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## Comments on the 2019 Draft Municipal Spatial Development Plan

8 May 2019

BY EMAIL

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# 1 Preliminaries

- 1.1 The Friends of Stellenbosch Mountain (FSM) have been active in Stellenbosch since 2008. FSM is part of the WESSA affiliate network and is a SARS-accredited Public Benefit Organisation.
- 1.2 This document contains comments and recommendations on the Draft Municipal Spatial Development Framework Draft as published for comment in March 2019 (“MSDF”). The present comments must be read in conjunction with previous comments submitted on the draft 2019 IDP by FSM on 30 April 2019 and 6 May 2019. These comments have already been submitted separately and are not attached again. Some salient elements of those previous comments will, however, be repeated here.
- 1.3 Section 4 on roads and related matter represents a continuation of the “Addendum” comments submitted by FSM on 6 May, brought about by additional information that has since come to light.

# 2 General comments on the MSDF

- 2.1 While the bulk of the present comments on the MSDF must unfortunately concern itself with criticisms, they do not detract from its overall status. **The 2019 draft MSDF is a very good document and a major advance over the 3rd-generation predecessors.** We laud the consultant BEPSA as well as the spatial planning division of the municipal Department of Planning for a good document.
- 2.2 Our criticisms relate to the inexplicable contradiction encapsulated in proposed extensions of the Urban Edge in **Paradyskloof, Brandwacht and southern Jamestown.**
- 2.3 We also question some existing Urban Edge decisions regarding a triangular part of **Farm 502** (south of De Zalze) and the agricultural smallholdings (“tuinerwe”) between Webersvallei Road and Blaauwklippen River in **northern Jamestown.** The Urban Edge Guidelines state that there should be cogent reasons for any particular delineation. We cannot see any cogent reasons to include them but on the contrary good reasons not to. The Farm 502 triangle is a Critical Biodiversity Area (CBA) and will thereby never become a candidate for development. The Jamestown smallholdings are part of its cultural heritage and of course also represent agricultural land which (by the MSDF itself) should not be developed. We therefore request that these two areas be *excluded* from the existing Urban Edge.
- 2.4 The **Adam Tas Corridor** (ATC) vision and project is supported by FSM *on two conditions*:
  - 2.4.1 The intensive and extensive development associated with the ATC must be a *replacement* of, rather an *addition* to, other proposed peripheral land developments. The ATC should accommodate, within the modern high-density and TOD-friendly parameters, the need for additional housing rather than providing merely an additional platform for growth.  
In consequence: When other, non-ATC development proposals within Stellenbosch itself are tabled, officialdom and Council should by default turn it down simply on the fact that ATC is the appropriate development node. Exceptions should be made only in the rarest of cases. The ATC must be considered as the primary and major growth opportunity.
  - 2.4.2 The ATC master plan must make adequate provision from the beginning for all Transit-Oriented Development related needs. These include of course a major upgrade of the railways and the railway stations, but also adequate provision for high-volume roads. The road segments from the Adam Tas–R44 intersection through to the R44–Merriman Road intersection is the largest cause of traffic congestion in Stellenbosch. It does need a major upgrade, including extra lanes, over- and underpasses for NMT and possibly local roads (eg Merriman to George Blake). Land which is needed for such an upgrade must

be reserved as soon as possible. See Section 4 for further comments on the role of the ATC in the Stellenbosch road and transport network.

- 2.5 The MSDF makes no mention of the 240m contour line as an upper bound for development. Given the many hills and mountains in the WC024 area, the 240m line has proven an important tool and should be reintroduced. It should of course also be applied to future development proposals.

### 3 Urban Edge extensions and the Urban Edge Guidelines

Section 5.3 of the MSDF pertain to the Plans and Settlement Proposals for Stellenbosch Town. Figure 26 captures the bioregional Spatial Planning Categories whose use lies in creating properly graded buffers in the transition areas between nature areas and urban development.

The text on Page 65 on Stellenbosch Town concentrates on the Adam Tas Corridor and Kayamandi and reiterates the primary concept of concentrating future development southwestwards and north-westwards along the Baden Powell and R304 corridors respectively. One single phrase talks about *infill opportunities* in Stellenbosch, amongst others also in Paradyskloof. No mention is made of Brandwacht at all.

Figures 27 and 28 of the MSDF show respectively the *Stellenbosch Town Concept* map and the *Stellenbosch Town Plan* which includes the delineation of the Urban Edge. These form the subject of the subsections below. We start with the conclusions: the proposed extensions of the urban edge to include Brandwacht Farm 1049 remainder and the 20ha portion of Farm 369 are inconsistent with the MSDF, the Urban Edge Guidelines and legislation and regulations governing the interplay between Critical Biodiversity Areas and spatial planning and should be rescinded.

#### 3.1 Brandwacht Farm 1049

- 3.1 Facts: the remaining portion of Farm 1049 comprises about 30 hectares in a long thin strip bounded in the north by Brandwacht suburb, in the south by the agricultural land of Farm 369/P and 370 (KWV testing), in the west by the office parks, Mediclinic and Brandwacht-On-River and in the east by the mountainside.
- 3.2 Privately owned, Brandwacht Farm 1049 has a long history of previous applications. The older office park area and Brandwacht-On-River resulted from a drawn-out process opposed by local residents and the municipal Department of Development Planning. The DEADP Record of Decision of the first MEC turned down the development of 120 residential erven. To quote the attorney's letter, the second MEC, Pierre Uys, *simply ignored the direction of his predecessor and approved the developer's appeal without affording the objectors any further right to be heard*. The appropriate letter dated 24 July 2019 is reproduced in Appendix C.
- 3.3 The previous history is relevant because the private land owner has for decades shown no interest in conducting the business of agriculture on the farm. This inaction has persisted since 2009 even though it was set out in the EIA leading up to the abovementioned developments that the remainder of Farm 1049 would continue to be used for agriculture.
- 3.4 Within this context, the proposed extension to include Brandwacht therefore appears to be motivated by just another private landowner intent on housing development for private gain. The MSDF should have taken into account this history, the agricultural soil potential and the protection of agricultural land in general before proposing this extension.
- 3.5 There may be yet another implicit motivation for extending the Urban Edge to include Brandwacht Farm: as a prerequisite for a motivation to include the 20 hectare portion of

Farm 369 shown in Figure 28 as the square yellow area immediately south of Brandwacht itself. In other words: Brandwacht is needed to motivate the extension of the urban edge to include the Paradyskloof portion, which otherwise would have formed an island. Inclusion of the Farm 369 portion is highly problematic; see the next section.

## 3.2 Paradyskloof (Farm 369)

### 3.1 Some Background

- 3.1.1 First some facts: the square marked for extension of the urban edge covers an area of about 20ha. The elevation ranges from 200m to 240m, the northern and eastern part forms a rising plain, with a steep east-west ridge leading down into the Schuilplaats River valley. The Paradyskloof Waterworks is located on the eastern side of the marked square.
- 3.1.2 More facts: the area had been under pine forest for a while in the late 20th century, but following a wildfire in 1996 reverted to natural growth. The area formed part of the notorious Paradyskloof Golf Estate battle and was therefore intensively studied.
- 3.1.3 More recently, a so-called *Paradyskloof Special Development Area* (SDA) was proposed in 2015 by one Dupré Lombaard, who tried to bamboozle Council into approving a number of large land use changes in nature areas ranging from the Berg River Dam to Idas Valley to Paradyskloof and calling the result *Innovation Capital*. The maps drawn bore no relation to the physical and planning characteristics of the area.
- 3.1.4 FSM submitted detailed comment on 31 July 2015 on these ill-conceived and badly executed proposals. With respect to the area currently in question, the main statement was that the entire remainder of Farm 369 should be declared a Protected Area, with a possible 1.2 hectare exception. Detailed spatial alternatives for such a 1.2 hectare development were included. No 20ha proposal was considered even remotely viable. These comments and the associated location map found their way into a 2017 Council agenda. It is doubtful whether anyone actually read the text.
- 3.1.5 Nevertheless, efforts continued to be made, similarly ill-conceived as the original Lombaard fantasy. A presentation was made in February 2017 *for a development that attracts unique tourism related commercial and academic development*. The presentation promised *A close relationship between development, agriculture and nature, buildings respectful of its surrounds in terms of bulk and height, a specific Residential “rounding off” area abutting the access road, an “institutional” village of about 27,000 square metres and a secured, well-defined agricultural holding*.
- 3.1.6 Council considered the derivative proposal in October 2017. Fortunately, Council kept its wits and deferred the matter to the present MSDF process.
- 3.1.7 There are proposals to extend the waterworks even more. The present upgrading of the waterworks has been disastrous for the adjoining Schuilplaats River ecosystem. Contractors are bulldozing and dumping ground up to the edge of the water itself. By these standards, any *close relationship between development, agriculture and nature* is inconceivable.

### 3.2 Critical biodiversity areas and spatial planning

- 3.2.1 The present 20 hectare urban edge proposal may well herald the third or fourth incarnation in the above misinformed series. They are all incompatible with the basic facts on the ground: the area is far from the R44, high up on the slopes, incompatible with the MSDF itself and the Urban Edge Guidelines and, most importantly, a critical biodiversity area.

3.2.2 The 2004–2006 EIA botanical study of Farm 369 was conducted over 18 months and resulted in a judgement by the botanical specialist that specifically the area north, east and south of the waterworks consisted mainly of *Foothill Shale Renosterveld*, some *Mountain Slope Shale Renosterveld* and of course a riverine ecosystem of the Schuilplaats Valley. All three are critically endangered ecosystems or in modern terminology *Critical Biodiversity Areas* and thereby enjoy special protection in terms of NEMA and related legislation and regulations.

3.2.3 Salient conclusions reached by the specialist include (we quote):

*A fynbos vegetation type associated with underlying shales, however, is an unusual remnant in the Western Cape as it is generally converted to agricultural lands. This suggests that it is a rare plant community worthy of high conservation attention.*

*Riparian systems rate as the most threatened ecosystems in South Africa.*

*Two Shale Renosterveld Shrubland communities were identified and described on the Paradyskloof site in the present study, namely, the *Elytropappus rhinocerotis*–*Erica imbricata* Foothill Shale Renosterveld and the *Elytropappus rhinocerotis*–*Felicia filifolia* Mountain Slope Shale Renosterveld. Swartland Shale Renosterveld has about 9% left untransformed and 0.5% is formally protected, it is thus classified as being Critically Endangered and a very high priority for conservation of all remaining patches.*

3.2.4 Site visits by the *Custodians for Rare and Endangered Wildflowers* (CREW) in the last few years have extended the long list of scientifically identified plant species occurring on the site, including several in the Vulnerable, Endangered and Critically Endangered categories of the Red Data Book.

3.2.5 CBAs are naturally not the primary focus of spatial development legislation. However, they do have direct spatial planning implications, legislated in NEMA, the Biodiversity Act and associated regulations. Specifically, *A spatial development framework reflected in a municipality's integrated development plan MUST contain a strategic assessment of the environmental impact of the spatial development framework* (see Regulation 2(4)(f) within the Municipal Planning and Performance Management Regulations, 2001, published under GN R796, or their legal equivalents promulgated later, which in turn are based on the Municipal Systems Act). This applies in general and more so for CBA areas. This has not been done in the MSDF. Further, Regulation 2(4)(i)(ii) states that an assessment *MUST indicate desired or undesired utilization of space in a particular area*. NEMA-conforming legal utilization of CBA spaces is rather limited.

3.2.6 There can therefore be no doubt that the area proposed for inclusion into the urban edge cannot be developed without major legislative hurdles at the stage of any future EIA. If the above facts had been unknown to the compilers of the MSDF or aspiring developers, they can no longer claim ignorance. Not that they ever could. Figure 28 itself includes the CBA layer which clearly overlaps the proposed area, while Figure 26 shows the same area and the Schuilplaats Valley as Core 1b and Core 2 SPC's (bioregional Spatial Planning Categories) respectively.

### 3.3 Relation to the MSDF and compatibility with the Urban Edge Guidelines

3.3.1 There has been no time to set out the various incompatibilities in this section. In Appendix A, we juxtapose some MSDF statements, quoting page number, section number and text, followed by an assessment whether the Paradyskloof and Brandwacht urban edge extensions would conform to the stated criteria.

- 3.3.2 The rejoinder that *inclusion into the Urban Edge does not confer rights as such* is meaningless. Planning officials tasked with assessing a development application routinely cite inclusion into the urban edge as a strong indicator that development is somehow thereby permitted even if the zoning would indicate otherwise.
- 3.4 **Compatibility with the Urban Edge Guidelines.** Due to lack of time we can only point to the extracts of the Guidelines themselves as set out in Appendix B. It is the task of the MSDF team to determine the compatibility of their proposals with the Guidelines, and to provide cogent reasons when deviating from their own principles. Such reasons are absent.
- 3.1 There are also serious governance concerns in this regard. When these extensions were queried at the MSDF Focus Group meeting on 25 April, they were publicly disavowed by the head of Spatial Planning of the municipality. The implications for governance are treated in the last part of Section 5.
- 3.2 The Brandwacht-Paradyskloof Urban Edge extensions would result in strong pressure to also include the remainder of Farms 369/P and 370 (Grondves). This prospect is strengthened when considering the attempt to have the Eastern Link Road built “section by section” as set out in Sections 4.2–5. Read in this way, the Brandwacht/Paradyskloof extensions form part of a yet larger hidden agenda of developing the entire hill from the R44 up to the waterworks and beyond. The purpose and thrust of the MSDF would thereby be defeated.
- 3.3 **In summary: the proposed extensions of the urban edge to include Brandwacht Farm 1049 remainder and the 20ha portion of Farm 369 are inconsistent with the MSDF, the Urban Edge Guidelines and legislation and regulations governing the interplay between Critical Biodiversity Areas and spatial planning. They should be rescinded.**

## 4 Roads and car traffic in the context of the MSDF

### 4.1 General

- 4.1 We have already commented on the important role of the proposed **Adam Tas Corridor** project and the related major upgrade of the Adam Tas–R44–Merriman route in item 4b of Section 2. This road upgrade is supported by FSM as a logical, densification- and TOD-conforming and necessary pillar of a properly functioning road network and town spatial structure.
- 4.2 It would be better to keep motor car commuter traffic travelling into Stellenbosch on the peripheries by means of peripheral park-and-ride facilities. Still, it may be possible and/or necessary to include a secondary parking garage facility close to Stellenbosch or Du Toit railway stations to facilitate the modal interchange to other modes of transport into the “old” Stellenbosch CBD around the Braak.

### 4.2 Eastern Link Road, again

- 4.1 The present comments must be read in conjunction with the FSM comments of 30 April and 6 May 2019. We here merely repeat some salient points. The need for this subsection arose because significant new information came to light on 7 May, one day later.
- 4.2 The 6 May comments set out in detail how two small development proposals on Farm 372 Welgegund have led to three alternative connecting road routes between Paradyskloof and Trumali Roads. All the planning decisions pertain to the original proposal (route L3a), an extension of Schuilplaats Road. For reference below, we again include the relevant map here.



4.3 As set out in the 6 May FSM comments, a line item from the draft 2019/20 MTREF was presented at the Ward 21 IDP public meeting on 2 May pertaining to the Eastern Link Road. The original title of the MTREF line item is *Schuilplaats* [sic] *Road Link*, while the same item appears on the 2 May IDP meeting presentation as *Eastern Link Road Wildebosch - Trumali Rd*; in other words, the title was redacted.

4.4 We unpack the import of the line item and its redaction as follows:

- 4.4.1 The line item was hidden in hundreds of pages of MTREF documentation, and due to the misspelling nigh invisible to anyone scanning the MTREF for matters of interest.
- 4.4.2 The line item was not presented in any IDP public meeting of 2018 or early 2019 attended by us or people known to us. These include the meeting of 15 November 2018, the key IDP/MSDF public meeting on 15 April 2019 in Town Hall for Wards 7, 8, 9 and 10, which would be directly affected by the Eastern Link Road, as well as the IDP/MSDF Focus Group meeting on 16 April (which included the focus areas *Spatial Investment* and *Structural Investment*) and 25 April which dealt with topics including *Spatial Environment*. The line item only appeared in its redacted version at the 2 May Ward 21 meeting.
- 4.4.3 The original MTREF line item clearly refers to the route L3a, the approved *Schuilplaats* extension. The same item entitled *Eastern Link Wildebosch* refers to the route L3c, a totally different road. A redactional change from *Schuilplaats* to *Eastern Link* is therefore a change not just of some wording but a change from one possible road route to a different one.
- 4.4.4 Most important of all, **the Eastern Link Road does not appear in any map in the MSDF itself** or any version of such maps presented at the IDP/MSDF meetings.
- 4.4.5 Notwithstanding all the above, the line item is a budget item slated for the imminent 2019/20 financial year. It has thereby moved the Eastern Link project beyond mere planning into the implementation phase, even if the allocated money were to be used only for route and engineering design studies. Implementation is now imminent even before it appears in any planning document.

4.5 See Section 5 for the governance implications of the above actions and events.

### 4.3 A bigger picture emerges

4.1 Much of the above was already clear when the FSM 6 May 2019 comments were submitted. One day later, new information as of 7 May 2019 came to light which cast the details of the

MTREF line item and the Eastern Road Link into a new light.

- 4.2 An email sent on 7 May 2019 by Deon Louw, Director Engineering Services is reproduced in full in Appendix D while omitting earlier emails attached to the 7 May one. It was written in reply to a pertinent query by HC Eggers (FSM Secretary) on 3 May.
- 4.3 We refrain from commenting on each detail of the email but merely summarise it and its errors.
  - 4.3.1 The email starts from the premise that car traffic congestion and its relief or “solution” forms the basis of planning and implementation. This is incorrect and incompatible with the pertinent transport legislation on national and provincial level. The correct premise and basis for mobility planning is integrated transport, of which motorised vehicles form merely a component.
  - 4.3.2 The Louw email had been mangled by various mailer programs, and an important table of issues and measures was thereby reduced to a series of phrases. In Appendix D we have attempted to reconstruct that table. While some entries may be misallocated, the essence of the table’s import has probably been captured. It provides a compact summary of the putative quantitative basis for the suggested “solutions”.
  - 4.3.3 The so-called “solutions” proffered are, in the order of the email itself: Western Bypass, Eastern Link, R44 upgrade (items 2. and 5. to 8. in the email). Items 9. and 10. again focus exclusively on motorised vehicle traffic, again ignoring all the principles and requirements of the legislation. Only in item 11.a. is Traffic Demand Management, TOD and NMT even mentioned. Item 11.b. (Increase transport capacity) reverts to car traffic and road building.
  - 4.3.4 The technical details set out in the table are apparently based on a draft Roads Master Plan (RMP) and not on the voluminous material available from other studies more oriented towards the legally-required integrated solutions. The technical details presented are therefore highly selective and thereby paint a misleading picture.
  - 4.3.5 The vehicle numbers presented in the table are guesstimates based both on vehicle counts (again premised exclusively on vehicles) and modelling. The modelling parameters and methodology have been disputed in the meetings of the Stellenbosch Mobility Forum and cannot be taken at face value.
  - 4.3.6 The key phrase in the email is this: *The point I am trying to make is that one solution will not make a big difference, but all of the solutions together will.* Again, the problem lies in the incorrect premise: The “solutions” listed pertain only to private motor vehicles and the traffic congestion caused by them, which pertain to a minority of Stellenbosch residents and external mobility users. The majority of commuters do not own or use a private motor vehicle and do not cause the problems exclusively considered in the email.
- 4.4 We now consider the email in the context of the IDP and MSDF as well as the CITP, the legally required main instruments of all spatial planning, including mobility in general and roads and traffic in particular.
- 4.5 To repeat: the email considers as “solutions” a major upgrade of the R44 plus the construction of two entirely new roads, the Western Bypass and the Eastern Link. The 2019 IDP and MSDF does not envisage construction of either one. The Western and Eastern road “solutions” do not appear on any map, and are not mentioned in the text except for the Western Bypass receiving a negative mention in Table 12: *However, this proposal appears to have no official status.* The R44 upgrade itself is contentious and not mentioned either. **The “solutions” therefore have no legal basis.**



- 4.6 On the contrary, the MSDF devotes the entire Section 6.6.2 to *Movement*, covering exactly that conceptual territory which the RMP and the Louw email purport to claim. This Section 6.6.2, and no RMP or back-of-the-envelope car counting, should be the basis for road planning.
- 4.7 Rather than starting out from the existing principal planning instruments of IDP, MSDF and CITP, the email starts out from an unpublished low-ranking and unverified document: the so-called Roads Master Plan (RMP). FSM has previously shown definitively that any municipal Road Master Plans is a low-order sectoral plan with no legal status except that of a consultant's specialist study; e.g. in a letter to the Mayor dated 5 October 2018, a newspaper article and in the Mobility Forum. The RMP is mentioned nowhere in the legislation.
- 4.8 In summary: The email, its premise, the Roads Master Plan, the Western and Eastern Bypass "solutions" all have no basis in law in general or even in the present IDP and MSDF documents. The MTREF line item thereby also has no basis in law either.

## 5 Governance

In this section, we try to draw governance-related conclusions based on the facts set out so far.

- 5.1 The details of the MTREF budget line item *Schuilsplaat Road Link* or *Eastern Link Road Wildebosch - Trumali Rd* were set out in Section 4.2. It has serious implications with respect to the legislative hierarchy, accountability and transparency.
  - 5.1.1 The redaction was intentional. The question therefore arises: Which person did the redaction, and was that person empowered to do so?
  - 5.1.2 At the MSDF presentations, none of the presenters was aware of the importance of the item; it was not highlighted or even referred to. One must therefore conclude that the item itself and its redaction did not emanate from the Spatial Planning branch of the municipal Department of Planning. This would imply that either another department or the higher echelons of the municipal administration must have effected the change. Was the Spatial Planning branch consulted at all? Was it consulted and then overridden? Or did the Spatial Planning branch itself deliberately mislead the public?
  - 5.1.3 Whatever the motivation (deliberate secrecy, sloppiness or interdepartmental warfare) or the active agent: the result of the line item being hidden from the public view implies that the public has been misled. The IDP/MSDF process was neither transparent nor accountable.
- 5.2 As the principal spatial planning instrument, the MSDF must contain all major road routes, past, present and future. The key (possible) road routes of the Western Bypass and Eastern Link Road do not appear at all in the MSDF. The MSDF falls under the auspices of the municipal Department of Planning; the Roads Master Plan under the Department of Engineering Services. If Engineering Services plans, budgets and constructs major road items in contravention of the MSDF and IDP, they are thereby acting *ultra vires*.
- 5.3 Stellenbosch Municipality may have one of the best MSDFs on paper, but it is increasingly apparent that it is not being applied but sidelined. The same must be said of the Comprehensive Integrated Transport Plan (CITP), which should be a principal planning instrument but has been sidelined completely.
- 5.4 **Public participation**

Section 152(1) of the Constitution of South Africa:

- (1) *The objects of local government are—*
  - (a) *to provide democratic and accountable government for local communities;*
  - (b) *to ensure the provision of services to communities in a sustainable manner;*

- (c) *to promote social and economic development;*
- (d) *to promote a safe and healthy environment; and*
- (e) *to encourage the involvement of communities and community organisations in the matters of local government.*
- (2) *A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).*

- 5.5 It is our contention that the public participation process followed in the last months of 2018 and the first months of 2019 is in violation of Section 152 of the Constitution of South Africa.
- 5.6 Needless to say, the Roads Master Plan or the simplistic planning set out in the Louw email of 7 May 2019 have not been subject to any public participation process. Some presentation and maps were shown at a Mobility Forum meeting in September 2018, but it ended there. No formal comments were solicited or given, no public notice was issued, no public input received. The Roads Master Plan has not even been published, and the email has even less status.
- 5.7 Stellenbosch Municipality has neither *provided accountable government* nor *encouraged the involvement of communities and community organisations*
- 5.8 Stellenbosch Municipality has not *striven to achieve the objects set out in subsection (1) of the Constitution* or the spatial planning legislation.
- 5.9 Neither has Stellenbosch Municipality conducted the business at hand *in an open manner* (Section 160(7) of the Constitution)
- 5.10 Many other Acts of national and provincial parliaments and indeed the IDP of Stellenbosch itself make clear that accountability and meaningful public participation are not optional but mandatory. We contend that the public participation process followed in the last months of 2018 and the first months of 2019 is in violation of this legislation and of the Stellenbosch IDP itself.
- 5.11 The proposed extensions from the 2018 to the draft 2019 Urban Edge as treated in detail above have not been motivated or even mentioned in the MSDF or any other document; they simply appeared in Figures 27 and 28. As in the case of the MTREF line item and the Louw email of 7 May, these extensions are contrary to the principles and detailed strategy of the governing legislation. See also Section 3.1: they were publicly disavowed by the head of spatial planning. Who, then, inserted these extensions? And why? What internal process was followed in the municipality which overrode the head of spatial planning?
- 5.12 The contractual engagement of the consultant BEPSA within the context of the Paradyskloof Special Development Area in itself would be a legitimate action. Appointing BEPSA to compile the draft MSDF in isolation would likewise represent a legitimate action. Together, however, these two actions have resulted in a serious conflict of interest. It may or may not be the case that the proposed Paradyskloof urban edge extension emanated from BEPSA itself or was imposed on the MSDF by the municipality. However, the conflict of interest does raise a serious question which needs to be addressed fully and in public by the municipality and the consultant. Both need to be held accountable, as the Constitution envisages.

## A Comparison of MSDF Concepts with Brandwacht/Paradyskloof Urban Edge extension proposals

Page	Sect	MSDF text	Paradyskloof	Brandwacht
			Compatibility	Compatibility
49	4.1	<b>Maintain and grow the assets of Stellenbosch Municipality's natural environment and farming areas.</b> Critical biodiversity areas, valuable land areas (including agricultural land), land affecting the maintenance of water resources, and so on, cannot be built upon extensively, it cannot be the focus for significantly accommodating existing or future settlement need spatially.	PKloof is a biodiversity area. INCOMPATIBLE	Brandwacht is a farming area. INCOMPATIBLE.
49	4.1	<b>3: Direct growth to areas of lesser natural and cultural significance as well as movement opportunity</b>	High natural significance	Some cultural significance
62	5.2	Critical biodiversity and nature areas: Work to extend, integrate, restore, and protect a system of protected areas that transect the municipality and includes low-to-high elevation, terrestrial, freshwater, wetlands, rivers, and other ecosystem types, as well as the full range of climate, soil, and geological conditions.	PKloof is a biodiversity corridor	N/A
62	5.2	Critical biodiversity and nature areas: Maintain Core (and to an extent Buffer) areas largely as “no-go” areas from a development perspective, only permitting non-consumptive activities (for example, passive outdoor recreation and tourism, traditional ceremonies, research and environmental education).	Figure 26 shows SPCs 1b, 2.	N/A
62	5.2	Water courses: No development should be permitted on river banks below the 1:100 flood-lines.	Schuilplaats Valley actually contains a river.	N/A
62	5.2	Agricultural land: High potential agricultural land must be excluded from non-agricultural development.	N/A	The soil is considered medium to high potential.
62	5.2	Urban edge: Prohibit the ad-hoc further outward expansion of urban settlements through maintaining relatively tight urban edges.	Very much ad hoc: FAIL	Developer-driven ad hoc: FAIL
62	5.2	Scenic landscapes: Maintain a clear distinction between urban development and nature/agricultural areas at the entrances to settlements.	Development proposal blurs that distinction	N/A

Page	Sect	MSDF text	Paradyskloof	Brandwacht
			Compatibility	Compatibility
63	5.2	Areas for residential densification and infill: Actively support residential densification and infill development within urban areas (with due consideration to the valued qualities of specific areas).	Biodiversity area, no development	If development at all, then high density.
62	5.2	Community/institutional use: Cluster community facilities together with commercial, transport, informal sector and other activities so as to maximise convenience, safety and socio-economic potential.	Far from commerce and transport	Far from commerce and transport
62	5.2	Community/institutional use: Institutional buildings (accommodating community activities, educational and health services, and entrepreneurial development and skills training) should be located at points of highest access in urban settlements.	Very inaccessible	Inaccessible
63	5.2	Actively support the Adam Tas Corridor within Stellenbosch town for new mixed use development.	Far from ATC	Far from ATC
67	5.3	Stellenbosch Town: Maintain and improve the nature areas surrounding Stellenbosch town.	FAIL	N/A
67	5.3	Stellenbosch Town: As a general principle, contain the footprint of Stellenbosch town as far as possible within the existing urban edge (while enabling logical, small extensions).	Neither logical nor small	Some logic, but not small
67	5.3	Stellenbosch Town: Pro-actively support higher density infill residential opportunity in the town centre, areas immediately surrounding it, and along major routes (with consideration of historic areas and structures).	as above	as above
67	5.3	Stellenbosch Town: Cluster community facilities together with commercial, transport, informal sector and other activities so as to maximise convenience, safety and socio-economic potential.	as above	as above
101	6.4	Proposed MSDF Policy: Actively promote compact, dense, mixed use development which reduces car dependence and enables and promotes use of public and NMT.	Car dependence would be total	Highly car dependent
101	6.4	Proposed MSDF Policy: Work towards and maintain – for each settlement in the municipality – a compact form and structure to achieve better efficiency in service delivery and resource use, the viability of public and NMT, and facilitate inclusion, integration, and entrepreneurship development.	No compaction, no efficiency, no public transport or NMT compatibility	Ditto

Page	Sect	MSDF text	Paradyskloof	Brandwacht
			Compatibility	Compatibility
101	6.4	Proposed MSDF Policy: Adopt a conservative view towards the extension of existing urban edges over the MSDF period.	Would be non-conservative	Nonconservative
101	6.4	Proposed MSDF Policy: Support increased densities in new, infill, and redevelopment projects.	N/A	Would hence have to result in high-density infill
101	6.4	Proposed MSDF Policy: Focus major development effort in SM on unlocking development in Klappmuts North and the Adam Tas Corridor (in Stellenbosch town).	At the opposite end	At the opposite end
		Urban Edge Guidelines: The function of an urban edge is two-fold, namely: * It is a growth management tool, used to limit sprawl and the outward growth of urban areas, in favour of densification and infill development, to ensure the more efficient use of resources and land within the urban area ; and * It is a conservation tool, used to exclude certain elements of the environment from the urban area, in order to protect or preserve it, or to discourage its development in the short and medium term, while the long term implications are uncertain.	Extension does not limit sprawl, does not exclude environment	

## B Appendix: Extracts from the Urban Edge Guidelines 2005

The text below represents exact quotes from the 2005 Urban Edge Guidelines. The item numbers shown are those of the Urban Edge Guidelines section numbers.

Exec Summary: An urban edge is a demarcated line to manage, direct and control the outer limits of development around an urban area. The intention of an urban edge is to establish limits beyond which urban development should not occur.

Exec Summary: The field research however indicated that market pressure in many regions caused local authorities to approve land use applications that are in conflict with national and provincial planning policy and detrimentally affect the environment.

Exec Summary: Urban edges are matters of regional significance and would therefore remain with the PG:WC for decisions.

- 1.3 An urban edge in the context of this report is a defined line drawn around an urban area as a growth boundary, i.e. the outer limit of urban areas. ...
- 1.3 Definition of the Guideline For The Management Of Development On Mountains, Hills And Ridges Of The Western Cape (Directorate : Environmental Management, 2001): It is a demar-

cated line to manage, direct and control the outer limits of development. The intention of the urban edge is to establish limits beyond which urban development should not be permitted.

- 1.5 Stringent town planning regulation and control, e.g. regulating development densities and the location of new development, is seen as the most important contributing factor in the virtual elimination of urban sprawl in Britain (Geyer, 2002).
- 2.2 There are two major categories of edges, namely hard and soft edges. ... Soft edges have the potential to promote sprawl and the negative growth trends that need to be discouraged.
- 3.1 [As the] criteria and issues to be considered are so divergent, a typical “checklist approach” would have to be used in determining which of the factors and issues are of relevance to a specific urban area.
- 3.1 [...] urban growth far exceeds the natural population growth and the economic growth of these towns and areas. The number and value of building plans has for example grown by 100 % year on year during the last two years in one of these towns, whereas the expansion of the town into the rural hinterland amounted to less than 15% growth. It is therefore obvious that the establishment of urban edges is an essential element in the planning of the Southern Cape urban areas in order to prevent continuous growth, mostly in linear format along the Garden Route and the sea.
- 3.3 Urban And Rural Use Definitions: ...urban development includes all development of land where the primary use of the land is for the erection of structures ...as opposed to the potential for use of the property with no building development.
- 3.3 The decision relating to smallholdings should be primarily based on the use of the property, i.e. for the generation of a primary income (urban agriculture or bona fide agricultural use) or whether it is merely a low density residential use where the owner of the property generates a primary income by working elsewhere and augmenting the primary income by the keeping of live stock or the planting of crops. Smallholdings used for bona fide agricultural purposes would or should typically be excluded from the urban area by delineation of an urban edge.
- 3.4 Urban Edge Functions And Concepts: The purpose of an urban edge is to manage, direct and phase urban growth pro-actively and to protect environmental resources outside of the urban area. It must thus assist all role-players in achieving the “triple bottom line” goals of social, economic and environmental sustainability in development.
- 3.4 The function of an urban edge is two-fold, namely (1) It is a growth management tool, used to limit sprawl and the outward growth of urban areas, in favour of densification and infill development, to ensure the more efficient use of resources and land within the urban area ; and (2) it is a conservation tool, used to exclude certain elements of the environment from the urban area, in order to protect or preserve it, or to discourage its development in the short and medium term, while the long term implications are uncertain.
- 3.4 [A soft edge] has however received much attention in literature and has been proven to be ineffective and indeed a contributing factor to urban sprawl, as it encourages leapfrog development in the long term.
- 3.4 Ecological or biological diversity and conservation areas, proclaimed public nature reserves and heritage sites, protected natural environments and any other statutorily established sensitive environment conservation area, ...seem to be more efficient as urban edges than any other land use. ... It seems as if an urban edge would only be a long term edge if there are legislated grounds for the protection of the non-urban uses outside of the edge. If not, the edge seemingly

becomes just another issue in the consideration of land use and development applications, dictated by market forces.

- 3.4 **[Reasons should be provided:]** An urban edge should not be defined as a simple continuous growth boundary, but rather **a combination of purpose drawn lines with fixed points. Over its entire length it must be determined in segments to achieve specific goals**, such as the conservation of environmental assets, promoting integration in the urban area, promoting growth in desirable areas, containing sprawl along major transport routes or limiting expansion beyond the reach of services infrastructure. The urban edge could thus form part of spatial development framework, as a clearly defined line on a map, **representing an identifiable line in the landscape**. In addition thereto, **the determinants relating to each segment should be indicated in the same document, as consideration of applications relating to that edge line would have to consider all the relevant factors, which would only be possible if the factors are clearly defined and shown.**

3.5 **Edge Determination And Management Criteria** (a selection)

- Prominent landform and character areas ;
- Valuable soils ;
- Hydrology (surface and ground water features) ;
- Ecological resources (aquatic and terrestrial) ;
- Protected areas (conservation sites) ;
- High intensity / potential agricultural resources ;
- Services infrastructure (barrier effect) ;
- Availability of developable land in urban area ;
- Visual impact ;
- Bio-regional spatial planning categories (core and buffer) ; and
- Density policy for residential development in rural towns.

- 3.5 [An urban edge] is not a line drawn around features excluded from development inside the larger urban area. ... The following explanation and evaluation of the criteria and issues must generate an in depth debate of the case for inclusion or exclusion of certain areas or elements in the environment from the urban edge. It is suggested that the criteria and informants be used for the following purposes

- To determine where the urban edge should be located, often with serious consequences for integrated and continuous development, favouring the conservation of natural resources and establishment of open space corridors. The criteria would assist in the determination of the edge, by inclusion or exclusion of certain environmental features and in the manner in which the edge is determined in relation to the features.
- To support decisions on the distance between the existing development and the urban edge, i.e. the area allowed for urban growth outside of the current development.
- Consideration of applications for the expansion or amendment of the urban edge, subsequent to its determination, amongst others to determine a priority model for growth management.

3.5 **Criterion: Prominent landform and character areas**

Prominent landform and character areas. A mountain, hill or ridge is described as a physical landscape feature, elevated above the surrounding landscape. This includes the foot or base, slopes and crest of the mountain, hill or ridge.

The gradient and slope of a prominent landform must be considered in addition to the feature value thereof. Steep slopes are often valuable opportunities for high value development. The cost of development and maintenance of the services on steep slopes however detract from

the attraction thereof from an authority perspective. Moreover, development on steep slopes often detracts from the aesthetic appeal of the environment and destroys natural habitat not affected by farming activities.

- 3.5 A natural area is defined as an area that is characterised by undisturbed natural conditions. Such areas would typically comprise mainly indigenous species (flora and fauna). They may include areas that are infested with alien vegetation, as there is potential to rehabilitate back to predominantly indigenous vegetation. In general natural areas can be expected to be of high conservation value because of their biophysical characteristics and due to their scenic/aesthetic worth.

**3.5 Criterion: Valuable soils and High intensity / potential agricultural resources**

Roughly 3% of the soil in South Africa or 3,6 million hectares can be classified as high-potential agricultural land. There is however a component of this land, which, because of the specific combination of soil, climate and crop, can be, classified as “unique” land where viable sustainable farming can exist, for example the Hex River Valley, which is world renowned for its export table grape production. The jealous protection of high-potential and unique agricultural land against any change of land use, is of utmost importance for sustainable agricultural production (Manager : Land Use And Soil Management (as delegate of the Minister Of Agriculture), 2004). See Figure 5

**3.5 Criterion: Hydrology (surface and ground water features)**

The riparian zones of rivers are of the utmost importance in river conservation. Riparian zones form that part of the catchment that directly affect the river ecosystem and has an effect on the quantity and quality of stream flow. The vegetation in the riparian zone supplies food to the aquatic fauna, controls the drainage of water, nutrients and other minerals to the stream, provides shade to decrease the harmful effects of warm water on the biota and stabilises the stream banks, thereby keeping the water silt-free. Many uses, such as agriculture, forestry, urban and tourism development contribute towards disturbance of water bodies and more specifically rivers and riparian zones. Modifying natural watercourses by the removal or destruction of riparian vegetation can rapidly bring about the collapse of the stream system and reduce it to an unattractive drainage system that merely serves to dispose of polluted water and topsoil into estuaries and the ocean (Department of Water Affairs and Forestry, 1999).

Wetlands are as important as river systems. ...

The presence of water is often an unreliable indicator of wetlands, thus the soil morphology and / or vegetation would have to be used to determine whether an area is a wetland or not. The hydrology, soils and vegetation generally change gradually from the outside to the inside of a wetland. Thus, the boundary of the wetland is often not apparent and the precautionary principle must be applied in determining the outer edges. The disruption of wetland functions has a high cost to the environment. The effects of wetland destruction are measured economically, socially and ecologically. ...

Wetlands also play a significant role in flood regulation and groundwater recharge. They are important as breeding and staging areas for migratory birds, as spawning and nursery grounds for fish and as habitat for a great many invertebrates, reptiles, amphibians and plants. Wetlands play an essential role in maintaining wildlife populations, providing key habitat for a diverse fauna and flora. Wetlands are home to about one third of the wildlife species that have been identified as endangered, threatened or rare. Wetlands also support substantial tourism and recreational opportunities, such as hunting, fishing, bird watching and nature photography. ...

Another issue in the consideration of hydrological systems is the proximity of urban development to the coast and /or hydrological systems.



### 3.5 Criterion: Ecological resources (aquatic and terrestrial)

Ecological resources such as water, land, vegetation, wildlife and minerals are the basis of economic activity and often the grounds for the establishment of urban areas. ...

Biological diversity or biodiversity as it is mostly referred to, is the collection all living organisms in the environment. As all organisms have genetic differences, it is important to preserve as wide a genetic pool as possible, to ensure the continued presence of life for as long as possible. The value of biodiversity to the environment and more particularly humans can be measured in the intrinsic value through its mere existence and use value for medicinal, research and sustenance purposes. In order to achieve the highest diversity, the largest possible collection of living organisms needs protection and preservation in the environment, as an ecosystem.

It is essential to consider the proximity of development to the coast and /or hydrological resources, as mentioned above. The nature of the fauna and flora, in terms of sensitivity and rarity, should guide the location and intensity of development in proximity of aquatic resources. Sensitive and rare collections of living organisms should not isolated by development. They should rather form part of a wider biodiversity network where natural migration is not inhibited, which suggests exclusion of such ecosystems from the urban area.

### 3.5 Criterion: Protected areas (conservation sites): [This is not applicable at present, but the possibility of declaring parts as protected areas may not be pre-empted by earlier urban edge changes]

Inclusion of protected areas in the urban edge reduces opportunities for later expansion and the establishment of biodiversity corridors. Surrounding it with development puts pressure on the conservation area and often decreases access thereto, e.g. if even back onto it.

### 3.5 Criterion: Services infrastructure (barrier effect)

Railway lines, inaccessible and higher order roads (freeways and elevated roads), waste water treatment works and solid waste disposal sites are examples of the services infrastructure that create barriers to development and are often undesirable within urban areas. While it is acknowledged that elements of transport infrastructure offer as many opportunities as it creates buffers, it is also recorded in literature that **these infrastructure elements, when included into the urban areas, hasten urban expansion and promote growth.**

Waste water treatment works, solid waste disposal sites and bulk reservoirs also create buffers and, when surrounded by urban development, **cause nuisances, either for the surrounding residents and land owners or for the service providers.** Odours, periodic upgrading of the bulk connections, noise and the use of hazardous substances **should cause these uses to be excluded from the edge, to form part of a biodiversity network or at least an open space network if it has no biophysical value.**

### 3.5 Criterion: Services infrastructure (capacity and reach) It is important to recognise that all development, inclusive of services infrastructure development, must be socially responsible and it should stimulate equitable and sustainable development. However, it should also be environmentally and economically sound. All costs associated with the provision of infrastructure services, direct and indirect, need detailed assessment when considering edge development or the establishment of urban edges.

### 3.5 Criterion: Vacant / under-utilised land in urban area and Availability of developable land in urban area

There is also an added cost to the interaction between the productive farms in the rural areas and the markets in the urban areas, as the distance between the two increases as the urban area expands. The loss of resources, such as usable agricultural land, biodiversity and other environmental assets also has a cost. ... There is however also a benefit to the availability

of vacant and under-utilised land, as it contributes to the reduction in the cost of land and accommodation in urban areas.

**3.5 Criterion: Higher order roads, access routes and transport infrastructure**

Urban uses tend to spread along roads, where the visibility attracts passing customers, especially along tourist routes, where the urban uses also detract from the aesthetic quality of the area that is the reason for it being a tourist route. The urban edge should be used to deter such undesirable uses.

**3.5 Criterion: Cadastral boundaries of adjoining land units** The environmental features of the land, rather than the ownership or cadastral boundaries, determine where the edge should be drawn. See Figure 7

**3.5 Criterion: Growth requirements (over a predetermined period)**

(Stellenbosch: proximity of protected areas and urban development; hence the “extension distance” of the urban edge in such regions should be zero or extremely limited)]

**3.5 Criterion: Land use applications for new development**

Does the market dictate where development occurs, or does forward planning? If the market dictates, then the urban edge would be a flexible line with no real purpose. If pro-active planning is the determining factor, then an urban edge has real value in achieving the goals set out above.

**3.5 Criterion: Visual impact**

The value of the environment is often under-estimated from a visual perspective. It is the visual quality of the environment that, to a large degree, generates the attraction for the tourism industry and draws people to certain areas as desired locations for living a lifestyle out of the large cities and densely developed urban areas.

(The visual impact may not be limited to the perspective from the R44. Visual impact would be overwhelming from the perspective of the surrounding nature area which is essential to the tourism sector]

**3.5 Criterion: Cultural / heritage resource areas**

**3.5 Criterion: Ownership of land and existing land use rights**

Many land owners acquired land at the urban edge solely for development purposes. Large tracts of land around urban areas are owned by local authorities and in some instances the state. Such land is often included in the urban edge by default, as it is not productively utilised for agricultural purposes and the use thereof causes its degradation. The situation of the land might however not be in line with current planning and development principles, and yet it is mostly included, as its disposal or continued use for agricultural or other non-urban purposes would not generate the best income.

There are also numerous examples of historic land use authorisations that have remained undeveloped or partially developed, outside of the urban fringe. Inclusion of this land in the urban edge would probably satisfy the owner, but would not necessarily comply with current best practice. Thus, ownership and existing land use rights need serious consideration as a criterion relative to the other criteria when determining the edge. The ownership of land should be one of the lesser criteria in determining the edge. Undeveloped land with historic rights should be treated likewise.

**3.5 Criterion: Informal settlements**

Informal settlements and subsidy housing schemes have traditionally occurred outside of current urban areas as a result of the old segregation policies of the country.

**3.5 Criterion: Urban agriculture and small scale farming** urban agriculture still plays a significant role in the community and this leads to extremely low development densities. Many of the small towns and urban areas like Genadendal, Middleton, Melkhoutfontein, Suurbraak, Elim, Zoar, Wupperthal, Mamre and Prince Alfred Hamlet rely strongly on the ability of the residents to produce their own food for sustenance and to produce for small markets or co-operatively for larger markets. Erf sizes typically vary from a 1,000 to 30,000 square metres in these towns. As a result, the development densities of these urban areas are extremely low and they are inefficient from an urban services perspective. These towns however have other strengths and benefits that can not be measured in urban servicing terms. The social value of the unique land use probably far outweighs the costs of the inefficiency from a services perspective.  
(Jamestown]

**3.5 Density policy for residential development in rural towns**

There is a need to increase densities in select areas within the towns and cities. The normal planning principles and development approach determine the most suitable locations and means of achieving the goals of densification. For purposes of this study, the criterion simply needs highlighting. **Growth across an urban edge or outside of an existing urban area should not be permitted unless the development density of the development is in keeping with the trend to higher densities**, which, together with the principle of grading densities down from the central areas to the edges, means that there must be an increase in residential densities in selected and clearly demarcated areas.

**3.5 Criterion: Bio-regional spatial planning categories (core and buffer)**

The bio-regional planning manual provides a good background to the value of various biomes (a group of ecosystems) when considering urban edges. It also determines spatial planning categories (SPC's), two of which are core and buffer areas. Core areas indicate wilderness areas, where no development should occur. **Buffers areas are in support of the core areas and are also not intended for development.** As a result, the indication of bio-regional spatial planning categories would effect urban edges and cognisance should be taken of the SPC's, especially in the coastal and mountainous regions.

**3.6** The purpose thereof, namely to direct and phase urban growth. ...

**Priority ranking of Urban Edge line segments:**

The edge line segments must be ranked in terms of priority for preservation of the edge. The priority is thus linked to the maintenance of the edge over the long term. A high priority edge is one that must be retained at all possible cost, whereas a low priority edge would be one that could be amended in response to a suitable application or in the course of a spatial development framework planning process. The prioritisation must be done in consultation with all the major role-players in the planning process, as it relies on the relative significance and sustainability of the rural or non-urban use on the outside of the edge. It requires amongst others comparison of the agricultural potential of farms and farming activities, comparison of the aesthetic quality of various places and environments, the biological diversity and conservation value of different sites, the visual quality and hydrological situation of the rural area surrounding the edge and the cost-benefit assessment of development scenarios and the preservation of the rural use and relative assessment of all land outside of the edge in terms of the other edge determination criteria discussed above.

**3.6 Use up available land first**

**As a growth management tool, used amongst others to limit sprawl and promote densification and infill development, the local authority must identify land for alternative development inside of the urban edge. Thus, if there is suitable land**

for development inside of the edge, then the edge should be retained until the available land has been utilised.

### 3.6 Proactive rezoning

The urban agricultural uses in the urban areas referred to above are the prime example. These should all be rezoned to a suitable agricultural zoning, which would indicate that it is not a low density residential use area and therefore not suitable for redevelopment and infill. On the other hand, the local authority should indicate commonage inside an urban area as suitable for development and zone it accordingly,...

(Jamestown)

**3.6 Infill development** The local authority should indicate such land as an opportunity for infill development to redress the previous planning practices if there are no outstanding land claims applicable to the land. The nature of the infill development should take cognisance of the surrounding development, but primarily focus on returning the land to the communities that previously occupied it and were forcibly removed.

**3.6 Access to natural amenities:** As a tool to direct and phase urban growth, local authorities must also use the urban edge to re-establish and create opportunities for access to natural amenities, where current development trends exclude access to natural amenities... **The linear development of urban areas along the coastal areas, rivers, water bodies and mountains must be prevented by the establishment of urban edges. Moreover, the urban edges should create suitable buffers between the amenities and the urban development that does occur in proximity of any amenity, which is in keeping with the criteria for the establishment of urban edges (exclusion of rivers, prominent landforms, and others) discussed above.**

### 3.6 Special development areas:

The purpose of the urban edge could be to cause urban restructuring by drawing close, high priority, edges where possible around the furthest sides of the neighbourhoods and low priority edges along the facing sides of the neighbourhoods, if any edges are required, thus promoting growth between the neighbourhoods as a priority. Likewise, the edge could be used for the establishment of conservation areas, i.e. where they do not exist, but where there are grounds for the establishment of conservation areas. Where ecologically sensitive areas exist outside of the urban edge, causing a buffer between land that is suitable for development and the urban area, a high priority edge must be drawn either side of the sensitive area, or an ecologically determined edge development with sufficiently wide and interconnected corridors leading to and along the ecologically sensitive area must be permitted. In the one instance the edge would cause the sensitive and the suitable (developable) land to be excluded from the urban area or leapfrog development. In this case the land would remain in private ownership and largely inaccessible, often with detrimental effect on the ecological value thereof. The alternative is to include all the land in the edge, but with suitable planning designations, with the purpose of conserving the ecological asset value thereof. Controlled access to land that is of conservation significance is often its saving grace. The granting of development approvals on the less sensitive portions of private land that is largely worthy of conservation, in order to raise funds for the conservation and the incorporation of the sensitive sections into a larger biodiversity network, could contribute to the conservation thereof. If it is accessible to an interested public, the conservation value thereof increases and this would only become possible by inclusion of the land in the urban edge or the acquisition thereof by a public conservation body.

4.1 the management guidelines relating to the urban edges of all the urban areas must comply with the policy contained in the Western Cape Provincial Spatial Development Framework

- 5.1 Conclusion: Urban edge guidelines. The development trends are probably not sustainable, as it causes losses in agriculture, which is a large employment sector, and it detracts from the natural environment, which is a major attraction in the tourism and the development sectors. Low density sprawl and outward growth of urban areas also increases the cost of living for many residents while the cost of service provision to these residents is considerably higher than where it would be in more central locations. These trends therefore need to be reversed or managed. . . . **These policies and guidelines therefore aim to reduce urban development on land that is better suited for conservation as environmental assets and resources.**
- 5.4 **Set out priorities explicitly:** The urban edge must be indicated on a detailed cadastral and topographic map as part of a spatial development framework, together with the table setting out the priorities, purpose, use inside and outside of the edge for each sector of the edge, i.e. for each part of the line. Where there are edge management areas, these also need to be related to the edge sectors. **The distance of the line from the current built or developed area must be explained in terms of the need for space as an indication of the growth rate over a five-year period, together with a motivation of what alternative options, including infill and densification have been considered and why these are or are not suitable.**
6. Recommendations: the first recommendation is that urban edges must be incorporated into legislation
- 6.1.1 Urban edges must not be universally determined in a top down approach and must not be determined through legislative processes. Legislation must only cause urban edges to be determined for every urban area in the Western Cape.
- 6.1.3 **Urban edges must be determined, delineated and defined by following the guidelines set out hereafter. The edge must be determined to:**
- Exclude prominent landforms and environmental character areas from the urban area ;
  - Exclude valuable soils for agricultural purposes ;
  - Exclude valuable soils for mining purposes ;
  - Exclude surface and ground water resources that could be used to produce potable water ;
  - Exclude surface and ground water features;
  - Exclude ecological resources and establishing suitable biodiversity corridors to link resource areas;
  - Exclude all statutorily declared, proclaimed and protected natural areas;
  - Exclude high intensity use and high potential agricultural resources and activity areas;
  - Exclude scenic routes and routes of tourism significance;
  - Exclude cultural and heritage resource areas and sites; and
  - Exclude areas that have visual sensitivity, skylines, mountainsides, ridgelines and hilltops.
- 6.1.3 Services infrastructure that could impact on development, such as waste water treatment works and solid waste disposal sites must be excluded from the urban area and suitable buffers around the infrastructure and corridors to the urban edge must be established if long term development approaches such infrastructure.
- 6.1.3 Allowing for proven growth requirements outside of the edge for a minimum five and maximum eight year period, in keeping with the requirement for infill and densification rather than and before outward growth.

- 6.1.3 Utilising topographical features, identifiable lines and definable lines with co-ordinates rather than the cadastral boundaries of adjoining land units when delineating the urban edge.
- 6.1.3 **Ignoring land use applications for new development and insisting on development to progress in keeping with the priorities determined for the amendment of the urban edge, unless the benefits of the proposed use are proven to outweigh the short and long term costs and the development would make a significant contribution to the social, economic and environmental goals for the area.**
- 6.1.3 **Ignoring ownership of land and existing land use rights and establishing urban edges in keeping with the environmental and social guidelines.**
- 6.1.3 Creation of opportunities to increase public access to natural amenities and prevent linear sprawl along natural amenities such as mountainsides, water bodies and the coast.
- 6.1.3 **Maintenance of the three “rural” Bio-regional Spatial Planning Categories (core, buffer and agricultural) outside of the edge.**
- 6.1.3 **Identifying land for specific development inside the urban area and retaining the edge until the available land has been fully utilised for the specific use.**
- 6.2.2 Urban edge amendments that do not occur in keeping with the regional growth potential assessment of the urban area and the priority ranking of the edge segments, should be assessed at a level of strategic planning, i.e. applications must be subject to Strategic Environmental Assessment and amendment of the applicable Spatial Development Framework (SDF) and it must incorporate a cost-benefit analysis of the development. **(In other words: as the Brandwacht and Paradyskloof amendments do NOT occur in keeping with the regional growth potential, they must be assessed at a level of strategic planning.)**

C Appendix: 2009 letter regarding Brandwacht development proposal

**CHENNELLS ALBERTYN**  
ATTORNEYS, NOTARIES & CONVEYANCERS

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24 July 2009

Department of Environmental Affairs &  
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8000  
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483 6081

Your Ref:

Our Ref: 4059GW

Dear Sir/Madam

re: **SUBDIVISION AND DEPARTURES APPROVED IN RESPECT OF REMAINDER OF  
FARM BRANDWACHT NO. 1049, STELLENBOSCH  
APPEAL IN TERMS OF SECTION 44(1)(a) OF LAND USE PLANNING  
ORDINANCE 15 OF 1985 ("LUPO")**

We act for the Brandwacht Action Group which has consistently opposed the application by the developer for the development of an office park and a residential component on the above farm. Our client was informed by the Stellenbosch Municipality by registered letter dated 30 June 2009, which was posted by registered post on 3 July 2009, that the "application for subdivision ..." and "application for departures ..." in relation to the above farm had been approved "... at a recent meeting ..." of the Planning, Heritage and Environment Committee of the Stellenbosch Municipality. The letter notifying our client of the above decisions recorded that "... these approvals are subject to the conditions as set out in the attached Appendix A".

Our client has instructed us to note an appeal against the above decisions in terms of Section 44(1)(a) of LUPO on the grounds set out herein. As Appendix A was not attached to the letter of notification, we have not been able to advise our client whether any of the conditions imposed are appealable.

G E Williams B.A. LL.B. • J D van der Merwe B.A. (Hons) LL.M • C E Rose BSocSc. LL.B. • F Bester B.Juris. B.Proc.  
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1. The departures that have been approved in relation to the street, side and rear building lines of dwellings and garages on the residential erven, effectively permit further departures from the Scheme Regulations as they govern coverage and floor factor contrary to these stipulations in those Regulations.
2. Moreover, insofar as it is contended that the departures that have been approved effectively permit the further departures relating to coverage and floor factor, these further departures were not advertised as they should have been in terms of Section 15 of LUPO.
3. Departures that permit the construction of garages on the rear and side boundaries of the residential erven will have the effect of inhibiting the access of fire authorities to the residential erven comprising the development, resulting in a contravention of the fire and safety regulations.
4. The developer originally applied to the Stellenbosch Municipality for the following planning approvals:
  - 4.1 amendment of the Stellenbosch Urban Structure Plan;
  - 4.2 rezoning of a portion of the farm;
  - 4.3 subdivision of the remainder of the farm; and
  - 4.4 departures relating to street, side, and rear building lines on the residential erven in relation to the dwellings and garages to be erected thereon.

The planning department of the Stellenbosch Municipality was opposed to the construction of a residential component on the farm. Notwithstanding the opposition of its planning experts, the Stellenbosch Municipality recommended to the Provincial Department of Development Planning that the amendment of the Urban Structure Plan and rezoning be approved which the Province did. Our client believes that the planning experts employed in the planning department of the Municipality still object to the development of the residential component on the farm. It is submitted that the Honourable Minister ought to bear in mind the opinions of the expert planners employed by the Municipality when considering this appeal.

5. It is submitted that the attitude of the two MECs for Environmental Affairs who considered the application for an environmental authorisation by the developer ought to be taken into account when determining this appeal. The Record of Decision in the application for the environmental authorisation approved the development of an office park, a rural hotel and open space, but not the development of 120 residential erven. This decision clearly took into account the opposition of the planning experts employed by the department of planning in the Stellenbosch Municipality to the residential component of the development. The attitude of the first incumbent, MEC Essop, to the appeal by the developer, was to direct a further public participation process that examined further alternatives before she was prepared to decide the developer's appeal. The second incumbent, MEC Uys, notwithstanding the direction



of his predecessor, simply ignored it and approved the developer's appeal without affording objectors any further right to be heard.

6. It is the same MEC Uys that approved the amendment of the Urban Structure Plan and rezoning of the farm in allegedly contentious circumstances, a matter of days before he was due to vacate office.
7. The groundswell of opposition to the residential component of the development must be considered in the determination of this appeal. Our client agrees with the further grounds of appeal noted by the other individual appellants, in particular, those relating to -
  - the loss of high potential agricultural land,
  - residential sprawl,
  - gated developments,
  - the negative impact of the development on the application to have the Cape Winelands declared a World Heritage Site,
  - the exacerbation of the infrastructural backlog in Stellenbosch,
  - the increase in traffic congestion,

and incorporates these by reference in this appeal.

In terms of the appeal provisions of LUPO your Department is required to obtain the comment of the Stellenbosch Municipality on this appeal. Our client is entitled to respond to the comments that you receive. Please forward to us the Municipality's comments in due course.

Yours faithfully  
CHENNELLS ALBERTYN

Per: G E Williams

Ce. Municipal Manager  
Stellenbosch Municipality.  
Fax: (021) 8088026

\* \* \* Communication Result Report ( 24. Jul. 2009 14:33 ) \* \* \*

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Date/Time: 24. Jul. 2009 14:32

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E. 2) Busy  
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24 July 2009

Department of Environmental Affairs &  
 Development Planning  
 Attention:  
 Director, Integrated Environmental Management  
 Western Cape Provincial Government  
 Waldorf Building  
 Burg Street  
 Private Bag X9086  
 CAPE TOWN  
 8000  
 Fax: (021) 483 3633 (3 pages)

Your Ref:

Our Ref: 4059GW

Dear Sir/Madam

re: SUBDIVISION AND DEPARTURES APPROVED IN RESPECT OF REMAINDER OF  
 FARM BRANDWACHT NO. 1049, STELLENBOSCH  
 APPEAL IN TERMS OF SECTION 44(1)(a) OF LAND USE PLANNING  
 ORDINANCE 15 OF 1985 ("LUPO")

We act for the Brandwacht Action Group which has consistently opposed the application by the developer for the development of an office park and a residential component on the above farm. Our client was informed by the Stellenbosch Municipality by registered letter dated 30 June 2009, which was posted by registered post on 3 July 2009, that the "application for subdivision ..." and "application for departures ..." in relation to the above farm had been approved "... at a recent meeting ..." of the Planning, Heritage and Environment Committee of the Stellenbosch Municipality. The letter notifying our client of the above decisions recorded that "... these approvals are subject to the conditions as set out in the attached Appendix A".

Our client has instructed us to note an appeal against the above decisions in terms of Section 44(1)(e) of LUPO on the grounds set out herein. As Appendix A was not attached to the letter of notification, we have not been able to advise our client whether any of the conditions imposed are appealable.

G E Williams B.A. LL.B. • J D van der Merwe B.A. (Hons) LL.M. • C E Roor 85064 LL.B. • F Bester B.Tech. B.Proc.  
 Assisted by: B. Oudonkoy B.Iuris LL.B. • W.A. Aden LL.B.  
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24 July, 2009

Our ref: 4059 GW  
Your ref:

MUNICIPAL MANAGER  
Stellenbosch Municipality

Facsimile: (021) 808 8026

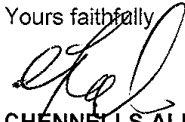
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Dear Sir / Madam

**RE: SUBDIVISION AND DEPARTURES APPROVED IN RESPECT OF REMAINDER OF  
FARM BRANDWACHT NO. 1049, STELLENBOSCH  
APPEAL IN TERMS OF SECTION 44(1)(a) OF LAND USE PLANNING ORDINANCE 15 OF  
1985 ("LUPO")**

We act for the Brandwacht Action Group and annex hereto a copy of the above Appeal which we have today served upon the Department of Environmental Affairs and Development Planning.

Yours faithfully



**CHENNELLS ALBERTYN**  
Per: G E WILLIAMS

G.E. Williams B.A. LL.B.; J.D. van der Merwe B.A. (Hons) LL.M.; C.E. Rose BSocSc. LL.B.; F Bester B. Iuris. B Proc;  
Assisted by: B Geldenhuys B. Iuris. LL.B.;  
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Corporate Member  
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\* \* \* Communication Result Report ( 24. Jul. 2009 15:06 ) \* \* \*

P. 1

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24 July, 2009

Our ref: 4059 GW  
Your ref:


MUNICIPAL MANAGER  
Stellenbosch Municipality

Facsimile: (021) 808 8026 (5 pages)

Dear Sir / Madam

RE: SUBDIVISION AND DEPARTURES APPROVED IN RESPECT OF REMAINDER OF  
FARM BRANDWACHT NO. 1049, STELLENBOSCH  
APPEAL IN TERMS OF SECTION 44(1)(a) OF LAND USE PLANNING ORDINANCE 15 OF  
1988 ("LUPO")

We act for the Brandwacht Action Group and annex hereto a copy of the above Appeal which we have today served upon the Department of Environmental Affairs and Development Planning.

Yours faithfully  
  
 CHENNELLS ALBERTYN  
 Per: G E WILLIAMS

G.E. Williams B.A., LL.B., J.D., van der Merwe B.A. (Hons) LL.M.; C.E. Rose B.SocSci, LL.B.; F. Bester B. Juris, B. Pron  
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## D Appendix: Email regarding roads strategy

Attempted reconstruction of table included in email of Director Deon Louw of 7 May 2019						Version 190508	
Nr	Solution	Local Work Force and Students	External Work Force and Students	Departing destinations and arriving destinations outside of Stellenbosch	Total estimated cars to be impacted on R44 due to solutions (ie better speed to and through Stellenbosch)	Time Span to Effect Solution (personal view)	Total Impact on Traffic Systems
A	Current Status of traffic quantities	20 000 vehicles	15 000 vehicles	5 000 vehicles	40 000 vehicles		
B1	Western By Pass		5%	100%	6000	10 years	15.0%
B2	Eastern Link	50%	Reduction in traffic on R44	Reduction in traffic on R44	5000	Ongoing Section by Section	12.5%
B3	Upgrade R44 (and R304)	5%	40%		5000	5 years	12.5%
B4	NMT Upgrade	Only impacting local residents moving distances related to mode of transport	Limited relief due to slightly less cars on R44	Limited relief due to slightly less cars on R44	4000	Ongoing Section by Section	10.0%
N5	TOD	More inhabitants would cause more internal congestion	A big portion of vehicles reduced on R44	Cars already travelling will benefit due to less other cars travelling on R44	10000	Ongoing Section by Section	25.0%

From: Deon Louw <Deon.Louw@ Stellenbosch.gov.za>

Date: 07 May 2019 08:25

Subject: RE: The "Eastern Link Road Wildebosch-Trumali Road" line item

To: Rikus Badenhorst <Rikus.Badenhorst@ Stellenbosch.gov.za>, Esther Groenewald

<Esther.Groenewald@ Stellenbosch.gov.za>, Tabiso Mfeya

<Tabiso.Mfeya@ Stellenbosch.gov.za>, Quintin Smit

<Quintin.Smit@ Stellenbosch.gov.za> Cc: Johan Fullard

<Johan.Fullard@ Stellenbosch.gov.za>

Dear All,

I will comment in more detail later, but please note that at our discussions in one of the Mobility Forum meetings we explained the much of the following. I have provided more reasoning for our options. Please note that the table below contains guestimates and will be verified once we have proper vehicle counts at the latter part of this year:

1. The traffic congestion on the R44 leading in from Somerset West and Adam Tas is unacceptable.

2. To this end we have a few solutions

- a. Western By Pass
- b. Eastern Link
- c. R44 upgrade

3. To each of the matters above there are inhabitants that strongly disagree with one or more of the proposals

4. We requested the public to please provide suggestions for solutions and not to merely attack the suggestions made.
5. The Western By Pass would by nature be a 100% Provincial Project
6. The Eastern Link would be a joint Municipal and Provincial Project
7. The Eastern Link has already been envisaged quite a number of years ago and appears on our Master Planning. The Road Reserve has already appeared on many of our future plans.
8. The current traffic problem is untenable. Therefore we MUST do something about this
9. Three matters affecting traffic:
  - a. Workforce (and Students) external from Stellenbosch, but working in Stellenbosch
  - b. Workforce (and Students) internal to Stellenbosch
  - c. Motorist travelling through Stellenbosch from outside of Stellenbosch to a destination outside of Stellenbosch, but through Stellenbosch
10. Causes of the traffic problems:
  - a. 10 000 students drive to university from outside of Stellenbosch Boundaries
  - b. 85% of Techno Park live outside of Stellenbosch Boundaries
  - c. Similar % for any of the other similar businesses
  - d. Limited middle class housing prevents a large working force not to reside within Stellenbosch, but to travel from outside. To this end about 80% of the Municipal Working Force stay outside of the boundaries of Stellenbosch
  - e. We can therefore assume that more than half of Stellenbosch Work Force together with students travel into Stellenbosch every day
11. Solutions
  - a. Reduce cars travelling into work by:
    - i. Upgrading and re-establishing a workable public transport system
    - ii. Providing living units such that most of the work force and students can stay in Stellenbosch such as through a TOD system
    - iii. Encourage Non-Motorised Transport (Cycling, Walking). Therefore building sufficient pathways to accommodate this
  - b. Increase transport capacity

#### 12. Adjudication of solutions:

Nr

Solution

Local Work Force and Students

External Work Force and Students

Departing destinations and arriving destinations outside of Stellenbosch

Total estimated cars to be impacted on R44 due to solutions (ie better speed to and through Stellenbosch)

Time Span to Effect Solution (personal view)

Total Impact on Traffic Systems

A

Current Status of traffic quantities

20 000 vehicles  
15 000 vehicles  
5 000 vehicles  
40 000 vehicles

B1  
Western By Pass  
5%  
100%  
6000  
10 years  
15%

B2  
Eastern Link  
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Reduction in traffic on R44  
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Upgrade R44 (and R304)  
5%  
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B4  
NMT Upgrade  
Only impacting local residents moving distances related to mode of transport  
Limited relief due to slightly less cars on R44  
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N5  
TOD  
More inhabitants would cause more internal congestion  
A big portion of vehicles reduced on R44  
Cars already travelling will benefit due to less other cars travelling on R44  
10000  
Ongoing Section by Section  
25%

The point I am trying to make is that one solution will not make a big difference, but all of the solutions together will.

With regard to the reference to Schuilplaats:

1. Schuilplaats is a lower class road that cannot be used for high through traffic, but is targeted to at least give a way to Trumali Road when Paradyskloof Road intersection has to be closed for traffic going to the North

2. We have to construct Wilde Bosch Road up to Trumali to create the correct capacity roads and this must be done starting in the next budget
3. Due to court proceedings Schuilplaats construction has been halted. This places more pressure on an alternative route to supply vehicles with movement to the North due to the imminent closure of the northwards traffic flow from Paradyskloof
4. MPT has resolved that the middle unnamed road be constructed, but this has been appealed

Regards/Groete

Deon Louw Pr.Eng.

Director: Infrastructure Services

Infrastructure Services

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