

**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 3 OF THE FARM OORLOGSKLOOF NO. 118, MONTAGU:  
CONSENT FOR FIVE ADDITIONAL DWELLING UNITS**

|                  |             |                             |            |                       |                 |
|------------------|-------------|-----------------------------|------------|-----------------------|-----------------|
| Reference number | 15/4/12/5&9 | Application submission date | 19.08.2019 | Date report finalised | 20 October 2020 |
|------------------|-------------|-----------------------------|------------|-----------------------|-----------------|

**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<br>(in accordance with Title Deed) | Portion 3 of the Farm Oorlogskloof No. 118 Montagu |                 |                                  |                                                                                             |             |   |
| Physical address                                        | ±19km north west of Montagu on R318 (MR295)        |                 | Town                             | Rural –Keisie Valley                                                                        |             |   |
| Current zoning                                          | Agricultural Zone I                                | Extent (m2 /ha) | 160,39<br>56ha.                  | Are there existing buildings on the property?                                               | Y           | N |
| Applicable zoning scheme                                | Langeberg Integrated Zoning Scheme, 2018           |                 |                                  |                                                                                             |             |   |
| Current land use                                        | Agricultural and Residential                       |                 |                                  | Title Deed number & date                                                                    | T34159/2016 |   |
| Any restrictive title conditions applicable             | Y                                                  | N               | If Yes, list condition number(s) |                                                                                             |             |   |
| Any third party conditions applicable?                  | Y                                                  | N               | If Yes, specify                  | Conditions A, B, C, D and F re. water rights, water allocation turns (beurte) and boreholes |             |   |
| Any unauthorised land use/building work                 | Y                                                  | N               | If Yes, explain                  |                                                                                             |             |   |

**PART C: APPLICATION DESCRIPTION**

Application has been lodged in terms of Section 15(2) of the Langeberg Land Use Planning Bylaw, PN 264/2015, for Consent for five (5) Additional Dwelling Units with a maximum floor space of 80m<sup>2</sup> each, accommodating 2-4 people each, and no more than 14 persons in total, on Portion 3 of the Farm Oorlogskloof No. 118 Montagu. A full copy of the application is attached at **Annexure A**.

**PART D: BACKGROUND & SUMMARY OF APPLICANTS MOTIVATION**

Portion 3 of the Farm Oorlogskloof No. 118 Montagu is 160,3956ha. in extent. A locality plan and site plans are attached at **Annexure B**. The farm werf currently comprises a main dwelling and farm manager's house. The applicant proposes to develop 5 guest cottages in a kloof, some 200m from the main farm werf.

The site falls within the Langeberg Mountain Catchment Area (MCA), which is a Protected Area in terms of the NEMPAA 57/2003, and a "Core 1" area in terms of the LSDF, 2015.

The applicant notes that:

- In terms of the WC Rural Guidelines (2019), core 1 areas are essentially a "no-go" area, but may accommodate low-impact tourist activities including visitor overnight accommodation of appropriate scale and form, in harmony with the natural surrounds.
- The proposed units are close to an existing jeep track, outside the 30m building line, and more than 32m from watercourses.
- The property is not suitable for conventional agriculture and the development will not impact on agricultural land.
- The farm does not have direct access to the R318. Access is via a right of way over Farm Boschrivier 119/2, Montagu.

A Botanical report has been compiled which concludes that the proposed development is acceptable from a botanical perspective:

- Although the ecosystem is vulnerable (Montagu Shale Renosterveld), "the proposed development of 0,1ha. should not have a significant impact on the remaining extent of the ecosystem".
- "It is unlikely that the small footprint of development (0,1ha.) will have any significant impact on plant species of conservation concern.
- "However, care should be taken to ensure that sewerage systems do not pose a threat to water resources and measures should be implemented to prevent erosion".

The applicant argues that the proposed development is desirable and in line with the WCBSP, 2017; the WC Integrated Tourism Development Framework; and the LSDF, 2015.

## PART E: SUMMARY OF PUBLIC PARTICIPATION

Public participation required in terms of Sections 45- 49 of the By-law?

Y

N

Where participation is required,  
state method of advertising

Press

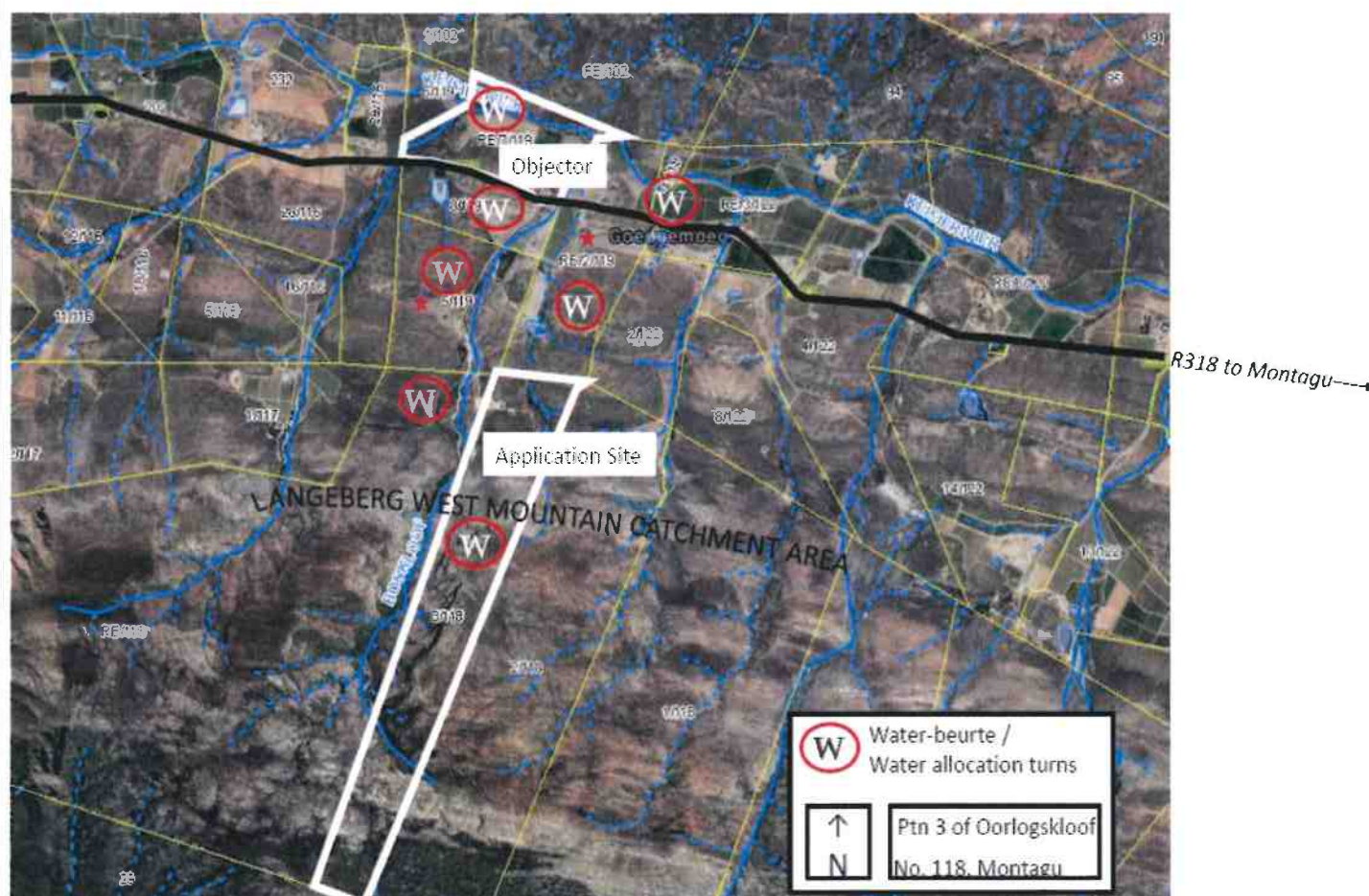
Notices

Ward Councillor

Other

## PART F: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was advertised in the normal manner on 17 September 2019 and letters were sent to the surrounding property owners. One written objection was received from a neighbour. The location of the objector's property relative to the application site, as well as all properties with "water beurte" are shown on the google image below:



The objection is summarized below, and attached at **Annexure C**.

Written Objection : A Heynes

Mr Heynes owns Rem/7/119, downstream and to the north of the application site. His concerns relate to the access to and impact on their water resources, which are already in short supply with drought conditions, and more specifically, the following:

- Mr Heynes shares a "waterbeurt" (water use out of the same water source) with the property in question, and other surrounding properties. It would appear that the water source for the units would be from the fountain, which feeds this canal.
- There is already pressure on this water source and boreholes are not suitable for purposes of drinking water and irrigation due to the salt content and the current drought, and there is no alternative water supply.
- Tourist uses will add to the demand for water e.g. aesthetic gardens and are not necessarily committed to water saving.
- Five Additional Dwelling Units may impact negatively on availability of water.
- The site is within a protected area, which is already under environmental pressure.
- Aesthetically the development will detract from the beauty of Oorlogskloof.

Comments from other neighbours:

Verbal objections were received from Mr J van der Merwe (5/119) and Mr W du Plessis (Rem/2/119), who also have shared waterbeurte. The vehicular access to Oorlogskloof is also across Rem 2/119. The location of these properties is marked with a \* on the above plan. These owners verbally raised their concerns relating to the application, with the Town Planning Assessing Officer. Their concerns were similar to Mr Heynes' namely: the impact on their water quality and quantity and the impact on a protected area and aesthetics, as well as access to the proposed uses across Rem 2/119.

The Applicant's response to the written objection is summarized below and attached at **Annexure D**.

Applicant's Response to Objection:

The applicant responded to the objector's concerns as follows:

- Mountain/Surface water: Mountain water is collected in a water canal and is distributed on a 16 day cycle, via a 200mm pipeline, to 6 farms downstream for drinking and irrigation. Water from the Boskloof River is allocated to Re/118 and 3/118, and must be metered.
- Groundwater: In terms of the General Authorisations, 3/118 is entitled to 21 750m<sup>3</sup> groundwater per annum which is more than sufficient for guest accommodation of 15 people (15 x 280lt per day x 365 days = 1 533 m<sup>3</sup>).

The proposed guest accommodation therefore does not pose any threat to the farms which share in the water beurt system. See also Part H, section 2. below.

Applicant's Response to DEA&DP comments:

With regard to the land use comments from DEA&DP, the objector notes the following:

- The potential for conventional agriculture on the farm is limited.
- Application may be made for Additional Dwelling Units.
- Eco-tourism is the best way to generate income, and enhances the conservation objectives of the MCA.
- The protection and enhancement of the natural beauty of the farm is the owners' prime objective.
- The proposed location and size of units is consistent with the intention of the WCBSP and the water flow function of MCAs.
- The proposed visitor overnight accommodation is of an appropriate scale and form and consistent with the WC Rural Land Use Guidelines, 2019.

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

| Name                                         | Date received             | Summary of comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Recommendation: |        |         |
|----------------------------------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------|---------|
|                                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Support         | Object | Comment |
| Manager: Civil Engineering Services          | 23.09.2019                | A SLA must be entered into. Regular water quality tests must be conducted and provided to the Civil Engineering Department.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                 |        | Comment |
| Cape Winelands District Municipality: Health | 18.09.2019<br>(attached). | Application supported subject to conditions relating to waste water management and drinking water quality.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                 |        | Comment |
| Department of Transport                      | 24.10.2019                | No objection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                 |        | Comment |
| Cape Nature                                  | 03.06.2020<br>(attached). | The entire property falls within a MCA. MCAs are declared in terms of the MCA Act 63/1970 and are Protected Areas in terms of the NEM:PAA, 2003. Protected Areas should be maintained in a natural or near natural state with no loss or degradation of natural habitat. The main objective is to promote conservation and protect the supply of water downstream. As such, any development that may impact on this primary objective is not supported. The proposed activities will impact on downstream water supply and as such cannot be supported.                                                                                                                                                                |                 | Object |         |
| DEA&DP: Development Management (Land Use)    | 21.11.2019<br>(attached). | The entire property falls with a Mountain Catchment Area, which is a Protected Area. In terms of the WC BSP, 2017, land use guidelines should align with CBAs, with the primary intention to ensure the steady supply of good quality water to downstream areas. These areas should be maintained in a natural or near natural state and ecotourism developments should be small scale and appropriate with an attempt to minimize any environmental impact (WCBSP, 2017 and WC Rural Guidelines, 2019). Should the application be approved, the number of dwelling units must be restricted in accordance with the zoning scheme, and conditions imposed to mitigate impacts in accordance with the above guidelines. |                 |        | Comment |
| DEA&DP: Development Management (EIA Regs)    | 04.06.2020<br>(attached). | The site contains Montagu Shale Renosterveld, which is classified as vulnerable, and it is located more than 100m from the Boskloof River. The proposed development will not trigger the listed activities given: <ul style="list-style-type: none"> <li>• The holiday accommodation will sleep a maximum of 14 people.</li> <li>• The vegetation to be cleared is not listed in NEMBA, 2004 as Critically Endangered or Endangered.</li> <li>• The site is more than 32m from a watercourse.</li> </ul>                                                                                                                                                                                                               |                 |        | Comment |

|                                                     |                                             |                                                                                                                                                                                                                                                                                                                                                     |  |  |         |
|-----------------------------------------------------|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|---------|
| Provincial Department of Agriculture (Elsenburg)    | -                                           | No comment received.                                                                                                                                                                                                                                                                                                                                |  |  |         |
| Breede Gouritz Catchment Management Agency for DWAF | 14.11.2019<br>( <a href="#">attached</a> ). | All relevant sections of the NWA 36/1998 must be adhered to. Requested additional information: <ul style="list-style-type: none"> <li>• plan showing regulated area in relation to 5 dwelling units;</li> <li>• registration of borehole;</li> <li>• agreement with municipality re. sewage disposal.</li> </ul> See also Part H, section 2. below. |  |  | Comment |
| Eskom                                               | 27.12.2019<br>( <a href="#">attached</a> ). | Affects the Montagu Farmers' 11 kV overhead powerline. No objection subject to standard conditions.                                                                                                                                                                                                                                                 |  |  | Comment |
| Ward Councilor                                      | -                                           | No comment                                                                                                                                                                                                                                                                                                                                          |  |  |         |

#### PART H: 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.

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 Land Use application:

Given the above assessment criteria, the key issues for consideration of the proposed development, relate to:

- Compliance with the relevant legislation, plans and guidelines: Langeberg Integrated Zoning Scheme, 2018; Mountain Catchment Areas Act 63/1970; WC Biodiversity Spatial Plan, 2017; National Environmental Management: Protected Areas Act 57/2003; DEA&DP's Guideline for the Management of Development on Mountains, Hills & Ridges of the Western Cape, 2002; PSDF, 2014 and the WC Rural Land Use Guidelines, 2019; CWDM SDF (2019-2024); and LSDF, 2015;
- Desirability of the proposed use, particularly in relation to the Mountain Catchment Area and natural environment;
- The potential impact on the surrounding agricultural area and particularly the objectors' properties and their existing rights in relation to water supply and vehicular access; and
- Can the proposed development be appropriately serviced in terms of water supply, sewage disposal and vehicular access?

**1. Compliance with the relevant legislation, plans and guidelines: Langeberg Integrated Zoning Scheme, 2018; Mountain Catchment Areas Act 63/1970; WC Biodiversity Spatial Plan, 2017; National Environmental Management: Protected Areas Act 57/2003; DEA&DP's Guideline for the Management of Development on Mountains, Hills & Ridges of the Western Cape, 2002; PSDF, 2014 and the WC Rural Land Use Guidelines, 2019; CWDM SDF (2019-2024); and LSDF, 2015.**

**1.1. Langeberg Integrated Zoning Scheme, 2018:**

The application site is zoned Agricultural Zone I in terms of the Langeberg Integrated Zoning Scheme (LIZS), 2018.

Although the Agricultural zoning is not suited to the unique character of Mountain Catchment Areas (MCAs), most properties which fall within the MCAs in the Langeberg Municipal Area are zoned Agricultural zone I. The Langeberg Town Planning Department must facilitate future amendments to the LIZS 2018 to rezone all declared MCAs to Open Space IV or to a special zone, which will, *inter alia*, specify the purpose of a MCA, and identify limits to development. The possibility of an overlay zone for critically endangered, endangered and vulnerable vegetation should also be investigated, to clearly identify areas where no built development should be permitted (this applies to MCAs and all other areas).

In the interim, however, the proposed development must be assessed in terms of the provisions of the Agricultural I zoning. In terms of this zone, a Dwelling House and a farm manager's house are primary rights. The property currently accommodates a building of some 360m<sup>2</sup> comprising the primary dwelling, stores and garages, and a farm manager's house of 156m<sup>2</sup>. The owner built the main dwelling and manager's house without any prior approval and was stopped by the Municipality and Cape Nature. DEA&DP also conducted an investigation. The relevant investigations have been concluded and building plans have since been submitted and approved.

The definition of a Dwelling House includes a second dwelling "with a floor area which does not exceed 60m<sup>2</sup>, provided that application for consent use must be submitted if the second dwelling is larger than 60m<sup>2</sup>". In addition, where Consent is granted for Additional Dwelling Units the following apply:

- The maximum number of Additional Units which may be permitted on a farm of >20ha. is three.
- A maximum floor area of 150m<sup>2</sup> each - may be restricted to a lesser size depending on the specific site.

Therefore, the total number of units which may be applied for by consent in the Agricultural Zone 1, on a farm greater than 20ha. in extent, in addition to the primary right of Dwelling House and Farm Manager's House is as follows:

| Farm Size | 2 <sup>nd</sup> Dw >60m <sup>2</sup> – with consent | Add Dw – with consent | Total |
|-----------|-----------------------------------------------------|-----------------------|-------|
| >20ha.    | 1                                                   | 3                     | 4     |

The applicant has applied for 5 Additional Dwelling Units, which exceeds the maximum number of units which may be permitted by consent on this farm, given the existing farm manager's house. A maximum of 4 units may be permitted.

A maximum floor space of 80m<sup>2</sup> is proposed for the units for guest accommodation. This is well within the maximum recommended size of 150m<sup>2</sup> for Additional Dwelling Units for guest accommodation as specified in the LIZS. The development of four units with a maximum floor space of 80m<sup>2</sup> on a farm of over 160ha. represents very low-key, small-scale development, which is considered appropriate to the receiving environment. This limit on the number and size of units will also serve to restrict the maximum number of guests that can be accommodated at any one time.

**1.2. Mountain Catchment Areas (MCA) Act 63/1970 and the Western Cape Biodiversity Spatial Plan, 2017 (WCBSP):**

Cape Nature notes that the entire property falls within the Langeberg Mountain Catchment Area<sup>1</sup>, declared as such in terms of the MCA Act 63/1970 (attached at **Annexure F**).

<sup>1</sup> \*Note: The applicant and many of the commenting authorities refer to the site as being located within the Matroosberg MCA. Cape Nature has confirmed that "the correct name for the MCA at the site of portion 3 of Farm 118 Montagu is Langeberg MCA" (P Huntly, Cape Nature, email 26 May 2020).

Cape Nature advises that Mountain Catchment Areas (MCAs) are Protected Areas in terms of the National Environmental Management Protected Areas Act, 2003 (NEM:PA), and Protected Areas should be maintained in a natural or near natural state with no loss or degradation of natural habitat. The main objective is to promote conservation and protect the supply of water downstream and any development that may impact on this primary objective, is not supported. However, neither the MCA nor NEM:PA specify development restrictions.

In the absence of clear development guidelines in the above legislation, the WCBSP is a significant reference document for the purposes of assessing this application. Relevant sections of the WCBSP Handbook, 2017 are attached as **Annexure G**. The WCBSP Handbook, p48 notes that Cape Nature is in the process of compiling a position statement in terms of allowable uses within MCAs. The basis would be that "no land use or activity may be permitted which could affect the steady supply of good quality water to the downstream areas of the catchment". In pages 68-71 of the WCBSP, 2017, it is further stated that:

- "It is beyond the scope and purpose of this handbook to provide detailed land use guidelines for protected areas. By definition, all protected areas exist primarily for the purpose of securing biodiversity and maintaining the ecological integrity of the landscapes in which they are situated"; and
- In terms of NEM:PA, it is intended that land use and management in each protected area will be governed by a formally approved protected areas management plan. The overall purpose of such a management plan would be to maintain these areas in a natural or near-natural state, with no loss or degradation of natural habitat. Such plans would identify allowable activities that would support the goals and objectives of protected areas such as small-scale ecotourism development, and farming related to sustainable natural resource use.
- The primary intention of protecting Mountain Catchment Areas is to "ensure the steady supply of good quality water to downstream areas".

Low-key eco-tourism development is therefore one of the few uses which is identified as being potentially consistent with the abovementioned objectives of the MCA Act.

The Botanical scoping report is attached to the Application at Annexure A. The Botanical consultant (Johlene Krige, February 2019) also concludes, that development can be considered provided it is low-impact and biodiversity-sensitive, as indicated in the following extract from page 4 of the Botanical report, which quotes from pages 48 and 71 of the WCBSP Handbook (ed: Pool-Standvliet), as follows:

Although MCAs are **recognised** as Protected Areas, they do not currently have any formal **status** in terms of **legislated** restricted activities. MCAs are located on private land typically as a **buffer** to existing nature reserves within the Cape Fold Mountains. The Mountain Catchment Areas Act makes provision for the **development** of regulations which could control land use and activities within the MCAs, however these have not yet been enacted.

The land use guideline for Mountain Catchment Areas should thus be aligned with that of Critical **Biodiversity** Areas, with the primary intention to ensure the steady supply of good quality water to downstream areas (Pool-Standvliet et al. 2017).

The management **objectives** for CBAs are:

- **Maintain** in a natural or near-natural state, with no further loss of natural habitat.
- Degraded areas should be rehabilitated.
- Only low-impact, **biodiversity-sensitive** land uses are appropriate.

The proposed development is on the lower slopes of the MCA, and most of the 160,3956ha. of the farm will be conserved in its natural state. A water report by a geohydrologist concludes that the proposed development will not have an adverse impact on this area as a water source. A copy of the report by Veltwater Groundwater Specialists, 7 September 2020, is attached at **Annexure H**.

### 1.3. National Environmental Management: Protected Areas Act 57/2003 (NEM:PA) and EIA listed activities:

In terms of Section 9(e) of NEM:PA, all MCAs are Protected Areas in terms of the WC BSP, 2017, which must be safeguarded to ensure the continued delivery of ecosystem services. Extracts from NEM:PA, including Section 9(e) are attached at Annexure I.

In terms of Section 2 of NEMPAA, the objectives of the Act include:

- To effect a national system of Protected Areas as part of a strategy to manage and conserve its biodiversity; and
- To preserve the ecological character of such areas.

Section 17 specifies the purpose of PAs as follows:

#### Purpose of protected areas

17. The purposes of the declaration of areas as protected areas are—
- (a) to protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas; 30
  - (b) to preserve the ecological integrity of those areas;
  - (c) to conserve biodiversity in those areas;
  - (d) to protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa; 35
  - (e) to protect South Africa's threatened or rare species;
  - (f) to protect an area which is vulnerable or ecologically sensitive;
  - (g) to assist in ensuring the sustained supply of environmental goods and services;
  - (h) to provide for the sustainable use of natural and biological resources;
  - (i) to create or augment destinations for nature-based tourism; 40
  - (j) to manage the interrelationship between natural environmental biodiversity, human settlement and economic development;
- (k) generally, to contribute to human, social, cultural, spiritual and economic development; or
- (l) to rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species.

In order to achieve this purpose, NEM:PA requires approved management plans for all Protected Areas. However, such plans are still in course of preparation. Nonetheless, in addition to the guidelines in the WCBSP, the EIA listed activities do list certain activities in relation to Protected Areas and endangered vegetation:

- Guest accommodation in Protected Areas, which sleep 15 people or more, requires Environmental Authorisation in terms of the EIA listed activities (LN3: Activity 6). Guest accommodation sleeping less than 15 people in Protected Areas is a listed activity in other Provinces, but not in the Western Cape.
- Where Protected Areas include critically endangered and endangered vegetation, Environmental Authorisation is required to remove more than 300m<sup>2</sup> of such vegetation (LN3: Activity12).

Based on the above, provided the purpose of protected areas is achievable, there are no specific restrictions to built development which sleeps less than 15 people, within Protected Areas in the Western Cape. The development is proposed to sleep a maximum of 14 people; and the vegetation which will be removed is identified as vulnerable vegetation, namely Montagu Shale Renosterveld (NEM:BA). No critically endangered or endangered vegetation occurs on this farm.

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

The guidelines for the Management of Development on Mountains, Hills and Ridges in the Western Cape, were developed to assist in defining the decision-making criteria to prevent inappropriate development, and to support the implementation of bioregional planning in the Western Cape. Many of these guidelines have been incorporated into the PSDF, 2014 and the WCBSP, 2017 but the following remain of relevance:

The guidelines identify a range of reasons for the control of development in mountainous areas, including:

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

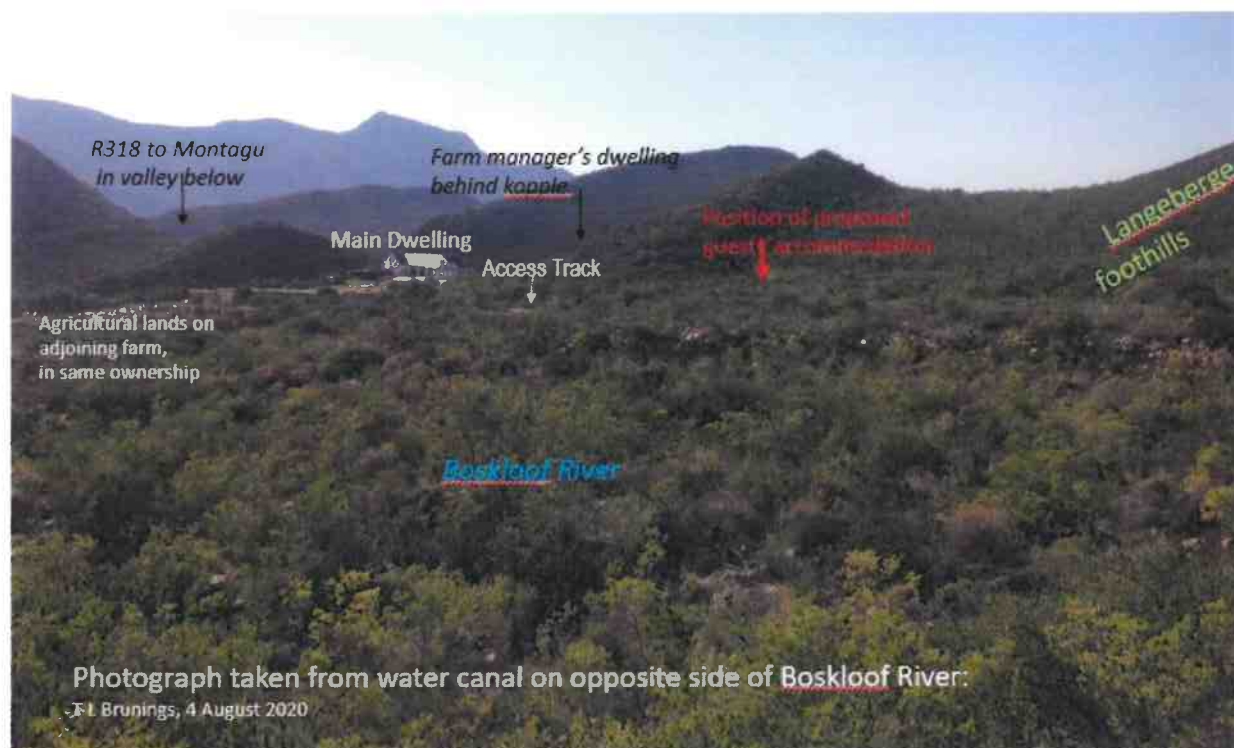
Key principles are outlined to guide development, including the following:

- To ensure the continued functioning of ecosystems, and to maintain species diversity through habitat protection.
- To ensure sensitive features and environmental constraints are taken into account.
- To site facilities in relation to environmental resilience and landscape visual screening.
- To ensure harmonious scale, density and nature of development.

The guidelines state that:

- "Development in an area, which has been declared a MCA will be strongly discouraged." (Section 2, paragraph4 (c)); and
- Development in locations on mountains, hills or ridges that serve as a source of water (e.g. spring, seep, river or stream source) will be strongly discouraged." (Section 2, paragraph4 (d)).
- Appendix B of the Guidelines recommend an Environmental Management Programme for mountain areas and envisage hiking, climbing and wilderness excursions subject to careful consideration of routes and waste disposal.
- Proposed residential development, "Will be evaluated in the context of existing natural areas e.g. hiking cabins or facilities linked to appropriate low impact outdoor recreational opportunities. Placement of residential units must be done with adequate environmental motivation and evaluation" (p14).

With regard to the protection of aesthetic and scenic values, it is noted that the positioning of the proposed units is behind a koppie. This placing of the proposed units, in conjunction with their small scale, will not have a visual impact on the R318 tourist route or surrounding farmsteads. The farm also offers potential for outdoor recreational opportunities in the form of existing hiking trails and well established climbing routes, both on this property and the adjoining Re/118, which is in the same ownership. The units therefore offer the potential to increase access to these existing low impact outdoor opportunities.



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

The PSDF recognizes that development in MCAs and riparian zones impacts negatively on water quality (p42), and that water is a key determinant of future economic growth (p 42). Further, in terms of Policy R1: Protect Biodiversity and Ecosystem Services, CBA mapping must inform land use decisions, and priority areas for conservation must be secured (p41).

Further, the PSDF identifies the mountain ranges belonging to the Cape Fold Belt as the most significant landscapes in scenic terms, and consequently the Western Cape's tourism economy (p 54). Policy E2: Diversify and Strengthen the Rural Economy, states that development outside the urban edge, of an appropriate scale and form, which does not compromise the environment, can be accommodated "except in bona fide wilderness areas" (p 66). The establishment of tourist accommodation providing opportunities for tourists to experience the Western Cape's unique biodiversity is therefore supported (p38).

The DEA&DP: Development Management has no objection and comments as follows: "The proposal is aligned to the PSDF Policy E2, by way of providing compatible and sustainable rural activities outside the urban edge of an appropriate scale and form, appropriate in the rural context and which does not compromise the environment".

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

In light of the above, read together with the conclusions of the Water Report and Botanical Report, the proposed development is considered to be consistent with the PSDF and CWSDF.

### 1.6. Western Cape Rural Land Use Guidelines, 2019 (WC RLUG):

The Western Cape Rural Guidelines (2019) do not provide guidelines for Protected Areas. In accordance with the WCBSP, the guidelines state that land use guidelines for MCAs should be aligned with those for CBAs. The WC RLUG specify that the Core 1 SPCs identify those parts of the rural landscape which are of highest conservation importance and advise that development in MCAs must be restricted "in order to maintain their high water yielding and water quality function".

More specifically, the guidelines specify the following for land use in the Core 1 SPC:

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

**What kinds of activities?**

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

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

The Guidelines also recommend that, while a range of holiday accommodation should be provided for tourists to experience the Western Cape's unique rural landscape, such accommodation must be appropriately scaled and located to reinforce rural landscape qualities. The nature and scale of the proposed development must be informed by the carrying capacity of the landscape, and assessed in terms of its appropriateness to the particular context, the extent of the farm and the sensitivity of surrounding uses.

The guidelines are therefore consistent with the PSDF in effectively precluding all built development within Core SPCs, except low-key eco-tourism activities such as the proposed development.

#### 1.7. LSDF, 2018:

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

## 2. Desirability of the proposed use.

2.1. In terms of the above legislative framework, whilst it would be ideal for no built development to be permitted within MCAs, low impact eco-tourism development could be considered. In order to determine desirability of the proposed use, the merits of each specific site must be assessed in relation to the following considerations drawn from the above guidelines:

- 2.1.1. MCAs are water-producing areas and must be left to perform this role.
- 2.1.2. MCAs are high fire risk areas, and the plant types within MCAs depend on optimal burning cycles. Development may not preclude such burning cycles.
- 2.1.3. Permitting built development in MCAs should not set a precedent for cumulative built development in MCAs, and increasing access points into these areas.
- 2.1.4. Permanent accommodation infrastructure and associated human traffic within MCAs should be sited so as to minimise wildfire risk, soil erosion, spread of alien vegetation and localized loss of natural habitat. Roads must be maintained in terms of run-off and soil erosion prevention.

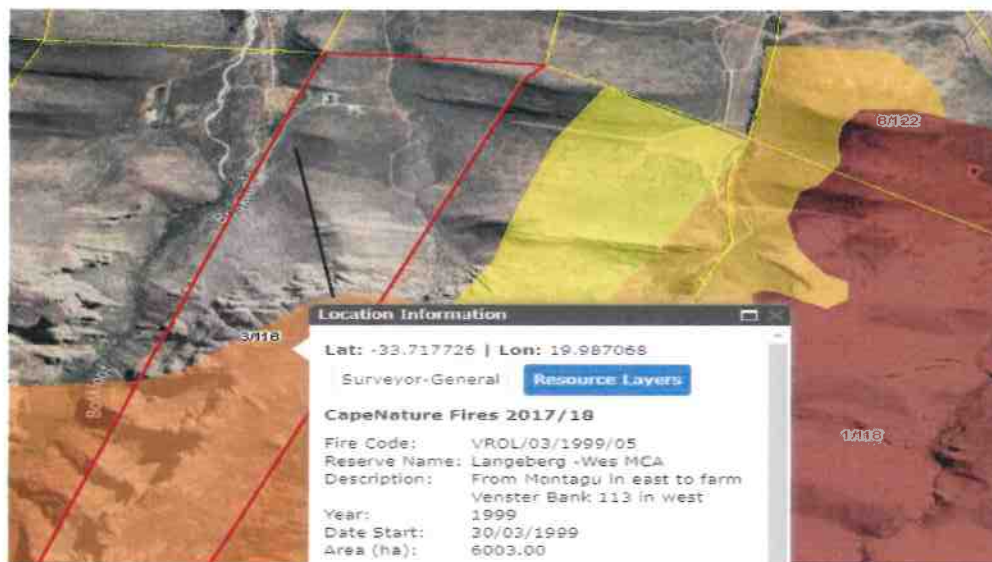
#### 2.2. Water and impact on Boskloof River:

Given the concerns raised by the neighbours, as well as Cape Nature, the applicant commissioned a water report by a geohydrologist. Refer to Annexure H: Veltwater Groundwater Specialists, 7 September 2020: Groundwater Impacts on the Farm Oorlogskloof, Western Cape. Elkerine Rossouw from BGCMA conducted the site visit with the geohydrologist. The report concludes that the proposed development will not have an adverse impact on the water-producing role of the MCA and water supply to downstream users; and the location of the proposed development will not have a negative impact on downstream water users in terms of water quality.

No floodline has been determined for the Boskloof River as the units are proposed more than 100m from this drainage line and more than 350m from the watercourse on the lower north-eastern portion of the farm.

### 2.3. Fire risk:

The farm is located within a fire prone area. The last major, recorded fire across the property in 1999, stopped  $\pm$  half a kilometre from the proposed site for the guest units. A more recent fire in 2018 affected the MCA, but not specifically this property. The high fire risk must be drawn to the applicant's attention and the proposed development must determine the type of building material and planting utilised, as well as ongoing management of the guest accommodation in light of this fire risk.



### 2.4. Precedent:

Generally speaking, landowners choose to build outside declared MCAs on their properties due to steep topography and fire dangers, and there is not significant pressure to build within MCAs. In the case of this application, the entire farm is within the MCA, and restricting development outside the MCA would mean that the farm is effectively not useable to the owner. Where entire farms fall within MCAs, any development which is permitted should be as close as possible to the edge of the MCA. In this case, the existing main dwelling is only  $\pm$ 200m within the boundary of the MCA and the proposed new development is a further  $\pm$ 200m into the MCA. The remainder of the farm, on which no development is proposed, stretches for a further 2,9km and joins with privately owned MCA (Farm Rondgangers Kraal 29, Robertson) on the Robertson side of the Langeberg Mountain, which stretches for a further  $\pm$ 3km.

The following factors mitigate against the approval of this development setting an undesirable precedent for future development in the MCAs: the proposed development of four x 80m<sup>2</sup> units is extremely small-scale in relation to the farm as a whole - the vast majority of the farm's 160+ha. extent is currently being maintained in a natural state, and will remain in its natural state; the proposed development site is relatively flat; there is no critically endangered and endangered vegetation, and no endangered fauna species within the area proposed for development; access roads exist (previously used to access rock climbing routes, and for fire fighting purposes) and no new roads are required.

### 2.5. Loss of natural habitat:

A Botanical Screening Study for Farm 118, Portion 3, Oorlogskloof, Montagu, was prepared by Johlène Krige (5 February 2019), and is attached to the application at Anneure A. There is no endangered vegetation on site, and no identified alien vegetation or areas requiring rehabilitation. The proposed development site is relatively flat and comprises Montagu Shale Renosterveld which is in good condition and identified as a vulnerable vegetation type. The botanical report concludes that the small footprint of the proposed development should not have a significant impact on the remaining extent of this ecosystem, and no significant impact on plant species of conservation concern.

**3. The potential impact on the surrounding agricultural area and particularly the objectors' properties and their existing rights in relation to water supply and vehicular access.**

The proposed uses will not directly impact on land which is under agricultural production. The proposed development will diversify land uses on a farm which has limited conventional agricultural potential. The guest accommodation will provide additional job opportunities in the region and add to the diversification and sustainability of agricultural activities in the surrounding valley.

With reference to 2.2 above and the water report by Veltwater Groundwater Specialists (7 September 2020), the neighbour's existing rights in terms of access to water will not be negatively affected.

The access from the R318 is located on the adjoining farm (re/2/119) and the access road to the application site is via a registered right-of-way. Given that the proposed guest accommodation will result in an increase in the use of this access road, this will impact on the neighbour in terms of noise, dust and safety. Consequently, an agreement must be entered into between neighbours with regard to the surfacing, use, access, maintenance frequency, costs, hours of access etc.

**4. Servicing: water supply, sewage disposal, electricity supply and vehicular access**

The provision of water supply, sewage disposal, electricity supply and refuse removal remain the responsibility of the owner. The owner will be required to comply with the specified requirements of the Langeberg Municipality, CWDM and BGCMA with regard to the provision of these services:

Water is supplied via a borehole and fountain water and furrow system. There is a small existing dam on the western boundary of the farm. Four existing 5000lt water tanks (one for drinking water) currently serve the existing farm manager's house and will also be used to serve the proposed new cottages. 2 x 5000lt tanks have been installed for the main dwelling complex. In terms of General Authorisations, 3/118 is also entitled to 21 750m<sup>3</sup> groundwater per annum which is more than sufficient for guest accommodation of 14 people (14 x 280lt per day x 365 days = 1 430 m<sup>3</sup>).

The fountain on the property, and related canal- and pipeline-system, form part of the Boskloof water scheme in terms of which six farms share turns in the water source for drinking water and irrigation water. No changes are proposed to this water scheme.

With regard to sewage disposal, septic tanks are not acceptable within MCAs and conservancy tanks are not feasible for this site as the site is not accessible by tanker service. The applicant is liaising with Cape Nature in terms of the environmentally acceptable, sustainable sewage systems used by Cape Nature within their declared Nature Reserves. The applicant will be required to submit details for approval at building plan stage.

Eskom supplies electricity to the main dwelling and farm manager's house and has no objection to the proposed application subject to standard conditions to protect their infrastructure.

The Department of Transport have no objection to the application, as an existing access point onto the R318 will be used, with an existing registered right-of-way servitude.

**PART I: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

Not applicable.

## PART J: RECOMMENDATION

That the application for consent for Additional Dwelling Units on Portion 3 of the farm Oorlogskloof 118 Montagu be approved in terms of Sections 60 and 66 of the Langeberg Land Use Planning Bylaw, PN 264/2015, of 30 July 2015 subject to the following conditions:

1. The development site falls within the Langeberg West Mountain Catchment Area, which is a Protected Area in terms of National Environmental Management: Protected Areas Act, 2007. The proposed built development must not compromise the biodiversity objectives and ecological functioning of this water generating resource.
2. The development site is covered with Montagu Shale Renosterveld which is classified as "Vulnerable" vegetation in terms of the National Environmental Management Biodiversity Act, 2004. The removal of natural vegetation must be kept to an absolute minimum. The building footprints must be clearly demarcated prior to and during construction, and no building work or storage or disposal of building materials may take place outside the demarcated areas. The owner must inform the builder and all workers of the need to minimise the loss of vulnerable natural habitat.
3. The existing and proposed development falls within a high risk, fire-prone environment. All development is therefore at the owners' risk and adequate provision must be made for protection against veldfire e.g. provision of fire-fighting equipment, maintenance of fire breaks, and awareness and safety of guests relating to veld fire.
4. The development and use of the property and buildings must be substantially in accordance with the plans marked OORLOGSKLOOF118-3-LBM-TPa and TPb (October 2020), and subject to the following specific requirements:
  - 4.1. The number of Additional Dwelling Units (guest accommodation) is restricted to four (4).
  - 4.2. The height of any new built development is restricted to single storey.
  - 4.3. Only low-level outdoor lighting, to the satisfaction of the Manager: Town Planning may be utilised.
  - 4.4. The Additional Dwelling Units are restricted to a maximum floor space of 80m<sup>2</sup> each, and no more than 14 guests in total.
  - 4.5. Suitable provision must be made for parking and located so as to minimise disturbance of natural vegetation.
  - 4.6. A suitably located and screened refuse collection area must be provided in the main farm werf area.
5. Before any building work may commence, building plans conforming to the National Building Regulations (Act No. 103 of 1977), and including a Site Development Plan, must be submitted to the Langeberg Municipality for approval. The building and layout design must use colours, materials and green technology, which complement the surrounding landscape. No shade cloth or other built roofing material is permitted for parking bays – trees and indigenous vegetation over pergolas must be used where shading is required.
6. Access must be via the existing registered right of way over Re/2/119. Prior to the approval of building plans, a written agreement must be entered into between the respective owners to ensure that access rights are reasonably exercised and the access way is suitably maintained e.g. hours of operation, access control, maintenance of the surface, erosion control etc.
7. Water supply, sewage disposal and refuse disposal services must be provided by the owner. Such services must be provided in accordance with the requirements of the Langeberg Municipality, Cape Winelands District Municipality's Environmental Health Department and the Department of Water Affairs (BGCMA), including the following specific requirements:
  - 7.1. Drinking water must be to the standard of the full SANS 0241 specifications. Regular monitoring of water quality must be done by the owner to ensure that it complies with this standard.
  - 7.2. Plans and details of the provision for water supply and sewage disposal must be submitted simultaneously with the building plans for Municipal approval.
  - 7.3. All conditions which may be imposed by the Breede-Gouritz Catchment Management Agency in relation to the National Water Act 36/1998, must be complied with.
  - 7.4. The proposed development must not compromise the water volumes and quality to the Boskloof "water beurt" Scheme, which supplies the following properties: Ptns 2, 3, 4, 5, 7 and 8 of Farm Boschrivier 119 and Re/Oorlogskloof 118, Montagu.
  - 7.5. All solid waste must be collected and disposed of weekly, to an approved solid-waste disposal site, and in terms of a written agreement with the Langeberg Municipality. The minimisation of waste must be promoted in the operation of the facility.

8. The conditions imposed by Eskom in their letter, ref 02654-19 dated 27 December 2019, must be complied with.
9. No name, advertising sign or tourism board may be erected without written approval of the administering authority.
10. The restrictions of any law and regulations relating to noise control are applicable and the owner must ensure that no undue noise nuisance occurs, as described in the Western Cape Noise Control Regulations (PN 200/2013 of 20 June 2013).
11. The recommendations in the following specialist reports must be complied with:
  - 11.1. Johlene Krige, 5 February 2019: Botanical Screening Study for Farm 118, Portion 3, Oorlogskloof, Montagu; and
  - 11.2. Veltwater Groundwater Specialists, 7 September 2020: Groundwater Impacts on the Farm Oorlogskloof, Western Cape
12. The Additional Dwelling Units may only be used for short term hire for holiday purposes and may not be alienated in any way and may not be subdivided from the same property on which the main dwelling is situated.
13. This approval is only valid where the above conditions have been complied with. 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.

Note: The exercise of the primary land use in terms of the applicable zoning/s is subject to all the relevant legislation, including the Conservation of Agricultural Resources Act No. 43 of 1983, the Environmental Impact Assessment regulations in terms of NEMA No. 107 of 1998, the Mountain Catchment Areas Act 63 of 1970, and the National Veld and Forest Fire Act No. 101 of 1998.

**The reasons for the decision are as follows:**

1. The proposed development is consistent with, *inter alia*, the Western Cape Biodiversity Spatial Plan, 2017 and the Western Cape Rural Land Use Guidelines, 2019.
2. The Langeberg Integrated Zoning Scheme, 2018 provides for a maximum of 4 dwelling units to be permitted by consent, including a Second Dwelling exceeding 60m<sup>2</sup> and 3 Additional Dwelling Units on a farm >20ha. in extent. The fifth unit applied for by the applicant cannot be approved in terms of the Zoning Scheme provisions. It is noted that the farm already accommodates a primary dwelling and a farm manager's dwelling.
3. Although the site is within a Mountain Catchment Area, which is a Protected Area in terms of the National Environmental Management: Protected Areas Act, and intended as a "no-go" area for built development, the MCA and NEM:PAA do not prohibit eco-friendly tourist accommodation.
4. The applicant commissioned a water report by a groundwater specialist which concludes that the water supply for the proposed development, and the sewage disposal system, will not impact on downstream water users in terms of the water source, quality and quantity.
5. The applicant commissioned a botanical report. The vegetation type on the proposed development site is not critically endangered or endangered. Conditions of approval are proposed to minimise the loss of vulnerable natural habitat.
6. The Department of Environmental Affairs and Development Planning has determined that no listed activities are triggered and therefore no Environmental Authorisation is required in terms of NEMA 107/1998.
7. No new roads are required to access the proposed development.
8. Conditions of approval are included to ensure agreement on the use and maintenance of the right-of-way access, prior to building work commencing.

**PART K: ANNEXURES**

Annexure A Application, including Botanical Study (J Krige)  
Annexure B Plans: Locality Plan, Site Plans, and plan showing objectors' property and water-beurte  
Annexure C Objection from neighbour  
Annexure D Applicant's response to objection  
Annexure E Comments from Departments: CWDM, Cape Nature, DEA&DP, BGCMA, and Eskom  
Annexure F Mountain Catchment Areas Act 63/1970  
Annexure G Extracts from WC BSP Handbook, 2017  
Annexure H Groundwater report (Veltwater groundwater Specialist)  
Annexure I Extracts from NEMPAA 57/2003

**PART L: SIGNATURES FOR DECISIONS BY TRIBUNAL**

Author name: Tracy Brunings, Assistant Town and Regional Planner

Date: 20 October 2020

Registered planner name : Tracy Brunings

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

Date: 20 October 2020

APPROVED

APPROVED CONDITIONALLY

APPROVED IN PART

REFUSED

**LANGEBERG MUNICIPAL PLANNING TRIBUNAL**

Date:

**PART M: SIGNATURES FOR AUTHORISATION**

Authorised for submission to Tribunal

.....  
JV BRAND  
BESTUURDER : STADSBEPLANNING

.....  
DATUM

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

.....  
DATUM

**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:*

**.. October 2020**

**PORTION 3 OF THE FARM OORLOGSKLOOF NO. 118, MONTAGU: CONSENT FOR ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION)**

Die aansoeker aanvaar die voorwaardes ten opsigte van bogenoemde goedkeuring en onderneem om toe te sien dat die voorwaardes nagekom sal word. Die aansoeker vrywaar voorts die Munisipaliteit teen enige eis wat mag voortspruit as gevolg van die uitoefening van gemelde goedkeuring.

The applicant accepts the conditions attached to the abovementioned approval and undertakes to ensure compliance with the conditions. The applicant furthermore indemnifies the Municipality against any claims which may arise due to the exercise of such approval.

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

te / *at* .....

.....  
Aansoeker / *Applicant*

.....  
Datum

**APPLICATION FOR CONSENT USE:- PORTION 3 (PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NR. 118, MONTAGU, CONSENT USE ON AGRICULTURAL ZONE I FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS)**



Posbus / PO Box 963  
Worcester  
6849

[bolandplan@breede.co.za](mailto:bolandplan@breede.co.za)

MARTIN Oosthuizen:- 082 5655 835

**CLIENT:- KLEYNHANS PROJECTS**

**Date:- JUL2019**

**Verw.:- #MON/1051**

# INTRODUCTION:-

#MON/1051

## Motivation report

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

## Plans

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

## Annexure

- Annexure A:- Application form for Consent use  
Annexure B:- Power of Attorney  
Annexure C:- Title deed:- T 34159/2016  
Annexure D:- LG diagram  
Annexure E:- Botanical screening study  
Annexure F:- BEMLAB water test results

# MOTIVATION REPORT:-

**APPLICATION FOR CONSENT USE:- PORTION 3 (PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NR. 118, MONTAGU, CONSENT USE ON AGRICULTURAL ZONE I FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS)**

#MON/1051

## 1. INTRODUCTION

BolandPlan Town and Regional Planning, was appointed during November 2018 by Christina Johanna Maria Kleynhans on behalf of Kleynhans Projects CC, the registered land owner of Portion 3 (Portion of Portion 2) of the Farm Oorlogs Kloof Nr. 118, Montagu, to apply for an application for consent use on subject property.

## 2. PURPOSE

The purpose of this report is to apply and motivate the need and desirability of an application for consent use in terms of Section 15 of the Langeberg Municipality Land Use Planning By-Law, 2015:-

- ❖ Consent use on Agricultural zone I for 5 additional dwelling units for farm holiday accommodation purposes on Portion 3 of the Farm Oorlogs Kloof No. 118, Montagu.

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

**APPLICATION FOR CONSENT USE:- PORTION 3 (PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NR. 118, MONTAGU, CONSENT USE ON AGRICULTURAL ZONE I FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS)**

## 3. THE PROPERTY

### 3.1. Property description:-

Portion 3 (Portion of Portion 2) of the Farm Oorlogs Kloof Nr. 118, Langeberg Municipality, Division Montagu, Province of the Western Cape.

Applicant title deed T 34159/2016 attached as Annexure E.

### 3.2. Location:-

The picturesque site is located in the north western corner of the Municipalities jurisdiction area. Applicant property is in the magisterial district of Montagu, and falls within the administrative jurisdiction of Langeberg Municipality.

Google coordinates:-

- ❖ 33°42'39.66" S
- ❖ 19°59'13.17" E



### 3.3. Total extent:-

Portion 3 of the Farm Oorlogs Kloof No. 118, Montagu:- 160,3956 ha.



CAPE FARM MAPPER IMAGE OF THE SITE:- FARM 3/118, MONTAGU

### 3.4. Ownership:-

Portion 3 of the Farm Oorlogs Kloof No. 118, Montagu belongs to Kleynhans Projects CC.

Refer to Annexure C for Title Deed T 34159/2016.

## 4. EXISTING AND SURROUNDING LAND USE

Existing land use:-

The property is zoned as Agricultural zone I.

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

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

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



Consent uses on Agricultural zone I applicable to this application is: -

❖ Additional dwelling units.

Additional dwelling units in this case means:-

A dwelling unit that may be erected on an agricultural land unit with the consent of the Municipality, in addition to a primary dwelling house, farm manager's accommodation, or agricultural worker accommodation for bona fide agricultural workers.

Additional dwelling units can be allowed at a ratio of one additional dwelling unit per 10 ha.

Surrounding land use in the rural area includes the following:-

Primary agricultural related activities and mountain land with a couple of guest cottages.



**EXISTING MAIN HOUSE**



**EXISTING MANAGER'S HOUSE**

The existing manager's house size is:- **125 m<sup>2</sup>** with a veranda/stoep with roof covering of 30,4 m<sup>2</sup>.

## **5. PROPOSED CONSENT USE / DEVELOPMENT**

**APPLICATION FOR CONSENT USE:- PORTION 3 (PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NR. 118, MONTAGU, CONSENT USE ON AGRICULTURAL ZONE I FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS)**

The owner of subject property would like to develop 5 additional dwelling units for farm holiday accommodation purposes.

Five additional dwelling units for farm holiday accommodation purposes are proposed.

Maximum footprint of **± 80 m<sup>2</sup>** per unit and will sleep max 2 or 4 people per unit to max of 14 people = low density.

Units placed as close as possible to the existing jeep track but outside the 30 meter side building line on Agricultural zone I.



#### **PORTION 3 OF THE FARM OORLOGS KLOOF NO. 118, MONTAGU:- 5 SMALL UNITS**

The land use rights can be obtained with an application for footprint areas for consent use on Agricultural zone I as additional dwelling units for the five (5) farm holiday accommodation units. Additional dwellings mean dwelling units that may be erected with the consent of the Council on a land unit in Agricultural zone I; one additional unit in all cases and further units with a density of one unit per 10 ha may be allowed.

Provincial policy on the number of additional dwelling units that may be permitted on a specified property in general, can be found in the new Western Cape Land Use Planning Guideline:- Rural Areas, 2019. In the Agricultural zone I, one additional dwelling unit may be allowed, and further additional dwellings are permitted with the consent of the municipality for every 10 ha of farm area (up to a maximum of 5 after which no further additional dwelling units are permissible).

Should applications therefore be made for a small number of holiday units on a farm, it may thus be dealt with as a consent use application, remembering that the additional units could never be alienated separately from the farm.

The scale density and type should always be determined with due recognition of the impact on the rural / agricultural landscape.

Department of Environmental Affairs and Development Planning suggest a maximum permissible footprint size of 175 m<sup>2</sup> per unit.

Langeberg Municipality's new Integrated Zoning Scheme refers to a maximum permissible footprint size of 150 m<sup>2</sup> per unit.

The original purpose of additional dwelling units on Agricultural zone I was to attend the demand of facilities for farm holidays and not to bypass resort zoning procedures or the process of township establishment.

#### **Spatial Planning Category:-**

Property within the Matroosberg Mountain Catchment Area (MCA).

Although MCA's are recognised as Protected Areas, they do not currently have any formal status in terms of legislated restricted activities.

The Mountain Catchment Areas Act makes provision for the development of regulations which could control land use and activities within the MCA's, however these have not yet been enacted.

#### **Conservation status:- CORE 1 – Protected Area**

Core 1 is land classified with a high level of biodiversity, normally this is a NO-GO area but subject to stringent controls the following biodiversity compatible land uses may be accommodated in Core 1 areas:-

Non-consumptive low impact eco-tourism activities, such as recreational and tourism facilities with **visitor overnight accommodation** clearly listed in the new Western Cape Land Use Planning Guideline:- Rural Areas, 2019.

These structures to be in harmony with the character of the surrounding land scape to ensure the maintenance of its natural qualities with appropriate scale and form.

Positioning of units:- determined with site inspection in positions adjacent to the existing jeep track, outside the 30 meter side building line and not within an areas with impact on endangered / critically endangered ecosystem, best screened for visual protection and not in close relation to drainage lines or water courses.

Architecture to complement the existing with cape dutch elements.

- ❖ Simple rural vernacular.
- ❖ Small windows.
- ❖ Roofs with charcoal colour to blend and to be non-intrusive.
- ❖ Minimal visual distraction.
- ❖ Indigenous landscaping.
- ❖ Existing jeep track to be used, no new roads.
- ❖ 1 Parking bay for each unit adjacent to the road.

Should the white colour of the walls be intrusive, it can be painted a more natural ground colour to assist with blending into the environment.

## **6. TITLE DEED**

Title deed T 34159/2016 has been checked and is there no limitation(s) in the title deed, which could have a negative impact on the proposed development of 5 additional dwelling units.

## 7. ZONING SCHEME

Subject property falls within the boundaries of Langerberg Municipality as local authority. The application for consent use meets the requirements as prescribed by the applicable Langeberg Integrated Zoning Scheme.

## 8. LOCATION AND ACCESSIBILITY OF THE PROPERTY

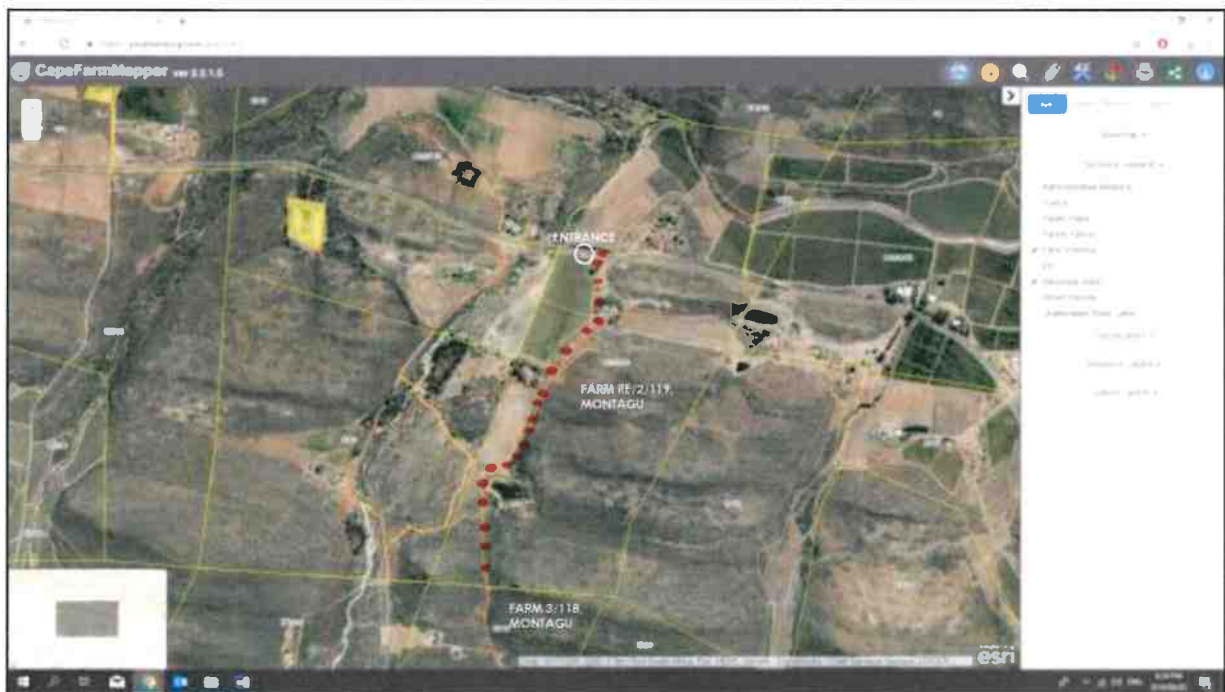
The proposed facility is accessible for tourists from existing access from R318.

Coordinates for the existing access from R318.

32°41'54.00" S

19°59'35.77" E

The entrance angle and road surface can be changed/upgraded.  
Sight distances in both directions are clear of any obstruction.



**Existing entrance with servitude over Farm Bosch Rivier No. RE/2/119, Montagu**

## 9. SERVICES

### 9.1. Water:-

Drinking water will be abstracted from a borehole and fountain on the farm.

The water was tested by BEMLAB on 29 December 2016, results attached as part of Annexure F.

Registration of the borehole is in process with BGCMA.

### **9.2. Refuse disposal:-**

The facility will implement strict recycling procedures for all garbage:-

- Glass;
- Paper;
- Tins; and
- Compost and permaculture (worm compost).

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

### **9.3. Electricity Supply:-**

ESKOM, 50 kVA currently available, upgrade will be for land owners own account.

Emphasize on sustainability and alternative energy.

- Solar;
- Gas;
- Low energy bulbs:- LED;
- Photovoltaic cells; and
- Solar hot water geysers.

Locally sourced materials where possible.

### **9.4. Sewage Disposal:-**

No waste is to be disposed to land.

The sewerage waste will be conveyed to a septic tank, from which the overflow effluent is led to a conservancy tank. The conservancy tank is a water-tight, plastic tank.

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

### **9.5. Storm water:-**

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

### **9.6. Access Road Infrastructure:-**

Existing access.

Existing Jeep track on farm.

## **10. MOTIVATION:- NEED AND DESIRABILITY**

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

## **10.1:- CONSISTENCY WITH PLANNING LEGISLATION**

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

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

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

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

- ❖ The proposed additional dwelling units for small scale rural holiday accommodation purposes contributes positively to the principle of spatial justice as it ensures to improve the use of land.
- ❖ The property is not conducive for agricultural activities.
- ❖ Approval of the application will allow the land to be utilized more efficiently.
- ❖ It contributes positively to the principle of spatial sustainability.
- ❖ The proposed additional dwelling units for small scale rural holiday accommodation purposes does not negatively affect agricultural activities or unique agricultural land as the property is not conducive for agricultural operations.
- ❖ The proposal contributes positively to the principle of efficiency as it optimises the use of existing resources and infrastructure on the property without resulting in negative financial, social, economic or environmental impacts.
- ❖ The proposal supports the principle of spatial resilience as it will ensure flexibility in municipal policies that will ensure economic development and creation of employment opportunities.
- ❖ The application promotes the sustainable use of agricultural zoned land as it allows current existing services infrastructure to be utilised, thereby contributing to the economic viability of the property while also contributing to employment creation.
- ❖ The proposal takes into account and respects public interest and ensures that rights and obligations of affected parties are not affected and does not impact on engineering services, social infrastructure and open space requirements.
- ❖ The application is compliant with all relevant environmental legislation.

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

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

Spatial justice:-

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

Spatial sustainability:-

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

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

Efficiency:-

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

Spatial Resilience:-

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

## **10.2: - CONSISTANCY WITH SPATIAL DEVELOPMENT FRAMEWORKS:-**

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

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

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

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

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

The PSDF recognizes that the Western Cape as a world class tourism destination, given the attraction and authenticity of rural landscapes of scenic, cultural and natural splendor and emphasizes that the Province's biodiversity and agricultural resources should be protected.

The proposed additional dwelling units for small scale rural holiday accommodation purposes will support the existing tourism industry in the area. The units will not compromise agricultural operations.

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

According to the PSDF, compatible and sustainable activities (i.e. activities that are appropriate in a rural context, generate positive socio-economic returns and do not compromise the environment or ability of the municipality to deliver its mandate) and of an appropriate scale and form can be accommodated outside of the urban edge.

The proposed additional dwelling units for small scale rural holiday accommodation purposes conforms to the PSDF's criteria of compatible and sustainable activities which are permitted outside of the urban edge and will make a positive contribution in terms of creating economic opportunities in the rural space-economy.

#### 10.2.1.3:- Developing Integrated and Sustainable Settlements:-

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

Although the site and existing buildings on the property are not deemed heritage resources, the surrounding area with its scenic landscape is of cultural significance. The use of the property for tourism activities will therefore encourage investment and create tourism opportunities while enhancing the area's sense of place and protecting the existing character.

It is evident from the above that the establishment of the 5 additional dwelling units for small scale rural holiday accommodation purposes will enhance the local tourism industry and while contributing positively to the local space-economy without impacting negatively on agricultural activities or biodiversity. The proposal is therefore considered to be in line with the policies of the PSDF.

#### 10.2.2: - Western Cape Integrated Tourism Development Framework:-

- ❖ The Western Cape has the strongest tourism products in South Africa.
- ❖ Agri tourism is a key objective because of the beautiful natural environment.
- ❖ More tourists want to see the country-side and participate in diverse and unique activities.
- ❖ Tourists are interested in the region and its products.

#### 10.2.3:- Langeberg Municipality's Spatial Development Framework:-

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

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

- ❖ Agri-tourism should be promoted where such activities are not detrimental to the primary agricultural activities and the general environment, and where such activities make a sustainable contribution to agricultural activities.
- ❖ Promote environmentally sustainable tourism in the municipal area.
- ❖ Tourism plays an important role in the development of the region.
- ❖ Innovative and sustainable tourism development in the Langeberg municipal area could provide significant employment opportunities.
- ❖ Eco-tourism and agri tourism are recognized as ways of supplementing the income of farmers.
- ❖ Certain agricultural areas lend themselves to development, such as areas of natural recreation facilities e.g. rivers, which allow opportunities for boating or birding. At the same time, a balance between conservation and development must remain the overarching goal.
- ❖ The scale and type of development must compliment the aesthetic qualities of the environment.
- ❖ A balance between conservation, development and tourism facilities along scenic routes should be established to ensure sustainability.
- ❖ Incorporate the role of agriculture in terms of eco-tourism, agri-tourism and value adding opportunities as an integral part of the Tourism Development Strategy for the municipal area.
- ❖ Value adding industries should be sensitively sited in terms of landscape view sheds and buildings must be clustered and of a scale and design that relates to local vernacular.
- ❖ Value adding industries that are associated with the tourism market should ideally be located close to public routes so as to increase the marketability of the products to passing trade and thus avoid unnecessary movement across farm units.

- ❖ Rural tourism and recreation facilities should not negatively impact on agricultural production and should be placed within the aim to reinforce the farmstead precinct.

Investigations in this regard should include all members of the farming community and should be coordinated with the tourism development strategy for the area.

To enhance the municipal area's tourism appeal, it is important to:-

- ❖ Ensure a quality tourism environment;
- ❖ Encourage increased activity within existing tourism attractions;
- ❖ Improve the links/connections between tourism attractions and destinations;
- ❖ Support revitalization initiatives, and
- ❖ Provide infrastructure which could support private sector investment.

#### 10.3. SITE SPECIFIC REASONS

- ❖ No remnant vegetation on the specific footprints.
- ❖ Stable ground conditions.
- ❖ No endangered and protected species on the specific footprints.
- ❖ No structures within the 1:100-year flood line (flood line not determined).
- ❖ No structures closer than 32 from a water course.
- ❖ Outside the 30 meter side building line on land zoned as Agricultural zone I.

#### 10.4. DESIRABILITY OF THE PROPOSED LAND USE

- ❖ **The Proposal will enable the retention of the primary agricultural land use, whilst recognizing the intrinsic value of the property as an agri-tourism destination**
- ❖ **The Proposal will promote Agri-tourism and Agricultural Sustainability**

The tourist facilities will exist as complementary land uses. This approach reflects market research, which indicates a growing trend of tourists who are traveling into hinterland areas to seek diverse and unique leisure experiences. It is noted that the Western Cape Integrated Tourism Development Framework (2002) as prepared by the Department of Economic Development, Tourism and Agriculture, Western Cape, identifies agri-tourism as a largely untapped niche market which can play an important role in the growth of tourism in the Western Cape. The proposed facilities set out in this application should be seen as an attempt to tap into the agri-tourism market and hence satisfy an identified niche market demand.

- ❖ **The property falls within a beautiful natural environment and will the proposal utilize the intrinsic qualities of the property for tourism purposes**

The proposed facility will be located in a beautiful agricultural and natural environment overlooking the valley and adjoining orchards.

The site offers enormous potential to be used for holiday accommodation and tourism facility with very little to no additional impact on the surrounding environment.

- ❖ **Local Economy support and development**

The owner will endeavor to employ persons from the local community; all employment will involve vigorous training within the hospitality and tourism industry. Unless it is not possible, all procurement will be kept within the Langeberg Municipal region.

#### ❖ **Environmental development**

Each unit will be off the grid.

- Low energy bulbs:- LED;
- Photovoltaic cells;
- Battery bank;
- Gas; and
- Solar hot water geysers.

The facility will implement strict recycling procedures for all garbage at the lodge:-

- Glass;
- Paper;
- Tins; and
- Compost.

#### ❖ **No negative impact on the traffic patterns**

Existing access to the farm will be utilized for the proposed development.

Only one parking bay per unit will be created to minimize the impact.

#### ❖ **The white structures could have an impact on the aesthetics**

Ground colour paint on outside walls could be a mitigation matter.

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

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

#### ❖ **No socio-economic problems**

#### ❖ **The Proposal will lead to Job Creation**

#### ❖ **The site is easy accessible**

## **11. OPPORTUNITIES**

The development will have economical spinoffs for tourism in the area:-

- ❖ Top quality facility that contribute to activities.
- ❖ New opportunities for job creation.
- ❖ Additional overnight facility for farm holiday accommodation purposes.

## **12. CLOSURE**

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

**APPLICATION FOR CONSENT USE:- PORTION 3 (PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NR. 118, MONTAGU, CONSENT USE ON AGRICULTURAL ZONE I FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS)**

Given the Western Cape's unique rural communities and landscapes, tourism offers exciting prospects to diversify and strengthen the rural economy. Accordingly, the provincial approach is to facilitate the provision of a variety of holiday accommodation across the rural landscape that is in keeping with the local character.

One of the main objectives of the Western Cape Department of Environmental Affairs and Development Planning's Provincial Spatial Development Framework and Rural Land Use Planning & Management Guidelines is to provide a range of opportunities for tourists and visitors to experience living the Western Cape's unique rural landscapes and to align the scale and form of overnight facilities with the character of the Western's Cape diverse rural areas.

The proposed uses are compatible with existing Langeberg Municipality Spatial Development Framework, the Provincial Government of the Western Cape Spatial Development Framework and the Western Cape Land Use Planning Guideline Rural Areas, 2019 and will have a positive impact on the marketing of the area as a tourism destination and the local economy.

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

**MARTIN Oosthuizen**

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

# ANNEXURE A BOTANICAL REPORT

05 February 2019

Martin Oosthuizen

BolandPlan Town and Regional Planners

Cell: 082 565 5835

E-mail: [bolandplan@breede.co.za](mailto:bolandplan@breede.co.za)

## **BOTANICAL SCREENING STUDY FOR THE DEVELOPMENT OF 5 GUEST COTTAGES ON FARM 118, PORTION 3, OORLOGSKLOOF, MONTAGU**

### **1. INTRODUCTION**

The landowner anticipates developing five guest cottages on Portion 3 of Farm 118, Montagu. The property is located in the northern Langeberg in the Keisie, about 14 km north-east of Montagu (Figure 1). Each unit will have a maximum footprint of approximately 200m<sup>2</sup> which includes the cottage, parking, short access from main track, grassed areas etc. The 5 cottages will thus have a combined footprint of 1000m<sup>2</sup> (0.1 Ha).

The entire property is 145 Ha in extent and is predominantly undeveloped. Features evident on the property include a main house, smaller cottage, farm tracks, furrow and a small dam concentrated within the northernmost, low-lying portion of the farm. The remainder and largest portion comprises pristine mountainous areas. The 5 x 200m<sup>2</sup> cottages will be located within a target area of ± 0.45 Ha, in the north-eastern portion of the farm (Figure 2).



**Figure 1:** Location of Farm 3/118 (red polygon), north-east of Montagu.



**Figure 2:** Location of the existing dwellings, access tracks, the target development site (yellow polygon ) and features evident on the property. Natural drainage lines (blue dashed lines) are also shown.

Boland Plan is facilitating the required land use and building plan approvals from the Municipality. I was requested to do a Botanical Screening Study to:

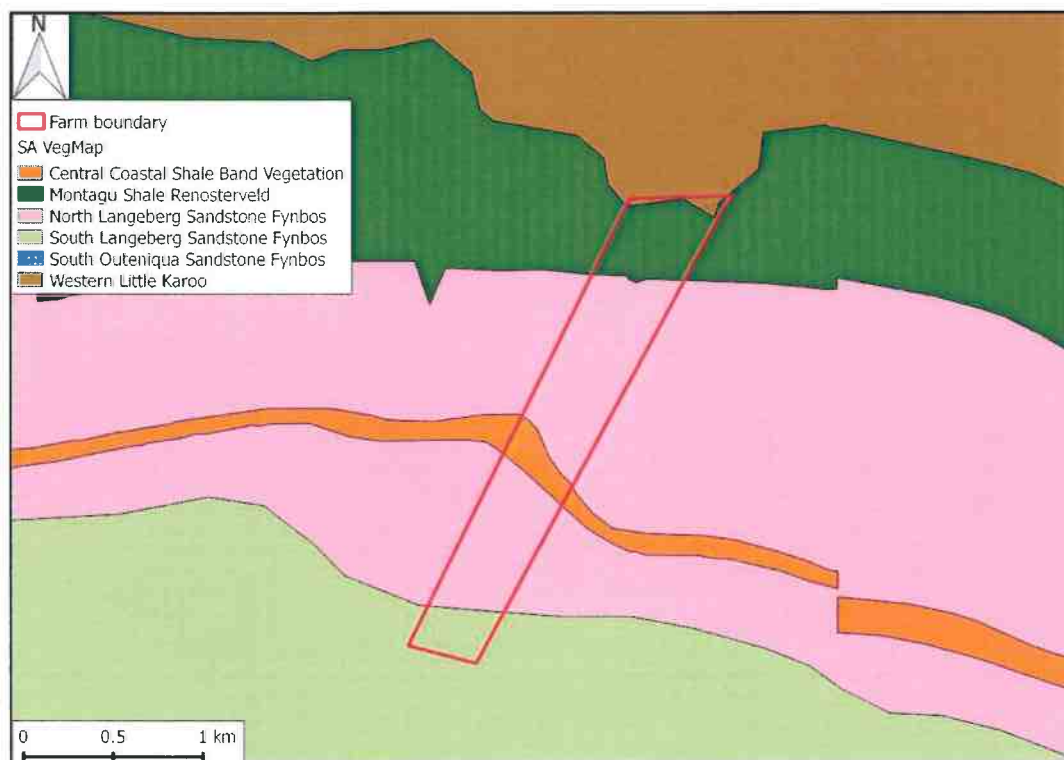
- Identify biodiversity constraints associated with the site
- Determine original vegetation type and sensitivity of the site through Biodiversity Maps.
- On site determination (ground truth) of vegetation type, land cover and habitat condition.
- Confirm whether any Species of Conservation Concern are evident within the target site.
- Provide a specialised opinion on the suitability of the site for the development.

The property was visited on the 1<sup>st</sup> of February 2019.

## 2. MAIN FINDINGS

### 2.1 Overview of mapped ecosystem and vegetation type

Four ecosystems are represented on the property namely Montagu Shale Renosterveld (northern, low-lying portion), North Langeberg Sandstone Fynbos (higher lying, sandstone areas along northern slopes of Langeberg) and to a lesser extent also Shale Band Vegetation and South Langeberg Sandstone Fynbos (southern slopes of Langeberg) (Figure 3). The target development area is located within Montagu Shale Renosterveld which is considered Vulnerable (DEA 2011, Cape Nature 2016). The remaining ecosystems are considered Least Threatened but due to inaccessibility and mountainous terrain, not suitable for development.



**Figure 3:** Extract from the SA Vegetation Map (Mucina and Rutherford 2012 update).

### 2.2 Critical Biodiversity Areas

Figure 4 represents Protected Areas (PAs), Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) identified through the systematic biodiversity planning assessment conducted by the 2017 Western Cape Biodiversity Spatial Plan (WCBSP). These areas require safeguarding to ensure the continued existence and functioning of species, ecosystems and ecological processes, including the delivery of ecosystem services, across terrestrial and freshwater realms (Pool-Stanvliet et al. 2017).

- CBAs and PAs are required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure.
- ESAs are not essential for meeting biodiversity targets, but play an important role in supporting the functioning of Protected Areas or CBAs, and are often vital for delivering ecosystem services.

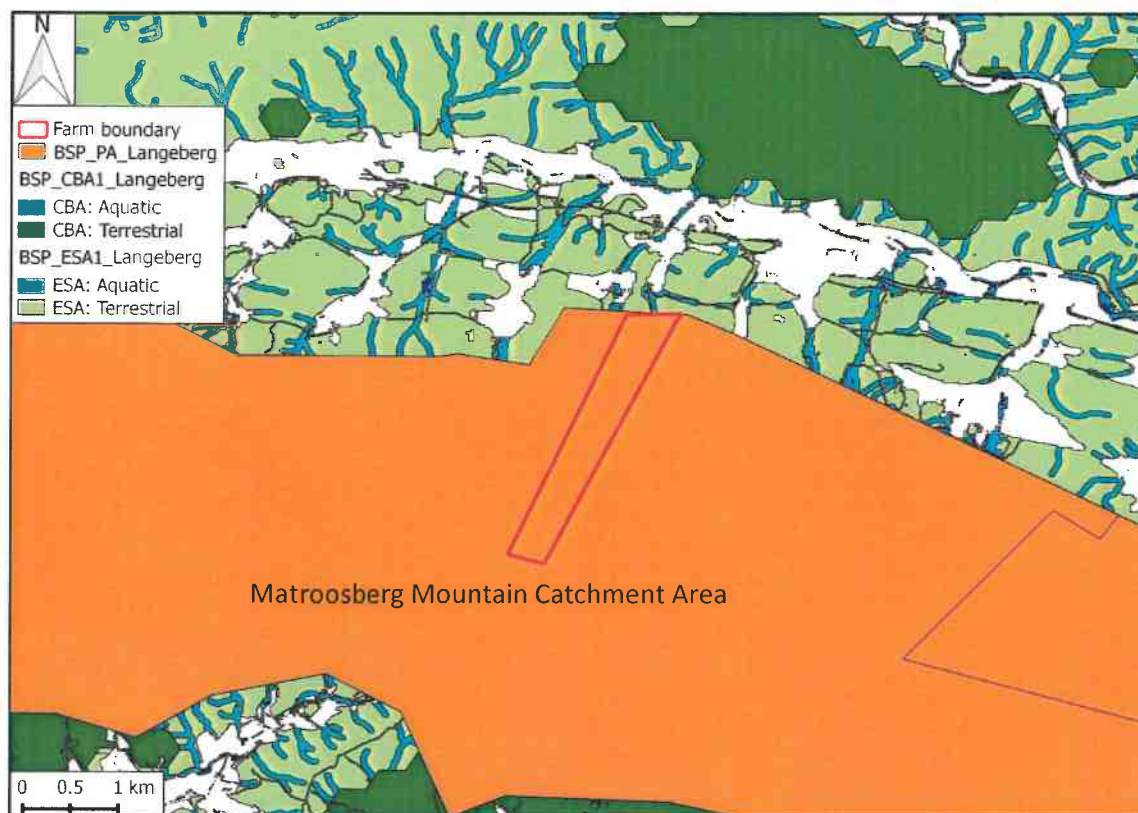
The entire property falls within a Protected Area recognised as the Matroosberg Mountain Catchment Area (MCA) (Figure 4). MCAs are important ecological process areas and are of particular importance for water retention (yield), water cleansing, flow moderation, erosion and sedimentation mitigation, and ensuring lateral connectivity.

Although MCAs are recognised as Protected Areas, they do not currently have any formal status in terms of legislated restricted activities. MCAs are located on private land typically as a buffer to existing nature reserves within the Cape Fold Mountains. The Mountain Catchment Areas Act makes provision for the development of regulations which could control land use and activities within the MCAs, however these have not yet been enacted.

The land use guideline for Mountain Catchment Areas should thus be aligned with that of Critical Biodiversity Areas, with the primary intention to ensure the steady supply of good quality water to downstream areas (Pool-Stanvliet et al. 2017).

The management objectives for CBAs are:

- Maintain in a natural or near-natural state, with no further loss of natural habitat.
- Degraded areas should be rehabilitated.
- Only low-impact, biodiversity-sensitive land uses are appropriate.



**Figure 4:** Extract from the WC Biodiversity Spatial Plan (2017) Map for the Langeberg Municipality showing the extent of PAs, CBAs and ESAs in the area.

### 2.3 Wetlands and Aquatic Features

One ephemeral drainage line crosses the north-eastern portion of the farm, east of the main access track (Figure 2). This watercourse is captured by farm dams on neighbouring properties down-stream (north). A permanent watercourse, Boskloofrivier, runs along the western boundary of the farm, mainly on the neighbouring property and drains into the Keisie River which is located about 1.5 km north of the property. The target development site is located > 100m east of the Boskloofrivier and >350 m west of the smaller drainage line which crosses the farm. There are no wetlands or Freshwater Ecosystem Priority Areas identified within the property.

### 2.4 Vegetation and Habitat Condition on Site

The target site comprises a relatively flat area on the foot of the Langeberg. The site comprises intact natural vegetation which is in a good condition. The site is small and bounded by an existing farm track towards the east and by a furrow along the west (Figure 2). The vegetation on site is confirmed as Montagu Shale Renosterveld which is a Vulnerable ecosystem. The proposed development of up 0.1 Ha should not have a significant impact on the remaining extent of this ecosystem.

Montagu Shale Renosterveld occurs within an undulating hilly landscape with broad valleys supporting open, tall shrubland in a medium dense matrix of short, divaricate shrubs, dominated by renosterbos (Rebelo et al 2006).

The site comprises a tall, medium dense renosterveld shrubland dominated by *Dodonaea viscosa* (sandolien), *Elytropappus rhinocerotis* (renosterbos), *Pteronia incana* (asbossie), *Pteronia paniculata* (gombossie) and *Ruschia caroli* (pers vygie). More than 30 plant species were recorded within the target development site. Annuals and geophytes were absent due to seasonal constraints.

The following species were recorded during the site visit:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Tall shrubs:</b></p> <p><i>Carissa haematocarpa</i> (noem-noem)</p> <p><i>Colpoon compressum</i> (pruimbos)</p> <p><i>Dodonaea viscosa</i> (sandolien)</p> <p><i>Euclea undulata</i> (gwarriebos)</p> <p><i>Euryops rehmannii</i> (harpuisbos)</p> <p><i>Lycium ferocissimum</i> (slangbessie)</p> <p><i>Olea europaea</i> subsp. <i>africana</i> (olienhout/wilde olyf)</p> <p><i>Searsia</i> spp. (taaibos)</p> <p><b>Succulent herbs/shrubs:</b></p> <p><i>Cotyledon orbiculata</i> (plakkie)</p> <p><i>Crassula cotyledonis</i> (bergplakkie)</p> <p><i>Crassula nudicaulis</i> var. <i>platyphylla</i></p> <p><i>Crassula rubricaulis</i></p> <p><i>Euphorbia mauritanica</i> (geelmelkbos)</p> <p><i>Ruschia caroli</i> (pers vygie)</p> <p><i>Tylecodon paniculatus</i> (botterboom)</p> | <p><b>Medium/low shrubs:</b></p> <p><i>Asparagus</i> sp. (katdoring)</p> <p><i>Chironia baccifera</i> (aambeibossie)</p> <p><i>Chrysocoma ciliata</i> (bitterbossie)</p> <p><i>Elytropappus rhinocerotis</i> (renosterbos)</p> <p><i>Galenia africana</i> (kraalbos)</p> <p><i>Helichrysum crispum</i> (kooigoed)</p> <p><i>Leysera gnaphalodes</i> (teringteebos)</p> <p><i>Oedera genistifolia</i> (kleinperdekaroo)</p> <p><i>Oedera squarrosa</i> (vierkantperdekaroo)</p> <p><i>Pteronia incana</i> (asbossie)</p> <p><i>Pteronia paniculata</i> (gombossie)</p> <p><i>Salvia disermas</i> (grootblousalie)</p> <p><b>Herbs:</b></p> <p><i>Pelargonium myrrhifolium</i> (fynblaarmalva, wildemalva)</p> <p><b>Grasses:</b></p> <p><i>Cynodon dactylon</i> (kweek)</p> <p><i>Ehrharta calycina</i></p> <p><i>Eragrostis curvula</i> (oulandsgras)</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

No Red Data list plant species were recorded within the proposed development area. It is unlikely that the small footprint of the accommodation units (200m<sup>2</sup> each) will have any significant impact on plant species of conservational concern.



Plate 1: Looking south-east towards the target development site dominated by renosterbos, sandolien and asbos.



Plate 2: Looking north along the farm track located west of the target site.

## 2.5 Development constraints in terms of biodiversity

The most significant constraints associated with the target property include the following:

- Located within a Mountain Catchment Area (important ecological process area)
- Presence of watercourses within and adjacent to the property
- Vulnerable ecosystem (Montagu Shale Renosterveld)

Based on the proposed location and restricted development footprint area the proposed development is not likely to have any significant impact on biodiversity pattern or process.

- The development footprint will be very small (0.1 Ha total development footprint)
- There is an existing road towards the site
- The site will be located > 100m away from any watercourses
- The development will not impact on an endangered / critically endangered ecosystem.
- The development is not likely to impact on any threatened plant species.

## 3. CONCLUSION AND RECOMMENDATIONS

The development of 5 x 200m<sup>2</sup> accommodation units on the relevant property as well as the target location for this development is acceptable from a botanical perspective. It is of the specialist's opinion that the development will be of low impact / biodiversity sensitive which conforms to the management objectives of CBAs and MCAs. Care should however be taken to ensure that sewerage systems / septic tanks do not pose a threat to water resources and measures should be implemented to prevent soil erosion.



**Johlene Krige**

B.Sc. Biodiversity and Ecology, M.Sc. Botany

Pr.Sci.Nat.

PO Box 573, Ceres, 6835, Tel: 0721990500

Email: [johlene@breede.co.za](mailto:johlene@breede.co.za)

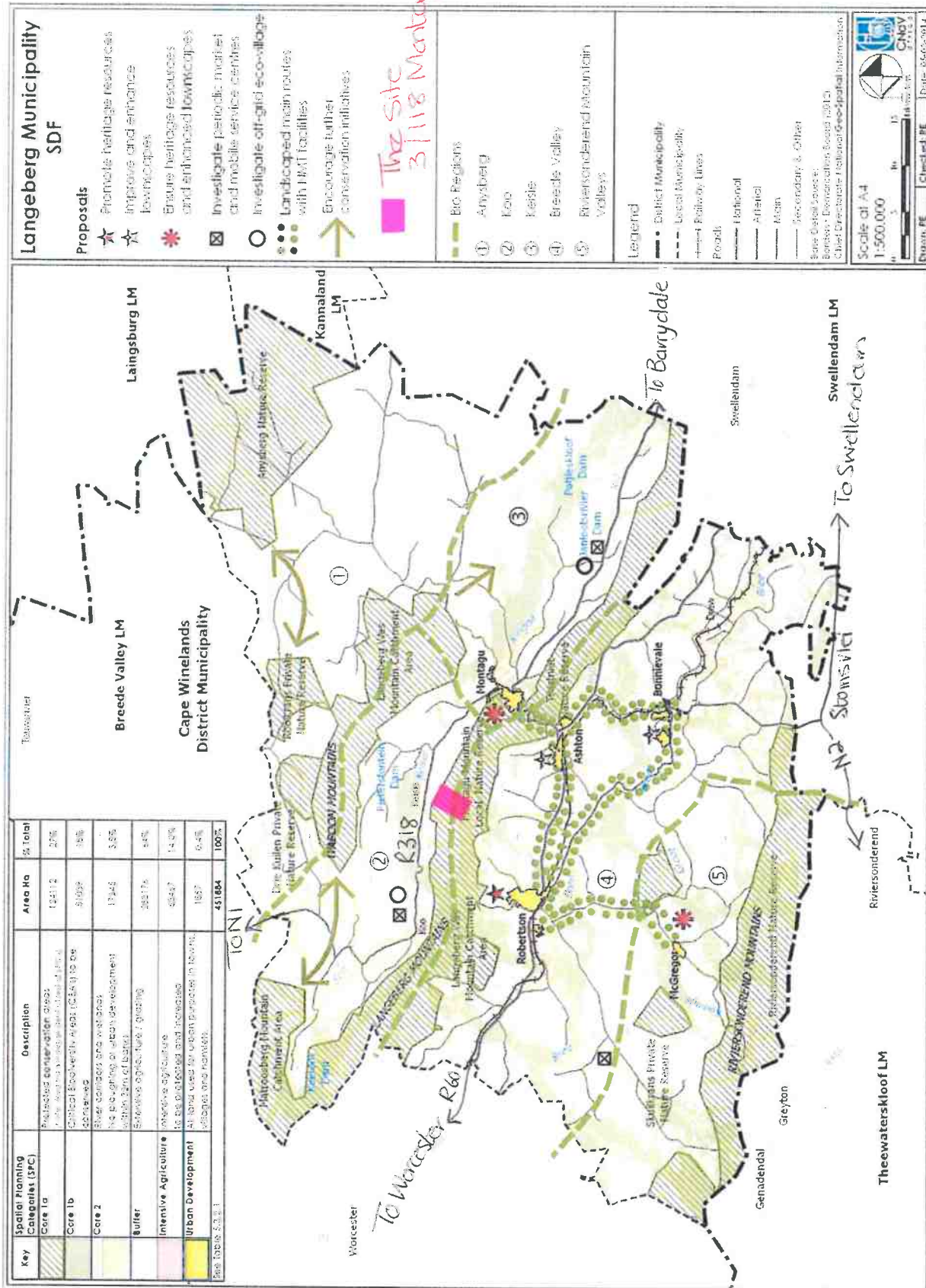
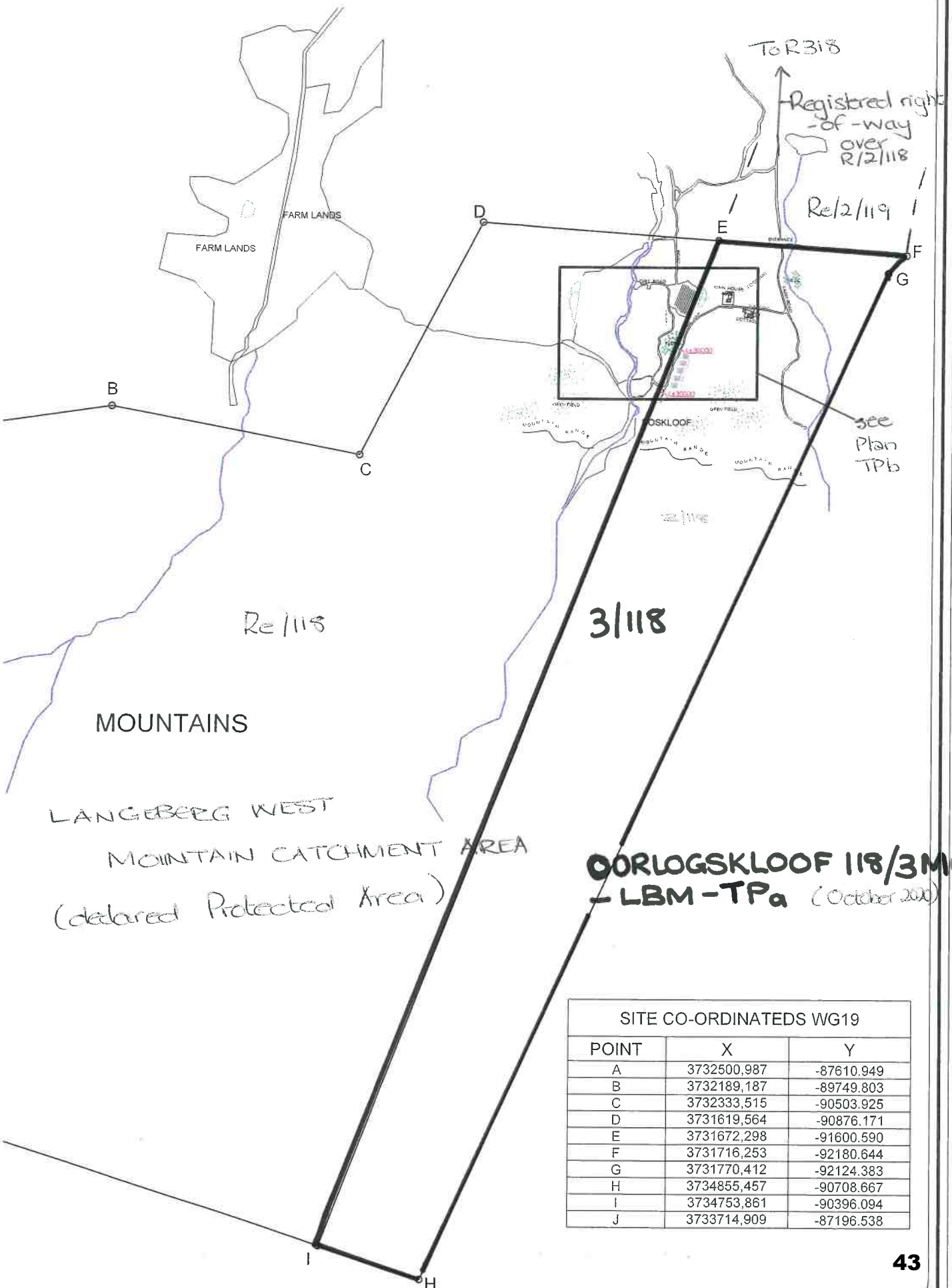


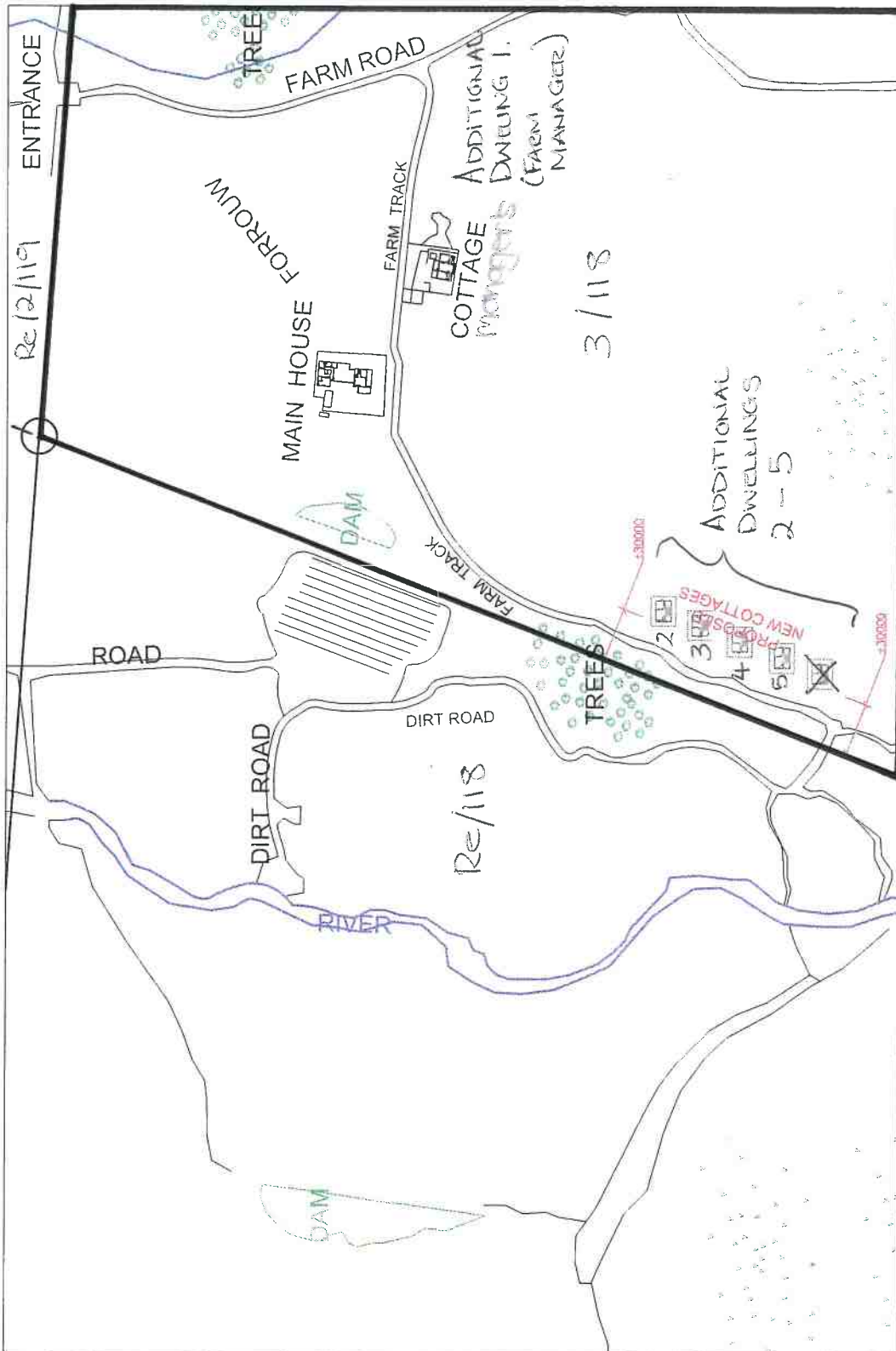
Figure 5.3.1 Langeberg Municipality: Draft Spatial Development Framework

B2



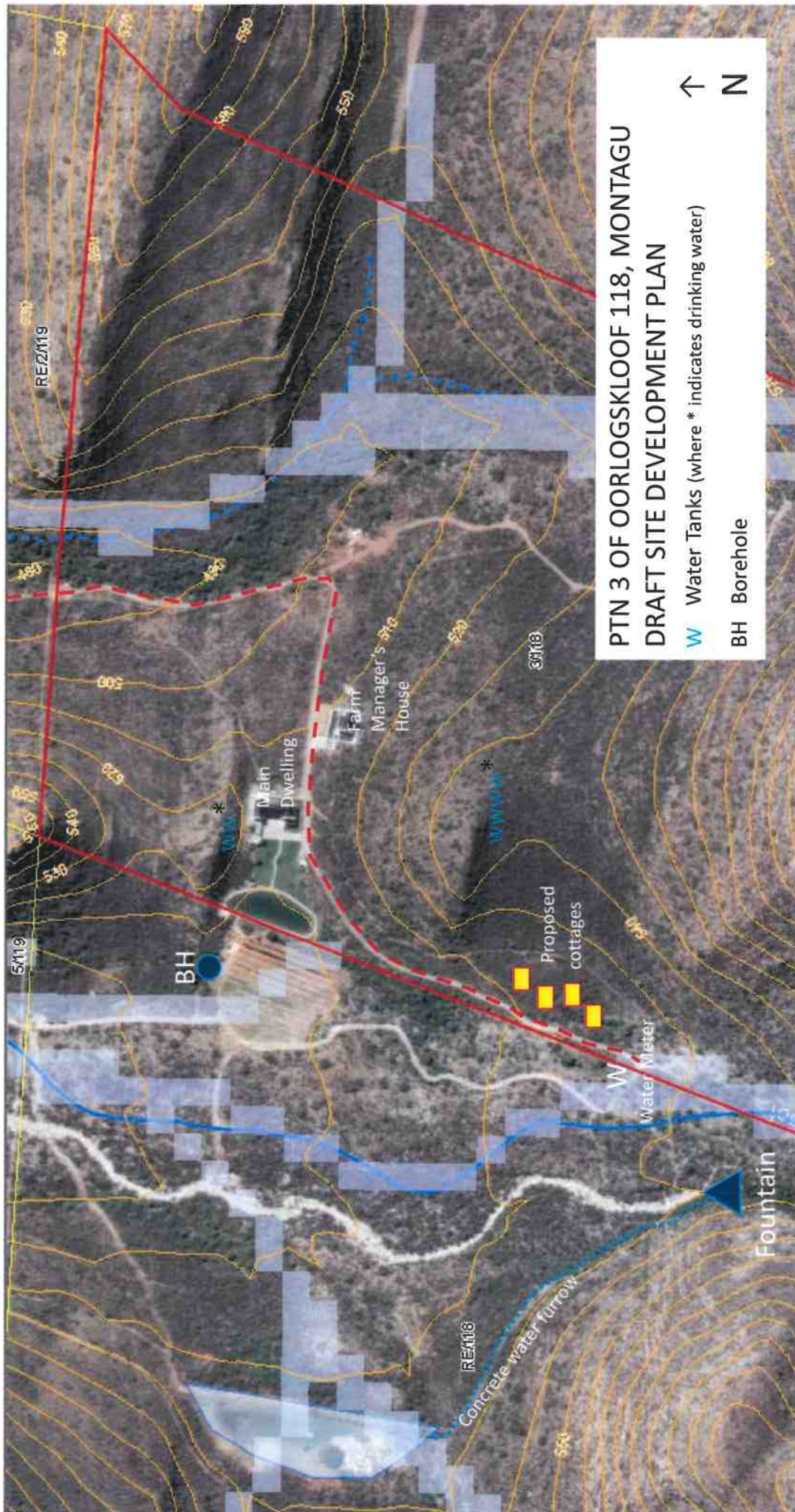
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|------------------------|-------------|------------|
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| B                      | 3732189.187 | -89749.803 |
| C                      | 3732333.515 | -90503.925 |
| D                      | 3731619.564 | -90876.171 |
| E                      | 3731672.298 | -91600.590 |
| F                      | 3731716.253 | -92180.644 |
| G                      | 3731770.412 | -92124.383 |
| H                      | 3734855.457 | -90708.667 |
| I                      | 3734753.861 | -90396.094 |
| J                      | 3733714.909 | -87196.538 |

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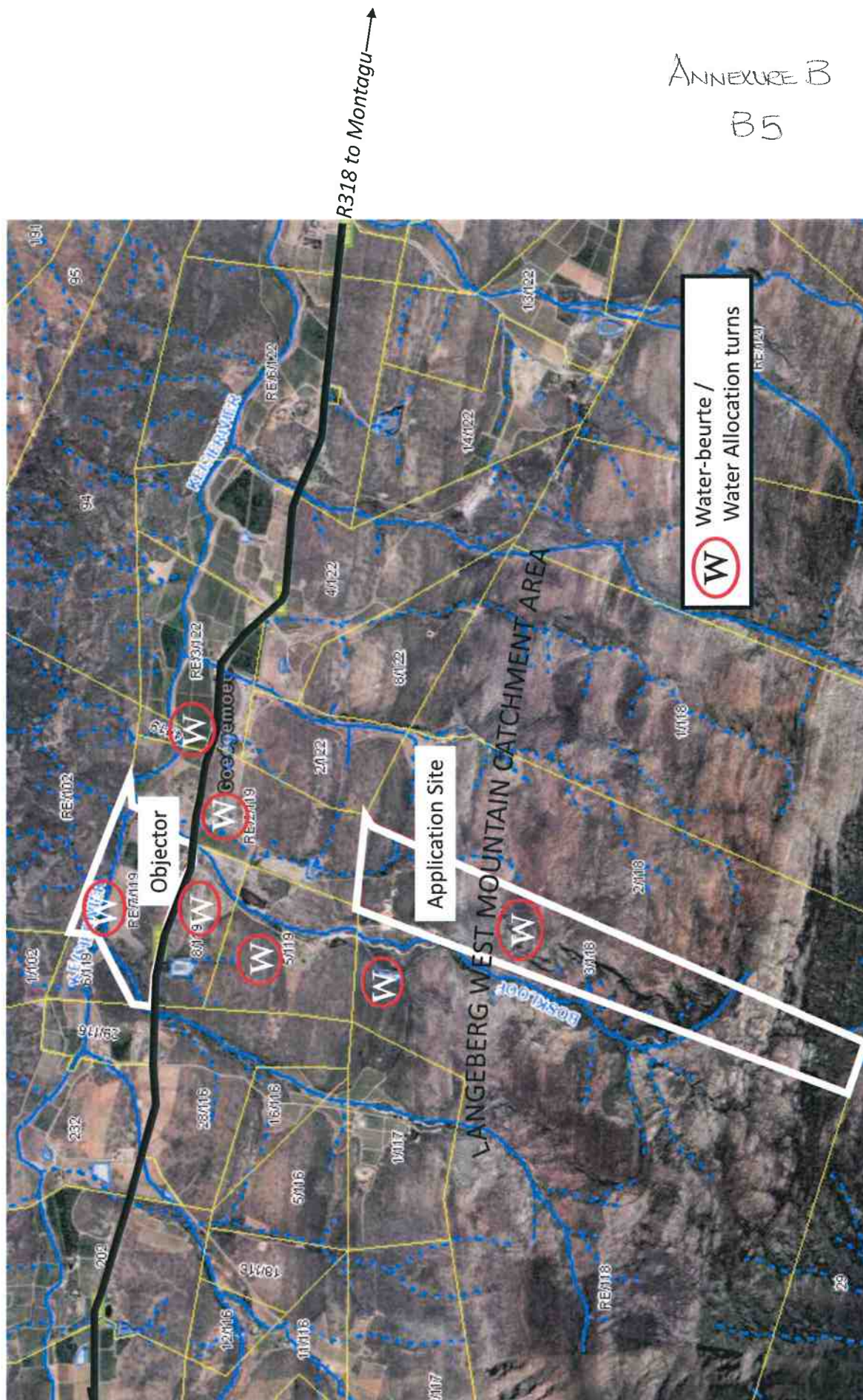


MONTAGU SITE PLAN  
Scale 1:2500

OORLOGSKLOOF 118/3 MON  
-LBM-TPb (October 2020)



# ANNEXURE B B5



ANNEXURE C  
OBJECTION



Boschrivier

MONTAGU

6720

14 Oktober 2019

DIE BESTUURDER: STADSBEPLANNING

LANGEBERG MUNISPALITEIT

INSAKE: VOORGESTELDE VERGUNNINGSVERBRUIK VAN GEDEELTE 3 (GEDEELTE VAN GEDEELTE 2) VAN DIE PLAAS OORLOGSKLOOF NR 118, MONTAGU

Hiermee my skriftelike beswaar teen voorgestelde Vergunning vir 5 addisionele wooneenhede vir vakansie akkomodasie op gedeelte 3 (gedeelte van gedeelte 2) van die plaas Oorlogskloof nr 118, Montagu.

Hoewel ek nie aangrensend aan genoemde eenheid is nie, deel ek wel 'n waterbeurt (watergebruik uit dieselfde waterbron) met mnr Kleynhans, eienaar van genoemde eenheid. Daar is reeds druk op die gebruik van die waterbron, aangesien daar ook ander bure is wat van die water van dieselfde oorsprong afhanklik is. Boorgate is as gevolg van die heersende droogte en ook hul brak inhoud, nie geskik vir huishoudelike en selfs boerdery gebruik nie. Ons het nie 'n alternatiewe bron vir water nie en ek glo 5 addisionele vakansiehuise gaan ons moontlik ontnem van ons water soos ons dit tans ontvang. Geen waterbron is onuitputbaar nie en ek glo toeriste is nie noodwendig op waterbesparing ingestel nie en ek voorsien dat daar ook tuine aangelê sal word vir estetiese redes. Daar was reeds toegewings aan mnr Kleynhans gemaak deur die ontvangers van die water uit hierdie bron en die vertrouenssituasie het reeds daartoe gelei dat 'n meter by mnr Kleynhans aangebring is om sy waterverbruik te monitor. Gegewe hulle aansoek waarin hulle noem dat hulle drinkwater afkomstig sal wees van 'n boorgat en fontein, veronderstel ek dat die fontein die oorsprong is van die beurtwater wat deur al die watergebruikers gedeel word. Ek moet dus om hierdie redes beswaar maak teen die voorgestelde uitbreidings. Ek voorsien dat 5 nuwe vakansiehuise soveel druk op ons waterbron gaan plaas dat ons ander delers wat van dieselfde bron afhanklik is, 'n moontlike waterkrisis in die gesig kan staar.

Die genoemde eenheid val in die Witbosrivier Natuurreseervaat, wat 'n beskermde area gebied is wat reeds onder geweldige omgewingsdruk verkeer.

Wat natuurskoon betref, doen die ontwikkeling afbreuk aan Oorlogskloof in sy geheel, wat een van die mooiste klowe in Montagu is en deel van die attraksie van die Keisie se natuurskoon uitmaak.

Ek glo dat u hierdie beswaar met die nodige erns sal bejeën en dat die aansoek vir hierdie ekstra vakansie wooneenhede nie suksesvol sal wees nie.

Ek dank u.

Die uwe

A handwritten signature in black ink, appearing to read 'Heyns', written over the printed name.

Alex Heyns

[alex@keizie.co.za](mailto:alex@keizie.co.za)

023-1110018/0832802567

ANNEXURE D  
RESPONSE TO OBJECTIONS

Municipal Reference:-  
Applicant Reference:- #MON/1051  
Contact:- MARTIN Oosthuizen  
Tel no:- 082 5655 835  
E-mail:- bolandplan@breede.co.za  
Date:- 30 March 2020

  
BolandPlan  
STAD EN STREEKPLANING  
STAD EN REGIONAL PLANNING

Rec. 18/05/2020  
TJB.

The Municipal Manager  
Langeberg Municipality  
Private Bag X2  
**ASHTON**  
6849

For attention:- Me TRACY Brunings

**APPLICATION FOR CONSENT USE:- PORTION 3 (PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NO. 118, MONTAGU, CONSENT USE ON AGRICULTURAL ZONE I FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS)**

Below please find comment from my client Mr. CJM Kleynhans:-

Further to the above and the email dated March 12, 2020 addressed to Boland Plan with regards to the concern that were expressed with regards to the above proposed development, I would like to reply as follows:-

**A. WATER USE - ALEX HEYNS**

With reference to the objections raised by Mr. Alex Heyns in his letter dated October 14, 2019 please find my comments as follows:-

**Mountain/Surface water**

The water from the mountain as referred to in his letter originate on the farm Oorlogskloof RE/118 as drainage water from the Langeberg mountain which runs for ±2km through the farm before it is collected into a water servitude. The water which enters the servitude are and has been allocated to farms riparian to the Boskloof River for more than 100 years. The water runs into a concrete canal and is then distributed by means of a diameter 200 mm pipeline to the participating farms. The reason is to conserve the water which otherwise would have been lost due to seepage. It furthermore would be impractical to use this water without downstream damming and pumping. This water is firstly to be used for drinking water and secondly for irrigation. The water use was historically and this is still the case divided into a 16-day cycle. The allocation are as follows:-

|                     |                                                               |
|---------------------|---------------------------------------------------------------|
| Karel du Toit:-     | Portion 4/119 of the farm Boschrivier - 5 days                |
| Alex Heyns:-        | Portion 7/119 farm Boschrivier - 3 days                       |
| Jap v.d. Merwe:-    | Portion 5/119 Boschrivier - 2 days                            |
| Russel Muller:-     | Portion 8/119 Boschrivier - 1 day                             |
| Wynand du Plessis:- | Portion 2/119 Boschrivier - 4 days                            |
| Nic Kleynhans:-     | RE/118 Oorlogskloof - 1 day (water registered with the BGCMA) |

Additional surface water allocated from the Boskloof River specific for domestic use are as follows:-

RE/118 Oorlogskloof - 2 000 m<sup>3</sup> per annum. Maximum offtake 1 l/s and must be metered.  
3/118 Oorlogskloof - 2 000 m<sup>3</sup> per annum. Maximum offtake 1 l/s and must be metered.

The entitlement to this water is outlined and referred to as Schedule 1 water in the Water Act, Act 36 of 1998, which is to be used for domestic purposes and small-scale farming. This have been discussed and agreed with BGCMA.



Portion of the old concrete water furrow

## Groundwater

The Water Act, Act 36 of 1998 stipulates that:-

A person who has lawful access to a property, in terms of this authorization, on that property take water from a groundwater resource up to a maximum annual volume based on the size of the property, at a rate of 150 m³ per hectare per year subject to the following conditions:-

- No more than 40 000 m³ may be taken in terms of this authorization per year on a property.
- The groundwater taken on a property in terms of this authorization may be used on another property.

Our farms are 145 ha (3/118) and 747 ha (RE/118) respectively which entitled us to 21 750 m³ and 40 000 m³ per annum of groundwater without a license. We attach a water analysis of the borehole water from RE/118 which has been tested and is suitable as drinking water.

The proposed development is based on and limited to accommodation for 15 people. Even at a rate of 280 litre of water per person per day assuming full occupancy that is 365 days per year, which is very unlikely, does this only come to 1 533 m³. This is well within the surface and groundwater allowances per year and therefore do not pose any threat to the farm portions which take part in the Boskloof River water turn system.

$$15 \times 280 \times 365 = 1533000 \text{ lt} \\ \div 1000 = 1533 \text{ m}^3$$

## B. OBJECTIONS RAISED BY TOWN PLANNING

To answer these concerns raised would I like to respond to them in the same order as they were raised.

### 2. Agricultural zoning

Both farms i.e. 3/118 and RE/118 Oorlogskloof are as per the title deed zoned as agricultural. This I agree with. The number of dwellings already erected apart for the dwelling house on 3/118 is 1 unit which means that there is scope for a further 5 additional dwellings on 3/118 with Councils consent. A further dwelling house plus 5 additional dwellings on RE/118 with Councils consent.

\* No.  
4.

### 3. Agricultural use

The land which can be cleared for agricultural or other use is 1 ha per farm. We have already cleared an area of 0,7 ha on 3/118 to accommodate the current 2 dwellings and 0,7 ha on RE/118 for purposes of cultivating fruit and vegetables for own consumption. We cannot clear more ground without special permission from the Department of Environmental affairs. As land owners we are allowed to gainfully use our land. Both farms fall within the Matroosberg Water Catchment Area and it naturally follows that eco-tourism is the best way to generate income. This is in harmony with and further enhances the objectives envisaged in declaring it as a protected area in the 1<sup>st</sup> place. This is further a practice that is nationally and internationally recognized and practiced. Conservation cost money and should be used in a responsible way to generate income for the land owners.

Large  
berg

### 4. Cape Farm Mapper – No Agricultural activities

We agree that both farms fall within a protected area and that the only land cultivated is 0,7 ha on RE/118. This underline our point that there is no scope to generate income on these farms from agricultural activity. We have applied to cultivate a further 1 or 2 ha but we did not receive any response from the Department of Environmental Affairs.

### 5. Mountain Catchment Area (MCA's)

No comment

### 6. Western Cape Biodiversity Spatial Plan

I think that the restrictions with regards to location, development, wastewater treatment and limitation on the number of visitors at any one time underwrites the conditions and requirements envisaged in the above. It also is not in our interest to misuse and abuse the natural beauty of the farm or to pollute the surface water.

We have already seen an increase in the game on the farm due to no hunting and by preventing stray dogs from entering. The location and envisaged cottage design will naturally blend into the surroundings and will not be visible from any other place other than from the farm itself.

From our point of view is the protection and enhancement of the natural beauty of the farm our prime objective.

#### **7. Land use**

I agree with that point

#### **8. Function of Mountain Catchment area**

We understand and agree with this. The proposed development is of small scale and the effect on the mountain catchment area will be neglectable.

#### **9. Land use planning guidelines**

Property within the Matroosberg Mountain Catchment Area (MCA).

Although MCA's are recognised as Protected Areas, they do not currently have any formal status in terms of legislated restricted activities.

The Mountain Catchment Areas Act makes provision for the development of regulations which could control land use and activities within the MCA's, however theses have not yet been enacted.

Conservation status:- **CORE 1 – Protected Area**

Core 1 is land classified with a high level of biodiversity, normally this is a NO-GO area but subject to stringent controls the following biodiversity compatible land uses may be accommodated in Core 1 areas:-

Non-consumptive low impact eco-tourism activities, such as recreational and tourism facilities with **visitor overnight accommodation** clearly listed in the new Western Cape Land Use Planning Guideline:- Rural Areas, 2019.

These structures to be in harmony with the character of the surrounding land scape to ensure the maintenance of its natural qualities with appropriate scale and form.

Positioning of units:- determined with site inspection in positions adjacent to the existing jeep track, outside the 30 meter side building line and not within an areas with impact on endangered / critically endangered ecosystem, best screened for visual protection and not in close relation to drainage lines or water courses.

#### **10. Building Guidelines**

It would be inappropriate to use wooden structures due to the high incidents of veld fires in the area. We agree that the cottages must have a limited footprint. It does not make sense to build big due to the cost/income ratio. We have already committed to this and we do not anticipate that each cottage will be more than 80 m<sup>2</sup> to 90 m<sup>2</sup>.

#### **11. Number of dwellings**

The number of dwellings and footprint per dwelling are directly related to the number of occupants. We are only allowed to have a maximum of 15 visitors at any one time. This is the restriction. The number of dwellings should not be restricted to less than 5 as the target market will dictate the dwelling size i.e. families, couples, etc.

In conclusion do I think that we appreciate the objections raised as this allow us to understand better and take cognisance of these concerns. It refines our thinking and ensure that we uphold and enhance the objectives of the Matroosberg Water Catchment Area and also contribute towards the natural beauty of our area.

We however believe that our response as outlined above have satisfactorily addressed and put aside the concerns raised.

Should further clarity or information be required to address the concerns please do not hesitate to contact us.

**Nic Kleynhans**  
**For and on the behalf of Kleynhans Projects cc**

## **Additional info:-**

### **Korrespondensie tussen klient en BGCMA ten opsigte van afvalwater**

#### **XYLEM LET'S SOLVE WATER:-**

Derick Kelleman from XYLEM LET'S SOLVE WATER in Worcester was appointed to assist with a package sewage treatment plant system on the property:-

His recommendation below to install a Fluido system:-

*'Ons sal die groot sisteem moet insit vir 15 mense. Dit is n 2 x 7000 liter tenk sisteem met UV lig en Fluido. Die sisteem kan so 2 800 liter per dag hanteer. Die begrotingsprys is so R140 000 (Excl VAT). Dit sluit nie die installasie in nie, maar ons hou wel toesig met tenke se insit om seker te maak dit word streng volgens ons vereistes gedoen. Ons "commission" ook dan die sisteem as die installasie klaar is.'*

#### **Client to BGCMA 1:-**

Based on 15 people (maximum that will be allowed) and considering maximum tenancy per annum i.e. 365 days per year (I think it is impossible) will the sewage water for treatment be 1 650 m<sup>3</sup> per annum or 4,5 m<sup>3</sup> per day. I propose to use the treated water for general irrigation on the veld. BGCMA has requested us to submit our proposal on the water treatment plant for consideration and comments. I have spoken to many suppliers of package treatment systems and all guarantee that it will meet the requirements of DWS. What I need to know from you is what standard will be applicable i.e. Standard Limit or Specific Limit.

From my reading on the internet is the Specific Limit only applicable when the water to be treated exceeds 2 000m<sup>3</sup> per day. Our farm however falls withing the Matroosberg Water Catchment area and for this reason do I need your assistance to determine the limit to be achieved.

#### **Client to BGCMA 2:-**

Ek het die saak met Elkerine bespreek en aan haar verduidelik dat a.g.v. die beperkte area tot ons beskikking kan ek nie aan sekere vereistes ten opsigte van besproeiing met afval water kan voldoen nie.

Die vereistes waaraan ek nie kan voldoen nie is:-

1. 'n minimum afstand van 100m vanaf 'n water weg of rivier; en
2. 'n minimum afstand van 'n boorgat dit is 500m wat vir drinkwater gebruik word.

Ek het haar verduidelik dat ons die behandelde afval water vereistes vir 50m<sup>3</sup> en minder per dag kan verbeter tot die vereiste standard vir 2 000m<sup>3</sup> per dag.

Sy is egter van mening dat ons nog steeds aansoek kan doen t.o.v die algemene applikasie. Ons kan dan die situasie monitor deur die volume afval water wat besproei word te meet asook die chemisie analise daarvan oor 'n tydperk te neem en dan besluit of verdere aksie benodig word aldan nie. Ek dink dit is n praktiese benadering tot die probleem.

**Comment from BGCMA:-**

At that low volume to be irrigated and with the right mitigation measures (i.e. no pooling of water which can run-off and regular testing of the borehole quality) we would be able to still do the GA for now. You are right – I would not want to add the water to the river as it creates a water quality risk to downstream users and also an ecological impact on the vertebra and invertebrates in the system. We can monitor the actual volumes and qualities for a year and make an informed decision thereafter.

Kind Regards,

Elkerine Rossouw  
Water Use Specialist  
Email: [erossouw@bgcma.co.za](mailto:erossouw@bgcma.co.za)  
Tel: 023 3468000



Reference: 15/3/2/12/BL2

Manager: Town Planning  
Langeberg Municipality  
Private Bay X2  
ASHTON  
6715



FOR ATTENTION: TRACY BRUNNINGS

**TOWN PLANNING COMMENT ON PROPOSED CONSENT USE APPLICATION:  
FARM 3/118, MONTAGU**

1. Your request for comment dated 17 September 2019 refers.
2. The property is zoned Agricultural Zone I and is therefore permitted additional dwelling units with the Municipality's prior consent. In addition to a dwelling house, the total number of dwelling units allowed on a land unit in the Agricultural Zone, including a dwelling unit used by a bona fide farm manager, a second dwelling and guest accommodation, but excluding farm worker accommodation, shall not exceed 1 unit per 10 hectares, up to a maximum of 5 dwelling units.
3. In the consideration of the consent use application, due regard must be given to the impact the proposal may have on the potential use of that property for its primary purpose in terms of the zoning scheme, i.e. the agricultural resource.
4. As is evident from Cape Farm Mapper, there are no cultivated lands on the property and the entire property is located within the <sup>Langeberg West</sup> Matroosberg Mountain Catchment Area (MCA), which is recognised as a Protected Area (Declared: 2 November 1979).
5. Although MCAs are included within the Protected Area layer, they do not currently have any formal status in terms of legislated restricted activities. The Mountain Catchment Areas Act makes provision for the development of regulations which

could control land use and activities within the MCA, however these have not yet been enacted.

6. In terms of the Western Cape Biodiversity Spatial Plan Handbook (2017), land use guidelines for Mountain Catchment Areas should be aligned with that of Critical Biodiversity Areas, with the primary intention to ensure the steady supply of good quality water to downstream areas. In general, protected areas should be maintained in a natural or near-natural state, with no loss or degradation of natural habitat. Where there is pre-existing degradation, this should be restored.
7. In general, land uses that are inappropriate in protected areas include any form of mining or prospecting, extensive or intensive grazing of livestock that leads to loss of species diversity, and modification of natural habitat for cultivation, plantation forestry, urban and industrial development. Ecotourism developments in a protected area should be small scale and appropriate with an attempt to minimise the impact on the environment as far as possible.
8. Given the function of a Mountain Catchment Area, land use activities should allow for the continued provision and natural slow release of water flowing into river catchments. Hard surfaces should not be permitted and should be restricted to essential infrastructure to support catchment areas.
9. This premise is further reinforced in the Western Cape Land Use Planning Guidelines: Rural Areas (March 2019), which provides that Core Areas are essentially 'no go' areas from a development perspective. Non-consumptive, low impact eco-tourism activities such as visitor overnight accommodation may, however, be accommodated in these areas, subject to stringent controls.
10. Said Guidelines further qualify the appropriate form and scale of buildings and structures in Core Areas, namely small, low density footprints, temporary structures (wooden, tents, raised boardwalks), the use of alternative porous materials and green technology.
11. Should the Municipality, therefore, consider the application for approval, the number of additional dwellings will need to be restricted as per the zoning scheme and conditions imposed to mitigate the impacts, as advocated in the above-mentioned Guidelines.

12. The above comment is based on the information provided and this Directorate reserves the right to amend its comment should new information be obtained.



KOBUS MUNRO

**DIRECTOR: DEVELOPMENT MANAGEMENT REGION 2**

DATE: 21.11.2019

**REFERENCE:** 16/3/3/6/B1/11/1089/20  
**ENQUIRIES:** Ntanganedzeni Mabasa  
**DATE:** 4/06/2020

The Municipal Manager  
Langeberg Municipality  
Private Bag X2  
**ASHTON**  
6715

**Attention: Ms T Brunings**

Tel: (023) 614 8001  
E-mail: [tbrunings@langeberg.gov.za](mailto:tbrunings@langeberg.gov.za)

Dear Madam

**APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) TO THE APPLICATION FOR THE PROPOSED CONSENT USE ON PORTION 3 (A PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NO. 118, MONTAGU.**

1. The abovementioned electronic document dated 17 September 2019, as received by this Department on 26 May 2020, refers.
2. This letter serves as an acknowledgement of receipt of the correspondence by this Department.
3. According to the information contained in the correspondence, this Department notes the proposal entails the following:
  - 3.1 An application in terms of Section 45 of the Langeberg Land Use Planning By-Law for a consent use on Portion 3 (a Portion of Portion 2) of the Farm Oorlogs Kloof No. 118, Montagu to allow the development of five additional dwellings units for holiday accommodation.
  - 3.2 The five dwelling units will each have an approximate footprint of 80m<sup>2</sup> and will sleep a maximum of 14 people.
  - 3.3 The development will be located in close proximity to the main house and manager's house and next to the existing jeep track that will serve as access.
  - 3.4 Drinking water will be abstracted from a borehole and sewerage will be conveyed to a septic tank, from which the overflow effluent will be stored in a conservancy tank that will be serviced regularly.
  - 3.5 The site is zoned Agricultural Zone 1 and the primary use on the farm is agriculture.

- 3.6 According to available mapping resources, the site contains Montagu Shale Renosterveld vegetation, which is classified as vulnerable and it is located more than a 100m from the Boskloof River.
4. Your attention is therefore drawn to the listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in Listing Notices ("LN") 1, 2 & 3 of 7 April 2017. Be advised that, based on the information provided, the proposed development of five dwelling units for holiday accommodation on Portion 3 (a Portion of Portion 2) of Farm Oorlogs Kloof No. 118, Montagu, will not trigger any listed activity(ies) as defined in terms of the EIA Regulations, 2014 (as amended). Environmental Authorisation is therefore not required prior to the proposed consent use on the said the farm portion.
5. The above is based on the following:
- The holiday accommodation will sleep a maximum of 14 people.
  - The vegetation that will be cleared is not within a critically endangered or endangered ecosystem listed in terms of section 52 of National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
  - The site is located more the 32m of a watercourse.
6. Should any revision of the proposed development trigger any listed activity(ies) as defined terms of Listing Notice 1, 2 & 3, an application must be submitted and environmental authorisation obtained before such activity(ies) may commence
7. The applicant is reminded of his/her general duty of care and the remediation of environmental damage, Section 28(1) of NEMA specifically states that – "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."
8. The Department reserves the right to revise its comments and request further information from you based on any new or revised information received.

Yours faithfully



**HEAD OF COMPONENT  
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**



# CAPE WINELANDS DISTRICT

MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

NAVRAE/ENQUIRIES/IMIBUZO:  
TELEFOON/TELEPHONE/UMNXEBA:  
FAKS/FAX/IFEKSI:  
E-POS/E-MAIL/IE-MAIL:  
U VERW/OUR REF/IREF YAKHO:  
ONS VERW/OUR REF/IREF YETHU:

ST McLean  
023 626 8324  
023 626 5090  
[smcclean@capewinelands.gov.za](mailto:smcclean@capewinelands.gov.za)  
15/2/6/1

van Reenenstraat 40 Street  
51  
ROBERTSON  
6705

18 September 2019

The Municipal Manager  
Langeberg Municipality  
Private bag X 2  
ASHTON  
6715

For attention: Mr. JV Brand – Manager: Town Planning

**Comments: Application for Consent uses: – Portion 3 (Portion of portion 2) of the farm Oorlogs Kloof nr 118, District Montagu**

The Cape Winelands District Municipality's Environmental Health Services Department supports the application subject to:

**1. Sanitation:**

No sewerage systems may be placed below any flood line or nearer than 100 meters from any river, stream or other water system.

**2. Waste Management:**

Domestic refuse must be removed in such a manner so as not to form any environmental health risks \ nuisance.

**3. Waste water management \ disposal:**

All waste water disposals must be carried out nuisance free and to the satisfaction of BGCMA \ Dept. of Water affairs – so as to ensure that any upper and underground water sources are not polluted. All \ any Septic tank constructions to be approved by the Building Department of the Langeberg Municipality. **It is noted in the application that the disposal will be done by a Private Contractor – details of the contractor too be supplied together with a copy of the contract. Disposal vehicle too be approved by Langeberg Municipal Engineers Department.**

**4. Provision of Drinking Water:**

All premises must be provided with a constant flow of drinking water which complies with the provisions of SANS 241. **SLA agreement (if described as necessity by Local Authority) to be put into place after consultation with Langeberg Municipality – Engineers department. The water sample taken in 2016 is too far back and a more recent sample result needs to be produced.**

**5. General:**

- This office reserves the right to call for additional requirements if deemed necessary at any later stage;
- If the applicant intends to supply meals to guests an application for registration as food premises must be submitted for approval (R638 \ June 2018 – Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972 – Regulations governing general Hygiene requirements for food premises and the transport of food).
- Municipal Health by-laws – Cape Winelands District Municipality – PG 6696 \ 15 February 2010 to be adhered to at all times.

For: Municipal Manager  
Mr H Prins

The Municipal Manager  
**LANGEBERG MUNICIPALITY**  
PRIVATE BAG X2  
**ASHTON**  
6715  
[info@langeberg.gov.za](mailto:info@langeberg.gov.za) ([admin@breeland.gov.za](mailto:admin@breeland.gov.za))  
**Attention: JV BRAND**

**Date:**  
27 December 2019

**Enquiries:**  
Shaun Swanepoel  
Tel 021 980-3913  
Fax 086 660 0941

Dear Sir / Madame

**CONSENT USE: FARM OORLOGS KLOOF No: 118, MONTAGU**

**OUR REF: 02654-19**

I refer to your application dated 17 September 2019.

This application affects the following Eskom power lines

- **MONTAGU FARMERS 1 11 KV OVERHEAD POWERLINE**

I hereby inform you that Eskom approves the proposed work indicated on your drawing in principle subject to the following. This approval is valid for **12 months** only, after which reapplication must be made if the work has not yet commenced.

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

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

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.

- c) No work or no machinery nearer than the following **distances from the conductors**:

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

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

**Distribution Division - Western Region [Land Development]**  
**Western Region**  
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA  
Tel +27 86 003 7566 [www.eskom.co.za](http://www.eskom.co.za)

Eskom Holdings SOC Limited Reg No 2002/015527/30



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

- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
  - i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
  - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
  - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
  - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) **Japie Jnr van Berg, MONTAGU CNC** must be contacted on **023 614 1071** before working in close proximity to the overhead power lines.

Kindly contact **Shaun Swanepoel** at Tel: 021 980 3913, should you require any further information.

Yours sincerely

**Shaun Swanepoel**  
**LAND DEVELOPMENT (BRACKENFELL)**





## BREEDDE-GOURITZ

CATCHMENT MANAGEMENT AGENCY

51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: S Lupa

Tel: 023 346 8000

Fax: 023 347 2012

E-mail: [slupa@bgcma.co.za](mailto:slupa@bgcma.co.za)

Your Ref:

Our Ref: 4/10/1/H30D/Oorlogs Kloof 118/3, Montagu

Date: 14/11/2019

Langeberg Municipality  
Private Bag X2  
**ASHTON**  
6715

[admin@breeland.gov.za](mailto:admin@breeland.gov.za)/[tbrunings@langeberg.gov.za](mailto:tbrunings@langeberg.gov.za)

Attention: Tracy Brunings

**COMMENTS: APPLICATION FOR CONSENT USE ON AGRICULTURAL ZONE 1 FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS) IN PORTION 3 (PORTION OF PORTION 2) OF FARM OORLOGS KLOOF NO 118, MONTAGU**

The Breedde-Gouritz Catchment Management Agency (BGCMA) has received the application for the proposed consent use in Portion 3 (Portion of Portion 2) of Farm Oorlogs Kloof No 118, Montagu on 19 September 2019.

BGCMA has no objections to the proposed developments. However, it is noted that, the proposed 5 dwelling units would be erected along the Boskloof stream. It is also noted that, there's a registration process with BGCMA for the borehole which drinking water for the proposed 5 dwelling units would be abstracted. It is also noted that, sewage waste would be collected by the Service Provider and disposed at the Langeberg Municipality's sewerage plant.

In light of the above, BGCMA would like to receive the following before the proposed developments are supported:

- i. A Layout Map that shows the regulated area of the Boskloof stream against the proposed 5 dwelling units area;
- ii. Details on the registration process with BGCMA for the drinking water borehole; and
- iii. Agreement/confirmation letter with Service Provider and Langeberg Municipality for the removal and disposal of sewerage waste respectively.

## General

- No water must be taken from a water resource for any purpose without authorisation from the National Water Act, 1998 (Act 36 of 1998).
- No waste or water containing waste may be disposed without authorisation from the National Water Act, 1998 (Act 36 of 1998) and National Environmental Management: Waste Act, 2008 (Act 59 of 2008).
- 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.
- Stormwater management must be addressed both in terms of flooding, erosion and pollution potential.
- No stormwater runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. Polluted stormwater must be contained.

Please be advised that no activities may commence without the appropriate approvals/authorizations where needed from the responsible authority. The onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorisation for.

This office reserves the right to amend and revise its comments as well as to request any further information.

Please do not hesitate to contact this office if you have any further queries. Please ensure to quote the above reference in doing so.

Yours faithfully,



**JAN VAN STADEN**  
**CHIEF EXECUTIVE OFFICER (ACTING)**

Cc: Martin Oosthuizen ([bolandplan@breede.co.za](mailto:bolandplan@breede.co.za))  
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Mr JV Brand  
Langeberg Municipality  
28 Main Road  
Ashton  
6715

By email: [admin@breedeland.gov.za](mailto:admin@breedeland.gov.za);

Dear Mr Brand,

**Revised comment on application for Consent Use on Portion 3 (Portion of Portion 2) of the Farm Oorlogs Kloof Nr. 118, Montagu.**

CapeNature would like to exercise the right to revise initial comment made on 8 November 2019. Please note that our comments pertain only to biodiversity related impacts and not to the overall desirability of the application.

1. The application is to obtain planning approval for consent use for five additional dwelling units on Portion 3 of the Farm Oorlogs Kloof Nr. 118, Montagu.
2. The entire property falls within a Mountain Catchment Area (MCA). Mountain Catchment Areas are declared in terms of the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970) and are recognised by the National Environmental Management: Protected Areas Act, 2003 as protected areas. Protected Areas should be maintained in a natural or near natural state with no loss or degradation of natural habitat. The main objective for the proper management of MCAs is that they are managed in a way that promotes conservation and protects the supply of water to downstream areas. As such any development that may impact on this the primary objective of the MCA act is not supported. The proposed activities will impact on downstream water supply and has such cannot be supported.
3. It is understood that prior to the consent use application, unauthorised building had already taken place on the property which has negatively impacted indigenous vegetation. The case is being addressed via DEA&DP compliance.
4. Based on the above the application is not supported.

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 (Landscape Conservation Intelligence)

**MOUNTAIN CATCHMENT AREAS ACT 63 OF 1970**

[ASSENTED TO 23 SEPTEMBER 1970] [DATE OF COMMENCEMENT: 7  
OCTOBER 1970]

(Signed by the President)

as amended by

Expropriation Act 63 of 1975

Mountain Catchment Areas Amendment Act 41 of 1976

**ACT**

To provide for the conservation, use, management and control of land situated in  
mountain catchment areas, and to provide for matters incidental thereto.

**ARRANGEMENT OF SECTIONS**

- 1 Definitions
- 2 Declaration of mountain catchment areas
- 2A Beacons
- 3 Power of Minister to declare directions applicable with reference to  
land in mountain catchment areas
- 4 Compensation payable in respect of patrimonial loss caused by  
complying with directions
- 5 Exemption of certain land situated in mountain catchment areas from  
certain taxes
- 6 Advisory committees
- 7 Establishment of fire protection committees
- 8 Fire protection plans
- 9 Secretary may amend fire protection plans
- 10 Minister may render financial aid
- 11 Right of entry on or way over land
- 12 Minister may perform certain acts
- 13 Regulations
- 14 Penalties
- 15 Service of notices
- 16 Jurisdiction of magistrate's court
- 17 Delegation of powers
- 18 Limitation on liability of State, Minister, etc.
- 19 Application of Act in South-West Africa
- 20 Transitional provisions
- 21 Short title

**1 Definitions**

In this Act, unless the context otherwise indicates-

"advisory committee" means any advisory committee established under section 6;

"department" means the Department of Forestry;

"direction" means any direction declared applicable with reference to land situated in  
a mountain catchment area under this Act;

"Fire-belt" means any strip of land, whether under trees or not, which has been  
cleared of inflammable matter to prevent veld or forest fires or the spread thereof;

"Fire protection plan" means any fire protection plan which is in operation under section 8;

"local authority" means any institution or body contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961);

"Minister" means the Minister of Forestry;

"mountain catchment area" means any area declared under section 2 to be a mountain catchment area;

"occupier", in relation to land, means any person who as owner, lessee or otherwise has the management, charge, control or use of any land, whether he resides on that land or not, and includes any person who has a right of cutting trees or wood on any land or of removing trees or wood from any land, and in relation to land under the control of a local authority, that local authority, but does not include any person who as a labour tenant, squatter or servant, as defined in section 49 of the Development Trust and Land Act, 1936 (Act 18 of 1936), or as "bywoner" or "deelsaaier" is in occupation or has the use of any land;

"owner", in relation to any land, means-

- (a) the person in whose name the land is registered or, if such person is absent from the Republic or his whereabouts are unknown, his authorized representative in the Republic;
- (b) in the case of State land leased under a lease which contains an option in favour of the lessee to purchase the land so leased, the lessee who has exercised his option to purchase the land;
- (c) in the case of State land acquired by purchase but in respect of which title has not yet been given to the purchaser, such purchaser;
- (d) in the case of land under the control of a local authority, that local authority;
- (c) in the case of land vested in the South African Bantu Trust, established by section 4 of the Development Trust and Land Act, 1936 (Act 18 of 1936), the said Bantu Trust;

"prescribed" means prescribed by regulation;

"regulation" means any regulation made under this Act;

"Secretary" means the Secretary for Forestry.

## **2 Declaration of mountain catchment areas**

The Minister may by notice in the Gazette define any area and declare that area to be a mountain catchment area and may from time to time by like notice alter the boundaries of any mountain catchment area or withdraw any notice whereby a mountain catchment area was established.

### **2A Beacons**

(1) The Secretary may, for the purposes of the definition of any area by the Minister under section 2, cause beacons to be erected on the land concerned at places designated by the Minister.

(2) A certificate purporting to be signed by the Secretary, in which it is stated that a beacon which has been erected under subsection (1) complies with the regulations and has been erected at a place designated by the Minister, shall on its mere production in any civil or criminal proceedings be prima facie proof that such beacon complies with the regulations and has been erected at a place so designated.

[Sec 2A inserted by sec 1 of Act 41 of 1976.]

### **3 Power of Minister to declare directions applicable with reference to land in mountain catchment areas**

(1) The Minister may, either by notice in the Gazette or by written notice to the owner or occupier of land which is situated within any mountain catchment area and which is mentioned in such notice, declare a direction to be applicable with reference to such land, relating to-

- (a) the conservation, use, management and control of such land;
- (b) the prevention of soil erosion, the protection and the treatment of the natural vegetation and the destruction of vegetation which is, in the opinion of the Minister, intruding vegetation; and
- (c) any other matter which he considers necessary or expedient for the achievement of the objects of this Act in respect of such land.

(2) A direction shall be binding on every owner and occupier of the land with reference to which it has been declared applicable, and their successors in title.

(3) The Minister may withdraw, amend or, subject to such conditions as he may determine, suspend a direction.

### **4 Compensation payable in respect of patrimonial loss caused by complying with directions**

(1) If in terms of a direction limitations are placed on the purposes for which land may be used, the owner or occupier of such land shall be paid such compensation in respect of actual patrimonial loss suffered by him as may be determined in an agreement concluded between the Minister, in consultation with the Minister of Finance, and such owner or occupier.

(2) In the absence of such agreement, the amount to be paid as compensation for actual patrimonial loss suffered by such owner or occupier, shall be determined by an appropriate court in terms of section 14 of the Expropriation Act, 1975, and the provisions of that section and section 15 of that Act shall apply mutatis mutandis in the determination of this amount, and in the application of such provisions a reference to the Minister of Agriculture shall be construed as a reference to the Minister.

[Subsec (2) substituted by sec 86 of Act 63 of 1975.]

(3) No compensation shall be paid under the provisions of this section unless the person claiming compensation submits an application in the prescribed form to the Minister and furnishes in connection with such application the prescribed particulars.

### **5 Exemption of certain land situated in mountain catchment areas from certain taxes**

(1) Any land situated within any mountain catchment area upon which in terms of any direction no farming may be carried on, shall be exempt from all taxes imposed by a local authority on the value of immovable property.

(2) The Minister of Finance shall have, in respect of land referred to in subsection (1), the same powers as those which he would have had under subsection 2(1) of the State Property (Immunity from Rating) Act, 1931 (Act 32 of 1931), if such property had been State property.

### **6 Advisory committees**

(1) The Minister may in respect of any mountain catchment area establish an advisory committee to advise him in relation to matters referred to in sections 3, 4(1) and 8.

(2)(a) Any committee established under subsection (1) shall consist of so many members as the Minister may determine in each case.

(b) At least two-thirds of the members of such committee shall be appointed by the Minister, while not exceeding one-third of such members shall be elected in the prescribed manner from persons nominated by owners of land situated in the mountain catchment area in question and from persons who are in the opinion of the Minister affected by directions which are applicable with reference to such land.

(c) The Minister shall appoint one of the members of an advisory committee as chairman.

(3) Any member of any advisory committee shall be appointed for such period, not exceeding three years, as the Minister may determine at the time of his appointment.

(4) Whenever any member of an advisory committee vacates his office before the expiration of the period for which he was appointed, the Minister may appoint a person to fill the vacancy for the unexpired portion of the period of office of such vacating member.

(5) Any member of any advisory committee may at any time be removed from office by the Minister.

(6) Any person whose period of office as a member of an advisory committee has expired, shall be eligible for re-appointment or re-election as member thereof.

(7) Any member of an advisory committee shall vacate his office-

- (a) if he resigns;
- (b) if he was, without the permission of the chairman of the advisory committee concerned, absent from two consecutive meetings of such committee; or
- (c) if he is removed from office under subsection (5).

## **7 Establishment of fire protection committees**

The Minister may, if he deems fit, by notice in the Gazette establish a fire protection committee in respect of any mountain catchment area, and may by like notice withdraw any notice whereby a fire protection committee was established.

## **8 Fire protection plans**

(1) The Secretary may, after consultation with the advisory committee established in respect of any mountain catchment area, declare a fire protection plan to be applicable with reference to land situated in such mountain catchment area.

(2) Any fire protection plan shall define the land with reference to which it applies and shall state the scope and object thereof and shall contain provisions relating to-

- (a) the regulation or prohibition of veld burning;
- (b) the prevention, control and extinguishing of veld and forest fires;
- (c) the functions, powers and duties of the fire protection committee established in respect of the mountain catchment area within which the land in question is situated, in relation to the execution of the fire protection plan; and
- (d) the date of commencement of such plan;

Provided that a fire protection plan shall not contain provisions which are inconsistent with the provisions of the Forest Act, 1968 (Act 72 of 1968).

(3) The Secretary-

- (a) shall, at least one month prior to the date specified under subsection (2), cause particulars of the fire protection plan to be published by notice in the Gazette;
- (b) may, if he deems fit, at any time cause to be served on every owner or occupier of land with reference to which such fire protection plan is

being or is to be applied and whose name and address are known to him, a copy of the fire protection plan.

(4) Every owner and occupier of land with reference to which a fire protection plan has been applied under this section, and their successors in title, shall be bound by the provisions of such fire protection plan.

**9 Secretary may amend fire protection plans**

The Secretary may from time to time after consultation with the advisory committee concerned, and the fire protection committee concerned (if there is one), by notice in the Gazette amend the provisions of any fire protection plan: Provided that the Minister shall cause particulars of any such amendment to be published by notice in the Gazette at least one month prior to the date upon which such amendments are to come into operation.

**10 Minister may render financial aid**

The Minister may, in consultation with the Minister of Finance, from moneys appropriated by Parliament for the purpose, and subject to such conditions as he may determine, render financial aid by way of grants or otherwise-

- (a) to any fire protection committee; and
- (b) to the owner and occupier of land in respect of expenses incurred by them in compliance with any provision of any fire protection plan or any direction.

**11 Right of entry on or way over land**

(1) Any duly authorized officer of any department of State, any member of any advisory committee or fire protection committee or any person authorized by any fire protection committee, may enter upon any land situated in any mountain catchment area and may take with him such equipment and number of assistants as are required for the performance of any act on such land which is ordered in terms of any direction or any provision of any fire protection plan or which is authorized by the Minister under section 13.

(2) Any officer, member or person referred to in subsection (1), shall at all reasonable times have right of way over any land for the purpose of-

- (a) ascertaining the desirability of declaring that land to be a mountain catchment area;
- (b) ascertaining the desirability of the construction upon that land of fire-belts or of declaring directions applicable with reference to that land;
- (c) inspecting or maintaining any works constructed or under construction upon that land for the purpose of preventing veld or forest fires; or
- (d) ascertaining whether the provisions of this Act, or any direction or provision of any fire protection plan which is applicable to or with reference to such land are being properly carried out or complied with.

(3) Any person duly authorized thereto by the Secretary may enter upon any land at all reasonable times, subject to prior notification of the landowner, occupier or manager concerned, and shall for that purpose have right of way over any other land, with such equipment and number of assistants as are required for the performance on that land of any act connected with-

- (a) the exercise by the Minister of any power conferred on him in terms of section 2 or 2A;

- (b) the exercise by the Secretary of any power conferred on him in terms of section 2A; and
- (c) the construction, erection, marking, maintenance and repair of any beacon referred to in section 2A(1).

[Subsec (3) added by sec 2 of Act 41 of 1976.]

## **12 Minister may perform certain acts**

Minister may, from moneys appropriated by Parliament for the purpose, perform or cause to be performed on any land situated in a mountain catchment area any act which he deems necessary in order to achieve any object of this Act, including any act which has been ordered in terms of any direction or any provision of any fire protection plan, and shall for that purpose also have the powers conferred by section 11 on persons mentioned in that section.

## **13 Regulations**

(1) The Minister may make regulations relating to-

- (a) the constitution of any fire protection committee;
- (b) the calling of and the procedure and quorum at meetings of any advisory committee or fire protection committee;
- (c) The allowances payable to any member of any advisory committee or fire protection committee;
- (cA) the form and dimensions of beacons referred to in section 2A(1), and the manner of their construction, erection, marking for identification, maintenance and repair;  
[Para (cA) inserted by sec 3 of Act 41 of 1976.]
- (d) the conditions subject to which and the rates at which financial aid by way of grants or otherwise shall be rendered under this Act; and
- (e) all matters which he deems it necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Any regulation relating to State revenue or expenses shall be made in consultation with the Minister of Finance.

## **14 Penalties**

Any person who-

- (a) contravenes or fails to comply with any provision of this Act or any regulation;
- (b) refuses or fails to comply with any direction;
- (c) obstructs or hinders any person referred to in section 11 in the execution of his duties or the performance of his functions;
- (d) damages, or without the permission of the Secretary alters, any fire-belt or any other works constructed under this Act;
- (e) contravenes or fails to comply with any provision of a fire protection plan;
- (f) alters, moves, disturbs or wilfully damages or destroys any beacon erected under section 2A(1),

[Para (f) added by sec 4(b) of Act 41 of 1976.]

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

**15 Service of notices**

Service of any notice under this Act may be effected-

- (a) by delivering a copy thereof personally to the person upon whom it is to be served; or
- (b) by leaving such copy at the usual or last known place of residence or business of such person; or
- (c) by sending such copy by registered post to the usual or last known place of residence or business of such person.

**16 Jurisdiction of magistrate's court**

Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

**17 Delegation of powers**

The Minister or the Secretary, as the case may be, may delegate to any officer in any department of State all or any of the powers conferred upon him by this Act, other than the powers referred to in sections 2, 2A and 13.

[Sec 17 substituted by sec 5 of Act 41 of 1976.]

**18 Limitation on liability of State, Minister, etc.**

The State, the Minister, any officer in any department of State or any member of any advisory committee or fire protection committee or any person authorized under this Act, shall not be liable in respect of anything done in good faith under the provisions of this Act.

**19 Application of Act in South-West Africa**

This Act shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

**20 Transitional provisions**

(1) As from the commencement of this Act, no direction shall in terms of the Soil Conservation Act, 1969 (Act 76 of 1969), be declared applicable with reference to land situated in a mountain catchment area, and as from the said commencement land situated in a mountain catchment area shall not be declared to be a fire protection area in terms of the last-mentioned Act.

(2) Any direction or provision of any fire protection scheme which has prior to the commencement of this Act been applied under the Soil Conservation Act, 1969, with reference to land in respect of which any mountain catchment area is declared under the provisions of this Act, shall remain in force until withdrawn by the Minister.

**21 Short title**

This Act shall be called the Mountain Catchment Areas Act, 1970.

ANNEXURE G  
EXTRACTS FROM  
WCBSP, 2017

# WESTERN CAPE BIODIVERSITY

SPATIAL PLAN HANDBOOK

## 2017



# Acronyms

|                   |                                                                                 |
|-------------------|---------------------------------------------------------------------------------|
| <b>BioNet</b>     | Biodiversity Network of the City of Cape Town                                   |
| <b>BMP-S</b>      | Biodiversity Management Plan Species                                            |
| <b>BSP</b>        | Biodiversity Spatial Plan                                                       |
| <b>CAPE</b>       | Cape Action for People and the Environment                                      |
| <b>CARA</b>       | Conservation of Agricultural Resources Act                                      |
| <b>CBA</b>        | Critical Biodiversity Area                                                      |
| <b>CBD</b>        | Convention on Biological Diversity                                              |
| <b>CCT</b>        | City of Cape Town                                                               |
| <b>CFR</b>        | Cape Floristic Region                                                           |
| <b>CITES</b>      | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| <b>CMA</b>        | Catchment Management Agency                                                     |
| <b>CR</b>         | Critically Endangered                                                           |
| <b>CR PE</b>      | Critically Endangered Presumed Extinct                                          |
| <b>CSIR</b>       | Council for Scientific and Industrial Research                                  |
| <b>DAFF</b>       | Department of Agriculture, Forestry and Fisheries                               |
| <b>DEA</b>        | Department of Environmental Affairs                                             |
| <b>DEA&amp;DP</b> | Department of Environmental Affairs and Development Planning Western Cape       |
| <b>DMR</b>        | Department of Mineral Resources                                                 |
| <b>DoA</b>        | Department of Agriculture Western Cape                                          |
| <b>DoE</b>        | Department of Energy                                                            |
| <b>DoT</b>        | Department of Tourism                                                           |
| <b>DRDLR</b>      | Department of Rural Development and Land Reform                                 |
| <b>DWS</b>        | Department of Water and Sanitation                                              |
| <b>EIA</b>        | Environmental Impact Assessment                                                 |
| <b>EMF</b>        | Environmental Management Framework                                              |
| <b>EN</b>         | Endangered                                                                      |
| <b>ESA</b>        | Ecological Support Areas                                                        |
| <b>FEPA</b>       | Freshwater Ecosystem Priority Areas                                             |
| <b>FPA</b>        | Fire Protection Association                                                     |
| <b>GIS</b>        | Geographical Information System                                                 |
| <b>IDP</b>        | Integrated Development Plan                                                     |
| <b>LED</b>        | Local Economic Development                                                      |
| <b>LUPA</b>       | Western Cape Land Use Planning Act                                              |
| <b>LC</b>         | Least Concern                                                                   |
| <b>LT</b>         | Least Threatened                                                                |
| <b>MAB</b>        | Man and the Biosphere Programme                                                 |

|                 |                                                                   |
|-----------------|-------------------------------------------------------------------|
| <b>MCA</b>      | Mountain Catchment Area                                           |
| <b>MPA</b>      | Marine Protected Area                                             |
| <b>MPRDA</b>    | Mineral and Petroleum Resources Development Act                   |
| <b>NBA</b>      | National Biodiversity Assessment                                  |
| <b>NBF</b>      | National Biodiversity Framework                                   |
| <b>NBSAP</b>    | National Biodiversity Strategy and Action Plan                    |
| <b>NEM:BA</b>   | National Environmental Management: Biodiversity Act               |
| <b>NEM:PAA</b>  | National Environmental Management: Protected Areas Act            |
| <b>NEMA</b>     | National Environmental Management Act                             |
| <b>NFEPA</b>    | National Freshwater Ecosystem Priority Areas                      |
| <b>NGO</b>      | Non-governmental Organisation                                     |
| <b>NN</b>       | No Natural                                                        |
| <b>NPAES</b>    | National Protected Area Expansion Strategy                        |
| <b>NSBA</b>     | National Spatial Biodiversity Assessment                          |
| <b>NWA</b>      | National Water Act                                                |
| <b>ONA</b>      | Other Natural Area                                                |
| <b>PA</b>       | Protected Area                                                    |
| <b>PASA</b>     | Petroleum Agency South Africa                                     |
| <b>PBSAP</b>    | Western Cape Provincial Biodiversity Strategy and Action Plan     |
| <b>SACNASP</b>  | South African Council for Natural Scientific Professions          |
| <b>SAIAB</b>    | South African Institute for Aquatic Biodiversity                  |
| <b>SANBI</b>    | South African National Biodiversity Institute                     |
| <b>SANParks</b> | South African National Parks                                      |
| <b>SDF</b>      | Spatial Development Framework                                     |
| <b>SEA</b>      | Strategic Environmental Assessment                                |
| <b>SPC</b>      | Spatial Planning Category                                         |
| <b>SPLUMA</b>   | Spatial Planning and Land Use Management Act                      |
| <b>TMF</b>      | Table Mountain Fund                                               |
| <b>UNESCO</b>   | United Nations Environmental Scientific and Cultural Organization |
| <b>UNFCCC</b>   | United Nations Framework Convention on Climate Change             |
| <b>VU</b>       | Vulnerable                                                        |
| <b>WCBB</b>     | Western Cape Biodiversity Bill                                    |
| <b>WCBF</b>     | Western Cape Biodiversity Framework                               |
| <b>WCBSP</b>    | Western Cape Biodiversity Spatial Plan                            |
| <b>WCPAES</b>   | Western Cape Protected Areas Expansion Strategy                   |
| <b>WWF-SA</b>   | World Wide Fund for Nature South Africa                           |

Below is a summary of the threatened ecosystems of the Western Cape (Table 2.2). The reported threat status reflects the highest threat category achieved, either in terms of the 2011 national listing, or as per CapeNature's 2016 assessment of threat status, which focused exclusively on current levels of habitat loss (criterion A1).

Thus, the criteria relevant to the list below are as follows:

- A1: Irreversible loss of natural habitat; ←
- C: Limited extent & imminent threat;
- D1: Threatened plant species associations.

**TABLE 2.2:** Threatened Ecosystems of the Western Cape, 2016

| Critically Endangered                | Biome           | Criteria |
|--------------------------------------|-----------------|----------|
| Atlantis Sand Fynbos                 | Fynbos          | D1       |
| Cape Flats Sand Fynbos               | Fynbos          | A1 & D1  |
| Cape Lowland Alluvial Vegetation     | Azonal          | A1       |
| Central Rûens Shale Renosterveld     | Fynbos          | A1       |
| Eastern Rûens Shale Renosterveld     | Fynbos          | A1       |
| Elgin Shale Fynbos                   | Fynbos          | A1       |
| Elim Ferricrete Fynbos               | Fynbos          | A1       |
| Garden Route Granite Fynbos          | Fynbos          | A1       |
| Knysna Sand Fynbos                   | Fynbos          | A1       |
| Kogelberg Sandstone Fynbos           | Fynbos          | D1       |
| Kouebokkeveld Alluvium Fynbos        | Fynbos          | A1       |
| Langkloof Shale Renosterveld         | Fynbos          | A1       |
| Lourensford Alluvium Fynbos          | Fynbos          | A1       |
| Muscadel Riviere                     | Azonal          | A1       |
| Overberg Sandstone Fynbos            | Fynbos          | D1       |
| Peninsula Granite Fynbos             | Fynbos          | A1       |
| Peninsula Shale Renosterveld         | Fynbos          | A1       |
| Piketberg Quartz Succulent Shrubland | Succulent Karoo | A1       |
| Rûens Silcrete Renosterveld          | Fynbos          | A1       |
| Swartland Alluvium Fynbos            | Fynbos          | A1       |
| Swartland Granite Renosterveld       | Fynbos          | A1 & D1  |
| Swartland Shale Renosterveld         | Fynbos          | A1 & D1  |
| Swartland Silcrete Renosterveld      | Fynbos          | A1       |
| Western Rûens Shale Renosterveld     | Fynbos          | A1       |
| <b>Count:</b>                        | <b>24</b>       |          |
| Endangered                           | Biome           | Criteria |
| Agulhas Sand Fynbos                  | Fynbos          | A1       |
| Breede Alluvium Fynbos               | Fynbos          | A1       |
| Breede Alluvium Renosterveld         | Fynbos          | A1       |
| Cape Flats Dune Strandveld           | Fynbos          | A1 & D1  |
| Cape Vernal Pools                    | Azonal          | A1       |

|                                       |                 |                 |
|---------------------------------------|-----------------|-----------------|
| Citrusdal Shale Renosterveld          | Fynbos          | AI              |
| Garden Route Shale Fynbos             | Fynbos          | AI              |
| Greyton Shale Fynbos                  | Fynbos          | AI              |
| Groot Brak Dune Strandveld            | Fynbos          | AI              |
| Hangklip Sand Fynbos                  | Fynbos          | AI              |
| Leipoldville Sand Fynbos              | Fynbos          | AI              |
| Mossel Bay Shale Renosterveld         | Fynbos          | AI              |
| Peninsula Sandstone Fynbos            | Fynbos          | DI              |
| Potberg Ferricrete Fynbos             | Fynbos          | AI              |
| Saldanha Flats Strandveld             | Fynbos          | AI              |
| Saldanha Granite Strandveld           | Fynbos          | AI              |
| Swellendam Silcrete Fynbos            | Fynbos          | AI              |
| Western Cape Milkwood Forest          | Forest          | C               |
| <b>Count:</b>                         | <b>18</b>       |                 |
| <b>Vulnerable</b>                     | <b>Biome</b>    | <b>Criteria</b> |
| Agulhas Limestone Fynbos              | Fynbos          | DI              |
| Albertinia Sand Fynbos                | Fynbos          | AI              |
| Bokkeveld Sandstone Fynbos            | Fynbos          | DI              |
| Boland Granite Fynbos                 | Fynbos          | AI & DI         |
| Breede Sand Fynbos                    | Fynbos          | AI              |
| Cape Winelands Shale Fynbos           | Fynbos          | AI              |
| Cederberg Sandstone Fynbos            | Fynbos          | DI              |
| Ceres Shale Renosterveld              | Fynbos          | AI              |
| Eastern Coastal Shale Band Vegetation | Fynbos          | AI              |
| Eastern Little Karoo                  | Succulent Karoo | AI              |
| Hawequas Sandstone Fynbos             | Fynbos          | DI              |
| Hopefield Sand Fynbos                 | Fynbos          | AI & DI         |
| Kango Limestone Renosterveld          | Fynbos          | AI              |
| Klawer Sandy Shrubland                | Succulent Karoo | AI              |
| Kouebokkeveld Shale Fynbos            | Fynbos          | AI              |
| Lambert's Bay Strandveld              | Fynbos          | AI              |
| Montagu Shale Renosterveld            | Fynbos          | AI              |
| Nardouw Sandstone Fynbos              | Fynbos          | AI              |
| Peninsula Shale Fynbos                | Fynbos          | AI              |
| Piketberg Sandstone Fynbos            | Fynbos          | DI              |
| South Outeniqua Sandstone Fynbos      | Fynbos          | AI              |
| Southern Cape Dune Fynbos             | Fynbos          | AI              |
| Southern Cape Valley Thicket          | Fynbos          | AI              |
| Swartland Alluvium Renosterveld       | Fynbos          | AI              |
| Uniondale Shale Renosterveld          | Fynbos          | AI              |
| <b>Count:</b>                         | <b>25</b>       |                 |

and a conservation agency; as well as Voluntary Conservation Partnership Agreements and Conservancies, which are agreements for co-operation among neighbouring landowners and require no legal long-term commitment from the landowners (see Figure 2.9).

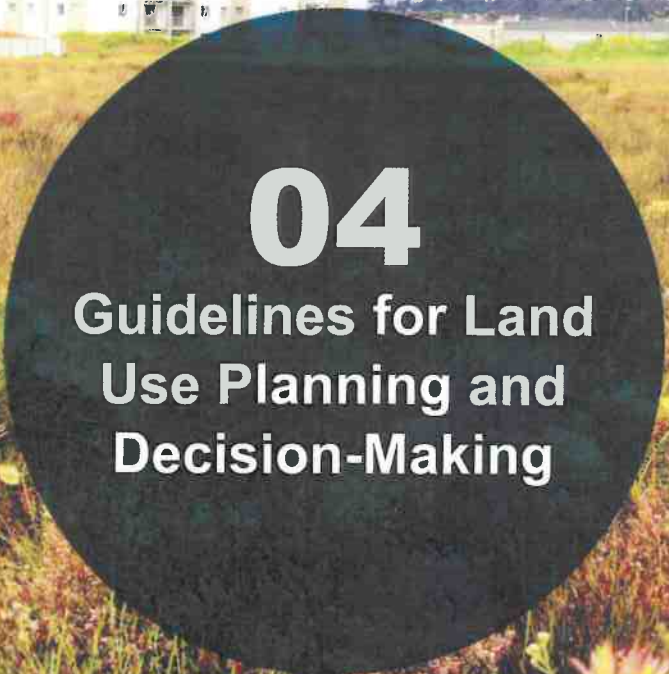
A complete protected area network must not only represent the full range of plant and animal species in large enough habitats to support them, but must also include landscape-scale natural systems and processes, aquatic and marine habitats and be ecologically functional and resistant to the impacts of climate change. This must also be achieved in a reasonable amount of space without impacting negatively on livelihoods or economic production. As the provincial conservation authority, CapeNature is the lead agency responsible for conserving the Western Cape's biodiversity and resources for future generations.

### 2.8.1 Types of Protected Areas

Section 9 of the NEM:PAA distinguishes between several types of protected areas, namely Special Nature Reserves, National Parks, Nature Reserves, and Protected Environments. It also recognises World Heritage Sites declared in terms of the World Heritage Convention Act; Marine Protected Areas in terms of the Marine Living Resources Act and/or the NEM:PAA; specially protected Forest Areas declared in terms of the National Forests Act; and Mountain Catchment Areas (MCAs) declared in terms of the Mountain Catchment Areas Act. Protected areas can include privately-owned areas if they have been formally declared as National Parks, Nature Reserves or Protected Environments under NEM:PAA. In addition, while not specifically named in the NEM:PAA, both Local Authority Nature Reserves and Private Nature Reserves must be regarded as having been declared [NEM:PAA Sections 12 and 23 (5)] and are therefore deemed to be protected areas under NEM:PAA.

In the Western Cape Province, about 80% of land that has important biodiversity on it, does not fall within formally protected areas, but is privately or communally owned land. The Biodiversity Stewardship Programme offers conservation options to set up partnerships for managing and protecting natural assets. Two of the options (Nature Reserve and Protected Environment) include declaration in terms of the NEM:PAA. The other options comprise contractual agreements between the landowner(s) and a conservation authority such as CapeNature or SANParks. Accounting for all of the above-mentioned types, the current protected area network amounts to 14.5% of the Western Cape.

It should be noted that although MCAs are included within the protected area layer; they do not currently have any formal status in terms of legislated restricted activities. MCAs are located on private land typically as a buffer to existing nature reserves within the Cape Fold Mountains. The Mountain Catchment Areas Act makes provision for the development of regulations which could control land use and activities within the MCA, however these have not yet been enacted. CapeNature is in the process of compiling a position statement in terms of allowable land uses within an MCA from the perspective of commenting on development applications. The basis would be that no land use or activity may be permitted which could affect the steady supply of good quality water to the downstream areas of the catchment, and thus would in general exclude buildings, hard infrastructure and cultivation. Concurrently, there is the intention to incorporate the MCAs adjacent to the Cape Floral Region Protected Areas World Heritage Site as buffers to the core of the WHS, thereby providing additional controls on land use.



# 04

## Guidelines for Land Use Planning and Decision-Making

Rupert Koopman

### IN THIS CHAPTER:

This chapter provides guidelines for land use planning and decision-making, and for land and resource management using the BSP Map. All the guidelines are informed by the 'Desired Management Objective' for the different categories included in the BSP Map, as well as the relative impact of a land use activity on biodiversity.

The aim of these guidelines is the effective management of biodiversity as required in Section 41(a) of the National Environmental Management: Biodiversity Act and in terms of the National Environmental Management Act. The guidelines are intended to facilitate well-informed, proactive planning and biodiversity-sensitive management of a mosaic of land uses including protection, restoration, production, settlement and subsistence use, in ways that deliver ecological, economic and social benefits.

### 4.1 Desired Management Objectives of the Biodiversity Spatial Plan Map Categories

Maintaining biodiversity patterns and ecological processes, and the ecosystem services derived from these, requires integrated management over large areas of land. Although a system of well-managed, strategically located protected areas is the most secure long-term strategy for conserving biodiversity, it is generally acknowledged that protected areas alone will never be adequate to conserve a representative sample of biodiversity and maintain ecosystem functioning – it is both impractical and undesirable to secure all biodiversity priority sites through formal protection, as protected areas can be expensive to establish and manage and carry high opportunity costs. It is also difficult to conserve ecological processes in isolated protected areas alone.

There remains a need to safeguard biodiversity beyond the boundaries of protected areas to maintain the integrity of ecosystems across broader landscapes, and for all who live and work in these landscapes to play a part in managing them sustainably. This is the essence of the 'landscape approach' to conservation, in which protected areas are embedded in a matrix of land uses that strives for biodiversity compatibility, and in which biodiversity management objectives are integrated into the plans, decisions and practices of a wide range of land users. These land use guidelines are designed to help achieve this.

### 4.1.1 Desired Management Objectives

The Desired Management Objective determines the ecological state or condition in which a parcel of land or freshwater feature should be maintained and provides the broad direction for appropriate land or resource-use activities and management practices. Only those land or resource-use activities that are compatible with maintaining the Desired Management Objective should be encouraged. Different categories on the BSP Map have specific management objectives, according to their biodiversity priority<sup>†</sup> (Table 4.1, also see Table 3.2). In broad terms, the biodiversity priority areas need to be maintained in a healthy and functioning condition, whilst those that are less important for biodiversity can be used for a variety of other land uses.

## 4.2 Land Use Guidelines

The overall purpose of these land use guidelines is to promote the effective management of biodiversity as required in Section 41(a) of the NEM:BA and in terms of the NEMA. The guidelines provide advice on which land uses and activities are most compatible with maintaining the ecological integrity of CBAs and ESAs, and other parts of the landscape, based on the Desired Management Objectives for the land, and the anticipated impact of each land use activity on biodiversity patterns and ecological processes.

The focus of these land use guidelines is on identifying land uses that are compatible with maintaining and achieving biodiversity targets. They should, therefore, be used in conjunction with any other sector-specific guidelines that may be available for the province such as the Mining and Biodiversity Guideline (DEA *et al.* 2013); the Ecosystem Guidelines for Environmental Assessment (Cadman 2016); the Freshwater Ecosystem Priority Areas Implementation Manual (Driver *et al.* 2011) and similar products, as well as Municipal Land Use Management Schemes and other planning tools.

These guidelines are intended for use by planners and decision-makers in multiple sectors at all levels, from landowners and environmental assessment professionals, to district and local municipal officials, to planners and decision-makers in provincial and national government departments. The competent environmental authorities that are responsible for reviewing all EIAs in the Western Cape will require environmental assessment practitioners to incorporate the biodiversity priorities and land use guidelines described in the WCBSP in reports for NEMA authorisation.

Land use guidelines are presented below for terrestrial and freshwater ecosystems. These guidelines are intended primarily to guide planning and decision-making in terrestrial and freshwater CBAs and ESAs on land outside of protected areas. However, brief guidelines are also provided for protected areas. In the sections that follow, general recommendations are given for each category on the BSP Map, relating to Desired Management Objectives and appropriate land uses, and more detailed guidelines are provided in the accompanying tables.

### 4.2.1 Land use guidelines for terrestrial and aquatic ecosystems

#### **Land use Guidelines for Protected Areas (PAs)**

It is beyond the scope and purpose of this Handbook to provide detailed land use guidelines for protected areas. By definition, all protected areas exist primarily for the purpose of securing biodiversity and maintaining the ecological integrity of the landscapes in which they are situated. The NEM:PAA requires that land use and management in each protected area is governed by a formally approved management plan. Such plans identify allowable activities and allocate them to appropriate zones within the protected area. Generally the only developments and activities that will be included for consideration in the protected area management plan would be those that are in support of the goals and objectives of the protected area. Protected area management plans are not purely spatial, but also deal with issues relating to policy and implementation, staffing, performance criteria and budgets, public participation, resource use and other social and economic opportunities.

Where there is an approved protected area management plan in place, this will determine the allowable and prohibited activities within each zone. In general, protected areas should be maintained in a natural or near-natural state, with no loss or degradation of natural habitat. Where there is pre-existing degradation, this should be restored. Where it is necessary to establish or expand infrastructure within a protected area, this should be carried out subject to the provisions of NEMA and the protected area management plan. In general, land uses that are inappropriate in protected areas include any form of mining or prospecting, extensive or intensive grazing of livestock that leads to loss of species diversity, and modification of natural habitat for cultivation, plantation forestry, urban and industrial development. Ecotourism developments in a protected area should be small scale and appropriate with an attempt to minimise the impact on the environment as far as possible.

In **Protected Environments**, a variety of agriculturally-related land uses are permissible, and may already be in existence when the protected environment is proclaimed. Such land uses may include cultivation of crops, plantation forestry and woodlots, grazing of livestock (or game farming), and various forms of sustainable natural resource use. During the management planning process leading up to the declaration of the protected environment, such land uses should be delineated and zoned separately to the natural ecosystems that are being set aside primarily for protection of biodiversity, using the BSP Map and the land use guidelines as described below.

## Land use Guidelines for Terrestrial and Aquatic Critical Biodiversity Areas (CBAs)

A definition for CBAs is provided in Section 3.1.1.1. The network of CBAs reflected on the BSP Map indicates the most efficient (least land-hungry) selection and classification of land portions requiring safeguarding in order to meet the described targets. Furthermore, wherever possible, the selection has attempted to avoid conflict with other land uses. CBAs need to be maintained in a healthy natural or near-natural state.

Terrestrial CBA categories include:

**CBA Forest:** An indigenous forest in a largely natural and functional condition that is required to meet biodiversity targets for that type according to the DAFF classification (Western Cape Milkwood Forests, Southern Cape Afrotemperate Forests, and Western Cape Afrotemperate Forests).

**CBA Terrestrial:** Any other terrestrial habitat in a largely natural and functional condition that is required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure.

Freshwater CBA categories include:

**CBA River:** A river, or a portion thereof, in a largely natural and functional condition that is required to meet biodiversity targets for river ecosystems and fish species. These include FEPA rivers and additional river reaches now required to meet targets.

**CBA Wetland:** A wetland in a largely natural and functional condition that is required to meet biodiversity targets for wetland ecosystem types and associated amphibian species. These include FEPA wetlands and additional wetlands now required to meet targets.

**CBA Estuary:** A portion of an estuary that is required to meet biodiversity targets for that specific estuary (as defined by its functional zone and national status).



Permissible land uses are those that are compatible with maintaining the natural vegetation cover of CBAs in a healthy ecological state, and that do not result in loss or degradation of natural habitat.

Land uses that should not be located in terrestrial CBAs because they cause loss of natural habitat or ecosystem functionality, include:

- Any form of mining or prospecting;
- Conversion of natural habitat for intensive agriculture (cultivation) or plantation forestry;
- Buildings or infrastructure associated with residential, commercial or industrial developments;
- Complete-barrier fencing (i.e. game-proof fences) in CBA corridors;
- Linear infrastructure of any sort that disrupts the connectivity of CBA corridors;
- Extensive or intensive grazing that results in species diversity being lost through selective- or over-grazing.

Each of the subcategories of freshwater CBA has fairly unique land use guidelines and planning requirements. Land uses that may have negative impacts on river, estuarine and wetland systems are summarised below:

- *Water extraction*: cumulative reduction of river flow.
- *Mining*: destruction of water table, acid mine drainage, toxic ground-water discharge.
- *High water-demand cultivation* (e.g. vineyards, orchards, horticulture, irrigated pivot circles): lowers water table, causes stream flow reduction and complex soil changes.
- *Industrial-scale agriculture*: causes widespread changes to soil and vegetation cover, with major impacts on soil erosion, infiltration of rainfall, water-table recharge and sedimentation of rivers. Use of pesticides is of high concern and should be banned in the vicinity of CBA freshwater areas.
- *Hard paving and built structures (urban development)*: reduced infiltration and water-table recharge, enhanced flooding, erosion and sedimentation of riverbeds, pollution and changes to overall river ecology.
- *Point-source pollution from sewage, industrial and mining discharges*: toxic to biodiversity and humans, damages ecosystem health.
- *Dams and weirs*: changes downstream hydrology including flow characteristics, water temperature, turbidity and dissolved nutrients, and provide a physical barrier to fish.
- *Overgrazing*: causes widespread changes to soil and vegetation cover, and is a potential cause of soil erosion.
- *Non-point-source pollution* (e.g. groundwater and seepage): from dumps (mine, industrial and rubbish), surface runoff (agricultural, mine, industrial and urban), and irrigation seepage can cause changes in soil chemistry and be toxic to plants, animals and humans.
- *Engineering/construction/earth moving*: causes accelerated soil erosion, turbidity (suspended solids) and sedimentation.
- *Structures such as bridges, causeways (also weirs and dams)*: can change the natural erosion and sedimentation characteristics of a river, causing local and downstream channel modification.

The CBA categories also include a CBA 2 (degraded) category which are areas in a degraded or secondary condition that are required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure. These areas should be rehabilitated and only low-impact, biodiversity-sensitive land uses are appropriate.

Guidelines for locating land uses within CBAs are provided in Table 4.1.

TABLE 4.1: Land Use Guidelines for Protected Areas and Critical Biodiversity Areas

| Map category                                       | Desired management objective                                                                                                                                                                     | General guidelines                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Protected Areas                                    | Must be kept in a natural state, with a management plan focused on maintaining or improving the state of biodiversity. A benchmark for biodiversity.                                             | <ul style="list-style-type: none"> <li>All operational aspects of managing these areas must be subject to their main purpose, which is to protect and maintain biodiversity and ecological integrity, and should be governed by a formally approved management plan including land use activities that support the primary function of these areas as sites for biodiversity conservation.</li> <li>The management plan must identify allowable activities, which should be consistent at least with the CBA Irreplaceable category; the location of these allowable activities should be captured in a zonation plan in the management plan</li> <li>Activities relating to the construction of roads, administrative or tourism infrastructure and services (such as water reticulation systems, power lines, etc.) that are required to support the primary function of the protected area and its allowable activities, are subject to NEMA authorisation and the protected area management plan.</li> <li>In the case of <b>Protected Environments</b>, a variety of agricultural land uses may be allowed, such as livestock grazing, plantation forestry and limited cultivation. The location of these land use activities must be informed by the BSP Map, and should be specified in the zonation plan in the management plan for the protected environment. All areas of natural habitat that are zoned for conservation use, should be subject to implementation of the land use guidelines for protected areas, CBAs, and ESAs.</li> <li>Mountain Catchment Areas are also included in this category, however unlike the other categories, there is no requirement for a management plan which would guide allowable land uses and activities. Therefore, the land use guideline should be aligned with that of Critical Biodiversity Areas, with the primary intention to ensure the steady supply of good quality water to downstream areas.</li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Map category                                       | Desired management objective                                                                                                                                                                     | General guidelines                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Specific guidelines                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Critical Biodiversity Area 1: Terrestrial & Forest | Maintain in a natural or near-natural state, with no further loss of natural habitat. Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land uses are appropriate. | <ul style="list-style-type: none"> <li>Biodiversity loss and land use change in CBAs should not be permitted. Unauthorized land use change or degradation by neglect or ignorance must be monitored as a matter of priority.</li> <li>Where appropriate and in accordance with the Protected Area Expansion Strategy (and where capacity exists), these areas should be incorporated into the formal Protected Area system through biodiversity stewardship agreements (contract Nature Reserves or Protected Environments).</li> <li>Ideally, conservation management activities should be the primary land use in all irreplaceable areas. OR they should at least be managed in ways that have no negative impact on species, ecosystems or ecosystem services.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>Ideally, development should be avoided in these areas. If they cannot be avoided it must be shown that the mitigation hierarchy has been applied if there is a proposal within a CBA. If the impact cannot be avoided or reduced to a residual low significance, a biodiversity offset may be considered as a last resort. However, a biodiversity offset should not be offered upfront and will be considered on a case by case basis.</li> <li>A specialist study must form part of the Scoping and EIA process for all land use applications in these areas, using the services of an experienced and locally knowledgeable biodiversity expert who is registered with SACNASP.</li> </ul> |

TABLE 4.5: Biosphere Reserve zones in relation to the Biodiversity Spatial Plan Map categories

| BIOSPHERE RESERVE ZONES | Protected Areas | CBA 1 (terrestrial, forest, aquatic) | CBA 2 (degraded) | ESA 1 | ESA 2 | ONA (natural, near-natural) | ONA (degraded) | NNR |
|-------------------------|-----------------|--------------------------------------|------------------|-------|-------|-----------------------------|----------------|-----|
| Core                    |                 |                                      |                  |       |       |                             |                |     |
| Buffer                  |                 |                                      |                  |       |       |                             |                |     |
| Transition              |                 |                                      |                  |       |       |                             |                |     |

## 4.5 Land use Guidelines within Land Use Zones Used in Spatial Planning

The land use planning framework legislation in the form of SPLUMA and LUPA require of municipalities to have single zoning schemes for their entire area of jurisdiction. The content of the zoning scheme in respect of zonings and land uses is purely a municipal competency; as a result the zoning schemes for the different municipal areas may differ to various degrees in respect of zonings and permissible land uses. LUPA provides for minimum norms and standards for effective municipal development management and therefore the Western Cape Government drafted a provincial standard zoning scheme<sup>17</sup> to guide municipalities in the drafting of their own municipal by-law on the zoning scheme. A zoning scheme consists of zoning scheme regulations, a map and a register. This scheme describes zones in which various land uses are either allowed or prohibited on certain portions of land, regulated through a permitting system. To simplify the integration of the biodiversity classes, land uses were clustered into seven categories which should cover all potential zoning schemes adopted by each municipality. As far as possible, the BSP Map categories have been integrated with the existing zoning definitions used in other planning schemes as indicated in Table 4.6 and Table 4.7. This should make it easier for biodiversity priorities to be adequately represented in existing spatial planning systems.



Scott N Ramsay

<sup>17</sup> Proposed Standard Draft Zoning Scheme By-law for the Western Cape, 2017.

TABLE 4.6: Critical Biodiversity Area Categories and Land Use Zones

| LAND USE CATEGORIES                                              |                                                                                                                                                                                                                                  |
|------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LAND USE SUB-CATEGORIES<br>(Refer to table 4.7 for descriptions) |                                                                                                                                                                                                                                  |
| MAP CATEGORY                                                     | DESIRED MANAGEMENT OBJECTIVE                                                                                                                                                                                                     |
| Protected Area                                                   | Must be kept in a natural state, with a management plan focused on maintaining or improving the state of biodiversity.                                                                                                           |
| Critical Biodiversity Area 1                                     | Keep natural, with no further loss of habitat. Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land-uses are appropriate.                                                                        |
| Critical Biodiversity Area 2                                     | Keep natural, with no further loss of habitat. Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land-uses are appropriate.                                                                        |
| Ecological Support Area 1: Terrestrial                           | Maintain in a functional, near-natural state. Some habitat loss is acceptable, provided the underlying biodiversity objectives and ecological functioning are not compromised.                                                   |
| Ecological Support Area 1: Aquatic                               | Maintain in a functional, near-natural state. Some habitat loss is acceptable, provided the underlying biodiversity objectives and ecological functioning are not compromised.                                                   |
| Ecological Support Area 2                                        | Restore and/or manage to minimise impact on ecological infrastructure functioning; especially soil and water-related services.                                                                                                   |
| ONA: Natural to Near-Natural                                     | Minimise habitat and species loss and ensure ecosystem functionality through strategic landscape planning. Offers flexibility in permissible land-uses, but some authorisation may still be required for high impact land uses.  |
| ONA: Degraded                                                    | Minimise habitat and species loss and ensure ecosystem functionality through strategic landscape planning. Offers flexibility in permissible land-uses, but some authorisation may still be required for high impact land uses.  |
| No Natural Remaining                                             | These areas are suitable for development but may still provide limited biodiversity and ecological infrastructure functions and should be managed in a way that minimises impacts on biodiversity and ecological infrastructure. |

| Conservation                                                                                                         |                    | Agriculture           |                       | Tourism and Recreational Facilities |                        | Rural Accomodation                                                                                                                                         |                | Urban                         |                                     |                 | Business & Industrial |                                                |                                                                                           |                                         | Infrastructure Installations |                             |                     |                 |
|----------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------|-----------------------|-------------------------------------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------------|-------------------------------------|-----------------|-----------------------|------------------------------------------------|-------------------------------------------------------------------------------------------|-----------------------------------------|------------------------------|-----------------------------|---------------------|-----------------|
| Proclaimed Protected Areas                                                                                           | Other Nature Areas | Intensive Agriculture | Extensive Agriculture | Low Impact Facilities               | High Impact Facilities | Agri-worker Accommodation                                                                                                                                  | Small holdings | Urban Development & Expansion | Community Facilities & Institutions | New Settlements | Rural Business        | Non-place-bound Industry (low-moderate impact) | Non-place-bound Industry (high impact)                                                    | Extractive Industry (incl. Prospecting) | Linear - roads & rail        | Linear - pipelines & canals | Linear - powerlines | Other Utilities |
| Y = Yes: Permissible land uses that are likely to compromise the biodiversity objective                              |                    |                       |                       |                                     |                        | R = Restricted: Land-uses that may compromise the biodiversity objective are only permissible under certain conditions (refer to Table 4.7 for conditions) |                |                               |                                     |                 |                       |                                                | N = No: Land-uses that will compromise the biodiversity objective and are not permissible |                                         |                              |                             |                     |                 |
| Land use within proclaimed protected areas are subject to management plan drawn up for that specific protected area. |                    |                       |                       |                                     |                        |                                                                                                                                                            |                |                               |                                     |                 |                       |                                                |                                                                                           |                                         |                              |                             |                     |                 |
| Y                                                                                                                    | Y                  | N                     | R                     | N                                   | N                      | N                                                                                                                                                          | N              | N                             | N                                   | N               | N                     | N                                              | N                                                                                         | N                                       | N                            | N                           | R                   | N               |
| Y                                                                                                                    | Y                  | N                     | R                     | R                                   | N                      | N                                                                                                                                                          | N              | N                             | N                                   | N               | N                     | N                                              | N                                                                                         | N                                       | R                            | R                           | R                   | N               |
| Y                                                                                                                    | Y                  | N                     | R                     | R                                   | N                      | N                                                                                                                                                          | N              | N                             | N                                   | N               | R                     | R                                              | N                                                                                         | N                                       | R                            | R                           | R                   | R               |
| Y                                                                                                                    | Y                  | N                     | R                     | R                                   | N                      | N                                                                                                                                                          | N              | N                             | N                                   | N               | N                     | N                                              | N                                                                                         | N                                       | R                            | R                           | R                   | N               |
| Y                                                                                                                    | Y                  | N                     | R                     | R                                   | N                      | N                                                                                                                                                          | R              | N                             | N                                   | N               | N                     | N                                              | N                                                                                         | N                                       | R                            | R                           | R                   | R               |
| Y                                                                                                                    | Y                  | R                     | Y                     | R                                   | R                      | R                                                                                                                                                          | R              | R                             | R                                   | R               | R                     | R                                              | R                                                                                         | R                                       | R                            | R                           | R                   | R               |
| R                                                                                                                    | R                  | R                     | Y                     | Y                                   | R                      | R                                                                                                                                                          | Y              | R                             | R                                   | R               | R                     | R                                              | R                                                                                         | R                                       | Y                            | Y                           | Y                   | Y               |
| R                                                                                                                    | R                  | Y                     | Y                     | Y                                   | Y                      | Y                                                                                                                                                          | Y              | Y                             | Y                                   | Y               | Y                     | Y                                              | Y                                                                                         | Y                                       | Y                            | Y                           | Y                   | Y               |

**TABLE 4.7: Land Use Activity Descriptions and Biodiversity-related Conditions/Controls**

|                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Conservation | <p>This is a land use activity where conservation is the major objective. CBAs are suitable sites to be zoned as the relevant Conservation/Open Space category. Subject to stringent controls the following biodiversity-compatible land use activities (i.e. those of very low impact) may be accommodated in CBAs:</p> <p>1. a) <b>Conservation management activities</b> such as the clearing of invasive alien species, research and environmental education.</p> <p>1. b) <b>Low intensity ecotourism activities</b> such as recreation and tourism (e.g. hiking trails, bird and game watching, and small-scale, eco-friendly visitor overnight accommodation) with limited access points.</p> <p>1. c) <b>Sustainable consumptive activities:</b> Harvesting of natural resources (e.g. wild flowers for medicinal, culinary or commercial use).</p> <p><b>Assumes the following conditions/controls:</b></p> <ul style="list-style-type: none"> <li>• These land uses are limited to very low transformation levels for infrastructure development. Unless existing infrastructure already exists, this should be used. Alternatively transformed areas should be utilised.</li> <li>• Environmental Management Plans are required to ensure appropriate protection of the receiving environment e.g. sustainable harvesting volumes, periods, etc.</li> <li>• Green technology and architectural design principles have been adopted.</li> <li>• The entire property or a part thereof (depending on the land use activity above) is under some form of conservation agreement or mechanism. These mechanisms would include formal protected areas in terms of NEM:PAA, appropriate zoning (in terms of the Land Use Planning Ordinance) and other Conservation Areas, such as stewardship agreements or conservancies.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2. Agriculture  | <p>This category includes all forms of agriculture as described below.</p> <p><b>2. a) Intensive agriculture, including:</b></p> <ul style="list-style-type: none"> <li>• All areas of High Potential and Unique Agricultural Land, together with areas of lower agricultural potential where particular agricultural practices may themselves contribute to the character of the environment, the agricultural working landscape or the local economy.</li> <li>• <b>Forestry or Timber Plantations (timber production)</b><br/> <b>Includes:</b> all timber plantations, mainly Pinus, Eucalyptus and Acacia plant species;<br/> <b>Assumes the following conditions/controls:</b> monoculture of alien timber species with heavy impact on hydrology and soil erosion and introduction and spread of a variety of the most aggressive alien invasive plants.</li> <li>• <b>Irrigated Crop Cultivation</b><br/> <b>Includes:</b> all irrigated crops (vegetables) and irrigated tree crops (orchards and vineyards);<br/> <b>Assumes the following conditions/controls:</b> intensive production activity with high nutrient and agro-chemical inputs and often two crops per year (but even just ploughing, with no chemicals etc., results in irreversible loss of natural habitat).</li> <li>• <b>Dryland Crop Cultivation</b><br/> <b>Includes:</b> all tillage cultivation of non-irrigated crops, mostly single-season annuals, but including perennial and orchard-type tree crops if cultivated with an indigenous grass layer;<br/> <b>Assumes the following conditions/controls:</b> crop production methods that conserve water and protect against soil erosion, limited and responsible use of fertilisers, pesticides and other agrochemicals and genetically modified organisms.</li> <li>• <b>Space extensive agricultural enterprises (e.g. intensive feed-lots, poultry battery houses)</b><br/> <b>Includes:</b> all intensive animal production systems, that are dependent primarily on imported foodstuffs and confinement; includes dairy farming and all areas in production support for dairy, including pastures, fodder and grain crops, much of which is usually irrigated;<br/> <b>Assumes the following conditions/controls:</b> To be located in close proximity to regional routes (including rail) to facilitate product and requisite movement and supply.</li> </ul> |

**National Environmental Management: Protected Areas Act (Act 57 of 2003, as amended)**

The Protected Areas Act provides for the formal protection of a network of ecologically viable areas that are representative of South Africa's biodiversity and natural landscapes. It establishes a consistent set of legal requirements for the management of national, provincial and local protected areas, and aims to balance the relationships between biodiversity conservation, human settlement and economic development. The Protected Areas Act allows for the declaration of a protected area on private or communal land and for the landowner to be recognised as the management authority of the protected area.

**Spatial Planning and Land Use Management Act (Act 16 of 2013)**

SPLUMA was enacted to provide a framework for spatial planning and land use management in the Republic. It is also aimed at, *inter alia*, the sustainable and efficient use of land. Development principles, norms and standards in terms of SPLUMA will guide decisions taken by the various authorities involved in the implementation of SPLUMA. The national and provincial spheres of government and each municipality will be required to prepare spatial development frameworks that represent the spatial development vision of the responsible sphere of government and competent authority. A municipality will be required to adopt a single land use scheme for its entire area within five years of the commencement of SPLUMA, which will include categories of land zoning and will be required to take into account environmental management instruments. These schemes must give effect to a spatial development framework and must promote efficient land development and the minimal impact on public health, the environment and natural resources.

**World Heritage Convention Act (Act No. 49 of 1999)**

The WHCA provides for the cultural and environmental protection and sustainable development of, and related activities in a world heritage site.

**National Environmental Management: Integrated Coastal Management Act (Act No. 24 of 2008)**

The NEMA:ICMA establishes a system of integrated coastal and estuarine management in the Republic; ensures that development and the use of natural resources within the coastal zone is socially and economically justifiable and ecologically sustainable; determines the responsibilities of organs of state in relation to coastal areas; controls dumping at sea and pollution in the coastal zone; and gives effect to South Africa's international obligations in relation to coastal matters.

**Minerals and Petroleum Resources Development Act (Act 28 of 2002)**

The MPRDA aims to ensure ecologically sustainable development of mineral and petroleum resources and to promote economic and social development.

**National Water Act (Act No. 36 of 1998)**

The NWA provides that the National Government is the public trustee of the National's water resources and acting through the Minister of Water & Environmental Affairs, has the power to regulate the use, flow and control of all water in the Republic.

**Mountain Catchment Areas Act (Act 63 of 1970)**

The MCA provides for the conservation, use, management and control of Mountain Catchment Areas. The management of Mountain Catchment Areas will maintain sustained yields of quality streamflow, nature conservation, fire hazard reduction, afforestation, grazing, tourism and recreational opportunity. The owner of the designated land must manage that land through prevention of soil erosion, removal of exotic vegetation and fire protection.

**Tracy Brunings**

---

**From:** Bolandplan <bolandplan@breede.co.za>  
**Sent:** Thursday, 10 September 2020 08:27  
**To:** Tracy Brunings  
**Subject:** BolandPlan FW: Oorlogs Kloof - grondwater en impakte  
**Attachments:** Veltwater OorlogsKloof\_070920.pdf

APPLICATION FOR CONSENT USE:- PORTION 3 (PORTION OF PORTION 2) OF THE FARM OORLOGS KLOOF NO. 118, MONTAGU, CONSENT USE ON AGRICULTURAL ZONE I FOR 5 ADDITIONAL DWELLING UNITS (GUEST ACCOMMODATION UNITS)

Hallo Tracy, aangeheg vir jou kennisname;- 'n hidroloog se verslag wat sinvolle inligting bevat rakende moontlike besoedeling van waterbronne.

Martin

**From:** Nic Kleynhans [mailto:nichans@mweb.co.za]  
**Sent:** Wednesday, 09 September 2020 11:08 AM  
**To:** 'Bolandplan' <bolandplan@breede.co.za>  
**Subject:** FW: Oorlogs Kloof - grondwater en impakte

More Martin

Die verslag van die hidroloog vir jou informasie.

Groete

Nic  
083 3109822  
011 6262863



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- Groundwater Exploration
- Site Assessment
- Water Supply
- Resource Definition
- Numerical Modeling
- Geochemical Characterisation

*Specialist support in:*

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- Management
- Mining
- EIAs
- EMPs

25 Ds DF du Toit Crescent,  
George, 6629, South Africa

Mobiler: +27 (0) 74 041 1444  
[sonia.veltman@gmail.com](mailto:sonia.veltman@gmail.com)

CK Reg nr: 2008/2522/2/23  
VAT Reg nr: 4320252952

07/09/2020

Kleynhans Projects CC  
14 Bessemer Road  
Heriotdale  
2094  
Johannesburg

VAT Reg No: 4660162365

Attention: Mr. Nic Kleynhans

**RE KLEYNHANS PROJECTS WULA: BREEDE GOURITZ CMA Ref No: WU15909**

**Filing No: 27/2/1/H430/1/2**

**GROUNDWATER IMPACTS ON THE FARM OORLOGS KLOOF, WESTERN CAPE**

Veltwater groundwater specialists were approached in August 2020 by Mr. Kleynhans to assist in queries raised by the BGCMA and other authorities, regarding the proposed developments at Oorlogs Kloof RE/118 and the 21(a) taking of water application under the General Authorisation, as applicable. As understood from personal communications and the site visit of 4 September 2020, the following main concerns were raised:

- a) The potential impacts from the taking of groundwater to the rest of the water users; and
- b) The potential pollution from developing up to 4 additional housing units, concerns mainly related to potential seepage from sewerage.

The conceptual model was based on the geology and structural geology available from the Council of Geoscience 1:250 000 maps (3319 Worcester map), as well as the information that was captured on site for the existing boreholes and springs.

A conceptual model, per definition, includes information on the geological layers, structures, saturated zones, flow zones, recharge and chemistry of an aquifer and is typically supported by one or more drawings to visualise it. Figures 1 and 2 in Annexure A shows the available information in plan for borehole and spring positions, as well as piezometric water levels in meters above mean sea level (mamsl) linked to specific geological layers. Water quality analysed for borehole OK01 by Mr Kleynhans was attached as Annexure B. Table 1 contains the information as summarised from borehole and spring data captured and Table 2 summarised the water use proposed on the farm.

**Table 1: Borehole and spring information**

| BH ID / Name                     | Lithology                | In use | SWL<br>(m bgl) | SWL<br>(m amsl) | Equipped<br>Yield (m <sup>3</sup> /h) |
|----------------------------------|--------------------------|--------|----------------|-----------------|---------------------------------------|
| <b>OK01</b><br>Main borehole     | Dga<br>Gamka sandstone   | Yes    | 9.85           | 502.15          | 2kW<br>submersible<br>10-12           |
| <b>OK02</b><br>Blue pipe         | Dga<br>Gamka sandstone   | No     | 11.35          | 499.65          | None<br>5                             |
| <b>OK03</b><br>Old bh            | Dr<br>Rietvlei sandstone | No     | 28.56          | 439.44          | None<br>0.6                           |
| <b>OK04</b><br>Servitude bh      | Dg<br>Gydo shale         | No     | 55.54          | 467.46          | None<br>-                             |
| <b>OK05</b><br>Closest neighbour | Db<br>Tra-tra sandstone  | No     | 7.5            | 458.5           | Submersible<br>-                      |
| <b>OKF1</b>                      | Weathered sone           | Yes    | 0              | 520             | Piped<br>0.625                        |
| <b>OKF2</b>                      | Weathered sone           | Yes    | 0              | 546             | Canal                                 |

**Table 2: Water Use proposed and associated volumes**

| Water Use                      | Demand           | Unit Volume             | Volume (m <sup>3</sup> /a) |
|--------------------------------|------------------|-------------------------|----------------------------|
| <b>Domestic</b>                | Max 15 people    | 300 l/d                 | 1 620                      |
| <b>Irrigation</b>              | 1 ha Olive trees | 8 000 m <sup>3</sup> /a | 8 000                      |
| <b>Total (m<sup>3</sup>/a)</b> |                  |                         | <b>9 620</b>               |

## Geology

The Oorlogs Kloof farm is situated on lithology of the Cape SuperGroup, more specifically the Ceres SubGroup, with special emphasis on the Gydo, Gamka, Voorstehoek and Hex River Formations as indicated on Figure 2.

The Oorlogs Kloof water boreholes (OK01 and OK02) are situated mainly in the Gamka Formation (Dga), with the exception of the old mountain borehole (OK03) on the Rietvlei Formation (Dr). The so-called "servitude borehole" (OK04) is situated on surface on the Gydo (Dg) Formation. The Hex River Formation (Dh) lies between the Oorlogs Kloof boreholes and the closest neighbour borehole OK05.

## Hydrogeology

The Gamka Formation consists of dark-grey, lithic and feldspathic sandstone and siltstone, with subordinate shale and conglomerate:

- This formation is considered a good aquifer where secondary porosity developed within the layer i.e. foliation or fractures. This porosity developed while geological stressors, such as folding, faults and pressure relief, took place over geological times.
- The boreholes OK01 and OK02 both have piezometric water levels at 500 – 502 mamsl and is considered hydraulically connected, although at a distance of 320 meters apart, it is unlikely that influence will occur.

The Gydo Formation consists of shale with subordinate mudstone and siltstone and is generally considered to be a poor aquifer that inhibits flow between geological layers (so-called "Aquiclude"):

- The Borehole OK04 is hydraulically disconnected from the rest of the features with a piezometric level at 467 mamsl (at least 30 meters below any of the other boreholes) and 56 meters below ground level (m bgl). This borehole was used in the past through a servitude right by off-site water users, but is currently abandoned and unequipped.
- If the Gydo Formation had an existing connection with the water bearing units (aquifers), the piezometric level would have been in balance with the other features.

The Rietvlei and Skurweberg Formations to the south is a well-layered quartzitic/feldspathic sandstone, with subordinate siltstone and shale, which is considered a good aquifer where it developed secondary porosity within the layer i.e. foliation or fractures. This porosity developed while geological stressors, such as folding, faults and pressure relief, took place over geological times:

- This forms the high laying mountainous areas where the main kloof spring water originates and drains into the surface water canal.
- The kloof spring is hydraulically disconnected from OK01 and OK02 and drains the groundwater in the mountainous areas, through seepage from the weathered aquifer, over the extensive undisturbed catchment area.

Indications on the geological maps showed that the geological layers dip to the north at angles between 60° to the west of the farm and 80° to the east of the farm. This shows a sub-vertical dip direction and saturated flow in the deeper aquifer will be in a preferential east – west direction, unless specific structural deformation is prominent, while flow in the weathered zone will follow surface topography. This work did not entail detailed structural analyses, and information from the geological map does not indicate major connections between layers.

## Expected Impacts

### OK01 surface water connection and radius of influence

Piezometric water levels in the Gamka Formation is disconnected from spring flow both hydraulically (more than 20 meters difference) and through the Gydo acting as an aquiclude

/ physical barrier. Both the main kloof spring and small farm spring is draining water from the Rietvlei and Skurweberg Formations, although the small spring only daylight on the Gamka. The small spring seems to flow in the weathered zone and can recharge the Gamka aquifer if not piped. This will occur at rates dependent on the hydraulic conductivity of the weathered zone and not the rate or time period of abstraction from OK01.

OK05 is the closest neighbouring borehole and is situated well away from OK01. The Hex River Formation to the north of OK01 consist of light-grey feldspathic sandstone, with subordinate thin siltstone, gritstone and conglomerate. For boreholes of similar yields and aquifer characteristics than OK01, the radius of influence have been calculated as between 60 – 220 meters in an 8 hour abstraction period. The Hex River Formation will not act as an aquiclude, however OK05 is 670 meters away from OK01 and well out of reach of an abstraction influence on a daily schedule.

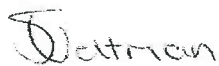
### **Pollution to the saturated groundwater from sewerage seepage**

The potential pollution from developing up to 4 additional housing units, is mainly seepage from sewerage related. The houses are planned to be built on the Gydo Formation, which has been shown to be hydraulically disconnected from the main aquifers:

- The depth of the measured water level in the Gydo Formation shows no to very little hydraulic connection between this formation and the two adjacent aquifers. As a result, seepage needs to move down to the saturated groundwater level, 50+ meters below, before it can move to adjacent aquifers and against the flow gradient. It is more likely that seepage will be contained within the formation, as shale tends to weather to clay in the presence of water.
- The stream draining the groundwater to the main kloof spring is elevated above the elevation of the houses (site elevation approximately 530 mamsl) and, therefore, seepage cannot contaminate this stream through groundwater flow paths.
- The most likely receptor for seepage from a septic tank or french drain system, will be the small farm spring. This spring seems to drain water from the Rietvlei/Skurweberg area through perched flow in the weathered zone, over the Gydo aquiclude. Monitoring the water quality of this spring is essential for the Oorlogs Kloof farm use.

Please contact me if you have any further questions.

Kind regards,



*Mrs S Veltman*

*Senior Hydrogeologist (M.Sc. Pr.Sci.Nat.)*

## ANNEXURE A

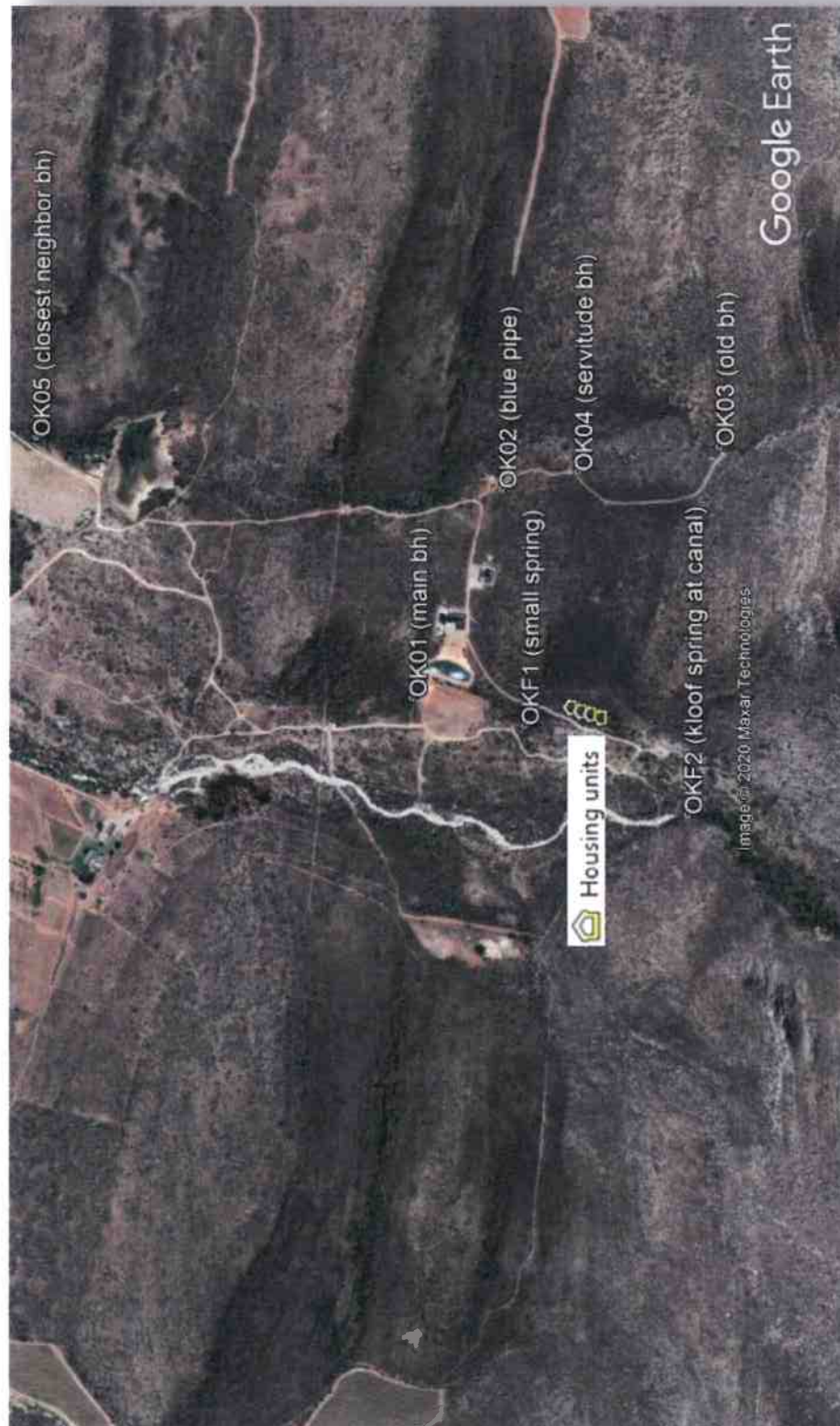


Figure 1: Google Earth background with position of boreholes on Oorlogs Kloof

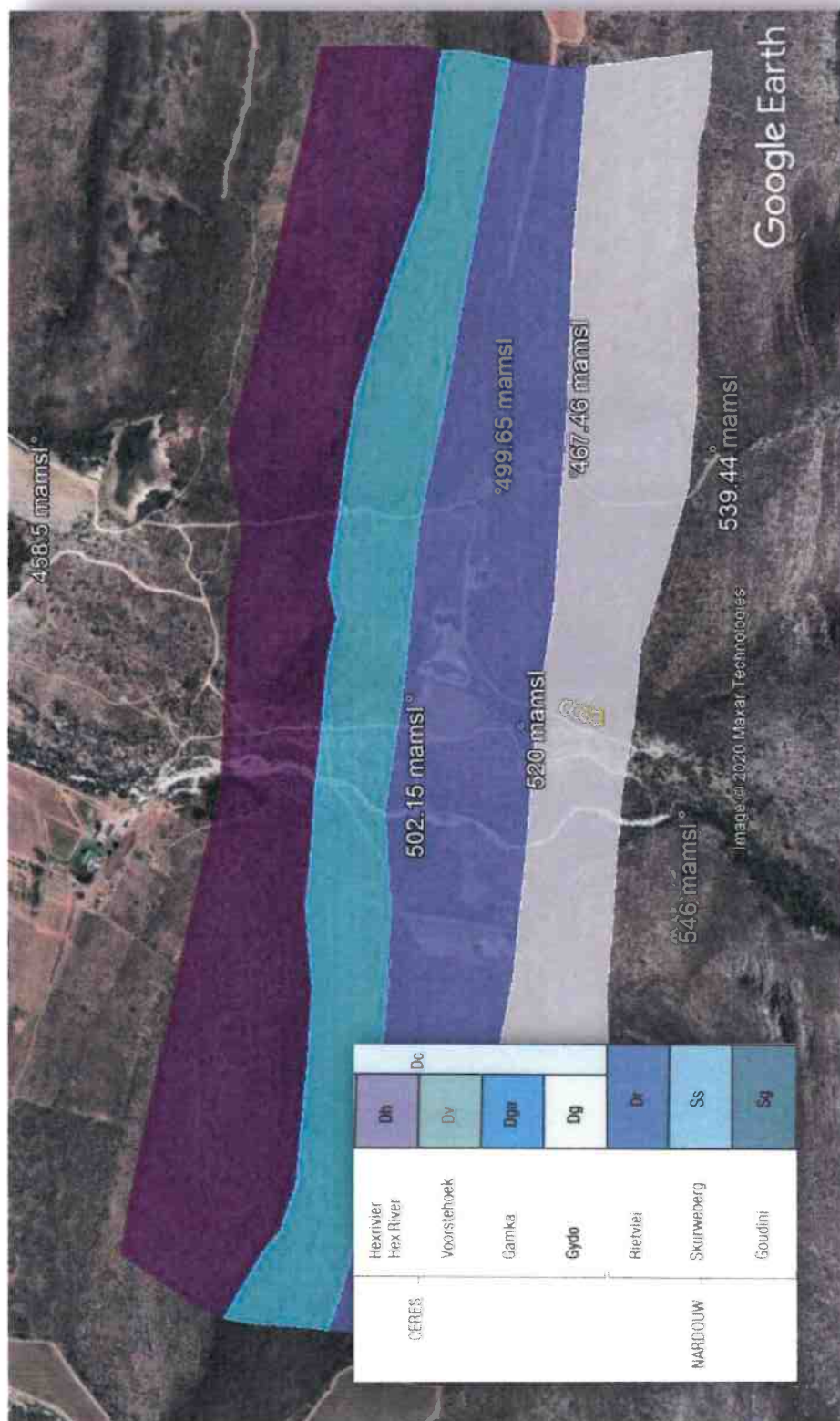


Figure 2: Background geology with position of boreholes and piezometric water levels

## **ANNEXURE B**

Water Quality Analysis OK01

Report Nr.: WT012313.DOC

**Nic Kleynhans**  
Kleynhans Projects cc  
14 Bessemer Road  
Heriotdale  
JOHANNESBURG

Date received: 03-09-2019  
Time received: 11:34

Sampled by client

## CERTIFICATE OF ANALYSES

### Water Analyses Report

#### Drinking water evaluation

| Origin        | Lab. Nr. | pH        | EC @ 25°C mS/m | Na mg/l | K mg/l | Ca mg/l | Mg mg/l | Cl mg/l | CO <sub>3</sub> <sup>2-</sup> mg/l | HCO <sub>3</sub> <sup>-</sup> mg/l | SO <sub>4</sub> mg/l | B mg/l | Cu mg/l | Zn mg/l | P mg/l | NH <sub>4</sub> -N mg/l | NO <sub>3</sub> -N mg/l | *F mg/l | *TDS mg/l |
|---------------|----------|-----------|----------------|---------|--------|---------|---------|---------|------------------------------------|------------------------------------|----------------------|--------|---------|---------|--------|-------------------------|-------------------------|---------|-----------|
| Boorgat Water | 12313    | 6.8       | 38             | 44.7    | 1.0    | 18.6    | 8.4     | 45.0    | 113.0                              | 36                                 | <0.08                | <0.02  | <0.02   | 0.08    | 0.02   | <0.28                   | <0.36                   | 0.7     | 242.0     |
| Norm          |          | ≥5.0-≤9.7 | ≤170           | ≤200.0  |        |         |         | ≤300.0  |                                    |                                    | ≤500                 | ≤2.40  | ≤2.00   | ≤5.00   |        | ≤1.50                   | ≤11.00                  | ≤1.5    | ≤1200.0   |

| Origin        | Lab. Nr. | Date Tested | Date Sampled       | Temperature at reception (°C) | *Total Fe mg/l | *Total Mn mg/l | *Dissolved Fe mg/l | *Dissolved Mn mg/l | *Langelier Index |
|---------------|----------|-------------|--------------------|-------------------------------|----------------|----------------|--------------------|--------------------|------------------|
| Boorgat Water | 12313    | 04-09-2019  | 02/09/2019 @ 18:00 | 6.0                           | 0.74           | 0.27           | 0.74               | 0.31               | -1.3             |
| Norm          |          |             |                    |                               | ≤2.0           | ≤0.4           |                    |                    | ≥-0.5-≤0.5       |

\* = Not SANAS Accredited

Client supplied information; client details, sample reference, the date and time of sampling, the sampler, and transportation of the sample to the testing laboratory. The information supplied by the client (or lack thereof) may affect the validity of the results.  
Norms according to SANS 241-1:2015.

#### Microbiological analyses

| Origin        | Lab. Nr. | Total Bacteria cfu/1ml | Total Coliforms cfu/100 ml | E. coli cfu/100ml | Date Tested | Date Sampled       | Temperature at reception (°C) |
|---------------|----------|------------------------|----------------------------|-------------------|-------------|--------------------|-------------------------------|
| Boorgat Water | 12313    | 1                      | <1                         | <1                | 03/09/2019  | 02/09/2019 @ 18:00 | 6.0                           |
| Norm          |          | ≤1000                  | ≤10                        | <1                |             |                    |                               |

Norms for drinking water can vary depending on the origin.  
Norms according to SANS 241-1:2015.

**Statement:** The reported results may be applied only to samples received. Any recommendations included with this report are based on the assumption that the samples were representative of the source from which they were taken.

**Notes:**

To ensure sample integrity, samples are stored only for seven days after release of the report. Thereafter it is disposed of and a fresh sample will be required if additional analyses are requested.

Results marked with "**Not SANAS Accredited**" in this report are not included in the SANAS Schedule of Accreditation for this laboratory. These results relate to the items tested. This test report shall not be reproduced except in full, without written approval of the laboratory.

Opinions and interpretations expressed herein are outside the scope of SANAS accreditation.

Uncertainty of Measurement and method references available on request.

**Sample condition:** Samples received in good condition.



Andrew Pascall  
Technical Signatory (Water Chemistry)



Lauren Taylor  
Technical Signatory (Microbiology)

13-09-2019  
Date reported

—————END OF REPORT—————



# Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 464 Cape Town 18 February 2004 No. 26025

## THE PRESIDENCY

No. 181

18 February 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 57 of 2003: National Environmental Management: Protected Areas Act, 2003.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

**GENERAL EXPLANATORY NOTE:**

\*\*\*\*\* Areas marked with five asterisks indicate omitted provisions which will be inserted by way of an Amendment Bill. That Bill will be dealt with in terms of the procedure prescribed by section 75 of the Constitution — as explained in paragraph 1 of the Memorandum on the Objects of the Bill.

*(English text signed by the President.)  
(Assented to 11 February 2004.)*

**ACT**

To provide for the protection and conservation of ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes; for the establishment of a national register of all national, provincial and local protected areas; for the management of those areas in accordance with national norms and standards; for intergovernmental co-operation and public consultation in matters concerning protected areas; and for matters in connection therewith.

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa as follows:—

**ARRANGEMENT OF SECTIONS***Sections***CHAPTER 1**

5

**INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT**

- |    |                                                                          |    |
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| 4. | Application of Act                                                       |    |
| 5. | Application of National Environmental Management Act                     |    |
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| 7. | Conflicts with other legislation                                         |    |
| 8. | Status of provincial legislation on provincial and local protected areas | 10 |

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\*\*\*\*\*

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26. Designation of nature reserve as wilderness area
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##### Part 4

##### *Protected environments*

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30. Notice to be given to Minister of provincial declarations

##### Part 5

##### *Consultation process*

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90. Repeal of laws

\*\*\*\*\*

92. Protected areas existing before commencement of section

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## CHAPTER 1

10

## INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT

## Definitions

1. (1) In this Act, unless the context indicates otherwise—

“**aircraft**” means an airborne craft of any type whatsoever, whether self-propelled or not, and includes a hovercraft; 15

“**Biodiversity Act**” means the National Environmental Management: Biodiversity Act, 2003;

“**biological diversity**” or “**biodiversity**” has the meaning ascribed to it in section 1 of the Biodiversity Act;

“**biological resource**” means any resource consisting of— 20

(a) a living or dead animal, plant or other organism of an indigenous species;

(b) a derivative of such an animal, plant or other organism, as defined in section 1 of the Biodiversity Act; or

(c) any genetic material of such animal, plant or other organism, as defined in section 1 of the Biodiversity Act; 25

\*\*\*\*\*

“**declare**”, when used in relation to—

(a) the Minister, means declare by notice in the *Government Gazette*; and

(b) the MEC, means declare by notice in the *Provincial Gazette*;

“**Department**” means the national Department of Environmental Affairs and Tourism; 30

“**designate**”, when used in relation to—

(a) the Minister, means designate by notice in the *Government Gazette*;

(b) the MEC, means designate by notice in the *Provincial Gazette*;

“**Director-General**” means the Director-General of the Department; 35

“**ecological integrity**” means the sum of the biological, physical and chemical components of an ecosystem, and their interactions which maintain the ecosystem and its products, functions and attributes;

“**ecosystem**” means a dynamic complex of animal, plant and micro-organism communities and their non-living environment interacting as a functional unit; 40

“**environmental goods and services**” includes—

(a) benefits obtained from ecosystems such as food, fuel and fibre and genetic resources;

(b) benefits from the regulation of ecosystem processes such as climate regulation, disease and flood control and detoxification; and 45

(c) cultural non-material benefits obtained from ecosystems such as benefits of a spiritual, recreational, aesthetic, inspirational, educational, community and symbolic nature;

“**Gazette**”, when used in relation to—

- (a) the Minister, means the *Government Gazette*; and  
 (b) the MEC, means the *Provincial Gazette* of that province;  
 “**habitat**”, in relation to a specific species, means a place or type of site where such species naturally occurs;  
 “**indigenous species**”, in relation to a specific protected area, means a species that occurs, or has historically occurred, naturally in a free state in nature within that specific protected area, but excludes a species introduced in that protected area as a result of human activity;  
 “**lawful occupier**” includes an occupier protected under the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), the Interim Protection of Informal Land Rights Act, 1996 (Act No. 31 of 1996), or the Extension of Security of Tenure Act, 1997 (Act No. 26 of 1997), if the land regarding which the occupier enjoys such protection falls within a protected area or is proposed to be declared as or included in a protected area;  
 “**local community**” means any community of people living or having rights or interests in a distinct geographical area;  
 “**local protected area**” means a nature reserve or protected environment managed by a municipality;  
 “**management**”, in relation to a protected area, includes control, protection, conservation, maintenance and rehabilitation of the protected area with due regard to the use and extraction of biological resources, community-based practices and benefit-sharing activities in the area in a manner consistent with the Biodiversity Act;  
 “**management authority**”, in relation to a protected area, means the organ of state or other institution or person in which the authority to manage the protected area is vested; \*\*\*\*\*  
 “**MEC**” means the member of the Executive Council of a province in whose portfolio provincial protected areas in the province fall;  
 “**Minister**” means the Cabinet member responsible for national environmental management;  
 “**municipality**” means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);  
 “**National Environmental Management Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);  
 “**national environmental management principles**” means the principles contained in section 2 of the National Environmental Management Act;  
 \*\*\*\*\*  
 “**national protected area**” means—  
 (a) a special nature reserve;  
 \*\*\*\*\*  
 (c) a nature reserve or protected environment—  
 (i) managed by a national organ of state; or  
 (ii) which falls under the jurisdiction of the Minister for any other reason;  
 “**nature reserve**” means—  
 (a) an area declared, or regarded as having been declared, in terms of section 23 as a nature reserve; or  
 (b) an area which before or after the commencement of this Act was or is declared or designated in terms of provincial legislation for a purpose for which that area could in terms of section 23(2) be declared as a nature reserve, and includes an area declared in terms of section 23(1) as part of an area referred to in paragraph (a) or (b) above;  
 “**organ of state**” has the meaning assigned to it in section 239 of the Constitution;  
 “**prescribe**” means prescribe by the Minister by regulation in terms of section 86;  
 “**protected area**” means any of the protected areas referred to in section 9;  
 “**protected environment**” means—  
 (a) an area declared, or regarded as having been declared, in terms of section 28 as a protected environment; or

- (b) an area which before or after the commencement of this Act was or is declared or designated in terms of provincial legislation for a purpose for which that area could in terms of section 28(2) be declared as a protected environment, and includes an area declared in terms of section 28(1) as part of an area referred to in paragraph (a) or (b) above; 5
- “provincial protected area”** means a nature reserve or protected environment—
- (a) managed by a provincial organ of state; or
- (b) which falls under the jurisdiction of a province for any other reason;
- “Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999); 10
- “special nature reserve”** means—
- (a) an area which was a special nature reserve in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), immediately before the repeal of section 18 of that Act by section 90 of this Act; or
- (b) an area declared, or regarded as having been declared, in terms of section 18 15 as a special nature reserve, and includes an area declared in terms of section 18 as part of an area referred to in paragraph (a) or (b) above;
- “species”** means a kind of animal, plant or other organism, including any subspecies, cultivar, variety, geographic race, strain, hybrid or geographically 20 separate population;
- “subordinate legislation”** means any regulation made or notice issued under or in terms of this Act;
- \*\*\*\*\*
- “this Act”** includes any subordinate legislation; 25
- “wilderness area”** means an area designated in terms of section 22 or 26 for the purpose of retaining an intrinsically wild appearance and character or capable of being restored to such and which is undeveloped and roadless, without permanent improvements or human habitation;
- “world heritage site”** means a world heritage site in terms of the World Heritage 30 Convention Act, 1999 (Act No. 49 of 1999).
- (2) In this Act words or expressions derived from words or expressions defined in subsection (1) have corresponding meanings unless the context indicates otherwise.

#### Objectives of Act

2. The objectives of this Act are— 35
- (a) to provide, within the framework of national legislation, including the National Environmental Management Act, for the declaration and management of protected areas;
- (b) to provide for co-operative governance in the declaration and management of protected areas; 40
- (c) to effect a national system of protected areas in South Africa as part of a strategy to manage and conserve its biodiversity;
- (d) to provide for a representative network of protected areas on state land, private land and communal land;
- (e) to promote sustainable utilisation of protected areas for the benefit of people, 45 in a manner that would preserve the ecological character of such areas; and
- (f) to promote participation of local communities in the management of protected areas, where appropriate.
- \*\*\*\*\*

#### State trustee of protected areas 50

3. In fulfilling the rights contained in section 24 of the Constitution, the State through the organs of state implementing legislation applicable to protected areas must—
- (a) act as the trustee of protected areas in the Republic; and

- (b) implement this Act in partnership with the people to achieve the progressive realisation of those rights.

#### Application of Act

4. (1) This Act also applies—
- (a) in the Prince Edward Islands referred to in section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948); and 5
  - (b) to the exclusive economic zone and continental shelf of the Republic, referred to in sections 7 and 8, respectively, of the Maritime Zones Act, 1994 (Act No. 15 of 1994).
- (2) This Act binds all organs of state. 10

#### Application of National Environmental Management Act

5. (1) This Act must—
- (a) be interpreted and applied in accordance with the national environmental management principles; and
  - (b) be read with the applicable provisions of the National Environmental Management Act. 15
- (2) Chapter 4 of the National Environmental Management Act applies to the resolution of conflicts arising from the implementation of this Act.

#### Application of Biodiversity Act in protected areas

6. This Act must, in relation to any protected area, be read, interpreted and applied in conjunction with the Biodiversity Act. 20

#### Conflicts with other legislation

7. (1) In the event of any conflict between a section of this Act and—
- (a) other national legislation, the section of this Act prevails if the conflict specifically concerns the management or development of protected areas; 25
  - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
  - (c) a municipal by-law, the section of this Act prevails.
- (2) In the event of any conflict between subordinate legislation issued in terms of this Act and— 30
- (a) an Act of Parliament, the Act of Parliament prevails;
  - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
  - (c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails. 35
- (3) For the proper application of subsection (2)(b) the Minister must, in terms of section 146(6) of the Constitution, submit all subordinate legislation issued in terms of this Act and which affects provinces to the National Council of Provinces for approval.

#### Status of provincial legislation on provincial and local protected areas

8. This Act does not affect the implementation of provincial legislation regulating matters with regard to provincial or local protected areas to the extent that such legislation— 40
- (a) regulates matters not covered by this Act;
  - (b) is consistent with this Act; or
  - (c) prevails over this Act in terms of section 146 of the Constitution. 45

## CHAPTER 2

## SYSTEM OF PROTECTED AREAS IN SOUTH AFRICA

## Kinds of protected areas

9. The system of protected areas in South Africa consists of the following kinds of protected areas: 5
- (a) special nature reserves, nature reserves (including wilderness areas) and protected environments;
  - (b) world heritage sites;
  - \*\*\*\*\*
  - (d) specially protected forest areas, forest nature reserves and forest wilderness areas declared in terms of the National Forests Act, 1998 (Act No. 84 of 1998); and 10
  - (e) mountain catchment areas declared in terms of the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970).

## Register of Protected Areas 15

10. (1) The Minister must maintain a register called the Register of Protected Areas.
- (2) The Register must—
- (a) contain a list of all protected areas;
  - (b) indicate the kind of protected area in each case; and
  - (c) contain any other information determined by the Minister. 20
- (3) For the purposes of subsection (2)(b) a protected area declared in terms of provincial legislation must be included in the Register as a nature reserve or protected environment depending on the purpose for which it was declared.
- (4) The Cabinet member responsible for the administration of the National Forests Act, 1998 (Act No. 84 of 1998), and the MEC must notify the Minister of all areas declared as protected areas in terms of that Act or provincial legislation, as the case may be. 25

## Norms and standards

11. (1) The Minister may prescribe—
- (a) norms and standards for the achievement of any of the objectives of this Act, including for the management and development of protected areas referred to in section 9(a), (b) and (c); 30
  - (b) indicators to measure compliance with those norms and standards; and
  - (c) the requirement for the management authorities of those protected areas to report on these indicators to the Minister. 35
- (2) Before issuing norms and standards and setting indicators for provincial or local protected areas, the Minister must consult—
- (a) the MEC of each province in which those norms and standards will apply; and
  - (b) the relevant local government.
- (3) Norms and standards may apply— 40
- (a) nationwide;
  - (b) in a specific protected area only;
  - (c) to a specific management authority or category of management authorities only.
- (4) Different norms and standards may be issued for— 45
- (a) different areas; or
  - (b) different management authorities or categories of management authorities.

**Provincial protected areas**

12. A protected area which immediately before this section took effect was reserved or protected in terms of provincial legislation for any purpose for which an area could in terms of this Act be declared as a nature reserve or protected environment, must be regarded to be a nature reserve or protected environment for the purpose of this Act. 5

**World heritage sites**

13. (1) Chapter 1 and this Chapter apply to world heritage sites, declared as such in terms of the World Heritage Convention Act, 1999 (Act No. 49 of 1999).

(2) The other provisions of this Act do not apply to world heritage sites except where expressly or by necessary implication provided otherwise. 10

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**Specially protected forest areas, forest nature reserves and forest wilderness areas**

15. (1) Chapter 1, this Chapter and section 48 apply to specially protected forest areas, forest nature reserves or forest wilderness areas, declared as such in terms of section 8 of the National Forests Act, 1998 (Act No. 84 of 1998). 15

(2) The other provisions of this Act do not apply to specially protected forest areas, forest nature reserves or forest wilderness areas, but if any such area has been declared as or included in a special nature reserve or nature reserve, such area must be managed as, or as part of, the special nature reserve or nature reserve in terms of this Act in accordance with an agreement concluded between the Minister and the Cabinet member responsible for forestry. 20

**Mountain catchment areas**

16. Chapter 1 and this Chapter apply to mountain catchment areas, declared as such in terms of the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970).

**CHAPTER 3**

25

**DECLARATION OF PROTECTED AREAS****Purpose of protected areas**

17. The purposes of the declaration of areas as protected areas are—

- (a) to protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas; 30
- (b) to preserve the ecological integrity of those areas;
- (c) to conserve biodiversity in those areas;
- (d) to protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa; 35
- (e) to protect South Africa's threatened or rare species;
- (f) to protect an area which is vulnerable or ecologically sensitive;
- (g) to assist in ensuring the sustained supply of environmental goods and services;
- (h) to provide for the sustainable use of natural and biological resources;
- (i) to create or augment destinations for nature-based tourism; 40
- (j) to manage the interrelationship between natural environmental biodiversity, human settlement and economic development;

- (k) generally, to contribute to human, social, cultural, spiritual and economic development; or
- (l) to rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species.

**Part 1**

5

**Special nature reserves****Declaration of special nature reserves**

18. (1) The Minister may by notice in the *Gazette*—
- (a) declare an area specified in the notice—
    - (i) as a special nature reserve; or 10
    - (ii) as part of an existing special nature reserve; and
  - (b) assign a name to such special nature reserve.
- (2) A declaration under subsection (1)(a) may only be issued—
- (a) to protect highly sensitive, outstanding ecosystems, species or geological or physical features in the area; and 15
  - (b) to make the area primarily available for scientific research or environmental monitoring.
- (3) A notice under subsection (1)(a) may be issued in respect of private land if the owner has consented to the declaration by way of a written agreement with the Minister.
- (4) An area which was a special nature reserve immediately before this section took effect must for purposes of this section be regarded as having been declared as such in terms of this section. 20

**Withdrawal of declaration or exclusion of part of special nature reserve**

19. The declaration of an area as a special nature reserve, or as part of an existing special nature reserve, may not be withdrawn and no part of a special nature reserve may be excluded from the reserve except by resolution of the National Assembly. 25

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**Part 3****Nature reserves****Declaration of nature reserve 30**

23. (1) The Minister or the MEC may by notice in the *Gazette*—
- (a) declare an area specified in the notice—
    - (i) as a nature reserve; or
    - (ii) as part of an existing nature reserve; and
  - (b) assign a name to the nature reserve. 35
- (2) A declaration under subsection (1)(a) may only be issued—
- \*\*\*\*\*
- (b) to protect the area if the area—
    - (i) has significant natural features or biodiversity;
    - (ii) is of scientific, cultural, historical or archaeological interest; or 40
    - (iii) is in need of long-term protection for the maintenance of its biodiversity or for the provision of environmental goods and services;
  - (c) to provide for a sustainable flow of natural products and services to meet the needs of a local community;
  - (d) to enable the continuation of such traditional consumptive uses as are 45 sustainable; or
  - (e) to provide for nature-based recreation and tourism opportunities.