



URBAN & REGIONAL PLANNING
PROPERTY DEVELOPMENT SPECIALISTS

ANNEXURE B

MOTIVATIONAL MEMORANDUM
IN RESPECT OF
THE REZONING OF PORTION RE/25 AND
PORTION 29 OF THE FARM FOURTEEN
STREAMS 311
ON BEHALF OF
CONGREGATION OF THE SISTERS
OF NAZARETH

Date: 20 April 2026
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INTRODUCTION

The purpose of this memorandum is to introduce, elaborate upon and motivate the application in terms of the provisions of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) (SPLUMA) read together with the Magareng Land Use Management By-law, 2016 to rezone the Remaining Extent of Portion 25 and Portion 29 of the farm Fourteen Streams 311, Registration Division Barkly West.

The full extent of the application is set out in this memorandum, which comprises of the following:

- Chapter 1: General Information
- Chapter 2: The Application
- Chapter 3: Motivation (Need and Desirability) – Ptn Re/25
- Chapter 4: Motivation (Need and Desirability) – Ptn 29
- Chapter 5: Conclusion/Recommendation

1. GENERAL INFORMATION

1.1. AGENT

Annexure C & D– Power of Attorney and Company Resolution

The authorised town planning agent acting on behalf of the client is:

Name	KiPD (Pty) Ltd
Responsible Person	Paul Kotzé
Postal Address	44A 3 rd Street, Linden, 2195
Contact Number	082 894 1232
Email	paul@kipd.co.za

1.2. CLIENT & OWNERSHIP

(Annexure E1: DoT T2239-2018)

(Annexure E2: DoT 2238 -2018)

The client or applicant (being the registered owner of the subject land parcels in terms of Deed of Transfer T2239-2018 and T2238-2018) contact details are as follows:

Institution	The Congregation of the Sisters of Nazareth
Registration Number	NPO
Authorised Person	Sister Virginia Mungofa
Position	Regional Superior

1.3. SITE DESCRIPTION

(Annexure F1 – Cadastral Map)

(Annexure F2- Locality Plan)

The sites being:

- the remaining extent of Portion 25 of the Farm Fourteen Streams 311, measuring 1046.2826 ha as depicted in Annexure F1; and
- Portion 29 a consolidation of Portion 26 and Portion 28 (Portion 28 being a portion of Portion 25), measuring 98.0480 ha

The sites are located just outside Warrenton on the N12 as shown in Annexure F2

In March 2026, application was made to the Magareng Local Municipality for the subdivision of Portion 25 of the Farm Fourteen Streams 311 Barkly West RD and the consolidation of that portion (being proposed Portion 28) with Portion 26 of the Farm Fourteen Streams 311 Barkly West RD. This new portion will be known as Portion 29 of the Farm Fourteen Streams 311 Barkly West RD. This application is yet to be approved and therefore Portion 29 is not registered at the Deeds Office as yet

1.4. LOCALITY

Annexure F1 – Cadastral Map

Annexure F2- Locality Plan

The sites are located just outside Warrenton on the N12 as shown in Annexure F2.

1.5. RESTRICTIVE TITLE CONDITIONS & MORTGAGE BONDS

(Annexure E1: DoT T2239-2018)

(Annexure E2: DoT 2238 -2018)

There are no conditions contained within the Deed of Transfer restricting the rezoning of the farm portions and neither is there a bond registered against the properties.

1.6. EXISTING LAND USE

(Annexure F2 – Topographic Map)

(Annexure F2 – Land Use Map)

The land uses on the subject land parcels are as follows:

Portion Re/25	Portion 29
Agricultural 13 Dwelling Units	Agricultural (Grazing) Cemetery Missionary Residence Church (Seating 300 people) Dormitory (Sleeping 12) Ecclesiastical Retreat Centre comprising of • Conference facility/Recreation Centre • 4 Dormitory blocks (Each sleeping 10) • 6 Chalets (Each sleeping 2)

	• Hostel (Sleeping 40) • Chapel (Seating 40) Education Centre comprising of: • Primary School (200 pupils) • Secondary School (200 pupils) • Crèche (100 children) 4 Dwellings (related to agricultural use)
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1.7. SURROUNDING LAND USE

Annexure F2 reflects the surrounding land uses as being:

Site Description	Land Use
Ptn 27 (a portion of portion 25)	Aqueduct and Water Storage for the Vaalharts Irrigation Scheme
Ptn 21	Agriculture
Ptn 24	Agriculture
Ptn 42 Geluk HN	Agriculture

1.8. EXISTING ZONING AND DEVELOPMENT CONTROLS

(Annexure G: Zoning Certificate)

In terms of the Magareng Local Municipality Land Use Scheme, the sites and surrounding properties are currently zoned as "Agriculture Zone 1" permitting agricultural uses and **one** dwelling unit.

The development controls as per the Scheme are as follows:

Development Controls	
Height (Storeys)	3
Coverage	30%
Street Building Lines	30m
Side Building Lines	5m
Parking	As per scheme provisions

2. THE APPLICATION

2.1. APPLICATION

Application is hereby made in terms of Section 3(2) of the Magareng Spatial Planning and Land Use Management Bylaw 2015 for the rezoning of the sites as set out herein:

Zoning	From:	To:		
		Ptn Re/25	Ptn 29	
Zoning	Agricultural Zone 1	Agricultural Zone 1	Special Purpose Zone	
Primary Rights	- Agricultural Purposes - One Dwelling Unit	- Agricultural Purposes 13 Dwelling Units	- Institutional centre (whether public or private) encompassing: - A place of public worship - A Place of Education - A sanatorium - Old Age Home - Children’s Home - Nursing Home - Clinic - Ecclesiastical retreat - Staff accommodation - Associated activities - Garden of remembrance (cemetery) for roman catholic clergy and occupants housed on Ptn Re/25 limited to the existing cemetery area not exceeding 1.5 ha - Agricultural purposes permitting 4 dwelling units	
Uses with Consent	As per Scheme	As per Scheme	As per Scheme	
Development Controls	From:	To:		
		Ptn Re/25	Ptn 29	
Height (Storeys)	As per Scheme – 3 Storeys	As per Scheme – 3 Storeys	As per Scheme -3 Storeys	
Coverage	30%	30%	30%	
Street Building Lines	As per Scheme	As per Scheme	As per Scheme	
Side Building Lines	5m	5m	5m	
Parking	As per scheme	As per scheme	Parking shall be provided in the following ratio:	
			A place of public worship	1 space/20 seats
			A Place of Education	0.5 space/ classrooms + 1 space /100m² office area
			A sanatorium	0.25 space/100 m² floor area
			Old Age Home	0.25 space/100 m² floor area
			Children’s Home	0.25 space/100 m² floor area
			Nursing Home	0.25 space/100 m² floor area
			Clinic	0.5 space/100 m² floor area
			Ecclesiastical retreat	Accommodation: 0.25 space/bed All other activities: 0.5 space/100m² floor area

Zoning	From:	To:		
		Ptn Re/25	Ptn 29	
			Dwelling Units	1 space /dwelling unit
			Staff accommodation	1 space / unit

Facilities associated with an **Ecclesiastical Retreat** (which facilities are designed to create a serene and supportive environment for participants to connect with God and each other) are:

- **Accommodation:** Guesthouses, dormitories, and private chalets, accommodating various group sizes and preferences.
- **Dining:** Facilities for meals, often catering to self-catering or pre-determined meal plans, to ensure participants have a comfortable and nutritious experience.
- **Gardens and Outdoor Spaces:** Many retreats offer beautiful gardens, lakes, and mountain trails for relaxation and reflection.
- **Meeting and Conference Areas:** Spaces for group meetings, retreat planning, and communal activities.
- **Religious Facilities:** Churches, chapels, and other religious spaces for worship and spiritual guidance.
- **Opportunities for hiking, yoga, meditation, and other activities** to enhance the retreat experience.

3. MOTIVATION IN RESPECT OF PORTION RE 25

Motivation for the amendment of the current zoning rights pertaining to Portion Re/25 are as follows:

3.1. EXECUTIVE SUMMARY

This application seeks the amendment of the applicable land use rights in respect of **Portion 25 of the Farm Fourteen Streams**, situated within the jurisdiction of the **Magareng Local Municipality**, in order to regularise and formalise a longstanding pattern of rural residential occupation that has existed on the property for several decades.

The property has historically accommodated:

- agricultural activities;
- ecclesiastical and mission-related activities linked to the **Congregation of the Sisters of Nazareth**; and
- the residential occupation of **thirteen households**, all of whom have resided on the property with the consent of the landowner since approximately the 1970s.

The current **Magareng Land Use Scheme 2015** restricts the number of dwelling units permitted on a farm property to a single dwelling house, with the result that the existing occupation pattern is not adequately accommodated by the current scheme.

The purpose of the application is therefore to amend the applicable land use rights to permit **thirteen dwelling units associated with the agricultural use of the farm**, thereby enabling the formalisation of the occupation of the thirteen households through **99-year renewable notarial leasehold rights** over their existing homestead areas.

This application does **not** propose:

- the fragmentation of the farm into a conventional township;
- the introduction of urban residential densities;
- the establishment of a new settlement;
- or the cessation of farming activities.

Instead, the application seeks to:

- recognise and regularise a historic and existing rural land use pattern;
- secure **tenure rights** for longstanding occupiers;
- preserve the **agricultural productivity** of the land;
- and provide a lawful planning framework for the continued use and management of the property.

The proposal is considered consistent with the objectives of the Spatial Planning and Land Use Management Act 16 of 2013 ("SPLUMA"), particularly the principles of spatial justice, spatial sustainability, efficiency, spatial resilience, and good administration. SPLUMA expressly requires that land use management systems include flexible provisions for disadvantaged rural areas and that land development procedures accommodate secure tenure, while also requiring that decisions protect sustainable agricultural land and consider infrastructure and public interest.

3.2. APPLICATION PARTICULARS

This memorandum supports an application for the **amendment of land use rights** in terms of the applicable municipal planning by-law and the **Spatial Planning and Land Use Management Act 16 of 2013**, read together with the **Magareng Land Use Scheme 2015**, to permit:

- the continuation and formal recognition of **13 dwelling units** on the farm;
- the retention of the primary **agricultural use** of the property;
- the formalisation of homestead occupation through **notarial leasehold tenure**;
- the continued integrated management of the property as a single agricultural unit.

The present land use scheme provisions applicable to agricultural land permit only **one dwelling house** on a farm property, which does not reflect the longstanding and existing occupation pattern on the property.

3.3. BACKGROUND AND HISTORICAL CONTEXT

3.3.1. Historical Ownership and Use

The Farm Fourteen Streams has been associated with the **Congregation of the Sisters of Nazareth** since approximately 1914. The land was historically used for:

- mission and ecclesiastical purposes;
- education (school-related activities);
- community support functions; and
- agricultural production.

Over time, portions of the original farm were subdivided and transferred, resulting in the retention of:

- **Portion 26** for ecclesiastical purposes; and
- the **Remaining Extent / Portion 25** for agricultural use and associated residential occupation.

3.3.2. Longstanding Occupation

For approximately five decades, thirteen households have resided on the farm with the express or tacit consent of the Sisters. Their occupation has been:

- peaceful;
- continuous;
- known to the landowner;
- functionally linked to agricultural operations on the property.

The occupation of these households is therefore not a recent or opportunistic encroachment but an entrenched and established component of the farm's historical use pattern.

3.3.3. Transfer to the Roman Catholic Diocese of Kimberley

Due to declining membership and financial constraints within the congregation, the CSN resolved to donate the property to the **Roman Catholic Diocese of Kimberley** ("RCDK"), with the clear intention that:

- the historic mission and social function of the property be preserved; and
- the resident families obtain enhanced tenure security.

The RCDK accepted the donation and resolved to:

- continue agricultural activities on the property; and
- provide the resident households with **formal long-term security of tenure** through **99-year renewable notarial leases** over their existing homesteads.

3.4. DEVELOPMENT PROPOSAL

3.4.1. Core Proposal

The application proposes the formal recognition of **13 existing residential homestead areas** on Portion 25 of the Farm Fourteen Streams, each to be occupied under a registered **99-year renewable notarial lease**.

3.4.2. Residential Component

Each household will be allocated:

- the existing dwelling;
- a demarcated homestead area of approximately **750m²** (or as confirmed by land survey);
- rights of occupation limited to one dwelling per leasehold area;
- ancillary outbuilding rights strictly limited and controlled.

3.4.3. Agricultural Component

The farm will remain predominantly agricultural in character and use.

The RCDK will:

- retain overall ownership and management of the farm;
- continue farming operations over the balance of the property;
- make an area of approximately **250 hectares** available for farming use by the resident families, whether collectively or in accordance with an agreed operational structure.

3.4.4. Nature of Tenure

The intended tenure structure is not a subdivision into full ownership erven, but rather:

- a long-term registered real right in the form of a notarial lease;
- tied to existing households;
- subject to strict management conditions;
- designed to ensure permanence, orderliness, and non-proliferation of uncontrolled settlement.

3.5. LAND USE PLANNING RATIONALE

The proposal is fundamentally a **regularisation application**. It does not create a new settlement but rather aligns the legal planning framework with the **de facto historic land use reality** on the property.

The planning rationale is as follows:

1. **Existing Use Recognition**

The thirteen households have occupied the property for decades; the application simply regularises this longstanding use.

2. **Tenure Security**

The proposal converts precarious permission-based occupation into secure, registrable long-term tenure.

3. **Retention of Agricultural Use**

The farm remains an agricultural holding; the proposal does not urbanise or sterilise the land.

4. **Controlled Rural Residential Form**

The application limits residential occupation to the existing households and prevents informal proliferation.

5. **Administrative Legality**

The current scheme restriction of one dwelling does not reflect the actual historic use and must be amended to avoid continued technical non-compliance.

3.6. CONSISTENCY WITH SPLUMA PRINCIPLES

3.6.1. Spatial Justice

SPLUMA requires that land use management systems and development procedures support **improved access to land**, inclusion of previously excluded communities, and the provision of **secure tenure**, especially in rural and disadvantaged contexts. The Act specifically states that land use schemes must include flexible provisions for rural/disadvantaged areas and that land development procedures must accommodate secure tenure and incremental upgrading.

The proposal directly advances spatial justice because:

- it recognises historically disadvantaged rural occupiers;
- it secures long-term tenure without displacement;
- it corrects a formal planning mismatch that currently ignores an established rural settlement pattern;
- it gives legal recognition to longstanding occupation in a dignified and orderly manner.

3.6.2. Spatial Sustainability

SPLUMA requires special consideration for the protection of **prime and unique agricultural land** and demands that land use decisions consider infrastructure costs and viable communities.

The proposal satisfies spatial sustainability because:

- the residential component is confined to **existing homestead footprints**;

- no urban-style sprawl is introduced;
- the vast majority of the farm remains in agricultural use;
- infrastructure demands are limited and largely based on existing service patterns;
- the development sustains viable rural livelihoods.

3.6.3. Efficiency

SPLUMA promotes the optimisation of existing resources and infrastructure and efficient decision-making.

The proposal is efficient because:

- it utilises **existing dwellings** rather than requiring new settlement creation;
- it formalises an existing service arrangement rather than triggering large new municipal capital expenditure;
- it minimises social disruption and relocation costs;
- it avoids unnecessary township establishment where the planning issue can be addressed through targeted scheme amendment.

3.6.4. Spatial Resilience

The proposal enhances resilience by:

- supporting rural household livelihood security;
- linking residential tenure with continued access to productive land;
- reducing vulnerability associated with insecure occupation;
- allowing the community to remain economically and socially rooted in place.

3.6.5. Good Administration

The application promotes lawful and transparent land use management by:

- regularising an existing situation;
- aligning actual use with the land use scheme;
- imposing enforceable lease conditions;
- creating a clearer management and compliance framework.

3.7. SPLUMA SECTION 42 DECISION FACTORS

SPLUMA requires the decision-maker to consider:

- the public interest;
- constitutional transformation imperatives;
- relevant facts and circumstances;
- rights and obligations of affected parties;

- the state and impact of engineering services and social infrastructure.

This application positively addresses each of these:

- **Public interest:** orderly regularisation, tenure security, continued productive agriculture.
- **Transformation:** improved access to secure land rights for long-term occupiers.
- **Facts and circumstances:** occupation predates the current scheme by decades.
- **Rights and obligations:** balances landowner control with occupier protection.
- **Engineering services:** low incremental impact, existing rural servicing model retained.

3.8. CONSISTENCY WITH THE SPATIAL DEVELOPMENT FRAMEWORK (SDF)

3.8.1. General SDF Alignment Approach

Although the exact wording of the applicable municipal SDF must be confirmed against the latest adopted **Magareng Municipal Spatial Development Framework** at filing stage, the proposal is consistent with the **typical and legally required objectives of municipal and provincial SDFs**, namely:

- supporting sustainable rural settlement patterns;
- protecting agricultural land;
- promoting orderly land use management;
- aligning development with existing service capacity;
- supporting vulnerable communities and rural livelihoods;
- avoiding fragmented or unplanned settlement expansion.

SPLUMA requires that municipal SDFs identify existing land use patterns, future land use needs, engineering service requirements, environmental pressures and opportunities, and implementation measures, and that land use decisions be consistent with the municipal SDF unless site-specific circumstances justify departure.

3.8.2. Likely Municipal SDF Consistency

The proposal is consistent with municipal SDF principles because:

(a) It formalises an existing rural settlement pattern

This is not a greenfield settlement intrusion. The thirteen households already exist on the land and have done so for decades.

(b) It supports agricultural continuity

The land remains primarily agricultural, thereby preserving the economic function typically prioritised in rural SDF policy.

(c) It avoids urban sprawl

The application does not seek township establishment, suburban densities, or ribbon development.

(d) It promotes social stability

Formalising tenure for longstanding occupiers is aligned with the public-interest and social-development thrust of municipal spatial planning.

(e) It is site-specific and contained

Even if the SDF is silent on multiple rural homesteads, SPLUMA allows site-specific departures where the circumstances justify it. The historic occupation pattern and proposed strict controls constitute compelling site-specific justification.

(f) Provincial and Rural Development Alignment

At a broader level, the proposal aligns with provincial and national rural planning objectives by:

- preserving agricultural land use;
- enhancing tenure security;
- supporting local food and livelihood systems;
- avoiding unnecessary displacement or informalisation.

3.9. ENGINEERING SERVICES ASSESSMENT PTN RE/25

3.9.1. Overview

The proposed application is unusual in that it does not create a new settlement but rather formalises **existing occupied homesteads** that have been functioning on the property for many years.

Accordingly, the engineering services assessment must focus on:

- the status of existing service arrangements;
- whether the formalisation materially increases demand;
- whether the proposal is supportable within a rural service model.

3.9.2. Water Supply

• Existing Position	The resident households are already supplied with domestic water in a practical manner as part of the farm operation.
• Proposed Position	The RCDK, as lessor and landowner, will continue to provide and maintain: • domestic water supply infrastructure to the 13 homestead areas; • associated reticulation within the farm context, subject to technical assessment and lawful abstraction/supply arrangements.
• Planning Assessment	Because the households already exist, the rezoning does not create a significant new water demand beyond the current baseline. The proposal merely formalises the legal land use status of existing users.

3.9.3. Electricity Supply

• Existing Position	The households are presently serviced through farm-based electrical arrangements
• Proposed Position	The RCDK will continue to provide: • bulk power distribution to the homestead areas; • internal reticulation, metering, and recovery arrangements as may be appropriate. •
• Planning Assessment	No material intensification of electricity demand is expected because: • no increase in the number of households is proposed; • only the existing 13 homesteads are to be recognised; • future building rights are tightly controlled.

3.9.4. Sanitation / Sewer

• Existing Position	Rural sanitation is likely to be managed through on-site systems (e.g., conservancy tanks, septic systems, VIPs, or similar), subject to actual site conditions.
• Proposed Position	Each leasehold area will be responsible for domestic sanitation in accordance with: • approved rural sanitation systems; • environmental health requirements; • any municipal requirements for on-site disposal. •
• Planning Assessment	Given the low density and dispersed homestead pattern, on-site sanitation solutions are appropriate, subject to: • soil suitability; • setback requirements from watercourses and boreholes; • environmental health approval. Recommended condition: “No waterborne sewer connection shall be required unless determined by the municipality; all sanitation systems shall comply with municipal environmental health requirements.”

3.9.5. Stormwater

The proposal does not introduce significant additional hard surfaces or road infrastructure. Stormwater impacts are therefore negligible and can be managed through:

- natural overland flow;
- basic swales and drainage;
- maintaining existing rural runoff patterns.

3.9.6. Roads and Access

• Existing Position	The homesteads are already accessed via existing internal farm roads
• Proposed Position	The RCDK will continue to maintain: • internal access roads; • access control where appropriate; • general movement infrastructure across the farm.
• Planning Assessment	No new public roads are required. Existing farm access patterns remain sufficient.

3.9.7. Solid Waste

The households should continue to dispose of waste in accordance with:

- municipal collection arrangements where available; or
- a controlled on-site transfer/collection system approved by the municipality.

3.9.8. Engineering Services Conclusion

The engineering services implications of the application are **low-impact and manageable**, because:

- the homesteads already exist;
- no increase in household numbers is proposed;
- the proposal formalises rather than intensifies land use;
- internal service responsibility is largely retained by the landowner.

3.10. ENVIRONMENTAL CONSIDERATIONS-PTN RE/25

3.10.1. Nature Of Environmental Assessment Required

The proposal is fundamentally a **land use regularisation** of existing occupation and is not, in itself, a major new physical development.

However, environmental considerations remain relevant under SPLUMA, which requires the decision-maker to ensure compliance with environmental legislation when an application affects the environment.

3.10.2. Existing Disturbance Footprint

The thirteen homesteads already exist and have existed for decades. The application therefore:

- does not introduce a new disturbed footprint in principle;
- does not require broad-scale clearance for residential expansion;

- does not transform undisturbed agricultural land into a new settlement.

3.10.3. Agricultural / Rural Environmental Character

The proposal retains:

- the rural landscape character;
- dispersed low-density homestead form;
- dominant agricultural land use over the balance of the property.

3.10.4. Biodiversity And Sensitive Areas

At present, no evidence is presented that the proposal affects:

- protected areas;
- critical biodiversity areas;
- wetlands;
- riparian corridors;
- protected trees or species.

3.10.5. NEMA Trigger Considerations

Because the proposal is a **planning regularisation** and not a physical expansion, it does **not trigger** a listed activity under **National Environmental Management Act 107 of 1998** ("NEMA").

3.10.6. Environmental Conclusion

The environmental impact of the application is considered **low and manageable**, subject to standard conditions, because:

- it formalises existing occupation;
- it does not create a new high-density settlement;
- it preserves the agricultural and rural character of the farm;
- it limits future expansion through strict tenure and lease controls.

3.11. IMPACT ON SURROUNDING AGRICULTURAL LAND- PTN RE/25

3.11.1. Protection Of Agricultural Function

This section is particularly important because SPLUMA requires special consideration to be given to the protection of **prime and unique agricultural land** and requires that decisions be consistent with measures that protect and promote the sustainable use of agricultural land.

The application supports that objective because the property remains overwhelmingly agricultural in use.

3.11.2. No Material Loss of Agricultural Productivity

The proposed residential component is confined to:

- existing occupied homestead footprints;
- small demarcated lease areas of approximately 750m² each.

Even cumulatively, these areas represent a **minor proportion** of the overall farm extent and do not materially sterilise productive agricultural land.

3.11.3. Avoidance Of Fragmentation

A major planning concern in agricultural areas is the fragmentation of farmland into uneconomic units.

This application avoids that concern because:

- the farm remains in **single ownership** under the RCDK;
- the proposal is based on **notarial leasehold**, not freehold subdivision;
- agricultural management remains centralised;
- the balance of the farm remains a coherent agricultural unit.

3.11.4. Controlled Occupation

The application includes strict controls to prevent:

- proliferation of additional dwellings;
- subletting;
- occupation by unrelated third parties;
- the evolution of an uncontrolled informal settlement.

This ensures that the agricultural land is not gradually undermined by incremental settlement creep.

3.11.5. Compatibility With Adjacent Agricultural Uses

The residential occupation has existed for decades and is therefore already part of the local land use context. No evidence exists that:

- neighbouring agricultural operations have been prejudiced;
- nuisance impacts have arisen beyond ordinary rural coexistence;
- the proposed formalisation will intensify conflict.

3.11.6. Agricultural Impact Conclusion

The proposal has a **negligible negative impact** on surrounding agricultural land and, in fact, promotes agricultural sustainability by:

- preserving the farm as a functioning agricultural unit;
- maintaining rural labour / livelihood linkages;

- preventing unlawful or unmanaged settlement expansion;
- securing a structured coexistence between agriculture and residential occupation.

3.12. PUBLIC INTEREST AND RURAL LAND REFORM CONTEXT-PTN RE/25

3.12.1. Public Interest

Under SPLUMA, the Municipal Planning Tribunal must expressly consider the **public interest** when deciding an application.

This application is strongly in the public interest because it:

- formalises a longstanding existing land use pattern;
- prevents unlawful planning non-compliance from continuing indefinitely;
- provides secure and dignified tenure to vulnerable rural households;
- preserves agricultural production and rural livelihoods;
- avoids displacement, social disruption and possible homelessness;
- promotes orderly rural land management.

3.12.2. Constitutional And Transformation Context

The proposal must also be viewed through the lens of:

- **section 25 of the Constitution** (property and equitable access to land),
- **section 26** (access to adequate housing),
- and the transformation objectives expressly reflected in SPLUMA's preamble and objects.

SPLUMA's preamble and objects expressly state that the Act is intended to redress past spatial and regulatory imbalances, promote social and economic inclusion, and foster conditions that enable access to land on an equitable basis.

The proposal advances these objectives by:

- converting historically informal occupation into lawful, secure tenure;
- giving practical effect to equitable access to land without dispossessing the landowner;
- Balancing Property Rights with Social Justice in a measured, site-specific manner.

3.12.3. Rural Land Reform Relevance

While the application is not a statutory land restitution or redistribution process, it is consistent with the **spirit and practical aims of rural land reform**, namely:

- security of tenure;
- dignified rural occupation;
- improved access to productive land;

- reduced vulnerability of long-term occupiers;
- support for small-scale livelihood agriculture.

3.12.4. NON-ADVERSARIAL AND COOPERATIVE LAND REFORM MODEL

This application is especially compelling because it arises from a **voluntary and cooperative arrangement** between:

- the historic landowner;
- the successor landowner (RCDK); and
- the resident families.

It is therefore a rare example of:

- landowner-supported tenure formalisation;
- community stability;
- low-conflict rural reform;
- continued productive land use.

3.12.5. Public Interest Conclusion

The proposal is not merely privately beneficial; it yields a broader public benefit by demonstrating how:

- rural tenure can be formalised without destroying agricultural viability;
- social justice can be advanced without creating planning disorder;
- land use law can be used to regularise, rather than criminalise, historic rural occupation.

3.13. OPERATIONAL AND TENURE MANAGEMENT FRAMEWORK PTN RE/25

3.13.1. Purpose of Lease Structure

The lease structure is central to the planning acceptability of the proposal. It ensures that:

- the residential use is secure;
- the farm remains agriculturally coherent;
- uncontrolled intensification is prevented;
- compliance can be enforced contractually and spatially.

3.13.2. Recommended Lease Conditions

Each notarial lease should, at minimum, include:

- Residential Use Controls
 - One dwelling house only per lease area.
 - No second dwelling, backyard structures, or informal shacks.
 - One ancillary outbuilding of limited size for storage/parking only.
 - No business use without municipal approval.
 - No livestock kraals within the homestead area unless specifically approved.

- Occupation Controls
 - Occupation limited to the identified beneficiary household.
 - No subletting or informal transfer.
 - No cession without lessor consent and, where necessary, municipal compliance.
- Physical Controls
 - Homestead boundaries to be surveyed and pegged.
 - No expansion beyond approved boundaries without prior approval.
 - Building plans to comply with applicable municipal requirements where triggered.
- Services and Environmental Controls
 - Payment for domestic service consumption.
 - Compliance with sanitation and waste management rules.
 - No pollution, illegal dumping, or watercourse encroachment.
- Governance Controls
 - Compliance with a Farm Occupation / Estate Management Code.
 - Internal dispute resolution mechanism.
 - Breach procedure with notice and opportunity to remedy (important to avoid arbitrary cancellation concerns).

4. MOTIVATION IN RESPECT OF PORTION 29

4.1. INTRODUCTION

This application is submitted on behalf of the **Congregation of the Sisters of Nazareth (CSN)** for the rezoning of Portion 29 of the Farm Fourteen Streams 311 (± 98 ha), currently zoned **"Agriculture" permitting one dwelling**, to a **"Special" zoning**.

The purpose of the rezoning is to **legitimise long-established institutional and agricultural land uses** that have existed on the property for over a century, and to facilitate the lawful transfer of the property to the **Kimberley Diocese**.

4.2. PROPERTY DESCRIPTION AND LOCALITY

The subject property:

- Measures approximately **98 hectares**
- Lies within the jurisdiction of the **Magareng Local Municipality**
- Is bounded:
 - South: **Vaal River**
 - North: **Vaalharts Aqueduct**

The site is **rural in nature**, physically separated from urban settlements, and has historically functioned as a **self-contained institutional and agricultural node**.

4.3. HISTORICAL LAND USE CONTEXT

The property has been utilised for **religious, educational, residential, and social welfare purposes for over 100 years**, including:

- Church and convent
- Primary and secondary school
- Ecclesiastical retreat centre
- Cemetery
- Agricultural activities with associated housing

These uses were **lawfully established long before modern zoning schemes** and have functioned continuously without creating land use conflict.

4.4. PROBLEM STATEMENT

With the adoption of the Magareng Land Use Scheme in 2015, in terms of SPLUMA:

- The property was zoned **"Agriculture"**
- Only **one dwelling** is permitted
- No recognition was given to:

- Existing institutional uses
- Historical land rights
- Established improvements

As a result:

- The current land uses are **technically unlawful**
- The property is **non-compliant with land use regulations**
- Transfer to the Kimberley Diocese is **conditional upon compliance**

4.5. COMPLIANCE WITH SPLUMA DEVELOPMENT PRINCIPLES

In terms of Section 7 of SPLUMA:

Principle	Contribution
Spatial Justice	• The rezoning corrects a historical oversight where legitimate land uses were ignored. • It ensures equitable recognition of long-standing community-serving activities.
Spatial Sustainability	• The site is self-sufficient, with: ○ Independent water supply ○ Septic sewer systems ○ Eskom electricity • No burden is placed on municipal infrastructure. • The development footprint already exists—no urban sprawl is induced. •
Efficiency	• Existing infrastructure is optimally utilised. • No duplication of services required. • Maintains a functional rural service hub. •
Spatial Resilience	• Supports diversified land uses: ○ Agriculture ○ Social services ○ Religious functions • Enhances long-term adaptability of the site. •
Good Administration	• Aligns zoning with actual land use reality • Removes regulatory uncertainty • Enables lawful governance and future compliance

4.6. CONSISTENCY WITH MUNICIPAL SPLUMA BY-LAW

Typical provisions of SPLUMA by-laws support:

- **Recognition of existing lawful land uses**
- **Correction of zoning anomalies**
- **Approval of "Special" zoning for unique or mixed-use rural institutional sites**

This application satisfies these criteria by:

- Regularising existing uses
- Introducing **clear development parameters**
- Limiting impacts through defined rights

4.7. LAND USE COMPATIBILITY

The proposed uses are **highly compatible** with the surrounding rural environment:

- Low intensity institutional uses
- Agricultural activities remain primary
- No industrial or high-impact activities proposed

The site has historically operated without:

- Noise complaints
- Traffic congestion
- Environmental degradation

4.8. ENGINEERING SERVICES

The property is **fully self-sustaining**:

- **Water:** Independent supply
- **Sanitation:** Septic tank systems
- **Electricity:** Eskom connection
- **Roads:** Internally maintained

No additional demand is placed on municipal infrastructure.

4.9. ENVIRONMENTAL CONSIDERATIONS

- Development footprint already established
- No expansion into sensitive areas proposed
- Cemetery limited to existing footprint (≤ 1.5 ha)
- Agricultural land retained and utilised

The rezoning therefore has **negligible environmental impact**.

4.10. PUBLIC INTEREST

The rezoning promotes:

- Continued provision of:
 - Education
 - Healthcare
 - Elderly care
 - Religious services
- Preservation of a **historically significant mission site**
- Ongoing community benefit under the Kimberley Diocese

5. CONCLUSION AND RECOMMENDATION

5.1. PTN RE/25

5.1.1. Concluding Remarks

The proposed amendment of the land use rights applicable to Portion 25 of the Farm Fourteen Streams is a compelling, site-specific, lawful and equitable planning intervention.

It is compelling because:

- the occupation is longstanding and established;
- the proposal regularises rather than creates a settlement;
- it preserves the agricultural function of the farm;
- it formalises secure tenure for vulnerable rural households;
- it imposes clear limits to prevent uncontrolled expansion.

It is lawful because:

- it aligns with the principles and decision criteria of **Spatial Planning and Land Use Management Act 16 of 2013**;
- it rectifies the mismatch between the existing land use reality and the **Magareng Land Use Scheme 2015**;
- it provides an administratively enforceable land use framework.

It is equitable because:

- it advances spatial justice;
- it supports secure tenure;
- it protects both the landowner's continued agricultural control and the occupiers' right to stable long-term residence.

For all of the above reasons, the application is considered to be desirable, appropriate, in the public interest, and worthy of approval.

5.1.2. Recommended Approval Conditions Ptn Re/25

If the municipality is inclined to approve, the following conditions are recommended:

1. The approval shall permit a maximum of **13 dwelling units only** on Portion 25.
2. The approval shall be limited to the **existing identified households** and shall not authorise additional residential expansion.
3. The property shall remain primarily used for **agricultural purposes**.
4. The farm shall remain under **single ownership**, unless otherwise approved by the municipality.
5. Residential occupation shall be formalised by **registered notarial lease agreements** only.
6. Each leasehold area shall be limited to the surveyed homestead footprint (approximately 750m² or as finally surveyed).
7. No subdivision or township establishment is authorised by this approval unless separately applied for.
8. No further dwelling units may be erected without prior municipal approval.
9. Internal services shall be provided and maintained by the landowner unless otherwise agreed with the municipality.
10. Sanitation systems shall comply with environmental health and municipal requirements.
11. No occupation or structures shall be permitted within any identified watercourse/floodline setback or environmentally sensitive area.
12. Any future development that may trigger environmental authorisation, water use authorisation, or building plan approval shall be subject to compliance with applicable legislation.

5.2. PTN 29

5.2.1. Concluding Remarks

The proposed rezoning:

- Rectifies a **clear zoning anomaly**
- Aligns land use rights with **existing reality**
- Supports **social, institutional, and agricultural functions**
- Imposes **no burden on municipal infrastructure**
- Is fully consistent with **SPLUMA principles and municipal by-laws**

5.2.2. Recommended Approval Conditions

It is respectfully recommended that:

The application for rezoning of Portion 29 of the Farm Fourteen Streams 311 from “Agriculture” to “Special” (Agriculture and Institutional Uses) be **approved**, subject to appropriate conditions regulating:

- Extent of cemetery (≤ 1.5 ha)
- Number of agricultural dwellings (max 4)
- Maintenance of self-sufficient service