Management: - Management of waste must be a daily monitoring activity. - Hydrocarbon spills need to be cleaned immediately and the site manager must check compliance daily.	Waste Management: - Closed containers for the storage of general of hazardous waste until waste is removed to the appropriate landfill site. - A hydrocarbon spill kit to enable sufficient cleanup of contaminated areas. - Drip trays must be available to place underneath equipment parked for the night. - Should a vehicle have a break down, it must be decommissioned immediately and removed from site to be serviced. - Waste disposal register and file for the keeping of safe disposal records.	↓ Ensure no snares are set or nests raided for eggs or young.	Responsibility: - Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. - Compliance to be monitored by the Environmental Control Officer. Role: - Ensure that no pollution of surface water or groundwater resources occur due to the activity. - Prevent storm water from any premises containing waste, or water containing waste emanating from industrial activities and premises discharging into a water resource. Contain polluted storm water. - Ensure regular vehicle maintenance only take place within the service bay area of the off-site workshop. If emergency repairs is needed on site ensure drip trays is present. Ensure all waste products are disposed of in a 200 liter closed container/bin inside the emergency service area. - Collect any effluents containing oil, grease or other industrial substances in a suitable receptacle and removed from the site, either for resale or for appropriate disposal at a recognized facility. - Clean spills immediately to the satisfaction of the Regional Manager by removing the spillage together with the polluted soil and by disposing of them at a recognized facility. File proof. Throughout Decommissioning Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.
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			↓ Ensure the availability of suitable covered receptacles at all times and conveniently placed for the disposal of waste. ↓ Store non-biodegradable refuse such as glass bottles, plastic bags, metal scrap, etc., in a container with a closable lid at a collecting point. Collection must take place on a regular basis and waste must be disposed of at the recognized landfill site at Robertson. Prevent refuse from being dumped on or near the processing area. ↓ Biodegradable refuse to be handled as indicated above.		
LOADING AND TRANSPORTING	Management of Access Roads ↓ The condition of the access road must be continuously monitored.	Management of Access Roads: ↓ Dust suppression equipment such as a water car and dispenser. ↓ Grader to restore the road surface when needed.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer. Role: ↓ Divert storm water around the access roads to prevent erosion. ↓ Restrict vehicular movement to existing access routes to prevent crisscrossing of tracks through undisturbed areas. ↓ Repair rutting and erosion of the access roads caused by the processing activities.	Throughout Construction, Operational and Decommissioning Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.	
	Soil erosion: ↓ Loss of reinstated topsoil after rehabilitation.	Erosion monitoring: ↓ Grader to restore areas prone to soil erosion. ↓ Planting of a cover crop to stabilize re-instated soil ↓ Erosion prevention equipment.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPr. ↓ Compliance to be monitored by the Environmental Control Officer.	Throughout Construction, Operational and Decommissioning Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.	

			Role: - Control run-off water via temporary banks to ensure that accumulation of run-off does not cause down-slope erosion. - Only do topsoil spreading at a time of year when vegetation cover can be established as quickly as possible afterwards, so that erosion of returned topsoil by both rain and wind is minimized. The best time of year is at the end of the rainy season, when there is moisture in the soil for vegetation establishment and the risk of heavy rainfall events is minimal. - Plant a cover crop immediately after spreading of topsoil, to stabilize the soil and protect it from erosion. Fertilize the cover crop for optimum production. - Ensure rehabilitation be taken up to the point of cover crop stabilization. Rehabilitation must not be considered complete until the first cover crop is well established. - Monitor all rehabilitated areas for erosion, and appropriately stabilized if any erosion occurs.	
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE	Health and safety risk	Health and safety Management: - Stocked first aid box. - Level 1 certified first aider - All appointments in terms of the Mine Health and Safety Act.	Responsibility: - Site Manager to ensure compliance with the guidelines as stipulated in the EMPR. - Compliance to be monitored by the Environmental Control Officer. Role: - Ensure workers have access to the correct personal protection equipment (PPE) as required by law.	Throughout Construction, Operational and Decommissioning Phase - Daily compliance monitoring by site management. - Annual compliance monitoring of site by an Environmental Control Officer.

& LOADING AND TRANSPORTING & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA			↓ Manage all operations in compliance with the Occupational Health and Safety Act as well as the Mine Health and Safety Act. ↓ Ensure the water provided for domestic use / human consumption comply with the SANS 241:2001 guidelines for drinking water. Regularly monitor to ensure compliance and inform the BGCMA and DoH if rectification measures was needed. ↓ Ensure a buffer area of at least 100 m or above the 1:100 year flood line from the edge of any watercourse whether permanent or non-permanent is maintained when installing any type of sewerage disposal system.	
STRIPPING AND STOCKPILING OF TOPSOIL & CRUSHING AND SCREENING OF STOCKPILED ROCK/STONE & LOADING AND TRANSPORTING & SLOPING, LANDSCAPING AND REPLACEMENT OF TOPSOIL OVER DISTURBED AREA	Protection of Cultural and Heritage Artefacts	Should any artefacts be discovered the area needs to be demarcated and work needs to be stopped.	Responsibility: ↓ Site Manager to ensure compliance with the guidelines as stipulated in the EMPt. ↓ Compliance to be monitored by the Environmental Control Officer. Role: ↓ Immediately stop work should any evidence of human burials or other heritage artefact be discovered during the execution of the activities. ↓ Notify Heritage Western Cape (HWC) and the ECO immediately. ↓ Work may only commence once the area was cleared by HWC.	Throughout Construction, Operational and Decommissioning Phase ↓ Daily compliance monitoring by site management. ↓ Annual compliance monitoring of site by an Environmental Control Officer.

l) Indicate the frequency of the submission of the performance assessment report.

The Mineral and Petroleum Resources Development Regulations stipulates that performance assessment reporting should be done annually. The applicant commits to submitting the performance assessment reports of the proposed processing activity annually to DMR for perusal. These performance assessments will be done in compliance with the provisions of Regulation 34 of the NEMA EIA Regulations, 2014 pertaining to auditing of environmental authorisation and associated documents.

m) Environmental Awareness Plan

(1) Manner in which the applicant intends to inform his or her employees of any environmental risk which may result from their work.

Once the processing activity starts, a copy of the Environmental Management Programme will be handed to the site manager during the site establishment meeting. Issues such as topsoil handling, site clearance, fire principals and hazardous waste handling will be discussed.

An induction meeting will be held with all the site workers to inform them of the Basic Rules of Conduct with regard to the environment.

(2) Manner in which risks will be dealt with in order to avoid pollution or the degradation of the environment.

The operations manager must ensure that he/she understands the EMPr document and its requirement and commitments before any activity takes place. An Environmental Control Officer needs to check compliance of the processing activities to the management programmes described in the EMPr.

The following list represents the basic steps towards environmental awareness, which all participants in this project must consider whilst carrying out their tasks.

✚ Site Management:

- Stay within boundaries of site – do not enter adjacent properties
- Keep tools and material properly stored
- Smoke only in designated areas
- Use toilets provided – report full or leaking toilets

✦ **Water Management and Erosion:**

- Check that rainwater flows around work areas and are not contaminated
- Report any erosion
- Check that dirty water is kept from clean water

✦ **Waste Management:**

- Take care of your own waste
- Keep waste separate into labelled containers – report full bins
- Place waste in containers and always close lid
- Don't burn waste
- Pick-up any litter laying around

✦ **Hazardous Waste Management (Petrol, Oil, Diesel, Grease)**

- Never mix general waste with hazardous waste
- Use only sealed, non-leaking containers
- Keep all containers closed and store only in approved areas
- Always put drip trays under vehicles and machinery
- Empty drip trays after rain
- Stop leaks and spills, if safe
 - Keep spilled liquids moving away
 - Immediately report the spill to the site manager/supervision
 - Locate spill kit/supplies and use to clean-up, if safe
 - Place spill clean-up wastes in proper containers
 - Label containers and move to approved storage area

✦ **Discoveries:**

- Stop work immediately
- Notify site manager/supervisor
- Includes – Archaeological finds, Cultural artefacts, Contaminated water, Pipes, Containers, Tanks and drums, Any buried structures

✦ **Air Quality:**

- Wear protection when working in very dusty areas
- Implement dust control measures:
 - Water all roads and work areas
 - Minimize handling of material
 - Obey speed limit and cover trucks

✦ **Driving and Noise:**

- Use only approved access roads
- Respect speed limits
- Only use turn-around areas – no crisscrossing through undisturbed areas
- Avoid unnecessary loud noises
- Report or repair noisy vehicles

✦ **Vegetation and Animal life:**

- Do not remove any plants or trees without approval of the site manager
- Do not collect fire wood
- Do not catch, kill, harm, sell or play with any animal, reptile, bird or amphibian on site
- Report any animal trapped in the work area
- Do not set snares or raid nests for eggs or young

✦ **Fire Management:**

- Do not light any fires on site, unless contained in a drum at demarcated area
- Put cigarette butts in a rubbish bin
- Know the position of firefighting equipment
- Report all fires
- Don't burn waste or vegetation

(3) Specific information required by the Competent Authority

(Among others, confirm that the financial provision will be reviewed annually).

The applicant undertakes to annually review and update the financial provision calculation, upon which it will be submitted to DMR for review and approved as being sufficient to cover the environmental liability at the time and for closure of the project at that time.

2) UNDERTAKING

The EAP herewith confirms

- a) the correctness of the information provided in the reports ☒
- b) the inclusion of comments and inputs from stakeholders and I&AP's; ☒
- c) the inclusion of inputs and recommendations from the specialist reports where relevant; ☒ and
- d) the acceptability of the project in relation to the finding of the assessment and level of mitigation proposed; ☒

-END-

ENVIRONMENTAL IMPACT STATEMENT

Taking the assessment of potential impacts into account, herewith please receive an environmental impact statement that summarises the impact that the proposed activity may have on the environment after the management and mitigation of impacts have been taken into account, with specific reference to types of impact, duration of impacts, likelihood of potential impacts actually occurring and the significance of impacts.

<u>TYPE OF IMPACT</u>	<u>DURATION</u>	<u>LIKELIHOOD</u>	<u>SIGNIFICANCE</u>
<u>Stripping and Stockpiling of Topsoil:</u> ✚ Visual intrusion associated with the establishment of the processing area, ✚ Loss of natural vegetation (Site Alternative 1) ✚ Loss of natural vegetation (Site Alternative 2) ✚ Dust nuisance caused by disturbance of soil, ✚ Noise nuisance caused by machinery stripping and stockpiling the topsoil, ✚ Infestation of the topsoil heaps by weeds and invader plants, ✚ Loss of topsoil due to incorrect storm water management, ✚ Contamination of area with hydrocarbons or hazardous waste materials.	Site establishment phase	Low Possibility Low Possibility Definite Possible Low Possibility Low Possibility Low Possibility Low Possibility	Low-Medium Concern Low Concern Medium Concern Low – Medium Concern Low Concern Low Concern Low – Medium Concern Low – Medium Concern
<u>Crushing and Screening of Stockpiled Rock/Stone:</u> ✚ Visual intrusion associated with the crushing and screening activities, ✚ Dust nuisance due to crushing activities, ✚ Noise nuisance generated by crushing activities, ✚ Contamination of area with hydrocarbons or hazardous waste materials, ✚ Weeds an invader plant infestation of the area.	Duration of operational phase (7 years maximum)	Definite Low Possibility Possible Low Possibility Low Possibility	Medium Concern Low Concern Low-Medium Concern Low Concern Low Concern
<u>Loading and Transporting:</u> ✚ Dust nuisance due to vehicles transporting the material, ✚ Impact on the access roads, ✚ Contamination of area with hydrocarbons or hazardous waste materials.	Duration of operational phase (7 years maximum)	Possible Low Possibility Low Possibility	Low – Medium Concern Low-Medium Concern Low Concern

<u>Sloping and Landscaping upon Closure of the Site:</u> ↓ Soil erosion, ↓ Dust nuisance caused during landscaping activities, ↓ Noise nuisance caused by machinery, ↓ Contamination of area with hydrocarbons or hazardous waste materials.	Decommissioning Phase	Low Possibility Low Possibility Low Possibility Low Possibility	Low Concern Low Concern Low Concern Low Concern
<u>Replacing of Topsoil and Rehabilitation of Disturbed Area:</u> ↓ Loss of reinstated topsoil due to the absence of vegetation, ↓ Infestation of the area by weeds and invader plants.	Decommissioning Phase	Low Possibility Low Possibility	Low Concern Low Concern

REHABILITATION PLAN FOR THE PROPOSED PROCESSING PLANT ON PORTION 3 OF THE FARM KLAAS VOOGDS RIVIER 37, ROBERTSON,
WESTERN CAPE PROVINCE

REFERENCE NUMBER: WC 30/5/1/3/2/10100MP



Upon rehabilitation of the site, all the infrastructure used during the operational phase will be removed. All stockpiles will be removed and the footprint area will be levelled. Compacted areas will be ripped if necessary. The stockpiled topsoil will be returned over the processing area and a cover crop will be planted to prevent soil erosion.

7. RECOMMENDATIONS

RECOMMENDATIONS

The following is recommended:

Buffer zones

- The areas to be cleared as well as the construction area should be clearly demarcated. This includes the demarcation of the 10m and 32m buffer zones;
- On the Donker Mountain side, a 10m buffer (red line) must be in place to protect the Breede Shale Renosterveld on the footslope of the mountain,
- On the lower edge of the 10m buffer zone, a retaining wall of gabions must be constructed to stabilise the soil and slope from erosion;
- On the Martiensvlei stream side, a 32m buffer (red line) must be in place as required by the Water Act. This is to protect the integrity of the aquatic system;
- The 10m buffer zone (yellow line) closer to the Martiensvlei stream must be a no-go for agricultural activities as well. Large parts of it, is currently used as an access road. This dirt road must shift to a position outside the 10m buffer zone and the old road must be ripped and rehabilitated to restore some of the natural riparian vegetation. These measures must be in place to protect the banks of the Martiensvlei stream.

Flora

- Weed control measures must be applied to eradicate any noxious weeds (category 1a & 1b species) on disturbed areas.

Fauna

- All construction vehicles should adhere to a low speed limit (<30km/h) to avoid collisions with susceptible species such as snakes and tortoises.
- If trenches need to be dug for removal of stones and rock, these should not be left open for extended periods of time as fauna may fall in and become trapped in them. Trenches which are exposed should contain soil ramps allowing fauna to escape the trench.

General

- Preconstruction environmental induction for all construction staff on site to ensure that basic environmental principles are adhered to;
- All construction vehicles should adhere to clearly defined and demarcated roads;
- Dust suppression and erosion management should be an integrated component of the construction approach;
- No dumping of building waste or spoil material from the development should take place on areas other than a licenced landfill site;
- All hazardous materials should be stored appropriately to prevent contamination of the project site. Any accidental chemical, fuel and oil spills that occur at the project site should be cleaned up appropriately as related to the nature of the spill;



BUITENVERWACHT

An assessment of the mining potential of the soils and the effect of the mining actions on the agricultural potential of the soils.

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1. Introduction.

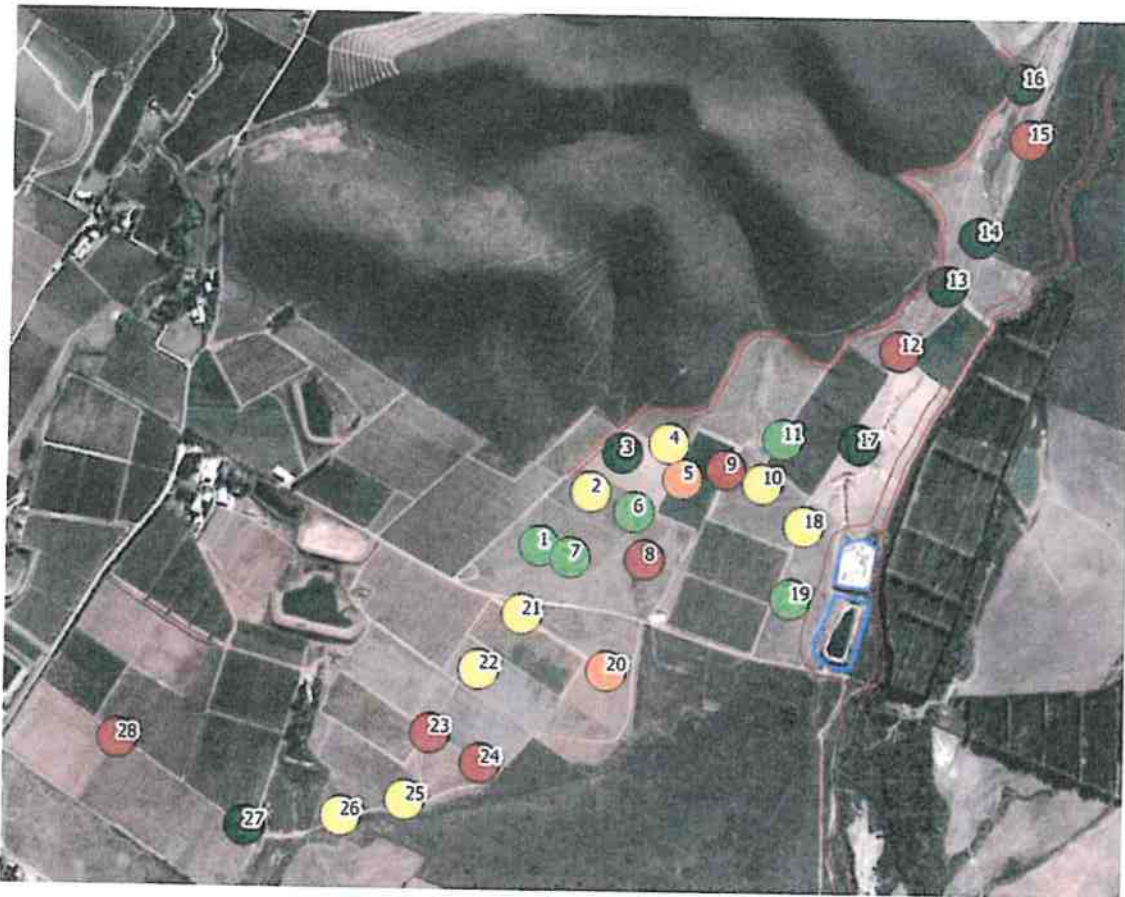
This report forms part of the application for the Rezoning of Portions 47 & 49 of the farm Klaas Voogds Rivier.

The soil report was compiled to address the questions and concerns from the Department of Agriculture as raised by Mr Cor van der Walt in his letter dated 19 September 2017. The excerpt below contains the list of questions.

In order for the WCDOA to assess the impact of this application on agricultural soil potential the following questions will need to be answered:

- a) Delineate the exact boundaries of the mineable area and depth on portion 49 of Farm no 37, Robertson by means of a soil potential study on a 7m x 75 m grid.
- b) What is the soil potential for the mining area before mining for various climatic suited crops (wine grapes, stone fruit, citrus, kooem, perennial pastures) both for dry land and under irrigation?
- c) What will the potential be after rehabilitation for the various crops as mentioned in a) and what is the production potential of the gravel dust vs the current soil conditions?
- d) What will be the risks for agriculture after rehabilitation with regards accumulation of water/saturated conditions, salination, and crop production in general specifically taking the production potential after rehabilitation into account?
- e) Discuss the potential of the soil before mining and after rehabilitation with regards Cation Exchange Capacity (CEC), water retention capacity (plant, soil and water interaction).
- f) The soil scientist should also indicate what mining and rehabilitation process must be followed to better or at least achieve the same soil potential and how maintain the potential taking into account crop requirements and soil-water and plant interaction.
- g) Propose a protection plan to prevent any degradation of the soil profile and or soil potential (erosion, sedimentation, saturation etc) as well as the protection of natural drainage systems as a result of slitting/erosion.
- h) Collate information regarding the project in terms of time and volume/area to be mined as to indicate the scale and context of what are possible vs assumed.
- i) Confirm the available registered water for Portion 49.
- j) It is further expected from the soil scientist to add to the above list where applicable.

Figure 1. Google Earth Image of Portions 47, 48 & 49 Klaas Voogds Rivier no 37, Robertson showing the position of the soil pits.



2. Current Farming Operation

The farm is planted with wine grapes (6,5ha with 5ha to be planted in 2018), plums (18,5ha), peaches (6ha), nectarines (2ha), pears (4ha with 4 ha to be planted in 2018) and apricots (6,5ha). These blocks are under drip or micro irrigation. The fruit are exported, while the grapes are delivered to Ashton Winery.

There is also 48ha under a 4yr tomato-pasture rotation. On average 12ha of tomatoes are planted every year. Rainfall permitting, the fallow fields are planted with fodder crops e.g. oats and serradella. There is not enough water to irrigate the pastures thus the dryland option.

3. Soil Potential

A soil's agricultural potential is determined by its physical and chemical characteristics and to what extent it is able to support the intended crop. The root zone should be well drained, not compacted and chemically suited to the nutrient requirements of the crops. The potential is also influenced by the availability of water for irrigation.

In a dry area such as Robertson, rooting depth and water holding capacity are the 2 most important parameters to be considered in the determination of the soil potential.

Vineyards and orchards require a minimum soil depth of 80cm to ensure an adequate volume to sustain a good root system. For tomatoes a depth of 60cm is adequate for a good root volume.

Clay and silt particles and the micro pores they create within the soil profile, are mainly responsible for the water holding capacity of the soil. Stones are inert and does not contribute to the water holding capacity. Thus, the higher the stone content of a soil, the lower the water holding capacity. A high stone content also influences the water distribution pattern within the soil. Water finds channels around the stones and quickly peculates down instead of spreading and creating a bigger wet zone within the root zone.

Based on the profile holes that were made, there are no high potential soils in the area of the farm covered by this investigation.

The soils with a high stone content can be classified as medium to medium low potential for orchards and tomatoes. The more stone, the lower the potential. The main reasons for this are the poor water holding capacity of the soil and poor water distribution through the profile. These attributes impact on management to the extent that in order to be successful very good irrigation scheduling is required to maintain optimal moisture levels in the root zone. During the peak summer months this is very difficult as the climatic conditions are harsh and the crop's water demand is high.

Soils where the clay layer is shallow, does not have a large enough root zone to sustain permanent crops or tomatoes, and can thus be classified as low potential. Although these soils could be used for pastures, not enough water is available for permanent irrigation and they can only be planted to winter cover crops e.g. oats.

Figure 2. Soil profiles as examples of the soil potential.

Medium to medium low potential soil	Low potential soil
	
Profile 3. A deep stone layer making irrigation scheduling very difficult	Profile 24. The soil is too shallow for the cultivation of permanent crops

The table below gives an indication of the effect of high stone content on production volumes for peaches and tomatoes on the farm.

Table 1. Production records for some crops on very stony soils vs soils with less stone

Crop	Stony soil	Less stony soil
Peaches (2017)	16t/ha (Block C11)	21t/ha (Block C14)
Peaches (2017)	31t/ha (Block C7)	44t/ha (Block C1)
Tomatoes (average over time)	20 – 60t/ha	80 – 120t/ha

4. The Effect of Mining on Soil Potential

The crusher dust roughly equates to 30 - 40% of the original mined volume. It is composed of sand, silt, clay and stones <13mm. The ratios of the components will vary depending on the position in the landscape. As the water holding capacity of the soil is negatively affected by increasing amounts of stone, the crusher dust would therefore have a much higher water holding capacity than the original soil before mining. A poor water holding capacity was one of the main reasons for the low soil potential and thus the poor crop performance as discussed earlier.

According to the proposed mining procedures, the crusher dust must be returned to the area where it was mined. It must be placed on top of the stone layer left for drainage (40cm) and covered with the topsoil that was removed before the mining of the stone layer. Once the mining in a particular area has been completed, the soil must be prepared for the crop to be established. This would require a mixing action with an excavator to mix the drainage layer, crusher dust and topsoil to create a uniform root zone.

As a large percentage of the stone has been removed from the profile, the ratios between the clay, silt and stone have changed and proportionally more clay and silt are present in the profile. The water holding capacity of the “new root zone” will thus be higher than originally.

The extent to which the water holding capacity will increase will depend on the depth and percentage stone of the mined layer and the texture thereof. The larger presence of finer particles in the profile, will also improve the pattern of water distribution within the profile.

If the mining operation is managed according to the guidelines provided in this document, the operations will result in an increase in the soils’ water holding capacity and thus in the soils’ agricultural potential.

5. Methodology

To gather the required information 28 profile pits were dug in the areas to be investigated. Digging pits on a 75m x 75m grid, as requested, was not possible as a large % of the land is planted to orchards and vineyards. Furthermore, some of the profile pits exceeded a depth of 4m and resulted in big disturbances of the soil surface. See the images in Figure 2.

All the profiles were GPS referenced and photographed. The photographs are included at the end of the report.

For each profile, the depth was recorded and the % stone was estimated. This information was used to calculate the quantity of mineable stone for each pit. This data is presented in Table 1.

Figure 3. Photographs reflecting the scale of some of the profile pits.



6. Determining the Movable Quantity of Stone

To determine the movable quantity of stone, the following calculations were made:

Mineable depth of stone layer = Total Depth of stone layer – 40cm topsoil – 40cm drainage layer above the clay

Mineable volume of stone m³/ha = Mineable depth (m) x Estimated % stone x 10 000m²

Table 2. Description of Mining Potential

Mining Potential		
Estimated Volume of Stone (m ³ /ha)	Mining Potential	Color on Mining Potential Map
<1000	1	RED
1000-2500	2	ORANGE
2500-7500	3	YELLOW
7500-12500	4	LIGHT GREEN
>12500	5	DARK GREEN

Table 3. Calculation of minable stone volumes

(Thickness of mineable stone layer in meter) x (100m x 100m which is 1ha surface area) x (%stone in profile)

Profile no	Depth to Clay cm	% Stone	Thickness of Movable Stone Layer cm	Estimated Volume of Stone m ³ /ha	Mining Potential
1	200	70%	120	8400	4
2	140	65%	60	3900	3
3	300	80%	220	17600	5
4	140	65%	60	3900	3
5	100	60%	20	1200	2
6	260	65%	180	11700	4
7	220	55%	140	7700	4
8	100	45%	20	900	1
9	80	40%	0	0	1
10	140	55%	60	3300	3
11	200	70%	120	8400	4
12	80	40%	0	0	1
13	260	75%	180	13500	5
14	>400	75%	>320	24000	5
15	40	20%	0	0	1
16	>400	75%	>320	24000	5
17	240	80%	160	12800	5
18	180	65%	100	6500	3
19	220	80%	140	11200	4
20	120	35%	40	1400	2
21	160	60%	80	4800	3
22	140	60%	60	3600	3
23	80	70%	0	0	1
24	80	10%	0	0	1
25	140	80%	60	4800	3
26	120	80%	40	3200	3
27	300	90%	220	19800	5
28	140	10%	60	600	1

Figure 5. Map Area indicating the Mining Potential



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7. Lifespan of the Mining Operation

The current **operation** has the capacity to crush and screen 40 m³/h of stone. This amounts to 40 x 8h x 5days = **1600m³/week** and 76 800m³/yr. (48 working weeks).

As this is a low impact mining operation on land used primarily for farming, it is clear from the info in Table 3 that there is enough stone to sustain the mining operation for many years into the future.

8. The Crushing Operation

The plant produces 3products, more or less in equal volumes. The ratios are **dependent** on the composition of the stone layers that are mined, but over time it averages out to very close to equal volumes. The 3 products are:

25 – 19mm gravel

19 – 13mm gravel

<13mm “crusher dust”

The first 2 products are sold, but the crusher dust is returned to the area from which it was mined. Thus, 30 - 40% of the mined soil is replaced. During the post mining rehabilitation soil preparation, this crusher dust is mixed with the drainage layer and topsoil, to create a homogenous growing medium for plant roots.

Figure 6. The three products separated by the screens, after the stones have been crushed.

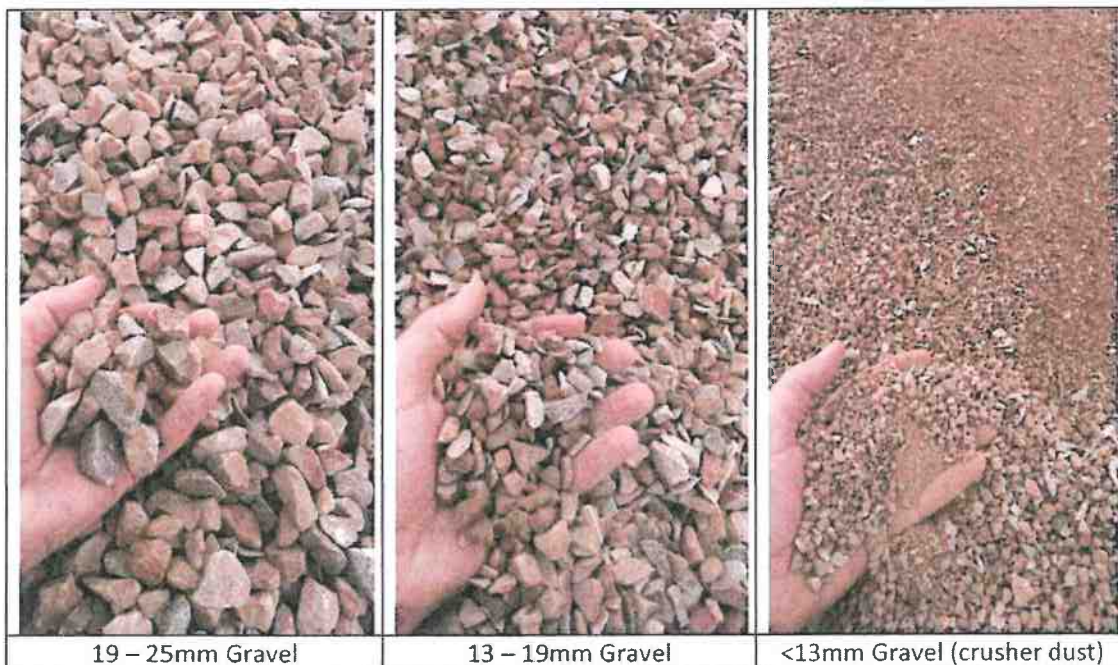


Figure 7. The crushing plant in operation



9. Proposed Mining Procedures and Rehabilitation Actions

The current operational procedures are in line with what is required and recommended.

Currently the area selection for mining, is based on the farm's re-planting programme. Stone is mined from the areas to be replanted in order to increase the soil's potential. This will be the modus operandi for the near future, as new vineyards and pear orchards are going to be planted, and the tomato fields also need to be prepared.

Before commencing with the mining of the stone, the top 40cm of the soil must be removed and stockpiled to be replaced after the area has been mined. This action does not only benefit the rehabilitation, but it also ensures that no organic material contaminates the gravel and cause problems in the construction processes in which the products are being used.

The bottom 40cm of stone above the clay layer, must not be mined. That will ensure good drainage and prevent waterlogging in the profile. Good drainage is essential to good crop performance.

The following actions are recommended:

The selected area is to be mined in strips.

A strip is 6 – 10m wide, and the length dependent on the area and the surrounding farming activities.

The strip must be parallel to the contour in order to prevent any water erosion in case of a heavy downpour.

The topsoil (40cm) must be removed and placed on the side of the strip.

The stone layer can be excavated to a depth of 40cm above the clay layer. It is then crushed and screened.

The crusher dust is returned to the trench and replaced from where it was mined. This is on average 30-40% of the mined



The topsoil is replaced and the next strip is cleared.

Once the whole area has been mined, the soil preparation is done.

An excavator must be used to mix the topsoil, crusher dust and the drainage layer. This is to create a uniform root zone and to prevent layering within the soil profile that will impede root growth.

Once the soil preparation of the mined area is complete, the new orchard/vineyard is established.

The establishment is usually done during the early spring. Prepared land is not allowed to lie fallow, as it needs to be back in production as soon as possible.

Not all areas are to be planted to long term crops. Tomatoes are also grown on the farm. It is grown in rotation with rain fed pastures, as there is not enough water to irrigate the pastures.

There are no areas under natural vegetation that will be mined and no rehabilitation of natural veldt will thus be required. However, the recommendations made in this report must be adhered to.

10. Conclusion

From the information collected, analysed and presented above it is clear that the proposed mining activity holds no threat to the farming operations. Furthermore, that if the mining operation and rehabilitation is done correctly, the resultant soils will have a higher agricultural potential than before the operation.

11. Declaration of Independence

Benjamin Johannes Diedericks, holds a Hons. B.Sc. Agric (Soil Science) degree and has more than 30 years of practical experience in agriculture in the fields of fertilization, composting, cultivation and product development.

Michiel Nicolaas (Nico) Wasserfall, holds a M. Sc Agric (Soil Science) degree and is a qualified SACNASP (South African Council for Natural Scientific Professions) Member as well as a member of the South African Soil Science Society. Nico has more than 5 years of practical experience with specialized knowledge and experience in quantifying soil potential and terroir development. This work forms the basis of new Agri developments as well as redevelopments on farms.

We are independent consultants and have no vested interests with any of the parties involved in this report.

BJ DIEDERICKS

MN WASSERFALL

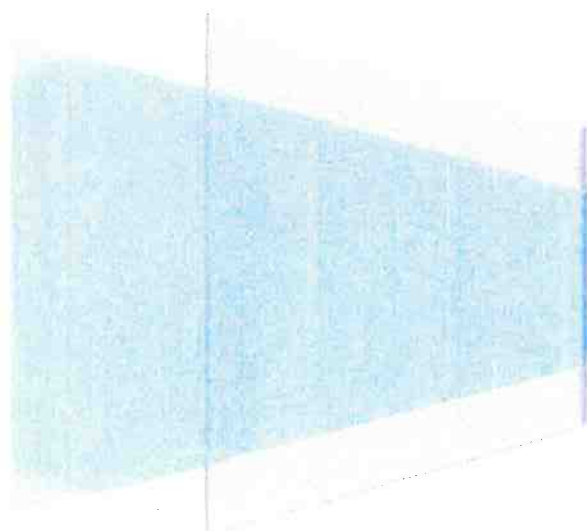


DRV Occupational Health Safety & Hygiene (Pty) Ltd

Occupational Noise Monitoring Survey

CP Concrete – Klaasvoogds Oos

Jacques Snyders



	DRV Occupational Health Safety & Hygiene (Pty) Ltd	Doc No:	006
	Occupational Noise Monitoring Report	Revision: Pages:	001 9
Client:	CP Concrete -- Klaasvoogds Oos	Effective date:	2017
Report Date:	November 2019	Revision date:	First Issue

Herewith the Occupational Noise Monitoring Report

Contents

1. Location
2. Plant noise monitoring Levels
3. Initial Decibel Readings
4. Findings
5. Plant 8 Hour Noise Survey
6. Findings
7. Other

1. Location

CP Concrete
Klaasvoogds Oos
Situatied between Robertson and Ashton



2. Plant Noise Monitoring Levels

Definition of Sound

- General description of sound and dBA/dB(A) metric

Sound is created when objects vibrate, resulting in a minute variation in surrounding atmospheric pressure, called sound pressure. The human response to sound depends on the magnitude of a sound as a function of its frequency and time pattern (EPA, 1974). Magnitude is a measure of the physical sound energy in the air. The range of magnitude the ear can hear, from the faintest to the loudest sound, is so large that sound pressure is expressed on a logarithmic scale in units called decibels (dB). Loudness refers to how people subjectively judge a sound and varies between people.

Sound is measured using the logarithmic decibel scale, so doubling the number of noise sources, such as the number of machinery in a factory, increases noise levels by 3 dBA. Therefore, when you combine two noise sources with similar sound characteristics emitting 60 dBA, the combined noise level is 63 dBA, not 120 dBA. The human ear can barely perceive a 3 dBA increase, while a 5 dBA increase is about one and one-half times as loud. A 10 dBA increase appears to be a doubling in noise level to most listeners. A tenfold increase in the number of noise sources will add 10 dBA.

In addition to magnitude, humans also respond to a sound's frequency or pitch. The human ear is very effective at perceiving frequencies between 1,000 and 5,000 Hz, with less efficiency outside this range. Environmental noise is composed of many frequencies. A-weighting (dBA) of sound levels is applied electronically by a sound level meter and combines the many frequencies into one sound level that simulates how an average person hears sounds of low to moderate magnitude

Definition of Noise

- General description of noise

Noise is unwanted or unpleasant sound. Noise is a subjective term because, as described above, sound levels are perceived differently by different people.

The TWA standard is set at **85 dB (A)**. When exceeding this level, appropriate PPE should be issued that conforms to SANS 1451-2:2008. When noise levels exceed **95 dB (A)**, an internal investigation will be conducted by DRV Occupational Health Safety and Hygiene personnel to determine the root cause for the over exposure and to implement prevention systems.

3. Initial Decibel Readings

Area	Level	dB (A) Reading
Screen	Plant	84
Cone	Plant	84
Jaw	Plant	80

4. Findings:

Initial noise level readings, showed the Decibel levels to be beyond the set standard of 85 dB

5. Plant 8 hour Noise Survey

Area	Time	dB (A) Reading
Plant	08:00 – 09:00	79.2
		78.8
		79.1
		79.4
		79.7
		80.1
	09:01 – 10:00	79.9
		78.2
		79.1
		80.2
		78.5
		78.9
	10:01 – 11:00	78.8
		79.1
		79.4
		80.1
		79.9
		78.2
	11:01 – 12:00	79.1
		80.2
		79.1
		80.2
		79.1
		79.4
	12:01 – 13:00	64.2
		63.9
		64.1
		65.0
		63.2
		63.2
	13:01 – 14:00	80.2
		78.5
		78.9
		78.8
		79.1
		79.4

	14:01 – 15:00	80.1
		79.9
		78.2
		78.5
		78.9
	15:01 – 16:00	80.2
		80.5
		81.1
		81.3
		80.8
		81.1

6. Findings:

The 8 hour noise survey that was completed, yielded the following results

- An average operational noise level of 79.7 dB over an 8 hour period.
- An average non operational noise level of 64.2 dB

As the operational noise level is well below the set standard of 85 dB, it is recommended that the area need not be declared a Noise Area. However, it is recommended that employees utilise earplugs or ear muffs with a NRR of 20 dB in order to diminish noise to acceptable levels as to not induce long term hearing loss that might occur due to exposure to noise levels as stipulated during the 8 hour noise survey.

7. Other

- All findings to be communicated to all relevant employees on site
- Correct PPE to be issued to employees with regards to noise prevention.
- Any contractors to ensure that correct PPE for noise prevention is worn.
- All non-conformances found, to be investigated and rectified.
- Non-conformance register to be kept on site at all times.

Occupational Hygienist.

J. Snyders

DRV Occupational Health Safety & Hygiene (Pty) Ltd



GREENMINED ENVIRONMENTAL (PTY) LTD

CAPE WINELANDS

TRAFFIC IMPACT ASSESSMENT FOR THE APPLICATION OF CONSENT USE OF PORTIONS 48 TO 49 AND THE REMAINDER OF PORTION 47 OF THE FARM KLAAS VOOGDS RIVIER 37 NEAR ASHTON, WESTERN CAPE

33175.01-REP-001 Rev 2

TRAFFIC IMPACT ASSESSMENT

MAY 2018

PREPARED FOR:



GREENMINED ENVIRONMENTAL (PTY) LTD

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EXECUTIVE SUMMARY

The TIA is focused around the application for consent use in order to utilize the existing agricultural land as a stone crushing plant. It is also focused on the effect the plant would have on the existing transport network.

The existing road network in the immediate surround to the proposed plant development was evaluated in terms of function and capacity.

- The current traffic volumes on the surrounding road network is moderate and the R60/DR01366 intersection is operating at an acceptable Level of Service (LOS B).
- Trips generated by the existing ready-mix plant is already included in the abovementioned traffic volumes. Therefore, it can be concluded that this plant does not affect the R60 in any substantial way. It must, however, be noted that the ready-mix plant will be dismantled and re-established in the Robertson industrial area.
- The new stone crusher plant will be crushing ± 50 cubes of stone on a daily basis. This would mean that five (5) 10m^3 tipper trucks will travel on Minor Road 6035 and subsequently utilize both the DR01366/Minor Road 6035 and R60/DR01366 intersections. It is anticipated that trips to the ready-mix plant will take place within the AM period, which means that the midday peak period (worst peak period) remains unchanged.

The following recommendation is made with regard to the application of consent use of a stone crushing plant on Portions 48 to 49 and the remainder of Portion 47 of the farm Klaas Voogds Rivier 37 near Ashton, Western Cape.

- Vehicular movement at the DR01366/ Minor Road 6035 intersection may cause loose aggregate to be swept onto the surfaced road, i.e. DR01366. It is therefore recommended that the bell mouths be formalized and surfaced in order to prevent this from happening.
- It is expected that the current ADT for MR6035 is very low ($< 20\text{vpd}$) and therefore it is recommended that the farmer be responsible for the re-gravelling of this road on a yearly basis.

With the implementation of this recommendation the application for consent use of a stone crushing plant on Portion 48 to 49 and the remainder of Portion 47 of the farm Klaas Voogds Rivier 37, can be supported from a traffic perspective.

1. INTRODUCTION

1.1 TERMS OF REFERENCE

BVi Consulting Engineers was appointed by *Greenmined Environmental Pty (Ltd)* to assess the impact of additional traffic generated by a proposed stone crusher plant on Portions 48 to 49 and the remainder of portion 47 of the farm Klaas Voogds Rivier 37 near Ashton, Western Cape. The existing land use of the development area is classified as agricultural land. An application for consent use is therefore required in order to utilize the land as a crusher plant. Subsequently, a Traffic Impact Assessment (TIA) is necessary to determine whether the existing road network will be able to accommodate the additional traffic load.

1.2 PURPOSE OF THIS REPORT

A desktop assessment has been conducted, using information gathered from the *Western Province Road Network Information System (RNIS)*. The purpose of this report is as follows:

- To assess the operational conditions of the existing road network at the current level of development; and
- To estimate the operational conditions of the existing road network at the future level of development, taking the additional traffic load into account.

1.3 REFERENCE DOCUMENTATION AND INFORMATION

The following documents/sources were used in compiling this report and reference will be made where necessary:

- TMH 16, Volume 1 - South African Traffic Impact and Site Traffic Assessment Standards and Requirements Manual (South Africa Committee of Transport Officials, 2012b)
- TMH 16, Volume 2 - South African Traffic Impact and Site Traffic Assessment Standards and Requirements Manual (South Africa Committee of Transport Officials, 2014)
- TMH 17, Volume 1 - South African Trip Data Manual (South Africa Committee of Transport Officials, 2013)
- TRH 26 - South African Road Classification and Access Management Manual (South Africa Committee of Transport Officials, 2012a)
- Provincial Government - Western Cape Road Access Guidelines (Provincial Administration Western Cape, Department of Economic Affairs, Agriculture & Tourism: Transport Branch, 2002)
- TRH3 - Technical Recommendations for Highways, Design and Construction of Surfacing Seals (South African National Roads Agency Limited, 2007)

2. FUNCTION AND CAPACITY OF THE EXISTING ROAD NETWORK

2.1 SITE LOCATION AND SURROUNDING ROAD NETWORK

The proposed plant is located approximately 5.2km northwest of the town of Ashton in the Western Cape Province. Ashton is situated between Robertson and Montagu, and is part of the Cape Winelands District Municipality. District Route 01366 (DR01366) borders the proposed development to the west. DR01366, also known as Klaas Voogds East Road, connects Regional Route 60 (R60) with the farm Klaas Voogds Rivier 37. *Figure 2-1* below shows the location of the site in relation to the above mentioned roadways.

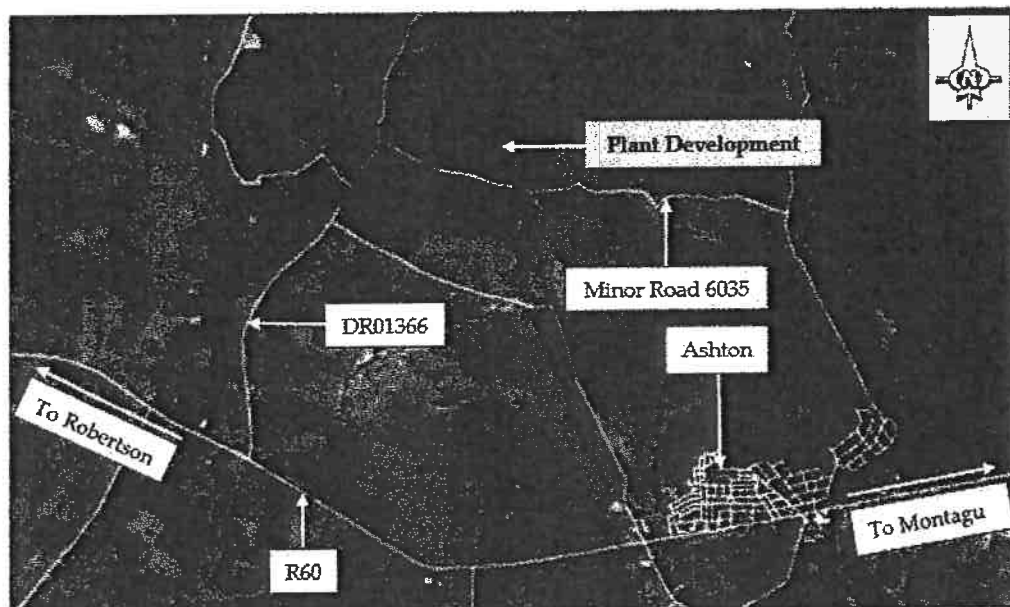


Figure 2-1: Locality of the new plant near the town of Ashton

From aerial imagery, it is evident that the location of the proposed stone crusher plant falls within a rural development environment, as the primary use of land in the surrounding area is used for agricultural activities and sits beyond the likely development fringe of the Ashton urban area. The site in question is situated on portions 48 to 49 and the remainder of portion 47 of the farm Klaas Voogds Rivier 37.

As mentioned before, the existing land use of the development is classified as "agricultural". An application for consent use is therefore required in order to utilize the land for the harvesting of resources and/ or mining (stone crushing).

A layout plan is included in *Appendix A*.

Figure 2-2 and Table 2-1 provides an indication of the roadways that will be influenced by the proposed plant.

Table 2-1: Roadways in study area

Road	Classification	Surfacing	Comments
R60 (Regional Route)	Major arterial (Class 2)	Bituminous seal	The current spacing is compliant with a Class 2 roadway in a rural development environment. This roadway is also known as Trunk Route 31, Section 2.
DR01366 (District Route)	Rural collector		This roadway is also known as Klaas Voogds East Road and provides access to the Klaas Voogds Rivier 37 farm.
MR6035 (Minor Road)	Access road	Gravel	Trucks transporting raw materials from the stone crusher plant will follow this route in order to gain access to the R60 and subsequently the ready-mix plant.

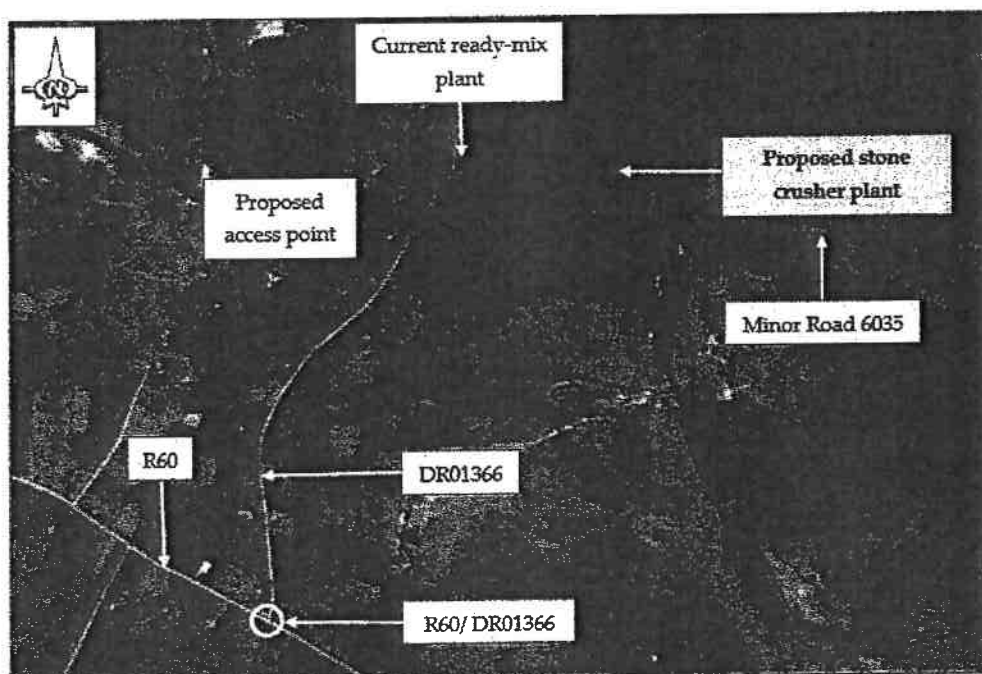


Figure 2-2: Major roads which will be influenced by new plant development

Only one access point has been proposed for the stone crusher plant. It is located on the southern side of the plant off Minor Road 6035 and approximately 5,1km northeast of the R60/ DR01366 intersection. Figure 2-2 provides the position of the proposed access point (green arrow) in relation to the above-mentioned intersection.



2.2 R60 AND DR01366 TRAFFIC DEMAND, CAPACITY AND LEVEL OF SERVICE

The R60/ DR01366 intersection is situated southwest of the proposed stone crusher plant and was identified as the critical intersection that will be influenced by the plant. Consequently, it was necessary to establish the current volume of traffic movement along Regional Route 60 (R60) and District Route 01366 (DR01366), in order to estimate the current demand at the intersection.

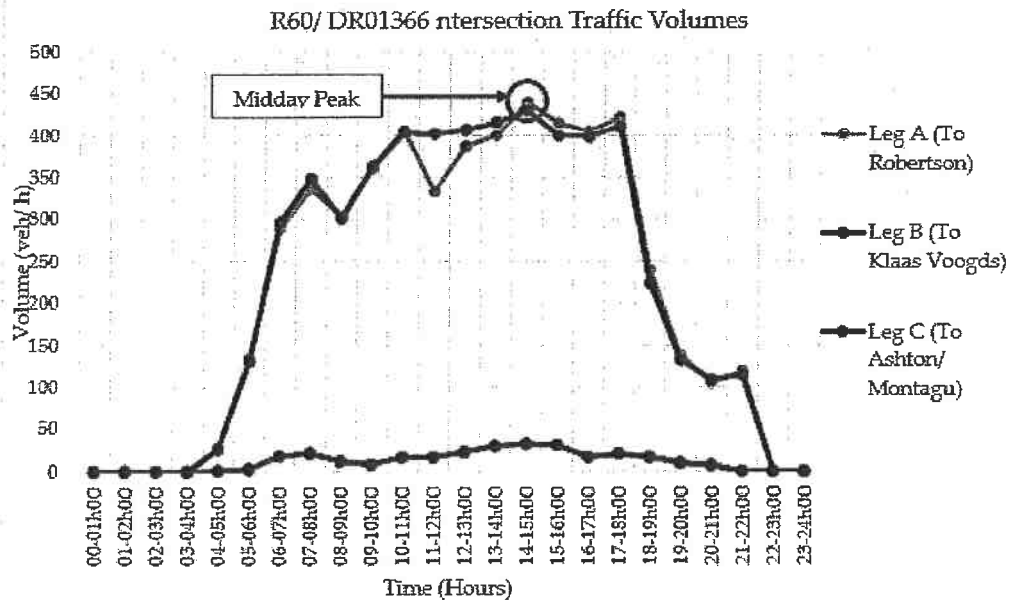
Traffic data of the abovementioned intersection was gathered from the *Western Province Road Network Information System (RNIS)* and is provided in *Appendix B*. The collected data consisted of four (4) traffic counts over a period of 13 years, from 2000 to 2013. It must be noted that traffic originating from the current ready-mix plant is included in this traffic data. As the original ready-mix plant has been in operation for the past 13 years.

Using the growth rates, provided by the *RNIS* system, the collected traffic data could be escalated to the year 2018. As an additional check, the *RNIS* growth rates were compared to traffic counts conducted at a permanent counting station at Nuy farm, located on the R60, Section 1, to the west of Robertson and provided similar growth rates. The escalated daily traffic volumes for the R60/ DR01366 intersection are provided in *Table 2-2* below.

Table 2-2: Average daily traffic at the R60/ DR01366 intersection

Leg A (To Robertson)		Leg B (To Klaas Voogds Rivier 37 farm)		Leg C (To Ashton)	
ADT (vpd)	% Heavy	ADT (vpd)	% Heavy	ADT (vpd)	% Heavy
6215	11.97%	334	22.46%	6271	11.97%

The graph below provides a graphical representation of the Average Daily Traffic (ADT) and from this a definite midday peak period could be identified.



Graph 2-1: Daily traffic volumes at the R60/ DR01366 intersection

Peak hour data was extracted from the graph above and is summarized in *Table 2-3* below.

Table 2-3: Peak hour data

Midday Peak Period	Leg A (To Robertson)	Leg B (To Klaas Voogds Rivier 37 farm)	Leg C (To Ashton)
Peak hour	14h00 – 15h00		
Peak hour volume	440 vph	32 vph	430 vph
Peak Hour Factor (PHF)	0.94	0.90	0.96
% Heavy vehicles	13.64%	53.13%	14.88%

The estimated traffic generated by the turning movements (to and from Leg B) was generated through the balancing of a gravity model using the *Furness method* and is summarized in *Figure 2-3* and *Table 2-4*.

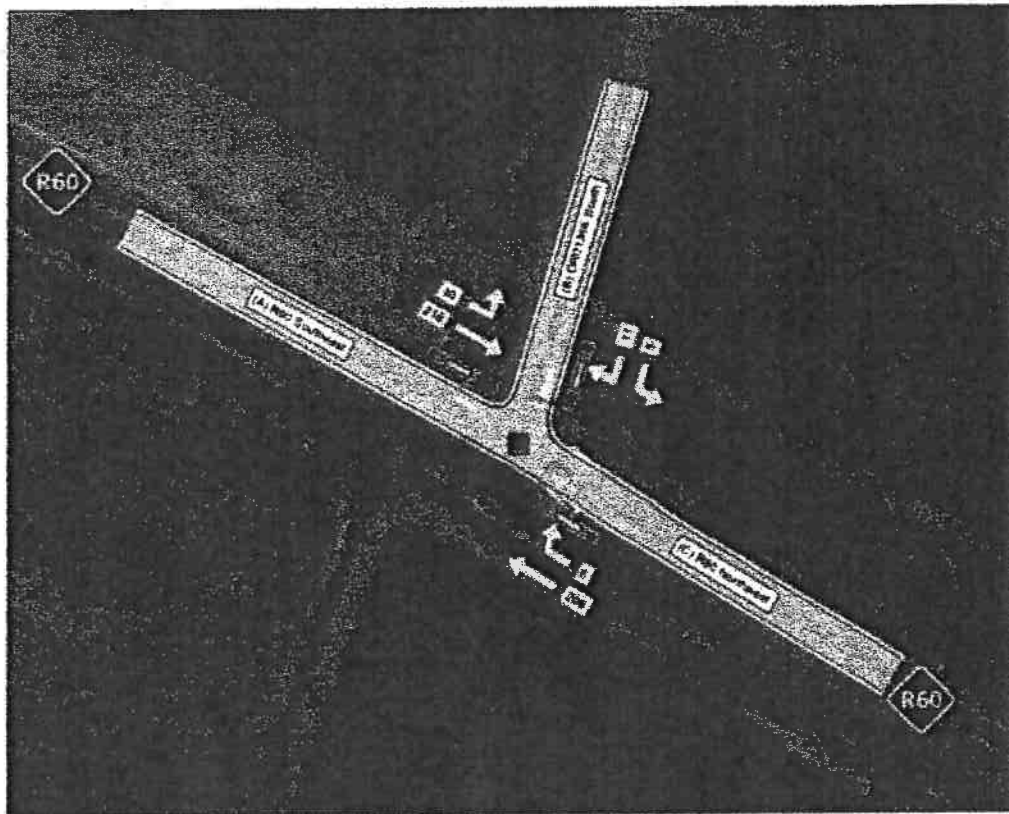


Figure 2-3: Base scenario traffic movements

Table 2-4: Base scenario traffic movement summary

Approach Leg	Out	In			Total	% Split		LOS
		Left	Through	Right		In	Out	
(A) R60 Southeast	220	10	210	n/a	440	50%	50%	A
(B) DR01366 South	16	5	n/a	11	32			B
(C) R60 Northwest	215	n/a	209	6	430			A

From the figure above it is evident that the current Level of Service (LOS) at the R60/ DR01366 intersection is relatively free flow (LOS B) and that traffic generated from the plant does not affect the R60 in any substantial way.

3. INTERSECTION AND ACCESS PROVISION AND LAYOUT

3.1 INTRODUCTION

This chapter addresses all intersections, along the R60 and DR01366 (Klaas Voogds East Road) envisaged to be affected by the proposed stone crusher plant. The affected intersections are indicated in *Figure 3-1* and are based on the expected route that will be travelled by trucks to and from the new plant.

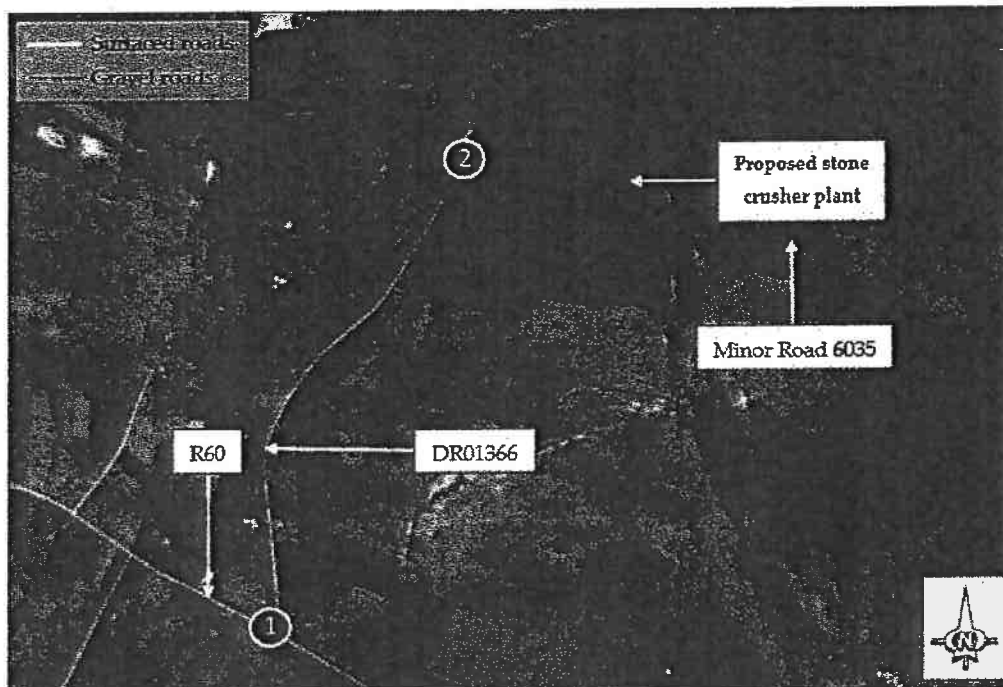


Figure 3-1: Intersections affected by proposed stone crusher plant

The following aspects pertaining to each intersection will be discussed in each subsequent chapter:

- Location and distance of the intersection in relation to the proposed plant development;
- Configuration of the intersection in question; and
- Spacing between the nearest intersections.

3.2 R60/ DR01366 INTERSECTION

The R60/ DR01366 intersection is located approximately 5.1km southwest of the proposed plant development. This intersection has a three-leg configuration, with a stop control on the intersecting leg, namely DR01366 (Klaas Voogds East road). *Figure 3-2* provides the location and configuration of this intersection.

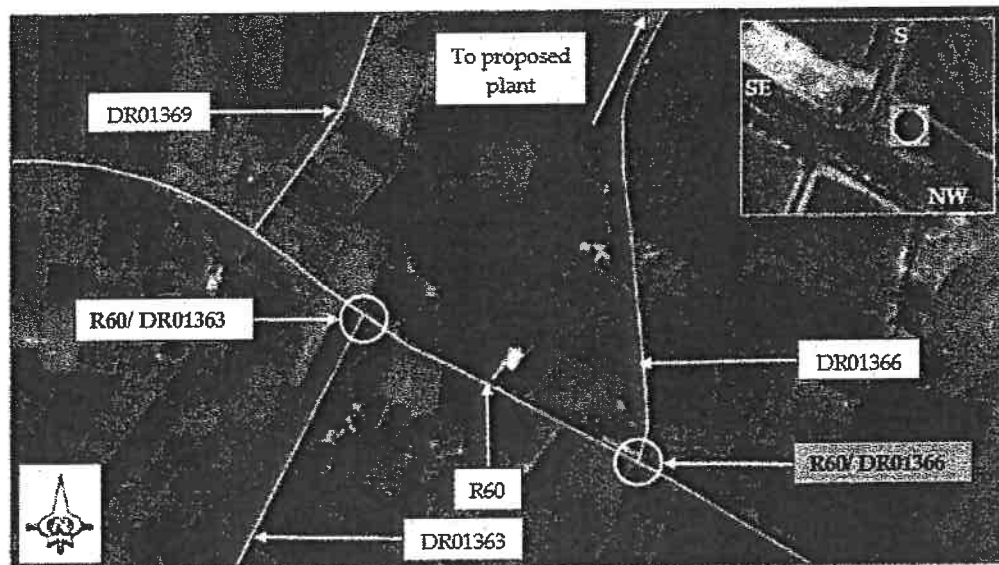


Figure 3-2: Location and configuration of the R60/ DR01366 intersection

The southeast- and northwest approach legs have one (1) lane available for through- and turning movements. Left- and right turning movements is possible from DR01366 onto the R60. The R60/ DR01363 intersection is situated approximately 1.2km northwest of the R60/ DR01366 intersection.

3.3 DR01366/ MR6035 INTERSECTION

The DR01366/ MR6035 intersection is located approximately 1.1km west of the proposed plant development. This intersection has a three-leg configuration, with a stop control on the intersecting leg, namely Minor Road 6035. *Figure 3-3* provides the location and configuration of this intersection.

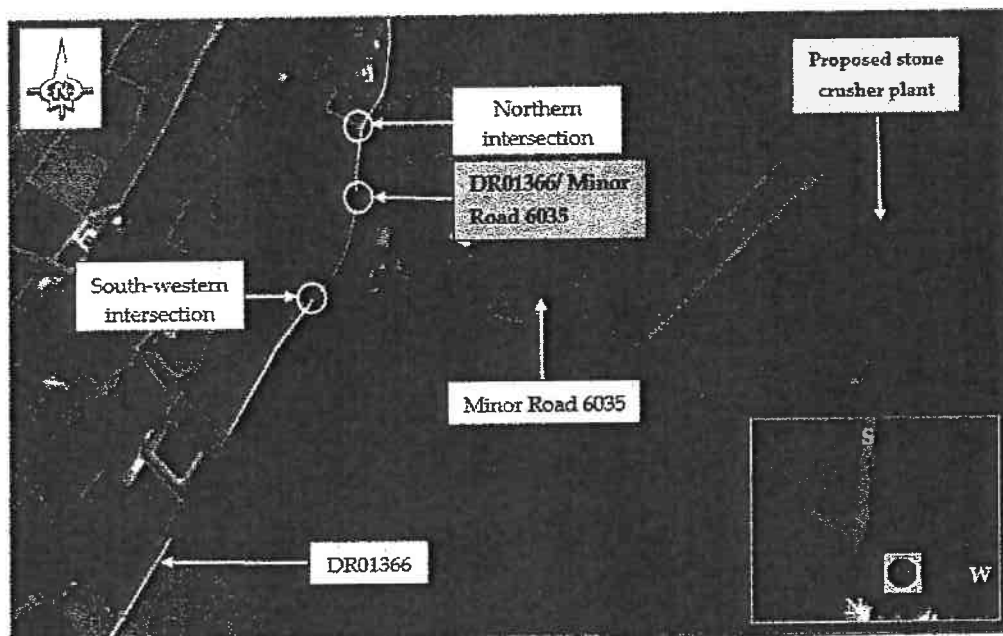


Figure 3-3: Location and configuration of the DR01366/ Minor Road 6035 intersection

The southbound- and northbound approach legs consist of one (1) lane for all movements. Left- and right turning movements is possible from Minor Road 6035 onto DR01366. The DR01366/ MR6035 intersection is situated approximately 270m northeast and 130m south of adjacent intersections.

3.4 PROPOSED SITE ACCESS

Only one access point has been proposed for the stone crusher plant. It is located on the southern side of the plant off Minor Road 6035 and approximately 5,1km northeast of the R60/ DR01366 intersection. The spacing of this access conforms with the allowances of the TRH 26 on a Class 5 roadway. Figure 3-4 below provides the position of the proposed access point (green arrow) and the nearest intersections.

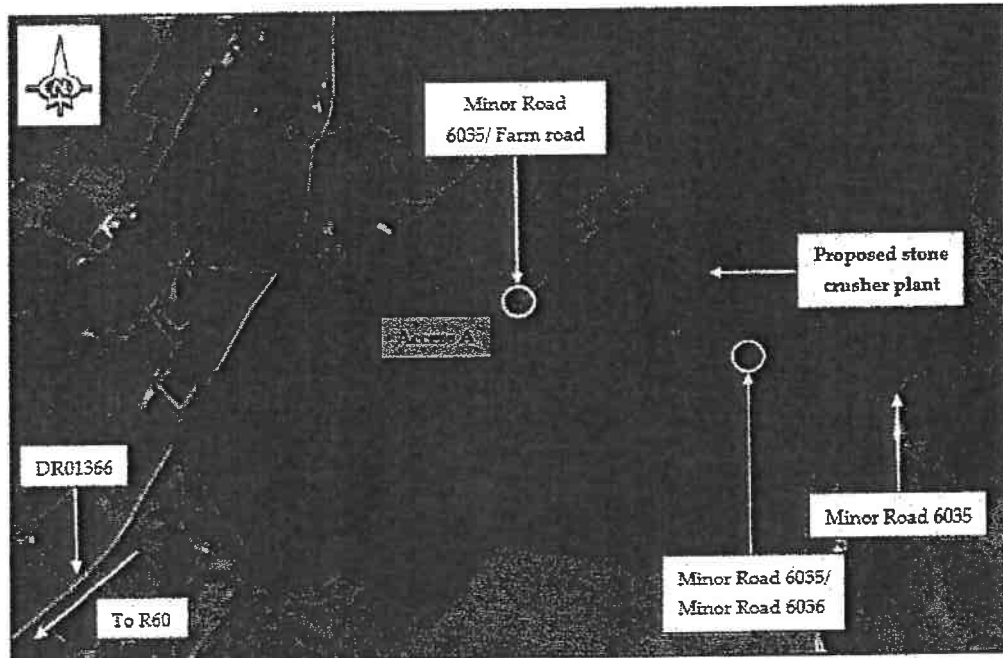


Figure 3-4: Proposed intersection and site access

Access A is situated approximately 450m east and 260m west of adjacent intersections. The desktop study revealed that adequate sight distance is available for trucks turning in and out from the access road onto Minor Road 6035. It must be noted, however, that vehicular movement at the DR01366/ MR6035 intersection may cause loose aggregate to be swept onto the surfaced road, i.e. DR01366. It is therefore recommended that the bell mouths be formalized and surfaced in order to prevent this from happening.

4. TRAFFIC IMPACT ASSESSMENT

4.1 TRIP GENERATION

Typical trip generation for a stone crusher plant are not included in the *TMH 17* manual. The farmer has however indicated that approximately 50 cubes of stone will be crushed on a daily basis. This would mean that five (5) 10m³ tipper trucks will travel on Minor Road 6035 and subsequently utilize both the DR01366/ MR6035 and R60/ DR01366 intersections. The above mentioned route is indicated in *Figure 4-1*.

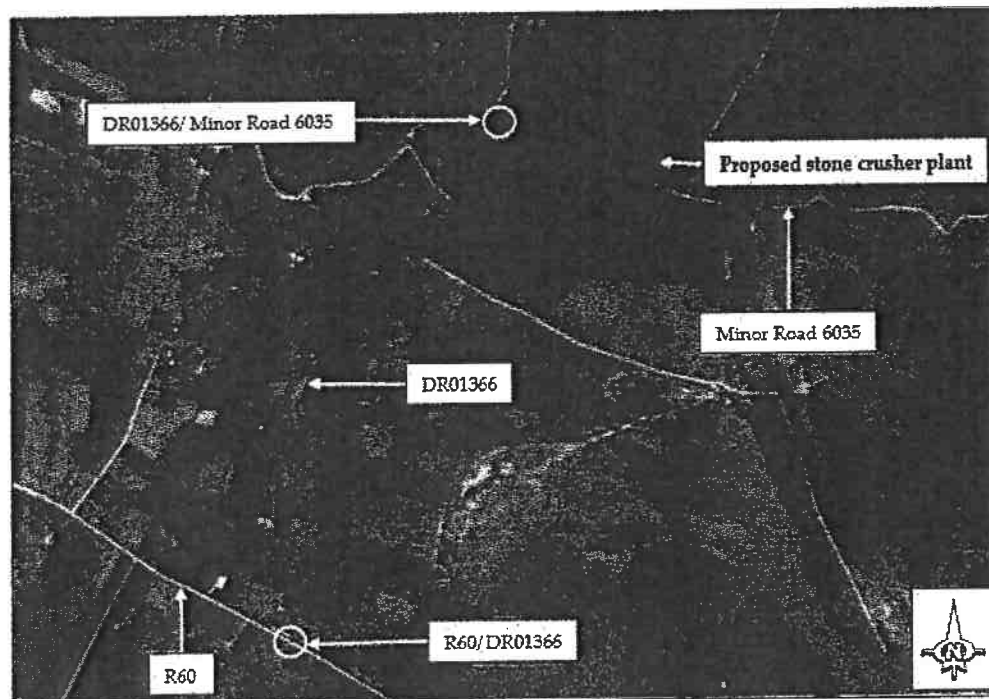


Figure 4-1: Route travelled by trucks from the stone crusher plant towards the R60/ DR01366 intersection

It is anticipated that the trips generated by the proposed stone crusher plant will occur within the first three hours of the working day (AM period). This would essentially mean that no additional trips will be generated during the midday peak period (worst peak period) and therefore the LOS at the R60/ DR01366 intersection remains unchanged.

According to the *TRH 3* document a seal can be considered if the number of vehicles per day exceeds 125vpd. It is expected that the current ADT for MR6035 is very low (< 20vpd) and therefore it is recommended that the farmer be responsible for the re-gravelling of this road on a yearly basis.

5. CONCLUSIONS AND RECOMMENDATIONS

5.1 CONCLUSIONS

The TIA is focused around the application for consent use in order to utilize the existing agricultural land as a stone crushing plant. It is also focused on the effect the plant would have on the existing transport network.

The existing road network in the immediate surround to the proposed plant development was evaluated in terms of function and capacity.

- The current traffic volumes on the surrounding road network is moderate and the R60/DR01366 intersection is operating at an acceptable Level of Service (LOS B).
- Trips generated by the existing ready-mix plant is already included in the abovementioned traffic volumes. Therefore, it can be concluded that this plant does not affect the R60 in any substantial way. It must, however, be noted that the ready-mix plant will be dismantled and re-established in the Robertson industrial area.
- The new stone crusher plant will be crushing ± 50 cubes of stone on a daily basis. This would mean that five (5) 10m^3 tipper trucks will travel on Minor Road 6035 and subsequently utilize both the DR01366/ Minor Road 6035 and R60/DR01366 intersections. It is anticipated that trips to the ready-mix plant will take place within the AM period, which means that the midday peak period (worst peak period) remains unchanged.

5.2 RECOMMENDATIONS

The following recommendation is made with regard to the application of consent use of a stone crushing plant on Portions 48 to 49 and the remainder of Portion 47 of the farm Klaas Voogds Rivier 37 near Ashton, Western Cape.

- Vehicular movement at the DR01366/ Minor Road 6035 intersection may cause loose aggregate to be swept onto the surfaced road, i.e. DR01366. It is therefore recommended that the bell mouths be formalized and surfaced in order to prevent this from happening.
- It is expected that the current ADT for MR6035 is very low ($< 20\text{vpd}$) and therefore it is recommended that the farmer be responsible for the re-gravelling of this road on a yearly basis.

With the implementation of this recommendation the application for consent use of a stone crushing plant on Portion 48 to 49 and the remainder of Portion 47 of the farm Klaas Voogds Rivier 37, can be supported from a traffic perspective.

Annexure B

Plans:

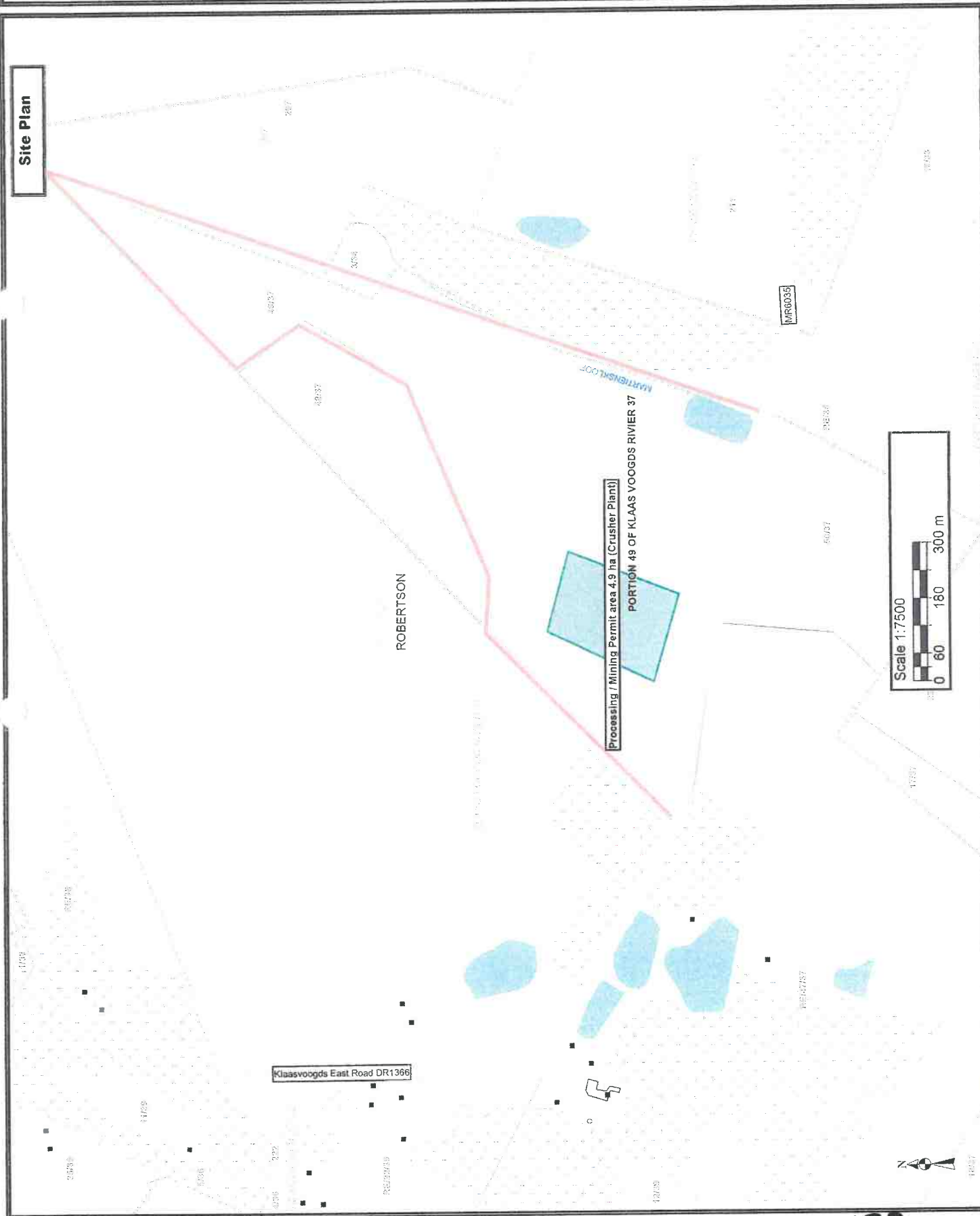
- Locality Plan,
- Crushing Plant Site Plan,
- Location of Objectors.

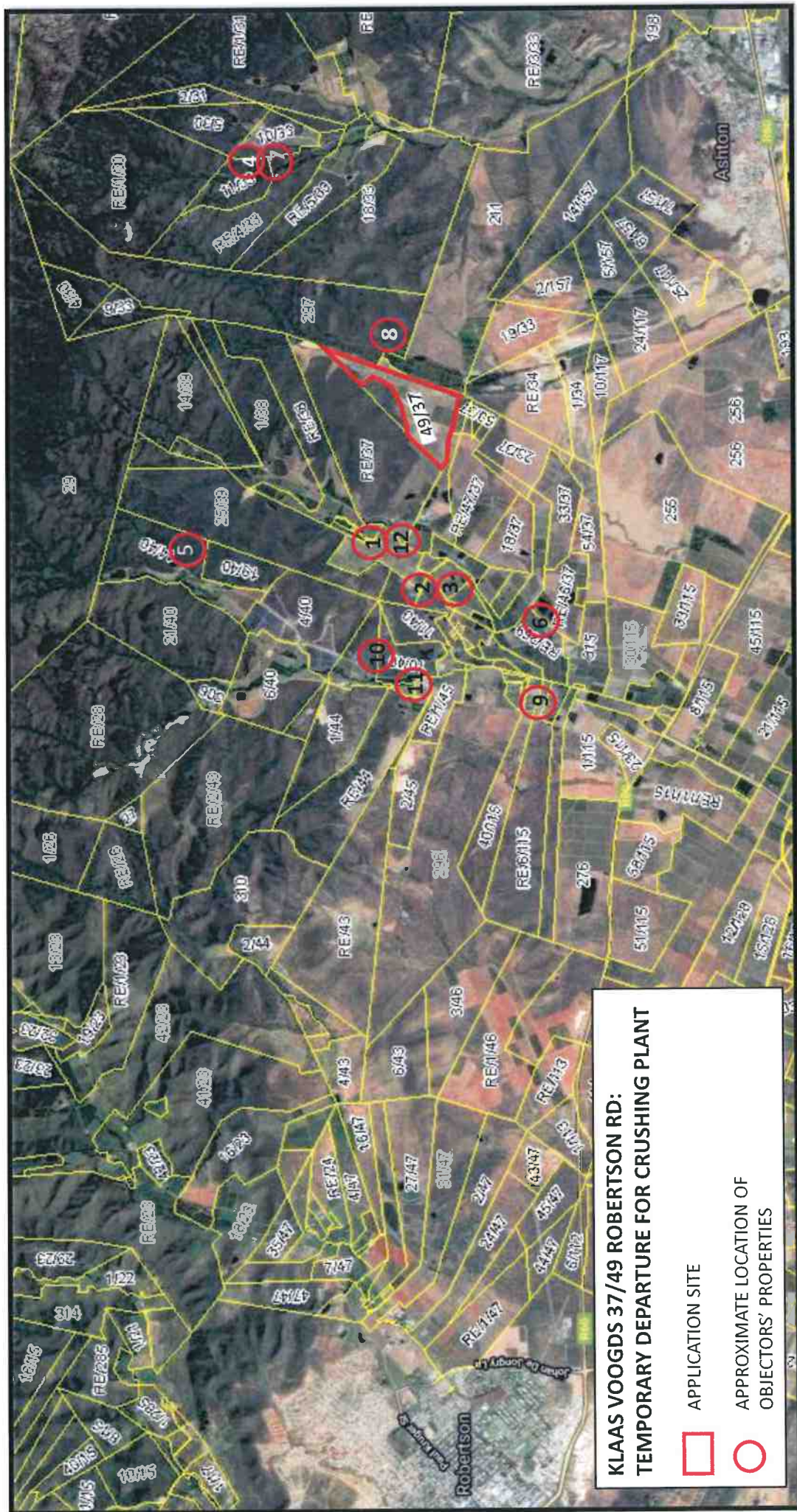
Site Plan

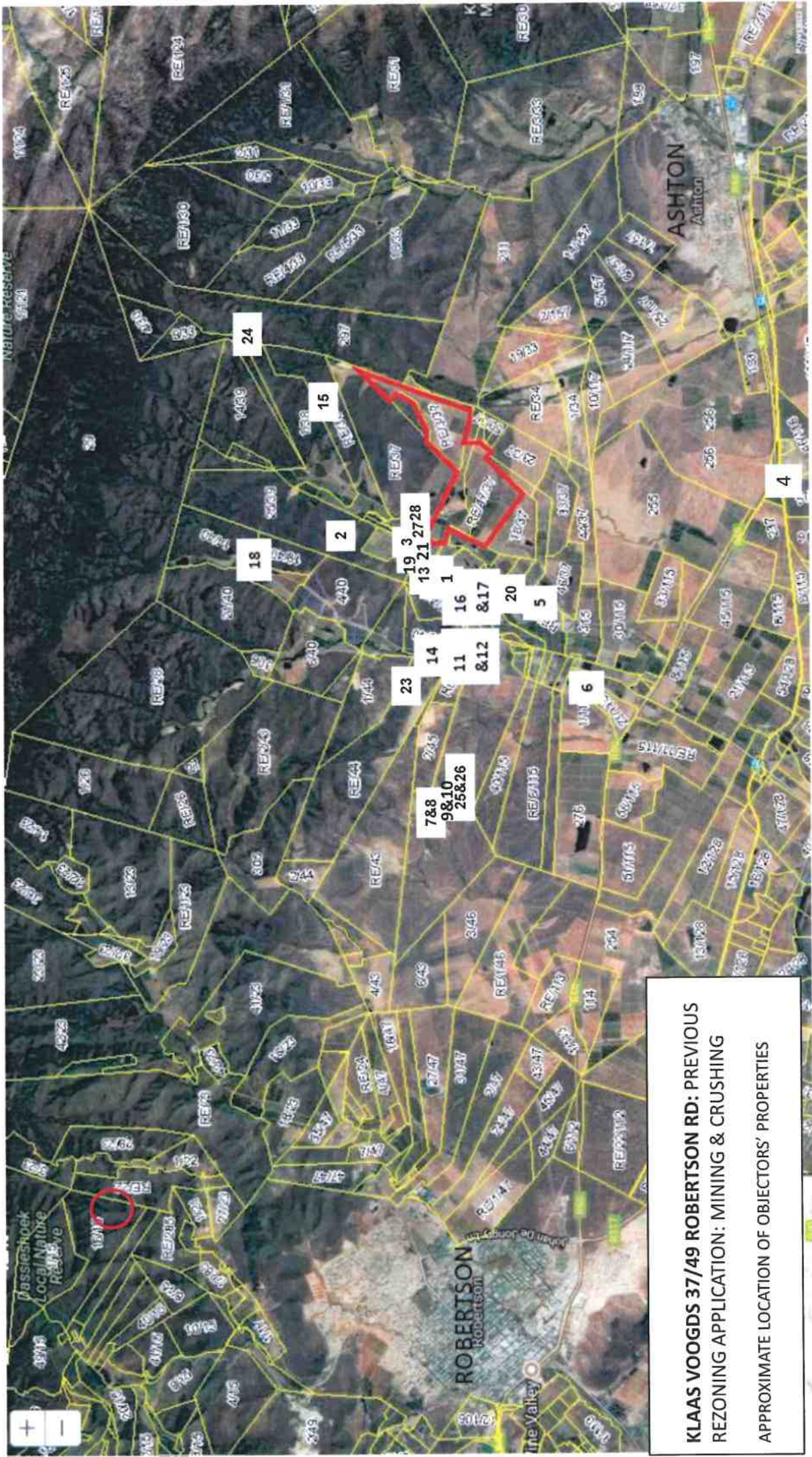
- Legend**
- Farm and Buffer Areas
 - Processing / Mining Permit area (4.9 ha)
 - Farm Entrance
 - Farm House
 - Buildings
 - HOUSE
 - Intake water
 - DAM
 - SOIL
 - NON-PERENNIAL CENTER LINE
 - PERENNIAL CENTER LINE
 - ROADS
 - ARTERIAL ROUTE
 - Vineyard
 - ORCHARD VINEYARD
 - WATER SOURCES
 - RESERVOIR
 - Reservoir details
 - Administrative regions - ROBERTSON
 - Farm parcels
 - Integrative studies - ROBERTSON
 - PORTION 47 OF KLAAS VOOGDS RIVER
 - Roads
 - R60
 - Klaasvoogds East Road

Client: CP Concrete

Consultant: 

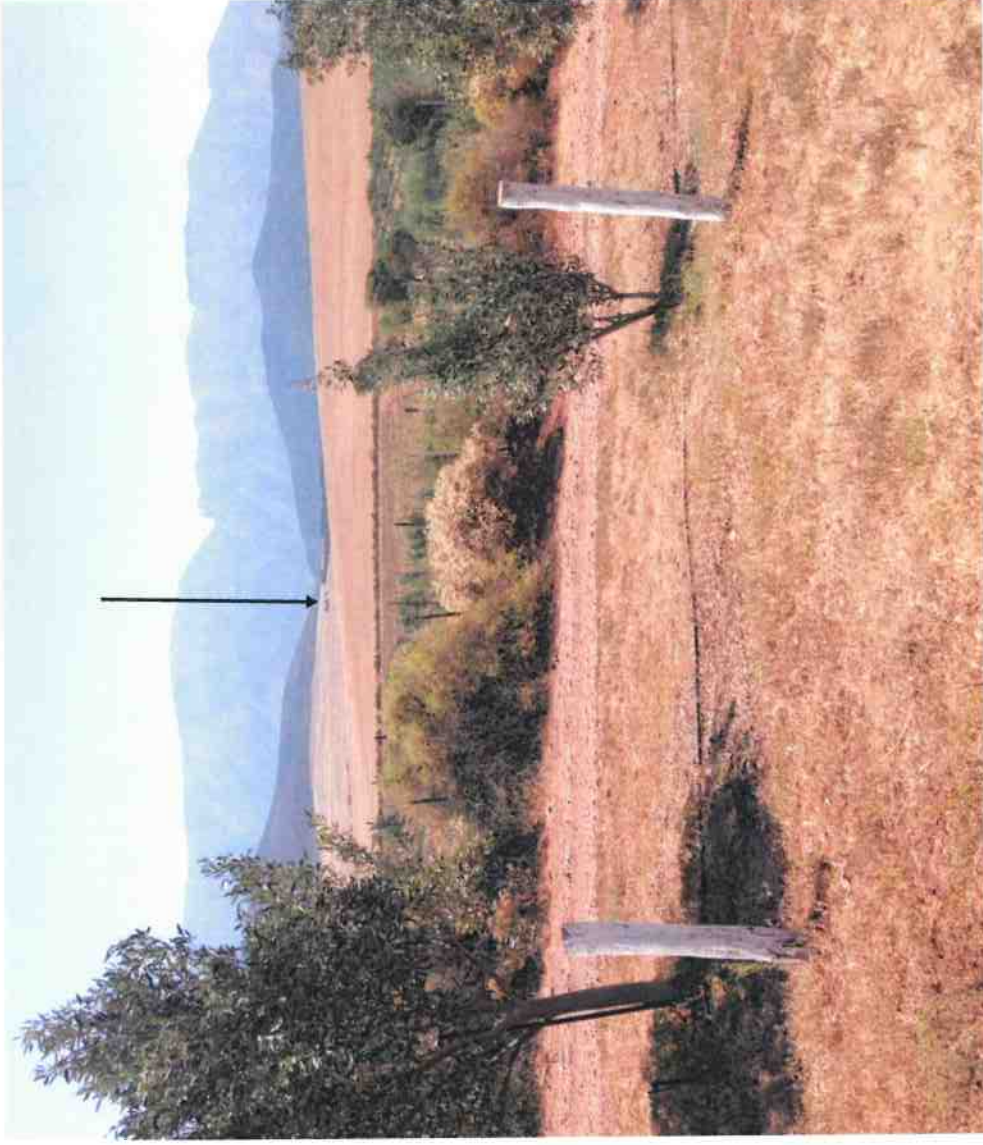




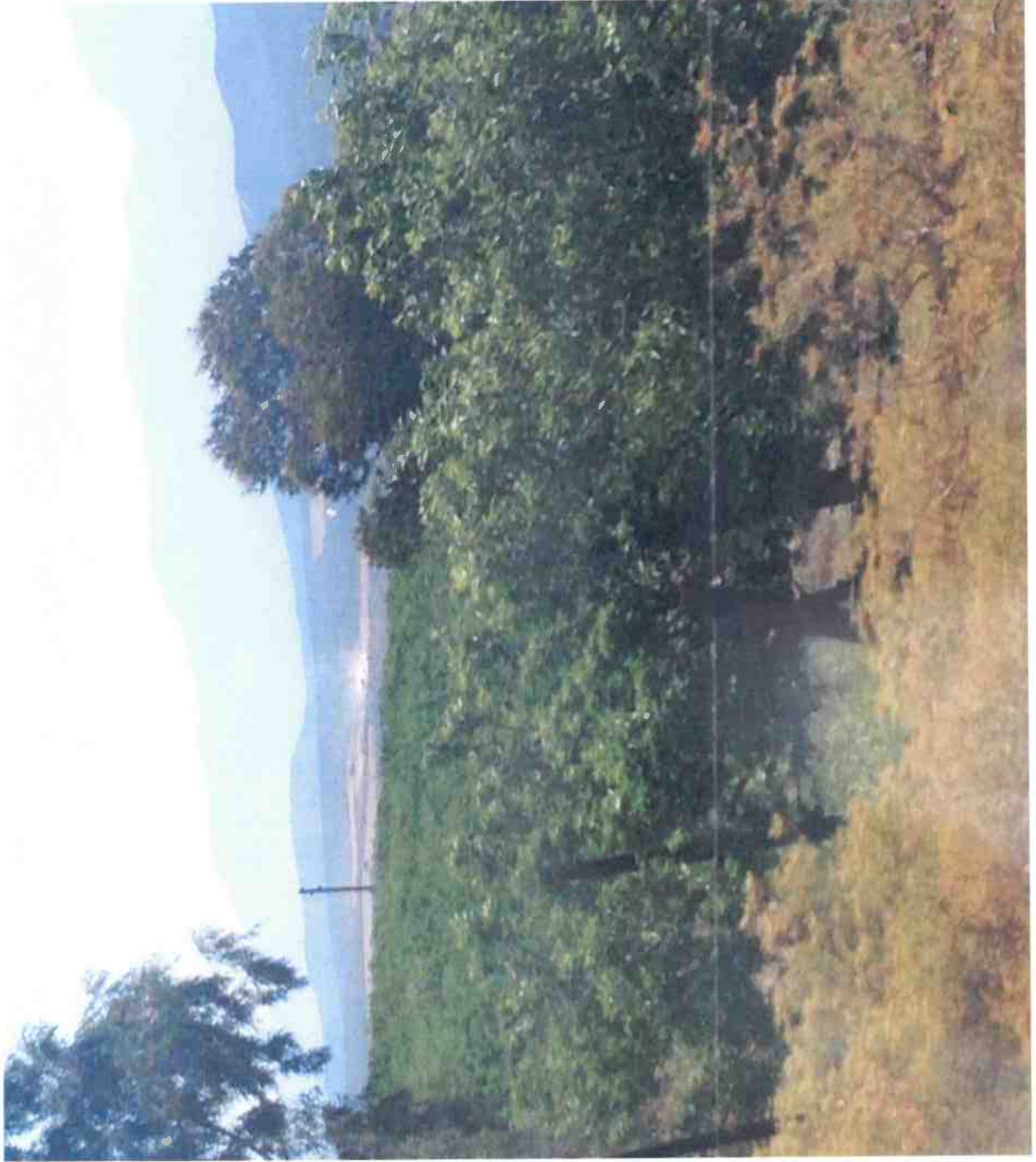




Crushing Plant: from Minor Road 6035



Crushing Plant from Marbrin Olive Tasting



Dust from Klaas Voogds West
quarry & Crushing Plant.

Photo taken from access road
from Marbrin Olive Farm
towards the DR

Annexure C

LMP Tribunal Decision on previous Mining & Crushing application

Verw/ Ref: 15/4/12/7

Navrae/Enquiries: Ms T L Brunings

Mr A Malherbe
c/o T-Plan
Grey Street
STRAND
7140

27 November 2018

Dear Sir / Madam

PORTIONS 47 AND 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37 ROBERTSON: REZONING FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE I AND INDUSTRIAL ZONE III (MINING)

Your abovementioned application refers.

On 9 November 2018, the Langeberg Municipal Planning Tribunal resolved as follows:

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015 the Langeberg Municipal Planning Tribunal refuses the following application:

- Rezoning of 4,9ha. of **Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson** from Agricultural zone I to Industrial zone I (industry: crushing and stockpiling stone and rock);
- Rezoning of 17ha. of **Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson** from Agricultural zone I to Industrial zone III (mining – removal of rock and rehabilitation of land for future Agricultural land use), comprising:
 - Area 1 (5ha.) with depths of 1-4m.
 - Area 2 (4ha.) with depths of 500mm-5m.
 - Area 5 (8ha.) with depths of 300mm-2,5m.
- Rezoning of 9,5ha. of **Portion 47 of the farm Klaas Voogds Rivier No 37, Robertson** from Agricultural zone I to Industrial zone III (mining – removal of rock and rehabilitation of land for future Agricultural land use);
 - Area 3 (5,5ha.) with depths from 500mm-2,5m.
 - Area 4 (4ha.) with depths from 500mm-2,5m.

The reasons for the above decision are as follows:

1. With reference to Section 42(2) of SPLUMA No. 16 of 2013, the application affects the environment, and the Langeberg Municipal Planning Tribunal is not satisfied that environmental legislation has been complied with.
2. The proposed land use is considered to be out of character in the surrounding area, will adversely impact on the amenity of the area and be inconsistent with the principles of spatial justice and spatial sustainability (Section 59 of LUPA No. 3 of 2014).
3. The approval of the proposed land use would create an undesirable precedent in the area. Cumulative impacts would be inconsistent with the sustainable use of agricultural land.

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 Planning Tribunal has a right of appeal against the decision. An appeal must be submitted in writing to the Appeal Authority (Executive Mayor) within 21 calendar days from registration date of this letter. Proof of payment of the appeal fee (R642-00, VAT incl.) must accompany the appeal. Attached please find the administrative procedure for appeal.

Yours faithfully


SA MOKWENI
MUNICIPAL MANAGER / MUNISIPALE BESTUURDER

Copies for Information:

Department of Transport: Faisal.Fakier@westerncape.gov.za Your Ref: 16/9/6/1-04/126 (Job 25021), 3 July 2018
Cape Nature: aduffell-canham@capenature.co.za Your Ref: SSD14/2/6/1/9/1/37 KlaasVoogds Rob. 7 May 2018
CWDM: smcclean@capewinelands.gov.za Your Ref: 15/2/6/1, 19 & 27 March 2018
DEADP: Shameemah.Abrahams@westerncape.gov.za 15/3/1/11/B1/14/Ptns 47 & 49 /37 Rob Bernadette.Osborne@westerncape.gov.za 16/3/3/6/B1/14/1104/18, 24/5/18
BGCMA: Nfeni@bgcma.co.za Your Ref: 4/10/1/H30E/Klaas Voogs Rivier 37/47, 49, 26 April 2018
Western Cape Dept of Agriculture: CorvdW@elsenburg.com 8-June 2018
DMR Thabelo.nempumbuluni@dmr.gov.za Your Ref: (WC) 30/5/1/3/2/10100MP

Annexure D

Langeberg Appeal Authority Decision on Appeal against Tribunal Decision

Verw/ Ref: 15/4/12/7

Navrae/Enquiries: Ms T L Brunings

Mr A Malherbe
c/o HWJB Attorneys
P O Box 957
ROBERTSON
6705

11 June 2019

Dear Sir / Madam

**APPEAL DECISION: PORTIONS 47 AND 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37 ROBERTSON:
REZONING FROM AGRICULTURAL ZONE I TO INDUSTRIAL ZONE I AND INDUSTRIAL ZONE III (MINING)**

I refer to your appeal dated 18 December 2018, against the Langeberg Municipal Planning Tribunal's decision on the above application.

On 27 May 2019, the Appeal Authority decided that the appeal be rejected in terms of Section 81 of the Langeberg Municipal Land Use Planning By-law, 2015, and that the following decision of the Langeberg Municipal Planning Tribunal taken on 9 November 2018 be confirmed:

"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 refuses the following application:

- Rezoning of 4,9ha. of **Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson** from Agricultural zone I to Industrial zone I (industry: crushing and stockpiling stone and rock);
- Rezoning of 17ha. of **Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson** from Agricultural zone I to Industrial zone III (mining – removal of rock and rehabilitation of land for future Agricultural land use), comprising:
 - Area 1 (5ha.) with depths of 1-4m.
 - Area 2 (4ha.) with depths of 500mm-5m.
 - Area 5 (8ha.) with depths of 300mm-2,5m.
- Rezoning of 9,5ha. of **Portion 47 of the farm Klaas Voogds Rivier No 37, Robertson** from Agricultural zone I to Industrial zone III (mining – removal of rock and rehabilitation of land for future Agricultural land use):
 - Area 3 (5,5ha.) with depths from 500mm-2,5m.
 - Area 4 (4ha.) with depths from 500mm-2,5m.

The reasons for the above decision are as follows:

1. With reference to Section 42(2) of SLPUMA No. 16 of 2013, the application affects the environment, and the Langeberg Municipal Planning Tribunal is not satisfied that environmental legislation has been complied with.
2. The proposed land use is considered to be out of character in the surrounding area, will adversely impact on the amenity of the area and be inconsistent with the principles of spatial justice and spatial sustainability (Section 59 of LUPA No. 3 of 2014).

3. The approval of the proposed land use would create an undesirable precedent in the area. Cumulative impacts would be inconsistent with the sustainable use of agricultural land."

Further, with reference to Reason No. 1 above, the Appeal Authority notes the following specific reasons:

- a. Two EIA applications were lodged: one for the "screening of rocks" and the other for a crushing plant:
 - On 8 December 2016, DMR issued an Environmental Authorisation for the 4,9ha. crushing plant site. This Environmental Authorisation is considered to be defective, given the nature of the wording on the advertisement during the EIA process which clearly states that there will be no crushing.
 - According to the environmental consultant, DMR did not require a mining permit or an EIA process for the areas to be screened / mined. No written correspondence was received from DMR confirming the withdrawal of this EIA application or the reasons for not proceeding therewith. DMR advised that LN1:21 was authorised for the "crushing and screening of rock ... collected from ... 47 and 49 of Klaas Voogds Rivier 37" and "according to the information obtained from the holder". It is concluded that no mining authorisation or mining permit has been granted for the mining of rock from Portions 47 and 49 of KVR 37, only the collection of existing surface and already-stockpiled rock from previous agricultural activities.
- b. The applicant is incorrect in stating that no Environmental Authorisation is required for the removal of rock from the proposed 26,5ha. as the mining of these areas triggers LN1:21:
 - The applicant's Ecological Report states that an EIA is required.
 - DEA&DP, in their comments of 24 May 2018, note that "the new proposal for 5 areas exceed the footprint authorised in the EA and indicated in the EMPR. The removal of stones/rocks from the additional areas can therefore not proceed in terms of the existing EA".
- c. Given that the mined material is disposed of to a third party, the applicant is incorrect in stating that the application is exempt in terms of Section 106 of the MPRDA from obtaining a mining permit and EA.
- d. There is no Environmental Management Plan and Rehabilitation Plan for concurrent rehabilitation.

Yours faithfully


SA MOKWENI
MUNICIPAL MANAGER / MUNISIPALE BESTUURDER

Copies for information:

Department of Transport: Faisal.Fakier@westerncape.gov.za Your Ref: 16/9/6/1-04/126 (Job 25021), 3 July 2018
Cape Nature: aduffell-canham@capenature.co.za Your Ref: SSD14/2/6/1/9/1/37_KlaasVoogds Rob, 7 May 2018
CWDM: smcclean@capewinlands.gov.za Your Ref: 15/2/6/1, 19 & 27 March 2018
DEADP: Shameemah.Abrahams@westerncape.gov.za 15/3/1/11/B1/14/Ptns 47 & 49 /37 Rob Bernadette.Osborne@westerncape.gov.za 16/3/3/6/B1/14/1104/18, 24/5/18
BGCMA: Nfeni@bgcma.co.za Your Ref: 4/10/1/H30E/Klaas Voogs Rivier 37/47, 49, 26 April 2018
Western Cape Dept of Agriculture: CorvdW@elsenburg.com 8 June 2018
DMR Thabelo.nempumbuluni@dmr.gov.za Your Ref: (WC) 30/5/1/3/2/10100MP

Annexure E

Comments & Objections 1-12 and Summary Sheet

KLAAS VOOGDS RIVIER 37/49: PROPOSED CRUSHING PLANT

LIST OF OBJECTIONS RECEIVED IN RESPONSE TO ADVERTISMENT (CLOSING DATE 20 FEBRUARY 2020) and LETTERS TO NEIGHBOURS (CLOSING DATE: 6 MARCH 2020)

Objector's Name	Objection received per:	Date Received	Within time	No Petition	Std Letter	Notes
1 G MacMillan	Email	06.02.2020	✓			
2 Jane Barnard	Email	19.02.2020	✓		✓	Objections 2 & 3 essentially the same
3 Charles Barnard	Email	19.02.2020	✓		✓	
4 Theunis de Jongh-Kleinhoekkkloof Wines	Email	19.02.2020	✓		✓	
5 Pat Busch NR_ Stephan Busch	Email	20.02.2020	✓			
6 Marbrin Clive Heymans & Briony Coetsee	Email	20.02.2020	✓			
7 R de Jongh Kleinhoekkkloof	Email	21.02.2020	✓		✓	
8 M E Botes	Email	20.02.2020	✓			
9 J Roodt - Galloway	Email	20.02.2020	✓			
10 V Reynecke	Email	20.02.2020	✓		✓	Request investigate other mine in KV too.
11 P & I de Wet - Villa Verde	Email	20.02.2020	✓		✓	
12 S & K Papesch	Email	06.03.2020	✓			
13 Effie Seftel	No written objection submitted					

Letter of Support: M McCullough 29.01.2020



Ligspel Plaas
Klaasvoogds Oos Pad
29 January 2020

Tracy Brunings
Manager Town Planning
3 Piet Retief Street
Montague 6720

Ms Brunings

I am writing in support of the application submitted by T-Plan on behalf of the Altus Malherbe Family Trust for a temporary departure to operate a rock crushing plant on a 4.9 ha portion of Farm 37, **Klaas** Voogds Rivier. The document circulated for public comment does not appear to reference any significant negative effects on the Klaasvoogds community in terms of noise, dust, runoff, waste (solid or liquid) or increased vehicular traffic.

I have driven and **walked** over the property several times in the company of the applicant as well as alone. I find the written descriptions and visual images of the property included in the application to be accurate. I also find the rationale behind the extraction and crushing of stone in the process of improving the agricultural potential of the 4.9 ha portion to be credible.

The primary **land** use of properties in Klaasvoogds east is agricultural. Therefore, farming, and the activities associated with it, including land preparation for orchards and vineyards takes precedence over any other use. It should be noted that intensive cropping as practiced in this area demands careful conservation of water, soil and natural vegetation, judicious use of agricultural chemicals and control of airborne pollution, specifically dust. In my experience, most if not all, fulltime farmers in Klaasvoogds east adhere to these principles including Altus **Malherbe** and his farm manager, **Michael Marson**.

A handwritten signature in black ink, appearing to read "Michael McCullough".

Michael McCullough
Ligspel Plaas
Klaasvoogds Oos Pad
ligspel@barvallei.co.za
076 532 5507

From: Graham M'M <thaimouse@gmail.com>
Sent: Thursday, 06 February 2020 4:59 PM
To: Langeberg Municipality
Cc: Tracy Brunings
Subject: Re: NOTIFICATION OF NEW APPLICATION: KLAAS VOOGDS RIVIER 37/49: APPLICATION FOR CRUSHING PLANT

Greetings

Thank you for the email which I received on the Thu, 6 Feb 2020 at 19:4.

I noticed a fault in the Noise report.

Under Findings,

4. Findings: Initial noise level readings, showed the Decibel levels to be beyond the set standard of 85 dB.

This means the findings exceed the max limit of 85db.

Then in point 6. **Findings:** As I read it, As the operational noise level is well below the set standard of 85 dB, it is recommended that the area need not be declared a Noise Area.

I would oppose the plant on three issues:-

1. Dust levels generated on windy days and direction of dust particulate travel, this includes particles of PM2.5, as graded on the US AQI Index. Ashton and Robertson generally run in the GOOD rating area, below the maximum of 25*. Everybody in the surrounding area would have to wear N95 industrial masks when going outside.
2. The surrounding areas are for agricultural use, not mining nor cement works. These may be relocated in areas designated for mining, away from human and animal habitation
3. The additional weight of the trucks to and from the site will exceed the carrying capacity of the Klaas Voogds East tarred road. This will lead to more surface damage and wear and the residence will be called upon to contribute to the repair thereof. This road surface was only designed to carry motor vehicles up to five (5) tons, nothing more. Many school children and farm workers walk along this road.

So in conclusion I would oppose this plant in it's entirety.

Thank you.

Please acknowledge receipt of this email.

Blessings.

Graham MacMillan.

The Hope smallholding.

Tracy Brunings

From: Jane Barnard <jane@klaasvoogdscottage.co.za>
Sent: Wednesday, 19 February 2020 2:34 PM
To: Langeberg Municipality
Cc: Tracy Brunings
Subject: Comments - Application for a crushing plant

I Jane Barnard, co-owner Geduld Farm, Klaasvoogds West Rd, Klaasvoogds, Robertson strongly oppose the application for temporary departure sighting the following reasons:

1. Klaasvoogds* is a prime tourism area and below are the facts

- 1.1 The self-evident natural beauty
- 1.2 Rural and quiet – other than seasonal agricultural machine noise that is rare or intermittent
- 1.3 Quiet picturesque rural roads loved and enjoyed by tourists and locals for walking and cycling
- 1.4 Klaasvoogds tourism has shown a phenomenal growth of 23% p/a over the past 10 years. This may be unsurpassed in the Boland. Currently there are more than 272 beds available from 14 establishments
- 1.5 With a conservative estimate of 32% occupation this translates to 30 638 tourist nights p/a
- 1.6 At this growth rate the number of beds will double in the next 3.5 years
- 1.7 Other than accommodation there are 7 establishments serving food, 5 wine cellars that allow tasting, a cactus garden and nursery, 4 olive farms for tasting and selling all olive products, a lavender farm and smaller tourism related businesses
- 1.8 An estimated R 120m has been invested in tourism related improvements. (excluding the cost of land)
- 1.9 At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment (if not already)
- 1.10 Tourism is labour intensive and encouraged by local, provincial and national authorities as a top creator of jobs and, currently 1 in 22 people or a total of 1.5m people are employed in the tourism value chain. Described by government as the new “ Gold ”

* The area N of the R60 stretching from the Klaasvoogds West road to Kleinhoekkloof

2. Why allowing mining and industrialization will be extremely harmful to Klaasvoogds as a whole and particular to the tourism related businesses**

- 2.1 It will impact negatively on the unique natural beauty. At times there will be dust, carried by the prevailing SE and E wind. Who will monitor the said dust control measures? Can agricultural water be used for mining and industrial purposes? Dust and noise will be generated, not only at the proposed crusher site but also on ptns 47 and 49.
- 2.2 It will be noisy, driving tourists away that come for peace and quiet. The noise report is meaningless in this context. It says the average noise level is 79.7dB whereas personal protective equipment is only needed at 85dB (meaning that at this level ear muffs are required) . The noise will be incessant, carried by the prevailing SE or E wind at whatever level of dB it will be unnatural for the area and disturbing to guests
- 2.3 Tourists, locals and school children, walking or cycling along the way will all of sudden have to dodge 20 tonne trucks on the narrow roads. Not only 12x 20 tonne stone trucks per day (if we believe the figures supplied) but also 4 or 6 CP concrete trucks stationed on the farm, maintenance vehicles, diesel trucks, etc
- 2.4 Taking into account the importance and size of the tourism industry, as illustrated in points 1.4 to 1.10 above why allow an industry that will do a lot of harm to a lot of entrepreneurs and workers? An industry that may create negative (in real terms) employment and economic growth for the area as a

whole. Only one person may enjoy the fruits of positive economic growth at the detriment of many others.

****Despite the application being for the "improvement" of agricultural land it is the facts below that will show that it is an operation to mine brown stone that is currently very lucrative**

3. Why I find the stated reason for the application "the cleaning of stone from agricultural land" not plausible, practical or making any economic sense (taking into account that the applicant is an astute business man)

- 3.1 The applicant will not sell the stone. Really? He will mine, crush and transport it for free. I believe CP concrete will ultimately sell the stone, but it is a father/son relationship with many grey areas. Whoever sells or does not sell per the application – ultimately the stone will be sold.
- 3.2 Why should the processing plant now be accommodated as stated in item 1 of the motivation. Surely the plant was erected before any legal approval and should now be sold off, not used to pay for itself
- 3.3 It is unheard of to clear agricultural land to a depth of 1.5m of all stone (and later put some stone back for drainage) A call to Agri SA will surely confirm that this is a fallacy
- 3.4 The 4.9ha mined 1.5m deep produces 73 500m³ earth and stone. **30%** of the stone is returned and say 30% is ground and topsoil. The **40%** remainder is 29 400m³ sold at say R 650/m³ gross = R 19 110 000. From this amount all production costs, transport, devaluation of plant and equipment needs to be deducted, say 50%, with a remainder then of **R9** or 10m. It does not make any financial sense with R15m worth of equipment.
- 3.5 Adding to the expenses would be a **20%** gift tax to be paid by the applicant. As the stone is mined and processed, transported and then "given away" it will be classified as an enterprise not producing income. As such, none (or few) of the expenses named will be tax deductible. On the other hand, CP concrete has very low input costs, receiving the stone for free, it **will** therefore show a very high profit that is off course fully taxable.
- 3.6 To make the numbers work, more stone may have to be mined and processed ?. The period may have to be extended ? It is possible that other areas may be disturbed to make up the shortfall ? (other than the stone that will be gathered over ptns 47 and 49)
- 3.7 The debatable increased agricultural production (if any) on 4.9ha is unlikely to make up the shortfall either.
- 3.8 How will the stone be removed from ptns 47 and 49. With front end loaders and trucks?. Disturbing soil and producing additional dust and noise. The extent of this operation is completely absent in this application.
- 3.9 What makes economic sense (to the applicant) is to mine and sell a volume of stone many, many times more than that which is available from the **4.9ha** and lying around on ptns 47 and 49.
- 3.10 If the applicants' real intention is to acquire farm land suitable to his needs it would be much more logical and economical to sell off the plant and buy land that is just right for the applicants' requirements. And the plus point is that he will get more than 4.9 ha for the money realized plus additional water (with water becoming a more sought after agricultural commodity than ever) plus an additional asset that may show some capital growth. It is also immediate. He could produce 3 harvests by the time he finished "clearing" the land. The fact that it is not done is very, very puzzling and you cannot but think that this application has nothing to do with the clearing of land. Also every farmer in the Klaarvoogds valley has been confronted with the problem of stone clearing and this hasn't prevented them from farming profitably.

4. Why this operation may escalate well beyond its stated purpose

- 4.1 It is the only way it makes economic sense

- 4.2 Local authority do not have the capacity or funds to monitor the myriad of **regulations**, volumes, related bye laws, etc,
- 4.3 Allowing this application sets a precedent for further and extended industrial activity
- 4.4 Because there is no authority to effectively monitor this operation it **will** be left to the applicant to comply with all legislative and other relevant requirements. History shows that the applicant has a tendency to disregard laws and **regulations**. Examples are the illegal concrete batching plant, recently removed after court actions, which cost neighbours lots of money. Also an excerpt from a previous **appeal** by Lawyer Clarissa Molteno.... "confusing, contradictory and misleading information", "misrepresentation and omission of information" and an "inappropriately narrow public participation process" during the Environmental Impact Assessment process. We won the appeal.
- Note: Calculations of all estimated numbers are **available** on request

From: Charles Barnard <pbnsqs@gmail.com>
Sent: Wednesday, 19 February 2020 3:49 PM
To: Langeberg Municipality
Cc: Tracy Brunings
Subject: OBJECTION TO THE APPLICATION FOR TEMPORARY DEPARTURE FOR A 4.9 PORTION OF PTN 49 OF THE FARM KLAASVOOGDS RIVIER 37

I strongly oppose the application for temporary departure sighting the following reasons:

1. **Klaasvoogds* is a prime tourism area and below are the facts**
 - 1.1 The self-evident natural beauty
 - 1.2 Rural and quiet – other than seasonal agricultural machine noise that is rare or intermittent
 - 1.3 Quiet picturesque rural roads loved and enjoyed by tourists and locals for walking and cycling
 - 1.4 Klaasvoogs tourism has shown a phenomenal growth of 23% p/a over the past 10 years. This may be unsurpassed in the Boland. Currently there are more than 272 beds available from 14 establishments
 - 1.5 With a conservative estimate of 32% occupation this translates to 30 638 tourist nights p/a
 - 1.6 At this growth rate the number of beds will double in the next 3.5 years
 - 1.7 Other than accommodation there are 7 establishments serving food, 5 wine cellars that allow tasting, a cactus garden and nursery, 4 olive farms for tasting and selling all olive products, a lavender farm and smaller tourism related businesses
 - 1.8 An estimated R 120m has been invested in tourism related improvements. (excluding the cost of land)
 - 1.9 At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment (if not already)
 - 1.10 Tourism is labour intensive and encouraged by local, provincial and national authorities as a top creator of jobs and, currently 1 in 22 people or a total of 1.5m people are employed in the tourism value chain. Described by government as the new “ Gold ”

* The area N of the R60 stretching from the Klaasvoogds West road to Kleinhoekkloof
2. **Why allowing mining** and industrialization will be extremely harmful to Klaasvoogds as a whole and particular to the tourism related businesses**
 - 2.1 It will impact negatively on the unique natural beauty. At times there will be dust, carried by the prevailing SE and E wind. Who will monitor the said dust control measures? Can agricultural water be used for mining and industrial purposes? Dust and noise will be generated, not only at the proposed crusher site but also on ptns 47 and 49.
 - 2.2 It will be noisy, driving tourists away that come for peace and quiet. The noise report is meaningless in this context. It says the average noise level is 79.7dB whereas personal protective equipment is only needed at 85dB (meaning that at this level ear muffs are required) . The noise will be incessant, carried by the prevailing SE or E wind at whatever level of dB it will be unnatural for the area and disturbing to guests
 - 2.3 Tourists, locals and school children, walking or cycling along the way will all of sudden have to dodge 20 tonne trucks on the narrow roads. Not only 12x 20 tonne stone trucks per day (if we believe the figures supplied) but also 4 or 6 CP concrete trucks stationed on the farm, maintenance vehicles, diesel trucks, etc
 - 2.4 Taking into account the importance and size of the tourism industry, as illustrated in points 1.4 to 1.10 above why allow an industry that will do a lot of harm to a lot of entrepreneurs and workers? An industry that may create negative (in real terms) employment and economic growth for the area as a whole. Only one person may enjoy the fruits of positive economic growth at the detriment of many others.

**Despite the application being for the “ improvement ” of agricultural land it is the facts below that will show that it is an operation to mine brown stone that is currently very lucrative
3. **Why I find the stated reason for the application “the cleaning of stone from agricultural land” not plausible, practical or making any economic sense (taking into account that the applicant is an astute business man)**

- 3.1 The applicant will not sell the stone. Really? He will mine, crush and transport it for free. I believe CP concrete will ultimately sell the stone, but it is a father/son relationship with many grey areas. Whoever sells or does not sell per the application – ultimately the stone will be sold.
- 3.2 Why should the processing plant now be accommodated as stated in item 1 of the motivation. Surely the plant was erected before any legal approval and should now be sold off, not used to pay for itself
- 3.3 It is unheard of to clear agricultural land to a depth of 1.5m of all stone (and later put some stone back for drainage) A call to Agri SA will surely confirm that this is a fallacy
- 3.4 The 4.9ha mined 1.5m deep produces 73 500m³ earth and stone. 30% of the stone is returned and say 30% is ground and topsoil. The 40% remainder is 29 400m³ sold at say R 650/m³ gross = R 19 110 000. From this amount all production costs, transport, devaluation of plant and equipment needs to be deducted, say 50%, with a remainder then of R9 or 10m. It does not make any financial sense with R15m worth of equipment.
- 3.5 Adding to the expenses would be a 20% gift tax to be paid by the applicant. As the stone is mined and processed, transported and then “given away” it will be classified as an enterprise not producing income. As such, none (or few) of the expenses named will be tax deductible. On the other hand, CP concrete has very low input costs, receiving the stone for free, it will therefore show a very high profit that is off course fully taxable.
- 3.6 To make the numbers work, more stone may have to be mined and processed ?. The period may have to be extended ? It is possible that other areas may be disturbed to make up the shortfall ? (other than the stone that will be gathered over ptns 47 and 49)
- 3.7 The debatable increased agricultural production (if any) on 4.9ha is unlikely to make up the shortfall either.
- 3.8 How will the stone be removed from ptns 47 and 49. With front end loaders and trucks?. Disturbing soil and producing additional dust and noise. The extent of this operation is completely absent in this application.
- 3.9 What makes economic sense (to the applicant) is to mine and sell a volume of stone many, many times more than that which is available from the 4.9ha and lying around on ptns 47 and 49.
- 3.10 If the applicants’ real intention is to acquire farm land suitable to his needs it would be much more logical and economical to sell off the plant and buy land that is just right for the applicants’ requirements. And the plus point is that he will get more than 4.9 ha for the money realized plus additional water (with water becoming a more sought after agricultural commodity than ever) plus an additional asset that may show some capital growth. It is also immediate. He could produce 3 harvests by the time he finished “clearing” the land. The fact that it is not done is very, very puzzling and you cannot but think that this application has nothing to do with the clearing of land. Also every farmer in the Klaasvoogds valley has been confronted with the problem of stone clearing and this hasn’t prevented them from farming profitably.

4. Why this operation may escalate well beyond its stated purpose

- 4.1 It is the only way it makes economic sense
- 4.2 Local authority do not have the capacity or funds to monitor the myriad of regulations, volumes, related bye laws, etc,
- 4.3 Allowing this application sets a precedent for further and extended industrial activity
- 4.4 Because there is no authority to effectively monitor this operation it will be left to the applicant to comply with all legislative and other relevant requirements. History shows that the applicant has a tendency to disregard laws and regulations. Examples are the illegal concrete batching plant, recently removed after court actions, which cost neighbours lots of money. Also an excerpt from a previous appeal by Lawer Clarissa Molteno.... “confusing, contradictory and misleading information”, “misrepresentation and omission of information” and an “inappropriately narrow public participation process” during the Environmental Impact Assessment process. We won the appeal.

Note: Calculations of all estimated numbers are available on request

Regards

Charles Barnard
Geduld Farm 251, Klaasvoogds East
Cell 082 555 4614

Tracy Brunings

From: Theunis <theunis@khk.co.za>
Sent: Wednesday, 19 February 2020 10:47 PM
To: Langeberg Municipality
Cc: Tracy Brunings
Subject: OBJECTION TO THE APPLICATION FOR TEMPORARY DEPARTURE FOR A 4.9 PORTION OF PTN 49 OF THE FARM KLAASVOOGDS RIVIER 37
Attachments: OBJECTION TO THE APPLICATION FOR TEMPORARY DEPARTURE FOR A 4.doc

To Whom it may Concern

As with the previous **application** I oppose the new **application** for all the reasons mentioned in the **previous** objection as the new **application** will cause the same **problems** and harm as the previous **application**.

I also fully subscribe to the facts in the attached Objection by Mr Charles Barnard.

Kleinhoekkloof has seen a large **increase** in visitors, mostly foreigners, that **make** use of the **excellent** accommodation in **Klaasvoogds** and use **the** gravel road from **Klaasvoogds** to visit our winery and restaurant in the past year. The trip from Klaasvoogds to Kleinhoekkloof on the gravel road forms part of their adventure in **visiting** our country. The proposed mining, crushing and transport operation on this road will most certainly stop **them** coming to visit Kleinhoekkloof with resultant financial **implications** for us. The R62 is not a viable option for **tourists** at the **moment** due to the continued roadworks.

Kind rgds

Theunis de Jongh

Kleinhoekkloof Wines

m: 083 250 5775

a: Kleinhoekkloof Farm, Wildepaardekloof, 6715

w: www.kleinhoekkloof.co.za



Tracy Brunings

From: Stephan Busch <stephan@patbusch.co.za>
Sent: Thursday, 20 February 2020 9:41 AM
To: Langeberg Municipality
Cc: 'Lindi Busch'; Karin Busch
Subject: Objection to proposed mining & quarrying

Good morning,

I trust that you are well.

We as the Pat Busch Mountain Reserve (Bergendal and Bergplaas Farms in Klaasvoogds West) would hereby like to once more formally object to any industrial activity in our Klaasvoogds area. We do not agree with any mining and / or quarrying gravel activities in our natural or rural farming environment.

Thank you for your time.

Regards

Stephan Busch

Regards

Sent from Stephan Busch's iPhone

Pat Busch Mountain Reserve

E. & O. E.

OBJECTION 6

Tracy Brunings

From: Marbrin Farm <marbrinfarm@gmail.com>
Sent: Thursday, 20 February 2020 4:59 PM
To: Langeberg Municipality
Cc: Tracy Brunings
Subject: Objection for crushing plant
Attachments: Objection.pdf

Good day

Please find attached our objection to a crushing plant in Klaasvoogds

Kind regards
Clivee

Marbrin Olive Growers
30-39 Robertson Road
Klaasvoogds River
6706
South Africa

www.marbrin.co.za

TEL: 0027 (0) 789163606

TEL: 0027 (0) 738408228

VOTED 2016 ABSA TOP 5 and 2017 and 2018 ABSA TOP 10 Olive oils in South Africa



check us out on Facebook, Twitter, Instagram and Tripadvisor



To Whom it may concern

OBJECTION TO NEW APPLICATION: KLAASVOOGDS Rivier 37/497 Application for crushing plant

We, Briony Coetsee and Clive Heymans of Marbrin Farm, are a boutique olive producer offering tastings and tours to visitors and ranked as the number one thing for tourists to do on Trip Advisor in Robertson and we produce multiple award winning olive oils. We are situated approx 1500m, West from the crushing site which is visible from our tasting room and has raised a lot of concerns from our visitors, regulars and new, as to what is going on with all the dust and noise emanating from the crushing plant. It is of major concern to us that the mining area will increase rapidly once a full license is granted as the crushing business is very lucrative and has nothing to do with farming.

We strongly object to the application of a crushing plant requested by Buitenverwacht Farm.

Klaasvoogds is an area of outstanding Beauty and a big draw for tourist. We are extremely concerned that the "Mining" operation is going to escalate to a large operation, thus tarnishing our beautiful valley.

Rezoning has been declined once before, so we do not understand how a new application can proceed.

If the application is to succeed, more are applications to mine will no doubt be received, thus turning our valley into a dust pile.

We already have a lot of dust from the dirt roads around us, a crushing plant is going to increase this and thus risk the quality and contamination of our oils

Yours faithfully

Briony Coetsee 20-02-2020



Clive Heymans 20-02-2020



Tracy Brunings

OBJECTION 7
(see also: 3 + 4)

From: Rondaleur <rondaleur@khk.co.za>
Sent: Friday, 21 February 2020 9:58 AM
To: Langeberg Municipality
Subject: Application for mining in Klaasvoogds

Good day Ms Bruinings.

If at all possible I would like to add my support to the objection motivated by Mr Charles Barnard in this regard Kind regards

Ronel de Jongh
Kleinhoekkloof Farm

Tracy Brunings

From: Stefan Botes <wildhorse@barvallei.co.za>
Sent: Thursday, 20 February 2020 4:39 PM
To: Langeberg Municipality
Subject: MYN KLAASVOOGDS PORTION 37.docx
Attachments: MYN KLAASVOOGDS PORTION 37.docx

AANDAG

TRACEY BRUNINGS

INGESLUIT MY BESWAAR TEEN MYN CRUSHING PLANT ON 49 VAN PLAAS 37 KLAASVOOGDS RIVIER.

DIREKTE EIENAAR
WILDEPAARDEKLOOF PORTION 17 VAN 33/2

JANKIE

M.E. BOTES
087 150 2206 HUIS/WERK
072 233 2905 SEL SWAK OPVANGS

admin@fangeberg.gov.za

WIE DIT MAG AANGAAN

TRACEY BRUNINGS

BESWAAR TEEN INDUSTRIELE HERSONERING VAN GEDEELTE 47 EN 49 VAN DIE PLAAS
KLAASVOOGDS RIVIER 37 IN ROBERTSON DISTRIK.

"DEPARTURE APPLICATION CRUSHER PLANT FOR CP CONCRETE – MALHERBE FAMILY –
BUITENVERWACHT.

TEMPORARY DEPARTURE APPLICATION TO ALLOW UNDER THE CURRENT LAND USE AGRICULTURAL
1 a CRUSHING PLANT ON 4.9Ha OF PORTION 49 OF THE FARM 37 KLAASVOOGDS RIVIER."

Ek Maria Elizabeth Botes (toekomstige eienaar van 297), dogter van Johanna Susanna van Zyl Sr. 92
jaar en tans nog die eienaar van 297 porsie 17 van 2/33 WILDE PAARDE KLOOF.

Hiermee teken ek beswaar aan as die direkte aangrensende bure aan die NOORD OOSTELIKE kant
van die bepande myngebied.

GRONDWAARDE

1. Indien die beplande myn operasie toegelaat word sal die waarde van ons grond drasties
verlaag word. Ons sal definitief nie die natuur en eko potensiaal kan ontwikkel nie.
2. Die myn is direk in ons sig en selfs uit 'n persoonlike residensiele oogpunt sal ons regte
Benadeel word.

NATUUROORSPRONG

1. Ons sal beroof word van ons mooi natuurlike stilte.
2. Ons gebruik die grond bloot as 'n natuurreservaat aangesien die eiendom nie besondere
Landbou waarde het nie, maar wel 'n baie mooi natuurskoon gebied is met die mooiste
uitkyk punte wat die toerisme aan trek.

DIERE

1. Verder is dit 'n nadeel vir ons diere wat in 'n 5m diep uitgraving kan beland en vir
ons viervoetige 4x4 skilpad gebruikers.
2. Ook van mening dat die Ekologiese impak studie nie klein soogdiere en ongewerweldes
in ag neem nie.

PAD

1. Die pad ontoeganklik maak na my eiendom.

2. Ook van mening **dat** die groot 25t vervoertrokke die pad onveilig sal maak en die oppervlakte sal beskadig. **Maak** nie saak watter roete hul **gaan gebruik** nie. DIE KLAASVOOGDS OOS PAD of DIE PAD **NA** ASHTON OOR WILDE PAARDE KLOOF.

Dan ten laaste dui CAPE FARM MAPPER ver 2.0.3.9 verkeerde grenslyne uit en nie die regte lyne soos in ver 2.0.3.7 nie. Fout begin al by 33/4 nou 15 daarna benadeel dit 33/5 nou 16 as ook hier waar dit grens aan 33/2 nou 17.

BY VOORBAAT **DANK**

DIE UWE

M.E. BOTES
wildeperdehoek@gmail.com

Tracy Brunings

From: admin@jhrconsultants.co.za
Sent: Thursday, 20 February 2020 1:57 PM
To: Langeberg Municipality
Cc: 'Galloway Guest House'; 'Susjan Wentzel'; 'Koos Wentzel'
Subject: MRS Brunings-Klaasvoogds mining and quarrying

Dear Mrs Brunings,

I Would like to object against the mining and quarrying attempt to resume, as the mining activities has a negative impact on our tourism/business in Klaasvoogds.

We Run the Galloway Guest house on Klaasvoogds West.

Johan Roodt
Professional accountant (SA)
SAIPA # 22740



JHR consultants

JHR Consultants
62 Lake Circle, Midfield Estate,
PostNet Suite # 1553; Private Bag X1007; Lyttelton; 0140
South Africa
Mobile +27 (0)82 377 59 21 Fax: 086 515 3979
E-mail: johan.roodt@jhrconsultants.co.za

<http://www.jhrconsultants.co.za>

Tax and accounting services

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Tracy Brunings

From: Admin <office.kantoor@gmail.com>
Sent: Thursday, 20 February 2020 1:49 PM
To: Langeberg Municipality
Subject: Klaasvoogds mining & crushing in our valley

Dear Ms Tracey Brunings

This is to support Mr Charles Barnard and other occupants of Klaasvoogds Valley in opposing the applications for new **mining/crushing** permits in our area.

I propose that there should also be looked into present permits and the legality of it and a probe to address the issue of whether these are run in the way they should be run.

There is a constant cloud of dust hanging and no water is being applied to the crushing processes. This could be detrimental to the health of everyone in the area.

Kind Regards
Vivienne Reynecke
Klaasvoogds West

Tracy Brunings

OBJECTION 11

From: Paul De Wet <paul@deeenay.com>
Sent: Thursday, 20 February 2020 11:39 AM
To: Langeberg Municipality
Cc: Inge de Wet
Subject: FW: OBJECTION TO THE APPLICATION FOR TEMPORARY DEPARTURE FOR A 4.9 PORTION OF PTN 49 OF THE FARM KLAASVOOGDS RIVIER 37

For Attention: Tracy Brunings

Dear Ms Brunings,

We wish to add our voice to objection of the application for temporary departure for a 4,9ha portion of ptn 49 of the farm Klaasvoogds Rivier 37 by endorsing the motivation for objection as set out in Mr Barnard's formal objection below.

The application suggests that clearing land of stone to a depth of 1,5m is in the ambit of "normal farming practice". This I have never heard of or experienced in my entire farming career. I therefore question the motivation that it is in fact normal farming practice, but rather an opening to resume mining/quarrying activities if the application is approved.

When the 4,9ha is successfully mined, who will monitor the operation that the adjacent 4,9ha (and so on) will not subsequently be mined?

We therefore strongly object to the granting of their application.

Sincerely,

Paul de Wet and Inge de Wet
PO Box 936
Robertson
6705
paul@deeenay.com
Tel +27 824957739 and 0825593339

Villa Verde
Portion 12/40
Klaasvoogds West
Robertson

From: PAUL DE WET <paul@deeenay.com>
Date: Wednesday, 19 February 2020 at 17:21
To: Inge de Wet <inge@deeenay.com>
Subject: Fwd: OBJECTION TO THE APPLICATION FOR TEMPORARY DEPARTURE FOR A 4.9 PORTION OF PTN 49 OF THE FARM KLAASVOOGDS RIVIER 37

Paul de Wet
PO Box 936
Robertson

Temporary Departure Application to allow under the current Land Use Agricultural I a Crushing Plant on 4.9 ha of portion 49 of the farm 37 Klaas Voogds Rivier

Dear Langeberg Municipality,

In 2018 we submitted our comments and concerns to the Rezoning Application for the

- Removal of rock (Mining Industrial III)
 - and
 - Crushing of rock (Industrial I)
- on Buitenverwacht in Klaas Voogds East.

Our concerns about the impacts which it would have on all of us, our families, friends, staff, guests, businesses and on the environment were made "aware" to the Municipality and we were happy to receive the information that the Tribunal refused the application on the 11. November 2018 and confirmed their decision after the applicant submitted an appeal.

Same Application

But in our view is the new application - although for a Departure from Agricultural I - in no points different to the Rezoning Application which was decided on by the Tribunal in 2018 / 2019.

The Tribunal of a Municipality and it's decisions after an appeal should also fall under the principal of res judicata - meaning it is the final decision and the applicant can not apply for the same activity again.

If the difference is now only the "Departure" and with this the maximum time frame of 5 years we have to point out that the refused Rezoning Application for the 4.9 ha was also relating to a time period of 5 years, because the Mining Permit was granted for 2 years with an option of 3 times yearly extension which was the same time frame the applicant is requesting now.

Therefor it is clear that the new application must be refused, because the Tribunal made a decision about this application already in 2018/2019.

If nevertheless this application will be going through the same process again - with a now 5 year limited application only - we would like to include our comments which we made on the refused application, as our concerns about safety, traffic, noise dust and effect on our lives and our businesses will be the same.

Those Impacts exist from the second the Crusher Plant starts operating and the trucks are driving...

... If for only 2 years, 5 years or for longer.

(Please see attachment)



Mining Permit

Further would we like to point out, that the Mining Permit which the Applicant is referring to is not valid anymore.

It was issued on the 14. February 2017 for two years and would – if not suspended ... or lapsed - be renewed three times for a year.

As the Applicant has not submitted any other documents confirming that the permit was renewed before the 13. February 2019 it automatically lapsed on the same day – more than one year ago.

To now try and motivate the new application with the words: existing Mining Permit is misleading.

We would like to point out again that the EA for this Mining Permit was obtained with a faulty Public Participation Process and we have attached the advertisement again to show that the introduced activities were excluding crushing and the EA should have never been granted and the Mining Permit never been issued in the first place.

The request to suspend the Mining Permit is actually still open.

Collecting or Extracting – it is still removing

Further are we reading in the new application that the stone may now only be collected from the surface compared to the old application extracted from the soil and therefore will this activity not fall under the definition "mining".

The Mining definition in the applicant's old application was quoted as follows:

"Mining" means an enterprise which practices the extraction of raw materials, whether by means of surface or underground methods, and includes the removal of stone, sand, clay, coalin, ores, minerals or precious stones."

(Scheme Regulations – LUPQ Section 8)

The Law has not changed and is still very precise in the definition and also defines collecting from the surface as the activity REMOVING and therefore falls into the category of mining.

The DEA&DP already confirmed in their letter dated 24.05.2018 that the existing EA for the 4.9 ha does not cover the area where the stone would be removed.

The motivation to remove the stones and rock is to a certain degree understandable for the purpose of farming but with the old applications documentation and long term focus we are still of the opinion that the only reason to remove the stones is for the financial value those stones get crushed into for the concrete business.

Exemption does not apply

Section 106 (3) of the MPRDA exemption for a landowner who uses sand, stone, rock, gravel or clay for improvement of farming or in the community

As long as the sand, stone, rock, gravel or clay is NOT SOLD or DISPOSED of.

The applicant would therefore only not need to apply for a Mining Permit if he would be exempted (§106 MPRDA) because using the mineral for improvements on the same farm.

But the applicant confirms that most of the stones (although crushed) leaving the farm to be part of a concrete mix which is another business of the Malherbe family.

To donate the stones does not change the fact that stones will *leave the farm* and be used as building material and are *sold later on* to clients.

To now try and use the word DONATE is misleading as it is very clear that the free aggregate will be worked into the concrete prices as usual and the profit falls on to CP Concrete instead of the Buitenverwacht farm.

We cannot imagine that the Donation tax of 20% calculated on the market value of the goods donated and payable by the donor will support the farm business financially.

Fact is that the stones are commercially used and the applicant needs to follow the correct process and obtain an EA and a Mining Right instead of a Mining Permit, which is only for an area smaller than 5 ha and optimum mineable for 2 years – in this application: the area is much bigger than 5 ha and the time frame 5 years.

No documentation on the area where rock will be removed

This Departure Application is only for operating the Crusher Plant on the 4.9 ha to crush stockpiled rock. Those stockpiles must come from other fields on the farm as there is no allowance in the existing Environmental Authorization to remove rock out of the 4.9 ha.

There is no documentation to the removal of rock on other portions of the farm and it is clear that the necessary Environmental Authorizations have not been obtained and therefore should the application be refused alone on this reason.

Reports

We are missing in the new application the assessment for the traffic.

We would like to mention that the Traffic Assessment which was done for the old application was adding conditions which obviously would still need to be adhered to.

The presented Noise Report is unfortunately not sufficient enough to understand the impact of the crushing in our area as it does not state any distances where the measurements be taken and has therefore no value.

Further comments on the Motivation Report

We noticed that the applicant is reasoning his application with the words – accommodating the existing crusher system / conveyer system.

It was entirely his decision and risk to invest 15 Mio Rand into his mining equipment without having all his approvals in place.

It cannot be accepted as a reason to have an application to crush stones in our Agri Tourism oriented area.

Further did we find the comment about the not increasing or decreasing traffic misleading as there are no trucks currently and any new approval will generate the undesirable traffic as the road is not built for heavy 7 axle truck vehicles of which pictures were submitted in the old application.

As we included our comments from the rezoning application to this comments we do not need to repeat our comments on the Socio Economic and other aspects as we have the same also in this Departure Application and it makes no difference how long the operation would be granted ... the impact is immediately

We therefore do not support the application and requesting the Municipality to uphold there position and refuse the application again


Karl & Sandra Papesch

 6.03.2020

Helene.Janser@westerncape.gov.za

Shameemah.Abrahams@westerncape.gov.za

admin@langeberg.gov.za

tbrunings@langeberg.gov.za

Objections to application in terms of section 53 of the Western Cape Land Use Planning Act, 2014: Application to rezone ptns 47 and 49 of Farm Klaasvoogds Rivier 37, Robertson, Buitenverwacht.

We, Sandra, Karl Uwe Papesch @ our children are direct neighbours and we work and live next to the Buitenverwacht farm and are objecting to the a.m. application as we already experience the impacts which the proposed activities bring at the current status.

We are leaning our reasons of our decision
to the below mentioned reports as also
impacts of proposed activities on tourism as also
the “non-reaction” of Mr Malherbe to diverse legal requirements
and requests in the recent past.

3 projects and 1 application?

There is the “**Removal of Rock**” which is in a day to day farming a normal agricultural activity, there is the “**Crushing of Rock**” which makes the stone useable for other purposes including improving a property and there is the “**Concrete Mixing**”.
All three projects are in a way depending on each other and are strongly related in this application.
But it **nowhere states a timeframe**.

Looking deep into the documents there are the
“**motivations**” for each project
provided by the property owner/applicant Altus Malherbe (either as CP Concrete or Malherbe Family Trust) and he gives reasons for his applied activities.

FIRST step “Removal of Rock”.

The stony soil is a hindrance to achieve good crop yields.

The motivation is: improving the soil.

It is normal that farmers removing stones when preparing soil and stockpile them somewhere *as waste* on their farm or crushing them to use for dams, drive ways or soil preparation etc.

In this application it will be in 5 different phases over an area of 26,5 ha.

As in the soil study mentioned there are in some areas with very stony soils and in others less but the bottom message: **there are many stones for a very long time to be “extracted”.**

SECOND STEP - The crusher plant

This takes us to look into the years 2016 & 2015.

To understand this process, the documents are becoming complicated as the “processing of minerals” which have been extracted out of soil require a Mining Permit. And the process of applying for a Mining Permit touches the national legislation.

To be able to receive a Mining Permit an Environmental Impact Assessment (EIA) must take place. This compiled report (EIAR) is part of the Rezoning Application Documents but is such a big file that it is not very appealing to read.

But to **summarize the motivations:**

The Crushing Plant will screen the stockpiles of **waste rock** (as it is a side product of the soil preparation) so nowhere will be ugly stockpiles on the farm.

The activity will be a job creation for 5.

There is a ready-mix plant existing - the crushed rock (aggregate) can be used for the concrete business.

And as this concrete business had in the past buying aggregate and received deliveries there is an **additional motivation**: the amount of monthly delivery trucks of such purchased aggregate can be **reduced** by 100 trucks a month.

The Environmental Authorization was granted on 6.12.2016 and the Mining Permit issued on the 14.02.2017.

But the national legislation is complied with – **the provincial authorizations still need to be obtained: rezoning.**

THIRD STEP – Ready Mix Plant

Compared to the other two projects there is **no agricultural benefit** in concrete mixing.

The using of the waste rock for a different business seems to be a nice add on to the **original target to improve soil.**

So “the **coat**” of rezoning for the removal and crushing of rock is a good opportunity to **legalise** the ready mix plant.

**Reading the above seems on the first glimpse to make sense.
Improving soil and getting rid of waste rock.**

But may be the steps to this complex project were the other way around.

First - there was the Ready- Mix Plant

Second - Where to get to aggregate and

Third – How to give it an agricultural touch

FIRST - The Ready-Mix Plant

For years all of us passing by and saying: “it is a sore in our eye”.

Those being brave and asking have been told: “that this is only there for short. A solution is in progress.”

As we all know Altus Malherbe as a reliable successful business man we patiently waited for that day that a different property is found that this illegal and ugly structure in an illegal road reserve is finding its suitable place.

Instead we notice that the business on the concrete mixing is picking up.

Of course: Lots is going on in Robertson, it is in fashion to move to the country side or to do your holiday here ... a lot need to be built.

But the answer we still received: that the purchased property was not useable, and a new solution must be found.

In addition: the aggregate (stone) is in high demand and the price is going up.

To be *independent* from a supplier and *competitive* in pricing the own concrete why not supplying the aggregate yourself?

If that concrete business would not be here - there would be no motivation for the **SECOND STEP**: But the crushing plant motivates to save 100 trucks a month of aggregate deliveries!

If the crushing plant would be not here - the **THIRD STEP**: removal of rock up to 5 meters deep would not be there!

We question that a soil preparation 5m deep is economic for the growing of tomatoes?

We question that the spent 15Mio Rand for a preparation of 26,5 ha is economic?

We question that the mining and crushing will only be for a short time!

We question if agricultural yield is really the aim of those projects!

We are concerned about the **impacts** which those 3 projects will have

On our community – there will be dust, noise, and damaged views

On our own farming or tourism activities and our lifestyle

On our property values

On our “new” road

On our tranquil valley as such – this is the hole in the dam wall and we will have no ground to stand to say NO if other industrial concepts will be applied for.

1. Traffic Impact Assessment

The Assessment was done in September 2017 as a **desk top study** – so only data from 2013 to 2017 in a system were drawn and analysed to come to the following conclusion:

“There will be no serious **impacts on the intersection** between the DR1366 (which is our new tarred road) and the R60 that means a free flow of traffic expected. The report suggested to put up signs for heavy vehicles.”

Our comments:

The data for this report are escalated from 2013 to 2017 and **no future impacts** were considered. In addition, the seasonal traffic variations like harvest and tourists are not reflected.

The classification for our DR 1366 is a “Rural Collector Road R4” – which means it is for **vehicles and pedestrians**. No reference is made to school kids, cyclists and our farm community which are users of the road.

The marked position of the Concrete Business area in the “Plant Development Plan” is not correct therefore the **access to the site is not assessed**.

The assessment is only done for the traffic flow/capacity to the intersection for the project: concrete business and crusher.

It does not reflect the land use mining which is also applied for.

The South African Traffic Impact Assessment Standard TMH 16 Vol 1 & 2 includes

regulations for Heavy Good Transportations which they define:

heavy industrial/manufacturing and mining.

Heavy goods: mined materials include sand and **minerals**.

Heavy products include bricks and **concrete products**.

No reference is made that such land uses require the following assessments:

Capacity analyses

Road Safety

Road Geometric Standards

Road Pavement incl. Gravel

Dust

We were hoping that we will find in a Traffic Assessment Report an evaluation of **future impacts** as also satisfactory answers to the points **Safety** and **Structural Capacity** of the DR1366 as also the assessment for the **access points** to the different projects: Mining, Crushing and Concrete Mixing.

The submitted Traffic Assessment does not address our concerns and is unfortunately for us as community of no use.

And just to explain what traffic we must expect: a calculation based on the figures provided in various reports and summarised as follows:

The **capacity of the Concrete Mixing Plant** will be between **1000m³ to 1500 m³ per months**.

1 truck can transport max. 6m³ = **ca. 14t wet concrete mix**

and contains the following ingredients:

7,2 t stone

4,2 t sand

1,65 t cement

plus 9l of a mix and 700l water.

To transport the produced concrete there are **167 to 250 loaded trucks** in a month

which must return therefore

334 to 500 truck trips

on 20 working days

17 to 25 truck trips per day

To be able to produce 1000m³ a month the following amount of sand and cement would need to be delivered:

Stones	1.200 t but generated from the farm
Sand	700 t
Cement	<u>275 t</u>
total	975 t

Considering that the big trucks have a capacity of 15t load

the deliveries will be

65 loaded trucks per months

which must return therefore

130 truck trips

on 20 working days

7 truck trips per day

On the smaller amount of **1000m³** there would be 24 (17 concrete plus 7 delivery) trucks a day.

Calculated on a 9 hours working day: **every 22 minutes 1 truck**

On the bigger amount of **1500m³** there would be 35 (25 concrete plus 10 delivery) trucks a day.
Calculated on a 9 hours working day: **every 15 minutes 1 truck**

Not considered the sold aggregate, which would add another 3.890t per months calculated as follows:

In the soil report is mentioned:

The crusher has capacity of	40 m ³ per hour
and can produce aggregate in 8 hours	320 m ³ per day
for a 20 working days month an amount of	6.400 m ³ aggregate in a month!

1/3 will be used as dust for the top soil mix	2.133 m ³
2/3 in two different aggregate sizes available	4.266 m ³ = 5.690 t per month

Use of stone per month in the Concrete Mixer Plant

On 1000m ³ production	1.200 t
On 1500m ³ production	1.800 t

Therefore, the question would be, what is going to happen to the extra produced aggregate?
Will it be sold?

That means the Mining and Crushing Business is adding on to the traffic calculation above as follows:
To transport "left over" 3.890 t aggregate you need 260 more truck-loads of 15t. Which means those trucks need to drive in and out: 520 trips in a month = 26 trucks a day = 3 trucks an hour = every 20 minutes 1 truck.

Concrete Trucks:	25 per day
Delivery Trucks:	10 per day
Sold aggregate Trucks	26 per day
	61 trucks per day
	6,7 trucks per hour
	every 9 minutes a truck

All these trucks are heavy vehicles with a loading capacity of up to 15t plus its own weights. For example: A 6m³ concrete mixer truck weighs fully loaded 26t.
(These are not the small farming trucks which deliver fruits.)

2. Soil Study

We are no Scientist and will not question the report but pointing out a few of the statements made:

Robertson is a dry area and for vineyards and orchards, minimum soil depths of **80 cm** will sustain a good root system. For tomatoes **60 cm**.

Based on the profile holes there are **no high potential soils on the farm**.

"The soils with **high stone content** can be classified as **medium to medium low potential**. The more stone, the lower the potential. The main reason is the water holding capacity. These attributes impact on Management to the extent that to be successful very good irrigation scheduling is

required to maintain optimal moisture levels in the root zone. During the peak summer months this is very difficult as the climatic conditions are harsh and the crop's water demand is high."

Current production records:

	stony soil	less stony soil
Peaches	16t/ha	21t/ha
Peaches	31t/ha	44t/ha
Tomatoes	20-60t/ha	80-120t/ha

One of the questions on the list was: what is the production potential afterwards?
No statement is found.

The Effect of Mining on Soil Potential – this portion deals with the crusher dust which will add a water holding capacity to the soil and therefore will increase the agricultural potential.

Mining Potential – there are areas from very high potential to very low which has for each area an estimated volume of stone to mine – but the main message:

**"There is enough stone to sustain the mining operation
for many years into the future."**

The Crushing Operation – 3 products more or less in equal volumes

25-19mm gravel – will be sold

19-13mm gravel – will be sold

<13mm crusher dust – go back to topsoil mix for rehabilitation

Rehabilitation Actions

40 cm topsoil must be removed and stockpiled

40 cm above the clay layer must not be mined – drainage and prevent water logging

mining of strips if 6-10m wide

1/3 = crusher dust must be mixed with topsoil and replaced

Conclusion: - proposed mining activity **holds no threat** to the farming operations. If the rehabilitation is done correctly – the soil will have a higher water holding capacity and with this a higher agricultural potential than before.

Our questions/comments:

The report unfortunately does not assess the microbiology in the soil.

The removal of topsoil and stockpiling will expose the "edaphon" to the sun and will result that the new plantings would need a lot of chemical support when planting as the microorganism system has been destroyed.

With what will be the 2/3 removed stone be replaced with?

The Rezoning application mentions removal of rock up to 5 m deep. But the soil report shows only 2 profiles (of 28) with a depth to clay of >4m?

There is no reference made to the Concrete Mixing Plant / Cement Dust and its impacts on the soil.

There are no comments to impacts which Mining activity could have to the neighbouring properties: underground water for example?

The Report with its conclusion: “holds no threat to farming” could also be read as: **How many stones can I remove that agricultural activity is afterwards still possible?**

Is the improvement of soil really the motivation in this project?

There is no time frame how long the mining activity will take place and when the new planting will happen.

Is the investment of **15Mio Rand** really economic to improve **26,5 ha from medium potential to high potential?**

3. Ecological Assessment Report

This report is only done for the Removal of Rock.

No Assessment is done on the Crusher Plant or the Concrete Mixing.

It was found that the project site is in a severally degraded state due to impacts by previous and present activities (wheat, tomato and fruit production) as well as the construction of drainage systems, dams and road infrastructure.

The removal of rock in some areas is not allowed as it is sensitive areas.

Buffer zones to water courses and sensitive areas are recommended.

Gabions must be installed on the foot of the hill as ground level will be significantly lower.

Potential Impact on Stream: Pollutants from stone removal operation might end up in the nearby Martiensvlei stream via surface runoff. From here the downstream aquatic system might be affected. Care must be taken not to spill any pollutants.

Potential Impact on Vegetation: the activity to remove stones and rock will have relatively low impact on the vegetation at the site, because of the lack of natural plant species present.

Compliance with provincial and national legislation is strongly advised. It ensures the protection of the environment against disturbance or destruction as a result of man-made processes or activities.

On the list: NEMA full Environmental Impact Assessment required

DEA must give **Environmental Authorization**

MPRDA Compilation of Environmental Assessment Report

Environmental Management Programme

Department of Minerals & Energy must give **Mining Right**

National Water Act

Proposed development may triggers water use

Department of Water & Sanitation may need to give **Water Use Licence**

No dumping of building waste or spoil material from the development should take place on areas than licenced landfill site.

Our questions/comments:

Unfortunately the Assessment **does not** deal with any impacts from the Crusher or the Concrete Mixer:

The Concrete Mixer will be close to a watercourse.

The Crusher Plant will be partly in a buffer zone.

If this report restricts the dumping of building material – building material is getting produced on the area and we all know how that looks!

The impacts of the Mining to surrounding properties are not assessed.

There are buffer zones recommended to sensitive areas and watercourses but not orchards / vineyards of neighbours!

No time frame mentioned how long the mining activity will take place.

How can be an assessment done without a detailed layout plan – see 1.6. Limitations.

The position of the Crusher and Concrete Mixer would have been visible?

The Compliance with legislation is not presented – none of those “licences” has been obtained for the removal of rock.

4. Concrete Business

The impact of this land use/activity is not assessed at all:

Where exactly will it be? Two side plans, two different positions.

Zoning Map shows close to stream

Layout Plan shows close to DR1366

First no permanent structures – now two 30t silos – will those be visible as they are 8m high?

Will be 4500m² enough? In the old application the area was supposed to be 1,8 ha?

4 trucks

conveyor belt

weighing bridge

excavator

2 x 30t silos

platform for sand

platform for aggregate

storing of water

storing of petrol

vehicle maintenance area

workshop space

office space

sanitary equipment

turning space for long heavy vehicles.

Where will be the access to the DR 1366?

Will there be a lot of cement dust which can be blown off to orchards of neighbours.
Please remember we all produce export fruit – **explaining cement dust on fruits** will be difficult while an **GLOBALGAP inspection**.
(Washing it off the fruit is possible but takes the resource water and time and eventually cost money.)

Who is controlling that the size of 4500m² will not be enlarged?
Please remember: any development bigger than 1 ha would need an Environmental Authorization!

Is the water which needs to be used for the concrete mixing and cleaning of trucks licenced? Water use licence?

How will the water be stored?

What is with waste cement / concrete which will be left in drums – rinsed out and poured as usual on the road and its side slot?

5. Removal of Rock - Mining

As the removal of rock is related to agricultural activities there should be no worries – unfortunately not.

There are no legal issues if you keep the rock on your farm (even crushed) but as soon as it leaves the property it is an activity which requires either a Mining Permit or a Mining Right.

The Soil Report explains, that 2 thirds of the removed stone get sold and only 1 third gets as crusher dust back into the soil preparation.

A Mining Permit is for small scale mines, where the mineral can be mined optimal within 2 years and on an area not bigger than 5 ha.

If it is longer or bigger, a **Mining Right** must be applied for. A much bigger exercise for an applicant than a **Mining Permit**.

The Ecological Reports above makes recommendation as follows:

The national and provincial legislation must be obtained for this project of removal of stone.
See point 2 of the Report under NEMA and MRDPA

As a result we don't understand, why this project is under rezoning application if this national legislation has not been obtained.

6. Crushing of Rock

This is the project part which started in 2015.

To be able to process minerals which have been removed from the soil a Mining Permit or Mining Right must be applied for ... and for this an Environmental Authorization must be obtained.
Therefore an Environmental Assessment will take place.

Part of the Assessment process is a Public Participation which must take place to give the surrounding properties and any Interested Party a chance to make a comment.

This process took place in 2015 and has been flawed. As a result an **Appeal to the Department of Environmental** has been submitted. The Appeal is still in process but **one** of the reasons is the following:

The Public Participation in its initial phase – and the most important, as it needs to attract the public – the following description of the Crusher Plant was

“CP Concrete (Pty) Ltd. identified a stockpile area on Portion 3 of Klaas Voogds 37, Robertson, Western Cape Province and intends to remove the stone/rock, stockpiled by Altus Malherbe Family Trust, and sell as a mineral to clients.

The proposed area from which CP Concrete (Pty) Ltd. will remove the stockpiled stone is 4.9 ha in extent. The stone aggregate will be loaded with an excavator onto trucks that will transport it to clients.

NO washing, screening or CRUSHING will be needed.... “

Published in the Gazette
Notice on a Fisheries Shop in Robertson
Notice on the property wall
Hand out to direct neighbours

If no one **register after such publications as an Interested Party**, they never received the documents which were presented to the Departments and could have picked up that suddenly the applicant CP Concrete is **including crushing** into the application.

The Environmental Authorization which was issued is **for crushing of stone**.

The application for rezoning should not be granted as too many impacts are not assessed.

As we are also directors of Fraai Uitzicht 1798 (Pty) Ltd, which is a Historic Wine & Guest farm with award winning restaurant and the oldest Wine Cellar in the Valley we are expecting the following impacts for the Tourism Industry in Klaasvoogds and eventually for the District area.

Tourism impacts

The Municipality has been approving more and more requests for tourist facilities in our valley Klaas Voogds and meanwhile this valley has achieved that Klaas Voogds is a destination.

There are more 4* guesthouse and Fine Dining Restaurants in Klaas Voogds than in Robertson itself and in any other small valley in the Municipalities district.

The development direction of our valley into a “life style” and agri-tourism valley is more than clear with people moving into this valley to do boutique wineries, small olive and lavender farms, small

restaurants and even studs. These people invested money into the valley, into their property and their businesses and their market is not Robertson. We/they need to attract people from elsewhere.

They need to be able to see and taste our products and see where they grow or get produced. Nowadays tourists are fussy when it comes to surrounding and intact environment – they want to escape from cities to enjoy country feel. But if they do not come because the surrounding is turning from agricultural to mixed industrial it will not be appealing.

It cannot be of interest to the Municipality to attract first investors to develop the market for tourists and lifestyle farmers to confront them later with the biggest challenge to survive next to industrial growing areas.

Without any doubt the activities mentioned in the application will have a negative impact at the neighbour's tourist activities first namely Klaas Voogds Cottage and especially Fraai Uitzicht 1798 Historic Wine & Guest Farm with award-winning Restaurant.

The following will have a negative impact on the neighbour Tourism facilities (later called "negative factors"): dust, noise, traffic, the sore in the eye (wherever the mining and concrete plant will be in position, it will be visible while walking on the farm) as well as the mining and industrial activities in general.

The information concerning these negative factors will be distributed via national and international gradings.

In addition, national and international tour operators will recognise these negative factors during their site visits and their regular questionnaires. Specifically, European tour operators are very sensitive on the negative factors. If for example a German tour operator sends clients/guests to a facility where building activities happen, the clients are allowed to claim back for building noise up to 25% of the price the travellers paid for the accommodation, in case of building noise in conjunction with dust up to 50% of the price (see "Frankfurter table" and "Kemptener table").

http://www.tabelle.info/frankfurter_tabelle.html

<https://reiserechtfuehrich.files.wordpress.com/2017/06/kemptener-tab-6-2017.pdf>

The individual tourist traveling will show their reaction on the negative factors in different ways:

- * Do they return?
- * Do they recommend?
- * Do they even write reports/post pictures on the internet/social media?

Besides the neighbour tourist facilities, the other tourist businesses in the Klaas Voogds Valley will have a negative impact as well. Their guests/tour operators, by driving through the Klaas Voogds Valley will downgrade the whole valley.

The impact for all the Klaas Voogds Valley tourist facility will be:

- * Less guests in general
- * Less overflow guests from Fraai Uitzicht 1798 and Klaas Voogds Cottage
- * Less wine and olive tastings/sales
- * Less restaurant bookings

Tour operators might change the travel itinerates and take out their typical one or two days stop in the Robertson/Klaas Voogds Valley in between Oudtshoorn and Garden Route on one side and Cape Town, Stellenbosch, and Cape Peninsula on the other side.

To the economic impact of the travel and tourism business, the World Travel and Tourism Council's 2017 Annual research gives detailed information (see the overview).

<https://www.wttc.org/-/media/files/reports/economic-impact-research/countries-2017/southafrica2017.pdf>

It can be assumed that the Western Cape's tourism industry is as big as at least the average of this industry in the whole South Africa. The whole Robertson Valley/Municipality district is at least as big as the average of the tourism activities in the whole Western Cape. Seeing the Municipality district only, the tourism industry in the Klaas Voogds Valley are at least on average of the tourism business in the whole Municipality district.

Therefore, it can be said: that the figures for South Africa which are provided by the World Travel and Tourism Council can be taken as a very conservative estimation for the contribution of the tourism business in the Klaas Voogds valley. Giving examples: the GDP input by the tourism industry is at a total of 9.3% /estimated 11.5% in 2027. Or the employment contribution done by the tourism activities is at a total of 9.8% /estimated 13.2% in 2027 (versus "job creation of 5").

To confront the Klaas Voogds Valley with the negative factors out of the activities mentioned in the application is not advisable at all. For the Municipality district the Klaas Voogds Valley is the valley with the by far most developed tourist activities. There is no other valley in this Municipality district which has this potential.

Our valley is agri-tourism and should not be confronted with the challenges to coexistent to industrial businesses like mining, crushing and concrete mixing. The rezoning should be not granted.

And as the above are factual issues we would like to not forget the "emotional" issues which this already existing activities bring with:

breach of agreements for

Mining activities

The first rezoning application in 2017 was changed - before finally withdrawn - to accommodate various requests of neighbours. Fraai Uitzicht's / Karl Uwe Papesch's request was, that the mining phase area next to our vineyard will be excluded from the rezoning application.

We see in the new application that this phase next to our vineyard is **now applied for** and is the biggest area to be mined and not even buffer zones are implemented.

Concrete mixing activities

Mr Malherbe confirmed in his letter from a lawyer Wentzel dated 25.10.2017 to Family Stolberg that he did have a verbal agreement entered with Karl Uwe Papesch, which is the owner of Fraai Uitzicht to remove the concrete mixing plant. It was important for Karl Uwe Papesch as he otherwise would have not purchased the property.

Although Mr Malherbe states now that he never gave an undertaking **when** he will remove this illegal business, fact is he gave a commitment / agreement to do so. And he and his wife regular reconfirmed their intention to remove the concrete mixer with the comment that the finding new property is still in progress.

With applying to rezone his property and include the activity concrete mixing we clearly anticipate that he is not interested anymore to fulfil such agreement which we see as a breach of contract.

Misleading

In the process of obtaining the Environmental Authorization for the crusher plant was the description of the activities in the initial Public Participation as follows:

"... The stone will be loaded with an excavator on to trucks and transported to clients. **No washing, screening or crushing will take place...."**

Knowing that if people do not register as Interested Parties they will not receive any further documentation to this project.

Eventually the Environmental Authorization is for the activity **crushing** of stone.

The result to have improved the soil is definitely a positive side effect to the removal of stone but the documentation presented clearly shows that the aim is to harvest stone up to 5 m deep which is far deeper than any root system requires.

The soil report gives the impression that it answers the question: How much stones can you mine that the fields are afterwards still usable as agricultural ground.

In meetings with various neighbours Mr Malherbe was giving information that the legal requirements for his activities are fulfilled and he must start mining otherwise would lose his licence.

Further he was dealing with the concrete mixing plant as it has obtained it is authorization by time as it has always been an activity on his property and therefore that there is no question that the neighbourhood can object to it.

In the new application for rezoning – in the motivation report – Mr Malherbe creates an atmosphere that there was a communication with the neighbours and the impression that the concerns of the neighbours were adhered to: for example: the structure will not be seen from any tourist attraction:

Unfortunately Marbin's Tasting Room guests will look at the mining side, the crushing side and the concrete mixing side ...

The same will be visible for guests of Fraai Uitzicht when doing the hiking trail over our farm or driving to our property.

Mr Malherbe describes his **moving** of the concrete mixing activity as a mitigation to the request of the neighbours to have the activity on a different area on his farm. This is a misconception. The concrete mixer is **not welcome at all** and it is his interpretation that he may have received from one neighbour but cannot be as common consent of the rest of the neighbourhood.

In the application itself Mr Malherbe crosses the box, that there are no illegal activities currently on the property – which is strictly not correct.

Unfortunately ... the timeframe of this project is nowhere specified ... and the agricultural use in the future could be next year but also in 10 or 20 year's time.

The Motivational Report under Principle of good administration:
The applicant will comply with legislative requirements.
This is already broken completely!

Comply with legislation

Illegal concrete mixing in a road reserve since 2005.

Removal of stone, crushing of stone not for its own use on the farm but as aggregate for the concrete mix since August 2017 without approval of rezoning.

Lodging of an appeal in December 2017 by some neighbours would actually mean that he would need to stop his activities until the appeal is decided – activities did not stop.

The EA which was issued on the 06.12.2016 had the condition that the crushing area gets fenced to avoid accidents. This fence has not been installed up to date.

Illegal crushing and concrete mixing was recognised by Langeberg Municipality in February 2018 and a notice was served to stop the activities - activities did not stop... the second notice is in preparation.

The Municipality in their function protecting and supporting a community is herewith requested to not even contemplate

a compromise on the factor time

nor a compromise on size

for the applied activities as the behaviour of the applicant showed already that limitations in form of regulations does not mean anything to him.

We are asking to please reject the application in its entirety.

ADVERT PLACED IN THE BREEDERIVIER GAZETTE ON THE
18th OF AUGUST 2015

4 Breederivier GAZETTE

General - Algemeen

Dinsdag 18 Augustus 2015

NOTICE OF MINING PERMIT APPLICATION

Notice is hereby given in terms of Section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002) and the National Environmental Management Act, 1998 (act 107 of 1998 NEMA) as well as the Environmental Impact Assessment Regulations of 2014 intent to carry out the following activity:
CP Concrete (Pty) Ltd intends to apply for mining permit authorization on Portion 3 of Klaas Voogds Rivier 37, Robertson, Western Cape Province and intends to remove the stone / rocks, stockpiled by the farm owner, and sell as a mineral to clients. The proposed area from which CP Concrete Pty Ltd will remove the stockpiled stone aggregate is 4.9 ha in extent. The stone aggregate will be loaded with an excavator onto trucks that will transport it to the clients. No washing, screening or crushing will be needed. The applicant intends to sell stone aggregate from the mining area for at least three years with a possibility of a two year extension.

The application for a mining permit in terms of Section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002) will be submitted to the Department of Mineral Resources-WC.
The proposed project triggers the following listed activities in terms of NEMA, 1998 and the EIA Regulations as amended 2014 and therefore requires a basic assessment process to obtain environmental authorization:

- GNR 983 Environmental Impact Assessment Regulations Listing Notice 1 of 2014 Activity 21:**
Any activity including the operation of that activity which requires a mining permit in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (act No. 28 of 2002), including associated infrastructure, structures and earthworks directly related to the extraction of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002).
- GNR 983 Environmental Impact Assessment Regulations Listing Notice 1 of 2014 Activity 22:**
The decommissioning of any activity requiring a closure certificate in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No 28 of 2002).
- GNR 983 Environmental Impact Assessment Regulations Listing Notice 1 of 2014 Activity 28:**
Commercial developments where such land was used for agriculture or afforestation on or after 01 April 1998 and where such development (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare.

Interested and Affected Parties (IAP's) are invited to provide written comments. IAP's must provide their comments with their name and contact details to the environmental consultant indicated below within 30 days from the date of this notice. Should additional information be required it could be obtained from Greenmined Environmental.

A register of IAP's that submitted written comments or requested to be registered will be opened. All organs of state which have jurisdiction in respect of the activity will also be listed on the register. Please note that only registered IAP's will be entitled to comment on reports and plans to be submitted to the Department, provided that the party provides its name, contact details and address and discloses any direct business, financial, personal or other interest which the party may have in the approval or refusal of the applications. The registered IAP's will, in writing, within 14 days of the date of the decision be notified of the outcome of the applications including the reasons for the decision and the right to appeal.

Environmental Consultant and Contact Person:

Greenmined Environmental
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Applicant:

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E-mail: ewmellherbo@web.co.za

ons. Die boeser die moet herwinninge moet aange-
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Dennis, Mary, Willy, Gysie, Skouskous, Skouskous
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Annexure F

Response to Objections 26 March, as amended 1 May 2020

Tracy Brunings

From: Tplan <admin@tplan.co.za>
Sent: Friday, 01 May 2020 2:57 PM
To: 'Ron Brunings'
Cc: Tracy Brunings
Subject: RE: Response - Klaas Voogds Temporary Departure 26 March 2020
Attachments: Klaas Voogds Response Letter_March_2020_1.pdf

Good day Tracy

Please find attached your previous email with comments made at each point.
I have also attached the amended letter with the necessary changes.

Please let me know if anything else is unclear.

Kind regards

Marie Terblanche
082 671 2700
SACPLAN:C/5732/2002



From: Ron Brunings <ron@tps-montagu.co.za>
Sent: Tuesday, 28 April 2020 14:44
To: 'Tplan' <admin@tplan.co.za>
Cc: Tracy Brunings <tbrunings@langeberg.gov.za>; admin@langeberg.gov.za
Subject: RE: Response - Klaas Voogds Temporary Departure 26 March 2020

Hello Marie,

I refer to the emails below and your letter dated 26 March 2020.

Your responses to the letters of objection are noted.

I have the following comments:

1. Incorrect reference is made in a number of places, to "consent application". The application which has been lodged is for a temporary departure.
Has been amended to reflect correct application detail.
2. Reference is made in a number of places to the ready mix plant as "proposed to be removed" and "will be removed" and "will lead to the creation of 11 jobs" and "dwellings 250m to the west of the existing Ready mix

plant" etc.; whereas the Ready mix plant has already been moved and re-established in the Robertson Industrial area.

Reference to Ready mix plant was to confirm the extent to which the landowner has already taken the previous comments serious and indicate his willingness to make changes where he can. I have amended this in document just to address the comments received regarding visual, tourism and noise impacts that has already been addressed by removing the plant.

3. Pg 1, under the heading "Application", states that "The application was made on instruction of the Municipality" This is incorrect, it was the owner / applicant's decision to lodge this application. The Langeberg Municipality advised that any new application must take into account previous concerns, reasons for previous decision (refusal); and must clearly spell out in what way a new application differs from a previous application, that may justify reconsideration and possibly a different decision.

Amended and addressed.

4. Page 1, last paragraph states that the "mining permit allows for a period totalling 7 years" whereas the application states that a mining permit has been issued for 5 years and is renewable every year. The current permit would have expired by now, if not renewed. The current status of the permit is not clear.

Amended, typing error with regard to 7 years. The permit is granted for 2 years with a 3 year renewal period. The permit was renewed in 2019 for another year which means that we are in the 3rd year of the permit. The permit has definitely not lapsed.

5. Pg 2 and 3: The following comments were also raised in the previous application: C. van der Walt, WC Dept of Agriculture did not, and may not, determine whether an EIA listed activity is triggered – that is the mandate of the competent authority, viz. DEA&DP or DMR. Cor did say that removing rock down to 1,5m in the area in question, in order to prepare agricultural fields, is seen as an agricultural activity in terms of their legislation, particularly CARA (I don't think Act 70/70 has bearing in this regard but Cor would clarify their applicable legislation). This determination of the activity by WC Dept Agriculture as an agricultural activity, is a separate matter from DEA&DP/DMR determining whether or not any EIA listed activities are triggered.

Department of Environmental Affairs and Development planning in their correspondence state that they made their decision regarding EIA listed activities based on the fact that the DMR as competent authority did not require further EIA process due to their view that the activity is agriculturally based. The Department of Agricultural, Mr van der Walt, supported this stance in suggesting the rock removal depth of 1,5m, and rehabilitation measures as stated in the soil report. In doing so, this supported the view of the DEA&DP and DMR that the proposed activity is in fact agricultural practice. The determination of WCDA can not be viewed as separate from the DEA&DP for their decision regarding the agricultural nature of the activity was based on the input from the WCDA, as stated in their correspondence attached to the letter.

6. Pg 2: Pre-submission consultation – reference is made to "extensive pre-submission consultation". The application refers to our meeting on 11 Sept 2019. If there are other meetings / emails which you are referring to by use of the word "extensive", please include dates of consultation in question.

Amended. Use of extensive was aimed at all the communication between me and you with regard to not only this new application but the impacts surrounding the previous applications.

7. Pg 4: Noise: no processing after 18:00 – different to the hours given in the application.

Amended to 8:00-17:00 weekdays, 8:00-14:00 Fridays, no weekends.

8. Pg 4: Removal of Rock: gabions were proposed for some of the original deep mines e.g. 5m in the previous application. If rock is removed only to 1,5m in terms of the current application. will gabions still be necessary? The gabions mentioned in letter was not for rock removal areas, but was indicated due to the farmer that might still need to use or place gabions in normal agricultural practices. I did however remove it for the sake of clarity.

Hope this will suffice, please let me know if there is anything that needs further attention.

Kind regards

Marie Douglas
082 671 2700

Regards,
Tracy Brunings

From: Tplan [<mailto:admin@tplan.co.za>]
Sent: 27 April 2020 14:26
To: 'Ron Brunings' <ron@tps-montagu.co.za>
Subject: RE: Response - Klaas Voogds Temporary Departure 26 March 2020

Thank you Tracy, I will look out for your email.

Best wishes to you and your family.

Keep safe!

Marie Terblanche
082 671 2700
SACPLAN:C/5732/2002



From: Ron Brunings <ron@tps-montagu.co.za>
Sent: Monday, 27 April 2020 13:51
To: 'Tplan' <admin@tplan.co.za>
Cc: Tracy Brunings <tbrunings@langeberg.gov.za>; admin@langeberg.gov.za
Subject: RE: Response - Klaas Voogds Temporary Departure 26 March 2020

Hello Marie,

Thank you for the email below. I did not receive the email you sent to my langeberg address on Thursday 26 March 2020 at 17h21, as our offices closed at 16h30 on 26 March 2020.

I will have a look at your response and let you know by tomorrow if I have any queries or comments with regard to your letter. As you know, I am working from home and at this stage there is no delay in the normal processing of this application (in fact, report-writing is a little more efficient without the normal office buzz..). Because there were objections, this application will go to the Tribunal. At this stage Tribunal meeting dates have not been set.

Regards,
Tracy Brunings

From: Tplan [<mailto:admin@tplan.co.za>]
Sent: 26 April 2020 17:23
To: ron@tps-montagu.co.za
Subject: FW: Response - Klaas Voogds Temporary Departure 26 March 2020

FYI

Marie Terblanche
082 671 2700
SACPLAN:C/5732/2002



From: Tplan <admin@tplan.co.za>
Sent: Sunday, 26 April 2020 17:22
To: 'Tracy Brunings' <tbrunings@langeberg.gov.za>
Subject: FW: Response - Klaas Voogds Temporary Departure 26 March 2020

Good day Tracy

I hope you are well. I am just following up on the attached. Any news / questions / queries? I have not had any feedback from you regarding this since lock down started.

Kind regards

Marie Terblanche
082 671 2700
SACPLAN:C/5732/2002



From: Tplan <admin@tplan.co.za>
Sent: Thursday, 26 March 2020 17:21
To: 'Tracy Brunings' <tbrunings@langeberg.gov.za>
Cc: 'Bruwer Feuth' <bruwerfeuth@gmail.com>; 'awmalherbe@mweb.co.za' <awmalherbe@mweb.co.za>
Subject: Response - Klaas Voogds Temporary Departure 26 March 2020

Good day Tracy

Please find herewith response as requested for comments received for the Klaas Voogds Temporary Departure application.

I have made mention of the correspondence with the Cape Winelands District Municipality in the attached letter. The correspondence was previously sent to you, would you like me to resend it again?

If you need any further information, please do not hesitate to contact me.

Kind regards

Marie Terblanche

082 671 2700

SACPLAN:C/5732/2002



Tracy Brunings

From: Tracy Brunings
Sent: Wednesday, 25 March 2020 4:11 PM
To: 'Tplan'
Cc: Langeberg Municipality
Subject: RE: Comments and Response: KLAAS VOOGDS: PROPOSED ROCK CRUSHING PLANT

Hello Marie,

Further to the email below and our telephonic discussion, please note that with the National lockdown, our offices will be closed from tomorrow 4:30pm until 17 April 2020. You may submit your response per email as usual, and cc me in at my home email address please, where I will be working during the lockdown: ron@tps-montagu.co.za

Regards,

Tracy Brunings Pr.Pl. A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



LANGEBERG
MUNICIPALITY

3 Piet Retief Street, MONTAGU 6720
Tel: 023 614 8001 Faks: 023 614 1841

✉ tbrunings@langeberg.gov.za www.langeberg.gov.za (Website)

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From: Tracy Brunings
Sent: Monday, 09 March 2020 9:32 AM
To: 'Tplan' <admin@tplan.co.za>
Cc: Langeberg Municipality <admin@langeberg.gov.za>; Kobus Brand <KBrand@langeberg.gov.za>; Maynard Johnson <MJohnson@langeberg.gov.za>
Subject: FW: Comments and Response: KLAAS VOOGDS: PROPOSED ROCK CRUSHING PLANT

Good day

1. I refer to the following application:

Application Type	: Departure for Crushing Plant in Agricultural zone I
Property description	: Portion 49 of the Farm Klaas Voogds River 37, Robertson
Application dated	: 18 November 2019
Date received by Municipality	: 20 November 2019
Applicant's reference	: KLAAS VOOGDS / TEMP DEP
Langeberg's reference	: 15/4/12/9

2. Twelve (12) objections have been received, and one letter of support, as attached hereto.

3. Kindly provide this Municipality with a written reply within 30 days of receipt of this email.

4. Should no reply be received within the prescribed time period, it will be deemed that you have no comments.
5. Arrangements can be made, prior to the 30 days lapsing, for a further period agreed upon with the Municipality for the submission of the additional information and/or documentation

Regards

Tracy Brunings Pr.Pl. A/951/1997
PROFESSIONAL TOWN AND REGIONAL PLANNER
TOWN PLANNING DEPARTMENT



"People at the centre of Development"

3 Piet Retief Street, MONTAGU 6720
Tel: 023 614 8001 Faks: 023 614 1841

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From: Tracy Brunings
Sent: Monday, 09 March 2020 8:49 AM
To: 'Tplan' <admin@tplan.co.za>
Cc: Langeberg Municipality <admin@langeberg.gov.za>
Subject: RE: Comments and Response

Hello Marie,

A total of 12 objections and one letter of support have been received. I am busy collating this correspondence and will forward these comments to you asap today. Please note that Mrs Seftel requested an extension of time to comment due to being in hospital – an extension until 21 March 2020 was granted to her and I will forward her comments once received. Based on the previous application process, it is likely that these comments will be similar to those previously received and your response thereto, if any, can run parallel with the assessment period, so it will not delay the processing time.

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

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106 Grey street / Strand / 7140
Tel: 082 671 2700
Fax: 086 232 8975
Email: tplan@telkomsa.net

26 March 2020
REF - 15/4/12/9
REF – KLAAS VOOGDS / TEMP DEP

Attention: The Manager, Town Planning
Langeberg Municipality
Tracy Brunings
Per email: tbrunings@langeberg.gov.za

**RE: OBJECTIONS TO APPLICATIONS FOR TEMPORARY DEPARTURE ON PORTION 49 OF THE FARM
KLAASVOOGDS RIVIER 37, ROBERTSON DISTRICT**

Dear Madame

Your email received on the 9 March 2020 has reference.

We herewith acknowledge receipt of the comments as provided by your office and will provide necessary response via email correspondence addressing concerns and comments of all parties identified as Interested and Affected Parties. A table has been attached with the listed objectors.

- **Introduction and Background**

Application was made on behalf of the Altus Malherbe Familie Trust to obtain temporary departure for activities undertaken on the abovementioned farm, under the Langeberg Municipal Bylaw. Comments and Objections received are based on the advertisement placed in the local newspaper, as well as the submitted application and amended documents.

Application

The application was made on instruction of the Landowners to address the proposed processing plant and regarding concerns that arose from the previous application that was submitted and refused by the Tribunal. The previous applications affected a much larger portion of the farm. The focus has now been shifted to address the 4,9ha area on which the processing plant has been erected.

Activities

The Municipality identified the Processing plant as illegal because the land is zoned Agricultural Zone 1. The landowner went ahead and applied, as is his right, and allowed for under the Bylaw, to the Municipality to rectify the situation. The processing plant has a mining permit that allows for a period totalling 5 years. The mine permit was granted for an initial period of 3 years where after renewal can be done for 2 years, this brings us to the 5 year total. Currently we are in the 3rd year of the permit and can the permit be renewed until lapsing in 2022.

The removal of rock from agricultural land was previously discussed in detail with Mr Cor van der Walt of the Department of Agriculture. Mr van der Walt indicated that the removal of rock is an agricultural activity allowed for under the Subdivision of Agricultural Land Act, 70 of 1970 and the Conservation of Agricultural Resources Act 43 of 1983. A letter received from the Department of Environmental Affairs and Development Planning(DMR) as well as a letter from the Department of Mineral Resources(DMR) supports the rock removal. It clearly indicates that rock removal in this particular instance cannot be viewed as mining and identifies with the Department of Agriculture's stance. See attached correspondence from Department Agriculture, DEA&DP and the DMR. The Department of Agriculture states no objection to the application. The landowner has agreed to 1,5m depth of rock removal and the Department of Agriculture also supports this in light of the rock removal for agricultural purposes.

- **Compliance with Legislation**

Application was made under the Langeberg Municipal Bylaw.

Historical Appeals to the Department of Environmental Affairs - Neighbours

Appeals was submitted regarding the initial public participation process of the EIA and the Mine Permit, as well as the re-appeal of the decision of the Department. Attached you will find the Condonation Decision as issued by the Department. The Department confirmed that the process followed for the above was correct and lawful and therefor denied the appeal. This decision allows the landowner to legally move forward with the land use application and activities as granted under the mine permit and conditions set out under the Environmental Authorisation.

Pre-submission consultations

Pre-submission consultation was had with the Langeberg Municipality.

Advertisements and Notices to Neighbours

Advertisement of the application was made in the local newspaper and the public along with surrounding neighbours was invited to comment. Notice letters was sent from the Municipality to individuals directly neighbouring the property and proposed activity. This letter serves to address comments and objections received by various parties. See attached Table identifying objectors and comments received.

- **Impacts**

Desirability of proposed Activities – Industrialisation

The proposed temporary departure will not lead to industrialisation of the Klaas Voogds Valley. Through this application the aim is not to be insensitive with regards to the agricultural nature of the area. The landowner saw an opportunity to enhance his crop yields and cultivate more of his fallow agricultural lands to enhance production. The opportunity lying in the fact that he could remove the rock and re-use it. The replacement of the topsoil, crusher dust and the drainage layer stone within the areas where rock was removed not only address the production but also the stability and water retention of the soil and the enhancement of nutrients needed for cultivation.

The objector's concerns lie in the fact that the landowner can economically provide for the necessary soil enhancements through a semi-industrialised opportunity. Due to the differing natures of activities in the area, the removal of rock seemed a logical and financially viable option and is allowed for under agricultural legislation. The landowner not only saw fit to keep providing for his workers but also create further job opportunities in the community by utilising a source at his disposal with minimum impact to his already existing agricultural operations.

The aim of the application was to address the illegality of the current industrial activities with regards to the existing Agricultural Zone 1 zoning of the property. Not to establish a large scale industrial mining operation as has been suggested by the objector's. With the granting of the application, there would not be a precedent created since each application has to be viewed on its own merits and impacts by the different Departments and the Municipality.

A temporary departure does not entail permanence of an activity but allows for the activity to take place within a controlled and legalised environment within a suggested timeframe provided for by the Municipality along with a set of conditions and guidelines to manage the activities. The area will therefor remain agricultural in nature with the industrial activity of the processing plant on 4,9ha area that was granted by the Department of Mineral Resources.

Agricultural Impacts

The removal of rock from agricultural land was discussed in detail with Mr Cor van der Walt of the Department of Agriculture. Mr van der Walt indicated that the removal of rock is an agricultural activity allowed for under the Subdivision of Agricultural Land Act, 70 of 1970 and the Conservation of Agricultural Resources Act 43 of 1983.

The purpose of the application was to address the activities on the farm with respect to the agricultural nature of the area and the proposed industrial activity to take place. The removal of the rock from the agricultural lands would not only address the enhancement of production but also the stability of the soil, water retention and the enhancement of nutrients needed for cultivation. Rock removal will be done whilst clearing and preparation of fields are taking place. The rock that has been removed will be stockpiled on the 4,9ha area and crushed for various uses. There will be no excavations and trenches from which rock will be removed, and as previously mentioned the depth of 1,5m will be adhered to.

Rehabilitation of the areas where rock was removed is solely focussed on enabling the landowner to further cultivate his agricultural land. The area will remain agricultural and not industrial as suggested by the objectors. The landowner is to this day still cultivating crops on his farm and would not have been able to do so if these activities presented a major detrimental impact.

Rehabilitation – Rock Removal and Mitigation measures

There will be no open quarries or trenches anywhere on the farm. Rocks will be removed and collected through the grading of fields and clearing for planting of crops. This will ensure no visual disturbance is caused but also address the safety of the farm workers. After the excess rock has been removed, the crusher dust, the drainage layer stone, and the topsoil are mixed and replaced within the prepared area. Effectively removing rock and rehabilitating the area in the same instance. This will create a uniform root zone and enable the re-establishment of a new pasture for cultivation.

The proposed mitigation measures are to ensure the viability of the previously fallow lands and have a positive rather than negative impact on the agricultural production of the farm.

Noise

The nearest residential accommodation is a dwelling house 250 meters to the West of the processing plant, workers houses 320 meters South of the processing plant and 225 meters away from the screening area. Other workers houses are located 840 meters west from the processing area. Fraai Uitzicht is located approximately 900 meters from the nearest screening area.

The distances to the residential homes are sufficient to not be affected by the noise of the processing plant. Due to the decommissioning of the Ready Mix plant the noise impact has also be removed from the area. The processing plant noise will be limited by the proposed working hours and times and no processing will take place after 17:00 on weekdays and processing to stop at 14:00 on Fridays., with no work over weekends.

The statements above are also supported by a noise report that was included with the application to address the noise of the crusher. The noise level at the machine was deemed to be high and suggestion was made that personal protective gear be worn by all employees in close proximity to the crusher. The ambient noise of the machine was however not sufficient enough to warrant concern due to the distance and location of neighbours and other residences.

Dust and Air Quality

Currently the operations on the farm does not present any negative impacts from dust fall out or air emissions. The Land owner is still actively farming his export crops with no concerns on quality of the harvest from any dust fall out. Due to the location of his neighbours crops and plantations, no impact of possible dust fall out could be had on their crops.

The Cape Winelands District Municipality(CWDM) also raised concerns regarding the potential dust fall out. Find their correspondence attached (separate attachment in email) along with our comments and mitigation measures to ensure compliance.

Dust monitoring has been implemented on the farm with an ECO (Environmental Control Officer) appointed to manage the monitoring and logging of the proposed fall out. Once again, due to the decommissioning of the Ready-Mix plant, the main dust source will only be the processing plant. Monitoring of the plant will indicate if fall out is negative, but with the distances to the workers homes and the neighbouring farms, the fall out do not represent any detrimental impact. The dust monitoring report can also be seen attached to the correspondence with the CWDM. The report indicates dust measurements that are of no significance and therefor do not present any negative impact.

Removal of Rock

The removal of rock from agricultural land is seen as an agricultural activity performed by the landowner to establish crops and continue agricultural activities. The rock removed is being used to rehabilitate agricultural land, enhance water retention and provide stability for drainage areas and water courses.

The excess rock is provided to C P Concrete, at no cost. Therefor section 106(3) of the MPRDA is relevant. See letter attached. The DEA&DP confirmed that the removal of rock from agricultural land was deemed to be under the authority of the Department of Mineral Resources and therefor it was referred to them. The DMR indicated that the removal of rock from agricultural land constitutes an agricultural activity, and that only the processing plant requires a Mining Permit, EIA and relevant EA. Therefor no EIA was necessary for the areas where rock will be removed.

Due to the time limit on the granted mine permit of the processing plant, the area cannot be used for a period of 20 years is suggested by the objectors. The activity can therefore not escalate either as was also stated.

The Landowner is fully aware of this. In the instance where further rock removal is required, further inspection and studies need to be submitted to continue the activity of rock removal. It has also been indicated by the Department of Agriculture that there will be follow up inspections to monitor the sustainability of these activities.

Visual Impact

With the previous decommissioning of the Ready-Mix plant, the “eye sore” as mentioned by the objectors was removed completely. The current trees lining the gravel road will be maintained to ensure the processing plant is hidden from persons traveling on the road past the farm.

The stockpiles height will also be limited to 3 meters so as not to cause visual intrusion of the landscape. The undulating nature of the landscape and hills in the area will also provide natural visual barriers, along with the orchards to the East of the processing plant.

Roads and Traffic

We are fully aware of the upgrade and maintenance of the Klaas Voogds road by the community. We would also like to remind the objectors that the Landowner contributed over and above what was required for the maintenance and tarring of the road. The relocation of the Ready Mix has also caused a sharp decrease in the traffic along the Klaasvoogds (East) road. The amount of external trucks delivering material and therefore trucks traveling on the Klaasvoogds (East) road has drastically reduced.

It is proposed that if and when aggregate is transported it will be during working hours and at a rate of 4-6 trucks per day. This will significantly lessen the current and future impact on Traffic and Roads of the area and remove the Ready Mix trucks from the road. This also addressed the safety concerns as was indicated by the objectors.

Comments were also received regarding the size of the vehicles to be used. Please see table below as per the Motivational report.

Average rock crushed per day		
m ³ /pd	Tons	
100	130	
Crushed Material - 70%		
m ³ /pd	Tons	Truck loads/pd
70m ³	91	4-6 Trucks
Repurposed Material - 30%		
m ³ /pd	Tons	Application
30m ³	39	Reworked in agricultural practices.

These vehicles are similar to the trucks that are already making use of the road for everyday agricultural purposes. The Traffic Impact Assessment that was submitted for the previous application is still applicable here. The maintenance of the road has been an issue in the past, and the applicant has no problem with the conditions that was set regarding the upkeep of the road and adhering to speed limits.

Property Values

Due to the nature of the proposed temporary departure and activities we do not foresee any impact on the surrounding landowner's property values. With the relocation of the Ready-Mix plant the main industrial component has been removed and thus the integrity of the area will stay intact. The nature of the area will remain agricultural and rural. Agricultural activities will still be the main activity taking place on the farm.

Tourism and Socio-Economic Impacts

We are aware of the Tourism activities happening in the Klaas Voogds Valley and have taken the step to relocate the Ready Mix plant to remove the "eye sore" as mentioned. We have also addressed the visual impacts pertaining to the rock removal on the farm. We do not foresee that the proposed activities of rock removal and processing will have a detrimental impact on the Tourism activities since the nature of the area and surrounds will remain agricultural and rural.

We have also not been made aware of any job loss in the area due to the proposed activities on the farm. The landowner will be able to enhance crop yields and production on his farm through the removal of the rocks and rehabilitation of the fields for planting. This will in turn lead to further job opportunities not only for permanent workers but also for seasonal workers that come to the farm during harvest time.

Conclusion

We sincerely hope that the provided information will shed light on the concerns as raised by the objectors and would appreciate your consideration and inclusion of our correspondence. If any further details or information is required, please do not hesitate to contact us directly.

Kind regards



Marie Terblanche
SACPLAN C/5732/2002
Contact number: 082 671 2700

**COMMENTS AND
RESPONSE KLAAS
VOOGDS RIVIER 37/49:
PROPOSED TEMPORARY
DEPARTURE**

LIST OF COMMENTS RECEIVED IN
RESPONSE TO APPLICATION AND
ADVERTISEMENT

NAME AND SURNAME	LIST OF PERCEIVED IMPACTS	SUBMISSION	DATE
G MacMillan	Noise, Dust, Traffic,	Email	06.02.2020
Jane Barnard and Charles Barnard	Noise, Dust, Traffic(size of trucks), Escalation of activity, Industrialisation, Creating of Precedent	Email	19.02.2020
Theunis de Jongh-Kleinhoekkloof Wines R de Jongh Kleinhoekkloof	Noise, Dust, Traffic(size of trucks), Escalation of activity, Industrialisation, Creating of Precedent	Email	19.02.2020 / 21.02.2020
at Busch NR_Stephan Busch	Industrialisation	Email	20.02.2020
Marbrin_Clive Heymans & Briony Coetsee	Dust, Noise, Visual, Tourism	Email	20.02.2020
M E Botes	Noise, Traffic, Property Values Agricultural Impact	Email	20.02.2020
J Roodt - Galloway	Tourism	Email	20.02.2020
V Reynecke(not landowner)	Noise, Dust, Traffic, Tourism Agricultural Impact, Health concerns	Email	20.02.2020
P & I de Wet - Villa Verde	Noise, Dust, Traffic, Tourism, Agricultural Impact, Industrialisation,	Email	20.02.2020
S & K Papesch	Noise, Dust, Traffic, Tourism, Property Values Agricultural Impact, Industrialisation, Mine Permit and Management of Activity	Email	06.03.2020



**Western Cape
Government**

Agriculture

Cor van Der Walt
Land Use Management
Email: landuse Eisenburg@Eisenburg.com
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/5/5/308
20/9/2/5/5/163
YOUR REFERENCE : -
ENQUIRIES : Cor van der Walt

Langeberg Municipality
Private Bag X7
ASHTON
6715

Att: M. Johansen

**PROPOSED TEMPORARY DEPARTURE: DIVISION ROBERTSON
PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37**

Your application of 02 December 2019 has reference

The Western Cape Department of Agriculture Land use Management has no objection against the mining of rock up to 1 ha and the temporary departure for the crushing plant

Please note

- Kindly quote the above mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to refuse and comment and request further information based on the information received.

Yours sincerely

Mr. C.J. van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT
2020-20-21

Subject: Submitted in Divisions of Agri- & Rural Development Land Use Management Langeberg 2020	Submitted to: Mr. Cor van der Walt Private Bag 49, Ridge Bay, Simon	File No: 20/9/2/5/5/308 20/9/2/5/5/163
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Western Cape
Government

MINISTRY OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND
DEVELOPMENT PLANNING

REFERENCE: 15/3/1/1181/14

Ms M. Terblanche Douglas
T-Plan
106 Grey Street
STRAND
7140

Tel: 084 506 7356
Email: tplan@telkomsa.net

Dear Ms Terblanche Douglas

APPEAL LODGED IN TERMS OF SECTION 56 OF THE WESTERN CAPE LAND USE PLANNING ACT, 2014 (ACT NO. 3 OF 2014) AGAINST THE MINING ACTIVITIES ON PORTION 47 AND 49 OF THE FARM KLAAS VOOGDS RIVIER NO. 37, ROBERTSON

1. Appeals lodged in terms of section 53 of the Land Use Planning Act, 2014 (Act No. 3 of 2014) (LUPA) against the approval of the application for land development on agricultural land on Portions 47 & 49 of the Farm Klaas Voogds Rivier No. 37, Robertson by the Department of Environmental Affairs and Development Planning's Directorate: Development Management (Region 2) (hereafter called "the Department") on 02 August 2018, refer.
2. After careful consideration of the appeals, all relevant facts and supportive documents, I wish to advise that, in terms of section 56 of LUPA, I have decided to dismiss the appeals and vary the abovementioned decision of the delegated competent authority.
3. The decision is hereby varied by adding the following condition:
"8. Prior to commencement of mining activities, the applicant must submit a detailed Phasing Plan to the Department of Environmental Affairs & Development Planning for adoption, indicating the duration of mining operations, mining depths and rehabilitation measures as proposed in the Buitenvoerwacht Soil Study".
4. The reasons for the confirmation of the aforementioned decision of the delegated officer are listed below and includes responses to appeal issues:

Region 201 Strand Building (Cape Town, 8001) Private Bag 49786, Cape Town, 8001
Tel: +27 21 483 3120 Fax: +27 21 483 3174 Email: DEAD@Appeals@westerncape.gov.za

5. REASONS FOR THE DECISION

The following are reasons to confirm the approval issued by the Delegated Competent Authority:

- 5.1 Due to objections received from the appellants regarding non-compliance with the provisions of LUPA relating to the advertisement of the section 53 application, the Department correctly requested that the application be re-advertised. Notice of the application was placed in the Argus, Die Burger and the Government Gazette on Friday 15 June 2018 with the commenting period for objections closing on 14 July 2018. Further to the above, notices were sent via email on 13 June 2018 to all affected property owners who objected as part of the original public participation process and to those organs of state that had commented on the application in the past, i.e. CapeNature, Cape Wineands Municipality, the Department of Transport and Public Works and the Breede-Gouritz Catchment Management Agency.
- 5.2 The aforementioned departments all responded via email prior to 14 July 2018, confirming their previous comment. As such, the application was processed further as it was held that there was adequate compliance with regulation 14(1)(b) of the LUPA Regulations as read with regulation 33.
- 5.3 Although the Department did not request formal comment from Langeberg Municipality, informal discussions and information sharing between planning officials was ongoing. Langeberg Municipality was invited to attend the pre-application consultation and a joint site visit was conducted, together with the Western Cape Department of Agriculture (WCDoA).
- 5.4 Given that the initial planning application had been lodged with Langeberg Municipality in October 2016 for consideration in terms of the Land Use Planning By-law, 2015, the Municipality was reluctant to comment in a formal capacity, for fear of prejudice or bias.
- 5.5 On receipt of comment from organs of state identified as having an interest in the application, the development application, information and documents were referred to the Head of Agriculture, as prescribed in regulation 19 of the Western Cape Land Use Planning Regulations, 2015. The WCDoA did not, however, deem it necessary to amend their preliminary comment, dated 18 June 2018.
- 5.6 Much has been said in an appeal about the failure by the applicant to obtain Environmental Authorisation for the undertaking of the mining operations on the proposed 26.5ha mining area. This matter falls beyond the ambit of this Department and has been taken up several times with the Department of Mineral Resources (by both the appellant and the Municipality), who advised that the authorisation issued for the crushing plant allowed for the collection of stone/rocks from the existing fields.

on Portions 3, 19 and 20 of Kloos Voogds River 37, in order to increase the agricultural potential of the fields and allow for crop production.

- 5.7. The appellant asserts that as no National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) Environmental Impact Assessment (EIA) was done, there is no information that could have and should have been considered by the Department to make an informed decision as to the desirability of the application. That having been said, where there is no specific statutory requirement that formal impact assessments need to be done, or where an EIA has been done in respect of a portion of the subject property only, it would be up to the Department to decide whether there is sufficient information before it to appreciate the impacts and to take an informed decision in respect of the applicable planning legislation.
- 5.8. As the Department of Mineral Resources did not require an EA process in terms of the proposed "screening of rocks", no studies were done prior to the submission of the application in terms of section 53 of LUPA. Consequently, the applicant was requested to conduct studies relating to the soil suitability for mining and agricultural activities (to be known as the Buttenverwacht Soil Study), a Traffic Impact Assessment and an Ecological Assessment. The latter assessment was done specifically to determine the impacts that may be triggered by the proposed development and to propose mitigation measures in order to protect sensitive eco-systems.
- 5.9. Comment was also obtained from the CapeNature, Department of Transport and Public Works: Road Network Management and the Breede-Gouritz Catchment Management Agency.
- 5.10. In the absence of more detailed studies compiled as part of a Basic Assessment Report, the Department considered the information as listed in paragraphs 7.9 and 7.10 to be sufficient to measure the environmental impacts and desirability of the proposed development, insofar as it relates to the effect on agriculture, as prescribed in section 53(1)(c) of LUPA. In the consideration of the aforesaid, due regard was given to the principles as set on Chapter 1 of NEMA.
- 5.11. The purpose of the section 53 application is to assess the proposed activities on the property insofar as it relates to the agricultural character of the area and the effect the proposed development would have on agriculture in the broader sense. In consideration of this Department's mandate, the decision was guided to a large extent by the input from the WCDoA, who had no objection to the proposed mining application, provided the procedures and rehabilitation actions proposed in the Soil Study were adhered to.

5.12. The Soil Study held that the removal of the rock from the agricultural lands would not only address the enhancement of production but also the stability of the soil, water retention and the enhancement of nutrients needed for cultivation.

5.13. Whereas several studies were conducted, the appellants are correct in stating that several studies were not done as part of the section 53 application. Whilst there is an obligation to consider all relevant conditions, the Department is entitled to exercise their discretion and decide which considerations are, in their opinion, more important and which ones should influence their decision. In this regard it was held that, given the trigger of the section 53 application, more weight be given to the studies of an agricultural nature.

5.14. Based on the ecological and soil assessments and with the necessary input from the Minister responsible for agriculture in the Western Cape Province, it is held that the impact of the proposed development on agriculture will not be significant, provided the mitigation measures outlined in the Soil Study be adhered to.

Your interest in the future of our environment is appreciated.

Yours faithfully,



ANTON BREIDELL
WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 27/9/2012

CC
Mrs Shameemah Abrahams (DEA&DP)
Ms Tracy Bruningt (Langenberg Municipality)

Email: Shameemah.Abrahams@westerncape.gov.za
Email: tbruningt@langenberg.gov.za



MINISTER
ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

Reference: LSA 169048

APPEAL DECISION

APPEAL AGAINST THE DECISION TO REFUSE CONDONATION REQUEST FOR THE LATE SUBMISSION OF THE APPEAL AGAINST THE ENVIRONMENTAL AUTHORISATION GRANTED TO CP CONCRETE (PTY) LTD IN RESPECT OF THE MINING PERMIT APPLICATION FOR ON PORTION 3 OF THE FARM KLAAS VOODGS RIVIER 37, WITHIN THE MAGISTERIAL DISTRICT OF ROBERTSON, IN THE WESTERN CAPE PROVINCE

1. INTRODUCTION

- 1.1 In terms of section 47C, read with section 47CB of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the Minister of Environmental Affairs has the legal authority to grant an extension or condonation for the late submission of an appeal or responding statement, as contemplated in terms of the National Appeal Regulations, 2014.
- 1.2 In terms of section 42 of NEMA, the exercise of the powers referred to in paragraph 1.1 above have been delegated to the Director Appeals and Legal Review of the Department of Environmental Affairs (the decision maker).

- 1.3 On 16 February 2018, the decision maker refused to condone the late filing of the appeal by Natural Resource Law (Pty) Ltd, on behalf of Alexandra J. Nikolaus F. Stolberg-Wernigerode, Jane and Charles Barnard, Pieter and Christine Goetsee, Bronny Goetsee and Clive Heymans (collectively referred to as the appellants).

2. BACKGROUND AND APPEAL

- 2.1 The appellants lodged an appeal (original appeal) on 22 December 2017 against the decision of the Regional Manager of the Department of Mineral Resources, Western Cape Regional Office (the DMR) to grant an Environmental Authorisation (EA) to CP Concrete (Pty) Ltd (the applicant) on 6 December 2016 in respect of the mining permit application on Portion 3 of the Farm Klaas Voodgs Rivier 37, within the Magisterial District of Robertson, in the Western Cape Province.

- 2.2 The appeal referred to in paragraph 2.1 above was due to be lodged on 17 January 2017 but was however lodged approximately 11 months outside of the prescribed timeframe. The appellants accordingly submitted a request for condonation for the late submission of its appeal on 25 January 2018. In motivating its request for condonation for the late filing of appeal, the appellants submitted that they were only notified of the granting of an EA by its legal advisors on 10 December 2017. On this basis, the appellants contended that the applicant failed to conduct a sufficiently inclusive public participation process (PPP), resulting in the appellants being uninformed of the EA. In addition to this, the appellants contends that even though their properties are located in close proximity to the project site, they were never registered as interested and affected parties (I&APs). As a result thereof, the appellants argued that they will be severely prejudiced should the late lodgement of its appeal not be condoned.

- 2.3 The applicant was invited to submit a response to the appellants' request for condonation, which response was submitted on 29 January 2018. In its response, the applicant states that the appellants were aware of the granting of the EA, even though they were not registered as I&APs. On this note, the applicant submits that it sent an email on 25 July

2017 to the appellants regarding the land use application, associated activities and the potential environmental impacts associated with the proposed mining activity.

- 2.4 The DMR thereafter submitted comments on the request for condonation on 14 February 2018. In its comments, the DMR submits that all surrounding landowners which were not registered as I&APs were nevertheless notified that the draft scoping report was available for perusal. The DMR further submits that it was satisfied that the applicant complied with its legislative obligations in so far as the PPP is concerned and submits that the PPP complied, in all material respects, with the 2014 EIA Regulations. The DMR consequently issued the applicant with an EA on 6 December 2016, followed by a mining permit on 14 February 2017.
- 2.5 After reviewing the appellants' condonation request, the response thereto by the applicant and the comments by the DMR, the decision maker found that 47CB of NEMA provides explicit limits to grant an extension or condonation for the submission of an appeal which is out of time. As a result thereof, the decision maker declined the application for condonation for reasons indicated in its decision dated 16 February 2018.
- 2.6 On 9 March 2018, the appellants, in accordance with section 43 of NEMA, lodged an appeal against the refusal of condonation by the decision maker.

3. DECISION

- 3.1 In reaching my decision on the appeal against the aforementioned refusal of condonation, I have taken the following into consideration:
- 3.1.1 Relevant material information contained in the project file (LSA 196048); and
- 3.1.2 The applicant's grounds of appeal, received on 9 March 2018.
- 3.2 In terms of section 43 (6) of NEMA, I have the authority, after considering the appeal, to confirm, set aside or vary the decision, provision, or condition of the Department, or to make any other appropriate decision.

3.3 Having considered the above mentioned information, and in terms of section 43(5) of NEMA, I have decided to dismiss the appeal by the appellants and confirm the refusal of condonation by the decision maker.

3.4 In arriving at my decision on the appeal, it should be noted that I have not responded to each and every statement set out in the appeal and where a particular statement is not directly addressed, the absence of any response should not be interpreted to mean that I agree with or abide by the statement made.

3.5 Furthermore, should the appellants be dissatisfied with any aspect of my decision, they may apply to a competent court to have this decision judicially reviewed. Judicial review proceedings must be instituted within 180 days of notification hereof, in accordance with the provisions of section 7 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

4. THE REASONS FOR MY DECISION ARE AS FOLLOWS:

4.1 The appellants contend that the decision maker incorrectly interpreted section 47CB (2) of NEMA. In this respect it is argued that the rationale behind section 47CB of NEMA is presumably to prevent registered I&APs unfairly and indefinitely delaying or hindering development. The appellants further argues that it submitted its original appeal 12 days after becoming aware of the EA and is thus in compliance with NEMA and the National Appeal Regulations, 2014. The appellants go on to argue that both sections 47C and 47CB of NEMA do not find application with the matter at hand.

4.2 The appellants further contends that the decision maker relied on insufficient information when reaching the decision to refuse condonation. In this respect it is argued that the appellants were never directly informed about the EA Application by the applicant because the PPP conducted for the EA application was inappropriately narrow resulting in the exclusion of the appellants, amongst other I&APs. The appellants argues that should they not be afforded a right of appeal, they will be severely prejudiced and precluded from responding to an administrative action that materially and adversely affects their rights.

including the right to procedurally fair administrative action as provided for in PAJA. The appellants thus requests that the decision to refuse condonation for the late filing of the appeal be set aside and that the original appeal be entertained.

- 4.3 In evaluating the appeal by the appellant, I find that section 47C and 47CB does indeed find application in the matter at hand. Section 47C of NEMA provides as follows:

"The Minister or an MEC may extend, or condone a failure by a person to comply with, a period in terms of this Act or a specific environmental management Act, except a period that binds the Minister or MEC".

- 4.4 Section 47CB of NEMA, is relevant to the matter at hand as it deals with condonation of time periods applicable to appeals relating to prospecting, exploration, mining or production and provides as follows:

"(1) The Minister may only in exceptional circumstances extend or condone a failure by a person to comply with a time period applicable to an appeal contemplated in section 43 (1A), except for a time period which binds the Minister.

(2) The Minister may not accept an application for condonation to submit an appeal contemplated in section 43 (1A) after 30 days has lapsed from the date of the decision by the Minister responsible for mineral resources or any person acting under his or her delegated authority.

(3) When considering an extension or condonation the Minister must consider the following factors:

(a) the degree of lateness;

(b) a detailed explanation of the reasons for the lateness;

(c) whether and to what extent that person or the Minister responsible for mineral resources will suffer prejudice if the time period is extended or failure to comply with a time period is condoned; and

(d) a detailed explanation of the merits of the application for extension or condonation.

(4) The time period may only be condoned for a maximum period equal to the time period allowed for the action for which condonation is sought in terms of this Act."

- 4.5 Whilst I note and do not dispute that the appellants may have a direct and material interest in the issuance of EA, I find that the decision maker was indeed constrained by section 47CB (2) of NEMA to decline to consider the original appeal because section 47CB subjects the decision maker to explicit limits to grant an extension or condonation for the submission of an appeal which is out of time. A fundamental rule of our constitutional democracy is that the government's power is controlled and limited by law and therefore to reach any other decision contrary to the stipulations of section 47CB would constitute an unlawful decision.
- 4.6 Furthermore, I cannot find that the decision maker erred in its decision to refuse the condonation of the late filing of the appeal or that the decision maker relied on insufficient information when reaching the decision to refuse condonation. Instead I find that the decision maker acted in accordance with the power conferred upon him in accordance with section 47CB of NEMA. On this note it is important to note that in the case of *Fedure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* 1995 (1) SA 374 (CC), the Constitutional Court held that it is "central to the conception of our constitutional order that the Legislature and Executive in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law". In addition to this the judgement in *Minister of Education v Harris* 2001 (4) SA 1297 (CC) aligned the principle of legality with lawfulness, which required that an administrative action may not be in conflict with any law and had to be authorised under an empowering provision.
- 4.7 In light of the foregoing, the appeal by the appellants is accordingly dismissed and the decision taken on 16 February 2018 to refuse condonation for the late filing of the appeal is hereby confirmed.


DR B E E MOLEWA, MP
MINISTER OF ENVIRONMENTAL AFFAIRS
DATE: 2018/06/11



mineral resources

Department
Mineral Resources
REPUBLIC OF SOUTH AFRICA

Private Bag X9, Cape Town, 8012, 09 CNR Lower Burg and Riebeeck, Abergburg House, Cape Town, 8012
Tel: 021 421 1057, Fax: 021 421 1058, E-mail: peter.swart@dmr.gov.za, Ref: WC 305/152/10100 MP

From: Mineral Regulation Enquiries; PF Swart

Greenmined Environmental (Pty) Limited
Private Bag X 15
Somerset West
7130

Dear Mr Costerus-Mohr

MINING PERMIT FOR THE MINING OF STONE ON PORTION 3 OF
THE FARM KLAASVOOGDS RIVIER 37, DISTRICT OF ROBERTSON

Receipt of your e-mail dated 20 May 2019 is hereby acknowledged and the contents thereof
note

Section 106 of the Mineral and Petroleum Resources Development Act, Act 28 of 2002
(MPRDA) is very clear in that the owner of land who lawfully takes sand, stone, rock, gravel
or clay for farming or for effecting improvements in connection with such land, is exempted
from applying for a right or permit, as long as the sand, stone, rock or clay is not sold or
disposed of.

Should there be a commercial transaction where the commodity is sold by the owner of the
land, it will be regarded as mining and it would then be a requirement to apply for a right and
Environmental Authorization from this office.

Section 106 should also not be read in isolation, but be read in conjunction with the definition of mine in terms of the MPRDA. The MPRDA defines mine as: *any excavation in the earth, including any portion under the sea or under other water or in any residue deposit, as well as any borehole, whether being worked or not, made for the purpose of searching or winning a mineral.*

It is therefore important to understand the intention of the relevant land owner. If it is his intention to conduct activities for the improvement of his agricultural or farm land, then he is exempted in terms of section 106, and because this would not be a mining area or mining activity, there would be no need to apply for an Environmental Authorization from this Department.

Trust you find the above in order.

Regards

Regional Manager

Western Cape Region

Annexure G

Comments from Departments:

CWDM, BGCMA & Dept of Transport

And Applicant's response to CWDM
(including Dust fall-out Monitoring Programme)



CAPE WINELANDS DISTRICT

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NAVRAE/ENQUIRIES/IMIBUZO:
TELEFOON/TELEPHONE/UMNXEBA:
FAKS/FAX/IFEKSI:
E-POS/E-MAIL/IE-MAIL:
U VERW/YOUR REF/IREF YAKHO:
ONS VERW/OUR REF/IREF YETHU:

ST McLean
023 626 8324
086 234 0968
smcclean@capewinelands.gov.za
15\2\6\1

Van Reenenstraat/Street 40
51
ROBERTSON
6705

28 January 2020

The Municipal Manager
Langeberg Municipality
Private Bag X 2
ASHTON. 6715

For attention: M Johnson
Director: Engineers Department

Sir,

**APPLICATION FOR: TEMPORARY DEPARTURE PORTION 49 OF THE FARM
KLAASVOOGDS RIVIER NR 37, ROBERTSON DISTRICT**

Your correspondence dated 2 December 2019 refers:

CWDM Municipal Health Services supports the application subject to:

1. SERVICE DELIVERY:

No domestic services (drinking water, sanitation, electrical and refuse removal services) are supplied by CWDM.

2. BUILDING \ CONSTRUCTION:

Any new buildings to be constructed needs to be approved by Langeberg Municipal Building Department;

3. DUST CONTROL:

Dust control measures to be regulated in accordance with the National Dust Control Regulations – protocol to be supplied to this office for scrutiny and record purposes;

4. NOISE CONTROL:

Cape Noise Control Regulations (PN 200/2013) too be adhered to at all times. Control measures protocol to be supplied to this office for scrutiny and record purposes.

5. General:

- Municipal Health Services office reserves the right to call for additional requirements if deemed necessary at any later stage;
- Previous documentation dated 28 March 2018 remains applicable;
- Attached are the comments \ recommendations as per the Air Quality Officer of the CWDM – **kindly include all recommendations as noted in the attachment – your ref. 8199079, Klaas Voogds Rivier NR 37 & CWDM ref 15\2\1R dated 14 January 2020.** Any questions can be relayed directly to Mr. M Engelbrecht at: mariuse@capewinelands.gov.za. Kindly cc any correspondence, if any, to smcclean@capewinelands.gov.za for record purposes.

Yours sincerely,

For: Municipal Manager
Mr. H Prins
STM



CAPE WINELANDS DISTRICT

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NAVRAE/ENQUIRIES/IMIBUZO:
TELEFOON/TELEPHONE/UMNXEBA:
FAKS/FAX/IFEKSI:
E-POS/E-MAIL/IE-MAIL:
U VERW/YOUR REF/IREF YAKHO:
ONS VERW/OUR REF/IREF YETHU:

Marius Engelbrecht
021 888 5811
021 887 9365
mariuse@capewinelands.gov.za
8199079, Klaas Voogds Rivier Nr. 37
15/2/R

Trappesstraat 51 Trappes Street
P.O. Box 91
WORCESTER

6849

14 January 2020

Langeberg Municipality
Administration and Executive Office
Private Bag X2
Ashton
6715

ATTENTION: MR M JOHNSON

Dear Sir

TEMPORARY DEPARTURE APPLICATION FOR 4.9HA ON PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER NR 37, ROBERTSON, LANGEBERG MUNICIPALITY, WESTERN CAPE.

1. The temporary departure application for 4.9ha on portion 49 of the Farm Klaas Voogds Rivier Nr. 37, received by the Cape Winelands District Municipality (CWDM), refers.
2. The information in the temporary departure application was considered by this office in this response for temporary departure on 4.9ha of portion 49 from the Farm Klaas Voogds Rivier to allow removal of stockpiled rock and clearing of rock from agricultural land. The departure to include the crushing of the reclaimed rock in a processing plant and stockpiling of the crushed rock.
3. **According to the information contained in the temporary departure application the following was noted:**
 - 3.1. Temporary departure application related to the temporary departure of the listed consent uses under Agricultural Zone 1 for Portion 49 of the Farm Klaas Voogds Rivier to accommodate the the operation of a processing plant to chrush rock stockpiled and further won from Portion 47 and 49 on Farm Klaas Voogds Rivier, for a period of five years.

- 3.1.1. A processing plant had been established on the property.
- 3.1.2. Reclaimed rock will be recovered from agriculture land and transported to the processing plant.
- 3.1.3. The processing plant will screen and crush the rock, with the aggregate either reworked into the agricultural activities and/or used in the CP Concrete ready mix plant and/or sold as base course or other material to contractors.

4. Department Mineral Resources Environmental Authorisation (WC30/5/1/3/2/10100MP)

- 4.1. The Department Mineral Resources granted an Environmental Authorisation (EA) for Portion 03, Farm Klaas Voogds Rivier 37, Malmesbury, to CP Concrete (Pty) Ltd on 06 June 2016 for a period of **5 years**.
- 4.2. This authorisation entailed the crushing and screening of stockpiled rock within the approved 4.9ha the rocks to be collected on the remainder of the farm and stockpiled within the 4.9 hectares. The stockpiled rock to be screened, crushed and stockpiled prior to being transported to the ready mix plant situated out of the crushing area. Mining activities will not take place within the 4.9ha of land under authorisation.

5. The following is the CWDM's Air Quality Officer's provisional comment on the information provided in the temporary departure application:

- 5.1. Environmental authorization was obtained from Department of Mineral Resources (DMR) for the following proposed National Environmental Management Act listed activities:-

- Activity 21 listed in the Environmental Impact Assessment (EIA) Regulations, R983 of 2014.
- Activity 22 listed in the EIA Regulations, R983 of 2014.
- Activity 28 listed in the EIA Regulations, R983 of 2014.
- Activity 21 listed in the EIA Regulations, R984 of 2014.

- 5.1.1. The authorised activity are not considered a listed activity under Government Notice No. 893, Gazette No. 37054 dated 22 November 2013, in terms of section 21(1) (b) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004)(NEM:AQA).

It must be noted that should any activity at this property be considered a listed activity in terms of the NEM:AQA, Section 36(5) of the National Environmental Management: Air Quality Amendment Act (Act No. 20 of 2014) declares the Minister as licensing authority if-

*“(e) the listed **activity** relates to prospecting, mining, exploration or production activity as contemplated in the Mineral and Petroleum Resources Development Act, 2002 28 (Act No.28 of 2002), in the area for which the right has been **applied** for, and the Minister responsible for mineral resources has been identified as the competent authority in terms of section 24C of National Environmental Management Act, 1998.”*

- 5.1.2. The CWDM recognise the DMR as the competent authority in terms of section 24C of National Environmental Management Act, 1998 to manage the authorised facility in terms applicable sections of the NEM:AQA.
- 5.1.3. The National Atmospheric Emission Reporting Regulations in terms of section 12(b) and (c) read with section 53(a), (o) and (p) of the NEM:AQA, was promulgated in the Government Notices, No. 283 of 2 April 2015. These regulation is to regulate reporting of data and information from an identified point, non-point and mobile sources of atmospheric emissions to an internet-based National Atmospheric Emissions Inventory System (NAEIS) towards the compilation of atmospheric emission inventories. NAEIS is an **internet-based** emissions reporting system which is a component of the South African Atmospheric Emission Licencing and Inventory System (SAAELIP) portal.

The regulations apply to the groups of emission sources and corresponding data providers as classified in regulation 4 and listed in Annexure 1 to these Regulations, which includes any person, that holds a mining right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).

To comply with the reporting regulations, data holders must report emissions from the preceding year and must submit these reports to NAEIS by 31st of March of every year. Emissions to be reported to NAEIS are from activities in the preceding year e.g., a data provider will report in January to March 2019, the emissions generated in 2020. It must be noted that NAEIS requires annual **emissions** to be reported and emission monitoring reports but not minimum emission standards. In terms of Section 51 (1) of the NEM:AQA, a person is guilty of an offence if that person fails to comply with a condition or requirement of an atmospheric emission license and can be liable for the penalties as contemplated in Section 52.

- 5.1.4. The application must be register the listed activity on the South African **Atmospheric Emission Licensing and Inventory (SAAELIP)** online portal. The DMR will be the relevant authority audit the annual submission onto NAEIS by holders of a mining right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002.
- 5.2. In terms of NEM:AQA, Langeberg Municipality has a statutory obligation to give effect to section 24(b) of the Constitution for securing an environment that is not harmful to the health and well-being of people.

In terms of Section 32 of NEM:AQA the Minister promulgated the National Dust Regulations (Regulation 827 of 1 November 2016) in order to prescribe general

measures for the **control** of dust and fugitive dust emissions. The Dust Regulations require any person who conducts any activity in such a way as to give rise to dust in quantities and concentrations that may exceed the dust fall standard set out in the regulation must, upon **receipt** of a notice from the air quality officer, implement dust fall monitoring programme. The monitoring of dust fall will take place over a period of time to determine if the dust fall standards are exceeded.

- 5.3. The proposed activities such as soil stripping, screening, stockpiling and hauling of stone could give rise to fugitive dust. At the ready mix plant, the cement storage, stockpiling of sand and gravel, and the hauling of these materials, could possibly all be considered fugitive dust sources. In addition the transfer of the cement and the conveying of the dry mix could also be regarded as a possible point source of fugitive dust.

Although the temporary departure application refers to the mitigation of dust, the proposed development should at all times comply with the National Dust Control Regulations with regards to possible fugitive dust pollution.

It is recommended that prior to the **commencement** of the proposed **activities**, site representative dust fall monitoring in terms of the National Dust **Control** Regulations be undertaken, in order to establish a baseline for dust fall for Klaas Voogds Rivier Nr.37.

- 5.4. The application included an Occupational Noise Monitoring Report indicating the proposed activity not to be considered an **occupational** hazard.

However the local authority may instruct the applicant to conduct and submit, as part of the **application** a noise impact assessment in accordance with SANS 10328, to establish whether the noise impact rating of the proposed land use or activity exceeds the appropriate rating level for a particular district as indicated in SANS 10103. To avoid negative noise impacts from the proposed activity, the applicant must ensure that the noise impact of the proposed activities are covered within the Environmental **Management** Plan in terms of the Western Cape Noise Control Regulations Provincial Notice 200 of 20 June 2013.

- 5.5. The Environmental Management Plan should make **provision** with reference to control of incidents in **terms** of Section 30 of NEMA, as amended where such an incident are defined within Section 30 of NEMA as an unexpected, sudden and uncontrolled release of hazardous substances, including from a major emission, fire or explosion that causes, has caused or may cause significant harm to the environment, human life or property.

In terms of NEM:AQA the Cape Winelands District Municipality has no objection to the temporary departure application for portions of Farm Klaas Voogds Rivier Nr. 37, if all the legal requirements stipulated in relevant environmental legislation are adhered to.

This office reserves the right to amend its comments and to request any further information regarding this temporary departure application. Furthermore the Municipal Health Services section of this District Municipality may require other preventative,



BREED-GOURITZ

CATCHMENT MANAGEMENT AGENCY

51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: E. Rossouw

Tel: 023 346 8000

Fax: 023 347 2012

E-mail: erossouw@bgcma.co.za;
pmgondaki@gmail.com

Our Reference no: 4/10/1/H40L/Klaasvoogds Rivier 37/49, Robertson
Your reference:

Date: 15/01/2020

T-PLAN
Grey Street 106
STRAND
7140

To whom it may concern,

COMMENT: APPLICATION FOR TEMPORARY DEPARTURE FOR A 4,9 HA PORTION OF PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER 37, IN THE ROBERTSON DISTRICT, WESTERN CAPE.

The Breed-Gouritz Catchment Management Agency (BGCMA) received your documents for the abovementioned activity on Farm Klaasvoogds Rivier No. 37, Robertson RD.

The BGCMA supports the application for temporary departure for a 4,9 Ha Portion of Portion 49 of Farm Klaasvoogds Rivier No. 37, Robertson but the activity may not commence before approval has been granted by the Langeberg Local Municipality.

The applicant must comply with any other statutory requirements that may be applicable when undertaking the abovementioned activity.

The applicant must adhere to all the previous comments provided by this office.

Should agricultural water be used within the industrial process the applicant must first request (in writing) for written approval from the relevant authority (BGCMA or Klaasvoogds WUA) for the temporary transfer of water in terms of section 25 (1) of the National Water Act, 1998 (Act No. 36 of 1998).

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 groundwater resources may occur.
- Storm water management must be addressed and applied both in terms of flooding and pollution potential.

The comments provided are in the interest of responsible water resource management. 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,



MR. JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)

REFERENCE: TPW/CFS/RP/LUD/REZ/SUB-04/117 (Job 24510)

ENQUIRIES: Ms GD Swanepoel

DATE: 21 January 2020

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Attention: Ms T Brunings

Dear Madam

**PORTION 49 OF FARM KLAAS VOOGDS RIVIER 37, ROBERTSON: DIVISIONAL ROAD 1366,
MINOR ROAD 6035: PROPOSED TEMPORARY DEPARTURE**

1. Your letter dated 2 December 2019 refers.
2. The subject property is located 12km east from Robertson and takes access off Minor Road 6035.
3. This application is for a Temporary Departure in order to accommodate a rock crushing/screening operation on site. Rocks will be collected from the farm.
4. According to the application, the operation may generate up to 6 loads/day, that is 12 trips/day, of a 15 m³ vehicle.
5. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014, subject to the following conditions, which are for the account of the landowner:
 - 5.1 Either obtain the signatures of the affected neighbouring landowners that they will be satisfied by the regular watering of the affected gravel roads and maintenance of the gravel roads by the Applicant according to the standards set by the District Roads Engineer Paarl (021 863 2020); or
 - 5.2 Provision of a sealed hard-surface on the affected portion of Minor Road 6035 and a sealed hard-surface on Divisional Road 1366 from ± km3.42 until the intersection with Minor Road 6035;

- 5.3 The volume of aggregate that may be transported off site is limited to 50 m³ per day and the transportation thereof is restricted to weekday work hours (8:00 am to 5:00 pm) and
- 5.4 The Applicant liaise with the District Roads Engineer, Paarl, prior to commencing mining in order to obtain approval for the necessary signage indicating the presence of heavy goods vehicles.
6. Detail design plans for the improvement of the Divisional and Minor Roads are to be sent to the Design Directorate (Ms M Hofmeyr 021 483 3999) of this Branch for approval.
7. The Applicant must seek approval from this Branch of any intention to increase vehicular trips/day using the public road network in the future.

Yours faithfully


SW CARSTENS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

SCIENTIFIC SERVICES

postal Private Bag X5014 **Stellenbosch** 7599
physical **Assegaaibosch** Nature Reserve Jonkershoek
website www.capenature.co.za
enquiries Philippa Huntly
telephone +27 21 866 8000 **fax** +27 21 866 1523
email phuntly@capenature.co.za
reference **SSD14/2/6/1/9/1/37_KlaasVoogds_Robertson**
date **7 May 2018**

J V Brand
Bestuurder Stadsbeplanning
28 Main Road
Ashton
6715

By email: admin@breeland.gov.za

CC: T-Plan; Marie Terblanche; tplan@telkomsa.net

Dear Mr Brand

Re: Rezoning Pnt 47 and 49 Farm Klaas Voogds River 37, Robertson

CapeNature would like to thank you for the opportunity to comment on the above application and wish to make the following comments:

It is noted that the application has been through a number of iterations and has now been amended and reduced in scale with the ecologically sensitive site of Portion 48 now being excluded from the application. Portion 48 is designated as an Ecological Support Area (ESA) and it is fitting that this site be maintained in as near to natural state as possible in order to enable optimal ecological functioning.

In response to feedback from the earlier public participation process is also noted that the operation has been scaled down in size and thus impact.

The specialist studies undertaken have confirmed that portions 47 and 49 of Farm 37 (Klaas Voogds) have been extensively transformed. The vegetation type naturally occurring in this area is Breede Shale Renosterveld which is not listed as a threatened ecosystem however disturbance to remaining natural vegetation is to be minimised and rehabilitation is to take place post rock removal.

We therefore do not object provided the minimum buffer of 30m between any mining/processing activities and watercourses and wetlands are maintained. It is noted that the Ecological Report recommends a 32m buffer which is supported. Additionally the following conditions should apply:

- Storm water management and soil erosion prevention measures must be implemented on site.
- Control of Invasive Alien Vegetation needs to take place regularly on all areas of the property including portion 48.
- No cleared vegetation, alien species or other, should be dumped in areas containing indigenous vegetation nor within the buffer zone of watercourses.
- To protect indigenous fauna species such as snakes and tortoises, strict speed control on site are to be maintained.
- Rehabilitation is to take place regardless of the overall viability of the operation.

Please note that our comments pertain only to the biodiversity related impacts and not to the overall desirability of the proposed application. CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely



Philippa Huntly For: Manager (Scientific Services)



6 February 2020
REF: REZ/KV / 8199079
Your ref: 15\2\6\1
15/2/R

CAPE WINELANDS DISTRICT MUNICIPALITY –MUNICIPAL HEALTH SERVICES / AIR QUALITY CONTROL
VAN REENEN STR 40 / TRAPPES STR 51
ROBERTSON / WORCESTER
6705 / 6849

ATT: MR H PRINS / MR M JOHNSON
S T McLEAN / M ENGELBRECHT

RE: APPLICATION FOR: TEMPORARY DEPARTURE FOR 4,9HA ON PORTION 49 OF THE FARM
KLAASVOOGDS RIVIER NR 37, ROBERTSON DISTRICT

Dear Sir / Madam

Your letters dated 14 January and 28 January respectively, and received by us via email on the 28th of January 2020 has reference. We thank you for your comments and response to the afore-mentioned application and will endeavour to include and address your letters to the best of our abilities.

Cape Winelands District Municipality

1. Service Delivery

We thank you for your support of the temporary departure application and take note that no domestic services are supplied by the CWDM.

2. Building/Construction

Any new buildings or construction will be applied for approval at the Langeberg Municipal Building Department.

3. Dust Control

At this point in time no crushing of materials is taking place and therefor the dust monitoring has been postponed. On receipt of the approval for the Temporary Departure from the Langeberg Municipality, the dust monitoring will be reimplemented. Reports will be made available to the Cape Winelands District Municipality upon your request.

244.

4. Noise Control

Noise control is discussed in the FEIAR with mitigation measures as prescribed by the Western Cape Noise Control Regulations. The noise generated by the proposed activities also fall within the boundaries of noise generation associated with an agricultural area. The processing and associative activities are also not situated close to homesteads or other residential areas and we do not foresee the activities causing any disturbance. An Occupational Noise Monitoring Report was also submitted with the application. Employees will be supplied with the necessary PPE once the processing plant is operational. All regulations will be adhered to as set out by the Cape Noise Control Regulations(PN 200/2013).

5. General

This letter will also address comments as received via the letter dated 14 January 2020 from the Air Quality Officer of the CWDM.

Response to Comment from CDWM's Air Quality Officer

We observe that no objection has been made to the temporary departure application and thank you for your comments. Section 5.1 of your letter confirms that Environmental Authorisation was obtained from the Department of Mineral Resources. Mention was made in 5.1.1 that the authorised activity is not considered to be a listed activity in terms of Section 21(1)(b) of the National Environmental Management:Air Quality Act, 2004.

We have also noted in section 5.1.2 that in the instance where any activity in future is deemed as a listed activity under Section 36(5) of the mentioned act, the competent authority is the DMR.

Regarding the initial mine permit application, please take note that the DMR did not indicate that any registration regarding air emissions must be done.

National Atmospheric Emission Reporting Regulations – Sections 5.1.3, 5.1.4, 5.2 and 5.3

As mentioned under Section 3 above, no processing of materials is currently being undertaken. When the processing plant is reinstated data collection of the dust fall out of the proposed activities will be done via dust buckets and a register as prescribed in the National Dust Control Regulations (827 of 2016). An ECO has been previously appointed for this reason and will again monitor all activities closely(copy of appointment letter attached).

The most recent Dust Fall Out report has also been included within this letter and serves as reference to establish a baseline for the dust fall out as mentioned in Section 5.3 of your letter. This information has also been stated in the FEIAR that was submitted with the mine permit application. The FEIAR addresses not only the risk factors but also the mitigation measures put in place to manage any risks regarding the processing operation and associative activities.

The applicant will endeavour to submit the data collected for the year to the prescribed portal on an annual basis and register the activity as prescribed in section 5.1.4 of your letter. Dust monitoring will also include the sources of fugitive dust as mentioned in sections 5.2 and 5.3 of your letter, considering all the proposed activities. Please take note that the Ready-Mix plant that was previously situated on the property has been removed and therefor this activity has no perceived impact.

Noise Control – Section 5.4

Please see discussion under point 4 above. We also take note of the proposed instruction of a noise impact assessment and await confirmation of the Langeberg Municipality in this regard.

Control of incidents – Section 5.5

In section 5.5 mention is made of the control of incidents that can be deemed as harmful to the environment. The Final Environmental Impact Assessment Report (FEIAR) was submitted with the mine permit application and serves to address the comments regarding hazardous materials and protocol. The FEIAR addresses the protocol, management and mitigation procedures should an incident occur. All precautions will however be taken to avoid such incidents at all costs.

We thank you for your comments, responses and recommendations and will endeavour to include all information along with this letter in our application for temporary departure to the Langeberg Municipality. Please feel free to contact us if any further information or documents are required.

Kind regards



MARIE TERBLANCHE
SACPLAN C/ 5732/ 2002

ECO APPOINTMENT LETTER



e-mail : cpconcrete@barvallei.co.za

Company Registration Number – 2012/058811/07

VAT Number – 4730261494

Appointment of Greenmined Environmental as Environmental Officer

I Mr. Malherbe for CP Concrete Pty Ltd, hereby appoint Greenmined Environmental as the Environmental Officer for CP Concrete Pty Ltd on Portion 3 of the farm Klaas Voogds Rivier 37, Robertson, Western Cape South Africa.

The Environmental Officer will be responsible for all the Duties and Responsibilities as it was set in the Environmental Authorisation dated 06 December 2016.

Authorised / Designated By:

Director

12 July 2018

Signature

Designation

Date



CP CONCRETE
DUST FALL-OUT MONITORING
PROGRAMME
DUSTWATCH REPORT NUMBER 9
30 JANUARY TO 28 FEBRUARY 2019

1 INTRODUCTION

This report covers a period of 29 days.

The unit design and methodology are based on the ASTM D1739 standard. Additional information is available in the DustWatch manual.

The area used in the calculations is 0.022966m².

The DustWatches installed are shown in the table below.

Full Name	GPS Position
Unit 1 (South)	33°48'1.15"S; 20° 0'56.24"E
Unit 2 (West)	33°47'55.39"S; 20° 0'55.66"E
Unit 3 (North)	33°47'53.43"S; 20° 1'0.03"E
Unit 4 (East)	33°47'57.04"S; 20° 1'3.07"E

Table 1: DustWatch Units – Names and GPS Positions

the goal isn't to live forever, it is to protect a planet that will

Confidential

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Full Name	Restriction Areas	GPS Position
Unit 1 	Non-residential	33°48'1.15"S; 20° 0'56.24"E
Unit 2 	Non-residential	33°47'55.39"S; 20° 0'55.66"E
Unit 3 	Non-residential	33°47'53.43"S; 20° 1'0.03"E

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Full Name	Restriction Areas	GPS Position
Unit 4 	Non-residential	33°47'57.04"S; 20° 1'3.07"E



Figure 1: Map Showing the unit Locations. The KMZ file for google earth can be [downloaded here](#).

2 COMMENTS ON THE RESULT

The fall-out dust standards from National Dust Control Regulations, 2013.

Restriction Areas	Dustfall rate (D) (mg/m ² /day) – averaged over 30 days.	Permitted frequency of exceeding dust fall rate
Residential area	D < 600	Two within a year, not sequential months.
Non-residential area	600 < D < 1200	Two within a year, not sequential months.

Table 2: Acceptable Dust Fall Rates – National Dust Control Regulations, 2013.

The non-residential allocation has been used for all the units. The action level may be exceeded two times within a year but not for two consecutive months.

- **Unit 1** yielded 140 mg/m²/day in this period.
- **Unit 2** yielded 18 mg/m²/day in this period.
- **Unit 3** yielded 71 mg/m²/day in this period.
- **Unit 4** yielded 59 mg/m²/day in this period.

The results in this period are well below 1200 mg/m²/day and are not a concern.

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The compliance table has been reset for the **2019** year and is shown below.

Unit name	Residential or Non-residential Area	Applicable Compliance - Dustfall rate (D) (mg/m²/day) – averaged over 30 days.	Non-compliant or compliant. Two within a year, not sequential months.
Unit 1	(Non-residential)	D < 1200	Compliant in this period. Compliant for the year. No Exceedances.
Unit 2	(Non-residential)	D < 1200	Compliant in this period. Compliant for the year. No Exceedances.
Unit 3	(Non-residential)	D < 1200	Compliant in this period. Compliant for the year. No Exceedances.
Unit 4	(Non-residential)	D < 1200	Compliant in this period. Compliant for the year. No Exceedances.

Table 3: Compliance Table **2019**

Sonette Smit

(Greenmined Environmental)

Doc Number: 0319302359 Date: 30-Mar-19

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Weather Information – Weather - Robertson

January 1, 2019 - January 31, 2019

	High	Low	Average		High	Low	Average
Temperature	97 °F	61 °F	73 °F	Wind Speed	38.0 mph	0.0 mph	4.6 mph
Dew Point	66 °F	13 °F	60 °F	Wind Gust	53.0 mph	38.0 mph	6.2 mph
Humidity	84 %	6 %	68 %	Wind Direction	--	--	SSE
Precipitation	0.27 in	--	--	Pressure	30.20 in	29.43 in	--



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January 1 2013 - January 31 2015



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Date	Temperature			Dew Point			Humidity			Speed			Pressure			Precip. Amount
	High	Avg	Low	High	Avg	Low	High	Avg	Low	High	Avg	Low	High	Avg	Low	Sum
01/01/2018 - 23:59 undefined	81 °F	78 °F	82 °F	83 °F	57 °F	43 °F	91 %	90 %	78 %	38.0 mph	0.0 mph	0.0 mph	30.04 in	29.78 in	30.04 in	0.00 in
02/01/2018 - 23:59 undefined	89 °F	83 °F	92 °F	98 °F	55 °F	51 °F	84 %	77 %	57 %	21.0 mph	0.0 mph	0.0 mph	30.15 in	30.02 in	30.02 in	0.07 in
03/01/2018 - 23:59 undefined	87 °F	74 °F	97 °F	80 °F	56 °F	49 °F	92 %	92 %	81 %	22.0 mph	4.8 mph	0.0 mph	30.07 in	29.78 in	30.00 in	0.00 in
04/01/2018 - 23:59 undefined	97 °F	78 °F	83 °F	81 °F	57 °F	44 °F	87 %	87 %	79 %	20.0 mph	1.0 mph	0.0 mph	29.92 in	29.68 in	30.00 in	0.00 in
05/01/2018 - 23:59 undefined	82 °F	72 °F	85 °F	80 °F	56 °F	51 °F	85 %	85 %	75 %	18.0 mph	0.0 mph	0.0 mph	30.00 in	29.86 in	30.00 in	0.00 in
06/01/2018 - 23:59 undefined	88 °F	73 °F	88 °F	80 °F	57 °F	52 °F	85 %	85 %	75 %	26.0 mph	0.0 mph	0.0 mph	29.94 in	29.76 in	30.00 in	0.00 in
07/01/2018 - 23:59 undefined	97 °F	74 °F	83 °F	80 °F	56 °F	56 °F	88 %	84 %	81 %	22.0 mph	0.0 mph	0.0 mph	29.87 in	29.84 in	30.00 in	0.00 in
08/01/2018 - 23:59 undefined	84 °F	72 °F	83 °F	80 °F	56 °F	56 °F	88 %	87 %	79 %	23.0 mph	0.0 mph	0.0 mph	30.81 in	30.95 in	30.95 in	0.00 in
09/01/2018 - 23:59 undefined	88 °F	73 °F	83 °F	85 °F	60 °F	53 °F	86 %	86 %	78 %	17.0 mph	0.0 mph	0.0 mph	29.74 in	29.57 in	30.00 in	0.00 in
10/01/2018 - 23:59 undefined	80 °F	72 °F	88 °F	82 °F	54 °F	48 °F	89 %	89 %	83 %	21.0 mph	8.0 mph	0.0 mph	29.77 in	29.64 in	30.00 in	0.00 in
11/01/2018 - 23:59 undefined	83 °F	76 °F	90 °F	80 °F	54 °F	48 °F	94 %	94 %	88 %	20.0 mph	8.0 mph	0.0 mph	29.73 in	29.63 in	30.00 in	0.00 in
12/01/2018 - 23:59 undefined	82 °F	74 °F	89 °F	83 °F	55 °F	47 °F	84 %	84 %	74 %	28.0 mph	0.0 mph	0.0 mph	29.72 in	29.59 in	30.00 in	0.00 in
13/01/2018 - 23:59 undefined	84 °F	74 °F	86 °F	80 °F	54 °F	47 °F	72 %	72 %	51 %	28.0 mph	8.0 mph	0.0 mph	29.84 in	29.84 in	30.00 in	0.00 in
14/01/2018 - 23:59 undefined	81 °F	76 °F	86 °F	80 °F	54 °F	53 °F	88 %	84 %	84 %	20.0 mph	0.0 mph	0.0 mph	29.88 in	29.70 in	30.00 in	0.00 in
15/01/2018 - 23:59 undefined	97 °F	74 °F	98 °F	87 °F	60 °F	58 °F	89 %	89 %	82 %	22.0 mph	4.8 mph	0.0 mph	29.98 in	29.81 in	30.00 in	0.00 in
16/01/2018 - 23:59 undefined	85 °F	73 °F	81 °F	80 °F	60 °F	56 °F	87 %	86 %	84 %	23.0 mph	0.0 mph	0.0 mph	29.85 in	29.74 in	30.00 in	0.00 in
17/01/2018 - 23:59 undefined	96 °F	88 °F	87 °F	88 °F	82 °F	66 °F	88 %	88 %	87 %	21.0 mph	0.0 mph	0.0 mph	29.80 in	29.57 in	30.00 in	0.00 in
18/01/2018 - 23:59 undefined	79 °F	76 °F	86 °F	80 °F	52 °F	42 °F	78 %	78 %	58 %	26.0 mph	7.0 mph	0.0 mph	30.02 in	29.84 in	30.00 in	0.00 in
19/01/2018 - 23:59 undefined	77 °F	85 °F	85 °F	86 °F	49 °F	41 °F	71 %	48 %	28 %	23.0 mph	0.0 mph	0.0 mph	30.20 in	30.01 in	30.01 in	0.00 in
20/01/2018 - 23:59 undefined	84 °F	73 °F	81 °F	87 °F	49 °F	38 °F	85 %	48 %	19 %	18.0 mph	0.0 mph	0.0 mph	30.19 in	29.84 in	30.00 in	0.00 in
21/01/2018 - 23:59 undefined	86 °F	78 °F	90 °F	86 °F	48 °F	33 °F	83 %	53 %	8 %	28.0 mph	0.0 mph	0.0 mph	30.88 in	29.65 in	30.00 in	0.00 in
22/01/2018 - 23:59 undefined	88 °F	74 °F	98 °F	81 °F	50 °F	36 °F	73 %	49 %	14 %	24.0 mph	0.0 mph	0.0 mph	29.89 in	29.72 in	30.00 in	0.00 in
23/01/2018 - 23:59 undefined	84 °F	70 °F	90 °F	80 °F	50 °F	38 °F	81 %	84 %	32 %	18.0 mph	0.0 mph	0.0 mph	30.06 in	29.89 in	30.00 in	0.00 in
24/01/2018 - 23:59 undefined	80 °F	83 °F	81 °F	85 °F	52 °F	48 °F	87 %	84 %	37 %	22.0 mph	0.0 mph	0.0 mph	30.04 in	29.82 in	30.00 in	0.00 in
25/01/2018 - 23:59 undefined	81 °F	80 °F	98 °F	83 °F	49 °F	41 °F	88 %	84 %	33 %	29.0 mph	4.0 mph	0.0 mph	30.01 in	29.68 in	30.00 in	0.00 in
26/01/2018 - 23:59 undefined	90 °F	72 °F	96 °F	85 °F	57 °F	56 °F	90 %	86 %	78 %	22.0 mph	0.0 mph	0.0 mph	30.02 in	29.86 in	30.00 in	0.00 in
27/01/2018 - 23:59 undefined	80 °F	79 °F	87 °F	88 °F	61 °F	57 °F	82 %	84 %	58 %	23.0 mph	0.0 mph	0.0 mph	29.94 in	29.84 in	30.00 in	0.00 in
28/01/2018 - 23:59 undefined	93 °F	77 °F	84 °F	89 °F	61 °F	54 °F	90 %	90 %	80 %	18.0 mph	4.0 mph	0.0 mph	29.94 in	29.82 in	30.00 in	0.00 in
29/01/2018 - 23:59 undefined	94 °F	79 °F	94 °F	85 °F	63 °F	52 °F	92 %	90 %	86 %	20.0 mph	4.8 mph	0.0 mph	29.63 in	29.59 in	30.00 in	0.00 in
30/01/2018 - 23:59 undefined	88 °F	75 °F	90 °F	89 °F	64 °F	61 °F	89 %	89 %	88 %	19.0 mph	1.0 mph	0.0 mph	29.83 in	29.79 in	30.00 in	0.00 in
31/01/2018 - 23:59 undefined	76 °F	74 °F	85 °F	83 °F	63 °F	60 °F	88 %	88 %	87 %	20.0 mph	0.0 mph	0.0 mph	29.85 in	29.63 in	30.00 in	0.00 in

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February 1, 2019 - February 28, 2019

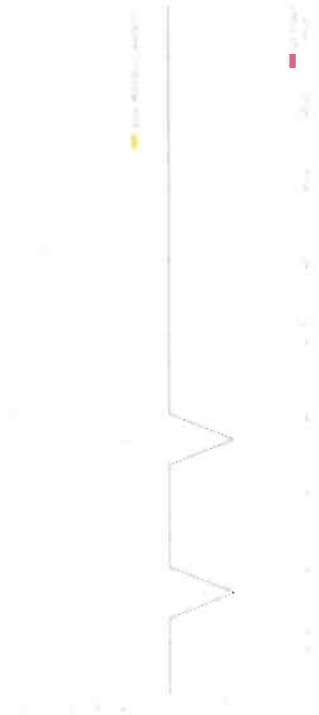
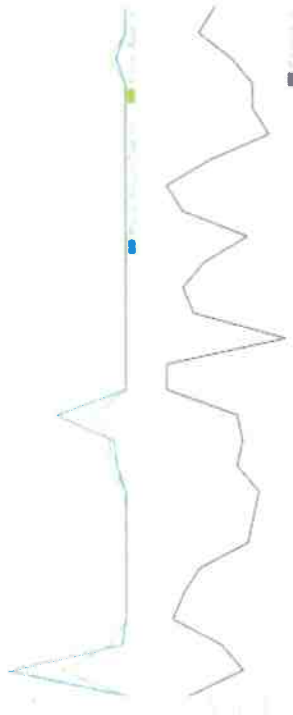
	High	Low	Average		High	Low	Average
Temperature	106 °F	52 °F	73 °F	Wind Speed	23.0 mph	0.0 mph	3.6 mph
Dew Point	70 °F	44 °F	61 °F	Wind Gust	30.0 mph	23.0 mph	5.0 mph
Humidity	98 %	14 %	68 %	Wind Direction	--	--	SSE
Precipitation	0.96 in	--	--	Pressure	30.03 in	29.51 in	--

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February 1 2019 - February 28 2019



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February 1, 2019 - February 28, 2019

Date	Temperature				Dew Point				Humidity				Speed				Pressure				Precip. Amount
	High	Avg	Low	Avg	High	Avg	Low	Avg	High	Avg	Low	Avg	High	Avg	Low	Avg	High	Low	Avg		
01/02/2019 - 23:59	63 °F	71 °F	50 °F	63 °F	58 °F	64 °F	34 °F	71 %	48 %	21.0 mph	0.0 mph	0.0 mph	28.99 in	28.81 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
02/02/2019 - 23:59	57 °F	72 °F	54 °F	63 °F	59 °F	64 °F	34 °F	75 %	40 %	12.0 mph	1.0 mph	0.0 mph	28.89 in	28.85 in	0.01 in	0.01 in	0.01 in	0.01 in	0.01 in		
undefined																					
03/02/2019 - 23:59	75 °F	72 °F	67 °F	69 °F	61 °F	68 °F	37 °F	68 %	51 %	23.0 mph	4.0 mph	0.0 mph	28.89 in	28.71 in	0.02 in	0.02 in	0.02 in	0.02 in	0.02 in		
undefined																					
04/02/2019 - 23:59	80 °F	75 °F	66 °F	68 °F	60 °F	71 °F	34 °F	66 %	31 %	15.0 mph	3.0 mph	0.0 mph	28.92 in	28.68 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
05/02/2019 - 23:59	93 °F	79 °F	64 °F	69 °F	60 °F	76 °F	30 °F	67 %	31 %	17.0 mph	3.0 mph	0.0 mph	28.90 in	28.60 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
06/02/2019 - 23:59	104 °F	81 °F	62 °F	70 °F	60 °F	77 °F	33 °F	56 %	14 %	34.0 mph	2.0 mph	0.0 mph	28.96 in	28.51 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
07/02/2019 - 23:59	91 °F	77 °F	67 °F	70 °F	61 °F	77 °F	33 °F	59 %	34 %	23.0 mph	0.0 mph	0.0 mph	28.87 in	28.51 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
08/02/2019 - 23:59	100 °F	75 °F	63 °F	67 °F	63 °F	73 °F	33 °F	63 %	38 %	19.0 mph	4.0 mph	0.0 mph	28.86 in	28.74 in	0.04 in	0.04 in	0.04 in	0.04 in	0.04 in		
undefined																					
09/02/2019 - 23:59	70 °F	69 °F	64 °F	65 °F	62 °F	66 °F	36 °F	64 %	71 %	10.0 mph	3.0 mph	0.0 mph	28.90 in	28.74 in	0.04 in	0.04 in	0.04 in	0.04 in	0.04 in		
undefined																					
10/02/2019 - 23:59	71 °F	67 °F	64 °F	66 °F	63 °F	67 °F	37 °F	65 %	68 %	12.0 mph	2.0 mph	0.0 mph	28.88 in	28.70 in	0.05 in	0.05 in	0.05 in	0.05 in	0.05 in		
undefined																					
11/02/2019 - 23:59	80 °F	68 °F	61 °F	67 °F	63 °F	69 °F	39 °F	64 %	33 %	17.0 mph	3.0 mph	0.0 mph	28.90 in	28.75 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
12/02/2019 - 23:59	82 °F	69 °F	57 °F	62 °F	58 °F	67 °F	35 °F	72 %	30 %	16.0 mph	4.0 mph	0.0 mph	29.03 in	28.72 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
13/02/2019 - 23:59	95 °F	73 °F	58 °F	63 °F	58 °F	70 °F	35 °F	58 %	24 %	15.0 mph	3.0 mph	0.0 mph	29.03 in	28.72 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
14/02/2019 - 23:59	95 °F	79 °F	63 °F	68 °F	64 °F	75 °F	32 °F	63 %	32 %	21.0 mph	4.0 mph	0.0 mph	28.91 in	28.66 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
15/02/2019 - 23:59	88 °F	76 °F	71 °F	73 °F	66 °F	76 °F	38 °F	71 %	44 %	20.0 mph	4.0 mph	0.0 mph	28.96 in	28.78 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
16/02/2019 - 23:59	88 °F	74 °F	67 °F	70 °F	62 °F	76 °F	34 °F	68 %	33 %	14.0 mph	4.0 mph	0.0 mph	29.00 in	28.83 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
17/02/2019 - 23:59	81 °F	74 °F	64 °F	67 °F	62 °F	72 °F	37 °F	67 %	34 %	23.0 mph	4.0 mph	0.0 mph	28.94 in	28.76 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
18/02/2019 - 23:59	94 °F	76 °F	64 °F	67 °F	63 °F	73 °F	35 °F	67 %	34 %	23.0 mph	4.0 mph	0.0 mph	28.94 in	28.76 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
19/02/2019 - 23:59	94 °F	76 °F	64 °F	67 °F	63 °F	73 °F	35 °F	67 %	34 %	16.0 mph	3.0 mph	0.0 mph	28.92 in	28.53 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
20/02/2019 - 23:59	82 °F	75 °F	67 °F	70 °F	63 °F	73 °F	36 °F	66 %	35 %	21.0 mph	4.0 mph	0.0 mph	28.90 in	28.63 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
21/02/2019 - 23:59	84 °F	73 °F	66 °F	69 °F	60 °F	73 °F	38 °F	71 %	47 %	19.0 mph	3.0 mph	0.0 mph	28.95 in	28.70 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
22/02/2019 - 23:59	97 °F	78 °F	65 °F	70 °F	62 °F	73 °F	33 °F	65 %	28 %	17.0 mph	3.0 mph	0.0 mph	28.93 in	28.67 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
23/02/2019 - 23:59	90 °F	79 °F	68 °F	73 °F	63 °F	77 °F	32 °F	67 %	33 %	17.0 mph	3.0 mph	0.0 mph	28.84 in	28.70 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
24/02/2019 - 23:59	86 °F	76 °F	66 °F	70 °F	61 °F	73 °F	35 °F	68 %	33 %	26.0 mph	0.0 mph	0.0 mph	28.87 in	28.73 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
25/02/2019 - 23:59	88 °F	73 °F	63 °F	66 °F	60 °F	70 °F	33 °F	60 %	33 %	21.0 mph	3.0 mph	0.0 mph	28.97 in	28.55 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
26/02/2019 - 23:59	72 °F	67 °F	60 °F	63 °F	58 °F	65 °F	38 °F	71 %	39 %	17.0 mph	4.0 mph	0.0 mph	28.91 in	28.69 in	0.04 in	0.04 in	0.04 in	0.04 in	0.04 in		
undefined																					
27/02/2019 - 23:59	93 °F	84 °F	59 °F	69 °F	49 °F	74 °F	31 °F	54 %	36 %	21.0 mph	0.0 mph	0.0 mph	28.97 in	28.82 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					
28/02/2019 - 23:59	80 °F	73 °F	62 °F	65 °F	55 °F	68 °F	31 °F	52 %	32 %	20.0 mph	3.0 mph	0.0 mph	28.94 in	28.80 in	0.00 in	0.00 in	0.00 in	0.00 in	0.00 in		
undefined																					

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CLIENT: CP Concrete

SAMPLING PERIOD - 30-Jan-2019 - 28-Feb-2019

UNIT No.	LOCATION	FROM	TO	DUST MASS COLLECTED (mg)	FILTER	DUST mg/m2/day Result	COMMENTS & NOTES
SB1	Unit 1	30-Jan-2019	28-Feb-2019	93.5	J469	140	

Table 4: Fallout Dust Results

CLIENT: CP Concrete

SAMPLING PERIOD - 30-Jan-2019 - 28-Feb-2019

UNIT No.	LOCATION	FROM	TO	DUST MASS COLLECTED (mg)	FILTER	DUST mg/m2/day Result	COMMENTS & NOTES
SB2	Unit 2	30-Jan-2019	28-Feb-2019	11.8	J470	18	

Table 5: Fallout Dust Results

259.

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CLIENT: CP Concrete

SAMPLING PERIOD - 30-Jan-2019 - 28-Feb-2019

UNIT No.	LOCATION	FROM	TO	DUST MASS COLLECTED (mg)	FILTER	DUST mg/m ² /day Result	COMMENTS & NOTES
SB3	Unit 3	30-Jan-2019	28-Feb-2019	47.5	J530	71	

Table 6: Fallout Dust Results

CLIENT: CP Concrete

SAMPLING PERIOD - 30-Jan-2019 - 28-Feb-2019

UNIT No.	LOCATION	FROM	TO	DUST MASS COLLECTED (mg)	FILTER	DUST mg/m ² /day Result	COMMENTS & NOTES
SB4	Unit 4	30-Jan-2019	28-Feb-2019	39	V054	59	

Table 7: Fallout Dust Results

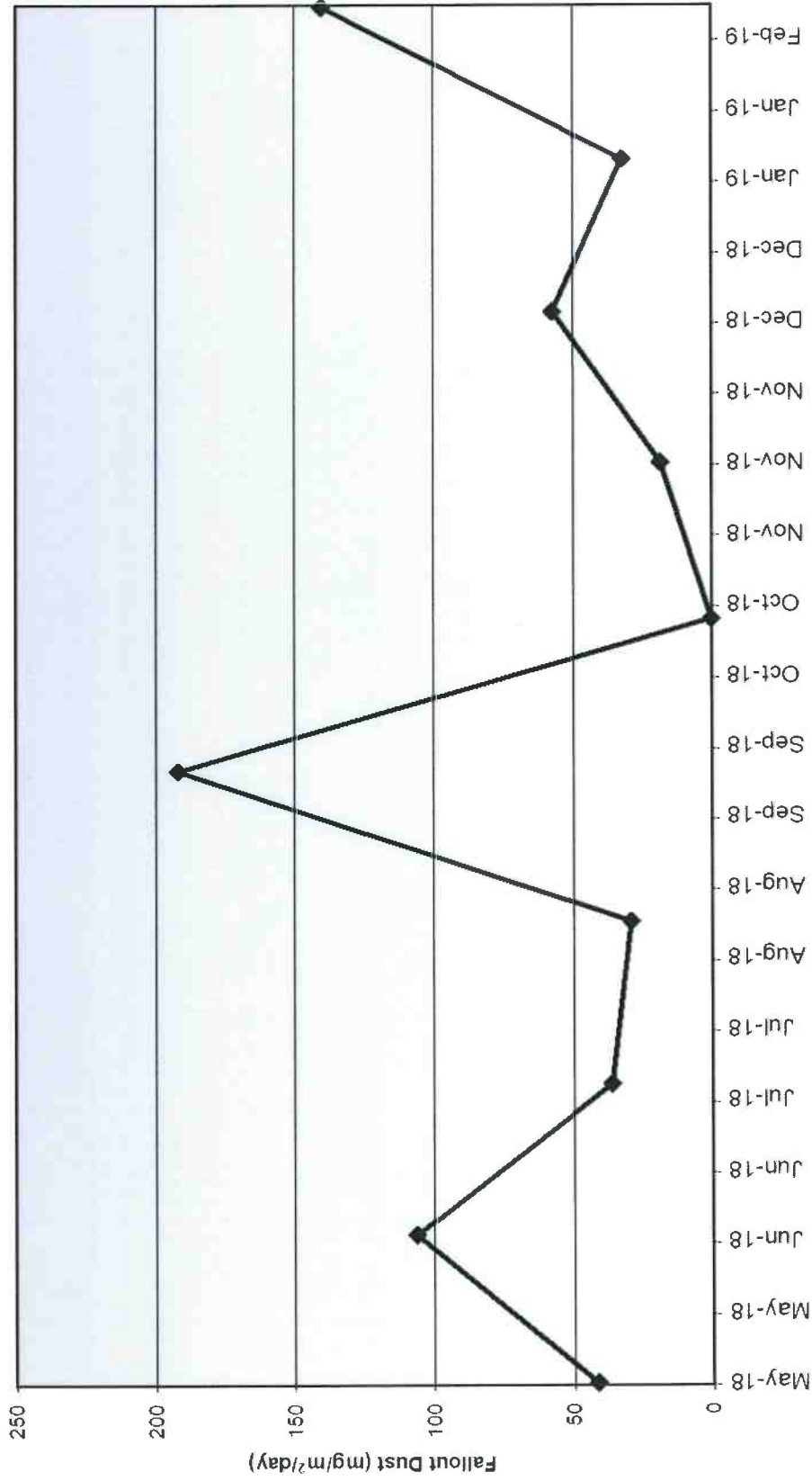
260.

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Unit 1 - Fall-out Dust



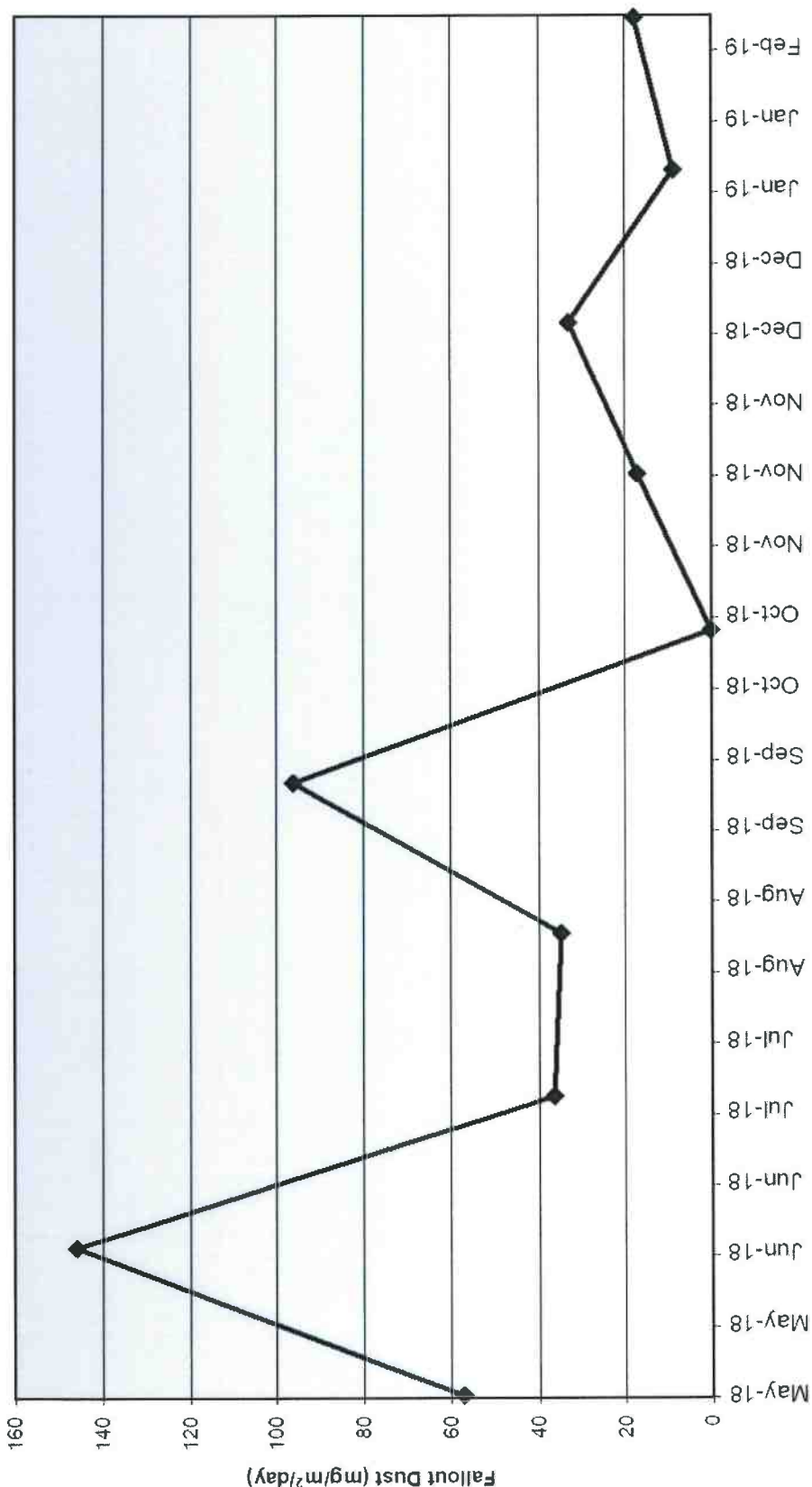
Single Bucket

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Unit 2 - Fall-out Dust



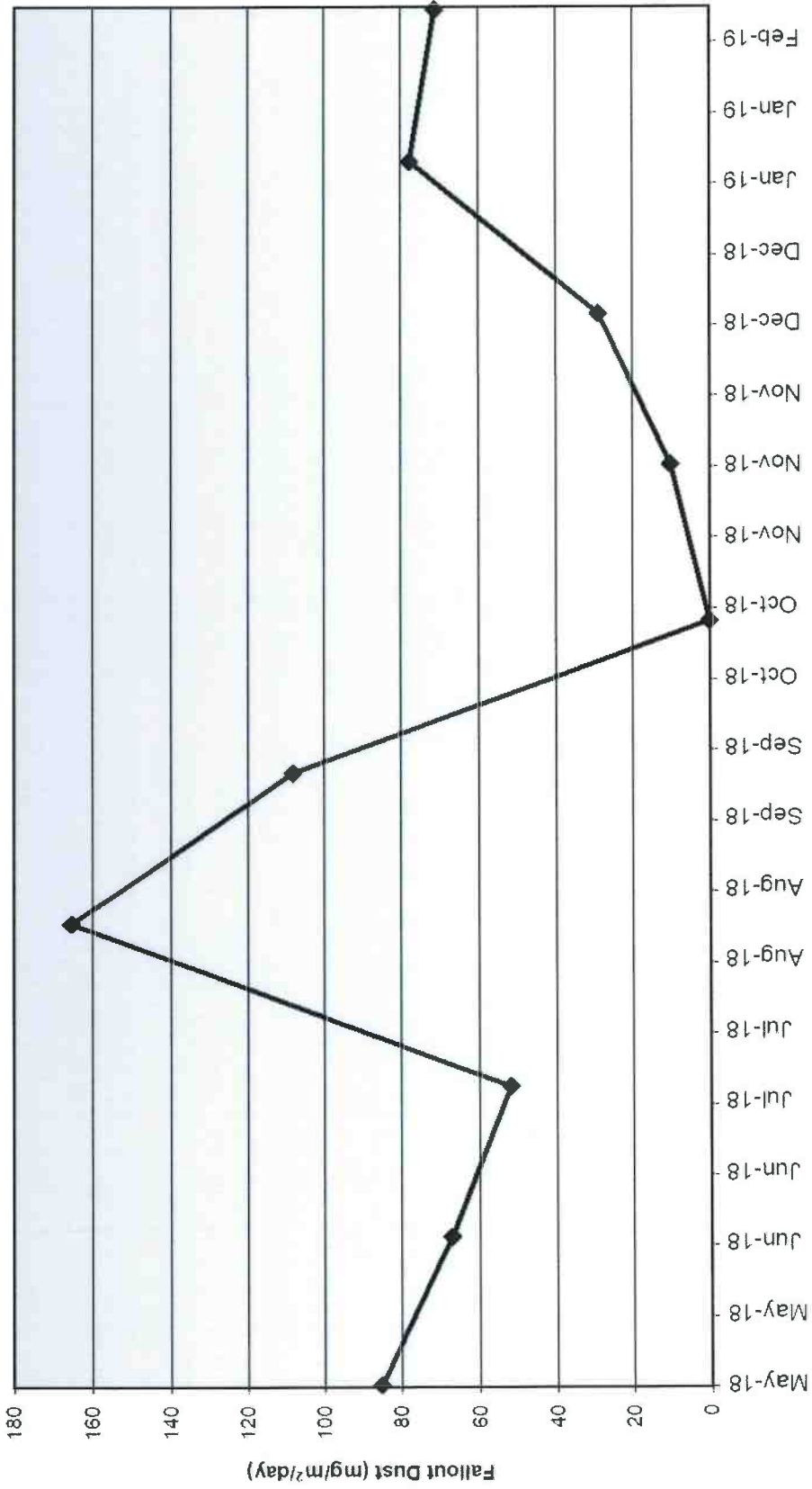
Single Bucket

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Unit 3 - Fall-out Dust



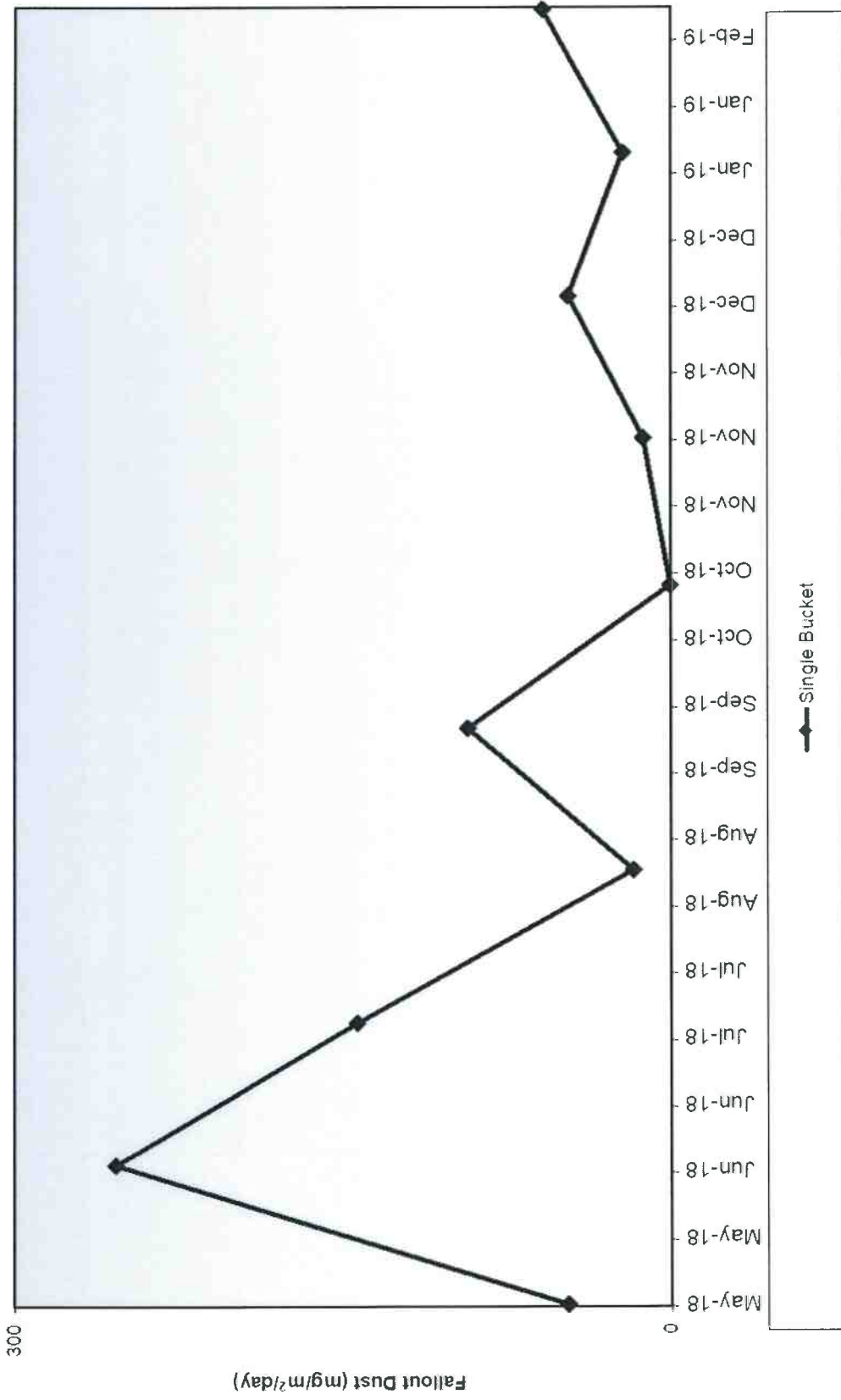
Single Bucket

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Unit 4 - Fall-out Dust



Images from the site May 2018**Additional Map Image**

Calibration and SANAS Information

The calibration is shown to four decimal places of a gram and is accurate to 0.1 mg.

www.dustwatch.com/calibration-certificate.jpg

SCALETEC S.A. (PTY) LTD
P.O. Box 609, Cape Gate 7162
Unit 27 NT Park
Sandpiper Crescent
Oxarcourt Park, Brackenford
Cape Town



Phone: +27 (0)21 982 0928
Fax: +27 (0)21 982 4523
E-mail: sales@scaletec.co.za
Website: www.scaletec.co.za

"Always A Step Ahead"

TEST REPORT

CUSTOMER DETAILS				12016		
DUSTWATCH						
4 Simla Street						
Piketberg				SCALE NO. 1		
SCALE DETAILS						
MAKE	Avery	MODEL	FAZ150	CAPACITY	210g	
DIVISION	1 mg	SERIAL NO.	5661	LOCATION	on site	
CALIBRATED BY C. Greyer				SIGN [Signature]		
DATE 7/08/2018		EXPIRY DATE OF THIS REPORT 7/08/2019				
THIS IS TO CERTIFY THAT STANDARDS USED FOR TESTINGS ARE TRACEABLE TO NATIONAL STANDARDS VIA CERTIFICATE ISSUED BY SANAS ACCREDITED LABORATORY 1411						
CERTIFICATE NO. CM7/210C				DATE 15/10/2017		
NO.	LOAD APPLIED	READING	VISUAL ERROR		ALLOWABLE ERROR	FINAL READING
			BEFORE	AFTER		
1	0,001mg	0,001mg			N/A	0,001mg
2	0,005mg	0,005mg			N/A	0,005mg
3	0,010mg	0,010mg			N/A	0,010mg
4	0,050mg	0,050mg			N/A	0,050mg
5	0,100mg	0,100mg			N/A	0,100mg
6	0,200mg	0,200mg			N/A	0,200mg
7						
8						
9						
10						

DW

**CERTIFICATE OF ACCREDITATION**

In terms of section 22(2)(b) of the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2008 (Act 19 of 2008) and with sections 23(1), (2) and (3) of the said Act, I hereby certify that:

SCALETEC SA (PTY) LTD
Co. Reg. No.: 2004/017301/07
DURBAN

Facility Accreditation Number: **LTF0265**

is a South African National Accreditation System accredited Verification Laboratory
provided that all SANAS conditions and requirements are complied with

This certificate is valid as per the scope as stated in the accompanying schedule of accreditation,
Annexure "A", bearing the above accreditation number for

WEIGHING INSTRUMENTS

The facility is accredited in accordance with the recognised National Standard

SANS 10378:2012

The accreditation demonstrates technical competency for a defined scope and the operation of a
laboratory quality management system

While this certificate remains valid, the Accredited Facility named above is authorised to use
the relevant SANAS accreditation symbol on verification certificates and/or test reports.



Mr R Josias
Chief Executive Officer

Effective Date: 26 November 2015
Certificate Expires: 23 October 2019

This certificate does not on its own confer authority to verify in terms of the Legal Metrology Act
Approval to verify is granted by the Regulator NRCS Legal Metrology

DW

ANNEXURE A

SCHEDULE OF ACCREDITATION

Facility Number: LTF0265

Permanent Address of Laboratory: Durban Branch: Scaletec SA (Pty) Ltd 6 Kinkor Place Unit 3, Brooklyn Park, Bhandara Durban Postal Address: P O Box 606 Cape Gate 7562 Tel: (031) 564-8755/59/6412 Fax: (031) 564-1053 E-mail: jnorthcote@scaletec.co.za	Satellite Address of Laboratory: Cape Town Branch: Scaletec SA (Pty) Ltd Unit 27, N1 Park, Sandpiper Crescent Okavango Park, Brackenell Tel: (021) 962-0628 Fax: (021) 962-4523 E-mail: jnorthcote@scaletec.co.za	Technical Signatories: Mr GR Barbeau M539 Mr J Northcote M1039 Ms AN Mbadaliga M1027 Nominated Representative: Mr J Northcote Issue No: 13 Date of Issue: 28 November 2015 Expiry Date: 23 October 2019
FIELD OF VERIFICATION	TYPE OF VERIFICATION AND RANGE	STANDARDS, SPECIFICATIONS, ACT, REGULATIONS
Regulatory: The supply of services as a verification laboratory in the field of weighing instruments.	Non-automatic self-indicating scales: Self-indicating digital scales (excluding vehicle scales) Range: 1.5 kg to 2 000 kg	Trade Metrology Regulations Part B Regulation 44 SANS 1649 Legal Metrology Act, 2014 (Act 09 of 2014)

Original date of accreditation: 23 October 2007

Page 1 of 1

ISSUED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM

KEY:**A – Self-indicating scales**

- A1 – Self-indicating digital scales – Non-automatic (Excluding vehicle scales and scales with fixed weighing tracks)
- A2 – Self-indicating and semi self-indicating analogue scales non-automatic
- A3 – All vehicle scales and scales with fixed weighing tracks
- A4 – Hoppers

D – Automatic scales (Excluding conveyor belt scales)**E – Conventional non-self-indicating scales**

- E1 – Counter scales
- E2 – Compound lever scales, platforms, steelyards, wall beams etc.
- E3 – Vehicle scales

F – Beam scales and balances

- MA – Non-automatic self-indicating and semi self-indicating weighing instruments
- MA1 – Self-indicating scales with digital indication (excluding vehicle scales)


 Field Manager

Appendix – Ligno Sulphate Information – Chryso Eco Dust 200D

DustWatch can provide quotations for this product if required and provide advice on optimized application for different area requirements. **Gravel Roads, Haul Roads, Unpaved open areas, Stockpiles and Berms.** On site advice is available for site specific requirements and optimization.

The application spreadsheet is [available here](#) if required.

Report number: 1
 Date: 2017/06/07

Technical data sheet

CHRYSO® Eco Dust 200D (CPT)

High range dust suppressant

Description

CHRYSO® Eco Dust 200D is an emulsified dust lubrication system that aids in the **coalescing, stabilisation and suppression** of rising dust particles and spores, preventing them from becoming air-borne.

Advantages

- Easy **application** and safe to use
- Helps with **compliance** to safety, **environmental**, health and **occupational regulations**
- Safety - increased road visibility, increased grip
- Creates a **dust free** environment, complete dust suppression
- Less fuel usage
- Reduced road and vehicle **maintenance**
- Reduced man hours
- UV resistance
- Cuts down water usage
- Eliminate grading and watering
- Savings compared to traditional paving and tar roads
- VOC free

Application guidelines

Use

- Unpaved roads (gravel, farm, quarry roads)
- Road stabilization (gravel airstrip)
- Mine and industrial dust **suppression** (stock pile, mine dumps)

Directions

- For surface suppression
 - Apply to the surface by a **water/tank truck** with a rear mounted **distribution bar** that spreads the liquid evenly over the surface.

Physical and chemical properties

- Physical state (@ 25°C): Liquid
- Colour: Brown
- Specific gravity (@ 25°C): 1.095 (±0.02)
- pH: 3.00 (±0.01)
- Cl⁻ ion content: 50.01%
- Na₂O equivalent: 11%

- CHRYSO® Eco Dust 200D: 10 – 15% mixture by volume of water
- **Maintenance** of 2.5% to 5% mixture, depending on surface condition
- Coverage
 - Coverage depends on the method of **application**

Maintenance

- Factors that will influence the intervals between **maintenance** applications and life time of the surface include:
 - Quality of the base material
 - **Climate** conditions
 - Volumes and type of traffic

Storage

- If in the original sealed packaging at room **temperature**, CHRYSO® Eco Dust 200D has a shelf life of up to 12 months from the date of manufacturing.
- Should the product freeze, it will recover its properties after thawing and agitating.
- Avoid storing **CHRYSO® Eco Dust 200D** in direct sunlight.
- Avoid all contact with water (especially rain water).



CHRYSO Southern Africa (Pty) Ltd
 15 Molwen Road, Claremont, Cape Town
 South Africa 7708 | 0800 CHRYSO | T +27(0)21 307 6000 | F +27(0)21 307 6044 | W: www.chryso.co.za

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Annexure H

WC Noise Regulations PN 200/2013,
and extracts from
SANS 10103:2008 & SANS 10328:2008



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

Provincial Gazette Extraordinary

Buitengewone Provinsiale Koerant

Isongezelelo kwiGazethi yePhondo

7141

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7141

Thursday, 20 June 2013

Donderdag, 20 Junie 2013

Lwesine, 20 Juni 2013

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Ibhaliswe ePosini njengePhephandaba

CONTENTS

INHOUD

IZIQULATHO

(Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

(Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

(Ushicilelo oLutsha lufumaneka kwigumbi M21, kwiSakhiwo sePhondo seNdlu yoWiso Mthetho, 7 Wale Street, eKapa 8001.)

Provincial Notice

Provinsiale Kennisgewing

Isibhengezo

200 Western Cape Noise Control Regulations,
2013 2

200 Wes-Kaapse Geraasbeheerregulasies,
2013 8

200 IMigaqo yoLawulo lweNgxolo eNtshona
Koloni, 2013 14

PROVINCIAL NOTICE

The following Provincial Notice is published for general information.

ADV. B. GERBER,
DIRECTOR-GENERAL

Provincial Legislature,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewings word vir algemene inligting gepubliseer.

ADV. B. GERBER,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer,
Waalstraat,
Kaapstad.

ISAZISO SEPHONDO

Ezi zaziso zilandelayo zipapashelwe ukunika ulwazi ngokubanzi.

ADV. B. GERBER,
UMLA WULI-JIKELELE

Indlu yoWiso-mthetho yePhondo,
Wale Street,
eKapa.

P.N. 200/2013

20 June 2013

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**ENVIRONMENT CONSERVATION ACT, 1989****WESTERN CAPE NOISE CONTROL REGULATIONS**

The Provincial Minister of Local Government, Environmental Affairs and Development Planning in the province of the Western Cape has made the regulations in the Schedule under section 25 of the Environment Conservation Act, 1989 (Act 73 of 1989).

SCHEDULE**Definitions**

1. In these regulations a word or expression to which a meaning has been assigned in the Environment Conservation Act, 1989 (Act 73 of 1989), or the relevant Standards South Africa publication (SANS) has the meaning so assigned and, unless the context indicates otherwise—

“ambient noise” means the all-encompassing sound in a given situation at a given time, measured as the reading on an integrated impulse sound level meter for a total period of at least 10 minutes;

“animal”, in relation to a person, means any animal in the possession or under the control of that person, and includes birds and poultry;

“authorised person” means—

- (a) a designated person;
- (b) a member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a municipal police officer, traffic official, law enforcement officer or traffic warden appointed under any law; or
- (d) a person who has been declared a peace officer under section 334(1) of the Criminal Procedure Act, 1977 (Act 51 of 1977);

“dBA” means the sound pressure level measured in decibels which is A-weighted to approximate the response of the human ear;

“designated person” means a person designated or appointed by a local authority in terms of regulation 9;

“disturbing noise” means a noise, excluding the unamplified human voice, which—

- (a) exceeds the rating level by 7 dBA;
- (b) exceeds the residual noise level where the residual noise level is higher than the rating level;
- (c) exceeds the residual noise level by 3 dBA where the residual noise level is lower than the rating level; or
- (d) in the case of a low-frequency noise, exceeds the level specified in Annex B of SANS 10103;

“emergency” means a situation that arises suddenly and involves imminent or actual—

- (a) danger to persons; or
- (b) damage to property or the environment,

and which demands immediate action;

“local authority” means the municipality having jurisdiction;

“low-frequency noise” means sound which contains sound energy at frequencies predominantly below 100 Hz;

“model aircraft” includes an unmanned recreational aircraft, whether full size or scaled down;

“NEMA” means the National Environmental Management Act, 1998 (Act 107 of 1998);

“noise nuisance” means any sound which impairs or may impair the convenience or peace of a reasonable person;

“noise sensitive activity” means any activity that could be negatively impacted by noise, including residential, healthcare, educational or religious activities;

“person” includes a juristic person and an organ of state;

“**premises**” means a piece of land or any building or part of a building, place of residence, tent or other structure;

“**property projection plane**” means a vertical or horizontal plane, whichever is applicable, on a boundary line of premises defining a boundary of the premises in space;

“**Province**” means the Province of the Western Cape;

“**public event**” means any event—

- (a) to which the public or any section thereof has access, including a show, air show, music concert, festival, sports event or any similar event; and
- (b) at which any amplified music is played or reproduced;

“**rating level**” means the applicable outdoor equivalent continuous rating level indicated in Table 2 of SANS 10103;

“**residual noise**” means the all-encompassing sound in a given situation at a given time, measured as the reading on an integrated impulse sound level meter for a total period of at least 10 minutes, excluding noise alleged to be causing a noise nuisance or disturbing noise;

“**SANS 10103**” means the latest edition of Standards South Africa publication No. 10103 titled “The measurement and rating of environmental noise with respect to annoyance and to speech communication”, as amended from time to time, or its corresponding replacement;

“**SANS 10117**” means the latest edition of Standards South Africa publication No. 10117 titled “Calculation and prediction of aircraft noise around airports for land use purposes”, as amended from time to time, or its corresponding replacement, as referred to in SANS 10328;

“**SANS 10210**” means the latest edition of Standards South Africa publication No. 10210 titled “Calculating and predicting road traffic noise”, as amended from time to time, or its corresponding replacement, as referred to in SANS 10328;

“**SANS 10328**” means the latest edition of Standards South Africa publication No. 10328 titled “Methods for environmental noise impact assessments”, as amended from time to time, or its corresponding replacement;

“**SANS 658**” means the latest edition of Standards South Africa publication No. 658 titled “Integrating-averaging sound level meters”, as amended from time to time, or its corresponding replacement;

“**sound level**” means the equivalent continuous rating level as defined in SANS 10103, taking into account impulse, tone and night-time corrections;

“**vehicle**” means any device designed or adapted mainly to travel on wheels or crawler tracks, whether self-powered or not, other than such a device which travels solely on rails, including—

- (a) a motor vehicle;
- (b) a motorcycle;
- (c) an off-road vehicle, such as a scrambler, quadricycle or dune buggy; and
- (d) a model vehicle;

“**vessel**” means any watercraft, including—

- (a) a jet ski;
- (b) a ski boat; and
- (c) a model vessel.

Prohibition of disturbing noise

2. A person may not—

- (a) cause a disturbing noise; or
- (b) allow a disturbing noise to be caused by any person, animal, machine, device, apparatus, vehicle, vessel or model aircraft, or any combination thereof.

Prohibition of noise nuisance

3. In so far as it causes or is likely to cause a noise nuisance, a person may not—

- (a) operate or play, or allow to be operated or played, a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier, or loudspeaker system, or any similar device producing, reproducing or amplifying sound;
- (b) market or advertise any article or service for sale;
- (c) allow an animal to make noise;
- (d) discharge fireworks in a manner that does not comply with the local authority’s requirements;
- (e) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft, model aircraft or any other object, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested, in or near a residential area;
- (f) use or discharge any explosive, firearm or similar device that emits any sound impulse, or allow it to be used or discharged, without the written permission of the local authority;

- (g) except in an emergency, emit a sound, or cause a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device;
- (h) operate any machinery, power tool, lawnmower, power garden tool or similar device or allow it to be operated;
- (i) load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or any other article, or allow it to be loaded, unloaded, opened, shut or handled;
- (j) drive or operate a vehicle, vessel or model aircraft or allow it to be driven or operated; or
- (k) make any other noise not indicated in paragraphs (a)-(j).

Land use

4. (1) The local authority, or any other authority responsible for considering an application for a building plan approval, business licence approval, planning approval or environmental authorisation, may instruct the applicant to conduct and submit, as part of the application—
 - (a) a noise impact assessment in accordance with SANS 10328 to establish whether the noise impact rating of the proposed land use or activity exceeds the appropriate rating level for a particular district as indicated in SANS 10103; or
 - (b) where the noise level measurements cannot be determined, an assessment, to the satisfaction of the local authority, of the noise level of the proposed land use or activity.
- (2) (a) A person may not construct, erect, upgrade, change the use of or expand any building that will house a noise-sensitive activity in a predominantly commercial or industrial area, unless he or she insulates the building sufficiently against external noise so that the sound levels inside the building will not exceed the appropriate maximum rating levels for indoor ambient noise specified in SANS 10103.
- (b) The owner of a building referred to in paragraph (a) must inform prospective tenants or buyers in writing of the extent to which the insulation measures contemplated in that paragraph will mitigate noise impact during the normal use of the building.
- (c) Paragraph (a) does not apply when the use of the building is not changed.
- (3) Where the results of an assessment undertaken in terms of subregulation (1) indicate that the applicable noise rating levels referred to in that subregulation will likely be exceeded, or will not be exceeded but will likely exceed the existing residual noise levels by 5 dBA or more—
 - (a) the applicant must provide a noise management plan, clearly specifying appropriate mitigation measures to the satisfaction of the local authority, before the application is decided; and
 - (b) implementation of those mitigation measures may be imposed as a condition of approval of the application.
- (4) Where an applicant has not implemented the noise management plan as contemplated in subregulation (3), the local authority may instruct the applicant in writing to—
 - (a) cease any activity that does not comply with that plan; or
 - (b) reduce the noise levels to an acceptable level to the satisfaction of the local authority.

Noise from machinery in residential areas

5. A person may not use a pool pump, irrigation pump, refrigeration unit, or any heating, ventilation or air-conditioning equipment, or any similar device, in a residential area if the noise on the property projection plane exceeds 50 dBA or exceeds the residual noise level by more than 5 dBA, except if authorised by the local authority or in an emergency.

Places of late-night entertainment

6. (1) A person may not conduct the business of a nightclub, or any similar late-night entertainment involving amplified sound, on or from any premises, unless the premises are soundproofed sufficiently so that a disturbing noise will not be caused outside the property projection plane of the premises.
- (2) The local authority may require a person referred to in subregulation (1) to provide proof of the soundproofing, or may require access to the premises to assess the efficacy of the soundproofing.
- (3) A person who conducts a business referred to in subregulation (1) on the date of publication of these regulations is exempted from the application of that subsection for a period of six months after that date.

Events

7. (1) A person may not stage a public event without a written exemption issued by the local authority in terms of regulation 12.
- (2) Subject to subregulation (4) and the applicable provisions of any other law, the local authority may seize any instrument or equipment used to generate music or amplify sound at a public event if—
 - (a) an exemption in terms of regulation 12 has not been issued for that event; or
 - (b) the conditions imposed in such an exemption have not been met.
- (3) An instrument or equipment seized under subregulation (2) must be kept in safe custody by the local authority which seized it.
- (4) A local authority must return an instrument or equipment seized in terms of subregulation (2) upon recovery of reasonable expenses incurred by it for the purposes of subregulations (2) and (3).

- (5) If a local authority has reason to believe that a proposed event, other than a public event, could cause a disturbing noise or noise nuisance, it may instruct the person intending to host the event in writing to apply for an exemption in terms of regulation 12(1)(b).
- (6) A person may not stage an event in respect of which a local authority has given an instruction contemplated in subregulation (5) without a written exemption issued by the local authority in terms of regulation 12.

Measurement and calculation procedures

- 8. (1) A person using sound measuring equipment for the purposes of these regulations must ensure that—
 - (a) the equipment complies with the requirements for type 1 instruments as indicated by SANS 658; and
 - (b) the measurement and calculation procedures comply with SANS 10103, SANS 10328, SANS 10117 and SANS 10210, as the case may be.
- (2) The person taking a measurement may in his or her discretion determine the measuring or calculation point as—
 - (a) a point where the complainant is most affected by the noise; or
 - (b) a point on the property projection plane of the premises concerned that is representative of the noise matter concerned.

Designation of employees by local authorities to perform noise control functions

- 9. A local authority must within a year of the publication of these regulations—
 - (a) designate an employee of the local authority with the necessary competencies who must be responsible for the administration of these regulations within the area of jurisdiction of the local authority;
 - (b) designate an employee of the local authority with appropriate knowledge and skills for conducting noise control or acoustic measurement, and who is registered with a science, engineering or health-related professional body, who must be responsible for—
 - (i) analysing, evaluating, approving and advising on noise impact assessments and noise management plans;
 - (ii) approving sound mitigation measures;
 - (iii) conducting noise impact measurements and calculating sound levels; and
 - (iv) scrutinising sound modelling and techniques; and
 - (c) if it cannot designate an employee as contemplated in paragraph (b)—
 - (i) by agreement with another local authority, appoint an official of the other local authority to fulfil the duties of such an employee; or
 - (ii) appoint a professional consultant who is qualified in noise control and competent to fulfil the duties of such an employee, when necessary.

Procedure for control of noise

- 10. (1) When a person lodges a complaint of a suspected disturbing noise to a local authority, a designated person must—
 - (a) investigate the complaint and determine by calculation or measurement in accordance with SANS 10328 whether it is a disturbing noise;
 - (b) apply the rating level except where the residual noise level differs by more than 10 dBA from the rating level; and
 - (c) if a noise is a disturbing noise, issue written instructions to—
 - (i) the person causing the noise or who is responsible for the noise; or
 - (ii) the owner, tenant, occupant or person in charge of the premises concerned,to cease the disturbing noise or to mitigate it to a level conforming to the requirements of these regulations within the period specified in the instructions.
- (2) If a person is found to be responsible for or creating a disturbing noise, the local authority may hold that person liable for the cost of appointing a professional consultant as contemplated in regulation 9(c)(ii) to investigate the complaint.
- (3) A complaint to a local authority on an alleged noise nuisance must be in the form of an affidavit, specifying—
 - (a) the nature of the alleged noise nuisance;
 - (b) when the noise nuisance was first noticed;
 - (c) the duration of the noise nuisance;
 - (d) if applicable, how often the noise nuisance has occurred;
 - (e) the origin of the noise nuisance; and
 - (f) if obtainable, the name and address of the occupant of the premises from which the nuisance originates.

- (4) On receipt of a complaint of a noise nuisance, an authorised person—
- (a) must investigate the complaint; and
 - (b) if, in the opinion of the authorised person, a noise is or may be a noise nuisance, he or she may issue written instructions to—
 - (i) the person causing the noise or who is responsible for the noise; or
 - (ii) the owner, tenant, occupant or person in charge of the premises concerned,to cease or mitigate the noise nuisance within the period specified in the instruction.

General powers of local authorities and authorised persons

11. (1) A local authority may—
- (a) impose conditions when granting any permission or exemption in terms of these regulations; and
 - (b) subject to the applicable provisions of any other law, place sound-level measuring instruments or similar devices, and road traffic signs or notices related to noise, at any place within its area of jurisdiction.
- (2) An authorised person may, in respect of a complaint of a noise nuisance or a disturbing noise, enter any premises to conduct any appropriate examination, inquiry or inspection subject to subregulation (3).
- (3) An authorised person may not enter residential premises for the purposes of subregulation (2) except—
- (a) with the consent of the owner or person in charge of the premises; or
 - (b) on the authority of a warrant issued by a magistrate after the magistrate has been satisfied that reasonable grounds exist to justify the warrant.

Exemptions

12. (1) A local authority may exempt any person or venue or type of venue from any provision of these regulations—
- (a) on its own initiative; or
 - (b) on application by any person.
- (2) The applicant referred to in subregulation 1(b) must—
- (a) provide full reasons for the application; and
 - (b) in a manner determined by the local authority, solicit written comment regarding the application.
- (3) The process referred to in subregulation (2) must afford an opportunity to potential interested and affected parties to submit written representations on the proposed exemption, and the applicant may comment in writing on any representations received.
- (4) A local authority must in writing, after considering an application or a proposal for the granting of an exemption, where applicable in accordance with the principles of environmental management under NEMA—
- (a) grant an exemption and set out the conditions, if any, in terms of which the exemption is granted;
 - (b) refuse to grant an exemption and upon request provide reasons for the refusal; or
 - (c) require a noise impact assessment in terms of SANS 10328 before making a decision referred to in paragraph (a) or (b).
- (5) The conditions referred to in subregulation (4)(a) may include, where applicable—
- (a) the period for which the exemption is granted, including the times and days when acts that may cause noise are exempted;
 - (b) whether a notice as set out in Annexure 1 must be placed, in a clearly visible position at each public entrance to the premises;
 - (c) whether noise levels must be monitored and, if so, the manner in which it must be done and how records must be kept for inspection; and
 - (d) any other conditions of the exemption.
- (6) The local authority may amend an exemption or condition granted or imposed by it under subregulation 4(a)—
- (a) on its own initiative; or
 - (b) on application by the holder of the exemption.
- (7) An application in terms of subregulation (6)(b) must be in writing and accompanied by a motivation for the amendment.

- (8) Upon receipt of an application referred to in subregulation (6)(b), the local authority—
- (a) must consider whether approving the application is likely to adversely affect the rights or interests of other parties; and
 - (b) may for that purpose request the applicant to furnish additional information.
- (9) An exemption referred to in subregulation (4) may not exceed one year, unless it is in respect of an authorisation contemplated in regulation 4.
- (10) If any condition of an exemption is not complied with, the local authority may—
- (a) instruct the responsible person to comply with that condition; or
 - (b) suspend or withdraw the exemption forthwith.
- (11) A written exemption must be kept on the premises for which it is granted or in the possession of the exemption holder, for inspection by a local authority or an authorised person upon request.

Offences and penalties

13. (1) A person commits an offence if he or she—
- (a) contravenes or fails to comply with regulation 2, 3, 4(2), 5, 6(1), 7(1) or 7(6);
 - (b) fails or refuses to comply with a written condition, written instruction or written notice imposed, given or issued by a local authority or an authorised person in terms of these regulations;
 - (c) tampers with, removes, puts out of action, damages or impairs the functioning of any object used or placed in position by or on behalf of a local authority or an authorised person for the purposes of these regulations, including a noise monitoring system, noise limiter, sound-level measuring instrument or acoustic device, or a road traffic sign or notice related directly or indirectly to noise;
 - (d) fails or refuses to grant admission to an authorised person to enter and to inspect premises on the authority of a warrant issued in terms of regulation 11(3)(b);
 - (e) fails or refuses to give information to an authorised person, which may lawfully be required of him or her by that authorised person;
 - (f) hinders or obstructs an authorised person in the execution of his or her duties; or
 - (g) gives false or misleading information to an authorised person knowing that it is false or misleading.
- (2) A person convicted of an offence in terms of these regulations is liable to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.
- (3) A person convicted of an offence in terms of these regulations, and who after the conviction persists in the act or omission which constituted the offence, commits a continuing offence and is liable on conviction to a fine not exceeding R50 000 or imprisonment for a period not exceeding twenty days, or to both such fine and imprisonment for every day the offence continues.

Application of regulations

14. These regulations apply to all local authorities in the Province.

Repeal of regulations

15. The regulations published under Provincial Notice 627 of 1998 (in Provincial Gazette 5309 of 20 November 1998) are repealed.

Short title

16. These regulations are called the Western Cape Noise Control Regulations, 2013.

Annexure 1

The warning notice referred to in regulation 12(5)(b) must not be smaller than 30 cm by 20 cm, and the lettering not smaller than 12 mm in height. The notice must contain the following wording:

WARNING

HIGH NOISE LEVEL INSIDE

EXTENDED EXPOSURE MAY DAMAGE YOUR HEARING

P.K. 200/2013

20 Junie 2013

DEPARTEMENT VAN OMGEWINGSKE EN ONTWIKKELINGSBEPLANNING

WET OP OMGEWINGSBEWARING, 1989

WES-KAAPSE GERAASBEHEERREGULASIES

Die Provinsiale Minister van Plaaslike Regering, Omgewingsake en Ontwikkelingsbeplanning in die provinsie Wes-Kaap het die regulasies in die Bylae kragtens artikel 25 van die Wet op Omgewingsbewing, 1989 (Wet 73 van 1989), gemaak.

BYLAE

Woordomskrywing

1. In hierdie regulasies het 'n woord of uitdrukking waaraan 'n betekenis in die Wet op Omgewingsbewing, 1989 (Wet 73 van 1989), of die betrokke Suid-Afrikaanse Nasionale Standaard-publikasie (SANS) toegeskryf is, die betekenis aldus daaraan toegeskryf en, tensy dit uit die samehang anders blyk, beteken—

“aangewese persoon” ’n persoon wat ingevolge regulasie 9 deur ’n plaaslike owerheid aangewys of aangestel is;

“aanslagpeil” die toepaslike buitenshuise ekwivalente deurlopende aanslagpeil aangedui in Tabel 2 van SANS 10103;

“dBA” die klankdrukpeil gemeet in desibel en wat A-aangepas is om die reaksie van die menslike oor by benadering vas te stel;

“dier”, met betrekking tot ’n persoon, enige dier in die besit of onder die beheer van daardie persoon, en sluit voëls en pluimvee in;

“eiendomsprojeksievlak” ’n vertikale of horisontale vlak, watter een ook al van toepassing is, op ’n grenslyn van ’n perseel wat ’n grens van die perseel in ruimte omskryf;

“gemagtigde persoon”—

(a) ’n aangewese persoon;

(b) ’n lid van die Diens soos omskryf in artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995);

(c) ’n munisipale polisiebeampte, verkeersbeampte, wetstoepassingsbeampte of verkeersopsigter aangestel kragtens enige wet; of

(d) ’n persoon wat tot vredesbeampte verklaar is kragtens artikel 334(1) van die Strafproseswet, 1977 (Wet 51 van 1977);

“geraasoors” enige geluid wat die gerief of rus van ’n redelike persoon versteur of kan versteur;

“geraassensitiewe aktiwiteit” enige aktiwiteit wat negatief geraak kan word deur geraas, met inbegrip van residensiële, gesondheidsorg-, opvoedkundige of godsdiensige aktiwiteite;

“klankpeil” die ekwivalente deurlopende aanslagpeil soos omskryf in SANS 10103, met inagneming van impuls, toon en regstellings snags;

“laefrekwensiegeraas” ’n geluid wat klankenergie bevat teen frekwensies wat grotendeels laer as 100 Hz is;

“model-lugvaartuig” ook ’n onbemande ontspanningslugvaartuig, hetsy volgrootte of na verhouding verklein;

“noodsituasie” ’n situasie wat skielik ontstaan en dreigende of werklike—

(a) gevaar vir mense; of

(b) skade aan eiendom of die omgewing, inhou en onmiddellike optrede vereis;

“omgewingsgeraas” die allesomvattende geluid in ’n gegewe situasie op ’n gegewe tyd, gemeet as die lesing op ’n geïntegreerde impulsklankpeilmeter vir ’n totale tydperk van minstens 10 minute;

“openbare gebeurtenis” enige gebeurtenis—

(a) waartoe die publiek of enige gedeelte daarvan toegang het, met inbegrip van ’n vertoning, lugvertoning, musiekkonsert, fees, sportgebeurtenis of enige dergelike gebeurtenis; en

(b) waar musiek oor ’n klankversterker gespeel of gereproduceer word;

“perseel” ’n stuk grond of enige gebou of gedeelte van ’n gebou, woonplek, tent of ander struktuur;

“persoon” ook ’n regspersoon en ’n staatsorgaan;

“plaaslike owerheid” die munisipaliteit wat jurisdiksie het;

“Provinsie” die provinsie Wes-Kaap;

“residuele geraas” die allesomvattende geluid in ’n gegewe situasie op ’n gegewe tyd, gemeet as die lesing op ’n geïntegreerde impulsklankpeilmeter vir ’n totale tydperk van minstens 10 minute, behalwe geraas wat beweer word ’n geraasoors of steurende geraas te veroorsaak;

“SANS 10103” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10103 getitel “The measurement and rating of environmental noise with respect to annoyance and to speech communication” (“Die meting en aanslag van omgewingsgeraas met betrekking tot steurnis en spraakkommunikasie”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan;

“SANS 10117” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10117 getitel “Calculation and prediction of aircraft noise around airports for land use purposes” (“Berekening en voorspelling van lugverkeergeraas naby lughawens vir grondgebruiksdoeleindes”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan; soos bedoel in SANS 10328;

“SANS 10210” jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10210 getitel “Calculating and predicting road traffic noise” (“Berekening en voorspelling van padverkeergeraas”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan, soos bedoel in SANS 10328;

“SANS 10328” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 10328 getitel “Methods for environmental noise impact assessments” (“Metodes waarvolgens die impak van omgewingsgeraas geassesseer word”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan;

“SANS 658” die jongste uitgawe van Standaard Suid-Afrika-publikasie Nr. 658 getitel “Integrating-averaging sound level meters” (“Geïntegreerdegemiddelde-klankpeilmeters”), soos van tyd tot tyd gewysig, of die ooreenstemmende vervanging daarvan;

“steurende geraas” ’n geraas, behalwe die onversterkte menslike stem, wat—

- (a) die aanslagpeil met 7 dBA oorskry;
- (b) die residuele geraaspeil oorskry waar die residuele geraaspeil hoër as die aanslagpeil is;
- (c) die residuele geraaspeil met 3 dBA oorskry waar die residuele geraaspeil laer as die aanslagpeil is; of
- (d) in die geval van ’n laefrekwensiegeraas, die peil vermeld in Bylae B van SANS 10103 oorskry;

“vaartuig” enige watertuig, met inbegrip van—

- (a) ’n waterponie;
- (b) ’n skiboort; en
- (c) ’n modelvaartuig;

“voertuig” toestel wat ontwerp of aangepas is om hoofsaaklik op wiele of rusperbande te loop, hetsy selfgedrewe of nie, behalwe so ’n toestel wat uitsluitlik op ’n spoor loop, met inbegrip van—

- (a) ’n motorvoertuig;
- (b) ’n motorfiets;
- (c) ’n veldvoertuig, byvoorbeeld ’n veldmotorfiets, vierwielmotorfiets of duinebesie; en
- (d) ’n modelvoertuig;

“WNOB” die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998).

Verbod op steurende geraas

2. ’n Persoon mag nie—

- (a) ’n steurende geraas veroorsaak nie; of
- (b) toelaat dat ’n steurende geraas deur enige persoon, dier, masjien, toestel, apparaat, voertuig, vaartuig of model-lugvaartuig, of enige kombinasie daarvan, veroorsaak word nie.

Verbod op geraasoorlas

3. Vir sover ’n geraasoorlas daardeur veroorsaak word of waarskynlik daardeur veroorsaak sal word, mag ’n persoon nie—

- (a) ’n radio, televisiestel, grammofoon, opnametoestel, trom, musiekinstrument, klankversterker, luidsprekerstelsel of enige dergelike toestel wat klank voortbring, reproduseer of versterk, gebruik, speel of bespeel, of toelaat dat dit gebruik, gespeel of bespeel word nie;
- (b) enige artikel of diens as te koop bemark of adverteer nie;
- (c) ’n dier toelaat om geraas te maak nie;
- (d) vuurwerke afvuur op ’n wyse wat nie voldoen aan die vereistes van die plaaslike owerheid nie;
- (e) ’n voertuig, vaartuig, vliegtuig, model-lugvaartuig of enige ander voorwerp bou, maak, inmeekaarsit, herstel, herbou, modifiseer, gebruik of toets, of toelaat dat dit gebou, gemaak, inmeekaarsit, herstel, herbou, gemodifiseer, gebruik of getoets word in of naby ’n woongebied nie;
- (f) plofstof, vuurwapen of dergelike toestel wat enige klankimpuls vrystel, gebruik of afvuur of toelaat dat dit gebruik of afgevuur word, sonder die skriftelike verlof van die plaaslike owerheid nie;
- (g) behalwe in ’n noodsituasie, ’n geluid voortbring of laat voortbring deur middel van ’n klok, klokkespel, sirene, toeter, statiese alarm, fluitjie, luidspreker of dergelike toestel nie;
- (h) enige masjinerie, kraggereedskap, grassnyer, krag- tuinggereedskap of dergelike toestel gebruik of toelaat dat dit gebruik word nie;
- (i) ’n krat, kis, houer, boumateriaal, vullishouer of enige ander artikel oplaai, aflaai, oopmaak, toemaak of op enige ander manier hanteer, of toelaat dat dit opgelaa, afgelaa, oopgemaak, toegemaak of gehanteer word nie;
- (j) ’n voertuig, vaartuig of model-lugvaartuig bestuur of gebruik of toelaat dat dit bestuur of gebruik word nie; of
- (k) enige ander geraas maak wat nie in paragrawe (a)–(j) aangedui word nie.

Grondgebruik

4. (1) Die plaaslike owerheid, of enige ander owerheid verantwoordelik daarvoor om 'n aansoek om 'n bouplan-, sakelisenjie- of beplanningsgoedkeuring of omgewingsmagtiging te oorweeg, kan die aansoeker opdrag gee om die volgende uit te voer en voor te lê as 'n deel van die aansoek:
- (a) 'n Geraasimpakassessering ooreenkomstig SANS 10328 om vas te stel of die geraasimpakaanslag van die voorgestelde grondgebruik of aktiwiteit die gepaste aanslagpeil vir 'n spesifieke distrik, soos in SANS 10103 aangedui, oorskry; of
 - (b) waar die geraaspeilmetinge nie vasgestel kan word nie, 'n assessering, tot bevrediging van die plaaslike owerheid, van die geraaspeil van die voorgestelde grondgebruik of aktiwiteit.
- (2) (a) 'n Persoon mag geen gebou wat 'n geraassensitiewe aktiwiteit sal huisves in 'n oorwegend handels- of nywerheidsgebied bou, oprig, opgradeer, die gebruik daarvan verander of uitbreidings daaraan aanbring nie, tensy hy of sy die gebou voldoende teen eksterne geraas insuleer sodat die klankpeile binne die gebou nie die toepaslike maksimum aanslagpeile vir binnenshuise omgewingsgeraas in SANS 10103 vermeld, sal oorskry nie.
- (b) Die eienaar van 'n gebou bedoel in paragraaf (a) moet voornemende huurders of kopers skriftelik inlig oor die mate waarin die insulasiemaatreëls bedoel in daardie paragraaf die geraas-impak gedurende die normale gebruik van die gebou sal demp.
- (c) Paragraaf (a) is nie van toepassing wanneer die gebruik van die gebou nie verander word nie.
- (3) Waar die resultate van 'n assessering wat ingevolge subregulasie (1) onderneem is, aandui dat die toepaslike geraasaanslagpeile bedoel in daardie subregulasie, waarskynlik oorskry sal word, of nie oorskry sal word nie maar waarskynlik die bestaande residuele geraaspeile met 5 dBA of meer sal oorskry—
- (a) moet die aansoeker 'n geraasbestuursplan verskaf, wat duidelik gepaste dempmaatreëls aandui, tot bevrediging van die plaaslike owerheid, waar daar oor die aansoek besluit word; en
 - (b) kan die implementering van daardie dempmaatreëls opgelê word as 'n voorwaarde vir die goedkeuring van die aansoek.
- (4) Waar 'n aansoeker nie die geraasbestuursplan soos in subregulasie (3) beoog geïmplementeer het nie, kan die plaaslike owerheid die aansoeker skriftelik opdrag gee om—
- (a) enige aktiwiteit te staak wat nie aan daardie plan voldoen nie; of
 - (b) die geraaspeile te verminder tot 'n aanvaarbare peil tot bevrediging van die plaaslike owerheid.

Geraas van masjinerie in woongebiede

5. 'n Persoon mag nie 'n swembadpomp, besproeiingspomp, verkoelingsseenheid, of enige verwarmings-, ventilasie- of lugversor-gingstoerusting, of enige dergelike toestel, in 'n woongebied gebruik indien die geraas op die eiendomsprojeksievlak 50 dBA oorskry of die residuele geraaspeil met meer as 5 dBA oorskry nie, behalwe indien dit deur die plaaslike owerheid gemagtig is, of tydens 'n noodsituasie.

Plekke van laatnag-vermaaklikheid

6. (1) 'n Persoon mag nie die onderneming van 'n nagklub bedryf, of enige dergelike laatnag-vermaaklikheid wat versterkte klank behels, in of vanaf enige perseel nie, tensy die perseel voldoende klankdig gemaak is sodat 'n steurende geraas nie buite die eiendomsprojeksievlak van die perseel veroorsaak word nie.
- (2) Die plaaslike owerheid kan vereis dat 'n persoon in subregulasie (1) bedoel bewys lewer van die klankdigting, of kan toegang tot die perseel vereis om die doeltreffendheid van die klankdigting te assesser.
- (3) 'n Persoon wat 'n onderneming bedoel in subregulasie (1) op die datum van die publikasie van hierdie regulasies bedryf, is vrygestel van die toepassing van daardie subartikel vir 'n tydperk van ses maande na daardie datum.

Gebeurtenisse

7. (1) 'n Persoon mag nie 'n openbare gebeurtenis aanbied sonder skriftelike vrystelling wat ingevolge regulasie 12 deur die plaaslike owerheid uitgereik is nie.
- (2) Behoudens subregulasie (4) en die toepaslike bepalings van enige ander wet, kan die plaaslike owerheid beslag lê op enige instrument of toerusting wat gebruik word om by 'n openbare gebeurtenis musiek te maak of klank te versterk indien—
- (a) 'n vrystelling ingevolge regulasie 12 nie vir daardie gebeurtenis uitgereik is nie; of
 - (b) die voorwaardes van sodanige vrystelling nie nagekom is nie.
- (3) 'n Instrument of toerusting waarop ingevolge subregulasie (2) beslag gelê is, moet in veilige bewaring gehou word deur die plaaslike owerheid wat daarop beslag gelê het.
- (4) 'n Plaaslike owerheid moet 'n instrument of toerusting waarop ingevolge subregulasie (2) beslag gelê is, terugbesorg na die verhaling van redelike uitgawes wat deur hom aangegaan is vir die doeleindes van subregulasies (2) en (3).
- (5) Indien 'n plaaslike owerheid rede het om te vermoed dat 'n voorgestelde gebeurtenis, uitgesonderd 'n openbare gebeurtenis, 'n steurende geraas of geraasoorlas sou kan veroorsaak, kan hy die persoon wat beoog om die geleentheid aan te bied, skriftelik opdrag gee om aansoek te doen om 'n vrystelling ingevolge regulasie 12(1)(b).

- (6) 'n Persoon mag nie 'n gebeurtenis aanbied ten opsigte waarvan 'n plaaslike owerheid 'n opdrag in subregulasie (5) beoog, uitgereik het, sonder 'n skriftelike vrystelling wat ingevolge regulasie 12 deur die plaaslike owerheid uitgereik is nie.

Metings- en berekeningsprosedures

8. (1) 'n Persoon wat klankmetingstoerusting gebruik vir die doeleindes van hierdie regulasies moet toesien dat—
- (a) die toerusting voldoen aan die vereistes vir tipe 1-instrumente soos deur SANS 658 aangedui; en
 - (b) die metings- en berekeningsprosedures voldoen aan SANS 10103, SANS 10328, SANS 10117, en SANS 10210, na gelang van die geval.
- (2) Die persoon wat 'n meting neem kan na goeddunke die metings- of berekeningspunt bepaal as—
- (a) 'n punt waar die klaer die ergste deur die geraas geraak word; of
 - (b) 'n punt op die eiendomsprojeksievlak wat verteenwoordigend van die betrokke geraas is.

Aanwysing van werknemers deur plaaslike owerhede om geraasbeheerfunksies te verrig

9. 'n Plaaslike owerheid moet binne 'n jaar van die publikasie van hierdie regulasies—
- (a) 'n werknemer van die plaaslike owerheid aanwys wat oor die nodige bekwaamheid beskik, om verantwoordelik te wees vir die uitvoering van hierdie regulasies binne die regsgebied van die plaaslike owerheid;
 - (b) 'n werknemer van die plaaslike owerheid aanwys wat oor gepaste kennis en vaardighede beskik om geraasbeheer of akoestieke meting uit te voer en wat by 'n wetenskaplike, ingenieurs- of gesondheidsverwante professionele liggaam geregistreer is, om verantwoordelik te wees vir—
 - (i) die ontleding, evaluering en goedkeuring van, en raadgewing oor, geraasimpak-assesserings en geraasbestuursplanne;
 - (ii) die goedkeuring van klankdempingsmaatreëls;
 - (iii) die uitvoering van geraasimpakmetings en die berekening van klankpeile; en
 - (iv) die noukeurige ondersoek van klankmodellering en klanktegnieke; en
 - (c) indien hy nie 'n werknemer soos beoog in paragraaf (b) kan aanwys nie—
 - (i) deur 'n ooreenkoms met 'n ander plaaslike owerheid 'n beampte van die ander plaaslike owerheid aanstel om die pligte van so 'n werknemer uit te voer; of
 - (ii) 'n professionele konsultant aanstel wat in geraasbeheer gekwalifiseer is en bekwaam is om, wanneer nodig, die pligte van so 'n werknemer uit te voer.

Prosedure vir beheer van geraas

10. (1) Wanneer 'n persoon 'n klagte by 'n plaaslike owerheid indien oor wat vermoedelik 'n steurende geraas is, moet 'n aangewese persoon—
- (a) die klagte ondersoek en deur berekening of meting ooreenkomstig SANS 10328 vasstel of dit 'n steurende geraas is;
 - (b) aanslagpeil toepas, behalwe waar die residuele geraaspeil met meer as 10 dBA van die aanslagpeil verskil; en
 - (c) indien 'n geraas 'n steurende geraas is, 'n skriftelike opdrag uitreik aan—
 - (i) die persoon wat die geraas veroorsaak of daarvoor verantwoordelik is; of
 - (ii) die eienaar, huurder, bewoner of persoon in beheer van die betrokke perseel,
- om die geraas te staak of dit te demp tot 'n peil wat aan die vereistes van hierdie regulasies voldoen binne die tydperk in die opdrag vermeld.
- (2) Indien bevind word dat 'n persoon 'n steurende geraas veroorsaak of daarvoor verantwoordelik is, kan die plaaslike owerheid daardie persoon aanspreeklik hou vir die onkoste om 'n professionele konsultant aan te stel soos in regulasie 9(c)(ii) bedoel om die klag te ondersoek.
- (3) 'n Klagte by 'n plaaslike owerheid oor 'n beweerde geraasoorlas moet in die vorm van 'n beëdigde verklaring wees, wat die volgende vermeld:
- (a) Die aard van die beweerde geraasoorlas;
 - (b) wanneer die geraasoorlas die eerste opgemerk is;
 - (c) die duur van die geraasoorlas;
 - (d) indien van toepassing, hoe dikwels die geraasoorlas voorgekom het;
 - (e) die oorsprong van die geraasoorlas; en
 - (f) indien verkrygbaar, die naam en adres van die bewoner van die perseel waarvandaan die geraasoorlas ontstaan.

- (4) By ontvangs van 'n klagte oor 'n geraasoorlas moet 'n gemagtigde persoon—
- (a) die klagte ondersoek; en
 - (b) indien, na die mening van die gemagtigde persoon, 'n geraas 'n geraasoorlas is of kan wees, kan hy of sy 'n skriftelike opdrag uitreik aan—
 - (i) die persoon wat die geraas veroorsaak of daarvoor verantwoordelik is; of
 - (ii) aan die eienaar, huurder, bewoner of persoon in beheer van die betrokke perseel, om die geraas te staak of te demp binne die tydperk in die opdrag vermeld.

Algemene bevoegdhede van plaaslike owerhede en gemagtigde persone

11. (1) 'n Plaaslike owerheid kan—
- (a) voorwaardes oplê wanneer enige toestemming of vrystelling ingevolge hierdie regulasies gegee word; en
 - (b) behoudens die toepaslike bepalinge van enige ander wet, klankpeil-meetinstrumente of soortgelyke toestelle, en padverkeerstekens of kennisgewings wat met geraas verband hou, op enige plek in sy regsgebied oprig.
- (2) 'n Gemagtigde persoon kan, ten opsigte van 'n klagte oor 'n geraasoorlas of 'n steurende geraas, enige perseel binnegaan om enige gepaste ondersoek, navraag of inspeksie uit te voer, behoudens subregulasie (3).
- (3) 'n Gemagtigde persoon mag nie 'n woonperseel binnegaan vir die doel van subregulasie (2) nie, behalwe—
- (a) met die toestemming van die eienaar of persoon in beheer van die perseel; of
 - (b) op gesag van 'n lasbrief deur 'n landdros uitgereik nadat die magistraat oortuig is dat daar redelike gronde bestaan wat die lasbrief regverdig.

Vrystellings

12. (1) 'n Plaaslike owerheid kan enige persoon of plek of soort plek van enige bepaling van hierdie regulasies vrystel—
- (a) uit eie beweging; of
 - (b) op aanvraag van enige persoon.
- (2) Die aansoeker bedoel in subregulasie 1(b) moet—
- (a) volledige redes vir die aansoek verstrek; en
 - (b) op 'n wyse bepaal deur die plaaslike owerheid, skriftelike kommentaar aangaande die aansoek aanvaar.
- (3) Die proses in subregulasie (2) bedoel, moet 'n geleentheid bied aan moontlik belanghebbende en geraakte partye om skriftelike verhoër oor die voorgestelde vrystelling te rig, en die aansoeker kan skriftelik kommentaar lewer op enige verhoër wat ontvang is.
- (4) 'n Plaaslike owerheid moet, nadat 'n aansoek of voorstel vir die toekenning van 'n vrystelling oorweeg is, waar van toepassing ooreenkomstig die beginsels van Omgewingsbestuur kragtens WNOB, skriftelik—
- (a) vrystelling verleen en die voorwaardes uiteensit, indien daar is, ingevolge waarvan die vrystelling verleen word;
 - (b) weier om vrystelling te verleen en die redes vir die weiering verskaf; of
 - (c) 'n geraasimpak-assessering ingevolge SANS 10328 vereis voordat 'n besluit in paragraaf (a) of (b) bedoel, geneem word.
- (5) Die voorwaardes bedoel in subregulasie 4(a) kan, waar van toepassing, die volgende insluit:
- (a) Die tydperk waarvoor die vrystelling verleen word, met inbegrip van die tyd en dae wanneer handeling wat geraas kan veroorsaak, vrygestel word;
 - (b) of 'n kennisgewing soos uiteengesit in Aanhangsel 1 aangebring moet word, op 'n duidelik sigbare plek by elke openbare toegang tot die perseel;
 - (c) of geraaspeile gemonitor moet word en, indien wel, die manier waarop dit gedoen moet word en hoe rekords vir inspeksie gehou moet word; en
 - (d) enige ander voorwaardes van die vrystelling.
- (6) Die plaaslike owerheid kan 'n vrystelling of voorwaarde wat hy kragtens subregulasie 4(a) verleen of opgelê het, wysig—
- (a) uit eie beweging; of
 - (b) op aanvraag van die houder van die vrystelling.
- (7) 'n Aansoek ingevolge subregulasie (6)(b) moet op skrif wees en van 'n motivering vir die wysiging vergesel wees.

- (8) By ontvangs van 'n aansoek in subregulasie (6)(b) bedoel—
- (a) moet die plaaslike owerheid oorweeg of die goedkeuring van die aansoek die regte of belange van ander partye waarskynlik negatief sal raak; en
 - (b) kan die plaaslike owerheid vir daardie doel bykomende inligting van die aansoeker aanvra.
- (9) 'n Vrystelling in subregulasie (4) bedoel, mag nie een jaar oorskry nie, tensy dit ten opsigte van 'n magtiging beoog in regulasie 4 is.
- (10) Indien daar aan enige voorwaarde van 'n vrystelling nie voldoen word nie, kan die plaaslike owerheid—
- (a) die verantwoordelike persoon opdrag gee om aan daardie voorwaarde te voldoen; of
 - (b) die vrystelling summier opskort of terugtrek.
- (11) 'n Geskrewe vrystelling moet op die perseel waarvoor dit toegeken is gehou word, of in die besit van die houer van die vrystelling wees, vir inspeksie deur 'n plaaslike owerheid of 'n gemagtigde persoon op versoek.

Misdrywe en strawwe

13. (1) 'n Persoon pleeg 'n misdryf indien hy of sy—
- (a) regulasie 2, 3, 4(2), 5, 6(1), 7(1) of 7(6) oortree of versuim om daaraan te voldoen;
 - (b) versuim of weier om te voldoen aan 'n skriftelike voorwaarde, skriftelike opdrag of skriftelike kennisgewing ingevolge hierdie regulasies opgelê, gegee of uitgereik deur 'n plaaslike owerheid of 'n gemagtigde persoon;
 - (c) peuter met enige voorwerp wat gebruik word of aangebring is deur of namens 'n plaaslike owerheid of 'n gemagtigde persoon vir die doeleindes van hierdie regulasies, met inbegrip van 'n geraasmoniteringstelsel, geraasdemper, klankpeil-meetinstrument of akoestiese toestel, of 'n padverkeerstek of kennisgewing wat direk of indirek met geraas verband hou, of indien hy of sy sodanige voorwerp buite werking stel of beskadig, of die werking daarvan belemmer;
 - (d) versuim of weier om toegang te verleen aan 'n gemagtigde persoon om 'n perseel te betree en te inspekteer op gesag van 'n lasbrief ingevolge regulasie 11(3)(b) uitgereik;
 - (e) versuim of weier om inligting wat regtens van hom of haar vereis kan word deur 'n gemagtigde persoon, aan daardie gemagtigde persoon te verstrek;
 - (f) 'n gemagtigde persoon by die uitvoering van sy of haar pligte verhinder of dwarsboom; of
 - (g) foutiewe of misleidende inligting aan 'n gemagtigde persoon verstrek met die wete dat dit foutief of misleidend is.
- (2) 'n Persoon wat aan 'n misdryf ingevolge hierdie regulasies skuldig bevind word, is strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar, of met beide die boete en die gevangenisstraf.
- (3) 'n Persoon wat aan 'n misdryf ingevolge hierdie regulasies skuldig bevind word, en wat ná die skuldigbevinding voortgaan met die daad of versuim, pleeg 'n voortdurende misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens R50 000 of gevangenisstraf van hoogstens twintig dae, of met beide die boete en gevangenisstraf vir elke dag wat die misdryf voortgesit word.

Toepassing van regulasies

14. Hierdie regulasies is op alle plaaslike owerhede in die Provinsie van toepassing.

Herroeping van regulasies

15. Die regulasies gepubliseer by Provinsiale Kennisgewing 627 van 1998 (in Provinsiale Koerant 5309 van 20 November 1998) word herroep.

Kort titel

16. Hierdie regulasies staan bekend as die Wes-Kaapse Geraasbeheerregulasies, 2013.

Aanhangsel 1

Die waarskuwingskennisgewing in regulasie 12(5)(b) bedoel, moet nie kleiner as 30 cm by 20 cm wees nie, en die letters nie kleiner as 12 mm in hoogte nie. Die kennisgewing moet die volgende bewoording bevat:

WAARSKUWING
HOË GERAASVLAK HIERBINNE
LANGDURIGE BLOOTSTELLING KAN U GEHOOR BESKADIG

ISEBE LEMICIMBI YOKUSINGQONGILEYO NOCWANGCISO LOPHUHLISO

“ENVIRONMENT CONSERVATION ACT, 1989”

IMIGAQO EPATHELELE KULAWULO LWENGXOLO

UMphathiswa wePhondo wooRhulumente beMimandla, iMicimbi yezokusiNgqongileyo noCwangciso loPhuhliso kwiphondo leNtshona Koloni wenze imigaqo elapha kwiShedyuli elandela imiqathango yecandelo 25 loMthetho woLondolozo lokusiNgqongileyo, 1989 (UMthetho 73 ka-1989).

ISHEDYULI

Iinkcazelo

1. Kule migaqo, naliphi na igama okanye intetho enikwe intsingiselo kulo Mthetho woLondolozo lokusiNgqongileyo, 1989 (UMthetho 73 ka-1989), okanye upapasho lweMigangatho yoMzantsi Afrika echaphazelekayo (SANS), liya kuba nentsingiselo eliyinikiweyo apha, ngaphandle kokuba imeko elisetyenziswe kuyo inenye intsingiselo—

“i-dBA” ithetha izinga loxinzelelo lwesandi elimetwa ngokweedesibheli elikumgangatho ka-A elihambelana nendlela indlebe yomntu eva ngayo;

“imeko kaxakeka” ithetha imeko ethi gqi qhaphu ngokukhawuleza ebandakanya ingozi eza kubakho okanye ekhoyo kubantu okanye umonakalo kwipropati okanye kwindalo ethi ifunise ukuba kukhawulezwe kuthathwe amanyathelo;

“iNEMA” ibhekisa kuMthetho woLawulo lweNdalo, (*iNational Environment Management Act*), ka-1998 (uMthetho we-107 ka-1998);

“ingxolo ekuloo ndawo” ibhekisa kuso sonke isandi esivakalayo kwindawo nemeko ethile nangexesha elithile, ethi ichazwe ngokweemitha zezinga lengxolo ezibalwa ngezingqi sayo kangangexesha eliyimizuzu eli-10;

“ingxolo ephazamisayo” ithetha ingxolo, ngaphandle kwelizwi lomntu elingongezwanga ngesixhobo sesandi, ethi—

(a) ibe ngaphezulu kwezinga eliyi-7dBA;

(b) ibe ngaphezulu kwezinga lengxolo eshiyekeleyo elithi libe ngaphezulu kwezinga lokubala elisetyenziswayo;

(c) ibe ngaphezulu kwezinga lengxolo eshiyekeleyo kangange-3dBA apho ingxolo eshiyekeleyo ingaphantsi kwezinga lokubala elisetyenziswayo; okanye

(d) kwimeko yengxolo esezantsi, eba ngaphezulu kwezinga elichazwe kwiSihlomelo B se-SANS 10103;

“ingxolo ekwizinga eliphantsi” ithetha isandi esinamandla esandi akwizinga elingaphantsi kwe-100Hz;

“ingxolo eyinkathazo” ibhekisa kuso nasiphi na isandi esiphazamisa okanye esinokuphazamisa ukuphola okanye uxolo lwaye nawuphi na umntu;

“inqwelomoya eyimodeli” ibandakanya nayiphi na inqwelomoya yokuzonwabisa engagadwanga, nokuba yenkulu okanye encinane;

“iPhondo” ibhekisa kwiPhondo leNtshona Koloni;

“ingxolo eshiyekeleyo” ibhekisa kuso sonke isandi esivakalayo kwindawo nemeko ethile nangexesha elithile, ethi ichazwe ngokweemitha zezinga lengxolo ezibalwa ngezingqi sayo kangangexesha ubuncinane eliyimizuzu eli-10, ngaphandle kwengxolo ethathwa njengengxolo ecaphukisayo okanye ephazamisayo;

“isakhiwo” sibhekisa kumhlathanyana okanye isakhiwo okanye inxalenye yesakhiwo, yendawo, yendlu, yentente okanye esinye isakhelo;

“i-SANS 10103” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10103, olusihloko salo sithi: “Ukumetwa nokumiselwa kwamaqondo engxolo esingqongileyo okuphathelele ekusetyenzisweni komhlaba, kwimpilo, kwizinto ezithukuthezelayo nakuqhagamshelwano ngentetho”, njengoko lumana lulungiswa ngamaxesha athile okanye kolunye ushicilelo oluthatha indawo yalo;

“i-SANS 10117” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10117, olusihloko salo sithi: “Ukubalwa nokuqikelelwa kwengxolo yeenqwelo-moya kwizikhululo zeenqwelo-moya kulungiselelwa ukusetyenziswa komhlaba” njengoko lumana lulungiswa ngamaxesha athile okanye kolunye ushicilelo oluthatha indawo yalo; njengoko kuchaziwe kwi-SANS 10328;

“i-SANS 10210” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10210, olunesihloko esithi: “Ukubalwa nokuqikelelwa kwengxolo yezithuthi zendlela”, njengoko lumana lulungiswa ngamaxesha athile okanye kolunye ushicilelo oluthatha indawo yalo; njengoko kuchaziwe kwi-SANS 10328;

“i-SANS 10328” ibhekisa kushicilelo lokugqibela lwe-*Standards South Africa*, olunguNombolo 10328, olunesihloko esithi: “Indlela zokuhlola kwendlela echaphazeleka ngayo indalo yingxolo”, njengoko lumana lulungiswa ngamaxesha athile okanye kolunye ushicilelo oluthatha indawo yalo;

“i-SANS 658” ithetha uhlelo lokugqibela lopapasho lwe-*Standards South Africa*, olunguNomb. 658 olunesihloko esithi, “*Integrating-averaging sound level meters*”;

“isiganeko sikawonkewonke” sithetha nasiphi na isiganeko—

(a) uluntu olunokusizimasa, esibandakanya umbhuyo, umboniso wasemoyeni, ikonsathi yomculo, ifestivali, isiganeko sezemidlalo okanye nasiphi na isiganeko esibunjalo; kananjalo

(b) apho kudlalwa umculo onxolayo okanye odlalelwa phezu.

“isilwanyana”, xa sihlangelelwa nomntu, sithetha nasiphi na isilwanyana esisesaloo mntu yaye sibandakanya iintaka neenkukhu;

“isithuthi” sithetha nayiphi na into ehamba ngamavili okanye erhubulula emzileni, nokuba izihambela ngamandla ayo okanye ayizihambeli, ngaphandle kwezo zihamba kwimizila yoololiwe; kubandakanywa—

- (a) imoto;
- (b) isithuthuthu;
- (c) isithuthuthu esingahambi ndleleni, isithuthuthu esiyikhwadi okanye esihamba esantini; kunye
- (d) nesithuthuthu esiyimodeli;

“isityaba somda wepropati” sithetha isityaba esimiyo okanye esileleyo, nokuba sesiphi na ekubhekiswa kuso, kumda wesakhiwo esibonisa apho uphela khona umda wesakhiwo kuloo ndawo sikuyo;

“inqanawe” nayiphi na into ehamba emanzini, ebandakanya—

- (a) i-jet ski;
- (b) isikibhowuthi; kunye
- (c) nenqanawe eyimodeli;

“izinga lesandi” lithetha izinga eliqhubekayo lokumeta isandi njengoko lichaziwe kwiSANS 10103, kuthathelwa ingqalelo isingqi, ithowuni nolungelelwaniso lwexesha lasebusuku;

“izinga lokubala” libhekisa kwizinga lokubala elisetyenziswa ngaphandle kuloo meko yeloo xesha kulawo achazwe kwiTheyibhile 2 yeSANS 10103;

“ugunyaziwe wommandla” ubhekisa kumasipala onegunya kwingingqi;

“umntu” uthetha umntu onamalungelo omthetho kunye nequmrhu likarhulumente;

“umntu ogunyazisiweyo” uthetha—

- (a) umntu okhethiweyo;
- (b) ilungu leeNkonzo yesipolisa elichazwe kwicandelo 1 lomthetho *iSouth African Police Service Act, 1995* (UMthetho 68 ka-1995);
- (c) ipolisa likamasipala, igosa lezendlela, ipolisa logcino-cwangco okanye iwadeni yezendlela eqeshwe phantsi kwawo nawuphi na umthetho; okanye
- (d) umntu omiselwe njengegosa logcino-xolo ngokwemiqathango yecandelo 334(1) lomthetho *iCriminal Procedure Act, 1977* (UMthetho 51 ka-1977);

“umntu okhethiweyo” uthetha umntu otyunjwe ngugunyaziwe wommandla elandela imiqathango yomgaqo 9;

“umsebenzi ongadibaniyo nengxolo” ubhekisa kumsebenzi onokuchaphazeleka kakubi yingxolo; loo misebenzi ibandakanya imisebenzi ezezindlini, kumacandelo ezempilo, kwawezemfundo, okanye iinkonzo.

UThintelo lweNgxolo ePhazamisayo

2. Akukho mntu uya kwenza—

- (a) ingxolo ephazamisayo; okanye
- (b) avumele ukuba mayenziwe nguye nawuphi na umntu, sisilwanyana, ngumatshini, sisithuthuthu, sisithuthuthu sokuzonwabisa, sisixhobo okanye zizo naziphi na izinto ezidityanisiweyo kwezi zichaziweyo.

UThintelo lweNgxolo eyiNkathazo

3. Apho oku kuza kudala ingxolo eyinkathazo, akukho mntu uya kuthi—

- (a) asebenzise okanye adlale, okanye avumele ukuba kusetyenziswe okanye kudlalwe ireyidiyo, umabonakude, igubu, isixhobo somculo, isixhobo sokwandisa isandi, isistimu yesandisi-zwi okanye esinye isixhobo esifanayo esikhupha isandi;
- (b) amakethe okanye athengise nayiphi into ethengiswayo;
- (c) avumele isilwanyana ukuba senze ingxolo;
- (d) adlale ngezitaka-ntlantsi ngendlela engahambelaniyo nemiqathango kumasipala wengingqi yakhe;
- (e) okhe, enze, adibanise, alungise, okhe ngokutsha, asebenzise okanye avavanye isithuthuthu, isikhophe okanye into ethile, okanye avumele ukuba kwakhiwe, kwenziwe, kudityanise, kulungise, kwakhiwe ngokutsha, kusetyenziswe okanye kuvavanywe ezi zinto, kwindawo enezindlu ekuhlalwayo kuzo okanye kufutshane nazo;
- (f) asebenzise okanye adubule nayiphi na into edubulayo, umpu okanye isixhobo esifana nawo esikhupha isandi esidubulayo, okanye avumele ukuba sisetyenziswe okanye sidutyulise, ngaphandle kokuba ufumene imvume ebhalwe phantsi kumasipala onegunya lokulawula kuloo mmandla;
- (g) ngaphandle kwaxa kukho imeko engxamisekileyo, avakalise isandi, okanye abangele ukuba kwenziwe isandi ngentsimbi, ngentsimbi ebethwa ngomatshini, ngesayireni, ngehutara, ngesilumkisi esinesandi, ngempempe, ngesandisi-zwi, okanye ezinye isixhobo esifanayo nezi;
- (h) asebenzise nasiphi na isixhobo sogesi, umatshini wokucheba ingca, isixhobo sasegadini esisebenzisa umbane, okanye esinye isixhobo esifanayo okanye nasiphi na kwezi zixhobo;

- (i) afake izinto, akhuphe izinto, avule okanye avale okanye nangayiphi na enye indlela apha the ihkreyithi, ibhokisi, into yokufaka izinto, izinto zokwakha, umgqomo wokufaka inkunkuma okanye enye into, okanye avumele ukuba le nto kufakwe kuyo izinto, kukhutshwe kuyo izinto, ivulwe okanye ivalwe okanye iphathwe;
- (j) aqhube isithuthi endleleni kawonke-wonke, inqanawe okanye inqwelomoya eyimodeli okanye avunyelwe ukuba sisetyenziswe; okanye
- (k) enze nayiphi na enye ingxolo engachazwanga kwimihlathi (a)–(j).

UkuSetyenziswa koMhlaba

4. (1) Ugunyaziwe wommandla, okanye nawuphi na ugunyaziwe, onoxanduva lokuqwalasela izicelo zeeplani zezakhiwo, ulwamkelo lweelayisenisi zamashishini, ulwamkelo lweeplani okanye ugunyaziso kwimiba yokusingqongileyo angayalela umfaki-sicelo ukuba enze ze angenise, njengenxalenye yesicelo sakhe—
 - (a) Uvavanyo lwefuthe lengxolo ngokwemiqathango yeSANS 10328 ukuze afumanise ukuba ngaba ifuthe lengxolo kusetyenziso lwaloo mhlaba okanye kwinto eyenziwayo kuloo ndawo ingaba lingaphezulu na kwizinga ekungafanelanga kudlulwa kulo kweso sithili eliyiSANS 10103; okanye
 - (b) Apho lingaziwayo izinga lengxolo, kufuneka kungeniswe iziphumo zovavanyo eziya kuthi zanelise umasipala waloo ngingqi zezinga lengxolo eza kuba khona kusetyenziso lwaloo mhlaba okanye kwinto eza kwenziwa apho.
- (2) (a) Okhe okanye amise nasiphi na isakhiwo okanye enze linguqu kwisakhiwo esikhoyo esikwindawo yokuhlala, apho kuza kwenziwa ushishino okanye kwindawo enemizi-mveliso ngaphandle kokuba kuyangqinwa ukuba emva kokuba esi sskhiwo sakhiwe, samiswa okanye saguqulwa, siza kwenziwa ngendlela efanelekileyo eza kusikhusela ngokwaneleyo ukuba ingxolo yangaphandle ingavakali kuso, ukuze amaqondo engxolo angaphakathi angabikho ngaphezulu kwalawo afanelekileyo nangawona aphezulu engxolo efanelekileyo yangaphakathi, achazwe kwi-SANS 10103.
- (b) Umnini-sakhiwo ekubhekiswe kuye kumhlathi (a) kufuneka abachazele abantu abaza kusebenzisa eso sakhiwo okanye abaza kusithenga ngokuthi ababhalele, ngamanyathelo okunqanda ingxolo aza kuwathatha ngexesha lesiqhelo lokusetyenziswa kweso sakhiwo.
- (c) Umhlathi (a) awusebenzi apho ukusetyenziswa kwesakhiwo kungatshintshwanga.
- (3) Apho iziphumo zovavanyo oluthathiweyo ngokomqathangwana (1) zibonisa ukuba amazinga engxolo ekubhekiswe kuwo kulo mqathangwana kuza kudlulwa ngapha kwawo okanye akuzi kudlulwa kuwo kodwa kuza kudlulwa kwizinga elingu-5dBA okanye ngaphezulu—
 - (a) umfaki-sicelo makangenise isicwangciso sokulawula ingxolo apho achaza ngokuphandle amanyathelo okunqanda ingxolo aya kuthi anelise umasipala waloo ngingqi phambi kokuba kuthathwe isigqibo; kananjalo
 - (b) ukumiselwa kwaloo manyathelo okunqanda ingxolo angasetyenziswa njengomqathango wokwamkelwa kweso sicelo.
- (4) Apho umfaki-sicelo engamiselanga isicwangciso sokulawula ingxolo njengoko kuchaziwe kumqathangwana (3), umasipala waloo ngingqi angayalela umfaki-sicelo ukuba—
 - (a) ayeke kwamsebenzi ongathobeli eso sicwangciso; okanye
 - (b) athobe izinga lengxolo ukuba libe kwiqondo elamkelekileyo elanelisa umasipala waloo ngingqi.

Ingxolo esuka koomatshini abakwiilokishi ezihlala uluntu

5. Umntu akanakusebenzisa impompo yepuli, impompo yokunkcenkeshela, ifriji, okanye nasiphi na isishushubezi, isixhobo sokungenisa nokukhupha umoya okanye nantoni ebunjalo kwindawo enezindlu zabantu ukuba ngaba ingxolo ekuloo propati ingaphezulu kwe-50dBA okanye ingaphezulu kwezinga lengxolo eshiyekelelayo engu-5dBA, ngaphandle kokuba ufumene imvume kumasipala, okanye oko kwenzeka kwimeko kaxakeka.

Iindawo zokonwaba ebusuku

6. (1) Akukho mntu unokwenza umsebenzi weklabhu yasebusuku, okanye nawuphi na umsitho wasebusuku onengxolo egqumzayo ephezulu kuso nasiphi na isakhiwo ngaphandle kokuba akuphumeli ngxolo kweso sakhiwo ukwenzela ukuba kungabikho ngxolo ikhathazayo iya kuphumela ngaphandle kwemida yeso sakhiwo.
- (2) Umasipala angafuna ukuba umntu ekubhekiswe kuye kumqathangwana (1) ukuba eze nobungqina bokuba ingxolo ayiphumeli kwisakhiwo eso, okanye angacela ukuba avunyelwe ukuba angene kweso sakhiwo aze kuziqinisekisele ukuba ingxolo ayiphumeli.
- (3) Umntu owenza ushishino okanye umsebenzi ekuthethwa ngawo kumqathangwana (1) ngomhla wokupapashwa kwale miqathango, uyaxoleleka kuwo ukuba angangawuthobeli isithuba seenyanga ezintandathu emva kwaloo mhla.

Imisitho okanye iziganeko

7. (1) Akukho mntu unokwenza umsitho wasesidlangalaleni engafumenanga mvume ebhaliweyo esuka kumasipala waloo ngingqi ngokwemiqathango yomgaqo 12.
- (2) Kulandelwa umgaqwana (4) nayo yonke imiqathango echaphazelekayo yawo nawuphi na omnye umthetho, umasipala wengingqi angathatha nasiphi na izixhobo ebekusenziwa ngazo umculo okanye ebezinyusa ingxolo kumsitho kawonke-wonke ukuba—
 - (a) abasindleki baloo msitho khangela bafumane nto ibavumela ukuba bangangawuthobeli umgaqwana (1) kuloo msitho; okanye
 - (b) imiqathango ebibekiwe xa benikwa isaphulelo kulo mgaqwana ayithotyelwanga.

- (3) Isixhobo esiye sathathwa phantsi komgaqwana (2) kufuneka sigcinwe sikhuselekile nguloo masipala usithathileyo.
- (4) Umasipala wengingqi kufuneka abuyise isixhobo ebesibambile ngokomgaqwana (2) emva kokuba efumene iindleko azichithileyo elandela imigaqwana (2) no-(3).
- (5) Ukuba umasipala wengingqi unesizathu sokukholelwa ukuba umsitho ocetywayo, ngaphandle kokawonke-wonke, unokwenza ingxolo ephazamisayo okanye ecaphukisayo, angayalela umntu loo ufuna ukusindleka umsitho lowo ukuba abhale acele ukuba noko ophulelwe kwimiqathango yomgaqo 12(1)(b).
- (6) Akukho mntu uya kwenza umsitho apho umasipala anike umyalelo ochazwe kumgaqwana (5) ngaphandle kwemvume ebhaliweyo emvumelayo ukuba angathobeli imigaqo ethobeli, mvume leyo evela kumasipala ngokomgaqo 12.

Linkqubo zokumeta nezokubala

8. (1) Umntu osebenzisa isixhobo esinesandi, ngokwale migaqo kufuneka aqinisekise ukuba—
 - (a) Isixhobo eso sithobela imiqathango yezixhobo ezikuluhlu 1 njengoko kuchaziwe kwi-SANS 658; kananjalo
 - (b) Linkqubo zokumeta nokubala kufuneka zithobele iSANS 10103, SANS 10328, SANS 10117 neSANS 10210, kuxhomekeka ekubeni yeyiphi na echaphazelekayo.
- (2) Izinga lokumeta nokubala liya kugqitywa nguloo mntu umetayo—
 - (a) njengezinga elichaphazela kakhulu loo mntu ufake isikhalazo sengxolo; okanye
 - (b) njengezinga kwisityaba sepropati ekuthethwa ngayo elimele umba lowo wengxolo ekukhalazwa ngawo.

Ukubekwa kwabasebenzi abajongene nengxolo bebekwa ngoomasipala bengingqi

9. Umasipala wengingqi kufuneka athi ungaphelanga unyaka emva kopapasho lwale migaqo—
 - (a) abeke umsebenzi kamasipala okwaziyo ukwenza lo msebenzi ukuba athathe uxanduva lokuphunyezwa kwale migaqo kummandla waloo masipala;
 - (b) abeke umsebenzi kamasipala onolwazi nezakhono zokulawula ingxolo nokumeta izinga lengxolo, obhalisiweyo kwibhunga lezobunzululwazi, ubunjini neezempilo, ekufuneka ejongene—
 - (i) nophononongo, uhlolo, ukwamkela nokucebisa ngovavanyo lwefuthe lengxolo nezicwangciso zokulawula ingxolo;
 - (ii) ukwamkela amanyathelo okunqanda ingxelo;
 - (iii) amete ifuthe lezinga lengxolo abale nezinga lengxolo; yaye
 - (iv) aphonononge iimodeli kunye neentlobo zezixhobo zengxolo; yaye
 - (c) ukuba umasipala akabeki msebenzi njengoko kuchaziwe kumhlathi (b)—
 - (i) enze isivumelwano nomnye umasipala, atyumbe igosa lomnye umasipala ukuba lenze umsebenzi waloo msebenzi; okanye
 - (ii) aqeshe ingcali enezakhono zokulawula ingxolo ekwaziyo ukwenza imisebenzi efanele ukwenziwa nguloo msebenzi, xa kuyimfuneko.

Inkqubo yokulawula ingxolo

10. (1) Xa umntu ufake isikhalazo sengxolo ephazamisayo kumasipala wengingqi, umntu otyunjiweyo—
 - (a) makaphande ngesikhalazo eso ze abale okanye amete elandela imiqathango ye-SANS 10328 ukuba ingaba okunene loo ngxolo iyaphazamisa na;
 - (b) makasebenzise izinga lokubala ngaphandle kwalapho ingxolo eshiyekeleyo inomahluko ongaphezulu kwe-10dBA kwizinga lokubala;
 - (c) ukuba ngaba loo ngxolo okunene iyaphazamisa, makakhuphe imiyalelo ebhaliweyo—
 - (i) ayithumele kumntu owenza ingxolo okanye ongunobangela waloo ngxolo; okanye
 - (ii) umnini, umntu ohlala okanye onoxanduva lweso sakhiwo kuthethwa ngaso,
 ukuba ayeke ukwenza ingxolo ephazamisayo okanye ayithobe iye kufikelela kwizinga elibekiweyo ngokweemfuno zale miqathango singaphelanga isithuba esibekwe kuloo myalelo.
- (2) Ukuba umntu ufunyaniswe ukuba wenza ingxolo ephazamisayo, umasipala wengingqi angamhlawulisa iindleko zokuqesha ingcali echazwe kumgaqo 9(c)(ii) eya kuphanda eso sikhalazo.
- (3) Isikhalazo esingene kumasipala wengingqi ngengxolo ecaphukisayo kufuneka singene sibhalwe sayiafidavithi, echaza—
 - (a) uhlobo lwengxolo ekhathazayo;
 - (b) ixesha eyathi yaqatshelwa ngalo okokuqala le ngxolo;
 - (c) yathatha ixesha elingakanani na;

- (d) yayiphuma phi na le ngxolo iyinkathazo; kananjalo
 - (e) ukuba iyafumaneka, kunikwe nedilesi negama lomntu ohlala kuloo ndawo iphuma kuyo le ngxolo ikhathazayo.
 - (4) Xe efumene isikhalazo sengxolo ecaphukisayo, umntu ogunyazisiweyo—
 - (a) kufuneka aphande ngesi sikhalazo; yaye
 - (b) ukuba, ngokokubona kwakhe, okunene loo ngxolo iyacaphukisa okanye iyakhathaza, angathumela imiyalelo ebhaliweyo—
 - (i) ayithumele kumntu owenza ingxolo okanye ongubangela waloo ngxolo; okanye
 - (ii) umnini, umntu ohlala okanye onoxanduva lweso sakhiwo kuthethwa ngaso,
- ukuba ayeke ukwenza ingxolo ecaphukisayo singaphelanga isithuba esibekwe kuloo myalelo.

Amagunya oomasipala beengingqi nabantu abagunyazisiweyo

11. (1) UMasipala unakho—
- (a) ukubeka imiqathango xa enikeza imvume okanye esaphulela umntu ukuba angangathobeli le migaqo; kananjalo
 - (b) esebenzisa imiqathango echaphazelekayo yawo nawuphi na omnye umthetho, angabeka izixhobo zokumeta izinga lengxolo okanye izixhobo ezibunjalo, iimpawu zendlela okanye izaziso naphi na apho anegunya lokulawula khona.
 - (2) Umntu ogunyazisiweyo, angathi elandela isikhalazo esingenileyo, sengxolo ecaphukisayo okanye ephazamisayo, angene ngaphakathi kwisakhiwo ukuya kwenza uhlolo okanye ukuya kuphanda kodwa oko kuya kuxhomekeka kumgaqwana (3).
 - (3) Umntu ogunyazisiweyo akanakungena kwindlu yomntu esiya kunyanzelisa imiqathango yomgaqwana (2) ngaphandle kokuba—
 - (a) ufumene imvume yomninindlu okanye umntu ojongene naloo ndlu; okanye
 - (b) abe ufumene isigunyaziso (iwaranti) ekhutshwe ngumantyi emva kokuba umantyi ezanelisile ukuba kukho isizathu sokukhutshwa kweso sigunyaziso.

Iimeko ezixolelwayo okanye ezaphulelwayo

12. (1) Umasipala wengingqi angavumela nawuphi umntu okanye indawo ukuba angayithobeli imiqathango yale migaqo—
- (a) ngokokubona kwakhe, okanye
 - (b) xa umntu efake isicelo enika izizathu ezipheleleyo zokufaka eso sicelo.
 - (2) Umfaki-sicelo ekubhekiswe kuye kumgaqwana 1(b) kufuneka, ngokwenkqubo efunwa ngumasipala, afumane izimvo ezibhaliweyo malunga nesicelo asifakileyo.
 - (3) Inkqubo ekubhekiswe kuyo kumgaqwana (2) mayinike abantu abanomdla nabachaphazelekayo ithuba lokuba bangenise izimvo zabo ezibhaliweyo malunga nokuvunyelwa kwaloo mntu ukuba angathobeli le miqathango, yaye umfaki-sicelo anganika impendulo ebhaliweyo ephendula ezo zimvo zingenisiweyo.
 - (4) Umasipala kufuneka, emva kokuqwalasela isicelo esifakiweyo, ngokwemimiselo yolawulo lwendalo esingqongileyo, phantsi kwemigaqo yeNEMA enze enye yezi zinto zilandelayo, ekwenza oko ngembalelwano—
 - (a) amvumele umntu ofake isicelo ukuba axoleleke ekuthobeleni imigaqo, ebeka imiqathango yoxoleleko olo, ukuba ikhona;
 - (b) usenokungavumi ukophulela umntu ze xa eceliwe anike izizathu zokwala ukunika isaphulelo; okanye
 - (c) afune uvavanyo lwefuthe lwengxolo ngokwemiqathango yeSANS 10328 phambi kokuba enze isigqibo ekubhekiswe kuso kumhlathi (a) okanye (b).
 - (5) Imiqathango ekubhekiswe kuyo kumgaqwana (4)(a) ingabandakanya oku, xa oko kuyimfuneko—
 - (a) isithuba sesaphulelo eso, kubandakanywa amaxesha neentsuku apho izenzo ezinokwenza ingxolo zinokuvunyelwa khona;
 - (b) ukuba ingaba isaziso esikwiSihlomelo 1, kufuneka sibekwe kwindawo ecacileyo na, nakwindawo nganye engena uluntu kweso sakhiwo;
 - (c) ukuba ingaba amazanga engxolo kufuneka ebekelwe iliso na, ukuba kunjalo, kufuneka oko kwenziwe njani kwanokuba iirekhodi zigcinwe ndawoni na xa kukho umntu ofuna ukuzibona; kunye
 - (d) nayiphi na eminye imiqathango yesaphulelo.
 - (6) Umasipala wengingqi angenza izilungiso okanye atshintshe isaphulelo okanye imiqathango ayibekileyo kumgaqwana 4(a)—
 - (a) ngokwakhe; okanye
 - (b) xa umntu ofumene isaphulelo efake isicelo.

- (7) Isicelo esifakwe kulandelwa imiqathango yomgaqwana (6)(b) kufuneka sibhalwe yaye sikhathshwe zizizathu zezilungiso okanye zotshintsho.
- (8) Emva kokufumana isicelo kulandelwa imiqathango yomgaqwana (6)(b), umasipala wengingqi—
- (a) kufuneka athathe ingqalelo yokuba ingaba ukuvuma eso sicelo kungachaphazeli kakubi na amalungelo abanye abantu okanye amaqela; yaye
- (b) unokuthi ngenxa yoko acele umfaki-sicelo anikeze ngezinye iinkcukacha.
- (9) Isaphulelo ekubhekiswe kuso kumgaqwana (4) asinakuba ngaphezulu konyaka omnye, ngaphandle kokuba sigunyaziswe ngokwemiqathango yomgaqo 4.
- (10) Ukuba kukho umqathango woxolelo ongathotyelwanga, umasipala wengingqi—
- (a) angayalela loo mntu unoxanduva ukuba athobele loo mqathango; okanye
- (b) arhoxise eso saphulelo ngoko nangoko.
- (11) Imbalelwano yesaphulelo kumele ukuba igcinwe endaweni leyo sikhutshelwe yona isaphulelo okanye igcinwe ngumntu owophulelweyo, ukuze umasipala okanye igosa lokuqinisekiswa kokuthotyelwa komthetho likwazi ukuyihlola xa licele ukuyibona.

Amatyalane nezohlwayo

13. (1) Umntu wenza ityala ukuba—

- (a) wophula okanye akathobeli imigaqo 2, 3, 4(2), 5, 6(1), 7(1) okanye 7(6);
- (b) akathobeli okanye uyala ukuthobela umqathango obhaliweyo, umyalelo obhaliweyo, isaziso esibhaliweyo athe wasinikwa okanye esikhutshwe ngumasipala wengingqi okanye umntu ogunyazisiweyo ngokwemiqathango yale migaqo;
- (c) ubhucabhuca, ususa, uyekisa, wonakalisa okanye wenze ukuba kungasebenzi nantoni na esetyenziswe okanye ebekwe kwindawo ethile ibekwa ngumasipala okanye ibekwa egameni likamasipala wengingqi okanye ngumntu ogunyazisiweyo esenzela ukuthotyelwa kwale miqathango, kubandakanywa umatshini wokubeka iliso kwingxolo, umatshini ocutha ingxolo, isixhobo sokumeta ingxolo okanye umatshini wesandi, okanye uphawu lwendlela okanye isaziso esinento yokwenza nengxolo;
- (d) uyala ukunika imvume kumntu ogunyazisiweyo ukuba angene ahlole isakhiwo ngokwegunya lewaranti ekhutshwe kulandelwa imiqathango yomgaqo 11(3)(b);
- (e) uyala ukunika iinkcukacha okanye ulwazi kumntu ogunyazisiweyo, ezifunwayo ngokusemthethweni nguloo mntu ogunyazisiweyo;
- (f) uphazamisa okanye unqanda umntu ogunyazisiweyo ukuba enze umsebenzi wakhe; okanye
- (g) unika ulwazi olungelulo okanye uphosisela umntu ogunyazisiweyo esazi ukuba uyaphosisa okanye uyamlahlekisa.
- (2) Umntu ogwetyele ukona ngokwale miqathango unokuthi ahlawuliswe imali okanye afakwe entolongweni isithuba esingekho ngaphezulu kweminyaka emibini okanye azifumane zombini ezi zigwebo, esemali nesokubanjwa.
- (3) Umntu ogwetyelwe ukona ngokwale miqathango, nothi emva kokugwetywa aqhubeke esenza loo nto ayigwetyelweyo, okanye engenzi loo nto ebefanele ukuyenza, nto leyo ebonwa njengobutyala, wenza elinye ityala yaye unokuhlawuliswa imali engekho ngaphezulu kwama-R50 000 okanye afakwe isithuba esingekho ngaphezulu kweentsuku ezingamashumi amabini okanye azifumane zombini ezi zigwebo zibe zezosuku ngalunye esenza eli tyala.

Ukusebenza kwemigaqo

14. Le migaqo isebenza kubo bonke oomasipala abakwiPhondo.

Ubhangiso lwemigaqo

15. Le migaqo isebenza endaweni yemigaqo epapashwe kwiSaziso sePhondo esinguNombolo 627 sika-1998 (iGazethi yePhondo yama-5309 yomhla wama-20 Novemba 1998) ebhangiswayo kungokunjene.

Isihloko esifutshane

16. Le migaqo ibizwa ngokuba yiMigaqo yoLawulo lweNngxolo eNtshona Koloni, 2013.

Isihlomelo 1

Isaziso sokulumkisa ekubhekiswe kuso kumgaqo 12(5)(b) kufuneka singabikho ngaphantsi kwe-30 cm x 20 cm, ze isayizi yamagama ingabikho ngaphantsi ko-48. Isaziso kufuneka sibe nala magama alandelayo:

ISILUMKISO

INGXOLO IPHEZULU APHA NGAPHAKATHI

UKUBA UHLELI IXESHA ELIDE, UNGAPHETHA USISITHULU

Extracts from SANS 10103:2008

SANS 10103, Table 2 — Acceptable rating levels for noise in districts

	1	2	3	4	5	6	7
Type of district	Equivalent continuous rating level ($L_{eq,t}$) for noise, dBA						
	Outdoors			Indoors, with open windows			
	Day-night L_{dn}	Day-time L_{day}	Night-time L_{night}	Day-night L_{dn}	Day-time L_{day}	Night-time L_{night}	
RESIDENTIAL DISTRICTS							
a) Rural districts	45	45	35	35	35	25	
b) Suburban districts with little road traffic	50	50	40	40	40	30	
c) Urban districts	55	55	45	45	45	35	
NON RESIDENTIAL DISTRICTS							
d) Urban districts with some workshops, with business premises, and with main roads	60	60	50	50	50	40	
e) Central business districts	65	65	55	55	55	45	
f) Industrial districts	70	70	60	60	60	50	
NOTE 1: If the measurement or calculation time interval is considerably shorter than the reference time intervals, significant deviations from the values given in the table may result. NOTE 2: If the spectrum of the sound contains significant low frequency components, or when an unbalanced spectrum towards the low frequencies is suspected, special precautions should be taken, and specialist attention is required. In this case the indoor sound levels may significantly differ from the values given in columns 5 to 7. See also annex B. NOTE 3: Residential buildings, e.g. dormitories, hotel accommodation, residences etc. may only be allowed in non-residential districts on condition that the calculated or anticipated indoor $L_{eq,t}$ values given in column 3 of table 1 are not exceeded. a) The values given in columns 2 and 5 are equivalent continuous rating levels and include corrections for tonal character, impulsiveness of the noise and the time of day. b) The values given in columns 3, 4, 6 and 7 are equivalent continuous rating levels and include corrections for tonal character and impulsiveness of the noise.							

SANS 10103, Table 5 — Categories of community/group response

1	2	3
Excess $\Delta L_{eq,t}^{(1)}$ dBA	Estimated community/group response	
	Category	Description
0 – 10	Little	Sporadic complaints
5 – 15	Medium	Widespread complaints
10 – 20	Strong	Threats of community/group action
>15	Very strong	Vigorous community/group action
a) Calculate $\Delta L_{eq,t}$ from the appropriate of the following: 1) $\Delta L_{eq,t} = L_{eq,t}$ of ambient noise under investigation MINUS $L_{eq,t}$ of the residual noise (determined in the absence of the specific noise under investigation). 2) $\Delta L_{eq,t} = L_{eq,t}$ of ambient noise under investigation MINUS the maximum rating level for the ambient noise given in table 1. 3) $\Delta L_{eq,t} = L_{eq,t}$ of ambient noise under investigation MINUS the acceptable rating level for the applicable district as determined from table 2. 4) $\Delta L_{eq,t} =$ Expected increase in $L_{eq,t}$ of ambient noise in an area because of a proposed development under investigation. NOTE: Overlapping ranges for the excess values are given because a spread in the community reaction may be anticipated.		

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Edition 3

SOUTH AFRICAN NATIONAL STANDARD

Methods for environmental noise impact assessments

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Introduction *(concluded)*

Noise is one of the issues that can have an effect on the environment and should therefore form part of the **relevant** environmental impact study and report. However, contrary to most of the other environmental issues that have to be assessed subjectively, the assessment of the impact of noise on the environment can be done scientifically and objectively by following the procedures described in this standard.

Although this standard is in accordance with current legislation, no direct reference to the relevant Act or Regulations is made in order to avoid any amendments or revisions that might result from new Acts or Regulations being promulgated in future.

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Table of changes

Change No.	Date	Scope

Foreword

This South African standard was approved by National Committee SABS/TC 076, *Acoustics, electro-acoustics and vibration*, in accordance with procedures of the SABS Standards Division, in compliance with annex 3 of the WTO/TBT agreement.

This document was published in January 2008. This document supersedes SANS 10328:2003 (edition 2).

This document is referenced in the Municipal Systems Act, 2000 (Act No. 32 of 2000), the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), the Environmental Management Act, 1998 (Act No. 107 of 1998), and the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

Reaffirmed and reprinted in May 2015.
This document will be reviewed every five years
and be reaffirmed, amended, revised or withdrawn.

Introduction

The Environment Conservation Act, 1989 (Act No. 73 of 1989) has been superseded by the National Environmental Management Act, 1998 (Act No. 107 of 1998). However, the "noise control" regulations (on which SABS 0328:2000 was based) that were promulgated under sections 25 and 28 of the Environment Conservation Act, and published in Government Notice No. R 896 of 27 April 1990, will stay in force for the time being. These regulations are being **extensively** revised, and will be published by the **appropriate** authority.

The **activities** that could have a substantial detrimental effect on the environment and which are listed in the Environment Conservation Act, the regulations published under the Environmental Management Act, and the regulations that apply in respect of each of these listed **activities**, promulgated under the said Environment Conservation Act and the Environmental Management Act, as well as any subsequent **amendments** thereto and any noise control regulations promulgated by any other authority, are therefore **applicable**.

This standard forms the basis on which noise impact investigations which are **prescribed** in regulations published under the Environment Conservation Act, the Environmental Management Act and the Environmental Management Air Quality Act, 2004 (Act No. 39 of 2004) or any other noise control regulations should be **conducted**.

In terms of the National Environmental Management Act, an environmental impact study and assessment have to be conducted before a new development, that involves any of the listed activities, can be approved by the relevant authority. The environmental impact investigation has to

- identify all the issues that could have an effect on the environment,
- assess the impact of the identified issues on the **environment**, and
- identify probable alternatives and assess their impact on the environment.

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Methods for environmental noise impact assessments

1 Scope

This standard covers procedures for **environmental** noise impact investigations and assessments.

NOTE 1 For information on national legislation regarding environmental impact investigations, see the introduction.

NOTE 2 The responsibility rests with the relevant authority (see 3.19) or applicant (see NOTE 3(a)), in co-operation with the environmental assessment practitioner (where relevant), and the interested or affected parties under the direction of the officer, agent or consultant conducting the noise impact **investigation**, to stipulate the scope of the investigation (for example, the noise sources to be investigated), the format and content of the report and the detail regarding the input data (for example, measuring results, calculations, assumptions and estimates).

NOTE 3 This standard does not cover **requirements** regarding officers, agents or consultants who are to be appointed for environmental noise impact **investigations** or for evaluation of reports submitted. The responsibility of the applicant and the relevant authority in this regard is described in (a), (b) and (c), respectively:

a) It is the responsibility of the applicant to:

- appoint an independent consultant who, on his behalf, has to comply with the relevant regulations;
- cover all costs incurred in the employment of the **consultant** or any other person acting on his behalf;
- ensure that the consultant, or any other person acting on his behalf, has no financial or other interest in the undertaking of the proposed activity;
- ensure that the **consultant** has
 - i) expertise in the area of **environmental** concern being dealt with in the specific application,
 - ii) the ability to efficiently perform all the relevant tasks **contemplated** in the relevant regulations,
 - iii) the ability to manage the participation of all the interested or affected parties (see 3.12),
 - iv) the ability to timeously **produce** thorough, readable and informative documents,
 - v) adequate recording and reporting systems to ensure the preservation of all data collected, and
 - vi) a good working knowledge of all relevant policies, legislation, guidelines, norms and standards;
- ensure that the consultant provides access to the relevant authority as well as the opportunity to review all procedures, underlying data, reports and interviews with interested or affected parties; and
- ensure that all interested or affected parties, including government departments that might have jurisdiction over any aspect of the activity, are given the opportunity to participate in all the relevant procedures contemplated in the relevant regulations.

b) It is the responsibility of the relevant authority to:

- ensure that officers, agents or consultants employed to **evaluate** any reports submitted by the applicant in terms of the relevant regulations have

Annexure I

Conditions of Approval and Schedule 1

DRAFT CONDITIONS OF APPROVAL

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

PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37 ROBERTSON:
APPLICATION FOR TEMPORARY DEPARTURE FOR CRUSHING OF ROCK IN AGRICULTURAL ZONE I

1. The following must be provided prior to ANY activity commencing on the site:
 - 1.1. A Site Development Plan (SDP), using an aerial photograph as the base, must be submitted for approval by the Manager: Town Planning and must show, *inter alia*: the boundary of the crushing plant site as approved in terms of the Mining Permit; the alignment of the municipal electricity line across the site; the positioning of the crusher; the positioning of the berms as required by DMR; the location of the proposed stockpile area/s; the proposed loading area/s and access and exit points to this site.
 - 1.2. An Agricultural Planting Plan, indicating the areas proposed to be cleared of rock and the proposed crop to be planted, must be submitted to the Manager: Town Planning and the WC Department of Agriculture.
 - 1.3. The crushing plant site and the proposed access and exit points for vehicles must be physically and clearly demarcated on the site and no crushing equipment, vehicles or activities may occur outside the demarcated area.
 - 1.4. Proof of compliance with the requirements of the Department of Transport, as specified in Condition 6 below must be submitted to the Manager: Town Planning.
2. The approval applies for a maximum period of 2 years from the date of approval, renewable annually up to a maximum of 5 years.
3. The following restrictions apply to the crushing plant:
 - 3.1. The crushing plant may only crush rock sourced on Portions 47 and 49 of Klaas Voogds Rivier 37, in accordance with the plan referred to in 1.2 above.
 - 3.2. No industrial land use other than crushing is permitted.
 - 3.3. A maximum of 100m³ of stone may be crushed per day.
 - 3.4. No more than 50m³ of aggregate may be transported off the site per day.
 - 3.5. No permanent structures may be erected on site. Provision must be made for portable ablution and waste disposal facilities.
4. All reasonable measures must be taken to minimise the impact on the neighbourhood in terms of dust and noise:
 - 4.1. Dust suppression, including, but not limited to: moistening of portions of the crushing site and gravel access roads, covering of loads and speed control, must be actively implemented to prevent dangerous road conditions and adverse impact on surrounding residents, tourists and agricultural activities
 - 4.2. The restrictions of any law and regulations relating to noise control are applicable to the property and the operation must not cause any noise nuisance, as described in the Western Cape Noise Control Regulations (PN 200/2013 of 20 June 2013).*
 - 4.3. The conditions imposed by the Cape Winelands District Municipality in their letters dated 14 January 2020 and 28 January 2020 (attached) must be complied with.
5. No crushing activities or transporting of rock / crushed material may occur:
 - Before 8h00 and after 14h00 on Mondays to Fridays. Note: The 8h00 start is to reduce the number of trucks on the road when school children and workers may be walking to school / work. The 14h00 finish relates to the safety of school children walking home; and to avoid the generally windier times of day and minimise noise and traffic impacts on tourism, considering the standard practice of tourists booking in at destinations from 14h00.
 - On Saturdays and Sundays - closed.

- During windy conditions, where winds comprise a moderate breeze or stronger, in accordance with the Beaufort Scale, namely 20km/hr and more - closed.
6. The conditions imposed by the Department of Transport in their letter dated 21 January 2020 (attached) must be complied with.
 7. The following conditions apply to the transport of stone and /or crushed material along the district road network:
 - 7.1. Each load must be suitably covered with a tightly fitted and secured tarpaulin cover.
 - 7.2. The applicable speed limits must be observed by vehicles transporting stone / crushed material*.
 - 7.3. No private vehicles may collect stone / crushed material from the site. Only one approved operator may collect and transport stone / crushed material from the crushing Plant site.
 8. The mitigation measures recommended in Section 7 of the Ecological Report (P du Preez, Sept 2017) (flora, fauna, and general) must be complied with.
 9. The conditions imposed by the Breede Gouritz Catchment Management Agency in their letter dated 15 January 2020 (attached) must be complied with.
 10. The conditions imposed by Cape Nature in their letter dated 7 May 2018 (attached) must be complied with.
 11. With regard to Municipal Electricity supply, the owner will be responsible for the costs associated with any relocation of existing services, new connections, upgrading or alterations to existing electrical connections or networks, and the associated applicable Bulk Services Levy, at the tariffs which are applicable at that time. No structures, crushing or stockpiles may be located under or within 3m on each side of the centre line of the 11kV line municipal line. This area must be kept open for maintenance purposes.
 12. No name or advertising sign may be erected without written approval of the administering authority.
 13. Responsibility of Employers and Employees: The conditions of approval must be brought to the attention of all persons (employees, sub-consultants etc.) associated with this activity and the operator must take the necessary measures to bind such persons to these conditions.
 14. On-site Monitoring Meetings must be held every 3rd month from the date of commencement of crushing, with officials from the Langeberg Town Planning Department, Department of Agriculture, CWDM and Department of Mineral Resources, to confirm that crushing activities are operating without adverse environmental consequences and within the specified conditions of approval. Any requirements of the relevant Departments must be complied with prior to the continuation of crushing activities. Such meetings will be convened by the Langeberg Town Planning Department.
 15. The owner must sign the attached agreement with respect to the implementation of all conditions of approval. Where there is any uncertainty regarding the conditions, the Town Planning Department must be contacted. Non compliance with a condition of approval constitutes an offence in terms of the LLUP Bylaw, 2015, and will result in the owner being instructed to cease all activity*.

Note: The proposed land use is subject to all other relevant legislation, including the Environmental Impact Assessment regulations in terms of NEMA No. 107 of 1998; and the Conservation of Agricultural Resources Act 43 of 1983. The owner / operator must be in possession of a valid Environmental Authorisation and Mining Permit for the crushing plant, and all other approvals required in terms of any other legislation, prior to the commencement of crushing. Specific attention is drawn to the Site Specific Conditions on page 6, and conditions 3 and 4 on pages 11-15 of the EA dated 6 December 2017.

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:

17 June 2020

PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37 ROBERTSON: TEMPORARY DEPARTURE FOR CRUSHING OF ROCK IN AGRICULTURAL ZONE I

Die eienaar aanvaar die voorwaardes ten opsigte van bogenoemde goedkeuring en onderneem om toe te sien dat die voorwaardes uitgevoer en nagekom word. Die eienaar vrywaar voorts die Munisipaliteit teen enige eis wat mag voortspruit as gevolg van die uitoefening van gemelde goedkeuring.

The owner accepts the conditions in terms of the abovementioned approval and undertakes to ensure the execution of and compliance the conditions. The owner 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

.....
Eienaar / Owner

.....
Datum / Date

Annexure 3

Tribunal Decision letter



ADMINISTRATIEWE EN UITVOERENDE KANTOOR
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Verw/ Ref: 15/4/12/7

Navrae/Enquiries: Ms T L Brunings

Mr A Malherbe
c/o T-Plan
Grey Street
STRAND
7140

29 June 2020

Dear Sir / Madam

PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER NO 37 ROBERTSON: APPLICATION FOR TEMPORARY DEPARTURE FOR CRUSHING OF ROCK IN AGRICULTURAL ZONE I

Your abovementioned application refers.

On 17 June 2020, the Langeberg Municipal Planning Tribunal resolved as follows:

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015 the Langeberg Municipal Planning Tribunal approves the temporary departure for a crushing plant on a 4,9ha. of Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson, as depicted on the plan marked KLAAS VOOGDS RIVIER 37/47&49-LBM-TPa (June 2020) and subject to the following conditions of approval, in terms of Section 66 of the aforementioned Bylaw:

1. The following **must be provided prior to ANY** activity commencing on the site:
 - 1.1. A **Site Development Plan (SDP)**, using an aerial photograph as the base, must **be submitted** for approval by the **Manager: Town Planning** and must show, inter alia: the boundary of the crushing plant site as approved in terms of the Mining Permit; the alignment of the municipal electricity line across the site; the positioning of the crusher; the positioning of the berms as required by DMR; the location of the proposed stockpile area/s; the proposed loading area/s and access and exit points to this site.
 - 1.2. An **Agricultural Planting Plan**, indicating the areas proposed to be cleared of rock and the proposed crop to be planted, must **be submitted to the Manager: Town Planning and the WC Department of Agriculture**.
 - 1.3. The **crushing** plant site and the proposed access and exit points for **vehicles** must **be** physically and clearly demarcated on the site and no crushing equipment, vehicles or **activities** may occur **outside** the demarcated area.
 - 1.4. Proof of **compliance with the** requirements of the **Department of Transport**, as specified in **Condition 6** below must **be submitted to the Manager: Town Planning**.
2. The approval applies for a **maximum** period of 5 years from **the** date of approval
3. The **following restrictions** apply to the crushing plant:
 - 3.1. The crushing plant may only crush rock sourced on Portions 47 and 49 of Klaas Voogds Rivier 37, in **accordance with** the plan referred to in 1.2 above.
 - 3.2. **No** industrial land use **other than** crushing is permitted.
 - 3.3. A maximum of 200m³ of **stone** may **be crushed** per day.
 - 3.4. **No** more than 200m³ of **aggregate** may **be transported off the site** per day.

- 3.5. No permanent structures may be **erected** on site. Provision must **be** made for portable ablution and **waste disposal facilities**.
4. **All** reasonable measures must be taken **to minimise** the impact on **the** neighbourhood in terms of dust and noise:
 - 4.1. Dust suppression, including, but not **limited** to: moistening **of** portions **of the** crushing **site** and gravel access roads, covering of loads and speed control, **must be** actively implemented to prevent dangerous road conditions and adverse impact on surrounding residents, tourists and agricultural activities
 - 4.2. The restrictions of any law and regulations relating to noise control are applicable to the property and **the** operation must **not** cause any noise nuisance, as **described in the Western Cape Noise Control Regulations (PN 200/2013 of 20 June 2013).***
 - 4.3. The conditions imposed by **the** Cape Winelands District Municipality in their **letters dated 14 January 2020 and 28 January 2020 (attached)** must be complied **with**.
5. No crushing activities or transporting of rock / crushed material may occur:
 - 5.1. Before **8h00** and after **14h00** on Mondays to Fridays. **Note:** The **8h00 start** is to reduce the number of trucks on the road when school children and workers may be walking to school / work. The **14h00 finish relates to the** safety of school **children** walking home; **and** to avoid **the** generally windier times of day and minimise noise and traffic impacts on tourism, considering **the** standard practice of tourists booking in at destinations from **14h00**.
 - 5.2. On Saturdays and Sundays - closed.
 - 5.3. On Public Holidays – closed.
 - 5.4. During windy conditions, where **winds** comprise a moderate breeze or stronger, in accordance **with the** Beaufort Scale, namely 20km/hr and more - closed.
6. **The conditions (excluding condition 5.3) imposed by the** Department of Transport in their letter **dated 21 January 2020 (attached)** must be complied **with**.
7. The following conditions apply to the transport of stone **and /or** crushed **material** along **the** district road network:
 - 7.1. Each **load** must be suitably covered **with** a tightly **fitted and** secured tarpaulin cover.
 - 7.2. The applicable speed **limits must** be observed by **vehicles** transporting **stone /** crushed material*.
 - 7.3. **No** private vehicles may collect stone / crushed **material** from **the** site. Only one approved operator may **collect** and transport **stone /** crushed material from the crushing **Plant** site.
8. The mitigation measures recommended in Section 7 of the Ecological Report (P du Preez, Sept 2017) (flora, fauna, and general) must **be** complied **with**.
9. The conditions imposed by **the** Breede Gouritz Catchment Management Agency in their **letter** dated 15 January 2020 **(attached)** must be complied **with**.
10. The conditions imposed by Cape **Nature** in their letter **dated 7 May 2018 (attached)** must be complied **with**.
11. **With** regard to Municipal Electricity supply, the owner **will** be responsible for **the** costs associated **with** any **relocation** of existing services, new connections, **upgrading or alterations** to existing electrical connections or networks, **and** the associated applicable Bulk Services Levy, **at the tariffs which** are applicable at that time. No structures, crushing or stockpiles may be **located** under or **within** 3m on each side of the centre line of the 11kV line municipal line. This area must be kept open for maintenance purposes.
12. No name or advertising sign may be erected without **written** approval of the administering authority.
13. Responsibility **of** Employers and Employees: The conditions of approval must be brought **to** the attention of all persons (employees, sub-consultants etc.) associated **with** this activity **and the** operator must take the necessary measures to **bind** such persons **to** these conditions.

14. On-site Monitoring Meetings must be held every 3rd month from **the** date of commencement of crushing, **with** **officials** from the Langeberg Town Planning Department, Department of Agriculture, **CWDM** and Department of **Mineral** Resources, to confirm **that** crushing activities are operating **without** adverse environmental **consequences** and **within** the specified conditions of approval. Any requirements of **the** relevant Departments **must** be complied **with** prior to the continuation of crushing activities. Such meetings will be convened by **the** Langeberg Town Planning Department.
15. The owner **must** sign the attached agreement **with** respect **to** the implementation of **all** conditions of approval. **Where there** is any uncertainty regarding the conditions, **the** Town Planning Department must be **contacted**. Non compliance with a condition of approval constitutes an offence in terms of **the** LLUP Bylaw, 2015, **and will result** in the owner being instructed to cease **all** activity*.

Note: The proposed land use is subject to **all** other relevant legislation, including the Environmental Impact Assessment regulations in terms of **NEMA** No. 107 of 1998; and **the** Conservation of Agricultural Resources Act 43 of 1983. The owner / operator must be in possession of a valid Environmental Authorisation and Mining Permit for **the** crushing plant, and all other approvals required in **terms** of any other legislation, prior to the commencement of crushing. Specific attention is drawn **to the Site** Specific Conditions on **page** 6, and conditions 3 and 4 on pages 11-15 of the EA dated 6 December 2017.

The Tribunal's reasons for approval, are as **follows**:

- i. **All** relevant considerations, including the objections, have been taken **into** account and appropriate mitigation measures, in relation to noise, dust and traffic, are provided **for** in the EA, EMP and the **conditions** of approval of this land use application.
- ii. **With** reference to the soil study, **the** removal of rock **will** increase **the** agricultural potential of the soils, and Agriculture is **the** primary use in the Agricultural Zone I in accordance **with the** Langeberg Integrated Zoning Scheme, 2018 and the Langeberg SDF, 2015.
- iii. Natural resources will be optimally and sustainably used **while** promoting economic development and job creation.
- iv. There is no objection to the operation of the crushing plant from any of the **relevant** Departments, namely: **CWDM**, BGCMA, Department of Transport, Dept. of Agriculture, DEA&DP and Cape Nature.

The Tribunal **notes that**:

- The current application is deemed **to** be significantly different to **the** previous application, such **that** the Tribunal can take a decision on **this** new application
- The previous reasons given by the Tribunal for the refusal of the previous rezoning application for mining and **the** crushing plant; and the reasons given by the Langeberg Appeal Authority in upholding **the** Tribunal's decision, are not deemed to be applicable to the application for temporary departure for a crushing plant

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 Planning Tribunal **has** a right of appeal against **the** decision. An appeal must be submitted in writing **to the** Appeal Authority (Executive Mayor) **within** 21 calendar days from registration date of this **letter**. Proof of payment of **the** appeal fee must accompany the appeal. **Attached** please **find** the administrative procedure for appeal.

In **terms** of Section 61(4) of the said bylaw, an approval comes **into** operation only after **the** expiry of **the** 21 days appeal period. In terms of Section 61(5) where an appeal is lodged **the** approval is suspended pending the decision of the Appeal Authority on the appeal.

Yours faithfully


SA MOKWENI
MUNICIPAL MANAGER / MUNISIPALE BESTUURDER

Copies for Information:

Department of Transport: Grace.Swanepoel@westerncape.gov.za Your Ref: TPW/CFS/RP/LUD/REZ/SUB-04/117 (Job 24510), 21 January 2020
Cape Nature: phuntly@capenature.co.za Your Ref: SSD14/2/6/1/9/1/37_KlaasVoogds Rob, 7 May 2018
CWDM: smcclean@capewinelands.gov.za and mariuse@capewinelands.gov.za Your Ref: 15/2/6/1: 28 January 2020; 15/2/R: 14 January 2020
BGCMA: erossouw@bgcma.co.za Your Ref: 4/10/1/H40L/Klaasvoogds Rivier 37/49, Robertson
Western Cape Dept of Agriculture: CorvdW@elsenburg.com 20/9/2/5/5/308 & 163, 21 February 2020
DMR Thabelo.nempumbuluni@dmr.gov.za Your Ref: (WC) 30/5/1/3/2/10100MP



CAPE WINELANDS DISTRICT

MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

NAVRAE/ENQUIRIES/IMIBUZO:
TELEFOON/TELEPHONE/UMNXEBA:
FAKS/FAX/IFEKSI:
E-POS/E-MAIL/E-MAIL:
U VERWY/OUR REF/REF YAKHO:
ONS VERW/OUR REF/REF YETHU:

Marius Engelbrecht
021 888 5811
021 887 9365
mariuse@capewinelands.gov.za
8199079, Klaas Voogds Rivier Nr. 37
15/2/R

Trappesstraat 51 Trappes Street
P.O. Box 91
WORCESTER
6849

14 January 2020

Langeberg Municipality
Administration and Executive Office
Private Bag X2
Ashton
6715

ATTENTION: MR M JOHNSON

Dear Sir

TEMPORARY DEPARTURE APPLICATION FOR 4.9HA ON PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER NR 37, ROBERTSON, LANGEBERG MUNICIPALITY, WESTERN CAPE.

1. The temporary departure application for 4.9ha on **portion 49** of the Farm Klaas Voogds Rivier Nr. 37, received by the Cape Winelands District Municipality (CWDM), refers.
2. The information in the temporary **departure application** was considered by this office in this response for temporary departure on 4.9ha of portion 49 from the Farm Klaas Voogds Rivier to allow removal of stockpiled rock and clearing of rock from agricultural land. The departure to include the crushing of the reclaimed rock in a processing plant and stockpiling of the crushed rock.
3. **According to the information contained in the temporary departure application the following was noted:**
 - 3.1. Temporary departure **application** related to the temporary departure of the **listed** consent uses under **Agricultural Zone 1** for Portion 49 of the Farm Klaas Voogds Rivier to accommodate the the operation of a processing plant to chcrush rock **stockpiled** and further won from Portion 47 and 49 on Farm Klaas Voogds Rivier, for a period of five years.

- 3.1.1. A processing plant had been established on **the** property.
 - 3.1.2. Reclaimed rock **will** be recovered from agriculture land and transported to **the** processing plant.
 - 3.1.3. The processing plant **will** screen and crush the rock, with the aggregate either reworked into the agricultural activities and/or used in **the** CP Concrete ready mix plant and/or sold as base course or other material to contractors.
4. **Department Mineral Resources Environmental Authorisation (WC30/5/1/3/2/10100MP)**
- 4.1. The Department Mineral Resources granted an Environmental Authorisation (EA) for Portion 03, Farm Klaas Voogds Rivier 37, Malmesbury, to CP Concrete (Pty) Ltd on **06** June 2016 for a period of **5 years**.
 - 4.2. This authorisation entailed the crushing and screening of stockpiled rock **within** the approved 4.9ha the rocks to be collected on the remainder of the farm and stockpiled within the 4.9 hectares. The stockpiled rock to be screened, crushed and stockpiled prior to being transported to the ready mix plant situated out of the crushing area. Mining activities **will** not take place within the 4.9ha of land under authorisation.
5. **The following is the CWDM's Air Quality Officer's provisional comment on the information provided in the temporary departure application:**
- 5.1. Environmental authorization was obtained from Department of **Mineral Resources (DMR)** for the following proposed National Environmental Management Act listed activities:-
 - Activity 21 listed in the Environmental Impact Assessment (EIA) Regulations, R983 of 2014.
 - Activity 22 listed in the EIA Regulations, R983 of 2014.
 - Activity 28 listed in the EIA Regulations, R983 of 2014.
 - Activity 21 listed in the EIA Regulations, R984 of 2014.
 - 5.1.1. The authorised activity are not considered a listed activity under Government Notice No. 893, Gazette No. 37054 dated 22 November 2013, in terms of section 21(1) (b) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004)(**NEM:AQA**).

It must be noted that should any activity at this property be considered a listed activity in terms of the **NEM:AQA**, Section 36(5) of the National Environmental Management: Air Quality Amendment Act (Act **No. 20** of 2014) declares the **Minister** as licensing authority if-

"(e) the listed activity relates to prospecting, mining, exploration or production activity as contemplated in the Mineral and Petroleum Resources Development Act, 2002 28 (Act No.28 of 2002), in the area for which the right has been applied for, and the Minister responsible for mineral resources has been identified as the competent authority in terms of section 24C of National Environmental Management Act, 1998."

- 5.1.2. The CWDM recognise the DMR as the competent authority in terms of section 24C of National Environmental Management Act, 1998 to manage the authorised facility in terms applicable sections of the NEM:AQA.
- 5.1.3. The National Atmospheric Emission Reporting Regulations in terms of section 12(b) and (c) read with section 53(a), (o) and (p) of the NEM:AQA, was promulgated in the Government Notices, No. 283 of 2 April 2015. These regulation is to regulate reporting of data and information from an identified point, non-point and mobile sources of atmospheric emissions to an internet-based National Atmospheric Emissions Inventory System (NAEIS) towards the compilation of atmospheric emission inventories. NAEIS is an internet-based emissions reporting system which is a component of the South African Atmospheric Emission Licensing and Inventory System (SAAELIP) portal.

The regulations apply to the groups of emission sources and corresponding data providers as classified in regulation 4 and listed in Annexure 1 to these Regulations, which includes any person, that holds a mining right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).

To comply with the reporting regulations, data holders must report emissions from the preceding year and must submit these reports to NAEIS by 31st of March of every year. Emissions to be reported to NAEIS are from activities in the preceding year e.g., a data provider will report in January to March 2019, the emissions generated in 2020. It must be noted that NAEIS requires annual emissions to be reported and emission monitoring reports but not minimum emission standards. In terms of Section 51 (1) of the NEM:AQA, a person is guilty of an offence if that person fails to comply with a condition or requirement of an atmospheric emission license and can be liable for the penalties as contemplated in Section 52.

- 5.1.4. The application must be register the listed activity on the South African Atmospheric Emission Licensing and Inventory (SAAELIP) online portal. The DMR will be the relevant authority audit the annual submission onto NAEIS by holders of a mining right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002.
- 5.2. In terms of NEM:AQA, Langeberg Municipality has a statutory obligation to give effect to section 24(b) of the Constitution for securing an environment that is not harmful to the health and well-being of people.

In terms of Section 32 of NEM:AQA the Minister promulgated the National Dust Regulations (Regulation 827 of 1 November 2016) in order to prescribe general

measures for the control of dust and fugitive dust emissions. The Dust Regulations require any person who conducts any activity in such a way as to give rise to dust in quantities and concentrations that may exceed the dust fall standard set out in the regulation must, upon receipt of a notice from the air quality officer, implement dust fall monitoring programme. The monitoring of dust fall will take place over a period of time to determine if the dust fall standards are exceeded.

- 5.3. The proposed activities such as soil stripping, screening, stockpiling and hauling of stone could give rise to fugitive dust. At the ready mix plant, the cement storage, stockpiling of sand and gravel, and the hauling of these materials, could possibly all be considered fugitive dust sources. In addition the transfer of the cement and the conveying of the dry mix could also be regarded as a possible point source of fugitive dust.

Although the temporary departure application refers to the mitigation of dust, the proposed development should at all times comply with the National Dust Control Regulations with regards to possible fugitive dust pollution.

It is recommended that prior to the commencement of the proposed activities, site representative dust fall monitoring in terms of the National Dust Control Regulations be undertaken, in order to establish a baseline for dust fall for Klaas Voogds Rivier Nr.37.

- 5.4. The application included an Occupational Noise Monitoring Report indicating the proposed activity not to be considered an occupational hazard.

However the local authority may instruct the applicant to conduct and submit, as part of the application a noise impact assessment in accordance with SANS 10328, to establish whether the noise impact rating of the proposed land use or activity exceeds the appropriate rating level for a particular district as indicated in SANS 10103. To avoid negative noise impacts from the proposed activity, the applicant must ensure that the noise impact of the proposed activities are covered within the Environmental Management Plan in terms of the Western Cape Noise Control Regulations Provincial Notice 200 of 20 June 2013.

- 5.5. The Environmental Management Plan should make provision with reference to control of incidents in terms of Section 30 of NEMA, as amended where such an incident are defined within Section 30 of NEMA as an unexpected, sudden and uncontrolled release of hazardous substances, including from a major emission, fire or explosion that causes, has caused or may cause significant harm to the environment, human life or property.

In terms of NEM:AQA the Cape Winelands District Municipality has no objection to the temporary departure application for portions of Farm Klaas Voogds Rivier Nr. 37, if all the legal requirements stipulated in relevant environmental legislation are adhered to.

This office reserves the right to amend its comments and to request any further information regarding this temporary departure application. Furthermore the Municipal Health Services section of this District Municipality may require other preventative,

control and emergency measures to be implemented should any conditions occur which could have a negative effect on the health and well-being of members of the general public or is likely to cause a health nuisance.

Thank you for the opportunity to present comments.

Yours faithfully



M ENGELBRECHT
AIR QUALITY OFFICER

FOR THE MUNICIPAL MANAGER

Copy to:

T-Plan
106 Grey Street
Strand
7140

REFERENCE: TPW/CFS/RP/LUD/REZ/SUB-04/117 (Job 24510)

ENQUIRIES: Ms GD Swanepoel

DATE: 21 January 2020

The Municipal Manager
Langeberg Municipality
Private Bag X2
ASHTON
6715

Attention: Ms T Brunings

Dear Madam

**PORTION 49 OF FARM KLAAS VOOGDS RIVIER 37, ROBERTSON: DIVISIONAL ROAD 1366,
MINOR ROAD 6035: PROPOSED TEMPORARY DEPARTURE**

1. Your letter dated 2 December 2019 refers.
2. The subject property is located 12km east from Robertson and takes access off Minor Road 6035.
3. This application is for a **Temporary Departure** in order to accommodate a rock **crushing/screening** operation on site. Rocks **will** be collected from the farm.
4. According to the **application**, the **operation** may generate up to 6 **loads/day**, that is 12 trips/day, of a 15 m³ vehicle.
5. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014, subject to the following conditions, which are for the account of the landowner:
 - 5.1 Either obtain the signatures of the affected neighbouring landowners that they will be satisfied by the regular watering of the **affected** gravel roads and maintenance of the gravel roads by the Applicant according to the standards set by the District Roads Engineer Paarl (021 863 2020); or
 - 5.2 Provision of a sealed **hard-surface** on the **affected portion** of Minor Road 6035 and a **sealed hard-surface** on Divisional Road 1366 from ± km3,42 until the intersection with Minor Road 6035;

- 5.3 The volume of aggregate that may be transported off site is limited to 50 m³ per day and the transportation thereof is restricted to weekday work hours (8:00 am to 5:00 pm) and
- 5.4 The Applicant liaise with the District Roads Engineer, Paarl, prior to commencing mining in order to obtain approval for the necessary signage indicating the presence of heavy goods vehicles.
6. Detail design plans for the improvement of the Divisional and Minor Roads are to be sent to the Design Directorate (Ms M Hofmeyr 021 483 3999) of this Branch for approval.
7. The Applicant must seek approval from this Branch of any intention to increase vehicular trips/day using the public road network in the future.

Yours faithfully


SW CARSTENS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT



BREED-GOURITZ

CATCHMENT MANAGEMENT AGENCY

51 Boring Street Worcester 6650, Private Bag X3065 Worcester 6650

Enquiries: E. Rossouw

Tel: 023 346 8000

Fax: 023 347 2012

E-mail: erossouw@bgcma.co.za;
pmqondeki@gmail.com

Our Reference no: 4/10/1/H40L/Klaasvoogds Rivier 37/49, Robertson
Your reference:

Date: 15/01/2020

**T-PLAN
Grey Street 106
STRAND
7140**

To whom it may concern,

COMMENT: APPLICATION FOR TEMPORARY DEPARTURE FOR A 4,9 HA PORTION OF PORTION 49 OF THE FARM KLAAS VOOGDS RIVIER 37, IN THE ROBERTSON DISTRICT, WESTERN CAPE.

The Breede-Gouritz Catchment Management Agency (BGCMA) received your documents for the abovementioned activity on Farm Klaasvoogds Rivier No. 37, Robertson RD.

The BGCMA supports the application for temporary departure for a 4,9 Ha Portion of Portion 49 of Farm Klaasvoogds Rivier No. 37, Robertson but the activity may not commence before approval has been granted by the Langeberg Local Municipality.

The applicant must comply with any other statutory requirements that may be applicable when undertaking the abovementioned activity.

The applicant must adhere to all the previous comments provided by this office.

Should agricultural water be used within the industrial process the applicant must first request (in writing) for written approval from the relevant authority (BGCMA or Klaasvoogds WUA) for the temporary transfer of water in terms of section 25 (1) of the National Water Act, 1998 (Act No. 36 of 1998).

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 groundwater resources may occur.
- Storm water management must be addressed and applied both in terms of flooding and pollution potential.

The comments provided are in the interest of responsible water resource management. 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,



MR. JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)

SCIENTIFIC SERVICES

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website www.capenature.co.za
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email phuntly@capenature.co.za
reference SSD14/2/6/1/9/1/37_KlaasVoogds_Robertson
date 7 May 2018

J V Brand
Bestuurder Stadsbeplanning
28 Main Road
Ashton
6715

By email: admin@breeland.gov.za

CC: T-Plan; Marie Terblanche; tplan@telkomsa.net

Dear Mr Brand

Re: Rezoning Pnt 47 and 49 Farm Klaas Voogds River 37, Robertson

CapeNature would like to thank you for the **opportunity** to comment on the above application and wish to make the following comments:

It is noted that the **application** has been through a number of iterations and has now been amended and reduced in scale with the ecologically sensitive site of Portion 48 now being excluded from the application. Portion 48 is designated as an Ecological Support Area (ESA) and it is fitting that this site be maintained in as near to natural state as possible in order to enable optimal ecological functioning.

In **response** to feedback from the earlier public participation process is also noted that the **operation** has been scaled down in size and thus impact.

The specialist studies undertaken have **confirmed** that portions 47 and 49 of Farm 37 (Klaas Voogds) have been extensively transformed. The vegetation type naturally occurring in this area is Breede Shale Renosterveld which is not listed as a threatened **ecosystem** however disturbance to remaining natural vegetation is to be minimised and rehabilitation is to take place post rock removal.

We therefore do not object provided the minimum buffer of 30m between any mining/processing **activities** and **watercourses** and wetlands are maintained. It is noted that the Ecological Report recommends a 32m buffer which is supported. **Additionally** the following conditions should apply:

The **Western Cape Nature Conservation Board** trading as **CapeNature**

Board Members: Prof Denver Hendricks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Bond-Smith, Mr Mariya Buden, Dr Colin Johnson, Prof Aubrey Redlinghuis, Mr Paul Slack

- Storm water management and soil erosion prevention measures must be implemented on site.
- Control of Invasive Alien Vegetation needs to take place regularly on all areas of the property including portion 48.
- No cleared vegetation, alien species or other, should be dumped in areas containing indigenous vegetation nor within the buffer zone of watercourses.
- To protect indigenous fauna species such as snakes and tortoises, strict speed control on site are to be maintained.
- Rehabilitation is to take place regardless of the overall viability of the operation.

Please note that our comments pertain only to the biodiversity related impacts and not to the overall desirability of the proposed application. CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely

Philippa Huntly For: Manager (Scientific Services)

Annexure 4

Minutes of the Tribunal meeting

MINUTES OF A PLANNING TRIBUNAL MEETING OF THE LANGEBERG MUNICIPALITY THAT WAS HELD (MICROSOFT TEAMS MEETING) ON 17 JULY 2020 AT 10H00

1. Opening

The Chairperson Mr Maynard Johnson welcome all present.

2. Attendance

Maynard Johnson	-	Chairperson (Internal member)
Kobus Brand	-	Internal member
Jeremy Benjamin	-	External member
Helene Janser	-	External member
Quinton Balie	-	External member
Hennie Taljaard	-	Deputy Chairman (External member)
Carissa Pieters	-	External member
Tracy Brunings	-	Town Planner

3. Applications for Leave of Absence

All members present

**4. Confirmation of previous Minutes
Unanimously Resolved**

That the minutes of a meeting of the Planning Tribunal of the Langeberg Municipality, held on 6 March 2020 at the Langeberg Municipal Offices, Robertson be approved and confirmed.

5. Matters arising from the previous minutes

None

Urgent Matters, Statements & Announcements submitted by the Chairperson

The Chairperson Mr M Johnson, refers to the current Covid-19 pandemic context and resultant economic situation. He requests that applications that would stimulate the long-term economic situation and job creation in the Langeberg Municipality, be supported within the context guiding statutory planning principles. This sentiment was echoed by Mr Jeremy Benjamin.

7. Consideration of Reports

Due to technical difficulties, Ms Brunings and Mr Brand could not participate in the discussion of this report.

It was resolved as follows:

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015 the Langeberg Municipal Planning Tribunal **approves** the temporary departure for a crushing plant on a 4,9ha. of Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson, as depicted on the plan marked KLAAS VOOGDS RIVIER 37/47&49-LBM-TPa (June 2020) and subject to the following conditions of approval, in terms of Section 66 of the aforementioned Bylaw:

1. The following must be provided prior to ANY activity commencing on the site:

- 1.1 A Site Development Plan (SDP), using an aerial photograph as the base, must be submitted for approval by the Manager: Town Planning and must show, inter alia: the boundary of the crushing plant site as approved in terms of the Mining Permit; the alignment of the municipal electricity line across the site; the positioning of the crusher; the positioning of the berms as required by DMR; the location of the proposed stockpile area/s; the proposed loading area/s and access and exit points to this site.
 - 1.2 An Agricultural Planting Plan, indicating the areas proposed to be cleared of rock and the proposed crop to be planted, must be submitted to the Manager: Town Planning and the WC Department of Agriculture.
 - 1.3 The crushing plant site and the proposed access and exit points for vehicles must be physically and clearly demarcated on the site and no crushing equipment, vehicles or activities may occur outside the demarcated area.
 - 1.4 Proof of compliance with the requirements of the Department of Transport, as specified in Condition 6 below must be submitted to the Manager: Town Planning.
- 2 The approval applies for a maximum period of 5 years from the date of approval
 - 3 The following restrictions apply to the crushing plant:
 - 3.1 The crushing plant may only crush rock sourced on Portions 47 and 49 of Klaas Voogds Rivier 37, in accordance with the plan referred to in 1.2 above.
 - 3.2 No industrial land use other than crushing is permitted.
 - 3.3 A maximum of 200m³ of stone may be crushed per day.
 - 3.4 No more than 200m³ of aggregate may be transported off the site per day. No permanent structures may be erected on site. Provision must be made for portable ablution and waste disposal facilities.
 - 4 All reasonable measures must be taken to minimise the impact on the neighbourhood in terms of dust and noise:
 - 4.1 Dust suppression, including, but not limited to: moistening of portions of the crushing site and gravel access roads, covering of loads and speed control, must be actively implemented to prevent dangerous road conditions and adverse impact on surrounding residents, tourists and agricultural activities
 - 4.2 The restrictions of any law and regulations relating to noise control are applicable to the property and the operation must not cause any noise nuisance, as described in the Western Cape Noise Control Regulations (PN 200/2013 of 20 June 2013).*
 - 4.3 The conditions imposed by the Cape Winelands District Municipality in their letters dated 14 January 2020 and 28 January 2020 (attached) must be complied with.
 - 5 No crushing activities or transporting of rock / crushed material may occur:
 - Before 8h00 and after 14h00 on Mondays to Fridays. Note: The 8h00 start is to reduce the number of trucks on the road when school children and workers may be walking to school / work. The 14h00 finish relates to the safety of school children walking home; and to avoid the generally windier times of day and minimise noise and traffic impacts on tourism, considering the standard practice of tourists booking in at destinations from 14h00.
 - On Saturdays and Sundays - closed.
 - On Public Holidays – closed.
 - During windy conditions, where winds comprise a moderate breeze or stronger, in accordance with the Beaufort Scale, namely 20km/hr and more - closed.
 - 6 The conditions (excluding condition 5.3) imposed by the Department of Transport in their letter dated 21 January 2020 (attached) must be complied with.
 - 7 The following conditions apply to the transport of stone and /or crushed material along the district road network:
 - 7.1 Each load must be suitably covered with a tightly fitted and secured tarpaulin cover.
 - 7.2 The applicable speed limits must be observed by vehicles transporting stone / crushed material*.
 - 7.3 No private vehicles may collect stone / crushed material from the site. Only one approved operator may collect and transport stone / crushed material from the crushing Plant site.
 - 8 The mitigation measures recommended in Section 7 of the Ecological Report (P du Preez, Sept 2017) (flora, fauna, and general) must be complied with.

- 9 The conditions imposed by the Breede Gouritz Catchment Management Agency in their letter dated 15 January 2020 (attached) must be complied with.
- 10 The conditions imposed by Cape Nature in their letter dated 7 May 2018 (attached) must be complied with.
- 11 With regard to Municipal Electricity supply, the owner will be responsible for the costs associated with any relocation of existing services, new connections, upgrading or alterations to existing electrical connections or networks, and the associated applicable Bulk Services Levy, at the tariffs which are applicable at that time. No structures, crushing or stockpiles may be located under or within 3m on each side of the centre line of the 11kV line municipal line. This area must be kept open for maintenance purposes.
- 12 No name or advertising sign may be erected without written approval of the administering authority.
- 13 Responsibility of Employers and Employees: The conditions of approval must be brought to the attention of all persons (employees, sub-consultants etc.) associated with this activity and the operator must take the necessary measures to bind such persons to these conditions.
- 14 On-site Monitoring Meetings must be held every 3rd month from the date of commencement of crushing, with officials from the Langeberg Town Planning Department, Department of Agriculture, CWDM and Department of Mineral Resources, to confirm that crushing activities are operating without adverse environmental consequences and within the specified conditions of approval. Any requirements of the relevant Departments must be complied with prior to the continuation of crushing activities. Such meetings will be convened by the Langeberg Town Planning Department.
- 15 The owner must sign the attached agreement with respect to the implementation of all conditions of approval. Where there is any uncertainty regarding the conditions, the Town Planning Department must be contacted. Non compliance with a condition of approval constitutes an offence in terms of the LLUP Bylaw, 2015, and will result in the owner being instructed to cease all activity*.

Note: The proposed land use is subject to all other relevant legislation, including the Environmental Impact Assessment regulations in terms of NEMA No. 107 of 1998; and the Conservation of Agricultural Resources Act 43 of 1983. The owner / operator must be in possession of a valid Environmental Authorisation and Mining Permit for the crushing plant, and all other approvals required in terms of any other legislation, prior to the commencement of crushing. Specific attention is drawn to the Site Specific Conditions on page 6, and conditions 3 and 4 on pages 11-15 of the EA dated 6 December 2017.

The Tribunal's reasons for Approval, are as follows:

- i. All relevant considerations, including the objections, have been taken into account and appropriate mitigation measures, in relation to noise, dust and traffic, are provided for in the EA, EMP and the conditions of approval of this land use application.
- ii. With reference to the soil study, the removal of rock will increase the agricultural potential of the soils, and Agriculture is the primary use in the Agricultural Zone I in accordance with the Langeberg Integrated Zoning Scheme, 2018 and the Langeberg SDF, 2015.
- iii. Natural resources will be optimally and sustainably used while promoting economic development and job creation.
- iv. There is no objection to the operation of the crushing plant from any of the relevant Departments, namely: CWDM, BGCMA, Department of Transport, Dept. of Agriculture, DEA&DP and Cape Nature.

The Tribunal notes that:

- The current application is deemed to be significantly different to the previous application, such that the Tribunal can take a decision on this new application
- The previous reasons given by the Tribunal for the refusal of the previous rezoning application for mining and the crushing plant; and the reasons given by the Langeberg Appeal Authority in upholding the Tribunal's decision, are not deemed to be applicable to the application for temporary departure for a crushing plant

8. **Other Matters**

None

9. **Conclusion**

The meeting adjourned at 10:45

Annexure 5

Section 65 of the Langeberg Land Use Planning Bylaw 2015: Criteria for Consideration of Applications

Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

7461

Thursday, 30 July 2015

Buitengewone Provinsiale Koerant

7461

Donderdag, 30 Julie 2015

Registered at the Post Office as a Newspaper

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(*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

No.

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PROVINCIAL NOTICE

264 Langeburg Municipality: Land Use Planning ByLaw 2

Errors and omissions

63. (1) The Municipality may at any time correct an error in the wording of its decision if the correction does not change the decision or result in an alteration, insertion, suspension or deletion of a condition of approval.
- (2) The Municipality may, on its own initiative or on application by the applicant or interested party, upon good cause shown, condone an error in a procedure, if the condonation does not have a material adverse effect on, or unreasonably prejudice, any party.

Exemptions to facilitate expedited procedures

64. (1) The Municipality may in writing and subject to section 60 of the Land Use Planning Act—
- (a) exempt a development from compliance with a provision of this By-law to reduce the financial or administrative burden of—
- (i) integrated application processes contemplated in section 44;
- (ii) the provision of housing with the assistance of a state subsidy; or
- (iii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law.
- (2) If the Provincial Minister grants an exemption or authorisation to deviate from a provision of the Land Use Planning Act to the Municipality in terms of section 60 of the Land Use Planning Act, the Municipality is exempted from or authorised to deviate from any provision in this By-law that corresponds to the provision of the Land Use Planning Act in respect of which an exemption was granted or deviation was authorised.

CHAPTER V

CRITERIA FOR DECISION-MAKING

General criteria for consideration of applications

65. (1) When the Municipality considers an application, it must have regard to the following:
- (a) the application submitted in terms of this By-law;
- (b) the procedure followed in processing the application;
- (c) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;

- (d) the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;
- (e) the response by the applicant, if any, to the comments referred to in paragraph (d);
- (f) investigations carried out in terms of other laws that are relevant to the consideration of the application;
- (g) a registered planner's written assessment in respect of an application for—
 - (i) a rezoning;
 - (ii) a subdivision of more than 20 cadastral units;
 - (iii) a removal, suspension or amendment of a restrictive condition if it relates to a change of land use;
 - (iv) an amendment, deletion or imposition of additional conditions in respect of an existing use right;
 - (v) an approval of an overlay zone contemplated in the zoning scheme;
 - (vi) a phasing, amendment or cancellation of a subdivision plan or part thereof;
 - (vii) a determination of a zoning;
 - (viii) a closure of a public place or part thereof;
- (h) the impact of the proposed land development on municipal engineering services;
- (i) the integrated development plan, including the municipal spatial development framework;
- (j) the integrated development plan and spatial development framework of the district municipality, where applicable;
- (k) the applicable local spatial development frameworks adopted by the Municipality;
- (l) the applicable structure plans;
- (m) the applicable policies of the Municipality that guide decision-making;
- (n) the provincial spatial development framework;
- (o) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land

- Use Management Act or provincial regional spatial development framework;
- (p) the policies, principles and the planning and development norms and criteria set by the national and provincial government;
 - (q) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;
 - (r) the principles referred to in Chapter VI of the Land Use Planning Act; and
 - (s) the applicable provisions of the zoning scheme.
- (2) Where required in terms of applicable development parameters or conditions of approval, the Municipality must approve a site development plan if the site development plan—
- (a) is consistent with the development rules of the zoning;
 - (b) is consistent with the development rules of an overlay zone, if applicable;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-law.

Conditions of approval

66. (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
- (a) the provision of engineering services and infrastructure;
 - (b) requirements relating to engineering services as contemplated in section 82 and 83;
 - (c) the cession of land or the payment of money;
 - (d) settlement restructuring;
 - (e) agricultural or heritage resource conservation;
 - (f) biodiversity conservation and management;
 - (g) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;

Annexure 6

Appeal 1:
Barnard, C (Objector)



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	Y ☒	N ☐	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	Y ☐	N ☐	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	Y ☒	N ☐	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	Y ☐	N ☐	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	Y ☒	N ☐	If Yes, specify in Part E.
Date of decision	Date receiving notice of decision		
Who took the original decision?	Authorised employee		Tribunal

PART B: APPELLANT'S DETAILS

First name(s)	CHARLES BOTHA		
Surname	BARNARD		
Company or legal person's name (if applicable)	N/A		
Postal address	Box 7		
	KLAASVOOGDS RIVER	Postal Code	6707
Email	pbms96@gmail.com		
Tel	Fax	Cell	0825554614

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PLAAS 251, KLAASVOOGDS OOS		
Physical Address	KLAASVOOGDS COTTAGES		
GPS Coordinates	See www.klaasvoogds.co.za	Town/City	ROBERTSON
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 49, FARM KLAASVOOGDS RIVER 37, ROBERTSON.		
Physical Address			
GPS Coordinates		Town/City	ROBERTSON
PART E: APPEAL MOTIVATION AND REASONS*			
SEE ATTACHED DOCUMENT:			
"APPEAL MOTIVATION AND REASONS"			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
			Appeal
TOTAL APPEAL FEES*			
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

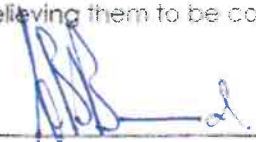
☐	☐	Proof of payment of appeal fees (applicant)	☐	☐	Proof of serving notice of appeal (applicant)
☐	☐	Copy of decision and proof of notification	☒	☐	Copy of conditions of approval
☐	☐	Motivation and reasons for appeal	☒	☐	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

16/07/2020

Full name:

CHARLES BOTHA BARNARD

FOR OFFICE USE ONLY

Date received:

16.07.2020.

Received by:

T.L. Barnard

PTN 49 OF THE FARM KLAASVOOGDS RIVIER 37
APPEAL MOTIVATION AND REASONS

16 July 2020

The following reasons are for appealing against the decision made- and the conditions of approval by the authorized employee or Tribunal. Also for the merits of land development and land use which I believe the authorized employee or Tribunal erred in coming to the conclusion

1. The Western Cape Government approved 50m³ of stone to be transported per day. The local authority approved 200m³. I find this highly irregular. It is akin to applying for developing 35 residential units per ha and you are awarded 140 units! Could this be explained ?
2. All the initial studies and motivations for approval by the applicant seemed to be based on 70m³ for transport per day; therefore no previous studies can be applicable with the 200m³ allowance.
3. There is an estimated R 200 to R250m investment in tourism related activities (improvements and pro-rata cost of land) There are an estimated 160 direct local job opportunities. (Tourism has grown at an annual 23% compounded per annum for the last 10 years. If growth continues at this pace it would soon be the mayor industry in Klaasvoogds in turnover and job creation. It is irrational to approve an industry, totally out of character and inappropriate for the primarily agricultural and tourism environment. Mining would undoubtable harm tourism on a permanent basis (many of our overseas visitors has indicated that they would avoid Klaasvoogds if there are mining activities taking place) Refer to letters in previous appeals. The tribunal is mute on this although raised initially.
4. There are about 25 to 30 businesses involved in tourism in Klaasvoogds mostly small businesses, some of which tourism is their main or sole income. It is irregular and irrational to allow one business that will harm these tourism businesses. Why is the right of one application overriding the rights of 25 or 30 other businesses ? The tribunal is mute on this although raised initially.
5. The only concession to pedestrians, cyclists, children, etc is that the transporting be limited from 08h00 to 14h00. Really nonsensical as tourists would like to cycle, jog or walk on lovely quiet and safe country roads between 08h00 and 14h00. There are always children, other pedestrians and cyclists on the road at all times, yet this is not taken into account.
6. Whether the allowance is 50m³/75 tonnes or 200m³/300 tonnes per day, 6 trips or 28 trips per day, additional heavy transport vehicles will be extremely hazardous, noisy and dangerous on the narrow roads. This was addressed no-where. In case of an accident caused by these trucks who will be held responsible ? The tribunal or individual that took the decision ? The tribunal is mute on this.
7. In the application the mass of 1m³ of 19mm brown stone is wrongly stated as 1.3tonnes. it is in fact 1.5 tonnes, 16% heavier. In the letter of the Western Cape Government roads department they allow 50m³ for transport and 12 trips per day. The 50m³ results in 6 or 7 trips not 12.
8. The R60 is becoming busier by the day as Cape Town traffic going east, more and more avoids the N2 (bottlenecks at Somerset East, Sir Lowries pass difficulty) Yet there is no recent traffic study of what happens at the intersection of Klaasvoogds East road and the R60. In normal traffic, before Covid 19, it was extremely difficult at times to get onto the R60 from the east or west roads. Slow trucks, with vehicles piling up on the back may become impatient and take dangerous chances. The tribunal is mute on this.
9. There are no details on the so called clearing of stone from the land and no studies on the impact of noise and dust created by this activity. Mining to take place on 26ha ? The tribunal is mute on this.
10. I have seen no authorization letters by owners regarding the measures to counter the dust created. The tribunal is mute on this.
11. The Western Cape Government requires a paved road (as there seem to be no approval for dust control) yet there are no specifications for this road. The tribunal is mute on this.
12. The approval comes with a whole host of conditions yet there are no staff, structures or departments to enforce their own conditions. The tribunal is mute on this.
13. Further to the above it was proven that the applicant has transgressed several regulations now and in the past, yet the tribunal is mute on this. Refer to initial objections.
14. WHY IS IT THAT THE TRIBUNAL IS MUTE ON ALL THE VALID OBJECTIONS INITIALLY SUBMITTED. COULD THEY PLEASE EXPLAIN WHY THESE OBEJECTIONS ARE NOT TAKEN INTO ACCOUNT AND /OR PROVIDE COUNTER ARGUMENTS ?

Annexure 7

Appeal 2:
De Wet (Objector)



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐ Y	☐ N	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐ Y	☐ N	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☒ Y	☐ N	If Yes, specify in Part E.

Date of decision		Date receiving notice of decision	
Who took the original decision?	☐ Authorised employee	☐ Tribunal	

PART B: APPELLANT'S DETAILS

First name(s)	PAUL JOHANNES		
Surname	DE WET		
Company or legal person's name (if applicable)	ROAMING ROCK ESTATE CC		
Postal address	P.O. BOX 936		
	ROBERTSON	Postal Code	6705
Email	paul@deewet.com		
Tel		Fax	
		Cell	082 495 7734

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)Number(s) of
Erf/Erven/Portion(s)
or Farm(s),
allotment area.PENS 40/11 + 40/12 OF FARM
KLAASVOOGDSRIVER, ROBERTSON.

Physical Address

VILLA VERNE, KLAASVOOGDSWEST RD

GPS Coordinates

Town/City

ROBERTSON.

PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENTNumber(s) of
Erf/Erven/Portion(s)
or Farm(s),
allotment area.PORTION 49 OF FARM
KLAASVOOGDSRIVER 37, ROBERTSON.

Physical Address

GPS Coordinates

Town/City

ROBERTSON.

PART E: APPEAL MOTIVATION AND REASONS*

THE DEPARTURE FROM THE ORIGINAL PERMISSION TO
MINE 50M³/DAY TO 200M³/DAY IS UTTERLY
UNACCEPTABLE FOR THIS KLAASVOOGDS
COMMUNITY. THIS PROCESS OF APPEAL IS
RUSHED INTO THE LOCKDOWN RESTRICTIONS
AND I DEMAND THAT THIS PROCESS IS ONLY RESUMED
WHEN THE LOCKDOWN GOES TO LEVEL ONE OR LIFTED.

PART F: APPEAL FEE (APPLICANT) (for completion and use by official)

Appeal

R

NA

TOTAL APPEAL FEES*

* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

BANKING DETAILS

Name:

Langeberg Municipality

Bank:

ABSA

Branch no.:

33-45-13

Account no.:

105 000 000 8 (Cheque)

Payment reference:

A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

Y	☒	Proof of payment of appeal fees (applicant)	Y	☒	Proof of serving notice of appeal (applicant)
Y	☒	Copy of decision and proof of notification	Y	☒	Copy of conditions of approval
☒	☒	Motivation and reasons for appeal	☒	☒	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following:

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:

P. J. de Vries

Date:

17 July 2020

Full name:

P. J. de VRIES & WET.

FOR OFFICE USE ONLY

Date received:

17.07.2020

Received by:

T. L. B. ...

Annexure 8

Appeal 3:
Van Wassenhove (Objector)



APPEAL FORM			
(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)			
KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.			
PART A: APPEAL			
Are you appealing against the decision made by the authorised employee or Tribunal?	☒	☐	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐	☐	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒	☐	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐	☐	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☒	☐	If Yes, specify in Part E.
Date of decision	Date receiving notice of decision		
Who took the original decision?	☐ Authorised employee	☐ Tribunal	
PART B: APPELLANT'S DETAILS			
First name(s)	GINA		
Surname	VAN WASSENHOVE		
Company or legal person's name (if applicable)	MR DE WAGENMAKER GUEST HOUSE CC		
Postal address	P.O. Box 68		
	ROBERTSON	Postal Code	6705
Email	INFO@ELIVEGARDENCOUNTRYLODGE.CO		
Cell 0824985393	Fax	N/A	

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	1/44 & 13/40 Concordia Farm		
Physical Address	Concordia Farm KLAARBOEG WEST		
GPS Coordinates		Town/City	ROBERTSON
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Portion 49, Farm KLAARBOEG RIVER 37, ROBERTSON		
Physical Address			
GPS Coordinates		Town/City	
PART E: APPEAL MOTIVATION AND REASONS*			
SEE ATTACHED DOCUMENT " APPEAL MOTIVATION AND REASONS "			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
		Appeal	1
		TOTAL APPEAL FEES*	
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 (e.g. "A10 [Erf 2345, Robertson]" or "A10 [Farm 23/4, Montagu]")		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

6	Proof of payment of appeal fees (applicant)		14	Proof of serving notice of appeal (applicant)
8	Copy of decision and proof of notification	N	15	Copy of conditions of approval
9	Motivation and reasons for appeal	✓	16	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following:

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

18-07-2020

Full name:

GINA VAN WISSENHOVE

FOR OFFICE USE ONLY

Date received:

19.07.2020

Received by:

T.L. Buijs

Annex 1

We require a immediate Environmental ,water ,health impact study on the new situation, of 200m3 a day, without this new study from the Department there cannot be a approval for the new situation.This health and environmental on mining of rocks and gravel is send To the Department.

We cannot allow that another nature beauty as Klaasvoogd where nature and people live in harmony together with there communities. That piece cannot be destroyed by people who only think of there own interest. We stand for green, sustainability and the future off our children and grandchildren in a cleaner and healthier environment.

Environmental impacts of mining can occur at local, regional, and global scales through direct and indirect mining practices. Impacts can result in [erosion](#), [sinkholes](#), [loss of biodiversity](#), or the [contamination of soil](#), [groundwater](#), and [surface water](#) by the chemicals emitted from mining processes. These [processes](#) also have an impact on the atmosphere from the emissions of carbon which have effect on the quality of human health and biodiversity.^[1] Some mining methods may have such significant environmental and public health effects that mining

The implantation of a mine is a major habitat modification, and smaller perturbations occur on a larger scale than exploitation site, mine-waste residuals contamination of the environment for example. Adverse effects can be observed long after the end of the mine activity.^[14] Destruction or drastic modification of the original site and [anthropogenic](#) substances release can have major impact on [biodiversity](#) in the area. Destruction of the habitat is the main component of [biodiversity losses](#), but direct poisoning caused by mine-extracted material, and

Vegetation

Soil texture and water content can be greatly modified in disturbed sites,^[19] leading to plants community changes in the area. Most of the plants have a low concentration tolerance for metals in the soil, but sensitivity differs among species. Grass diversity and total coverage is less affected by high contaminant concentration than [forbs](#) and [shrubs](#). Mine waste-materials rejects or traces due to mining activity can be found in the vicinity of the mine, sometimes far away from the source.^[31] Established plants cannot move away from perturbations, and will eventually die if their habitat is contaminated by heavy metals or [metalloids](#) at a concentration that is too elevated for their physiology. Some species are more resistant and will survive these levels, and some non-native species that can tolerate these concentrations in the soil, will migrate in the surrounding lands of the mine to occupy the [ecological niche](#).

Plants can be affected through direct poisoning, for example [arsenic](#) soil content reduces [bryophyte](#) diversity.^[20] Soil acidification through pH diminution by chemical contamination can also lead to a diminished species number.^[20] Contaminants can modify or disturb microorganisms, thus modifying nutrient availability, causing a loss of vegetation in the area.^[20] Some tree roots divert away from deeper soil layers in order to avoid the contaminated zone, therefore lacking anchorage within the deep soil layers, resulting in the potential uprooting by the wind when their height and shoot weight increase.^[31] In general, root exploration is reduced in contaminated areas compared to non-polluted ones.^[19] Plant species diversity will remain lower in reclaimed habitats than in undisturbed areas.^[19]

Rock and gravel mining creates large pits and fissures in the earth's surface. At times, mining can extend so deeply that it affects ground water, springs, underground wells, and the water table.

Van Wassenhove Gina

Annex 2

We are appealing the approval for the temporary departure for a crushing plant in the agricultural zone on the following grounds.

All relevant considerations have not been taken into account.

1. **The Tribunal's ruling has ignored the Department of Transport's recommendations and unilaterally increased the volume of heavy duty trucks allowed on Klaasvoogds East and West roads fourfold to THIRTY 20 tonne truck loads or ONE EVERY 11 MINUTES per day between 8h00 and 14h00 Mondays to Fridays (excluding public holidays) This doesn't include the CP Concretes' 8 concrete trucks 4 out and 4 back per day), maintenance vehicles, diesel trucks, etc . With about 40 truck movements per day or one every 7 minutes we have no doubt that our road, not built to withstand the additional load placed on it, will be destroyed within a very short time.**

In an extraordinary departure from the application the Tribunal has approved the transport of aggregate off-site of a maximum of **200m³** a day. This despite the fact that the Department of Transport approved the application on the basis that aggregate transported off-site was limited to **50m³** a day. As a result of this arbitrary four-fold increase in heavy duty trucks up and down our quiet peaceful roads there has been no proper assessment of the impact on the road, traffic, dust, noise and tourism.

2. **Inappropriate industrial activity approved in primarily agricultural and tourism environment**

The tribunal has approved mining activities and a fourfold increase in heavy duty vehicles which will not only destroy our roads but is totally out of character and inappropriate for Klaasvoogds' primarily agricultural and tourism environment.

3. **The mining activities have been approved for the benefit of one party to the detriment of many parties and a growing, job-creating tourism sector in Klaasvoogds**

Every farmer in the Klaasvoogds valley has been confronted with the problem of stone clearing and this hasn't prevented them from farming profitably, including the applicant. But as a result of this ruling many tourism-related businesses are at risk of losing their businesses and many jobs will be lost. The industrial activity being unleashed on our beautiful and quiet countryside and roads will have a huge adverse impact on tourism in Klaasvoogds. The noise from many, unsightly heavy duty trucks up and down our quiet country roads, the sound of crushing rocks and dust will with no doubt drive tourists away and will certainly affect our livelihood and ability to create jobs. Tourists that we have canvassed have made it very clear that they come for peace and quiet and do not want to dodge out of the way of 20 tonne heavy, noisy industrial trucks while going for a quiet country walk on charming narrow country roads

No weight has been given to the tourism related business, which has shown a phenomenal growth of 23% per annum over the past 10 years in Klaasvoogds in the Tribunal's ruling. At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment .

Klaasvoogds is a prime tourism area because of it's

Natural beauty

Peace and quiet – other than seasonal agricultural machine noise that is rare or intermittent

Quiet picturesque rural roads loved and enjoyed by tourists and locals for walking and cycling

Many tourism-related businesses in the valley

Taking into account the growing importance and size of the tourism industry, as illustrated in points a) to d) below, why allow an industry to operate in an area which will harm a sizeable number of entrepreneurs and workers and going into the future will create negative (in real terms) employment and economic growth for the area as a whole

In terms of the Tribunal ruling only one person and a few workers will enjoy the fruits of positive economic growth to the detriment of many others.

The growth of tourism in Klaasvoogds

a) At the onset there were 36 beds available and now 272 beds. A compounded growth per annum of 23%. Numbers from establishment and marketing sites. We have not taken into account the increased number of restaurants, wineries, etc. This will increase the overall impact. This may be unsurpassed in the Boland. Currently there are more than 272 beds available from 14 establishments

b) With a conservative estimate of 32% taken at Klaasvoogds Cottages's occupation rates. Most establishments have a higher occupation rate occupation this translates to 30 638 tourist nights p/a

c) At this growth rate this growth rate the number of beds will double in the next 3.5 years 23% compounded over 3.5 years =+-560 beds

Other than accommodation there are 7 establishments serving food, 5 wine cellars that allow tasting, a cactus garden and nursery, 4 olive farms for tasting and selling all olive products, a lavender farm and smaller tourism related businesses

An estimated R 200m has been invested in tourism related improvements. (excluding the cost of land) 272 beds x R 400 000 = R 108 000 000 comprising financial outlays for construction, fixtures and fittings, aesthetic enhancement, prorata costs of kitchens, laundries, storage, reception, office space, external works, landscaping, pools, etc. Note that the estimated cost of a budget hotel is R 500 000 to R 750 000 per bed (AECOM 2018). 5 Wineries @ R 1 400 000 = R 7 000 000, 7 establishments providing food @ R 500 000 = R 3 500 000, 4 olive product shops @ R 500 000 = R 2 000 000. (The cost of land has been excluded but this would push to total investment towards R 250m)

At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment .Direct employment say: 3 workers per 10 beds =82 + 5 per winery = 25 + 5 per food outlet = 35 + 5 per olive business =20 Therefore an estimated 162 direct jobs excluding related industries like travel, booking agents, suppliers, manufacturers, etc (if not already)

Tourism is labour intensive and encouraged by local, provincial and national authorities as a top creator of jobs and, currently 1 in 22 people or a total of 1.5m people are employed in the tourism value chain. Described by government as the new “ Gold ” See **Biztrend 2019: Tourism the golden ticket to Job creation** Quoting Derek Hanekom tourism minister: “According to Stats SA, 1 in 23 people in South Africa is employed in the tourism sector..” and more ...” from a job creation standpoint, tourism’s employment contribution, including jobs indirectly supported by the sector, already exceeds 1.6 million...”

* The area N of the R60 stretching from the Klaasvoogds West road to Kleinhoekkloof

4. **The only concession to tourism is to limit the trucks transporting the aggregate to between 8h00 and 14h00 for “tourists who book in after 14h00”.**

It has obviously not occurred to the Tribunal that the tourists who book in at 14h00 will still be there the next morning!

5. **No noise assessment has been done on farms which run tourism related businesses to determine whether the noise level is at an acceptable level for guests/tourists.**

No noise assessment has been done on neighbouring tourism-related farms and businesses on whether the unpleasant noise generated by the crushing of the stone and the continuous sound of heavy trucks (arbitrarily increased fourfold) will cause a permanent noise nuisance and drive away tourists.

6. **No attention has been paid to the fact that applicant has a tendency to ignore laws and regulations**

Given that enforcement is extremely difficult in South Africa due to lack of resources it will be left to the applicant to comply with all legislative and regulatory requirements. History shows that the applicant has a tendency to disregard laws and regulations. For example he set up an illegal concrete batching plant and it was only due to the concerted effort of the community in Klaasvoogds, an extremely good lawyer and lots of money that it was finally removed. The municipality was unable to do much initially because it was hamstrung by a lack of resources. Going into the future with a government that has no money this is only going to get worse. In addition in the previous matter, our lawyer Clarissa Molteno said that applicant's re-zoning application contained “confusing, contradictory and misleading information”, a “misrepresentation and omission of information” and an “inappropriately narrow public participation process” during the Environmental Impact Assessment process. Given the applicant's track record in terms of compliance a very ineffectual quarterly on-site monitoring meetings will have little effect.

7. **No attention has been paid to the flawed rationale for the clearing of stone from agricultural land or the financial unviability of the venture.**

Despite the application being for the “improvement” of agricultural land there is no doubt given the economic facts that this is an operation to mine brown stone which is currently very lucrative.

The application for the clearing of stone is neither practical nor does it make economic sense.

The applicant claims he will not sell the stone. Really? An astute businessman intends to mine, crush and transport stone for free? This beggars belief. There is no doubt, given the massive investment of R15million that CP concrete has already invested in this project, that it will ultimately sell the stone (whether the stone is given for free to the applicant's son and then he sells it or whether the applicant sells it himself). Fortunately for the applicant, he has a son in the business which allows for many loopholes and grey areas.

The applicant has invested R15 million in equipment for his agricultural/ stone clearing operation which makes no economic sense (in terms of the figures in the application) even if the stone is sold.

The 4.9ha mined 1.5m deep produces 73 500m³ earth and stone. 30% of the stone is returned and say 30% is ground and topsoil. The 40% remainder is 29 400m³ sold at say R 650/m³ gross = R 19 110 000. From this amount all production costs, transport, devaluation of plant and equipment needs to be deducted, say 50%, with a remainder then of R9 or 10m. **(The percentages used are estimates)**

Adding to the expenses would be a 20% gift tax to be paid by the applicant. As the stone is mined and processed, transported and then “given away” it will be classified as an enterprise not producing income. As such, none (or few) of the expenses named will be tax deductible.

On the other hand, CP concrete has very low input costs, receiving the stone for free, it will therefore show a very high profit that is off course fully taxable.

What makes economic sense (to the applicant) is to mine and sell a volume of stone many, many times more than that which is available from the 4.9ha and lying around on ptns 47 and 49. This means that more stone would have to be mined and processed and other areas would have to be disturbed to make up the shortfall ? (other than the stone that will be gathered over ptns 47 and 49)

The debatable increased agricultural production (if any) on 4.9ha is unlikely to make up the shortfall either.

In addition how will the stone be removed from ptns 47 and 49. With front end loaders and trucks? Disturbing soil and producing additional dust and noise. The extent of this operation is completely ignored in the Tribunal ruling..

If the applicants’ real intention is to acquire farm land suitable to his needs it would be much more logical and economical to sell off the plant and buy land that is just right for the applicants’ requirements. And the plus point is that he will get more than 4.9 ha for the money realized plus additional water (with water becoming a more sought after agricultural commodity than ever) plus an additional asset that may show some capital growth. It is also immediate. He could produce 3 harvests by the time he finished “clearing” the land. The fact that he has not done this is very, very puzzling and one cannot but think that this application has nothing to do with the clearing of land.

Why this operation may escalate well beyond its stated purpose

1. It is the only way it makes economic sense
2. The applicant has a track record of not abiding by rules and regulations
3. Local authority do not have the capacity or funds to monitor the myriad of regulations, volumes, related by laws, etc,
4. Allowing this application sets a precedent for further and extended industrial activity

Annexure 9

Appeal 4:
Botes(Objector)



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using **BLOCK capitals** and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	Y ☒	N ☐	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	Y ☐	N ☐	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	Y ☒	N ☐	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	Y ☐	N ☐	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	Y ☒	N ☐	If Yes, specify in Part E.
Date of decision	Date receiving notice of decision		
Who took the original decision?	☒ Authorised employee	☐ Tribunal	

PART B: APPELLANT'S DETAILS

First name(s)	Moria Elizabeth		
Surname	Botes		
Company or legal person's name (if applicable)	N/A		
Postal address	P.O. Box 15		
	Ashton	Postal Code	6715
Email	wildeperdehoek@gmail.com		
Tel		Fax	
		Cell	0722332905

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)

Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Farm 297 Wilde Paarde Kloof		
Physical Address	Wilde Perde Hoek		
GPS Coordinates		Town/City	Ashton

PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT

Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Portion 49, Farm Klaasvoogds Rivier 37 Robertson		
Physical Address			
GPS Coordinates		Town/City	Robertson

PART E: APPEAL MOTIVATION AND REASONS*

Rede: 1. Western Cape Government approved 50m³ of stone to be transported per day. But 200m³ by the local authority are too HIGH on the road's. Yes will he crush all the stones.
2. The impact of noise and dust on the nature.
3. Mining would undoubtable harm tourism on a permanent basis.
4. Additional heavy transport vehicles will make the narrow road dangerous for children, small wild life and C/LC lists and me to road to mine farm.

* Appeal motivation, information and reasons may be attached.

PART F: APPEAL FEE (APPLICANT) (for completion and use by official)

Appeal	R
TOTAL APPEAL FEES*	

* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

BANKING DETAILS

Name:	Langeberg Municipality
Bank:	ABSA
Branch no.:	33-45-13
Account no.:	105 000 000 8 (Cheque)
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

Y	N	Proof of payment of appeal fees (applicant)		Y	N	Proof of serving notice of appeal (applicant)
Y	N	Copy of decision and proof of notification		Y	N	Copy of conditions of approval
Y	N	Motivation and reasons for appeal		✓	N	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:

M.E. Bates

Date:

17/07/2020

Full name:

Maria Elizabeth Bates

FOR OFFICE USE ONLY

Date received:

20. 07. 2020

Received by:

T.B. sp.

Annexure 10

Appeal 5:
De Jongh(Objector)



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐ Y	☐ N	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐ Y	☐ N	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☒ Y	☐ N	If Yes, specify in Part E.
Date of decision			Date receiving notice of decision
Who took the original decision?	☒ Authorised employee	☐ Tribunal	

PART B: APPELLANT'S DETAILS

First name(s)	THEUNIS WILLEM		
Surname	DE JONGH		
Company or legal person's name (if applicable)	N/A		
Postal address	PO Box 244		
	ASHTON	Postal Code	6715
Email	THEUNIS@KHK.CO.ZA		
Tel	Fax	Cell	083 250 5775

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 10 (PORTION OF PORTION 4) OF FARM WILDEPAARDEKLOOF NO 33, DIVISION ROBERTSON		
Physical Address	KLEINHOEKKLOOF FARM, ASHTON		
GPS Coordinates	33°46'53,055" 20°03'15,900" E	Town/City	ASHTON
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 49, FARM KLAAGOOOGDSRIVER 37, ROBERTSON		
Physical Address			
GPS Coordinates		Town/City	ROBERTSON
PART E: APPEAL MOTIVATION AND REASONS*			
SEE ATTACHED "APPEAL MOTIVATION AND REASONS"			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
			Appeal R
TOTAL APPEAL FEES*			
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 (e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)")		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach **all** the information and documentation relevant to the appeal.

☐	☐	Proof of payment of appeal fees (applicant)	☐	☐	Proof of serving notice of appeal (applicant)
☐	☐	Copy of decision and proof of notification	☐	☐	Copy of conditions of approval
☐	☐	Motivation and reasons for appeal	☒	☐	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing **the** particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:

TW. de Jongh

Date:

19/7/2020

Full name:

THEUNIS WILHEM DE JONGH

FOR OFFICE USE ONLY

Date received:

20.07.2020

Received by:

TB ap.

PTN 49 OF THE FARM KLAASVOOGDS RIVIER 37
APPEAL MOTIVATION AND REASONS

16 July 2020

The following reasons are for appealing against the decision made- and the conditions of approval by the authorized employee or Tribunal. Also for the merits of land development and land use which I believe the authorized employee or Tribunal erred in coming to the conclusion

1. The Western Cape Government approved 50m³ of stone to be transported per day. The local authority approved 200m³. I find this highly irregular. It is akin to applying for developing 35 residential units per ha and you are awarded 140 units! Could this be explained ?
2. All the initial studies and motivations for approval by the applicant seemed to be based on 70m³ for transport per day; therefore no previous studies can be applicable with the 200m³ allowance.
3. There is an estimated R 200 to R250m investment in tourism related activities (improvements and pro-rata cost of land) There are an estimated 160 direct local job opportunities. (Tourism has grown at an annual 23% compounded per annum for the last 10 years. If growth continues at this pace it would soon be the mayor industry in Klaasvoogds in turnover and job creation. It is irrational to approve an industry, totally out of character and inappropriate for the primarily agricultural and tourism environment. Mining would undoubtable harm tourism on a permanent basis (many of our overseas visitors has indicated that they would avoid Klaasvoogds if there are mining activities taking place) Refer to letters in previous appeals. The tribunal is mute on this although raised initially.
4. There are about 25 to 30 businesses involved in tourism in Klaasvoogds mostly small businesses, some of which tourism is their main or sole income. It is irregular and irrational to allow one business that will harm these tourism businesses. Why is the right of one application overriding the rights of 25 or 30 other businesses ? The tribunal is mute on this although raised initially.
5. The only concession to pedestrians, cyclists, children, etc is that the transporting be limited from 08h00 to 14h00. Really nonsensical as tourists would like to cycle, jog or walk on lovely quiet and safe country roads between 08h00 and 14h00. There are always children, other pedestrians and cyclists on the road at all times, yet this is not taken into account.
6. Whether the allowance is 50m³/75 tonnes or 200m³/300 tonnes per day, 6 trips or 28 trips per day, additional heavy transport vehicles will be extremely hazardous, noisy and dangerous on the narrow roads. This was addressed no-where. In case of an accident caused by these trucks who will be held responsible ? The tribunal or individual that took the decision ? The tribunal is mute on this.
7. In the application the mass of 1m³ of 19mm brown stone is wrongly stated as 1.3tonnes. it is in fact 1.5 tonnes, 16% heavier. In the letter of the Western Cape Government roads department they allow 50m³ for transport and 12 trips per day. The 50m³ results in 6 or 7 trips not 12.
8. The R60 is becoming busier by the day as Cape Town traffic going east, more and more avoids the N2 (bottlenecks at Somerset East, Sir Lowries pass difficulty) Yet there is no recent traffic study of what happens at the intersection of Klaasvoogds East road and the R60. In normal traffic, before Covid 19, it was extremely difficult at times to get onto the R60 from the east or west roads. Slow trucks, with vehicles piling up on the back may become impatient and take dangerous chances. The tribunal is mute on this.
9. There are no details on the so called clearing of stone from the land and no studies on the impact of noise and dust created by this activity. Mining to take place on 26ha ? The tribunal is mute on this.
10. I have seen no authorization letters by owners regarding the measures to counter the dust created. The tribunal is mute on this.
11. The Western Cape Government requires a paved road (as there seem to be no approval for dust control) yet there are no specifications for this road. The tribunal is mute on this.
12. The approval comes with a whole host of conditions yet there are no staff, structures or departments to enforce their own conditions. The tribunal is mute on this.
13. Further to the above it was proven that the applicant has transgressed several regulations now and in the past, yet the tribunal is mute on this. Refer to initial objections.
14. WHY IS IT THAT THE TRIBUNAL IS MUTE ON ALL THE VALID OBJECTIONS INITIALLY SUBMITTED. COULD THEY PLEASE EXPLAIN WHY THESE OBEJECTIONS ARE NOT TAKEN INTO ACCOUNT AND /OR PROVIDE COUNTER ARGUMENTS ?

Kvregs appeal reasons

Annexure 11

Appeal 6:
Balk / The Lab (Objector)



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐ Y	☐ N	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐ Y	☐ N	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☒ Y	☐ N	If Yes, specify in Part E.
Date of decision	Date receiving notice of decision		
Who took the original decision?	☒ Authorised employee	☐ Tribunal	

PART B: APPELLANT'S DETAILS

First name(s)	Joseph Maria		
Surname	Balk		
Company or legal person's name (if applicable)	theLAB		
Postal address	Klaas voogds West		
	Robertson	Postal Code	7076
Email	robertson@thelab.africa		
Tel	0236261570	Fax	
		Cell	0799213266

Signature of Joseph Maria Balk
 Page 1 of 1
 356.

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)

Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	TPtns 11 & 23 and Rem of Klaas Voogds Rivier 40, Robertson; Rem/Klaas Voogds Rivier 35; and Ptn 2 of Goevertou 45, Robertson		
Physical Address	theLAB Robertson		
GPS Coordinates	see - www.theLAB.africa/robertson	Town/City	Robertson

PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT

Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Portion 49, Farm Klaas Voogds Rivier 37, Robertson		
Physical Address			
GPS Coordinates		Town/City	Robertson

PART E: APPEAL MOTIVATION AND REASONS*

See attached File "Appeal Reasons"

* Appeal motivation, information and reasons may be attached.

PART F: APPEAL FEE (APPLICANT) (for completion and use by official)

Appeal	R
TOTAL APPEAL FEES*	

* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

BANKING DETAILS

Name:	Langeberg Municipality
Bank:	ABSA
Branch no.:	33-45-1
Account no.:	105 123 000 8 (Cheque)
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]

J. B. B.
Page 2 of 2
357.

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

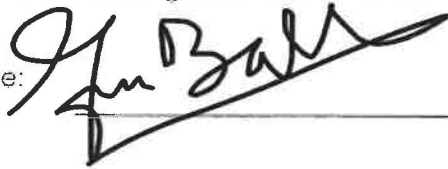
Y	N	Proof of payment of appeal fees (applicant)		Y	N	Proof of serving notice of appeal (applicant)
Y	N	Copy of decision and proof of notification		✓	N	Copy of conditions of approval
Y	N	Motivation and reasons for appeal		✓	N	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

19/07/2020

Full name:

Joseph Maria Balk

FOR OFFICE USE ONLY

Date received:

20.07.2020

Received by:

TB gp.

PTN 49 OF THE FARM KLAASVOOGDS RIVIER 37

APPEAL MOTIVATION AND REASONS

The following reasons are for appealing against the decision made- and the conditions of approval by the authorized employee or Tribunal. Also for the merits of land development and land use which I believe the authorized employee or Tribunal erred in coming to the conclusion

1. The Tribunal's ruling has ignored the Department of Transport's recommendations and unilaterally increased the volume of heavy-duty trucks allowed on Klaasvoogds East and West roads fourfold to THIRTY 20 tonne truck loads or ONE EVERY 11 MINUTES per day between 8h00 and 14h00 Mondays to Fridays (excluding public holidays)

This doesn't include the CP Concretes' 8 concrete trucks 4 out and 4 back per day), maintenance vehicles, diesel trucks, etc. With about 40 truck movements per day or one every 7 minutes we have no doubt that our road, not built to withstand the additional load placed on it, will be destroyed within a very short time.

In an extraordinary departure from the application the Tribunal has approved the transport of aggregate off-site of a maximum of 200m³ a day. This despite the fact that the Department of Transport approved the application on the basis that aggregate transported off-site was limited to 50m³ a day. As a result of this arbitrary four-fold increase in heavy duty trucks up and down our quiet peaceful roads there has been no proper assessment of the impact on the road, traffic, dust, noise and tourism.

2. Inappropriate industrial activity approved in primarily agricultural and tourism environment.

The tribunal has approved mining activities and a fourfold increase in heavy duty vehicles which will not only destroy our roads but is totally out of character and inappropriate for Klaasvoogds' primarily agricultural and tourism environment

There are about 25 to 30 businesses involved in tourism in Klaasvoogds mostly small businesses, some of which tourism is their main or sole income. It is irregular and irrational to allow one business that will harm these tourism businesses. Why is the right of one application overriding the rights of 25 or 30 other businesses? The tribunal is mute on this although raised initially.

3. The mining activities have been approved for the benefit of one party to the detriment of many parties and a growing, job-creating tourism sector in Klaasvoogds

Every farmer in the Klaasvoogds valley has been confronted with the problem of stone clearing and this hasn't prevented them from farming profitably, including the applicant. But as a result of this ruling many tourism-related businesses are at risk of losing their businesses and many jobs will be lost. The industrial activity being unleashed on our beautiful and quiet countryside and roads will have a huge adverse impact on tourism in Klaasvoogds. The noise from many, unsightly heavy-duty trucks up and down our quiet country roads, the sound of crushing rocks and dust will with no doubt drive tourists away and will certainly affect our livelihood and ability to create jobs. Tourists that we have canvassed have made it very clear that they come for peace and quiet and do not want to dodge out of the way of 20 tonne heavy, noisy industrial trucks while going for a quiet country walk on charming narrow country roads. No weight has been given to the tourism related business, which has shown a phenomenal growth of 23% per annum over the past 10 years in Klaasvoogds in the Tribunal's ruling. At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment.

4. The only concession to tourism is to limit the trucks transporting the aggregate to between 8h00 and 14h00 for "tourists who book in after 14h00". It has obviously not occurred to the Tribunal that the tourists who book in at 14h00 will still be there the next morning! Really nonsensical as tourists would like to cycle, jog or walk on lovely quiet and safe country roads between 08h00 and 14h00. There are always children, other pedestrians and cyclists on the road at all times, yet this is not taken into account.

Whether the allowance is 50m³/75 tonnes or 200m³/300 tonnes per day, 6 trips or 28 trips per day, additional heavy transport vehicles will be extremely hazardous, noisy and dangerous on the narrow roads. This was addressed no-where. In case of an accident caused by these trucks who will be held responsible. The tribunal or individual that took the decision? The tribunal is mute on this.

6. No noise assessment has been done on farms which run tourism related businesses to determine whether the noise level is at an acceptable level for guests/tourists.

8. There is an estimated R 200 to R250m investment in tourism related activities (improvements and pro-rata cost of land) There are an estimated 160 direct local job opportunities. (Tourism has grown at an annual 23% compounded per annum for the last 10 years. If growth continues at this pace it would soon be the mayor industry in Klaasvoogds in turnover and job creation. It is irrational to approve an industry, totally out of character and inappropriate for the primarily agricultural and tourism environment. Mining would undoubtable harm tourism on a permanent basis (many of our overseas visitors has indicated that they would avoid Klaasvoogds if there are mining activities taking place) Refer to letters in previous appeals. The tribunal is mute on this although raised initially.

9. The R60 is becoming busier by the day as Cape Town traffic going east, more and more avoids the N2 (bottlenecks at Somerset East, Sir Lowries pass difficulty) Yet there is no recent traffic study of what happens at the intersection of Klaasvoogds East road and the R60. In normal traffic, before Covid 19, it was extremely difficult at times to get onto the R60 from the east or west roads. Slow trucks, with vehicles piling up on the back may become impatient and take dangerous chances. The tribunal is mute on this.

Annexure 12

Appeal 7:
Schwegmann (Objector)

**APPEAL FORM**

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐ Y	☐ N	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐ Y	☐ N	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☒ Y	☐ N	If Yes, specify in Part E.
Date of decision	Date receiving notice of decision		
Who took the original decision?	☐ Authorised employee	☒ Tribunal	

PART B: APPELLANT'S DETAILS

First name(s)	HINETTE SCHWEGMANN		
Surname	Schwegmann		
Company or legal person's name (if applicable)	Sheilam Cactus Garden		
Postal address	P.O. Box 157		
	Robertson	Postal Code	6405
Email	sheilam@kande.co.za		
Tel	023 626 4133	Fax	
		Cell	072 450 1446

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Rietvallei		
Physical Address	Sheilam Cactus Garden, Klauwvogs West		
GPS Coordinates		Town/City	
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Portion 49, Farm Klauwvogs River 37 Robertson		
Physical Address			
GPS Coordinates		Town/City	Robertson
PART E: APPEAL MOTIVATION AND REASONS*			
See Attached document Appeal motivation and reasons			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
			Appeal R
TOTAL APPEAL FEES*			
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

☐	☐	Proof of payment of appeal fees (applicant)	☐	☐	Proof of serving notice of appeal (applicant)
☒	☐	Copy of decision and proof of notification	☐	☐	Copy of conditions of approval
☐	☐	Motivation and reasons for appeal	☒	☐	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:

Marie-Antoinette Schwegmann

Date:

18/7/2020

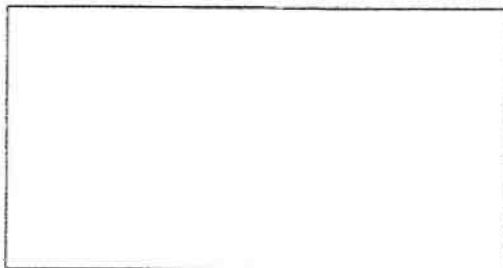
Full name:

MARIE-ANTOINETTE SCHWEGMANN

FOR OFFICE USE ONLY

Date received:

Received by:



Tracy Brunings

From: Jane Barnard <jane@klaasvoogdscottage.co.za>
Sent: Tuesday, 21 July 2020 10:44
To: Tracy Brunings
Subject: Ptn 49 of the farm klaasvoogds rivier no 37 - appeal against crushing rock in agricultural zone
Attachments: Sheilam Cactus Farm Appeal Form.pdf

I, Minette Schwegmann, Sheilam Cactus Garden am appealing the approval for the temporary departure for a crushing plant in the agricultural zone on the following grounds:

All relevant considerations have not been taken into account. Sheilam Cactus Garden depends on tourism to generate revenue. If tourists are driven away by noise, dust and huge 20 tonne trucks plying our roads our livelihood and tourism-related business will be jeopardized and we may be forced to retrench workers.

1. The Tribunal's ruling has **ignored the Department of Transport's recommendations and unilaterally increased the volume of heavy duty trucks allowed on Klaasvoogds East and West roads fourfold to THIRTY 20 tonne truck loads or ONE EVERY 11 MINUTES per day** between 8h00 and 14h00 Mondays to Fridays (excluding public holidays) **This doesn't include the CP Concretes' 8 concrete trucks 4 out and 4 back per day), maintenance vehicles, diesel trucks, etc . With about 40 truck movements per day or one every 7 minutes we have no doubt that our road, not built to withstand the additional load placed on it,**



will be destroyed within a very short time.

In an extraordinary departure from the application the Tribunal has approved the transport of aggregate off-site of a maximum of **200m³** a day. This despite the fact that the Department of Transport approved the application on the basis that aggregate transported off-site was limited to **50m³ a day**. As a result of this arbitrary four-fold increase in heavy duty trucks up and down our quiet peaceful roads there has been no proper assessment of the impact on the road, traffic, dust, noise and tourism.

2. **Inappropriate industrial activity approved in primarily agricultural and tourism environment**
The tribunal has approved mining activities and a fourfold increase in heavy duty vehicles which will not only destroy our roads but is totally out of character and inappropriate for Klaasvoogds' primarily agricultural and tourism environment.
3. **The mining activities have been approved for the benefit of one party to the detriment of many parties and a growing, job-creating tourism sector in Klaasvoogds**
Every farmer in the Klaasvoogds valley has been confronted with the problem of stone clearing and this hasn't prevented them from farming profitably, including the applicant.
But as a result of this ruling many tourism-related businesses are at risk of losing their businesses and many jobs will be lost. The industrial activity being unleashed on our beautiful and quiet countryside and roads will have a huge adverse impact on tourism in Klaasvoogds. The noise from many, unsightly heavy duty trucks up and down our quiet country roads, the sound of crushing rocks and dust will with no doubt drive tourists away and will certainly affect our livelihood and ability to create jobs. Tourists that we have canvassed

have made it very clear that they come for peace and quiet and do not want to dodge out of the way of 20 tonne heavy, noisy industrial trucks while going for a quiet country walk on charming narrow country roads

No weight has been given to the tourism related business, which has shown a phenomenal growth of 23% per annum over the past 10 years in Klaasvoogds in the Tribunal's ruling. At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment.

Klaasvoogds is a prime tourism area because of it's

Natural beauty

Peace and quiet – other than seasonal agricultural machine noise that is rare or intermittent

Quiet picturesque rural roads loved and enjoyed by tourists and locals for walking and cycling

Many tourism-related businesses in the valley

Taking into account the growing importance and size of the tourism industry, as illustrated in points a) to d) below, why allow an industry to operate in an area which will harm a sizeable number of entrepreneurs and workers and going into the future will create negative (in real terms) employment and economic growth for the area as a whole

In terms of the Tribunal ruling only one person and a few workers will enjoy the fruits of positive economic growth to the detriment of many others.

The growth of tourism in Klaasvoogds

a) At the onset there were 36 beds available and now 272 beds. A compounded growth per annum of 23%. Numbers from establishment and marketing sites. We have not taken into account the increased number of restaurants, wineries, etc. This will increase the overall impact. This may be unsurpassed in the Boland. Currently there are more than 272 beds available from 14 establishments

b) With a conservative estimate of 32% taken at Klaasvoogds Cottages's occupation rates. Most establishments have a higher occupation rate occupation this translates to 30 638 tourist nights p/a

c) At this growth rate this growth rate the number of beds will double in the next 3.5 years 23% compounded over 3.5 years =+560 beds

Other than accommodation there are 7 establishments serving food, 5 wine cellars that allow tasting, a cactus garden and nursery, 4 olive farms for tasting and selling all olive products, a lavender farm and smaller tourism related businesses

An estimated R 200m has been invested in tourism related improvements. (excluding the cost of land) 272 beds x R 400 000 = R 108 000 000 comprising financial outlays for construction, fixtures and fittings, aesthetic enhancement, prorata costs of kitchens, laundries, storage, reception, office space, external works, landscaping, pools, etc. Note that the estimated cost of a budget hotel is R 500 000 to R 750 000 per bed (AECOM 2018). 5 Wineries @ R 1 400 000 = R 7 000 000, 7 establishments providing food @ R 500 000 = R 3 500 000, 4 olive product shops @ R 500 000 = R 2 000 000. (The cost of land has been excluded but this would push to total investment towards R 250m)

At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment .Direct employment say: 3 workers per 10 beds =82 + 5 per winery = 25 + 5 per food outlet = 35 + 5 per olive business =20. Therefore, an estimated 162 direct jobs excluding related industries like travel, booking agents, suppliers, manufacturers, etc (if not already)

Tourism is labour intensive and encouraged by local, provincial and national authorities as a top creator of jobs and, currently 1 in 22 people or a total of 1.5m people are employed in the tourism value chain. Described by government as the new “ **Gold** ” See Biztrend 2019: **Tourism the golden ticket to Job creation**” Quoting Derek Hanekom tourism minister: “According to Stats SA, 1 in 23 people in South Africa is employed in the tourism sector..” and more ...” from a job creation standpoint, **tourism's employment contribution, including jobs indirectly supported by the sector, already exceeds 1.6 million...**”

* The area N of the R60 stretching from the Klaasvoogds West road to Kleinhoekkloof

4. **The only concession to tourism is to limit the trucks transporting the aggregate to between 8h00 and 14h00 for “tourists who book in after 14h00”.**

It has obviously not occurred to the Tribunal that the tourists who book in at 14h00 will still be there the next morning!

5. **No noise assessment has been done on farms which run tourism related businesses to determine whether the noise level is at an acceptable level for guests/tourists.**

No noise assessment has been done on neighbouring tourism-related farms and businesses on whether the unpleasant noise generated by the crushing of the stone and the continuous sound of heavy trucks (arbitrarily increased fourfold) will cause a permanent noise nuisance and drive away tourists.

6. **No attention has been paid to the fact that applicant has a tendency to ignore laws and regulations**

Given that enforcement is extremely difficult in South Africa due to lack of resources it will be left to the applicant to comply with all legislative and regulatory requirements. History shows that the applicant has a tendency to disregard laws and regulations. For example he set up an illegal concrete batching plant and it was only due to the concerted effort of the community in Klaasvoogds, an extremely good lawyer and lots of money that it was finally removed. The municipality was unable to do much initially because it was hamstrung by a lack of resources. Going into the future with a government that has no money this is only going to get worse. In addition in the previous matter, our lawyer Clarissa Molteno said that applicant’s rezoning application contained “confusing, contradictory and misleading information”, “misrepresentation and omission of information” and an “inappropriately narrow public participation process” during the Environmental Impact Assessment process. Given the applicant’s track record in terms of compliance a very ineffectual quarterly on-site monitoring meeting will have little effect.

Given the applicant’s track record in setting up an eyesore of an illegal concrete plant and not complying with regulations together with his initial application to mine to a depth of 5 metres we believe that once the approval has been obtained the applicant will mine his farm as he intended to do in his original application. Unfortunately there is a huge incentive to mine and sell stone because it is a very lucrative business, far more lucrative than farming which is of course why he has made a huge and nonsensical investment of R15 million in the so called “clearing of stone”. This will result in industrial-type noise, a ravaged countryside cum dust bowl with huge trucks going up and down our small country roads and ultimately the destruction of the tourism related businesses in Klaasvoogds. And the municipality, given their lack of resources, will not be able to monitor the activity or put a stop to the illegal mining.



As a case in point, above: The applicant is still washing out his concrete mixing trucks and unlawfully dumping the wastewater and the municipality has not been able to put a stop to these illegal activities.

7. **No attention has been paid to the flawed rationale for the clearing of stone from agricultural land or the financial unviability of the venture.**

Despite the application being for the “improvement” of agricultural land there is no doubt given the economic facts that this is an operation to mine brown stone which is currently very lucrative.

The application for the clearing of stone is neither practical nor does it make economic sense.

The applicant claims he will not sell the stone. Really? An astute businessman intends to mine, crush and transport stone for free? This beggars belief. There is no doubt, given the massive investment of R15million that CP concrete has already invested in this project, that it will ultimately sell the stone (whether the stone is given for free to the applicant's son and then he sells it or whether the applicant sells it himself). Fortunately for the applicant, he has a son in the business which allows for many loopholes and grey areas.

The applicant has invested R15 million in equipment for his agricultural/ stone clearing operation which makes no economic sense (in terms of the figures in the application) even if the stone is sold.

The 4.9ha mined 1.5m deep produces 73 500m³ earth and stone. 30% of the stone is returned and say 30% is ground and topsoil. The 40% remainder is 29 400m³ sold at say R 650/m³ gross = R 19 110 000. From this amount all production costs, transport, devaluation of plant and equipment needs to be deducted, say 50%, with a remainder then of R9 or 10m. **(The percentages used are estimates)**

Adding to the expenses would be a 20% gift tax to be paid by the applicant. As the stone is mined and processed, transported and then "given away" it will be classified as an enterprise not producing income. As such, none (or few) of the expenses named will be tax deductible.

On the other hand, CP concrete has very low input costs, receiving the stone for free, it will therefore show a very high profit that is off course fully taxable.

What makes economic sense (to the applicant) is to mine and sell a volume of stone many, many times more than that which is available from the 4.9ha and lying around on ptns 47 and 49. This means that more stone would have to be mined and processed and other areas would have to be disturbed to make up the shortfall ? (other than the stone that will be gathered over ptns 47 and 49)

The debatable increased agricultural production (if any) on 4.9ha is unlikely to make up the shortfall either.

In addition how will the stone be removed from ptns 47 and 49. With front end loaders and trucks? Disturbing soil and producing additional dust and noise. The extent of this operation is completely ignored in the Tribunal ruling..

If the applicants' real intention is to acquire farm land suitable to his needs it would be much more logical and economical to sell off the plant and buy land that is just right for the applicants' requirements. And the plus point is that he will get more than 4.9 ha for the money realized plus additional water (with water becoming a more sought after agricultural commodity than ever)plus an additional asset that may show some capital growth. It is also immediate. He could produce 3 harvests by the time he finished "clearing" the land. The fact that he has not done this is very, very puzzling and one cannot but think that this application has nothing to do with the clearing of land.

Why this operation may escalate well beyond its stated purpose

1. It is the only way it makes economic sense
2. The applicant has a track record of not abiding by rules and regulations
3. Local authority do not have the capacity or funds to monitor the myriad of regulations, volumes, related by laws, etc,
4. Allowing this application sets a precedent for further and extended industrial activity

Minette Schwegmann
Sheilam Cactus Garden
Cell: 072 450 1446

Annexure 13

Appeal 8:
Busch (Objector)

ANNEXURE B.

APPEAL 8:

BUSCH



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒	☐	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐	☐	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒	☐	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐	☐	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☒	☐	If Yes, specify in Part E.
Date of decision			Date receiving notice of decision
Who took the original decision?	☐	Authorised employee	☐
			Tribunal

PART B: APPELLANT'S DETAILS

First name(s)	Stephan		
Surname	Busch		
Company or legal person's name (if applicable)	Pvt Busch Mountain Reserve, Blue Sky Trust		
Postal address	P O Box 805		
	Robertson	Postal Code	6705
Email	stephan@pvtbusch.co.za		
Tel		Fax	
		Cell	076 687 8504

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Portion 14 of the farm KwaNobuyis River no. 46		
Physical Address	Bengent Farm, Bengent Farm, KwaNobuyis West		
GPS Coordinates		Town/City	Robertson
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.			
Physical Address			
GPS Coordinates		Town/City	
PART E: APPEAL MOTIVATION AND REASONS*			
Refer to attachment			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
		Appeal	R
		TOTAL APPEAL FEES*	R642.00
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 (e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)")		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

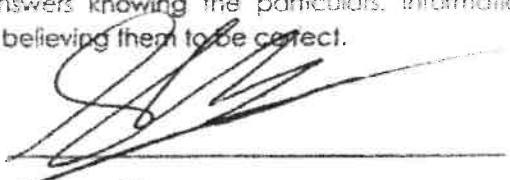
☐	☐	Proof of payment of appeal fees (applicant)	☐	☐	Proof of serving notice of appeal (applicant)
☐	☐	Copy of decision and proof of notification	☐	☐	Copy of conditions of approval
☐	☐	Motivation and reasons for appeal	☒	☐	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

20/07/2020

Full name:

Stephan Busch

FOR OFFICE USE ONLY

Date received:

20.07.2020

Received by:

TB qp

Tracy Brunings

From: Jane Barnard <jane@klaasvoogdscottage.co.za>
Sent: Tuesday, 21 July 2020 11:20
To: Tracy Brunings
Subject: Ptn 49 of the farm klaasvoogds rivier no 37 - appeal documents against crushing rock in agricultural zone
Attachments: Pat Busch Mountain Reserve Appeal Form.pdf

To whom it may concern :

20th July 2020

We are appealing the approval for the temporary departure for a crushing plant in the agricultural zone on the following grounds.

Pat Busch Mountain Reserve is an established and registered nature reserve (1989) and have been offering self-catering accommodation & weddings to guests for well over 30 years. Currently we employ 15 full time staff, but this grows to around 20 staff in summer, and over weekends we host numerous weddings (25-30 weddings per season) of around 80-150 guests each, not to mention all the service providers that are required to run such a celebration from caterers, DJs, waitrons, bar staff, photographers, tent suppliers, furniture & decor suppliers, etc. All the funds they spend while in our valley are crucial to the growth of our local economy since it is all ploughed back & invested locally. This will all be negatively affected if heavy Industry is allowed a foothold in our natural & agricultural countryside environment.

All relevant considerations have not been taken into account. The ruling is neither impartial nor fair. In fact there is a complete absence of objectivity. The decision maker has bent over backwards to accommodate the bid by one party (namely a wealthy businessman cum farmer) to create a noisy, dusty industrial zone in a prime tourist spot which will harm a MULTITUDE of tourism-related businesses and have a chilling effect on job creation in the Klaasvoogds Valley. The decision to not only approve the application but to increase the volume of heavy duty trucks applied for by the applicant and to totally ignore the Department of Transport's recommendations defies belief and one has to ask the question, WHY?

- 1. The Tribunal's ruling has ignored the Department of Transport's recommendations and unilaterally increased the volume of heavy duty trucks allowed on Klaasvoogds East and West roads fourfold to THIRTY 20 tonne truck loads or ONE EVERY 11 MINUTES per day between 8h00 and 14h00 Mondays to Fridays (excluding public holidays). This doesn't include the CP Concretes' 8 concrete trucks (4 out and 4 back per day), maintenance vehicles, diesel trucks, etc . With about 40 truck movements per day or one every 7 minutes we have no doubt that our road, not built to withstand the additional load placed on it, will be destroyed within a very short time. A road which all the local agricultural farmers & tourism establishments have personally contributed to.**



In an extraordinary departure from the application the Tribunal has approved the transport of aggregate off-site of a maximum of **200m³** a day. This despite the fact that the Department of Transport approved the application on the basis that aggregate transported off-site was limited to **50m³ a day**. As a result of this arbitrary four-fold increase in heavy duty trucks up and down our usually quiet & peaceful roads are suffering, in addition there has been no proper assessment of the impact on the road surface, traffic, dust,

noise, tourism or threat & danger assessment since many school buses, cyclists, tourists, local workers, horse-riders and learners use this road daily – they are all in danger with the increased traffic by heavy industrial vehicles.

2. Inappropriate industrial activity approved in primarily agricultural and tourism environment

The tribunal has approved mining activities and a fourfold increase in heavy duty vehicles which will not only destroy our roads but is totally out of character and inappropriate for Klaasvoogds' primarily agricultural and tourism environment. Furthermore, there are properties in the Klaasvoogds Valley that are owned by other big cement companies (notably PPC), and should this crusher plant be approved it would set a precedent making it easier for these other bigger companies to enter our area and drastically further degrade the natural environment and tourism potential of our valley.

3. The mining activities have been approved for the benefit of one party to the detriment of many parties and a growing, job-creating tourism sector in Klaasvoogds

Every farmer in the Klaasvoogds valley has been confronted with the problem of stone clearing and this hasn't prevented them from farming profitably, including the applicant.

But as a result of this ruling many tourism-related businesses are at risk of losing their businesses and many jobs will be lost. The industrial activity being unleashed on our beautiful and peaceful countryside and roads will have a huge adverse impact on tourism in Klaasvoogds. The noise from many, unsightly heavy duty trucks up and down our quiet country roads, the sound of crushing rocks and dust will with no doubt drive tourists away and will certainly affect our livelihood and ability to create jobs. Tourists that we have canvassed have made it very clear that they come for peace and quiet and do not want to dodge out of the way of 20 tonne heavy, noisy industrial trucks while going for a quiet country walk on charming narrow country roads, let alone hear the trucks air-brakes.

No weight has been given to the tourism related business, which has shown a phenomenal growth of 23% per annum over the past 10 years in Klaasvoogds in the Tribunal's ruling. At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment.

Klaasvoogds is a prime tourism area because of it's ...

Natural beauty

Peace and quiet – other than seasonal agricultural machine noise that is rare or intermittent.

Quiet picturesque rural roads loved and enjoyed by tourists and locals for walking and cycling, as well as horse-riders and daily learners & workers who walk these roads.

Many tourism-related businesses in the valley

Taking into account the growing importance and size of the tourism industry, as illustrated in points a) to c) below, why allow an industry to operate in an area which will harm a sizeable number of entrepreneurs and workers and going into the future will create negative (in real terms) employment and economic growth for the area as a whole

In terms of the Tribunal ruling only one person and a few workers will enjoy the fruits of positive economic growth to the detriment of many others.

The growth of tourism in Klaasvoogds

a) At the onset there were 36 beds available and now 272 beds. A compounded growth per annum of 23%. Numbers from establishment and marketing sites. We have not taken into account the increased number of restaurants, wineries, etc. This will increase the overall impact. This may be unsurpassed in the Boland. Currently there are more than 272 beds available from 14 establishments

b) With a conservative estimate of 32% taken at Klaasvoogds Cottages's occupation rates. Most establishments have a higher occupation rate occupation this translates to 30 638 tourist nights p/a

- c) At this growth rate the number of beds will double in the next 3.5 years 23% compounded over 3.5 years =+560 beds
- Other than accommodation there are 7 establishments serving food, 5 wine cellars that allow tasting, a cactus garden and nursery, 4 olive farms for tasting and selling all olive products, a lavender farm and smaller tourism related businesses
- An estimated R 200m has been invested in tourism related improvements. (excluding the cost of land) 272 beds x R 400 000 = R 108 000 000 comprising financial outlays for construction, fixtures and fittings, aesthetic enhancement, pro-rata costs of kitchens, laundries, storage, reception, office space, external works, landscaping, pools, etc. Note that the estimated cost of a budget hotel is R 500 000 to R 750 000 per bed (AECOM 2018). 5 Wineries @ R 1 400 000 = R 7 000 000, 7 establishments providing food @ R 500 000 = R 3 500 000, 4 olive product shops @ R 500 000 = R 2 000 000. (The cost of land has been excluded but this would push to total investment towards R 250m)
- At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment .Direct employment say: 3 workers per 10 beds =82 + 5 per winery = 25 + 5 per food outlet = 35 + 5 per olive business =20. Therefore, an estimated 162 direct jobs excluding related industries like travel, booking agents, suppliers, manufacturers, etc. (if not already)
- Tourism is labour intensive and encouraged by local, provincial and national authorities as a top creator of jobs and, currently 1 in 22 people or a total of 1.5m people are employed in the tourism value chain. Described by government as the new “ Gold ” See Biztrend 2019: Tourism the golden ticket to Job creation” Quoting Derek Hanekom tourism minister: “According to Stats SA, 1 in 23 people in South Africa is employed in the tourism sector..” and more ...” from a job creation standpoint, tourism’s employment contribution, including jobs indirectly supported by the sector, already exceeds 1.6 million...”

* The area N of the R60 stretching from the Klaasvoogds West road to Kleinhoekkloof

4. **The only concession to tourism is to limit the trucks transporting the aggregate to between 8h00 and 14h00 for “tourists who book in after 14h00”.**
It has obviously not occurred to the Tribunal that the tourists who book in at 14h00 will still be there the next morning!
5. **No noise assessment has been done on farms which run tourism related businesses to determine whether the noise level is at an acceptable level for guests/tourists.**
No noise assessment has been done on neighbouring tourism-related farms and businesses on whether the unpleasant noise generated by the crushing of the stone and the continuous sound of heavy trucks (arbitrarily increased fourfold) will cause a permanent noise nuisance and drive away tourists.
6. **No attention has been paid to the fact that applicant has a tendency to ignore laws and regulations**
Given that enforcement is extremely difficult in South Africa due to lack of resources it will be left to the applicant to comply with all legislative and regulatory requirements. History shows that the applicant has a tendency to disregard laws and regulations. For example he set up an illegal concrete batching plant and it was only due to the concerted effort of the community in Klaasvoogds, an extremely good lawyer and lots of money that it was finally removed. The municipality was unable to do much initially because it was hamstrung by a lack of resources. Going into the future with a government that has no money this is only going to get worse. In addition in the previous matter, our lawyer Clarissa Molteno said that applicant’s re-zoning application contained “confusing, contradictory and misleading information”, “misrepresentation and omission of information” and an “inappropriately narrow public participation process” during the Environmental Impact Assessment process.

Given the applicant’s track record in setting up an eyesore of an illegal concrete plant and not complying with regulations together with his initial application to mine to a depth of 5 metres we believe that once the approval has been obtained the applicant will mine his farm as he intended to do in his original application. Unfortunately there is a huge incentive to mine and sell stone because it is a very lucrative business, far more lucrative than farming which is of course why he has made a huge and nonsensical investment of R15 million in the so called “clearing of stone”. This will result in industrial-type noise, a ravaged countryside cum dust bowl with huge trucks going up and down our small country roads and

ultimately the destruction of the tourism related businesses in Klaasvoogds. And the municipality, given their lack of resources, will not be able to monitor the activity or put a stop to the illegal mining.



As a case in point, above: The applicant is still washing out his concrete mixing trucks and unlawfully dumping the wastewater and the municipality has not been able to put a stop to these illegal activities.

7. No attention has been paid to the flawed rationale for the clearing of stone from agricultural land or the financial unviability of the venture.

Despite the application being for the "improvement" of agricultural land there is no doubt given the economic facts that this is an operation to mine brown stone which is currently very lucrative.

The application for the clearing of stone is neither practical nor does it make economic sense.

Why this operation may escalate well beyond its stated purpose

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2. The applicant has a track record of not abiding by rules and regulations
3. Local authority do not have the capacity or funds to monitor the myriad of regulations, volumes, related by laws, etc,
4. Allowing this application sets a precedent for further and extended industrial activity

Stephan Busch
Pat Busch Mountain Reserve (www.patbusch.co.za)
Tel: 023 626 2033

Annexure 14

Appeal 9:
Barnard, J (Objector)



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒	☐	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐	☐	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒	☐	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐	☐	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☒	☐	If Yes, specify in Part E.
Date of decision	Date receiving notice of decision		
Who took the original decision?	☐ Authorised employee	☒	☐ Tribunal

PART B: APPELLANT'S DETAILS

First name(s)	JANE		
Surname	BARNARD		
Company or legal person's name (if applicable)	Mth Khasveeng's Cottages		
Postal address	PO Box 7		
	Khasveeng's Kirt,	Postal Code	6767
Email	jane.khasveeng@gmail.com		
Tel	081 426 6375	Fax	081 426 6375

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Plot 211, Khawwage's Co's		
Physical Address	Khawwage's Co's Hage, Khawwage's, West 211		
GPS Coordinates	See attached document	Town/City	Robertson
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	Portion 49, Farm Khawwage's River 51, Robertson		
Physical Address			
GPS Coordinates		Town/City	Robertson
PART E: APPEAL MOTIVATION AND REASONS*			
See attached document Appeal motivation and reasons			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
			Appeal
TOTAL APPEAL FEES*			
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

☐	☐	Proof of payment of appeal fees (applicant)	☐	☐	Proof of serving notice of appeal (applicant)
☒	☐	Copy of decision and proof of notification	☒	☐	Copy of conditions of approval
☒	☐	Motivation and reasons for appeal	☒	☐	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:

J. Bourd

Date:

20 July 2020

Full name:

Jane Bourd

FOR OFFICE USE ONLY

Date received:

20 . 07 . 2020

Received by:

T. L. B. go

Tracy Brunings

From: Jane Barnard <jane@klaasvoogdscottage.co.za>
Sent: Tuesday, 21 July 2020 11:24
To: Tracy Brunings
Subject: Ptn 49 of the farm klaasvoogds rivier no 37 - appeal documents against crushing rock in agricultural zone
Attachments: Klaasvoogds Cottage Appeal Form.pdf

I, Jane Barnard, Klaasvoogds Cottages am appealing the approval for the temporary departure for a crushing plant in the agricultural zone on the following grounds.

All relevant considerations have not been taken into account.

We rely on tourism to run our two self catering cottages. Our guests have made it very clear that they will not be returning to beautiful Klaasvoogds if they have to listen to and dodge, on their country walks, noisy 20 tonne trucks barreling down our charming country roads every few minutes. They will also not tolerate the intrusive and ugly industrial noise of a stone crushing plant which our neighbour Marbrin Farm describes as "Chinese torture". Nor the sight of mined and ravaged countryside. This will harm our livelihood and tourism-related business and will almost certainly result in the retrenchment of our workers.

The Tribunal ruling is neither impartial nor fair. In fact there is a complete absence of objectivity. The decision maker has bent over backwards to accommodate the bid by one party (namely a wealthy businessman cum farmer) to create a noisy, dusty industrial zone in a prime tourist spot which will harm a MULTITUDE of tourism-related businesses and have a chilling effect on job creation in the Klaasvoogds Valley. The decision to not only approve the application but to increase the volume of heavy duty trucks applied for by the applicant and to totally ignore the Department of Transport's recommendations defies belief and one has to ask the question, WHY?

1. **The Tribunal's ruling has ignored the Department of Transport's recommendations and unilaterally increased the volume of heavy duty trucks allowed on Klaasvoogds East and West roads fourfold to THIRTY 20 tonne truck loads or ONE EVERY 11 MINUTES per day between 8h00 and 14h00 Mondays to Fridays (excluding public holidays) This doesn't include the CP Concretes' 8 concrete trucks 4 out and 4 back per day), maintenance vehicles, diesel trucks, etc . With about 40 truck movements per day or one every 7 minutes we have no doubt that our road, not built to withstand the additional load placed on it,**



will be destroyed within a very short time.

In an extraordinary departure from the application the Tribunal has approved the transport of aggregate off-site of a maximum of **200m³** a day. This despite the fact that the Department of Transport approved the application on the basis that aggregate transported off-site was limited to **50m³ a day**. As a result of this arbitrary four-fold increase in heavy duty trucks up and down our quiet peaceful roads there has been no proper assessment of the impact on the road, traffic, dust, noise and tourism.

2. **Inappropriate industrial activity approved in primarily agricultural and tourism environment**

The tribunal has approved mining activities and a fourfold increase in heavy duty vehicles which will not only destroy our roads but is totally out of character and inappropriate for Klaasvoogds' primarily agricultural and tourism environment.

3. The mining activities have been approved for the benefit of one party to the detriment of many parties and a growing, job-creating tourism sector in Klaasvoogds

Every farmer in the Klaasvoogds valley has been confronted with the problem of stone clearing and this hasn't prevented them from farming profitably, including the applicant.

But as a result of this ruling many tourism-related businesses are at risk of losing their businesses and many jobs will be lost. The industrial activity being unleashed on our beautiful and quiet countryside and roads will have a huge adverse impact on tourism in Klaasvoogds. The noise from many, unsightly heavy duty trucks up and down our quiet country roads, the sound of crushing rocks and dust will with no doubt drive tourists away and will certainly affect our livelihood and ability to create jobs. Tourists that we have canvassed have made it very clear that they come for peace and quiet and do not want to dodge out of the way of 20 tonne heavy, noisy industrial trucks while going for a quiet country walk on charming narrow country roads

No weight has been given to the tourism related business, which has shown a phenomenal growth of 23% per annum over the past 10 years in Klaasvoogds in the Tribunal's ruling. At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment.

Klaasvoogds is a prime tourism area because of its

Natural beauty

Peace and quiet – other than seasonal agricultural machine noise that is rare or intermittent
Quiet picturesque rural roads loved and enjoyed by tourists and locals for walking and cycling
Many tourism-related businesses in the valley

Taking into account the growing importance and size of the tourism industry, as illustrated in points a) to c) below, why allow an industry to operate in an area which will harm a sizeable number of entrepreneurs and workers and going into the future will create negative (in real terms) employment and economic growth for the area as a whole

In terms of the Tribunal ruling only one person and a few workers will enjoy the fruits of positive economic growth to the detriment of many others.

The growth of tourism in Klaasvoogds

- a) At the onset there were 36 beds available and now 272 beds. A compounded growth per annum of 23%. Numbers from establishment and marketing sites. We have not taken into account the increased number of restaurants, wineries, etc. This will increase the overall impact. This may be unsurpassed in the Boland. Currently there are more than 272 beds available from 14 establishments
- b) With a conservative estimate of 32% taken at Klaasvoogds Cottages's occupation rates. Most establishments have a higher occupation rate occupation this translates to 30 638 tourist nights p/a
- c) At this growth rate this growth rate the number of beds will double in the next 3.5 years 23% compounded over 3.5 years =+560 beds
Other than accommodation there are 7 establishments serving food, 5 wine cellars that allow tasting, a cactus garden and nursery, 4 olive farms for tasting and selling all olive products, a lavender farm and smaller tourism related businesses
An estimated R 200m has been invested in tourism related improvements. (excluding the cost of land)
 $272 \text{ beds} \times R 400\,000 = R 108\,000\,000$ comprising financial outlays for construction, fixtures and fittings, aesthetic enhancement, prorata costs of kitchens, laundries, storage, reception, office space, external works, landscaping, pools, etc. Note that the estimated cost of a budget hotel is R 500 000 to R 750 000 per bed (AECOM 2018). 5 Wineries @ R 1 400 000 = R 7 000 000, 7 establishments providing food @ R

500 000 = R 3 500 000, 4 olive product shops @ R 500 000 = R 2 000 000. (The cost of land has been excluded but this would push to total investment towards R 250m)

At the current growth rate tourism may very well soon surpass agriculture as the main industry in terms of turnover and employment .Direct employment say: 3 workers per 10 beds =82 + 5 per winery = 25 + 5 per food outlet = 35 + 5 per olive business =20. Therefore, an estimated 162 direct jobs excluding related industries like travel, booking agents, suppliers, manufacturers, etc (if not already)

Tourism is labour intensive and encouraged by local, provincial and national authorities as a top creator of jobs and, currently 1 in 22 people or a total of 1.5m people are employed in the tourism value chain. Described by government as the new “ **Gold** ” See Biztrend 2019: **Tourism the golden ticket to Job creation**” Quoting Derek Hanekom tourism minister: “According to Stats SA, 1 in 23 people in South Africa is employed in the tourism sector..” and more ...” from a job creation standpoint, tourism’s employment contribution, including jobs indirectly supported by the sector, already exceeds 1.6 million...”

* The area N of the R60 stretching from the Klaasvoogds West road to Kleinhoekkloof

4. **The only concession to tourism is to limit the trucks transporting the aggregate to between 8h00 and 14h00 for “tourists who book in after 14h00”.**

It has obviously not occurred to the Tribunal that the tourists who book in at 14h00 will still be there the next morning!

5. **No noise assessment has been done on farms which run tourism related businesses to determine whether the noise level is at an acceptable level for guests/tourists.**

No noise assessment has been done on neighbouring tourism-related farms and businesses on whether the unpleasant noise generated by the crushing of the stone and the continuous sound of heavy trucks (arbitrarily increased fourfold) will cause a permanent noise nuisance and drive away tourists.

6. **No attention has been paid to the fact that applicant has a tendency to ignore laws and regulations**

Given that enforcement is extremely difficult in South Africa due to lack of resources it will be left to the applicant to comply with all legislative and regulatory requirements. History shows that the applicant has a tendency to disregard laws and regulations. For example he set up an illegal concrete batching plant and it was only due to the concerted effort of the community in Klaasvoogds, an extremely good lawyer and lots of money that it was finally removed. The municipality was unable to do much initially because it was hamstrung by a lack of resources . Going into the future with a government that has no money this is only going to get worse. In addition in the previous matter, our lawyer Clarissa Molteno said that applicant’s re-zoning application contained “confusing, contradictory and misleading information”, “misrepresentation and omission of information” and an “inappropriately narrow public participation process” during the Environmental Impact Assessment process. Given the applicant’s track record in terms of compliance a very ineffectual quarterly on-site monitoring meeting will have little effect.

Given the applicant’s track record in setting up an eyesore of an illegal concrete plant and not complying with regulations together with his initial application to mine to a depth of 5 metres we believe that once the approval has been obtained the applicant will mine his farm as he intended to do in his original application. Unfortunately there is a huge incentive to mine and sell stone because it is a very lucrative business, far more lucrative than farming which is of course why he has made a huge and nonsensical investment of R15 million in the so called “clearing of stone”. This will result in industrial-type noise, a ravaged countryside cum dust bowl with huge trucks going up and down our small country roads and ultimately the destruction of the tourism related businesses in Klaasvoogds. And the municipality, given their lack of resources, will not be able to monitor the activity or put a stop to the illegal mining.



As a case in point, above: The applicant is still washing out his concrete mixing trucks and unlawfully dumping the wastewater and the municipality has not been able to put a stop to these illegal activities.

7. No attention has been paid to the flawed rationale for the clearing of stone from agricultural land or the financial unviability of the venture.

Despite the application being for the "improvement" of agricultural land there is no doubt given the economic facts that this is an operation to mine brown stone which is currently very lucrative.

The application for the clearing of stone is neither practical nor does it make economic sense.

The applicant claims he will not sell the stone. Really? An astute businessman intends to mine, crush and transport stone for free? This beggars belief. There is no doubt, given the massive investment of R15million that CP concrete has already invested in this project, that it will ultimately sell the stone (whether the stone is given for free to the applicant's son and then he sells it or whether the applicant sells it himself). Fortunately for the applicant, he has a son in the business which allows for many loopholes and grey areas.

The applicant has invested R15 million in equipment for his agricultural/ stone clearing operation which makes no economic sense (in terms of the figures in the application) even if the stone is sold.

The 4.9ha mined 1.5m deep produces 73 500m³ earth and stone. 30% of the stone is returned and say 30% is ground and topsoil. The 40% remainder is 29 400m³ sold at say R 650/m³ gross = R 19 110 000. From this amount all production costs, transport, devaluation of plant and equipment needs to be deducted, say 50%, with a remainder then of R9 or 10m. **(The percentages used are estimates)**

Adding to the expenses would be a 20% gift tax to be paid by the applicant. As the stone is mined and processed, transported and then "given away" it will be classified as an enterprise not producing income. As such, none (or few) of the expenses named will be tax deductible.

On the other hand, CP concrete has very low input costs, receiving the stone for free, it will therefore show a very high profit that is of course fully taxable.

What makes economic sense (to the applicant) is to mine and sell a volume of stone many, many times more than that which is available from the 4.9ha and lying around on ptns 47 and 49. This means that more stone would have to be mined and processed and other areas would have to be disturbed to make up the shortfall? (other than the stone that will be gathered over ptns 47 and 49)

The debatable increased agricultural production (if any) on 4.9ha is unlikely to make up the shortfall either.

In addition how will the stone be removed from ptns 47 and 49. With front end loaders and trucks? Disturbing soil and producing additional dust and noise. The extent of this operation is completely ignored in the Tribunal ruling..

If the applicants' real intention is to acquire farm land suitable to his needs it would be much more logical and economical to sell off the plant and buy land that is just right for the applicants' requirements. And the

plus point is that he will get more than 4.9 ha for the money realized plus additional water (with water becoming a more sought after agricultural commodity than ever) plus an additional asset that may show some capital growth. It is also immediate. He could produce 3 harvests by the time he finished "clearing" the land. The fact that he has not done this is very, very puzzling and one cannot but think that this application has nothing to do with the clearing of land.

Why this operation may escalate well beyond its stated purpose

1. It is the only way it makes economic sense
2. The applicant has a track record of not abiding by rules and regulations
3. Local authority do not have the capacity or funds to monitor the myriad of regulations, volumes, related by laws, etc,
4. Allowing this application sets a precedent for further and extended industrial activity

Jane Barnard
Klaasvoogds Cottages
Geduld Farm 251, Klaasvoogds East
Cell 082 920 0875

From: Jane Barnard [mailto:jane@klaasvoogdscottage.co.za]

Sent: Monday, 20 July 2020 5:59 PM

To: 'tbrunings@langeberg.gov.za'

Subject: Ptn 49 of the farm klaasvoogds rivier no 37 - appeal documents against crushing rock in agricultural zone

Hi Tracy

Attached please find my appeal form as well as "appeal motivation and reasons" per PART E

Regards
Jane Barnard
Klaasvoogds Cottages
Cell: 082 920 0875

Annexure 15

Appeal 10:
Natural Resources Law(Objector)

LANGEBERG
ATTORNEYS-AT-LAW
APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☐		If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☒	☐	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☐	☐	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐	☐	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☐	☐	If Yes, specify in Part E.
Date of decision	17 06 2020		Date receiving notice of decision
Who took the original decision?		Authorised employee	☒ Tribunal

PART B: APPELLANT'S DETAILS

First name(s)	REPRESENTED BY			ADV. CLARISSA MOLTENO		
Surname				PAPESCH, STOLBERG, COETSEE,		
Company or legal person's name (if applicable)	MARBREIN			HEYMAANS		
	FRAAI UITZICH 1793					
Postal address	KLAAS VOOGDS EAST			Postal Code	6705	
	ROBERTSON					
Email	CLARISSA@NATURALRESOURCELAW.CO.ZA					
Tel	/	Fax	/	Cell	082 413 9811	

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	VARIOUS ERVEN KNOW TO LANGEBERG MUNICIPALITY BECAUSE OF SUBMITTED OBJECTIONS		
Physical Address	KLAAS VOOGDS EAST ROAD		
GPS Coordinates		Town/City	ROBERTSON
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PORTION 3 OF KLAAS VOOGDS RIVIER 37 PLUS 47 + 49		
Physical Address	KLAAS VOOGDS EAST ROAD - BUITENVERWACHT		
GPS Coordinates		Town/City	ROBERTSON FARM
PART E: APPEAL MOTIVATION AND REASONS*			
SEE ATTACHMENT			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
			Appeal R
TOTAL APPEAL FEES*			R642.00
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

☒	☒	Proof of payment of appeal fees (applicant)	☐	☒	Proof of serving notice of appeal (applicant)
☐	☒	Copy of decision and proof of notification	☐	☒	Copy of conditions of approval
☒	☐	Motivation and reasons for appeal	☐	☒	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

18 July 2020

Full name:

CLARISSA ANICLA CONSTANCE MOLTENI

FOR OFFICE USE ONLY

Date received:

19. 07. 2020

Received by:





Natural Resource Law

9 Main Street
Newlands
7700

☎ 082 418 9811

✉ clarissa@naturalresourcelaw.co.za

🌐 www.naturalresourcelaw.co.za

Langeberg Municipality
Appeal Authority: Executive Mayor
C/o: Municipal Manager
Mr. Soyisile Andreas Mokweni
Per email: mm@langeberg.gov.za

And to:
Kobus Brand: Manager: Town Planning
Per email: kbrand@langeberg.gov.za

Date: 18 July 2020

Our Reference: 2017/KVoogds/mining

And to: Tracy Brunings
Per email: tbrunings@langeberg.gov.za

Dear Sir

RE: APPEAL AGAINST GRANTING OF A TEMPORARY DEPARTURE FOR A 4,9HA PORTION OF PORTION 49 OF THE FARM KLAASVOOGDS RIVIER 37 IN THE ROBERTSON DISTRICT ("DEPARTURE APPLICATION") IN TERMS OF THE LANGEBERG LAND USE PLANNING BY-LAW, 2015 ("BY-LAW")

The above matter refers.

We act on behalf of Fraai Uitzicht 1798 (Pty) Ltd, Sandra and Karl Papesch, Alexandra J. and Nikolaus F. Stolberg-Wernigerode, Pieter and Christine Coetsee, Briony Coetsee and Clive Heymans, (**our Clients**), all of whom are "*persons whose rights or legitimate expectations would be affected*" should this appeal not be upheld.

Please find herewith our Clients' appeal against the granting of approval for the Departure Application, as set out below.

Yours faithfully,

Advocate Clarissa Molteno

NATURAL RESOURCE LAW

APPEAL AGAINST THE GRANTING OF A TEMPORARY DEPARTURE FOR A 4,9HA PORTION OF PORTION 49 OF THE FARM KLAASVOOGDS RIVIER 37 IN THE ROBERTSON IN TERMS OF THE LANGEBERG LAND USE PLANNING BY-LAW, 2015 ("BY-LAW")

1. Introduction

1.1. The Altus Malherbe Familie Trust (**Applicant/Landowner**) intend mining rocks and stones from Portions 47 and 49 of the Farm Klaasvoogds Rivier 37, Robertson, (**Property**) in order to manufacture concrete. The concrete will be manufactured by CP Concrete, whose sole director Laughan Malherbe is the son of Altus Malherbe, (trustee of the Applicant) and thus inextricably linked to the Applicant. CP Concrete applied for and obtained a mining permit (**Mining Permit**) for a 4.9 hectare portion of Portion 49 (**4.9 Hectare Area**) to process the rocks and stones, as discussed further below. The Applicant and/or CP Concrete and related parties intend to significantly expand the operations of CP Concrete's industrial concrete manufacturing activities on agricultural land for commercial gain. Approximately R15 million has been invested to date in equipment and infrastructure. The Applicant however, contends that the mining and processing of the rocks/stones constitutes "normal agricultural activities in an attempt to bypass the mining legislation, despite the fact that a minimum of 70% of the crushed aggregate is used by CP Concrete, becomes a commodity and has an economic value.

1.2. On 27 November 2018, the Langeberg Municipal Planning Tribunal (**LMPT**) refused the application submitted by T-Plan on behalf of the Applicant under the By-law for the rezoning of the Property from "Agricultural I" to "Industrial III" and the 4.9 Hectare Area from Agricultural I" to "Industrial I" (**Rezoning Application**).

1.3. The Rezoning Application was correctly refused by the LMPT on 27 November 2018 (**Refusal Decision**) for the following reasons:

"With reference to Section 42(2) of SPLUMA No. 16 of 2013, the application affects the environment, and the Langeberg Municipal Planning Tribunal is not satisfied that environmental legislation has been complied with.

The proposed land use is considered to be out of character in the surrounding area, will adversely impact on the amenity of the area and be inconsistent with the principles of spatial justice and spatial sustainability (Section 59 of LUPA No. 3 of 2014).

The approval of the land use would create an undesirable precedent in the area. Cumulative impacts would be inconsistent with the sustainable use of agricultural land”.

- 1.4. The Applicant submitted an appeal on 18 December 2018 against the refusal of the Rezoning Application (**Appeal**). On 27 May 2019 the Municipal Manager (**Appeal Authority**) correctly refused to uphold the Appeal (**Appeal Refusal Decision**) for *inter alia* the following reasons:

1.4.1. *“With reference to Section 42(2) of SPLUMA No. 16 of 2013, the application affects the environment, and the Langeberg Municipal Planning Tribunal is not satisfied that environmental legislation has been complied with.*

1.4.2. *The proposed land use is considered to be out of character in the surrounding area, will adversely impact on the amenity of the area and be inconsistent with the principles of spatial justice and spatial sustainability (Section 59 of LUPA No. 3 of 2014).*

1.4.3. *The approval of the land use would create an undesirable precedent in the area. Cumulative impacts would be inconsistent with the sustainable use of agricultural land...*

1.4.4. *Further, with reference to Reason No. 1 above, the Appeal Authority notes the following specific reasons:*

1.4.4.1. *Two EIA applications were lodged: one for the “screening of rocks” and the other for a crushing plant.*

- *On 6 December 2016, DMR issued an Environmental Authorisation for the 4,9ha crushing plant site. This Environmental Authorisation is considered to be defective, given the nature of the wording on the advertisement during the EIA process which clearly states that there will be no crushing...*

1.4.4.2. *The Applicant is incorrect in stating that no Environmental Authorisation is required for the removal of rock from the proposed 26,5ha as the mining of these areas triggers LN1:21:*

- ...
- *DEA&DP, in their comments of 24 May 2018, note that “the new proposal for 5 areas exceed the footprint authorized in the EA and indicated in the EMPr.*

The removal of stones/rocks from the additional areas can therefore not proceed in terms of the existing EA". (Own emphasis)

1.4.4.3. *Given that the mined material is disposed of to a third party, the applicant is incorrect in stating that the application is exempt in terms of Section 106 of the MPRDA from obtaining a mining permit and EA".*

1.5. Following the Appeal Refusal Decision, the Applicant submitted an application to the Langeberg Municipality (**Municipality**) for a temporary departure for the 4.9 Hectare Area to *"accommodate the processing plant that has been established on the property for crushing of excess rock stockpiled and further cleared from agricultural activities on Portions 47 and 49 on the farm"* (**Departure Application**).

1.6. The LMPT granted approval for the temporary departure on 17 July 2020, (**Departure Approval**) with the chairperson, Mr. M Johnson (**Johnson**) specifically requesting, prior to the Departure Application being considered, that *"applications that would stimulate the long-term economic situation and job creation in the Langeberg Municipality, be supported within the context guiding statutory planning principles"*.

1.7. The Departure Approval was granted for a maximum period of 5 years, subject to *inter alia* the following conditions:

"3.3 A maximum of 200m³ of stone may be crushed per day.

3.4 No more than 200m³ of aggregate may be transported off the site per day".

1.8. The LMPT noted the following in relation to its reasons for granting the provided Departure Approval:

"The current application is deemed to be significantly different to the previous application, such that the Tribunal can take a decision on this new application.

The previous reasons given by the Tribunal for the refusal of the previous rezoning application for mining and the crushing plant; and the reasons given by the Langeberg Appeal Authority in upholding the Tribunal's decision, are not deemed to be applicable to the application for temporary departure for a crushing plant". (Own emphasis).

- 1.9. Our Clients' grounds of appeal against the whole decision to grant the Departure Approval are set out hereinbelow.

2. APPEAL GROUNDS:

- Departure approval based on misleading information provided by applicant's agent in breach of section 62(2) of the By-law
- Non-compliance with environmental & mining legislation
- Failure to take relevant considerations into account (PAJA section 6(2)(e)(iii))
- Decision not rationally connected to the information before the LMPT (PAJA section 6(2)(f)(ii)(cc) or the reasons provided by the LMPT for the departure approval (PAJA section 6(2)(f)(ii)(dd))

- 2.1. The Applicant states that the temporary departure being applied for in respect of the 4,9 Hectare Area is *"for 3 years, renewable annually, to a total period of 5 years. This is to accommodate the processing plant that has been established on the property for the crushing of excess rock stockpiled and further cleared from agricultural activities on Portions 47 and 49 of the farm"*.

- 2.2. In support of the Departure Application and in response to the comments by objectors (including our Clients), T-Plan stated on page 2 of its response of 26 March 2020 (**Response to Objectors**) *inter alia* as follows:

"The removal of rock from agricultural land was previously discussed in detail with Mr Cor van der Walt of the Department of Agriculture. Mr van der Walt indicated that the removal of rock is an agricultural activity allowed for under the Subdivision of Agricultural Land Act, 70 of 1970 and the Conservation of Agricultural Resources Act 43 of 1983. A letter received from the Department of Environmental Affairs and Development Planning (DMR) as well as a letter from the Department of Mineral Resources(DMR) supports the rock removal. It clearly indicates that rock removal in this particular instance cannot be viewed as mining and identifies with the Department of Agriculture's stance. See attached correspondence from Department Agriculture, DEA&DP and the DMR. The Department of Agriculture states no objection to the application. The landowner has agreed to 1,5m depth of rock removal and the Department of Agriculture also supports this in light of the rock removal for agricultural purposes".

- 2.3. The above statements misrepresent the following facts:

- 2.3.1. The removal of rocks is considered to be a normal agricultural activities. While this statement cannot be disputed, as discussed further below, the fact that the rocks are being disposed of to CP Concrete (as a commodity) means that the removal of such rocks does not constitute normal agricultural activities but in fact constitutes “mining”, and as such, a mining right is required in order for the Applicant to lawfully remove the rocks in an area of more than 5 hectares and dispose of them to CP Concrete. However, the way that T-Plan has drafted the above statements makes it seem as though the Department of Agriculture has confirmed that the removal of rocks are not considered to be mining. However, the Department of Agriculture does not have the authority in law to pronounce on whether such activities constitute “mining” or not. In addition, and as discussed further below, the trucks used to transport the crushed aggregate (20 tonne 7-axle trucks) and the concrete mixing truck can in no way be regarded as agricultural in nature.
- 2.3.2. What is more disturbing is the fact that T-Plan refer to and attach the decision of the Minister of Environmental Affairs & Development Planning of 27 September 2019 in terms of the Western Cape Land Use Planning Act, 2014 (**LUPA**) as motivation that the Department of Environmental Affairs & Development Planning (**DEA&DP**) supports the rock removal of the Departure Application This is misleading for the following reasons:
- 2.3.2.1. The aforesaid decision was taken 5 months before the Departure Application was submitted to the Municipality.
- 2.3.2.2. The decision related to the application in terms of section 53 of LUPA and had nothing to do with the Departure Application.
- 2.3.2.3. DEA&DP did not support the removal of rock. As the Appeal Authority stated in its reasons for the Appeal Refusal Decision, DEA&DP in fact confirmed that the removal of the rock from outside the 4.9 Hectare Area “*exceed[s] the footprint authorised in the EA and indicated in the EMPr. The removal of stones/rocks from the additional areas can therefore not proceed in terms of the existing EA*”.
- 2.3.3. In addition, the letter that T-Plan attached from the Department of Mineral Resources (**DMR**) does not support the removal of the rock. The DMR pointed out that a mining

right and an EA would be required if the Applicant was mining rocks on an area larger than 5 hectares and selling/disposing of the rocks, and as such, the exemption in section 106(3) of the Mineral and Petroleum Resources Development Act 28 of 2002 (**MPRDA**) was not applicable. The DMR are of the view that the intention of the landowner is paramount in determining whether the exemption is applicable. We have been informed that the DMR were not aware of the relationship between the Applicant and CP Concrete (which is evidence of a commercial enterprise rather than the convenient disposal of rocks collected in the course of normal agricultural activities), and further that they were misled by the Applicant as to the how the rocks/stones were to be “collected”. This is presumably because until recently the DMR were not in possession of the soil study undertaken by Resalt, (**Resalt study**) which we provided to the DMR two weeks ago.

2.3.4. Further to the above, as motivation that the EIA process that had been followed had been done correctly and lawfully, T-Plan attached the decision of the national Minister of Environmental Affairs to refuse condonation to our clients to allow for the late filing of an appeal against the EA. T-Plan state that “[t]he Department confirmed that the process followed for the above was correct and lawful and therefor denied the appeal. This decision allows the landowner to legally move forward with the land use application and activities as granted under the mine permit and conditions set out under the Environmental Authorisation”.

2.3.4.1. The above statements are completely inaccurate and misleading. The reason for the refusal to grant condonation (**Condonation Decision**) was merely based on the provisions of section 47CB of the National Environmental Management Act 108 of 1997 (**NEMA**) as our Clients did not lodge the appeal timeously. The reason for the decision was not because “[t]he Department confirmed that the process followed for the above was correct and lawful and therefor (sic) denied the appeal”.

2.3.4.2. Not only did the decision not relate to the actual consideration of the appeal itself, but it was also taken 20 months prior to the Departure Application having been submitted to the Municipality and as such cannot in any way be regarded as support by the national Department of Environmental Affairs for the Departure Application.

2.4. A further misrepresentation on the part of the Applicant is the contention that “[t]he processing plant has a mining permit that allows for a period totalling 5 years. The mine permit was granted for an initial period of 3 years where after renewal can be done for 2 years, this brings us to the 5 year total. Currently we are in the 3rd year of the permit and can the permit (sic) be renewed until lapsing in 2022”.

2.4.1. This is factually incorrect and conveys the impression that the Mining Permit is valid for 5 years until 2022. The MPRDA provides that a mining permit may only be issued if the mineral in question can be mined optimally within a period of two years. Section 27(8)(a) of the MPRDA provides that a mining permit is “*valid for the period specified in the permit, which may not exceed a period of two years, and may be renewed for three periods each of which may not exceed one year*”.

2.4.2. Contrary to the contentions of the Applicant, the Mining Permit is not valid for 5 years. It was granted for a period of two and not three years. The Mining Permit was allegedly renewed for another year, (see 2.5.10 further below) and as such, it can only be renewed for another two periods of 1 year each, assuming that our Clients are not successful with the appeal that they have just submitted to the DMR against the late renewal of the Mining Permit.

2.5. The Applicant has also misrepresented that it is not mining the 26.5 Hectare Mining Area. The Applicant even goes as far as to say that it “*has confirmed, in lieu (sic) of the concern that the rock removal might be construed as ‘mining, to ensure no rock removal practices deeper than 1,5m, for this will fall into the ambit of normal agricultural practice*”.

2.5.1. “Mine” is defined in the MPRDA as including “*any excavation in the earth*” and “*any other place where a mineral resource is being extracted, including the mining area and all buildings, structures, machinery, residue stockpiles, access roads or objects situated on such area and which are used or intended to be used in connection with such searching, winning or extraction or processing of such mineral resource*”. Rocks and stones are considered to be minerals in terms of the MPRDA. “Mining area” is defined in the MPRDA as “*the area on which the extraction of any mineral has been authorised and for which that right or permit is granted*”.

- 2.5.2. The removal/collection/excavation of rocks/stones from land whether for agricultural purposes or not which are subsequently sold or disposed of constitutes “mining”. The MPRDA makes provision for an exemption from having to apply for a mining right where such rocks/stones are lawfully removed for farming or effecting improvements in connection with such land as long as the sand, stone, rock, gravel or clay is not sold or disposed of. “*Disposed of*”, in accordance with the rules of interpretation, bears its ordinary meaning namely, to get rid of or give away something you do not want or need (i.e. not selling). Needless to say and as is clear from this section, the intention of the landowner is irrelevant. If it was, section 106(3) of the MPRDA would have stated that it was relevant to determining whether the exemption applies. If the Applicant disposes of the rocks in any way, he is mining.
- 2.5.3. The application for the Mining Permit was advertised by CP Concrete to the public by way of a notice in the Breede River Gazette on 18 August 2015 (**Mining Permit Notice**). The Mining Permit Notice stated that the proposed area from which CP Concrete would remove the rocks/stones is 4.9ha in extent. As noted by the Appeal Authority, no mention was made in the Mining Permit Notice of the full extent of the planned mining operations, including the fact that washing, screening and crushing would in fact, be taking place. As the Appeal Authority pointed out in his reasons for the Appeal Refusal Decision, the Mining Permit Notice stated categorically that “[n]o washing, screening or crushing will be needed” and that CP Concrete would only remove the stockpiled rocks/stones, using an excavator to load it onto trucks that would transport it to clients.
- 2.5.4. Furthermore and notably, the Mining Permit Notice did not advertise or make any reference at all to the proposed undertaking of Listing Notice 2 Activity 21 of GNR 984 of 2014 which specifically deals with crushing, screening or washing and which, despite the absence of being advertised for public participation, was approved in the EA. This clearly constitutes misleading, inaccurate and blatantly incorrect information. The fact that it was misleading also influenced the extent of the public participation process, in that it is highly likely that more of the public would have registered as interested and affected parties (**I&APs**) had they seen that the proposed activities would in fact involve washing, screening and crushing and that mining would take place over a far greater area than just the advertised 4,9 Hectare Area.

- 2.5.5. In addition to the above, there was a misrepresentation of facts in the Environmental Impact Assessment Background Information Document (**BID**) in relation to the impacts of dust and noise. The BID did not mention that there would be crushing as one of the proposed activities. The description of the impacts under the heading “Dust” stated that the *“potential negative impact of dust generation on the surrounding landowners is deemed to be of low significance as the activities is (sic) anticipated to represent the agricultural activities and land use of the surrounding farms”*.
- 2.5.6. The “*mining area*” (where excavation will take place) falls outside the 4.9 Hectare Area that was authorised by the mining permit granted to CP Concrete (**Mining Permit**) on an area that exceeds 5 hectares in extent. The “*stockpiled stone aggregate*” is being mined by the Applicant (disingenuously referred to as normal agricultural activities) from an area of approximately 26.5 hectares in extent (**26.5 Hectare Mining Area**) and disposed of to CP Concrete who, in the application for the Mining Permit, also disingenuously referred to the “collection” of such rocks/stones for processing in the 4.9 Hectare Area, thereby bypassing the legal requirements of the MPRDA and making a mockery of the provisions of not only the MPRDA but also NEMA. It should also be noted that an application was lodged in August 2015 by the landowner, Altus Malherbe Familie Trust, for environmental authorisation in order to “screen” rocks from various portions of *inter alia* the 26.5 Hectare Mining Area. It appears as though this application was eventually abandoned.
- 2.5.7. It is further evident from Resalt study that the Applicant is not merely “collecting” rocks/stones (which in itself still constitutes “mining”) but intends excavating rocks/stones from the 26.5 Hectare Mining Area and stockpiling it on the 4.9 Hectare Area, albeit it from a now alleged proposed depth of 1.5 metres.
- 2.5.8. In light of the fact that the Applicant is disposing of the rocks/stones mined from the 26.5 Hectare Mining Area to CP Concrete, as confirmed by the Appeal Authority in his Appeal Refusal Decision, the Applicant is not exempt in terms of section 106(3) of the MPRDA from requiring a mining right. As such, the Applicant is unlawfully disposing of the rocks/stones to CP Concrete without a mining right.
- 2.5.9. In terms of section 27(1) a mining permit may only be issued if-
- (a) the mineral in question can be mined optimally within a period of two years; and

(b) the mining area in question does not exceed 5.0 hectares in extent.

2.5.10. As the rocks/stones are being mined from an area exceeding 5 hectares in extent, the DMR were not authorised under the MPRDA to grant the Mining Permit in the first place. Our Clients have also lodged an appeal against the renewal of the Mining Permit granted to CP Concrete for the 4.9 Hectare Area, a copy of which was submitted to the Municipality and the information contained therein should be considered to form part of this appeal.

2.6. It is also noted that the Land Use Planning Assessment Report for the LMPT (**Planning Assessment Report**) reached the same conclusions and states that the “[e]nvironmental Authorisation issued by DMR (6.12.17) for the crushing plant is defective, given the nature of the wording on the advertisement during the EIA process, which clearly states that there will be no crushing. If the land use application is approved, it must be made clear that a valid mining permit and EA are still required”.

2.7. By granting the Departure Approval and in light of the reasons provided by the LMPT, it is clear that the LMPT:

2.7.1. Failed to take relevant considerations into account (PAJA section 6(2)(e)(iii));

2.7.2. Made a decision that is not rationally connected to the information that was before the LMPT (PAJA section 6(2)(f)(ii)(cc); and

2.7.3. Made a decision that is not rationally connected to the reasons provided by the LMPT for the departure approval (PAJA section 6(2)(f)(ii)(dd)).

2.8. As such, this appeal should be upheld.

3. APPEAL GROUND:

- **Substantively similar application in respect of the 4.9 Hectare Area – *res iudicata* principle**

3.1. As correctly set out in the Planning Assessment Report, the *res iudicata* legal principle relates to the finality of decisions and not being able to decide again on the same matter. The applicant

cannot have “2 bites at the same cherry”. The LMPT should therefore first have satisfied itself that the Departure Application is substantively different to the Rezoning Application.

- 3.2. The mining activities proposed on the 4.9 Hectare Area that is the subject of the Departure Approval are exactly the same as what was motivated in the Rezoning Application. Both the Rezoning Application and the Appeal were refused. It is inconceivable that any other decision could have been made on what is substantially the same facts that were alleged in the Rezoning Application.
- 3.3. As stated above, the reasons that the LMPT provided for refusing the Rezoning Application and for the Appeal Authority confirming its decision on appeal included the following:

“With reference to Section 42(2) of SPLUMA No. 16 of 2013, the application affects the environment, and the Langeberg Municipal Planning Tribunal is not satisfied that environmental legislation has been complied with..

On 6 December 2016, DMR issued an Environmental Authorisation for the 4,9ha crushing plant site. This Environmental Authorisation is considered to be defective, given the nature of the wording on the advertisement during the EIA process which clearly states that there will be no crushing...”

- 3.4. The Applicant motivates in the Response to Objectors that a *“temporary departure does not entail permanence of an activity but allows for the activity to take place within a controlled and legalised environment within a suggested timeframe provided for by the Municipality along with a set of conditions and guidelines to manage the activities. The area will therefor (sic) remain agricultural in nature with the industrial activity of the processing plant on 4,9ha area that was granted by the Department of Mineral Resources.* It bears noting that had the Rezoning Application been approved, it would also no doubt have had conditions imposed whereby the zoning would revert back to Agriculture Zone I after a timeframe deemed to be suitable. As such, there is no difference between the effect of a temporary departure or a rezoning being granted for the 4.9 Hectare Area.
- 3.5. In the absence of any reasons therefor and in the circumstances it is inconceivable that the LMPT could decide that:

3.5.1. *“the reasons given by the Langeberg Appeal Authority in upholding the Tribunal’s decision, are not deemed to be applicable to the application for temporary departure for a crushing plant”, and*

3.5.2. the environmental legislation has been complied with.

3.6. The LMPT therefore:

3.6.1. made a decision that was not rationally connected to the reasons therefor (PAJA section 6(2)(f)(ii)(dd); and

3.6.2. failed to take relevant considerations into account (PAJA section 6(2)(e)(iii)) by not properly considering and apply section 42(2) of SPLUMA in reaching their decision to grant the Departure Approval. This also lends itself to the perception of bias (another ground of appeal) as discussed further below.

3.7. In addition it must also be noted that with regard to the mining activities that will take place on the 26.5 Hectare Mining Area, other than motivating that the Applicant will not mine to a depth of more than 1.5 metres, it is pointed out that the mining activities as set out in the Resalt Report remain the same.

4. APPEAL GROUNDS:

- **Unacceptable impacts incapable of mitigation**
- **Failure to take relevant considerations into account (PAJA section 6(2)(e)(iii))**
- **Decision not rationally connected to the information before the LMPT (PAJA section 6(2)(f)(ii)(cc) or the reasons provided by the LMPT for the departure approval (PAJA section 6(2)(f)(ii)(dd))**

4.1. In the Rezoning Application the Applicant stated that “[t]he largest impact will be the noise from ... the engine from (sic) the screening/crushing plant”. In the Departure Application however, the Applicant contends the contrary and states that “[h]aving regard to the relevant facts and circumstances pertaining to the property and the proposed land use it is unlikely that there will be a negative effect on surrounding communities as a result of an environmental shock”.

- 4.2. The Applicant further contends in the motivation report that “[t]he processing plant (crusher) will inevitably be a source of noise, but due to the nature of the area and the various other agricultural machinery and activities taking place, the noise impact of the proposed activity is expected to be representative of noise generated by agricultural activities on the farm...The significance of noise on the surrounding environment is therefor (sic) deemed to be of low significance...A noise assessment was done...the noise levels are thus acceptable within this area”. The Applicant concludes in the motivation report that “the processing of that rock by the plant will not have any direct negative impacts on the surrounding areas or neighbours”.
- 4.3. In the Response to Objectors the Applicant contends that “[t]he distances to the residential homes are sufficient to not be affected by the noise of the processing plant. Due to the decommissioning of the Ready Mix plant the noise impact has also be (sic) removed from the area... The statements above are also supported by a noise report that was included with the application to address the noise of the crusher. The noise level at the machine was deemed to be high and suggestion was made that personal protective gear be worn by all employees in close proximity to the crusher. The ambient noise of the machine was however not sufficient enough to warrant concern due to the distance and location of neighbours and other residences”. (Own emphasis)
- 4.4. The conclusions drawn by the Applicant in the above quoted statements are not based on facts. No noise impact assessment was undertaken beyond the 4.9 Hectare Area and as such, the Applicant has no basis on which to conclude that the noise impacts will not affect any of the neighbours. This was confirmed in the Planning Assessment Report which states that “[the] noise report focusses exclusively on the occupational health and safety of workers in relation to noise exposure limits of 85dB in terms of “TWA standards” (namely, the measure of a worker’s daily exposure to occupational noise)”. (Own emphasis) It states further that “there is no assessment of the noise impact at neighbouring receptors, or whether the crushing plant will comprise a disturbing noise or comply with the WC Noise Regulations (Refer to Annexure H), with or without any mitigating measures”.
- 4.5. Our Clients and their businesses are directly affected by the noise of the crushing plant and the trucks transporting aggregate. Fraai Uitzicht 1978 which operates as a guesthouse and being the closest to the crushing plant, will suffer significant negative impacts as tourists who stay on the farm and are subjected to *inter alia* the noise from the crushing plant are unlikely to want to return, and this will also affect the tourism rating of Fraai Uitzicht. As explained further below,

tourists that are visiting the area will also be subjected to the heavy duty industrial size trucks using the Klaasvoogds (East) road which impacts on the tranquility and agricultural nature of the area.

- 4.6. Our Clients therefore maintain that the noise from the crushing plant and increase in trucks is not noise that is *“representative of noise generated by agricultural activities”* and it will have a significant negative impact on their homes and businesses which in turn, will affect the agri-tourism industry in the area and lead to possible job losses in the agri-tourism industry.
- 4.7. As stated in our Clients’ objections to the Departure Application, no mention was made regarding tourism and the potential impacts thereon. In the Response to Objectors one paragraph is devoted to a discussion of *“Tourism and Socio-Economic Impacts”*. There is no acknowledgement that the noise impacts may significantly affect agri-tourism. On the contrary the Applicant motivates that the noise emanating from *inter alia* the crushing plant will not impact on tourism based on the unfounded statement that *“the nature of the area and surrounds will remain agricultural and rural”*.
- 4.8. In addition, the Applicant motivates that the noise levels will in any event be reduced owing to the fact that the ready mix plant has been removed from the area. Other than the fact that it was an eyesore, this is irrelevant considering that the ready mix plant was illegally established and as such the removal thereof cannot be used to motivate that the noise levels will be acceptable to *inter alia* our Clients.
- 4.9. As the LMPT had no information on the noise impacts of the crushing plant beyond the 4.9 Hectare area it:
- 4.9.1. failed to take relevant considerations into account (section 6(2)(e)(iii) of PAJA), and
- 4.9.2. made a decision that was not rationally connected to the reasons therefor (PAJA section 6(2)(f)(ii)(dd)).

5. APPEAL GROUND:

- Traffic impacts not properly assessed
- Failure to take relevant considerations into account (PAJA section 6(2)(e)(iii))

- **Decision not rationally connected to the information before the LMPT (PAJA section 6(2)(f)(ii)(cc) or the reasons provided by the LMPT for the departure approval (PAJA section 6(2)(f)(ii)(dd))**

- 5.1. Our Clients contest the assertions of the Applicant regarding the related impacts of the traffic. It should also be noted that the Applicant disingenuously motivates that “[t]he relocation of the Ready Mix has also caused a sharp decrease in the traffic along the Klaasvoogds (East) road. The amount of external trucks delivering material and therefore trucks traveling on the Klaasvoogds (East) road has drastically reduced”. This is irrelevant considering that the ready mix plant was illegally established and as such the removal thereof cannot be used to motivate that the traffic impacts are acceptable to *inter alia* our Clients.
- 5.2. The volumes of heavy duty industrial vehicles in the Klaas Voogds area traversing the roads which border some of our Clients’ properties during working hours are inappropriate in a primarily agricultural environment, with concomitant negative effects on the well-being of residents, the safety of the children that walk on these roads, all visitors to the area and on agri-tourism. It is noted that the Planning Assessment Report also states that the “[i]t is agreed with the Objectors that the TIA is silent on the impact of traffic on pedestrians and cyclists in terms of safety and dust”.
- 5.3. Further to the above, the Department of Transport (DOT) specifically stated that it would not object “subject to the following conditions....5.3. The volume of aggregate that may be transported off site is limited to 50m³ per day and the transportation thereof is restricted to weekday work hours”.
- 5.4. The effect of the LMPT approving the Departure Application with the conditions as quoted in 1.7 above is that the impacts will be substantially more significant owing to the increased amount of crushing that was approved and the consequential substantial increase in the amount of aggregate that may be transported, (from 50m³ per day to 200m³ per day). This is in direct conflict with the above condition upon which the DOT stated that it would not object to the Departure Application. The DOT also made it clear in condition 7 of their comment dated 21 January 2020 that the Applicant needs approval in order to increase the amount of trips that the trucks make on the public road.

- 5.4.1. DOT approved 50m³ of aggregate to be transported per day between 8am and 5pm which translates to one truck (20 tonne 7 axle truck as per the photo) every 68 minutes – 8 trips per day.



- 5.4.2. Now that the LMPT has approved up to 200m³ to be crushed and transported between 8am and 2pm this translates to one truck every 13 minutes.

- 5.4.3. These exclude the trips made by the concrete mixer truck and the trucks delivering diesel.



- 5.4.4. Considering the travel time on the DR1366 which is approximately 10 minutes, it is evident that whoever uses the road will come across a truck.

- 5.4.5. None of these heavy duty industrial trucks (and their associated impacts) can be said to be agricultural in nature.

- 5.5. It should also be noted that the Applicant is still washing out the concrete mixing trucks and unlawfully dumping the wastewater.

- 5.6. Another consequence of the imposition of this condition regarding the transport of the crushed aggregate is that in terms of long term financial implications, the DOT may claim back maintenance costs from the Municipality for excessive usage.



- 5.7. However, the LMPT chose to impose the abovementioned conditions despite the fact that:

- 5.7.1. the Applicant motivated that it would only transport 70m³ of aggregate per day; and

- 5.7.2. no traffic impact assessment had been undertaken for the vastly increased amount of crushed aggregate to be transported – in fact 4 times the amount supported by the DOT.
- 5.8. It is clear from what is stated above that the LMPT did not have sufficient information on which to make an informed decision, ignored the fact that the DOT would object if *inter alia* more than 50m3 of crushed aggregate is transported per day and in so doing:
- 5.8.1. Failed to consider “all current and future costs to all parties for the provision of infrastructure ... ” (Spatial Planning and Land Use Management Act, 2013 (**SPLUMA**) section 7(b)(v));
- 5.8.2. failed to take relevant considerations into account when deciding to grant the Departure Approval; and
- 5.8.3. made a decision that is not rationally connected to the information that was before the LMPT.

6. APPEAL GROUNDS:

- Inadequate consideration and application of the requirements of SPLUMA, LUPA and the By-law
 - Failure to consider the principles contained in section 2 of NEMA
 - Failure to take relevant considerations into account (PAJA section 6(2)(e)(iii))
- 6.1. Section 42(2) of SPLUMA provides “*[w]hen considering an application affecting the environment, a Municipal Planning Tribunal must ensure compliance with environmental legislation*”. The Applicant has not complied with the environmental legislation, as already decided by the LMPT and the Appeal Authority in relation to the substantively similar Rezoning Application. As such, and on this ground alone the Departure Approval should not have been granted.
- 6.2. Section 49 of LUPA provides that “*[w]hen a municipality considers and decides on a land use application, the municipality must have regard to at least—*
- (a) *the applicable spatial development frameworks;*
 - (b) *the applicable structure plans;*
 - (c) *the principles referred to in Chapter VI;*
 - (d) *the desirability of the proposed land use; and*

(e) *guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use*".

6.3. In its motivation report the Applicant attempted to motivate compliance with the principles of spatial justice, spatial sustainability, efficiency, spatial resilience and good administration. With the exception of attempting to demonstrate that the proposed mining operations will contribute to the local economy, and the unfounded contention that "[h]aving regard to the relevant facts and circumstances pertaining to the property and the proposed land use [which the Applicant is disingenuously implying will be agricultural] *it is unlikely that there will be a negative effect on surrounding communities as a result of an environmental shock*", the Applicant failed to properly address these principles. The Applicant did not provide any factual basis on which to draw the conclusions it has in relation to the surrounding land uses and the impacts of the proposed mining operations on the surrounding landowners, communities and their livelihoods/businesses. (This is also in part due to the fact that no socio-economic impact assessment was ever undertaken) These shortcomings are discussed below:

6.3.1. The Applicant failed to adequately address the principle of spatial sustainability and in particular, whether "[g]iven that the economy of the Western Cape is largely underpinned by tourism derived from its scenic and heritage qualities, [will] the land use change erode or enhance the heritage, tourism and landscape character of the area and settlement?"¹.

6.3.2. There was no assessment on the impacts on the sense of place and quality of life, the existing rights of adjacent landowners as well as the economic impacts on agri-tourism of the area. For example, the Noise Report did not assess the noise levels outside of the 4.9 Hectare Area and as such, the Applicant cannot substantiate its contention that "*it is unlikely that there will be a negative effect on surrounding communities as a result of an environmental shock*".

6.3.3. In light thereof it is doubtful whether the LMPT considered whether the "*land use change or development [will] contribute to both the maintenance / enhancement of the scenic and natural qualities of the landscape, together with enhancing the economic value of the area*".

¹ Page 20: "Provincial support document on Relevant Considerations - The application of relevant considerations in the Land Use Planning Decision Making process – enabling better decision making in municipal land use planning", September 2015

- 6.3.4. Even though the Applicant applied for a temporary departure, the negative effects on the surrounding land uses will be the same as if the Applicant had applied for rezoning instead of a departure. The Applicant's contention that the *"limited duration of the operation will ensure that the land remains sustainable for agricultural use in the long term and will limit urban sprawl"* does not address the sustainability of the surrounding land uses and agri-tourism, i.e. there is no assessment of the cumulative impacts, (including socio-economic as discussed further below), on the surrounding land-uses. In any event and as stated above, had the Rezoning Application been approved, it would also no doubt have had conditions imposed whereby the zoning would revert back to Agriculture Zone I after a timeframe deemed to be suitable. As such, there is no difference between the effect of a temporary departure or a rezoning being granted for the 4.9 Hectare Area.
- 6.3.5. The Applicant failed to demonstrate the desirability of the proposed mining operations, for example, is the proposed development or land use change compatible with the surrounding uses? Is the proposed development or land use change impacting negatively on the safety, health and wellbeing of the surrounding community? If so, are these being adequately mitigated within the proposal or perhaps by any conditions which may be imposed? We submit that the mitigation measures contained in the conditions imposed by the LMPT will not adequately mitigate the impacts on the surrounding land uses, and the Applicant has already demonstrated with its past behaviour that it is not particularly committed to complying with the relevant legislation, including the Municipality's bylaws and the environmental legislation.
- 6.3.6. A further relevant question is whether the proposed mining activities support the existing character of the area, or do they support the envisaged character of the area as portrayed in spatial planning / policy documents? Merely asserting that they do is inadequate and does not allow the decision maker to make a properly informed decision. The proposed mining activities that will have significant adverse socio-economic effects on the area in which they are to take place cannot be said to be needed or desirable and ought not to be approved. The essentially industrial mining activities will give rise to a number of significant adverse socio-economic impacts which affect our Clients and other I&APs and are not capable of mitigation.

- 6.3.7. As stated in the Planning Assessment Report, “[t]he Klaas Voogds Tourism route is a significant local economic contributor and activities which generate noise, dust and visual eyesores adversely impact the attractiveness of an area for tourists and could have a potential adverse impact on the tourism industry given that it markets itself largely on the quiet rural nature of the area and the scenic qualities of the mountains and farmlands”. While the Applicant states that “the environmental impact assessment also addresses the socio economics of the area”, no socio-economic impact assessment was undertaken by the Applicant (not even during the EIA process). This is confirmed in the Planning Assessment Report.
- 6.3.8. As alluded to above, in addition to agriculture, agri-tourism contributes substantially to the economy of the Klaas Voogds area. Tourism-related businesses have shown a phenomenal growth of 23% per annum over the past 10 years in Klaasvoogds. Our Clients among others, undertake activities which draw tourists and visitors to the area, including the running of an award-winning restaurant and guesthouse and the selling of wine and olives/olive oil. Tourists and visitors are attracted by features of Klaas Voogds including its peaceful and largely undisturbed agricultural setting and its mountain views. Local and foreign tourists are drawn to the area as an alternative to cities in which industrial activities take place. In turn, this creates employment opportunities for local residents in Robertson and surrounds and provides much needed foreign investment. The proposed mining activities with the associated noise, air quality and visual impacts, are wholly incompatible with tourism of the kind which currently flourishes in Klaas Voogds. Large numbers of tourists who currently visit the area are likely to be disinclined to come or to return if the area is substantially degraded through industrial activities. We have been informed that several tourists who have stayed in the area recently have already mentioned that they would not return in the event that the mining activities that have already taken place continue and/or are expanded.
- 6.3.9. It is estimated that there are 162 direct jobs in tourism in the Klaas Voogds valley (excluding related industries like travel, booking agents, suppliers, manufacturers), with an estimated increase over 10 years from 9.8% to 13.2%. The “possible” five jobs to be created are therefore insignificant relative to the much broader employment opportunities created by agri-tourism in the area. If the mining activities curtail tourism, the negative effects on much-needed employment and livelihoods of local residents will be significant.

6.3.10. It is further noted that the Applicant is inconsistent in its contentions regarding job opportunities as a result of the Departure Application being approved. The Applicant provides the following contentions:

6.3.10.1. *"The proposed application will help to contribute to the local GDP and the construction industry. The farm employs 14 permanent workers (and houses their families) that make a living from the cultivation of the mentioned crops. These employees spend their income in the surrounding towns and directly contribute to the local economy". [This will presumably not change even if this appeal is upheld.] "The provision of excess rock to CP concrete's ready-mix plant for the production of ready mix and aggregate further contributes to the industrial and construction sector of the local community".*

6.3.10.2. *"The reworking of the extra rock via the processing plant is also contributing to the creation of job opportunities, this in itself speaks to the job creation directive of the Municipality".*

6.3.10.3. *"...the operation will allow for the current workers to remain and earn a living on the farm and a further possible 5 employment positions could open up with the processing of the removed rock", (own emphasis) although the Applicant states that job opportunities will be created.*

6.3.11. The building industry in Robertson has no shortage of supply of aggregate as the old Cape Lime Factory which is now Afrimat at the entrance of Robertson is big enough to supply aggregate for the whole area and beyond. However, if the mining activities are ultimately approved for the benefit of one family, the livelihoods of our Clients will be threatened, as will those of their employees and others in the area, in the hospitality and food and wine industries. Property values in the area, which are associated with the agricultural and rural nature of Klaas Voogds, are likely to be negatively affected by industrial activities which detract from the nature of the environment. Other than the this appeal being upheld, no adequate mitigation is available to mitigate the adverse effects on the socio-economic conditions of Klaas Voogds and its residents, including our Clients and their employees.

6.3.12. The mining activities with their significant detrimental socio-economic effects, cannot be regarded as being desirable or sustainable. They would not, as required by the principles of spatial sustainability,² result in *“communities that are viable”* or serve to support the *“economic potential”* of the Klaas Voogds region. Further, authorising the mining activities for the benefit of a relatively small number of parties, to the detriment of the broader community, fails to uphold the principle that development should *“prioritise long-term social, economic and environmental benefits”*. In the circumstances, the LMPT decision-maker should not have granted approval for the Departure Application.

6.4. Further to the above, section 2(1)(e) of NEMA provides that the principles contained in section 2 guide the interpretation, administration and implementation of any other law concerned with ... management of the environment”. Section 2(4)(i) of NEMA provides that *“[t]he social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment”*.

6.4.1. In the Constitutional Court judgment of *Fuel Retailers Association of SA (Pty) Ltd v Director General Environmental Management, Mpumalanga and Others 2007 (6) SA 4 (CC)*, the Constitutional Court held that the environmental authorities had misconstrued the nature of their obligations under NEMA (by contending that the need and desirability of the proposed filling station had already been considered by the local authority) and as a consequence failed to apply their own minds to the socio-economic impact of the proposed filling station, a matter which they were also required to consider in terms of NEMA.

6.4.2. In essence the Constitutional Court held that *“a municipality considers its decision-making criteria from a town planning perspective when deciding on a rezoning application. A municipality focuses on what land-uses it will allow on a particular property and is constrained by the applicable law to consider whether there is a need for the proposed land-use and whether it is desirable. An environmental authority, conversely, considers whether a proposed development is environmentally justifiable and the environmental authorities are required to consider the impact of the proposed development on the environment, including socio-economic impacts. Reliance on an*

² LUPA, Chapter VI.

authorisation by a separate sphere of government acting in terms of a separate competency in terms of the Constitution is not sufficient for the purposes of discharging one's own Constitutional mandate. A land-use planning authority will need to consider the effects of a proposed development on the environment independently of the findings of the environmental authority. Similarly, the environmental authority will need to consider the impact of a development independently of the findings of the land-use planning authority. Although there may be an element of duplication in the enquiry, such an enquiry is to be done through the respective lenses of environmental, social and economic considerations (with respect to the environmental authority) on the one hand and municipal planning on the other (with respect to the land-use authority)"³. (Own emphasis)

- 6.5. In light of the above and the absence of any socio-economic impact assessment from which to draw any conclusions as to the potential socio-economic impacts, it should be evident that the LMPT did not have sufficient information to justify approving the Departure Application and therefore failed to take relevant considerations into account when deciding to grant the Departure Approval.

7. APPEAL GROUND:

- **Bias**

- 7.1. In the context of what was quoted in 1.5 and 1.7 above and from what is set out below, it appears as though the decision to approve the Departure Application was not taken in a fair and impartial manner and as such can be regarded as being a biased decision. This is evident not only from the reasons for the decision, but also the following:

7.1.1. No reasons were provided by the LMPT as to why the Departure Application is not substantially similar to the Rezoning Application, which it is.

7.1.2. The LMPT had already previously decided (as has the Appeal Authority) that the Applicant has not complied with environmental legislation, (as confirmed by the Appeal Authority) but seemingly ignore this fact and provide no explanation or reasons for the about turn.

³ Provincial support document on Relevant Considerations, September 2015.

- 7.1.3. The Applicant applied for a temporary departure for 3 years, renewable annually to a total period of 5 years. The Mining Permit (should it be found that it was properly renewed), can however, only be renewed for a further 2 years after it expires in October 2020. Despite the aforesaid, the LMPT approved the temporary departure for a period of 5 years – no reasons were provided.
- 7.1.4. The Applicant motivated that it would crush approximately 100m³ of rocks per day and transport 70m³ per day yet conditions were imposed in the Departure Approval allowing the Applicant to crush 200m³ of rocks and transport 200m³ of aggregate per day – deliberately excluding a condition proposed by the DOT in return for which it would then not object to the Departure Application and ignoring the condition stating that the Applicant needs approval in order to increase the amount of trips that the trucks make on the public road.
- 7.1.5. No condition was imposed regarding the depth to which the Applicant may excavate rocks and stones from the 26.5 Hectare Mining Area.
- 7.1.6. The Planning Assessment Report recommended that there was insufficient information on which to make an informed decision.
- 7.1.7. Our Clients were denied the opportunity to make representations at the LMPT meeting owing to the contention of Johnson that *“there is sufficient information available to take an informed decision. No oral representations will be allowed”*. It is inconceivable how Johnson could have reached this conclusion unless he had first familiarised himself completely with all the information and documents forming part of the Departure Application. This is highly unlikely to be the case as we were informed on 6 June 2020 that no oral representations were allowed but the Planning Assessment Report was only finalised on 10 June 2020. The Planning Assessment Report also points out that there is insufficient information on which to make a decision and it should be evident from what is stated above, that there is insufficient information for the LMPT to have made the decision to grant the Departure Approval.

Conclusion

- 7.2. In the circumstances and for the reasons as set out above, the Appeal Authority is requested to uphold this appeal and refuse the granting of a temporary departure to the Applicant.

Annexure 16

Appeal 11:
Applicant's Appeal: CP Concrete



APPEAL FORM

(Appeal in terms of Section 79 of the Langeberg Municipal Land Use Planning Bylaw, 2015)

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes. Append this form to your letter of appeal which must comply with section 80 of the Langeberg Municipal Land Use Planning Bylaw, 2015). A copy of Sections 79 and 80 of the said Bylaw is attached herewith.

PART A: APPEAL

Are you appealing against the decision made by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, indicate in Part E if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.
Are you appealing in respect of the failure of the authorised employee or Tribunal to make a decision within the period contemplated in section 57(1) or (2)?	☐ Y	☒ N	If Yes, provide facts that prove the failure in Part E.
Are you appealing against the condition(s) of approval imposed by the authorised employee or Tribunal?	☒ Y	☐ N	If Yes, list relevant condition(s) and provide a description in Part E.
Is your appeal based on and primarily concerned with the process followed prior to the authorised employee or Tribunal decision?	☐ Y	☒ N	If Yes, specify in Part E.
Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the authorised employee or Tribunal erred in coming to the conclusion?	☐ Y	☐ N	If Yes, specify in Part E.
Date of decision	17/06/2020		Date receiving notice of decision
		29/06/2020	
Who took the original decision?	☒ Authorised employee	☐ Tribunal	

PART B: APPELLANT'S DETAILS

First name(s)	Lauhan		
Surname	Malherbe		
Company or legal person's name (if applicable)	CP Concrete.		
Postal address	Buitenverwach, Robertson		
	Postbus 399	Postal Code	6705
Email	cpconcrete@barvallei.co.za.		
Tel	023 626 2014	Fax	
		Cell	014 156 3343

PART C: APPELLANT'S PROPERTY DESCRIPTION (Property that is affected by proposed development)			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	PTN 49 / KLAAS VOOGDS RIVIER 37, ROBERTSON		
Physical Address	K.V. EAST		
GPS Coordinates		Town/City	RURAL
PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT			
Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.	As above.		
Physical Address			
GPS Coordinates		Town/City	
PART E: APPEAL MOTIVATION AND REASONS*			
Please refer to annexure A.			
* Appeal motivation, information and reasons may be attached.			
PART F: APPEAL FEE (APPLICANT) (for completion and use by official)			
			Appeal P
TOTAL APPEAL FEES*			3 128.00
* Appeal fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.			
Rec 103232 2017/2020			
BANKING DETAILS			
Name:	Langeberg Municipality		
Bank:	ABSA		
Branch no.:	33-45-13		
Account no.:	105 000 000 8 (Cheque)		
Payment reference:	A10 [e.g. "A10 (Erf 2345, Robertson)" or "A10 (Farm 123/4, Montagu)"]		

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION

Complete the following checklist and attach all the information and documentation relevant to the appeal.

☒	☐	Proof of payment of appeal fees (applicant)	☒	☐	Proof of serving notice of appeal (applicant)
☒	☐	Copy of decision and proof of notification	☒	☐	Copy of conditions of approval
☒	☐	Motivation and reasons for appeal	☒	☐	Other (specify)

SECTION H: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this appeal form and accompanying documentation is complete and correct.
2. I'm aware that it is an offence in terms of section 85(1)(e) of the said legislation to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's signature:



Date:

20/07/2020

Full name:

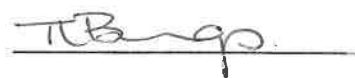
Lanhon Mulherbe

FOR OFFICE USE ONLY

Date received:

20.07.2020

Received by:



ANNEXURE - A

We would herewith like to address Point 5 of the Approval letter received on the 29th of June 2020.

- Point 5 states:
- "5. No crushing activities or transporting of rock/crushed material may occur:
 - 5.1 Before 8h00 and after 14h00 on Mondays to Friday. Note: The 8h00 start is to reduce the number of trucks on the road when school children and workers may be walking to school/work. The 14h00 finish relates to the safety of school children walking home; and to avoid the generally windier times of day and minimise noise and traffic impacts on tourism, considering the standard practice of tourists booking in at destinations from 14h00.
 - 5.2 On Saturdays and Sundays – closed.
 - 5.3 On public Holidays – closed.
 - 5.4 During windy conditions, where winds comprise a moderate breeze or stronger, in accordance with Beaufort Scale, namely 20km/h and more – closed."

We would appreciate the Tribunal members considering the difficulties that come with such a limited timeframe within to work. The difficulties in employing people for 6 hours a day, limited production times and maintenance concerns should be taken into account.

We have taken into account the mention made of employees and children making use of the roads at certain times and would propose that no transport of rock from the mentioned portions be done after 14:00 to avoid traffic on any of the roads going in and out of the farm.

We would only propose that we carry on with crushing activities and production on the demarcated area on the privately owned farm, thus not impacting any roads, traffic, employees or possible school children.

Mention has also been made with regard to tourist activities and guests. The location of the crushing plant on the farm is widely removed from any such locations when guest are checking in or out, and we can not see how the crushing activity could negatively impact these activities.

My client's business and farm has been in Klaas Voogds Valley for generations and have provided for the community in countless ways. We are all aware of the current ongoing economic crises and job scarcity. We would like to provide job security and opportunities to our community and ask that careful consideration be given to our request.

Kind regards

Marie Terblanche
082 671 2700
SACPLAN:C/5732/2002

Annexure 17

Applicant's Response to Appeals 1 -10

Tracy Brunings

From: Kobus Brand
Sent: Thursday, 13 August 2020 07:56
To: Tracy Brunings
Subject: FW: COMMENTS BY ALTUS MALHERBE FAMILY TRUST (APPLICANT) ON 10 APPEALS IN TERMS OF THE LANGEBERG LAND USE PLANNING BYLAW, 2015
Attachments: image001_jpg was removed from this message; Annexure - CP1_pdf was removed from this message; Annexure CP2 _pdf was removed from this message; Annexures CP3 _pdf was removed from this message; Annexure CP4 _pdf was removed from this message; Annexure CP5_pdf was removed from this message; 11_08_20 Malherbe A letter to Municipal Manager_pdf was removed from this message

Kobus Brand

Manager: Town Planning
 Langeberg Municipality
 Private Bag X2
 Ashton
 6715
 +27236148000 (Office)
 +272361421841(Faks)
kbrand@langeberg.gov.za



"People at the centre of Development"

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From: Hannes du Bois <hannes@jpdubois.co.za>
Sent: 13 August 2020 07:51
To: Langeberg Municipality <admin@langeberg.gov.za>; MM <mm@langeberg.gov.za>
Cc: Tracy Brunings <tbrunings@langeberg.gov.za>; Kobus Brand <KBrand@langeberg.gov.za>; Maynard Johnson <MJohnson@langeberg.gov.za>; admin@tplan.co.za; marie@tplan.co.za
Subject: COMMENTS BY ALTUS MALHERBE FAMILY TRUST (APPLICANT) ON 10 APPEALS IN TERMS OF THE LANGEBERG LAND USE PLANNING BYLAW, 2015

Dear Sirs

Attached please find Applicant's comments with annexures referred to above.

Kindly acknowledge receipt.

Yours Faithfully
 JP DU BOIS



Since 1984

PROKUREURS/ ATTORNEYS AKTEBESORGERS / CONVEYANCERS
BTW NR 4770183285

ROBERTSON

POSBUS	466	P O BOX
KERKSTRAAT 23		23 CHURCH STREET
MED-LAW HOUSE		MED-LAW HOUSE
ROBERTSON		ROBERTSON
6705		6705
TELEFOON	+27 23 626-6523/4	TELEPHONE
NA URE	+27 23 347-4693	AFTER HOURS
FAKS	+27 23 626-6577	FAX
SEL	082 8214 337	CEL
E-POS	hannes@jpdubois.co.za	E-MAIL
E-POS	aktes@jpdubois.co.za	E-MAIL

OUR REF : JPDUB/af/HC0100

YOUR REF : 15/4/12/9

DATE : 11 AUGUST 2020

APPEAL AUTHORITY: EXECUTIVE MAYOR
C/O THE MUNICIPAL MANAGER
LANGEBERG MUNICIPALITY
ASHTON
6715

JOHANNES PETRUS DU BOIS
(B.A. LL.B.)
Assisted by:
ANDREA COETZEE (LL.B.)

E-mail: admin@langeberg.gov.za / mm@langeberg.gov.za

Dear Sir

COMMENTS BY ALTUS MALHERBE FAMILY TRUST (APPLICANT) ON 10 APPEALS IN TERMS OF THE LANGEBERG LAND USE PLANNING BYLAW, 2015

APPLICATION FOR TEMPORARY DEPARTURE FOR CRUSHING OF ROCK IN AGRICULTURAL ZONE

1. We hold instructions to act on behalf of the Altus Malherbe Family Trust ("the Applicant"), in the above matter. The letter by your Municipality addressed to Mr Altus Malherbe, (trustee of the Applicant) dated 27 July 2020 refers.
2. We were instructed to comment on the appeals against the resolution of the Langeberg Municipal Planning Tribunal ("Tribunal") on 17 June 2020, approving the

Also at: 22 Fairbairn Street, Worcester Tel: 023 342 0808

temporary departure for crushing plant ("approval of temporary departure") on 4,9ha of Portion 49 of the Farm Klaas Voogds Rivier No 37 ("Portion 49").

3. The reasons for the first nine appeals are very much similar in nature, compared to the extended list of reasons for appeal No 10 (Natural Resources Law, representing six parties). Therefore, we have advised our client to group the reasons for appeal 1 to 9 together for comment purposes.

4. **Grouping of reasons for Appeals 1 to 9:**

- 4.1 *"The tribunal approved that a maximum of 200m³ of aggregate may be transported off the site per day (para 3.4 of resolution of Tribunal). This is contrary to the restriction by the Department of Transport and Public Works of the Western Cape Government ("Department of Transport") of transportation of aggregate to a maximum of 50m³ (para 5.3 of letter of Department of Transport of 21 January 2020). This may lead to an increase of heavy trucks transporting aggregate per day."*
- 4.2 *"The safety of children and other walking on the road where trucks are driving."*
- 4.3 *"The process of appeal is rushed during lockdown regulations, to be resumed when the lockdown goes to level 1 or is lifted."*
- 4.4 *"Impact of noise and dust."*
- 4.5 *"Environmental impacts, including vegetation."*
- 4.6 *"Industrial activity out of character and inappropriate for Klaasvoogds' primarily agricultural and tourism environment."*
- 4.7 *"The operation may escalate well beyond its stated purpose."*
- 4.8 *"Flawed rationale for clearing of stone from agricultural land or the financial unviability of the venture."*

- 4.9 *“Allowing the application for temporary departure for crushing plant setting a precedent for further and extended industrial activities.”*
- 4.10 *“No attention been paid by the Tribunal to the alleged tendency of the Applicant to ignore laws and regulations.”*
- 4.11 *“Municipality’s lack of resources to enforce all the applicable laws, including the conditions of approval of temporary departure.”*

5. **Comments on the above grouped reasons for Appeals 1 – 9:**

- 5.1 First and foremost we wish to accentuate the Tribunal’s reasons for approval of the departure on page 3 of the approval.

“The Tribunal’s reasons for approval, are as follows:

- i. All relevant considerations, including the objections, have been taken into account and appropriate mitigation measures, in relation to noise dust and traffic, are provided for in the EA, EMP and the conditions of approval of this land use application.*
- ii. With reference to the soil study, the removal of rock will increase the agricultural potential of the soils, and Agriculture is the primary use in the Agricultural Zone I in accordance with the Langeberg Integrated Zoning Scheme, 2018 and the Langeberg SDF, 2015.*
- iii. Natural resources will be optimally and sustainably used while promoting economic development and job creation.*
- iv. There is no objection to the operation of the crushing plant from any of the relevant Departments, namely: CWDM, BGCMA, Department of Transport, Dept. of Agriculture, DEA&DP and Cape Nature.”*

- 5.2 This comprehensive list of reasons is a clear indication that the Tribunal applied its mind to all relevant factors as to the approval of temporary departure. The Langeberg Municipality has over the past four years received a myriad of material as to the crushing and screening of stockpiled rock/stones as well as a mining permit related thereto. These include inputs/comments/recommendations by relevant State and Provincial departments, the Cape Winelands District Municipality, organs of state, parastatals, Breede-Gouritz Catchment Management Agency, reports of experts, submissions to the Tribunal, afore-going decisions of the Tribunal and Langeberg Appeal Authority, etc.
- 5.3 Having the benefit of all this information at its disposal, surely enabled the Tribunal to make an informed decision. Most, if not all, of the reasons for the ten appeals have already in some or other format been covered by material at the disposal of the Tribunal. It is our convinced view that a comprehensive process of participation was concluded, certainly sufficient to pass legal muster.
- 5.4 It is also to be noted that the Tribunal has not given an open mandate to the Applicant with the approval of temporary departure. The approval of temporary departure is ring-fenced by a multitude of conditions followed by a restrictive note. The incorporation of all these restrictions should give less reason for objection to the approval of temporary departure.
- 5.5 With reference to reason 4.1 above, we refer the Executive Authority to the following:
- 5.5.1 Section 65(1) of the Langeberg Municipal Land Use Planning Bylaw, PN 264/2015 of 30 July 2015 ("Bylaw") determines:
- "65(1) "When the Municipality considers an application, it must have regard to: (own emphasis)*
- (a) ...;*

(d) *The comments in response to the notice of the application, including comments received from organs of state, municipal departments and the provincial Minister in terms section of section 45 of the Land Use Planning Act;*".

5.5.2 The fact that the Tribunal must only *have regard to*¹ what has been said by the Department of Transport as to the maximum of aggregate to be transported per day, means that the Tribunal is not obliged to adhere to the maximum of 50m³ aggregate referred to in par 5.3 of the letter of the Department of Transport.

5.5.3 The following is said in para 6.4.1 of Appeal No 10 with regard to *the Constitutional Court judgment of Fuel Retailers Association of SA (Pty) Ltd v Director, General Environmental Management Department of Agriculture and Conservation and Environment, Mpumalanga and Others 2007 (6) SA 4 CC ("Fuel Retailers case")*:

"The Constitutional Court held that the environmental authorities had misconstrued the nature of their obligations under NEMA (by contending that the need and desirability of the proposed filling station had already been considered by the local authority) and as a consequence failed to apply their own minds to the socio economic impact of the proposed filling station, a matter which they were also required to consider in terms of NEMA."

5.5.4 In the case of the approval of temporary departure, the Tribunal did not misconstrue the nature of its obligations under the Bylaw. The Tribunal applied its mind as to the maximum of aggregate that may be transported off the site per day, having regard to comments of the Department of Transport, without considering itself to be bound by the comments of that

¹ In *Jaffin v Commissioner Child Welfare* 1964(2) SA 506(T) 508 F-G it was said that the words "have regard to" mean "bear in mind" or "do not overlook".

Department as to the maximum of aggregate that may be transported per day.

- 5.5.5 There are several Court decisions regarding the exercise of powers by the different spheres of Government as allocated in the Constitution.²

A few are mentioned below³:

Telkom SA SOC Ltd v City of Cape Town, Estate Late Birch Kalu 1038/2018) [2019] ZASCA 121; [2019] 4 All SA 682 (SCA); 2020 (1) SA 514 (SCA) (25 September 2019) par 36:

“The further argument in Maccsand that the effect of LUPO was to permit a local authority to usurp the functions of national government was rejected in the following terms:

‘46. ... This argument is based on a misinterpretation of the judgment of the Supreme Court of Appeal. That Court did not find that LUPO regulates mining. Instead, it held that the MPRDA and LUPO have different objects and that each did not purport to serve the purpose of the other. The MPRDA’s concern, the Court found, was mining and not municipal planning, hence it held that the two laws operate alongside each other. Because LUPO regulates the use of land and not mining, there is no merit in the assertion that it enables local authorities to usurp the functions of national government. All that LUPO requires is that land must be used for the purpose for which it has been zoned.

47. Another criticism levelled against the finding of the Supreme Court of Appeal by Maccsand and the Minister for Mineral Resources was that, by endorsing a duplication of functions, the Court enabled the local sphere to

² e.g. sections 41(1)(e) to (g) (establishing the principles of co-operative government), and 151(4) and 156(5) (with specific reference to the exercise of powers by municipalities) of the Constitution. For a full discussion in this regard, see E Bray *“Legal perspectives on global environmental governance: South Africa’s partnership role (2)”* 2005 (68) **THRHR** 357, in particular pages 359 to 362 and 369.

³ See also *Durbanville Community Forum v Minister for Environmental Affairs and Development Planning Provincial Government Western Cape and Others* 2015 JDR 0172 (WCC) pages 37-39.

veto decisions of the national sphere on a matter that falls within the exclusive competence of the national sphere. At face value this argument is attractive but it lacks substance. The Constitution allocates powers to three spheres of government in accordance with the functional vision of what is appropriate to each sphere. But because these powers are not contained in hermetically sealed compartments, sometimes the exercise of powers by two spheres may result in an overlap. When this happens, neither sphere is intruding into the functional area of another. Each sphere would be exercising power within its own competence. It is in this context that the Constitution obliges these spheres of government to cooperate with one another in mutual trust and good faith, and to co-ordinate actions taken with one another.

48. The fact that in this case mining cannot take place until the land in question is appropriately rezoned is therefore permissible in our constitutional order. It is proper for one sphere of government to take a decision whose implementation may not take place until consent is granted by another sphere, within whose area of jurisdiction the decision is to be executed. If consent is, however, refused it does not mean that the first decision is vetoed. The authority from whom consent was sought would have exercised its power, which does not extend to the power of the other functionary. This is so in spite of the fact that the effect of the refusal in those circumstances would be that the first decision cannot be put into operation. This difficulty may be resolved through cooperation between the two organs of state, failing which, the refusal may be challenged on review.’ (Emphasis added.)

City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal (CCT89/09) [2010] ZACC 11; 2010 (6) SA 182 (CC); 2010 (9) BCLR 859 (CC) (18 June 2010) paras 54 -55:

“54. It is, however, true that the functional areas allocated to the various spheres of government are not contained in hermetically sealed compartments. But that notwithstanding, they remain distinct from one another. This is the position even in respect of functional areas that share

the same wording like roads, planning, sport and others. The distinctiveness lies in the level at which a particular power is exercised. For example, the provinces exercise powers relating to “provincial roads” whereas municipalities have authority over “municipal roads”. The prefix attached to each functional area identifies the sphere to which it belongs and distinguishes it from the functional areas allocated to the other spheres. In the example just given, the functional area of “provincial roads” does not include “municipal roads”. In the same vein, “provincial planning” and “regional planning and development” do not include “municipal planning.

55. The constitutional scheme propels one ineluctably to the conclusion that, barring functional areas of concurrent competence, each sphere of government is allocated separate and distinct powers which it alone is entitled to exercise. Of course, the constitutionally mandated interventions in terms of sections 100 (national interventions in the provincial sphere) and 139 (provincial interventions in the municipal sphere) constitute an exception to the principle of relative and limited autonomy of the spheres of government.”

Fuel Retailers Association case para 85:

“The local authority considers need and desirability from the perspective of town-planning and an environmental authority considers whether a town-planning scheme is environmentally justifiable. A proposed development may satisfy the need and desirability criteria from a town-planning perspective and yet fail from an environmental perspective. The local authority is not required to consider the social, economic and environmental impact of a proposed development as the environmental authorities are required to do by the provisions of NEMA. Nor is it required to identify the actual and potential impact of a proposed development on socio-economic conditions as NEMA requires the environmental

authorities to do.”⁴

- 5.5.6 The Applicant has however, no objection to the reduction of the maximum of 200m³ of stone to be crushed per day (condition 3.3 of approval of temporary departure) and 200m³ of aggregate to be transported off the site per day (condition 3.4 of approval of temporary departure) to 80m³. It is believed that by doing so, a lot of the concerns will fall away.
- 5.6 With reference to the allegation that the process of appeal had been rushed during current lockdown regulations, is devoid of all truth. All the procedures prescribed under the Bylaw with regard to an appeal against the decision of the Tribunal, have been followed.
- 5.7 The allegation that no attention had been paid by the Tribunal to the tendency of the Applicant to ignore laws and regulations and the Municipality’s lack of resources to enforce all the applicable laws, including the conditions imposed with the approval of temporary departure, are, with respect, irrelevant for purposes of granting the approval of temporary departure. They do not form part of the criteria for consideration of applications by the Tribunal, referred to in section 65 of the Bylaw.
- 5.8 With reference to appeal grounds referring to *“impact of noise and dust, traffic and the alleged setting of a precedent for further and extended industrial activities”* if application for temporary departure is allowed:

Comment:

- 5.8.1 We attach hereto as Annexure “**CP1**” Zoning Certificate pertaining to Portion 2 of the Farm Goedvertrou No 45 Robertson (“Portion 2”). As can be gleaned from this Zoning Certificate, that property is zoned for Agriculture as Primary Use. The following departures have however been approved namely: sand/ gravel mine for the life span of the mine as shown on the attached plan marked Goedvertrou 45 – 2 ROB-LBM-ZP.

⁴ Also referred to in par 6.4.2. of Appeal No 10.

- 5.8.2 We also attach hereto as Annexure “CP2”, 3 very recent photographs depicting the mining area/site of Portion 2. As can be gleaned from the said photographs the physical footprint of the mining site on Portion 2 is much larger in extent than the mining site in respect of the Applicant's application for a temporary departure. The extent of the mining activities currently taking place on Portion 2, are in relation to the mining site on the Applicant's property, on a completely different (higher) scale, referring to the impact of noise, dust on the neighbouring properties in the Klaasvoogds area.
- 5.8.3 We further attach hereto as Annexure “CP3”, a Google Map depicting the two mining sites in relation to each other and also in relation to properties of 8 of the Appellants (objectors), appealing against the granting of a temporary departure to the Applicant's property.
- 5.8.4 Furthermore, the proximity of the properties of the mentioned 8 objectors in relation to the mining site on Portion 49, is more or less on average similar to the proximity in relation to the mining site on Portion 2. What is however incomprehensible is that apart from the fact that no reference whatsoever has been made by any objector to this precedent of a mining site, no objection has been levelled in relation to dust, noise and the creation of an undesirable precedent in respect of Portion 2. Surely, the mining site on Portion 2 clearly is also inconsistent with the sustainable use of agricultural land.
- 5.8.5 To demonstrate by means of examples, the comparative distances of the properties of the objectors from either mining site, we have compared those distances as follows:
- 5.8.5.1 the De Wet appellant (Appeal 2) resides a mere 790m from the mining site on Portion 2, whereas his property is located more than 3 000m from the mining site on the Applicant's property.

- 5.8.5.2 The Busch appellant (Appeal 8) resides 2 900m from the mining site on Portion 2 and more than 3 000m from the Applicant's mining site.
- 5.8.5.3 The Van Wassenhoven appellant (Appeal 3) resides 1 223m from the mining site on Portion 2 and more than 2 800m from the Applicant's mining site.
- 5.8.5.4 The Charles Barnard appellant (Appeal 1) resides 2040m from the mining site on Portion 2 and 1774m from the Applicant's mining site.
- 5.8.6 The property of the appellant which is located the nearest of all the objectors to the Applicant's mining site, is appellant 10 being Fraai Uitzicht. The distance to Applicant's mining site is still more than 1200m.
- 5.8.7 The fact of the matter is that most of the appellants' properties are located further away from a relative minor mining site in comparison with a much larger site of an industrial scale, namely the mining site on Portion 2.
- 5.8.8 Thus, the vehement attack on the Applicant's application as being the establishment of a crushing plant which will create an undesirable precedent in the so-called agricultural nature of the Klaasvoogds valley, is preposterous to say the least, taking into account an industrial footprint of the mining site on Portion 2 in extent almost twice the size and scale of the Applicant's mining site on Portion 49.

6. Comments on reasons for Appeal No 10 ("Appeal") NRL

6.1 The grounds for Appeal:

- 6.1.1 *“Departure approval based on misleading information provided by Applicant’s agent in breach of section 62(2) of the By-law; non-compliance with environmental & mining legislation” (para 2 of Appeal)*

Comment:

The comments in paragraphs 5.1 to 5.5.5 above and 6.1.5 below also apply to the aforesaid grounds. It is furthermore to be noted that most of the discussion is with regard to the issuing of the mining permit, instead of what is relevant to the approval of temporary departure.

- 6.1.2 *“Substantively similar approach in respect of the 4.9 Hectare Area - res judicata principle” (para 3 of Appeal)*

Comment:

Res judicata is the legal doctrine that prohibits a litigant from having a metaphorical second bite at the cherry. One of the key elements to raise/succeed with the plea of *res judicata* is the issue of the same title/subject matter. The following is stated on page 3 of the approval of temporary departure:

“The Tribunal notes that:

- *The current application is deemed to be significantly different to the previous application, such that the Tribunal can take a decision on this new application*
- *The previous reasons given by the Tribunal for the refusal of the previous rezoning application for mining and the crushing plant; and the reasons given by the Langeberg Appeal Authority in upholding the Tribunal’s decision, are not deemed to be applicable to the application for temporary departure for a crushing plant” (own emphasis)*

What is noted by the Tribunal is confirmed by the fact that the application before the Tribunal was the Applicant’s application for approval of the temporary departure for a crushing plant on a 4,9ha of Portion 49 of the

farm Klaas Voogds Rivier, being different to the previous application to the Tribunal in respect of the rezoning for portions 47 and 49 for mining and the crushing plant. There is no evidence of note, rebutting the view of the Tribunal that the reasons given by the Tribunal for the refusal of the previous application for rezoning of portions 47 and 49 for mining and the crushing plant and the reasons given by the Appeal Authority in upholding the Tribunal's decision, are not deemed to be applicable to the application for temporary departure⁵, making the view of the Tribunal to be irrational (section 62(f)(ii)(dd) of the Promotion of Administrative Justice Act, 3 of 2000 ("PAJA")) and failing to take relevant considerations into account (section 6(2)(e)(iii) of PAJA), as alleged in para 3.6 of the Appeal.⁶

It is also to be noted that the decisions of the Tribunal and Appeal Authority in respect of the rezoning for Portions 47 and 49 for mining and the crushing plant, do not create a binding precedent to be followed by the Tribunal in approving the temporary departure. The *ratio decidendi* (the rationale for the decisions) is not present. The essential elements of the respective decisions are not similar.

6.1.3 "Unacceptable impacts of mitigation" (para 4 of Appeal)

Comment:

The appeal has been with reference to the impact of noise of the crushing plant and the trucks transporting aggregate, fully traversed by the Tribunal in formulating its reasons and/or as we have commented. It is stated in par i⁷ of the Tribunal's reasons for approval of the temporary departure that all

⁵ Regarding the allegations in paras 3.5, 7.1.1 and 7.1.2 of the Appeal as to the absence of reasons given by the Tribunal to some aspects regarding the Tribunal's decision to approve the temporary departure of the crushing plant, the reasons for, and view of the Tribunal to, its decision (page 3 of the approval of temporary departure), need not be elaborate. The Tribunal needs to give reasons, not to give reasons for its reasons. See *Staechelein v ACLBDD Holdings Ltd* [2019] EWCA Civ 817 par 39; *Clegg v Solicitors Regulation Authority* [2019] EWHC 2408.

⁶ See par 6.1.6 where the application of PAJA is discussed in more detail.

⁷ Page 3 of approval of temporary departure.

relevant considerations, including the objections, have been taken into account and appropriate mitigation measures in relation to *inter alia* noise.

As discussed in paras 5.1 to 5.3 above, there is every reason to believe that the Tribunal took the conspectus of relevant considerations into account and arrived at a rational decision, which the Appeal Authority must accord due and appropriate respect.

6.1.4 *“Traffic impacts not properly assessed” (para 5 of Appeal)*

Comment:

This ground has been discussed in depth in paragraph 5.5 above and needs no further explanation.

6.1.5 *“Inadequate consideration and application of the requirements of SPLUMA, LUPA and the Bylaw; failure to consider the principles contained in section 2 of MEMA” (para 6 of Appeal)*
N

Comment:

The comments in paragraphs 5.1 to 5.5.5 also apply to the aforesaid grounds.

As the court said in *MEC for Environmental Affairs and Development Planning v Clairisons CC* 2013(6) SA 224 (SCA) para 22:

“[T]he law remains as we see it, that when a functionary [Tribunal] is entrusted with a discretion, the weight to be attached to particular factors or how far a particular factor affects the eventual determination issue is a matter for the functionary to decide and as he acts in good faith (and reasonably and rationally) a court of law [Appeal Authority as quasi-judicial body] cannot interfere.”

In this connection it is also relevant to refer to Cora Hoexter, who in the leading text on the subject **Administrative Law in South Africa** (2nd ed) at 151 writes:

“The sort of deference we should be aspiring to the administrative law consists of a judicial willingness to appreciate the constitutionality ordained province of ‘administrative agencies’. To acknowledge the expertise of these agencies and policy laden or polycentric issues; to give their interpretation of fact and law due respect and to be sensitive in general to the interests legitimately pursued by administrative bodies and the practical and financial constraints under which they have to operate.”

6.1.6 With reference to PAJA (**paras 2,4,5 and 6 of Appeal**):

6.1.6.1 *“Failure to take relevant considerations into account (PAJA section 6(2)(e)(iii))”*

6.1.6.2 *“Decision not rationally connected to the information before the LMPT (PAJA section 6(2)(f)(iii)(cc)) or the reasons provided by the LMPT for the departure approval (PAJA section 6(2)(f)(ii)(dd))”*

Comment:

We wish to point out that the photographs depicted in paragraph 5.4 of Appeal 10, are misrepresenting the true facts in a scandalous way. There is no other way to describe the images depicted as transport vehicles being used to transport aggregate between the mining site and the ready mix plant in the Robertson industrial area.

The trucks depicted represent trucks that were hired by CP Concrete at the time when their ready mix plant was still located on Portion 47, right next to the Klaasvoogds East road. The ready mix plant has since been

moved to the Robertson industrial area, which means that the trucks depicted are not the trucks currently utilized to transport aggregate. Only one transport truck is currently used by CP Concrete to transport aggregate (and not concrete mix) from the Applicant's site to the ready mix plant. We attach hereto as Annexure "CP4", photograph depicting that truck.

The Executive Authority will also bear in mind that at the time when the ready mix plant was located on Portion 47, concrete mixer trucks were indeed used to transport concrete mix from Portion 47 to wherever it was needed. Currently, that is not the case anymore. Similarly, the photograph depicted next to para 5.5 of Appeal 10 reflects an image of something which may have happened approximately 3 years ago when the ready mix plant was still operated on Portion 47.

As stated repeatedly, the ready mix plant has been moved to the industrial area of Robertson and no mixing of concrete takes place anywhere near Portion 47 or Portion 49. We attach hereto a recent photograph as annexure "CP5" erroneously depicting the very same area presented in para 5.5 as the current state of affairs.

- 6.1.6.3 The point to be raised *in limine* is that the Appeal addresses aspects of PAJA which are not required under section 80(2)(a)(i) of the Bylaw:

"80(2) An appeal must set out the following-

- (a) The grounds for appeal which may include the following grounds:*
 - (i) that the administrative procedure was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);" (own emphasis)*

Comment:

The relevant provision in PAJA with regard to the ground referred to in section 80(2)(a)(i) of the Bylaw is section 3 (*"Procedurally fair administrative action affecting any person"*). However, in the Appeal there is no reference to section 3 of PAJA, but only to section 6(2)(e)(iii), (f)(ii)(cc) and (dd) of PAJA. Section 6(2) of PAJA deals with the power of *"[a] court or tribunal to judicially review an administrative action if -"**The Appeal Authority contemplated in section 79(1) of the Bylaw*⁸, *although to be considered as a quasi-judicial body, is neither a court*⁹ *nor a tribunal*¹⁰ *for purpose of the application of section 6(2) of PAJA."*

Thus, the Appeal Authority has no jurisdiction with regard to review judicially an administrative action of the Tribunal.¹¹ This means that the ground of the Appeal with regard to PAJA cannot be considered and determined by the Appeal Authority as lawfully submitted to it.¹²

As no opinion was expressed in the Appeal as to whether the administrative action of the Tribunal was procedurally fair, it is assumed that the Appeal considered the administrative action of the Tribunal as fair.

A few remarks, *obiter dicta*, though regarding the Appeal's reference to the alleged non-compliance by the Applicant with section 6(2)(e)(iii), (f)(ii)(cc) and (dd) of PAJA.

The conclusions in the Appeal that the Tribunal failed to take relevant considerations into account in reaching its decision to approve the temporary departure (section 6(2)(e)(iii) of PAJA), and that the decision of

⁸ See definition of "Appeal Authority" in section 1 of Bylaw.

⁹ See section 166 of Constitution.

¹⁰ A tribunal is defined in section 1(xiii) of PAJA: "**tribunal** means any independent and impartial *tribunal established by national legislation* for the purpose of judicially reviewing an administrative action in terms of this Act." (own emphasis)

¹¹ See definition of "administrative action" in section 1(i) of PAJA.

¹² Section 81(7)(a) of Bylaw.

the Tribunal was not rationally connected to the information before the Tribunal (section 6(2)(f)(ii)(cc) of PAJA) or the reasons given by the Tribunal for approving the temporary departure, were mostly of a general nature without referring to specific instances of non-compliance by the Tribunal.¹³ In this regard the following:

(a) The requirement under section 6(2)(e)(iii) of PAJA of considering relevant considerations when taking lawful administrative action.

This requirement for lawful administrative action clearly indicates that the exercise of a decision of an organ of state in terms of legislation allows for judicial review of the administrative action “because irrelevant considerations were taken into account or relevant considerations were not considered”. The criteria for consideration by the Tribunal of applications and conditions of approval, are spelt out in detail in sections 65 and 66, respectively, of the Bylaw. The requirement for lawful action clearly indicates that the exercise of a decision by an administrator¹⁴ must be based on the consideration of relevant considerations and not on irrelevant considerations. If relevant considerations were not considered, or irrelevant factors were taken into account, then the decision of the administrator (the Tribunal) would not have been taken for good reason. In such a case, a court can review the decision of the administrator (Tribunal).¹⁵ There is no evidence that the Tribunal made itself guilty of not taking into account relevant considerations or based its decision to approve the temporary departure on irrelevant considerations.

(b) The requirement that a court or tribunal has the power to judicially review an administrative action (approval by the Tribunal of temporary departure) if the action is not rationally connected to the information before

¹³ Paras 2.7; 3.6; 4.9; 5.8; 2 and 3; and 6.5 of Appeal.

¹⁴ An administrator is defined in section 1(ii) of PAJA as “an organ of state or any natural or juristic person taking administrative action”.

¹⁵ *Chairperson’s Association v Minister of Arts* (2007) 2 All SA 582 (SCA) par 48.

the administrator (Tribunal) (section 6(2)(f)(ii)(cc) of PAJA) or the reasons given for it by the administrator (section 6(2)(f)(ii)(dd) of PAJA)

The test to determine rationality was formulated in *Carephone (Pty) Ltd v Marcus* 1993 (3) SA 304 (LAC) par 25 as follows:

“[I]s there a rational objective basis justifying the conclusion made by the administrative decision-maker between the material properly available to him and the conclusion he or she eventually arrived at?”

In *Trinity Broadcasting (Ciskei) v Independent Communication Authority of South Africa* 2004 (3) SA 346 (SCA) at 354H-355A, the Court sets out the test for rationality for the purpose of section 6(2)(f)(ii) of PAJA as follows:

“In the application of that test, the reviewing Court will ask: Is there a rational objective basis justifying the connection made by the administrative decision-maker between the material made available and the conclusion arrived at?”

A rational decision, therefore, means that one must be able to justify the decision based on the information known to the administrator and the reasons supplied for that decision. Routledge¹⁶ states that there where the decision is “so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it”, the decision can be challenged on the grounds of irrationality. The decision of the Tribunal to approve the temporary departure falls surely not within the category of being outrageous as stated by Routledge.

Rationality requires, inter alia, that there must be a logical connection between the decision and the information on which the decision was based. The administrative action must make sense given the information

¹⁶ Routledge Cavendish **Constitutional Law** 134.

available. There is no evidence that the Tribunal took the decision to approve the temporary departure without there being a logical connection between the decision and the information available or the decision being nonsensical.

- 6.1.7 Perception or appearance that the decision of the Tribunal to approve the temporary departure of the crushing plant can be regarded as being biased (**paras 3.6.2 and 7 of Appeal**)

Comment:

The major problem associated with allegations that a quasi-judicial body, such as the Tribunal, was biased or perceived to have been prejudiced is the inability of the complainant, the Appellant, to prove the facts of adjudicative partiality in making a decision. It is often impossible to determine with any measure of precision the state of mind of an adjudicator, such as the Tribunal, who has made a decision. Thus, actual bias is an elusive proposition. Accordingly, the courts take the position that an appearance of impartiality is in itself an essential component of procedural fairness. Even so, the threshold of finding perceived bias is as high as where actual bias is alleged. Whenever an allegation of bias or a reasonable apprehension of bias is made, the adjudicative integrity not only of the adjudicator, the Tribunal, but of the entire administration of justice is called into question. Therefore, the Appeal Authority will have to consider the matter very carefully before making a finding as to the Tribunal being biased in the making of its decision to approve the temporary departure of the crushing plant.¹⁷

Actual bias is the predisposition of a judicial or quasi-judicial body making a decision against or in favour of a party (favouritism) or that the body was influenced by partiality or prejudiced in reaching a decision. Excluded in

¹⁷ Okpabuba and Luma *"The problem of proving actual or apparent bias: an analysis of contemporary developments in South Africa"* Potchefstroomse Elektroniese Regsblad Vol 14 No 7 Potchefstroom Jan 2011, p 1 ("Okpaluba and Juma").

such instance are things like a predisposition to have a certain view of the law. A determination of bias cannot be founded on an adjudicator's (Tribunal's) error of interpretation, or on the Tribunal's application of the law to the facts before it.¹⁸ As is it difficult to prove actual bias, because of the subjectivity attendant upon it, the trend has become that it is enough that apparent bias be shown, namely if viewed by the subjective standard which is that a reasonably informed person with knowledge of the facts would reasonably apprehend the possibility of bias in the circumstances¹⁹. The first hurdle to surmount in an attempt to show that the Tribunal had conducted in a way that raises an apprehension of bias, is the presumption of impartiality. It is expected of a quasi-judicial body, such as the Tribunal, in fulfilling its statutory function to act without bias or prejudice and must be perceived to do so.²⁰ This presumption carries considerable weight, since the law will not suppose the possibility of bias in the Tribunal, whose authority greatly depends upon that presumption.²¹ In *Bernert v Absa Bank Ltd* 2011 (3) SA 92 (CC), the court stressed that both the person who apprehends bias and the apprehension itself must be reasonable. This two-fold emphasis serves to underscore the weight of the burden resting on the person alleging bias or its appearance. The test for establishing bias must be based on the reasonable apprehension of a reasonable man (the double reasonableness test).²² In order to satisfy the requirement that an apprehension of bias must be reasonable in the circumstances, the reasonable, objective, informed and fair-minded person enters into the picture.²³ It follows that an application for the disqualification of the Tribunal will not succeed if the Appellant fails to demonstrate that the Tribunal in the circumstances might have departed or was in danger of departing from the standard of even-handed justice, or

¹⁸ Okpaluba and Juma p 2.

¹⁹ *Committee for Justice and Liberty et al. v National Energy Board* [1978] 1 S.C.R. 369 at 393.

²⁰ *Babaletakis and Another v Minister of Local Government, Environmental Affairs and Development Planning (Western Cape and Others)* (2017) All SA 447 (WCC) par 38.

²¹ 'Heureux – Dube and McLachlan JJ, *R v S* (RD) 1997 (3) SCR 484 par 32.

²² De Smith SA **Judicial Review of Administrative Action** 3rd ed (1973) 230; *De Lacy v South African Post Office* 2011 ZACC 17 (24 May 2011) ("De Lacy case").

²³ *Sager v Smith* 2001 3 SA 1004 (SCA); *S v Roberts* 1999 4 SA 915 (SCA).

that there appeared the possibility that the Tribunal might incline to one side or the other in making a decision.

The Constitutional Court²⁴ formulated the reasonable apprehension test as:

“Whether a reasonable, objective and informed person would on the correct facts reasonably apprehend that the judge [Tribunal] has not or will not bring an impartial mind to bear on the adjudication of the case, that is, a mind open to persuasion by the evidence and submissions of counsel.”

The presumption of impartiality and the requirement of reasonableness underscore the formidable nature of the burden resting upon the Appellant who alleged bias. The allegation of the Appellant that the decision of the Tribunal to approve the temporary departure lends to the perception of bias (par 3.6.2 of Appeal) and appears not to be fair and impartial and as such be regarded as being a biased decision (par 7.1 of Appeal), must be based on facts substantial enough to satisfy the requirements of the fair-minded reasonable observer.²⁵ Even should it be shown by the Appellant that the Tribunal committed factual errors in its decision to approve the temporary departure, this would not ordinarily be sufficient on its own to justify a reasonable apprehension of bias.²⁶ It will justify a reasonable apprehension of bias only if the error relates to a material fact and it is so unreasonable that it is inexplicable except on the grounds of the bias.²⁷ No cogent evidence was given by the Appellant to prove that the Tribunal’s decision to approve the temporary departure was not taken in a fair and impartial manner and as such can be regarded as being a biased decision. The Appellant merely alleged that the Tribunal’s decision to approve the

²⁴ *President of the Republic of South Africa v South African Rugby Football Union* [1999] ZACC 9 (SARFU case) par 48.

²⁵ Okpaluba and Juma p 6.

²⁶ *Christian t/a Hope Financial Services v Chairman, Financial Services Board* (1) 2009 1 NLR 22 (HCNm); *Bernert v ABSA Bank Ltd* 2011 3 SA 92.

²⁷ De Lacy case paras 71-72.

temporary departure lends to the perception of bias and appears not to be taken in a fair and impartial manner and as such can be regarded as being a biased decision.

7. **Appeal by Applicant (referred to as Appeal 11)**

Any comments as to Appeal 11 are contained in Annexure A to the Applicant's Appeal (Appeal 11).

8. **Conclusion**

For the reasons set out above, the Appeal Authority is requested not to uphold the appeals, with the exception of Appeal 11. The Appeal Authority is requested to uphold the decision of the Tribunal to approve the application for the temporary departure for a crushing plant on a 4,9 ha of Portion 49 of the farm Klaas Voogds Rivier No 37, Robertson, with the following modifications:

- (a) The reduction of the maximum of 200m³ of stone to be crushed per day (condition 3.3 of approval of temporary departure) and 200m³ of aggregate to be transported off the site per day (condition 3.4 of approval of temporary departure) to 80m³ (para 5.5.6 refers);
- (b) The amendment of condition 5.1 of approval of temporary departure to allow crushing activities from 8h00 to 17h00 on Mondays to Fridays (Annexure A of Appeal 11 refers).

Yours Faithfully
DU BOIS ATTORNEYS
 Per

JP DU BOIS
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CC: JV Brand – KBrand@langeberg.gov.za

T Brunings – TBrunings@langeberg.gov.za

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M Terblanche – admin@tplan.co.za / marie@tplan.co.za

Date: 25 March 2015

ZONING CERTIFICATE

To Whom It May Concern:

It is hereby certified that Portion 2 of the farm Goedvertrou No. 45, Robertson, is zoned as:

Agricultural Zone I

Primary Use:

- Agriculture, which means
“(a) the cultivation of land, or
(b) the breeding of animals, ..., or
(c) natural veld, and comprises only those activities and buildings that directly relate to the main farming activities on the farm, but does not include abattoirs, feedpen farming, aquaculture or other defined consent uses”.

Consent Uses approved:

- None.

Departures approved:

- Sand / Gravel Mine, for the life span of the mine, as shown on the attached plan marked GOEDVERTROU 45-2 ROB-LBM-ZP (25 March 2015) and as determined in terms of the Land Use Planning Ordinance No 15 of 1985, in accordance with the legal land use as at 1 July 1986.

Yours faithfully


JV BRAND
MANAGER : TOWN PLANNING
/Ulb

Vir aandag: Tracy Brunings

ATT: B. VAN AS. 073-6263939



BESONDERHEDE VIR BETALING VAN AANSOEKFOOTIE: STADSBEPLANNING
PARTICULARS FOR PAYMENT OF APPLICATION FEES: TOWN PLANNING

ABSA
 CLIENT
 TRANSACTIONS REPORT
 KUBIT
 TRAKSUSIDELOO
 Account Number/Rekeningnummer
 23 MAR 2015 08:58:16 10-5080-0008 002707
 C0 *****106.00
 LANGEBERG MUNICIPALITY
 REFERENCE NUMBER 21090edervertroude/2 rob
 0007 000582444
 R 50: R000,000,100.00
 R 10: R000,000,010.00
 ABSA
 03-28
 102/8581
 02-45-09
 Deposit reference number (applicable to deposits)
 Deposito-referensienommer (op deposito's van toepassing)
 Thank you for banking with us!
 Dank u dat u ons kiest!
 Abs 1144 de Rabobank (25-01-11)
 Afgesluit: 11-04-2015 10:00:00
 Abs 1144 de Rabobank (25-01-11)
 Afgesluit: 11-04-2015 10:00:00

Meld verwysing / Quote reference: ... A10 (erf no.) [e.g. "A10 (Erf 2345, Robertson)" of/or "A10 (Farm123/4, Montagu)"]

→ A10 Goedvertrou 45/2 Rob

Handle betalingsbewys in by munisipale kantore te Montagu of stuur aan: /
Hand in receipt at Montagu municipal offices or send to:

Faks / Fax: 023 614 1841 ✕
e-pos / e-mail: rferreira@langeberg.gov.za

Navrae / Enquiries

Jack van Zyl / Tracy Brunings / Ronel Ferreira :

Tel: 023 614 8000

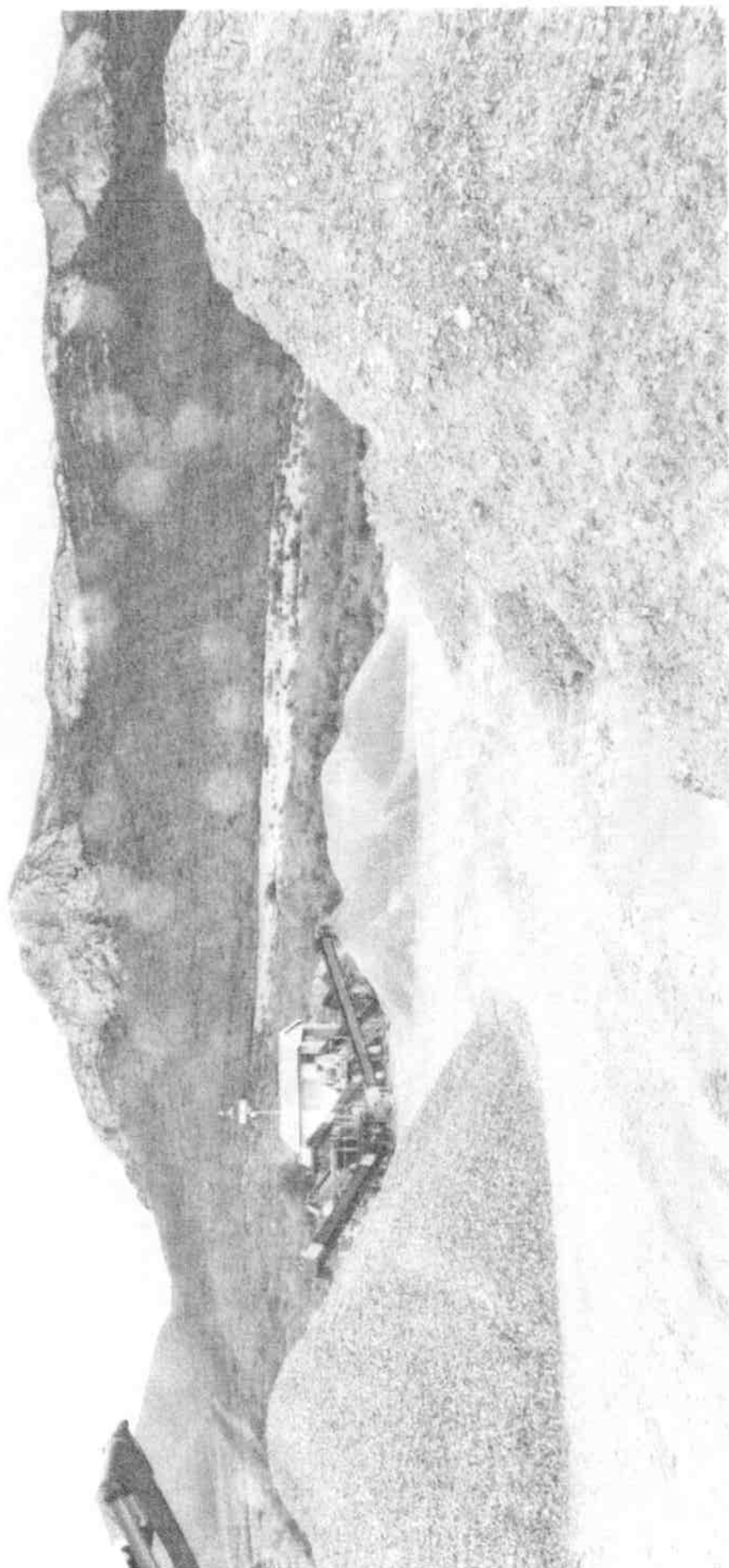
Fax: 023 614 1841

e-pos / e-mail: admin@langeberg.gov.za

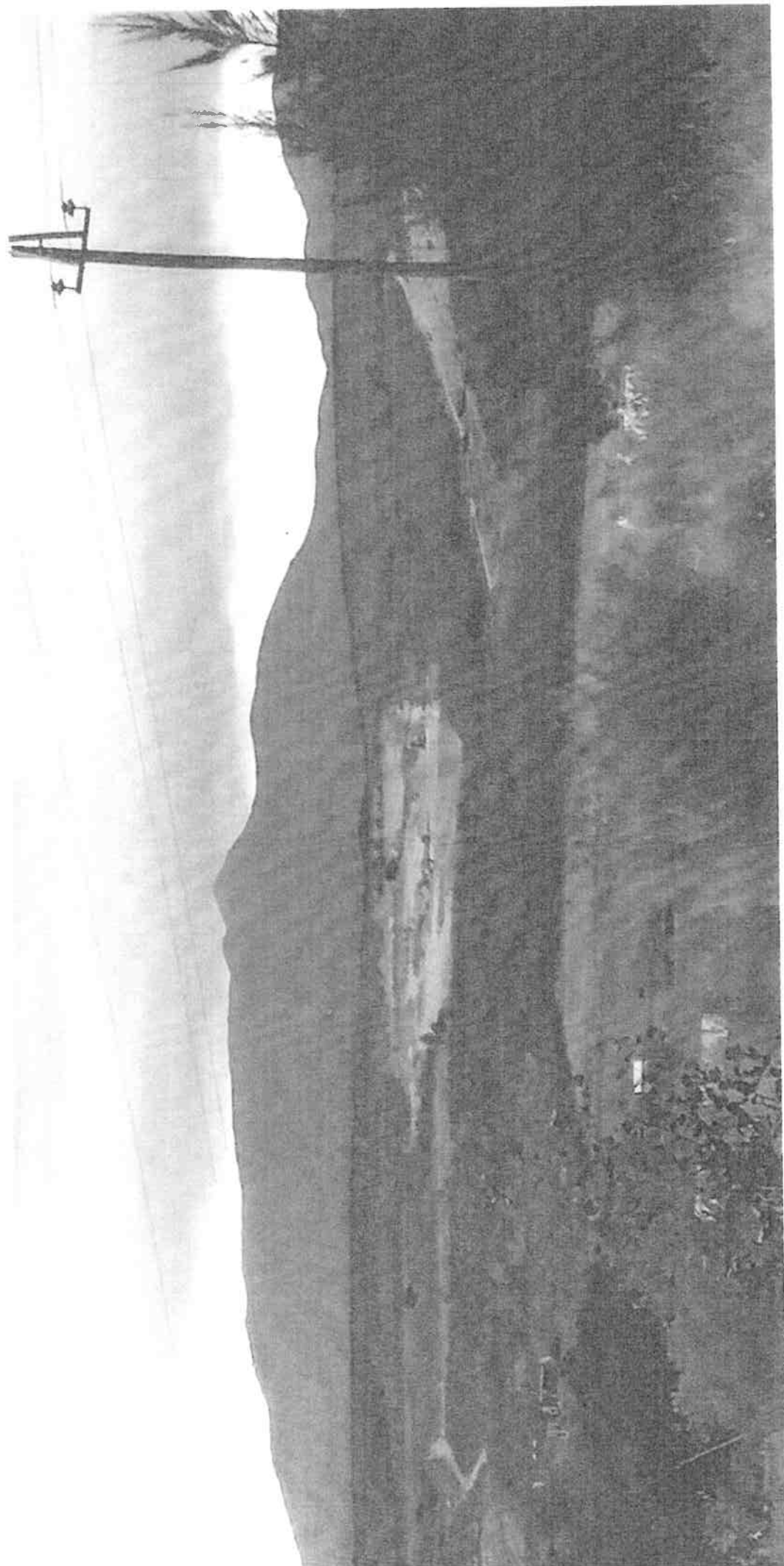
"CP2"



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"cp2"



[illegible]

Two Mining sites in
Klaasvoogds

Publicity

Scale: 1.35 x 12
Date created: August 12, 2020

[illegible]

Western Cape
Government
Agriculture

"CPK"



"CPS"



Annexure 18

Provincial comments



**DIRECTORATE: DEVELOPMENT MANAGEMENT
(REGION 2)**

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REFERENCE: 15/3/2/12/BL2

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ASHTON
6715

FOR ATTENTION: TRACY BRUNNINGS

REQUEST FOR COMMENT: APPEAL AGAINST DECISION OF THE LANGEBERG MPT RELATING TO PORTION 49 OF FARM KLAAS VOOGDS RIVIER NO 37, ROBERTSON: APPLICATION FOR TEMPORARY DEPARTURE FOR A CRUSHING PLANT IN AGRICULTURAL ZONE 1

1. Your request for comment dated 27 July 2020 refers.
2. The application for the crushing of rock on the subject property has a long history, comprising several iterations over time. The original application for the rezoning of 25.6ha of land from Agricultural Zone I to Industrial Zone III for mining purposes to remove rock down to a depth of 5m in places, was refused by the Langeberg Municipal Planning Tribunal on 9 November 2018. Following an appeal lodged by the applicant against the Tribunal's decision, the Langeberg Appeal Authority, on 27 May 2019, upheld the Tribunal's decision.
3. The most recent application was for a temporary departure to operate a crushing plant on Portion 49/KVR 37 Robertson, to crush rock removed from agricultural fields, for a period not exceeding 5 years.
4. The planning assessment report to the Tribunal, dated 10 June 2020, effectively speaks to the key issues identified by the respective parties, such as environmental impact; agricultural sustainability; traffic implications; visual, noise and dust impacts; and socio-economic impact and makes a recommendation to the Tribunal informed by input from the relevant Departments, namely CWDM, BGCMA,

Department of Transport & Public Works, Western Cape Department of Agriculture, DEA&DP and Cape Nature.

5. In consideration of the recommendation put forward in the planning assessment report, the changes made by the Tribunal in conditions of approval 3.3 and 3.4 are somewhat irregular and could be grounds for review in terms of PAJA sections 6(2)(f)(ii)(dd) (making a decision not rationally connected to the information that was put before it) or 6(2)(f)(ii)(cc) (making a decision that is not rationally connected to the reasons provided).
6. The Tribunal's ruling ignored the Department of Transport's specifications, as per their correspondence dated 21 January 2020, and increased the transport of aggregate off-site from 50m³ a day to a maximum of 200m³ a day. This despite the fact that that the Department of Transport and Public Works (DoT&PW) approved the application on the basis that aggregate transported off-site was limited to 50m³ a day and that all initial studies and motivation for approval by the applicant seems to be based on 70m³ for transport per day.
7. No clarification is provided by the Tribal for such deviation, which also impacts on compliance with the conditions imposed by the DoT&PW.
8. It could be argued that approving 200m³ per day to be transported may place a future financial burden on the Municipality if the additional 150m³ per day permitted by the Municipality is deemed to cause additional wear and tear on the district road beyond that authorised by the DoT&PW. Such a decision would be contrary to, *inter alia*, the Traffic Impact Assessment, the DoT&PW's conditions, the Provincial Relevant Considerations Guideline, cooperative governance and Section 42 of SPLUMA.
9. The volume of heavy-duty industrial vehicles traversing Klaasvoogds East and West Roads, and associated noise and safety impacts, has always been a major point of contention with the appellants, and the unsubstantiated increase in traffic is problematic within a litigious community.
10. Similarly, no clarification has been given by the Tribunal for the increase in the amount of aggregate that can be crushed on the site daily. As per the current conditions of approval, the applicant can remove all the aggregate crushed daily

and does not, therefore, need to create stockpiles. As such the Tribunal cannot be justified in approving a 4,9ha site, when a smaller site would suffice.

11. The applicant applied for a temporary departure for 3 years, renewable annually to a total period of 5 years. The Mining Permit (should it be found that it was properly renewed), can however, only be renewed for a further 2 years after it expires in October 2020. Despite the aforesaid, the Tribunal approved the temporary departure for a period of 5 years and no reasons were provided.
12. Finally, in the consideration of the appeal, the Appeal Authority must be satisfied that the current application is deemed to be significantly different to the previous application, such that the Tribunal could receive and take a decision and secondly, that all relevant considerations, including those concerning socio-economic and environmental impacts generally and noise impacts specifically, were in fact taken into account by the Tribunal in the decision made on 17 June 2020.

Kobus Munro

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DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

Annexure 19

Section 81 of the Langeberg Land Use
Planning Bylaw 2015: Consideration by
Appeal Authority

- (iv) proceedings of the Appeal Authority; and
 - (v) keep records by any means as the Appeal Authority may deem expedient.
- (15) An appellant may, at any time before the Appeal Authority makes a decision on an appeal submitted by the appellant, withdraw the appeal by giving written notice of the withdrawal to the Municipal Manager.
- (16) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney given to his or her former agent and confirm whether he or she will personally proceed with the appeal.

Consideration by Appeal Authority

81. (1) An appeal may be considered by the Appeal Authority by means of—
- (c) the consideration of the written appeal and comments; or
 - (d) an oral hearing.
- (2) The appeal may be considered in terms of subsection (1)(a) if it appears to the Appeal Authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.
- (3) An oral hearing may be held—
- (c) if it appears to the Appeal Authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
 - (d) if such hearing would assist in the expeditious and fair disposal of the appeal.
- (4) If appropriate in the circumstances, the oral hearing may be held by electronic means.
- (5) If the Appeal Authority decides to hold an oral hearing, any party to the appeal proceedings may appear in person or may be represented by another person.
- (6) The Appeal Authority must ensure that every party to a proceeding before the Appeal Authority is given an opportunity to present his or her case, whether in writing or orally as contemplated in subsections (2) and (3) and, in particular, to inspect any documents to which the

appeal authority proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.

- (7) The Appeal Authority must—
 - (a) consider and determine all appeals lawfully submitted to it;
 - (b) confirm, vary or revoke the decision of the Tribunal or authorised employee;
 - (c) provide reasons for any decision made by it;
 - (d) give directions relevant to its functions to the Municipality;
 - (e) keep a record of all its proceedings; and
 - (f) determine whether the appeal falls within its jurisdiction.
- (8) Subject to subsection (12), the Appeal Authority must decide on an appeal within 60 days of receipt of the assessment report contemplated in section 80(13)
- (9) If the Appeal Authority revokes a decision of the Tribunal or authorised employee it may—
 - (a) remit the matter to the Tribunal or authorised employee—
 - (i) if there was an error in the process which is unfair and which cannot be corrected by the Appeal Authority; and
 - (ii) with instructions regarding the correction of the error; or
 - (b) replace the decision with any decision it regards necessary.
- (10) The Appeal Authority may appoint a technical adviser to advise or assist it with regard to a matter forming part of the appeal.
- (11) The Appeal Authority must within 21 days from the date of its decision notify the parties to an appeal in writing of—
 - (a) the decision and the reasons therefor; and
 - (b) if the decision on an appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.

- (12) The Appeal Authority may extend the period contemplated in subsection (8) in exceptional circumstances including the following:
- (a) if an interested person has submitted a petition for intervener status;
 - (b) if an oral hearing is to be held.

CHAPTER VIII

PROVISION OF ENGINEERING SERVICES

Responsibility for provision of engineering services

82. (1) An applicant is responsible for the provision, installation and costs of internal engineering services required for a development once an application is approved.
- (2) The Municipality is responsible for the provision and installation of external engineering services.
- (3) If the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service.
- (4) The Municipality may enter into a written agreement with an applicant to provide that—
- (a) the applicant is responsible for the provision, installation and costs of external engineering service instead of paying the applicable development charges; or
 - (b) the applicant is responsible for the provision, installation and costs of external engineering service and that the fair and reasonable costs of the external engineering service may be set off against the development charges payable by the applicant.

Development charges

83. (1) The applicant must pay development charges to the Municipality in respect of the provision and installation of external engineering services.
- (2) These external engineering services for which development charges are payable must be set out in a policy adopted and annually reviewed by the Municipality.