#### NOTICE OF LAND DEVELOPMENT APPLICATION

#### PUBLIC PARTICIPATION DATES: COMMENCEMENT THURSDAY 17<sup>TH</sup> NOVEMBER 2022;

CLOSING DATE: MONDAY 19TH

The following land use application in terms of the Stellenbosch Land Use Planning Bylaw, 2015, refers:

Application Property Address: Edgbaston Wines, R44, Stellenbosch

Application Property Number: Portions 4 and 15 of the Farm Edgbaston, No. 104, Stellenbosch

Applicant: M.B. Straughan, Friedlaender, Burger and Volkmann, mark@fbvsurvey.co.za,

+27 82 8940686

Owner: Woodlands Trust, david@edgebaston.co.za, +27 83 2634353

Application Reference: LU/14545

Application Type: Subdivision and consolidation

Detailed description of land use or development proposal, including its intent and purpose:

Application has been made

- i. In terms of section 15(2)(d) for the subdivision of portion A, in extent ±5.06ha from portion 15 of the farm Edgbaston, No. 104, Stellenbosch, leaving a remainder of ±18.84ha,
- ii. In terms of section 15(2)(d) for the subdivision of portion B, in extent ±0.06ha from portion 4 of the farm Edgbaston, No. 104, Stellenbosch, leaving a remainder of ±4.53ha,
- iii. In terms of section 15(2)(e) for the consolidation of portions A and B to create a new consolidated portion ±5.12ha in extent,
- iv. In terms of section 15(2)(e) for the consolidation of the remainders of portions 4 and 15 to create a new consolidated portion ±23.37ha in extent, and
- v. In terms of section 15(2)(d) for the subdivision of a servitude right of way over the consolidation in iv above in favour of the consolidation in iii above.

Notice is hereby given in terms of the provisions of Section 46 of the said Bylaw that the above-mentioned application has been submitted to the Stellenbosch Municipality for consideration. The application is available for inspection on the Planning Portal of the Stellenbosch Municipal Website for the duration of the public participation process at the following address: <a href="https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements">https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements</a>. If the website or documents cannot be accessed, an electronic copy of the application can be requested from the Applicant.

You are hereby invited to submit comments and / or objections on the application in terms of Section 50 of the said bylaw with the following requirements and particulars:

- The comments must be made in writing;
- The comments must refer to the Application Reference Number and Address,
- The name of the person that submits the comments;
- The physical address and contact details of the person submitting the comments;
- The interest that the person has in the subject application;

- The reasons for the comments, which must be set out in sufficient detail in order to:
  - o Indicate the facts and circumstances that explain the comments;
  - Where relevant demonstrate the undesirable effect that the application will have if approved;
  - Where relevant demonstrate any aspect of the application that is not considered consistent with applicable policy; and
  - o Enable the applicant to respond to the comments.

The comments must be addressed to the applicant by electronic mail as follows: for attention M.B. Straughan, Friedlaender, Burger and Volkmann, mark@fbvsurvey.co.za. By lodging an objection, comment or representation, the person doing so acknowledges that information may be made available to the public and to the applicant.

The comments must be submitted within 30 days from the date of this notice to be received on or before the closing date of Monday, 19th December 2022.

It should be noted that the Municipality, in terms of Section 50(5) of the said Bylaw, may refuse to accept any comments/ objection received after the closing date.

For any enquiries on the Application or the above requirements, or if you are unable to write and /or submit your comments as provided for, you may contact the Applicant for assistance at the e-mail address provided or telephonically at (+27 82 89 40 686) during normal office hours.

## **Executive summary**

Proposed subdivisions and consolidations: Portions 4 and 15 of the Farm Edgbaston, No. 104, Stellenbosch

## 1 Purpose of the application

To realign the common boundaries of the above properties without the creation of additional portions, and to create a servitude right of way in favour of a proposed consolidated portion.

### 2 Application

Application has been made in terms of section 15 of the Stellenbosch Municipality Land Use Planning By-law, 2015 (SLUPB) as follows:

- i. In terms of section 15(2)(d) for the subdivision of portion A, in extent  $\pm 5.06$ ha from portion 15 of the farm Edgbaston, No. 104, Stellenbosch, leaving a remainder of  $\pm 18.84$ ha,
- ii. In terms of section 15(2)(d) for the subdivision of portion B, in extent  $\pm 0.06$ ha from portion 4 of the farm Edgbaston, No. 104, Stellenbosch, leaving a remainder of  $\pm 4.53$ ha,
- iii. In terms of section 15(2)(e) for the consolidation of portions A and B to create a new consolidated portion ±5.12ha in extent,
- iv. In terms of section 15(2)(e) for the consolidation of the remainders of portions 4 and 15 to create a new consolidated portion  $\pm 23.37$ ha in extent, and
- v. To subdivide a servitude right of way over the consolidation in iv above in favour of the consolidation in iii above.

## 3 Reason for application

The owner wishes to improve the configuration of the properties by re-aligning the common boundaries without any significant change in areas, without creating any additional portions and without changing the land use and zoning.

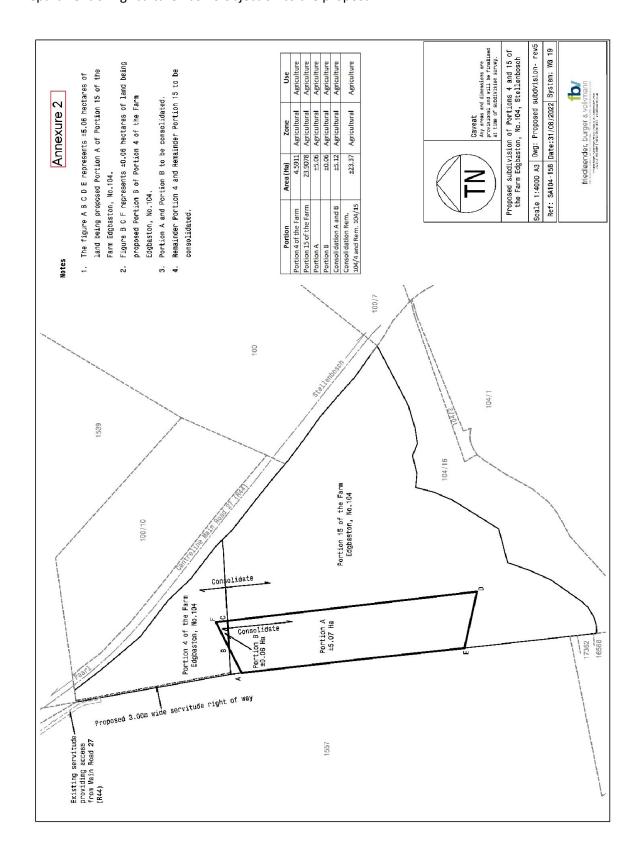
## 4 Proposed access and services

There is no change in external access to the two properties and no additional services are required.

## 5 Agriculture

There is no change in land use or rezoning proposed. The properties will continue to be utilised for agriculture. The National Department of Agriculture, Land Reform, and Rural Development has

approved the proposal in terms of the Subdivision of Agricultural Land Act, 1970. The Western Cape Department of Agriculture has no objection to the proposal.



## Motivation report

Proposed subdivisions and consolidations: Portions 4 and 15 of the Farm Edgbaston, No. 104, Stellenbosch

Friedlaender, Burger and Volkmann
PO Box 154, Stellenbosch
Tel +27 21 8864004
enquiries@fbvsurvey.co.za
www.fbvsurvey.co.za

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## 1 The properties

Farm numbers	Portions 4 and 15 of the farm Edgbaston, No. 104, Stellenbosch		
Address	Edgbaston Wines, R44, Stellenbosch		
Area	Portion 4: 4.5911 ha		
Alea	Portion 15: 23.9078 ha		
Owner	Woodlands Trust		
Title deed	Portion 4: T53998/2007		
Title deed	Portion 15: T54001/2007		
Zoning	Agricultural and Rural		
Use	Agriculture		
Mortgage bond	No		
Improvements	Portion 4: none		
improvements	Portion 15: Dwelling, staff house, agricultural buildings		

## 2 Annexures

Annexure	Description
1	Locality plan
2	Subdivision and consolidation plan
3	Title deeds
4	Power of attorney and trust resolution
5	Diagrams of portions 4 and 15 of the farm Edgbaston, No. 104,
	Stellenbosch
6	Surveyor-General's noting sheet
7	Western Cape Department of Agriculture comment
8	National Department of Agriculture, Land Reform and Rural development:
	Approval in terms of the Subdivision of Agricultural Land Act, 1970
9	Pre-application scrutiny feedback
10	Conveyancer's certificate

## 3 Background

We have been appointed to assist the owner of Portions 4 and 15 the farm Edgbaston, No. 104, Stellenbosch ("the properties"), to apply to realign the boundaries of the properties without the creation of additional portions, and to create a servitude right of way in favour of a proposed consolidated portion.

#### 4 Application

We apply in terms of section 15 of the Stellenbosch Municipality Land Use Planning By-law, 2015 (SLUPB) as follows:

- i. In terms of section 15(2)(d) for the subdivision of portion A, in extent  $\pm 5.06$ ha from portion 15 of the farm Edgbaston, No. 104, Stellenbosch, leaving a remainder of  $\pm 18.84$ ha,
- ii. In terms of section 15(2)(d) for the subdivision of portion B, in extent  $\pm 0.06$ ha from portion 4 of the farm Edgbaston, No. 104, Stellenbosch, leaving a remainder of  $\pm 4.53$ ha,
- iii. In terms of section 15(2)(e) for the consolidation of portions A and B to create a new consolidated portion ±5.12ha in extent,
- iv. In terms of section 15(2)(e) for the consolidation of the remainders of portions 4 and 15 to create a new consolidated portion  $\pm 23.37$ ha in extent, and
- v. To subdivide a servitude right of way over the consolidation in iv above in favour of the consolidation in iii above.

## 5 Reason for application

The owner wishes to improve the configuration of the properties by re-aligning the common boundaries without any significant change in areas, without creating any additional portions and without changing the land use and zoning.

## 6 Ownership and mortgage bonds

The properties are owned by the Woodlands Trust and are not subject to mortgage bonds.

## 7 Authority to apply

A power of attorney and company resolution are included with the supporting documents.

## 8 Pre-application scrutiny

The outcome of the scrutiny is included with the application. The feedback received requested a correction and an amendment to the plan of subdivision and consolidation, both of which have been attended to.

### 9 The properties

The properties lie to the north of Stellenbosch alongside Main Road 27, also known as the R44.

#### 9.1 Character of surrounding area

The surrounding area is rural agricultural with a wide variety of farm sizes and extensive agricultural activity. The topography is varied with considerable elevation changes. The area plays an important role in the scenic value of the Stellenbosch region.

#### 9.2 Zoning

The properties are zoned Agriculture and Rural (AR).

#### 9.3 Improvements

Improvements comprise a dwelling house, staff house, and agricultural buildings on portion 15 and no buildings on portion 4.

#### 9.4 Agriculture

The property is currently cultivated with ±24.5ha of wine grapes.

The Western Cape Department of Agriculture Cape Farm Mapper records the properties as having very high dryland potential.

### 10 Restrictive title deed conditions

There are no restrictive title conditions obstructing the proposal. The conveyancer's certificate included with the application lists the conditions in the title deed and confirms that none of these are relevant to the proposal.

## 11 Proposed access and services

#### 11.1 Access

A servitude over adjacent farm No. 1557 provides access to portions 4 and 15 from main Road No.27 (R44). An additional servitude will be extended over the consolidation of portions 4 and 15 to provide access to the new consolidation of portions A and B. The proposed additional servitude is shown on the subdivision plan.

#### 11.2 Services

The proposal does not create a requirement for any additional services.

## 12 Applicable legislation and policy

#### 12.1 Legislation

#### Relevant legislation is

- Subdivision of Agricultural Land Act, 1970 ("SALA")
- Spatial Planning and Land Use Management Act, 2013 ("SPLUMA")
- Western Cape Province Land Use Planning Act, 2014 ("LUPA"),
- Advertising on Roads and Ribbon Development Act, 1940 ("Act 21/1940")
- Stellenbosch Municipal Land Use Planning By-law, 2015 ("MPBL")

#### 12.1.1 Subdivision of Agricultural Land Act, 1970 ("SALA")

The Western Cape Department of Agriculture ("WCDA") makes recommendations to the National Department in respect of applications in terms of SALA. The WCDA has no objection to the proposal.

The National Department of Agriculture, Land Reform, and Rural Development has approved the proposal.

#### 12.1.2 Spatial Planning and Land Use Management Act, 2013 ("SPLUMA")

SPLUMA prescribes principles applicable to land use management including the requirement that the protection of prime and unique agricultural land is given special consideration. (s7(b)(ii))

The proposal has no negative impact on prime or unique agricultural land.

SPLUMA further requires that municipal spatial development frameworks ("SDFs") give effect to national policy on protection of agricultural resources. (s12(1)(n))

The proposal is not in conflict with any national policy on the protection of agricultural resources.

Section 22(1) of SPLUMA prohibits any authority required to make a land development decision from making a decision which is inconsistent with an SDF.

The proposed subdivisions and consolidations are not inconsistent with an SDF.

#### 12.1.3 Western Cape Land Use Planning Act, 2014 ("LUPA")

LUPA prescribes principles applicable to land use planning including the requirement that special consideration is to be given to protection of prime, unique, high potential agricultural land.

The proposal has no negative impact on prime, unique or high potential agricultural land.

LUPA further stipulates that land development which is not consistent with the relevant designation for the utilisation of land in an applicable SDF, deviates from the SDF.

The land use of the properties will remain agricultural. No use which deviates from a SDF is proposed.

#### 12.1.4 Advertising on Roads and Ribbon Development Act, 1940 ("Act 21/1940")

The proposal is subject Act 21/1940 as the proposed subdivisions are within 95 metres of the centre of the R44. Accordingly, this application must be circulated to the Western Cape Government: Road Network Management Branch for consideration and a decision in terms of Act 21/1940.

No new access from Main Road 27 (R44) is required.

#### 12.2 Policy

#### Relevant policy is

- The Western Cape Provincial Spatial Development Framework ("PSDF")
- Western Cape Land Use Planning Guidelines: Rural Areas: March 2019 ("the Guideline")
- Stellenbosch Integrated Development Plan, 4<sup>th</sup> review, May 2021 ("the IDP")
- Stellenbosch Municipality Spatial Development Framework ("MSDF")

#### 12.2.1 The Western Cape Provincial Spatial Development Framework ("PSDF")

The PSDF executive summary describes the Province's spatial policies in terms of three interrelated themes:

- " i sustainable use of the Western Cape's spatial assets and resources;
  - ii opening-up opportunities in the Provincial space-economy; and
  - iii developing integrated and sustainable settlements." (section 3, pg. 11)

The executive summary proceeds with policy statements including:

- " POLICY R3: SAFEGUARD THE WESTERN CAPE'S AGRICULTURAL AND MINERAL RESOURCES,
  AND MANAGE THEIR SUSTAINABLE USE
  - 1. Record unique and high potential agricultural land (as currently being mapped by the Provincial Department of Agriculture) in municipal SDFs, demarcate urban edges to protect these assets, and adopt and apply policies to protect this resource (especially in areas where raw water is available)." (pg. 13)

And

" POLICY R5: SAFEGUARD CULTURAL AND SCENIC ASSETS

...

- 5. Priority focus areas proposed for conservation or protection include:
  - Rural landscapes of scenic and cultural significance situated on major urban edges and under increasing development pressure, e.g. Cape Winelands." (pg. 14)

The following extracts from the PSDF are material to this application:

#### " 1.5.2 SUSTAINABILITY AND RESILIENCE

Land development should be spatially compact, resource-frugal, compatible with cultural and scenic landscapes, and should not involve the conversion of high potential agricultural land or compromise ecosystems. Resilience is about the capacity to withstand shocks and disturbances such as climate change or economic crises, and to use such events to catalyse renewal, novelty and innovation. The focus should be on creating complex, diverse and resilient spatial systems that are sustainable in all contexts." (pg. 11)

And

#### " 3.1.2. RESOURCE MANAGEMENT POLICY OBJECTIVES

The following 2009 PSDF primary objectives commit the Province to safeguarding these assets:

- i. Protect biodiversity and agricultural resources.
- ii. Minimise the consumption of scarce environmental resources, particularly water, fuel, and land in the latter case especially pristine and other rural land, which is the Western Cape's 'goldmine-above-the-ground' (i.e. a non-renewable resource).
- iii. Conserve and strengthen the sense of place of important natural, cultural and productive landscapes, artefacts and buildings.

The Western Cape's 2011 Provincial Strategic Plan reconfirmed these objectives and placed the proactive management of current and looming risks (e.g. climate change) onto the spatial agenda." (pg. 39)

#### 12.2.2 Summary: PSDF and the application

In summary the relevant focus of the PSDF with respect to this application are the policies which

- seek to restrict the conversion of high value agricultural land for development purposes
- prevent urban encroachment into rural areas
- preserve the scenic character of rural landscapes

The application does not convert high-value agricultural land to other uses. No change in use and rezoning is proposed and no additional land units are created

The proposal does not result in urban encroachment in rural landscapes.

The proposal has no negative impact on the scenic character of the rural landscape.

## 12.2.3 Western Cape Land Use Planning Guidelines: Rural Areas: March 2019 ("the Guideline") Among the objectives of the above Guideline is to

"Maintain the integrity, authenticity and accessibility of the Western Cape's significant farming, ecological, coastal, cultural and scenic rural landscapes, and natural resources." (s1.2 pg.2)

The status of the Guideline is expressed as follows:

"The Rural Areas Guideline is to be considered a guideline for land use planning decisions, being it spatial planning or development management aspects." (s1.3 pg.4)

Furthermore, the Guideline states that

"Due to the nature of this document as a guideline, authorities could deviate from it in exceptional cases if justification for such deviation is motivated. Such justification could include the promotion and support for the objectives of strengthening the rural economy but in doing so should not compromise the unique asset base that make up the distinctive rural landscape of the Western Cape." (s1.3 pq.4)

#### 12.2.4 Summary: The Guideline and the application

Approval of the proposal requires no deviation from the guideline.

The application is consistent with the guideline as it does not propose any change in land use from agriculture and does not propose the creation of additional land units. Accordingly, the proposal has no negative impacts in respect of the "integrity, authenticity and accessibility of the Western Cape's significant farming, ecological, coastal, cultural and scenic rural landscapes, and natural resources."

#### 12.2.5 Stellenbosch Integrated Development Plan, 4th review, May 2021 ("the IDP")

The IDP expresses the vision, goals and objectives of Stellenbosch Municipality and is given effect through various subsidiary policies including the MSDF.

Under the Bio-physical Context theme the IDP expresses spatial challenges directly relevant to this application, which include:

"The ongoing loss of agricultural opportunity through urban development and land use change of high value agricultural land.

Development which threatens the integrity and value of high worth nature, scenic, cultural, and heritage landscapes and places." (*Table 31, pg.61*)

With regard to the IDP strategic focus areas, Strategic Focus Area 1: Valley of Possibility, is directly relevant to the application. The IDP defines the SDF strategic direction under this focus area to include

"Containment of settlements to protect nature / agricultural areas..." (Table 32, pg.62)

#### 12.2.6 Summary: The IDP and the application

The proposal does not result in the loss of agricultural opportunity as it does not propose land use change.

The proposal preserves the existing integrity and value of the high value scenic landscape of Stellenbosch and is consistent with the use, form and character of surrounding properties.

#### 12.2.7 Stellenbosch Municipality Spatial Development Framework ("MSDF")

The MSDF is strongly aligned with the PSDF, and the Guidelines discussed above.

The overarching MSDF strategies directed towards agricultural land emphasise containment of existing urban settlements, protection of agricultural areas as both food production and scenic resources, and the encouragement of contextually appropriate, diversified use of agricultural land to augment farm incomes.

The MSDF emphasises the importance of the scenic value of agricultural areas and the unique character these areas impart to the region.

A key tenet of the MSDF is that agricultural land "...cannot be built upon extensively." (s 4.2.1, pg. 52)

The MSDF is resistive towards the subdivision of high potential agricultural land to create "...uneconomical or sub-economical units..." (Table 55, pg.188)

The MSDF adopts the guideline land use sizes for various uses proposed in the Western Cape Land Use Planning Guidelines: Rural Areas: March 2019 which propose a minimum size for vineyard of 40 hectares and for dryland vineyard of 80 hectares. (*Table 65, pg.198*)

Furthermore, the MSDF proposes that

"All development in rural areas should be in keeping and in scale with its location, and be sensitive to the character of the rural landscape and local distinctiveness." (*Table 59, pg.192*)

#### 12.2.8 Summary: MSDF and the application

The proposal is aligned with the MSDF as it does not create any new land units, does not propose land use change, does not result in new sub-economical units and has no negative impact on the scenic and unique character of the area.

#### 13 Motivation

#### 13.1 Desirability and impact

#### 13.1.1 Desirability

With regard to section 65(1)(c) of the MPBL, the proposal is desirable as it meets the needs of the owner to re-configure the common boundaries between the properties.

#### 13.1.2 Impact

The application does not propose land use change and rezoning. The proposal is in keeping with the existing local pattern of subdivisions and does not create any new portions. The proposal has no impact on the extent of agricultural activities on the properties and has no discernible negative impacts on the wellbeing, health and safety of any person or community.

With regard to section 65(1)(h) onwards, of the MPBL;

Engineering services: No impact

**IDP and MSDF:** The proposal does not result in the loss of agricultural opportunity as it does not propose land use change.

The proposal has no negative impact on the scenic value of the local landscape.

**PSDF:** The proposal does not create additional land units or have any negative impact on agriculture, on heritage resources and on the scenic characteristics of the landscape and is therefore not in conflict with the PSDF

**Section 42 of SPLUMA:** The proposal is not in conflict with the development principles set out in Chapter 2, section 7 of SPLUMA.

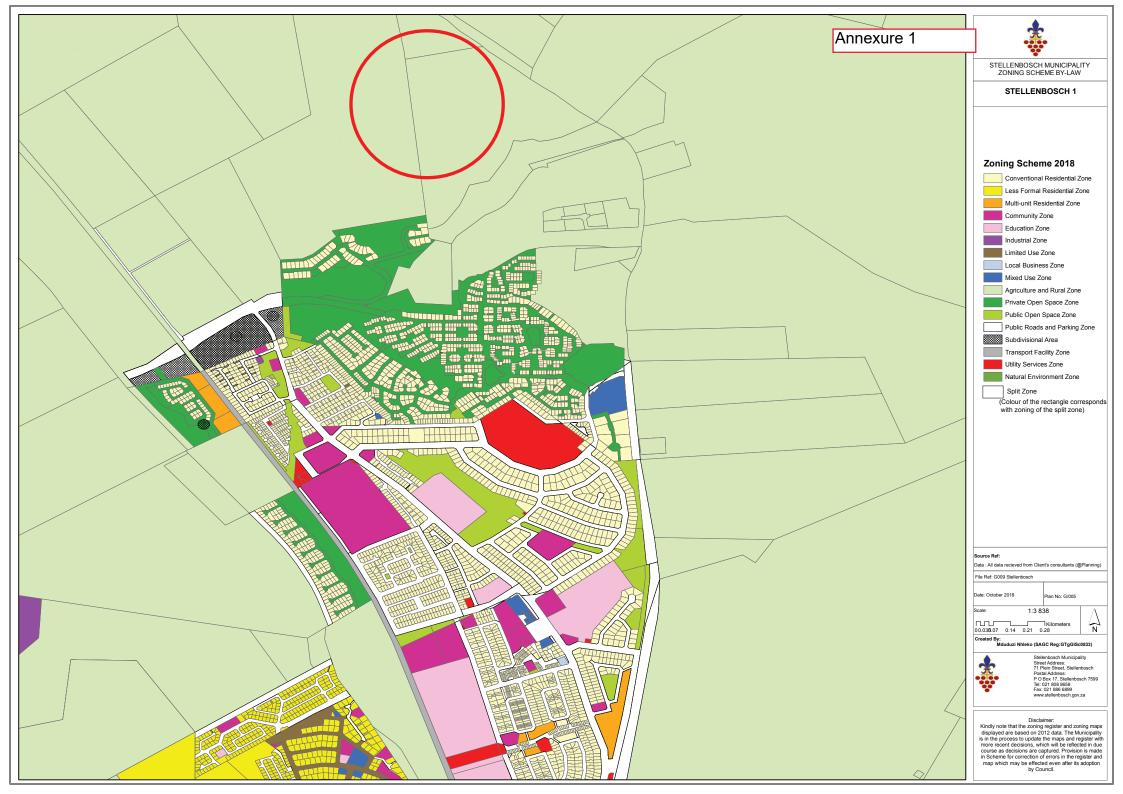
**Section 59 of LUPA:** The proposal is not in conflict with the development principles set out in section 59 of LUPA.

#### 14 Conclusion

The Western Cape Department of Agriculture has no objection to the proposal and the proposal has been approved by the National Department of Agriculture, Land Reform and Rural Development.

The proposal is desirable and has no discernible negative impacts. The proposal is compliant with all applicable policy and does not infringe any legislation.

We respectfully submit that there is no apparent reason for refusal of the application.

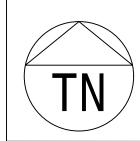


# Notes Existing servitude providing access from Main Road 27 proposed 3.00m wide s 1539 (R44) 100/10 servitude right of way Portion 4 of the Farm Edgbaston, No.104 olidate Consolidate Portion Ba ±0.06 Ha 100 Portion A 1557 ±5.07 Ha Portion 15 of the Farm Edgbaston, No.104 100/7 104/16 104/1 17362 16568

## Annexure 2

- 1. The figure A B C D E represents ±5.06 hectares of land being proposed Portion A of Portion 15 of the Farm Edgbaston, No.104.
- Figure B C F represents ±0.06 hectares of land being proposed Portion B of Portion 4 of the Farm Edgbaston, No.104.
- 3. Portion A and Portion B to be consolidated.
- 4. Remainder Portion 4 and Remainder Portion 15 to be consolidated.

Portion	Area (Ha)	Zone	Use
Portion 4 of the Farm	4.5911	Agricultural	Agriculture
Portion 15 of the Farm	23.9078	Agricultural	Agriculture
Portion A	±5.06	Agricultural	Agriculture
Portion B	±0.06	Agricultural	Agriculture
Consolidation A and B	±5.12	Agricultural	Agriculture
Consolidation Rem.	±23.37	Agricultural	Agriculture
104/4 and Rem. 104/15			



Caveat
Any areas and dimensions are
provisional and will be finalised

at time of subdivision survey.

Proposed subdivision of Portions 4 and 15 of the Farm Edgbaston, No.104, Stellenbosch

Scale 1:4000 A3 Dwg: Proposed subdvision- rev5

Ref: SA104-15B Date:31/08/2022 System: WG 19

friedlaender, burger & volkmann
PROFESSIONAL LAND SURVEYORS, SECTIONAL TITLE CONSULTANTS, MAPPING CONSULTANTS
27 Hards Street / Hertestrate PO Box / Posbus 154, Stellenbosch, 7599
TEL 27 21 886 4004 | FAX 27 21 887 4008 | Inholbitoryeroco.za