

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN DIVISION, CAPE TOWN)**

WCHC CASE NO: 10208/17

In the matter between:

THE CAPE WINDLASS ENVIRONMENTAL ACTION GROUP

Applicant

and

**THE NATIONAL MINISTER FOR AGRICULTURE, FORESTRY
AND FISHERIES**

First Respondent

LAGOONBAY LIFESTYLE ESTATE (PTY) LTD

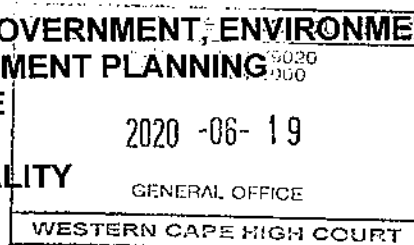
Second Respondent

**THE MEC FOR LOCAL GOVERNMENT, ENVIRONMENTAL
AFFAIRS AND DEVELOPMENT PLANNING
OF THE WESTERN CAPE**

Third Respondent

THE GEORGE MUNICIPALITY

Fourth Respondent



**APPLICANT'S NOTICE OF INTENTION TO AMEND ITS NOTICE OF MOTION
DATED 8 JUNE 2017**

BE PLEASED TO TAKE NOTICE that the abovenamed Applicant intends to amend its Notice of Motion dated 8 June 2017 in terms of Rule 53 in the following manner:

A. By deleting paragraph "A" and substituting for it the following paragraph:

"Reviewing and setting aside consent No. 52007 by the First Respondent, granted by its delegate on 26 January 2017 in terms of section 4(2) of the Subdivision of Agricultural Land Act, 70 of 1970, which consent supersede(d) consent No. 49829 of 5 November 2014, both consents

approving the consolidation and subdivision of the farms referred to therein into 201 portions as shown on the sketch plan which is attached to consent No. 52007,”

- B. By joining the Member of the Executive Council (“MEC”) for Local Government, Environmental Affairs and Development Planning for the Western Cape Government and the George Municipality as the Third and Fourth Respondents respectively; and
- C. By adding the following words to the fourth paragraph of the Applicant’s Notice of Motion dated 8 June 2017 after the words contained in brackets in that paragraph, namely –

“as well as the records of the proceedings in which all previous consents granted by the First Respondent or his delegate in terms of Section 4(2) of the Subdivision of Agricultural Land Act, 70 of 1970, pursuant to applications made therefor of the First Respondent by the Second Respondent,”

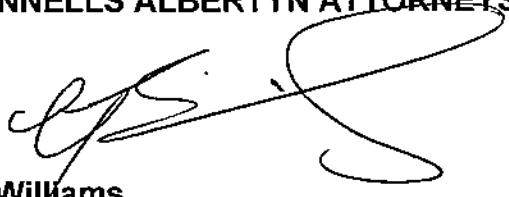
 **KINDLY TAKE NOTICE FURTHER** that unless written objection to the proposed amendments is delivered within TEN (10) days of delivery of this notice the amendments will be deemed to have been ^eaffected.

Dated at **CAPE TOWN** on this the 18 day of ^{JUNE}~~MAY~~ 2020. 

CHENNELLS ALBERTYN ATTORNEYS

Dated at **CAPE TOWN** on this the 18th day of **JUNE 2020**.

CHENNELLS ALBERTYN ATTORNEYS

Per: 

G E Williams

Applicant's Attorney

18A Greenwich Grove

Station Road

Rondebosch

Email: info@chennellsalbertyn.co.za

TO: THE REGISTRAR

High Court

Cape Town

Per Email:

AND TO: STATE ATTORNEY

Per: Ms S. Chetty

Attorneys for the First Respondent

4th Floor, Liberty Life Centre

22 Long Street

Cape Town

Tel: (021) 441 9234

Email: ShChetty@justice.gov.za

Reference: 1348/17/P9

AND TO: LAGOON BAY LIFESTYLE ESTATE (PTY) LTD

Second Respondent

Werksmans Inc.

Justin Truter

Level 1

No. 5 Silo Square

V&A Waterfront

**AND TO: THE MEC FOR LOCAL GOVERNMENTAL AFFAIRS AND
DEVELOPMENTAL PLANNING**

Third Respondent

9 Wale Street

Cape Town

Email: magdalena.griesel@westerncape.gov.za;

jaap.devilliers@westerncape.gov.za

AND TO: THE GEORGE MUNICIPALITY

Fourth Respondent

Municipal Manager

Mr. Trevor Botha

71 Yorke Street, George

Email: tbotha@george.gov.za

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN DIVISION, CAPE TOWN)**

WCHC CASE NO: 10208/17

In the matter between:

THE CAPE WINDLASS ENVIRONMENTAL ACTION GROUP

Applicant

and

**THE NATIONAL MINISTER FOR AGRICULTURE, FORESTRY
AND FISHERIES, now THE MINISTER FOR AGRICULTURE,
LAND REFORM AND RURAL DEVELOPMENT**

First Respondent

THE LAGOONBAY LIFESTYLE ESTATE (PTY) LTD

Second Respondent

**THE MEC FOR LOCAL GOVERNMENT, ENVIRONMENTAL
AFFAIRS AND DEVELOPMENT PLANNING
OF THE WESTERN CAPE**

Third Respondent

THE GEORGE MUNICIPALITY

Fourth Respondent

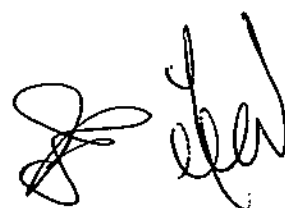
APPLICANT'S SUPPLEMENTARY FOUNDING AFFIDAVIT

I, the undersigned,

GLYN ERIC WILLIAMS

do hereby make oath and say that:

1. I am the Applicant's attorney of record and have been duly authorised to make this Supplementary Founding Affidavit on its behalf.



1.1 Between 2009 and 2013 I represented the Applicant in numerous matters relating to the proposed development by the Second Respondent (hereinafter "the Developer") of the Farm Hoogekraal, No 238, and the Farm Buffelsdrift, No 227, in the division of George. In 2017 I was instructed again and brought this application in June 2017. For a period of more than two years between September 2017 and the middle of January 2020 I was not Applicant's attorney of record. I am thoroughly familiar with the background to this application.

1.2 The facts deposed to in this affidavit are within my personal knowledge or derive from documentation at my disposal.

1.3 Where I rely on information conveyed to me by others, I indicate the source of the information. I believe such information to be correct.

2. The initial Founding Affidavit in this matter was made by the chairman of the Applicant, Dr Wilhelm Anton Gericke ("Gericke"). This is a Supplementary Founding Affidavit, the purpose of which is the following:

2.1 The joining of two further parties, viz. the MEC for Local Government, Environmental Affairs and Development Planning of the Western Cape and the George Municipality;

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- 2.2 The amendment of the Notice of Motion by requesting the review and setting aside of consent 52007 of 26 January 2017 (hereinafter "the January 2017 consent") instead of the relief sought in the original Notice of Motion in respect of consent 49829 of 5 November 2014 (hereinafter "the November 2014 consent");
- 2.3 The extension of the time period provided in the Rules of this Court for the filing of these supplementary papers and, insofar as is necessary, requesting condonation for their late filing due to the circumstances set out herein and in the supporting/confirmatory affidavit of Dr Gericke; and
- 2.4 The adducing of further evidence that has come to the attention of the Applicant subsequent to launching the above application in June 2017. In this regard I attach as Annexure "A" a chronology of relevant events.

THE ADDITIONAL PARTIES

3. The Third Respondent is the MEC for Local Government, Environmental Affairs and Development Planning, a provincial minister of the Western Cape government, cited in his capacity as such, of 7 Wale Street, Cape Town, Western Cape (hereinafter "the MEC"), and who accepts service of all legal process c/o the State Attorney, Liberty Life Centre, 22 Long Street, Cape Town.

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4. The Fourth Respondent is the George Municipality, a municipality established in terms of the provisions of the Local Government: Municipal Systems Act, 32 of 2000 ("the Municipal Systems Act") with its offices at York Street, George, Western Cape (hereinafter "the Municipality"). The development this application is concerned with is situated in the area of jurisdiction of this local authority. The Municipality accepts service at the Cape Town office of its attorneys, Millers incorporated, at 25th Floor ABSA Building, 2 Riebeeck Street, Cape Town.
5. The above cited parties have a material interest in the outcome of this matter, as they are necessarily involved as decision makers or commenting authorities in the suite of approvals leading to the final authorization or refusal of the proposed development.
 - 5.1 At this stage the development has yet to be considered by the MEC and the Municipality. The January 2017 consent, however, until set aside by this Honourable Court, exercises at least certain persuasive authority guiding the MEC and the Municipality when commenting or making their provincial and local development planning decisions.
 - 5.2 In the light of the facts set out in paragraph 15 and 17 of Applicant's Founding Affidavit and herein below it is obvious that the Minister and/or his delegate had failed to consult the local authority and the provincial department of Development Planning prior to granting the January 2017 consent – and the November 2014 consent, for that

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matter. In the premises it is submitted that this lack of consultation and transparency is in conflict with the constitutionally enshrined principle of fair and lawful administration and co-operative governance.

5.3 There seems to be a difference of opinion between the Second Respondent ("the Developer") on the one hand and the Minister and the MEC on the other, as to whether in this instance the Minister has jurisdiction in terms of the Subdivision of Agricultural Land Act, 70 of 1970 ("SALA"). According to legal advice received by the Minister the subject property falls outside the ambit of the definition of agricultural land as set out in section 1 of SALA. Subsequently, the Minister has admitted that he had acted *ultra vires* in granting subdivision in this case. Clarity and finality on this issue would be of importance to the additional respondents concerned. I shall deal with the dispute about the applicability of SALA below.

5.4 For all of the reasons above the additional two Respondents have an interest in the outcome of the matter.

5.5 No costs orders are sought against these Respondents, unless they wish to oppose the application.

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THE AMENDMENT OF THE NOTICE OF MOTION

6. The Applicant intends to file the Amended Notice of Motion annexed hereto. In support thereof I say:

6.1 By the time that the Applicant launched its above application in June 2017 to have the November 2014 consent reviewed and set aside, this consent had been withdrawn already and replaced by a similar consent: No 52007, dated 26 January 2017, granted by one H J Lindemann, as delegate of the Minister. A copy of the January 2017 consent with covering letter is attached hereto, marked Annexure "B". I submit that the differences between the two consents are not material in the context of this litigation, and that this amendment does not introduce new matter.

6.2 In essence the January 2017 consent amounts to little more than an update of the November 2014 consent by substituting a revised subdivision plan of May 2016 (annexed to Annexure "B"), by amending conditions 3.1 and 3.2 to reflect changes in the provincial and local legal planning framework that had occurred after November 2014, by removing the very onerous condition 3.3 about the unavailability of agricultural irrigation water for residential use, and by extending the 5-year validity of the November 2014 consent for a further 26 months.

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6.3 The development basically consists of an agri-lifestyle estate of 200 units and has remained more or less as described in paragraphs 24 – 26 of the Founding Affidavit. Originally the size of the individual portions ranged from 2 to 14 hectares, then in terms of the January 2017 consent it was reduced to 2 to 7 hectares – in both cases with one or two larger portions to be set aside for estate infrastructure. Currently it is described as 200 smallholdings of about 3 ha each. This latest version is contained in the Developer's Motivational Report of February 2020, filed in support of its currently pending applications for planning approval. According to this report about 200 residential smallholdings of +/- 3 ha each are spatially integrated into orchards and vineyards, grazing land and other agricultural and nature conservation uses. Since the land is lying fallow, it is planned to recapitalize about 190 ha at a rate of *"roughly R260.000 per hectare"* for the purpose of intensive agriculture – a capital investment of more than R51 million *"which will only be sourced from the sale of appropriate land units, as the scale and the risk are excessive for normal farming enterprises."* (p 20 of the Motivational Report). I will refer to this report again in paragraph 7.13-7.14 below.

6.4 The differences between the two consents are as follows:

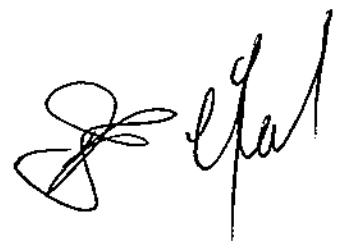
6.4.1 the November 2014 consent related only to those 30 portions of farm 238 and 227 that the Developer has actually owned

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since 2010, as reflected by a recent extract from the Deeds Office records, a copy of which is attached Annexure “C”.

6.4.2 The January 2017 consent relates to 37 portions of farms 238 and 227. The portions listed as 1.31 to 1.37 measuring in extent 221.92 ha are now, again, incorporated into the project of an estate of 200 small holdings. They never belonged to the Developer. Their owners participated in the originally proposed golf estate project, then withdrew their properties from the Developer's subsequent development projects, and then – after the November 2014 consent had been granted – agreed again to be included. It is common cause that Hoogekraal Highlands Trust (with 140 ha plus substantial irrigation rights) and Pelgrimskraal Trust (with 50 ha) had at one stage withdrawn their consent. It would appear that they have again joined the Developer's development project and have granted power of authority to the Developer to include their land in the subdivision plan.

6.4.3 The particularly onerous condition 3.3, directing that agricultural irrigation water shall not be available for residential use, has been scrapped, thereby giving the Developer a free hand to use the scarce agricultural irrigation water for residential purposes as well.

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6.5 As appears from the covering letter to the January 2017 consent ("B") it was granted within 11 days from the date of application (15 January 2017). It would appear that for all practical purposes this application was treated as a routine update/amendment of an existing consent. No reasons are attached to the consent and there is no indication as to what further information, if any, the decision maker considered, except for the request to remove the onerous condition 3.3 of the November 2014 consent.

6.6 Thus the present dispute still concerns the same matter between the same parties. As the information before the Minister would have been the same, the grounds for Applicant's review would apply equally to the January 2017 consent. The proposed amendment to the Notice of Motion introduces in substance neither new matter nor would it prejudice First or Second Respondent. The amended application rests on and will be decided against the background of the Founding Affidavit. Therefore it is, in my respectful submission, in the interest of justice to allow the amendment of the Notice of Motion, rather than to compel the Applicant to bring a fresh application for the review of the January 2017 consent.

THE FACTS

THE JANUARY 2017 CONSENT

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7. The factual background to the November 2014 consent has been set out in paragraphs 20 to 29 of Applicant's Founding Affidavit and is equally relevant to the 2017 consent. Additional facts that have come to the Applicant's and/or my knowledge only after the launching of this application are set out below.

7.1 As set out in paragraph 10 of Applicant's Founding Affidavit, in September 2016 Applicant had requested access to information in respect of *"All matters related to the subdivision of several portions of the Farm Hoogekraal 238 and Buffelsdrift 227 in the Division of George"*. This comprehensive request for access had no time limit and the response thereto should have included the complete information/correspondence up to 8 December 2016 (the day of granting the request on appeal). But the response only included heavily censored documents (clearly unprivileged, but probably with embarrassing contents) up until 5 November 2014, as detailed in Annexure "WG1" to Applicant's Founding Affidavit.

7.2 One can therefore safely conclude that there had been no further information on file in respect of Farm Hoogekraal 238 before 8 December 2016, and that at that stage there was no new application pending for any amendment of the existing November 2014 Consent.

7.3 The existence of the January 2017 consent that apparently superseded the November 2014 consent was unknown to the

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Applicant and me at the time that the present application was launched in June 2017.

7.4 The Minister first referred to two subsequent consents – No 51968 and No 52007 – in a letter by the State Attorney, dated 1 August 2017, marked Annexure “D”. The State Attorney did not give any information relating to dates or contents of those consents and attached no copies. I was not in a position to form a view as to the relevance of those consents.

7.5 The letter was marked “Without Prejudice”, because the Minister suggested to the Applicant to withdraw its application due to the fact that the impugned November 2014 consent had been superseded and that the Minister had acted *ultra vires* when granting all those consents. Instead of simply withdrawing his own invalid consents or taking himself on review, the Minister expected the Applicant to withdraw its application and leave all of his *ultra vires* decisions standing and in force. In the past the Developer never had to take refusals by the National Department of Agriculture, Forestry and Fisheries (“DAFF”) on review; they were simply withdrawn when the Developer complained and its politically well-connected associates lent their support. In this regard I refer to the instances mentioned in the attached chronology.

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- 7.6 On 18 August 2017 I replied and requested copies of those two consents and copies of the relevant records. A copy of my letter, dated 18 August 2017, is annexed marked “E”. The State Attorney and the Minister to this date have failed to comply.
- 7.7 The State Attorney also mentioned that a legal opinion obtained by DAFF had come to the conclusion that the Minister had acted *ultra vires* and that he had admitted this as a fact. Accordingly I followed up and asked as well for a copy of the opinion, which I never received from the State Attorney.
- 7.8 In this context I need to mention that the Minister never filed any notice in response to the application, neither to oppose nor to abide.
- 7.9 The Developer filed its notice of opposition. Strangely enough, I did not receive any communication in respect of a possible settlement or otherwise from Werksmans, the Developer's attorneys of record (“Werksmans”). Werksmans never put the Applicant to terms in any way, did not file answering papers, nor took any other steps to bring the matter to conclusion. I was unaware at the time that during July 2017 Roux had made contact with Gericke by SMS with a view to a meeting, but that Gericke had declined and asked Roux to communicate with the Applicant only via their respective attorneys.

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- 7.10 Seeing that the Minister was already out of time in complying with Rule 53 and furnishing the record, I found it unusual that the State Attorney failed to reply to my letter of 18 August 2017 within a reasonable time.
- 7.11 Already towards the end of July 2017 the Applicant had alerted me that for insufficiency of funds it would have to terminate my mandate. Accordingly, an application to compel the Minister to comply with the Rules of Court was not an option at that stage. The Applicant decided to rather monitor the situation and amend/supplement the application after the Minister had furnished the record, not expecting that the Minister would remain throughout in disregard of the Rules of Court.
- 7.12 My last instructions related to my aforesaid letter of 18 August 2017. Consequently, I had no further instructions to follow up on my earlier requests for reasons (Annexure "WG2" of 3 March 2017 to the Founding Affidavit), nor on the two consents, or the record. By the middle of September 2017 I handed my files to Walter Anderson of Cullinan & Associates, Applicant's new attorneys of record ("Cullinans"). When I took over the matter again in January 2020 I did not appreciate at the time the fact that the January 2017 consent was still alive and the relevance thereof. I had assumed that the development was dead and that by 4 November 2019 the original consent had lapsed and the application had become moot as a result thereof.

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7.13 In order to establish whether the development was indeed dead, Applicant launched a fresh round of requests for access to information in respect of any matter relating to Farm Hoogekraal 238, and addressed numerous relevant authorities. Only the Provincial Department of Agriculture provided access to information on 16 April 2020 and disclosed to the Applicant – albeit incomplete – copies of an Inception Report dated January 2019 and a Motivation Report dated February 2020. The January 2017 consent was Annexure C to the said Motivational Report. Although the number of the consent was erased by Tippex (compare Annexure “B” hereto above), I figured out that this document had to be consent No 52007 referred to by the State Attorney in August 2017.

7.14 Both reports were prepared by the Developer’s agents in support of another round of applications that would be necessary to get the green light for the development of the current 200-unit agri-lifestyle estate. I only attach a short extract from the Motivational Report, marked Annexure “F”, that sets out the concept of the development. The two voluminous reports are not directly relevant to the question whether the January 2017 consent is reviewable. They will be made available on request. Suffice to say that the Applicant disputes that the information contained therein is sufficient, reliable or correct.

8. From the documents in Cullinans’ file I gathered the following facts, which Applicant’s chairman confirms in his confirmatory affidavit, filed herewith:

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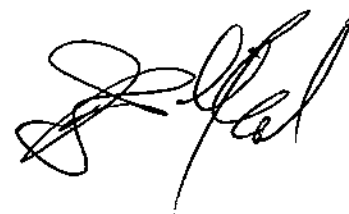
- 8.1 By means of a further Request for Access to Information to the Western Cape Government the Applicant had obtained the legal opinion dated 2 May 2017, referred to above. As the Minister had admitted in the letter of 1 August 2017 ("D"), this opinion concluded that the Minister had acted *ultra vires*. In her letter of 1 August 2017 ("D") the State Attorney stated that the Minister admitted as much. It is not necessary to attach the opinion, as it contains mainly argument.
- 8.2 The Western Province Government subsequently confirmed the position of the Minister, and accordingly issued a Circular EADP 0018/2017 to Municipalities, the Deeds Office and the Surveyor General, advising them that in cases as the present one a consent to subdivision by the Minister was neither necessary nor sufficient for the registration and transfer of subdivided agricultural portions by the Surveyor General or by the Registrar of Deeds. In other words, the consents to subdivision issued in respect of Farm Hoogekraal 238 may not by themselves be the legal basis for creating separate farm portions or smallholdings. A copy of this Circular, dated 31 August 2017 is attached, marked Annexure "G".
- 8.3 Against this background Cullinans reverted to the State Attorney and asked the Minister to settle the pending review matter, either by taking himself on review or by agreeing to an order to set aside the

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consents in question. A copy of this letter, dated 20 November 2017, is marked Annexure “H”.

8.4 It would appear that the Developer had already submitted the January 2017 consent to the Surveyor General for registration of the diagrams of the 200 subdivided portions of Farm Hoogekraal 238. For the reasons set out in his email of 8 March 2018, Andrew Ballantyne at the Surveyor General's office had deferred the registration of such portions, as appears from a copy thereof, marked Annexure “I”. This email contained a copy of the January 2017 consent, and was conveyed to Cullinans on the same day.

8.5 On 6 March 2018 the State Attorney replied, again without attaching any of the requested documents, a copy of her letter is annexed marked “J”. She apologised for the delay and advised that Applicant's proposal had been submitted to the then Minister, but that she was still awaiting instructions. She added the question: *“Has the Developer an (sic) view on the setting aside of the decision of the Minister?”* To date, Cullinans have not received a response to their settlement proposal of 20 November 2017 (“H”). There has been no further communication from the State Attorney. It would appear that neither the Minister nor the Developer attached any urgency to the resolution of this matter.

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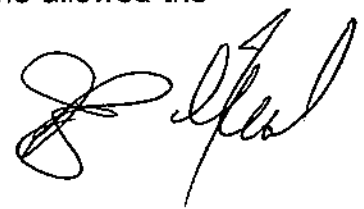
- 8.6 Also on 20 November 2017 Cullinans wrote to the Surveyor-General requesting an undertaking that the subdivision application will not be considered before a court has decided on the matter. I attach a copy of the letter as “K”. No undertaking was received, but on 8 March 2020 Cullinans were advised that in terms of standing instructions the SG would not register subdivided portions without municipal and in this case also provincial planning approval.
- 8.7 I need to add that from the 31st of October 2018 until January 2020 the Applicant was effectively without an attorney. Walter Anderson had left Cullinans in June 2018 and the handover to another attorney was of short duration, as the latter also left the firm a few months later. Applicant, however, was not concerned that the matter could suddenly become urgent, as there were the standing instructions from the Surveyor General, dated 6 March 2018 (Annexure “I”), which assured it that no registration of subdivided smallholdings could take place without the prior subdivision and rezoning approval by the Municipality.
- 8.8 It is respectfully submitted that since the Developer had filed its Notice of Opposition, and as the Minister had acted *ultra vires*, it was the Minister’s own responsibility to withdraw his invalid consent or to ensure that it was set aside by a competent court. Instead the State Attorney was deferring to the Developer.

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8.9 It further bears mention that before the expiry of the 90-day period for furnishing reasons in terms of PAJA, reckoned from 3 March 2017, the legal opinion dated 2 May 2017 was already forwarded to the Western Cape Government, as appears from an email of 18 May 2017 by one Annette Stoltz of the Directorate: Land Use and Soil Management, attached and marked Annexure "L", and wider circulation was authorised by the State Attorney, as appears from an email, dated 31 May 2017, attached and marked Annexure "M". Within this period the Minister should have given reasons prepared by this directorate. The reasons should have included a copy of the then operative January 2017 consent and an admission that consents 49829, 51968 and 52007 were all invalid, being *ultra vires*, as they had been granted in error of his powers in terms of SALA.

8.10 It is respectfully submitted that the conduct of the Minister and/or the officials involved in this matter was unlawful and in bad faith. Instead of openness, transparency, and compliance with the law, they censored and withheld information that they were obliged to furnish to the Applicant in terms of PAJA, PAIA and the Rules of Court. Further argument in this regard will be addressed to the Court at the hearing of the matter.

9. It is further submitted that this litigation could have been avoided all together if the Minister had timeously withdrawn the admittedly invalid consents he had granted to the Developer, or taken himself on review. Instead, he allowed the

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Developer to continue using the invalid January 2017 consent. The Developer did submit it to the Surveyor General for registration of 200 agricultural portions or smallholdings and is currently submitting it to the provincial authorities for provincial and local planning approvals. This appears from annexure "C" to its Motivational Report, dated February 2020, to which I referred above, an extract of which is annexed marked Annexure "N".

THE INFORMATION BEFORE THE DELEGATE OF THE MINISTER WHEN GRANTING THE JANUARY 2017 CONSENT

10. As set out above, the information officer of DAFF had purported to give access to all information (albeit heavily censored) relating to Farm Hoogekraal 238 up to and including 8 December 2016, as appears from her letter of 8 December 2016, annexed marked Annexure "O". The information released contained no documents relating to either consents 51968 or 52007.

10.1 The Rule 53 record will show which further information, if any, had been submitted other than routine matters like the amended subdivision plan of May 2016 and the powers of attorney of the co-operating owners of the additional properties listed under 1.31 – 1.37.

10.2 The January 2017 consent itself reveals that the application was registered on 15 January 2017 as 2017_01_0103 and it was conveyed by email. It was granted 11 days later on 26 January 2017.

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- 10.3 I refer to paragraph 17 of the Founding Affidavit and Annexure “WG4” thereto, where Applicant sets out that in the period from October 2016 until the middle of December 2016 the Developer was relying on the November 2014 consent to obtain a certificate of exemption from municipal planning approval in terms of section 24(1)(g)(i) of the Municipality’s Land Use Planning By-laws for its agri-lifestyle estate of 200 “agricultural portions” or smallholdings.
- 10.4 When this attempt met with resistance from the Municipality, the Developer turned to the Provincial Planning Department for guidance and proffered a legal opinion, dated 2 December 2016, in support of its position, i.e. that the Minister had indeed the power to validly grant the subdivision, that the Municipality was bound by his consent, and further that the development constituted *bona fide* agriculture and by no means “urban expansion”. I do not attach a copy of the opinion or the motivating letter by the Developer, as it contains mainly argument.
- 10.5 In any event, the Head of the Department of Environmental Affairs and Development Planning (“the HoD”) in his reply to Werksmans, dated 12 December 2016, dealt with their arguments and concluded that a consent by the Minister under SALA was not required in this matter, and that the question of subdivision and rezoning to “smallholding” fell entirely within the planning authority of the Municipality, subject to provincial planning approval in terms of sec

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53 of the Western Cape Land Use Planning Act, 3 of 2014 ("LUPA"), and approval in terms of the National Environmental Management Act, 107 of 1998 ("NEMA").

- 10.6 In paragraph 10.4 and 10.5 of his letter the HoD pointed out specifically that *"the DAFF had been party to the Surveyor General's instructions regarding this matter and should therefore have known that in the case of the proposed Lagoonbay Lifestyle Estate development, an approval in terms of Act 70 of 1970 was not required"*, and *"that a consent granted in error does not have the effect that an exemption can now be given from the requirements to subdivide these parcels of land in terms of the LUP By-laws."* A copy of this letter is attached marked Annexure "P".
- 10.7 The November 2014 consent would have expired in November 2019. Clearly in light of the lengthy process awaiting the approval of its current development proposal, the Developer would need to buy time.
- 10.8 Against the express advice of the HoD in his letter of 12 December 2016 ("P"), the Developer promptly went ahead to apply again to DAFF for another consent to subdivision, although it was "not required" by law. Be that as it may, an updated consent to subdivision, purportedly granted in terms of Section 4(2) of SALA,

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would give the Developer the green light for a bigger project with less constraint. Such new consent would

10.8.1 demonstrate to other authorities, financiers and potential clients that this agri-lifestyle estate continued to enjoy the approval of the National Department of Agriculture clothed with the authority and specialist knowledge in all matters of agriculture;

10.8.2 remove the previous condition 3.3 that prohibited the use of limited agricultural water resources for residential purposes, without putting an alternative remedy in its place; and

10.8.3 extend the validity of its existing consent by a further few years and buy the Developer more time to obtain final authorization for its project.

10.9 In light of the facts above it is respectfully submitted that it is unlikely that any materially different information could have been placed before the Delegate during the time between 8 December 2016 and 15 January 2017 to motivate the requested changes. His reasons will show whether he properly considered any information at all and, if so, what he considered.

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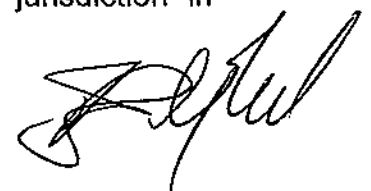
11. In paragraphs 25 – 29 of the Founding Affidavit the Applicant dealt with the inadequate, unreliable and irrelevant information that the Delegate would have considered and the relevant information (including relevant agricultural policies and the independent soil report by Dr JP Nell (“Nell”)) available to him and the Department that he failed to take into account and/or expressly disregarded.
12. Judging by the timing of the application, the lack of advertising and the speed with which it was approved, the decision-making process was irregular.
13. It is further submitted on behalf of the Applicant that the Developer’s CEO or agents failed once again to disclose material information adverse to the Developer’s aims and/or correct earlier misrepresentations about the true agricultural potential of the land, the water situation and the reasons for the derelict state of the land.
 - 13.1 In this respect the Developer or its agents failed to bring the contents of the affidavit by Nell, dated 8 April 2010, to the attention of the Minister or his Delegate. This affidavit was an annexure to Applicant’s Supplementary Founding Affidavit (CR 632 – 709) in the WCHC case No 22855/2009. Applicant referred in its founding papers to Nell’s report dated July 2006. Nell is an independent professional consulting soil scientist, who was commissioned to provide a soil report for the Directorate of Land Use and Soil Management of DAFF in 2006.

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- 13.2 The Developer's CEO Werner Roux cannot claim that he had no knowledge of the affidavit by Nell, because he deposed to the Answering Affidavit in WCHC Case No 22855/2009.
- 13.3 Nell's affidavit deals in more detail than his earlier report with the serious shortcomings and misrepresentations of the soil studies obtained by the Developer, and the correct assessment of the agricultural potential of Farm Hoogekraal 238. The Developer has constantly relied on the incorrect soil findings by his own soil expert Schloms and has presented them to various authorities over the years to obtain the necessary development approvals. A copy of the body of Nell's affidavit and his CV is attached, marked Annexure "Q". Any further annexures to the affidavit will be made available on request.
14. In conclusion, the facts set out by Applicant in its founding papers apply *mutatis mutandis* to the January 2017 consent, with the exception that the name of the Delegate of the Minister signing the consent has not been erased. Accordingly paragraphs 13 and the second half of paragraph 19.2 of the Founding Affidavit can be disregarded.

GROUND'S OF REVIEW

15. The Applicant relies on the same grounds of review as in the Founding Papers, set out in paragraphs 10.5, 10.6, 19.1, 19.2 (subject to the proviso in the above paragraph) (since the Minister admittedly lacked jurisdiction in

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terms of SALA), 19.3, 19.3.1, 19.3.2, 19.3.3., 26.4 – 27, 29, 30 and 31. In addition it is submitted that:

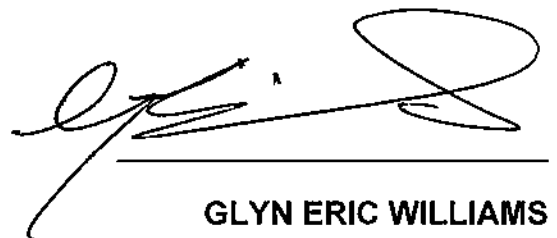
15.1 The patent lack of proper procedure and public participation, combined with the irrationality of this decision against the weight of evidence and the purpose of the empowering legislation, are indications of bias, undue influence or gross incompetence.

15.2 The Applicant reserves the right to supplement its grounds of review once the Minister has provided the Rule 53 record and his reasons.

15.3 In light of the facts set out above it would not serve the interests of justice to refer the matter back to the Minister for a fresh decision. It is submitted that this Honourable Court is in a position to assess the merits on the available evidence and withdraw Consent No 52007 of 26/01/2017.

16. Filed herewith is the supporting/confirmatory affidavit by Wilhelm Anton Gericke, the Applicant's chairman.

17. In the premises the Applicant asks for an order in terms of the amended Notice of Motion, filed herewith.

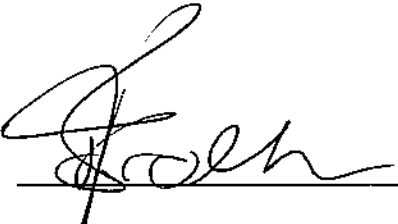


GLYN ERIC WILLIAMS

Sworn to and signed in my presence, at CAPE TOWN on this 18th
day of JUNE 2020 by the Deponent who declared that he:

- (a) knows and understands the contents hereof;
- (b) has no objection to taking the prescribed oath;
- (c) considers the prescribed oath to be binding on his conscience;

and uttered the words: "I swear that the contents of this declaration are true, so help me God."


COMMISSIONER OF OATHS

TRUDIE BROEKMANN
Commissioner of Oaths
Practising Attorney RSA
218 Buitengracht
Bo-Kaap
Cape Town, 8001



ANNEXURE "A"

ANNEXURE "A"

FARM HOOGEKRAAL 238: CHRONOLOGY OF AGRICULTURAL AND PLANNING DECISIONS			
Date	Contents of document	Annexures WAG WG	Page No Record ¹ 22855/2009 10208/2017
2002	Preparation of land acquisitions for golf estate	WAG 7	
22/04/ 2005	Application in terms of SALA for extraction of land from SALA prior to amendment. of Guide Plan	WAG 70	
13/09/2005	Provincial DoA does not support the application		354-355
6/04 / 2006	National DoA finds subdivision unacceptable	WG7	355
April 2005	Werner Roux and Roux Shabangu complain about negative attitude of National DoA		
31/05/2006	Provincial DoA reverses its decision	WAG 35	356
2/06/2006	Stoltz of National DoA instructs Dr Nell to prepare an independent soil report		
June 2006	Dr Nell inspecting the farm		632
July 2006	Werner Roux engages with Selemela and political heavyweights to design a land reform project and social compact to make the application for a golf estate politically acceptable	WAG 26 WAG 78-82	358 & 560-582
20/07/2006	Nell furnishes report: finding high potential soil not to be sacrificed for township development		360
20/07/2006	Werner Roux letter to Selemela confirming his land reform and social upliftment undertakings	WAG79	582
21/07/2006	Thereupon Selemela recommends subdivision and rezoning subject to land reform & all agricultural water allocation to the land reform project north of N2	WAG 36	358
24/07/2006	SCLA an emerging farmer association brings the Nell report to the attention of Provincial DoA	WAG 74	
18/08/2006	SCLA brings Nell report of attention of National Minister of Agriculture and asks how he could have given consent in face of such evidence	WAG 83	591
17/07/2007	Provincial MEC of Environmental Affairs and Development Planning Tasneem Essop amends the Guide Plan to Township Development		
2007 -2010	LagoonBay taking transfer of 30 farm portions at aggregate costs of R377 million.		
Aug. 2008	Independent review consultants find Lagoonbay's EIR inadequate & recommend refusal; Environmental approval refused		
	Lagoonbay appeals		
	Departmental recommendation to refuse appeal		
5/05/2009	Minister Uys grants environmental approval		
4/08/2009	Application for subdivision and rezoning to George Municipality (original project enlarged)		
3/02/2010	National DoA confirms initial refusal of township development to George Municipality		

¹ The chronology including annexure numbers and court record references will be completed prior to hearing

ANNEXURE "A"

ANNEXURE "A"

16/02/210	Prov. DoA confirms it does not support township development and rezoning and subdivision		
30/03/2010	Cheslyn Mostert complains to Nat. Min of Agriculture about 3 Feb 2010 refusal		
13/05/2010	Nat. Minister of Agriculture withdraws letter of refusal of 3 Feb 2010	WAG1	
17/05/2010	Delegate of Nat. Minister of Agriculture advises that application may only be reconsidered once LagoonBay has complied with conditions in conditional approval of 21 July 2006 re land reform, social upliftment and water rights.		
14/07/2010	Municipal approval of rezoning and subdivision granted against express advice by municipal planning and engineering department		
28/04/2011	Provincial zoning approval refused		
2009 – 2014	Court actions pending about environmental approval and zoning refusal		22855/2009 10751/2011
20/04/2012	LagoonBay abandons the golf estate and applies for approval of large agri- equestrian estate to make use of agricultural water rights		
28/08/2012	LagoonBay reduces density of the agri- estate and submits new application to George Municipality		
18/08/2014	New application for consent to subdivision in terms of section 4(2) of SALA	WG1	
09/10/2014	WC MEC of environmental affairs declares the environmental approval of 9/05/2009 to have lapsed		
5/11/2014	Consent to Subdivision 49829 granted	WG3	
Oct 2016	Application for exemption from municipal planning launched at George Municipality, pressure by Department of Land Reform to speedily grant exemption. Municipality declined		
2/12/2016	Opinion by de Waal, representations to provincial authorities that this is a case for exemption from municipal planning.		
8/12/2016	Access to information discloses Consent 49829		
12/12/2016	Guidance letter by HoD of Department of Provincial Development Planning that Consent in terms of SALA is not "required", therefore not a case for exemption from municipal planning, but also for provincial planning approval and environmental approval		
15/01/2017	LagoonBay applies again for consent to Subdivision on a modified subdivision plan and estate proposal. 200 units of 2 -7 ha		
26/01/2017	Consent 52007 granted, condition 3.3. lifted		
03/03/2017	Request for reasons ito PAJA iro consent 49829	WG2	
2/05/2017	National Minister of Agriculture obtains opinion, conclusion that he acted ultra vires ito SALA		
May 2017	He communicates his view to prov, government		



ANNEXURE "A"

ANNEXURE "A"

09/06/2017	Launch of review application to have November 2014 consent set aside		10208/17
June 2017	LagoonBay files Notice of Opposition		
28/08/2017	Application for Access to Information to WC government ultimately leads to disclosure of the Van Wyk SC opinion of 02/05/2017		
31/08/2017	Prov. Gov issues new circular reflecting the legal position to Surveyor General, Deeds Office and local authorities		
Jan 2020	LagoonBay consults with Prov. Gov. about a new version of agri-lifestyle estate on basis of Consent 52007		
20/02/2020	LagoonBay launches new application for provincial planning approval based on Consent 52007		
16/04 2020	Applicant obtains incomplete copies of the Inception Report of January 2019 and the Motivation report of February 2020 through Access to Information. Consent 52007 attached thereto.		





**agriculture,
forestry & fisheries**

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Private Bag X120, Pretoria, 0001
Delpen Building, C/o Annie Botha & Union Street, Riviera, 0084

From: Directorate Land Use and Soil Management
Tel: 012-319-7634 Fax: 012-329-5938
Enquiries: Helpdesk Ref: 2017_01_0103

Lagoon Bay Lifestyle Estate
P.O. Box 1300
GEORGE
6530

Attention: Dr Werner Roux

**APPLICATION IN TERMS OF THE SUBDIVISION OF AGRICULTURAL LAND ACT,
1970: SUBDIVISION OF SEVERAL PORTIONS OF THE FARM HOOGEKRAAL NO. 238 AND
FARM BUFFELSDRIFT NO. 227, DIVISION GEORGE, WESTERN CAPE PROVINCE**

Your e-mail dated 15 January 2017 refers.

With reference to the above-mentioned subject, the department wishes to inform you that the application has been granted.

Consent No. 26/01/2017, issued in terms of section 4 of the Act, is enclosed in duplicate.

To facilitate registration the conveyancer must lodge the signed copy of the consent with the Registrar of Deeds together with the documents for registration.

Kindly note that the properties concerned are subject to the provisions of the Conservation of Agricultural Resources Act 1983 (Act 43 of 1983).

It is trusted that you will find the decision in order.

Yours faithfully

**MR H.J. LINDEMANN
ACTING DIRECTOR: LAND USE AND SOIL MANAGEMENT
DELEGATE OF THE MINISTER**

DATE 26/01/2017

CC: The Surveyor-General Private Bag X 9028 CAPE TOWN 8000

CC: Land Use and Soil Management P.O.Box 380 BELLVILLE 7535

CC: Mr Brandon Layman Landuse Management Department of Agriculture: Western Cape Private Bag x 1 ELSENBURG 7607

DAFF/MB/2017/Hooge Kraal No. 238



**agriculture,
forestry & fisheries**

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

VERW/REF.

2017_01_0103

TOESTEMMING

**KRAGTENS DIE WET OP DIE ONDERVERDELING
VAN LANDBOUGROND, 1970**

CONSENT

**IN TERMS OF THE SUBDIVISION OF
AGRICULTURAL LAND ACT, 1970**

2017

By virtue of the powers delegated to me by the Minister of Agriculture, Forestry and Fisheries consent is hereby granted in terms of section 4(2) of the Subdivision of Agricultural Land Act, 1970, for the subdivision of the agricultural land described in paragraph 1, into units indicated in paragraph 2, subject to the conditions set out in paragraph 3.

PARAGRAPH 1: THE AGRICULTURAL LAND TO WHICH THIS CONSENT APPLIES

- 1.1 REMAINDER, IN EXTENT 46, 4954 HECTARES;
- 1.2 REMAINDER OF PORTION 5, IN EXTENT 29, 5737 HECTARES;
- 1.3 REMAINDER OF PORTION 6 (PORTION OF PORTION 5), IN EXTENT 58, 1224 HECTARES;
- 1.4 REMAINDER OF PORTION 17 (PORTION OF PORTION 4), IN EXTENT 23, 9249 HECTARES;
- 1.5 REMAINDER OF PORTION 18 (PORTION OF PORTION 4), IN EXTENT 6, 6304 HECTARES;
- 1.6 REMAINDER OF PORTION 19 (PORTION OF PORTION 4), IN EXTENT 2, 2535 HECTARES;
- 1.7 PORTION 23 (PORTION OF PORTION 5-BEGINSEL), IN EXTENT 8, 5653 HECTARES;
- 1.8 PORTION 41 (PORTION OF PORTION 4-KUYLERS HOOP), IN EXTENT 31, 2635 HECTARES;
- 1.9 REMAINDER OF PORTION 42 (PORTION OF PORTION 5-DIE KAMP), IN EXTENT 6, 9674 HECTARES;
- 1.10 REMAINDER OF PORTION 64 (PORTION OF PORTION 1), IN EXTENT 10, 3716 HECTARES;
- 1.11 PORTION 66 (PORTION OF PORTION 1), IN EXTENT 15, 6191 HECTARES;
- 1.12 REMAINDER OF PORTION 68 (PORTION OF PORTION 1), IN EXTENT 18, 0155 HECTARES;
- 1.13 PORTION 69 (PORTION OF PORTION 1), IN EXTENT 31, 5989 HECTARES;
- 1.14 REMAINDER OF PORTION 70 (PORTION OF PORTION 4), IN EXTENT 42, 1196 HECTARES;
- 1.15 PORTION 74 (PORTION OF PORTION 4), IN EXTENT 6, 3038 HECTARES;
- 1.16 PORTION 75 (PORTION OF PORTION 4), IN EXTENT 20, 9442 HECTARES;
- 1.17 PORTION 76 (PORTION OF PORTION 4), IN EXTENT 6, 8181 HECTARES;
- 1.18 REMAINDER OF PORTION 77 (PORTION OF PORTION 4), IN EXTENT 11, 8030 HECTARES;
- 1.19 PORTION 79 (PORTION OF PORTION 6), IN EXTENT 10, 8128 HECTARES;
- 1.20 REMAINDER OF PORTION 82 (PORTION OF PORTION 1), IN EXTENT 20, 1689 HECTARES;
- 1.21 PORTION 102 (PORTION OF PORTION 17), IN EXTENT 24, 1751 HECTARES;
- 1.22 PORTION 122 (PORTION OF PORTION 77), IN EXTENT 4, 9356 HECTARES;
- 1.23 REMAINDER OF PORTION 179, IN EXTENT 13, 9646 HECTARES;

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- 1.2 PORTION 180 (PORTION OF PORTION 179), IN EXTENT 4, 1673 HECTARES;
- 1.25 PORTION 65 (PORTION OF PORTION 1), IN EXTENT 8, 8194 HECTARES;
- 1.26 PORTION 88 (PORTION OF PORTION 1), IN EXTENT 21, 334 HECTARES;
- 1.27 PORTION 90 (PORTION OF PORTION 1), IN EXTENT 3, 6466 HECTARES;
- 1.28 PORTION 72 (PORTION OF PORTION 1), IN EXTENT 1, 3619 HECTARES, ALL OF THE FARM HOOGE KRAAL NO. 238;
- 1.29 REMAINDER OF PORTION 5 (PORTION OF PORTION 3), IN EXTENT 23, 0978 HECTARES; AND
- 1.30 REMAINDER OF PORTION 9 (PORTION OF PORTION 3-CONCORDIA), IN EXTENT 88, 6511 HECTARES, BOTH OF THE FARM BUFFELS DRIFT NO. 227,
- 1.31 A PORTION OF PORTION 80(PORTION OF PORTION 6), MEASURING APPROXIMATELY 12 HECTARES;
- 1.32 REMAINDER OF PORTION 67(PORTION OF PORTION 1), IN EXTENT 16,7976 HECTARES;
- 1.33 PORTION 52, IN EXTENT 50,4855 HECTARES;
- 1.34 PORTION 81(PORTION OF PORTION 54), IN EXTENT 12,8480 HECTARES;
- 1.35 PORTION 55, IN EXTENT 96,7881 HECTARES;
- 1.36 PORTION 53, IN EXTENT 30,6924 HECTARES; AND
- 1.37 PORTION 160, IN EXTENT 15,1417 HECTARES, ALL OF THE FARM HOOGE KRAAL NO 238, DIVISION GEORGE, WESTERN CAPE PROVINCE

PARAGRAPH 2: CONSENT GRANTED

After consolidation the subdivision of the above-mentioned agricultural land into two-hundred and one (206) portions of which 200 (two-hundred) is measuring between 2,0 hectares and 71,0 hectares respectively and one (1) portion is measuring 10,21 hectares represented by the figures marked Ptn 1 to 205 and Remainder as shown on the sketch plan which is attached to this Consent.

PARAGRAPH 3: CONDITIONS PERTAINING TO THIS CONSENT

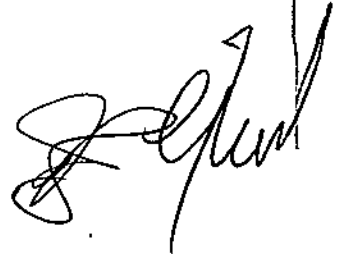
- 3.1 Simultaneously with registration of transfer, written proof will have to be submitted that the George Municipality has approved the appropriate zoning for smallholdings of the proposed portions in terms of the George Municipal Land-Use Planning By-Law (1 September 2016).
- 3.2 Simultaneously with registration of transfer, written proof will have to be submitted that all the conditions imposed in terms of the Western Cape Land Use Planning Act, Act No 3 of 2014 have been complied with.
- 3.3 This consent does not imply that the above-mentioned subdivisions are assured of a permanent water supply.
- 3.4 This consent does not exempt the property from the provisions of any other law, with special reference to the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983) and does not purport to interfere with the rights of any person who may have an interest in the agricultural land.
- 3.5 This consent is valid for 5 years from date of this grant. Should it not be registered within the timeframe, a new complete application must be lodged which will be considered on its own merits.

P/ GRAPH 4: WITHDRAWAL OF PREVIOUS CONSENT

This consent supersedes consent No. 49829 of 2014-11-05.

26/01/2017
DATE

H.J. Lindemann
MR H.J. LINDEMANN
ACTING DIRECTOR: LAND USE AND SOIL
MANAGEMENT:
DELEGATE OF THE MINISTER

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SEARCH INFORMATION

Summary

Search Type	DEEDS OFFICE COMPANY
Search Description	LAGOONBAY LIFESTYLE ESTATE (CAPE TOWN)
Reference	RENETTE
Date	08/05/2020

COMPANY INFORMATION

Summary

Deeds Office	CAPE TOWN
Company Name	LAGOONBAY LIFESTYLE ESTATE PTY LTD
Registration Number	200102246007
Company Type	COMPANY

PROPERTY INFORMATION

Property 1 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	90
Registration Division	GEORGE RD
Title Deed	T12590/2010
Purchase Date	11/12/2009
Registration Date	16/03/2010
Purchase Price	R 5 876 562,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2010 0070 0076
LPI Code	C02700000000023800090

Property 2 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	72
Registration Division	GEORGE RD
Title Deed	T12590/2010



PROPERTY INFORMATION

Purchase Date	11/12/2009
Registration Date	16/03/2010
Purchase Price	R 5 876 562,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2010 0070 0076
LPI Code	C02700000000023800072

Property 3 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	88
Registration Division	GEORGE RD
Title Deed	T12590/2010
Purchase Date	11/12/2009
Registration Date	16/03/2010
Purchase Price	R 5 876 562,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2010 0070 0076
LPI Code	C02700000000023800088

Property 4 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	65
Registration Division	GEORGE RD
Title Deed	T12589/2010
Purchase Date	11/12/2009
Registration Date	16/03/2010
Purchase Price	R 2 123 438,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2010 0070 0069
LPI Code	C02700000000023800065



PROPERTY INFORMATION**Property 5 of 30**

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	122
Registration Division	GEORGE RD
Title Deed	T15622/2009
Purchase Date	23/02/2009
Registration Date	08/04/2009
Purchase Price	R 5 261 667,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2009 0222 0591
LPI Code	C02700000000023800122

Property 6 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	76
Registration Division	GEORGE RD
Title Deed	T15622/2009
Purchase Date	23/02/2009
Registration Date	08/04/2009
Purchase Price	R 5 261 667,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2009 0222 0591
LPI Code	C02700000000023800076

Property 7 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	74
Registration Division	GEORGE RD



PROPERTY INFORMATION

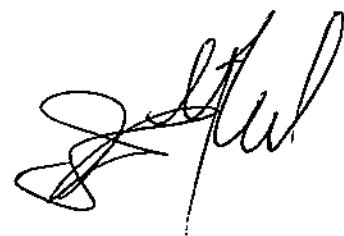
Title Deed	T19705/2008
Purchase Date	04/02/2008
Registration Date	19/03/2008
Purchase Price	R 7 600 000,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2008 0378 4341
LPI Code	C02700000000023800074

Property 8 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	69
Registration Division	GEORGE RD
Title Deed	T20836/2008
Purchase Date	25/09/2007
Registration Date	25/03/2008
Purchase Price	R 25 000 000,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2008 0377 1257
LPI Code	C02700000000023800069

Property 9 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	179
Registration Division	GEORGE RD
Title Deed	T28396/2008
Purchase Date	20/03/2008
Registration Date	24/04/2008
Purchase Price	R 14 500 000,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2008 0479 3631



PROPERTY INFORMATION

LPI Code C02700000000023800179

Property 10 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 66
Registration Division GEORGE RD
Title Deed T4069/2010
Purchase Date 20/10/2009
Registration Date 28/01/2010
Purchase Price R 12 000 000,00
Multiple Owners NO
Share -
Multiple Properties NO
Microfilm Number -
LPI Code C02700000000023800066

Property 11 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 180
Registration Division GEORGE RD
Title Deed T45790/2005
Purchase Date 17/12/2004
Registration Date 10/06/2005
Purchase Price R 6 840 000,00
Multiple Owners NO
Share -
Multiple Properties NO
Microfilm Number 2005 1584 2507
LPI Code C02700000000023800180

Property 12 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 64



PROPERTY INFORMATION

Registration Division	GEORGE RD
Title Deed	T66591/2008
Purchase Date	17/06/2008
Registration Date	15/10/2008
Purchase Price	R 5 000 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0865 3559
LPI Code	C02700000000023800064

Property 13 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	82
Registration Division	GEORGE RD
Title Deed	T66591/2008
Purchase Date	17/06/2008
Registration Date	15/10/2008
Purchase Price	R 5 000 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0865 3559
LPI Code	C02700000000023800082

Property 14 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	102
Registration Division	GEORGE RD
Title Deed	T74367/2007
Purchase Date	27/06/2007
Registration Date	14/09/2007
Purchase Price	R 2 170 000,00
Multiple Owners	NO
Share	-
Multiple Properties	NO



PROPERTY INFORMATION

Microfilm Number 2008 0368 3585
LPI Code C02700000000023800102

Property 15 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 79
Registration Division GEORGE RD
Title Deed T76531/2007
Purchase Date 28/06/2007
Registration Date 21/09/2007
Purchase Price R 19 550 000,00 *
Multiple Owners NO
Share -
Multiple Properties YES
Microfilm Number 2008 0368 3595
LPI Code C02700000000023800079

Property 16 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 41
Registration Division GEORGE RD
Title Deed T76531/2007
Purchase Date 28/06/2007
Registration Date 21/09/2007
Purchase Price R 19 550 000,00 *
Multiple Owners NO
Share -
Multiple Properties YES
Microfilm Number 2008 0368 3595
LPI Code C02700000000023800041

Property 17 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238



PROPERTY INFORMATION

Portion Number	42
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000023800042

Property 18 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	5
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000023800005

Property 19 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	227
Portion Number	5
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-



PROPERTY INFORMATION

Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000022700005

Property 20 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	23
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000023800023

Property 21 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	227
Portion Number	9
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000022700009

Property 22 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-



PROPERTY INFORMATION

Farm Number	238
Portion Number	77
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000023800077

Property 23 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	0
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000023800000

Property 24 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	17
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO



PROPERTY INFORMATION

Share -
Multiple Properties YES
Microfilm Number 2008 0368 3595
LPI Code C02700000000023800017

Property 25 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 18
Registration Division GEORGE RD
Title Deed T76531/2007
Purchase Date 28/06/2007
Registration Date 21/09/2007
Purchase Price R19 550 000,00 *
Multiple Owners NO
Share -
Multiple Properties YES
Microfilm Number 2008 0368 3595
LPI Code C02700000000023800018

Property 26 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 19
Registration Division GEORGE RD
Title Deed T76531/2007
Purchase Date 28/06/2007
Registration Date 21/09/2007
Purchase Price R19 550 000,00 *
Multiple Owners NO
Share -
Multiple Properties YES
Microfilm Number 2008 0368 3595
LPI Code C02700000000023800019

Property 27 of 30

Deeds Office CAPE TOWN
Property Type FARM



PROPERTY INFORMATION

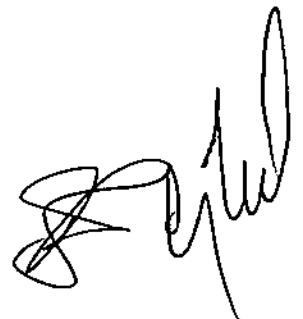
Farm Name	-
Farm Number	238
Portion Number	6
Registration Division	GEORGE RD
Title Deed	T76531/2007
Purchase Date	28/06/2007
Registration Date	21/09/2007
Purchase Price	R 19 550 000,00 *
Multiple Owners	NO
Share	-
Multiple Properties	YES
Microfilm Number	2008 0368 3595
LPI Code	C02700000000023800006

Property 28 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	68
Registration Division	GEORGE RD
Title Deed	T83694/2007
Purchase Date	26/07/2007
Registration Date	18/10/2007
Purchase Price	R 6 710 000,00
Multiple Owners	NO
Share	-
Multiple Properties	NO
Microfilm Number	2008 0368 3590
LPI Code	C02700000000023800068

Property 29 of 30

Deeds Office	CAPE TOWN
Property Type	FARM
Farm Name	-
Farm Number	238
Portion Number	75
Registration Division	GEORGE RD
Title Deed	T87303/2007
Purchase Date	28/06/2007
Registration Date	01/11/2007
Purchase Price	R 2 000 000,00



PROPERTY INFORMATION

Multiple Owners NO
Share -
Multiple Properties NO
Microfilm Number 2009 0387 0415
LPI Code C02700000000023800075

Property 30 of 30

Deeds Office CAPE TOWN
Property Type FARM
Farm Name -
Farm Number 238
Portion Number 70
Registration Division GEORGE RD
Title Deed T87304/2007
Purchase Date 21/06/2007
Registration Date 01/11/2007
Purchase Price R 6 500 000,00
Multiple Owners NO
Share -
Multiple Properties NO
Microfilm Number 2010 0081 1026
LPI Code C02700000000023800070

BOND(S)

Document Number	Microfilm Reference Number	Other Party	Value
BC79320/2007	2007 1219 0869	-	-

CONTRACT(S)

Document Number	Microfilm Reference Number	Other Party	Value
K1160/2008S	2008 0865 3571	-	R0,00

INTERNAL ENQUIRY HISTORY

Company Name	Contact Person	Contact Number	E-mail Address	Enquiry Date
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No information available.

REPORT INFORMATION

Date of Information 08/05/2020 15:03
Print Date 08-05-2020 15:34
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Reference RENETTE
Report Type DEEDS OFFICE COMPANY



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**The State Attorney
Die Staatsprokureur
iGqweta likaRhulumente**

1

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LIBERTY LIFE CENTRE / SENTRUM
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CAPE TOWN / KAAPSTAD / KAPA
8001

 (021) 441-9230
 (021) 421-9364
DX: 156

Enquiries/Navrae/Imibuzo: Ms S Chetty

My Ref./My Verw./ Isalathiso sam:
1348/17/P9

Your Ref./ U Verw./ Isalathiso sakho:
8869/GW

Tuesday, 01 August 2017

CHENNELLS ALBERTYN
18A Greenwich Grove
Station Road
RONDEBOSCH
Tel: 021 685 8354
Fax: 021 685 0710
Email: info@chennellsalbertyn.co.za

(2 pgs)

**RE: THE CAPE WINDLASS ENVIRONMENTAL ACTION GROUP/THE NATONAL
MINISTER FOR AGRICULTURE, FORESTRY AND FISHIRIES**
CASE NO: 10208/17

WITHOUT PREJUDICE

I act for the National Minister of Agriculture, Forestry and Fisheries.

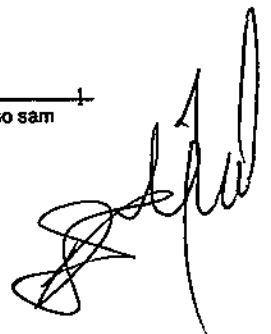
My instructions are to bring 2 issues relating to your clients application to your attention.

1. Consent 49829, which is the subject of the application, was superseded by Consent 51968 and Consent 52007.
2. The property is not subject to Act 70 of 1970 as per legal opinion given to client.

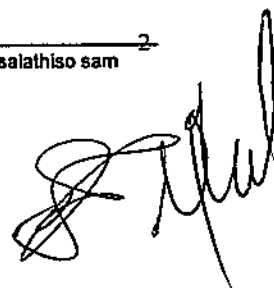
Consequently my client proposes that the said application be withdrawn with each party to pay their own costs.

Yours faithfully
STATE ATTORNEY

Always quote my reference number / Haal altyd my verwysingsnommer aan / Maxa onke yixele inombolo yesalathiso sam



Per:
Ms S Chetty
/ld

A handwritten signature in black ink, appearing to be 'S. Chetty', located in the bottom right corner of the page.

CHENNELLS ALBERTYN
Attorneys, Notaries & Conveyancers

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Website: www.chennellsalbertyn.co.za

Our ref: 8869/GW
Your ref: 1348/17/P9

18 August, 2017

STATE ATTORNEY
4th Floor
Liberty Life Centre
22 Long Street
Cape Town

Attention: Ms. Sharma Chetty
Per email: ShChetty@justice.co.za

Dear Ms. Chetty,

**RE: THE CAPE WINDLASS ENVIRONMENTAL ACTION GROUP / THE NATIONAL
MINISTER FOR AGRICULTURE, FORESTRY AND FISHERIES
CASE NO: 10208/17**

Thank you for your letter of 01 August. I have been advised that you had been allocated the above matter.

As we now know that your client has apparently granted three consents in respect of the land that is the subject of the development in the above matter, I am sure that you agree that his proposal cannot be meaningfully considered by my client without your client delivering the records of each decision as well as supplying me with a copy of the "legal opinion" referred to in your letter. I am sure that you also agree that my client is entitled to uncensored and complete records of each decision to enable it to properly assess the veracity of the legal conclusion that has allegedly been given to him.

As production of the records is overdue in terms of the Rules, should your client not agree to produce the records and a copy of the "legal opinion", my client reserves its right, in due course, to bring an appropriate application to compel the production thereof and seek an appropriate Order of Costs.

I trust that this will not be necessary and that your client will agree to the production of the Records and for the opinion. Kindly confirm that this is the case, and, when doing so, please advise me when I can expect to receive delivery thereof.

Yours sincerely,


Glyn Williams
Chennells Albertyn

Partners: GE Williams BA LLB; F Bester Bluris BProc; LK Macnab BA LLB
Assisted by: B Wamich LLB LLM (Environmental Law); RA Louw BA LLB HDIP (Advanced Taxation); HS Gikas LLB
Consultants: RS Chennells BCom LLB LLM PhD; VA Pather BA BCom (Hons) (IR) LLB; WJK Thomson BSocSc BProc LLB
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In association with Chrystelle van Staden Attorneys


WESSA
WOMEN'S EMPOWERMENT
SOCIETY OF SOUTH AFRICA



3

" F "

**MOTIVATION REPORT WITH THE APPLICATION IN TERMS
OF SECTION 53 OF THE WESTERN CAPE LAND USE
PLANNING ACT, 2014, ACT 3 OF 2014**

**HOOGEKRAAL AGRICULTURAL CONSOLIDATION
AND RE-SUBDIVISION OF 41 PORTIONS OF
GEORGE FARMS HOOGEKRAAL NO. 238 AND
BUFFELSDRIFT NO. 227)**



February 2020



[Handwritten signature]

MOTIVATION REPORT WITH THE APPLICATION IN TERMS OF SECTION 53 OF THE WESTERN CAPE LAND USE PLANNING ACT, 2014, ACT 3 OF 2014: HOOGEKRAAL AGRICULTURAL CONSOLIDATION AND RE-SUBDIVISION OF 41 PORTIONS OF GEORGE FARMS HOOGEKRAAL NO. 238 AND BUFFELSDRIFT NO. 227)

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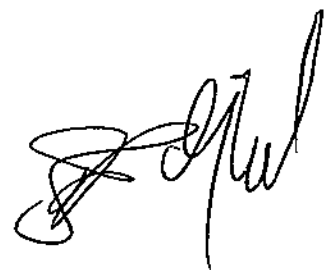
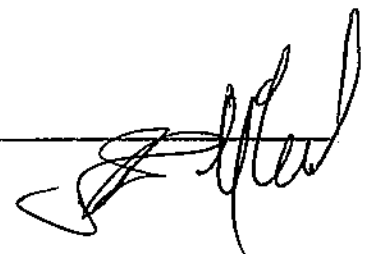


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- Annexure B: Departments of Agriculture correspondence**
- Annexure C: Department of Agriculture subdivision approval**
- Annexure D: Agricultural potential studies**
- Annexure E: Proposed layout and subdivision plan**
- Annexure F: Department of Rural Development and Land Reform support**
- Annexure G: Bondholder's consent**
- Annexure H: Power of attorney and resolution**
- Annexure I: Title deeds**
- Annexure J: Conveyancer's certificate**
- Annexure K: Photographs of the existing human settlement situation**
- Annexure L: Water allocation documentation**
- Annexure M: Urban Structure Plan Amendment Letter**
- Annexure N: Application form**
- Annexure O: Pre-application consultation records**
- Annexure P: Legal opinion on applicability of Act 70 of 1970**
- Annexure Q: Engineering services reports**



Owner: <u>LagoonBay Lifestyle Estate (Pty) Ltd</u> Represented by: Dr Werner Roux Telephone: +27 21 861 4880 Cellular: +27 83 787 3000 E-mail: werner@rouxcor.com Address: Rouxcor House, 37 Mark Street, Stellenbosch, 7600	Project Consultant: Mr Dupré Lombaard Telephone: Cellular: +27 82 895 6362 E-mail: dupre.lombaard@virdus.com Address: 77 Buitekring, Dalsig, Stellenbosch, 7600
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A handwritten signature in black ink, appearing to be 'Z. L. du P. Lombaard', is located in the bottom right corner of the page.

1. BACKGROUND

1.1 Introduction

The owner of the subject land, LagoonBay Lifestyle Estate (Pty) Ltd, wishes to promote small scale farming by amongst others the development of vineyards and orchards and the establishment of related agricultural enterprises on the Hoogekraal farms consisting of 41 portions (37 registered titles) of the farms Hoogekraal No. 238 and Buffelsdrift No. 227, located near Glentana, in the George Municipality. The subject area covers roughly 875 ha of land, straddling the N2 highway (see Annexure A: Locality plan). By raising and investing capital through consolidation and re-subdivision of the land the applicant can create a feasible agricultural entity to assist landowners with agricultural inputs, farming operations and off-take agreements.

In order to maximise the potential of such an intensive agricultural program, the owner must undertake some form of agricultural land development, which has marginal agricultural potential. Most of the individual farms and smallholdings do not have irrigation water nor any groundwater resources available for irrigation or even household use. Irrigation water was allocated to only 273ha of the 875ha total land area. The available irrigation water will be apportioned to all subdivisions according to the need as determined through the attached Agricultural Potential Study (Annexure D: Agricultural potential studies).

The National and Western Cape provincial Departments of Agriculture have agreed that the land has no feasible agricultural potential in its current state (see Annexure B: Departments of Agriculture correspondence) and accepted the alternative proposal to subdivide the consolidated property into 201 small farms and one large farm with a farm worker village on the northern side of the N2 (see Annexure C: Department of Agriculture subdivision approval).

The proposed Hoogekraal Agricultural Estate consists of 37 different titles (41 portions of properties) varying in size from less than one hectare, to 103ha, the majority of which are smaller than 20ha. The subject area "farms" (properties) are not suitable for feasible commercial agriculture in their current state, primarily due to the fragmented nature of the site, the poor soil quality, lack of underground irrigation water, natural land degradation, high cost of alternative agricultural activities and lack of appropriate infrastructure. This proposal is aimed at solving the majority of the problems, by the reallocation of irrigation water and introduction of farming support measures to minimise the risk for the small-scale farmers.

The soil conditions and agricultural potential are addressed in more detail below, as per the independent soil studies conducted by the University of Stellenbosch (see Annexure D: Agricultural potential studies). Most of the current owners and occupants of the land have not cultivated any of the land commercially, in the past 10 years and more.

In view thereof, the owners have decided to establish a communal farming operation using the capital raised through the sale of land units in the consolidated property area, the owners of which become participants in the farming operations through a variety of measures, e.g. land availability agreements, operational agreements, off-take agreements or communal farming agreements.

1.2 Concept

The broad concept is to consolidate all the properties, to create the following:

- Farm of approximately 112ha for land reform purposes on Buffelsdrift, north of the N2, inclusive of a farm worker village and commercial nursery;
- 201 small farms of approximately 3ha average size south of the N2 on the Hoogekraal properties; and
- A small farm set aside for cooperative agricultural buildings and facilities, e.g. pack shed, winery and farm shed for shared capital equipment.

The owners intend to invest new capital into the area by the creation of the 201 intensively developed small farms over the consolidated land units set aside for agricultural purposes. It includes a land reform project for agricultural development project owned by the Department of Rural Development and Land Reform on behalf of a farm worker trust consisting of 75 households (current farm labourers of the land) (see Annexure E: Proposed layout and subdivision plan and Annexure F: Department of Rural Development and Land Reform support) on the Buffelsdrift farms to the north of the N2.

In order to implement this proposal, the owners must raise capital for the development of otherwise unproductive farms and non-viable agricultural land. To raise the capital, the owners wish to apply for the issuing of a certificate of exemption from the provisions regarding subdivision and consolidation of Portions of the Farms Hoogekraal No. 238 and Buffelsdrift No. 227, George, in terms of Section 15 of the George Municipality Land Use Planning By-Law, 2015, in keeping with the approved subdivision granted in terms of the Subdivision of Agricultural Land Act, 1970, Act 70 of 1970 in January 2017.

All properties will be served by notarial servitude accesses, own potable and irrigation water, electrical infrastructure supplied through the Eskom network and own conservancy tanks. The sewage from the conservancy tanks will be extracted with a communal wastewater removal vehicle and the wastewater deposited in a package plant provided for the farm worker village, using own resources. This wastewater will then be treated and re-used in the irrigation system.

In terms of the proposal, the buyers of the subdivided agricultural properties could become part of a cooperative farm or agricultural operations. Agricultural activities will commence upon registration of the first of the proposed small farms, to reduce the lead time to production. Approximately 45% of the total land area is usable for intensive agricultural use, using irrigation water, while roughly 18% will be used for access, farm buildings and farmyard purposes and the rest will be conserved as natural veld, where owners could graze animals or retain the veld as an asset for tourist activities.



The proposed vineyards on cooperating farms will be managed and harvested by Goose Wines, which also owns another wine farm with productive vineyards in the close-by Upper Langkloof area. These grapes will be transported to the proposed new Hooggekraal winery, for the wine-making process to occur on the Hooggekraal Estate (along with the grapes harvested from the Hooggekraal farms) where currently the wine production and bottling for Goose Wines occur in the Cape Winelands. This also means that winemaking on Hooggekraal can commence immediately, without having to wait for the vineyards on Hooggekraal to start bearing fruit (3 - 4 years after planting). Various cultivars are proposed to be planted on Hooggekraal, including Pinot Noir, Chardonnay and Sauvignon Blanc. On the Goose Wines' Langkloof farm cultivars such as Cabernet, Shiraz and Sauvignon Blanc are already grown and harvested since 2005. The proposed macadamia and avocado orchards will take longer to become productive but will be planted together with the vineyards on cooperative farms. On other farms, the owners can decide for themselves which use they wish to put the land to, subject to the limitations set in the title deeds.

The land reform project will commence with the clearing and preparation of the land for intensive agricultural activities, amongst others a commercial nursery, vegetable farming and the establishment of links to the existing Farmer Production Support Units (FPSU). The Department of Rural Development and Land Reform has already indicated its support for the proposed project (see Annexure F: Department of Rural Development and Land Reform support) during a meeting, written confirmation of which is awaited. Housing of the farm workers on the land (owned by them as beneficiaries of the farm workers' trust) will be developed in the first phases of development, using the available subsidy schemes and cross-subsidisation from the development of the small high value farms, if successful.

A budget of more than R52,5 million has been set aside for the establishment of the vineyards, orchards, fields and initial farming operations. The winery and other farm buildings will be funded as capital investment programs together with the initial development phases of the agricultural settlement.

1.3 Application

This document is the motivation together with the prescribed application in terms of Section 53 of the Western Cape Land Use Planning Act, 2014, Act 3 of 2014 (LUPA). It is however the applicant's considered opinion that the proposal would not *"have a substantial (negative) effect on the orderly, coordinated or harmonious development of a region or the Province, the general welfare of the inhabitants of a region or the Province, or agriculture, due to the nature or scale of the proposed land use, or the cumulative effect of multiple developments, as set out in Section 53 of the LUPA."*

2. MOTIVATION

The motivation is intended to inform a decision on the application, by illustrating that the proposed establishment and sale of small farms, each with an appropriate water allocation and availability of production support for an intensive agricultural use of the land will have substantial positive effect on the local economy and the agricultural environment.



In summary: The proposed Hoogekraal Agricultural Development can generate approximately 270 new permanent jobs in the agricultural sector alone, while introducing more than 270 ha of new productive fields and orchards which can jointly add more than R66 million in value annually to the local economy when in full production.

2.14 Information as indicated in a pre-application consultation

The record of pre-application consultation is included in Annexure O: Pre-application consultation records. Two pre-application meetings were held with the authorities, during which the following questions arose.

Is it not unwarranted urban expansion into agricultural land?

As indicated above, the proposed small farms are solely intended for agricultural use and subdivided for the generation of enough capital to establish viable agricultural units that could add to the local economy. By the subdivision of the farms, they become more affordable and attract more buyers than a haphazard combination of properties as currently exist, which has little or no attraction. The non-agricultural use of a property is of secondary importance and only 150 – 160 additional "residential opportunities" will be created on the subject properties. In addition thereto, the proposed joint and/or cooperative farming operations will add at least 270 ha of new commercially productive agricultural land.

Moreover, the proposed development is aligned to the policy as reflected in the George Municipality SDF for rural development, whereby the development will not detract from the rural character but contribute to the establishment of viable agricultural units (farms). Given that the farming activities are controlled through the POA and amongst others the cooperative model, there would be on-going cross-subsidisation and capital input into the operations to ensure its sustainability.

Why will 200 subdivisions not compromise the agricultural potential?

Again, the answer is properly illustrated above. The existing 41 portions (37 titles), range from less than one hectare in size to a unit of more than 100ha. Only 18 of these have water allocations for irrigation purposes and the irrigable area is less than 32%. In its place, a farm for land reform purposes of 112 ha and a combined productive farming area of 370ha could be established, with irrigation water for roughly 40% and 62% (230ha) respectively. The subdivisions will create the capital required to invest in the establishment of the proposed vineyards and orchards at rates of roughly R260 000,00 / hectare. More than R51 million is thus required for initial capital investment, which will only be sourced from the sale of appropriate land units, as the scale and the risk are excessive for normal farming enterprises.

Agricultural activity amongst the dwelling units.

The proposed land development model is for purely agricultural and conservation use. There are no residential units, only farmsteads and farmyards. All buyers would be bound by the POA Constitution and not be allowed to undertake any urban-related activities. This would allow for virtually unhindered agricultural activities in the central and northern sections of the subject area, while the conservation areas along the eastern and southern edges are focussed on tourism





Western Cape
Government
Environmental Affairs and
Development Planning

Piet van Zyl
Head of Department
Environmental Affairs and Development Planning

Ref 15/4/1 Development Planning Law Reform

CIRCULAR EADP 0018/2017

TO ALL MAYORS, MUNICIPAL MANAGERS, MUNICIPAL PLANNING HEADS, THE REGISTRAR OF DEEDS (CAPE TOWN), SOUTH AFRICAN GEOMATICS INSTITUTE (WESTERN CAPE BRANCH)

SUBJECT: WITHDRAWAL OF GUIDE PLANS AND EXEMPTIONS OF ACT 70 OF 1970

Dear Sir/Madam,

The purpose of this circular is to provide additional clarity regarding the effect of the withdrawal and amendment of the Urban and Regional structure plans (former guide plans) in terms of the Physical Planning Act, 1991 (Act 125 of 1991), (PPA) and the Western Cape Land Use Planning Ordinance, 1985 (LUPO) on the applicability of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970), (SALA). Recent advice from Senior Counsel resulted in an improved understanding of the matter necessitating a need to revisit the provincial position as stated in Circular 14/2012 and to provide additional clarity to the Surveyor-General when dealing with subdivision approvals of agricultural land.

1. Withdrawal of Urban and Regional Structure Plans and previous provincial position.

On 4 July 2012 the Minister responsible for Planning withdrew all remaining urban and regional structure plans in terms of the PPA, excluding the Knysna Wilderness Plettenberg Bay Guide Plan, which was declared unconstitutional. In Circular 14/2012, par. 4.5 it was communicated that "...Under the urban or regional structure plans areas earmarked for purposes other than agriculture were excluded from the definition of "agricultural land" and therefore were exempted from the provisions of the Act 70 of 1970. This exemption no longer applies with the withdrawal of these plans and approvals in terms of Act 70 of 1970 will again be required for newly created land portions in areas defined as "agricultural land" in terms of Act 70 of 1970."

This stems from Section 27(1)(d) of the PPA which determined that land in the area to which a former guide plan applied, other than land which is agricultural land as defined in section 1 of the SALA, and which in terms of the relevant plan may be used for agricultural purposes only, shall be excluded from the provisions of the SALA.

Whilst this exemption from the SALA was a well-established practice and implemented effectively, some confusion has emerged since the withdrawal of the former guide plans in 2012 and the repeal of the PPA.

2. Revised position on the effect of withdrawal of Urban and Regional Structure Plans.

The Department of Agriculture, Forestry and Fisheries obtained the opinion and advice from Senior Counsel in this regard as a result of ongoing interpretational issues. The opinion states that notwithstanding the withdrawal of the former guide plans or the repeal of the PPA, legislation and administrative action is not intended to operate with retrospective effect or in such a manner as to interfere with existing rights and liberties. Section 12 of the Interpretation Act, 1957 (Act 33 of 1957) determines that where enabling legislation is repealed, the repeal does not affect the legal consequences as a result of administrative action taken before the legislation was repealed.

This means that the withdrawal of the former guide plans as well as the subsequent repeal of the PPA was not intended to have retrospective consequences or to change the status quo in respect of the exemption of certain areas from the provisions of SALA. The withdrawal of the former guide plans and the repeal of the PPA did therefore not affect the exemption of certain areas from the provisions of SALA. Areas that were exempted from the provisions of SALA prior to the withdrawal of the former guide plans and the repeal of the PPA, therefore remain exempted from SALA.

The advice provided in Circular 14/2012 (par 4.5) is herewith amended and replaced with the following: -

"Cognisance should also be taken of the implications of the withdrawal of the urban or regional structure plans on areas subject to the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970). Under the urban or regional structure plans areas earmarked for purposes other than agriculture were excluded from the definition of "agricultural land" and therefore were exempted from the provisions of the Act 70 of 1970. These areas remain exempted from the provisions of Act 70 of 1970, until such time as the repeal of Act 70 of 1970 is implemented or the Act amended."

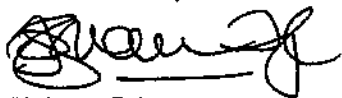
3. Implications of the above mentioned advice:

- a) The definition of agricultural land in terms of SALA remains unchanged.
- b) The exemptions in terms of SALA remains unchanged.
- c) As long as SALA remains in place, areas previously excluded from the provisions of SALA due to the designations in former guide plans in terms of the PPA, remain excluded from the provisions of SALA subsequent to the withdrawal of the guide plans and the repeal of the PPA. These exclusions also include ad-hoc Ministerial amendments to former guide plans where the designation e.g. from agriculture/forestry was amended to township development.
- d) The new planning dispensation of the Municipal Systems Act, 2000 (MSA), the Spatial Planning and Land Use Management Act, 2013, the Western Cape Land Use Planning Act, 2014 or the various By-laws on Municipal Land Use Planning does not effect the above.
- e) The MSA and the Spatial Development Frameworks do not regulate/address/effect any exemptions from SALA.
- f) The Surveyor General, Registrar of Deeds, municipalities and land surveyors are advised that where a SALA approval of a subdivision is submitted, it must be accompanied by a certification by the municipality that it is exempted from municipal approval or be accompanied by a municipal approval of the subdivision in terms of the relevant municipality's by-law on land use planning.
- g) The Surveyor-General and the Registrar of Deeds be advised that where only a municipal approval of a subdivision of agricultural land is submitted, that it be checked if it is not also in an area where an approval in terms of SALA is also required.



If any further assistance is required regarding the contents of this circular, please direct such request to **Theo Rebel** (021-483 8375)/ theo.rebel@westerncape.gov.za or **Kobus Munro** (021-483 4796)/ kobus.munro@westerncape.gov.za

Yours Sincerely



Piet van Zyl
Head of Department
Environmental Affairs and Development Planning

Date: 31.08.2017

3


"H"

TRANSMITTED BY EMAIL

TO:	MINISTER: DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES	Date: 20 November 2017
ATT:	Ms Sharma Chetty (State Attorney)	Your ref: 1348/17/P9
EMAIL:	ShChetty@justice.gov.za	Our ref: C64 - 001
Total pages:	3	walter@greencounsel.co.za

The information contained in this document is confidential and intended for the exclusive attention of the addressee. Unauthorised disclosure or distribution of the information is prohibited. Please advise us immediately should you have received this document in error.

Dear Ms. Chetty

**THE CAPE WINDLASS ENVIRONMENTAL ACTION GROUP // THE NATIONAL MINISTER FOR
AGRICULTURE, FORESTRY AND FISHERIES, CASE NO: 10208/17**

1. Your letter and settlement proposal dated 1 August 2017 has reference.
2. Please note that Cullinan & Associates are the attorneys of record in this matter.
3. Since having received the settlement proposal, we have had sight of the legal opinion to which you refer in your letter. We agree with the opinion to the degree that it concludes that the Minister's actions were *ultra vires*, however, we do not consider it equitable for our client to carry the cost of challenging an administrative action that was *ultra vires* by your client's own admission, and we furthermore do not believe it will be as simple as withdrawing the matter, because the administrative action is valid until overturned, and the Minister, being *functus officio*, cannot set the consents aside.

Expertise grounded in experience

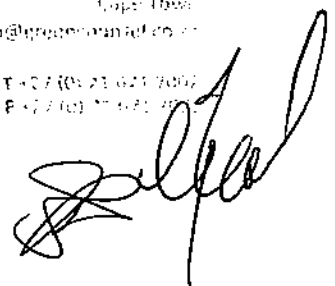
Cullinan & Associates Incorporated (2001/001024/21)

DIRECTORS: CP Cullinan, GN Daniels, SD Kvalsvig
ASSISTED BY: J Miller, M Greenink, WD Anderson, D Midgley
CONSULTANTS: BE Adams

www.cullinans.co.za

Ubunye House
70 Rosmead Avenue
Sandton 2196
Gauteng
info@greencounsel.co.za

T +27 (0) 21 621 7000
F +27 (0) 21 621 7000



4. In the circumstances, we believe that the Minister's decision must either be set aside by agreement between all the parties made a court order, or if the developer is not willing to agree, the Minister must launch a fresh application to have the consents set aside. Our client is willing to support the setting aside of the Minister's decision under either of the aforementioned options if the Minister offers our client's costs in the current review proceedings.
5. We are therefore instructed to request, as we hereby do, that the Minister confirms on or before 10 December 2017 whether or not he will act positively to have the consents set aside and provide our client with the Record, as proposed above.
6. In the event that the Minister is amenable to having the consents set aside, but the developer is not willing to settle by agreement in the current Review proceedings, our client undertakes not to take any further steps in the current application while the Minister's review application is dispensed with, however, our client is not willing to withdraw the current application until the Minister's application is dispensed with.
7. In the event that the Minister fails to confirm his position in compliance with paragraph 6 above, or if the Minister is not willing to have the consents set aside tendering our client's costs, we are instructed to proceed with the current proceedings to have the consents set aside and seek an order for costs in the ordinary course.
8. We put it on record that this review was filed months ago, and the Minister still fails to respond to this review application by filing the relevant complete and unadulterated record, as required in terms of the Rules of Court, and still fails to oppose the application or file a notice of his intention to abide the decision of the court. If the Minister is unwilling to have the consents set aside, we hereby put your client on notice that we are instructed to compel the Minister to comply with the Rules and deliver the overdue Record.
9. We trust however that this will not be necessary and that your client will agree to have the matter set aside, and to deliver the Record to our client.

A handwritten signature in black ink, appearing to be 'J. J. J.', is located at the bottom right of the page.

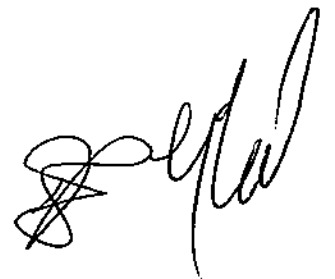
10. Kindly confirm receipt of this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Walter Anderson', with a long horizontal stroke extending to the right.

Walter Anderson

CULLINAN & ASSOCIATES

A large, stylized handwritten signature in black ink, possibly reading 'S. J. Hall' or similar, located in the bottom right corner of the page.

"I"

Reception at CHENNELLS ALBERTYN ATTORNEYS

From: Andrew Ballantyne <andrew.ballantyne@drdlr.gov.za>
Sent: Thursday, 08 March 2018 13:27
To: Julian Williamson; Melissa Akoue Mve; Ierfaan Koorowlay; Zinhle Hadebe; Sonia Photo; Darryl Bailey; Géneviève Abrey; Natalie Huddleston; David Nel; Blythe Watson; Jayson Nyoka; Russel Ellwood; Marc Finney
Cc: Kobus Munro
Subject: Lagoon Bay Development
Attachments: Act 70_70 consent.pdf

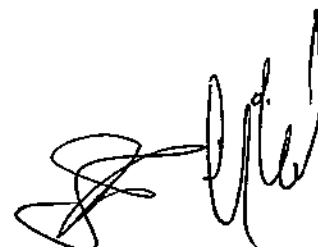
Dear All

Attached is an Act 70 of 70 consent for a development know as Lagoon Bay. This development has been and still is the subject of various court battles. The latest being the validity of the Act 70 of 1970 consent.

Our office has been informed that due to the scale of this development that a consent from Province will be required in terms of Section 53 of LUPA. A municipal consent will also be required as per our standard requirements for any subdivision. These Provincial and Municipal consents have currently not been issued.

Kind regards

Andrew Ballantyne



**The State Attorney
Die Staatsprokureur
IGqweta IikaRhulumente**

4th FLOOR
22 Long Street
CAPE TOWN
8001

Postal Address
Private Bag X 9001
CAPE TOWN
8000

Tel: (021) 441 9200
Fax: (021) 421 9364
Dx 156, Cape Town
Email: ShChetty@justice.gov.za

My Ref. 1348/17/P9

Your Ref. C64 - 001

6 March 2018

Cullinan & Associates
Ubunye House
70 Rosmead Avenue
KENILWORTH
7708

Dear Walter Anderson

walter@greencounsel.co.za

**RE: THE CAPE WINDLASS ENVIRONMENTAL ACTION GROUP // THE NATIONAL MINISTER
FOR AGRICULTURE, FORESTRY AND FISHERIES: CASE NO. 10208/17**

I apologise for the delay herein.

I have informed by client of your proposal and am awaiting instructions.

Has the Developer expressed an view on the setting aside of the decisions of the Minister?

Yours faithfully,

STATE ATTORNEY, Cape Town

Per: **S Chetty**

/rw

You are kindly requested to copy my secretary Ms Rodeeyah Williams in ALL correspondence - rwilliams@justice.gov.za





CULLINAN & ASSOCIATES
Environmental and green business attorneys

"K"

TRANSMITTED BY EMAIL

TO: SURVEYER GENERAL
ATT: Julian Williamson
EMAIL: JulianW@012lg.pwv.gov.za
AND ATT: Alida Kroes
EMAIL: alidak@012lg.pwv.gov.za
Total pages: 2

Date: 20 November 2017

Our ref: C64 - 001

walter@greencounsel.co.za

The information contained in this document is confidential and intended for the exclusive attention of the addressee. Unauthorised disclosure or distribution of the information is prohibited. Please advise us immediately should you have received this document in error.

Dear Mr Williams

SUBDIVISION OF HOOGEKRAAL 238, GEORGE, WESTERN CAPE (LAGOON BAY)

1. We act for the Cape Windlass Environmental Action Group ("our client").
2. We are instructed:
 - 2.1. that Werner Roux, on behalf of Lagoon Bay Lifestyle Estate (Pty) Ltd, lodged an application for the subdivision of Hoogekraal 238, George, Western Cape ("the Property"); and
 - 2.2. that Mr Piet van Zyl of the Western Cape Government wrote to you to inform you that the consents to subdivide agricultural land issued by the Minister of Agriculture, Forestry

Expertise grounded in experience

Cullinan & Associates Incorporated (2001/001024/21)

DIRECTORS: CP Cullinan, GN Daniels, SD Kvalsvig
ASSISTED BY: J Miller, M Greenink, WD Anderson, D Midgley
CONSULTANTS: RL Adams

www.cullinands.co.za

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70 Rossmore Avenue
Kloofenath 7735
Cape Town
info@greencounsel.co.za

T +27 (0) 21 671 1002
F +27 (0) 21 671 1001

and Fisheries ("the Minister"), on which Mr Roux's application is based, are invalid because the Property is not agricultural land.

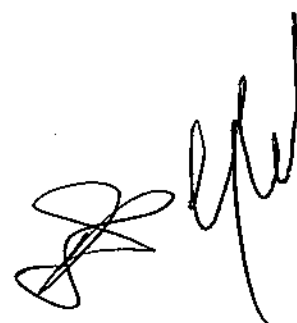
3. Our client shares the opinion that the Property is not agricultural land, and launched review proceedings in the Cape High Court earlier this year to, *inter alia*, have the Minister's consents set aside (Case: 10208/17).
4. We recently received a copy of the legal opinion procured by DAFF, pages 5 – 33 of the attached document, which confirms that the land is not agricultural land, and that the Minister accordingly acted *ultra vires* in issuing the consents.
5. We agree with the opinion, and we were recently advised by the State Attorney that the Minister agrees with the opinion. We recently requested that the Minister make application to the High Court to have the consents set aside. We have no reason to believe that the Minister will not bring said application.
6. Given that processes to have the consents set aside are under way, and given the extremely high prospect of the consents being set aside, we are instructed to request, as we hereby do, that you furnish our client with an undertaking, on or before 1 December 2017, that the sub-division application will not be processed until the court decides the Minister's application to have the consents set aside, or if the Minister fails to do so, until our client's review application is decided.
7. Kindly confirm receipt of this letter.

Yours sincerely,



Walter Anderson

CULLINAN & ASSOCIATES



-----Original Message-----

From: Annette Stoltz [mailto:AnnetteS@daff.gov.za]

Sent: 18 May 2017 10:58 AM

To: Cornelius Van Der Walt <CorvdW@elsenburg.com>; Kobus Munro <Kobus.Munro@westerncape.gov.za>

Subject: For your information

Importance: High

Good day

See attached the opinion regarding the applicability that we have received.

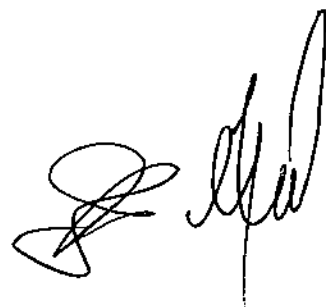
Your comments will be appreciated.

Regards

Annette

"All views or opinions expressed in this electronic message and its attachments are the view of the sender and do not necessarily reflect the views and opinions of the Western Cape Government (the WCG). No employee of the WCG is entitled to conclude a binding contract on behalf of the WCG unless he/she is an accounting officer of the WCG, or his or her authorised representative. The information contained in this message and its attachments may be confidential or privileged and is for the use of the named recipient only, except where the sender specifically states otherwise. If you are not the intended recipient you may not copy or deliver this message to anyone."

"All views or opinions expressed in this electronic message and its attachments are the view of the sender and do not necessarily reflect the views and opinions of the Western Cape Government (the WCG). No employee of the WCG is entitled to conclude a binding contract on behalf of the WCG unless he/she is an accounting officer of the WCG, or his or her authorised representative. The information contained in this message and its attachments may be confidential or privileged and is for the use of the named recipient only, except where the sender specifically states otherwise. If you are not the intended recipient you may not copy or deliver this message to anyone."

A handwritten signature in black ink, appearing to be 'J. Stoltz', located at the bottom right of the page.

" M "

Theo Rebel Pr. Pln (A/1056/1998)

Chief Town & Regional Planner

Directorate Development Planning Intelligence Management & Research Department of Environmental Affairs & Development Planning

10th Floor, 1 Dorp Street, Cape Town, South Africa

Tel: +27 (0)21 483 8375 & 083 468 7216

E-mail: theo.rebel@westerncape.gov.za

Website: www.westerncape.gov.za/eadp

-----Original Message-----

From: Annette Stoltz [mailto:AnnetteS@daff.gov.za]

Sent: 31 May 2017 11:49 AM

To: Theo Rebel <Theo.Rebel@westerncape.gov.za>

Subject: RE: For your information (Wet 70 toepaslikheid)

Goeie more

Ek is jammer ek kom nou eers terug- wou net seker maak dat ons dit kan stuur en die staatsprokureur het gesê ons mag.

Groete

Annette

-----Original Message-----

From: Theo Rebel [mailto:Theo.Rebel@westerncape.gov.za]

Sent: 19 May 2017 11:23 AM

To: Annette Stoltz

Cc: Kobus Munro

Subject: RE: For your information (Wet 70 toepaslikheid)

Hi Annette,

Baie intressante opinie, dankie daarvoor. Synde dat dit 'n opinie wat julle bekom het, verneem ek graag of ons dit kan gebruik en wyer kan versprei, dit sal bv. vir die George Munisipaliteit van baie waarde wees, maar ook vir al die ander munisipaliteite in die Weskaap waar daar voorheen gidsplanne was.

Ons verneem dus graag so spoedig moontlike van jou of ons dit wyer mag versprei.

Baie groete,

Theo Rebel Pr. Pln (A/1056/1998)

Chief Town & Regional Planner

Directorate Development Planning Intelligence Management & Research Department of Environmental Affairs & Development Planning

10th Floor, 1 Dorp Street, Cape Town, South Africa

Tel: +27 (0)21 483 8375 & 083 468 7216

E-mail: theo.rebel@westerncape.gov.za



"N"

Page 33 of 49

Annexure C: Department of Agriculture subdivision approval

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive name.



**agriculture,
forestry & fisheries**

Department
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Private Bag X120, Pretoria, 0001
Delejan Building, Clo Anthe Bothe & Union Street, Rivers, 0084

From: Directorate Land Use and Soil Management
Tel: 012-319-7834 Fax: 012-329-5938
Enquiries: Helpdesk Ref: 2017_01_0103

Lagoon Bay Lifestyle Estate
P.O. Box 1300
GEORGE
6530

Attention: Dr Werner Roux

**APPLICATION IN TERMS OF THE SUBDIVISION OF AGRICULTURAL LAND ACT,
1970: SUBDIVISION OF SEVERAL PORTIONS OF THE FARM HOOGEKRAAL NO. 238 AND
FARM BUFFELSDRIFT NO. 227, DIVISION GEORGE, WESTERN CAPE PROVINCE**

Your e-mail dated 15 January 2017 refers.

With reference to the above-mentioned subject, the department wishes to inform you that the application has been granted.

Consent No. 2017/01/0103, issued in terms of section 4 of the Act, is enclosed in duplicate.

To facilitate registration the conveyancer must lodge the signed copy of the consent with the Registrar of Deeds together with the documents for registration.

Kindly note that the properties concerned are subject to the provisions of the Conservation of Agricultural Resources Act 1983 (Act 43 of 1983).

It is trusted that you will find the decision in order.

Yours faithfully

MR H.J. LINDEMANN

ACTING DIRECTOR: LAND USE AND SOIL MANAGEMENT

DELEGATE OF THE MINISTER

DATE 26 JAN 2017

CC: The Surveyor-General Private Bag X 9028 CAPE TOWN 8000

CC: Land Use and Soil Management P.O.Box 380 BELLVILLE 7535

CC: Mr Brandon Layman Land Use Management Department of Agriculture Western Cape Private Bag x 1 ELSENBURG 7807

DAFF/MB/2017/Hooge Kraal No 238



**agriculture,
forestry & fisheries**

Department
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

VERW/REF.

2017_01_0103

TOESTEMMING
KRAGTENS DIE WET OP DIE ONDERVERDELING
VAN LANDBOUGGROND, 1970

CONSENT
IN TERMS OF THE SUBDIVISION OF
AGRICULTURAL LAND ACT, 1970

By virtue of the powers delegated to me by the Minister of Agriculture, Forestry and Fisheries consent is hereby granted in terms of section 4(2) of the Subdivision of Agricultural Land Act, 1970, for the subdivision of the agricultural land described in paragraph 1, into units indicated in paragraph 2, subject to the conditions set out in paragraph 3.

PARAGRAPH 1: THE AGRICULTURAL LAND TO WHICH THIS CONSENT APPLIES

- 1.1 REMAINDER, IN EXTENT 46, 4954 HECTARES;
- 1.2 REMAINDER OF PORTION 5, IN EXTENT 29, 5737 HECTARES;
- 1.3 REMAINDER OF PORTION 6 (PORTION OF PORTION 5), IN EXTENT 58, 1224 HECTARES;
- 1.4 REMAINDER OF PORTION 17 (PORTION OF PORTION 4), IN EXTENT 23, 9249 HECTARES;
- 1.5 REMAINDER OF PORTION 18 (PORTION OF PORTION 4), IN EXTENT 6, 6304 HECTARES;
- 1.6 REMAINDER OF PORTION 19 (PORTION OF PORTION 4), IN EXTENT 2, 2535 HECTARES;
- 1.7 PORTION 23 (PORTION OF PORTION 5-BEGINSEL), IN EXTENT 8, 5653 HECTARES;
- 1.8 PORTION 41 (PORTION OF PORTION 4-KUYLERS HOOP), IN EXTENT 31, 2635 HECTARES;
- 1.9 REMAINDER OF PORTION 42 (PORTION OF PORTION 5-DIE KAMP), IN EXTENT 6, 9674 HECTARES;
- 1.10 REMAINDER OF PORTION 64 (PORTION OF PORTION 1), IN EXTENT 10, 3716 HECTARES;
- 1.11 PORTION 66 (PORTION OF PORTION 1), IN EXTENT 15, 6191 HECTARES;
- 1.12 REMAINDER OF PORTION 68 (PORTION OF PORTION 1), IN EXTENT 18, 0155 HECTARES;
- 1.13 PORTION 69 (PORTION OF PORTION 1), IN EXTENT 31, 5989 HECTARES;
- 1.14 REMAINDER OF PORTION 70 (PORTION OF PORTION 4), IN EXTENT 42, 1196 HECTARES;
- 1.15 PORTION 74 (PORTION OF PORTION 4), IN EXTENT 6, 3038 HECTARES;
- 1.16 PORTION 75 (PORTION OF PORTION 4), IN EXTENT 20, 9442 HECTARES;
- 1.17 PORTION 76 (PORTION OF PORTION 4), IN EXTENT 6, 8181 HECTARES;
- 1.18 REMAINDER OF PORTION 77 (PORTION OF PORTION 4), IN EXTENT 11, 8030 HECTARES;
- 1.19 PORTION 79 (PORTION OF PORTION 8), IN EXTENT 10, 8128 HECTARES;
- 1.20 REMAINDER OF PORTION 82 (PORTION OF PORTION 1), IN EXTENT 20, 1689 HECTARES;
- 1.21 PORTION 102 (PORTION OF PORTION 17), IN EXTENT 24, 1751 HECTARES;
- 1.22 PORTION 122 (PORTION OF PORTION 77), IN EXTENT 4, 9356 HECTARES;
- 1.23 REMAINDER OF PORTION 179, IN EXTENT 13, 9646 HECTARES;

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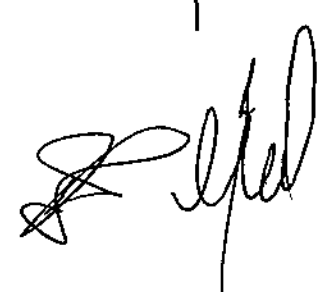
- 1.1 PORTION 180 (PORTION OF PORTION 179), IN EXTENT 4, 1673 HECTARES;
- 1.25 PORTION 65 (PORTION OF PORTION 1), IN EXTENT 8, 8194 HECTARES;
- 1.26 PORTION 88 (PORTION OF PORTION 1), IN EXTENT 21, 334 HECTARES;
- 1.27 PORTION 90 (PORTION OF PORTION 1), IN EXTENT 3, 6486 HECTARES;
- 1.28 PORTION 72 (PORTION OF PORTION 1), IN EXTENT 1, 3619 HECTARES, ALL OF THE FARM HOOGE KRAAL NO. 238;
- 1.29 REMAINDER OF PORTION 5 (PORTION OF PORTION 3), IN EXTENT 23, 0978 HECTARES; AND
- 1.30 REMAINDER OF PORTION 9 (PORTION OF PORTION 3-CONCORDIA), IN EXTENT 88, 6511 HECTARES, BOTH OF THE FARM BUFFELS DRIFT NO. 227,
- 1.31 A PORTION OF PORTION 80 (PORTION OF PORTION 6), MEASURING APPROXIMATELY 12 HECTARES;
- 1.32 REMAINDER OF PORTION 67 (PORTION OF PORTION 1), IN EXTENT 16,7976 HECTARES;
- 1.33 PORTION 52, IN EXTENT 50,4855 HECTARES;
- 1.34 PORTION 81 (PORTION OF PORTION 54), IN EXTENT 12,8480 HECTARES;
- 1.35 PORTION 55, IN EXTENT 96,7881 HECTARES;
- 1.36 PORTION 53, IN EXTENT 30,6924 HECTARES; AND
- 1.37 PORTION 160, IN EXTENT 15,1417 HECTARES, ALL OF THE FARM HOOGE KRAAL NO 238, DIVISION GEORGE, WESTERN CAPE PROVINCE

PARAGRAPH 2: CONSENT GRANTED

After consolidation the subdivision of the above-mentioned agricultural land into two-hundred and one (206) portions of which 200 (two-hundred) is measuring between 2,0 hectares and 71,0 hectares respectively and one (1) portion is measuring 10,21 hectares represented by the figures marked Pin 1 to 205 and Remainder as shown on the sketch plan which is attached to this Consent.

PARAGRAPH 3: CONDITIONS PERTAINING TO THIS CONSENT

- 3.1 Simultaneously with registration of transfer, written proof will have to be submitted that the George Municipality has approved the appropriate zoning for smallholdings of the proposed portions in terms of the George Municipal Land-Use Planning By-Law (1 September 2016).
- 3.2 Simultaneously with registration of transfer, written proof will have to be submitted that all the conditions imposed in terms of the Western Cape Land Use Planning Act, Act No 3 of 2014 have been complied with.
- 3.3 This consent does not imply that the above-mentioned subdivisions are assured of a permanent water supply.
- 3.4 This consent does not exempt the property from the provisions of any other law, with special reference to the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983) and does not purport to interfere with the rights of any person who may have an interest in the agricultural land.
- 3.5 This consent is valid for 5 years from date of this grant. Should it not be registered within the timeframe, a new complete application must be lodged which will be considered on its own merits.

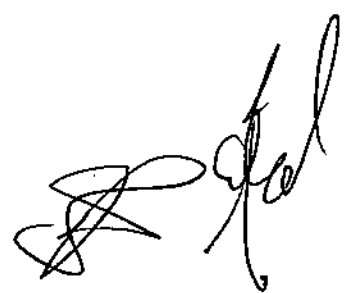



P/ GRAPH 4: WITHDRAWAL OF PREVIOUS CONSENT

This consent supersedes consent No. 49829 of 2014-11-05.

26/01/2017
DATE

Lindemann
MR H.J. LINDEMANN
ACTING DIRECTOR: LAND USE AND SOIL
MANAGEMENT:
DELEGATE OF THE MINISTER





**agriculture,
forestry & fisheries**

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Eng: M. van Rooyen

Tel. No. (012) 319-6907

E-mail: MarionVR@daff.gov.za

Mr C. K. Robertson
P O Box 3163
TYGER VALLEY
7538

Fax Number: (021) 976 4865

Dear Mr Robertson

**REQUEST FOR ACCESS TO INFORMATION: PROMOTION OF ACCESS TO
INFORMATION ACT, 2000 (ACT 2 OF 2000): ALL MATTERS RELATED TO THE
SUBDIVISION OF SEVERAL PORTION OF THE FARM HOOGEKRAAL NR 238 AND THE
FARM BUFFELSDRIFT NR 227, DIVISION GEORGE**

I refer to your request of access to information dated as well as your internal appeal dated 22 November 2016, regarding the above-mentioned matter.

On receipt of an amount of R72.00 for 120 copies (60c per page), arrangements can be made with Ms. M. van Rooyen; Tel no. 012 319-6907 for the collection of the documents.

I trust you will find everything in order.

Yours sincerely


Ms R. T. SEHOOLE
DEPUTY INFORMATION OFFICER
Date: 08/12/2016





**Western Cape
Government**
Environmental Affairs and
Development Planning

Head of Department
Piet van Zyl

Our Ref: 15/3/2/11/D6/14/Farms Hoogekraal 238 and Buffelsdrift 277 (George)

Mr Hendrik Kotze
Werksmans Attorneys
142 Edward Street
Tyger Valley
7536

[Per e-mail: hkotze@werksmans.com]

Dear Mr Kotze

SECTION 61 OF THE WESTERN CAPE LAND USE PLANNING ACT, 2014

1. Your e-mail message dated 1 December 2016 refers.
2. I have considered your request for guidance regarding exemptions involving agricultural properties and more specifically the meaning of "urban expansion" under Section 61(e) (2) of the *Western Cape Land Use Planning Act, 2014* (Act No. 3 of 2014) ("LUPA") for purposes of an exemption application to the George Municipality.
3. In addition to your e-mail request, a legal opinion by Adv H J de Waal, on instruction from you and on behalf of the LagoonBay Lifestyle Estate (Pty) Ltd, was tabled by Dr Werner Roux of LagoonBay Lifestyle Estate (Pty) Ltd at a meeting held in George on Monday, 5 December 2016 which was also attended by officials of the national Department of Rural Development and Land Reform, the George Municipality and my Department of Environmental Affairs and Development Planning. Since the opinion deals with the same subject matter, we will respond to your e-mail request and with due regard to the opinion provided by Adv de Waal.
4. It was never the legislator's intention that Section 61 of LUPA provides a mechanism to "apply for exemption" from the requirement to either subdivide or consolidate land (both being municipal planning functions). Section 61 of LUPA is an enabling provision empowering Municipalities to regulate exemptions, if they so choose (note the wording in subsection (1) "*A municipality may.... provide for and regulate...*").

5. Municipalities are regulating Section 61 of LUPA through their individual Municipal By-Laws adopted by their Councils. The George Municipality regulates such in terms of Section 24 of the *Land Use Planning By-Law for George Municipality, 2015 (Provincial Gazette Extraordinary No. 7427, 15 July 2015)* (LUP By-Law). Section 24 of the LUP By-Law regulates the instances when the subdivision or consolidation of land does not require the approval of the George Municipality. Section 24(1)(g) of the LUP By-Law provides as follows:

"Exemption of certain subdivisions and consolidations

24. (1) The subdivision or consolidation of land does not require the approval of the Municipality in the following cases:

- (g) the exclusive utilisation of land for agricultural purposes if the utilisation—
(i) requires approval in terms of legislation regulating the subdivision of agricultural land; and
(ii) does not lead to urban expansion."

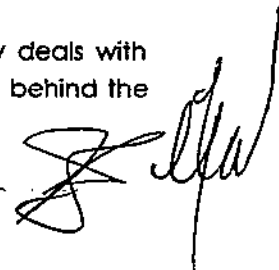
6. From the above, it is clear that the George Municipality has adhered to Section 61 of LUPA in regulating exemptions relating to subdivisions and consolidations through Section 24 of their LUP By-Law. It is clear from both Section 61 of LUPA and Section 24 of the LUP By-Law that there is no discretion in determining whether such an exemption applies or not and therefore it cannot be determined through a municipal application process. It therefore follows that the George Municipality merely determines whether a specific subdivision or consolidation of land units falls within the already stated list of exemptions provided for in Section 24 of the LUP By-Law. If one of the Section 24 LUP By-Law exemption categories applies to a specific subdivision or consolidation of land units, the exemption is applicable and will be confirmed by the Municipality by means of a supporting certificate or a letter and/or endorsed diagrams. For the Municipality to make the determination, adequate and comprehensive information must be provided. It is the prerogative of the Municipality concerned to exempt these categories of applications from the requirement of a LUPA application.

7. Paragraphs 9 and 10 of Adv De Waal's opinion mirror these views of the Department. We are in agreement with the "Legislative Framework".

8. The question that needs to be addressed is whether the proposed consolidation and subdivision for the proposed LagoonBay Lifestyle Estate (inclusive of the proposed Agri-Village) qualifies for exemption or not, based on the criteria set out in Section 24(1)(g) of the LUP By-Law.

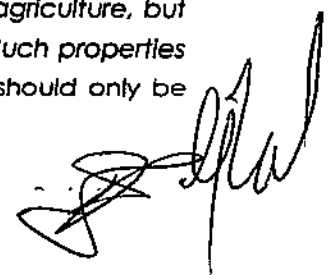
9. Requirement One: Exclusive Use Of Agricultural Purposes

- 9.1 The *Subdivision of Agricultural Land Act, 1970 (Act No 70 of 1970)* effectively deals with matters related to the *bona fide* subdivision of agricultural land. The rationale behind the

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exemption is that where the utilisation of land is exclusively for agricultural purposes it is best administered by the agricultural specialists in the Department of Agriculture. Under these circumstances the Municipality may exempt that application from its own provisions. It is critical though that the applications involve *bona fide* agricultural subdivisions and that the properties so subdivided are for the exclusive use of agriculture. The proposed subdivision should therefore not change the agricultural context.

- 9.2 The Municipality must therefore determine if the proposed land use in question is firstly for the exclusive use of agricultural purposes. The Western Cape Provincial Department of Agriculture (DoA) will provide this indication when such subdivision is evaluated against the guidelines the said Department has for minimum farm sizes, which is based on the regional availability of water and the type of agriculture that is practiced, to name just some of the relevant criteria. This would differ in size, depending on the geographical location. When portions are smaller than the minimum set for economically viable agricultural units, as is the case with small holdings, DoA could request that the newly created portions be rezoned to another zoning as they would no longer be regarded as agricultural properties. DoA could even remove such small holdings from the farm register, which would have implications for such properties in drought periods as they would not necessarily qualify for drought assistance.
- 9.3 Adv De Waal quotes the definition of the Agricultural I Zoning in the Section 8 Zoning Scheme (refer par 13) in terms of the former *Land Use Planning Ordinance, 1985 (Ordinance No 15 of 1985)*, which of course correctly describes the current zoning of the land and not the zoning which should be allocated to smallholdings. Had this application been processed by the George Municipality, with the input from DoA, both organisations would have insisted that the smallholdings be rezoned "out of Agriculture". Because there is no dedicated smallholding zoning in the Section 8 Zoning Scheme, the George Municipality had a problem to distinguish between *bona fide* agricultural properties and smallholdings which were not exclusively used for agricultural purposes. To overcome this problem, the Municipality in some instances made use of the "Special Zone" to allocate a zoning which regulates and distinguishes these smallholdings from the *bona fide* agricultural properties.
- 9.4 My Department also believes that smallholdings do not qualify as an exclusive agricultural use and has actually created another zoning for this purpose in a Standard Draft Zoning Scheme By-law which is being compiled in terms of Section 14 of the *Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)* for consideration and adoption by municipalities. The Agricultural Zone II makes provision for smallholdings as the only primary right and describes the objectives of this zone as follows: "The objective of this zone is to accommodate larger residential properties, which may be used for limited agriculture, but primarily serve as places of residence for people who seek a rural lifestyle. Such properties are often found close to towns and villages, and new smallholding areas should only be



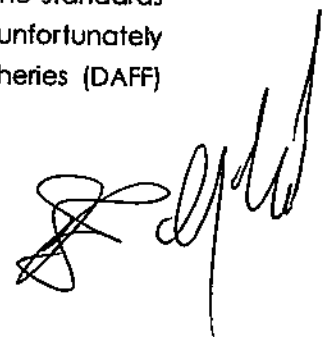
permitted within an acknowledged, demarcated urban area". Incidentally, the George Municipality is also proposing the same wording in their draft Zoning Scheme By-law.

- 9.5 This approach is also contained in the current Rural Land Use Management Guidelines of the Western Cape (2009):

"3.8 Smallholdings

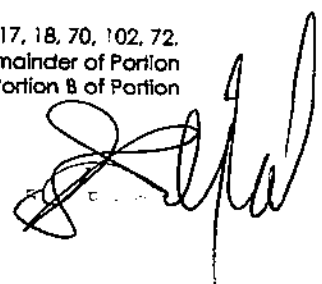
Smallholdings are extensive land holdings on which small-scale agricultural activities may take place, but are primarily places of residence by people who seek a rural lifestyle. Whilst rural land needs to be made available for small scale agricultural production (i.e. allotments), the provincial approach is to prevent further development of extensive residential lifestyle properties (i.e. smallholdings) in the rural landscape. Smallholdings could be established on suitable land inside the medium to longer term urban edge."

- 9.6 Our 2009 policy position is still regarded as relevant and supported by the Department at this point in time. On this basis alone, we would argue that a proposal to subdivide agricultural land into smallholdings would not constitute "the exclusive utilisation of land for agricultural purposes" as is required in Section 24 (1)g) of the LUP By-Law and would therefore not be exempted from the requirement to process a subdivision application through the George Municipality.
- 9.7 Paragraph 14.2 in the opinion of Adv De Waal describes how, once subdivided, these smallholdings will, by means of servitude, be tied to create an economically viable agricultural unit, and something that is currently not possible as a result of the fragmentation that has already taken place in this area. My Department has a number of concerns with this approach, one of which is the question how these servitudes and agreements will be secured without any process through which these can be imposed as conditions that will apply in perpetuity to these properties. The very process for which exemption is required is in fact the process that will regulate the aspects that will be important to maintain the agricultural status of these properties. Without the municipal process, the proposal only describes a smallholding development with no guarantees that it will be managed as a single farming operation for any given time period.
- 9.8 Finally, we do not agree with Adv De Waal in paragraphs 15 to 17 of his opinion. The extract from the George Municipal Spatial Development Framework actually stresses that outside of existing smallholding areas, no further smallholdings should be created. Any subdivision of land outside of the existing smallholding areas should be considered against the standards and guidelines for economically viable agricultural entities, something which unfortunately was not done when the national Department of Agriculture, Forestry and Fisheries (DAFF) approved the application for the smallholdings on these properties.

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- 10 Requirement Two: Approval In Terms of Legislation Regulating the Subdivision of Agricultural Land
- 10.1 Section 24(1)(g)(i) of the LUP By-Law stipulates that an exemption is applicable if the utilisation requires approval in terms of legislation regulating the subdivision of agricultural land. In the case of proposed LagoonBay Lifestyle Estate development, certain historic decisions have a bearing.
- 10.2 The erstwhile Provincial Minister responsible for Environmental Affairs and Development Planning (Minister Tasneem Essop) on 17 July 2007 approved the amendment of the George and Environs Structure Plan by amending the designation of the Farm Hoogekraal No. 238 – LagoonBay Lifestyle Estate, Division George from "agriculture/forestry" to "township development", so as to permit the utilization of the land for urban uses. The opinion of Adv De Waal correctly states in Paragraph 19 that, where such a structure plan indicates an area for any other use than agriculture, Act 70 of 1970 does not apply. Whilst the statement is correct, the opinion fails to point out that the effect of the decision of former Provincial Minister Essop was that from that date of approval, Act 70 of 1970 was no longer "required". So, in fact, Act 70 of 1970 was no longer applicable.
- 10.3 As Act 70 of 1970 was no longer "required" or applicable on the LagoonBay land,¹ it meant that any development proposal on this land should be dealt with in terms of the municipal planning by-laws and that exemption from the provisions of municipal planning by-laws was not applicable. An exemption from Act 70 of 1970 would automatically mean that the application now falls within the ambit of municipal planning and need to be processed and approved by the Municipality and no longer by the DAFF.
- 10.4 It is further important to note that the George and Environs Structure Plan, subsequent to the amendment thereof by the Provincial Minister in 2007, was withdrawn completely in 2012. The exemption from the requirements of Act 70 of 1970 was not affected by this withdrawal and is therefore still effective today. Confirmation of this principle was issued by the National Department of Rural Development and Land Reform, through the office of the Surveyor General. The DAFF was party to the issuing of the Surveyor General's instruction regarding this matter and should therefore have known that in the case of the proposed LagoonBay Lifestyle Estate development, an approval in terms of Act 70 of 1970 was not required.

¹ Hoogekraal Farm 238/55, 53, 52, Portion A of the remainder of 238, 6, 61, 79, 41, 23, 75, 73, 167, 19, 17, 18, 70, 102, 72, 74, 76, Remainder of Portion 88, Remainder of Portion 90, 148, 160, 64, Remainder of Portion 65, Remainder of Portion 67, remainder of Portion 68, Portion A of Portion 80, Portion A of Portion 69, Portion A of Portion 66, Portion B of Portion 5, 82, 122, 42, 132 and 168, Division George.



10.5 The fact that an approval in terms of Act 70 of 1970 was, in our view, issued in error by DAFF, does not have the effect that exemption can now be given from the requirements to subdivide these land parcels in terms of the LUP By-law.

11 Requirement Three: Does Not Lead To Urban Expansion

11.1 Section 24(1)g)(ii) of the LUP By-Law stipulates that exemption is applicable if the utilisation does not lead to urban expansion. Our view, as stated in our guideline document, is that smallholdings definitely do not represent exclusive agricultural use; that it should be accommodated in the urban edge, and is consequently regarded as an urban land use.

11.2 On this basis we disagree with the opinion of Adv De Waal (at Paragraph 24) that the proposal should not be regarded as an urban expansion.

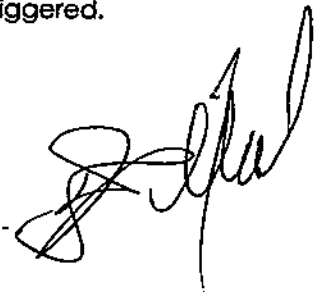
12 Based on the above, it is our view that on all three accounts a proposed smallholding development on the properties concerned would not qualify for an exemption in terms of Section 24 of the LUP By-law.

13 Requirements in terms of the LUPA

13.1 Whilst considering the proposed subdivision of the agricultural properties in terms of the LUP By-law, we advise that Section 53 of LUPA and Regulation 10 of the LUPA Regulations is applicable to this proposal. The evidence from the aerial photography suggested that Regulation 10(1)b) of the LUPA Regulations is in fact triggered and that an application to the Head of Department of the Provincial Department of Environmental Affairs and Development Planning in terms of Section 53 of LUPA and Regulation 10(4) of the LUPA Regulations would be required. The proposed LagoonBay Lifestyle Estate development would not be possible without such Provincial approval.

14 Requirement in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998)

14.1 On face-value, it would seem that the subdivision of the properties into smallholdings per se may not trigger any environmental impact assessment, but considering the scope of the proposed development as described in the available marketing material, it is possible that an Environmental Impact Assessment may be triggered for certain elements of the proposal. It is therefore recommended that your client engages with the relevant officials of this Department to ascertain whether any listed activities in terms of NEMA are triggered.

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- 15 Please note that the Departmental position as set out in this communication represents an assessment of information available to us at this point in time, with a view to determining which procedures are applicable to the proposed LagoonBay Lifestyle Estate development. The Department has not considered and therefore has no position or view on the merits or desirability of the proposed development at this point in time.
- 16 Should you or your client have any further questions in this regard, please do not hesitate to contact me or our Director: Development Management (Region 3) in the George Office, Gavin Benjamin on 044 – 8058611 or on e-mail at Bruce.Benjamin@westerncape.gov.za.

Yours sincerely



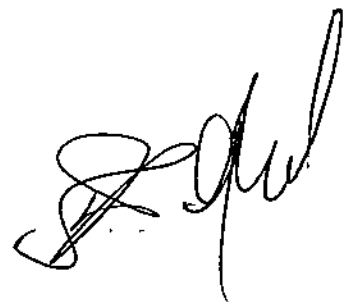
PIET VAN ZYL
Head of Department
Environmental Affairs and Development Planning

Date: 12 December 2016

Copies: The Municipal Manager
George Municipality
PO Box 19
GEORGE
6530
Attention: Mr Steven Erasmus (e-mail: steven@ggeorge.org.za)
Mrs Delia Power (e-mail: delia@ggeorge.org.za)

LagoonBay Lifestyle Estate (Pty) Ltd.
Stellenbosch
7600

Attention: Dr Werner Roux (e-mail: werner@lagoonbay.com)



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**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)**

CASE NO: 22855/2009

In the matter between:

THE CAPE WINDLASS ENVIRONMENTAL ACTION GROUP

Applicant

and

**THE MINISTER FOR LOCAL GOVERNMENT, ENVIRONMENTAL
AFFAIRS AND DEVELOPMENT PLANNING, WESTERN CAPE**

First Respondent

LAGOONBAY LIFESTYLE ESTATE (PTY) LTD

Second Respondent

THE GEORGE MUNICIPALITY

Third Respondent

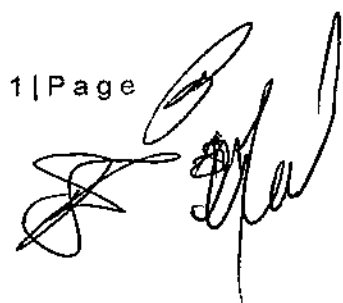
SUPPORTING AFFIDAVIT

I, the undersigned,

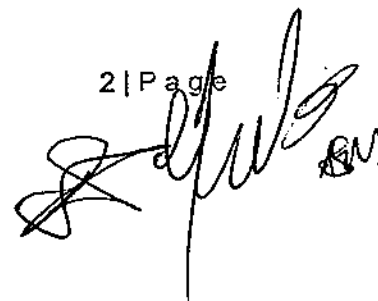
JOHANNES PETRUS NELL

do hereby make oath and say that:

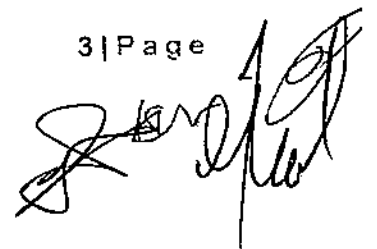
1. I am a specialist researcher at the Agricultural Research Council (the "ARC"). I am attached to the ARC's Institute for Soil, Climate and Water, with offices at Pretoria ("The Institute").



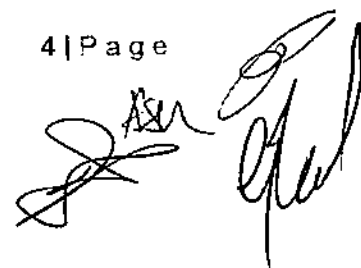
2. The facts contained in this affidavit fall within my personal knowledge, unless the contrary appears from the context and are true and correct. Where I depose to evidence of a hearsay nature I shall disclose the source thereof and say that I verily believe such evidence to be true and correct. Where I refer to advice, it is the advice of Applicant's legal advisers which I believe to be true and correct. Where I express an opinion such opinion is based on my expert knowledge in my field of professional practice and the relevant and reliable facts.
3. In respect of my academic and professional qualifications I refer to my CV attached hereto marked Annexure "JPN1". I respectfully point out that at all relevant times I have been a registered professional natural scientist in the field of practice of " Soil Science". In terms of the Natural Scientific Professions Act 27 of 2003 only a duly registered person is allowed to practice in a consulting capacity.
4. The Institute regularly consults with the regulatory authorities and the private sector (mostly the mining industry, but also in respect of other environmental investigations) in respect of the agricultural potential of soils in the context of authorisations under Act 70 of 1970. Because of potential conflicts the Institute has to be scrupulously independent and objective. As a matter of policy, all reports that are released by the Institute are - as a minimum - internally peer-reviewed. The Institute's reports have a high standing and its findings are generally accepted by the national and provincial Departments of Agriculture.

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5. The Institute was telephonically approached by Ms Annette Stoltz of the Directorate Land Use and Soil Management of the national Department of Agriculture ("Stoltz") on 2 June 2006 to do an evaluation of the farm Hoogekraal 238 near George to determine if high potential agricultural land occurred and where a change in land use could be permitted. The matter was submitted to the national department in the context of an application for rezoning and subdivision, as provided for in terms of Act 70 of 1970
6. The national Department of Agriculture sought assurance of its view of the agricultural potential of the land from independent outside professionals. This happens rarely, only in about 5% of cases, where the national Department of Agriculture anticipates that its own assessment of the soil potential might be contested.
7. The matter was allocated to me. I produced the report GW/A/2006/63 "SOIL AND LAND EVALUATION LAGOON BAY AT HOOGEKRAAL (JULY 2006) ("my Hoogekraal report") and furnished a copy to Stoltz on 20 July 2006, and to Jan Smit of the provincial Department of Agriculture.
8. I have a copy of my Hoogekraal report at hand. I attach a copy marked annexure "JPN2". I list my conclusions briefly:
 - 8.1 77% of the area could be considered as high potential and/or unique agricultural soil from a national perspective.

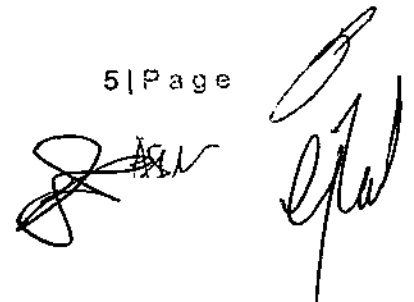


- 8.2 According to the information provided by the Developer's CEO Werner Roux ("Roux") at the time and on site, 12 properties totalling 215ha did have registered water rights, but that intensive farming under irrigation had been given up more than ten years before that time.
- 8.3 I did not investigate the factual and legal aspects of water rights any further at the Department of Water Affairs and Forestry ("DWAF"). According to the infrastructure that I found on site (hydrants and dams), it was clear that water was available from the river and had - at one stage - been used for irrigation. According to the evidence available in the field, I had no reason to dispute that the required quantities of irrigation water were available.
- 8.4 The current agricultural economic activity or the lack thereof has no relevance in terms of the potential and uniqueness of the land for agriculture.
- 8.5 I also noted that from the documentation provided by the Developer, it was not clear why the development site south of the N2 was considered not suitable for agriculture, but north of the N2 approximately 90ha was considered suitable.
- 8.6 As appears from my Hoogekraal report, I used the relevant criteria for the determination of high potential agricultural land as



applied by the national Department of Agriculture to soils in the Western Cape. I also applied the relevant national policy for the preservation of high potential and unique agricultural land.

9. I do not want to burden this affidavit with voluminous annexures. I have been advised that the ARC-ISCW Report to the national Department of Agriculture "Criteria for High Potential Agricultural Land in South Africa" by J L Schoeman (2004) ("the national Criteria"), and the National Policy on the "Preservation of High Potential and Unique Agricultural Land (June 2006)" ("the national Policy"), or relevant extracts thereof will be attached to Applicant's supplementary papers.
10. I confirm the contents of my Hoogekraal report to be factually correct and a true reflection of my independent professional opinion, which I formed when investigating the matter within the terms of reference of my instructions.
11. When Stoltz briefed me in June 2006, she provided me with extracts of Second Respondent's rezoning application and a Soil Survey Report of the farm Hoogekraal prepared by B Schloms and J Lamprechts in May 2005 ("the Schloms Soil Survey (May 2005)").
 - 11.1 I kept a hard copy of the Schloms Soil Survey (May 2005). For the purpose of this affidavit I am attaching a copy of the narrative part of the report as received from Stoltz, marked annexure "JPN3".



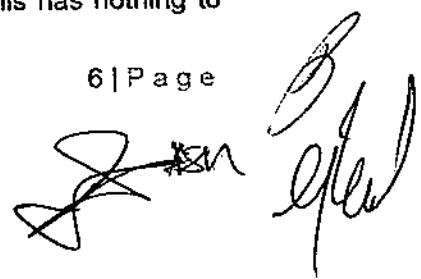
11.2 In addition, I stored some related emails on my computer, which I retrieved to refresh my memory.

12. In preparing my Hoogekraal report I spent two days on site (7 and 8 June 2006). Roux was aware that I was preparing a report for the Department of Agriculture. He and his staff gave me information and kept an eye on me, while on site.

12.1 I surveyed the test holes and checked the information provided in the Schloms Soil Survey (May 2005).

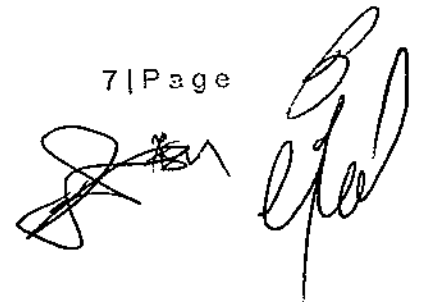
12.2 I interviewed some farmers and farm workers and investigated the planting history. Unfortunately I did not make a note of their names at the time. According to such information potatoes, beans, squash, broccoli, cabbage, lettuce, radish, and carrots had been grown there successfully. Most of the harvest was delivered to I&J (then Table Top), who were processors of frozen vegetables in the George area. Nobody had ever farmed in that area with deep-rooted perennials and planted vineyards, deciduous fruit, citrus fruit or olive trees.

12.3 It is obvious that at the time of my visit in June 2006 the farming area was in a derelict state. This is not surprising. Once developers have taken an option to buy the land for development, the land often lies fallow and the farm workers and their families are in limbo. As stated above, this has nothing to

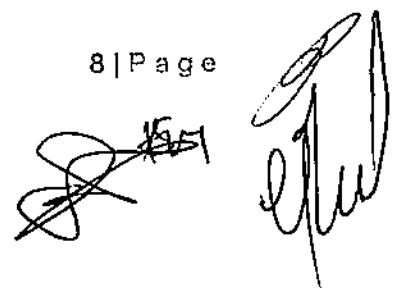
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do with the agricultural potential of the soils in that particular location.

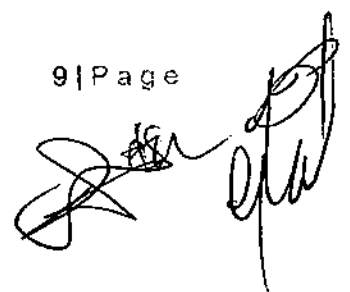
- 12.4 After my site visit, Roux phoned me repeatedly, even at home and in the evenings. He enquired after my terms of reference and gave me the impression that he wanted me to broaden the terms of reference to include the issue of the commercial or economic viability of farming on the land.
- 12.5 SW van der Merwe, the Developer's planning consultant and project leader ("SW van der Merwe" or "SW") phoned me repeatedly as well during this period.
- 12.6 In support of his contention that the land was of low agricultural potential, Roux sent me several documents on 1 July 2006, which I read. I only used the information provided by him insofar as it was relevant to my terms of reference. I electronically forwarded these documents to Applicant's counsel in Cape Town. I shall deal with the documents provided by Roux later.
- 12.7 On 4 July 2006 (before I had finalised my Hoogekraal report) SW van der Merwe wanted me to come to a meeting with Lambrechts (to whom he referred as "Lampies"), clearly in an effort to find common ground between the different views of the two consultants. In this respect I refer to his email, marked "JPN4".

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- 12.8 I declined the invitation, as I was not in a position to change my findings. The assessment of the agricultural potential in the Schloms Soil Survey (May 2005) was clearly bad.
- 12.9 Richard Selemela, then an official in the national Department of Agriculture phoned me from George and enquired about my investigations. I probably told him what my preliminary findings were, but cannot remember details of our discussions. I jotted down a contact phone number for him in George. On 20 July 2006 I furnished a copy of my Hoogekraal report to Stoltz and to the provincial Department of Agriculture (Western Cape).
13. In the course of my investigations I became aware of the nature, size and scale of the development and the issues that arose in relation to soil and water. I briefly referred to social issues, but they fall outside my field of expertise. Due to my narrow terms of reference, as appear from my Hoogekraal report, I was not in a position at the time to comment on water issues, other than to state that irrigation water in sufficient quantities was available and had been used at one stage
14. From the documents available to me at the time, it was evident that the Developer
- 14.1 intended to use treated sewage for the irrigation of the golf course itself, for landscaped open spaces and for any private gardens;

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- 14.2 intended to limit the irrigation of the golf course to a maximum depth of 150mm with the help of a computerised irrigation system, which would include moisture sensors. He also proposed to ameliorate the soil of the golf course inter alia by the use of 'effective microbes',
- 14.3 stated that sensitive habitats would not come into direct contact with the irrigated golf courses, but were buffered by one or two rows of houses and protected by cut-off drains, and
- 14.4 had not undertaken any specialist hydrological study of the impact of such irrigation water on the surrounding soils and water resources, as in their view the proposed mitigation measures were sufficient.
15. I have been asked by Applicant's legal adviser to comment briefly on the stance taken by the Developer and his project team, including the independent consultant, to not obtain a hydrological study. It is neither my brief nor my intention to undertake a hydrological impact study. In the following paragraphs I merely want to indicate which issues are involved, should have been investigated and which information should have been placed before the decision maker, but was not.
16. I am of the view that the hydrological issues should have been properly investigated.

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- 16.1 There are potential impacts of the use of treated sewage on the pristine vegetation on the banks of the river and the seafront, on the river and estuary itself, on the beach and any caves or other heritage sites that may be in the coastal zone. The stability of structures (houses and infrastructure) below the golf course needs to be considered as well.
- 16.2 The proposed mitigation measures need to be evaluated to give assurance to the decision maker that mitigation will be effective. Failure to do so is a serious shortcoming of the EIA process and a gap in the information base.
- 16.3 I say so for a number of reasons that relate to the topography of the area, the texture of the soils in situ, the phasing of the development, the costs of maintenance of the system during the operational phase and the difficulty of effective monitoring over the lifespan of this development. In my experience those problems may already materialise in the first five years.
- 16.4 This assessment is a task for a suitably qualified and experienced hydrologist. It would be unwise to rely on the advice of civil engineers, who happen to be the Developer's appointed project engineers. One can hardly expect them to take a dispassionate and objective view and assess the potentially significant impacts on a sensitive environment over the lifespan



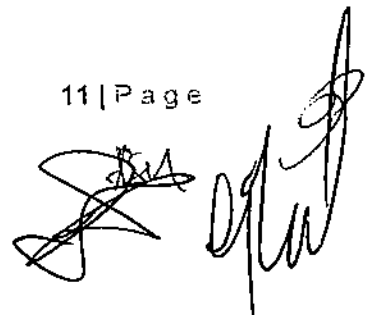
of the development. They have a commercial interest to put in the services and to get paid for it sooner rather than later.

17. The soils in the area are predominantly sandy, with a high infiltration rate and hydraulic conductivity, and low water-holding capacity. In certain areas there are differences in texture between the topsoil and subsoil that have a negative influence on the soil physical characteristics, which result in temporary high or perched water tables. Large sheets of water move rapidly laterally on sloping terrain. This potentially affects the stability of structures and increases the transport of nutrient rich water down slope into areas of pristine coastal habitat.

18. The Developer relies on a belt of residential properties around the two golf courses as a buffer. There is no certainty that such buffer will be effective after the construction of the golf courses.

18.1 It is a large residential estate that will be sold and built in phases. Most likely, the current economic climate will further delay the construction of houses and the establishment of a belt of gardening and landscaping that was intended as a buffer against any sensitive areas.

18.2 Bulk services infrastructure and the two golf courses would be constructed first. The golf courses would require increased irrigation and fertilisation during the initial phase to become

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established. At this stage there would not be a protective buffer at all.

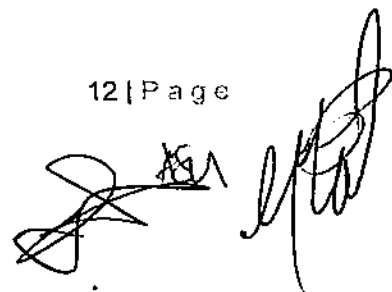
18.3 In the meantime, the cumulative effect of irrigation water over a number of years would have a detrimental impact on sensitive habitats.

18.4 The other proposed mitigation measures have not been tested at all. Moisture probes and cut-off drains alone may not be sufficient under unfavourable conditions. The leaching of nutrient rich irrigation water into the caves below the golf course at Pinnacle Point is a case in point.

19. I have been advised that neither my Hoogekraal report ("JPN2") nor the relevant national Criteria nor the national Policy were before the decision maker, in this case the then MEC Pierre Uys ("Uys"), when he had to consider the impacts of the development on agricultural resources of the area.

19.1 The Western Cape MEC of Agriculture would have had my report, the national Criteria and the national Policy.

19.2 SW van der Merwe also had a copy of my report, as appears from his email to me, dated 20 April 2007, in which he asked me specifically for a copy of the national Criteria and the national

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Policy, which I would have furnished him electronically. A copy of his email is marked "JPN5"

19.3 I state that it is patent that all this is relevant information, which should have been before Uys.

19.4 Without it, any decision maker would have been led to believe that the soils below the N2 had marginal value and could safely be sacrificed, and that the soils above the N2 had high potential and would be a solid base for intensive and sustainable community-based/ land reform agriculture.

19.5 A diligent decision maker would have taken my report and the applicable criteria and policies into account. At least, the gaps in knowledge revealed and uncertainty about material aspects would have led to further investigations by the decision maker before taking a decision to approve .

COMMENTS ON THE SCHLOMS SOIL SURVEY (May 2005) AND THE SCHLOMS SOIL STUDY (February 2006)

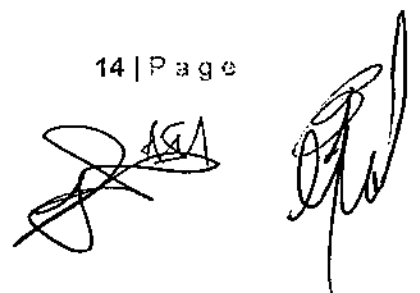
20. The Schloms Soil Survey (May 2005) ("JPN3") was the only soil study/report/survey that was included in my brief by the national Department of Agriculture. I dealt with it in my own report.



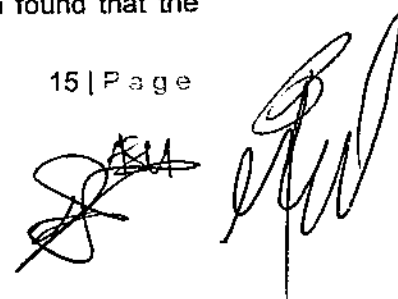
21. Applicant's legal adviser and I discovered during our telephonic consultations that we had different versions of a document in front of us that purported to be the Schloms Soil Survey (May 2005). We discovered various discrepancies between our respective versions of the report.

21.1 Applicant's legal adviser found a copy of this document in the Final Scoping Report. As I was told, this version of the survey looks primarily at the soil characteristics. In its final chapter 8 it addresses the suitability for deep-rooted perennial crops (fruit trees and vineyards) more from a general planning/landscaping perspective. It contains no qualitative comments about agricultural potential, does not mention the suitability or otherwise for the growing of annual crops or the commercial viability of farming on the land.

21.2 The copy which I received from Stoltz ("WAG3") is clearly motivational in support of an application in terms of Act 70 of 1970. It contains a final chapter 9, titled 'Conclusions' that assesses the agricultural potential specifically from the perspective of perennial crops, deals with the lack of irrigation water and the fragmentation of the land and argues that no crop would constitute a viable commercial option, let alone perennial crops.



- 21.3 I have been informed that Applicant's legal adviser will deal with the issue of discrepancies between those two versions of the May 2005 soil study.
- 21.4 Suffice to say that Schloms had committed himself to the position that the development of the land was justifiable on the basis of the low agricultural potential of the land, the fragmentation of the farming units and the lack of irrigation water. He maintained, and even reinforced this position, when apparently challenged by the Department of Agriculture, again in February 2006.
22. On 1 July 2006 Roux, quite unsolicited, sent me an electronic copy of a report (and maps) purportedly produced and written by Schloms ("B Schloms and J Lambrechts: Soil Study: Suitability of Soils for Sustainable Agriculture (February 2006) [Response to Comment of Ministry of Agriculture, Western Cape]" ("The Schloms Soil Study (February 2006)"). A print-out of the electronic copy that Roux sent me is marked "JPN6".
23. Applicant's legal adviser and I compared notes again, after I had forwarded Roux's email of 1 July 2006 (with its attachments). A copy of the email is marked "WAG7".
- 23.1 I opened the Schloms Soil Report (February 2006), which Roux had forwarded to me ("WAG6"), and inspected the 'advanced properties menu' of this electronic file. The filename was 'Schloms Report (2) - Annual crops.doc'. I then found that the

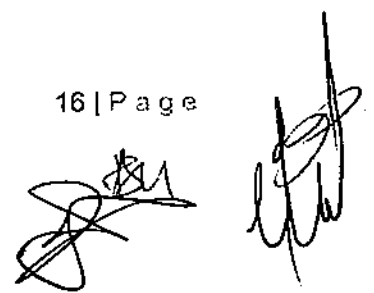
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author was "SW", the company was Dennis Moss Partnership and the Title was 'Proposed LagoonBay Lifestyle Estate Development'; it had last been printed on 13 March 2006 at 1:14 pm. After a total editing time of 12 minutes it was created and saved as version 3 on 13 March 2006 at 03:58 by Werner Roux.

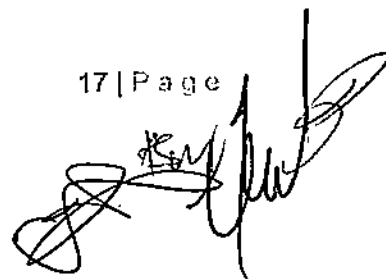
23.2 The conclusion one has to draw from this state of affairs is that B Schloms is not the author of the narrative part of the report , but that it is SW van der Merwe. Schloms is probably the author of the soil maps attached to it. Schloms again would have been using the tables of soil types produced several decades ago by his former teacher emeritus professor J Lambrechts of the Stellenbosch University.

23.3 The fact that the name of professor J Lambrechts was misspelt twice as "Lambrechts" is a further indication that neither Schloms nor Lambrechts had much do with this document. Schloms probably consulted with SW van der Merwe, before the latter produced a response document to the Department of Agriculture.

23.4 Applicant's legal adviser told me that a document with the very same title was filed in the Final EIR (March 2006) as part of the set of the agricultural impact assessment reports.



- 23.5 I have been advised that Applicant's counsel will deal in argument with the discrepancies between the two versions of the Schloms Soil Study (February 2006).
24. From the above it is quite clear that the integrity and/or authenticity of Schloms's aforesaid reports is in question. This is a serious matter that ought to be brought to the attention of the relevant professional boards and organisations.
25. On 1 July 2006 I received from Roux the following further documents by email, which I list below.
- 25.1 A letter by one Phillip Terblanche, chairman of the Outeniqualand Landbouvereniging, dated 2 November 2005; marked annexure "JPN8",
- 25.2 A "To Whom It May Concern" by one JJ Botha of McCain Foods SA, dated 22 November 2005, marked annexure "JPN9",
- 25.3 A "Kommentaar met verwysing na groente boerderey op die plaas Hoogekraal", dated 21 November 2005 by a Mnr Potgieter, marked annexure "JPN10";
- 25.4 Another so-called "Schloms document" of November 2005, marked annexure "JPN11".

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- 25.5 Needless to say, the advanced properties menu of the Schloms document again reveals SW as the author. The other documents reveal 'LagoonBay' as the company and one 'Andrieka' as the authoress.
26. At the time I did not question the authenticity of such documents. I ignored them insofar as they were irrelevant, and dealt with them insofar as they related to my terms of reference.
27. I have been advised by Applicant's legal advisers that Uys found in his RoD that the land was fragmented, that there was a lack of water, and that the land had low agricultural potential, and that he relied for his finding on the Schloms Soil Study (February 2006) ("WAG6").
28. Leaving the issue of the authenticity of the document aside, I have been asked to comment on this document ("WAG6") as a component of the Final EIR. This document does not comply with the requirements of the EIA Regulations, as it is unreliable and displays the author's lack of independence.
29. My first point of criticism relates to Schloms's lack of formal qualifications. As such his report was not acceptable in terms of the EIA regulations:
- 29.1 In terms of the EIA regulations and the provisions of Act 27 of 2003 Schloms was incompetent to act as consultant in an EIA

process, as only registered professionals are allowed to consult as experts.

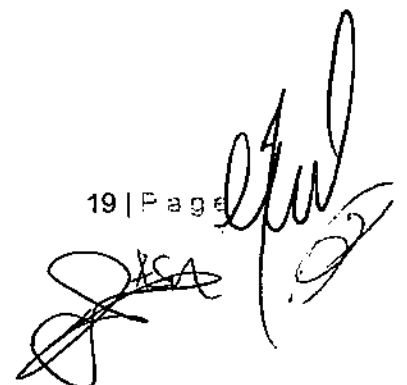
29.2 He was not so registered at the time, as I noted in my Hoogekraal report . He may have registered subsequently, but that is beside the point.

30. My second point of criticism relates to Schloms's lack of substantive independence, also a requirement in terms of the EIA Regulations.

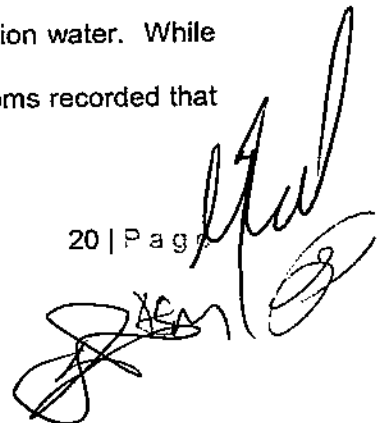
30.1 Prior to the environmental impact assessment report in November 2005 and the Soil Study (February 2006), he had already produced another report for Dennis Moss Partnership, the Schloms Soil Survey (May 2005) ("WAG3"). His lack of independence appears clearly from his terms of reference and the objective of the last mentioned document.

30.2 Schloms had produced the Soil Survey (May 2005) for and in collaboration with the Developer and his project team (Dennis Moss Partnership).

30.3 He had to report on the "relative suitability of the soils for agricultural purposes, with specific reference to perennial crops" (page 2 of "JPN3").



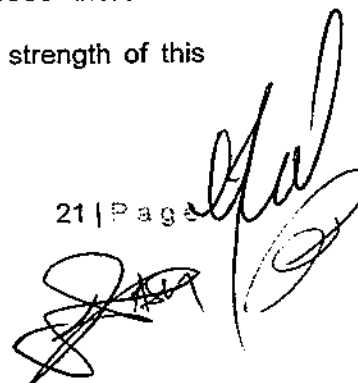
- 30.4 An independent expert would not have accepted ToR that limit the expert to assess the agricultural potential on an - in my view - inappropriate basis, as I will explain later.
- 30.5 There is no evidence that Schloms himself was on site. He may have used students to take the soil samples, after SW van der Merwe's son had had the test holes dug.
- 30.6 Schloms's report was clearly motivational in support of an application for consent by the Departments of Agriculture, in relation to the rezoning and subdivision of agricultural land, in terms of Act 70 of 1970. As such it was submitted to the authorities.
- 30.7 Already in May 2005 Schloms had committed himself to the - untenable - view that the only valid or relevant criteria for the assessment of the agricultural potential of Garden Route soils was their suitability for deep-rooted perennials. Already then he had adopted the very criteria on the basis of which the land in question would have clearly low agricultural potential.
31. It would appear that Schloms had made no effort in his Soil Study (February 2006) ("JPN6") to verify the allegations he made with regard to the alleged water rights and the alleged volume of irrigation water. While Roux told me on site that 12 units had water rights, Schloms recorded that only 3 units had irrigation rights.



32. I have been advised that in September 2009 the Developer commissioned the engineering firm Aurecon to undertake research into the historic water rights of the various cadastral units of the land in question and to establish the lawful water usage by the various land owners when the National Water Act 36 of 1998 came into force. The relevant period in terms of Act 36 of 1998, is the two year period immediately before 1 October 1998.

32.1 Messrs Aurecon in their 'additional report' of 16 November 2009 found that 15 units below the N2 and two units above the N2 had exercised their historic water rights in the 2 year period before the 1st of October 1998 and had irrigated a total area of 367,6 ha and had drawn a total volume of 2118 million litres or 2.2 million cubic metres of water per year. As source of this information they identify DWAF and/or the Developer. I have been advised that the Applicant will attach a copy of the Aurecon report of 16 November 2009 to the supplementary affidavit and that I should not burden my affidavit with unnecessary annexures.

32.2 I am referring to this report to demonstrate the conflict between the findings. In 2005/2006 Schloms and SW van der Merwe state that already more than 10 years ago (i.e. before 1995) there was a lack of water (and poor soils) which forced the farmers to give up the planting of vegetables. In 2009 Aurecon alleges that between 1 October 1996 and 30 September 1998 there was intensive irrigation farming on 367 ha. On the strength of this



finding, no farmer could have given up planting before 1995 due to lack of irrigation water, as Schloms alleged in his report.

- 32.3 Be that as it may, this comparison simply demonstrates the utter unreliability of either report. I agree with Messrs Aurecon/the Developer that vegetable farming was not given up due to lack of water, as claimed by Schloms in his reports. At the time there must have been plenty of water. What could be in dispute is the extent to which individual landowners actually pumped water between 1997 and 1998 and lawfully exercised and maintained their rights in the relevant period.

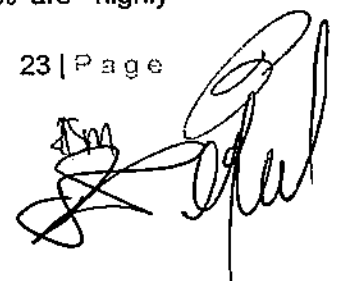
APPLICATION OF CLEARLY INAPPROPRIATE ASSESSMENT CRITERIA

33. I dealt with Schloms's reports in my Hoogekraal report and stated that the application of his assessment criteria (deep-rooted perennials) is clearly inappropriate.

- 33.1 I largely agree with Schloms on the distribution of soil types over the surveyed area, i.e. the area below the N2.

- 33.2 I am not in complete agreement with Schloms's classification of the soil potential based on the suitability of the identified soils for annual crops and perennial crops, respectively, but I did not make an issue of it.

- 33.3 I accept his maps in which he plots the different soil types and correlates them to the suitability for the respective crops. I used his maps in my report.
34. I do not accept Schloms's map of the distribution of water rights. According to my information 12 units had water rights, not just 3. Moreover, his illustration is grossly misleading for the following reasons:
- 34.1 He indicates that all the water rights were concentrated in the eastern area that - according to his soil suitability map - was the least suitable area for the planting of perennial crops.
- 34.2 In order to demonstrate how irrigation rights would raise the agricultural potential of the land, Schloms should have investigated the matter properly and should have shown the positive correlation between water rights and soils suitable for intensive irrigation agriculture, be it dairy pastures, annuals/vegetables or deep-rooted perennials.
35. On the basis of the Schloms Soil Survey (May 2005) ("JPN3") and the Schloms Soil Study (February 2006) ("JPN6") the following findings are necessary:
- 35.1 The suitability for vegetables is as follows: 23 ha or 5% are not recommended, 180ha or 41% are "conditionally recommended", 232ha or 53% are "recommended" and 4ha or 1% are "highly



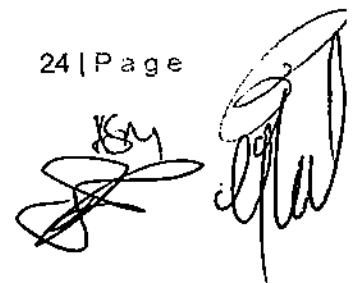
recommended". A total area of 208ha was not surveyed for being inaccessible and a non-arable nature area.

35.2 The suitability for deep-rooted perennial crops (e.g. fruit trees and vineyards) has a different outcome: 177ha or 40% are not recommended; 190 ha or 43% are conditionally recommended, 73ha or only 17% are recommended. Again 208ha are excluded from the assessment because of inaccessibility.

35.3 Not counting the 180ha or 190ha of land that are only conditionally recommended for either crop, on Schloms's version 236 ha of land is recommended (and highly recommended) for vegetables, whereas only 73ha of land would be recommended for perennials.

35.4 Some of the soils that on the basis of Schloms's soil maps would fall into the category of "conditionally recommended" for annual crops, qualify as high potential soils in terms of the national Criteria and the national Policy . Thus 77% of the surveyed area is high potential and unique agricultural land and only 23% is low potential land.

35.5 Nowhere on that plateau between Glentana, George and the foot of the Outeniqua Mountains has there ever been a practice of planting fruit trees, olive trees or vineyards (as for instance in the Hex River Valley). The soils are generally not suitable at all for

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deep-rooted perennial crops. Accordingly, to apply the test of perennial crops in this location is inappropriate and would be undermining the policy, which aims to preserve high potential and unique soils from a national perspective.

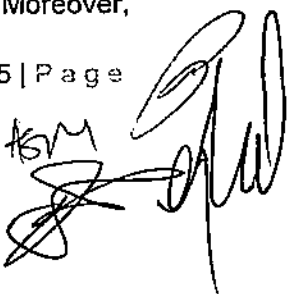
CONCLUSION

36. 77% of the surveyed land has high agricultural potential in terms of the national Criteria and national Policy. This accords also with actual historical agricultural practice in the area. This is relevant information that any decision maker needed to consider who had to assess impacts on agricultural resources.

36.1 The fact that the land is currently underutilised as an agricultural resource is irrelevant, as the objective of the national Policy is the preservation of scarce agricultural resources to ensure food security in the future, and not whether agricultural resources are currently intensively used by commercially viable agriculture.

36.2 The objectives of the national Policy include the preservation of high potential land for community-based and land reform agriculture. Neither current financial success nor viability in terms of commercial farming targets are relevant criteria.

37. The information placed before the decision maker was unreliable, insufficient and, in places, clearly wrong, as I have shown. Moreover,

ASM


material and relevant information like my Hoogekraal report, the national Criteria and the national Policy were not placed before the decision maker.

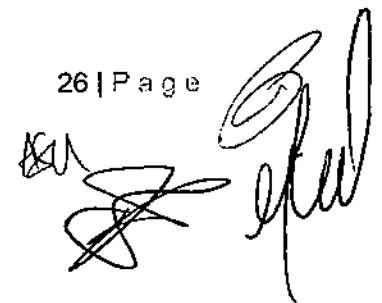
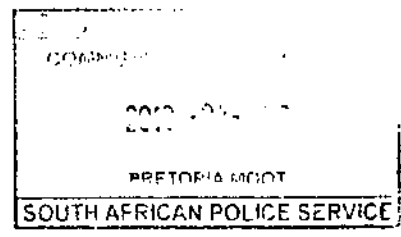


JOHANNES PETRUS NELL

I certify that the Deponent acknowledged to me that he knows and understands the contents of this declaration, has no objection to taking the prescribed oath and considers the prescribed oath to be binding on his conscience. The Deponent thereafter uttered the words: "I swear that the contents of this declaration are true, so help me God".

The Deponent signed this declaration in my presence at _____ on this
the 8 day April 2010.

AGILLALISE 166078-2
COMMISSIONER OF OATHS
Title: S/Constable
Full Names Madise Amanda Seipati
Address: 586 17th Avenue, Rietfontein 0084



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PERSONAL DETAILS

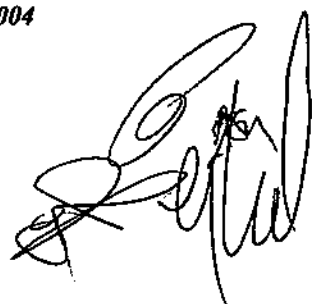
SURNAME: Nell
FIRST NAMES: Johannes Petrus
DATE OF BIRTH: 1958-03-22
NATIONALITY: South African
LANGUAGE PROFICIENCY: English, Afrikaans, and Zulu

ACADEMIC QUALIFICATIONS

NDT Geology/Geophysics	Pretoria Technikon	1981
B.(Agric) Irrigation Technology	University of the Orange Free State	1984
B.Sc.(Agric) Hons, Soil Science	University of the Orange Free State	1986
M.Sc.(Agric), Soil Science	University of the Orange Free State	1991
Nat.Cert.Water Pollution Control	Technikon RSA	1992
MBA	Potchefstroom University	2003
Prg. Investment Analyses and Portfolio Management	University of South Africa	2004
Ph.D. in Soil Science	University of the Free State	2010

PROFESSIONAL STATUS

Registered as Professional Natural Scientist: Field of practice Soil Science: No. 400462/04
Member of the Soil Science Society of South Africa
Member of the International Soil Science Society
Member of the South African Soil Surveyors Organisation
Advanced international course on irrigation and soil management - Institute of Soil and Water, Volcani Centre, Israel (1997)
Graduate School of Business (Univ. of Stellenbosch) Certificate on Programme and Project Management (1995).
Rehabilitation of Disturbed areas - Research Institute for Reclamation Ecology, Potchefstroom University for Christian Higher Education (1998).
Environmental Law for Environmental Managers - CEM North-West University 2004



FIELDS OF SPECIALITY AND COMPETENCE

- Expert knowledge of salinization and waterlogging of irrigated soils, as well as irrigation suitability planning and rehabilitation
- Expert knowledge of environmental monitoring and auditing
- Expert knowledge of water quality interpretation for agricultural and domestic use
- Experience in pedological investigations (e.g. as part of pollution studies, rehabilitation of mine soils, erosion, citrus, cane, maize, wheat and vegetable production and agricultural potential studies)
- Experience in geohydrology (as part of geology and geophysics studies)
- Experience in project management
- Experience in rehabilitation of disturbed areas

KEY WORDS

Soil science, soil survey, water quality, irrigation, soil suitability, pollution, rehabilitation, environment, and mine soils

PROFESSIONAL CAREER

- | | | |
|-----------|---|--|
| 1979-1981 | - Responsible for technical geohydrological surveys | Dept. of Water Affairs
(Geohydrology) |
| 1982-1986 | - University of OFS | |
| 1987-1989 | - Assistant Soil Scientist conducted soil surveys and carried out research into the effect of soil structure on the irrigability of soils. | Soil and Irrigation Research
Institute of the Dept. of Agric. |
| 1990-1991 | - Soil Scientist responsible for soil investigations for irrigation development. | |
| 1992 | - Senior Soil Scientist responsible for research into the effects of water and soil quality on citrus production. | Institute for Soil, Climate
and Water of the
Agricultural Research Council |
| 1993-1994 | - Principal Soil Scientist responsible for work in the field of water quality and irrigation with industrial water and a variety of soil assessments for client purposes. | |
| 1995-2009 | - Programme Manager/Specialist Researcher responsible for soil and water surveys for diverse purposes upon client request.
Project leader for studies on rehabilitated mine soils, land quality indicators, irrigation planning, and the use of gold mine effluent water for irrigation. | |

PUBLICATIONS

REFEREED PUBLICATIONS:
OTHER PUBLICATIONS:

7
4

CONFERENCE PAPERS: 17
CONSULTATION SCIENTIFIC REPORTS: 229

